A meeting of the Council of the Medical Society of the State of New York was convened at 9:00 a.m. on Thursday, January 21, 2016 via webinar at the following locations: Albany Office, Broome County, & Westbury Office.

Joseph R. Maldonado, Jr., MD, President of the Society, presided:

**PRESENT**

**OFFICERS**
Kira A. Geraci-Ciardullo, MD
Andrew Y. Kleiman, MD
Bonnie Litvack, MD
Joseph R. Maldonado, Jr., MD
Charles Rothberg, MD

**COUNCILORS**
Joshua M. Cohen, MD
Frank G. Dowling, MD
Saulius Skeivys, MD
Luis Carlos Zapata, MD

**TRUSTEES**
Leah S. McCormack, MD

**TELEPHONE PARTICIPANTS (Officers)**
William Latreille, MD
Thomas J. Madejski, MD
Malcolm Reid, MD
Joseph R. Sellers, MD

**TELEPHONE PARTICIPANTS (Councilors)**
Edward Kelly Bartels, MD
Robert A. Hesson, MD
Howard H. Huang, MD
John J. Kennedy, MD
Charles Kenworthy
Thomas T. Lee, MD
Parag H. Mehta, MD
Harold M. Sokol, MD
Robert A. Viviano, DO

**MSSNY STAFF**
Laurel Mayer
Regina McNally
Michele Nuzzi Khoury
Suzanne Reilly
Michael Reyes
Eunice Skelly
Christina Southard
Julie Vecchione DeSimone

**COUNTY EXECS**
Nancy Adams
(via phone)
Mark Cappola
Stuart Friedman, MPS
Cheryl Malone
(via phone)
Christine Nadolny
(via phone)

**GUESTS**
Jeffrey Burger, MD
(via phone)
Jennifer Rabizadeh, Esq.
Zeb Taintor, MD
David Vozza, Esq.

**TELEPHONE PARTICIPANTS (MSSNY STAFF)**
Moe Auster, Esq.
Patricia Clancy
Elizabeth Dears Kent, Esq.

**EXECUTIVE STAFF**
Philip A. Schuh, CPA, MS
Donald R. Moy, Esq.

**ABSENT**
(MSSNY STAFF)
Mark Fox, MD
Paul Hamlin, MD
Daniel Young, MD
Michael Rosenberg, MD
Sam L. Unterricht, MD
A. Call to Order and Roll Call

B. APPROVED, the Council Minutes of November 5, 2015

C. New Business (All New Action & Informational Items)

1. President’s Report
   a. ACCEPTED, the Executive Committee Minutes, December 22, 2015 & November 19, 2015

   b. Corporate Practice of Medicine – A discussion concerning changes related to the corporate practice of medicine statutes being considered by the New York State Departments of Health and Department of Financial Services.

   The architects of healthcare reform in the state of New York are seeking to change how healthcare services are delivered and paid for to the residents of the state. There is a prevailing view that in order to improve health outcomes, adjustments need to be made that change how relevant services are delivered.

   The current view is that services that are critical to improving outcomes for many costly chronic conditions is delivered in an incomplete and/or fragmented fashion. In order to improve outcomes, we must improve the coordination of services as well as the modalities and organizations that provide the relevant services. This is where things get wickedly complex and where we, as the highest order licensed healthcare professionals, have the duty to weigh in to insure safe delivery of high quality, evidence-based medical care.

   Healthcare initiatives being considered challenge many of our longstanding beliefs concerning the practice of medicine and the separation of licensed professionals so that non-physicians cannot create professional medical organizations to deliver professional services. These new models do not always seek to create entities that deliver professional physician services. Rather, they seek to allow for the creation of new entities wherein physicians can deliver professional services that only they can deliver while others perhaps non-professionals may deliver other services that are critical to the improvement of the physicians’ medical services.

   The following MOTION was PROPOSED and PASSED:
   Council agrees that MSSNY leadership should carry on discussions with the appropriate parties to come to an agreement within DSRIP to allow shared savings within physician practices while considering current MSSNY policy.

   c. ACCEPTED, the request to join with the American Cancer Society and the American Cancer Society Action Network in a new anti-smoking campaign, “2016 New York Kicking Butts Quit Smoking Campaign”

2. Secretary’s Report - APPROVED, unanimously, the Secretary’s Report requesting Election of Life Membership for fifty (50) physicians. Dues remissions for four (4) Physicians and a special request from Jefferson County Medical Society to grant Life Membership status to David O. Van Eenenaam, MD.

3. Board of Trustees Report – Upon Motion made and seconded, ACCEPTED the Board of Trustees Report which was held on Wednesday, January 20, 2016.
The Actions taken by the Board at that meeting were as follows:

Approved: The Minutes from the Board of Trustees Meeting held on November 4, 2015 as submitted.

Approved: The Engagement Letter from Mr. John Vecchio, CPA to perform the 2015 Financial Audit.

Approved: The subsidy given to the Counties and Specialty Societies for their participation at the 2016 MSSNY House of Delegates in the amount of $100/per day for each day that the House is in session for each delegate registered at the convention hotel.

4. **MSSNYPAC Report** - The report reflects the financial status of MSSNYPAC during the dues collection period of 9/1/15 through 1/15/16. MSSNYPAC collected $110,534.10 from 696 contributors. MSSNYPAC is sending a 5,000 piece mailing to those who have not renewed their MSSNYPAC membership for 2016. MSSNYPAC’s website is operational and easy to access at [www.mssnypac.org](http://www.mssnypac.org)

5. **MLMIC Update** – MLMIC policyholders will receive a 20% dividend. To take advantage of this dividend, you need to be insured by May 1, 2016, and maintain continuous coverage through July 1, 2016.

6. **AMA Delegation Update** – At the November Interim Meeting, Dr. Kennedy became Chair of the Delegation. Dr. Charles Rothberg became Vice Chair. Dr. Dan Koretz is a member of the AMA Senior Delegation that represents New York.

7. **MESF Update** – MESF continues to work on the Physician Burnout Program. Working with Harvard Medical School to develop programs in internal medicine, diabetes and cardiology. MESF is working with Professor Jon Chilnigeran of Brandeis University to structure a program outlining to the younger physicians ways to successfully navigate the new medical delivery paradigm and lead fellow physicians that will prove productive for the physician community. A meeting with a physician from the Chinese Delegation is scheduled for January 27, 2016.

8. **Commissioners (All Action Items) FOR COUNCIL APPROVAL**
   1. **Commissioner of Science & Public Health, Frank G. Dowling, MD** Committee on Bioethics Resolutions:
      NOT ADOPTED, Resolution 2015-267, *Complete Genomic Sequencing*

      ADOPTED, Substitute Resolution 2015-268, *Private Insurance Carriers Become Medicare Franchise*

   2. **Commissioner of Socio Medical Economics, Harold M. Sokol, MD** Interspecialty Committee Resolutions:
      ADOPTED, Resolution 2015-253, *Reimbursement for Non-Bundled Lab Tests*

      TABLED, Resolution 2015-260, *Monitored Anesthesia Care & Pain Management Injections*

      MOTION: Table to the next Council Meeting after a meeting of the Interspecialty Committee
AMENDED & ADOPTED, Resolution 2015-263, Appeals Process for Medications with Proscribed Dosing

RESOLVED, That the Medical Society of the State of New York seek legislation and/or regulation to ensure that Medicare, Medicaid and insurance plans in NYS allow physicians to make dosing adjustments for approved medications to allow the patient to achieve therapeutic levels regardless of their body mass index, as well as differing metabolic considerations. The dose administered should be within the purview of the treating practitioners based on clinical parameters, documented in the medical record.

(additions, underlined)

9. Councilors & Presidents (All Action Items from County Medical Societies & District Branches)
   ADOPTED, the Resolution submitted by Zebulon Taintor, MD, President, First District on E-Prescribing and Patient Preference

ADJOURNMENT OF COUNCIL
ACTION ITEM

APPROVED, Empire State Medical, Scientific & Educational Foundation, Inc. Election of Directors

RECONVENE COUNCIL

D. Reports of Officers (Informational)
Office of the President – Dr. Maldonado attended several meetings in Albany with Liz, Moe Phil and State Legislators. There are many challenges that MSSNY is making in the area of tort reform. He attended the State Health & Insurance Committee Roundtable Panel which focused on issues relating to Health Republic. Dr. Maldonado stressed the importance of Legislative Day this year, which will be held on March 8 in Albany. Physicians should demonstrate the importance of our issues to legislators.

Office of the President-Elect – Dr. Reid participated via teleconference. He indicated that since the last meeting he had attended several fund raising events, which included Governor Cuomo’s birthday party. He attended a meeting of the trial lawyers re discussions on date of discovery. Dr Reid stated that he will be attending meetings following the Council with Dr. Maldonado, Dr. Rothenberg and Phil with Mr. Bob Glazer, CEO of ENT & Allergy Associates and Dr. Andrew Shapiro, President of the NYS Podiatric Association.

Office of the Vice President - Charles Rothberg, MD – No verbal report

Office of the Treasurer - Dr. Madejski referred Council to the Financial Statement for the period 1-1-15 to 12-31-15. ACCEPTED, MSSNY’s Financial Statement
Office of the Speaker - Kira A. Geraci-Ciradullo, MD - Dr. Geraci stated that the HOD begins on April 14 and concludes April 17. The following guest speakers will be addressing the HOD: Dr. Zucker, Commissioner of Health; Dr. Permut, Chair, AMA/BOT and Dr. Moorhead, Chair-Elect of the American Board of Specialties. Reference Committee Assignments have been made. Early deadline for Resolutions is February 19 and the Final Deadline is 5:00 p.m., March 11.

E. Reports of Councilors (Informational)
The following reports were submitted for information:
1. Kings & Richmond Report - Parag H. Mehta, MD
3. Nassau County Report – Paul A. Pipia, MD
4. Queens County Report – Saulius J. Skeivys, MD
5. Suffolk County Report – Frank G. Dowling, MD
6. Third District Branch Report – Harold M. Sokol, MD
7. Fourth District Branch Report – John J. Kennedy, MD
8. Fifth District Branch Report – Howard H. Huang, MD
9. Sixth District Branch Report – Robert A. Hesson, MD
10. Seventh District Branch Report - Mark J. Adams, MD
11. Eighth District Branch Report – Edward Kelly Bartels, MD
12. Ninth District Branch Report – Thomas T. Lee, MD
13. Medical Student Section Report – Charles A. Kenworthy
15. Young Physician Section Report – L. Carlos Zapata, MD

F. Commissioners (All Committee & Sub-Committee Informational Reports/Minutes)
1. Commissioner of Communications, Joshua M. Cohen, MD, MPH
   The following Division Report was submitted for information:
   Report of the Division of Communications

2. Commissioner of Governmental Relations, Gregory Pinto, MD
   Report of the Division of Governmental Affairs

   The Governor’s proposed budget for FY 2016-17, the budget contains a number of initiatives—some of which we have seen previously- which will if ultimately enacted by the Legislature impact physicians and patients across NYS. While some of these proposals respond to compelling public health concerns, other proposals are of potentially great concern to physicians across New York State.

   Included among these proposals:

   Limit Access to Excess Medical Malpractice Coverage. The Governor has again proposed to significantly limit access to the second layer of medical malpractice coverage to only physicians doctors in high risk specialties and high risk areas. Specifically, the superintendent is required to grant priority for purchasing policies in each policy year in
descending order beginning with the highest risk class and territory combination. This initiative will result in a $25 million reduction to the program from $127.4M to $102.4M. It is similar to that proposed three years ago and could potentially result in the elimination of state paid for second layer coverage for more than 60% of physicians who currently have such coverage.

Authorizes Establishment of Retail Clinics - Clinics which provide a limited list of services in retail stores- provided that they adhere to regulations which would among other things require them: to be accredited; accept walk ins; adhere to advertising and signage standards; disclose ownership interests; directly employ a medical director; and strengthen primary care through integration of services with the patient’s other health care providers. The justification given for this proposal is “to increase access to economical primary care services for Medicaid recipients and reduce unnecessary emergency room and inpatient visits”.

Additional funding ($200M) to combat AIDS - These funds will be used to expand the availability of affordable housing and housing assistance for those living with HIV and identify undiagnosed persons, link them with treatment and facilitate access to necessary medications to keep them HIV negative to prevent spreading the disease.

Additional funding ($6M) to combat heroin epidemic - These funds will continue to support prevention, treatment and recovery programs targeted toward chemical dependency, residential service opportunities, and public awareness and education activities.

Makes Significant Changes to Workers Compensation Program - To expand the type of health care providers who can deliver treatment to a injured worker and eliminates need for county medical society review of physicians looking to be authorized to deliver care.

Eliminate the prescriber - Eliminates existing statutory prescriber prevails protections for medications for patients covered in the Medicaid program, except for atypical antipsychotic and anti-depressants.

3. Commissioner of Science & Public Health, Frank G. Dowling, MD
   The following Committee Report was submitted for information: Public Health & Education Informational Report

4. Commissioner of Socio Medical Economics, Harold M. Sokol, MD
   The following Committee Minutes were submitted for information: Interspecialty Committee Minutes, Thursday, October 22, 2015
G. **Report of the Executive Vice President – Philip A. Schuh, CPA, MS**
Mr. Schuh referred the Council to the Membership Dues Revenue Schedule. He stated that while individual dues membership has declined, there has been an increase in institutional group and hospital medical staff memberships. MSSNY completed agreements with South Hampton Hospital, Methodist Hospital and St. Peter’s Hospital (Albany). Revenues will begin to be reflected in 2016. There are plans to meet with several new medical staff groups to bring them on board.

H. **Report of the General Counsel – Donald R. Moy, Esq.**
Mr. Moy stated that as of December 31, 2015 he had retired from the law firm of Kern, Augustine, Conroy & Schoppmann. He introduced Mr. David Vozza and Ms. Jennifer Rabizadeh. They will be serving as “Counsel” to MSSNY. Mr. Moy will be available on a one-year transition period to MSSNY. Mr. Moy discussed the NYS Court of Appeals Decision in *Davis vs. South Nassau Communities Hospital*

Dr. Maldonado, on behalf of the Council & MSSNY, expressed sincere thanks to Mr. Moy for his dedication and years of service to MSSNY.

I. **Report of the Alliance**
The following report was submitted for information:
Alliance Report

J. **Other Information/Announcements**
The following items were submitted for information:
1. Sign-on Letter to CMS re Meaningful Use
2. Sign-on Letter supporting H.R. 2513, Protecting Access, Competition and Equity Act
3. AMA Letter to Dr. Frieden on Proposed 2016 Opioids for Chronic Pain
4. MSSNY Letter to Andy Slavitt, Acting Administrator, CMS re Request for Information (RFI) regarding the implementation on Alternative Payment Models(APMs) and Merit-Based Incentive Programs (MIPS) under the Medicare Access & CHIP Reauthorization Act (MACRA)

K. **Adjournment** – There being no further business, a Motion to adjourn was made, seconded, and approved. The meeting adjourned at 12:30 p.m.