



**MEDICAL SOCIETY OF THE STATE OF NEW YORK**  
865 Merrick Avenue, Westbury, NY 11590-9007  
(516) 488-6100, FAX: (516) 281-3096, website: www.mssny.org

***MINUTES OF THE COUNCIL MEETING***  
***January 18, 2018***

*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 18, 2018 at the Courtyard Marriott, 1800 Privado Road, Westbury, NY 11590.*

*Charles Rothberg, MD, President of the Medical Society presided:*

**PRESENT**

**OFFICERS**

Charles Rothberg, MD  
Thomas J. Madejski, MD  
Arthur C. Fougner, MD  
Frank G. Dowling, MD  
Joseph R. Sellers, MD  
Mark J. Adams, MD  
Kira Geraci-Ciardullo, MD

**COUNCILORS**

Janine Fogarty, MD  
Justin M. Fuehrer, DO  
Howard H. Huang, MD  
John J. Kennedy, MD  
Pratistha Koirala  
Thomas T. Lee, MD  
Bonnie L. Litvack, MD  
Parag H. Mehta, MD  
Brian P. Murray, MD  
Paul A. Pipia, MD  
Saulius J. Skeivys, MD  
Luis Carlos Zapata, MD

**TRUSTEES**

Paul A. Hamlin, MD, Chair  
Andrew Y. Kleinman, MD  
Leah McCormack, MD

**MSSNY EXECUTIVE STAFF**

Philip A. Schuh, CPA, MS

**LEGAL COUNSEL**

Barry Cepelewicz, MD, Esq.  
Donald R. Moy, Esq.  
Andrew L. Zwerling, Esq.

**MSSNY STAFF**

Morris Auster, Esq.  
John Belmont  
Patricia Clancy  
Carrie Harring  
Laurel Mayer  
Regina McNally  
Michele Nuzzi Khoury  
Suzanne Reilly  
Michael Reyes  
Steven Sachs  
Eunice Skelly  
Christina Southard  
Julie Vecchione DeSimone

**TELEPHONE PARTICIPANTS**

Edward Kelly Bartels, MD  
Maria A. Basile, MD  
Christopher Bell  
Robert A. Hesson, MD  
Miriam Hardin  
William R. Latreille, Jr., MD  
Janine Miller  
Geoffrey Moore, MD  
Christine Nadolny  
Gregory Pinto, MD  
Malcolm D. Reid, MD  
Brenda Van Nest

**EXCUSED**

Sana Bloch, MD  
Joshua M. Cohen, MD

**COUNTY EXECS**

Mark Cappola  
Shirley Cosgriff  
Aaron Kumar  
Liz Harrison  
Cheryl Malone

**GUESTS**

Henry Allen, Esq.  
(via phone)  
John Hallowell  
David Jakubowicz, MD  
Kate Kirley, MD  
(via phone)  
Maureen Regan

- A. Call to Order and Roll Call
- B. The Council **APPROVED** the Minutes from the Council Meeting held on November 2, 2017
- C. New Business (All New Action & Informational Items)

1. **President's Report** ó Verbal updates on the following:

**Membership** - The Membership Initiative that was approved at the last meeting is being implemented.

**IPA** - The IPA Committee met. The new chair is Dr. Willie Underwood from Western, NY.

**Northwell Subcommittee** ó The Subcommittee met and developed two workgroups:

- 1. To engage physicians
- 2. To find physicians that are part of the system

**Physician Stress & Burnout Task Force** ó The peer program is poised to solicit funding that would be needed for them to be operational. The taskforce will have presentations at our Annual HOD.

**End of Life Survey** ó The Ethics Committee is working on this Survey and it could possibly be ready for distribution at the HOD.

**Out of Network/Fair Health** - Physicians noticed a significant and unexpected decrease in fees relating to some of their common procedures. MSSNY expressed concern and engaged with Fair Health resulting in a change to reimbursement.

**Lavern's Law** - Physicians are very disappointed in the prospect of the enactment of this Law. It has not been acted upon by the Governor. The Governor has thirty days to act upon it. He may sign it or it will lapse.

**Aetna-CVS Merger** ó MSSNY is very concerned about this merger. We are very concerned about significant adverse implications for patients if this immense merger goes forward. The possibility of even more burdensome and excessive prior authorization barriers for prescription medications needed by our patients, combined with further marginalization of many community pharmacies and community physicians that our patients depend upon is an equation for disaster. Health care decisions should be the result of discussions between a patient and their doctor.

2. **Presentations:**

**Diabetes Prevention Program** - Presented by Kate Kirley, MD, MS, (AMA)

The Diabetes Prevention Program (DPP) was a major multicenter clinical research study aimed at discovering whether modest weight loss through dietary changes and increased physical activity or treatment with the oral diabetes drugs could prevent or delay the onset of type 2 diabetes in study participants. At the beginning of the DPP, participants were all overweight and had blood glucose, also called blood sugar, levels higher than normal but not high enough for a diagnosis of diabetes a condition

called prediabetes. The DPP found that participants who lost a modest amount of weight through dietary changes and increased physical activity sharply reduced their chances of developing diabetes.

Diabetes is a complex illness that requires a lot of effort to manage, by both patients and their care teams. The good news is that there are simple interventions that can make a big difference and save time. Successful management can be achieved by taking multiple small steps. The AMA has engaged with several state medical societies to work towards clinical practice change and encourage physicians to screen patients for prediabetes.

MSSNY has partnered with the AMA to launch this proactive initiative to educate New York State physicians on how to initiate clinical practice change and prevent diabetes.

***CVS-Aetna Merger - At the request of the presenter, the presentation and description of comments regarding the CVS/Aetna Merger should remain confidential and not to be included in the Minutes. The presentation was intended for MSSNY leadership.***

**The following Motion was Proposed and Passed:**

MSSNY work with other state medical society allies that are interested to take the following two actions:

1. Communicate directly with the appropriate federal and state agencies about our concerns and opposition to the Aetna/CVS Merger; and
2. That MSSNY and the other interested state medical societies communicate directly to the AMA and seek similar action in opposition to the merger, as soon as possible.

3. **Board of Trustees Report** ó A meeting of the MSSNY Board of Trustees was held on Wednesday, January 17, 2018 at MSSNY headquarters. Upon Motion made and seconded, the Council **ACCEPTED** the Report. The following actions taken by the Board at that meeting were as follows:

1. The Board approved the Minutes from the Board of Trustees Meeting held on November 1, 2017.
2. The Board approved the Per Diem Allowance for the Component County Medical Societies and Recognized Specialty Societies for their attendance at the MSSNY 2018 House of Delegates in the amount of \$100/per day for each day that the delegate is registered at the convention hotel.
3. The discussion pertaining to MSSNY's continued participation in the Coalition of State Medical Societies was tabled to a future telephone conference call of the Board of Trustees.
4. The Board approved the Engagement Letter from Mr. John Vecchio, CPA to perform the 2017 Financial Audit.
5. The discussion pertaining to a possible Marketing Agreement for MSSNY Membership was tabled.

4. **Secretary's Report** ó **APPROVED**, unanimously, the Secretary's Report that requested Life Membership for thirty-six (36) physicians, Dues Remissions for five (5) physicians as proposed by their respective county medical societies and two special requests:  
(1) Life membership to be granted to a New York County physician  
(2) Remission of dues to be granted to a St. Lawrence County physician.

### **ADJOURNMENT OF COUNCIL**

**APPROVED**, the Empire State Medical, Scientific & Educational Foundation, Inc. Election of Directors for the 2018 calendar year.

### **RECONVENE COUNCIL**

5. **MLMIC Update** ó Presented by Mr. Donald Fager - MLMIC is still waiting for the Governor to act on Lavern's Law Bill. The MSSNY/MLMIC Agreement will continue for a three-year period. The MSSNY/MLMIC endorsement will continue after the MLMIC/Berkshire Hathaway deal conversion.
6. **AMA Delegation Update** ó Presented by John J. Kennedy, MD - The AMA did adopt policy to oppose the removal of categories from the essential health benefits package and their associated protections against annual and lifetime limits, and out of pocket expenses. The AMA amended policy to include a statement that physicians should receive adequate compensation for being available and providing on call and emergency services.
7. **MSSNYPAC Report** ó Presented by Joseph R. Sellers, MD - The report reflects the financial status during the 2017 calendar year. MSSNYPAC collected \$229,257.75. In 2016, MSSNYPAC collected \$273,422.95. MSSNYPAC is moving to auto-renewal of dues payments. MSSNYPAC asks each member of the MSSNY Council to identify two or more physicians in their region who are PAC champions and interested in serving as a regional chair of MSSNYPAC. Ways to assist MSSNYPAC are: Host a fundraiser; solicit personal calls, text or email; discuss MSSNYPAC at your hospital; facilitate a meeting between MSSNYPAC and group practice manager; sign on to a letter soliciting physicians to join; volunteer to speak to students, residents, and young physicians regarding the importance of political action; and get involved in MSSNY's Governmental Affairs Physician Advocacy Liaison Program.
8. **MESF Update** ó Presented by Mr. Thomas Donoghue - MESF has completed all aspects of the Albany Leadership Seminar under a grant from The Physicians' Foundation. It has approved to move on to the next Leadership Seminar under the grant. The next seminar will be held at the Adams Mark Hotel in Buffalo on April 13 & 14. MESF continues to explore partnerships with medical schools in New York for the development of educational programs in India. MESF is engaged in a search for possible grants to assist in the establishment of statewide programs focused on physician wellness.

9. **CME Update** ó Presented by Mark J. Adams, MD - The committee discussed whether to increase the fees charged for MSSNY accredited providers, in light of increases in the Accreditation Council for Continuing Medical Education (ACCME) fees for recognized accreditors, and MSSNY fees for joint provider ship, in light of increases in the ACCME's fees for Accredited Providers. Members determined that further study is needed.

**D. Reports of Officers**

1. **Office of the President** - Charles Rothberg, MD  
Dr. Rothberg stated that things are progressing with regards to implementing the Northwell project.
2. **Office of the President Elect** ó Thomas J. Madejski, MD  
Dr. Madejski stated that he attended a MOC meeting with Mr. Schuh on December 4 in Chicago. He is looking into a marketing research project and will report back with a proposal.
3. **Office of the Vice President** ó Arthur C. Fougner, MD  
Dr. Fougner & Dr. Rothberg attended a meeting with LIJ staff to discuss the membership initiative. Dr. Fougner participated in a Physician Burnout Conference at North Shore.
4. **Office of the Treasurer** ó Joseph R. Sellers, MD, **ACCEPTED**, the Financial Statement for the period 1/1/17 to 11/30/17
5. **Office of the Speaker** - Kira A. Geraci-Ciardullo, MD, MPH
  - The MSSNY HOD will open on Friday, March 23 and will adjourn on Sunday, March 25;
  - Final deadline for submission of Resolutions is **Friday, February 9<sup>th</sup> at 5:00 p.m.**;
  - Friday afternoon all reference committees need to be in executive session;
  - Saturday morning, Dr. Andrew Gurman, Immediate Past President of the AMA will address the House;
  - Mr. Tim Norbeck, Chief Executive Officer of the Physicians Foundation for Excellence will address the House;
  - Sunday, March 25 all elections will be at 7:00 a.m.;
  - American Institute of Parliamentarians is the New Parliamentary Procedure  
There are notable differences in the new procedures:
    - i. Table motion requires a 2/3 standing vote;
    - ii. There are significant changes in the main motions ó The most important one is the Adopt in Lieu of Motion which means that when a reference committee put more than three resolutions together and creates one resolution

**E. Reports of Councilors (Informational)**

**The following County/District Reports were ACCEPTED as submitted:**

1. Kings & Richmond Report - Parag H. Mehta, MD
2. Manhattan & Bronx Report ó Joshua M. Cohen, MD, MPH
3. Nassau County Report ó Paul A. Pipia, MD
4. Queens County Report ó Saulius J. Skeivys, MD
5. Suffolk County Report ó Maria A. Basile, MD, MBA

6. Third District Branch Report ó Brian P. Murray, MD
7. Fourth District Branch Report ó John J. Kennedy, MD
8. Fifth District Branch Report óHoward H. Huang, MD
9. Sixth District Branch Report ó Robert A. Hesson, MD
10. Seventh District Branch Report ó Janine L. Fogarty, MD
11. Eighth District Branch Report ó Edward Kelly Bartels, MD
12. Ninth District Branch Report ó Thomas T. Lee, MD
13. Medical Student Section Report ó Pratistha Koirala
14. Organized Medical Staff Section ReportóBonnie L. Litvack, MD
15. Resident & Fellow Section Report ó Justin Fuehrer, DO
16. Young Physician Section Report ó L. Carlos Zapata, MD

**F. Commissioners (Committee Action & Informational Items)**

**The following Committee Minutes/Reports were submitted for information:**

1. Commissioner of Communications, Maria A. Basile, MD, MBA  
Division of Communications Report
2. Commissioner of Science & Public Health, Frank G. Dowling, MD
  - a. Addiction & Psychiatric Medicine Committee Minutes, October 27, 2017
  - b. Bio Ethics Committee Minutes, November 3, 2017
  - c. Eliminate Health Disparities Committee Minutes, October 20, 2017
  - d. Heart, Lung & Cancer Committee Minutes, October 18, 2017
  - e. Infectious Diseases Committee Minutes, October 19, 2017
  - f. Preventive Medicine & Family Health Committee Minutes, October 26, 2017
3. Commissioner of Socio Medical Economics, Howard H. Huang, MD
  - a. Committee on Interspecialty Minutes, October 26, 2017
4. Commissioner of Governmental Relations, Gregory Pinto, MD
  - a. Long Term Care Subcommittee Minutes, September 27, 2017
  - b. Quality Improvement & Patient Safety Committee Minutes, May 10, 2017
5. Commissioner of Membership, Parag H. Mehta, MD  
õSuper Groupö Discount Proposal from the Onondaga County Medical Society for Physicians Employed by Regional Hospital Groups  
The pilot project as outlined for members of the St. Joseph's Physician Group in Onondaga County only.  
**APPROVED, the pilot project as outlined for members of the St. Joseph's Physician Group in Onondaga County only. This now needs to be Approved by the Board of Trustees as it differs from the Approved pilot projects.**

Introductory Dues Rate for All New Members

**The following Membership Committee Item was submitted for information:**

The Membership Committee discussed the concept of a standard introductory rate for new members, and agreed to move forward with the idea and put on paper for review at the next meeting.

**G. Report of the Executive Vice President, Philip Schuh, CPA, MS**

1. Membership Dues Revenue Schedule
2. Group Institutional Dues Schedule

Mr. Schuh stated that from a budget perspective dues revenue is still declining. All discussions regarding Membership are very critical to MSSNY's future.

**H. Report of the General Counsel, Garfunkel Wild**

1. Memorandum regarding whether it is appropriate for a physician to access the PMP regarding an individual who is not a patient.

In general, the physician-patient relationship is created when the physician renders professional services, such as diagnosis or treatment, and such services are accepted by the individual. In general, the mere scheduling of an appointment, without more, does not establish the physician-patient relationship. However, if the medical practice has affirmatively advised the prospective patient as to a course of treatment and the prospective patient reasonably relies on such advice, it is possible that the physician-patient relationship has been created. Whether the physician-patient relationship existed at the time the physician consulted the PMP may be a question of fact. In a given case, the physician might assert that it was necessary to access the PMP to make a tentative diagnosis, which arguably would be consistent with the purposes of Public Health Law §3343-a and 3371.

**I. Report of the Alliance, Barbara Ellman, Co-President**

The Alliance Report was submitted for information and presented by Barbara Ellman

**J. Other Information/Announcements**

Dr. Madejski's letter to Dr. Nora, President & CEO of the ABMS regarding concerns of our membership on the MOC issue

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