

# MEDICAL SOCIETY OF THE STATE OF NEW YORK 2022 HOUSE OF DELEGATES

## Report of the Reference Committee on Governmental Affairs - B Presented by: Daniel Gold MD, Chair

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**Mister Speaker and Members of the House of Delegates**

**Your Reference Committee recommends the following consent calendar for acceptance:**

### **SUNSET REPORT RECOMMENDED FOR ADOPTION**

1. 2022 Governmental Affairs (B) Sunset Report

### **RECOMMENDED FOR ADOPTION**

2. Resolution 100 - Adjustment of Premiums & Reimbursement Rates During the Pandemic
3. Resolution 102 - New York State Medical License Authority

### **RECOMMENDED FOR ADOPTION AS AMENDED OR SUBSTITUTED**

4. Resolution 103 - Assisted Living Residence (ALR) NYS Regulation Database
5. Resolution 104 - Retirement of Physician License
6. Resolution 105 - Hospital Discharge Summaries
7. Resolution 108 - Removing Barriers to Starting a Medical Practice in New York
8. Resolution 109 - Collective Bargaining by Physicians
9. Resolution 110 - Tele-Visits & Telephone Consults
10. Resolution 111 - Case Management & Social Workers

### **RECOMMENDED NOT FOR ADOPTION**

11. Resolution 101 - Creation of a New York State Independent Medical Practice Taskforce
12. Resolution 106 - Direct Contracting Entities (DCEs) or Similar Programs for Medicare Plans
13. Resolution 107 - Safety Problems in the New York City Subway System

1 **1. POLICY SUNSET REPORT**  
2 **THE REFERENCE COMMITTEE RECOMMENDS THAT THE SUNSET REPORT FOR**  
3 **GOVERNMENTAL AFFAIRS AND LEGAL MATTERS (B) BE ADOPTED.**  
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6 **2. RESOLUTION 100: - ADJUSTMENT OF PREMIUMS & REIMBURSEMENT RATES**  
7 **DURING THE PANDEMIC**  
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9 Original Resolution 100 Reads as Follows:

10 RESOLVED, that the Medical Society of the State of New York advocates to the NYS  
11 Department of Health (DOH) Commissioner and the Commissioner of Insurance to review the  
12 business practices of all the major insurance companies; and be it further  
13

14 RESOLVED, that the Medical Society of the State of New York partners with the relevant New  
15 York State regulatory authorities and stakeholders to advocate that insurance companies adjust  
16 the premiums paid by the customers to a fair level or provide them with appropriate  
17 reimbursements based on the reduction of services provided during the COVID-19 pandemic;  
18 and be it further  
19

20 RESOLVED, that the Medical Society of the State of New York partners with the relevant New  
21 York State regulatory authorities and stakeholders to advocate that the insurance companies  
22 adjust their reimbursement rates to physicians, other providers and hospitals to fair and  
23 sustainable levels, adjusted by the increased costs spent by these individuals and entities  
24 during the COVID-19 pandemic, to ensure continuity of care for our entire community and  
25 particularly the most underprivileged population.  
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27 **RECOMMENDATION:**

28 **THE REFERENCE COMMITTEE RECOMMENDS THAT RESOLUTION 100 BE ADOPTED.**  
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30 The COVID pandemic has profoundly affected the health of all Americans, causing delays in  
31 care and impeding access to care due to the overwhelming impact on hospitals and their staff.  
32

33 All major insurance companies experienced unprecedented profits because most elective  
34 surgeries were canceled for at least six months and the majority of screening procedures were  
35 put on hold. Yet, customers continued to pay the same high premiums, and physicians  
36 continued to receive heavily discounted payments, even though they had to add the cost of  
37 PPEs and cleaning supplies, as well as the expense necessary for physical upgrades in their  
38 offices, in order to be in compliance with DOH and CDC regulations and guidelines.  
39

40 Standalone and rural hospitals and independent health care providers have seen their revenues  
41 decline to unsustainable levels, leading to bankruptcy, closure, and forcing physicians in large  
42 numbers to retire early or join the mega health systems.  
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44 The combination of all these factors has negatively impacted health care access and quality for  
45 those most in need of medical services.  
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49 **3. RESOLUTION 102 - NEW YORK STATE MEDICAL LICENSE AUTHORITY**

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51 Original Resolution 102 Reads as Follows:

52 RESOLVED, that the Medical Society of the State of New York formally review the issue of  
53 whether it would be advantageous for the licensing authority of physicians to remain in the New  
54 York State Department of Education.

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56 **RECOMMENDATION:**

57 **THE REFERENCE COMMITTEE RECOMMENDS THAT RESOLUTION 102 BE ADOPTED.**

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59 Reference Committee B members trusted that the MSSNY legislative affairs team would be able  
60 to research this issue, assemble a list of pros/cons, and determine which agency is best suited  
61 to handle physician licensure.

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63 Physicians and other health care providers have long obtained licenses through the office of the  
64 Professions at the New York State Education Department (SED). The SED regulates continuing  
65 education for physicians such as infection control training and other state agencies also have  
66 authority over physician practices, such as the Office of Professional Medical Conduct (OPMC),  
67 which is housed within the Department of Health (DOH).

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69 New York Fiscal year 2023 budget as proposed by Governor Hochul would have transferred all  
70 existing oversight mechanisms from SED to DOH. However, this proposal was removed from  
71 the final budget for FY2022-23 and further consideration is needed to determine if transferring  
72 the authority to license physicians is a net positive or a net negative for physicians, which could  
73 include new fees or regulations.

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76 **4. RESOLUTION 103 - ASSISTED LIVING RESIDENCE (ALR) NYS REGULATION**  
77 **DATABASE**

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79 Original Resolution 103 Reads as Follows:

80 RESOLVED, that MSSNY with the support of the NY Medical Directors Association (NYMDA),  
81 collaborate with the New York State Department of Health to create an easily accessible  
82 database which would make all Assisted Living Residence (ALR ) rules, regulations and links to  
83 Dear Admin Letters (DALs) available to staff at assisted living facilities, primary care provider  
84 teams, hospitals, and/or health systems and which would be updated when appropriate.

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86 **RECOMMENDATION A:**

87 **THE REFERENCE COMMITTEE RECOMMENDS THAT THE FOLLOWING SUBSTITUTE**  
88 **AMENDMENT BE ACCEPTED INSTEAD OF ORIGINAL RESOLUTION 103:**

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90 **RESOLVED, that MSSNY with the support of the NY Medical Directors Association**  
91 **(NYMDA), collaborate with the New York State Department of Health to create an easily**  
92 **accessible database which would make all Assisted Living Residence rules, regulations**  
93 **(ALR) and links to Dear Admin Letters (DALs) available to staff at assisted living**  
94 **facilities, primary care provider teams, hospitals, and/or health systems and which would**  
95 **be updated ~~when appropriate~~ at least annually.**

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97 **RECOMMENDATION B:**

98 **THE REFERENCE COMMITTEE RECOMMENDS THAT SUBSTITUTE RESOLUTION 103 BE**  
99 **ADOPTED.**

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101 The Reference Committee adopted this resolution with amended language. They want the  
102 proposed database to be updated “at least annually,” as opposed to “when appropriate” as  
103 “when appropriate” was seen as too vague.

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#### 106 **5. RESOLUTION 104: - RETIREMENT OF PHYSICIAN LICENSE**

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Original Resolution 104 Reads as Follows:

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RESOLVED, that the Medical Society of the State of New York with renewed urgency seek  
legislation, regulation and/or procedures permitting the non-disciplinary retirement or emeritus  
status of a physician license without declaration of permanent incapacity as long as the  
physician is not under investigation.

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#### **RECOMMENDATION A:**

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**THE REFERENCE COMMITTEE RECOMMENDS THAT THE FOLLOWING SUBSTITUTE  
AMENDMENT BE ACCEPTED INSTEAD OF ORIGINAL RESOLUTION 104:**

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**The Medical Society of the State of New York (MSSNY) will seek legislation which  
provides non-disciplinary retirement of a physician license or emeritus status of a  
physician license without declaration of permanent incapacity provided that the  
physician has no pending disciplinary matters.**

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#### **RECOMMENDATION B:**

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**THE REFERENCE COMMITTEE RECOMMENDS THAT EXISTING MSSNY POLICY 160.968  
BE ADOPTED AS AMENDED.**

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The Reference Committee agreed to not adopt Resolution 104 and instead amend existing  
MSSNY policy 160.968, which addresses the same issue as Resolution 104.

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#### 132 **6. RESOLUTION 105 - HOSPITAL DISCHARGE SUMMARIES**

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Original Resolution 105 Reads as Follows:

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RESOLVED, that the Medical Society of The State of New York (MSSNY), in partnership with  
the American Medical Association (AMA) work with the appropriate agencies or institutions to  
ensure that all emergency departments and inpatient facilities, seek permission of the patient or  
the patient’s Health Care Provider (HCP), to share with the patient’s primary care provider  
(PCP) and/or their primary specialist, hospital discharge summaries; and be it further

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RESOLVED, that MSSNY, in partnership with the AMA work with the appropriate agencies or  
institutions to ensure that hospitals, with the proper permission, share these summaries either  
via Regional Health Information Organization (RHIO) or any other convenient method to the  
primary care provider (PCP) and/or their primary specialist at the time of discharge.

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#### **RECOMMENDATION A:**

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**THE REFERENCE COMMITTEE RECOMMENDS THAT THE FOLLOWING SUBSTITUTE  
AMENDMENT BE ACCEPTED INSTEAD OF ORIGINAL RESOLUTION 105:**

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**RESOLVED, That the Medical Society of the State of New York support and seek  
legislation or regulation of an opt-out policy where patients must explicitly request in**

151 **writing for records not to be shared, encouraging seamless sharing of personal health**  
152 **information among all New York State clinicians.**

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154 **RECOMMENDATION B:**  
155 **THE REFERENCE COMMITTEE RECOMMENDS THAT THE TITLE OF RESOLUTION 105**  
156 **BE AMENDED AS FOLLOWS: Health Record Sharing**

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158 **RECOMMENDATION C:**  
159 **THE REFERENCE COMMITTEE RECOMMENDS THAT SUBSTITUTE RESOLUTION 105 BE**  
160 **ADOPTED.**

161  
162 The Reference Committee adopted the proposed resolve. They also changed the title of the  
163 resolution from “Hospital Discharge Summaries” to “Transition of Care Summaries” as they  
164 believed that the opt-out policy should apply to all care providers, not just hospitals.

165  
166 Multiple inpatient admissions have been identified as having a negative impact on patient  
167 morbidity and healthcare costs, and hospital readmissions within 30 days of discharge occur  
168 frequently enough to further impact patient morbidity and add to healthcare costs.

169  
170 Hospital readmission and frequent emergency room visits have been identified as quality  
171 improvement measures, and transition of care appointments (TOC) have been identified as a  
172 means to reduce hospital readmissions.

173  
174 The interaction between the care team and the patient is valued during a TOC visit including  
175 discussion to changes in medication and adherence, with review of side effects and reasons for  
176 non-adherence.

177  
178 There is a push for TOC appointments to occur within seven days of hospital discharge to  
179 minimize hospital readmissions, and TOC care teams as part of PCMH have been put in place  
180 to call patients within three days of hospital discharge to review medication changes and  
181 adherence.

182  
183 A lack of discharge summaries at the time of a TOC appointment or call drastically decreases  
184 the effectiveness of the TOC appointment and call and often negates efforts to reduce hospital  
185 readmissions. Additionally lack of patient consent for release of medical records creates a  
186 roadblock to timely access to inpatient discharge summaries.

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189 **7. RESOLUTION 108 – REMOVING BARRIERS TO STARTING A MEDICAL PRACTICE IN**  
190 **NEW YORK**

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192 Original Resolution 108 Reads as Follows:  
193 RESOLVED, That MSSNY support legislation to eliminate the discriminatory, redundant,  
194 outdated, unnecessary Professional Limited Liability Company (PLLC) legal notice publication  
195 requirements, which are financial barriers and administrative burdens to physicians opening  
196 medical practices.

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199 **RECOMMENDATION A:**  
200 **THE REFERENCE COMMITTEE RECOMMENDS THAT THE FOLLOWING SUBSTITUTE**  
201 **AMENDMENT BE ACCEPTED INSTEAD OF ORIGINAL RESOLUTION 108:**

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203 **RESOLVED, that MSSNY support legislation to eliminate the requirements for printed**  
204 **public legal notice for the formation of limited liability companies in New York State.**

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206 **RECOMMENDATION B:**  
207 **THAT THE TITLE OF RESOLUTION 108 BE AMENDED AS FOLLOWS:**

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209 **Removal of Print Publication Requirements in the Formation of Corporate Entities**

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211 **RECOMMENDATION C:**  
212 **THE REFERENCE COMMITTEE RECOMMENDS THAT SUBSTITUTE RESOLUTION 108 BE**  
213 **ADOPTED.**

214  
215 The Reference Committee adopted this resolution, with amended language, because they  
216 believe that paying for legal notices in print publications is a waste of money.

217  
218 The title of the resolution has been changed from “Removing Barriers to Starting a Medical  
219 Practice in New York” to Removal of Print Publication Requirements in the Formation of  
220 Corporate Entities to provide greater clarity on what the resolution does.

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223 **8. RESOLUTION 109 – COLLECTIVE BARGAINING BY PHYSICIANS**

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225 Original Resolution 109 Reads as Follows:  
226 **RESOLVED** That all prior resolutions relevant to the subject matter be resurrected and  
227 summarized as pertains to the matter and having successfully achieved these ends, let it be  
228 further,

229  
230 **RESOLVED** That we seek to incorporate both the constructs and principles with which to forge  
231 bylaws and the pathway in order to form and finally launch, a Physicians Collective Body  
232 (UNION); solely for our benefit as physicians.

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234 **RECOMMENDATION A:**  
235 **THE REFERENCE COMMITTEE RECOMMENDS THAT THE FOLLOWING SUBSTITUTE**  
236 **AMENDMENT BE ACCEPTED INSTEAD OF ORIGINAL RESOLUTION 109:**

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238 **RESOLVED** That MSSNY advocate for legislation that will end prohibitions which limit  
239 independent physicians from forming collective bargaining entities (unions).

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241 **RECOMMENDATION B:**  
242 **THE REFERENCE COMMITTEE RECOMMENDS THAT SUBSTITUTE RESOLUTION 109 BE**  
243 **ADOPTED.**

244  
245 The Reference Committee adopted this resolution with amended language. The two resolves  
246 were condensed into one for the sake of clarity and simplicity.

247

248 This resolution has been discussed almost ad nauseam in the HOD in the past, and despite this  
249 has yet to lead to any meaningful change. Insurers continue to reap huge profits at physicians'  
250 expense, continually lower payments or place onerous obstacles in our paths.

251  
252 The few Independent Physician Associations (IPA) formed unions have had various levels of  
253 success, yet still further subdivide the physician communities with the brunt of benefits often  
254 hoarded at the top level by executives and heads of these very same entities.

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## 257 **9. RESOLUTION 110 – TELE-VISITS & TELEPHONE CONSULTS**

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259 Original Resolution 110 Reads as Follows:

260 RESOLVED, that MSSNY will help to seek equal payments for tele-visits and telephone  
261 consults.

262

263 RESOLVED, that the Medical Society of the State of New York seek legislation and/or  
264 regulation to permanently establish equal payments for all telemedicine visits including both  
265 video visits as well as telephone visits on par with payments for in person visits in the context of  
266 an established continuous relationship with a clinician.

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### 268 **RECOMMENDATION A:**

269 **THE REFERENCE COMMITTEE RECOMMENDS THAT THE FOLLOWING SUBSTITUTE**  
270 **AMENDMENT BE ACCEPTED INSTEAD OF ORIGINAL RESOLUTION 110:**

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272 **RESOLVED, that the Medical Society of the State of NY (MSSNY) seek legislation and/or**  
273 **regulation to permanently establish equal payments for all patient encounters and**  
274 **communications, including but not limited to audio and visual visits, on par with**  
275 **payments for in person visits in the context of an established continuous relationship**  
276 **with a physician.**

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### 278 **RECOMMENDATION B:**

279 **THE REFERENCE COMMITTEE RECOMMENDS THAT SUBSTITUTE RESOLUTION 110 BE**  
280 **ADOPTED.**

281

282 COVID brought certain changes to the landscape of practicing medicine, with tele-visits and  
283 telephone calls now a crucial part of ongoing patient care and management.

284

285 Physician practices have suffered significant financial loss with the increase in work burden and  
286 the lack of adequate reimbursements for all services regardless of modality.

287

288 Payment to physicians for care that is provided via telehealth that is on par with in-office visits is  
289 fair and will enable physicians to provide the most comprehensive care to their patients.

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## 292 **10. RESOLUTION 111 – CASE MANAGEMENT & SOCIAL WORKERS**

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294 Original Resolution 111 Reads as Follows:

295 RESOLVED, That the New York State Insurance Commission requires that the Advance Care  
296 Plans have both Care Management and Social Worker services for every patient enrolled under  
297 their insurance.

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299 **RECOMMENDATION A:**  
300 **THE REFERENCE COMMITTEE RECOMMENDS THAT THE FOLLOWING SUBSTITUTE**  
301 **AMENDMENT BE ACCEPTED INSTEAD OF ORIGINAL RESOLUTION 111:**

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303 **RESOLVED, That the New York State Insurance Commission require that the Advance**  
304 **Care Plans directly provide and reimburse physicians for the administration of care**  
305 **management and social work services.**

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307 **RECOMMENDATION B:**  
308 **THE REFERENCE COMMITTEE RECOMMENDS THAT SUBSTITUTE RESOLUTION 111 BE**  
309 **ADOPTED.**

310  
311 Health insurers use Diagnosis-Related Groups (DRG) formulas to increase the severity of the  
312 patient illness, capitalizing on reimbursements.

313  
314 The severity of disease has increased while the life expectancy, in many instances due to  
315 COVID, has decreased.

316  
317 As the medical consequences of having contracted COVID start to reveal themselves, patients  
318 will significantly need greater coordination of care and physicians will see increases in non-  
319 clinical work.

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322 **11. RESOLUTION 101 – CREATION OF A NEW YORK STATE INDEPENDENT MEDICAL**  
323 **PRACTICE TASKFORCE**

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325 Original Resolution 101 Reads as Follows:

326 **RESOLVED, that MSSNY will advocate with the New York State government to create a task**  
327 **force to help maintain the sustainability of independent medical practices in the State of New**  
328 **York.**

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330 **RECOMMENDATION:**  
331 **THE REFERENCE COMMITTEE RECOMMENDS THAT RESOLUTION 101 NOT BE**  
332 **ADOPTED.**

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334 The Reference Committee chose not to adopt this resolution as they feared that creating a task  
335 force would lead to more red tape and greater overreach. They also expressed concern that a  
336 state task force might decide that independent medical practices are not sustainable and move  
337 to shut them down.

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340 **12. RESOLUTION 106 – DIRECT CONTRACTING ENTITIES (DCES) OR SIMILAR**  
341 **PROGRAMS FOR MEDICARE PLANS**

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343 Original Resolution 106 Reads As Follows:

344 **RESOLVED, MSSNY oppose any further action by Centers for Medicare and Medicaid Services**  
345 **(CM)S allowing Direct Contracting Entities (DCEs) or similar programs to take over traditional**  
346 **Medicare; and be it further**

347  
348 **RESOLVED, MSSNY encourage the AMA to lobby the US Congress to stop Direct Contracting**  
349 **Entities (DCEs) or similar programs.**



350 **RECOMMENDATION:**  
351 **THE REFERENCE COMMITTEE RECOMMENDS THAT RESOLUTION 106 NOT BE**  
352 **ADOPTED.**

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354 The Reference Committee did not adopt this resolution because its language did not match its  
355 intent and felt it was outside of MSSNY's scope of expertise.

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358 **13. RESOLUTION 107 – SAFETY PROBLEMS IN THE NEW YORK CITY SUBWAY SYSTEM**

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360 Original Resolution 107 Reads as Follows:  
361 RESOLVED, That the Medical Society of the State of New York urge Governor Kathy Hochul  
362 and the New York State legislature to work closely with New York City Mayor Eric Adams to  
363 combat thefts, violence and other safety problems in the New York City subway system, and to  
364 decrease the number of homeless people in the system.

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366 **RECOMMENDATION:**  
367 **THE REFERENCE COMMITTEE RECOMMENDS THAT RESOLUTION 107 NOT BE**  
368 **ADOPTED.**

369  
370 The Reference Committee did not adopt this resolution because Governor Hochul and Mayor  
371 Adams already have a plan that addresses safety problems in the New York City subway  
372 system. (*Subway Safety Plan, released by NYC Mayor Eric Adams on February 18, 2022.*)  
373 Furthermore, the inclusion of "homelessness" in the resolution was a source of controversy, and  
374 it generated many comments in opposition to the resolution.

Your Chairperson is grateful to the committee members, namely Joseph Arguelles, MD, James Docherty, DO, Lisa Eng, MD, Nabil Kiridly, MD, and Mark Milstein, MD

Your Reference Committee Chair also wishes to express his appreciation to Zina Cary and Michael Bartlett for their help in preparation of this report.

Respectfully submitted,

*Daniel Gold, MD*

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Daniel Gold, MD, - CHAIR

*Joseph Arguelles, MD*

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Joseph Arguelles, MD

*James Docherty, DO*

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James Docherty, DO

*Lisa Eng, MD*

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Lisa Eng, MD

*Nabil Kiridly, MD*

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Nabil Kiridly, MD

*Mark Milstein, MD*

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Mark Milstein, MD