2018 HOUSE OF DELEGATES
MASTER LIST OF RESOLUTIONS AND REPORTS

HOUSE COMMITTEE ON BYLAWS
Report of the House Committee on Bylaws:
Resolution 2017-1

Resolutions
1  Granting Vote to OMSS Councilor

GOVERNMENTAL AFFAIRS AND LEGAL MATTERS – A
Governemental Affairs Report 1  2018 Legislative Program
Report of Recommendations for Sunset of Policy

Resolutions
50  Addressing Observation Status for Skilled Nursing Patients
51  Ensuring Medicare Coverage for Long Term Care
52  Value-Based Payment System
53  Rebalancing of Facility Fees and Service Fees
54  Fair Health Transparency
55  Emergency Out of Network Services
56  Unfair Dis-enrollment Practices of Insurance Companies
57  Prohibit Retrospective ER Coverage Denial
58  Limiting Insurers from Unilaterally Modifying Contracts
59  Insurance Denials after Precertification
60  Utilization Review
61  Modernizing OPMC
62  MSSNY Supports Health Information Exchange
63  Integrating Medical Records
64  Cancelling Prescriptions through EHRs
65  Pathology Specimens
66  Life-threatening Complications with Hip Replacements
67  Diabetic Shoes
68  Use of Pressure-Guided Treatment of Heart Failure
GOVERNMENTAL AFFAIRS AND LEGAL MATTERS – B

Report of Recommendations for Sunset of Policy

Resolutions
100 Saving Lives and Money
101 Preserving the Anesthesia Care Team Model
102 Protecting Patients from High Drug Prices
103 Pharmaceutical Shortages of IV Bags
104 Covered Drugs during Insurance Enrollment Year
105 Maintenance Medications and Pharmacy Parity
106 Restricting Faxes from Pharmacy Benefit Managers
107 Workforce Development for Addiction Treatment by Physicians
108 Board Certification Participation in Insurance Plans
109 Comprehensive Minimal Facility Security Standards
110 NYS DOH Employment of Immediate Jeopardy for Hospital Attire
111 Opposition to Medicaid Work Requirement
112 Oppose Medicaid Eligibility Lockout
113 Expanded Clinical Roles for Medical Assistants in New York State
114 Regulation of Hospital Advertising
115 Chiropractor (D.C.) Scope of Practice

PUBLIC HEALTH AND EDUCATION

Report of Recommendations for Sunset of Policy

Resolutions
150 New York State Urological Society
151 Bicycle Safety
152 Bicycle Safety Infrastructure
153 Caffeine Labeling with Warnings
154 Safe Injection Facilities Pilot Studies in NYS
155 Discriminatory Policies that Create Inequities in Health Care
156 License to Buy Alcohol
157 Banning the Sale of Bump Stocks
158 Strengthening the Background Check System for Firearm Sales
159 Reduce Gun Use in Suicidal Patients
160 Substance Use Disorders (SUD) Medical Treatment Requirement
161 Medical Marijuana an Alternative to Opiate Addiction
PUBLIC HEALTH AND EDUCATION (continued)

162  Opioid Pill Buy Back Program
163  Quality of End of Life Care
164  Engaged Neutrality on Medical Aid in Dying
165  Change the Schedule Classification of Testosterone
166  Change the Schedule Classification of Cannabis
167  Integrating Data into Physician’s E-prescribing Workflow
168  Increase Free Online CME for Members
169  Partnership on Continuing Medical Education

REPORTS OF OFFICERS AND ADMINISTRATIVE MATTERS

Board of Trustees and Officers Reports
Report of Recommendations for Sunset of Policy

Resolutions

200  Health Care as Economic and Social Benefit
201  Physician Health and Burnout Reduction
202  MSSNY Approval of any Amicus Brief
203  MSSNY Committees as a Member Benefit
204  Free Membership to Medical Students and Residents
205  Life Member Administration Fee
206  County Medical Society Provisional Membership
207  Introductory Memberships
208  Pilot Program Memberships
209  Creation of Standardized Group Membership Structure
210  Equity in Dues
211  MSSNY Membership Privileges
212  Dues Equity
213  Creation of Strategic Plan
214  County Dues
SOCIO-MEDICAL ECONOMICS

Report of Recommendations for Sunset of Policy

Resolutions

250 Printing Co-Pays & Deductibles on All Insurance Cards
251 Modify the Clinical Laboratory Improvement Amendment of 1988
252 Adjusting Parameters for Hospital Readmission Reduction Program
253 Non-payment and Audit Takebacks by CMS
254 Contract Non-Renewals by Third-Party Insurers
255 Insurers’ Procedures Regarding Physicians’ Terminations and Resignations
256 The Ordering of Lab and Radiology Tests by Out-of-Network (OON) Physicians
257 Office Based Surgical Facility Fees Reimbursement
258 Use of High Molecular Weight Hyaluronic Acid
259 House Calls Instead of Paratransit
260 Reimbursement of CPT fees as an AMA member benefit
261 Billing for Healthcare Services
262 Difficulty Obtaining Pre-Op Information for Insurers
263 Qualified Medical Practitioners on Preauthorization Phone Lines
264 Increasing Rate of Precertification Requirements
265 No-Fault Pre-Authorization Requirement
266 Prompt Payment of Worker’s Compensation Testimony Fees
267 New York State Worker’s Compensation Preferred Provider Organizations
268 Education on Worker’s Compensation Manual and Protocol
REPORT OF THE HOUSE COMMITTEE ON BYLAWS

To the House of Delegates, Ladies and Gentlemen:

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

Jerome Craig Cohen, MD, FACPé é é é é é é é é é é é é é é é é é é é é é é é é é ..Broome
Frank G. Dowling, MD, Ex-Officio é é é é é é é é é é é é é é é é é é é é é é é é ..Secretary, Suffolk
Timothy Francis Gabryel, MDé é é é é é é é é é é é é é é é é é é é é .Erie
Kira A. Geraci-Ciardullo, MD MPH, Ex-Officio é é é é é é é é é é é é ..Speaker, Westchester
Robert B. Goldberg, DOé é é é é é é é é é é é é .e New York
Robert Alan Hesson, MDé é é é é é é é é é é é é é .Tompkins
Nina I. Huberman, MD, MPHé é é é é é é é é é é é é é .Bronx
Steven M. Kaner, MD, Chairé é é é é é é é é é é é é é ..Kings
William R. Latreille, Jr., MD, FACP, AMÉé é é é é é é é é é é é é é Franklin
Charles Rothberg, MD, Ex-Officioé é é é é é é é é .é é é é é é .é ..President, Suffolk
Philip Schuh, CPAé é é é é é é é é é é é é é é é é é é ..Staff
Barry B. Cepelewicz, MD, Esqé é é é é é é é é é é é é é ..General Counsel
Donald R. Moy, Esqé é é é é é é é é é é é é é é .General Counsel

At the 2017 annual meeting of the House of Delegates, Resolution 2017-1 was referred to the
House Committee on Bylaws for review and report back to the House of Delegation in 2018.
The Reference Committee on Bylaws met on April 21, 2017 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 2017-1 provided as follows:

RESOLVED, that Article III of the MSSNY Bylaws be amended to read:

SECTION 1. COMPOSITION

The House of Delegates shall be composed of: (a) duly designated delegates from the
county medical societies; (b) officers of the Medical Society of the State of New
York, councilors, and trustees; (c) a duly designated delegate from each district branch; (d) a
duly designated delegate from each recognized specialty society; (e) duly designated delegates
from the medical student section; (f) the Commissioner of Health of the State of New York, or a
deputy designated by the Commissioner, provided that any representative shall be a member of
the State Society; (g) past-presidents of the State Society and any past president of the
American Medical Association, provided that individual is a member of the Medical Society of
the State of New York, who shall be members for life; (h) any past executive vice president of
the State Society, who shall be a member for life, provided that individual is a member of the
Medical Society of the State of New York, resides in the State of New York and is not otherwise
a member of the House of Delegates for life in accordance with this section; (i) any past deputy
executive vice president of the State Society who has served a minimum of three years as
deputy executive vice-president, who shall be a member for life, provided that the individual is a
member of the State Society, resides in the State of New York, is not otherwise a member of the
House of Delegates for life in accordance with this section, and is elected as a member for life
by a majority of the members of the House of Delegates present and voting; (j) a representative
from each of the medical schools in New York State, provided said representative is a member.
of the Medical Society of the State of New York; (k) delegates representing the resident and fellow section; (l) a delegate representing the organized medical staff section; (m) delegates representing the young physicians section; and (n) elected officers, trustees, and speakers of the American Medical Association, provided those individuals are members of the Medical Society of the State of New York; and (o) a delegate representing the employed physicians section; and be it further

RESOLVED, that Article IV. COUNCIL be amended as follows:

SECTION 1. COMPOSITION

Four councilors shall be elected annually by the House of Delegates, each for a term of three years. One councilor representing the young physicians 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, and one councilor representing the employed physicians section to the Medical Society of the State of New York, shall be elected every year by the House of Delegates 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 or the councilor representing the employed physicians section. 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.

No person shall serve, consecutively, more than two terms as councilor. An unexpired term shall not be construed as a term of office.

The councilors shall assume office on election and shall hold office until their successors are duly elected and qualified.

Councilors, other than the councilor representing the medical student section, the councilor representing the resident and fellow section, and the councilor representing the young physicians section, and the councilor representing the employed physicians section shall be assigned to specific county societies as liaison for the Council in accordance with the provisions of Article V, Section 2. Councilors shall be required to disseminate information of Council activity as well as returning information to the Council, and shall report regularly to the Council on their activity. The councilor representing the young physicians section must be a young physician member of the Medical Society of the State of New York and must have completed residency training and be under the age of 40, or regardless of age, have completed residency training within the past eight years, at the beginning of his/her term as councilor. The councilor representing the medical student section must be a student member of the Medical Society of the State of New York; the councilor representing the resident and fellow section must be a resident member of the Medical Society of the State of New York. The councilor representing the employed physicians section must be a member of the Medical Society of the State of New York and employed as a salaried employee of a New York hospital or health care network that serves New York State; and be it further

RESOLVED that Article XII of the MSSNY Bylaws be amended as follows:

ARTICLE XII-C – Employed Physicians Section

An Employed Physicians Section shall be established, the focus of which shall be specific needs of New York physicians who are salaried employees of a hospital, hospital-based network or system, or other healthcare entity which employs physicians. The Employed
Physicians Section shall focus on issues of interest specific to salaried physicians. It shall establish internal governance and operating procedures which shall not be in conflict with MSSNY Bylaws. Members of the Employed Physicians Section shall be paid members of MSSNY and their respective county medical society.

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The House Committee on Bylaws addressed two primary issues: (1) Does MSSNY need to establish a separate section to represent employed physicians? (2) Assuming that it does, what types of employment settings should be the focus of the section?

After due deliberation, the committee determined that an employed physician section should be established. The committee believes that the prevalence of employed physicians versus independent practitioners will continue to grow, and it is vital that MSSNY serve as the voice for employed physicians, and that MSSNY be engaged in advocacy on issues relevant to employed physicians. While the Organized Medical Staff Section represents both hospital employed physicians and independent practicing physician members of medical staffs, the Committee believes that it is necessary to establish a separate section to advocate exclusively for the interests of employed physicians. The committee also believes that providing a councilor to represent the employed physician section will help to position MSSNY as a powerful advocate for employed physicians.

The committee further believes that in order to enhance its effectiveness, the employed physician section will need to focus on a finite number of employment settings. The committee believes that the focus of the employed physician section should be the same employment settings as hospitals and other facilities that are the focus of the Organized Medical Staff Section. The committee believes that the term for other healthcare entity which employs physician is overly broad. Virtually any entity that employs physicians could be the focus of the section. While there may be some benefits to opening the section to focus on multiple and varied types of employment settings, the committee believes that the section would be a more effective advocate if it focused upon the hospital and facility employment setting. To reiterate, the committee does not believe the employed physicians section would be redundant to the Organized Medical Staff Section, because the employed physician section will be charged to focus upon issues of particular interest to employed physicians.

Accordingly, the House Committee on Bylaws recommends that Resolution 2017-1 be amended as follows (additions underlines, deletions lined through):

RESOLVED, that Article IV. COUNCIL be amended as follows:

SECTION 1. COMPOSITION

Four councilors shall be elected annually by the House of Delegates, each for a term of three years. One councilor representing the young physicians 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, and one councilor representing the employed physician section 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 or the councilor representing the employed physicians section. In the event of a vacancy, a counselor 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 counselor to fill the unexpired term.
The person shall serve, consecutively, more than two terms as councilor. An unexpired term shall not be construed as a term of office.

The councilors shall assume office on election and shall hold office until their successors are duly elected and qualifies.

Councilors, other than the councilor representing the medical student section, the councilor representing the resident and fellow section, and the councilor representing the young physician section, and the councilor representing the employed physicians section shall be assigned to specific county societies as liaison for the Council in accordance with the provisions, of Article V, Section 2. Councilors shall be required to disseminate information of Council activity as well as returning information to the Council, and shall report regularly to the Council on their activity, The councilor representing the young physicians section must be a young physician member of the Medical Society of the State of New York and must have completed residency training and be under the age of 40, or regardless of age, have completed residency training within the past eight years, at the beginning of his/her term as councilor. The councilor representing the medical student section must be a student member of the Medical Society of the State of New York; the councilor representing the resident and fellow section must be a resident member of the Medical Society of the State of New York.

The councilor representing the employed physician section must be a member of the Medical Society of the State of New York and employed as a salaried employee of a New York hospital or other facility listed in the Article XII-C; and be it further

Resolved, that Article XII of the MSSNY Bylaws, be amended by the addition of XII-C as follows:

Article XII-C Employed Physician Section

An Employed Physician Section shall be established, the focus of which shall be specific needs of New York physicians who are salaried employees of acute care hospitals located in New York State; of psychiatric inpatient facilities maintained by the State of New York or its political subdivisions; of hospitals with inpatient programs certified by the New York State Office of Mental Health; and other health facilities and delivery systems. The Council shall establish the criteria for representation of health facilities and delivery systems in the employed physician section. The Employed Physician Section shall focus on issues of interest specific to salaried physicians. It shall establish internal governance and operating procedures which shall not be in conflict with MSSNY Bylaws, and subject to the approval of the Council. Members of the Employed Physician Section shall be dues paying members in good standing of MSSNY and their respective county medical society.

Accordingly, the Committee recommends that Resolution 2017-1 Be ADOPTED AS AMENDED

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 the preparation of this report, Ruzanna Arsenian, Barry Cepelewicz, MD, Esq., Donald Moy, Esq., and Eunice Skelly.

Respectfully submitted,

Steven Kaner, MD
Chair
Whereas, while the Organized Medical Staff Section (OMSS) has had a "Councilor" for many years, this position has never been authorized in the MSSNY Bylaws; and

Whereas, currently, the OMSS Councilor has voice but no vote, both in the Council and at the House of Delegates; and

Whereas, OMSS no vote status originally was based on the concept that OMSS issues would be represented through county representatives, and OMSS therefore did not need that special status; and

Whereas, with all the transformations in healthcare during the past few years, the situation is now radically different, and OMSS does have a unique voice that should be heard; and

Whereas, MSSNY’s other sections (YPS, RFS and MSS) all have voice and vote in the Council and at the HOD, and OMSS should be on par with the other sections; therefore, be it

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 Organized Medical Staff 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.
RECOMMENDATION:
Madam Speaker, Your Reference Committee recommends that the policies contained in 2018 Governmental Affairs and Legal Matters (A) Sunset Report be acted upon in the manner indicated and that the remainder of this report be filed:

REAFFIRM

80.994 Expungement of Record of Liability:
MSSNY will seek legislative, regulatory or other appropriate means to eliminate the requirement for a physician to report any information regarding a medical liability claim brought against him or her that has been concluded without monetary or other pecuniary relief being paid on behalf of that physician. (Council 11/20/08)

RECOMMENDATION: Maintain. The policy is still relevant.

80.995 Support the “Sorry Works” Program:
MSSNY supports the “Sorry Works” Program which also protects against the use of the physician’s admission against interest in a subsequent lawsuit as long as it is accompanied with meaningful tort reform and also urge the American Medical Association to support the Program. (HOD 2008-97)

RECOMMENDATION: Maintain. The policy is still relevant.

85.970 Physician Education to Address Malpractice Insurance Crisis:
All physicians in the State of New York will be urged to participate in a series of malpractice educational seminars in their respective communities. The urgency for such an educational program, to highlight the malpractice crisis and the prospective loss of available medical care, will be communicated to the general public via the media with citizens being directed to demand action by their State legislators for medical liability tort reform. (HOD 2008-99)

RECOMMENDATION: Maintain. The policy is still relevant.

130.965 The High Cost of Medical Liability Insurance:
MSSNY is directed to:
   a) Place premium relief from the high cost of medical liability insurance as a top priority for the Legislative Program for next year;
   b) Seek legislation to reduce the amount of medical liability insurance required to be eligible for excess insurance coverage at no cost from $1.3 million to $1.0 million;
   c) Seek legislation for New York State to subsidize a percentage of the premium cost;
   d) Make every effort to reduce the cost of medical liability insurance for physicians in New York State before the number of physicians practicing in New York State is reduced to a level that may cause delays in accessing and/or an inability to access health care, especially in high-risk specialties and/or rural areas currently near or at
a crisis; and

e) Work to assure that the Legislature appropriates sufficient funds to support the Excess Insurance Program. (HOD 2008-94)

RECOMMENDATION: Maintain. The policy is still relevant.

165.890 Guidelines for Executive Compensation in Health Insurance Companies:
MSSNY will urge the enactment of federal legislation or regulation that will establish guidelines for executive compensation in health insurance companies that assures appropriate and responsible allocation of resources for health care delivery. (HOD 2008-67)

RECOMMENDATION: Maintain. The policy is still relevant.

165.891 Patient-Directed Educational Campaign Regarding Managed Care Organizations:
As part of its ongoing efforts to achieve meaningful reform of abusive managed care practices, MSSNY will (a) utilize educational materials that encourage physician and patient grassroots advocacy; and (b) work to educate physicians, the public and patients regarding the increasing threat to the health care delivery system caused by excessive health plan market share, profits and executive compensation. (HOD 2008-64)

RECOMMENDATION: Maintain. The policy is still relevant.

165.892 Contract and Fee Schedule Disclosure:
MSSNY to seek legislation, regulation or other appropriate means to compel health plans to provide physicians with full written contracts with all changes highlighted, a full fee schedule applicable to the physician's specialty, and a written summary of such changes, each time they renew the contract. (HOD 2008-59)

RECOMMENDATION: Maintain. The policy is still relevant.

165.923 Approval by Insurance Companies to Providers:
MSSNY will seek legislation assuring that insurance companies remain obligated to pay for all services that have been pre-authorized, unless such authorization was obtained fraudulently. (HOD 2002-73; Reaffirmed HOD 2004-83; HOD 2007-67; HOD 2008-50)

RECOMMENDATION: Maintain. The policy is still relevant.

260.926 Impact of the Medical Malpractice Crisis on Women’s Health:
MSSNY will approach the leadership of the National Organization for Women, the Susan Komen Foundation and other advocacy groups for women, so that MSSNY leadership and the leadership of these organizations may work jointly to improve the access of all women to timely, affordable and high quality health care. (HOD 2008-98)

RECOMMENDATION: Maintain. The policy is still relevant.
Payment for Procedures:
MSSNY to seek legislation, regulation or other appropriate means to require health insurers to pay for any and all procedures clinically indicated pursuant to specialty society guidelines that are prudent and unanticipated at the time of performing pre-approved procedures. (HOD 2008-57)

RECOMMENDATION: Maintain. The policy is still relevant.

Charge for Referrals and Prior Authorizations:
MSSNY to seek the introduction of regulation/legislation to allow physicians to be paid by health insurers for referrals and prior authorizations reflecting their costs in time and personnel for each and every referral or prior authorization sought. (HOD 2008-53)

RECOMMENDATION: Maintain. The policy is still relevant.

HMOs Decreasing Reimbursement & Patient Co-Payments:
MSSNY will continue to advocate to the Legislature, the Governor, the Department of Health and other relevant policymakers to address the problem facing physicians, businesses and patients regarding inappropriately constrained provider reimbursement, rapidly increasing health insurance premiums and increased patient cost-sharing at the same time that health plans are generating enormous and excessive profits. (Council 3/3/08)

RECOMMENDATION: Maintain. The policy is still relevant.

Universal Access to Healthcare:
MSSNY will await the final recommendations of the Task Force on Health System Reform and take action on those recommendations at the 2009 House of Delegates by directing its delegates to advocate and vote for a platform embodying those recommendations.

Also, MSSNY will direct its delegates to the American Medical Association Annual Meeting in 2009 to advocate and vote for a platform which embodies the recommendations approved by the MSSNY 2009 House of Delegates. (HOD 2008-91)

RECOMMENDATION: Sunset. The policy was time limited

Inappropriately Constrained Provider Reimbursement, Increasing Health Insurance Premiums and Increased Patient Cost-Sharing:
MSSNY should continue to advocate to the Legislature, the Governor, the Department of Health and other relevant policymakers to address these problems facing physicians, businesses and patients which at the same time that health plans are generating enormous and excessive profits. (Council 3/03/08)

RECOMMENDATION: Sunset. The policy is largely repetitive of Policy 265.909 (see above)
Whereas, observation status is defined as outpatient service that a physician orders to allow for testing and medical evaluation of the patient’s condition; and

Whereas, observation status usually takes place in the emergency room after an acute event as defined by patient; and

Whereas, observation status impacts our elderly population as it does not count toward the three-day rule for skilled nursing care essentially depriving the patients of a Medicare benefit; therefore, be it

RESOLVED, That the Medical Society of the State of New York supports the position that, when in the judgement of the attending physician, the emergency physician and the social worker, skilled nursing care is the most appropriate care for the patient, that observation status will serve as substitute for the three-day hospitalization requirement for medical eligibility for skilled care; and be it further

RESOLVED, That a copy of this resolution be forwarded to the American Medical Association for its consideration.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018 ë 51

Introduced by: MSSNY’s Committee on Quality Improvement and Patient Safety
MSSNY Sub-committee on Long Term Care

Subject: Ensuring Medicare Coverage for Long Term Care

Referred to: Reference Committee on Governmental Affairs - A

 Whereas, as long term care services are received by over 12 million Americans today, with
projections pushing the number to over 27 million in the next 40 years; and

 Whereas, the long term services can quickly exhaust private resources and, as a result, two-
thirds of long term care is paid out of our Medicaid program; and

 Whereas, past and current discussions of our healthcare system are silent on long term care;
therefore, be it

 RESOLVED, that the Medical Society of the State of New York support the position that
Medicare, which now covers 100% of the first 20-days of a skilled nursing facility, be increased
to cover the first 90-days; and be it further

 RESOLVED, that a new long term care trust fund be created which would be funded by a broad-
based tax for those patients which may still require long term care; and be it further

 RESOLVED, that a copy of this resolution be transmitted to the American Medical Association
(AMA) for its consideration.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018 ï 52

Introduced by: Medical Society of the County of Queens

Subject: Value-Based Payment System

Referred to: Reference Committee on Governmental Affairs ï A

Whereas, the Merit-based Incentive Payment System (MIPS) was created as part of the Quality Payment Program (QPP) under the Medicare Access CHIP Reauthorization Act of 2015 (MACRA) to institute a new "value-based" payment system for physicians; and

Whereas, MIPS adjusts payments based on performance in the categories of: Quality; Cost; Meaningful Use; and Improvement activities; and

Whereas, compliance with this program involves the navigation of a labyrinth of rules and regulations; and an alphabet soup of acronyms that constitutes an unreasonable burden on physicians; taking time and energy away from the care of patients; and

Whereas, the "value-based" payment system involves a huge bureaucracy which results in the waste of health care dollars; and

Whereas, there is no evidence that this system of payment helps physicians to care for patients or improves the health of patients, which is the true mission of our profession; therefore, be it

RESOLVED, that MSSNY condemn and oppose MACRA, MIPS, and other "value-based" payment systems which impede patient care and physician practice; and be it further

RESOLVED, that MSSNY forward this resolution to the AMA.
Whereas, hospitals are acquiring private practices and establishing them as "outpatient departments" which then qualify for separate facility fees which is creating artificial environments with the sole purpose of financial gain for the institutions; and

Whereas, the current practice of reimbursing facilities at a dramatically high rate while offering service fees to physicians that are well below the actual cost of delivering care has pressed physicians to become employees of large institutions; and

Whereas, the disproportionate reimbursement to facilities has allowed them to pay physicians at a higher rate than the service fees could possibly command per RVU in the private sector; and

Whereas, this method of reimbursing high facility fees has the net effect of driving up the cost for patients and the healthcare system while creating the illusion that service fees paid to physicians are adequate to cover the cost of care; and

Whereas, patients are oftentimes surprised by these high facility fees and forced to pay a percentage of those fees as part of their health insurance contract agreement; and

Whereas, low facility reimbursement to physician offices has made it untenable for private practitioners to pay overhead costs and reduced the distribution of healthcare availability provided in many communities; therefore, be it

RESOLVED, that the Medical Society of the State of New York advocate for legislation or other regulatory mechanisms to eliminate unjustified discrepancies in payment schedules for services across different sites of service.
MSSNY Current Position Statements on Reimbursement

265.844 Office Based Surgery Reimbursement
The Medical Society of the State of New York will seek legislation to require health plans to provide facility fee reimbursement to physicians and/or medical practices that obtained State-mandated accreditation for their office-based surgical suite(s). The new legislation should mandate that facility fee reimbursement paid to physicians and/or medical practices issued by the health plan be fair and equitable, which means that payment by plans be no less than 50% of the rate paid to Ambulatory Surgical Centers (ASCs) or Hospitals for the room use of the ER, OR, OPD or Clinic, which will enable the plans to realize cost containment savings by paying physicians and/or medical practices, rather than paying the full ASC or Hospital room use rate. (HOD 2017-255)

265.848 Ensuring Physicians Get a Fair Share of Bundled Payments
The Medical Society of the State of New York will pursue regulation or legislation in the State of New York to fairly compensate the voluntary/private physicians for the work that they do at the hospital and share the bundled payment with the voluntary/private physician in at least the same proportion to the employed physicians in the same geographic area. (HOD 2016-264)

265.850 UCR-Based Out-Of-Network Policies
MSSNY will continue to advocate strongly for preservation and expansion of usual, customary and reasonable (UCR) based out-of-network benefits available to our patients; and energetically and proactively educate physicians on the importance of a meaningful UCR-based out-of-network environment in order to maintain an acceptable practice environment for physicians desiring to practice in-network as well as those physicians who are employed by an institution. MSSNY will include in the educational materials, the identification of access to other information including links to social media as well as successfully implemented business strategies concerning how the meaningful UCR-based out-of-network environment may be a viable option for physicians who wish to maintain independent out-of-network practices. MSSNY will proactively educate patients, employer groups and insurance agents on a UCR-based out-of-network plan. (HOD 2016-105 & 106)

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Background Reading:
https://www.beckershospitalreview.com/finance/6-things-to-know-about-facility-fees.html


MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution: 2018 - 54

Introduced by: New York State Society of Orthopaedic Surgeons

Subject: Fair Health Transparency

Referred to: Reference Committee on Governmental Affairs - A

Whereas, 120.945 Access to Timely Care
The Medical Society of the State of New York will advocate for legislation or regulation to assure the right of a patient to have insurance coverage which permits them to be treated by an out of network physician of the patient’s choice if the plan network is inadequate to enable a patient to be treated by a needed specialist within 14 days of the patient’s request, with payment based upon usual and customary rates. (HOD 2014-60); and

Whereas, 265.852 Ensuring FAIRHEALTH Integrity
The Medical Society of the State of New York will continue to work with Fair Health to assure optimal physician charge data collection and presentation. (HOD 2016-59); and

Whereas, Insurance Law §§ 3217-a(a)(20) and 4324(a)(21) and Public Health Law § 4408(1)(u) require health plans to disclose information that permits an insured or prospective insured to determine out-of-pocket costs for out of network services, and

Whereas, As of March 31, 2015, Fair Health 80th percentile benchmark was selected as a foundational reference for calculating reimbursement for out-of-network Healthcare Services; and

Whereas, other insurance companies reference Fair Health as a standard in terms of payment for doctors for care and emergency services; and

Whereas, FAIR Health was established to bring transparency to healthcare costs and health insurance information; and

Whereas FAIR Health is a conflict-free, nonprofit organization that qualifies as a public charity under section 501(c )(3) of the Internal Revenue Code; and

Whereas, FAIR Health is charged with maintaining and making available trusted claims data resources that are used to promote sound decision making by all participants in the healthcare system; and

Whereas, physicians are experiencing drastic and substantive decreases in UCR fees for common procedures; and

Whereas, this negatively impacts physicians that deliver emergency care (i.e. plastic surgeons, neurosurgeons, podiatrists, hand surgeons, spine surgeons, etc.) with financial consequences of recent decreases up to 70% within the last year for certain CPT codes; and

Whereas, the integrity of the data captured by FAIR Health in a period of 6 months to drastically reduce fees is questionable; therefore, be it
RESOLVED, that the Medical Society of the State of New York work with FAIR Health and the New York State Department of Insurance to assure fair pricing and transparency of UCR fees from FAIR Health; and, be it further

RESOLVED, that the Medical Society of the State of New York advocate for appropriate primary/specialty care physician representation on the FAIR Health Board and/or committees.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution: 2018 - 55

Introduced by: Nassau County Medical Society
Subject: Emergency Out of Network Services
Referred to: Reference Committee on Governmental Affairs - A

Whereas, the Affordable Care Act (ACA) provided that if a patient had an Emergency Hospital Admission and was treated by an Out of Network physician, that the insurer could hold the patient responsible for no more than they would have for an in-network doctor, which seemed to suggest that the insurer would be paying the physician’s bill; and

Whereas, the subsequent Health and Human Service (HHS) regulation on this provision said that in this case, the insurer need pay only the greater of three sums (1) Medicare; (2) the insurer’s in-network rate; or (3) the insurer’s out-of-network rate; and

Whereas, national medical organizations strongly objected at the time that this would leave the determination of the out of network payment entirely up to the insurer; and

Whereas, most insurers have subsequently changed their out of network rate to a percentage of Medicare, and are therefore not required to pay more than a very small portion of Emergency Out of Network Physician bills, leaving patients to pay the majority of the bills; and

Whereas, the HHS regulation further stipulated that the health insurer’s requirement not to hold the patient responsible for more than a small fixed out of pocket yearly maximum did not apply in this case, again freeing the insurer from paying for the physician’s services; and

Whereas, one of the basic provisions of a health insurance plan should be that major emergency bills are covered; and

Whereas, for many physicians, the ability to get paid for emergency work is an important component of their ability to maintain a viable practice; and

Whereas, a new HHS administration might well be willing to reverse a flawed regulation of a prior administration; therefore, be it

RESOLVED, that MSSNY ask the AMA to pursue a change in the Health and Human Services regulation regarding Emergency Out of Network Physician payments to require that insurers pay the physician’s bill in these cases, at least up to the 80th percentile of regional charges as determined by the FAIRHEALTH database.
Whereas, current law prohibits a health insurance company from terminating a physician's contract without written explanation and opportunity for a hearing by three persons, including a clinical peer in the same or similar specialty; and

Whereas, current law does not apply to insurance companies when they chose to not renew physician contracts; and

Whereas, GHI Emblem/HIP has in recent years been engaging in an aggressive policy of not renewing physicians, stating this is not for quality issues but done randomly, stating new corporate policy; and

Whereas, many physicians have found out only when informed by patients who got letters from GHI Emblem/HIP; and

Whereas, attempts to mediate by MSSNY with insurance companies on how this affects continuity of care, patients relationships and costs to patients have gone without response; and

Whereas, MSSNY has policy urging the Department of Financial Services to require insurance to expand physician protections to the situation of non-renewal to be the same as when they attempt to terminate (policy 120.952), further policy is needed to strengthen these protections; therefore, be it

RESOLVED, that MSSNY support legislation that provides parity of physician protection to the situation of physician termination to that of non-renewal; and be it further

RESOLVED, that MSSNY support legislation that enhances existing law by assuring health insurers do not have exclusive control over the selection of the hearing panel and that while the insurance company can select members of the panel, the physician should be able select a member of the panel or ask MSSNY to select someone on their behalf.

120.952 Insurance Companies Dis-enrollment of Participating Physicians
The Medical Society of the State of New York will seek legislation that would expand physician protections similar to those enunciated in Public Health Law § 4406-d for non-renewal of a network contract for both managed care plans and HMOs in order to enable physicians to have the right to appeal a plan's non-renewal decision and have a hearing, if needed.

The Medical Society will urge the Department of Financial Services to require that all health insurance companies doing business in the State of New York, provide clear and concise justification with appropriate documentation, which substantiates a decision to terminate or non-renew a physician's participation status. When a physician receives a notification that his/her participation agreement is being terminated or not renewed, an appropriate appeals mechanism be provided which allows adequate time for the physician to seek appropriate counsel (if necessary) and to assemble any necessary and supporting documentation which may be needed to assist in the appeal. (HOD 2012-259)
Whereas, health care cost has continued to rise and payers are devising plans to decrease healthcare expenditure; and
Whereas, government and commercial payers are shifting inpatient care to outpatient settings; and
Whereas, government and commercial payers discourage patient utilization of hospital emergency rooms; and
Whereas, patients cannot determine, before appropriate medical evaluation, the need to be under emergency care; and
Whereas, many states including Georgia, Kentucky, Indiana, and Missouri have implemented requirements on publicly sponsored health plan policies to increase insured/enrollee cost sharing for "non-urgent" care provided in the emergency room; and
Whereas, Anthem has included policy language in some insurance markets which deny coverage for "non-urgent" care provided in the emergency room; and
Whereas, patients cannot self-diagnose prior to appropriate emergency room evaluation; and
Whereas, patients are left with increasing cost sharing and in some instances the entire emergency room bill when the condition is retrospectively determined to be "non-urgent" therefore be it
RESOLVED, That MSSNY seek, through legislation and/or regulation, prohibition of health insurance plan language which retrospectively denies coverage of emergency room care when a patient presents with good faith belief that they have an emergency condition; and be it further
RESOLVED, That MSSNY seek, through legislation and/or regulation, expeditious independent third-party review of emergency care denial based on retrospective information and ultimate diagnosis; and be it further
RESOLVED, That the MSSNY Delegation to the American Medical Association (AMA) introduce a similar resolution at the next meeting of the AMA House of Delegates for federal jurisdiction over applicable government-sponsored and self-insured plans.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018 - 58

Introduced by: Ninth District Branch

Subject: Limiting Insurers from Unilaterally Modifying Contracts

Referred to: Reference Committee on Governmental Affairs - A

Whereas, Individual physicians and physician groups negotiate individual payment and
coverage contracts with commercial insurers represented in their catchment area; and

Whereas, Contracts are mutually agreed upon by both the providers and the insurers prior to
enactment; and

Whereas, Insurers may enact “policy changes” that negatively affect the agreed upon rates of
reimbursement in a legally in-force contract; and

Whereas, These “policy changes” are not routinely submitted for public comment or supported
by current literature; therefore be it

RESOLVED, That MSSNY encourage the state legislature either through legislation or
regulations to

1-Restrict commercial insurers from unilaterally enacting “policy changes” that negatively
affect contracted rates without re-opening negotiation of said contracts

2-Restrict changes in coverage and payment of services to only those in response to
modification in AMA CPT Codes (“coding edits”) as promulgated by CMS

3-Require all proposed changes to contracts outside the negotiation period be approved
through NYS Department of Financial Services

4-Require insurers to inform the physician via certified mail of all proposed changes to the
contract outside the negotiation period, and be it, further

RESOLVED, that MSSNY send a similar resolution to the AMA to be enacted upon ERISA
qualified plans.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Introduced by: Nassau County Medical Society

Subject: Insurance Denials after Precertification

Referred to: Reference Committee on Governmental Affairs - A

Whereas, insurance carriers will often give per-certification for a procedure only to deny payment after the service has been rendered; and

Whereas, these denials are often rendered without an adequate explanation; and

Whereas, the appeals process is difficult, costing time and money; and

Whereas, the physician is left with having to wait long periods of time waiting for the appeals process to be completed even though the costs to provide the service have already be incurred; and

Whereas, this puts a severe financial burden on the physician; and

Whereas, it also creates an antagonistic post-op relationship between physician and patient; therefore be it

RESOLVED: that MSSNY seek regulatory or legislative measures to restrict health insurers from denying reimbursement to physicians after granting pre-certification and after the services were rendered, and be it further

RESOLVED: that when insurers do decide to deny claims after granting pre-certification, MSSNY work to establish regulations whereby payments must be rendered to the physician and only after the appeals process is completed, would the insurer be entitled to a refund.
Whereas, retrospective chart review is commonly used by insurers and others to determine their perspective on appropriateness of hospital admission, length of stay in other payment parameters; and

Whereas, guidelines for hospital admission and length of stay in other clinical parameters are set by Centers for Medicare and Medicaid Services (CMS) (core measures, quality metrics, etc.); and

Whereas, these guidelines are constantly changing and being updated by CMS; and

Whereas, retrospective chart review may occur two years or more after the service has been rendered and paid for; and

Whereas, insurance companies, peer review organizations and others retrospectively review two-year-old charts using current guidelines, resulting in adverse determinations based on these new guidelines that were not in place at the time that the care was provided; and

Whereas, unfair judgments are being rendered on payment for services provided in a different regulatory environment than when the service was provided; therefore be it

RESOLVED, that the Medical Society of the State of New York seek legislation/regulation that requires insurance companies, peer review organizations and others to use the review criteria that existed at the time that services were provided when making their determinations; and be it further

RESOLVED, that the Medical Society of the State of New York bring a similar resolution to the AMA House of Delegates.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018 - 61

Introduced by: The Suffolk County Medical Society

Subject: Modernizing OPMC

Referred to: Reference Committee on Governmental Affairs - A

Whereas, according to the DOH website, OPMC accepts complaints of misconduct and possesses an in-place procedure (that) effectively weeds out any complaints that lack foundation or that lie outside the jurisdiction of the board and

Whereas, according to the DOH website more than half of all complaints against physicians come from the public; and

Whereas, according to the DOH website the board investigates thousands of complaints yet disciplines just hundreds; and

Whereas, if insufficient evidence of misconduct is found, investigation is terminated, and the case is closed yet a record of the investigation remains in OPMC files for possible future reference and

Whereas, as an OPMC inquiry is riddled with obstacles, and the potential for limits on licensure, the assistance of a health care attorney is advisable whose costs are born by the physician; therefore, be it

RESOLVED, that MSSNY work with the Department of Health, the Office of Professional Medical Conduct, regulators, and legislators who share our goals to protect the public, to learn more about the efficacy and transparency of the procedures and activities of OPMC and then to develop processes to modernize the program in order to make it both more effective and less burdensome to physicians; and be it further

RESOLVED, that MSSNY seek regulations that require the Office of Professional Medical Conduct to notify physicians of an investigation they are a part of, at the moment of initiation with a description of the general nature for that investigation and a copy of that complaint; and be it further

RESOLVED, that MSSNY seek regulations that require the Office of Professional Medical Conduct to fully close and expunge any complaint, after a period of two years, that has been determined to be invalid, incomplete or dismissed.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018 ï 62

Introduced by: Fifth and Sixth Districts

Subject: MSSNY Supports Health Information Exchange

Referred to: Reference Committee on Governmental Affairs - A

Whereas, Health Information Exchange (HIE) allows for the sharing of protected health information in a secure environment; and

Whereas, the use of HIE has been shown to improve the quality of care and reduce costs in different medical care settings; and

Whereas, the State of New York has set the rules for the use of such exchanges and continues to fund their growth and development; and

Whereas, the State of New York wants to encourage physicians to both use the data in HIEs and to contribute patient data to HIEs; and

Whereas, the use of health information exchange is increasingly important to physicians in the day-to-day care of patients; and

Whereas, the more data that is available in HIEs, the more useful the service will be; and

Whereas, Electronic Health Record (EHR) vendors often charge significant amounts of money up front and on a monthly basis for the electronic connections which facilitate data contribution to local HIEs; and

Whereas, there is limited financial support for physicians and their organizations to contribute patient information to HIE networks; and

Whereas, those who benefit from the use of HIEs include all payors of medical services including private and government payors but not physicians who may incur costs of time and staff to use HIE; therefore be it

RESOLVED, That the Medical Society of the State of New York (MSSNY) reaffirm its support for the use of Health Information Exchange services by member physicians and their associated organizations; and be it further

RESOLVED, That MSSNY encourage physicians to contribute patient data to their local Health Information Exchange; and be it further

RESOLVED, That MSSNY continue to work with New York eHealth Collaborative (NYeC) and the New York State Department of Health (DOH) to protect physicians from bearing the cost of contributing data to Health Information Exchanges.
**RELEVANT MSSNY POLICY**

**117.996 EHR Interfaces**
MSSNY will encourage the State of New York to (1) require electronic medical records sold in the state of New York to include, at no extra charge, interfaces that communicate with state-wide databases and local Region Health Information Organizations (RHIOs); and (2) set clear standards for electronic interfaces. (HOD 2009-90)

**165.854 Fair and Free Access to Data from Multiple RHIOs**
The Medical Society of the State of New York (MSSNY) will work with the New York eHealth Collaborative (NYeC) and the New York State Department of Health (DOH) to ensure that any physician who subscribes to one RHIO be given the option of participating in any other RHIOs for no additional fees, whether from the RHIOs themselves or from EMR portals.

MSSNY will also request that the NYeC and the DOH negotiate for cross-subscription agreements with the RHIOs of neighboring states and advocate for similar agreements within the Nationwide Health Information Network so that patients near the borders of New York also have fair access to the advantages of RHIOs.

MSSNY will make a request to the Health Commissioner to implement regulations that would fund RHIO connections through EMRs without fees to providers for participation. (HOD 2012-103)
Whereas, an increasing number patients are receiving treatment of mental health conditions and substance use disorders from primary care physicians; and

Whereas, current regulations from OASIS and Office of Mental Health require mental health and substance use disorders clinical consult and visit notes to be sequestered and thus not available to primary care and other physicians who may interact with a patient with mental illness and substance use disorders; and

Whereas, the sequestration of mental health notes leaves other physicians taking care of mental health patients "in the dark" with regards to mental health diagnoses, medication changes, and even possible adverse reactions to psych medications, and that these prohibitions can negatively impact a primary care physicians management of a mental health patient's medical problems; and

Whereas, the sequestration of mental health and substance use disorders records from records of other medical conditions may promote stigmatization of patients with mental illness and substance use disorders; therefore, be it

RESOLVED, that the Medical Society of the State of New York advocate for development of a model for mental health documentation that would allow portions of mental health and substance use disorder records to be available to other clinicians, and to include at least diagnoses, treatment plans, medication changes, and allergies.
Whereas, in New York, prescribers are required to send prescriptions to pharmacies electronically; and

Whereas, currently, the Electronic Health Record (HER), which allows prescribers to prescribe electronically, does not allow transmission from the EHR of when a medication is discontinued; and

Whereas, the inability for EHR to send to pharmacies when a medication is stopped leads to pharmacies sending medications that a patient doesn’t need, or that may cause harm by taking duplicate medication, or otherwise leads to medication reconciliation errors; and

Whereas, in 2017 the AMA passed a resolution to promote universal EHR adoption of physician cancellation technological solutions; and

Whereas, New York State Health law regulates prescribing practices within the state; therefore, be it

RESOLVED, that the Medical Society of the State of New York advocate New York State to require all pharmacies, prescription programs, and Electronic Health Records (EHRs) to adopt technologies for physicians to easily cancel medications electronically.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution: 2018 - 65

Introduced by: New York State Society of Orthopaedic Surgeons

Subject: Pathology Specimens

Referred to: Reference Committee on Governmental Affairs - A

Whereas, the Department of Health instructs the Head of Pathology at the hospitals in NYS to define what specimens must be sent to their pathology department for analysis; and

Whereas, close collaboration between the pathologist and surgeon is required for optimal care; and

Whereas, there are many studies that show routinely sending all tissue excised and hardware removed is not medically indicated; and

Whereas, there is no recourse if, in the surgeon’s opinion, tissue and hardware removed is irrelevant to the patient’s care but is still mandated to be sent; therefore, be it

RESOLVED, that the Medical Society of the State of New York work with the New York State Department of Health to label removed hardware, synovial shavings, meniscal shavings, and arthritic bone from joint replacement surgery as tissues that are not medically indicated for routine pathological analysis, unless the surgeon’s opinion indicates otherwise.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Introduced by: Edward W. Powers MD - As an Individual Delegate New York County Medical Society

Subject: Life-threatening Complications with Hip Replacements

Referred to: Reference Committee on Governmental Affairs - A

Whereas, When John Charnley pioneered hip replacement surgery in England in the 1960s, he developed standards including the enclosed operating room, the full-body gown for surgeons, and the exhaust ventilation system (to combat infection); and

Whereas, Alternative and/or additional techniques were subsequently developed, such as the use of implants to replace painful degenerated hip joints - including "metal-on-metal" implants, which appeared around 15 years ago; and

Whereas, One category of metal-on-metal implants, those made of a cobalt and chromium alloy, were problematic (something that could have been predicted as long ago as 1965, when an endemic cardiomyopathy, noted in Quebec beer drinkers, was traced to cobalt added to the beer as a foam-stabilizing agent); and

Whereas, When a cobalt/chromium metal-on-metal hip implant fails and the metal components move inside the hip joint, tiny particles of metal are shed into the patient's hip joint and body; and

Whereas, this metallosis is often associated with hip pain, bone and tissue necrosis, skin rashes, pulmonary conditions, depression, vertigo, deafness, visual problems, problems with concentration and memory, and/or the formation of pseudo-tumors due to metal toxicity; and

Whereas, Associated conditions also include heart failure, cardiac transplantation and cardiac death; and

Whereas, Although the U.S. Food and Drug Administration (FDA) has ruled that hip implant devices are Class III devices - and would therefore be subject to Pre-market Approval requirements under Section 510(k) of the Food, Drug and Cosmetic Act - the agency does allow a 510(k) pathway medical device company to avoid clinical testing if the manufacturer states that the new device is substantially equivalent to an existing device; therefore, be it

RESOLVED, That the Medical Society of the State of New York (MSSNY) work for legislation and/or regulations, requiring physicians to identify (through the hip registry and other records) patients who have received cobalt/chromium metal-on-metal hip implants, and

1. To notify these patients of the dangerous medical conditions that have been associated with these implants (the costs of this research and the patient notifications to be borne by the manufacturers); and

2. To conduct frequent serial testing of these patients' blood for cobalt and chromium levels (this testing also to be paid for by the manufacturers); and be it further

RESOLVED, That the Medical Society of the State of New York ask the American Medical Association to establish more stringent guidelines for hip replacement surgery, to protect the public from the life-threatening conditions associated with cobalt/chromium metal-on-metal hip implants.
Whereas, involvement of the feet with potential or active complications of diabetes is a prevalent/widespread, debilitating, costly, and potentially avoidable condition; and

Whereas, the number of diabetic patients is rising; and

Whereas, many patients do not realize the importance of their foot care, preventative intervention with diabetic shoes, or do not understand that they may already have health plan benefits in New York State; and

Whereas, there is large variation in timely completion or collaboration of the paperwork, as it requires scheduling separate appointments and collaboration between podiatrist for the appropriate classification of the foot conditions and deformities, as well as attestation by the medical doctor for the patient being managed for diabetes; therefore, be it

RESOLVED, that MSSNY on a pilot or trial basis, recommend that a single standardized form be developed for orders or recommendations of Diabetic Foot Wear/Orthotic/Inserts, that would have sections for both disciplines on one form and which the patients can readily obtain from either their physician/NP/PA or podiatrist.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution: 2018 – 68

Introduced by: Resident and Fellow Section

Subject: Use of Pressure-Guided Treatment of Heart Failure

Referred to: Reference Committee on Governmental Affairs - A

Whereas, hospital readmissions have been an interesting measure for Medicare quality improvement projects, since up to 20% of Medicare patients are being readmitted to the hospital within 30 days of discharge, costing up to $44 billion/year\(^1\); and

Whereas, heart failure is a national epidemic and is included as one of the measures in the Hospital Readmissions Reduction Program (HRRP), penalizing hospitals with excess hospital readmissions (CMS Report subpart I of 42 CFR §412.150 - §412.154)\(^4\); and

Whereas, new technologies, including intra-cardiac and intrapulmonary pressure-guided management of heart failure using implantable devices instead of conventionally used non-invasive telemedicine systems, have a potential to reduce heart failure readmissions\(^5\); therefore be it

RESOLVED, That MSSNY support adopting new technologies targeting pressure guided therapy in heart failure; and be it further

RESOLVED, That MSSNY advocate for New York State to conduct a pilot study to evaluate the effectiveness in reducing hospital readmissions and the safety of adopting implantable devices in outpatient pressure-guided treatment of heart failure.

References:
RECOMMENDATION:
Madam Speaker, Your Reference Committee recommends that the policies contained in 2018 Governmental Affairs and Legal Matters - B Sunset Report be acted upon in the manner indicated and that the remainder of this report be filed:

REAFFIRM

75.981  "Pay for Delay” Arrangements by Pharmaceutical Companies:
MSSNY will forward a resolution to the American Medical Association exhorting that organization to support the Federal Trade Commission in its efforts to stop these "pay for delay" arrangements. (HOD 2008-207)

RECOMMENDATION: Maintain. The policy is still relevant.

87.996  Emergency Care Data Collection:
MSSNY to collaborate with the Department of Health and the American College of Emergency Physicians-New York Chapter to determine what data should be collected in Emergency Departments to address the problems of Emergency Department overcrowding, gridlock and diversion and be used for the strategic planning of the health care needs of communities. (HOD 2008-110)

RECOMMENDATION: Maintain. The policy is still relevant.

120.962  United States Health Care and Gratuitous Privatization:
MSSNY supports those health care policies that favor insurance products to achieve the health care goals of quality, cost containment and interoperability, only when the evidence in support of the superiority of such insurance products is composed of unbiased, scientifically rigorous and medically sound studies. (HOD 2008-93)

RECOMMENDATION: Maintain. The policy is still relevant.

120.963  Retail Clinics:
MSSNY will pursue legislation, regulation, or other appropriate means to (a) assure that a retail clinic that receives insurer reimbursement be required to comply with existing standards for the operation of medical practices; and (b) prohibit health plans from incentivizing the utilization of health care in retail stores through techniques including but not limited to the charging of less expensive co-pays. (HOD 2008-68)

RECOMMENDATION: Maintain. The policy is still relevant.
130.963  **Mandated Clinical Practice Guidelines:**
MSSNY policy is to be established against any legislation mandating strict compliance with Clinical Practice Guidelines. (HOD 2008-104)

**RECOMMENDATION:** Maintain. The policy is still relevant.

240.989  **New Legislation, Regulation or Rule Impacting the Practice of Medicine:**
MSSNY will seek legislation that would require a 90-day public comment period to respond to any non-emergent legislation, regulation or rule proposed by the State of New York or its regulatory agencies that will impact the care of the citizens of New York or impact the practice of medicine within the state. MSSNY also will clearly define as soon as practically feasible the financial impact of legislation affecting physician practice and ensure that such financial information is widely distributed. (HOD 2008-109)

**RECOMMENDATION:** Maintain. The policy is still relevant.

240.990  **Reimbursement for Use of Interpreters:**
MSSNY will urge the American Medical Association to seek legislation to eliminate the financial burdens of physicians, hospitals and health care providers for the cost of interpretative services for patients who are hearing impaired or do not speak English. (HOD 2008-108)

**RECOMMENDATION:** Maintain. The policy is still relevant.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018 - 100

Introduced by: Fifth and Sixth Districts
Subject: Saving Lives and Money
Referred to: Reference Committee on Governmental Affairs B

Whereas, Congress and the President have failed to achieve a sustainable health plan; and
Whereas, Special Interests lobby to protect themselves from economic/cost effective evaluations; and
Whereas, Conservatives fail to recognize the stress caused by the lack of social supports, and Liberals fail to recognize the undermining of self-esteem and personal achievement caused by too many supports; therefore be it

RESOLVED, That the Medical Society of the State of New York and the American Medical Association consider endorsing the Saving Lives/Money Health Plan proposed by Newt Gingrich in his 2003 book.¹

See reverse for a one page summary of how a government guaranteed coverage of cost effective health care might work. The summary is entitled Saving Lives and Money - same as Newt Gingrich’s book from. See also:


¹ Saving Lives & Saving Money: Transforming Health and Healthcare; Newt Gingrich, Anne Woodbury, and Dana Pavey; The Alexis de Tocqueville Institution, Washington, DC, 2003,
All people should receive health care that saves money. The resources of our nation are best preserved with healthy people and efficient yet humane health care. By guaranteeing cost effective health care to all people in our nation we keep our human resources valuable and reduce our national budget by avoiding ineffective care. The essential cost effective care may be funded through the present methods of insurance and government payment with subsidies; or directly by governments for those not covered otherwise. Providers would be guaranteed coverage of cost-effective care for everyone.

Freedom of choice in care will be available through private funding and insurance for those wishing to try experimental or unproven treatments. Continual evaluations will be done based on evidence to add or delete what health care is cost effective. The rich may get more unproven care that may become proven to be bad or good in the future.

Covering people with preexisting conditions is essential since many will be unable to work or care for themselves without cost effective care. Meaningless care that adds cost without benefits would be at personal discretion and done with private funding or in useful research studies.

Covering dependent children until the age of 26 as for all people for cost effective care and insurance still available through parents as done now.

The mandate for individuals to buy healthcare insurance and for businesses with over 50 employees to provide it would only be for cost effective care thus saving businesses money if they wished to limit coverage to only care that is effective and efficient.

Expansion of Medicaid eligibility for coverage as needed for uncovered for the cost-effective care. Providing more cost-effective care saves more human resources and money.

Subsidized healthcare marketplaces for cost-effective care that should bring down the price of the insurance policies, the subsidies and make cost-effective policies more available. ACOs, which share in the savings that providers in the group achieve for the Medicare program should be more efficient when only having to provide cost-effective care. Higher priced coverage that would also cover ineffective or unproven care may also be available through private funding.

Creation of the Center for Medicare & Medicaid Innovation may help in continued evaluations and health care delivery/ health promotion research for all the nation.

Insurers must cover 10 essential health benefits with cost-effective care. Optional ineffective or unproven care will still be available through private funding and/or meaningful research. Regulation of premiums may need to be done in small markets with minimal competition but the basic cost-effective care covered by government would always be an option throughout the nation.

A minimum of premium income must be used for healthcare should helped by competing plans and the basic government option to cover all for cost-effective care if premiums were too high.

New taxes to fund the ACA if only cost-effective care covered by government there should be a net savings in human resources and health care costs.

Creation of the Independent Payment Advisory Board may help monitor delivery of cost-effective care and areas with lack of competition.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018 – 101

Introduced by: New York State Society of Anesthesiologists

Subject: Preserving the Anesthesia Care Team Model

Referred to: Reference Committee on Governmental Affairs B

Whereas, the New York State Society of Anesthesiologists (NYSSA) was formed to support the specialty of anesthesiology, and to raise the standards of the specialty by fostering and encouraging progress in anesthesiology; and

Whereas, the NYSSA has worked tirelessly to enhance the delivery of patient care and ensure that patients receive the safest possible delivery of anesthesia; and

Whereas, multiple efforts by government representatives and special interest groups have proposed eliminating all physician supervision of nurse anesthetists, thereby lowering the standard of care for the administration of anesthesia; and

Whereas, existing law stipulates that patients undergoing any medical treatment requiring anesthesia are guaranteed a standard of care that requires a physician anesthesiologist or the operating surgeon to administer the anesthetic or to supervise the nurse anesthetist in the administration of anesthesia; and

Whereas, additional efforts by these government representatives and special interest groups propose to grant nurse anesthetists unrestricted prescriptive authority, allowing more than 1,240 mid-level providers to prescribe narcotics at a time when New York is experiencing a critical opioid epidemic; and

Whereas, these changes would put New York’s patients at increased risk; therefore, be it

RESOLVED, that MSSNY will develop a policy in support of physician supervision of nurse anesthetists, and be it further

RESOLVED, that MSSNY will seek to have legislation introduced and signed into law in New York State stipulating that a patient undergoing any medical treatment requiring anesthesia in a hospital or ambulatory surgical center, regardless of where the hospital or ambulatory surgical center is located and regardless of the type of health insurance coverage, be guaranteed that a physician-anesthesiologist will either personally administer or supervise a nurse anesthetist in the administration of anesthesia or the operative surgeon will medically supervise the nurse anesthetist.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018 – 102

Introduced by: New York County Medical Society

Subject: Protecting Patients from High Drug Prices

Referred to: Reference Committee on Governmental Affairs B

Whereas, One of the biggest drivers of health care costs is pharmacy costs, in particular for specialty drugs; and

Whereas, Recent flagrant examples, such as the 600% ten year increase in price of Mylan’s EpiPen, and other excesses have gotten the public’s attention; and

Whereas, The United States pays the highest costs for prescription drugs in the world¹; and

Whereas, Patients are often left to pay a punishing price for life-saving drugs, due to a fragmented system of negotiation by pharmacy benefit managers and insurers, and

Whereas, Even patients with prescription plans may find that the cost of a drug is higher with the plan than without; and

Whereas, Attorneys general of 45 states have filed a lawsuit in late 2017 against generic drug companies alleging price fixing; therefore be it

RESOLVED, That the Medical Society of the State of New York urge legislation that prohibits pharmacy prices under a pharmacy plan (from insurance and or PBM) that are purchased from local or mail order pharmacies be higher than the cost without a drug plan; and be it further

RESOLVED, That the Medical Society of the State of New York urge legislation that would mandate that the price of medication purchased without a plan should be the same for consumers in the pharmacy or online.

MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018 ÷ 103

Introduced by: New York County Medical Society

Subject: Pharmaceutical Shortages of IV Bags

Referred to: Reference Committee on Governmental Affairs B

Whereas, For the last decade the US has experienced intermittent shortages in IV bags because of limited manufacturing; and

Whereas, A large number of pharmaceutical products, including IV bags, are manufactured in Puerto Rico; and

Whereas, Landfall by Hurricane Maria on September 20, 2017, in Puerto Rico devastated the Island and affected manufacturing there; and

Whereas, The American Hospital Association, among others, has noted the situation with shortages of critical pharmaceutical items is at a crisis point; and

Whereas, Shortages in basic items when combined with this winter’s flu epidemic results in a dangerous situation for patients; therefore be it

RESOLVED, That the Medical Society of the State of New York advocate legislation allowing purchasing of IV bags from Canada; and be it further

RESOLVED, That the Medical Society of the State of New York ask the American Medical Association to urge legislation allowing for international purchase of IV bags; and be it further

RESOLVED, That the Medical Society of the State of New York ask the American Medical Association to urge legislation to support and sustain medical manufacturing in Puerto Rico.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018 † 104

Introduced by: New York County Medical Society

Subject: Covered Drugs during Insurance Enrollment Year

Referred to: Reference Committee on Governmental Affairs B

Whereas, The enrollment period for Medicare and for HMOs is only open once a year, and afterwards this enrollment cannot be changed for the rest of the year; and

Whereas, Many people enroll in insurance plans after carefully examining the covered drugs and deciding which plan is best for them; therefore, be it

RESOLVED, That the Medical Society of the State of New York ask for federal legislation or regulation, whereby Medicare plans and HMO plans would not be permitted to change the covered drugs during the enrollment year; and be it further

RESOLVED, That the Medical Society of the State of New York seek legislation or regulation, whereby Pharmacy Benefit Managers (PBMs) and large pharmacy systems would not be permitted to ask prescribers to change prescriptions during the year unless there were medical evidence that the change would benefit the patient; and be it further

RESOLVED, That the Medical Society of the State of New York ask for legislation or regulation whereby, during the enrollment year, no required changes would be imposed on prescribers (such as a change from brand to generic, or a change from brand to another brand).
Whereas, an increasing number of insurance companies require patients to obtain long term or maintenance medications through mail order pharmacies; and

Whereas, medications delivered by mail can get lost, stolen, damaged or delayed leading to patient safety problems, causing harm from going without lifesaving medication; and

Whereas, when pharmacists dispense medications in person they counsel patients about the prescriptions and answer questions face to face, and this personalized service is unlikely to happen when medications are mailed; and

Whereas, mail order pharmacies are more likely to waste valuable health care resources due to auto-fill programs, sending unwanted medications; and

Whereas, studies have shown that mail order pharmacies do not lower costs over brick and mortar pharmacies; and

Whereas, mail order pharmacies do not permit returns or recourse for patient to refuse the prescription that has been mailed, while a patient can refuse a prescription at a brick and mortar pharmacy before purchase; therefore, be it

RESOLVED, that the Medical Society of the State of New York advocate for patients to have a choice to receive maintenance prescriptions from either a mail order pharmacy or a brick-and-mortar pharmacy without any financial penalty.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018–106

Introduced by: New York County Medical Society
Subject: Restricting Faxes from Pharmacy Benefit Managers
Referred to: Reference Committee on Governmental Affairs B

Whereas, New York State has encouraged or required prescribers to use electronic prescribing as much as possible; and
Whereas, Physicians are subject to charges whenever they receive faxes—including faxes requesting prescription refills sent by from Pharmacy Benefit Managers (PBMs) and large pharmacy systems (such as Express Scripts, OptumRx, Humana); therefore, be it
RESOLVED, That the Medical Society of the State of New York seek legislation or regulation whereby Pharmacy Benefit Managers (PBMs) and large pharmacy systems (such as Express Scripts, OptumRx, Humana) would be required to limit all faxes they sent to physicians to three pages or less; and be it further
RESOLVED, That the Medical Society of the State of New York seek legislation or regulation requiring Pharmacy Benefit Managers (PBMs) and large pharmacy systems to contact physicians for prescription refills electronically, rather than by fax, whenever possible.
Whereas, our nation is in the midst of an opioid epidemic, which has been declared a public health emergency; and

Whereas, the infrastructure for addressing this public health emergency is in critical shortage; and

Whereas, addiction medicine has been established as a new medical specialty; and

Whereas, the state is making money available for addiction workforce development in terms of training counselors, but not for physicians; and

Whereas, addiction treatment needs the leadership of physicians trained in addiction medicine; and

Whereas, GME funding slots are not currently available for most addiction medicine fellowships so that academic centers that wish to establish them are not able to; therefore, be it

RESOLVED, that MSSNY support the temporary use of state funding to establish and to support addiction medicine fellowships in New York State.

Note: Further information on what is needed will be given to the reference committee unless MSSNY wishes to receive this in advance. We mainly want MSSNY to support the concept rather than a specific amount.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018 - 108

Introduced by: The Suffolk County Medical Society

Subject: Board Certification Participation in Insurance Plans

Referred to: Reference Committee on Governmental Affairs B

Whereas, newly practicing physicians are mostly not board certified after coming out of residency; and

Whereas, it may take 1-5 years to become board certified after completing a residency; and

Whereas, more and more insurance plans are requiring board certification to participate in their plans; and

Whereas, newly practicing physicians kept from participating in insurance plans cannot adequately build up a patient base limiting their career options; therefore, be it

Resolved, that MSSNY support legislation or regulation that allows physicians who complete their residency and are candidates for board certification according to their respective specialty NOT be denied participation in insurance plans based on board certification alone
Whereas, some New York hospitals have properly secured their facilities with auto-expiring photo ids for visitors, metal detectors, single entrance access, and video surveillance, other facilities have not done so; and

Whereas, hospital facilities are not immune from violent actions in New York as seen on June 30th, 2018 at Bronx-Lebanon Hospital Center; and

Whereas, Hospital security can be inadequately and improperly trained and there may be insufficient manpower related to the size of the facility; currently, the state has no uniform hospital security standard or requirement; and

Whereas, the U.S. Department of Labor: Occupational Safety and Health Administration has guidelines for hospitals safety, in recognition that healthcare accounts for nearly as many serious violent injuries as all other industries combined. Many more assaults or threats go unreported. Workplace violence comes at a high cost; however, it can be prevented; and

Whereas, Bureau of Labor Statistics (BLS), data show that 80% of healthcare worker injuries resulting in days away from work were caused by patients; and

Whereas, the Medical Society of the State of New York has accepted policy 315.992 - "Violence Against Physicians, Health Care workers and Others" stating "MSSNY shall condemn, without exception, the violence or threat of violence to physicians, health care workers and other individuals who are practicing according to their conscience, and in compliance with the law." therefore, be it

RESOLVED, That the Medical Society of the State of New York reaffirm policy 315.992 - "Violence Against Physicians, Health Care workers and Others" and be it further

RESOLVED, That the Medical Society of the State of New York advocate for comprehensive minimal facility security standards for all New York State licensed hospitals to be developed by a professional advisory panel with appropriately mandated enforcement.

Reference:
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018 - 110

Introduced by: Suffolk County Medical Society

Subject: NYS DOH Employment of Immediate Jeopardy for Hospital Attire

Referred to: Reference Committee on Governmental Affairs B

Whereas, the New York State Department of Health employs the concept of “Immediate Jeopardy” within the hospital setting that indicates that there is provider non-compliance with regulatory requirements that has placed or could place patients in Immediate Jeopardy (IJ) of serious harm, injury or impairment; and

Whereas, the definition of IJ includes a consideration of whether actual or potential harm has occurred, or could occur in the very near future unless intervention is undertaken, and whether hospital personnel are aware of and compliant with institutional policies and procedures; and

Whereas, once notified of the IJ situation the hospital is required to take immediate corrective action to prevent potential or actual patient harm; and

Whereas, the conditions for applying IJ are in the area of patients’ rights, abuse, infant abduction, the use of restraints and surgical services which include the appropriate surgical attire; and

Whereas, the NY Department of Health has cited several hospitals for not complying with the hospital’s own standards for surgical attire and have imposed IJ on these hospitals; and

Whereas, surgical attire does not rise to the same level of potential harms as does non-compliance with the patients’ rights, abuse, infant abduction, the use of restraints policies; and

Whereas, that imposition of IJ is often quite disruptive to the system, adversely impacting patient episodes unlikely to be affected by the event that triggered the institution of IJ and those other outcomes should weigh in any decision regarding IJ; therefore, be it

RESOLVED, that the Medical Society of the State of New York urge the New York State Department of Health to reconsider its use of Immediate Jeopardy in alleged instances of lack of “proper” surgical attire; and be it further

RESOLVED, that the Medical Society of the State of New York advocate for measures by the New York State Department of Health that are less disruptive than Immediate Jeopardy to ensure compliance with the surgical attire policies set forth by the hospital.
Whereas, in recent years many states, including New York, have expanded Medicaid eligibility; and

Whereas, Medicaid expansion has helped lower the states uninsured rate; and

Whereas, the federal government has recently given states permission to obtain a waiver in order to impose work requirements on Medicaid beneficiaries; and

Whereas, most non-elderly Medicaid adults already are working or face significant barriers to work; and

Whereas, it is unclear if tying eligibility to work promotes health or is instead an indicator of health; and

Whereas, working at minimum wage may paradoxically render some people ineligible for Medicaid; and

Whereas, tens of thousands of eligibles may lose coverage simply for failing to adequately document their eligibility; and

Whereas, work requirements may support the goals of cash programs (such as welfare), it may be antithetical to the goals of health coverage programs; therefore, be it

RESOLVED, that MSSNY oppose instituting work requirements on Medicaid eligibles due to its uncertain health implications, and be it further

RESOLVED, that MSSNY introduce a resolution to the AMA to oppose instituting work requirements on Medicaid eligibles due to its uncertain health implications
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018 - 112

Introduced by: The Suffolk County Medical Society

Subject: Oppose Medicaid Eligibility Lockout

Referred to: Reference Committee on Governmental Affairs B

Whereas, many national health leaders such as the HHS secretary and the Surgeon General hail from Indiana, it may be instructive to observe Indiana health initiatives; and

Whereas, Indiana’s new Medicaid waiver includes a lock-out provision whereby eligibles who fail to promptly complete the state’s periodic eligibility redetermination can no longer simply reapply for benefits and instead remain locked out for three months; and

Whereas, Indiana officials estimate half of people who fail to satisfy the redetermination process remain eligible; and

Whereas, this rule forces people to do without coverage for missing a paperwork deadline; and

Whereas, this rule will result in discontinuity of health care delivery for thousands of our most vulnerable citizens including children and the elderly; therefore, be it

RESOLVED, that MSSNY oppose lock-out provisions that exclude Medicaid eligibles for lengthy periods merely for failing to meet paperwork burdens, and support provisions that permit them to reapply; and be it further

RESOLVED, that MSSNY introduce to the AMA a resolution to oppose lock-out provisions that exclude Medicaid eligibles for lengthy periods merely for failing to meet paperwork burdens, and support provisions that permit them to reapply,
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Introduced by: Nassau County Medical Society

Subject: Expanded Clinical Roles for Medical Assistants in New York State

Referred to: Reference Committee on Governmental Affairs B

Whereas, unlike many states, New Jersey maintains highly specific rules defining the circumstances under which Medical Assistants (MAs) can work independently; and

Whereas, while New Jersey maintains one of the strictest MA licensing definitions in the country, medical assistants in New Jersey generally enjoy a wide scope of practice whereby clinical duties include:

- Administering medications and injections
- Assisting with minor surgical procedures
- Positioning patients for diagnostic testing
- Applying casts and bandages; and

Whereas, In New York State, tasks that can be performed by medical assistants include the following:

- secretarial work such as assembling charts or assisting with billing,
- measuring vital signs,
- performing ECGs,
- taking laboratory specimens including blood work, assisting an authorized practitioner, under the direct and personal supervision of said practitioner, to carry out a specific task, as a "second set of hands" (e.g. authorized practitioner, after positioning a limb, asks the medical assistant to maintain the limb in the position while a bandage is applied or sutures removed. Medical assistant could not independently position the patient.); and

Whereas, Tasks that cannot be performed by medical assistants in New York State include:

- triage,
- administering medications through any route,
- administering contrast dyes or injections of any kind,
- placing or removing sutures,
- taking x-rays or independently positioning patients for x-rays,
- applying casts,
- first assisting in surgical procedures; and

Whereas, regulations governing MAs in New York State are much more restrictive and defer judgment to supervising physicians, diminishing the MA's usefulness to physicians in their offices in spite of their training and qualifications; therefore, be it

RESOLVED, that the MSSNY work with NYS-approved Medical Assistant teaching programs to develop suitable rules defining and expanding independent clinical work guidelines that can be incorporated into current New York State regulations.

Sources: http://www.medicalassistantcertification.org/states/new-jersey/
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018  114

Introduced by:  Medical Society of the County of Queens

Subject:  Regulation of Hospital Advertising

Referred to:  Reference Committee on Governmental Affairs B

Whereas, hospitals in the United States spend an estimated 1.5 billion dollars per year in advertising; and furthermore, it is likely that hospital advertising drives up healthcare costs even more by promoting inefficient, inappropriate and/or unnecessary healthcare utilization; and

Whereas, the content of hospital advertising is generally devoid of information that helps consumers make meaningful choices about their health care, is often misleading and does not lead to improved health outcomes; and

Whereas, well over 50% of hospital revenue is received from Medicare and Medicaid which ought to make hospital advertising an obligatory subject of public scrutiny and government oversight; and

Whereas, the Supreme Court has upheld an FTC ruling which invalidated the long-standing AMA ban on physician and hospital advertising, making an immediate outright prohibition of hospital advertising unlikely; therefore, be it

RESOLVED, that MSSNY and the AMA urge increased regulation of hospital advertising with an aim of complete prohibition if hospitals cannot demonstrate an overall and cost-effective benefit to public health.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution: 2018 – 115

Introduced by: Suffolk County Medical Society

Subject: Chiropractor (D.C.) Scope of Practice

Referred to: Reference Committee on Governmental Affairs B

Whereas, chiropractic scope of practice has not been fully defined by MSSNY previously; and

Whereas, chiropractors in New York have expanded their scope of practice in New York State to include procedures such as electromyography despite NY Education Law 6551 specifically delineating that chiropractors should not be allowed to "utilize electrical devices except those devices approved by the board as being appropriate to the practice of chiropractic."; and

Whereas, expansion of scope of practice by chiropractors increases medical expenses to payors without proof of clinical efficacy and has potential to harm patients; therefore, be it

RESOLVED, that MSSNY reaffirm and seek further regulations in support of current AMA and MSSNY accepted policies on Clinical Diagnostic Electromyography; and be it further

RESOLVED, that MSSNY advocate for a State level taskforce to study the recent expansion of chiropractic scope of practice in New York and any out comes that this has had on patient care including the impact on health care costs in New York; and be it further

RESOLVED, MSSNY will advocate for amendment changes to the New York Education Law regarding needle electromyography currently performed by chiropractors in NYS, which include the following:

1. That needle electromyography is the practice of medicine and shall be performed and interpreted only by physicians licensed in the State of New York who are appropriate to perform and interpret such tests by virtue of specialty and training; and

2. Chiropractors shall not be allowed to perform electrodiagnostic studies themselves. Nerve conduction studies may be offered in their place of business if the study is performed by a licensed physician who is appropriate to perform or interpret such tests by virtue of specialty and training.

3. Non-physician individuals, as defined by the NYS Department of Education may not perform needle electromyography under any circumstance, whether or not the individuals are supervised by a licensed provider of any type. Non-physician individuals found to be performing needle electromyography in NYS should be appropriately warned and disciplined by NYS Department of Education; and be it further

RESOLVED, that MSSNY advocate to the appropriate agencies, including the State of New York Insurance Department and the State of New York Workers’ Compensation Board, as they relate to the care of individuals sustaining automobile and work-related injuries, respectively, that these principles be adapted into current and future statutes; and be it further

Resolved, that MSSNY expand the principles established in MSSNY Policy 110.998: Non-physician Practitioners in Today’s Health Care Delivery Systems to apply to chiropractic scope of practice in New York State.
RECOMMENDATION:
Madam Speaker, Your Reference Committee recommends that the policies contained in 2018 Public Health and Education Sunset Report be acted upon in the manner indicated, and that the remainder of this report be filed:

REAFFIRM

10.970 **Physician Reporting of Patients Who Should Not Drive:**
MSSNY will promote passage of state legislation to establish a system to allow, but not require, physicians to confidentially report to appropriate governmental agencies or departments that a patient is not physically or mentally capable of operating a motor vehicle without jeopardizing his or her health or that of others while also providing immunity from civil or criminal liability for reporting or not reporting when such is done in good faith. (Council 3/3/08)

RECOMMENDATION: REAFFIRM. This policy is still relevant.

90.994 **Global Climate Change and Public Health Implications:**
MSSNY agrees with the Centers for Disease Control and Prevention (CDC) and the World Health Organization (WHO) position that global climate change is occurring and that there exists the potential for abrupt climate change resulting in significant public health consequences.

Also, MSSNY will continue to explore low-cost opportunities to address this matter, such as: (a) sessions at educational conferences and the development of a policy position statement-as well as other modes of communicating this issue to the MSSNY membership; (b) inviting qualified members to serve where appropriate on workgroups, coalitions and committees to advance climate change research, interventions, policies and legislation that are consistent with MSSNY’s mission and objectives; and (c) supporting policies and legislation that address measures to prevent or mitigate public health effects of climate change. (HOD 2008-151)

RECOMMENDATION: REAFFIRM. This policy is still relevant.

260.925 **Increase Funding for Lung Cancer Research:**
MSSNY will support efforts to increase funding for lung cancer research to aid in prevention, early diagnosis and treatment methods. (HOD 2008-159)

RECOMMENDATION: REAFFIRM. This policy is still relevant.
**312.984 Immunization Access to Parents of High-Risk Infants Younger Than Six Months of Age:**
MSSNY - (1) endorses the use of the neonatal intensive care unit and hospital newborn nursery as practical and legitimate venues for parents and first-person contacts of vulnerable infants (those less than six months of age and/or premature) to obtain vaccines against communicable respiratory pathogens such as influenza and pertussis; (2) recommends that hospitals with neonatal intensive care units and newborn nurseries consider making vaccine against these pathogens available; and (3) supports local and state governments in efforts to make available vaccinations to parents and first-person contacts of those infants under the hospital’s care. (HOD 2008-152)

**RECOMMENDATION: REAFFIRM.** This policy is still germane and should be continued about the need to immunize care givers of newborn. While the NYS Legislature has passed legislation to require this, this policy indicates MSSNY strong support of immunization and therefore, should be continued.

**320.991 Promoting Healthy Foods:**
MSSNY will (1) continue to advocate for a healthy diet for all; (2) support legislative efforts to establish New York State nutritional standards within the educational system; (3) recommend to hospitals, schools, nursing homes, patients and its physician members that foods should meet the accepted nutritional standards; and, (4) together with the American Medical Association, promote and advocate legislation that promotes the availability of fruits, vegetables and whole grain foods. (HOD 2008-150)

**RECOMMENDATION: REAFFIRM.** This policy is still germane and should continue to be supported.

**REAFFIRM WITH AMENDMENTS**

**90.995 Safe Disposal of Toxic Materials in Consumer Products:**
MSSNY will seek clearer and more effective laws regarding the disposal of consumer products containing toxic substances sold in New York State to effectively deal with the future public health and financial impacts. (HOD 2008-166)

**RECOMMENDATION: REAFFIRM WITH MODIFICATION.** This policy is still relevant and since its adoption in 2008, New York State has passed legislation and/or regulation regarding disposal of consumer products containing toxic substances. These products include items such as mercury, anti-freeze, oil, brake fluid. This policy includes a minor deletion of the reference to clearer and more effective as it is difficult to ascertain what this means.

**120.969 Removing Barriers to Care for Transgender Patients of Gender Variant:**
MSSNY supports the resolution being presented at the American Medical Association’s A’08 Meeting by the AMA Medical Student Section and AMA Resident and Fellow Section which asks that the AMA (1) support public and private health insurance coverage for treatment of gender identity disorder dysphoria, and (2) oppose categorical exclusions of coverage for treatment of gender identity disorder dysphoria when prescribed by a physician. (HOD 2008-171)

**RECOMMENDATION: REAFFIRMATION WITH MODIFICATION:** This original resolution encapsulated support for the having both public and private health insurance coverage for the treatment of gender identity disorder and that MSSNY oppose categorical exclusions of coverage. The modification deletes the reference to the AMA’s meeting and to the groups that brought forth the resolution at the time the amendment reflects the correct terminology. Staff believes this is consistent with mission of the Health Disparities Committee and with MSSNY policy and therefore recommends that this resolution be reaffirmed with modification.
Tamiflu Distribution: Antiviral Medication During Catastrophic Epidemics

MSSNY will: (1) collaborate with all parties of interest, national and local, to assure that supplies of Tamiflu and other appropriate antiviral medication are sufficient and available; (2) urge state and local regulators to ensure that adequate anti-flu viral drugs will be available for distribution, not only to hospitals, health departments, and other such public agencies, but also to private pharmacies and physicians directly; and (3) through collaboration with the appropriate organizations and agencies, seek to eliminate barriers to patients receiving appropriate medications for treatment and/or prevention of potential catastrophic influenza epidemics. (HOD 2007-166)

RECOMMENDATION: REAFFIRM WITH MODIFICATION. This policy is still germane and in the event of an influenza outbreak MSSNY should have policy regarding distribution of antivirals. The policy was modified slightly to eliminate the named reference to an antiviral and to make the title more specific in regards to a catastrophic epidemic.

SUNSET

Medical Certification of Drivers Covered by Article 19-A:

MSSNY will work with the New York State Department of Motor Vehicles to: (1) produce standard, accessible guidelines that support a medically sound and administratively efficient process for medical certification of drivers covered by Article 19-A; (2) increase the confidentiality of driver medical records by limiting their access to appropriate personnel; and (3) provide physician oversight for the medical certification program, including careful revision of required forms and methods for submission of required medical information. (Council 6/14/07)

RECOMMENDATION: SUNSET. This policy pertains to bus and commercial drivers and since 2007, it has undergone many revisions by the New York State. It is also unclear as to the why MSSNY had policy on this issue, however, MSSNY was not involved in the additional revisions that have taken place to Article 19 since 2007 and thus this policy should be sunset.

Home Attendant Ability to Instill Eye Drops:

MSSNY to petition the appropriate authorities to allow home attendants to instill eye drops in their patients. (HOD 2008-107)

RECOMMENDATION: SUNSET. Accomplished. New York State law now allows home health aides to provide assistance to patients in regards to medication. In 2016, a new law that established a job category as Advanced Home Health Aides, home health aides who receive additional training and act under the supervision of a licensed registered professional nurse to carry out advanced tasks. The tasks to be performed by advanced home health aides will include administering routine or pre-filled medications that are easy to give, such as injections of insulin or epinephrine, as well as other tasks to be defined in regulations. The regulations will take into account the guidance of a workgroup of stakeholders, which recommended that advanced home health aides be permitted to carry out tasks such as administering eye drops and applying topical medications to skin. Advanced home health aides will be supervised by licensed registered professional nurses employed by home care agencies, hospice programs or enhanced assisted living residences.
15.956 **Rapid In-Office HIV Testing and Public Health Law 27F:**
MSSNY supports legislative efforts to eliminate separate written informed consent and pre-testing counseling in order to comply with the Centers for Disease Control and Prevention’s 2006 guidance on HIV testing. (HOD 2008-156)

**RECOMMENDATION: SUNSET.** Over the last five years, the New York State Legislature, and the governor’s office has worked towards elimination of written informed consent and has passed and approved legislation to that effect. Therefore, this policy is no longer needed and staff has recommended that it be sunset as the goal has been achieved.

75.982 **Extend Phase-out Period for Proven CFC Inhalers:**
MSSNY will work with the American Medical Association to encourage the Food and Drug Administration to allow the availability of the Chlorofluorocarbon (CFC) delivery system until the present stock runs out. (HOD 2008-170)

**RECOMMENDATION: SUNSET.** The replacement of chlorofluorocarbon propellants with hydrofluoroalkanes (HFA) resulted in the redesign of metered-dose inhalers in the 1990s and are now widely used. This policy should be sunset as it is no longer germane.

195.964 **Consumer Rights for Durable Medical Equipment:**
MSSNY will request that the American Medical Association conduct a study regarding greater transparency and increased choices to patients in meeting their durable medical equipment needs. (HOD 2008-163)

**RECOMMENDATION: SUNSET.** This resolution called for a study by the AMA in 2008, however, a search of the AMA website about this did not result in any study being developed. Therefore, it is recommended that this policy be sunset.

260.922 **Patient Prescriptions:**
MSSNY to work with the American Medical Association to study the issue of prescription labeling for visually or otherwise impaired patients to seek possible improvements. (HOD 2008-168)

**RECOMMENDATION: SUNSET.** This resolution called for a study by the AMA in 2008, however, a search of the AMA website about this did not result in any study being developed. Therefore, it is recommended that this policy be sunset.

260.923 **Country of Origin of Medicines and Personal Products:**
MSSNY will ask the American Medical Association to seek federal legislation requiring that (1) all medications and medicinal and self-care products be clearly and prominently labeled with country of origin; and (2) the parent company be held accountable for the safety of the products they market in the United States. (HOD 2008-165)

**RECOMMENDATION: SUNSET.** This resolution called for federal legislation by the AMA in 2008, however, a search of the AMA website about this did not result in any policy being developed. Therefore, it is recommended that this policy be sunset.
260.924 **Expiration Dates:**
MSSNY will ask the American Medical Association to study the problem of manufacturers of medical supplies and equipment using different methods to indicate expiration dates on their products, making it difficult for people to know the true expiration date. (HOD 2008-164)

RECOMMENDATION: SUNSET. This resolution called for a study by the AMA in 2008, however, a search of the AMA website about this did not result in any study being developed. Therefore, it is recommended that this policy be sunset.

260.927 **Physician Reporting of Patients Who Should Not Drive:**
MSSNY will promote passage of state legislation to establish a system to allow, but not require, physicians to confidentially report to appropriate governmental agencies or departments that a patient is not physically or mentally capable of operating a motor vehicle without jeopardizing his or her health or that of others, while also providing immunity from civil or criminal liability for reporting or not reporting when such is done in good faith. (Council 3/3/08)

RECOMMENDATION: SUNSET. This policy is duplicative of MSSNY Policy 10.970 which has been modified to make the policy more applicable. Since it is duplicative, the recommendation is to sunset this policy.

265.905 **Availability of Cornea Donor Tissue:**
MSSNY to ask the New York State Health Commissioner, the Superintendent of Insurance and any and all other appropriate authorities to review and reconsider insurance reimbursement policies in the state pertaining to cornea donor tissue procedures. (HOD 2008-167)

RECOMMENDATION: Sunset. This was a directive to MSSNY to communicate with the various entities about the issue and it was most likely accomplished.

265.906 **Physician Reimbursement for Home Care:**
MSSNY will work to assure appropriate reimbursement to physicians, by all health insurance plans, including Medicaid, for rendering in-home care to homebound individuals so that hospital length of stay is reduced and there is greater flexibility in managing care and the potential for decreasing cost and improving quality. (HOD 2008-161)

RECOMMENDATION: SUNSET. Accomplished. New York State Home Visits by Medical Personnel are individually designed services to provide diagnosis, treatment and wellness monitoring in order to preserve the waiver participant's functional capacity to remain in his/her own home. Wellness monitoring is critical to the overall health of the waiver participant. Wellness monitoring includes disease prevention, the provision of health education and the identification of modifiable health risks. Home visits by medical personnel must be needed to decrease the likelihood of exacerbations of chronic medical conditions and unnecessary and costly emergency room visits, hospitalizations and nursing facility placement. Home visits by must be provided by a physician in private practice or a corporation licensed pursuant to Public Health Law Article 28. Persons providing home visits by must be a physician, nurse practitioner or physician's assistant. Home visits by must be provided by a DOH approved provider and must be included in the state plan to be reimbursed. Home visits are provided on an individual basis and billed in twenty (20) minute units with a maximum of three (3) units per visit. Home visits by providers participating in team meetings will be reimbursed at regular rate for attendance at these meetings.
312.983  **Immunization Registry:**
MSSNY will: (a) support efforts to delay implementation of the New York State Immunization Information System to allow sufficient time for physicians and their staff to be educated, trained and obtain the necessary equipment to use the registry; (b) support procedures that will ease the administrative burden to physicians such as FAXing and mailing of vaccination records to the New York State Department of Health; and (c) continue its advocacy for fair and adequate administrative fees from all payors.  (HOD 2008-153)

**RECOMMENDATION: SUNSET.** The New York State Immunization Registry has been in effect for over ten years and staff is recommending that this policy be sunset as it is no longer relevant.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018-150

Subject: Common Sense Prostate Cancer Screening

Introduced by: New York State Urological Society

Referred to: Reference Committee on Public Health and Education

Whereas, Prostate cancer is the second leading cause of cancer death amongst men in the United States and detection when the disease is localized offers the most options for successful treatment and reduced morbidity; and

Whereas, the United States Preventative Services Task Force (USPSTF) failed in its missive to produce an unambiguous, actionable, and unbiased guideline to screen men in the United States for Prostate Cancer by:
1. Using outcomes from studies designed thirty years ago when screening and diagnostic methods and treatment options bore no resemblance to those used in current practice and
2. Referencing studies with extreme underrepresentation of men of African descent, who in the United States have on average a higher risk of prostate cancer than the overall population and
3. Populating their committee without a single expert in prostate cancer and ignoring comments from nationally renowned experts in the field; and

Whereas, there has been a stage migration to a more advanced disease presentation for prostate cancer in the years since the USPSTF’s recommendation, reversing a twenty year trend of increased survival which began with widespread use of PSA testing in the early 1990s; and

Whereas, prostate cancer screening is no longer synonymous with standalone PSA testing, therefore the existing MSSNY position statement 125.996, item 8: Prostate Cancer Screening and Treatment in high risk individuals and populations is too limited in scope; and

Whereas, the Prostatic Specific Antigen (PSA) test is merely one item in a larger set of data used by prostate cancer specialists to determine who needs a biopsy or further evaluation, but is still the primary gateway for patients to be referred to those specialists; and

Whereas, the diagnostic and treatment approaches have evolved over the last three decades and offer cancer control with significantly lower morbidity and risk than those of the past, and that an increasingly large number of patients diagnosed with prostate cancer are being managed in active surveillance programs which emphasize improving overall health to reduce risk of progression of disease rather than definitive primary treatment; and

Whereas, healthy elderly men with active lifestyles are still at risk of developing life-shortening and quality-of-life destroying prostate cancer even into their 80s and beyond; therefore, be it

RESOLVED, That physicians should have an informative discussion about the risk of prostate cancer with their male patients at age 40 and identify those patients who are at higher than average risk based on family history, race, ethnicity, lifestyle factors and other chronic illnesses; and, be it further

RESOLVED, That physicians should offer male patients, at age 40 for higher risk and age 50 for average or low risk, yearly testing, including but not limited to, serum PSA and its various available subtypes, as well as MRI imaging and genomic testing when appropriate, with or
without digital rectal exam, and be referred to a specialist if findings suggest the possibility of prostate cancer; and, be it further

RESOLVED, that all patients diagnosed with prostate cancer have available to them all accepted methods of risk stratification to best determine appropriate treatment including the judicious use of active surveillance protocols.

125.996 Screening Programs and Interventions Most Beneficial in Improving the Overall Health of the Public:

MSSNY has found that the following screening programs and interventions are most beneficial in improving the overall health of the public:

8) Prostate Cancer Screening and Treatment in high risk individuals and populations (African-Americans and Men with a first degree affected relative)  For men, age 50+, digital rectal examination (DRE and prostate-specific antigen test (PSA)). Health care providers should discuss the potential benefits and limitations of prostate cancer early detection testing with men and offer the PSA blood test and the digital rectal examination annually, beginning at age 50, to men who are of average risk of prostate cancer, and who have a life expectancy of at least 10 years. (Screening Guidelines for the Early Detection of Cancer in Average-risk Asymptomatic People—American Cancer Society).

Thomas H. Rechtschaffen, MD FACS
Chair, AUA Legislative Affairs Committee
2016-17 AUA Gallagher Health Policy Scholar AUA New York Section Executive Board
New York State Urological Society Executive Board
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018–151

Introduced by: New York County Medical Society

Subject: Bicycle Safety

Referred to: Reference Committee on Public Health and Education

Whereas, In New York City alone, thanks to the 2013 NYC Citi Bike Sharing Program, in September and October of 2013, there were between 30,000 and 40,000 daily bike-sharing trips taken, indicating that more and more New York citizens are using bicycles; and

Whereas, According to the New York City Department of Transportation, 20 cyclists were killed and 4,207 cyclists were injured in New York City in 2012; and

Whereas, According to the 2012 State of New York’s motor vehicle traffic crash statistics, there is a yearly average of 635 hospitalizations due to motor vehicle traffic-related pedal cyclist injuries, hospitalizing 3.3 of every 100,000 New Yorkers; and

Whereas, According to the State of New York, there is a yearly average of 3,209 emergency department (ED) visits due to motor vehicle traffic-related pedal cyclist injuries, treating 16.6 of every 100,000 New Yorkers; and

Whereas, According to the National Highway Safety Administration (NHTSA), “Bicycles have an even smaller profile than motorcycles, are usually purchased without head lights and rear active lights attached, and are more difficult for many motorists to notice than four-wheeled vehicles, especially at night; and

Whereas, Bicycle/Pedestrian accidents occur because of issues such as riders considering red lights to be irrelevant; riding on sidewalks; going the wrong way up a street/avenue with pedestrian having no reason to look the wrong way; and dangerous, aggressive riding, especially by delivery men on the clock; and

Whereas, Bicycle riders should be held accountable for safety when riding; therefore be it

RESOLVED, That the Medical Society of the State of New York take a public stance encouraging law enforcement throughout New York State to enforce bicycle rules of the road; and be it further

RESOLVED, That the Medical Society of the State of New York make bicycle safety one of the priorities of its public health agenda.
Introduced by: Fifth and Sixth Districts
Subject: Bicycle Safety Infrastructure
Referred to: Reference Committee on Public Health and Education

Whereas, Bicycle related injuries/deaths have increased; and
Whereas, Exercise integrated into daily routines is good for health if done safely; and
Whereas, Commuting time wastes hundreds of hours per year; the Erie Canal Bike/Hike trails need funding for linking and completion/maintenance in the bicentennial years; therefore be it
RESOLVED, That the Medical Society of the State of New York and the American Medical Association encourage and lobby for infrastructure for safe ways to exercise and/or commute, tour, and enjoy the outdoors with bicycling, tricycling, walking, and cross country skiing away from traffic/collision/injury risks.

https://www.ptny.org/cycle-the-erie-canal
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution: 2018 - 153

Introduced by: Medical Society of the County of Kings

Subject: Caffeine Labeling with Warnings

Referred to: Reference Committee on Public Health and Education

Whereas, caffeine is a powerful stimulant drug that affects many body functions depending on age, weight, amount consumed over what period of time, general health, and the length of time used can increase the risk of hypertension and cardiac disease; and

Whereas, caffeine is the most commonly used drug in the United States; and

Whereas, more and more youth, and young adults are using caffeine in concentrated forms without knowledge of the risk - up to, and including, death; and

Whereas, between 2007 and 2011 the number of caffeine related emergency department visits for those 12 years of age or older doubled from 10,068 to 20,278; in 2011, about 1 in 10 of these visits resulted in hospitalization; and

Whereas, with the aging population, more and more people are extremely sensitive to the effects of caffeine; and

Whereas, in addition to caffeine, many other products with stimulant properties are added to caffeine drinks (energy drinks); and

Whereas, while the American Beverage Association encourages members to disclose caffeine content on their products, this is still on a voluntary basis; and

Whereas, while they are commonly referred to as "drinks," many energy drinks and "shots" are labeled as dietary supplements, therefore, Food and Drug Administration (FDA) approval is not needed; therefore, be it

RESOLVED, that the Medical Society of the State of New York (MSSNY) refer this resolution to the American Medical Association (AMA) to urge the FDA to take action on the following:

a) mandate all products that contain caffeine be labeled with the amount per serving, and include any other substances that enhances the effects of caffeine; and

b) that decaffeinated drinks be required to be labeled the amount of caffeine remaining in the product; and

c) that all places of business that sell caffeinated and decaffeinated drinks be required to include the amount of caffeine in beverages served.

References

MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018-154

Introduced by: MSSNY’s Committee on Infectious Disease
MSSNY’s Committee on Addiction and Psychiatric Medicine Committee
Bronx County Medical Society

Subject: Safe Injection Facilities Pilot Studies in NYS

Referred to: Reference Committee on Public Health and Education

Whereas, opioid and heroin use and abuse are significant and increasing causes of morbidity and mortality in New York State; and

Whereas, MSSNY strongly encourages all physicians and hospitals to advocate for substance use disorder treatment options, including but not limited to buprenorphine, for treatment of patients diagnosed with substance use disorders; and

Whereas, MSSNY supports increased access to care and harm reduction for opioid use disorders and other substance use disorders; and

Whereas, it is the policy of MSSNY that substance use disorders should be treated as medical illnesses; and

Whereas, Safe Injection Facilities, supervised consumption facilities, have been shown to be an important tool to prevent overdose and deaths from injection drug use and to link patients to health care in Europe, Australia and Canada; and

Whereas, a campaign called SIF NYC exists in New York City, comprised of 35 health and community organizations with the intent of seeking SIFs in an attempt to make communities healthier and safer by decreasing fatal overdoses and co-occurring medical illnesses such as HIV and hepatitis infections, and crime; thereby reducing public use and related disorders, and increasing people’s access to substance use disorder treatment and other services; and

Whereas, safe injection facility sites for injection drugs users are recommended by the New York State Task Force to End the HIV Epidemic by 2020, as an expansion of drug user Health Hub programs; and

Whereas, the American Medical Association supports the concept of pilot projects of Safe Injection Facilities throughout the country; therefore, be it

RESOLVED, that the Medical Society of the State of New York support pilot studies to assess the role of Safe Injection Facilities in New York State as a component of expansion of drug user health programs; and be it further

RESOLVED, that any pilot study include New York City and two other areas outside NYC; and be it further

RESOLVED, that such pilot studies on Safe Injection Facilities include a publicly disclosed report of outcomes and that the pilots provide screening, support and referral for treatment of substance use disorders, co-occurring medical and psychiatric conditions, and provide education on harm reduction strategies including but not limited to Naloxone training.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018 – 155

Introduced by: MSSNY’s Committee on Health Disparities
Bronx County Medical Society

Subject: Discriminatory Policies that Create Inequities in Health Care

Referred to: Reference Committee on Public Health and Education

Whereas, President Trump’s administration has created a new conscience and religious freedom division within the Health and Human Services department, with the intent of allowing all health professionals to opt out of providing services that violate their moral or religious beliefs; and

Whereas, the Acting Health and Human Services Secretary Eric D. Hargan has stated that the creation of this office, "represents a rollback of policies that had prevented many Americans from practicing their profession and following their conscience at the same time, and that Americans of faith should feel at home in our health system, not discriminated against, and that states should have the right to take reasonable steps in overseeing their Medicaid programs, and being good stewards of public funds," and

Whereas, a number of women’s groups, LGBT rights groups and physicians have expressed that the creation of this office and policy would further discriminate against vulnerable populations and worsen inequities within the health care system; and

Whereas, to impose a broad religious refusal policy that will allow individuals and institutions to deny basic care for women, transgender people and people of diverse ethnic backgrounds; and

Whereas, this policy reverses years of policies that have been put in place under previous administrations that had narrowed conscience protections; and

Whereas, this new office and policy appears to go against the oath that health care providers take when they enter their professions, to provide basic care to those who need it; and

Whereas, the MSSNY Committee on Health Disparities believes that religious liberty gives a person the right to their beliefs, but it does not give a person the right to impose those beliefs on others, or harm others, including by discriminating against others; therefore, be it

RESOLVED, that the Medical Society of the State of New York speak against policies that are discriminatory and create even greater health disparities in medicine; and be it further

RESOLVED, That the Medical Society of the State of New York be a voice for New York’s most vulnerable populations, including sexual, gender, racial and ethnic minorities, who will suffer the most under such policies, further widening the gaps that exist in health and wellness in our nation; and be it further

RESOLVED, that a copy of this resolution be transmitted to the American Medical Association for its consideration.
WHEREAS, Excessive alcohol use is known to kill about 88,000 people in the United States each year (https://www.cdc.gov/features/costsofdrinking/); and

WHEREAS, The cost of excessive alcohol use in the United States reached $249 billion in 2010, $2.05 per drink (https://www.cdc.gov/features/costsofdrinking/); and

WHEREAS, New York State currently requires use of a driver’s license to purchase alcohol, a misuse of this picture ID card; and

WHEREAS, A database could easily be created for a license that parallels the driver’s license; picture ID, basic education course for high school or college students or others turning 21, instead of a “road test” a motivational interview regarding the licensee’s opinions and thinking about their potential to develop alcoholism and this license to buy alcohol could be revoked if there were multiple driving while intoxicated infractions or hospitalizations for medical complications of irreversible alcoholism; withdrawal seizures, alcoholic pancreatitis or liver disease, etc.; therefore, be it

RESOLVED, The Medical Society of the State of New York encourage the State of New York to institute an alcohol purchasing license to all citizens who wish to buy alcohol, with regulations regarding safe use of alcohol as a requirement for the license to continue.
Whereas, Mass Shootings of innocent victims have become more prevalent in America; and
Whereas, Shooters in such episodes are increasingly using semi-automatic weapons (1 pull of trigger produces one bullet and reloads the chamber, but the next shot requires a 2nd pull of the trigger) and/or weapons altered to make them function in an automatic manner (1 pull of the trigger continuously fires bullets until the trigger is released); and
Whereas, Ownership of fully-automatic weapons (aka “machine guns”), noise suppressors, short barreled rifles, short barreled shotguns as well as explosive devices such as bombs and grenades have been highly restricted in the United States of America since passage of the 1934 National Firearms Act (revised in 1968 and 1986); and
Whereas, A bump stock is a device, available for under $200, that converts a semi-automatic rifle to function like a fully-automatic weapon; and
Whereas, Examples of recent mass shootings that involved either a semi-automatic weapon or a semi-automatic weapon modified to function in an automatic mode include:
At an elementary school in Newtown, CT, a man armed with a semi-automatic rifle killed 28 people and wounded 2 others; and
In a movie theater in Aurora, CO, a man armed with a semi-automatic rifle killed 12 people and wounded 58 others;
At a holiday party in San Bernadino, CA, a man and woman armed with sem-automatic rifles killed 14 people and wounded 20 others;
At a nightclub in Orlando, FL, a man armed with a semi-automatic rifle killed at least 50 people and wounded 53 others;
At an outdoor country music festival in Las Vegas, NV, a man armed with a rifle modified with a bump stock killed 59 people and wounded 545 others; and
Whereas, Physicians pledge their careers to saving lives, promoting health, and preventing injury or premature death; therefore, be it
RESOLVED, MSSNY should seek and promote legislation that blocks the sale of any device or modification to pistols and rifles, specifically including but not limited to bump stocks, that functionally convert a semi-automatic firearm into a weapon that mimics fully-automatic operation.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018 † 158

Introduced by: Tompkins County Medical Society
MSSNY Preventive Medicine & Family Health Committee

Subject: Strengthening the Background Check System for Firearm Sales

Referred to: Reference Committee on Public Health and Education

Whereas, Mass shootings of innocent victims have become more prevalent in America; and
Whereas, Most mass shooters have obtained pistols, long guns and explosives legally, though some shooters might have been prevented from obtaining weapons had background checks been properly performed; and
Whereas, New York State does have a background check system to block criminals and persons with severe mental health problems from being able to purchase pistols, long guns and explosives (such as grenades, rocket propelled grenades, dynamite, C4, et.); and
Whereas, Incomplete use of the background check system in private sales, gun show and online sales makes it much easier for individuals to obtain guns without undergoing a background check; therefore, be it

RESOLVED, that the Medical Society of the State of New York (MSSNY) seek and promote legislation that makes it illegal to sell pistols, long guns and explosives (such as grenades, rocket propelled grenades, dynamite, C4, etc.) in New York State without performing a background check to prove that the buyer can legally make the purchase.

References:
Sources of weapons used in mass shootings

OMH Automated Background Check System
https://www.omh.ny.gov/omhweb/mhbc/

National Instant Background Check System
https://www.fbi.gov/services/cjis/nics
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Introduced by: Tompkins County Medical Society

Subject: Reduce Gun Use in Suicidal Patients

Referred to: Reference Committee on Public Health and Education

Whereas, Mass shootings and terrorism are a popular media issue surrounding background checks for firearms; and

Whereas, Suicide by pistols and long guns are a dramatically more prevalent problem than mass shootings or terrorism; and

Whereas, Use of firearms markedly increase the lethality of suicide attempts; and

Whereas, If health care providers, family and friends were aware that a patient with suicidal ideation has access to firearms, they might be able to restrict such access; and

Whereas, New York State has a Mental Health Background Check system to block persons with severe mental health problems from being able to purchase pistols, long guns and explosives; and

Whereas, New York State has a registry of New York citizens with permits for pistols, long guns and explosives; therefore, be it

RESOLVED, That the Medical Society of the State of New York (MSSNY) seek and promote legislation that enables the Mental Health Background Check system and the firearms registry to be used together, in reverse, with the goal of alerting health care providers, family and friends of patients with suicidal ideation, so that those individuals can restrict the patient’s access to firearms while the patient is manifesting suicidal ideation, so that a family member or other person who has a close personal relationship to the patient is alerted that it is advisable to restrict the patient’s access to firearms while the patient is manifesting suicidal ideation.

References:
Mental Health and Gun Buyers

OMH Automated Background Check System
https://www.omh.ny.gov/omhweb/mhbc/

National Instant Background Check System
https://www.fbi.gov/services/cjis/nics
Whereas, The state of New York is in the throes of a major drug dependence epidemic, in which thousands of opioid dependent individuals have been hospitalized, sent for treatment, and die of opioid overdose annually; and

Whereas, the acknowledged single most effective lifesaving preventive treatment involves MAT (Medication Assisted Treatment) in which opioid addicts are stabilized on Methadone or Buprenorphine (Suboxone and others) but MAT is acknowledged as the highest priority lifesaving treatment; and

Whereas, most community and inpatient drug treatment programs are designed after the Alcoholics Anonymous abstinence model which leaves an addict at risk of overdose and death and do not provide or refer patients at risk of overdose and death for MAT treatment; and

Whereas, it is necessary to support the provision of treatment which includes the most effective methods available; therefore be it

RESOLVED, that MSSNY support legislation to require education into and provision of medically effective treatment for Substance Use Disorders (SUD), including opioid dependence, to be required of all licensed drug treatment programs which would require staff training for referral and/or provision of Medically Assisted Treatment (MAT) such as Suboxone and/or Methadone; and be it further

RESOLVED, that this be forwarded to the American Medical Association for national action.
Whereas, there are well over 23,000 studies documenting the benefits of medical cannabis for people facing everything from Alzheimer's disease to chronic pain and diabetes; and

Whereas, currently the State's Medical Marijuana Program allows patients who suffer from specific serious conditions, who also have a condition clinically associated with or a complication of the serious condition, to be certified by a practitioner to receive medical marijuana products for medical use; and

Whereas, cannabis is becoming mainstream with 29 currently-legal marijuana states condoned to dispense legalized marijuana; and

Whereas, it has been shown that pain relief from legalized marijuana can be a harbinger of safer, less deadly alternatives to the current opiate crisis, and the over 175 daily deaths from over doses; and

Whereas, the recent memo by the Federal Attorney General, Jeffery Beauregard Sessions to the states attorney general rescinding the Obama-era directive which had eased federal enforcement has had a chilling effect on the progress of individual state programs; therefore, be it

RESOLVED, that MSSNY work with the New York State Attorney General to continue to ease federal enforcement at the state level, which would enhance availability and reduce fear from repercussions for businesses and our patients; and be it further

RESOLVED, that the AMA work at the federal level to educate the federal State Attorney General on what we now understand as clinicians is a useful medicinal product, which has a wide range of benefits across the medical spectra, and the added advantage of ameliorating pain thereby reducing opiate use for pain management.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018 ÷ 162

Introduced by: Brian Johnson, MD, As an Individual Delegate, Onondaga County Medical Society

Subject: Opioid Pill Buy Back Program

Referred to: Reference Committee on Public Health and Education

Whereas, Opioid overdoses killed about 60,000 Americans in 2017; and

Whereas, A common source of misused opioids in New York State is pills that have been left over from persons with prescriptions, often taken without permission; and

Whereas, Effort and consciousness are required to locate and turn in left over pills; therefore, be it

RESOLVED, The Medical Society of the State of New York encourage the State of New York to institute an opioid pill buyback program to encourage citizens to turn in pills that may become dangerous or even lethal to others.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018 İ 163

Introduced by: Fifth and Sixth Districts
Subject: Quality of End of Life Care
Referred to: Reference Committee on Public Health and Education

Whereas, The value of life during its last days and hours is as significant as any other time in a person’s life; and

Whereas, For those who wish to stop their own physical lives, suicide is already legal; and

Whereas, Experience in Oregon¹ shows the reasons people choose Physician Assisted Suicide are overwhelmingly NOT related to uncontrollable physical pain, i.e. “Similar to previous years, the three most frequently mentioned end-of-life concerns were loss of autonomy (89.5%), decreasing ability to participate in activities that made life enjoyable (89.5%), and loss of dignity (65.4%)” and

Whereas, Oregon’s experience² from 1998 through 2016 was that only 59 of the 1,129 persons whose lives were ended via Physician Assisted Suicide received formal psychiatric or psychological evaluation; and

Whereas, The very act of applying for Physician Assisted Suicide hands over the decision to medical and government authorities which itself constitutes a loss of autonomy; therefore, be it

RESOLVED, That the Medical Society of the State of New York affirms its belief in the value of human life no matter how compromised it might be or become, and our commitment to support each person’s efforts to enjoy life as fully as possible; and be it further

RESOLVED, That the MSSNY recommends that New York State increase funding for and the availability of end of life care, particularly psychiatric and psychological counseling services, activities of daily living support services, and programs which improve each person’s quality of life as it nears its natural end.


² Ibid.
Introduced by: Jose David MD, As an Individual
Delegate, NYS Academy of Family Physicians
Jay Federman MD, As an Individual
Delegate, Essex County Medical Society

Subject: Engaged Neutrality on Medical Aid in Dying

Whereas, core values of the Medical Society of the State of New York (MSSNY) include
professionalism as evidenced by decisions that are honest, ethical, and compassionate; and
actions that are patient-centric and protect the physician patient relationship; and scientific as
evidenced by realistic and rational discussion among and inclusive professional community that
values accurate information, diversity of opinion and political non-partisanship;

Whereas, medical aid-in-dying is a practice legalized in six states and the District of Columbia
that authorizes terminally ill adults with decision-making capacity and less than six months to
live to request a prescription medication which they may self-administer to bring about a
peaceful death if and when their suffering becomes intolerable; and

Whereas, with decades of data, rates of assisted dying Oregon and Washington have shown no
evidence of heightened risk for the elderly, women, the uninsured, the poor, the disabled or
other vulnerable groups; and

Whereas, studies indicate that medical aid in dying has had a net positive effect on hospice
referrals and end-of-life care through more open conversations about patient centric options
manifested by public support and endorsement, increased referrals to hospice, reduced patient
worry about future pain, discomfort or loss of control; and

Whereas, conceptually, legally and professionally speaking, it is inaccurate to equate medical
aid in dying with assisted suicide. Statutes emphasize that "Actions taken in accordance with
Medical Aid in Dying shall not, for any purpose, constitute suicide, assisted suicide, mercy killing
or homicide, under the law." and

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   Netherlands: evidence concerning the impact on patients in vulnerable groups. Journal of Medical
   Geographic Variation of Hospice Use Patterns at the End of Life. Journal of Palliative Medicine.
   18(9),775.
   Attitudes About and Experiences with end-of-life care since passage of the Oregon Death with Dignity
   Act. JAMA. 285(18):2365
   347 (8):585
6 Creighton C., et al. Statement of the American Association of Suicidology: "Suicide≠is Not The Same as
7 Frye J. Youngner SJ. A Call for a Patient-Centered Response to Legalized Assisted Dying. Ann Intern
Whereas, as demonstrated by the actions of nine AMA Member state medical societies, positions of engaged neutrality can allow for diverse views while ensuring safeguards, educating members and protecting physicians and patients’ freedom to participate or opt out of medical aid in dying according to their own person values; and

Whereas, previous polling has shown overwhelming public support for access to Medical Aid in Dying\(^8\); and

Whereas, the New York legislature is considering S31521 and A2382, the New York Medical Aid in Dying Act; and

Whereas, the American Medical Association’s Council on Ethical and Judicial Affairs is currently studying medical aid-in-dying as an end-of-life option and soliciting input from member societies; and

Whereas, MSSNY is the second largest component of the AMA, with 19 voting delegates; therefore, be it

RESOLVED, that the MSSNY rescind the following policy: 95.989 “Assisted Suicide and Euthanasia”; and

RESOLVED, that the MSSNY adopt the following: Medical Aid in Dying

Terminally ill patients with decision-making capacity sometimes request medical aid in dying, a practice in which the physician provides a prescription medication that the patient may self-administer to hasten death. It is the position of MSSNY that medical aid in dying, as any medical decision, is one of an informed consent between the patient and his/her physician. Medical aid in dying should be practiced only by a duly licensed physician in conformance with standards of good medical practice and within legal parameters. No physician shall be required to participate in the practice if it violates personally held moral principles; and be it further

RESOLVED, that the MSSNY adopt a public policy position of engaged neutrality, neither endorsing nor sanctioning the process, but serving as a medical and scientific resource to inform legislative efforts, and be it further

RESOLVED, that the MSSNY instruct its AMA delegation to reflect the MSSNY position of engaged neutrality to the AMA’s Council on Ethical & Judicial Affairs, reference committees, and House of Delegates.

\(^8\) New York State Statewide Survey. Eagle Point Strategies. 2015-16
Whereas, New York State is the only state in which testosterone is classified as a Schedule II drug; and
Whereas, Testosterone is not addictive and is not a drug which is involved in overdoses; and
Whereas, It is inappropriate to classify Testosterone with drugs that are addictive and can cause overdose dangers; and
Whereas, Testosterone is an appropriate drug to prescribe for long-term use by hypogonadal men, and
Whereas, The Schedule II classification in New York State makes it more onerous to prescribe in New York State, as opposed to the other 49 states and District of Columbia; therefore be it
RESOLVED, That the Medical Society of the State of New York urge legislative or regulatory change reclassifying Testosterone to a lower schedule category.
Whereas, Medical Cannabis programs are now established in 29 states of the U.S. and the District of Columbia, and an increasing number of medical community members are involved in these programs; and

Whereas, There is an increasing need for controlled research to clarify cannabis’s possible benefits; and

Whereas, Research has shown that cannabis contains hundreds of chemical substances, including Tetrahydrocannabinol (THC, a psychoactive component), Cannabidiol (CBD, a non-psychoactive component) and many other substances; and

Whereas, Much of the information on cannabis’s benefits is still anecdotal, because during the "War on Drugs" in the 1970s, cannabis was classified as a Schedule I substance (the most restrictive classification possible), making research on its medical properties very difficult; and

Whereas, A staggering amount of red tape is needed to obtain permission for cannabis research (the Schedule I classification makes it extremely difficult to implement administrative procedures for grant applications and research); and

Whereas, Cannabidiol has been shown to be helpful in such conditions as seizures (synthetic versions of the compound now exist for medical use), but the potential for finding other medically beneficial substances in cannabis is severely restricted because of cannabis’s Schedule I classification; and

Whereas, researchers examining the 2010-2017 scientific literature on states’ medical cannabis laws and the use of prescription opioid medications (POM) in those states focused on ten articles that discussed:

- The substitution of medical cannabis for POM,
- POM overdose fatalities,
- Hospitalizations related to harms from medical cannabis or POM,
- Hospital admissions related to opioid use disorder,
- Motor vehicle fatalities, and
- Analyses of prescription costs;

And found: The literature suggests that medical cannabis law could be associated with decreased POM use, fewer POM-related hospitalizations, lower rates of opioid overdose, and reduced national health care expenditures related to POM overdose and misuse; and

Whereas, The Food and Drug Administration (FDA), which evaluates drugs’ medical uses, has repeatedly recommended to the Drug Enforcement Agency (DEA) that cannabis’s Schedule I classification be changed; and
Whereas, The American Medical Association since 2009 has called for the review of cannabis as a Schedule I substance, and urged the National Institutes of Health to facilitate well designed clinical research into the drug’s medical utility; and

Whereas, The Drug Enforcement Administration (DEA) decided in 2016 to keep the Schedule I restrictions in place, stating that the Agency was reluctant to change the drug’s classification until more data was available; and

Whereas, Medical Society of the State of New York policy (75.976 Cannabis for Seriously Ill Patients) states that “The use of cannabis may have a role in treating patients who have been diagnosed with serious, debilitating illnesses, when all other treatments have failed, or when clinical trials have demonstrated that [cannabis’s] efficacy is comparable to that of currently accepted treatments, and that the Medical Society of the State of New York supports continued high-quality clinical trials on the use of cannabis for medical purposes; therefore be it

RESOLVED, That the Medical Society of the State of New York (MSSNY) advocate for a change in cannabis’s classification from Schedule I to a lower category; and be it further

RESOLVED, That the Medical Society of the State of New York ask the American Medical Association to renew its efforts towards the change of cannabis from a Schedule I drug.

1 http://www.crescolabs.com/the-core-five-compounds-found-in-cannabis/
6 MSSNY Position Paper 75.976
Medical Society of the State of New York

Resolution 2018 - 167

Introduced by: Suffolk County Medical Society

Subject: Integrating Data into Physician’s E-prescribing Workflow

Referred to: Reference Committee on Public Health and Education

Whereas, effective August 27, 2013, most physicians and other prescribers when writing prescriptions for Schedule II, III, and IV controlled substances were required to consult the Prescription Monitoring Program (PMP) Registry which provides physicians, other prescribers or their delegates access to view dispensed controlled substance prescription histories for their patients; and

Whereas, in order to access the PDMP Registry, physicians and other prescribers must first access the Health Commerce System (HCS) maintained by NYS and then jump through several additional clicks to access data pertinent to the patient for whom s/he wants to prescribe; and

Whereas, the mandate for physicians to prescribe all non-controlled and controlled substances electronically went into effect on March 27, 2016 forcing physicians and other prescribers who did not obtain a waiver or fall within an exception to the mandate to send most prescriptions electronically from their electronic health record or stand-alone e-prescribing technology; and

Whereas, in order to e-prescribe a Schedule II, III or IV controlled substance, a physician, other prescriber must move out of their EHR/stand-alone eRx screen and into the HCS in order to gain access to the patient’s controlled substance history maintained in the PMP Registry adding unnecessary steps to and unnecessarily lengthening the time involved in the electronic prescribing process; and

Whereas, as an alternative to the physician or other prescriber viewing the patient’s controlled substance history, s/he may delegate the duty to consult the registry to a member of their staff who will provide a copy of the PMP report to the physician in advance of his/her visit with the patient; and

Whereas, while the I-STOP legislation was being negotiated, many lawmakers and policy makers agreed that there should be interoperability between the state’s PMP Registry and physician EHR and e-prescribing technology; and

Whereas, section 3343-a of the public health law which implements the PMP Registry requirements specifies in pertinent part that the Registry “shall be secure, easily accessible by practitioners and pharmacists, and ... To the extent practicable, implementation of the electronic transmission of prescriptions for controlled substances shall serve to streamline consultation of the registry by practitioners” and

Whereas, streamlined access to the Registry by the state of New York has not yet been facilitated by the state thereby making the process of Registry consultation cumbersome and unnecessarily time-consuming; and
Whereas, many other states including Ohio, Pennsylvania, Maryland, Kansas, Texas, South Carolina just to name a few, are already moving forward to facilitate interoperability between EHR/eRx systems with the state Prescription Drug Monitoring Program Database so to enable an automatic integrated and comprehensive view of the patient’s medication history while in the e-prescribing workflow at the point of encounter with the physician’s patient; therefore, be it RESOLVED, that the Medical Society of the State of New York support legislative or regulatory efforts to ensure the interoperability of the State’s Prescription Drug Monitoring Registry with electronic health record and e-prescribing workflow within one year.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018 - 168

Introduced by: Ninth District Branch

Subject: Increase Free Online CME for Members

Referred to: Reference Committee on Public Health and Education

Whereas, The Medical Society of the State of New York is seeking to retain and recruit new membership; and

Whereas, In today’s world, physicians are increasingly under pressure to continue the medical education; and

Whereas, The website for CME accreditation of the Medical Society of the State of New York has few CME accredited activities; therefore be it

RESOLVED, That MSSNY canvas its membership on the potential online CME course topics that would be most beneficial to its members; and be it further

RESOLVED, That MSSNY work with county and specialty societies to develop more online CME programs that could be provided to the membership free of charge.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution: 2018 - 169

Introduced by: Seventh District Branch, MSSNY
               Eighth District Branch, MSSNY

Subject: Partnership on Continuing Medical Education

Referred to: Reference Committee on Public Health and Education

Whereas, Many physicians rely on continuing medical education to improve their practice and
their care of patients; and

Whereas, MSSNY’s Office of Continuing Education’s goal is to upgrade medical care by
maintaining, augmenting, and updating medical knowledge, skills and attitudes in order to
facilitate delivery of optimal medical care to their patients; and

Whereas, Continuing Medical Education (CME) is a value proposition of membership; and

Whereas, membership growth of MSSNY and County Medical societies is a priority; and

Whereas, counties with County Medical Society memberships have decreased at a significantly
lesser rate than MSSNY as a whole; and

Whereas, county medical society membership growth results in membership growth for
MSSNY; therefore, be it

RESOLVED, that the Medical Society of the State of New York (MSSNY) will accredit County
Medical Societies to offer CME; and, be it further

RESOLVED, that MSSNY will not charge licensing fees to those County Medical Societies
presenting programing which provide continuing medical education credit; and be it further

RESOLVED, any net revenue resulting from CME accredited programming will be shared
equally between the County Medical Societies and the MSSNY.
RECOMMENDATION:
Madam Speaker, Your Reference Committee recommends that the policies contained in 2018 Reports of Officers and Administrative Matters Sunset Report be acted upon in the manner indicated and that the remainder of this report be filed:

REAFFIRM

130.962 Health Care as Economic Stimulus:
MSSNY advocate for increased health care spending (and oppose health care cuts) as an economic stimulus package, owing to its substantial impact on local, regional economies and Gross Domestic Product (GDP) in addition to the legacy of better health. (HOD 2008-211)

RECOMMENDATION: REAFFIRM. The MSSNY Membership Committee considered this policy and recommended that it be reaffirmed and updated. To this end they have submitted a new resolution entitled Health Care as Economic Stimulus and Social Benefit.

SUNSET

85.969 Increasing Matriculation of Medical Students:
MSSNY will seek either legislation or regulation to provide financial support for increasing the number of medical students, provided that such expansion would not jeopardize the quality of medical education in New York State. (HOD 2008-102)

RECOMMENDATION: SUNSET. The number and size of US medical schools has increased significantly since 2008.

150.972 Gain-sharing:
MSSNY will ask the American Medical Association to study and prepare a report on gain-sharing programs. (HOD 2008-206)

RECOMMENDATION: SUNSET. A great deal has been studied and reported on Accountable Care Organizations and other gain-sharing concepts.
267.998  **Timely Submission of Credentialing Materials by Residency and Fellowship Programs:**
MSSNY will work with the American Medical Association to:

1. encourage residency programs and fellowship programs to properly complete and promptly submit verification of resident education/training on credentialing and re-credentialing forms to the requesting agency within thirty days of the request;
2. encourage the Accreditation Council for Graduate Medical Education to add to the accreditation standards for residency and fellowship programs and to the Institutional Program Requirements the requirement of the proper completion and prompt submission of verification of resident education/training on credentialing and re-credentialing forms to the requesting agency within thirty days of the request. (HOD 2008-213)

**RECOMMENDATION: SUNSET.** MSSNY’s RFS and YPS leaders were asked if this continues to be a concern. They indicated that they are not aware of any continuing problems in this area. It is also noted that the ACGME Common Program Requirements include provisions calling for timely verification of residency education and summative performance evaluations.

317.992  **Volunteers in Times of Public Health Emergencies:**
MSSNY to support and encourage physicians across the state to volunteer in times of a public health emergency recognizing that providing physicians contact information to various individuals in local governments may violate a physician’s right to privacy and that MSSNY contact physicians on the MSSNY Volunteer Database to inform them that the state will now share all physician information, unless physicians “opt out,” and that MSSNY work with the New York State Department of Health to resolve legal issues pertaining to deployment on the local and state level. (Council 1/25/07)

**RECOMMENDATION: SUNSET.** MSSNY has been working effectively with the NYSDOH to educate physicians about public health emergencies and to encourage volunteerism during public health emergencies. MSSNY was instrumental in assisting the NYSDOH in the development of SERVNY’s database of physician and healthcare professionals that can be activated in a state or local emergencies. This system is under the secure NYS Health Commerce System (HCS) and physicians and other professionals must affirmatively consent to having the information shared with a locality. SERVNY also provides liability protections and ensures that volunteers are properly licensed.
Whereas, among the policies being considered for sunset this year is Policy 130.962,

Health Care as Economic Stimulus:
MSSNY advocate for increased health care spending (and oppose health care cuts) as an economic stimulus package, owing to its substantial impact on local, regional economies and Gross Domestic Product (GDP) in addition to the legacy of better health. (HOD 2008-211)

and

Whereas, the Membership Committee, which was asked to make a recommendation on sunsetting policies to be considered by the Reports of Officers Reference Committee, agreed that 130.962 expressed a laudable goal but would benefit from updating; and

Whereas, a 2018 report released by MSSNY and AMA, "The Economic Impact of Physicians in New York," states that the more than 60,000 physicians practicing in New York provide a significant economic boost to the state; and

Whereas, each physician in New York supports 11.4 jobs, generating $141.2 billion in economic output, which is nearly 10% of the New York economy; and

Whereas, physicians contribute $78 billion in wages in benefits paid to workers in New York, resulting in over $7 billion in total tax revenue for state and local municipalities; and

Whereas, policies of government and insurers that place unfunded mandates on physicians while reducing payment for their services are driving many physicians to abandon private practice; and

Whereas, care provided outside the hospital environment is typically less expensive for payors; and

Whereas, government policy should seek to remove those unfunded mandates that have not been proven to support better care; and

Whereas, budget decisions that restrict patients' access to care should be reviewed in terms of the ultimate costs of treating a sicker population; therefore be it

RESOLVED, the Medical Society of the State of New York oppose health care funding cuts that impose undue burden on both physicians and patients; and be it further

RESOLVED, the Medical Society of the State of New York promote increased healthcare investment both for its social and economic benefits; and be it further

RESOLVED, that the Medical Society of the State of New York strive to educate the public and policy makers on how decisions on health care spending will affect the overall economy.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018 Ì 201

Introduced by: Third and Fourth Districts

Subject: Physician Health and Burnout Reduction

Referred to: Reference Committee on Reports of Officers & Administrative Matters

 Whereas physician health and reduction of burnout is necessary for the provision of quality patient care and optimal patient outcomes; therefore be it

RESOLVED, that the Medical Society of the State of New York (MSSNY) support the formation, expansion and continuation of programs that promote, maintain and/or foster physician health and help reduce physician abuse and burnout; and be it further

RESOLVED, that MSSNY undertake the necessary actions (e.g., grants, advocacy, legislation, study, funding) to ensure that programs supporting physician health and reduction of physician abuse and burnout become a permanent component of organized medicine; and be it further

RESOLVED, that MSSNY foster alliances with interested parties (e.g., lawyers, patients, insurers) to support the goal of ensuring that the practice of medicine functions optimally by maintaining physician health and reducing physician burnout and abuse.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018 ï 202

Introduced by: Medical Society of the County of Queens

Subject: MSSNY Approval of any Amicus Brief

Referred to: Reference Committee on Reports of Officers & Administrative Matters

Whereas, our MSSNY has, at times, supported pending litigation by submitting an amicus curiae brief; and

Whereas, MSSNY has, at times, been offered the opportunity to join an amicus at ño costôto MSSNY; and

Whereas, participation in an amicus by MSSNY may result in requests for information and/or other data that does involve a cost to MSSNY either by legal fees, or costs related to staff time and/or other administrative costs; therefore, be it

RESOLVED, that any proposed MSSNY amicus, or proposed participation in any amicus brief by MSSNY, will require the approval of the MSSNY Board of Trustees and the MSSNY Council.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Introduced by: Monroe County Medical Society
Eighth District Branch

Subject: MSSNY Committees as a Member Benefit

Referred to: Reference Committee on Reports of Officers & Administrative Matters

Whereas, MSSNY maintains many high value and quality committees which benefit from physician participation and involvement, and

Whereas, the mission and accomplishments of these committees is not always apparent to both members and non-members, and

Whereas, Component County Societies are annually asked to nominate physicians for placement on these committees, and

Whereas, most of these committees are not referenced in the MSSNY Bylaws therefore making it difficult to recruit physicians involvement, and

Whereas, resources must be marshaled most effectively; therefore, be it

RESOLVED, that the Long Range Planning Committee of the Medical Society of the State of New York annually review the mission statement and activities of each committee to determine if it continues to be relevant to the organization; and be it further

RESOLVED, the MSSNY prominently place on its website all relevant committee information allowing for use as a marketing tool to enhance the value of participation and membership throughout the State.
Whereas, MSSNY membership has continued to decline over the last several years; and

Whereas, specialty society membership is often free to medical students and residents; and

Whereas, membership growth of MSSNY and County Medical societies is a priority; and

Whereas, these free memberships are an opportunity to build brand trust and awareness for future paying membership levels; therefore, be it

RESOLVED, That the Medical Society of the State of New York collaborates with County Medical Societies to ensure medical students and residents do not pay for memberships.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018 † 205

Introduced by: New York County Medical Society
Subject: Life Member Administration Fee
Referred to: Reference Committee on Reports of Officers & Administrative Matters

Whereas, Members of the Medical Society of the State of New York (MSSNY) may apply for Life Membership upon meeting the requirements as specified in the Bylaws; and

Whereas, Thanks to the progress of medical science, human life expectancy is longer, and many physicians typically work past typical retirement age; and

Whereas, Even physicians who are Life Members may still be in practice; and

Whereas, These practicing Life Members are often frequent utilizers of Society resources; and

Whereas, other societies successfully charge an administrative fee for Life Members, (e.g., the American Academy of Ophthalmology charges $200); and

Whereas, Life Members still in practice should pay a minimal amount for the services received; therefore be it

RESOLVED, That a pilot project be instituted such that Life Members of the Medical Society of the State of New York be charged a nominal administrative fee split between county medical societies and the Medical Society of the State of New York.
Whereas, The Medical Society of the State of New York has frequently recognized the importance of Grass Roots Advocacy; and

Whereas, Grass Roots Advocacy implies advocacy beginning at the ground level; and

Whereas, The County Societies represent the true ground level of organized medicine; and

Whereas, the Medical Society of the State of New York is seeking novel ways to increases its membership; and

Whereas, The County Societies are in a unique position to develop interest in participating in organized medicine; and

Whereas, It is in MSSNY’s long term best interest to have strong County Medical Societies; therefore, be it

RESOLVED, that the County Societies be allowed to offer a two year provisional membership without the requirement of membership in MSSNY; and be it further

RESOLVED, that said provisional membership would be available only to new members paying the customary county society dues; and be it further

RESOLVED, that said provisional membership would entitle the prospective member only to the benefits that flow from membership in the county society.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018 Ŧ 207

Introduced by: Medical Society of the County of Queens
Subject: Introductory Memberships
Referred to: Reference Committee on Reports of Officers & Administrative Matters

Whereas, introductory memberships to organizations serve the purpose of introducing new members to the organization; and
Whereas, a successful introductory membership would hopefully result in introductory members joining the organization as regular members; therefore, be it
RESOLVED, that our MSSNY offer introductory MSSNY memberships to new prospective members effective January, 1, 2019; and that a new introductory-member be defined as:
- someone who has not been a member of MSSNY in the previous five years;
- being entitled to a membership of one-year duration, terminating at the end of the year;
- a member who shall have access to all MSSNY publications and invitations as extended to all active members;
- and a member who shall have voice but no vote;
and be it further
RESOLVED, that the MSSNY dues for the introductory MSSNY membership shall be established in an amount the MSSNY BOT has determined to be fiscally responsible; and be it further
RESOLVED, that no negotiations or promises shall be made by MSSNY on behalf of any county for introductory county dues; and be it further
RESOLVED, that at the conclusion of the introductory membership, the individual shall be invited to become a full-dues paying member.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018 † 208

Introduced by: Medical Society of the County of Queens

Subject: Pilot Program Memberships

Referred to: Reference Committee on Reports of Officers & Administrative Matters

Whereas, our MSSNY Bylaws allow for the Council, with the approval of the Board of Trustees and the affected county medical society, the authority to waive, for a period not to exceed three years, the requirements regarding the payment of dues in the performance of any pilot membership projects; and

Whereas, the pilot programs that have been instituted have resulted in long term (more than three years) reduction of the regular dues for the pilot program members; and

Whereas, the various pilot programs have resulted in a wide-range of dues for the same active membership class; and

Whereas, there is an inherent unfairness in varying dues being levied for the same membership class; and

Whereas, the Bylaws also state that the annual dues shall be determined by the HOD; therefore, be it

RESOLVED, that our MSSNY House of Delegates set the dues for all MSSNY pilot memberships that confer full membership privileges at the same amount as the regular dues for active membership effective January 1, 2019; and be it further

RESOLVED, that our MSSNY review all existing pilot programs and immediately increase the MSSNY dues to the full dues amount for any programs that confer full membership benefits and/or have been in existence for three or more years; and be it further

RESOLVED, that any new MSSNY pilot program memberships with discounted dues shall not confer full MSSNY membership benefits, and pilot members shall not be entitled to sit on committees, to hold office, or to vote.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution: 2018 - 209

Introduced by: Seventh District Branch

Subject: Creation of Standardized Group Membership Structure

Referred to: Reference Committee on Reports of Officers & Administrative Matters

Whereas, MSSNY Position Statement 207.971 states “The Medical Society of the State of New York (MSSNY) will explore partnering with independent practice associations (IPAs) to offer discounted IPA membership fees for MSSNY members, possibly in return for reduced medical society dues” (HOD 2016 - 205); and

Whereas, the MSSNY Board of Trustees approved a 3 year pilot program for group membership with Northwell; and

Whereas, various other group membership discounts are being offered by MSSNY at rates that are lesser than county membership dues alone; therefore, be it

RESOLVED, That the Medical Society of the State of New York create a formal structured group membership discount policy that will be followed universally; and be it further

RESOLVED, That the Medical Society of the State of New York obtain approval of such policy by more than 50% of the County Medical Society Board of Directors or the 2019 House of Delegates.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018 ï 210

Introduced by: New York County Medical Society
New York State Society of Plastic Surgeons
New York Chapter of the American College of Surgeons

Subject: Equity in Dues

Referred to: Reference Committee on Reports of Officers & Administrative Matters

Whereas, Current members of the Medical Society of the State of New York (MSSNY) pay dues to both MSSNY and their own counties; and

Whereas, MSSNY sets the MSSNY component that dues paying members pay; and

Whereas, All MSSNY members derive the same benefits of membership; and

Whereas, The MSSNY Council has entered into an agreement where physicians in seven of the Northwell Health System affiliated hospitals through their membership in their hospital medical staffs will receive significantly discounted MSSNY and County dues; and

Whereas, The fact that the amount of dues being paid to MSSNY by these Northwell physicians will be approximately $30, while full dues paying active members are paying approximately $450 for the same benefits, creates an unfair situation to the full dues paying members; and

Whereas, The full dues paying members have often been longtime members of MSSNY; and

Whereas, The full dues paying members, upon discovering this unfair dues structure, might resign from MSSNY in large numbers; and

Whereas, MSSNY has determined that $30 is an adequate dues payment for an active member of MSSNY; therefore be it

RESOLVED, That all active members of the Medical Society of the State of New York, regardless of their affiliations, should pay the same dues to MSSNY.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018 ñ 211

Introduced by: Medical Society of the County of Queens
Subject: MSSNY Membership Privileges
Referred to: Reference Committee on Reports of Officers & Administrative Matters

Whereas, our MSSNY currently has eight classes of membership and a variety of pilot program memberships, all of which pay different dues for essentially the same member privileges and benefits; and

Whereas, it is inherently unfair that individuals pay different amounts for the same privileges and benefits; and

Whereas, the ability to sit on committees, and to hold office, and to vote, are privileges of significant importance to MSSNY and to its future and should not be "discounted" therefore, be it

RESOLVED, that a review be performed of the classes of MSSNY membership; of the privileges afforded to the classes; and of the dues levied on the classes; and be it further

RESOLVED, that a report of the review be disseminated to the members of the House of Delegates of MSSNY as soon as possible, with recommendations for an equitable system of MSSNY membership dues and privileges.
Whereas, our MSSNY bylaws allow for eight (8) classes of membership (i.e., (a) active, (b) life, (c) honorary, (d) resident and fellow, (e) student, (f) affiliate, (g) post-medical graduate and (h) retired) with various dues; and

Whereas, our MSSNY also allows for pilot program memberships based on group size and/or affiliations with various discounted dues; and

Whereas, active members pay full dues; active members in the first two years of practice, affiliate members, and retired members pay half the amount of full dues paying active members; active members in the various pilot programs pay different varying dues, some as low as thirty dollars ($30); Residents, Fellows, and post-medical graduates pay one-tenth of the full active dues; Life and Honorary members do not pay dues; and students pay five dollars ($5) per year; and

Whereas, it is inherently unfair that some members pay more in dues than other members for the same class of membership; and

Whereas, it is not realistic to think that the deeply discounted dues of thirty dollars ($30) to the Northwell Health System physicians can be kept secret or not result in anger and possible resignation of full dues paying members; and

Whereas, there does not seem to be any equitable and fiscally based rationale to the dues; therefore, be it

RESOLVED, that the MSSNY CEO and MSSNY Chair of the BOT undertake an immediate study of the financial needs of our MSSNY to determine the MSSNY dues necessary to sustain the society with all individuals in the same class of membership paying the same MSSNY dues.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Introduced by: Seventh District Branch

Subject: Creation of Strategic Plan

Referred to: Reference Committee on Reports of Officers & Administrative Matters

Whereas, MSSNY membership has continued to decline over the last several years; and

Whereas, specialty society membership may be generally described as ‘stable’ or ‘growing’ and

Whereas, membership growth of MSSNY and County Medical societies is a priority; therefore,

be it

RESOLVED, That the Medical Society of the State of New York collaborate with County Medical Societies to develop a 3-5 year strategic plan; and, be it further

RESOLVED, that such a Strategic Plan be developed with the input and approval of more than 50% of the County Medical Societies; and be it further

RESOLVED, that such a Strategic Plan contains the following:

• Membership growth initiatives
• Unified communications and member relations strategy
• County Medical Society collaboration strategies
• Fiscal sustainability strategies
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018–214

Introduced by: Medical Society of the County of Queens

Subject: County Dues

Referred to: Reference Committee on Reports of Officers & Administrative Matters

Whereas, the MSSNY Council and MSSNY BOT recently approved a pilot membership program for physicians in the Northwell Health System affiliated hospitals, offering MSSNY and County membership for sixty dollars ($60) with thirty dollars ($30) for MSSNY active membership and thirty dollars ($30) for the involved county membership; and

Whereas, the pilot membership program was presented to the involved counties after negotiations with the affiliated group had been completed; and

Whereas, the involved counties would have their full dues paying members who are affiliated with the Northwell group become deeply discounted thirty-dollar ($30) dues payers; and

Whereas, the involved counties will not be able to provide services to the new Northwell members for such low dues ($30); and

Whereas, the leadership in Queens County was told that if Queens did not participate, the members would be directed to other counties; and

Whereas, the leadership in Queens County was told that the Queens leadership, not the MSSNY leadership, would have to take responsibility for retaining the Northwell members and for the success or failure of the pilot program in Queens; and

Whereas, the Medical Society of the County of Queens has been in existence for longer than our MSSNY and should have been involved in any negotiations; and

Whereas, the Northwell pilot membership program was presented as a fait accompli, with a "take it or leave it" option for the county; and

Whereas, our MSSNY does not have the right to negotiate on behalf of the county making the negotiation invalid; therefore, be it

RESOLVED, that the MSSNY/County Northwell pilot membership program be cancelled, effective immediately.
RECOMMENDATION:
Madam Speaker, Your Reference Committee recommends that the policies contained in 2018 the Socio-Medical Economics Sunset Report be acted upon in the manner indicated and that the remainder of this report be filed:

REAFFIRM

75.983 Limiting Coverage for Psychiatric Drugs:
MSSNY will urge the appropriate state agency and/or State Legislature to prohibit the practice of health insurance companies restricting access to psychiatric drugs by (1) requiring failure of a generic drug prior to permitting coverage for a non-generic drug; (2) limiting doses by number of pills per day; or (3) limiting coverage to certain formulations.

MSSNY also will seek legislation or other appropriate remedies to assure that patients who switch insurance companies be able to continue on their existing chronic drug therapies. (HOD 2008-54)

RECOMMENDATION: REAFFIRM

120.964 Universal Bill:
MSSNY will seek legislation or other appropriate means to assure that all durable medical equipment (DME) vendors have a universal bill that is consumer-friendly and clearly states what was paid by the health plan, secondary insurer and what is owed by the patient and that these bills are received in a timely fashion. (HOD 2008-61)

RECOMMENDATION: REAFFIRM

120.966 Coverage by Carriers for Annual Physical Examination in Healthy NY Program:
MSSNY will encourage the Healthy NY Program to negotiate a benefit package that allows for an annual health maintenance visit. (HOD 2008-264)

RECOMMENDATION: REAFFIRM

120.967 Hearing Aids:
MSSNY will work with the American Medical Association to encourage all insurers, including Medicare, to provide coverage for hearing aids for individuals determined by professionals to be hearing impaired. (HOD 2008-263)

RECOMMENDATION: REAFFIRM
120.968 Waiver of Primary Care Referral Requirements for Skilled Nursing Facilities and Sub-Acute Rehabilitation Facilities:
MSSNY will pursue legislation and/or regulation to simplify and make transparent the health coverage of Skilled Nursing Facilities/Sub-Acute Rehabilitation Facility residents, by waiving the primary care referral requirement so that patients receive timely and appropriate treatment and appropriate reimbursement is provided for these services. (HOD 2008-262)

**RECOMMENDATION:** REAFFIRM

180.987 Social Security Form Completion:
MSSNY to seek legislation that increases the cost of completing this form to an inflation adjusted rate. (HOD 2008-259)

**RECOMMENDATION:** REAFFIRM

195.962 Undue and Burdensome Regulations Inflicted by Medicare Part D Pharmacy Benefit Plans:
MSSNY will work with the Medicare Part D pharmacy benefit plans to
(1) devise and expedite a process so that physicians may, in the proper practice of medicine, prescribe for doses and durations that are in the best interest of their patients and supported by the medical literature; and
(2) allow patients who demonstrate significant therapeutic benefit and stability on their current therapeutic regimes to continue such regimes as a covered benefit under their current Medicare Part D carrier without interference or interruption. (HOD 2008-251)

**RECOMMENDATION:** REAFFIRM

195.965 Deadlines for Implementation of Changes:
MSSNY will submit a formal protest to the Centers for Medicare and Medicaid Services (CMS) urging CMS not to commit to hard deadlines for changes to be implemented; rather CMS should work toward a transition that does not adversely impact physician cash flow caused by systems problems that result in denied/rejected claims. (Council 3/3/08)

**RECOMMENDATION:** REAFFIRM

195.966 Interaction by the Medicare Part D Carriers with the Physician Community re Drug Dosages:
MSSNY will:
(1) advise the Regional Office of the Centers for Medicare and Medicaid Services (CMS) that physicians are very concerned with the manner in which the Medicare Part D carriers are interacting with the physician community regarding drug dosages. Physicians find utilization review activities that demand the completion of cumbersome forms and submission of chart notes unwarranted and believe that these activities interfere with the practice of medicine; and
(2) urge the CMS Regional Office to re-evaluate the manner in which their Medicare Part D carriers interact with the physician community and instruct their Medicare Part D carriers that the dosage levels provided to the geriatric community for a variety of prescribed drugs often differ from the standard of FDA approved indications and/or therapeutic dosages. (Council 3/3/08)

**RECOMMENDATION:** REAFFIRM
325.964  **Workers’ Compensation Claims Reviews by Qualified Physicians:**
MSSNY to seek regulation and/or legislation requiring that claims review for Workers’ Compensation claims be performed only by physicians licensed in the State of New York and engaged in the active practice of medicine in a similar scope of practice in the State of New York. (HOD 2008-261)

**RECOMMENDATION:** REAFFIRM

325.965  **Arbitration Fees:**
MSSNY will seek a change in legislation or regulation requiring the carrier to pay for the cost of each arbitration in cases where the arbitration committee increases the reimbursement fees paid to the physician. (HOD 2008-260)

**RECOMMENDATION:** REAFFIRM

**SUNSET**

150.971  **HHS and Hospital-Acquired Conditions:**
MSSNY will ask the American Medical Association to work with the Centers for Medicare & Medicaid Services to delay the implementation of Section 5001(c) of the Deficit Reduction Act (DRA) of 2005 in order to eliminate from the list those conditions that cannot be fully prevented even with the application of the best evidence-based guidelines. (HOD 2008-258)

**RECOMMENDATION:** SUNSET (outdated)

195.957  **Centers for Medicare and Medicaid Services’ Deadlines for Implementation of Changes, e.g. National Provider Identifier:**
MSSNY submit a formal protest to the Centers for Medicare and Medicaid Services (CMS) urging CMS not to commit to hard deadlines for changes to be implemented; rather CMS should work toward a transition that does not adversely impact physician cash flow caused by systems problems that result in denied/rejected claims. (Council 3/03/08)

**RECOMMENDATION:** SUNSET (Although the title is different, this is a duplicate position as stated in 195.965, which is reaffirmed above.)

195.958  **Support for Critical Opposition to the Impending Medicare Fee Reduction:**
MSSNY, in partnership with the American Medical Association, to emergently and aggressively advocate to eliminate the current 10.6% reduction in Medicare scheduled payments for July 1, 2008, with a remedy similar to that proposed in Senator Stabenow’s Senate Bill S2785, as well as to lobby Congress for reform of the SGR formula to reflect the true cost of the delivery of quality patient care. (HOD 2008-266)

**RECOMMENDATION:** SUNSET. This was time specific.
195.959 **Home Infusion of Antibiotics:**
MSSNY will ask the American Medical Association to work with the Centers for Medicare and Medicaid Services (CMS) to develop a coordinated system among the various Medicare plans to ensure an expedited, seamless process for provision of home infusion of antibiotics to reduce the need of the patient to remain in the hospital unnecessarily. (HOD 2008-254)

**RECOMMENDATION:** SUNSET (outdated)

195.960 **Medicare Private Contracting Opt-Out Renewal Requirement:**
MSSNY will request that the American Medical Association draft legislation to amend Section 1802 of the Social Security Act, as amended by Section 4507 of the Balanced Budget Act of 1997 as it relates to Private Contracting under Medicare, to rescind the two-year opt-out renewal requirement for private contracts between physicians and Medicare beneficiaries. Also, the language in this proposed amendment would provide that private contracts will be deemed to remain in effect indefinitely unless and until the physician rescinds the private contracts and rejoins the Medicare Program. (HOD 2008-253)

**RECOMMENDATION:** SUNSET. A valid opt-out affidavit signed on or after June 16, 2015, will be automatically renewed every 2 years.

195.961 **Medicare Carrier Processing of Claims Involving Retired, Archived, or End Dated Local Coverage Determinations:**
MSSNY will:
- seek formal written clarification from the Centers for Medicare & Medicaid Services (CMS) regarding the CMS policy on local coverage determinations (LCDs) that have been retired, archived or end dated;
- seek clarification of CMS’s routine statement regarding particular LCDs that have been retired, archived or end dated, in which CMS states, (1) all local policy rules, requirements and limitations within these LCDs will no longer be applied on a prepay basis but, as with any billed service, will be subject to post pay review, and (2) all Centers for Medicare & Medicaid Services national policy rules, requirements and limitations remain in effect;
- seek CMS’s confirmation that the above statement means that claims involving already retired LCDs should go through to payment when they are initially submitted (prepay); and
- request that CMS require Medicare carriers to issue formal instructions to physicians regarding CMS’s policy regarding the payment of claims involving LCDs that have been retired, archived or end dated. (HOD 2008-252)

**RECOMMENDATION:** SUNSET (outdated)

195.963 **Difficulty Filing Medicare Claims:**
MSSNY will urge the American Medical Association to work with the Centers for Medicare & Medicaid Services (CMS) toward achieving an orderly transition to the National Provider Identifier number that does not adversely affect physician cash flow by asking CMS to provide claims adjudication services that are more physician-friendly and more open to communication to physicians and carriers. (HOD 2008-250)

**RECOMMENDATION:** SUNSET (outdated)
265.903 **Complexity of the RBRVS Evaluation and Management Codes:**
MSSNY to submit a resolution to the American Medical Association calling for the simplification of the RBRVS Evaluation and Management coding assisted by the use of specialty-specific vignettes, by focusing on the complexity of decision making, uncoupling it from the history and physical and, thereby, eliminating the counting of elements in the history and physical exam. (HOD 2008-257)

**RECOMMENDATION:** SUNSET (outdated)

265.904 **Reduced Hassle for the Hassle Factor Form:**
MSSNY will develop a mechanism, in conjunction with the county societies, to more effectively collect insurance hassle data from aggrieved physicians and, when necessary, provide guidance and assistance in completing the form, in order to remove any hurdles and to improve data collection to more accurately represent our members. (HOD 2008-255)

**RECOMMENDATION:** SUNSET (The sentiments of this position are contained in our current Policy Statement 265.915 Insurance Companies and Publicizing the Hassle Factor Form:

265.915 **Insurance Companies and Publicizing the Hassle Factor Form:**
That MSSNY monitor unfair business practices of health plans though the use of the new MSSNY Hassle Factor Form (HFF), creating or joining with a coalition of stakeholders (to include physician groups and leaders of industry and business who bear the burden of health care costs) and dependent upon the anticipated reports culminating from the use of the HFF and the work of the coalition seek passage of state regulation and/or legislation to rectify these unfair business practices. MSSNY will take whatever steps it can to maximize use of the Hassle Factor form and disseminate its findings to all concerned. (HOD 2006-269; Reaffirmed Council 12/13/07; 265.915 Amended by inclusion of 265.910 and Reaffirmed HOD 2017) (265.910 -HOD 2007-264) deleted and combined with 265.915 HOD 2017)

265.907 **Promotion of the Hassle Factor Form:**
MSSNY will promote the Hassle Factor Form to hospital faculty practice plans so that MSSNY is able to garner more data from both member and non-member physicians for referral to the appropriate authorities for action. (Council 3/3/08)

**RECOMMENDATION:** SUNSET (The sentiments of this position are contained in our current Policy Statement 265.915 Insurance Companies and Publicizing the Hassle Factor Form.  See above)

312.982 **Herpes Zoster Vaccine and Medicare Payment for the Vaccine and for Physician Administration of the Vaccine:**
MSSNY will work with the American Medical Association to lobby for Medicare to pay for both the cost of the vaccine and the cost to administer the herpes zoster vaccine by the physicians. (HOD 2008-169)

**RECOMMENDATION:** SUNSET.  This is covered By Medicare Part D, now.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018 – 250

Introduced by: Fifth and Sixth Districts

Subject: Printing Co-Pays & Deductibles on All Insurance Cards

Referred to: Reference Committee on Socio-Medical Economics

Whereas, Not every insurance company prints co-pays and deductibles on their insurance cards; and

Whereas, It is difficult to verify what the patient owes the physician; therefore be it

RESOLVED, That the Medical Society of the State of New York request that the New York State Department of Financial Services mandate all insurance companies print copays and deductibles on all subscribers health insurance cards.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018  251

Introduced by:  Medical Society of the County of Queens

Subject:  Modify the Clinical Laboratory Improvement Amendment of 1988

Referred to:  Reference Committee on Socio-Medical Economics

Whereas Federal regulation requires all physicians who do specimen testing to purchase a federal CLIA\(^1\) permit that must be renewed every 2 years; and

Whereas the same CLIA tests performed in a physician’s office are deemed CLIA-waived tests, the same tests that any consumer may purchase and use without a CLIA permit; and

Whereas the use of a microscope by a physician is likewise subject to additional payment and regulation as per the CLIA Amendment; therefore, be it

RESOLVED, that MSSNY adopt the position that it is proper to remove the CLIA certification mandate requirement for physicians who only use CLIA-waived tests and physician-performed microscopy; and, be it further

RESOLVED, that MSSNY bring this proposal to the AMA.

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\(^1\) The Clinical Laboratory Improvement Amendments of 1988 statute is an amendment to the Public Health Services Act of 1967 [Public Law 90-174, Dec 5, 1967] in which Congress revised the federal program for certification and oversight of clinical laboratory testing. Two subsequent amendments were made after 1988. The law continues to be cited as CLIA ‘88 as named in legislation.

The Clinical Laboratory Improvement Amendments of 1988 (CLIA) regulations include federal standards applicable to all U.S. facilities or sites that test human specimens for health assessment or to diagnose, prevent, or treat disease. CDC, in partnership with CMS and FDA, supports the CLIA program and clinical laboratory quality.

Waived tests include test systems cleared by the FDA for home use and those tests approved for waiver under the CLIA criteria. A list of waived tests can be found at [https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfClia/analyticswaived.cfm](https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfClia/analyticswaived.cfm)
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution: 2018 - 252

Introduced by: Resident and Fellow Section

Subject: Adjusting Parameters for Hospital Readmission Reduction Program

Referred to: Reference Committee on Socio-Medical Economics

Whereas, Section 3025 of the Affordable Care Act added section 1886(q) to the Social Security Act establishing the Hospital Readmissions Reduction Program (HRRP), which requires CMS to reduce payments to inpatient prospective payment system (IPPS) hospitals with excess hospital-level 30-day risk-standardized readmission rates (RSRR), compared to national rates, for patients discharged with a principal diagnosis of heart failure (HF) (CMS Report subpart I of 42 CFR §412.150 - §412.154)¹; and

Whereas, Outcome is defined as unplanned readmission for any cause within 30 days of the discharge date for the index admission¹; and

Whereas, CMS lacked risk adjustment for all key sociodemographic factors, usually outside of a hospital's control, which influence the likelihood of readmission and furthermore, HRRP penalties don't account for readmissions unrelated to the initial admission; and

Whereas, The National Quality Forum (NQF) published a report recommending that policymakers include all causes of unplanned readmissions and sociodemographic status (SDS) in outcome measures²; and

Whereas, CMS recently started adopting few adjustments for clinically relevant factors including demographic characteristics, comorbidities, patient frailty and applying new strategies for comparing hospital performance to its peer group rather than national average¹,³; and

Whereas, A cohort study of 115,245 fee-for-service Medicare beneficiaries hospitalized with heart failure concluded that HRRP was associated with increased risk-adjusted 30-day and 1-year mortality⁴; therefore, be it

RESOLVED, That MSSNY advocates for Centers for Medicare and Medicaid Services (CMS) omitting planned and unrelated readmissions from the Hospital Readmissions Reduction Program (HRRP) penalty calculation; and be it further

RESOLVED, That MSSNY support implementation of hospital peer-grouping by CMS based on their similar proportions of low-income patients, rather than evaluating their performance based on national levels; and be it further

RESOLVED, That MSSNY support New York State conducting a pilot study to formulate appropriate testing criteria to ensure that the hospital readmission reduction program accounts for all the social factors and accurately reflects health care quality delivered to our heart failure patients.
References:
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018-253

Introduced by: Ninth District Branch

Subject: Non-payment and Audit Takebacks by CMS

Referred to: Reference Committee on Socio-Medical Economics

Whereas, CMS now disallows any claim made if there is any discrepancy in the charted note; and

Whereas, In a review they will use this as evidence of false claims and demand a percentage of the yearly payment made back from the physician; and

Whereas, The patients often give us different answers to questions during different parts of the history which may then seem discordant; and

Whereas, Physicians do use a template format to make the charting less time consuming and to be able to spend more time with the patients face to face; a small error can be made; and

Whereas, We are humans, and humans make mistakes; and

Whereas, A mistake of this nature in no way proves that the physician has not spent time and effort doing the work of a physician for the patient; and

Whereas, This type of measure, although easy for a low level examiner to do, in no way reflects the quality, importance, and appropriateness of the medical care delivered; and

Whereas, This is clearly a ploy to not pay physicians for their work; or at best, delay payment which causes a substantial increase of the cost of doing billing; therefore, be it

RESOLVED, That MSSNY seek through legislation and/or regulation policies opposing claim nonpayment due to minor wording or clinically insignificant documentation errors; and be it further

RESOLVED, That MSSNY seek through legislation and/or regulation policies opposing extrapolation of overpayments based on minor errors; and be it further

RESOLVED, That MSSNY seek through legislation and/or regulation policies opposing bundled payment denial based on minor wording or clinically insignificant documentation errors; and be it further

RESOLVED, That MSSNY transmit a similar resolution to the AMA-HOD 2018.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018-254

Introduced by: New York County Medical Society

Subject: Contract Non-Renewals by Third-Party Insurers: Problems with the Insurers’ Notification Process

Referred to: Reference Committee on Socio-Medical Economics

Whereas, several New York State third-party insurers, intensifying their efforts to narrow their networks, have recently sent letters to many participating physicians stating that the physicians’ contracts are not being renewed; and

Whereas, New York currently permits an insurer to decline to renew a physician’s contract on the contract renewal date (although the insurer is not permitted to terminate the contract at any other time during the contract period); and

Whereas, for commercial lines of business, the insurer is not required to provide an appeal process, nor to state its reasons for not renewing a particular contract (the one exception: The insurer must provide an appeal process for the non-renewal of a Medicare Advantage plan); and

Whereas, some physicians have received the non-renewal letters belatedly or not at all, so that their relationships with patients have been seriously disrupted, and little time has been left to arrange care by other providers; and

Whereas, two reasons why physicians often receive contract non-renewal letters belatedly, or not at all, are:

1) The insurers have routinely used the mailing addresses that are listed in their Provider Files even though many of those addresses have been shown to be inaccurate; and

2) The insurers have routinely sent the letters via the United State Postal Service (USPS) using the routine surface mail protocols, even though those protocols do not include a certifying process that would make sure the physician had received the non-renewal notice (in the past, insurers have been urged by organized medicine to provide certification procedures, but they have refused, claiming that the certification procedures are cost-prohibitive); therefore, be it

RESOLVED, That, to help preserve physician-patient relationships and facilitate arrangements for continuing care, the Medical Society of the State of New York urge the New York State Department of Financial Services to:

1. Require insurers to improve the accuracy of the mailing addresses in their Provider Files by canvassing their physician panels periodically (every six months or annually), and by requesting that physicians review their Provider File entries and make changes if necessary.

And

2. Require insurers to send the contract non-renewal notices via Certified Mail - Return Receipt Requested.
*Provider Directory Accuracy*

2016 NY Times

Accuracy of Provider Directories 2012 NY AG Suit
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018’ 255

Introduced by: New York County Medical Society

Subject: Insurers’ Procedures Regarding Physicians’ Terminations and Resignations

Referred to: Reference Committee on Socio-Medical Economics

Whereas, many physicians today to avoid health insurers’ low fees, tight payment policies and burdensome unfunded administrative mandates - are ending their participation agreements with insurers; and

Whereas, the typical participation agreement allows either party to terminate or resign from the agreement (as long as patient care continues while the termination/resignation request is being processed); and

Whereas, insurers often do not provide practical guidance regarding termination/resignation requests; they do not provide (1) any mailing address, (2) any required wording for the request, or (3) any written confirmation that the request has been received and is being processed; therefore, be it

RESOLVED, That the Medical Society of the State of New York urge the New York State Department of Financial Services to require insurers to provide clear instructions for physicians who wish to terminate or resign from participation agreements; specifically, the insurers should be required (1) to state mailing addresses for termination/resignation requests, and any wording that is required for these requests, and (2) to post these instructions in written publications and on websites (for example, a Termination/Resignation Request form might be included in the insurer’s Interactive Forms library); and be it further

RESOLVED, That the Medical Society of the State of New York urge the New York State Department of Financial Services to require that when an insurer receives a physician’s termination/resignation request, it send the physician a written confirmation by email or fax, (1) stating that it has received the request, (2) specifying the date on which the termination will take effect, and (3) listing instructions on how the physician is to handle claims that he or she is holding, and claims that are currently pending in the insurer’s system.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018 \# 256

Introduced by: New York County Medical Society

Subject: The Ordering of Lab and Radiology Tests by Out-of-Network (OON) Physicians

Referred to: Reference Committee on Socio-Medical Economics

Whereas, a recent New York County Medical Society survey of out-of-network (OON) physicians shows and additional complaints also demonstrate that when these OON physicians write orders for lab tests, radiology or diagnostic tests to be performed by in-network labs or radiology practices, sometimes the labs/radiology practices deny those orders, citing their insurer contracts, and sometimes the insurers themselves deny the orders; and

Whereas, although this pattern is not universal, it is quite common the OON survey respondents said their orders had been refused in 40 percent of instances; and

Whereas, in legislative proposals concerning OON physicians’ managed-care difficulties, this issue ought to be included (for instance, it could be included in proposals that enrollees should be allowed to assign payment to their OON physicians); therefore, be it

RESOLVED, That the Medical Society of the State of New York point out to the New York State Legislature and the New York State Department of Financial Services that when out-of-network (OON) physicians order lab tests, diagnostic testing or radiology studies from in-network labs or radiology practices, those orders are often not approved by the plans or honored by the labs or radiology practices; and be it further

RESOLVED, That in legislative proposals concerning out-of-network (OON) physicians’ payment problems with managed care plans (such as, proposals that enrollees should be allowed to assign payment to their OON physicians), the Medical Society of the State of New York support the inclusion of language requiring that OON physicians’ orders for lab tests, radiological services and diagnostic tests to be approved by plans and honored by in-network labs and radiology practices.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018 ï 257

Introduced by: New York County Medical Society

Subject Office-based Surgical Facility Fees Reimbursement

Referred to: Reference Committee on Socio-Medical Economics

Whereas, The existence of office-based surgical facilities benefits New York State and its patients both medically and economically; and

Whereas, Office-based surgical facilities face increasingly burdensome administrative costs that impact their very existence; and

Whereas, Hundreds of millions of dollars have been spent by physicians in New York State establishing and maintaining these safer, more cost-effective and more convenient facilities; and

Whereas, The private insurance companies in New York State refuse to reimburse a facility fee, claiming that these facilities are neither licensed nor regulated, when in fact they are; and

Whereas, The private insurance carriers in New York State refuse to reimburse a facility fee on the grounds that office-based surgical facilities are not Article 28 facilities under New York State law, although the Article 28 designation is specific only to New York State and is irrelevant to the issue of reimbursement; and

Whereas, Although office-based facilities are not considered Article 28 facilities under New York State law, physicians are not permitted to work in an office-based facility unless it is approved and regulated by the New York State Department of Health; and

Whereas, Many office-based surgery facilities have closed and transferred their patients to ambulatory surgery centers which have increased costs by hundreds of millions of dollars; therefore, be it

RESOLVED, That the Medical Society of the State of New York ask the New York State Department of Health and New York State Department of Financial Services to officially inform the private insurance carriers in New York State that office-based surgical facilities, which operate under the license of the physician owner, are in fact regulated by New York State, and are not permitted to function without the oversight of the New York State Department of Health; and be it further

RESOLVED, That the Medical Society of the State of New York seek legislation and/or regulation supporting the reimbursement of Office-based Surgical Facility fees by private insurance carriers.
Whereas, negative payment decisions have and are being made related to the use of high molecular weight hyaluronic acid (HMWHA) based partially upon the American Academy of Orthopedic Surgeons (AAOS) Clinical Practice Guidelines (CPG) and Appropriate Use Criteria (AUC) on Knee osteoarthritis published in 2013\(^1\); and

Whereas, the AAOS Clinical Practice Guidelines recommended that payment decisions should not be based upon its opinion for the usage of hyaluronic acid; and

Whereas, conclusions drawn from recent reviews of studies indicate one of the most efficacious treatment modalities for knee osteoarthritis is hyaluronic acid\(^2\); therefore, be it

**RESOLVED**, that the Medical Society of the State of New York advocate for reimbursement and coverage for high molecular weight hyaluronic acid intraarticular injections as appropriate care and treatment for patients with mild to moderate osteoarthritis of the knee.

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\(^1\) 2013 AAOS Clinical Practice Guidelines: TREATMENT OF OSTEOARTHRITIS OF THE KNEE

\(^2\) AANA Nov. 13, 2017 letter to Anthem Re: Evidence supporting the value of high molecular weight hyaluronic acid for the care and treatment for patients with mild to moderate osteoarthritis of the knee.
MEDICAL SOCIETY OF THE STATE OF NEW YORK
Resolution 2018 ñ 259

Introduced by: Michael Goldstein, MD, JD ñ as an individual
Delegate, New York County Medical Society

Subject: House Calls Instead of Paratransit

Referred to: Reference Committee on Socio-Medical Economics

Whereas, Each year, more than 144,000 elderly and disabled patients use the Access-A-Ride paratransit service of New York’s Metropolitan Transit Authority (MTA) to travel to and from doctor’s appointments, because these patients are physically unable to use the subways and buses; and

Whereas, Traveling by Access-A-Ride is time-consuming and burdensome for these elderly and disabled patients ñ sometimes they wait long times for pickup both at home and at the doctor’s office, and sometimes they wait outdoors in bad weather; and

Whereas, most of the program’s funding comes from money generated by and for subways and buses (in 2015, the paratransit system cost the MTA $461 million, averaging $71 per trip) (1); and

Whereas, Currently the fee for this service is paid to the paratransit vendor, and the doctor’s office fee is paid to the doctor; and

Whereas, Some of these patients would be better served by home house calls by a physician; therefore, be it

RESOLVED, That the Medical Society of the State of New York (MSSNY) seek legislation or regulations whereby a physician making a house call on a patient who would otherwise travel to a doctor’s office via Access-A-Ride, would be compensated by the fund that pays for Access-A-Ride at the same rate as is paid to the paratransit vendor by the Access-A-Ride system; and be it further

RESOLVED, That the Medical Society of the State of New York (MSSNY) include in its legislative and/or regulatory proposals, that this house call fee be paid regardless of the patient’s health insurance (with the physician not permitted to bill the health insurance for the service).

Whereas, the assignment of Current Procedural Terminology (CPT) codes for a patient’s medical conditions is required for each doctor-patient encounter; and

Whereas, our American Medical Association (AMA) has exclusive rights to CPT coding; and

Whereas, our AMA receives licensing revenue related to CPT coding; and

Whereas, these costs are often passed on to physicians; therefore, be it

RESOLVED, that the MSSNY House of Delegates call on the AMA to reimburse all AMA members for the fees they pay in relation to CPT coding; and be it further

RESOLVED, that the New York delegation to the AMA bring this resolution to the Annual Meeting of the AMA in 2018.
Whereas, most residents of New York State are insured, (6% uninsured); and

Whereas, understanding insurances and what and how much they cover has become increasingly difficult; and

Whereas, many people especially seniors have difficulty understanding insurance coverage; and

Whereas, by 2030, 20% of United States residents are projected to be 65 and over compared to 13% in 2010 and 9.8% in 1970; and

Whereas, bankruptcies resulting from unpaid medical bills will affect nearly 2 million people this year making healthcare the number one cause of such filings ahead of credit card bills and unpaid mortgages; and

Whereas certain healthcare providers are sending bills and invoices for balances that they are not contractually entitled to in order to capture reimbursements above contracted fee schedules; therefore, be it

RESOLVED, that the Medical Society of the State of New York (MSSNY) advocate that no providers may remit bills for services until they can document that all resources have been exhausted attaining third party reimbursement; and be it further

RESOLVED, that MSSNY advocate that when there is a balance for which the patient is responsible, that if paying the total amount due is a hardship for the patient that an installment plan be worked out; and recognizing that installment plans require extra staff time, charging a nominal fee is acceptable for such arrangements; and be it further

RESOLVED, that MSSNY advocate that if it is ascertained that a beneficiary is responsible for a fee, reasonable payment options should be offered.

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MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution: 2018-262

Introduced by: Nassau County Medical Society
Subject: Difficulty Obtaining Pre-Op Information for Insurers
Referred to: Reference Committee on Socio-Medical Economics

Whereas, it is often difficult to ascertain specific pre-operative information that insurers demand for precertification of a procedure; and

Whereas, it is nearly impossible to submit a revision within the 24 hour post-procedure window set by insurers; and

Whereas, failure to submit said revision will result in a claim denial; therefore, be it

RESOLVED, that MSSNY seek to have these unfair practices by health insurers eliminated by whatever means it deems appropriate to achieve it in the most expeditious time frame.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution 2018⅁ 263

Introduced by: New York County Medical Society

Subject: Qualified Medical Practitioners on Preauthorization Phone Lines

Referred to: Reference Committee on Socio-Medical Economics

Whereas, Pharmacy Benefit Managers, large pharmacy systems and HMOs frequently require preauthorization or precertification for medications and procedures; and

Whereas, The precertification process takes up a lot of time for prescribers and their medical staff, taking time away from patient care; therefore be it

RESOLVED, That the Medical Society of the State of New York seek legislation or regulation requiring that, on all telephone calls to third-party carriers for precertification, appeals, etc., prescribers be able to reach a qualified medical person promptly (within 10 minutes); and be it

further

RESOLVED, That the Medical Society of the State of New York seek legislation or regulation whereby, for physicians' phone calls to third-party carriers for pre-certifications and appeals, the personnel qualified to adjudicate on these requests would be limited to licensed physicians (allopathic or osteopathic), nurse practitioners, physician assistants, and pharmacists; and be it

further

RESOLVED, That the Medical Society of the State of New York seek legislation or regulation whereby, for special needs, telephone requests for pre-certifications and appeals could be adjudicated only by qualified medical personnel who were in the same specialty as the physician calling.
Whereas, the requirements for precertification and preauthorization by health insurers continues to rise for more and more procedures; and

Whereas, this additional burden only serves to interrupt patient care and add to the already untenable administrative work that physicians must attend to when the time could be better spent rendering patient care; and

Whereas, there is no conclusive evidence that these pre-certifications and pre-authorizations do anything to improve patient outcomes, serving only to reduce costs to insurers and disrupt and delay care; therefore, be it

RESOLVED, in an effort to improve patient care and reduce this unnecessary burden to physicians, that MSSNY continue, and expand its efforts, to force health insurers to reduce the level of required pre-certifications and pre-authorizations that physicians must obtain prior to rendering care.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Introduced by: Ninth District Branch

Subject: No-Fault Pre-Authorization Requirement

Referred to: Reference Committee on Socio-Medical Economics

Whereas, All commercial medical insurance companies in New York State have a mechanism in place to obtain pre-authorization for diagnostic and treatment testing procedures; and

Whereas, Obtaining pre-authorization gives the injured patient and treating providers reassurance that the care provided will be covered and allows for timely provision of appropriate treatment of their motor vehicle collision related injuries; and

Whereas, Currently No-Fault car insurance companies often will refuse to confirm coverage and pre-authorize diagnostic testing and treatments, putting the patients access to timely care in jeopardy and asking the providers to assume an unnecessary financial risk; and

Whereas, Timely access to coverage confirmation and pre-authorization will allow for more efficient access to care for those injured in motor vehicle collisions in New York State; and

Whereas, Having coverage and pre-authorization confirmed will reduce the number of inappropriate retroactive denials of care provided and reduce the cost and burden of going to arbitration and providers having to retain legal counsel in order to obtain fair reimbursement for care provided to motor vehicle collision victims; therefore be it

RESOLVED, That MSSNY seek through legislative and or regulatory means a requirement that No Fault car insurance companies confirm coverage and pre-authorization at the request of treating physicians and other providers in accordance with the same time frames for elective diagnosis and treatment that commercial payers are required to follow; and be it further

RESOLVED, That MSSNY seek through legislation and/or regulation prohibition of retroactive denial by no-fault insurance carriers.
Whereas, physicians who care for Worker’s Compensation patients are frequently asked to give phone depositions on their treatment of the patient and their analysis of the patient’s disability; and

Whereas, these phone dispositions usually take between 30-45 minutes; and

Whereas, the insurer is usually the one that requires the testimony; and

Whereas, the doctor testifies in good faith, prepares for the testimony, and gives his testimony; and

Whereas, the insurance company is then required to pay a fee, usually $400 for the testimony of the physician; and

Whereas, the insurance company then so to speak “kites” that payment to a decision by a judge as to the necessity for the testimony; and

Whereas, invariably, the testimony is paid if the judge does give a decision; and

Whereas, the decisions made by judges may take up to six months to a year to be resolved and since the physician in good faith gives the testimony, spends his time in giving the testimony, gives a valid testimony that the insurance industries required; therefore, be it

Resolved, that MSSNY should petition the Chair of the Worker’s Compensation Board to require reimbursement to the physician within 30 days of testimony given on a Worker’s Compensation case.
MEDICAL SOCIETY OF THE STATE OF NEW YORK

Resolution: 2018 - 267

Introduced by: New York State Society of Orthopaedic Surgeons

Subject: New York State Workers' Compensation Preferred Provider Organizations (PPOs)

Referred to: Reference Committee on Socio-Medical Economics

Whereas, 325.969 Amendment of the Workers' Compensation HP-1 Requests for Administrative Award Process:
MSSNY will seek an amendment to the Workers' Compensation Law stating that for every day on which a carrier ignores or refuses to acknowledge a properly tendered HP-1 Request for Administrative Award, that carrier must pay punitive damages to the Board and to the physician per day in an amount to support significant, productive and viable enforcement. (HOD 2002-258; Reaffirmed HOD 2003-268 & 278; Reaffirmed HOD 2013); and

Whereas, 25.982 Augmentation of Damages in Workers' Compensation Arbitration Cases:
MSSNY will urge the Workers' Compensation Board to amend its new streamlined appeals process, requiring that: (1) If a carrier makes misrepresentations to the Board concerning timely and proper receipt of bills, such misrepresentation be considered an act of bad faith, subjecting the carrier to judgment of treble damages; and (2) If a carrier fails to comply with a decision of the Board, such failure likewise be considered an act of bad faith, subjecting the carrier to judgment of treble damages. (HOD 2000-275; Reaffirmed HOD 2014); and

Whereas, New York State has a traditional fee for service (FFS) workers' compensation (WC) program with a negotiated and accepted fee schedule; and

Whereas, WC PPOs are creating agreements with insuring entities, allowing buyers into a non-licensed PPO to access terms of a discounted rate available; and

Whereas, patients (and other insuring entities who are members of the silent PPO) may access the lowest discounted rate of the healthcare provider, even though the patient is not directly a member of the plan contracted to the healthcare provider; and

Whereas, the silent WC PPOs are deeply discounting the New York State Workers Compensation fee schedule and payments to physicians; and

Whereas, these silent WC PPOs are not formally registered with the NYS Department of Health; therefore, be it

RESOLVED, that the Medical Society of the State of New York seek legislative and regulatory changes to eradicate the practice of silent PPOs operating in New York State and require adherence with the accepted fee schedule; and, be it further

RESOLVED, that the Medical Society of the State of New York seek amendments to the Workers Compensation Law that if the carrier reduces the approved and accepted Workers Compensation fee schedule, it must pay punitive damages to the Board and to the physician per day in an amount to support just enforcement.
Whereas, Most physicians are not familiar with the NY Workers Compensation manual that has
grown to 700+ pages; and

Whereas, physicians who are approved and manage injured patients with Workers Comp
insurance may struggle to maintain familiarity with the Workers Compensation manual;
therefore, be it

RESOLVED, that MSSNY advocate for Workers Compensation insurers to partner with the
MSSNY W/C committee to develop a program that would educate physicians on the laws,
regulations, documentation, and salient portions of the NY workers compensation protocol in
order that we can provide better care for our injured patients and assist them in fair and just
outcomes; and, be it further

RESOLVED, that Workers Compensation Insurers provide funding for the development of an
educational program for physicians, and for speakers to present on the WC program at hospital
grand rounds in the state.