



CAPITAL UPDATE

News of legislative, regulatory, and other matters of interest to New York's physicians
Published by Governmental Affairs Division/Medical Society of the State of New York ★ 155 Washington Ave. ★ Albany, NY 12210
(518)465-8085 ★ www.mssny.org ★ email: albany@mssny.org ★ Morris M. Auster, Esq. ★ Patricia F. Clancy ★ Zina Cary ★ Nicholas Hospodar

Governor Signs into Law Measures to Restrict Health Insurer Practices; Additional Steps Sought by MSSNY

On December 22, Governor Hochul signed into law multiple bills that had passed the State Legislature to enhance patient protections from arbitrary decisions from health insurance companies that interfere with patients receiving needed care and treatment as recommended by their physician. These bills would:

- **Provide Stronger Protections Against Step Therapy (A.463-A/S.2677-A).** Requires health insurers to provide more detailed information to patients and their treating physicians when a health plan has denied a request to its override step therapy/fail first medication protocol, including the basis for such decision, the information needed to successfully override the plan decision, and the mechanism for appealing this decision.
- **Expands Patient Access to Biomarker Testing (A1673-A/S.1196-A).** Requires health insurers to cover biomarker testing for diagnosis, treatment, or management of a patient's disease when the test is supported by medical and scientific evidence.

In 2024, MSSNY will be seeking legislation to further limit health insurer tactics that interfere with patients obtaining needed care, including reducing excessive and repetitive prior authorization requirements (**S.3400/A.7268**) and legislation to limit excessive medical records requests when health insurers review claim submissions (*See related article*).

(AUSTER)

Senator Breslin Urges DFS to Investigate Health Insurers' Specious Medical Record Requests

New York State Senate Insurance Committee Chair Neil Breslin has written to NY Financial Services Superintendent Adrienne Harris urging that DFS "resolve the many physician complaints that have been made regarding health plans regularly making unreasonable demands for medical records that delay claim payment in violation of New York's Prompt Payment Law."

Senator Breslin's letter acknowledged health insurers' important responsibility to investigate claims to ensure they are properly billed. However, he raises concerns that the frequency by which these medical records requests occur, "based upon the sheer volume of complaints regarding delayed claims, suggest a potentially more pernicious purpose for these requests." He further goes on to note that "While we want insurers to be on guard against fraud and abuse, we must also

guard against insurers using vague or unsupported concerns to allow them to delay obligations under the Prompt Payment Law by using pretextual medical record requests.”

In addition to urging DFS to act to resolve the myriad of physician complaints, the letter notes a number of potential legislative solutions to also address this problem, including: increasing the penalties and interest that can be imposed on health insurers for violations of the Prompt Payment Law; providing DFS authority to exponentially increase penalties for patterns of inappropriate conduct; providing DFS authority to impose penalties on the various subcontractors that health insurers rely upon for claim review; and requiring health insurers to articulate the specific reasons why a medical record request has occurred in processing a claim.

MSSNY has brought this problem to the attention of several legislators and is grateful to Senator Breslin for taking these steps to help resolve a serious problem adversely affecting the viability of many physician practices across the State.

(AUSTER)

Statement by MSSNY President Paul Pipia, MD, regarding the Governor’s December 29 Veto of Legislation to Expand Wrongful Death Liability Awards

“The physicians of New York State are once again sincerely grateful to Governor Hochul for her veto of legislation that would have greatly expanded the awards in actions for wrongful death. Governor Hochul has stood by the concerns she has previously noted regarding the significant unintended consequences of this far-reaching, expansive legislation, particularly for our already struggling health care system, without balanced provisions to bring down New York’s exorbitant liability insurance costs for physicians.

“We agree with the Governor in her veto message that: ‘Every human life is valuable and should be recognized as such in our laws and in our judicial system.’ We also applaud the Governor for noting that: ‘Legitimate concerns have been raised that the bill would likely lead to increased insurance premiums for the vast majority of consumers, as well as risk the financial well-being of our health care facilities – most notably, for public hospitals that serve disadvantaged communities.’

“MSSNY stands ready to work with the Governor and the Legislature on revised legislation that would ensure legal remedies for grieving families, but at the same time protect the ability of New York’s physicians, hospitals, and other health care workers to continue to deliver the care our patients expect and deserve. We cannot do that if we substantially increase our already enormous liability insurance costs, which already exponentially exceed every other state in the country. These costs would disproportionately impact physicians working in underserved communities.

“New York has a reputation for a world class healthcare system, but also a reputation for being one of the worst states in the country in which to be a physician. We must take steps to ensure that we can retain and attract skilled physicians to our state to best serve the healthcare needs of our patients. “We urge Governor Hochul to veto this legislation again and call for the creation of a workgroup that can develop balanced legislation that will expand the rights of grieving families without devastating our healthcare system in the process.”

(AUSTER)

Tell Congress to Prevent 3.4% Medicare Cuts that Commenced January 1

With Congress debating a continuing resolution to fund the government after January 19th, the AMA, MSSNY and medical societies across the country are urging that the provisions of HR 6683 be included within this resolution to prevent the 3.37% Medicare cut that was implemented by CMS on January 1. Please urge your Representative, as well as Senators Schumer and Gillibrand, to fight for this payment cut to be restored. [Be Heard | Physicians Grassroots Network](#)

The looming 3.37% reduction comes after three years of consecutive cuts to Medicare services. If Congress does not act now, Medicare payments will have been cut by almost 10% in four years,

which is simply unsustainable for physicians, and the patients who depend upon them. The effects of these cuts will be exacerbated in rural and underserved areas, which continue to face significant healthcare access challenges. Unlike other care providers, physicians do not receive inflationary updates in the Medicare program, which is partially why eliminating these potential cuts is so crucial to preserving patient access to their physicians.

Importantly, nearly 200 members of Congress co-signed a bi-partisan letter urging House and Senate leaders to expeditiously pass legislation to address the 2024 Medicare payment cuts, including New York representatives Yvette Clarke (D-Brooklyn), Adrianno Espaillat (D-Manhattan), Andrew Garbarino (R-Long Island), Dan Goldman (D-Manhattan), Nicholas Langworthy (R-Western NY), Michael Lawler (R-Lower Hudson Valley), Grace Meng (D-Queens), Marc Molinaro (R-Hudson Valley and Southern Tier), Joe Morelle (D-Western NY), Jerrold Nadler (D-Manhattan), Pat Ryan (D-Hudson Valley), Paul Tonko (D-Capital District), and Ritchie Torres (D-Bronx).

Inaction is not an option - please contact your members of Congress today and urge them to support including H.R. 6683 in the upcoming 2024 appropriations package! [Be Heard | Physicians Grassroots Network](#)

(AUSTER)

Join Us for MSSNY's Lobby Day in Albany on March 12th, 2024!

Physicians are urged to put aside Tuesday, March 12th, 2024, for MSSNY's annual Physician Advocacy Day in Albany. To register, click here: [Physician Advocacy Registration](#)

MSSNY's lobby day will be held in person! It will take place at the Empire State Plaza (The Egg) in Albany from 7:45-11:00am. Physicians and their allies will hear from legislative leaders in the morning. In the afternoon, they will go to the State Capitol and Legislative Office Building for meetings with their respective legislators organized by county medical societies.

This year, we will be advocating for policies that address public health threats, remove barriers to patients accessing needed care, and reduce prior authorization and claim payment hassles. At the same time, we will voice our opposition to policies that will increase medical liability insurance costs and inappropriately expand the scope of practice for non-physicians.

Please plan to join hundreds of colleagues from around the state in Albany on March 12th!

(HOSPODAR)

Registration Now Open Medical Matters CME Webinar

Psychosocial Elements of Infectious Outbreaks: A History

Wednesday January 24, 2024 @ 7:30am

Infectious outbreaks, especially those on a pandemic scale, impact nearly every aspect of human existence. Learn more about the psychosocial impact historically experienced because of infectious outbreaks by registering for the next Medical Matters webinar, ***Psychosocial Elements of Infectious Outbreaks: A History*** scheduled for **January 24th at 7:30am**. Craig Katz, MD, vice-chair of MSSNY's Committee on Emergency Preparedness and Disaster/Terrorism Response will serve as faculty for this webinar. [Register now](#)

Educational objectives are:

- Outline common human reactions to infectious outbreaks.
- Recognize factors that influence how people react.
- Identify how to apply these historical lessons to your own medical practice.

Additional information or assistance with registration may be obtained by contacting Melissa Hoffman at mhoffman@mssny.org

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The Medical Society of the State of New York is accredited by the Accreditation Council for Continuing Medical Education (ACCME) to provide continuing medical education for physicians.

The Medical Society of the State of New York designates this live activity for a maximum of 1.0 AMA PRA Category 1 credits™. Physicians should claim only the credit commensurate with the extent of their participation in the activity.

(HOFFMAN)

Women Physicians Leadership Academy March Registration Now Open

Registration is now open for the March 2024 Women Physicians Leadership Academy educational programs! To register for each session, please click the links below.

[March 2, 2024: The Importance of Networking](#)

[March 9, 2024: Enhancing Physician Wellness and Belonging](#)

[March 16, 2024: Designing Your Medical Career](#)

More information on this series can be found on the MSSNY website: [Public Health – \(mssny.org\)](#)

If you are unable to attend one of the sessions, the session will be placed on-line at the MSSNY CME website as enduring material approximately one month after the live session. The three fall sessions are now available on the MSSNY CME site at <https://cme.mssny.org/>. The three sessions will entitle a participant to earn three hours of Continuing Medical Education (CME) credit for each session.

Any questions about the Women Physicians Leadership Academy, please reach out to Pat Clancy, MSSNY Sr. Vice President/Managing Director at pclancy@mssny.org or Emily Rento, MSSNY's Public Health Associate at erento@mssny.org

(RENTO)

2023 MSSNY Podcasts Year in Review



In 2023, The Medical Society of the State of New York created and produced **26** new podcasts on a variety of topics including the psychology of climate change, adult vaccines, and legislative policy issues impacting patient care. Additionally, there were **1,895** downloads from **30** countries throughout the world! If you haven't had a chance to check out MSSNY's extensive podcast library, be sure to go to <https://www.buzzsprout.com/51522/share> and listen to all of the timely and topical podcasts available there. Or you can search MSSNY podcasts on your favorite podcast listening platform.

(HOFFMAN)