You Make a Difference!

MSSNY salutes all New York physicians today and every day.

National Doctor’s Day

March 30, 2019
The American Medical Association (AMA) presented Richard “Doc” Izquierdo, M.D., with the Dr. Nathan Davis Award for Outstanding Public Service on February 13. Dr. Izquierdo has served his Bronx community for nearly six decades as a physician, health care innovator, community leader and Medical Society advocate. He was chosen for the AMA’s top public service award for his lifetime of work, serving generations of Bronx residents.

Dr. Izquierdo has dedicated his entire career to furthering health and opportunity in his Bronx community. With a $3,000 down payment, he founded the San Juan Health Center, which in 1974 became Urban Health plan, Inc., and today is one of the largest health centers in New York State. Dr. Izquierdo also served as the first chairman of the Community Planning Board and as Chairman of the 41st Precinct Community Council for 14 years.

In 2010 Dr. Izquierdo fulfilled a lifelong dream when he opened the Dr. Richard Izquierdo Health and Science Charter School. The first school of its kind, it provides technical education geared specifically toward preparing students for jobs in the health care sector, including Emergency Medical Technician (EMT) certification.

“He put down roots for good nearly 60 years ago when he opened his first practice two blocks from where he grew up in the Bronx,” said AMA Board Chair Jack Resneck, Jr., M.D. “Not only has he treated generations of patients from his community, but he has built, in his charter school and health center, a legacy that will serve the Bronx for years to come.”

Dr. Izquierdo attended University of Lausanne Medical School, and completed his internship and residency at Fordham Hospital in New York.

The AMA presented Dr. Izquierdo with the Dr. Nathan Davis Award at a ceremony in Washington, D.C. as part of the AMA’s National Advocacy Conference. The award, named for Dr. Nathan Davis—a member of the Medical Society of the State of New York and the founding father of the AMA—recognizes those in service whose outstanding contributions have promoted the art and science of medicine and the betterment of public health.

On February 13, Paloma Izquierdo Hernandez was scheduled to accept the AMA’s Nathan Davis Award for Outstanding Public Service on behalf of her father, Dr. Richard Izquierdo, who suffers from advanced Parkinson’s disease. Ms. Izquierdo Hernandez was unable to attend the awards ceremony due to a winter storm, which caused the cancellation of her flight from New York to Washington, DC. MSSNY president Dr. Madejski stepped in to accept the award on Dr. Izquierdo’s behalf.

Following is the text of Ms. Izquierdo Hernandez’s prepared speech, which Dr. Madejski incorporated into his remarks as he accepted the award on behalf of Dr. Izquierdo:

“I want to start by thanking the AMA for this very honorable and distinct award and congratulating my Dad’s fellow awardees for their achievement.

My Dad is totally humbled to be receiving this award. His life has been dedicated to serving the South Bronx community—the community in which he was raised. For him, the idea of providing his community with respectful, accessible and high quality care is what drove him to open his first practice.

(My dad’s) life has been dedicated to serving the South Bronx community...the idea of providing his community with respectful, accessible and high quality care is what drove him to open his first practice.”

“Sounds familiar! His goals were never very far apart from those of today and somehow that vision has not yet been accomplished on a national scale. However I am proud to say that from my Dad’s humble beginnings as a solo practitioner to a multi-specialty practice and now to one of the largest federally qualified health centers in the country, his goals and vision have become a reality. Today Urban Health Plan, the organization which he founded in 1974, serves close to 90,000 individual patients through a network of 27 individual practice sites that include health centers, school based health centers, mental health clinics and homeless shelters. In 2018 Urban Health Plan provided over 475,000 visits.

His work, however, did not stop there. My Dad also envisioned a charter school where, given the low numbers of physicians of minority backgrounds in this country, a local pipeline of future health care providers could be grown. The Dr. Richard Izquierdo Health and Science Charter School opened in 2010 for grades 6-12. A 100% college acceptance rate has been realized for our first two graduating classes. One of the students from our first graduating class was accepted to the Sophie Davis School of Biomedical Education at the City University of New York. A seven-year medical program that integrates a baccalaureate education with preclinical medical education, it has a twofold mission, to expand access to medical careers among inner city youths and to encourage the pursuit of primary care specialties among its graduates. With only a 7% acceptance rate, we are really proud that another dream of my Dad’s will soon be realized when one of our very own students graduates as a new primary care doctor.

My Dad’s life has been committed to being the best doctor that he could be and to serving his community in the best way possible. He has always believed in the value of the AMA and that of local medical societies. He and I, both, again, thank you for this recognition. My Dad didn’t have to go very far to realize that he could make big differences in his own backyard. It has been a wonderful, lifelong journey and one that has just been capped off with this outstanding, prestigious award.

Thank you.

“It has been a wonderful, lifelong journey...capped off with this outstanding, prestigious award.”

Thank you.

“MSSNY Member Dr. Izquierdo 2019 Recipient of Prestigious Nathan Davis Award”

Paloma Izquierdo Hernandez’s Nathan Davis Award Acceptance Speech
"MLMIC is a gem of a company."

- Warren Buffett, CEO, Berkshire Hathaway

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For more than 40 years, MLMIC has been a leader in medical malpractice insurance. In fact, we’re the #1 medical liability insurer in New York State. Now, as part of the Berkshire Hathaway family, we’re securing the future for New York’s medical professionals.

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Endorsed by MSSNY
Where We Were, Where We Are, And Where We’re Going

A year is gone in the blink of the eye. It’s been an honor, pleasure, and a great personal joy to have represented you as the MSSNY President for the past 11 months. Every day is different and one of the major responsibilities of the presidency is communication of our MSSNY message and dealing with media outlets. I’ve discussed single payer options in New York State, out of network billing on the Federal level, vaccination, end of life care, and (in case you haven’t been paying attention) marijuana with various media outlets, governmental officials, community groups, individual members and patients – occasionally all on the same day!

It sometimes seems haphazard and reactionary, but it is not. We have a strong organization with great policy created by our physician members through our Committees and our House of Delegates, and supported by our superb MSSNY staff. Our strategic planning committee, led by MSSNY Vice President Dr. Bonnie Litvack, continues to look to the future to anticipate challenges and look for new opportunities for MSSNY, our members, and our patients. The President Elect usually meets with our staff a few months prior to ascending to the presidency to review organizational and personal goals for the coming year. I reviewed my notes from that meeting in January 2018 and wanted to share my goals for this past year and our collective achievements. Many of the goals remain a work in progress but I think we’ve made substantial headway. I’m very proud of the work of our Officers, Councilors, Committee members, and especially that of our MSSNY staff and their tireless efforts on behalf of the patients and physicians of New York.

Here is a distillation of objectives and achievements subsequent to that meeting:

- **Membership:** We are in the process of integrating the Northwell group into MSSNY and the counties. We have had progress with other group memberships as well and continue to value and reach out to our individual members. We are expanding our outreach to our students, residents and fellows as well and are vetting external marketing consultants to leverage our new members and continue to grow MSSNY. We are attempting to help some of our small counties to reorganize and stabilize in a challeng-

(Continued on page 17)

MSSNY-PAC

Lobbying Efforts Ramp Up as We Move Towards Budget Enactment

Action is beginning to ramp up in Albany and advocacy and lobbying efforts continue to increase in intensity as we move closer to the enactment of the New York State Budget. In mid-February, the Governor’s Budget amendments were released and now we look toward the one-house budget bills that will be adopted by the Senate and Assembly in mid-March. These pieces will eventually all meld together into the finalized 2019-2020 Budget that is due by April 1.

This is a vital time in the legislative process. The budget in New York goes far beyond simply funding the government. It is utilized as a tool to enact policy that many would expect to be outside of the scope of the budget. Significant, impactful and wide-reaching policies and programs can and will be debated, lobbed, modified and inevitably instituted with the passage of the state’s budget.

This is one of the most critically important reasons that MSSNY hosts its annual Physician Advocacy Day in early March every year. Please join us on March 6 (and register here). Seeing white coats around the State Capitol reminds legislators of their need to take action to protect the ability of their constituents – our patients – to be able to receive the care they need by the physician of their choice.

And conversely, to not do something that impairs this access.

This year’s Executive Budget contains several positive proposals that we will advocate to assure that they are not removed during negotiations. These include extension of the excess malpractice program that so many of you rely on to maintain adequate coverage; assuring insurance companies fairly

(Continued on page 14)
NSPC
The Leader in Minimally Invasive Brain & Spine Surgery

1. Founded in Freeport, 1958.
2. First practice on Long Island to adopt routine collaborative care for complex spinal conditions.
3. Only our experienced neurosurgeons will perform your surgery.
4. Leaders in “Bloodless” brain and spine surgery, including laser spine surgery, radiosurgery, and other advanced minimally invasive techniques.
5. Make the Right Call for:
   • Brain Tumor
   • Trigeminal Neuralgia
   • Brain Aneurysm
   • Herniated Disc
   • Spinal Stenosis
   • Back Pain

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A proudly independent private practice. Six convenient Long Island locations.
Study Finds Specialty Determines Use of Telemedicine

A little more than 15 percent of physicians worked in a practice that uses telemedicine to interact with patients, while 11.2 percent worked in practices that use telemedicine to interact with other health care professionals, according to the study published in Health Affairs.

Telemedicine use is less common in smaller or physician-owned practices, the AMA survey of 3,500 physicians found, which suggests that cost of implementation is an impediment.

The AMA advocated for – and the Centers for Medicare & Medicaid Services has accepted – five new Current Procedural Terminology (CPT®) codes for 2019 that will allow physicians to be paid for their delivery of health care services using virtual technologies including remote patient monitoring (RPM) and e-consults.

These include three CPT codes for RPM and two for e-consults with another health care professional. The Health Affairs findings are based on data from the 2016 Physician Practice Benchmark Survey of the AMA and provide the most complete picture yet on adoption of the technology.

SPECIALTY DETERMINES USE

The researchers found that specialists using telemedicine the most to interact with patients are:

- Radiologists – 39.5 percent
- Psychiatrists – 27.8 percent
- Cardiologists – 24.1 percent

Specialists whose practices are using telemedicine the least to interact with patients are:

- Allergists/immunologists – 6.1 percent
- Gastroenterologists – 7.9 percent
- Ob-gyns – 9.3 percent

Almost an entirely different set of specialists used telemedicine for interacting with other health care professionals. Specialists whose practices are doing this the most are:

- Emergency physicians – 38.8 percent
- Pathologists – 30.4 percent
- Radiologists – 25.5 percent

To assess interactions with patients, physicians in practices that used telemedicine were asked if it was used for diagnosing or treating patients, following up with patients or managing patients with chronic disease. To assess interactions with peers, they were asked if it was used for a specialty consultation or getting a second opinion. They were also asked which telemedicine modalities their practice used: videoconferencing, remote patient monitoring (RPM), or storing and forwarding function.

Videoconferencing is employed by the practices of 31.6 percent of emergency physicians and about 25 percent of psychiatrists’ and pathologists’ practices. Cardiologists and nephrologists are the biggest RPM users, while radiologists and pathologists are the biggest users of telemedicine’s data storing-and-forwarding function.

The study defines the term “telemedicine” to include a range of technologies to deliver medical services including remote patient-management services, e-consults and two-way interactive video. There is not a universally accepted definition of telemedicine, so it is important to determine how health insurance payers and policymakers define the term when considering integration of these options into practice.

For example, Medicare defines “telehealth” as “two-way, audiovisual, real-time interactions,” and the CPT Editorial Panel identifies CPT codes that private and public insurers cover using two-way audio video synchronous communications in an appendix and utilizes additional codes to described remote monitoring and e-consults.

Registration Now Open For New Veterans Matters CME Webinar On March 14

The Medical Society of the State of New York is proud to announce a NEW Veterans Matters webinar entitled Veterans Matters: Military Culture: Everything Physicians Need to Know About Veterans as Patients.

When: Thursday, March 14 2019 at 7:30am – Register here

Faculty: Lt. Col Lance Allen Wang, & Marcelle Leis, CM Sgt (Ret)

Educational Objectives

- Describe the unique aspects of military culture and how they impact patients who are veterans.
- Explain the Dwyer Peer-to-Peer program as a resource to assist veteran patients re-acclimating from a group to an individual mentality.
- Review and identify resources to improve physician’s ability to fully treat veterans who are transitioning back into civilian life.

Additional information or assistance with registration can be obtained by contacting Sarah Humes at shumes@mssny.org or (518)465-8085

The Medical Society of the State of New York is accredited by the Accreditation Council for Continuing Medical Education (ACCME) to provide continuing medical education for physicians. The Medical Society of the State of New York designates this live activity for a maximum of 1.0 AMA/PRA Category 1 credits. Physicians should claim only the credit commensurate with the extent of their participation in the activity.

Sexual Harassment “Train the Trainers” Webinar: The Impact on the Healthcare System and the Medical Profession

March 20, 2019, 12:00pm-1:00pm

REGISTER HERE

The issue of sexual harassment in the workplace has been the center of a staggering amount of media attention and of a surge in litigation activity. Consistent with this momentum, New York State recently mandated that all employers are required to have a sexual harassment policy containing specified criteria in place by October 9, 2018, and to conduct sexual harassment prevention training by October 2019. (New York City requirements are slated to take effect in April 2019.)

The issue of sexual harassment takes on particular significance for the healthcare industry, because there is an established nexus between disruptive behavior, which includes sexual harassment, and adverse patient outcomes and medical errors.

At this time, Garfunkel Wild will be offering a complimentary “Train the Trainers” webinar on the issue of sexual harassment. The live webinar will be presented on March 20, 2019, from 12 noon to 1:00pm. For those individuals who are unable to participate in the webinar at that time, MSSNY will be placing a recorded version of that webinar on the MSSNY website to facilitate access to the webinar for MSSNY members.

By the conclusion of the “Train the Trainers” webinar, you... (Continued on page 20)
Your Future is Now

Physician Advocacy Day

Wednesday, March 6th, 2019 • Albany, New York

Join your colleagues to discuss priority issues with your legislators

- Single Payor healthcare
- Health concerns associated with legalizing recreational marijuana
- Reducing prior authorization hassles
- Rejecting burdensome mandates

REGISTER NOW!
MORE INFO
A MLMIC-insured internist first saw the 41-year-old male patient in mid-June. At that visit, he complained of occasional fatigue. The internist also heard a slight heart murmur. The patient advised the physician that he was taking lithium prescribed by a psychiatrist, who was not a MLMIC policyholder. However, he not only refused to discuss the specifics of his psychiatric condition, but also refused to provide the internist with the name of his psychiatrist. Laboratory test results revealed elevated cholesterol of 234 and a creatinine of 1.5. The physician documented that he spoke to the patient via telephone and advised him that he wanted him to return every three months to follow the hypercholesterolemia.

THREE MONTHS LATER

The patient returned three months later complaining of occasional slight chest discomfort, shortness of breath, and abdominal pain in the right upper quadrant. An abdominal sonogram revealed slight hepatomegaly. An EKG revealed a grade 1/6 mitral valve murmur, but was otherwise within normal limits. Upon physical examination, the patient’s blood pressure was 130/80 and his lungs were clear. Abdominal and neurological examinations were within normal limits. His liver function tests were also within normal limits. However, his cholesterol was now 243.

Sixteen months later, he continued to assume that the patient’s intake of lithium. He never advised the patient of the risks of the psychotropic medication which he had been taking for many years all led to both disastrous results for the patient and a lawsuit that could not be defended.

Despite the internist’s refusal to allow the internist to coordinate his care with his psychiatrist, the physician should not have assumed the psychiatrist would monitor the patient’s lithium and creatinine levels. Once the internist regularly ordered these tests, it was his duty to review and respond to them. Further, because the patient’s creatinine levels continued to increase at each visit, it is not clear why the internist failed to discuss the relationship between lithium and potential kidney damage with the patient and insist he be able to communicate with the patient’s psychiatrist. He should have considered having the patient sign an informed refusal to consent form or sent the patient a letter documenting his refusal.

What was most troubling to the MLMIC expert reviewers was the internist’s sole focus on the patient’s rising cholesterol, rather than the increasing creatinine levels. From the defense perspective, it was problematic to try to explain why the internist not only failed to respond to all abnormal values but also failed to document his rationale for doing so. The internist was never able to explain this failure.

Most easily remedied by the internist would have been the patient’s continuous noncompliance. This, coupled with his desire to maintain secrecy about his psychiatric illness, endangered the internist. A patient who refuses to provide medical information to his PCP should raise red flags.

A Legal & Risk Management Perspective

Donnalinie Richman, Esq.
Fager Amsler Keller & Schopmann, LLP
Counsel to MLMIC

There were obvious and serious deficits in the care the internist provided to the patient. His failure to communicate and coordinate the patient’s care with the other treating physician, his failure to recognize an increasingly abnormal laboratory result until a panic value was reached, his failure to pursue follow-up of a noncompliant patient, and, most critically, his failure to warn the patient about the very serious risks of the psychotropic medication which he had been taking for many years all led to both disastrous results for the patient and a lawsuit that could not be defended.

(Continued on page 19)
Dear Doctors: Are You Sending Your College-Age Children Off With The Proper Legal Documentation In Place?

by Madelin Zwerling

You have reached that phase as a parent where your child is college-bound. Most, if not all, conversations with your child at this juncture revolve around this next chapter in your child’s life. You feel relief as issues concerning roommate selection, dorm preference and area of study have been settled. You may even have moved on to the quest of obtaining highly coveted football tickets or lodging for the parents’ weekend. Likely, the farthest thing from the minds of most parents and students leading up to move-in day are HIPAA laws and access to our child’s medical and other personal information. But there are compelling reasons why one should focus on such issues.

As a general rule, as parents we have ready and lawful access to the medical and other personal information of our children until they turn 18 years old. Once our children turn the age of majority, however, which typically corresponds with their arrival at college, that access is turned off unless formal steps are undertaken. Yes, no doubt the bursar’s office at the university will regularly send you tuition bills and accept payment from you of such bills, but the university will not inform you if your child is in the infirmary or of your child’s medical condition unless certain measures are in place. Nor will you have access to your child’s academic status and grades. Even more disturbing, if your child ends up in a local hospital, for example, due to an accident or excessive alcohol consumption, you will be prevented from intervening on your child’s behalf absent the requisite legal authority.

HIPAA AUTHORIZATION FORM

These issues may easily be resolved if your child executes certain legal documents granting you such access. For example, your child can execute a HIPAA authorization form prior to leaving for college designating you as an individual who should be given access to his or her medical information and records. (These forms can be modified to exclude access to specified sensitive medical information or records.) Similarly, your child can execute a healthcare proxy authorizing you to make medical decisions on his or her behalf in the event he or she becomes incapacitated and incapable of making such decisions for him or herself. Likewise, your child can execute a durable power of attorney giving you authority to act as your child’s agent on other matters of significance, such as financial issues. This document can be particularly helpful if your child is studying abroad.

Your child’s entry to college is stressful under the best of circumstances. Taking the measures described above, however, can take some of the edge off of that stress and at least alleviate some concerns that all parents experience.

Madelin T. Zwerling is an attorney at Garfunkel Wild, P.C., which she joined in 2011, and a member of the Personal Services and Estate Planning Practice Group, which advises clients in the preparation of wills and trusts, as well as in estate administration and gift planning for the preservation of family businesses and wealth upon death, and related tax matters. She may be reached at mzwerling@garfunkelwild.com or (516) 393-2510.
Two Programs at the HOD
You Don’t Want to Miss!

Protect Your Patients, Your Practice, and You!
Thursday, April 11, 2019, 3:00 – 4:00 pm,
Grand Ballroom D/E, Westchester Marriott, Tarrytown
Join us at the OMSS Annual Meeting for an interactive presentation by Garfunkel Wild on Medical Records, including the impact on records of the controlled substances “epidemic,” what to consider when emailing and texting, dealing with non-compliant patients, additional areas of exposure from EMRs, and what to include in a telemedicine record.
Business meeting to follow, 4:00 – 6:00, Putnam Room
Click here to view flyer.

Women in Medicine: Reaching Your Potential Now!
Friday, April 12, 2019, 5:00 – 6:30 pm,
Grand Ballroom B, Westchester Marriott, Tarrytown
A panel presentation at the Women Physicians Caucus on Pay, Promotions and Career Advancement in Academic Medicine, Private Practice and Organized Medicine. Gender imbalance in medicine and academic sciences still exists. Hear three women physicians who have achieved significant leadership positions describe their own pathways, provide advice on how to achieve success, and show how to overcome gender bias, gender pay gaps and system-wide barriers to career advancement. Learn how to achieve success in your career!
Click here to view flyer.
Register for one or both programs at sbennett@mssny.org.

MSSNY YPS
MSSNY’s Young Sections Meet in Westbury and Manhattan

Young physicians discuss the use of social media in medicine
MSSNY’s three youngest sections, Young Physicians, Residents/Fellows, and Medical Students, gathered together on February 9 at the Marriott Courtyard in Westbury for an educational symposium and business meetings.
A highlight of the day included a panel discussion with five physician trailblazers on the use of social media in medicine led by new YPS Chair Dan Choi, MD. The panel discussed how to utilize current social media in medicine (Facebook, Instagram, YouTube, Twitter, website), why it is so important and relevant in medicine, how to fight pseudoscience and the spread of bad information online (i.e. anti-vaccinators), how to get started on social media and best practices for medical/patient content. The speakers were highly engaging and met with rave reviews.
The day’s activities were preceded by a young physicians get-together held in Manhattan, where networking, socializing and MSSNY/county profile-raising were the order of the day.

Medical Students participate in February 9 meeting

Come to
PHYSICIAN ADVOCACY DAY
Wednesday, March 6
in Albany
CLICK HERE FOR INFORMATION
Don’t miss it while you’re at the HOD!

**MSSNY 14th Annual Poster Symposium**

Friday, April 12, 2019
1:30 – 4:00 pm
Marriott Garden Terrace

Medical Society of the State of New York
Several MSSNY physician leaders and staff members traveled to Washington, DC recently for meetings with many New York Congressional representatives. Physicians advocated for several measures to improve and preserve patient access to needed physician care, including:

- Assuring that any “surprise medical bill” law enacted on the federal level is consistent with New York’s comprehensive law which has become a model for the country;
- Preserving seniors’ access to needed care through increases to the Medicare fee schedule to keep up with practice cost inflation;
- Reducing the hassle factor associated with participation in the Medicare MIPS program and assuring EHR interoperability;
- Lifting the DEA Schedule 1 classification of marijuana so that necessary research can be performed on potential medicinal benefits.

Among the attendees were the following: MSSNY President and Medina internist Dr. Tom Madejski; MSSNY Immediate Past-President and Long Island ophthalmologist Dr. Charles Rothberg; former MSSNY Councilor and Schenectady ophthalmologist Dr. John Kennedy; Erie County Medical Society Past-President, AMA Council on Legislation Chair and Roswell Park urologist Dr. Willie Underwood; MSSNY Councilor and Queens Emergency Department Physician Dr. Carlos Zapata; MSSNY Legislative & Physician Advocacy Committee Vice-Chair Dr. Rose Berkun, Oswego Family practice physician Dr. Corliss Varnum; medical student Usman Aslam; and MSSNY staff.

The meetings occurred in conjunction with the American Medical Association’s annual National Advocacy Conference, where physicians across the country go to Washington to meet with their respective members of Congress.

The 3rd and 4th District Winter Retreat at Lake Placid

Twenty-five physicians from the 3rd and 4th Districts gathered for their annual retreat in scenic Lake Placid at the picturesque Mirror Lake Inn. The members gathered in the Adirondack Conference Center at the Inn on the morning of Saturday, January 26 to meet with Senator Betty Little to discuss current events in the New York State legislature. During the morning session the physicians also received an update on MSSNY affairs from President Dr. Thomas Madejski, were brought up-to-date on AMA activities by Dr. John Kennedy, heard the councilors reports from Dr. Brian Murray and Dr. Gregory Pinto, reviewed MSSNY advocacy successes with Moe Auster and a MLMIC update was provided by MLMIC Services President Michael Schoppmann.

The members adjourned downstairs to the Wickoff room in the Inn’s Diamond rated restaurant, The View, for lunch. Dr. Frank Dowling presented the Veterans Matters program, “Substance Use Disorders in Veterans,” for which the physicians all received one hour of CME credit. After the program participants had a few hours to enjoy downtown Lake Placid and its many activities before returning to the Inn for the evening session.

When the participants reconvened for the evening session, discussion of the morning agenda items was concluded. Mr. Charles Sellers from Charles J. Sellers & Co. Inc. presented information on insurance services available to physicians. The remainder of the evening session focused on preparation for the House of Delegates in April, which focused on resolutions to be endorsed and/or submitted to the House by the 3rd and 4th Districts.
No other event brings together New York State’s top players in the medical profession!

The Medical Society of the State of New York’s Annual House of Delegates Meeting & Vendor Expo is the society’s only annual event for hundreds of physician leaders - including medical students, residents and young physicians. These physician leaders - from Montauk to Buffalo - come together to deliberate legislative policy, to attend educational seminars, to network with colleagues, and to visit the Vendor Expo.

The Expo features carefully vetted vendors that showcase their companies and services, which enhance physicians’ lives as well as their practices.

MSSNY House of Delegate attendees are decision makers. They represent the full spectrum of New York State medical professionals, including all specialties and sub-specialties. These attendees represent the specific interests of group medical staffs, small practices, IPAs and single practitioners. County medical societies and specialty societies also participate in the deliberations and send members of their executive staffs to seek out and recommend new and improved benefits for their members.

Booth Space is Limited!

RESERVE YOUR BOOTH BEFORE 02/28/19 AND RECEIVE A 20% DISCOUNT!

Contact Roseann Raia 516-488-6100 ext. 302 • rraia@mssny.org
SERIOUS RISK FOR PHYSICIANS

Noncompliant patients are a serious risk to physicians, and the failure to follow up with them often results in liability and litigation. Clearly, this physician’s practice lacked a follow-up system for noncompliant patients. Giving the patient a three-month appointment before he left his first and second appointments should have triggered such a system. If the patient then cancelled or failed to keep those or other appointment(s), follow up could be initiated. When a patient is noncompliant, Fager Amsler, Keller & Schoppmann, LLP, strongly recommends making at least one telephone call to the patient and then sending a letter warning the patient of the need to be seen within a defined time period or discharge might result. If the patient continues to be noncompliant, he should be discharged with a warning in the discharge letter that his condition needs prompt follow-up by another physician. By making reasonable and well-documented attempts to have this patient return to be seen as requested, the physician would have protected himself.

NO FOLLOW UP SYSTEM

By not having or implementing a follow-up procedure, the internist’s testimony at his deposition that he was seriously concerned about the patient’s abnormal tests results was easily refuted by the patient’s failure to return to see him for months at a time without any documented efforts to deal with his noncompliance. Further, the patient’s refusal to permit the physician to communicate with his psychiatrist seriously endangered both the physician and patient. Ironically, he gave this clearly noncompliant patient the telephone number of the nephrologist, rather than calling the nephrologist himself to make the appointment while the patient was in the office. He could then have provided and advised the nephrologist of the urgency to see the patient because of the critical levels of creatinine. Because this physician had no follow-up system, he was fortunate the patient went to the nephrologist in a timely manner or the patient might have died.

Interestingly, when the patient saw the nephrologist, he promptly gave him the contact information for his psychiatrist and immediately the lithium was discontinued. The fact that this communication occurred further undermined the internist’s defense that the patient continued to refuse to allow him to communicate and coordinate his care with the psychiatrist. Further, there was no documentation in the patient’s record that the internist ever asked the patient for this information after the initial visit. Nor did he document that he ever explained the clinical importance of doing so to the patient.

ASSUME NOTHING

It is dangerous to assume that another physician who also treats a patient has assumed responsibility for, and advised the patient of, the results of any abnormal laboratory values or other tests. Further, it is also highly risky to assume that a patient has already been properly warned of the risks and side effects of his medication(s). Therefore, when a primary care physician receives an abnormal test result of any type, despite the fact that a consultant or specialist also receives the result, it is still obligation of the primary care physician to inform the patient of abnormal test result and appropriately refer the patient for follow-up. This is particularly critical in light of the extended statute of limitations of the recently passed Lavern’s Law governing the failure to diagnose tumors and cancers. When patients are not informed of abnormal test results because each physician erroneously assumes that the other has taken responsibility to inform the patient and arrange follow-up care, disastrous and deadly results can occur.

When this lawsuit proceeded to trial, the defense had to deal with several difficult problems. Despite the frequency of the patient’s noncompliance, it is unlikely a jury would have found the patient culpable for his severe injuries. The fact that he had not been advised of the serious risks of lithium by the internist and thus required a kidney transplant would have made him very sympathetic to the jury.

SUBSTANTIAL JOINT SETTLEMENT

Additionally, the patient’s monetary demand to the internist was unreasonable. Therefore, the internist was forced to go to trial, despite being willing to settle the litigation because of the many deficits in his care. However, because the co-defendant psychiatrist refused to participate in a joint settlement, the patient refused to accept only a partial settlement from the internist. Fortunately, as the trial proceeded, counsel for both the defendant psychiatrist and the patient recognized that they too had serious weakness in their cases. As a result, they finally agreed to a substantial joint settlement with the internist.

MSSNY-PAC

(Continued from page 4)

cover treatment for mental health and substance abuse disorders, including removal of administrative barriers to MAT; regulation of PBMs and public health initiatives such as creation of a statewide Maternal Mortality Board, and policies to prevent children and young adults from becoming addicted to smoking.

There are also several items contained with the budget that would be extremely harmful to physicians and their patients. Cutting the cross-over payment for your dual eligible Medicaid/Medicare patients has the potential to significantly impact your bottom line to the tune of about $80 per patient. Another in a line of repeated attempts to repeal prescriber prevails, taking the final sell in prescribing out of your hands and putting it in the hands of a bureaucrat is an egregious step toward creating further hassles and delays/prevention of necessary care for your patients. Expanding workers compensation to include a variety of non-physicians presents potential complications for injured workers if a specialty physician is not involved in the care. Finally, permitting recreational marijuana use in the state presents a threat to our children, as well as to drivers and pedestrians.

It cannot be overestimated how important it is for physicians to get out and advocate for your profession now, as a flurry of negotiations are occurring. Your voice needs to heard – special interests from across the spectrum will be pushing for policies that could be harmful to you, your patients, and to future generations of doctors. We’re at a crossroads in New York with extremely motivated and mobilized advocacy groups pushing their agenda and we must make sure that doctors in New York are not drowned out by all of the noise.

Contact your local legislators, leverage existing relationships and contacts and make sure your interests are protected by helping us in our advocacy. As always, please urge your colleagues to engage by joining at:

- MSSNYPAC http://www.mssnypac.org/contribute
- MSSNYPAL http://www.mssnypal.org/MSSNY/Governmental_Affairs/PAL_Sign_Up.aspx

The future you save may be your own.
**MSSNY IN THE NEWS**

**Becker’s Spine Review** 01/18/19 *Orthopedic surgeon to know: Dr. William Davis Jr. of Northeast Orthopedics & Sports Medicine* Orthopedic surgeon / MSSNY member William Davis Jr., MD,

**Newsday** 01/20/19 *Opioid prescriptions fall 35 percent on Long Island* (MSSNY President Dr. Thomas Madejski quoted)

**Becker’s Spine Review** – 01/22/19 *Dr. Philip Schrank joins Orlin & Cohen Orthopedic Group: 4 things to know* (MSSNY member, Dr. Philip Schrank mentioned)

**Livingston County News** – 01/22/19 *Legal weed falls flat among area police chiefs* (MSSNY mentioned)

**Albany Times Union** – 1/29/19 *Survey: Majority of New York doctors support assisted death* (MSSNY Mentioned)

**Crain’s Health Pulse** – 01/19/19 *State doctors support aid in dying* (MSSNY President Dr. Thomas Madejski quoted)

**Christian News Network** – 01/29/19 *After Signing of Bill Allowing Abortion Up Until Birth, Group Pushes to Legalize Assisted Suicide in N.Y.* (MSSNY mentioned)

**Crain’s New York Business** – 01/30/19 *Zocdoc to begin charging NY doctors per booking* (MSSNY Mentioned) Also appeared in *Modern Healthcare*

**Syracuse.com** – 01/31/19 *Jessica Wilcox, MD, joins St. Joseph’s Primary Care Center – West* (MSSNY member Jessica Wilcox, MD mentioned)

**Newsday** – 01/31/19 *Letter to the Editor: Consumer website might help patients* (Letter to the editor from MSSNY immediate past president, Dr. Charles Rothberg

**Marijuana Times** – 02/03/19 *Senator Diane Savino on New York’s Cannabis Prospects in 2019* (MSSNY president Dr. Thomas Madejski quoted)

**Epoch Times** – 02/07/19 *New York Police Unions Oppose Legalizing Recreational Marijuana* (MSSNY mentioned)

**Crain’s Health Pulse** – 02/12/19 *Single-payer push ramps up again: industry groups point out flaws* (MSSNY president Dr. Thomas Madejski quoted)

**Ithaca Journal** – 02/14/19 *Police, doctors and educators fighting New York recreational marijuana: What to know* (MSSNY president Dr. Thomas Madejski quoted) Also appeared in *Lohud* and *Poughkeepsie Journal*

**The Buffalo News** – 02/16/19 *Another Voice: Big money is behind the rush to marijuana legalization* (MSSNY mentioned)

**Olean Times Herald** – 02/17/19 *Can single-payer health care work in NY?* (Sullivan County Medical Society President Dr. Paul Salzberg quoted)

**Crain’s New York Business** – 02/19/19 *Physicians still concerned about recreational marijuana* (MSSNY president Dr. Thomas Madejski quoted)

**Healthcare Finance News** – 02/19/19 *DOJ stands by decision in CVS Health and Aetna merger* (MSSNY mentioned)
To the House of Delegates, Ladies and Gentlemen:

The members of the House Committee on Bylaws are as follows:

Jerome Craig Cohen, MD, FACP, Broome
Frank G. Dowling, MD, Ex-Officio, Secretary
Timothy Francis Gabryel, MD, Erie
Kira A. Geraci-Ciardullo, MD MPH, Ex-Officio, Speaker
Robert B. Goldberg, DO, New York
Robert Alan Hesson, MD, Tompkins
Nina I. Huberman, MD, MPH, Bronx
Steven M. Kaner, MD, Chair, Kings
William R. Latreille, Jr., MD, FACP, AME, Franklin
Thomas J. Madejski, MD, FACP, Ex-Officio, President
Philip Schuh, CPA, MS, Executive Vice President
Eunice Skelly, Staff
Barry B. Cepelewicz, MD, Esq., General Counsel

At the 2018 annual meeting of the House of Delegates, Resolution 2018-1 was referred to the House Committee on Bylaws for review and report back to the House of Delegates in 2019. The Reference Committee on Bylaws met on March 23, 2018 to hear testimonies, and a transcript of the testimonies was prepared and reviewed by the Committee. The Committee wishes to thank all the individuals who provided comments at the reference committee.

RESOLUTION 2018-1 PROVIDED AS FOLLOWS:

RESOLVED, that the following additions (underlined) and deletions (struck through) be made to Article IV, Section 1, Paragraph 2 of the MSSNY Bylaws:

The trustees, the executive vice-president, the deputy executive vice-president, and the general counsel of the Medical Society of the State of New York shall attend all meetings of the Council with voice but without vote. The councilor from the young physicians section shall attend all meetings of the Council with voice and with vote. The councilor from the resident and fellow section shall attend all meetings of the Council with voice and with vote. The councilor from the medical student section shall attend all meetings of the Council with voice and with vote. The councilor from the medical student section shall attend all meetings of the Council with voice and with vote. The councilor from the Medical Student Section shall attend all meetings of the Council with voice and with vote; and be it further

RESOLVED, that the following additions (underlined) and deletions (struck through) be made to Article IV, Section 1, Paragraph 3 of the MSSNY Bylaws:

Four councilors shall be elected annually by the House of Delegates, each for a term of three years. One two councilors, one representing the young physicians section and one representing the Organized Medical Staff Section, shall be elected every third year by the House of Delegates for a term of three years. Two councilors, one councilor representing the medical student section and one councilor representing the resident and fellow section to the Medical Society of the State of New York, shall be elected every year by the House of Delegates, each for a term of one year. Article IV, Section 1, Paragraph 4 is not applicable to the term of office of a resident, or student councilor. In the event of a vacancy, a councilor shall be elected by the Council to serve until the next meeting of the House of Delegates, at which time the House of Delegates shall elect a councilor to fill the unexpired term.

The House Committee on Bylaws heard only positive testimony on this resolution. It was noted that the Organized Medical Staff Section (OMSS) is the only MSSNY Section that does not have voting representation on the MSSNY Council. Voting privileges are extended to the Councilors representing the Medical Student Section, the Resident and Fellow Section, and the Young Physician Section.

Testimony referenced discussion earlier in the meeting of the House about the importance of having MSSNY give strong voice to the concerns of independently practicing physicians as well as to the concerns of physicians who are employed. The OMSS incorporates both groups of physicians and its governing council is reflective of the differing needs of physicians in different practice situations.

It was pointed out that the AMA treats the OMSS in the same way it treats all other sections, and requested that MSSNY do the same.

After due deliberation, the Committee agreed that the Organized Medical Staff Section should be treated the same as other MSSNY sections, with voice and vote.

Accordingly the committee members voted unanimously to recommend that Resolution 2018-1 BE ADOPTED.

Your Committee wishes to thank the members of the House Committee on Bylaws, the members of the House of Delegates who provided testimony and input, and the individuals who assisted in staffing the Reference Committee and in the preparation of this report, Barry Cepelewicz, MD, Esq., Donald Moy, Esq., Laurel Mayer, and Eunice Skelly.

Respectfully submitted,
Steven Kaner, MD
Chair

Following are three MSSNY bylaws resolutions that will be presented at the House of Delegates meeting in April:

MEDICAL SOCIETY OF THE STATE OF NEW YORK
HOUSE OF DELEGATES

Resolution 2019 - 1
Introduced by: Thomas J. Madejski, MD, FACP, President
MSSNY Committee on Membership

Subject: Group and Institutional Membership

Referred to: House Committee on Bylaws

Whereas, Many group practices and medical staffs have been participating with MSSNY and county medical societies in membership agreements offering special dues rates in return for participation by all eligible physicians; and

Whereas, MSSNY Bylaws allow the Council, with the approval of the Board of Trustees and the affected county medical society, to waive, for a period not to exceed three years, the requirements regarding the payment of dues as provided in the Bylaws, as part of a pilot membership project; and

Whereas, Many of these agreements have been extremely successful in stemming membership losses due to the growing ranks of employed physicians; and

Whereas, to discontinue such initiatives would be counter-productive; therefore be it

RESOLVED, that a subcategory of “active member” shall be
Report of the House Committee on Bylaws and Three MSSNY Bylaws Resolutions

(Continued from page 16)

ded to the membership categories described in the MSSNY Bylaws, to establish a formal status for physicians who participate as members through agreements with their groups or institutions; and be it further

RESOLVED, that ARTICLE II, Section 1 of the MSSNY Bylaws be amended by the addition of a new paragraph 4 to read as follows (additions underscored):

SECTION 1. CLASSES
The membership of the Medical Society of the State of New York shall be divided into eight classes: (a) active, (b) life, (c) honorary, (d) resident and fellow, (e) student, (f) affiliate, (g) post-medical graduate and (h) retired.

Active membership shall be limited to graduates of recognized medical or osteopathic schools who have completed not less than four satisfactory years of at least eight months each, or the equivalent, in a medical or osteopathic school in the United States of America or Canada registered as maintaining at the time a standard satisfactory to the medical or osteopathic licensing authorities of the State of New York, or in a medical or osteopathic school in a foreign country maintaining a standard not lower than that prescribed for medical schools in this State.

The active members shall be all active members in good standing of the component county medical societies. A copy of the roster of such members, certified to be correct by the respective secretary of each component county medical society, shall be evidence of the right of the members whose names appear therein to membership in the Medical Society of the State of New York.

The active members shall also include physicians who participate through group or institutional membership agreements approved by the Council and the Board of Trustees and by participating county medical societies.

And be it further RESOLVED, that Article XV be amended by insertion of a new paragraph 6, to read as follows:

The dues structure for members who are enrolled through group or institutional membership agreements shall be subject to the approval of the Council, Board of Trustees and participating county medical society(ies).

MEDICAL SOCIETY OF THE STATE OF NEW YORK HOUSE OF DElegates

Resolution 2019 – 2
Introduced by: Thomas J. Madejski, MD, FACP, President MSSNY Committee on Membership
Subject: Pilot Membership Projects
Referred to: House Committee on Bylaws

Whereas, MSSNY Bylaws allow the Council, with the approval of the Board of Trustees and the affected county medical society, to waive, for a period not to exceed three years, the requirements regarding the payment of dues as provided in the Bylaws, as part of a pilot membership project; and

Whereas, When pilot membership projects have proven successful for participating county societies and MSSNY, they should be continued beyond three years; therefore be it

RESOLVED, That Article XV, paragraph 2 of the MSSNY Bylaws be amended to read as follows:

The Council, with the approval of the Board of Trustees and the affected participating county medical society, is authorized to waive, for a period not to exceed three years, the requirements regarding the payment of dues as provided in this article in the performance of any pilot membership projects. At the conclusion of the three year pilot phase, the Council and Board of Trustees shall determine if a pilot should be ended, or continued as an approved alternative membership option for interested county medical societies, and shall report on its action to the House of Delegates.

And be it further

RESOLVED, That Article II, Section 1 be amended by the addition of a new paragraph 4, to read as follows:

The active members shall also include physicians who are participants in a pilot program or in an alternative route to membership that has been approved by the Council and Board of Trustees and participating county medical societies, as provided under Article XV.

MEDICAL SOCIETY OF THE STATE OF NEW YORK HOUSE OF DElegates

Resolution 2019 – 3
Introduced by: MSSNY House Committee on Bylaws
Subject: Delay of MSSNY Elections Caused by Weather or Other Emergency
Referred to: House Committee on Bylaws

Whereas, the dates for the Annual Meeting of the MSSNY House of Delegates (HOD) are often determined by availability of various facilities in which the meeting can be held; and

Whereas, the HOD is normally scheduled during the month of April but has by necessity taken place during the months of May and March; and

Whereas, weather related problems for travel related to the HOD can occur at any time of the year: notably in 2007 when the “Storm of the Century” was predicted, the HOD was accelerated substantially, adjourning on Saturday, so that attendees could leave early, and most recently a blizzard on March 22, 2018 required many HOD attendees to change travel plans and flights; and

Whereas, MSSNY Bylaws state that a quorum required for the HOD to act is 100 credentialed delegates, which represents approximately 1/3 of the members of the House and could be difficult to achieve depending on circumstances; and

Whereas, elections which take place at the HOD are a critical function of the House since those elected take office immediately upon adjournment of the meeting, and must serve in their roles until the following annual meeting; therefore, be it

Resolved, that ARTICLE VIII. ELECTIONS be amended by addition of a new paragraph 4, which would state:

In the event that the Speaker and the President declare an emergency situation has prevented elections from being held at the Annual Meeting of the House of Delegates, the Speaker and the President shall approve a procedure to conduct elections which may be by written or electronic ballot or by other appropriate media to be sent to voting delegates no later than one month after the conclusion of the annual meeting. Current office holders shall continue their terms until voting results are final.
PRESIDENT’S COLUMN

(Continued from page 4)

ing environment. Ideally, this should be done in conjunction with their district and neighboring counties, but there are challenges to work through. I’m especially grateful to Eunice Skelly, VP membership, and Christina Southard, VP Communications for their efforts this past year.

• Communications: We’ve had a good year expanding our footprint across many platforms and I anticipate further improvement as we review our internal and external marketing strategy. We also are implementing a media strategy and communications policy for our Officers to insure that we speak with one voice and avoid dilution or confusion in our messaging. We have expanded the MSSNY DAILY to your healthcare team members (email rraia@mssny.org) to further expand the reach of our message and add additional voices to share it with our representatives and regulators.

• Public Health: I appointed a Task Force on End of Life care which continues to work on multiple issues related to improving care at the end of life. The task force will have a number of resolutions for consideration at our House of Delegates. They will continue their deliberations on the difficult issue of Physician Assisted Suicide. A formal report to MSSNY will follow the end of deliberations. I am very grateful to the task force participants for their devotion of time and intellect to help our patients as they approach the end of their lives.

• Opioids and Marijuana: We have continued to advocate for education and best practices in opioid prescribing and expansion of Medication Assisted Treatment for opioid and other substance use disorders. It’s important to practice as you preach. I took the 8 hour course to obtain an X waiver for Suboxone prescribing to help my patients and community. Related to this, and outside of opioids as well, is the societal issue of marijuana. MSSNY has led the fight against further expansion of marijuana until proper research is done on the risks and benefits of marijuana to our citizens. MSSNY will continue to advocate for rescheduling marijuana to allow high quality research and for studies of various medicinal products to properly advise our patients on indications, dose response, drug interactions and long term risks. We are also continuing to expand our Veterans Matters educational programs and have undertaken new activity on women’s health. We are partnering with MLMIC to expand our physician wellness educational program. Thanks to Patricia Clancy, our able VP of Government Affairs for her excellent advice and administrative skills.

• Committee on Physician Health: The committee continues its work to assist our colleagues to maintain their practices when they face serious challenges. Our Physician Wellness Committee has done great work and now is ready to implement further programming as noted above. We continue to work with the OPMC, our major malpractice insurers, and other interested parties to create a peer support program to reduce the need for CPH help to our NY physicians. Thanks to VP Terry Bedlent (who incidentally helped me get my first job out of residency) for his friendship, and always taking a call when a physician is in need.

• Governmental Affairs: Moe Auster and his team do a great job with limited resources. One of our goals was to give them more tools for advocacy. We remain behind other major advocacy groups in NY State for PAC funding. We have continued to reach out to develop new engagement opportunities including MSSNY Day at the Races, a Staten Island Sock Soirée hosted by Dr. John Maese and Dr. Donna Seminara; and we have an upcoming event in Buffalo to be hosted by one of our new PAC chairs, Dr. Rose Berkun. We have had some success in expanding our PAL program by creating tighter links with our local legislators. We have been engaged with the Senate and Assembly sponsors of the single payer, New York Health Act. Those discussions are ongoing and have had some benefit in terms of crafting policies on prior authorization and collective negotiation which have the potential to move forward even if the New York Health Act does not. We have not had success in improving the liability system in New York State which fails to compensate patients properly and has driven many physicians out of New York. We have been successful in maintaining the second layer of protection at no cost to physicians. We will continue to work to create new opportunities for liability reform, and other changes to improve the practice environment.

• Socio-Medical Economics: Our VP of Socio-Med, Regina McNally, continues to advocate strongly on our members’ behalf on a number of individual issues related to conflicts with insurers and regulators. Regina was instrumental in coordinating our efforts to secure the recent raise in workers comp fees, and in the successful fight to block reductions in and insurer abuses this past year.

SURPRISE ENDINGS

Having a plan is critical to execution. On the other hand, stuff happens:

• MSSNY monitored closely the sale of MLMIC to Berkshire Hathaway. We advocated for protections for our member policy holders and were pleased with DFS commissioner Vullo’s thoughtful management of the transition. MSSNY and MLMIC are beginning work on a joint project to improve the care of our patients and reduce medical errors. We look forward to continuing our very close relationship with MLMIC to the benefit of our mutual members.

• The MSSNY AMA Delegation has been reorganized to advocate more effectively for our MSSNY policies.

• Progress has been made on creating a potential MSSNY Telemedicine project.

THANK YOU

I would be remiss if I didn’t thank our Executive Vice President, Mr. Phil Schuh, for his sage advice, and unceasing efforts on behalf of our members. He helps each of our officers to perform at their highest level, and is completely focused on the success of MSSNY and our members. Michelle Nuzzi and Suzanne Reilly have been superb in managing me this last year, and Phil for many years.

In reviewing the accomplishments and failings of the last year, I am unconscious of intentional error, yet too aware of my own deficiencies not to think it possible that I have committed many errors. I am thankful to my colleagues in the Office of the President, the MSSNY Council, and especially our most excellent staff for catching most of them, and pray that Providence, which watches over our patients and their physicians, will avert or mitigate the rest.

I shall enjoy passing the mantle of leadership to our very capable Dr. Art Fougner. I carry with me the hope that my actions and motives will continue to be viewed by my colleagues and our members with indulgence and the knowledge that it has always been my goal to put our patients and our MSSNY physicians first. We truly are in a Golden Age of Medicine – able to cure more diseases, ease more suffering, and delay debility. I hope to be able to continue to participate with you in our journey forward to deliver better care to our patients and each other’s families over the next many years.

My greatest wish is that you will experience more of the joy that I have received in caring for our patients and our profession. In the words of Frank Sinatra, “The best is yet to come.”

Excelsior!
importance of protocols for dealing with noncompliant patients

(Continued from page 8)

internist.

The patient was seen by a nephrologist several days later. The nephrologist sent a letter to the internist documenting that the patient had bipolar disorder with a long history of lithium use. The nephrologist promptly contacted the patient’s psychiatrist to immediately discontinue the lithium. One month later, the patient underwent a kidney biopsy which revealed chronic tubulointerstitial disease, accompanied by focal segmental glomerulosclerosis and hyalinosis. These findings were consistent with lithium toxicity.

The patient commenced a lawsuit against the MLMIC-insured internist, alleging that he failed to properly and timely diagnose and treat the patient’s rising creatinine levels. He also alleged that the internist failed to repeat the elevated tests or refer him to a nephrologist much earlier for consultation. Finally, he also alleged that the internist failed to regularly monitor his lithium levels. He also sued his psychiatrist, who was not a MLMIC policyholder. Unfortunately, at the time the lawsuit was commenced, the patient had been placed on the waiting list for a kidney transplant.

Call not documented

At his deposition, the internist testified that when he saw the patient’s creatinine level was 1.8, he promptly called the patient to tell him to return in three months to repeat the creatinine test. However, this call was not documented. Further, despite the fact that the patient did not return in three months as requested, there was also no documentation of any follow-up efforts for a 17-month period. Finally, the internist claimed that the patient advised him that his psychiatrist was monitoring his lithium and Tegretol levels. He testified that he was very concerned with the patient’s elevated cholesterol and repeatedly advised him to return every three months for follow-up not only at his first visit, but at every visit thereafter. However, he admitted that he never informed the patient that lithium can cause kidney damage. Nor did he make any further effort beyond the first visit to identify or communicate with the patient’s psychiatrist. Further, he was never asked to send the results of the patient’s creatinine levels to the psychiatrist.

At his deposition, the patient denied that he had ever told the internist that his psychiatrist was following his lithium and creatinine levels. He testified that he never informed the patient that lithium can cause kidney damage. Nor did he make any further effort beyond the first visit to identify or communicate with the patient’s psychiatrist. Further, he was never asked to send the results of the patient’s creatinine levels to the psychiatrist.

The MLMIC experts who reviewed the internist’s records noted that the clinical studies at the time of this incident revealed that it was difficult to vigorously investigate the effect of lithium levels on kidney function. However, the consensus of the experts was that the internist should have discontinued the lithium prompt when progressive renal insufficiency was demonstrated.

A nephrology expert confirmed that the internist had an obligation to investigate the patient’s creatinine findings and then to promptly refer the patient to a nephrologist when his creatinine level reached 1.6. Finally, all of these expert reviewers were perplexed by the failure of both the internist and the psychiatrist to communicate with each other to coordinate the patient’s care. They also opined that both the psychiatrist and the patient had some contributory culpability.

Settled for 1.7 million

During the early stages of litigation, the MLMIC-insured internist signed a consent to settle the lawsuit. However, the psychiatrist refused to participate in a settlement. Additionally, the patient made an unreasonable demand for damages, thereby forcing counsel for the internist to proceed to trial. However, before the jury rendered a verdict, the lawsuit was settled for $1.7 million. One million dollars was paid on behalf of the MLMIC-insured internist and the remaining $700,000 was paid by the co-defendant psychiatrist.

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SEXUAL HARASSMENT WEBINAR
(Continued from page 6)
will know how to teach your employees:
• How to identify the more subtle forms of sexual harassment.
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• Practical advice on how to diminish and prevent sexual harassment at your practice.
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APRIL 2019 ISSUE CLOSES MARCH 15
$200 PER AD; $250 WITH PHOTO

OBITUARIES

BLUMENBERG, Robert Murray; Naples FL. Died December 02, 2019, age 85. Medical Society County of Schenectady
GORDON, Bernard; Huntington NY. Died January 20, 2019, age 78. Suffolk County Medical Society Inc.
MACRAE, Elisabeth L.; New York NY. Died May 03, 2019, age 76. New York County Medical Society Inc.
MC GUIRE, James J.; Ormond Beach FL. Died January 07, 2019, age 95. Broome County Medical Society Inc.
ORENTRIECH, Norman; New York NY. Died January 25, 2019, age 96. New York County Medical Society Inc.
PICCIONE, Gary Anthony; Greenport NY. Died December 22, 2018, age 98. Nassau County Medical Society Inc.
SKAMAS, Demetrios C.; New Hartford NY. Died December 27, 2018, age 91. Medical Society County of Oneida Inc.
WALTZER, Herbert; New Hyde Park NY. Died April 27, 2018, age 92. Medical Society County of Queens Inc.
ORENTRIECH, Norman; New York NY. Died January 25, 2019, age 96. New York County Medical Society Inc.
PICCIONE, Gary Anthony; Greenport NY. Died December 22, 2018, age 98. Nassau County Medical Society Inc.
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