

**TO: MSSNY Officers, Councilors and Trustees**

**FROM: MSSNY Legislative & Physician Advocacy Committee**

**DATE: January 2, 2024**

**RE: Resolution 101 – 2023 House of Delegates**  
*Health Information Technology Committee*

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The following resolution was referred to MSSNY Council by the House of Delegates (HOD) for further study and recommendation for the Council's consideration:

**RESOLVED, That the Medical Society of the State of New York (MSSNY) study and request that the AMA study how to implement universally the current active national VA system of telehealth across state lines to non-VA healthcare, and request that the AMA advocate for federal legislation and MSSNY advocate for state legislation to preserve and make permanent national telehealth across state lines that overrides any state limitations just as has been done successfully during the COVID-19 health pandemic; and be it further**

**RESOLVED, MSSNY study and reconsider the need for policy: 160.989 Licensure Requirement for Providing Medical Advice Through Telemedicine, which was enacted in 1996 prior to the COVID-19 health pandemic.**

At the virtual hearing for the MSSNY HOD, Resolution 101 evoked significant testimony from physicians regarding the complexity of implementing a national telehealth program as it exists for the Veteran's Administration (VA), including the upsides and downsides of telehealth use that may have been overlooked during the COVID crisis to ensure patients had access to care.

It appears that the authors are attempting to create an opportunity for physicians licensed in one state to be able to treat patients in states where they are not licensed, without the need for New York to enter the Interstate Medical Licensure Compact (IMLC). States have traditionally required physicians to be licensed in the state where the patient is located. We are aware that there are MSSNY member physicians who both support and oppose the IMLC, which has been adopted in over 30 states and is supported by the American Medical Association. However, MSSNY has expressed concerns to the State Legislature with proposals to enact the IMLC in New York because of possible patient harm arising from the exploitation of telehealth use by large corporate interests at the expense of in-state community physicians. This includes large national health plans that may attempt to meet network adequacy requirements with out of state telehealth-based physicians, as well as big box pharmacy chains promoting retail-based healthcare delivery through out of state telehealth- based providers.

One could argue that this resolution would cause even greater concerns than the IMLC because states would have not have a real ability to regulate or discipline out of state physicians providing care in their states. Perhaps because of these concerns MSSNY has also adopted more nuanced policies regarding Telehealth use that supports limited reciprocal telehealth arrangements across state lines, and continuing flexibilities permitted by Medicare after the end of the public health emergency. These policies should be reaffirmed. In addition, the AMA should study and report back to states regarding whether there are any indications whether the

positive goals of the IMLC have been marginalized as a result of large corporate interests crowding out in-state physicians with out of state telehealth-based providers.

**RECOMMENDATION: That the MSSNY Council adopt the following substitute resolution:**

**RESOLVED, That MSSNY reaffirm existing policy 117.960; and be it further**

**RESOLVED, that MSSNY urge the AMA to study and report back to state medical societies on the positive and negative impact to patient care access, including the impact on the availability of physicians providing community-based in-person patient care, as a result of states joining the Interstate Medical Licensure Compact; and be it further**

**RESOLVED, that MSSNY and the AMA advocate that a physician with an established doctor-patient relationship may provide appropriate care to patients through telehealth located outside New York State and that New York Law applies.**

**117.960      Reciprocal Telehealth Coverage**

The MSSNY will advocate for opportunities to enable reciprocal telehealth arrangements with other states so that New York State physicians can continue to provide care via telehealth across state borders, when appropriate, for existing patients. (HOD 2021-105, referred to Council, adopted 3/9/22)