

**MEDICAL SOCIETY OF THE STATE OF NEW YORK
2021 HOUSE OF DELEGATES**

**SUPPLEMENTARY REPORT OF THE CONVENTION COMMITTEE ON
RULES, CREDENTIALS, AND ORDER OF BUSINESS**

L. Carlos Zapata, MD, Chair

Dr. Speaker and Members of the House of Delegates:

1. CREDENTIALS

There are 301 delegates credentialed and entitled to vote; there are no disputed delegations. This constitutes a quorum. The registration record of this Convention Committee shall constitute the official roll call during the House of Delegates.

Recommendation: The Credentials Report be filed for information

2. RULES AND ORDER OF BUSINESS

A. ORDER OF BUSINESS

The order of consideration of the Reference Committee Reports shall be:

1. House Committee on Bylaws
2. Governmental Affairs A
3. Public Health and Education
4. Governmental Affairs B
5. Socio-Medical Economics
6. Reports of Officers and Administrative Matters

The Speakers may amend the order of business for just cause, subject to objections sustained by the House.

B. PRIVILEGE OF THE FLOOR

Delegates may request the privilege of the floor via “raise hand” function of Zoom. The Speakers may grant the privilege of the floor to others who may expedite the business of the House, subject to objections sustained by the House.

C. VOTING

The “polling” feature in Zoom shall be used for all votes.

D. LIMITATION ON DEBATE

There will be a 120-second limit on debate per presentation, subject to waiver by the Speaker for just cause, on any oral presentation.

E. NO SECOND REQUIRED

To expedite consideration of motions before the House, motions shall be assumed to have a second unless an objection to the assumption of a second for a specific motion is expressed.

F. CONFLICT OF INTEREST

Members of the House of Delegates who have a substantial financial interest in a commercial enterprise, which would be materially affected by a matter before the House

of Delegates, must publicly disclose that interest before speaking on the floor of the House of Delegates on the matter.

Recommendation: That the Rules and Order of Business be adopted

3. **RESOLUTIONS**

Forty-two resolutions were received by the deadline of June 25, 2021. Of those, four resolutions were withdrawn. Three resolutions were submitted after the deadline.

At the August 4, 2021 meeting of the Committee on Rules, Credentials, and Order of Business, the late resolutions and recommendations for the reaffirmation consent calendar were discussed.

Thirty-eight resolutions and four sunset reports were referred to six Reference Committees which conducted virtual hearings via Zoom from August 6-8, 2021. None of the resolutions on the reaffirmation consent calendar were extracted during the reference committee hearings.

Reference Committee Reports were posted on the MSSNY website on August 31, 2021. At the time this report, no emergency resolutions have been received.

A. REAFFIRMATION CONSENT CALENDAR (see appendix for further information)

Governmental Affairs A

Resolution 50 – Physician Driven Medical Assistant Specialty Training in the Office Setting

Recommendation: That MSSNY Policies 115.984 and 115.994 be reaffirmed in lieu of Resolution 50.

Public Health and Education

Resolution 155 – Physician Burn Out

Recommendation: That MSSNY policy 207.969 be reaffirmed in lieu of Resolution 155.

Socio-Medical Economics

Resolution 252 – Third Party Insurer Abuse of Modifier 25 Policy

Recommendation: That MSSNY policies 165.907, 165.862, 265.871 and 265.987 be reaffirmed in lieu of Resolution 252.

Resolution 253 – Compensation for Appealing Denials to Insurance Companies

Recommendation: That MSSNY policy 265.859 be reaffirmed in lieu of Resolution 253.

B. LATE RESOLUTION CONSENT CALENDAR (see appendix for further information)

Late Resolution 1 – Inherent Dangers of Disulfiram (ANTABUSE) Use

Recommendation: Not accept

Late Resolution 2 – Physician Scope of Practice vis-a-vie Family & Friends

Recommendation: Not accept

Late Resolution 3– Collective Bargaining by Physicians

Recommendation: Not accept

The committee voted not to accept any of the three late resolutions because the

testimony heard did not indicate that either of these resolutions spoke to an issue that came up after this year's deadline to submit resolutions.

4. ELECTION AND BALLOTING PROCEDURE

The MSSNY Council is authorized by the Bylaws to act when the House of Delegates is not in session. A special meeting of Council was held on May 8, 2021 for the sole purpose of electing the candidates for officers, councilors, and trustees for the term May 2021 to April of 2022.

In place of the normal process for election of New York Delegates to the American Medical Association, an electronic ballot was supplied to each credentialed delegate. The service providing the ballot was ***electionrunner.com***. Every delegate was provided with a unique ID and "key" to access their ballot. Ballots were sent to delegates on September 1, 2021 and the opportunity to vote closed on September 14, 2021 at 9 PM.

Delegates were permitted to vote for up to 10 of the 19 candidates on the ballot. As the nominees for the Medical Student Section seat and the Resident and Fellow Section seat on the AMA delegation were unopposed, their names did not appear on the ballot.

Dr. Speaker, this concludes the Supplemental report of the Convention Committee on Rules, Credentials, and Order of Business.

I would like to thank the members of the Rules and Credentials Committee: Robert Armstrong, MD, Sunil Seoparson, MD, Michele Stern, MD and Gregory Threatte, MD; William R. Latreille, MD, Speaker; Maria A. Basile, MD Vice-Speaker, as well as Laurel Mayer, and Michael Reyes, Staff

Respectfully submitted,

L. Carlos Zapata, MD, Chair

APPENDIX – RECOMMENDATIONS FOR REAFFIRMATION OF CURRENT POLICY IN LIEU OF RESOLUTIONS WITH CURRENT MSSNY POLICY CITATIONS

REFERENCE COMMITTEE ON GOVERNMENTAL AFFAIRS A

Resolution 50 – Physician Driven Medical Assistant Specialty Training in the Office Setting

RESOLVED, that MSSNY seek regulation/legislation that a medical assistant's scope of practice be expanded after proper training and assessment of competency to include the following and be defined by the designated supervising physician who is already responsible for the actions of and expense of a medical assistant:

- Placement and removal of casts under the direct supervision of the physician or licensed professional
- Drawing up of medications under the direct supervision of the physician or licensed professional
- Application of topical medications under the direct supervision of the physician or licensed professional

Recommendation: That MSSNY Policies 115.984 and 115.994 be reaffirmed in lieu of Resolution 50.

115.984 Expanded Clinical Roles for Medical Assistants in New York State

MSSNY will work with New York State approved medical assistant teaching programs to develop suitable rules defining clinical work guidelines that can be incorporated into current New York State regulations. (HOD 2017-105; Reaffirmed HOD 2018 in lieu of resolution 113)

115.994 Certified Medical Assistants/Medical Assistants - Preservation of Physician Autonomy in Employment and Assignment of Duties:

MSSNY will develop and promote regulation and/or legislation that allows Certified Medical Assistants and Medical Assistants to continue to perform the usual duties of their position under the direct supervision of their physician employers if the physician has evaluated and approved their ability to do so, making this a part of the Annual Legislative Agenda until this goal has been attained. (HOD 1996-68; Reaffirmed HOD 2014; Reaffirmed HOD in lieu of 2017-105; Reaffirmed HOD 2018 in lieu of resolution 113)

REFERENCE COMMITTEE ON PUBLIC HEALTH AND EDUCATION

Resolution 155 – Physician Burn Out

RESOLVED, Medical Society of New York will continue to reinforce CME on recognizing burn out, as well as surveys to measure physician stress; and be it further

RESOLVED, Medical Society of New York will collaborate with major hospital systems to introduce physicians' wellness programs and activities; and be it further

RESOLVED, surveys will be re administered at the House of Delegates Meeting in 2022 to see if there has been an improvement in either physician burn out or at least burn out awareness.

Recommendation: That MSSNY policy 207.969 be reaffirmed in lieu of Resolution 155.

207.969 MSSNY Physician Stress and Burnout Task Force

MSSNY will:

Develop CME programs on physician stress and burnout, as well as the peer support model, recruiting a cadre of doctors to do such CME presentations;

Seek grants or other funding to support CME, study of burnout, and program activities in an enduring way;

Continue collaboration with other organizations on burnout reduction and wellness efforts;

Develop a peer support model to all county societies, hospitals/hospital systems, and practices through grants or other funding (Adopted, Council 1/19/17)

Distribute to MSSNY membership burnout survey data coupled with a preliminary plan for interventions; beginning with distribution of survey results at the 2017 House of Delegates and CME presentations during the weekend;

Develop a program to assist doctors when they need to reach out for help to sustain their wellness before it progresses to mental health or substance use disorder, charging the MSSNY legal team and staff to devise a solution which meets the needs of our members and maintains the legal and financial integrity of the MSSNY organization. (Adopted, Council 3/7/17)

The Medical Society of the State of New York has, since March 2017 has addressed the issues of burnout and physician wellness and resiliency.

MSSNY has:

- Created a standing Committee on Physician Wellness and Resiliency, chaired by Charles Rothberg, MD. The committee meets on a regular basis and its planning committee meets once a month to discuss on-going educational programming and initiatives on reducing physician's burnout.
- Conducted numerous CME programs at the MSSNY House of Delegates since 2017. Over the last year, webinars were conducted on *Steps to Physician Wellness and Resiliency* and *Mental Health and COVID-19 for Health Professionals*. Both programs are available on-line at <https://cme.mssny.org/>
- MSSNY will conduct the *Steps to Physician Wellness and Resiliency* on Sept. 17, 2021, as part of the CME programs at MSSNY HOD.
- MSSNY has obtained grants, through the Physicians' Foundation that has allowed it to participate in the American Medical Association's Practice Transformation Initiative (PTI) and most recently, The Telehealth Initiative. Part of the PTI, is to assess physician burnout and the partners in this program have conducted various surveys, identify an intervention and then resurvey physicians upon completion of the intervention.
- In 2020, MSSNY developed its Peer to Peer (P2P) program for all physicians, residents and medical students. This program pairs a stressed physician with a colleague to help them obtain support, empathy and if needed, referral.
- MSSNY has been working closely with institutions in New York State to implement the P2P program and has held many meetings with administrators, hospital personnel, and county medical societies on the P2P program.

REFERENCE COMMITTEE ON SOCIO-MEDICAL ECONOMICS

Resolution 252 – Third Party Insurer Abuse of Modifier 25 Policy

RESOLVED, That the Medical Society of the State of New York work for a legislative proposal that mandates that the CPT language be followed for claims submitted in the State of New York that comply with the provisions and description(s) of service according to the accepted CPT volume in use for the year of service.

Recommendation: That MSSNY policies 165.907, 165.862, 265.871 and 265.987 be reaffirmed in lieu of Resolution 252.

165.907 Clarification of the New York State Current Procedural Terminology Uniformity Law:

MSSNY should take all the steps, including legislation, necessary to assure that health plans comply with and abide by the American Medical Association coding policy statements that are contained in the yearly AMA CPT coding manual. (HOD 2007-61; Reaffirmed HOD 2017)

165.862 Clarification of Chapter 551 Law - Insurance Law Sections 3224-b and 4803(a):

MSSNY will:

A. Initiate a legal review of the provision of the Chapter 551 Law (Insurance Law Sections 3224-b and 4803(a)) that states that “all accident and health insurers and Article 43 corporations (“insurers”) and health maintenance organizations are required to accept and initiate the processing of physicians’ claims utilizing the American Medical Association’s (AMA’s) current procedural terminology (CPT) codes, reporting guidelines and conventions and the Centers for Medicare & Medicaid Services (CMS) Health Care Common Procedure Coding system (HCPCS)”;

B. Review (1) whether that section of the law specifically requires insurers to use the AMA CPT coding manual (particularly that manual’s Introductory Section and its narrative policy sections), and (2) whether the law also requires insurers to use all other standard coding conventions as well;

C. Seek legislation and/or regulatory relief, in regard to the provision in the Chapter 551 Law (Insurance Law Sections 3224-b and 4803(a)) that contains the phrase “codes, reporting guidelines and conventions,” mandating that insurers incorporate all AMA CPT guidelines and conventions, as well as codes, in their payment policies. (HOD 2011-54)

265.871: Revision of AMA Current Procedure and Terminology (CPT) to reflect EHR/EMR documentation and work processes

MSSNY recommends that the AMA review the CPT coding guidelines with the aim of developing a new model of payment that reflects 21st century EHR technology, and that the AMA make immediate revisions to the current CPT practice performance reporting process aimed at preparing the infrastructure for new models of paying for the delivery care. (HOD 2013-268)

265.987 AMA-CPT Coding:

MSSNY endorses AMA-CPT as the standard accepted coding system in New York and that proper use of CPT by insurance carriers requires adherence to all of its rules and guidelines; and will recommend that the Insurance Superintendent and the New York State Legislature require health insurance carriers processing claims from New York physicians, including Workers’ Compensation and No-Fault Carriers, to adhere to all CPT rules and guidelines, including code modifiers. MSSNY will request that the Insurance Superintendent make the necessary revisions of the inappropriate bundling edits in the software which erroneously processes claims from physicians and disallows legitimate claims for services. (HOD 1997-285; Reaffirmed HOD 2000-251, HOD 2000-257, HOD 2000-268, HOD 2003-268 & 278 and HOD 2005-254 & 276; Reaffirmed HOD 2013)

Resolution 253 – Compensation for Appealing Denials to Insurance Companies

RESOLVED, When an insurance company’s denial is overturned only after a physician’s call to the insurance company reviewer, then the insurance company must fairly compensate the physician for the time needed for the intervention.

Recommendation: That MSSNY policy 265.859 be reaffirmed in lieu of Resolution 253.

265.859 Payment for Physicians' Work: Appealing Insurance Company Denials for Payment

The Medical Society of the State of New York, by legislation or regulation, will seek payment for physicians' time and effort which is involved in preparing appeals for reversal of denials of payment for medical care, procedures and medications by insurers and other third party payers on behalf of their patients. (HOD 2015-259)

LATE RESOLUTIONS – The following late resolutions were not accepted because the testimony heard did not indicate that any of these resolutions spoke to an issue that came up after this year's deadline to submit resolutions.

Late Resolution 1 – Inherent Dangers of Disulfiram (ANTABUSE) Use

Introduced by: Alan Diaz , MD, as an Individual
 Realba Rodriguez Iglesias, MD, as an Individual
 Delegates Bronx County Medical Society

- 1 Whereas, the truly successful cases of alcoholism actually “cure” by the use of this drug are
- 2 anecdotal at best; and
- 3
- 4 Whereas, the widespread use of alcohol containing substance such as hand cleaners and
- 5 sterilizers especially in the age of COVID has become prevalent; and
- 6
- 7 Whereas, the cases of adverse incidental case of morbidity if not mortality by accidental use of
- 8 these products by people on ANTABUSE is growing; and
- 9
- 10 Whereas, that the apropos agencies do the research to determine benefit/risk ratios as well as
- 11 mortality and morbidity data for patients on this drug; including accidental poisoning; and having
- 12 achieved satisfactory data further; therefore, be it
- 13
- 14 RESOLVED, to sundown the use of ANTABUSE by petition to the FDA and
- 15 apropos/affiliated agencies.

Recommendation: Not accept

Late Resolution 2 – Physician Scope of Practice vis-a-vie Family & Friends

Introduced by: Alan Diaz , MD, as an Individual
 Realba Rodriguez Iglesias, MD, as an Individual
 Delegates Bronx County Medical Society

- 1 Whereas, the 21st century physician is NOT the same as the 20th especially circumstantially;
- 2 and
- 3
- 4 Whereas, there exists many arcane and draconian laws on the books that within the years we
- 5 have been able to change and accept in our lives i.e. same sex marriage; and
- 6
- 7 Whereas, the similar type of thinking has permeated the realm of the physician practice and
- 8 associate penalties; and
- 9
- 10 Whereas, certain outdated principles of this type of thinking can greatly affect the morbidity and
- 11 mortality of our loved ones in particular during times of crisis;

1
2 Whereas, the principle of Physicians treating family and friends should also be changed for
3 emergency and dire situation specially in the times of COVID
4
5 RESOLVED, that appropriate representatives for physicians including MSSNY, AMA &
6 affiliates eliminate verbiage for unethical conduct for treating family and friends

Recommendation: Not accept

Late Resolution 3– Collective Bargaining by Physicians

Introduced by: Alan Diaz , MD, as an Individual
Realba Rodriguez Iglesias, MD, as an Individual
Delegates Bronx County Medical Society

1 Whereas, this resolution has been discussed the H.O.D in the past, in one form or another
2 without leading to meaningful change; and
3

4 Whereas, the insurance lobby continues to reap ever- escalating profits at our expense; and
5

6 Whereas, the few Independent Physician Associations' (IPA) formed have had various levels of
7 success, yet still are subdividing the physician communities with the brunt of benefits usually
8 hoarded at the top level by the IPA's; therefore be it
9

10 RESOLVED, all prior resolutions relevant to Collective Bargaining be resurrected. And be it
11 further
12

13 RESOLVED, to incorporate ideals and finalized principles to forge the bylaws and rules with
14 which to forge and launch a physicians' collective body (union) solely to our benefit.

Recommendation: Not accept

Existing MSSNY Policy:

200.989 MSSNY Union Affiliation

MSSNY will open talks with the National Guild for Medical Professionals, Office and Professional Employees Union to ascertain if membership in the union would further the interests of New York State Physicians. (HOD 2017-206)