

**2023 REF COM GOVERNMENTAL AFFAIRS AND LEGAL MATTERS (A)**  
**FINAL ACTIONS**

- 50 New York State Medicaid Fee Adequacy  
*Introduced by the Kings County Medical Society*  
**ADOPTED**

**RESOLVED**, that MSSNY work to seek legislative and regulatory changes to establish that New York State Medicaid Physician Fees shall not be less than 100% of Medicare Fee for Service physician fee schedule to ensure adequate and equitable access for New York Medicaid patients.

- 51 Funding Primary Care  
*Introduced by the 7<sup>th</sup> and 8<sup>th</sup> District, MSSNY*  
**ADOPTED**

**RESOLVED**, that the Medical Society of the State of New York supports legislation to require investment in primary and preventative care by New York State commercial insurers, including managed Medicaid insurers, be no less than 12% of total health care spending.

- 52 Advocating for a Prompt and Fair Federal IDR Process for Out-of-Network Disputes  
*Introduced by the Nassau County Medical Society*  
**ADOPTED**

**RESOLVED**, that MSSNY will advocate, and ask the AMA to advocate for, a prompt and fair federal IDR process that includes:

- (1) timely processing of claims;
- (2) directions to the IDR entity that no one data point is deemed in advance to be more important than any other consideration;
- (3) direction to insurers only to use actual paid rates in consideration of the median contracted rate;
- (4) directions to insurers not to consider data from other specialties in determining the median contracted rate;
- (5) direction to insurers not to consider data from other self-funded plans in determining the median contracted rate;
- (6) direction to insurers that they must present the median contracted rate to the physician in the EOB if they want to use this data point at IDR;
- (7) direction to insurers to make all raw data available to the disputing physician from which the median contracted rate was calculated so the physician can ascertain whether the median contracted rate was calculated correctly;
- (8) eliminating the non-refundable administrative fees for physicians to bring a claim to IDR;
- (9) allowing physicians to batch similar claims;
- (10) providing live help for phone calls from both federal regulating departments and the IDR entities to facilitate the timely processing of claims;
- (11) requiring insurers to make payments within 30 days when they lose at IDR (as per the law).

- 53 Elimination of the Median in-Network Rate from Consideration at State Independent Dispute Resolution

*Introduced by the Nassau County Medical Society*

**ADOPTED**

**RESOLVED**, that MSSNY will advocate for (1) absolute clarity in how the median in-network rate is being calculated; (2) a requirement that insurers provide the median in-network rate in their EOBs to out-of-network providers if they wish to use this rate as a consideration at IDR; and (3) a mechanism for providing the disputing physician with the raw data from which the insurer calculated the median in-network rate so they can independently confirm its accuracy; and be it further

**RESOLVED**, that MSSNY will advocate for removing the median in-network rate as a required consideration for the New York State IDR process.

- 54 Restore NYSHIP IDR venue back to State Level  
*Introduced by the Nassau County Medical Society*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED**, that MSSNY continue to advocate that out of network surprise medical bills resulting from care provided to patients insured by the New York State Health Insurance Plan (NYSHIP) should be adjudicated by the New York State Independent Dispute Resolution process.

- 55 Revitalization of Task Force on Life and the Law  
*Introduced by the New York County Medical Society*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED**, that the Medical Society of the State of New York advocate for the New York State Department of Health Task Force on Life and the Law to be revitalized and restored such that it develops and updates expert guidance on bioethical matters effecting delivery of patient care that can be relied upon by physicians and hospitals during public health emergencies.

- 56 Medical Staff Credentialing for Physicians  
*Introduced by the Nassau County Medical Society*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED**, that the Medical Society of the State of New York advocate to the New York State Department of Health to revise existing regulations that would enable a three-year interval for the re-credentialing of health care professionals at hospitals instead of the current two-year interval.

57      **Employed Physician Bill of Rights**  
*Introduced by the Saratoga County Medical Society*  
**REFERRED TO COUNCIL**

RESOLVED, that the Medical Society of the State of New York recommend the following as a Bill of Rights for employed physicians:

- Physicians employed by a health care organization (HCO) have the right to
- Participate in the governance of the HCO,
- Participate in the operational and strategic planning of the HCO,
- Establish the requirements of employment, including evaluations thereof, without regard for economic considerations,
- Determine the standards for quality, safety, privileging, peer review, and professional conduct,
- Establish medical staff by-laws and be able to select and remove medical staff leaders,
- Control the use of medical staff funds,
- Availability of independent legal counsel,
- Advocate for physicians and patients with any and all authorities without fear of retaliation from the HCO,
- Availability of adequate resources to provide for and improve patient care,
- Make treatment decisions, including referrals, based on the best interest of the patient, subject to review only by physician peers,
- Full due process before either the medical staff or the HCO takes any adverse action against a physician, and
- Full protection from any retaliatory action when participating in good faith peer review activities.

58      **Establishing Limits for Non-Compete Physicians**  
*Introduced by Michael Ziegelbaum, MD, as an Individual*  
**REFERRED TO COUNCIL**

RESOLVED, that MSSNY will advocate for limits on non-compete provisions that include the following:

- (1) the non-compete provision must be limited to no more than one year from when the professional left their current practice;
- (2) the non-compete provision should not create geographic limits on the departing physician;
- (3) the non-compete provision must not cause any harm to the public;
- (4) the non-compete provision must not cause any undue burden on the professional;
- (5) the non-compete provision must have a rational business purpose for its enforcement;
- (6) the non-compete provision must not restrict the professional from providing services at
- (7) the practice from which a physician departs must provide contact information to any patient requesting such information not-for-profit entities or anywhere that the physician does not have a financial stake; and be it further

RESOLVED, that MSSNY shall ask the AMA to advocate for similar rational limitations on non-compete provisions in physician contracts.

- 59 NY Corporate Compliance Consolidation  
*Introduced by the Dutchess, Orange, Putnam and Westchester County Medical Societies*  
**ADOPTED**

**RESOLVED, That MSSNY shall work with the NY DOH, NY Hospital Association and other stakeholders to create a statewide minimum standard curriculum for corporate compliance education requirements, the completion of which is acceptable to all stakeholders; and be it further**

**RESOLVED, That MSSNY shall advocate for satisfactory completion of the new NY state approved standard Corporate compliance curriculum at one setting to fulfill the requirements of all settings that require such a mandate, to eliminate wasting of valuable Physician time and effort; and be it further**

**RESOLVED, That MSSNY forward this policy to the AMA for consideration of adoption of a national level single corporate compliance curriculum acceptable in all settings.**

- 60 Truth in Advertising and Patient Right to Access a Physician Upon Request  
*Introduced by Maria Paone, MD, as an individual, Lisa Eng, DO, Richmond County Medical Society, Medical Society of County of Kings*  
**MSSNY POLICY RE-AFFIRMED IN LIEU OF RESOLUTION 60**

**110.992 Standardization of Identification for Medical Professionals**

MSSNY will work with appropriate health care entities to ensure that licensed physicians and other health care practitioners wear a picture identification badge which shall be conspicuously displayed and legible, and which clearly details to the patient, the name and professional title authorized pursuant to Education Law (Physician, Physician Assistant, Nurse Practitioner, etc) of their physician and any other health care practitioner's.

Any picture identification badge for physicians and other health care practitioners should be provided at no cost to the physician and health care provider. (HOD 2012-105; Reaffirmed HOD 2022)

**115.987: Healthcare Provider Representation and Patient Protection**

MSSNY endorses the enactment of legislation that would establish requirements for all licensed health care providers who deliver direct care in an Article 28 licensed hospital, ambulatory surgical center, diagnostic and treatment center, or private physician's office that is accredited (OB), to wear identification badges that in addition to current State Education Department identification requirements, also contain large bold lettering indicating the practitioner's licensure (i.e. PHYSICIAN, RN, NP, PA, etc.). (HOD 2013-113)

**150.958 Unintended Consequences of Value-Based Payment Models-Conflicts of Interest**

The Medical Society of the State of New York will seek to amend the New York State Patient's Hospital Bill of Rights to include the following patient rights:

1. The right, at all points in the patient's care, to demand medical decisions that are informed by physicians;

2. The right to an unbiased medical opinion including information about treatments or services that are not reimbursed by the patient's insurance company or may be better managed at another institution.

**240.987 Truth in Advertising:**

MSSNY will advocate for proactive enforcement of New York State regulation that gives patients the necessary information to make informed decisions about who is providing their health care and also seek enactment of legislation to require all health care professionals in all health care settings to wear identification tags that state their professional designation in large block letters PHYSICIAN, NURSE, PHYSICIAN ASSISTANT, etc. (HOD 2011-104; reaffirmed by Council Nov 3, 2016 in lieu of resolution 2016-108)

- 61** Equal Standard of Care for Our Patients  
*Introduced by the Dutchess, Orange, Putnam, and Westchester County Medical Societies*

**REFERRED TO COUNCIL**

RESOLVED, that MSSNY, through legislation, advocate for the same standard of care based on a particular diagnosis or disease process, whether the independent practitioner is a physician, physician assistant, or nurse practitioner; and be it further

RESOLVED, that the MSSNY Delegation to the AMA refer this matter to the American AMA to introduce a similar resolution at the next meeting of the AMA House of Delegates for federal actions.

- 62** Withdraw and Amend Virtual Credit Card Policy  
*Introduced by Alex Shteynshlyuger, MD, as an individual*

**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED, the MSSNY will advocate that the AMA officially informs HHS/CMS, updates all its written materials and communications to strike any reference to VCC as a "valid" method of healthcare electronic payment method and that the AMA will remove any reference that health plans can impose the requirement to accept VCCs via contractual terms as that would be an illegal requirement in violation of HIPAA Administrative Simplification Requirements; the only legally adopted healthcare payment standard is ACH EFT; and that the AMA refers to VCC as an "illegal" or "not legal" electronic method of healthcare payments; and be it further**

**RESOLVED, the MSSNY will advocate that the AMA officially informs HHS/CMS, updates all its written materials and communications to strike any reference to any EFT fees imposed by health plans or health plan business associates, whether "service fees" or any other fees as "permitted," "legal", or "valid" and that the AMA will remove any reference that health plans can impose "customer service fees" or support fees" on standard healthcare ACH EFT payments that would be illegal fees in violation of HIPAA Administrative Simplification Requirements; further the AMA communicate the position that physicians should decline by default any paid services from health plans or health plan associates as they have never been a good or fair value.**

- 63 Alternative Board Certification for Licensure, Credentialing, and Billing  
*Introduced by Brian White, DO, as an individual, Delaware County Medical Society  
Herkimer County Medical Society*  
**MSSNY POLICY RE-AFFIRMED IN LIEU OF RESOLUTION 63**

**RESOLVED, that the Medical Society of the State of New York re-affirm MSSNY Policy 235.986**

**235.986 Maintenance of Certification as Restraint of Trade**

The Medical Society of the State of New York will seek legislation to prohibit board certification requirements for hospital medical staff privileges, insurer contracts and state licensure. (HOD 2016-214; reaffirmed HOD 2020-67 by Council 6/3/21)

- 64 AMA Advocacy Philosophy – Speak Softly and Carry a Big Stick  
*Introduced by the Kings and Richmond County Medical Societies*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED, that the Medical Society of the State of New York continue to work with the American Medical Association Litigation Center to, within appropriate financial means, identify and participate with litigation challenging private and public payor claims adjudication processes that adversely impact patient care delivery that violate existing federal and state laws.**

- 65 Complexity of US Healthcare System – MSSNY & AMA Communications  
*Introduced by the Kings and Richmond County Medical Societies*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED, that the Medical Society of the State of New York continue to work with the American Medical Association to educate the public about the excessive administrative hassles imposed by the numerous public and private health care payers that inappropriately interfere with patients accessing timely needed care and physicians being fairly paid for delivering this care.**

- 66 Prioritizing People First: Upholding our Oath & Code of Conduct by Endorsing the New York Health Act (A.6058/S.5474)  
*Introduced by Lawrence A Melniker, MD, MS, MBA, as an individual, and Phillip Gioia, MD, MPH, as an individual*  
**MSSNY POLICY RE-AFFIRMED IN LIEU OF RESOLUTION 66**

**130.931 Healthcare Delivery System Including Single Payer Insurance**

MSSNY will continue to consider the feasibility of other payment methodologies including single payer and will also continue to work collaboratively with physicians who both support and oppose such proposals in order to assess the strengths and weaknesses of such proposals. MSSNY will continue to advocate that physicians are ensured direct input and ongoing involvement on all aspects of any single payer system or other system that may be considered by the New York State Legislature or United States Congress. Among the critical aspects that should be considered and included: the ability of patients to receive needed quality care and medications in a timely manner; whether the administrative burden to physicians of participation and facilitating needed patient care in such a system are an improvement from, or worsening of, existing systems; and whether

the payment methodology is and will continue to be fair to physicians regardless of practice setting or specialty.(Adopted Council Nov, 2017 [sub res for 2017-62 & 63]; Reaffirmed HOD 2019 in lieu of resolution 69; 2019-70 Referred to Council, amended and adopted 11/2019; Reaffirmed HOD 2020-61; HOD 2021-57 and 2021-58 reaffirmed by Council 3/9/22 in lieu of resolutions)

- 67** Endorsing the New York Health Act  
*Introduced by Lawrence A Melniker, MD, MS, MBA, as an individual*  
**MSSNY POLICY RE-AFFIRMED IN LIEU OF RESOLUTION 67**

**130.931 Healthcare Delivery System Including Single Payer Insurance**

MSSNY will continue to consider the feasibility of other payment methodologies including single payer and will also continue to work collaboratively with physicians who both support and oppose such proposals in order to assess the strengths and weaknesses of such proposals. MSSNY will continue to advocate that physicians are ensured direct input and ongoing involvement on all aspects of any single payer system or other system that may be considered by the New York State Legislature or United States Congress. Among the critical aspects that should be considered and included: the ability of patients to receive needed quality care and medications in a timely manner; whether the administrative burden to physicians of participation and facilitating needed patient care in such a system are an improvement from, or worsening of, existing systems; and whether the payment methodology is and will continue to be fair to physicians regardless of practice setting or specialty.(Adopted Council Nov, 2017 [sub res for 2017-62 & 63]; Reaffirmed HOD 2019 in lieu of resolution 69; 2019-70 Referred to Council, amended and adopted 11/2019; Reaffirmed HOD 2020-61; HOD 2021-57 and 2021-58 reaffirmed by Council 3/9/22 in lieu of resolutions)

- 68** Patient Medication Safety  
*Introduced by John Maese, MD, as an Individual*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED, the Medical Society of the State of New York re-affirm MSSNY Policy 75.975; and be it further**

**RESOLVED, that the Medical Society of the State of New York continue to advocate together with the American Medical Association in support of efforts to ensure that the FDA has all the resources necessary to perform necessary inspection and testing of the manufacturing of medications, as well as preventing against drug shortages.**

**75.975 Availability of Pharmaceuticals**

The Medical Society of the State of New York will work with the New York State Department of Health and the American Medical Association to ensure that the Food and Drug Administration (FDA) appropriately uses its statutory power to aggressively investigate, remediate and prevent drug shortages, including imposing significant penalties on pharmaceutical manufacturers who fail to timely report shortages or discontinuances of medications. (HOD 2015-50)