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A Message from MSSNY President Dr. Arthur Fougner

The 2019 legislative session is now in the rearview, providing us an opportunity to reflect upon the intense action experienced at the Capitol and across New York and also to look ahead, working to set the groundwork for a successful 2020 and beyond. The 2018 elections brought a sea change with power shifting into one party’s hands across all branches of government. 2019 was an historic year with the passage of major pieces of legislation across the spectrum and the healthcare policy world was a hotbed of activity.

Working together with many specialty societies, patient advocacy groups and other allies, MSSNY fought vigilantly to champion the issues that matter most to MSSNY members and our patients. Our efforts were rewarded as we celebrated the passage of numerous bills that we supported and the defeat of a wide variety of bad legislation that would have imposed new mandates and costs on overburdened physicians, improperly expanded the scope of practice for other practitioners, and decreased patient access to needed care.

Here are some highlights of MSSNY-supported bills that were passed by both Houses:
- Repealing the religious exemption from vaccine requirement for public school students;
- Preventing health insurers from making adverse mid-year changes to their prescription formularies;
- Imposing extensive new regulation of Pharmaceutical Benefit Managers (PBM);
- Permitting a prescriber to arrange with a pharmacist to “partially fill” a patient prescription for opioid medication;
- Streamlining prior authorization (PA) requirements when a PA for a related procedure has already been received.

Despite a constant barrage of negative proposals, MSSNY was successful in convincing the New York State Legislature to defeat problematic bills or remove objectionable provisions. The following are some of the major pieces of negative legislation that MSSNY, working together with allies, was able to convince the legislature to reject at the end of session:
- Legalization of recreational “adult-use” marijuana and expansion of the medical marijuana program. Instead, MSSNY-supported legislation was enacted that further decriminalizes possession of small amounts of marijuana;
- Every major scope of practice expansion bill opposed by MSSNY, including pushing back against aggressive efforts by podiatrists and optometrists;
- Numerous trial lawyer-backed bills that could have greatly expanded damages or made it much more difficult to defend against a lawsuit;
- Mandates that would have overridden physicians’ clinical judgment and added even more requirements prior to prescribing opioid medications to patients.

The following pages detail some of the many health care bills that MSSNY tracked and advocated for or against during this past session. These are only just some of the thousands of bills introduced during the 2018-19 Legislative Session that touched on patient health care access.

THANK YOU to the physicians, residents, medical students and other advocates who took the time to reach out to legislators. The healthcare world is rapidly evolving and opposition interests continue to attempt to marginalize the physician’s role as the leader of the health care team. It is a constant battle and while change is the essential process of all existence...things are only impossible until they’re not and your dedication and participation is essential to ensuring that we are allowed to provide the care that our patients need. It is also critical that our legislators continue to hear the perspective of residents and medical students and how the challenges of New York’s health care delivery system makes it difficult to consider practicing in New York State.

Please speak with your friends, family, and colleagues to continue to build on the overwhelming presence in grassroots activity to address all of the issues facing New York State’s physicians. And please don’t forget to register for our Physician Advocacy Day on March 4, 2020 by going to Www.mssny.org/lobbyday

Sincerely,

Arthur Fougner, MD
MSSNY President
Join MSSNY and MSSNYPAC Today

The Medical Society of the State of New York (MSSNY) represents the interests of patients and physicians to deliver quality health care services for all New Yorkers.

The Medical Society of the State of New York is an organization of 20,000+ licensed physicians, medical residents, and medical students in New York State.

To join MSSNY, visit www.mssny.org/joinmssny

**Physicians (including Residents and Fellows)**

Eunice Skelly, Vice President, Membership - eskelly@mssny.org

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**Already a MSSNY Member?**

MSSNY members offer our profession’s expertise to elected officials as they work to enact various pieces of legislation.

MSSNYPAC provides the means by which MSSNY members can speak and to act collectively to influence decisions made by elected officials who pass laws that impact their lives.

MSSNY uses its resources to mobilize support for candidates who stand with physicians. In order to continue all of our efforts and to remain a force to be reckoned with, MSSNY needs resources. Together, there is nothing that we cannot accomplish. Every MSSNY member should be a part of MSSNYPAC and we encourage you to learn how you can join the team.

Join MSSNYPAC Today!

www.mssnypac.org
Active PAL Members Urgently Needed!
For more information and to sign up go to
www.mssny.org/pal

-hooks利用，建立，增长，利用您的联系/网络。
-hooks与立法者和决策者会面。
-hooks教育和招募医师会员。
-hooks帮助协调和参与基层倡导努力。
-hooks帮助使纽约成为一个更好的行医之地！

PAL RESPONSIBILITIES INCLUDE:
- Educating other members on issues facing physicians, such as at local county medical society or medical staff meetings;
- Working with your county medical society, be available to meet with your members of the legislature at least twice a year;
- Being responsible for calling or writing letters to members of the legislature on issues that impact physicians;
- Attend training programs in regards to legislative issues;
- Enlisting other member to support our action plans and mobilize them to action;
- Joining and recruiting others to join MSSNYPAC.

The Medical Society of the State of New York
Division of Governmental Affairs
Final Budget Agreement

Thanks to strong advocacy by MSSNY physician leaders, MSSNY member physicians, county medical societies and the many specialty societies with whom MSSNY works closely, the final Budget enacted DID NOT contain several objectionable provisions that had been opposed by MSSNY.

In March, the New York State Legislature passed the $157 Billion 2019-2020 State Budget. Throughout budget negotiations, MSSNY was able to ensure that the final budget contained numerous positive items for physicians and their patients and that proposals harmful to physicians and our patients were rejected.

- **Rejection** of the proposed $80/patient Medicaid cut for deductibles for patients covered by Medicare and Medicaid. This action prevents the imposition of potentially tens of thousands of dollars in cuts to physicians who treat many such “dual eligible” patients as part of their practice.
- **Rejection** of a proposed measure that would have placed new prior authorization on physicians prescribing medications to their patients covered by Medicaid.
- **Rejection** of a proposal to legalize recreational or “adult use” marijuana.
- **Expansion** of the “Anti-retaliatory” measure that prohibits a health insurer from taking “any adverse action... against a health care provider for filing a complaint, making a report or commenting to an appropriate governmental body regarding policies or practices of such insurer... “
- **Continuation of funding** the Excess Medical Malpractice Insurance Program was continued at its historical level, as well as continuation of the authority of the DFS Superintendent to set medical liability premium rates.
- **Comprehensive reforms** to better ensure insurance coverage parity for mental health conditions (MHC) substance use disorders (SUD) and Autism Spectrum Disorder (ASD):
  - Prohibits prior authorization for formulary forms of prescribed medications for treatment of SUD;
  - Provides coverage for ALL MHCs, SUDs, and ASDs as each is defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) or the most recent edition of another generally recognized independent standard of current medical practice such as the International Classification of Diseases (ICD);
  - Prohibiting preauthorization and concurrent utilization review of SUD services during the initial 28 days of treatment;
  - Medical necessity criteria with respect to benefits for MHCs/SUDs and ASDs shall be made available to patients and their physicians (and other health care providers) upon request.
- **Greater oversight** on pharmacy benefit managers (PBMs) in their dealings with Medicaid Managed Care plans including imposing new disclosure requirements and limits on PBM fees.
- **Requiring coverage** for at least three cycles of in vitro fertilization for health insurance policies for groups with 100 or more full-time employees.
- **A new 20% tax on the sale of “vapor products”** (e-cigarettes, e-cigars and vaping pens) and requiring sellers of such products to register with the NYS Tax Department.

Other provisions of note include:
- **Opioid Tax** – The final Budget contained a $100 million tax on opioid manufacturers and distributors.
- **Medicaid Cuts** – The proposed 0.8% across-the-board cut in Medicaid payments was not included in the final Budget.
- **Codifying the Health Insurance Exchange** – The Budget codified the New York State of Health into law, including its structure for providing health insurance products at the bronze, silver, gold and platinum levels, as well as appealing health plan formulary restrictions.
- **Workers’ Compensation Fees** – With a new medical fee schedule to begin Monday, April 1 that will provide long-overdue increases to physicians treating their patients covered by Workers’ Compensation (WC), the Legislature and Governor agreed to a WC package that would expand the types of practitioners who can treat and be reimbursed for treating injured worker patients while at the same time seeking to reduce some of the carrier-imposed barriers to injured workers receiving needed medical care and treatment.
Throughout the 2019 state legislative session, MSSNY was able to stop harmful proposals and ensure passage of significant legislation that will have a real impact on the lives of MSSNY members and their patients. Here are some examples of legislation important to physicians that cleared both houses.

**Repeal of the Religious Belief Exemption from Vaccination Law**

*S.2994A Hoylman / A.2371A Dinowitz*

MSSNY strongly supported a bill that repeals the exemption from vaccination due to religious beliefs. Vaccination is a valid measure to protect public health. There is solid scientific evidence that compulsory vaccination prevents outbreaks of diseases and that community or herd immunity is reduced when large numbers of children are exempted, leading to the reappearance of illnesses such as measles. New York State is in the midst of its worst measles outbreak since the disease was declared eliminated in the United States in 2000.

**Maternal Mortality Review Board**

*S.6529 Rivera / A.8338 Joyner*

This bill seeks to amend addresses the severe issue of maternal mortality and morbidity in the state of New York through the establishment of a state level maternal mortality review board with medical confidentiality protections.

**Dispensing of Partially Filled Prescriptions**

*S.1813 Rivera / A.3918 McDonald*

This measure amends the public health education law, allowing a prescriber to issue a “partial fill” prescription for a Controlled Substance II, III or IV to the patient.

The Medical Society of the State of New believes that this measure will help to reduce the amount of unused pain medicines, thereby limiting the number of drugs that can be diverted.

**行政 of Eye Drops**

*S.4469B Stavisky / A.3822D McDonald*

This law will permit ophthalmologists or optometrists to supervise trained personnel in the administration of eye drops.

In January 2019, the MSSNY Task Force on Firearm Safety recommended that the Medical Society support the concept of “red flag” provisions. This legislation will allow for an Extreme Risk Protection Order (ERPO) which is an order of protection prohibiting certain persons from purchasing, possessing or attempting to purchase or possess a firearm, rifle or shotgun.
2019 Legislative Session Ends with Significant Public Health Wins

**Veterans Mental Health**

MSSNY received a $150,000 grant for the continuation of the Veterans Mental Health Training Initiative physician educational program.

**Committee for Physicians’ Health (CPH) Extension**

CPH received continued funding of $990,000. CPH is a program designed to confront and assist physicians thought to be suffering from alcoholism, substance abuse or mental illness. Since the inception of this program, CPH has assisted thousands of physicians in returning healthy to medical practice, and routinely monitors the recovery of 450 physicians.

**E-Cigarette Education & Prevention**

S.301 Hoylman / A.481 Rosenthal

Seeks to educate and discourage tobacco use amongst minors by including education on electronic cigarettes and liquid nicotine in school-based tobacco use prevention and control programs.

**Expedited Partner Therapy**

S.1799 Rivera / A.2998 Bichotte

Will allow for expedited partner therapy for sexually transmitted infections that the Centers for Disease Control and Prevention (CDC) recommend for the sexual partner or partners of someone having been diagnosed with the disease.

**Banning “Conversion Therapy”**

S.1046 Hoylman / A.576 Glick

In order to protect the physical and psychological well-being of minors, this bill designates as professional misconduct the act of engaging in sexual orientation change efforts by mental health care professionals upon patients under 18 years of age.

**Curtailing Mid-Year Formulary Changes**

S.2849 Breslin / S.2969 Peoples-Stokes

This bill would prohibit a health insurer from removing a prescription drug from a formulary during the patient’s policy year. Moreover, if the plan’s drug formulary has two or more tiers of drug benefits with different deductibles, copayments or coinsurance, the plan may not move a drug to a tier with higher patient cost sharing during the policy year. It also prohibits the plan from adding new or additional formulary restrictions during the policy year.

**Veterans Mental Health**

MSSNY received a $150,000 grant for the continuation of the Veterans Mental Health Training Initiative physician educational program.

**Pharmacy Benefit Manager Licensure and Regulation**

S.6531 Breslin / A.2836A Gottfried

Under this measure, PBMs will be required to register with the Superintendent of Insurance and will require renewal of their license every three years. Licensure will be contingent upon meeting minimum standards established by DFS and the Commissioner of Health. PBMs will be required to address any conflicts of interest, deceptive practices, anti-competitive practices, and unfair claims practices.

**Reducing Prior Authorization Requirements**

S.5328B / A.2880B Hunter

This bill would ensure that if a physician providing a treatment to a patient for which a PA has been received determines that providing an additional or related service or procedure is “immediately necessary as part of such treatment” and would not be “medically advisable to interrupt the provision of care to the patient” in order to obtain a PA, then the insurer shall not deny the claim, except under limited circumstances.
Adverse Legislation Rejected Through MSSNY Efforts

MSSNY has been hard at work in the halls of the Capitol advocating on behalf of physicians and their patients. Working collaboratively with other advocacy groups such as hospital associations and specialty societies, we were successful in convincing the Legislature to reject these bills.

Medical Liability Expansion

Expansion Wrongful Death Damages

*S.4006 Hoylman / A.5612 Weinstein*

This measure would amend the estates, powers and trusts law, to authorize an award in a wrongful death action to include compensation for grief or anguish, the loss of love and companionship, loss of services and support and the loss of nurture and guidance. This bill will vastly increase the amount of recoverable damages in these cases far beyond the level and intent of the law when it was first enacted and as it has been applied for generations. Any change in the law which would expand the permissible compensation to include concepts such as grief, anguish, and the loss of guidance will dramatically increase liability costs, insurance costs and, of course, the cost of health care in New York State. Actuarial estimates have indicated that passage of this legislation could increase already outrageously high physician premiums by ~50%.

Prohibition of Ex-Parte Interviews

*S.6194 Parker / A.2370 Dinowitz*

This bill would amend the civil practice law and rules to prohibit a physician’s defense counsel in a medical liability action from conducting an interview with the plaintiff’s treating physician.

This legislation would overturn a very important New York State Court Appeals decision that was issued in 2007. If this decision were to be overturned through legislation, it would present significant problems for a physician defendant in seeking to defend himself or herself in a medical liability action by limiting the opportunity to fully examine the plaintiff’s health condition to evaluate the merit of the plaintiff’s claim.

Extending Time to Commence Malpractice Actions Against Hospitals

*S.4501 Parker / A.6903 Titus*

Would extend the statute of limitations in medical, dental or podiatric malpractice actions against a hospital where the hospital has failed to file an incident report as mandated by law. It also requires such reports to be sent to the patient and their representative. Finally, the bill provides for a private right of action against a hospital for injuries suffered as a result of a hospital acquired infection, and establishes strict liability against hospitals for medication errors.

*With significant objections from MSSNY, numerous specialty societies, HANYS and GNYHA, the Legislature did pass 2 bills affecting certain cases involving multiple defendants where the jury has awarded a judgment for the plaintiff, including S.6081/A.2372 and S.6522/A.2373. MSSNY will be working with other groups to request that the Governor vetoes these 2 bills.*
**Scope of Practice Expansion**

**PAs to Operate Fluoroscopy Imaging**  
*S.1812 Rivera / A.2982 Gottfried*

This measure would allow physician assistants who have completed a training program approved by the Department of Education to operate fluoroscopy imaging technology as part of a diagnostic or treatment procedure. While PAs are a very important member of the health care team and can generally perform the functions delegated to them by their supervising physician, they are currently prohibited from performing fluoroscopy for good reason. Appropriate training and direct and/or personal supervision by the physician is particularly important in fluoroscopy because it has the potential to deliver large doses of radiation to patients during diagnostic and interventional procedures.

**Expanding Dental Practitioners’ Scope of Practice**  
*S.2824 Gounardes / A.7785 Abbate*

This measure would permit certain dental practitioners to perform a wide range of medical surgical procedures involving the hard or soft tissues of the oral maxillofacial area. Specifically, the bill could enable oral and maxillofacial surgeons (dental surgeons) to perform surgical procedures well beyond their current scope of practice which is rooted in the restoration and maintenance of dental health.

**Allowing Optometrists to Prescribe**  
*A.1193B Paulin*

This bill would amend the education law to expand the scope of practice of optometrists to enable them to have prescriptive privileges for a broad range of oral medications for patients.

**Allowing Pharmacists to Perform Non-Invasive Tests**  
*S.5092 Rivera / A.3867A McDonald*

Would add pharmacists to the list of licensed health care professionals authorized under public health law to perform non-invasive (CLIA-waved) laboratory tests as an adjunct to their professional services.
Adverse Legislation Rejected Through MSSNY Efforts

Chiropractors Forming Partnerships with Medical Doctors
A.6525 O'Donnell
The purpose of this bill is to allow doctors of chiropractic, licensed under Title VIII, Article 132 of the education law to form partnerships with medical doctors. We are concerned that permitting a multidisciplinary partnership including physician and non-physician could be potentially detrimental to patient health. If a physician and a non-physician become partners in a limited liability company and the company hires additional physicians as employees, and the original physician partner dies or leaves the partnership, it leaves the non-physician partner(s) in control of the physician employees. As employees, the physicians would be subject to the decisions made by the non-physician partners, which may not be in the best interests of the patients treated by them.

Expands Podiatric Scope of Practice
S.5395 Jackson / A.6185 Pretlow
This bill would expand the scope of practice of podiatrists to allow podiatrists to “diagnose, treat, operate or prescribe for cutaneous conditions of the ankle to the level of the distal tibial tuberosity” (knee).

Establishment of Structure for “Retail” Clinics
A.1046 Paulin
The bill would permit a clinic in a retail store owned and operated by a for-profit, publicly traded corporation. These proposals would disrupt the independence of medical decision-making and the integrity of the doctor-patient relationship.

Laser Hair Removal
S.2834 Savino / A.821 Paulin
This bill would amend the General Business law to permit estheticians and others to perform laser hair removal with only minimal physician oversight. While MSSNY supports efforts to provide stronger regulation of esthetician use of lasers, this bill needs to be strengthened to require more direct physician oversight.

Cesarean Section Information Mandate
S.2888 Salazar / A.318 Paulin
Would place in statute the specific language that a physician or other maternal health care provider must give, in the form written communication, to a pregnant woman when recommending a primary cesarean section delivery, or following the procedure in the case of an unplanned cesarean section.
Adverse Legislation Rejected Through MSSNY Efforts

Untenable Practice Mandates

**Opioid Information Mandate**

* S.4277A Harckham / A.7285A Rosenthal

This bill ignores the concept of informed consent and already existing requirements by requiring health practitioners who prescribe an opioid or other Schedule II Controlled Substance to discuss with the patient the risks of being prescribed a CSII drug.

**Additional Physician Profile Requirements**

* A.8237 Gottfried

This bill would require several new categories of information to be included in Department of Health's (DOH) Physician Profile, including office hours, whether the practice is accepting new patients, and whether the practice has adaptive technology.

**Limits Physician Prescribing**

* S.332 Akshar

This bill would require a health care practitioner to obtain written permission from a parent or guardian before issuing a first prescription of a controlled substance to a minor.

**School Information Intake Mandate**

* S.5618 Persaud / A.6023 Perry

This legislation would amend the public health law to require physicians and hospitals in New York City to obtain the name of the school attended by school-aged patients and to include this information in their admission registration forms. While the intent of this legislation is laudable, it would impose yet another unfunded mandate on already overstressed physician offices seeking to assure patients receive needed care amid the myriad of requirements already imposed by Medicare, Medicaid, private insurers, as well as other state mandates. These increasing mandates take more and more time away from the ability to deliver the timely care patients expect to receive.

**Opioid Co-Prescribing Mandate**

* S.5150B Harckham / A.5603B Braunstein

Would require that prescribers, who prescribe opioids for the first time, also co-prescribe an opioid antagonist with the prescription.

**Opioid Consultations**

* S.331 Akshar / A.741 Rosenthal

This bill would require health care practitioners to consult patients about the quantity of an opioid prescription and the patient's option to take a lower dosage. It would unnecessarily require physicians to discuss the risks associated with taking an opiate.

**Mandates Enzyme Testing for Certain Cancer Patients**

* S.984 Breslin / A.7533 Fahy

This bill would have required every physician or other authorized practitioner who provides fluoropyrimidine or other antimetabolites to individuals diagnosed with cancer to test for dihydropyrimidine dehydrogenase deficiency prior to such treatment.
Health Care Bills that Passed Both Houses

**Nursing Home E-Prescribe Exemption**

*S.4183 Rivera / A.1034A Gottfried*

This bill, supported by MSSNY, will continue to exempt nursing homes’ prescription of oral medication from the state requirement that all prescriptions be electronically submitted.

**Adding Hospitals to Surprise Bill/IDR Process**

*S.3171A Krueger / A.234A Cahill*

This bill would subject out-of-network hospital charges for emergency services to the independent dispute resolution process established to protect against surprise medical bills (that are currently applicable to out-of-network physicians).

**Reporting on Opioid Epidemic Initiatives**

*S.4650 Sanders / A.1068 Rosenthal*

This bill requires OASAS to provide quarterly reports on the status and outcomes of various initiatives to address the heroin and opioid epidemic.

**Healthcare Decisions for Adult Patients without Surrogates**

*S.6356 Rivera / A.1124 Gottfried*

This bill asserts that decisions about routine care for hospice patients without a surrogate decision maker do not require prior review by an Ethics Review Committee, and are governed by the provisions in the Family Health Care Decisions Act.

**HIV Treatment for Sexual Assault Victims**

*S.2279A Hoylman / A.1204A Peoples-Stokes*

This bill requires the provision of a full regimen of HIV post-exposure prophylaxis to sexual assault victims, and provide that victims of sexual assault be informed that payment assistance for this and follow-up care may be available from the Office of Victim Services.

**Drug Recall Notification**

*S.5091B Comrie / A.4781B Rosenthal*

This bill requires pharmacies to make reasonable attempts to notify patients of certain drug recalls.

**Health-Related Leave for Military Members**

*S.5285A Brooks / A.1093B Paulin*

This bill provides additional leave to public officers or employees not employed by the State of New York with military combat experience to obtain health related services related to duty in a combat theater or combat zone of operations without loss of pay.

**Insurance Coverage for Eating Disorders**

*S.3101 Biaggi / A.1619 Rozic*

This bill requires insurance companies to provide full coverage for all the aspects of eating disorders treatment.
Health Care Bills that Passed Both Houses

**Fighting Mental Health & Substance Abuse Stigma**

*S.3200A Parker / A.2758A Ortiz*

This bill creates a public education initiative designed to eliminate stigma and misinformation about mental illness and substance use among military service members.

**Domestic Violence Training in Hospitals**

*S.3962A Salazar / A.2850A Lavine*

This bill requires hospitals to establish policies and procedures regarding domestic violence; establishes ongoing training programs on domestic violence for all current and new hospital employees.

**Informed Consent for Education/Training Procedures**

*S.3353 Ramos / A.4988 Paulin*

This bill would require hospitals to create procedures in the course of education or training; consent. In the case of any health care procedure or examination, the fact that it is performed in the course of education or training shall not diminish the requirement for informed consent for the procedure or examination.

**Black Youth Suicide Prevention Task Force**

*S.4467B Carlucci / A.6740B Jean-Pierre*

This bill creates a Black suicide prevention task force to examine, evaluate and determine how to improve mental health and suicide prevention for our New York’s Black residents aged 5 through 18.

**Establishment of Obstetric Hemorrhage Protocols**

*S.4498A Rivera / A.6962A Joyner*

This bill directs the commissioner of health to establish obstetric hemorrhage protocols to be implemented by hospitals; requires reporting.

**Anaphylactic Policies for Child Care Services**

*S.218B Benjamin / A.6971B Taylor*

This bill creates a training course for appropriate child care service personnel for preventing and responding to anaphylaxis and establishes a procedure and appropriate guidelines for the development of an individualized emergency health care plan for children with a food or other allergy which could result in anaphylaxis.

**Comprehensive Contraception Coverage Act**

*S.659A Salazar / A.585A Cahill*

This bill requires commercial group health insurance policies to cover all FDA-approved contraceptive drugs, devices and products when prescribed by a health care provider.

**Rural Suicide Prevention**

*S.2070 Metzger / A.6007 Barrett*

This bill creates the rural suicide prevention council.

**Increased Epinephrine Availability**

*S.3247B Salazar / A.1024B Rosenthal*

This bill authorizes certain law enforcement officers and firefighters to possess and administer epinephrine by use of an epinephrine auto-injector.
Health Care Bills that Passed Both Houses

Reproductive Health Decision-Making Protection

S.60 Metzger / A.584 Jafee
This bill prohibits employers from discriminating against employees based on the employees' or dependent's reproductive health decisions.

Tackle Football Concussion Info

S.2958A Krueger / A.6968A Benedetto
This bill requires all tackle football programs in the state to provide an informational packet about concussions and sub-concussive blows and the injuries that might occur as a result of receiving such blows, to the parents or guardians of all children participating in such tackle football program.

End of Life Procedures by PAs

S.4814 Rivera / A.1162A Gottfried
This bill permits the execution of orders not to resuscitate and orders pertaining to life sustaining treatments by physician assistants.

Transfer of Records Upon Practice Closure

S.5367 Comrie / A.2349 Perry
This bill requires a health care provider or facility which has determined to cease to do business in New York, at least thirty days prior to such action to notify current patients of the impending closure to facilitate the transfer of medical records.

Insurance Coverage for Mammograms

S.3852A Martinez / A.5502A Jean-Pierre
Enacts "Shannon's law, requiring insurance companies to cover annual mammograms for breast cancer screening for patients thirty-five and older.

Physician Loan Repayment and Practice Support Application

S.4269 Rivera / A.5425 Gottfried
This bill requires the commissioner of health to appoint a workgroup to conduct a thorough review of the accessibility and fairness of the New York State Grant Gateway for individual applicants for funds under the physician loan repayment and physician practice support programs.

Eye Drops by Ophthalmic Assistants

S.4469B Stavisky / A.3822D McDonald
This bill authorizes ophthalmologists and optometrists to supervise qualified professionals in the care of a patient for the purpose of certain eye drops in conjunction with such dilating drops to the surface of the eye of a patient.

Medication Assisted Treatment

S.5935A Harckham / A.7246B Rosenthal
This bill enables Medicaid patients to access whichever MAT medication is most beneficial to them without utilization control, mandated prior authorization or lifetime limits.
Looking Ahead to the 2020 Session

2019’s session was packed with legislative action resulting in an historic number of significant legislative proposals being enacted into law. It was also rife with contentious issues that MSSNY was able to fight off. While we were successful in the interim, many of these issues will be priority items for legislators in 2020 and we must make sure to continue to advocate for sensible action.

Single Payer

Many progressive candidates in New York ran on a platform built upon support for a single payer healthcare system in New York. While physicians have divergent opinions on the issue of “single payer”, MSSNY has an official policy in opposition to a single payer system and has advocated for a “go-slow” approach that allows input from representatives from across the healthcare continuum. Regardless of perspective on single payer, most physicians agree on the need to reduce the administrative burden on physicians caused by insurer hassles.

Large blocs in the legislature support some form of a single payer system and the chairs of the Assembly and Senate Health Committees are strong supporters of this legislation. They will be holding public forums throughout the rest of 2019 and have vowed movement on the issue in 2020. This is sure to be a high-profile campaign that will necessitate strong advocacy on behalf of MSSNY.

Recreational Marijuana

MSSNY worked with a variety of organizations across New York – including those from the education, law enforcement and public health sectors – to voice strong opposition to the legalization of marijuana for recreational use. Due to strong, continued advocacy, this legislation was tabled in 2019. MSSNY has pushed for an open conversation that considers scientific and medical data and taking into consideration the experiences of other states that have already legalized marijuana.

However, there is fierce support for legalizing marijuana from advocates including many legislators. This will likely be one of the most contentious and publicly debated issues in 2020 and is sure to be at the top of many legislators’ lists of priorities.

Malpractice Expansion

Each and every year, trial lawyers in New York show up in force, fighting for expansion of the malpractice system that would increase payouts – and as a result – your liability premiums. New York’s tort system is already toxic for physicians, with NY having the highest payouts in the country, and we know that we can’t afford to let the system skew any further toward the plaintiffs. Proposals including those that would expand the type of eligible awards, increase the statute of limitations for commencing suit and allow hearsay arguments, among others, will again be pushed by lawyers and we must be prepared to advocate for physicians’ ability to defend themselves.
Looking Ahead to the 2020 Session

Through our lobbying efforts, MSSNY will continue to work to get the following bills passed.

Collective Negotiations
S.3462 Rivera / A.2393 Gottfried

Currently insurance companies are able to leverage their market shares and force physicians to accept fees that are untenable to healthy practice. Unfortunately, current federal antitrust laws prohibit individual health care providers from collectively negotiating any provisions of contracts presented to them by managed care entities. However, the “State Action” doctrine created nearly 70 years ago by the US Supreme Court permits collective action under close state supervision to vindicate legitimate public interests. This bill would help to even the playing field between physician and insurer by allowing health care providers in New York State to conduct some collective negotiations by creating a system under which the state would closely monitor those negotiations, and approve or disapprove such negotiations from going forward.

Appropriate Identification of Health Care Professionals
S.5870A Griffo

This bill would ensure appropriate identification of all health care professionals in their one-on-one interactions with patients and in advertisements to the public. It would mandate that advertisements for services to be provided by health care practitioners identify the type of professional license held by the health care professional and would require all advertisements to be free of any and all deceptive or misleading information. It would also require health care practitioners to wear a name tag during patient encounters that includes the type of license held by the practitioner. The bill would also require the health care practitioner outside of a general hospital to display a document in his or her office that clearly identifies the type of license that the practitioner holds.

Increasing the Penalties for Assaulting Physicians
S.1903 Funke / A.2460 Joyner

This bill would amend section 120.05 of the Penal Law to include assaults on physicians as an ‘assault in the second degree’ - a class D felony charge in the state of New York. While current statute affords protections and increased penalties for assaults on nurses, EMTs, emergency department medical personnel, firefighters, police officers, school crossing guards, sanitation workers and other employees providing direct patient care, physicians are currently not afforded the same safeguards.
Peer-Review Process

S.1800 Rivera / A.1165 Gottfried

This measure would extend the confidentiality provisions relating to discovery of testimony to apply to statements made by any person in attendance at peer-review committee that is a party to an action the subject matter of which was reviewed at such meeting. It would improve the peer-review process and the clear benefits to be derived therefrom through the increased willingness of providers to submit information without fear of misuse in subsequent legal proceedings.

Reduce Administrative Burdens to Delivering Care

S.2847 Breslin / A.3038 Gottfried

The legislation would enact into law several policies to reform and streamline the prior authorization process and would protect patients from harm due to insurers’ bureaucratic hassles by doing the following:

- Ensuring that a practitioner of the same or similar specialty review health care recommendations on behalf of a health plan before treatment recommendations are denied;
- Requiring health plan utilization review criteria to be evidence-based and peer-reviewed;
- Reducing the time frame for reviewing prior authorization requests from three business days to 48 hours (and to 24 hours for urgent situations);
- Ensuring that a prior authorization, once given, is enduring for the duration of the medication or treatment;
- Prohibiting mid-year prescription formulary changes;

Statutory Liability Protections

S.1796A Rivera / A.2995A Gottfried

This measure would clarify that the statutory liability protections offered for physician participants in the Committee for Physicians’ Health (CPH) program extend to the organization who sponsors the program as well as to the employees of the sponsoring program acting without malice and within the scope of its functions for the committee.

Importantly, to encourage physicians with appropriate expertise to actively participate in efforts to rehabilitate physicians suffering from these conditions this statute expressly provides liability protections for those physicians who serve on these committees for actions taken within the scope of their functions for the committee.

Physician’s Board Certification

S.5280 Rivera / A.5140 Schimminger

This bill would amend the public health law and insurance law to prohibit health insurance companies and hospitals from mandating that their network and staff physicians continue to maintain board certification as a condition of participation in their panels and medical staffs.
In July, physician members from all over New York State joined MSSNY for an afternoon of camaraderie at MSSNYPAC’s Physicians’ Day at the Races at the Saratoga Race Track in Saratoga Springs, NY.

Thank you to all who came and supported MSSNYPAC! Hope to see you again at next year’s event!