



MINUTES OF THE COUNCIL MEETING THURSDAY, SEPTEMBER 19, 2019

A meeting of the Council of the Medical Society of the State of New York was convened at 9:00 a.m. on Thursday, September 19, 2019 at the Courtyard Marriott, 1800 Privado Road, Westbury, NY 11590

Arthur C. Fougner, MD, President of the Society presided:

PRESENT

OFFICERS

Arthur C. Fougner, MD
Bonnie L. Litvack, MD
Joseph R. Sellers, MD
Thomas J. Madejski, MD
Frank G. Dowling, MD
Sana L. Bloch, MD
Parag H. Mehta, MD
Maria A. Basile, MD

COUNCILORS

Stephen F. Coccaro, MD
Joshua M. Cohen, MD
Robert A. Hesson, MD
Howard H. Huang, MD
Peter Joo
Thomas T. Lee, MD
Adolph B. Meyer, MD
Brian P. Murray, MD
Paul A. Pipia, MD
Catherine E. Steger, DO
Luis Carlos Zapata, MD

TRUSTEES

Jerome C. Cohen, MD
Andrew Y. Kleinman, MD

EXECUTIVE STAFF

Philip A. Schuh, CPA, MS

LEGAL COUNSEL

Andrew Zwerling, Esq.

MSSNY STAFF

Morris Auster, Esq.
Michael Avella
Sandra Bennett
Laurel Mayer
Regina McNally
Michele Nuzzi-Khoury
Suzanne Reilly
Michael Reyes
Eunice Skelly
Christina Southard
Julie Vecchione DeSimone

TELEPHONE

PARTICIPANTS

Edward Kelly Bartels, MD
Linda S. Efferen, MD
Miriam Hardin
John J. Kennedy, MD
William R. Latreille, Jr., MD
Sam L. Unterricht, MD, BOT Chair

EXCUSED

Mark J. Adams, MD
Janine L. Fogarty, MD
Gregory L. Pinto, MD
Saulius J. Skeivys, MD

COUNTY

EXECUTIVES

Liz Harrison
Aaron Kumar, MD
Cheryl Malone
Stavroula Savelidis

GUESTS

Terrence Bedient
Michael Brisman, MD
John Hallowell
Lori Hertz
Mitchell Katz, MD
Liana Leung, MD
John Lombardo, MD
Pardha S. Valluru, MD
Jeffrey Wagner

- A. Call to Order and Roll Call
- B. **APPROVED** the Council Minutes of Thursday, May 30, 2019
- C. New Business (All Action & Informational Items)

1. **President's Report**

Dr. Fougner welcomed all officers, councilors, trustees, guests, county medical society executives and the following special guests:

Michael Brisman, MD, Neurologist – Nassau County
Mitchell Katz, MD, President & CEO - New York City Health & Hospitals
Liana Leung, MD, President - Queens County Medical Society
John Lombardo, MD, President – MLMIC Insurance Company
Stavroula Savelidis, New Executive Director – Nassau County Medical Society
Pardha Valluru, MD, President – Kings County Medical Society

APPROVED, the following Presidential Appointments to MSSNY's Scope of Practice AD HOC Committee:

Rose Berkun, MD, Co-Chair
Lisa Eng, DO, Co-Chair
Inderpal Chhabra, MD, Member
Atul Kumar Gupta, MD, Member
Julie Vieth, MD, Member
Richard Wissler, MD, Member

AMA Resolutions submitted by Dr. Michael Brisman:

ADOPTED, Resolution 1 - AMA Position on Payment Provisions in Health Insurance Policies

Resolved, that the AMA will seek legislation to ban anti-assignment provisions in health insurance plans; and be it further

Resolved, that the AMA support legislation requiring health insurers to issue payment directly to the physician when the patient or patient representative signs an agreement which permits payment directly to the physician.

A MOTION was PROPOSED and PASSED to modify Resolution 2 (as follows, additions underlined)

AMA Should Provide a Summary of Its Advocacy Efforts on Surprise Medical Bills

Whereas, there has recently been very significant legislative activity in regards to surprise medical bills and balance billing, critically important issues for physicians, and

Whereas, insurance companies have tried to use the issue of surprise medical bills to essentially outlaw all physician billing, which would be devastating to the medical profession, and

Whereas, the AMA goal of improved physician satisfaction with professional activity is enhanced by supporting various modes of practice; and

Whereas, coordination of messaging and engagement of various organizations is critical to success in our advocacy efforts on behalf of our members, patients, and profession, and

Whereas member and non-member engagement should be improved by a better understanding of our efforts; therefore, be it

Resolved, that the American Medical Association Board of Trustees will provide a detailed report of its efforts and those of allies and opponents around the issue of surprise medical bills in 2019; this discussion should include the following points comparing the AMA and partners activity vs that of its opponents (the insurance companies):

NOT ADOPTED, Resolution 3 - AMA Will Specifically Seek to Improve the Current Medicare Fee Schedule for Physicians

Resolved, that while in the process of trying to repair the Medicare fee schedule for physician professional fees, that the AMA specifically discredit the Medicare fee schedule as currently inadequate and defective.

ADOPTED, Resolution – Vaping in New York State,
Presented by Thomas J. Madejski, MD

Whereas, recent reports of lung illness associated with the use of vaporization devices have killed or injured multiple people in New York and throughout the nation; and

Whereas, the addiction industry, which includes tobacco, alcohol and now marijuana companies have been allowed to sell products for human consumption without rigorous study on long term positive and negative effects and patient safety by subverting the FDA approval process; and

Whereas, in the context of a crisis of youth vaping and addiction to nicotine and other substances driven by the addiction industry; and

Whereas, vaporization delivery device manufacturers such as JUUL have significant ownership by tobacco companies and marijuana companies and plan to expand use of addictive products across all segments of the adult and indirectly the adolescent population despite their protestations to the same; and

Whereas, in the interest of patient safety, and with an abundance of caution, acknowledging incomplete data on the etiology of acute and chronic lung injury associated with vaporization devices and the various substances which can be vaporized, therefore, be it

Resolved, that The Medical Society of the State of New York (MSSNY) commends NY Governor Andrew Cuomo and Commissioner of the Department of Health Howard Zucker, MD for their prompt action to protect patients by banning the sale of flavored e cigarettes; and, be it further

Resolved, that MSSNY additionally commends the Governor and Health Commissioner for their advice to consumers to avoid vaporization of medical marijuana available under the NYS medical marijuana program; and, be it further

Resolved, that MSSNY recommends to Governor Cuomo, Commissioner Zucker, and our NY State Legislature to take further action to protect consumers from exposure to vaporized products with a moratorium on dispensing of vaporized products to new certificate holders for medical marijuana until data on the long term safety of vaporized marijuana is available; and, be it further

Resolved, that MSSNY recommend that our state and federal representatives work to reschedule marijuana and its' component substances to Schedule II controlled substance to reduce barriers to further study on the efficacy and harms of various marijuana products; and, be it further

Resolved, that MSSNY recommend that defined funding for the study of efficacy and harms of the current medical marijuana program be included in the New York State 2020-21 budget to guide physicians and patients in the best and safest way to employ these agents and delivery systems in patient care.

2. **Board of Trustees Report** – Presented by Dr. Sam Unterricht (via phone)

A meeting of the MSSNY Board of Trustees was held on Wednesday, September 18, 2019 at MSSNY Headquarters. Upon Motion made and seconded, the Council **ACCEPTED** the Board of Trustees reported as follows:

- The Board approved the Minutes from the Board of Trustees Meeting held on May 29, 2019
- The Board discussed and approved the Per Diem for the AMA Interim Meeting being held in San Diego, CA from November 16-19, 2019 at \$1,300 for the 34 Delegates and 7 Residents/Students slotted to attend.
- The Board approved the continuation of the dues Commission Program for 2020

As a potential savings for both MSSNY and the Counties, it was suggested that MSSNY explore the possibility of implementing a universal Membership billing system.

- The Board discussed and approved the NYSAM Administrative Support Proposal.
- The Board discussed and approved the new fee schedule for MSSNY Accredited Providers.
- The Board approved the appointment of Mr. Philip Schuh, CPA, MSSNY's Executive Vice President to serve on the Physicians Advocacy Institute Board in the position of Treasurer.

3. **Secretary's Report** – Presented by Dr. Frank Dowling

APPROVED, unanimously, the Secretary's Report that requested the following:

- Life Membership for fifty-six (56) physicians
- Dues Remissions for three (3) member physicians due to financial hardship

4. **MLMIC Update** - Presented by Dr. John Lombardo
Dr. Lombardo reported \$2.5 billion dollars has been distributed to their insureds. The acquisition has allowed MLMIC to seek discounts for organizations and physicians from the Department of Financial Services (DFS). The DFS sets the rate in New York State and approves any increases. MLMIC will continue to expand the claims free discounts for physicians.
At MSSNY's past HOD, MLMIC held a Risk Management course that was attended by 300 physicians. MLMIC will continue to work very closely with MSSNY on programs of interest.
5. **AMA Delegation Report** – Presented by Dr. John Kennedy
Dr. Kennedy reported that the AMA Interim meeting dates are November 16-19. If anyone needs additional information, visit the AMA website to review all AMA policies.
6. **MSSNYPAC Report** – Presented by Dr. Thomas Lee
Dr. Lee reported that the MSSNYPAC report reflects the financial status of MSSNYPAC during the 2019 fiscal year period of 1/1/19 through 9/13/19. We have collected \$166,352.14 from 439 individual supporters. MSSNYPAC leaders have been working tirelessly within their local areas to increase physician participation in political action events. Dr. Madejski along with Dr. Pinto and Dr. Sellers co-hosted the 2019 Physicians Day at the Races in Saratoga Springs, NY in July. MSSNYPAC's 2019 Interim Scorecard is available to PAC donors. The scorecard is a summary of the voting, sponsorship and committee activity of all State Legislators in the Senate and Assembly on legislation of most importance to physicians. To obtain your copy, visit www.mssnypac.org/scorecard or send an email to mssnypac@mssny.org.

The Physician Advocacy Liaison Network asks physicians to sign up as a point of contact for your local Assemblymember and Senator or Congressional Representatives. With so many new faces in the Legislature, new relationships must be formed and developed between physicians and our elected leaders. PALs bring the science, vital health information, MSSNY's position and the impact of legislation on patients, physicians and the profession of medicine to the attention of the legislator helping them make informed decisions on how to vote or otherwise handle legislation before them. Get involved today at www.mssnypac.org/pal.

7. **MESF Report** – Presented by Dr. Thomas Madejski
Dr. Madejski reported that the Cardiology program for India is complete
The Rheumatology Program for India is awaiting an outline from Mumbai. We have discussed with Johns Hopkins about the need for a team of rheumatologists to work on the project. In regard to the diabetes program for India, Hansa has requested that we develop this program with Joslin in Boston. We have made a preliminary approach to Joslin. In addition to the projected work with Johns Hopkins and Joslin, our client in Mumbai has indicated an interest in working with Columbia University, New York University, University of Washington, University of Florida and the University of California. These are all academic institutions with high recognition value to physicians in India. Our client in India has also asked that we look at shorter programs in the area of diabetes, cardiology, chest diseases, liver diseases, ob/gyn, hypertension and heart failure. Shorter programs, if already existing can be more readily funded through licensing agreements.

New funding for the Leadership Programs is not available until 2020, but we can begin to make an application to the Physicians Foundation. We are working with CME at Sea in St. Petersburg, Florida regarding a series of cruises out of NY on the Norwegian Cruise Lines. Possibilities in March & April of 2020.

8. **County Federation Report** – Presented by Dr. Aaron Kumar
Dr. Kumar reported that the 2019 Medical & Specialty Society Executive Conference will be on September 25 – September 27 at the Kaatskill Mountain Club. Counties are working on legislative priorities, many cross-county objectives and support can be managed to drive physician concerns. The counties are responsible for reviewing and processing workers' compensation ratings for MD and DO applicants.
9. **Commissioners/Councilors (Action Items)**
Commissioner of Socio Medical Economics, Howard H. Huang, MD
Committee on Health Insurance Resolutions:

Resolution 2019-255 Urgent Care in the Doctor's Office

ADOPTED as AMENDED to delete the first Resolved:

~~RESOLVED, that the Medical Society of the State of New York to seek payment reform to ensure site neutrality such that urgent, same day services provided outside of usual business hours or for emergency care are in evenings or on weekends are paid equivalently regardless of the site of service; and be it further~~

RESOLVED, that the Medical Society of the State of New York advocate for increased payment for office based afterhours CPT Codes.

NOT ADOPTED, Resolution 2019-266 Medicare Plan Survey for Patients

RESOLVED, That the Medical Society of the State of New York should conduct anonymous surveys regarding both traditional Medicare and Medicare Advantage plans and analyze the data; and be it further

RESOLVED, That this information should be available to the public so that the enrollees can better understand from the physician's perspective the pros and cons of all the plans prior to the end of the 2019 Medicare enrollment period; and be it further

RESOLVED, That the Medical Society of the State of New York through social media and publicity should make the public and the physician community aware of this information so as to better disseminate it.

Committee on Workers' Compensation & No Fault Resolution

NOT ADOPTED, Resolution 2019-271 Shortage of Specialists in Workers' Compensation System

RESOLVED, That the Medical Society of the State of New York work with the Workers' Compensation Board and, if necessary, the legislature to promulgate new regulations or laws that are necessary to increase voluntary participation of necessary specialists and subspecialists in locations and in specialties and subspecialties where there is a shortage of qualified providers; and be it further

RESOLVED, That the Medical Society of the State of New York work with specialty societies that represent the specialties that are in short supply in the Workers' Compensation to develop a joint strategy to resolve this public health problem including review of the current inadequate payment structure.

Organized Medical Staff Section Resolution ADOPTED as AMENDED
(additions underlined)

Presented by: Stephen Coccaro, MD, OMSS Councilor

Resolution SC 1 (AMA I-19) Hospital Website Voluntary Physician Inclusion

Whereas, hospitals and other health care facilities traditionally use their websites to inform the public of all their physicians on staff; and

Whereas, more and more hospitals and other health care facilities are employing more and more physicians; and

Whereas, a growing trend of these hospitals and health care facilities is removing their voluntary staff physicians from their websites and 'Find a Doctor' sites and listing only their employed physicians; and

Whereas, patients searching for a physician on these websites but not finding the voluntary physicians, may assume the physician is not on staff, retired, or not credentialed; therefore, be it

RESOLVED, That our American Medical Association and **Medical Society of the State of New York** advocate for legislation **and/or regulation** requiring ALL credentialed physicians (employed and voluntary) be equally included on the websites and Find a Doctor sites of the hospitals and other health care facilities.

10. **Presentation** – Dr. Mitchell Katz, President and CEO of NYC Health & Hospitals

Dr. Katz reported that health insurance coverage plays a critical role in enhancing one's access to needed care and maintaining or improving health status. There is strong evidence that insurance coverage is associated with having a consistent source of care and being able to afford needed care, both of which are critical for achieving better health outcomes.

A single payer system would allow physicians to spend more time on patient care than checking formularies. The current system makes physicians check formularies of each insurance company rather than providing prescriptions that work for patients. The Health and Hospitals is currently fighting to make sure insurance companies pay physicians back when they have been underpaid for care provided to patients.

D. **Reports of Officers (Verbal Reports)**

1. **Office of the President** - Arthur C. Fougner, MD

Dr. Fougner reported that he attended several meetings in Albany. He met with Commissioner Zucker to discuss such issues as vaping, immunizations and physician wellness.

2. **Office of the President-Elect** – Bonnie L. Litvack, MD
Dr. Litvack reported that she & Dr. Sellers attended the 2019 Physicians Foundation Karl Altenburger Leadership Conference. The topics discussed addressed many pertinent issues that the medical profession is facing. Dr. Litvack will be attending a Symposium in Buffalo hosted by Dr. Rose Berkun. The Symposium will provide a forum for networking, mentoring, sponsorship, advocacy and leadership development for women physicians. Dr. Sue Bailey will be one of the main speakers.
3. **Office of the Vice-President** – Joseph R. Sellers, MD
Dr. Sellers reported that he attended the 2019 Physicians Foundation Karl Altenburger Leadership Conference with Dr. Litvack at Brandeis University. Dr. Sellers is MSSNY's representative to the State Health Department's Primary Care Ratings Stakeholders Work Group. The Health Department is putting together a process, similar to Medicare, to rate primary care physicians. Physician Assistants, Nurse Practitioners and Minute Clinics are not included in the rating process.
4. **Office of the Treasurer** – Presented by Mr. Philip Schuh (on behalf of Dr. Mark Adams)
ACCEPTED, the Financial Statement for the period 1/1/19 – 8/31/19
5. **Office of the Speaker** – William R. Latreille, Jr., MD
Dr. Latreille reported that the 2020 House of Delegates begins at 8:00 a.m. on Friday, April 24, 2020 and will adjourn on Sunday, April 26, 2020. On Thursday, April 23, 2020, there will be CME Events.

E.

Reports of Councilors (Informational)

The following reports were submitted for information:

1. Kings & Richmond Report – Adolph B. Meyer, MD
2. Manhattan & Bronx Report – Joshua M. Cohen, MD
3. Nassau County Report – Paul A. Pipia, MD
4. Queens County Report – Saulius J. Skeivys, MD
(no written report submitted – Dr. Skeivys was excused)
5. Suffolk County Report – Linda S. Efferen, MD
6. Third District Branch Report – Brian P. Murray, MD
7. Fourth District Branch Report – Gregory Pinto, MD
8. Fifth District Branch Report – Howard H. Huang, MD
9. Sixth District Branch Report – Robert A. Hesson, MD
10. Seventh District Branch Report – Janine L. Fogarty, MD
11. Eighth District Branch Report – Edward Kelly Bartels, MD
12. Ninth District Branch Report – Thomas T. Lee, MD
13. Medical Student Section Report – Peter Joo
14. Organized Medical Staff Section - Stephen F. Coccaro, MD
15. Resident & Fellow Section Report – Catherine E. Steger, DO
Dr. Steger reported that the RFS discussed the results of the RFS member survey that was sent out over the summer. Based on the results of the survey, the RFS board identified 3 goals on which to focus over the academic year: socialization and networking, community service, and mentorship and career advisement.
A plan was made to recruit resident & fellow members to volunteer as a group for the NYRR marathon scheduled for November 3, 2019 in NYC.

The RFS member survey identified mentorship regarding contract comparison and negotiation as one specific item that would add significant value to RFS membership across all specialties. The RFS would like to as the help of the MSSNY Council in approaching Garfunkel Wild. The RFS would like to request a contracted flat fee per contract. This flat fee would cover the coat of contract analysis by an attorney and no more than 1 hour of attorney’s time to discuss the analysis. The RFS would also like to ask for a set discounted hourly rate should a member require more than 3 hours of legal time.

16. Young Physician Section Report – L. Carlos Zapata, MD
Dr. Zapata announced that he was elected speaker of the AMA-YPS. Dr. Choi organized several meetings with members of the New York Congressional Delegation to advocate for federal solution to out-of-network surprise billing similar to New York law.

F. Commissioners (Informational Items)

Commissioner of Communications, Maria A. Basile, MD, MBA

The following report was submitted for information:

Report from the Division of Communications

Commissioner of Continuing Medical Education, Mark J. Adams, MD

Presented by Ms. Miriam Hardin (*on behalf of Dr. Mark Adams*)

- The Council **ACCEPTED**, MSSNY’s Annual Reporting Policy for MSSNY Accredited CME Providers
- The Council **ACCEPTED**, ACCME’s Menu of New Criteria for Accreditation with Commendation
- Report from the Office of CME (**For Council Information**)
- Annual Fee for MSSNY Accredited Providers (**For Council Information**)
APPROVED, at MSSNY’s Board of Trustees Meeting

Commissioner of Governmental Relations, Gregory Pinto, MD

The following report was submitted for information:

Division of Governmental Affairs 2019 Legislative Summary

Commissioner of Membership, Parag H. Mehta, MD

Dr. Mehta reported that membership is a little higher but MSSNY still needs to focus on group/institutional memberships.

Commissioner of Science & Public Health, Joshua M. Cohen, MD

The following minutes were submitted for information:

Committee on Emergency Preparedness & Disaster /Terrorism Minutes 6/27/19

Task Force on End of Life Care Minutes 7/19/19

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

Membership Dues Revenue Schedule
Group Institutional Dues Comparison Report

Mr. Schuh referred the Council to the Group Institutional Membership and the Membership Dues Revenue reports in the Agenda. He reported that MSSNY staff and MSSNY's Leadership continue to working diligently to bring in new groups and hospital medical staffs.

H. Report of the General Counsel, Andrew Zwerling, Esq. Garfunkel Wild, P.C.

(No written or verbal report)

I. Report of the Alliance, Helena Mirza, Co-President

The following report was submitted for information:

Alliance Report

J. Other Information/Announcements

The following were submitted for information:

- MACRA Sign-on Letter
- 2019 PDMP Update
- Surprise Bill Sign-On Letter
- The Physicians Foundation Board Meeting, August, 2019
- Accreditation Council for CME Letter & Highlights
- AMA Letter – Nondiscrimination in Health & Health Education Programs or Activities
- Coalition of State Medical Societies Letter – Request for Comment on Consumer Inflation Measures Produced by Federal Statistical Agencies
- Amicus Brief Regarding Public Charge Rule
- MSSNY Letter re IHA Anesthesia policy to DFS
- Buffalo News -Protect against surprise medical bills, but preserve access, too
By Dr. Fougner
- MSSNY Surprise Bill Letter to Senators Alexander & Murray

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