

MEDICAL SOCIETY of the STATE OF NEW YORK

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MEMORANDUM IN OPPOSITION

IN SENATE LABOR COMMITTEE

S.8812-A (AKSHAR)

IN ASSEMBLY LABOR COMMITTEE

A.8387-C (PRETLOW)

AN ACT to amend the workers' compensation law, in relation to extending the board's authority to resolve medical bill disputes and simplify the process

This bill make sweeping changes to long standing Workers' Compensation laws to enable treatment of injured workers and direct payment for care by numerous new health care practitioners and limit the authority of county medical societies to recommend physicians to serve as treating providers or independent medical examiners under Workers Compensation. **The Medical Society of the State of New York opposes this legislation.**

We are concerned that the proposal would enable several new categories of non-physicians to treat and be directly reimbursed for care to often seriously injured workers, without clarity as to how many of these non-physicians will coordinate with other practitioners when these patients are in need of specialized care. More specifically, we are concerned that delaying the involvement of a specialized physician because the injured worker patient was initially treated by a nurse practitioner could prove to be harmful to the patient's long term recovery prospects, particularly if suggested treatment options have been overruled by the insurance company before the specialized physician becomes involved in the care. We note that this legislation would permit a nurse practitioner to make a determination as to the degree of disability as well as a causal analysis between the injury and work. The failure to involve a specialized physician could also adversely affect upon the ability of these injured workers to obtain federal disability benefits.

Moreover, we are very concerned that the proposal would restructure the authority of county medical societies to recommend physicians to serve as treating providers or independent medical examiners under Workers Compensation, an important community function currently performed by county medical societies. While several credentialing organizations can and do provide helpful information concerning a physician's educational, practice background and liability history, the role that county medical societies play in the review of the physician is vital. Importantly, they make sure of the inclusion of all necessary information before the application is presented to the Board so the Board can perform its own review of the physician's qualifications. County medical societies report many instances where incomplete applications are presented. The county medical society staff and physician reviewers work with the physician to assure that their residency, licensure and credentialing information is attached. Should the state minimize the role of county medical societies, the Board will need to assign staff to timely review and contend with processing "bottlenecks" caused by these often incomplete applications. Additionally, the county medical society staff is often in the best position to know when the physician applicant has provided inaccurate information in their application such as when their hospital privilege status may be under review but the disposition is not yet final. The county medical societies' processes already assure timely, efficient and complete approval and submission of

physician applications to the workers compensation board. We also do not understand the rationale for the Board to include a provision to delete the requirement of an arbitrator to be a member of MSSNY.

If we really want to address provider access in Workers Compensation, it is imperative that steps be taken to reduce the hassles associated with providing care to injured workers, including assuring the fair payment of claims. Not only has the fee schedule not been updated in over 20 years, there are many situations where carriers inappropriately pay claims well below the stated fee schedule. Moreover, it has been documented that workers compensation claims require far administrative time to managed process than claims through commercial health insurance coverage. We appreciate that, on a parallel track, the Workers Compensation Board is seeking to address many of the barriers that deter physicians from participating in Workers Compensation. These efforts include simplifying claim submission as well as providing some long overdue increase to the medical fee schedule. However, at the same time, it is imperative that we also address the recurring circumstance where carriers are significantly paying less than the Workers Compensation fee schedule based upon inappropriate asserting a contractual discount where no contract has been signed between that physician and that carrier. Our concern is that any payment update will be swallowed by their abusive carrier tactics. It is important to know how exactly these concerns will be addressed before taking action on legislation that will further minimize the role of physicians and medical societies in Workers Compensation.

Based upon the foregoing the Medical Society of the State of New York opposes this legislation and urges that it be defeated

Respectfully submitted,

MSSNY DIVISION OF GOVERNMENTAL AFFAIRS

5/31/18 – Oppose
MMA