

**GOVERNMENTAL AFFAIRS AND LEGAL MATTERS (A)**

- 50 Universal Medication Reconciliation  
*Introduced by the 9<sup>th</sup> District Branch, MSSNY*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED, that the Medical Society of the State of New York continue to work with the New York e-Health Collaborative (NYeC) and the State Health Information Network (SHIN-NY) to help ensure that patient medication information is accurately collected and distributed through the Regional Health Information Organizations (RHIOs) in a timely manner and presented in a user friendly format.**

- 51 All Dispensers Report to the Prescription Monitoring Program  
*Introduced by the 7<sup>th</sup> District Branch, MSSNY*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED, that the Medical Society of the State of New York continue to work with the American Medical Association to update federal regulations to enable physicians to review medication information currently not required to be reported to New York's I-STOP database, such as medications dispensed as part of opioid treatment programs and the Veterans Administration.**

- 52 Prescription Monitoring Program Single Sign On  
*Introduced by the 7<sup>th</sup> District Branch, MSSNY*  
**MSSNY POLICY RE-AFFIRMED IN LIEU OF RESOLUTION 52**

**117.972      Integrating Data into Physician's E-prescribing Workflow**  
The Medical Society of the State of New York supports legislative or regulatory efforts to ensure the interoperability of the State's Prescription Drug Monitoring Registry with electronic health record and e-prescribing workflow. (HOD 2018-167)

- 53 Impact of Pharmaceutical Cost on the Quality of Care  
*Introduced by the Medical Society of the County of Kings*  
**MSSNY POLICY RE-AFFIRMED IN LIEU OF RESOLUTION 53**

**70.946      Generic Drug Pricing**  
The Medical Society of the State of New York (MSSNY) recognizes that generic drugs are not identical to their brand name precursors. MSSNY will advocate to ensure that a patient's physician has final decision-making authority regarding which prescription medications are necessary for that patient's well-being and it will further advocate to ensure the availability of affordable prescription medications for patients, including opposition to sudden unjustified price increases in prescription medications.

The Medical Society will continue to work with the Department of Financial Services, Department of Health and Attorney General's office to expedite reviews of situations where insurers and their agents improperly delay responding to requests for pre-authorization of needed medications and further, MSSNY will advocate for sufficient fines to be imposed on insurers who fail to respond to pre-authorization requests in a timely manner. (HOD 2015-52)

- 54 Supporting Physician Volunteers and "Charitable Immunity Laws"  
*Introduced by Sandhya Malholtra, MD, Delegate, Queens County*  
**MSSNY POLICY RE-AFFIRMED IN LIEU OF RESOLUTION 54**

**317.999 Volunteer Services Provided at Community Based Clinics:**  
On behalf of physicians who volunteer their services at community-based clinics and other organizations, MSSNY will seek legislation that such physicians be held harmless in a medical malpractice lawsuit. (HOD 1995-83; Reaffirmed HOD 1998-65 and HOD 2006-164; Reaffirmed HOD 2016)

- 55 Independent Review of Malpractice Insurance Rates  
*Introduced by Michael Brisman, MD, Delegate, Nassau County*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED, that the Medical Society of the State of New York continue to support legislation that establishes the authority of the Superintendent of the Department of Financial Services to approve the premiums for medical liability insurance, and recognizing the continued actuarial need for specialty and regional differences in such rates.**

- 56 Review and Appeals in OPMC Discipline Cases  
*Introduced by the Suffolk County Medical Society*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED, that the Medical Society of the State of New York seek legislation that requires, during the Investigation Committee phase of a disciplinary investigation, there be review by at least two independent medical experts of the same specialty.**

- 57 Clarifying Emergency Medical Treatment and Labor Act (EMTALA)  
*Introduced by the Richmond County Medical Society*  
**MSSNY POLICY RE-AFFIRMED IN LIEU OF RESOLUTION 57**

**150.975 MSSNY to Take All Appropriate Measures to Facilitate Transfers of Non-acute Patients to Physicians' Offices:**  
MSSNY should take all appropriate measures to allow hospital emergency departments to facilitate the transfer of non-acute patients to physicians' offices in appropriate situations. (HOD 2000-77; Reaffirmed HOD 2014)

58 Laser Hair Removal  
*Introduced by the Westchester County Medical Society and the Suffolk County Medical Society*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED**, that the Medical Society of the State of New York advocate that laser hair removal only be performed by an appropriately trained and educated individual under physician supervision; and be it further

**RESOLVED**, that the Medical Society of the State of New York encourage provision of public education regarding the risks of laser use for aesthetic services.

59 Amicus on Public Health  
*Introduced by the Suffolk County Medical Society*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED**, that the Medical Society of the State of New York continue to work with the American Medical Association to support the right of state and local governments to regulate public health matters within their jurisdiction.

60 Financial Penalties and Clinical Decision Making  
*Introduced by the Suffolk County Medical Society, the NYS Ophthalmological Society and the 8th District Branch, MSSNY*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED**, that the Medical Society of the State of New York oppose the practice of a payer utilizing statistical targets to determine the cost-effectiveness of a therapeutic choice; and be it further

**RESOLVED**, that the MSSNY oppose the practice of a payer imposing financial penalties upon individual physicians and/or associated physicians based upon use of statistical targets without first considering the clinical factors unique to each patient's claim; and be it further

**RESOLVED**, that the resolution be transmitted to the American Medical Association for consideration at its next House of Delegates meeting.

61 Nuisance Prior Authorizations  
*Introduced by the 5<sup>th</sup> and 6<sup>th</sup> District Branches, MSSNY*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED**, that medication prior authorizations must have a sound clinical justification, including, but not limited to, promotion of adherence to guidelines, promotion of generic alternatives, prevention of adverse reactions, available upon request from the Pharmacy Benefit Manager; and be it further

**RESOLVED, that the Medical Society of the State of New York will advocate with the NYS Department of Health and NYS Department of Financial Services to prevent health insurers from imposing prior authorizations without appropriate clinical justification; and be it further**

**RESOLVED, that MSSNY advocate to the NYSDOH to instruct Medicaid managed care contractors to approve prior authorizations for a minimum of one year.**

62 Physician Reimbursement All Practices  
*Introduced by the Richmond County Medical Society*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED, that the Medical Society of the State of New York advocate to the New York Department of Financial Services that approved premium increases granted to health insurers are fairly allocated towards increased spending on patient care services delivered by physicians.**

63 Overpayment Recoveries on Historically Paid Services And The “Restatement Of The Law Of Restitution”  
*Introduced by the New York County Medical Society*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED, that the Medical Society of the State of New York re-affirm MSSNY Policy 165.927; and be it further**

**RESOLVED, that the Medical Society of the State of New York work with its legal counsel to assess the validity of various legal principles to assist physicians in challenging health insurer payment recovery attempts, such as legal challenges based upon the principles of estoppel and restitution**

**165.927      Physicians Should Not Be Financially Liable in Retrospective Denials:**

MSSNY will seek, by legislation, regulation, or other appropriate means, the following:

- (a) To prohibit retrospective denials caused by the employer’s failure to pay premiums in a timely fashion, or the employer failing to provide the carrier with timely and correct eligibility data.
- (b) To prohibit a payor from attempting to retroactively deny or adjust a claim after payment is made to a physician for care rendered.
- (c) That should obtaining a complete ban on retrospective denials or adjustments not be able to be enacted, seek to prohibit insurers from making a retroactive denial and/or adjustment of a reimbursement beyond 90 days after payment is made to the physician for care rendered.
- (d) In the event that an insurer attempts to issue a retroactive denial or adjustment after payment is made to the physician, to require such insurer to provide the physician with a detailed explanation on each patient as to the circumstances surrounding the retroactive adjustment or reimbursement and/or

denial, and provide the physician with an effective opportunity to counter the reasons for the adjustment.

(e) In the event that an insurer has already paid the physician for a service, but later issues a retrospective denial or adjustment, to prohibit such insurer from attempting to recoup its payments for that service via offsets on payments for other services.

MSSNY will work regularly with all appropriate regulatory agencies to insure that the regulators are kept apprised of payment policies employed by plans which do not comport with the law. (HOD 2001-65; Reaffirmed HOD 2010-259)

64

Repayment of Health Republic Funds to Physicians

*Introduced by Michael Brisman, MD, Delegate, Nassau County*

**MSSNY POLICY RE-AFFIRMED IN LIEU OF RESOLUTION 64**

**265.855      Health Insurance Guarantee Fund**

The Medical Society of the State of New York will continue to advocate for the enactment of a Health Insurance Guarantee Fund to pay outstanding claims in the event of insolvency by a health insurance company. MSSNY will also continue to advocate to ensure the availability of funds to pay the outstanding claims of Health Republic, either through a Health Insurance Guarantee Fund or use of other state monies; and the Medical Society of the State of New York will continue to work with the Department of Financial Services to ensure strong oversight of the financial integrity of health insurance companies operating in New York State. (HOD 2016-54 & 55)

65

Air Ambulances

*Introduced by the 3<sup>rd</sup> and 4<sup>th</sup> District Branches, MSSNY*

**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED, that the Medical Society of the State of New York support state and/or federal legislation to establish an independent dispute resolution system to resolve payment disputes between emergency air ambulance providers and health insurers, similar to the “expedited arbitration” process used to determine payment for out of network emergency and “surprise” hospital bills in New York; and be it further**

**RESOLVED, that such independent dispute resolution process ensure that the patient be “held harmless” except for applicable insurance policy in-network cost-sharing requirements; and be it further**

**RESOLVED, that the resolution be transmitted to the American Medical Association for consideration at its next House of Delegates meeting.**

66

Maintaining the Integrity of Fair Health  
*Introduced by Michael Brisman, MD, Delegate, Nassau County*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED, that the Medical Society of the State of New York re-affirm MSSNY Policy 265.833 and 265.852; and be it further**

**RESOLVED, that the MSSNY Delegation bring a resolution to the American Medical Association Annual House of Delegates meeting urging that any legislation addressing surprise out of network medical bills use Fair Health usual and customary data and not All Payor database data.**

**265.833      Fair Health Transparency**

The Medical Society of the State of New York will continue to work with Fair Health to ensure appropriate transparency and fairness in the collection and presentation of its usual and customary charge data, as well as appropriate representation by practicing primary and specialty care physicians on the Fair Health Board of Directors. (HOD 2018-54)

**265.852      Ensuring FAIRHEALTH Integrity**

The Medical Society of the State of New York will continue to work with Fair Health to assure optimal physician charge data collection and presentation. (HOD 2016-59; Reaffirmed HOD 2018-54)

67

Surprise Bill Law – New York State and the Proposed Federal  
*Introduced by Michael Brisman, MD, Delegate, Nassau County*  
**MSSNY POLICY RE-AFFIRMED IN LIEU OF RESOLUTION 67**

**265.832      Emergency Out of Network Services**

The Medical Society of the State of New York will work with the American Medical Association to pursue legislation or regulation which will require health plans not regulated by the State of New York to pay physicians for emergency out-of-network care at least at the 80<sup>th</sup> percentile of charges for that particular geo-zip as reported by the Fair Health database. This resolution will be forwarded to the AMA. (HOD 2018-55)

68

Grandfathering Of Medications That Have Been Prescribed Over 1 Year  
*Introduced by Sana Bloch, MD, Assistant Secretary, MSSNY*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED, that the Medical Society of the State of New York re-affirm MSSNY Policy 120.944; and be it further**

**RESOLVED, that the Medical Society of the State of New York advocate that a physician be able to ensure continued insurer authorization for a particular medication that a patient has been using for over one year by noting on the e-prescription that the patient is stabilized on that medication.**

**120.944      Changes in Pre-certification for Medications to Reduce Delays**

The Medical Society of the State of New York will continue to advocate to reduce the circumstances when pre-authorization for needed patient medications are required, including eliminating the requirement for annual re-authorization once a prior authorization for a prescription medication has been approved. The Medical Society of the State of New York will advocate to ensure that health plan pre-authorizations for prescriptions be completed within 24 hours. (HOD 2014-58; Reaffirmed HOD 2015-53)

69

Rescind MSSNY Policy 130.996 Opposing Single Payer  
*Introduced by Donald Moore, MD and Lawrence Melniker, MD, MS, MBA,  
Delegates, Kings County*

**EXISTING MSSNY POLICY RE-AFFIRMED**

**130.996      Single Payor Reimbursement System - Opposition To:**

MSSNY is opposed to universal health care proposals with single-payor reimbursement systems. It reaffirms the position reflected in its Universal Health Plan (UHP) Proposal for improving the U.S. Health Care System which call for: (1) Retention of the present multiple payor system with tighter oversight mechanisms to enhance administrative controls and cost efficiencies; (2) Free-market competition as a stabilizing factor in choosing among a multiplicity of health insurers offering a standard and appropriate benefits package. (HOD 1992-13; Reaffirmed HOD 2014; Reaffirmed Council Nov 2017 [res 2017-62 & 63])

**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. (Adopted Council Nov, 2017 [sub res for 2017-62 & 63])

***Title Change: Re-Affirmation of MSSNY Policy 130.931***

70

Physician Fees and Single Payor  
*Introduced by Maria Basile, MD, MBA, Councilor, MSSNY and Charles Rothberg,  
MD, Past-President, MSSNY*

**REFERRED TO COUNCIL**

**RESOLVED, that MSSNY support only a single payer system that begins with a physician fee schedule tied to 70% of fair health and that is then adjusted upward annually no less than the adjustment for the negotiating stakeholders such as pharmacy and hospitals, and be further**

**RESOLVED, that the MSSNY delegation to the AMA sponsor a resolution to seek support only for a single payer system that begins with a physician fee schedule tied to 70% of fair health and that is then adjusted upward annually no less than the adjustment for the negotiating stakeholders such as pharmacy and hospitals.**

71

Single Payer

*Introduced by the Suffolk County Medical Society*

**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED, that MSSNY advocate for health care reform proposals that would achieve the following goals:**

- **Reducing the number of uninsured;**
- **Reducing barriers to insured patients receiving needed health care including assuring full transparency of patient-cost sharing requirements, preventing unjustified denials of coverage, assuring comprehensive physician networks including through fair reimbursement methodologies, and providing meaningful coverage for out-of-network care;**
- **Reducing administrative burden on physicians;**
- **Preventing imposition of new costs or unfunded mandates on physicians;**
- **Provided needed tort reform; and**
- **Providing meaningful collective negotiation rights for physicians, and be it further**

**RESOLVED, that the resolution be transmitted to the American Medical Association for consideration at its next House of Delegates meeting.**

***Title Change - Health System Improvement Standards***

72

Healthcare Cooperative Act

*Introduced by the New York County Medical Society*

**REFERRED TO COUNCIL**

**RESOLVED, that the Medical Society of the State of New York should seek legislation to adopt legislation that would be similar to the Minnesota Healthcare Cooperative Act but designed for the New York healthcare marketplace.**

73

Ethical Protection of Physicians

*Introduced by the New York County Medical Society and the New York State Society of Plastic Surgeons*

**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED, That MSSNY continue to support legislation that protects physicians from any retaliatory acts by employers, insurance companies,**

and other payors when they act in the best interest of their patients in a manner consistent with their ethical obligations and consistent with state and federal laws; and be it further

**RESOLVED**, that MSSNY educate physicians regarding existing legal protections that limit retaliatory acts by employers, insurance companies and other payors when they act in the best interest of their patients in a manner consistent with their ethical obligations and consistent with state and federal laws.

74

Stark Law Revision

*Introduced by the Richmond County Medical Society*

**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED**, that MSSNY continue to work with the American Medical Association and the federation of medicine in support of legislation or regulation to relax Stark anti-referral prohibitions that negatively impact upon the ability of physicians to improve care accessibility and quality for patients.

75

Pharmacy Benefit Managers

*Introduced by Thomas Madejski, MD, President, MSSNY and John Maese, MD, Delegate, Richmond County*

**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED**, that the Medical Society of the State of New York urge the NY Department of Financial Services to assure that medications used to stabilize palliative and hospice patients in the hospital for pain and delirium continue to be covered by pharmacy benefit plans after patients are transitioned out of the hospital; and be it further

**RESOLVED**, that the resolution be transmitted to the American Medical Association for consideration at its next House of Delegates meeting.