

GOVERNMENTAL AFFAIRS AND LEGAL MATTERS (B)

100

Faxes

Introduced by Richmond & Kings County Medical Societies

RESOLUTION ADOPTED

RESOLVED, that the Medical Society of the State of New York advocate for the state of New York to set up a registry for physicians' office fax lines and prohibit advertisers to send unsolicited faxes to these numbers, in an attempt to help keep the fax lines clear.

101

Online Review

Introduced by the Seventh District Branch of MSSNY

SUBSTITUTE RESOLUTION ADOPTED

RESOLVED, that MSSNY will work with outside council to develop methods by which to effectively and legally ensure the accuracy of online posts and reviews, allowing physicians to respond and review veracity while working within the constraints of the 1st Amendment of the United States Constitution.

102

Identifying an Appropriate Cap for Medical Damages

Introduced by the Suffolk County Medical Society

MSSNY POLICY REAFFIRMED IN LIEU OF RESOLUTION 102

MSSNY 80.992 Proposal for a "Two-Tier" Pain and Suffering System in Medical Liability Cases:

MSSNY will seek legislation creating a two-tier pain and suffering award system for medical liability cases whereby

1. the jury's award for pain and suffering would be capped at \$250,000;
2. if the plaintiff's attorney considered the award insufficient, he/she would be permitted to file a motion with the judge for a post-verdict modification;
3. the judge would be permitted, in the interests of justice, to adjust all aspects of the award, including pain and suffering; and
4. the judge's decision regarding any pain and suffering award would not be limited to the \$250,000 cap. (HOD 2010-63)

MSSNY 130.952 Medical Malpractice Research:

MSSNY, together with the American Medical Association, continue advocacy efforts to include the documented failures of the civil justice system; work to achieve enactment of proven reforms; and obtain funding for specific demonstration projects that hold promise to reduce medical liability claims and transitional costs. (HOD 2011-52)

MSSNY 130.953 Medical Liability Reform:

MSSNY supports legislation which would allow physicians to carry 1st tier insurance of \$500,000/\$1.5 million funded by physicians and that there would be

a 2nd tier insurance of \$1.0 million/\$3.0 million funded by an insurance pool – said pool to be funded by a fee on every health insurance policy sold in New York State. To insure the survivability of such a fund, the reforms to include:

- Cap on non-economic damages of \$250,000 per defendant with a total of \$750,000.
- Medical Courts.
- A No-fault system for claims involving neurologically-impaired infants.
- Medical expert witness reform.
- Certificate of merit reform. (HOD 2011-51; Reaffirmed HOD 2016-61)

MSSNY 130.967 Reform of the Civil Litigation and Medical Liability Insurance Systems in New York State:

MSSNY approved the comprehensive plan to reform the Civil Litigation and Medical Liability Insurance Systems in New York developed by:

- American College of Obstetricians and Gynecologists – District II
- Greater New York Hospital Association
- Healthcare Association of New York State
- Medical Society of the State of New York
- New York Chapter, American College of Physicians
- New York Chapter of the American College of Surgeons

The major components of the plan are as follows

1. Medical Malpractice Civil Litigation Process Reform
 - Systemic Remedies
 - Immediate Remedies
 1. Financial Relief
 2. Quality and Outcome Improvement Measures

(More detailed information about the plan is available from MSSNY’s Division of Governmental Affairs.) (Council 9/20/07; Reaffirmed HOD 2017)

MSSNY 130.993 Medical Liability Reform:

MSSNY reaffirms its support for the inclusion of medical liability reform within the context of state and/or federal health system reform which shall include but not be limited to the following: (1) Enactment of a \$250,000 cap on the non-economic component of a medical liability award. (2) Extension of the excess liability insurance program until fundamental tort reforms is achieved. (3) The establishment of a no-fault administrative compensation system for impaired newborns. (4) Legislation which would provide an affirmative defense to any cause of action for physicians adhering to appropriately established practice guidelines provided, however, non-adherence to practice guidelines shall not be used as evidence that the physician failed to meet the accepted standards of care. (HOD 1994-86; Reaffirmed HOD 2008-96; Reaffirmed HOD 2016-61 & 250)

MSSNY 85.963 Promotion of Financial Aid Opportunities for New York Medical Students:

MSSNY will: (a) advocate for the expansion of the Doctors Across New York Physician Loan Repayment Program by increasing the number of available positions, and directing any unused funds in the Loan Repayment Program toward the Practice Support Program; (b) support the development of State funded loan forgiveness and repayment programs for physicians; and (3) advocate for the development of scholarships and/or grants for medical students who plan to work in the state. (HOD 2011-108)

MSSNY 85.999 Manpower Assistance for Medical Students:

MSSNY supports the concept of continuing some form of federal manpower financial assistance and support, including general institutional grants, special project grants for medical schools and the continuation of the National Health Service Corps and other support mechanisms such as long term, low interest loans for medical students. (Council 6/26/80; Reaffirmed HOD 2013)

MSSNY 115.996 Shortages of Nursing and Other Health Care Personnel:

MSSNY is working with the Legislature to implement short and long range measures to address nursing and other health care personnel shortages such as: (1) Using New York State funds earmarked for hospital implementation of the revised minimum hospital code to provide labor rate relief for nursing and other health care personnel; (2) Providing hospital reimbursement sufficient to allow hospitals to provide adequate salaries for nursing and other health care personnel; (3) Encouraging development of salary and career ladders in nursing that relate experience and increased responsibility to salary; (4) Developing and increasing efforts to educate and retain professional health care workers; (5) Developing efforts to increase and retain personnel beginning with junior and senior high students, and that include scholarship programs and expansion of loan forgiveness programs.

104

Mental Health Services for Medical Students
Introduced by the Ninth District Branch of MSSNY
ADOPTED AS AMENDED

RESOLVED, that MSSNY encourage Medical Schools in New York State to provide confidential in-house mental health services at no cost to students, without billing health insurance, and set up programs to educate both students and staff about burnout, depression, and suicide; and be it further

RESOLVED, that MSSNY bring this resolution to the AMA so that the AMA can recommend that the AAMC strengthen their recommendations to all the medical schools to mandate these services for our medical students.

RESOLVED, that MSSNY encourage Medical Schools in New York State to offer affordable, confidential off-site counseling

105

Telehealth Group Visits

Introduced by the Richmond County Medical Society

MSSNY POLICY REAFFIRMED IN LIEU OF RESOLUTION 105

MSSNY 265.842 Study and Promotion of Telemedicine Payment Parity

MSSNY will work with individual legislators throughout the state to introduce legislation that would require parity of payment between services provided in-person and via telemedicine. (HOD 2017-109)

MSSNY 117.998 Information Technology:

MSSNY will encourage insurance companies to develop economic incentives, including increased reimbursement rates, for physicians and hospitals that use information technology in the care of their patients. (HOD 2006-92; Reaffirmed HOD 2016)

106

Home Care Discharge Summary Standardization

Introduced by the Seventh District Branch of MSSNY

ADOPTED AS AMENDED

RESOLVED, that MSSNY work to introduce legislation to require standardization of the HHCA electronic discharge summary as guided by MSSNY member physicians who will be receiving this information.

107

Experimental Medicine

Introduced by the Third and Fourth District Branches of MSSNY

MSSNY POLICY REAFFIRMED IN LIEU OF RESOLUTION 107

MSSNY 120.935 Non-Experimental Status Determined by Centers for Medicare and Medicaid Services

The Medical Society of the State of New York will seek by regulation and/or legislation New York State policy/law requiring that any medical service deemed non experimental by the Centers for Medicare and Medicaid Services for government programs also be deemed non-experimental by private payors. (HOD 2015-254)

108

Increased Accessibility of Emergency Epinephrine for Anaphylactic Response

Introduced by the Third and Fourth District Branches of MSSNY

ADOPTED AS AMENDED

RESOLVED, that the Medical Society of the State of New York support legislative action to bring about training on and accessibility to emergency epinephrine in areas deemed to be high risk, including but not limited to those focused on children and food service, such as childcare facilities, schools, school buses, food-service areas and restaurants.

109 Electric "Stand Up" Scooters: A Potential Public Health Problem
Introduced by the New York County Medical Society
NOT ADOPTED

110 Grocery Bags - Single Use
Introduced by the Kings County Medical Society
NOT ADOPTED

111 MSSNY Support for Impairment Research
Introduced by the Kings County Medical Society
REFERRED TO COUNCIL

RESOLVED, that the Medical Society of the State of New York submit to the American Medical Association House of Delegates a resolution to commit all necessary resources and efforts needed to researching and developing a robust body of evidence for reliable and reproducible methods of assessing impairment of drivers and other appropriate and applicable operators of mechanized vehicles.

112 Call for Mandatory Rear Safety Belt Usage
Introduced by Medical Student Chapter of Columbia Univ Vagelos College of P & S and The MSSNY Medical Student Section
ADOPTED

RESOLVED, that the Medical Society of the State of New York policy 10.997 be modified to read:

MSSNY called calls upon the legislature to enact laws mandating both front and rear safety belt usage for people of all ages. and be it further

RESOLVED, that the Medical Society of the State of New York pursue legislative action or regulation that would mandate all passengers, including rear seat passengers, regardless of age be required to use safety belts.

113 Limiting Hospitals to Being Hospitals
TITLE AMENDED TO: Site Neutral Physician Payment Equality
Introduced by Michael H. Brisman, MD, Delegate, Nassau County
SUBSTITUTE RESOLUTION 113 ADOPTED IN LIEU OF RESOLUTIONS 113 AND RESOLUTION 121

RESOLVED, that the Medical Society of the State of New York urge, advocate and seek legislation that helps to seek parity of government funding and payment methodologies among sites of care.

114 Physician Access to their Medical and Billing Records
Introduced by David Jakubowicz, MD, Delegate, Bronx County
ADOPTED AS AMENDED

RESOLVED, that licensed physicians must always have access to all medical and billing records for their patients from and after date of service including after physician termination.

RESOLVED, that MSSNY press for legislation to eliminate contractual language that bars or limits the treating physician's access to the medical and billing records such as treating these records as trade secrets or proprietary; and be it further

RESOLVED, that this resolution be brought to AMA for consideration.

115 Physician Credentialing Improvement
Introduced by the Seventh District Branch of MSSNY
SUBSTITUTE AMENDMENT ADOPTED

RESOLVED, MSSNY advocate for regulation or legislation asserting that a physician who has submitted a completed application for credentialing, until which time that application is accepted or rejected, may bill for services under the general supervision of a physician who is already credentialed by that plan. This shall be applied to all insurance plans, including state sponsored plans such as worker's compensation.

116 Archaic Requirement that Primary Care Physicians Maintain Hospital Privileges
Introduced by the Suffolk County Medical Society
ADOPTED AS AMENDED

RESOLVED, that MSSNY call for an end to the insurance company requirement that Physicians secure hospital admitting privileges as a condition to become participating (network) providers; and be it further

RESOLVED, that MSSNY seek legislation or regulation that would prevent insurance companies from denying participating status to Physicians who lack hospital admitting privileges.

117 Parental Alienation Syndrome in Custody Cases
Introduced by the Westchester County Medical Society
REFERRED TO COUNCIL

RESOLVED, that MSSNY support legislation and/or regulation to prohibit the use of Parental Alienation Syndrome in determining custody.

- 118 Fertility Preservation Therapy Insurance Coverage for Cancer Patients
TITLE CHANGED TO: **Fertility Preservation Therapy Insurance Coverage for Patients**
Introduced by the Suffolk County Medical Society
ADOPTED AS AMENDED

RESOLVED, that MSSNY advocate for payment for fertility preservation therapy services by all payers when iatrogenic infertility may be caused directly or indirectly by necessary medical treatments as determined by a licensed physician, and will advocate for appropriate state regulation requiring payment for fertility preservation therapy services by all payers when iatrogenic infertility may be caused directly or indirectly by necessary medical treatments as determined by a licensed physician.

- 119 Right for Gamete Preservation Therapies
Introduced by the Suffolk County Medical Society
ADOPTED

RESOLVED, that fertility preservation services be officially recognized by MSSNY as an option for the members of the New York transgender and non-binary community who wish to preserve future fertility through gamete preservation prior to undergoing gender affirming medical or surgical therapies; and be it further

RESOLVED, that MSSNY officially support the right of transgender or non-binary individuals to seek gamete preservation therapies.

- 120 Adverse Impacts of Single Specialty IPA's
Introduced by the Suffolk County Medical Society
ADOPTED AS AMENDED

RESOLVED, that MSSNY seek legislation and/or regulation preventing managed care plans from replacing their participating physicians with those of a non-primary care physician single-specialty IPA; and be it further

RESOLVED, that MSSNY seek a study from the AMA relating to the impact of managed care plans replacing their participating physicians with those of a non-primary care physician single specialty IPA.

- 121 Getting Financial Support for Independent Physicians
Introduced by Michael H. Brisman, MD, Delegate, Nassau County
SEE RESOLUTION 113

122 Physician Owned Distributorships
Introduced by Michael H. Brisman, MD, Delegate, Nassau County
REFERRED TO COUNCIL

RESOLVED, that the Medical Society the State of New York develop policy that supports Physician Owned Distributorships (POD's), when the following criteria are met: (1) the POD is disclosed to the hospital and patient; (2) the overall cost to the hospital and patient is no higher with the POD than it would be through a traditional vendor; (3) standards of care are strictly met and be it further

RESOLVED, that the Medical Society the State of New York advocate that the AMA also support Physician Owned Distributorships (POD's), when the following criteria are met: (1) the POD is disclosed to the hospital and patient; (2) the overall cost to the hospital and patient is no higher with the POD than it would be through a traditional vendor; (3) standards of care are strictly met.

123 Physicians Convicted of a Nonviolent Crime
Introduced by the Richmond County Medical Society
NOT ADOPTED

124 Patient and Physician Protection from Telemedicine
Introduced by Lee E. Loewinger, MD, Delegate of the Kings County Medical Society
REFERRED TO COUNCIL

RESOLVED, that the Medical Society of the State of New York will propose to the appropriate institutions limits on telemedicine that would protect our patients and ourselves as physicians. These safeguards would include but not be limited to the following:

- 1) An initial visit to an inpatient by a primary physician or consultant would have to be in person, not via telemedicine, to be able to bill for an initial visit or consult.*
- 2) No physician could bill for two days in a row of telemedicine visits. The physician would have to make physical rounds at least every other day.*
- 3) A telemedicine visit would have to be billed as low complexity, not more than 99232 or equivalent.*
- 4) No physician who has not made at least one physical visit to the patient during a hospital admission may bill for a telemedicine visit.*
- 5) The physician performing the telemedicine visit must be located within the same state as the patient's hospital and must be within 100 miles of the institution.*