One such measure to respond to market-dominant practicing physicians to collectively negotiate increasingly usurping the physician’s role as the health insurance companies are. Legislation is needed to contain the power of the behemoths. As a result, the collective weight of these burdens is a significant reason for the staggering Delays Associated with Prior Authorization

Q: For those patients whose treatment requires PA, how often does this process delay access to necessary care?

- Always: 15%
- Often: 39%
- Sometimes: 38%
- Rarely: 6%
- Never: 1%

The excessive burdens associated with practicing medicine in New York are straining the ability of many patients to receive timely needed care. These burdens include ever-increasing health insurer pre-authorization and payment hassles, excessive regulation and enormous medical liability insurance costs that are exacerbated by inadequate payments from health insurers and Medicaid, and huge patient cost-sharing responsibilities. Threatened funding cuts from Washington could make these problems even worse. The collective weight of these burdens is a significant reason for the staggering increase in hospital employment for physicians, which has increased in the northeastern US from 27% in 2012 to 42% in 2016, according to a recent study.

Patients are benefitted most when physicians have a real choice as to which practice setting is best suited to deliver care, whether that is in a small group, large group, or employed by a health system. However, too many physicians who have dedicated their professional lives to caring for their communities are finding that they have no real choice. While in some cases administrative burdens may be reduced, this trend can also result in reduced patient options, elimination of choices, and increases in costs.

NYU Langone to open new medical school on LI .......... page 2
Walmart, prescribing and controlled substances ... page 2
Helping our patients to overcome their addictions .... page 4
Workers’ Comp and State-of-the-Art Virtual Hearings ..... page 6

Election Results Could Bring Major Change to Albany

The November elections will bring many familiar faces back to Albany in 2019 but many new ones as well. Overall, there will be nearly 40 new state legislators come 2019.

Democratic Governor Andrew Cuomo, Lieutenant Governor Kathy Hochul and Comptroller Tom DiNapoli were all re-elected for new four year terms. In the race for Attorney General, Democrat Letitia James defeated Republican Keith Wofford, to succeed current interim AG Barbara Underwood.

Perhaps the most significant aspect of November’s elections is that Democrats will now have control of the New York State Senate for the first time in a decade, and for only the second time in the last 50 years. Democrats will outnumber Republicans 39-24. The pick-ups include:

- SD-3 (Suffolk): Monica Martinez (D) defeating Dean Murray (R) to replace Sen. Tom Croci (R)
- SD-5 (Nassau/Suffolk): James Gaughran defeating Sen. Carl Marcellino (R)
- SD-6 (Nassau): Kevin Thomas (D) defeating Senate Health Committee Chair Kemp Hannon (R)
- SD-7 (Nassau): Anna Kaplan (D) defeating Sen. Elaine Phillips (R)
- SD-22 (Kings): Andrew Gournardes (D) defeating Sen. Martin Golden (R)
- SD-39 (Orange/Ulster): James Skoufis (D) defeating Tom Basile to replace Sen. Bill Larkin (R)
- SD-40 (Putnam/Westchester): Peter Harckham (D) defeating Sen. Terence Murphy (R)
- SD-42 (Orange/Sullivan/Ulster): Jen Metzger (D) defeating Margaret Dox, (D) to replace Sen. John Bonacic (R)

In the State Assembly, Democrats held their wide majority, 106-44. Three incumbent Democrats (Pellegrino, Jenne and Magee) lost their seats to Republican challengers (Liperti, Walczyk and Salka). Two Republican incumbents (Curran, Walter) were defeated by Democratic challengers (Griffin and McMahon).

With so many new Assembly members and Senators coming to Albany next year, the need for physician grassroots involvement is greater than ever.

(Continued on page 5)
MSSNY Seeking Info: Have You Received Letter from Walmart Re Prescribing Practices?

The Medical Society of the State of New York and the American Medical Association Task Force on Opioids is interested in hearing from physicians who may have received a letter from Walmart in regards to the prescribing practices for controlled substances. Walmart, Walgreens and CVS pharmacies has implemented the CDC Guidelines for Prescribing Opioids for Chronic Pain as corporate policy. MSSNY and the AMA learned that Walmart has sent letters to physicians throughout the country about their prescribing practices.

In the letters, Walmart indicated that it will no longer be accepting physicians’ prescriptions for Controlled Substances II-V where it believes it is warranted based upon Walmart’s review of a physician’s prescribing practice. MSSNY and the AMA Task Force on Opioids are extremely concerned about corporate policies that could result in refusal to fill prescriptions above certain doses and to refuse to fill prescriptions from certain physicians based on the corporation’s arbitrary definitions of questionable prescribing patterns.

MSSNY is aware nationally there have been physicians who have received this letter; an example of the letters can be found here. MSSNY will meet with state officials from the NYS Bureau of Narcotic Enforcement within the next few weeks to discuss this corporate policy and its impact on NYS physicians and patients. Any physician who may have received this letter, please contact Pat Clancy, Sr. Vice President, Public Health and Education/Managing Director, at pclancy@mssny.org or by phone at 518-465-8085.

Physicians may also ask the NYS Office of Professional Discipline (OPD) to review this matter. To file a complaint, please complete the OPD complaint form http://www.op.nysed.gov/documents/opd-complaint.pdf and list the contact information for the New York pharmacy(s) that is involved along with the details of the complaint. This completed form along with any additional information may be emailed to the OPD directly at conduct@nysed.gov. Please copy Pat Clancy when filing the complaint.

Continuous Recruitment for NYS DUR Board Membership

Federal legislation requires states to maintain a DUR program and establish a Drug Utilization Review (DUR) Board. The NYS Medicaid DUR Board provides recommendations to the Health Department associated with establishing clinical standards for Medicaid’s pharmacy program. The composition of the DUR Board can be found on pages 1 & 2 of the General Operating Procedures: https://www.health.ny.gov/health_care/medicaid/program/dur/docs/operating_procedures.pdf

Responsibilities of the DURB include:

• The establishment and implementation of medical standards and criteria for the retrospective and prospective DUR program.
• The development, selection, application, and assessment of educational interventions for physicians, pharmacists and recipients that improve care.
• The collaboration with managed care organizations to address drug utilization concerns and to implement consistent management strategies across the fee-for-service and managed care pharmacy benefits.
• The review of therapeutic classes subject to the Preferred Drug Program.

CVs associated with interest in becoming a DUR Board member are accepted continuously and can be submitted to the DUR Board mailbox at dur@health.ny.gov. If no vacancies exist, CVs will be kept on file for consideration once a position becomes available. Questions on membership and candidacy can be directed to the DUR Board Member Liaison, Robert Sheehan, at dur@health.ny.gov or 518-486-3209.

For more information about the NYS Medicaid DUR Board please visit: https://www.health.ny.gov/health_care/medicaid/program/dur/

NYU Langone to Open New Medical School on Long Island by September 2019

NYU Langone plans to open a new medical school on Long Island by September 2019 that would exclusively train primary care physicians, NYU President Andrew Hamilton announced at a University Senate meeting on Thursday.

“We have the opportunity to create a new medical school that would focus exclusively on primary care physicians,” Hamilton said. “It will be a three-year program focused on training physicians to become practicing doctors in primary care in communities.”

Over the last two years, Langone has merged with Winthrop Hospital on Long Island, and this would be the site of the new medical school. Hamilton mentioned an existing infrastructure of dormitories and educational facilities at Winthrop Hospital, which would make a transition into a full-blown medical school easier. There are several steps still to go before the medical school could be deemed official, such as receiving state approval. If approved, the school would enroll 40 students per semester, potentially by as early as September 2019 according to Hamilton.
“MLMIC is a gem of a company.”

- Warren Buffett, CEO, Berkshire Hathaway

MLMIC is now part of Berkshire Hathaway.

For more than 40 years, MLMIC has been a leader in medical malpractice insurance. In fact, we’re the #1 medical liability insurer in New York State. Now, as part of the Berkshire Hathaway family, we’re securing the future for New York’s medical professionals.

When it comes to medical malpractice insurance in New York, nothing compares to MLMIC.

Learn more at MLMIC.com or call (888) 996-1183.
Easing Our Pain and the Pain of Others

Chronic pain and addiction are two of the great challenges that we face as clinicians as we try to help our patients live their lives to the fullest. MSSNY has been very active in advocacy for improvements in care for both problems. Our MSSNY delegation to the AMA worked diligently last month to push back on inappropriate restrictions on physicians by Walmart and other corporations to interfere with the prescribers’ judgement on the best treatment for their patient. Click here for full story.

MSSNY WILL LEAD NOT FOLLOW

We continue to advocate for improvement in the treatment of chronic pain individually and collectively. MSSNY continues to advocate for NYS to provide funds to assess new and alternative treatments for patients with chronic pain, including securing funding for research on the efficacy and adverse effects of cannabinoids through the state medical marijuana program. We also continue to advocate for New York to lead the nation in establishing integrated, multimodality centers of excellence for the treatment of patients with chronic pain.

I’m proud of MSSNY and the AMA for their leadership in dealing with the Opioid Crisis. We’ve developed policy and resources for all physicians that has begun to stem the tide. Click here for full story.

We still have a lot of work to do. Part of fulfilling our Hippocratic Oath is meeting our patients where they are, and looking for new resources and treatments to help them. I sometimes joke with my patients that when I change a longstanding recommendation to them, it’s not because I’m crazy, but new information changes our treatments that may maximize their lifespan and (Continued on page 18)

Yes, a New Day Is Coming in 2019!

A new day will be upon us come January.

The elections are over. The voters have spoken. And as a result, come 2019, we will have many new faces in Albany.

Nearly 40 new legislators were elected to the State Legislature. While there are 20 new members of the New York State Assembly, the most significant change will be in the State Senate. Not only was there a change in party control from Republican to Democrat, there will be new 17 new Senators in a 63-member body (15 Democratic).

Some were the result of retirements, but most were the result of the defeat of long-term incumbents. Seven (7) long-standing Democrats were ousted in the primaries in September, and 5 long-time Republican incumbents were ousted in the general elections.

Among those who were not re-elected include Kemp Hannon, the long-time chair of the Senate Health Committee. There was once a joke that the New York State Legislature had a higher re-election than the old Soviet Politburo. (Continued on page 6)
of jobs for non-physician support staff, and reduced physicians’ ability to be patient advocates. Worse still, many experienced but frustrated physicians have indicated they may retire from practice early, further exacerbating barriers to care.

Many areas across New York State face significant challenges in having sufficient primary and specialty care physicians to meet patient need. As the population ages and becomes increasingly resource-dependent, this is a growing problem. For example, a recent HANYS study indicated that, across upstate New York, 86% of hospital emergency departments indicated there were times when a patient needed to be transferred because a needed specialist was not available.

Legislation is needed to improve New York’s practice environment and to protect the ability of patients to continue to have timely access to needed physician care. Moreover, legislation must be rejected that would jeopardize patient access to quality care by expanding liability, imposing new mandates and endangering the public through inappropriately expanding the types of care that can be provided by non-physicians. The goal of MSSNY’s 2019 Legislative Program is to assure the enactment of policies that enable New Yorkers to continue to have meaningful access to New York’s world-class doctors and healthcare institutions.

HEALTH INSURANCE REFORM

Legislation is needed to contain the power of health insurance companies which are increasingly usurping the physician’s role as the clinical-decision-maker for patients in New York. One such measure to respond to market-dominant health insurers would permit independently practicing physicians to collectively negotiate patient care terms with these insurers.

Most regions of New York State continue to be dominated by just one or two insurers, in many cases, nationally known behemoths. As a result, most physicians have no choice but to participate with market-dominant insurers. If they don’t, they risk losing the ability to treat many patients altogether.

The legislation is essential to respond to the inordinate amount of time that physicians and other health care practitioners must spend on administrative tasks that interfere with patient care delivery. For example, a 2016 Annals of Internal Medicine study concluded that, for every one hour a physician spends on delivering care to a patient, two more are spent on administrative tasks. Moreover, a recent American Medical Association (AMA) survey reported that 92% of responding physicians said that the prior authorization (PA) process delays patient access to necessary care; 84% said that burdens associated with PA were high or extremely high; and 86% reported that PA requirements had increased in the last five years.

In addition to collective negotiation, MSSNY supports legislation that would:

- Enact comprehensive PA reform including limiting the time for health plans to review PA requests; assure that a PA, once given, is enduring for the duration of the medication or treatment; and assuring health plans involve similarly trained physicians in making PA determinations;
- Protect against unfair insurer narrowing of networks by providing due process protections for physicians whose contracts are not renewed by insurance companies;
- Prohibit health insurers and hospitals from requiring board certification as a condition of network participation and medical staff membership;
- Prohibit mid-year prescription formulary changes; and
- Preserving patient access to community-based physician care by restoring New York State Medicaid payments for patients insured by both Medicare and Medicaid.

PRESERVING ACCESS TO CARE FOR INJURED WORKERS

MSSNY will continue to work proactively with groups representing injured worker patients covered by Workers’ Compensation to reduce the hassles they face in receiving needed care and treatment. Participation with WC remains a challenge for many physicians, as surveys report that nearly 90% of physicians find that administrative tasks associated with treating injured workers take at least double the time as compared to non-WC cases.

Therefore, MSSNY applauds the efforts of the Workers’ Compensation Board (WCB) to provide a far overdue increase in the medical fee schedule and to create greater uniformity in claim submission. Certainly, these modest increases are a good start, but further increases are necessary to better ensure a comprehensive availability of physicians to treat injured workers given the above-referenced hassles and minimal change to the fee schedule for the past 20 years. MSSNY also continues to work closely with the WCB on efforts to minimize the administrative hassles inherent in implementing a prescription medication formulary as required by a 2017 law. However, MSSNY will continue to oppose proposals that would make it harder for injured workers to receive needed care from their treating physicians including legislation to:

- Inappropriately expand PPOs and limit choice of physician in Workers’ Compensation;
- Inappropriately expand the role of physician extenders under the WC program without sufficient physician oversight, and
- Inappropriately eliminate or marginalize the role of county medical societies in reviewing physician applications to become authorized WC providers.

MEDICAL LIABILITY REFORM

There remains a compelling need to contain New York’s enormous health care provider liability costs through reform of New York’s dysfunctional medical liability adjudication system. New York’s physicians and hospitals incur the highest liability costs in the country, far surpassing the second highest state Pennsylvania and other more populous states such as California and Texas – not only cumulatively, but also on a per-person basis! To make matters worse, in 2017 New York enacted a law that could ultimately significantly increase these already outrageously high liability costs.

Remarkably, the total payouts from New York alone nearly exceeded the entire 12-state midwestern (including Illinois and 13-state western regions (including California)! Certainly New York’s exorbitant liability cost exposure is a significant reason New York was just listed as the third worst state in the country in which to be a physician, according to WalletHub.

Moreover, medical liability reform should be an essential component of efforts to reduce unnecessary healthcare spending because of the significant “defensive medicine” costs in health care. These costs generally refer to additional diagnostic tests of marginal utility that a health care provider orders to avoid potential malpractice lawsuits. For patients insured by both Medicare and Medicaid.

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NY Workers’ Compensation Board Launches State-Of-The-Art Virtual Hearings

After Successful Pilot, Injured Workers and Other Participants Can Now Choose to Attend Hearings Remotely, Avoiding Travel Burden

Recently, New York State Workers’ Compensation Board Chair Clarissa M. Rodriguez announced the Board has launched a first-in-the-nation initiative that allows injured workers and other participants to attend workers’ compensation hearings right from their homes or offices. The Board’s virtual hearings provide injured workers a way to move the claim process forward without the need to travel many miles for a hearing that may last only minutes, which is especially beneficial depending on the extent of their injuries.

The New York State Workers’ Compensation Board developed virtual hearings in partnership with the Office of Information Technology Services to give all parties involved the option of using a smart phone, tablet or computer to attend hearings. This is the first high definition, all access system for legal hearings in the nation, where multiple users in different locations log in once and then move from one hearing to another.

To participate in a virtual hearing, the party of interest needs only a smart phone, tablet or computer with a micro-camera and high-speed internet connection. All participants can see and hear each other on their respective screens. Additionally, workers’ compensation law judges can share claim documents with all involved parties. The system includes security.

The Board is also developing a mobile app, for future release, that parties may download and use to attend hearings. Many workers’ compensation hearings last less than 10 minutes, but injured workers can still lose time from work and suffer inconvenience traveling to Board offices. Weather-related complications can also make these trips difficult. Virtual hearings are entirely optional though, and parties may now choose them over attending a hearing at a Board office. They can always choose to attend in-person if they prefer.

Virtual hearings were first tested in the Capital District Office in Menands in November 2017, and were then rolled out across the state. Since the beginning of the pilot, more than 33,000 hearings have included at least one party who appeared remotely, successfully connecting injured workers, law judges and representatives from all over New York and nationally. The Board has trained more than 780 participants on the system, including law judges and other staff, attorneys and legal representatives. Feedback has been overwhelmingly positive.

More information on virtual hearings, including instructional videos and other training materials, is available at www.wcb.ny.gov/virtual-hearings.

Gov. Signs Measure to Eliminate Patient Cost-Sharing for Prostate Cancer Screening

In November, Governor Cuomo signed into law legislation passed earlier in the year (S.6882-A, Tedisco/A.6863-A, Gottfried) and supported by MSSNY to ensure that health insurers provide coverage for diagnostic testing for prostate cancer for men 40 and over with a family history, and men 50 and over who are asymptomatic, without such care being subject to annual deductibles or coinsurance. The bill would also require the inclusion of information regarding the availability of insurance coverage for prostate cancer screening without cost sharing in the standardized written summary prepared by the Commissioner of Health.

New York has for many years required insurance coverage for these tests, but were subject to patient cost-sharing. The new law, effective for insurance policies initiated or modified after January 1, 2019, would provide coverage without patient cost-sharing to a greater cohort of men for necessary prostate cancer screening than what has been recommended by the US Preventative Services Task Force.

MSSNY-PAC

(Continued from page 4)

ability, health insurer hassles, administrative burdens, and cumbersome HIT systems, all of which are contributing to the trends of physician burnout.

SINGLE PAYER

Furthermore, these challenges will be part of the rhetoric as Albany debates legislation to implement a single payer system in New York. It has passed the New York State Assembly several times, was co-sponsored by many Senate Democrats, and was a campaign issue for many candidates.

However, a slogan is one thing. Implementation of a paradigm-shifting policy is another. Notably, since the election, several Democratic lawmakers including Governor Cuomo have raised concerns.

Physicians have divergent perspectives on this issue. Some oppose the idea, others support it. But regardless of your perspective, it is imperative physicians ask the hard questions to their legislators about how such a far-reaching proposal would impact their patients.

And don’t let them respond in slogans.

MSSNY has developed multiple tools to assist you in your advocacy. We have created a Physicians Advocacy Liaison (PAL) network of dedicated physician activists who agree to be responsible for contacting specific members of the Legislature on an ongoing basis. MSSNY staff provides you periodic briefings to be sure you are up to date on key issues. Then, at a critical junctures, such as key committee or floor vote, you will then contact that Senator or Assemblymember.

Please join us in this effort and have a legislator (or two!) “assigned to you. To join the MSSNYPAC, click here.

JOIN THE PAC!

Most importantly, please take this opportunity to increase your participation in political activity by joining MSSNYPAC or to increase your contribution (click here). The PAC combines the voices of the physician community across New York State so that physicians have the opportunity to develop stronger relationships with those who will be developing health care policy in Albany.

Many physicians support MSSNYPAC, but we need far more as our voices are often drowned out by those with often competing interests.

Please join the MSSNY PAL and PAC. Join us in our efforts to assure quality health care for your patients.

For your New Year’s Resolution, commit to help to shape the brave new world in which we are living.

The future you save may be your own.

SAVE THE DATE for the MSSNY Sections Annual Meeting: Young Physicians, Residents and Fellows, and Medical Students. Saturday, February 9, 2019. Contact sbennett@mssny.org
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William Rosenblatt, MD, a MSSNY past President and past Chair of the MSSNY Board of Trustees, was presented with the Medal of Honor by the New York Medical College School of Medicine Alumni Association. The award was given at the annual Alumni Reunion Banquet on November 10, 2018. Annually, New York Medical College alumni recipients are chosen for their achievements by their peers and awarded this special recognition.

Dr. Rosenblatt was presented the Medal of Honor for his remarkable compassion, his commitment to patient safety, his influence to share his knowledge, to educate and inspire.

“Through his extraordinary achievements, Dr. Rosenblatt has exemplified the facets of a superior otolaryngologist and plastic surgeon,” said Dr. Charles W. Episalla, President of the New York Medical College School of Medicine Alumni Association.

A board-certified plastic surgeon, Dr. Rosenblatt is on staff at Lenox Hill Hospital and Manhattan Eye, Ear and Throat Hospital, and Assistant Professor of Plastic and Reconstructive Surgery at Touro College of Osteopathic Medicine. He is vice president in charge of Standards at The American Association for Accreditation of Ambulatory Surgical Facilities and is on the New York State Committee on Quality Assurance in office based surgery. He continues his private practice of plastic and reconstructive surgery in the Manhattan office he opened in 1979; he is also licensed to practice in New Jersey.

Dr. Rosenblatt received his medical degree from New York Medical College. He obtained residency training in both general surgery and plastic surgery from Lenox Hill Hospital, and otolaryngology training from the Metropolitan Hospital. He was the chief resident of his specialty at both hospitals and subsequently earned board certification from the American Board of Otolaryngology and Head and Neck Surgery, and from the American Board of Plastic and Reconstructive Surgery.
Promoting Interoperability (formerly Meaningful Use) Attestation Support

The New York eHealth Collaborative's Medicaid Eligible Professional Program (EP2) provides FREE assistance and a hands-on approach to help your practice successfully achieve Promoting Interoperability (formerly Meaningful Use) objectives.

FREE Services Include:

- Readiness Assessment
- Promoting Interoperability (formerly Meaningful Use) Support
- Education and Training
- Audit Readiness and Preparation
- HIE Connectivity

Eligible practices can receive up to $34,000 in incentive payments through the New York Medicaid EHR Incentive Program. The EP2 Program is only open to providers who started participating in the New York Medicaid EHR Incentive Program in 2016.

nyehealth.org/ep2
The 5th and 6th District Retreat

The 5th and 6th District Retreat took place November 2-3, 2018 at the Beeches Inn and Conference Center in Rome, NY. Highlights included presentations on “Universal Health Care Quality and Cost,” “How to Handle a Disgruntled Employee,” “New York State’s Sexual Harassment Policy” and MSSNY’s Legislative Update.

(Left to right) Dr. Howard Huang (5th District Councilor), Dr. Thomas Madejski (MSSNY President), Dr. MaryAnn Millar (President Elect of Onondaga County), Lana Ros Esq. (Norris McLaughlin), and Dr. Brian Johnson (President Onondaga County)

(Left to right) Lana Ros Esq., who presented “How to Handle a Disgruntled Employee,” with Dr. MaryAnn Millar (President Elect of Onondaga County)

(Left to right) Dr. Cynthia Baltazar (St. Lawrence County Secretary/Treasurer), Dr. Sally White (St. Lawrence County Vice President), Dr. Magenda Thakur (St. Lawrence County President), and Dr. Howard Huang (5th District Councilor)

Attendees listen to a presentation at the 5th and 6th District retreat.
CMS: Most Physicians Will Receive Positive Medicare MIPS Payment Adjustment; Still Concerns for Smaller Practices

CMS Administrator Seema Verma announced recently that 93% of clinicians eligible for the Merit-based Incentive Payment System (MIPS) received a positive payment adjustment for their performance in 2017. Moreover, she announced that 95% overall avoided a negative payment adjustment, while nearly 100,000 eligible clinicians earned Qualifying APM Participant status under the Advanced Alternative Payment Model track.

However, the press release also noted that only 73% of “small practices” received a positive payment adjustment, while 19% received a negative payment adjustment.

The 2017 performance will affect Medicare payments for 2019.

The press release further noted Administrator Verma acknowledged that the MIPS “positive payment adjustments are modest,” while noting that 2017 was a transition year. She indicated that CMS expects that gradual increases in performance thresholds in the future “will create an evolving distribution of payment adjustments for high performing clinicians who continue to invest in improving quality and outcomes for beneficiaries.” She also pledged customized technical assistance, at no-cost, for clinicians who received a negative payment adjustment, and to continue assistance to providers in solo, small and rural practices.

CME Webinar: The Continued Public Health Threat of Measles 2018
December 12, 2018 at 7:30am
Registration now open

In lieu of the recent measles outbreaks in New York State, MSSNY has added a just-in-time Medical Matters webinar to our 2018-19 schedule. William Valenti, MD, chair of MSSNY Infectious Disease Committee and a member of the Emergency Preparedness and Disaster/Terrorism Response Committee will serve as faculty for this program. Registration is now open for this program here.

EDUCATIONAL OBJECTIVES:

• Increase physician’s awareness of the role of measles as re-emerging infection.
• Discuss strategies to improve vaccination rates.
• Explore herd immunity and the role it plays in recent measles outbreaks.

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.

Happy Holidays!
Punitive Damages Awarded Against Physician for Destroying and Altering Medical Record

Nancy May-Skinner, Esq.
Fager Amsler Keller & Schopmann, LLC
Counsel to MLMIC Insurance Company

Over the years, the issue of the alteration or destruction of medical records has been a recurring topic in Dateline. Unfortunately, the practice continues amongst healthcare providers. The following article highlights a recent court decision that has significantly increased the consequences for practitioners who engage in the destruction or alteration of medical records for the purpose of evading medical malpractice liability.

The consequences of altering or destroying a medical record are serious and can impact a health care practitioner’s license, medical malpractice defense, and exposure for monetary sanctions. Recently, a New York State appellate court expanded these consequences, holding that a plaintiff may also “…recover punitive damages for a medical professional’s act of altering or destroying medical records in an effort to evade potential medical malpractice liability.”

FAILURE TO DIAGNOSE

In Gomez v. Cabatic, supra, the plaintiff sought compensatory damages (pain and suffering), alleging that the defendant endocrinologist failed to diagnose his six-year-old daughter with Type 1 diabetes, resulting in her death from complications of diabetes. The plaintiff did not claim that the alleged medical malpractice was malicious, reckless, or otherwise met the threshold for punitive damages.

RECORDS DESTROYED

Instead, it was not until after the defendant physician was deposed and it was learned that she destroyed and purportedly altered the patient’s medical record that the plaintiff first asserted a claim for punitive damages. The plaintiff did not allege that the destruction and/or alteration of the record, which admittedly did not occur until approximately four months after the patient’s death, impacted the treatment of the patient. Rather, he alleged that the destruction and/or alteration of the records was undertaken to avoid medical malpractice liability and this conduct supported an award of punitive damages.

The content of the medical records was central to the primary issue in the case: was the patient’s mother instructed to return for follow up blood sugar testing in four weeks, as the defendant endocrinologist maintained, or in two months, as the plaintiff maintained? The chart note for the last office visit indicated the patient was “TCB in 4 weeks.” In contrast, the plaintiff produced an appointment card indicating that the patient was not scheduled to return until approximately two months later. The timing was critical as the patient died between those two dates, approximately six weeks after her last appointment.

At her deposition, the defendant endocrinologist testified that she prepared and signed handwritten records – “scribble notes” – contemporaneously with each of the three office visits. When she received plaintiff’s counsel’s request for records approximately four months after the last treatment, she typed up her handwritten records and sent them on to counsel. She retained and provided the handwritten record for the first visit, reasoning that she considered it a registration form, but threw out the handwritten notes for the second and third visits. The plaintiff seized upon the destruction of the handwritten records for the last two visits, and discrepancies between the handwritten and typed notes for the first office visit, as proof that the typewritten notes differed from their original form. The plaintiff contended that the handwritten notes would have reflected a two-month follow-up instruction, not a four-week follow-up instruction, and the typewritten notes were created to avoid medical malpractice liability for the patient’s death. Based upon the defendant endocrinologist’s destruction of the records and the alleged alteration of the record content, the plaintiff sought punitive damages.

The jury found that the defendant endocrinologist’s malpractice was a substantial factor in causing the patient’s death and awarded $400,000 for pre-death pain and suffering. The jury also found that the defendant endocrinologist maliciously destroyed her handwritten notes after receiving the plaintiff’s attorney’s request for records and, therefore, awarded punitive damages in the amount of $7,500,000. On the posttrial motion, the trial court allowed the punitive award to stand, but reduced it as excessive to $1,200,000.

The defendant endocrinologist appealed the punitive damages award to the Appellate Division, arguing that the alteration or destruction of medical records cannot support an award of punitive damages as a matter of law. The appellate court unanimously rejected this argument, holding that a plaintiff who: “...recovers compensatory damages for medical malpractice, may also recover punitive damages for that medical professional’s alteration or destruction of medical records in an effort to evade medical malpractice liability.”

The court held that the availability of other adverse consequences for alteration or destruction of records, including disciplinary proceedings and spoliation sanctions, did not preclude an award of punitive damages. After reviewing conflicting precedent on whether the imposition of punitive damages requires that the patient’s medical care was impacted by the alteration or destruction of the record, the court concluded that this was not required. Finally, the court held that, unlike spoliation sanctions, the imposition of punitive damages does not require the plaintiff to prove the alteration or destruction prevented the plaintiff from proving her case.

Following the Appellate Division decision, all claims against the defendant endocrinologist were settled. Consequently, there will not be an appeal to the highest court in New York, the Court of Appeals. Until the high court addresses the availability of punitive damages for after-the-fact alteration or destruction of medical records for the purpose of evading medical malpractice liability, the Gomez case stands as the law in New York.

ALTERATION OR DESTRUCTION OF DOES NOT IMPROVE DEFENSE

The decision provides an important reminder that hindsight-inspired alteration or destruction of a medical record should never be undertaken and will not improve a provider’s stance in defending a medical malpractice action. With technological advances, any changes to a record can and will be discovered and used to compromise the provider’s credibility. Further, as in Gomez, the provider may face increased personal exposure for punitive damages and other serious legal consequences. Had the destruction and alteration of the record not been an issue in Gomez, the award would have been limited to compensatory damages covered under the defendant endocrinologist’s medical malpractice insurance policy. Instead, because of her destruction and alleged alteration of the records, the defendant endocrinologist faced personal liability for the much larger punitive damages award, which, by law, cannot be covered by insurance.

1 Gomez v. Cabatic, 159 A.D.3d 62, 64 (2d Dep’t 2018)
2 Punitive damages are rarely awarded in medical malpractice actions. See Dupree v. Giugliano, N.Y.3d 921, 924 (2012)
3 The punitive damages award was further reduced to $500,000. Gomez v. Cabatic, 159A.D.3d 81 (2d Dep’t 2018)
4 Hartford Acc. And Indemnity Co. v. Hempstead, 48 N.Y.2d 218 (1979)
MSSNY ALLIANCE

SAVE THE DATE FOR OUR ANNUAL MEETING
The Alliance is planning its Annual Meeting to be held April 11-12 at the Westchester Marriott in Tarrytown. Please mark your calendar and consider joining us.

AMAA NORTHEAST REGIONAL MEETING
The AMA Alliance, in co-sponsorship with the Massachusetts State Alliance, held a Northeast Regional meeting on October 18-20 in Waltham, Massachusetts. The first day of the conference included presentations on Physician Burnout. The speakers discussed the underlying issues of physician burnout and the importance of learning to embrace uncertainty to alleviate burnout. Cami Pond, AMA Alliance National President, spoke about member benefits including the Members only website with resources on topics like Physician Burnout. She also spoke about the latest initiatives regarding the new opioid toolkit and the Alliance partnership with the Parent Teacher Association that will target middle school students for opioid prevention materials.

HELMETS FOR GIRLS LACROSSE
As you know, the Alliance has been a staunch advocate for helmets for girls’ lacrosse players. At its Fall Conference in September, the Alliance approved expenditure to cover the cost of donating helmets to a girls lacrosse team in Schenectady. Thanks to our Health Promotions Co-Chair and staunch supporter of this endeavor, Cheryl Stier, the Alliance has purchased 30 girls’ lacrosse helmets from Hummingbird Sports to be donated to a Schenectady varsity team. The Alliance hopes this will encourage other organizations to take similar actions with their local schools.

MSSNY Member and NYC Marathoner
Theodore Strange MD, Stopped at Mile 16 to Save a Life
Dr. Theodore Strange, an IM from Richmond County (Staten Island), was running his 25th NYC Marathon in November. At mile 16, Dr. Strange answered a call for help for a downed female runner. She was not breathing; he started performing CPR and called for an officer to bring him a defibrillator. On the fourth shock, the woman breathed and was finally taken to the hospital. “People have been calling me a hero, but I was doing what I was trained to do,” he said. Read the full story here.

Council Notes - November 1, 2018
(Continued from page 2)
capabilities of poorly performing implants and report to the public on clinical statistics, and inform quality improvement and educational activities.
Dr. Geraci announced the following important dates regarding the 2019 House of Delegates at the Tarrytown Marriot:
April 11 - CMS Programs
April 12 - 14-House of Delegates
Resolution submissions: February 8-March 8 @ 5 pm
Mark your Calendars! The 3rd and 4th District Retreat will be held on January 26, 2019 at the Mirror Lake Inn in Lake Placid.

Avoid Medicare Penalties

Reporting PQRS has never been more important. The penalty for not reporting is, at a minimum, -2.0% but it could be more. Understanding the rules can be confusing but is necessary.

Attention MSSNY Members! Save $104
Use Code MSSNYPQRS
at the time of submission and receive a discounted submission rate of $195

Visit Covisint at: www.pqrs.covisint.com or contact them at 866.823.3958 for more information.

MSSNY MEMBERS: Your Patients Can Save Up to 75%
For information or to order FREE cards to distribute to your patients, contact: rraia@mssny.org
NRMP Report on Applicant Qualifications that Foster Fellowship Match Success
High or Low Exam Scores Do Not Guarantee Success or Failure in Obtaining Subspecialty Training Positions

The National Resident Matching Program (NRMP®) recently announced the release of Charting Outcomes in The Match: Specialties Matching Service®, Appointment Year 2018. The NRMP Specialties Matching Service (SMS®) encompasses multiple Matches for advanced residency and fellowship positions, and the report examines how applicant characteristics contribute to success in those Matches. The report has not been published since May 2013.

For the 2018 appointment year, NRMP conducted 25 Fellowship Matches for 63 subspecialties, a significant increase over the 20 Matches for 40 subspecialties that were the focus of the first report. The new report tracks 10,778 applicants in four categories: U.S. allopathic medical school graduates, osteopathic medical school graduates and U.S. citizen and non-U.S. citizen graduates of international medical schools. A total of 8,753 applicants obtained fellowship positions.

The report examines ten characteristics that contribute to applicants’ success in obtaining a fellowship position in their preferred subspecialty, or the subspecialty ranked first on the applicant’s rank order list. Characteristics include the number of subspecialties ranked; USMLE Step 1, Step 2 CK, and Step 3 scores; and the number of research, work, and volunteer experiences. All 63 subspecialties that participated in the SMS for the 2018 appointment year are represented on tables and charts for all specialties; additional specialty-specific tables and charts are included for the 24 subspecialties for which at least 50 positions were offered and at least 50 applicants supplied information for research.

A few highlights from the report:
- Gastroenterology, Cardiovascular Disease, Hematology/Oncology and Rheumatology are the most competitive subspecialties based on the numbers of applicants who preferred those specialties compared to the numbers of positions available in each. Geriatric Medicine, Nephrology, Child/Adolescent Psychiatry and Neuroradiology are the least competitive.
- Applicants who matched to a position ranked an average of 7.0 programs in their preferred subspecialty before ranking a program in another subspecialty. Unsuccessful applicants ranked an average of 3.6 programs in their preferred subspecialty before ranking a program in another subspecialty.
- Among U.S. allopathic graduates who matched in their preferred subspecialties, self-reported membership in the Alpha Omega Alpha (AOA) medical honor society was highest for Hand Surgery (30%) and Infectious Diseases (24%). Twenty-two percent of U.S. graduates who matched in Cardiovascular Disease, Hematology/Oncology, Pediatric Critical Care Medicine and Pediatric Cardiology self-reported AOA membership.

**GENERAL CHARACTERISTICS OF SUCCESSFUL APPLICANTS**

**Charting Outcomes in The Match: Specialties Matching Service®, Appointment Year 2018** shows that across all subspecialties, successful applicants are more likely to:
- rank more programs within their preferred subspecialty
- be graduates of U.S. allopathic medical schools
- have higher USMLE Step 1, Step 2 and Step 3 scores
- be members of AOA

“Although this report demonstrates a strong relationship between USMLE Step scores and Match success, a deeper analysis shows that program directors consider other qualifications,” said Mona Signer, NRMP president and CEO. “Excellent scores do not guarantee success, and lower scores do not prevent applicants from matching.”

**DATA-SUPPORTED ADVICE TO APPLICANTS**

Ms. Signer suggests applicants consider the following advice, which is supported by data in the report:
- Rank all the programs you really want without regard to your estimate of your chances with those programs.
- Include a mix of both highly competitive and less competitive programs within your preferred subspecialty.
- Include all the programs on your list where the program has expressed an interest in you and where you would accept a position.
- If you are applying to a competitive subspecialty and you would want to have a fellowship position in the event you are unsuccessful in matching to a program in your preferred subspecialty, also rank your most preferred programs in an alternate subspecialty.
- Include all your qualifications in your application.

Election Results Could Bring Major Change to Albany

(Continued from page 1)

With the Democrats taking control of the both the New York Senate in addition to the Assembly, there could be significant change in the approach to health care legislation. For example, many Democrats in their campaigns pushed for many progressive changes, including single payer healthcare. While that bill has overwhelmingly passed the Assembly multiple times, those votes were taken when it was likely the legislation would not be approved by the Senate. Other health care issues likely to be acted upon include legalizing recreational marijuana and expanding access to contraception.

There has never been a greater need for MSSNY members to become active both politically and at the grassroots level. It cannot just be left to a relative few individuals to participate and be active in MSSNYPAC and the MSSNYPAL. Many are part of our efforts but we need far more. We must broaden our network of active physicians. If you are not a member of MSSNYPAC, or would like to increase your contribution, you can do so at www.mssnypac.org/contribute.

Moreover, with some new faces in the Legislature, it is a perfect time to join MSSNY’s Physician Advocacy Liaison (PAL) program to commit to engaging with your local legislators on an ongoing basis to assure they are familiar with the concerns of physicians and their patients. For more information about the PAL, contact Carrie Harring at charring@mssny.org, or join today at http://www.mssny.org/MSSNY/Governmental_Affairs/PAL_Sign_Up.aspx
practitioner feels compelled to perform in order to help defend against a possible future lawsuit. While estimates vary about the cost impact to the health care system, an MIT study reported in a July 2018 New York Times article found the possibility of a lawsuit increased the intensity of health care that patients received in the hospital by about 5%.

Physicians need comprehensive reform of the flawed medical liability adjudication system to reduce these costs. MSSNY supports a number of legislative initiatives, including many that have proved successful in reducing costs in dozens of other states. These legislative proposals include:

- Placing reasonable limits on non-economic damages;
- Identifying and assuring qualified expert witnesses in medical liability trials and for signing Certificates of Merit;
- Assuring statements of apology from a physician to a patient are immunized from discovery at a medical liability trial.

MSSNY also supports alternative systems for resolving liability claims such as medical courts or a Neurologically Impaired Infants Fund. Moreover, as physicians continue to grapple with such continued exorbitant costs, and persistent threats to their personal assets, it is also essential that continued funding for the Excess Medical Malpractice Insurance Program is maintained.

Furthermore, given New York’s already exorbitant liability burden, it is imperative that legislators reject “stand-alone” measures to expand medical liability exposure and costs that would most certainly exacerbate health care access deficiencies. MSSNY urges the legislature to:

- Oppose eliminating consumer protections against exorbitant attorney contingency fees;
- Oppose eliminating important defense rights by limiting the ability of a defendant physician’s counsel to question the plaintiff’s treating provider;
- Oppose changing loss share rules regarding non-settling defendants; and
- Oppose expanding “wrongful death” damages to permit “pain and suffering”.

**IMPROVING CARE QUALITY**

**Improving Electronic Health Record Functionality**

Electronic health records (EHR) systems were intended to improve care quality and enhance care management. However, for many physicians they have proven to be more disruptive than helpful to patient care delivery. For example, a recent Annals of Family Medicine study reported that, during a typical 11 hour workday, primary care physicians spent more than half their time on data entry and other EHR system tasks, instead of with patients. Moreover, a recent AMA study reported that, compared to five years ago, more physicians are “dissatisfied” or “very dissatisfied” with their EHR system. Furthermore, these systems are extraordinarily expensive. Therefore, it is not surprising that, to date, only 68% of New York physicians have been able to connect to the State Health Information Network (SHIN-NY).

MSSNY continues to work with the AMA on advocacy to improve the functionality of EHRs, including assuring that EHR systems are interoperable. At the same time, it is imperative that New York not make these problems worse. Until these problems are adequately resolved, MSSNY will continue to oppose requirements to connect to the SHIN-NY, including legislation that would require urgent care or office-based surgery centers to adopt EHR and connect to the SHIN-NY.

MSSNY also supports assuring that New York’s Prescription Monitoring Program (PMP) can be checked directly from their EHR or e-prescribing systems. Unlike many other states, New York’s PMP is not interoperable with EHR systems, adding unnecessary administrative burden to the delivery of care by forcing physicians and their staff to toggle between different programs. While New York has for many years led the nation in PMP checks, increasing from 16.8 million in 2014 to 21.2 million in 2017, it was recently surpassed by Ohio in large part due to the interoperability between Ohio’s PMP and physician EHR systems. MSSNY will work towards a similar interoperable system in New York.

**Addressing Physician Demoralization and “Burnout”**

A recent Physicians’ Foundation survey noted that 78% of physicians reported experiencing some form of “burnout” from the enormous pressures they face in delivering care to their patients. Little wonder, as the same survey found that 80% of physicians indicated that were “at capacity or overextended”, limiting their ability to see new patients or take on new administrative duties. Sadly, studies shows that
one doctor commits suicide in the U.S. every day – the highest suicide rate of any profession - and that the number of physician suicides is more than twice that of the general population. This is a growing public health crisis.

To assist with responding to this problem, MSSNY supports legislation that would facilitate the ability of physicians to have therapeutic “peer to peer” conversations by providing confidentiality protection for organizations and individuals that provide physician peer support, similar to protections already provided to NYS Bar Association peer support activities. Moreover, MSSNY supports legislation to clarify the scope of its existing statutory liability protections for its Committee for Physicians’ Health. The CPH program was developed nearly 40 years ago to provide needed peer counseling services to physicians thought to be suffering from alcoholism, drug abuse or mental illness. Hundreds of physicians are served by this program each year, which helps to return these physicians to care delivery once healthy. However, the very existence of this extraordinarily beneficial program is threatened by a recent judicial interpretation that articulated that, while MSSNY supports removing the physician’s control over the actions of the rest of the team, to provide the patient with optimal medical treatment. MSSNY supports this concept and will continue to work toward achieving this goal. MSSNY also supports the ability of otolaryngologists to dispense hearing aids at fair market value. However, MSSNY opposes any expansion of the scope of practice of non-physician health care providers that will enable them to practice beyond their education and training, including legislation that would:

- Inappropriately expand the ability of podiatrists to treat up to a patient’s knee
- Inappropriately permit independent practice for nurse-anesthetists
- Inappropriately permit nurse practitioners to enter into collaborative drug therapy protocols with pharmacists
- Inappropriately permit dieticians to order lab tests
- Inappropriately grant prescribing privileges to psychologists
- Inappropriately permit corporately owned retail clinics

ELIMINATING HEALTH CARE DISPARITIES

MSSNY’s Committee to Eliminate Healthcare Disparities seeks to increase awareness of how factors such as race, ethnicity, culture and religious beliefs, sexual orientation; gender and gender identity contribute to both health and healthcare disparities and to ensure that all New Yorkers receive the best possible care. Working through this committee, MSSNY is seeking to:

- Prevent and manage diseases that are prevalent in underrepresented groups, including diabetes, hypertension, and cancer, through educational programming for physicians; and
- Promote and expand funding for programs that attract a more diversified physician workforce, increasing the numbers of minority faculty teaching in medical schools, expanding medical school pipeline programs in rural and urban areas to address the shortage of physicians in medically underserved areas of New York State.

PREVENTING GUN VIOLENCE

Concerns with Marijuana Use

In August 2018, the NYS Department of Health (NYSDOH) approved new emergency regulations to permit a patient to be certified to use marijuana for any type of pain condition. The emergency regulations also called for marijuana to be used in the treatment of opioid use disorder, making New York the third state to authorize the use of marijuana for opioid use disorder. Physicians are concerned that the promotion of marijuana use for opioid use disorder without evidence of effectiveness may worsen psychiatric co-morbidities and give a false impression to patients that it is as effective as established treatments such as methadone and buprenorphine, particularly in the prevention of fatal opioid overdoses. This also seems to conflict with the message from NYSDOH regarding the need to increase access to Medication Assisted Treatment (MAT). Moreover, MSSNY is concerned with the “mixed message” being sent to physicians throughout New York State as to what is considered acceptable methods of treating and managing pain in patients. MSSNY strongly recommends that state funding be made available for research on marijuana and its usage in the treatment of pain and opioid use disorders.

At this time, there are no established CDC guidelines for treatment of acute pain. There is insufficient evidence to support marijuana as an alternative to other treatments for acute pain, including in patients with opioid use disorder. MSSNY has urged the NYSDOH to conduct ongoing evaluation of the use of marijuana as a treatment for various conditions. MSSNY supports funding to assess the efficacy of the multiple formulations available for treatment of the approved conditions to improve the recommendations of certifying physicians, and to assist patients in choosing which products to purchase.

MSSNY has also expressed strong concerns with proposals to legalize recreational marijuana use. Throughout the fall of 2018, MSSNY physician leaders testified in regional forums that articulated that, while MSSNY supports removing the threat of criminal sanction for marijuana use, there are significant concerns with outright permitting recreational use. Data from jurisdictions that have legalized cannabis shows that there are demonstrated concerns around unintentional pediatric exposures resulting in increased calls to poison control centers and ED visits. There are also increases in traffic fatalities due to cannabis-related impaired driving.

PREVENTING GUN VIOLENCE

The Giffords Law Center to Prevent Gun Violence found that New York State annually averages 432 gun-related homicides, 1,499 nonfatal shootings, and 105 accidental shootings. The NYSDOH also reports that between 2013 and 2016, there were 2,745 reported suicides in New York State, which translates into approximately one doctor commits suicide in the U.S. every day – the highest suicide rate of any profession - and that the number of physician suicides is more than twice that of the general population. This is a growing public health crisis.
and 2015, there were 4,931 suicides in the state, of which 1,343, or 27.2%, involved firearms. In March 2018, the MSSNY House of Delegates created a task force on firearm safety as it relates to firearms and suicide and the physicians role in preventing these types of death. The task force is expected to make recommendations in 2019. The MSSNY House of Delegates also took action to support legislation that requires a waiting period and background checks prior to the purchase of all firearms, including the person to person transfer, internet sales and interstate transactions for all firearms. MSSNY will support legislation that blocks the sale of any device or modification, including but not limited to bump stocks, which converts a firearm into a weapon that mimics fully-automatic operation. MSSNY supports legislation that would ban the sale and/or ownership of high capacity magazines or clips and high speed, high destruction rounds. MSSNY believes that gun violence in the United States is a public health crisis and supports federal efforts to reverse the ban that prohibits the Center for Disease Control from researching gun related injuries, deaths and suicides related to this violence.

REducing opioid abuse

As a member of the AMA’s Opioid Task Force, MSSNY has worked to increase physician awareness and leadership and to coordinate and amplify the best practices already occurring across the country. Between 2013 and 2017, New York State physicians and other prescribers have decreased opioid prescribing by 20.3% and have made over 21 million checks of New York’s PMP. New York State physicians are increasing the prescribing of MAT and enhanced use of naloxone by physicians and other prescribers. MSSNY continues to support legislative efforts to enhance insurance coverage for treatment beds and strongly encourages all physicians and hospitals to advocate to patients the substance use treatment options, including buprenorphine, available to them in treating addiction. MSSNY supports increased reimbursement for MAT and supports removal of prior authorization and other inappropriate administrative burdens or barriers that delay or deny care for medication-assisted treatment for opioid use disorder. MSSNY will also advocate for enhanced insurer payment to physicians coordinating interdisciplinary care for their patients confronting chronic pain.

However, MSSNY remains concerned about legislative efforts to place arbitrary limits on prescribing of controlled substances. MSSNY will encourage that all licensed drug treatment programs offer treatment for substance use disorders and that staff employed at these facilities be trained in the referral and provision of MAT. MSSNY also supports the creation of pilot studies to assess the role of Safe Injection Facilities (SIF) in the state and that any pilot study include New York City and two other areas outside the New York City. Additionally, MSSNY advocates that these pilot studies provide screening, support, referral for treatment of substance use disorders, co-occurring medical and psychiatric conditions, and provide education on harm reduction strategies including Naloxone training.

Disease prevention

MSSNY strongly supports legislation to prohibit the sale of tobacco, e-cigarettes and nicotine dispensing devices and products to anyone less than 21 years of age. Prevention of diseases continues to remain a top MSSNY priority and the best way to prevent these diseases is through immunizations. MSSNY supports legislation or regulation that would remove religious exemptions for immunizations and opposes any additional exemptions for immunizations. MSSNY supports efforts to require pharmacies to inform adult patients that they have the option of having the immunization recorded into the registry.

Improving women’s health

Preserving the ability for women to have access to reproductive and sexual health care services is a key public health goal. MSSNY supports efforts to expand access to emergency contraception, including making emergency contraception more readily available and will continue to support sexual health education programs amongst adolescents. MSSNY will oppose any legislation that criminalizes the exercise of clinical judgment in the delivery of medical care.

New York ranks 30th out of 50 states for the number of deaths related to pregnancy. For black women the rate is almost four times higher than their white counterparts. MSSNY supports the creation of a Maternal Mortality Review Board, comprised of a diverse group of clinical experts who could review each of these maternal deaths and recommendations to improve those numbers in New York State. MSSNY supports insuring confidentiality protections for the review board. Additionally, MSSNY Committee on Health Disparities is seeking to work with the New York State Department of Health to create educational programs for physicians on maternal mortality.

OTHER PUBLIC HEALTH PRIORITIES:

- MSSNY supports efforts to prohibit the use of so-called “conversion therapy”.
- MSSNY has created a Task Force on End of Life Care and it is anticipated that a report will be issued in 2019. MSSNY supports efforts to increase funding in NY State for the availability of end of life care, mental health services, and activities of daily living support services, and hospice and palliative care programs which improve each person’s quality of life as it nears its natural end.
- MSSNY will continue to educate its physicians on tick-borne illnesses and will work with the NYSDOH on creating awareness for both patients and physicians. More than 30,000 cases of Lyme disease are reported nationwide, while studies suggest the actual number of people diagnosed with Lyme disease is more likely about 300,000.
(Continued from page 4)

health. One of the beautiful aspects of the practice of medicine is the application of science to the life of an individual patient.

One of my long-standing patients with chronic pain recently had a crisis. Patient X has chronic pain due to lumbar disc disease, previous surgery and post laminectomy syndrome. The patient had been doing reasonably well on a complicated regimen that included long-acting morphine. We had had some success in weaning the dosage down, but the patient’s insurance company decided they would not pay for the medicine. Additionally, one of the patient’s children continued to have difficulties with substance use disorder and ended up back in jail.

This confluence of problems caused him to dump his remaining morphine and buy suboxone off the street. He called me early in the morning in what sounded like acute withdrawal. I met him at the office as soon as we opened. He was anxious — hypervigilant, tachycardia, sweating and tremulous. We discussed further treatment options. He declined inpatient admission to treat the acute withdrawal and we negotiated further treatment. One of the heart-wrenching aspects of this story was the patient concerned that I would discharge him from the practice for violating our office policies for narcotic use by getting suboxone from the street. I reassured him that we were in this together, and while the deviation from the previous agreement was causing some of the difficulty, we would work through this together to stabilize the patient and get him through the crisis. After discussion of further options, I started him on transdermal buprenorphine and arranged for a rapid consultation with our local substance use disorder provider. He subsequently was switched over to suboxone and is now engaging in a coordinated treatment program for their narcotic dependency and chronic pain.

OUTCOME

The story doesn’t end there. I was proud of my patient being able to work through this difficult time and reengage on other aspects of his health. The science of pain and addiction suggest he will need medication-assisted treatment for some time. I had been contemplating applying for the “X waiver” to prescribe buprenorphine for substance use disorder, but held off for many reasons: lack of time; dealing with complicated non-compliant patients; stigmatized patients and stigmatization of the practice, possible inadequacy in being able to provide treatment to these patients. My patient was doing great on buprenorphine. However, the patient wanted me, as his long standing physician, to assume prescribing the medication-assisted treatment.

COMPLETED THE COURSE FOR WAIVER

The patient came to me with a flyer about free training and requested that I take training to take over the care. I was flattered, but also embarrassed. The incidence of pain and addiction in my community and throughout the country suggest that treatment of substance use disorder be a core competency for primary care physicians and the principles of treatment of acute and chronic pain and avoidance of prescription-induced substance use disorder be a core competency for all physicians. I tend to be ruminative on these type of issues, but once having made up my mind, committed to a course of action. Subsequently, I completed my waiver training in person and online last week.

I think each of us need to review what our patients need and I would encourage all of us to take the waiver training even if you don’t intend to use it to prescribe. MSSNY and some of our members have been leaders in getting patients into treatment and as we all want to do when we aspire to a career in the medical arts save some lives. You can find resources here.

A MSSNY Councilor, Dr. Joe Sellers at Basset Healthcare, recently spoke to the Council about a ground-breaking program at Basset. In the fall of 2016, Basset, in collaboration with DSRIP’s Leatherstocking Healthcare Partners Collaborative, launched an innovative program aimed at making evidence-based addiction treatment more readily accessible to people living in rural central New York by offering medication-assisted treatment (MAT) in the primary care setting. The program is now being held up as a model for other health systems around the state and has earned Basset the Healthcare Association of New York State’s 2018 Pinnacle Award for Quality and Patient Safety.

Currently, Basset’s opioid addiction program is helping more than 200 patients from around central New York address their addiction through a combination of MAT, counseling and comprehensive primary care to address other health issues. Primary care visits within Basset Healthcare Network are also covered by private insurance and Medicaid, making addiction treatment in this setting accessible to more patients regardless of income.

The network now has 27 primary care practitioners, both physicians and advanced practice clinicians, who have obtained Drug Addiction Treatment (DATA) waivers or “X” licenses, in order to be able to prescribe buprenorphine for treatment of opioid addiction. Basset’s goal is to have 90 percent of the network’s primary care clinics offering addiction treatment as part of comprehensive primary care within the next three years.

Dr. Sellers, regional medical director and a primary care practitioner in Basset’s Cobleskill clinic where the MAT program was first piloted, says, “We’ve been doing this a year and a half now; we’ve matured quite a bit. Initially, we worried about people’s substance abuse and now that’s evolved to the patient’s recovery phase and helping with transportation; education and job development.”

Between the Middleburgh, Schoharie and Cobleskill health centers, Basset’s Schoharie County clinics are helping 48 patients through addiction treatment and recovery. Dr. Sellers said, “We’ve had people who’ve gotten their lives back together; I’ve had a patient graduate from college, get a job and move on with his life. It is tremendously rewarding.”

Click here and here for “X” Waiver course information.
Nine Physician Specialties See Jump in Compensation

Physicians in nine specialties saw increases in total cash compensation from 2017 to 2018, with those specializing in general cardiology seeing the biggest jump in pay, according to a survey from SullivanCotter.

The survey includes data on nearly 167,000 individual physicians and advanced practice providers, with nearly 750 participating hospitals, health systems and medical groups.

Reported total cash compensation generally increased from 2017-18, averaging 1 percent to 4 percent. Out of 10 specialties listed, surgery (general) was the only specialty that did not see an increase in total cash compensation.

Here is the percent change from 2017-18 in total cash compensation for the nine other specialties in the survey:

1. Cardiology (general): 4.4 percent increase
2. Emergency medicine: 4.3 percent increase
3. Pediatrics (general): 3.7 percent increase
4. Orthopedic surgery (general): 3.2 percent increase
5. Hospitalist: 2.2 percent increase
6. Internal medicine: 2.1 percent increase
7. Family medicine: 2 percent
8. Psychiatry (general): 1.4 percent increase
9. OB-GYN: 1.4 percent increase

Older Age and Lack of Experience with Transgender May Hinder Caring

Findings published in the Annals of Family Medicine (11/1) reports, “Older age and lack of personal experience with transgender individuals may correlate inversely with a clinician’s willingness to care for transgender patients.” The authors of an accompanying editorial write that transgender people often report feeling stigmatized or misunderstood by healthcare professionals. The editorialists use a hypothetical case scenario to show how physicians and their office staff can communicate with transgender patients in sensitive and respectful ways.

Workers with Highest Suicide Rates Have Construction, Mining and Drilling Jobs

On November 16, The Centers for Disease Control and Prevention published in their Morbidity and Mortality Weekly Report that “workers with the highest suicide rates have construction, mining and drilling jobs.” The findings “an earlier study that mistakenly said farmers, lumberjacks and fishermen killed themselves most often.”

In arriving at these conclusions, investigators examined data on “22,000 people who died of suicide in 2012 and 2015, and what jobs they held.”

14th Annual Resident/Fellow/Medical Student Poster Symposium

The Medical Society of the State of New York is pleased to announce the 14th Resident/Fellow/Medical Student Poster Symposium.

When: Friday, April 12, 2019
Where: Westchester Marriott, Tarrytown, NY
Time: 1:30 pm – 4:00 pm
Click here for detailed guidelines.
Deadline for abstract submission is 4:00 pm, Friday, January 22, 2019.

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