

May 20, 2021

TO: MSSNY OFFICERS, COUNCILORS AND TRUSTEES

FROM: MSSNY QUALITY IMPROVEMENT & PATIENT SAFETY COMMITTEE

RE: 2020 HOD RESOLUTION 67 - CONTINUING CERTIFICATION AS A CONDITION OF EMPLOYMENT OR REIMBURSEMENT

At the 2020 MSSNY House of Delegates, the following resolution was considered, and referred to Council.

RESOLVED, That the Medical Society of the State of New York support legislation such that an entity that employs a person licensed to practice medicine may consider active certification of the physician by a medical specialty board that utilizes profession driven standards and requirements for such certification as a criterion for employment, and that if certification is required as a prerequisite for employment, such certification by a medical or surgical specialty board that utilizes profession driven standards and requirements as determined by majority vote of the medical staff at each facility, as a criterion for employment shall be acceptable as a prerequisite for employment; and be it further

RESOLVED, That the Medical Society of the State of New York support legislation such that satisfactory completion of a continuing education program in the practice of medicine or surgery that is approved by a national accrediting organization may be used as a criterion for physician reimbursement, employment, hospital staff privileges or admitting privileges, licensure, medical malpractice insurance coverage, or residency or fellowship program training faculty or directorship eligibility; and be it further

RESOLVED, That the Medical Society of the State of New York consider active certification by a medical specialty board of the American Board of Medical Specialties, the National Board of Physicians and Surgeons, the American Osteopathic Association, or the National Board of Osteopathic Physicians and Surgeons as a criterion for the granting or continuing of staff membership or professional privileges to a licensed physician.

At the House of Delegates, the Reference Committee report noted that it agreed with the goals of this resolution, but also stated that it was largely repetitive of policies MSSNY has adopted over the last several years that calls on MSSNY to oppose health insurer or hospital requirements that physicians maintain board certification, and support for alternative pathways to often burdensome Maintenance of Certification (MOC) requirements. Therefore, the Reference Committee recommended that these policies be re-affirmed in lieu of proposed Resolution 67. However, the resolution was pulled from the consent calendar, and referred to Council, where it was referred to the Quality Improvement and Patient Safety Committee.

When the resolution was discussed at the May 12 Committee meeting, there was agreement with the Recommendation of the Reference Committee that the resolution was very similar in its goals to previously adopted MSSNY policies regarding Maintenance of Certification, and that existing policy should be re-affirmed in lieu of the original resolution. One of these policies 160.962 notes that there should be more than one pathway to participation in insurance companies, hospital privileges and other organizations. Another MSSNY policy 235.986 calls for MSSNY to seek legislation to prohibit board certification requirement by health insurers and hospitals. To that end, New York State Senate Health Committee Chair Gustavo Rivera has introduced legislation (S.2116) supported by MSSNY that would prohibit a health insurer or hospital from requiring board certification as a condition of network participation or staff participation.

However, the Committee discussed that the concerns that led to the advancement of original Resolution 67 continue to be very relevant. While the American Board of Medical Specialties (ABMS) as well as individual Boards have taken steps to attempt to reduce some of these maintenance of certification burdens since the time the MSSNY policies were first adopted, many physicians have continued to raise concerns. Therefore, the Committee recommended an additional resolved regarding the need for MSSNY to continue work with aligned organizations to undertake advocacy efforts to address concerns physicians have raised regarding overly burdensome re-certification requirements that may be at times excessive and unnecessary for maintaining competency in that specialty.

RECOMMENDATION: THAT THE MSSNY COUNCIL ADOPT THE FOLLOWING SUBSTITUTE RESOLUTION:

RESOLVED, that the Medical Society of the State of New York re-affirm MSSNY policies 160.962 and 235.986; and be it further

RESOLVED, that the Medical Society of the State of New York continue to work with the American Medical Association, state medical associations, and specialty societies in advocating to ensure that requirements for maintaining board certification are not excessive in scope and are rationally related to ensuring ongoing physician competency in that specialty.

160.962 Continued Grandfather Status for Taking Board Exams

The duly licensed physician should be the only requirement for practice of medicine and the American Board of Medical Specialties (ABMS) should keep the promise of their “grandfather” clause. MSSNY’s position is that there should be more than one pathway to participation in insurance companies, hospital privileges and other organizations (eg, ambulatory surgery centers) and encourages the ABMS to work with other societies to find what pathways ensure physician competency and pursuit of lifelong learning. (HOD 2019-214)

235.986 Maintenance of Certification as Restraint of Trade

The Medical Society of the State of New York will seek legislation to prohibit board certification requirements for hospital medical staff privileges, insurer contracts and state licensure. (HOD 2016-214)