

**MSSNY Council Report**  
**Joshua M. Cohen, MD, MPH, Councilor**  
**Manhattan and the Bronx**  
**November 7, 2019**

**New York County Medical Society**

- **Doctor Scot B. Glasberg**, Chair of the Society's Single Payer Task Force, gave testimony in The Bronx on October 23 during a Joint Hearing of the Assembly and Senate Health Committees on the New York Health Act. See the link below for all the testimony (1:24 to 1:39 for New York County), at <https://youtu.be/O5CnjzhdpNU> Following the testimony, **Assemblymember Richard Gottfried** afterwards praised New York County and MSSNY for detailed work on this process. New York County Medical Society does not support single payer legislation. However, because of concerns about such a bill eventually passing, members have done their best in discussions with Assemblymember Gottfried and Senator Gustavo Rivera to make sure that elements in the bill protect doctors and patients.
- The Society approved sponsoring a bus to Albany on March 4 for Physician Advocacy Day, and we look forward to traveling with our members and any of our friends from the other boroughs. The cost is \$50 a person, residents and students for free.
- On Sunday, January 26, 2019, the Society will host its Legislative Breakfast with the NYC Psychiatric Society and the New York Council on Child and Adolescent Psychiatry, at the New York Academy of Medicine. Details will be available soon.
- The Society held two successful CME program this fall — "Learn How to Survive a Malpractice Lawsuit." and a MSSNY presentation on "Post-Traumatic Brain Injury and Veterans." Medicare Updates for 2020 are planned for December and January.
- The Society continues to be concerned about ZocDoc on two fronts. A member of the Society, Peter Chien, MD, PhD, presented regarding ZocDoc, the physician appointment application which recently changed its business model to charge physicians a per patient booking fee. There have been concerns about the possibility of this model being fee splitting, although ZocDoc has obtained support from its position from the New York State Department of Health and now Medicare and Medicaid Services. However, Doctor Chien had questions and filed a Freedom of Information (FOIL) request with the New York State Department of Health after receiving heavily redacted information about ZocDoc's business model application. The request has been denied with the New York State DOH telling Doctor Chien he will have to go to court to see the redacted portions. He is petitioning MSSNY through the New York County Medical Society to take action in this matter.

The members of the Board share Doctor Chien's concerns and more. Of particular note is the fact that people who dropped ZocDoc as a result of the change in pricing (in particular the new cancellation fee) or who never used ZocDoc, still appear in ZocDoc profiles when people search for doctors by name. However, because of the aggressive marketing of ZocDoc system, the message appears that the doctor being searched doesn't have available appointments, when in fact, the doctor only does not have appointments through the ZocDoc system. The consequence is that patients think that the doctor they are in fact searching for has no availability. Because young people often make all their medical appointments on line, physicians are being cut off from patients because of this

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mis-perception from ZocDoc. Doctor Chien noted this action could be considered a tortious interference with business. However, as a first step the Society does agree that further action could depend on the Department of Health documents. The Board agreed with Doctor Chien that this situation should be brought to the Council as soon as possible.

**MOTION: THAT THE MSSNY COUNCIL APPROVE THE SUBMITTED  
“INVESTIGATION OF IMPACT OF ZOCDOC’S BUSINESS PRACTICE ON  
VIOLATION OF PUBLIC ACCOMMODATION LAWS” (SEE ATTACHMENT)**

**Bronx County Medical Society**

- **Bronx County Medical Society** hosted our 105 Years of Service Bronx County Medical Society Annual Gala at Villa Barone Manor in the Bronx. Here we gave a gracious send-off to our honoree and Immediate Past President Dr. Realba Rodriguez.

Among the Distinguished Guests of Honor were:

Dr. Arthur Fougner — President, MSSNY

Dr. Parag Metha — Assistant Treasurer, MSSNY

Dr. Pardha Valluru — President, Kings County

Dr. Adolph Meyer — Councilor, Kings & Richmond County Medical Society

Dr. Allen Small— Immediate Past President, Medical Society of Queens County

Dr. Liana Leung — President, Medical Society of Queens County

With the numerous citations given, including one from Senator Gustavo Rivera and House Speaker Carl Heastie who was also in attendance, we at Bronx County Medical Society honored our first female Latina President and a true healthcare champion in the Bronx.

- **Bronx County Medical Society** was contacted by Senator Gustavo Rivera to attend the next upcoming hearing in Albany on November 15<sup>th</sup> regarding the Senate Task Force for Opioid Addiction & Overdose Protection. Dr. Realba Rodriguez, will be spearheading getting physicians to attend as she has been committed here in the Bronx to assist the Senator collectively with the other Bronx County physicians on ways to combat this deadly disease.



**MEDICAL SOCIETY OF THE STATE OF NEW YORK**

Introduced by: New York County Medical Society

Subject: Investigation of Impact of Zocdoc's Business Practice  
on Violation of Public Accommodation Laws

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Whereas, ZocDoc changed its business model to charge practices a per patient booking fee effective April 1, 2019,

Whereas, the New York Department of Health indicated that ZocDoc can move forward with its new business model despite concerns of violations with referral fees (NYS Education § 6530 (18)) and fee splitting (NYS Education § 6530 (19)),

Whereas, ZocDoc is still unable to expand its new revenue model to other states that still enforce analogous laws prohibiting referral fees and fee splitting that constitute the corporate practice of medicine,

Whereas, some New York Department of Health emails regarding ZocDoc have been redacted in a Freedom of Information Law (FOIL) request,

RESOLVED, that MSSNY file a FOIL request for all documents from the New York Department of Health regarding ZocDoc's business model exempted from application of NYS Education § 6530 laws, and be it further

RESOLVED, that upon the anticipated response to the FOIL request where emails between the New York Department of Health and ZocDoc are redacted, that MSSNY file an appeal to have the redactions removed, and be it further

RESOLVED, that upon the anticipated denial of the appeal to have the redactions removed, that MSSNY file a motion for CPLR Article 78 Special Proceeding in a court of competent jurisdiction to seek judgment to unmask the redacted content in the FOIL request about ZocDoc, and be it further

RESOLVED, that MSSNY take appropriate action upon the discovery of the redacted contents of the documents in the FOIL request regarding ZocDoc's exemption from NYS Education § 6530 laws.