

**GOVERNMENTAL AFFAIRS AND LEGAL MATTERS (A)**

- 50 Addressing Observation Status For Skilled Nursing Patients  
*Introduced by the MSSNY Committee on Quality Improvement and Patient Safety and MSSNY Long-Term Care Subcommittee*

**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED, that the Medical Society of the State of New York support the position that, when in the judgment of the attending physician or emergency physician, skilled nursing care is the most appropriate care for the patient, admission status and length of stay are not considered requirements for medical eligibility for skilled care.**

- 51 Ensuring Medicare Coverage for Long Term Care  
*Introduced by the MSSNY Committee on Quality Improvement and Patient Safety and MSSNY Long Term Care Subcommittee*

**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED, that the Medical Society of the State of New York support the concept of increasing the existing 20-day limit of full Medicare coverage for a patient's skilled nursing facility stay; and be it further**

**RESOLVED, that the Medical Society of the State of New York work with the American Medical Association to identify mechanisms by which the additional costs for this care can be fairly covered; and be it further**

**RESOLVED, that the resolution be transmitted to the American Medical Association for consideration at its next House of Delegates.**

- 52 Value-Based Payment System  
*Introduced by the Queens County Medical Society*

**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED, that the Medical Society of the State of New York re-affirm MSSNY Policy 195.919; and be it further**

**RESOLVED, that the Medical Society of the State of New York continue to advocate to state and federal policymakers to reduce the administrative burdens of complying with value-based programs and advocate to assure that these programs comply with evidence-based standards of care; and be it further**

**RESOLVED, that the resolution be transmitted to the American Medical Association for consideration at its next House of Delegates.**

**195.919 Reduce Physician Practice Administrative Burden**

The Medical Society of the State of New York will work with the AMA and the federation of medicine to repeal the law that conditions a portion of a physician's

Medicare payment on compliance with the Medicare Merit-Based Incentive Payment System (MIPS) and Alternative Payment Models (APM) programs. Should full repeal not be achievable, the Medical Society of the State of New York will work with the AMA and the federation of medicine to advocate for legislation and/or regulation which would significantly reduce the administrative burdens and penalties associated with compliance with the MIPS and APM programs. The New York delegation will introduce a resolution at the June AMA House of Delegates meeting calling for similar action. (HOD 2017-54)

53

Rebalancing of Facility Fees and Service Fees  
*Introduced by the New York State Society of Plastic Surgeons*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED, that the Medical Society of the State of New York re-affirm MSSNY Policy 265.844; and be it further**

**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 across different sites of service with the goal of creating more equitable payment schedules.**

**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).

54

Fair Health Transparency  
*Introduced by the New York State Society of Orthopaedic Surgeons*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED, That the Medical Society of the State of New York re-affirm MSSNY Policy 265.852; and be it further**

**RESOLVED, that the Medical Society of the State of New York continue to work with Fair Health to ensure appropriate transparency and fairness in the collection and presentation of its usual and customary charge data; and be it further**

**RESOLVED, that MSSNY continue to work with Fair Health to ensure appropriate representation by practicing primary and specialty care physicians on the Fair Health Board of Directors.**

**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)

- 55                      Emergency Out of Network Services  
*Introduced by the Nassau County Medical Society*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED, that the Medical Society of the State of New York work with the American Medical Association to pursue legislation or regulation to require health plans not regulated by the State of New York to pay physicians for emergency out of network care at least at the 80<sup>th</sup> percentile of charges for that particular geo-zip, as reported by the Fair Health database, and be it further**

**RESOLVED, that this resolution be forwarded to the AMA for consideration at its next House of Delegates meeting.**

- 56                      Unfair Dis-enrollment Practices of Insurance Companies  
*Introduced by the Nassau County Medical Society*  
**MSSNY POLICY RE-AFFIRMED IN LIEU OF RESOLUTION 56**

**165.980      Dismissals for Cause in Managed Care Contracts:**

The Medical Society of the State of New York shall seek legislation that no terminations or non-renewals of physician contracts with managed care plans shall be valid without cause, and will seek the introduction of legislation which would require managed care plans to provide all physicians with a fair and equitable due process appeal if they are excluded from a managed care plan regardless of the reasons for such exclusion and irrespective of whether such exclusion is considered to be a termination or a non-renewal. Such due process hearing shall be held before a panel which is composed of three New York State licensed physicians, one of whom is chosen by the plan, one of whom is chosen by the physician who is the subject of the hearing, and the third who is chosen by the other two members of the panel. At this hearing, the physician shall be entitled to be advised of the reason for his de-selection and shall be provided with: (a) the opportunity to be represented by counsel, and (b) the right to call witnesses and present evidence in support of this position. (HOD 1997-53; Reaffirmed HOD 2014)

- 57                      Prohibit Retrospective ER Coverage Denial  
*Introduced by the 9<sup>th</sup> District Branch, MSSNY*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED, that the Medical Society of the State of New York re-affirm MSSNY Policy 265.918; and be it further**

**RESOLVED, that the Medical Society of the State of New York work to assure strong enforcement of the New York and federal laws that require health insurance companies to cover emergency room care when a patient reasonably believes they are in need of immediate medical attention, including the imposition of meaningful financial penalties on insurers who do not follow the law; and be it further**

**RESOLVED, that this resolution be forwarded to the AMA for consideration at its next House of Delegates meeting.**

**265.918      Payment for Urgent and Emergent Health Care Services:**

That MSSNY seek public policy, regulation or legislation that would require health care payers in New York to pay for all reasonable urgent and emergent medical services for their covered patients, that the definition of reasonable urgent medical services should carry the prudent layperson standard similar to what is already in effect for emergent medical services, and that health care payers reimburse out of network physicians for care provided on urgent or emergency basis at a level which the physician believes fairly reflects the costs of providing a service and the value of their professional judgment. (Council 1/26/06; Reaffirmed HOD 2017)

58                    Limiting Insurers from Unilaterally Modifying Contracts  
*Introduced by the 9<sup>th</sup> District Branch, MSSNY*

**MSSNY POLICY RE-AFFIRMED IN LIEU OF RESOLUTION 58**

**165.908      Insurer Practices Oversight by the Appropriate State**

**Agencies:** MSSNY will seek legislation, regulation or other appropriate means to prohibit health insurance companies from unilaterally changing any material contract provision; and, if unable to obtain such change to the law, seek to assure that such material contract changes are reviewed and subject to prior approval by appropriate state agencies, including the Departments of Health and Insurance, with interested groups being given the opportunity to provide comment. (HOD 2007-58; Reaffirmed HOD 2011-57)

59                    Insurance Denials after Precertification  
*Introduced by the Nassau County Medical Society*

**MSSNY POLICY RE-AFFIRMED IN LIEU OF RESOLUTION 59**

**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)

60                    Utilization Review  
*Introduced by the 3<sup>rd</sup> and 4<sup>th</sup> District Branches, MSSNY*

**ADOPTED AS AMENDED**

**RESOLVED, that the Medical Society of the State of New York seek legislation/regulation that requires insurance companies, peer review organizations, CMS, 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.**

61

Modernizing OPMC

*Introduced by the Suffolk County Medical Society*

**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED, that the Medical Society of the State of New York continue to work with the New York State Department of Health, and the Office of Professional Medical Conduct to educate physicians about the procedures and activities of the OPMC; and be it further**

**RESOLVED, that the Medical Society of the State of New York seek that the Office of Professional Medical Conduct expunge any complaint, after a period of two years, that has been determined to be invalid or dismissed.**

62

MSSNY Supports Health Information Exchange

*Introduced by the 5<sup>th</sup> and 6<sup>th</sup> District Branches, MSSNY*

**ADOPTED AS AMENDED**

**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, while advocating for policies that assure that patient data is adequately secured; 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 better assure the usability of data and to protect physicians from bearing the cost of contributing data to Health Information Exchanges.**

63

Integrating Medical Records

*Introduced by the Schoharie County Medical Society, and the 3<sup>rd</sup> and 4<sup>th</sup> District Branches, MSSNY*

**REFERRED TO COUNCIL**

**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.**

64 Cancellng Prescriptions through EHRs  
*Introduced by the Schoharie County Medical Society, and the 3<sup>rd</sup> and 4<sup>th</sup> District Branches, MSSNY*  
**ADOPTED AS AMENDED**

**RESOLVED**, that the Medical Society of the State of New York advocate that all pharmacies, prescription programs, and Electronic Health Records (EHRs) vendors adopt technologies for physicians to easily cancel medications electronically.

65 Pathology Specimens  
*Introduced by the New York State Society of Orthopaedic Surgeons*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED**, that the Medical Society of the State of New York work with the Healthcare Association of New York State (HANYS) to assure the development of hospital policies that give appropriate discretion to physicians to determine which specimens should be sent for pathological analysis.

66 Life-threatening Complications with Hip Replacements  
*Introduced by Edward W. Powers MD - As an Individual Delegate*  
**REFERRED TO COUNCIL**

**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.

67 Diabetic Shoes  
*Introduced by Allen Small, MD - as an Individual Delegate*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED**, that the Medical Society of the State of New York work with the NYS Society of Orthopedic Surgeons, primary care societies, and the New York State Podiatric Association towards creating a standardized form to request diabetic footwear

68

Use of Pressure-Guided Treatment of Heart Failure  
*Introduced by the Resident and Fellow Section*

**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED, that the Medical Society of the State of New York support studying new technologies targeting pressure guided treatment of heart failure**