

MEDICAL SOCIETY OF THE STATE OF NEW YORK 2014 HOUSE OF DELEGATES

REPORT of the REFERENCE COMMITTEE ON SOCIO-MEDICAL ECONOMICS

Presented by: Richard P. Vienne, DO, Chair

MISTER Speaker and the Members of the House of Delegates:

Your Reference Committee recommends the following Consent Calendar for acceptance:

RECOMMENDED FOR ADOPTION:

- (1) Sunset Review Report of The Medical Society of The State of New York's Committee on Socio-Medical Economics
- (2) Resolution 250 Encourage Use of NYS Record Release Form
- (3) Resolution 252 Point of Care Availability for Blood Glucose Testing
- (4) Resolution 254 Thoroughly Informing Patients and Physicians about Out-of-Network Benefit Reduction and Cancellation
- (5) Resolution 255 CMS "Two Midnight" Policy
- (6) Resolution 262 Workers' Compensation and No-Fault Carriers to Use ICD-10

RECOMMENDED FOR ADOPTION AS AMENDED OR SUBSTITUTED:

- (7) Resolution 253 Affordable Care
- (8) Resolution 256 Medicare Advantage Terminations Due to the Affordable Healthcare Act (ACA)
- (9) Resolution 258 Use of Patient Satisfaction Surveys to Determine Payment for Medical Services
- (10) Resolution 259 Cost Concerns Used to Downgrade Physician Designation and Listing on Insurance Panels

RECOMMENDED FOR REFERRAL TO COUNCIL:

- (11) Resolution 251 Physician Control of Treatment Administration
- (12) Resolution 257 Patient Fact Sheet on Insurer Abuses
- (13) Resolution 260 De-Couple the No Fault Fee Schedule
AND
Resolution 261 Collapse of Workers' Compensation and No Fault Benefits into Regular Insurance
- (14) Resolution 263 ICD-10
(Late I)

1 **RECOMMENDED FOR ADOPTION:**

- 2
- 3 (1) Sunset Review Report of The Medical Society of The State of New York’s Committee on
- 4 Socio-Medical Economics
- 5

6 RECOMMENDATION:

7
8 Mister Speaker, your Reference Committee recommends that the Sunset Review Report
9 of the MSSNY Committee on Socio-Medical Economics *BE ADOPTED*.

10
11 Your Reference Committee received a request from the Residents and Students Sections to
12 reconsider the reaffirmation of **MSSNY Policy 130.996 Single Payer Reimbursement System**
13 **– Opposition To:** These Sections asked that MSSNY’s position be reconsidered in reference to
14 Resolution 2014-109 and 2014-110. Your Reference Committee assured the Residents and
15 Students that reaffirmation of Policy 130.996 does not negate the actions or activity that might
16 result from Resolutions 2014-109 or 2014-110. Therefore, the Sunset Review Report of the
17 Committee on Socio-Medical Economics attached hereto requests that MSSNY adopt its
18 recommendation and the report be filed.

- 19
- 20 (2) RESOLUTION 250 ENCOURAGE USE OF NYS RECORD RELEASE
- 21 FORM
- 22

23 RECOMMENDATION:

24
25 Mister Speaker, your Reference Committee recommends that Resolution 250 *BE*
26 *ADOPTED*.

27
28 Resolution 250 asks that the Medical Society of the State of New York (MSSNY) to recommend
29 to physicians that their office staffs utilize the New York State Authorization for Release of
30 Health Information Pursuant to HIPAA (OCA Office Form No. 960).

31
32 Your Reference Committee heard no testimony in support of this resolution. In addition, the
33 Committee reviewed the form and concurred that a link to the form could be put on MSSNY’s
34 website which may draw more Internet traffic and interest to the Medical Society of the State of
35 New York. Therefore, your Reference Committee recommends adoption of Resolution 250.

- 36
- 37 (3) RESOLUTION 252 POINT OF CARE AVAILABILITY FOR BLOOD
- 38 GLUCOSE TESTING
- 39

40 RECOMMENDATION:

41
42 Mister Speaker, your Reference Committee recommends that Resolution 252 *BE*
43 *ADOPTED*.

44
45 Resolution 252 asks the Medical Society of the State of New York to call on the AMA to work
46 with Centers for Medicare and Medicaid and seek the maintenance of the CLIA exempt status of
47 point of care glucose testing.

1
2 Your Reference Committee heard testimony in support of this resolution. Therefore, your
3 Reference Committee recommends adoption of Resolution 252

4
5 (4) RESOLUTION 254 THOROUGHLY INFORMING PATIENTS AND
6 PHYSICIANS ABOUT OUT-OF-NETWORK BENEFIT
7 REDUCTION AND CANCELLATION

8
9 RECOMMENDATION:

10
11 Mister Speaker, your Reference Committee recommends that Resolution 254 *BE*
12 *ADOPTED*.

13
14 Resolution 254 asks the Medical Society of the State of New York (MSSNY) to: 1) take all
15 possible appropriate steps to fully and thoroughly educate patients and the public about the
16 emerging realities of out-of-network benefits utilizing all possible methods to do that including
17 public relations; and 2) as physicians are by all accounts themselves under-informed about what
18 is happening and what will transpire regarding out-of-network care, the Medical Society of the
19 State of New York make every conceivable effort to communicate more fully and completely
20 with its membership.

21
22 Your Reference Committee heard significant testimony in support of the sentiments expressed in
23 this resolution and concurs with the need to educate patients, physician and the public about the
24 benefits relative to the New York State of Health Exchange plans. Therefore, your Reference
25 Committee recommends adoption of Resolution 254.

26
27 (5) RESOLUTION 255 CMS "TWO MIDNIGHT" POLICY

28
29
30 RECOMMENDATION:

31
32 Mister Speaker, your Reference Committee recommends that Resolution 255 *BE*
33 *ADOPTED*.

34
35 Resolution 255 asks that the Medical Society of the State of New York to ask the AMA to
36 demand that Centers for Medicare and Medicaid educate the public and produce documents that
37 outline the potential in negative financial consequences of the "two midnight" policy.

38
39 Your Reference Committee heard no testimony in reference to this resolution. However, your
40 Reference Committee did receive educational material produced by CMS on this topic. In
41 addition, your Reference Committee is aware that the implementation of the procedures involved
42 in this "two midnight" policy has been postponed by President Obama's signing of HR 4302 on
43 April 1, 2014. Therefore, your Reference Committee agrees with the adoption of Resolution
44 255.

45
46 (6) RESOLUTION 262 WORKERS' COMPENSATION AND NO-FAULT

1 CARRIERS TO USE ICD-10

2
3 RECOMMENDATION A:

4
5 Mister Speaker, your Reference Committee recommends that Resolution 262 *BE*
6 *ADOPTED*

7
8 RECOMMENDATION B:

9
10 Mister Speaker, your Reference Committee recommends a title change for Resolution
11 262 to read as follows:

12
13 **Workers' Compensation and No-Fault Carriers to Use Diagnosis Codes Consistant**
14 **with HIPAA Electronic Standards**

15
16 Resolution 262 asks that the Medical Society of the State of New York (MSSNY) seek
17 legislation at the state level that requires all insurance carriers operating in New York State to
18 utilize a consistent International Classification of Diseases (ICD) system.

19
20 Your Reference Committee heard significant support for this resolution. Staff informed the
21 Reference Committee that MSSNY has received responses from both the NYS WCB and the
22 NYS DFS, the regulatory authority for No-Fault Auto that the programs will transition toward
23 the uniform coding system of ICD-10 for consistency. Therefore, Resolution 262 should be
24 adopted.

25
26 **RECOMMENDED FOR ADOPTION AS AMENDED OR SUBSTITUTED**

27
28 (7) RESOLUTION 253 AFFORDABLE CARE

29
30 RECOMMENDATION A:

31
32 Mister Speaker, your Reference Committee recommends that the first resolved of
33 Resolution 253 *BE AMENDED BY ADDITION*.

34
35 **RESOLVED, That the Medical Society of the State of New York advocate for**
36 **regulation and legislation to provide that insurers give reasonable credit for out of**
37 **network expenses based on Fair Health toward a participant's annual deductibles**
38 **and out of pocket maximums;**

39
40 RECOMMENDATION B:

41
42 Mister Speaker, your Reference Committee recommends that the second resolved of
43 Resolution 253 *BE ADOPTED*.

44
45 The second resolved asks that MSSNY submit a resolution to the annual meeting of the
46 American Medical Association seeking federal regulation and legislation to provide that insurers

1 give reasonable credit for out of network expenses toward a participant's annual deductibles and
2 out of pocket maximums.

3
4 Recommendation C:

5
6 Mister Speaker, your Reference Committee recommends that Resolution 253 *BE*
7 *ADOPTED AS AMENDED*.

8
9 Your Reference Committee heard some concerns with respect to this resolution. Therefore, your
10 Reference Committee recommends adoption of the substitute Resolution 253, which clarifies the
11 differences.

12
13 (8) RESOLUTION 256 MEDICARE ADVANTAGE TERMINATIONS DUE TO
14 THE AFFORDABLE HEALTHCARE ACT (ACA)

15
16 RECOMMENDATION:

17
18 Mister Speaker, your Reference Committee recommends the following *SUBSTITUTE*
19 *RESOLUTION 256 BE ADOPTED IN LIEU OF RESOLUTION 256*:

20
21 **RESOLVED, That the Medical Society of the State of New York support the**
22 **information contained in the proposed rule by CMS with Congressional support**
23 **which states that Medicare Advantage Organizations notify their respective CMS**
24 **Regional Account Managers no less than 90 (ninety) days prior to the effective date**
25 **of planned termination(s); and be it further Resolved**

26
27 **That MSSNY support CMS' belief that their approach and expectations described**
28 **in the proposed rule will promote a more structured, efficient process that will**
29 **minimize confusion and disruption for Medicare Advantage Organizations, enrollee**
30 **care, providers and CMS.**

31
32 Resolution 256 asks the Medical Society of the State of New York (MSSNY) to: 1) urge the
33 Centers for Medicare and Medicaid Services (CMS) to prevent the insurers with which CMS has
34 contracted for Medicare Advantage (MA) plans from terminating physicians from those plans
35 thus placing limits on what the plans can offer in the future; 2) urge that the Centers for Medicare
36 and Medicaid Services (CMS) set up a system, with input from organized medicine, to monitor
37 determinations of the adequacy of individual Medicare Advantage Plan networks; 3) urge the
38 Centers for Medicare and Medicaid Services (CMS) to require insurers to complete any
39 significant narrowing of their Medicare Advantage networks by at least six months before any
40 open enrollment period begins; and 4) educate the New York Congressional delegation about the
41 need to ensure seniors have accurate information about which physicians are currently
42 participating in the networks of their Medicare Advantage plans with sufficient time allowed
43 before any open enrollment period before seniors are forced to make binding decisions.

44 Your Reference Committee heard robust testimony in support of this Resolution. However,
45 considering that CMS has already initiated policies and procedures to negate the disruption

1 experienced between October and December of 2013, your Reference Committee recommends
2 the support of substitute Resolution 256 in lieu of Resolution 256.

3 (9) RESOLUTION 258 USE OF PATIENT SATISFACTION SURVEYS TO
4 DETERMINE PAYMENT FOR MEDICAL SERVICES

5
6 RECOMMENDATION A:

7
8 Mister Speaker, your Reference Committee recommends that the first resolved of
9 *RESOLUTION 258 BE AMENDED BY ADDITION AND DELETION*

10
11 **RESOLVED, That the Medical Society of the State of New York urge health plans**
12 **that use** customer satisfaction surveys, ~~such as Press-Ganey among others, are not to be~~
13 ~~used~~ **not to use them** to determine payment for medical services rendered;; **and be it**
14 **further**

15
16 RECOMMENDATION B:

17
18 Mister Speaker, your Reference Committee recommends that the second resolved of
19 *RESOLUTION 258 BE AMENDED BY ADDITION AND DELETION*

20
21 **RESOLVED, That the Medical Society of the State of New York urge health plans**
22 **that to use** customer satisfaction surveys ~~can be used to educate providers in an attempt~~
23 ~~to upgrade services~~ to educate providers in order to improve ~~services~~ patient experiences.

24
25 RECOMMENDATION C:

26
27 Mister Speaker, your Reference Committee recommends that *RESOLUTION 258 BE*
28 *ADOPTED AS AMENDED*

29
30 Resolution 258 asks that 1) customer satisfaction surveys, such as Press-Ganey among others,
31 are not to be used to determine payment for medical services rendered; and 2) customer
32 satisfaction surveys can be used to educate providers in an attempt to upgrade services.

33 Your Reference Committee heard undeniable support for the principles contained in this
34 resolution. Therefore, your Reference Committee recommends adoption of the amended
35 Resolution 258.

36
37 (10) RESOLUTION 259 COST CONCERNS USED TO DOWNGRADE
38 PHYSICIAN DESIGNATION AND LISTING ON
39 INSURANCE PANELS

40
41 RECOMMENDATION A:

42
43 Mister Speaker, your Reference Committee recommends that the first resolve of
44 *RESOLUTION 259BE AMENDED BY ADDITION AND DELETION*

1
2 **RESOLVED, That the Medical Society of the State of New York urge health plans**
3 **to not use** cost analysis ~~concerns not be used~~ to reflexively downgrade physician
4 designation or listing on insurance panels; **and be it further**

5
6 RECOMMENDATION B:

7
8 Mister Speaker, your Reference Committee recommends that the second resolved of
9 *RESOLUTION 259 BE AMENDED BY ADDITION AND DELETION*

10
11 **RESOLVED, That the Medical Society of the State of New York urge health plans**
12 **that to use** ~~said~~ cost analysis ~~be used~~ only as an educational tool for providers ~~and~~
13 ~~patients and not be used in a punitive fashion.~~

14
15 RECOMMENDATION C:

16
17 Mister Speaker, your Reference Committee recommends that *RESOLUTION 259 BE*
18 *ADOPTED AS AMENDED*

19
20 Resolution 259 asks that 1) cost concerns not be used to reflexively downgrade physician
21 designation or listing on insurance panels; and 2) said cost analysis be used only as an
22 educational tool for providers and patients and not be used in a punitive fashion.

23
24 Your reference committee heard strong support for the sentiments expressed in this resolution.
25 Therefore, your Reference Committee recommends adoption of Resolution 259 as amended.

26
27 **RECOMMENDED FOR REFERRAL TO COUNCIL**

28
29 (11) RESOLUTION 251 PHYSICIAN CONTROL OF TREATMENT
30 ADMINISTRATION

31
32 RECOMMENDATION:

33
34 Mister Speaker, your Reference Committee recommends that Resolution 251 *BE*
35 *REFERRED TO COUNCIL*

36
37 Resolution 251 asks that once a medication or treatment is approved by the third party payer, it is
38 within the purview of the trained health care professional to administer that treatment as he/she
39 sees fit so long as quality of care measures are met regardless of cost.

40
41 Your Reference Committee heard no comments relative to this Resolution. Your Reference
42 Committee decided that due to the lack of clarity and direction of the original Resolution, it
43 would be best to refer the Resolution to Council. Your Reference Committee believes that the
44 sentiments expressed were too vague to develop modification or ammendment. Therefore, your
45 Reference Committee is recommending referral for further review and evaluation by MSSNY
46 staff.

1
2 (12) RESOLUTION 257 PATIENT FACT SHEET ON INSURER ABUSES

3
4 RECOMMENDATION:

5
6 Mister Speaker, your Reference Committee recommends that *RESOLUTION 257 BE*
7 *REFERRED TO COUNCIL*

8
9 Resolution 257 asks that the Medical Society of the State of New York 1) develop a series of
10 template-type, patient-centered “Fact Sheets” for members to give to their patients, informing
11 patients about policy and administrative changes by insurance plans, that make it more difficult
12 for physicians to provide needed, quality health care; 2) that Patient Fact Sheets on Insurer
13 Abuses state exactly how the insurer has effectuated a policy or administrative change that
14 interferes with physicians, or otherwise constrains physicians from delivering what they believe
15 to be the best quality care; 3) that the legal counsel of the Medical Society of the State of New
16 York provide legal principles and information to include in the Fact Sheets, to help patients
17 understand the issues raised by their insurance carriers’ sometimes egregious conduct, and 4) that
18 MSSNY enlist the support of patient advocacy groups so that the widest possible patient
19 constituencies may be helped to understand when it is the insurer, and not the physician, that is
20 responsible for the delay, denial, or constraint of care.

21
22 Your Reference Committee heard strong testimony in reference to the complexities embodied in
23 this resolution. Due to the nuances contained in the sentiments expressed, it was decided that
24 this resolution needs further study and consideration. Therefore, your Reference Committee
25 recommends referral to Council.

26
27
28 (13) RESOLUTION 260 DE-COUPLE THE NO FAULT FEE SCHEDULE

29
30 AND

31
32 RESOLUTION 261 COLLAPSE OF WORKERS’ COMPENSATION AND
33 NO FAULT BENEFITS INTO REGULAR INSURANCE

34
35 RECOMMENDATION:

36
37 Mister Speaker, your Reference Committee recommends that RESOLUTION 260 AND
38 RESOLUTION 261 *BE REFERRED TO COUNCIL*.

39
40 Resolution 260 asks that MSSNY will seek to have legislation be introduced and signed into law
41 in New York State to decouple the No-Fault fee schedule from the Workers Compensation fee
42 schedule in order to allow New York State physicians caring for No-Fault recipients to be paid
43 their usual and customary rates by insurance carriers.

44
45 AND

1 Resolution 261 urges the Medical Society of the State of New York (MSSNY) to: 1) seek
 2 legislation and regulation to collapse or combine the Workers' Compensation health benefit into
 3 an individual's ordinary coverage, without cost share to the injured workers; 2) seek legislation
 4 and regulation to collapse or combine the Motor Vehicle No-Fault health benefit into an
 5 individual's ordinary coverage without cost share to the injured individual; and 3) bring a
 6 resolution to the annual meeting of the American Medical Association (AMA) to seek federal
 7 legislation and regulation in order to collapse or combine the Workers' Compensation health
 8 benefit and Motor Vehicle No-Fault health benefit into an individual's ordinary coverage,
 9 without cost share to the injured worker, should that coverage be from a federal or federally
 10 regulated program.

11
 12 **Your Reference Committee heard some testimony in support of these resolutions.**
 13 **However, staff of the New York State Workers' Compensation Board and MSSNY met to**
 14 **discuss the update to the *Official New York Workers' Compensation Medical Fee Schedule*.**
 15 **The Board is in the process of developing several enhancements to the Official Medical Fee**
 16 **Schedule. The Board's plan is to revamp the current system based on its Business Process**
 17 **Re-engineering (BPR) project.**

18
 19 The NYS WCB has teamed with Deloitte to analyze the existing workers' compensation system
 20 in New York. The goal of this business process re-engineering (or BPR) project is to
 21 significantly improve the experience of injured workers and employers in the New York workers'
 22 compensation system.

23
 24 The WCB has sought input, thoughts, and comments from the WCB universe on processes that
 25 are critically important to the success of the BPR project. Therefore, we are conducting open
 26 forum discussions in our district offices to initiate a conversation and gather your input regarding
 27 the current and future state of the workers' compensation system in New York.

28
 29 **On a related note in New York State, not all workers have health insurance and any change**
 30 **removing workers' compensation (WC) benefits will adversely affect coverage.**
 31 Furthermore, many health insurance plans (particularly exchange plans) will pay less than
 32 current (and future) WC rates.

33
 34 Workers' Compensation (WC) and No-Fault (NF) Auto insurance are liability insurances, not
 35 health insurance. These liability insurances deal with illness/injury relative to an on-the-job or
 36 motor vehicle accident. WC and NF fall under property and casualty insurance, which in
 37 addition to medical services also considers property damage and bodily harm.

38
 39 WC - Statutes are designed to ensure that employees who are injured or disabled on the job are
 40 not required to cover medical bills related to their on-the-job injury, and are provided with
 41 monetary awards to cover loss of wages directly related to the accident, as well as to compensate
 42 for permanent physical impairments. The intent of these statutes is to eliminate the need for
 43 litigation by having employees give up the potential for pain and suffering related awards in
 44 exchange for not being required to prove tort (legal fault) on the part of their employer.

45

1 NF - In the 1970's New York's automobile No-Fault Law was enacted to ensure that insurance
 2 companies would pay for legitimate crash related medical expenses, lost earnings and incidental
 3 costs, regardless of who was at fault in a crash. The intent behind the law was to speed up
 4 compensation without the necessity of long drawn out litigation over fault and the amounts owed
 5 and to curb and control claims related to automobile crash expenses. New York's No-Fault
 6 Insurance Law offers benefits (quick payments for expenses) and restrictions (on lawsuits for
 7 pain and suffering). New York is one of the 12 states that have a No-Fault coverage. If you are
 8 injured in a crash in New York, the No-Fault coverage you receive comes from the vehicle you
 9 drove, rode in, were hit by, or came into contact with.

10
 11 **If these Programs were absorbed by routine health insurance products, premiums for**
 12 **health insurance would presumably increase significantly.**

13
 14 (14) RESOLUTION 263 ICD-10
 15 (LATE I)

16
 17 RECOMMENDATION:

18
 19 Mister Speaker, your Reference Committee recommends that Resolution 263 (Late I) *BE*
 20 *REFERRED TO COUNCIL.*

21
 22 Resolution 263 (Late I) asks that MSSNY 1) lobby our congressional delegation for permanent delay of
 23 implementation of ICD-10 for small physician practices (as opposed to those owned/operated by hospital
 24 systems) and; 2) that MSSNY introduce a resolution at the AMA Annual meeting seeking federal
 25 legislation to permanently delay implementation of ICD-10 for small physician practices (as opposed to
 26 those owned/operated by hospital systems).

27
 28 Your Reference Committee heard minimal testimony with regards to this Resolution. However,
 29 due to the complexities addressed in this Resolution, your Reference Committee believes that
 30 further research is required and therefore recommends Referral to Council.
 31
 32

1 Your Chairman is grateful to the Reference Committee members, namely: Jennifer Congdon,
2 MD, Ray Lanzafame, MD, Nameer Haider, MD, Michael Creta, DO and Matthew Cortese.

3
4 Your Reference Committee wishes to express its appreciation to Regina McNally, M. Kathryn
5 Robinson and Anne Murphy for their help in the preparation of this report.
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8 _____
9 Richard P. Vienne, DO, Chair

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11 _____
12 Jennifer Congdon, MD

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14 _____
15 Ray Lanzafame, MD

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17 _____
18 Nameer Haider, MD

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20 _____
21 Michael Creta, DO

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23 _____
24 Matthew Cortese

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