

March 1, 2022

TO: MSSNY's OFFICERS, COUNCILORS, AND TRUSTEES

FROM: MSSNY LEGISLATIVE & PHYSICIAN ADVOCACY COMMITTEE

RE: RESOLUTION 57 - Prioritizing People First: Upholding Our Oath & Code Of Conduct By Endorsing The Improved & Enhanced Medicare For All Act [H.R. 1976]

RESOLUTION 58 - Prioritizing People First: Upholding Our Oath & Code Of Conduct By Endorsing The New York Health Act [A.6058/S.5474]

At the 2021 MSSNY House of Delegates, the following resolutions were considered, and referred to Council.

Resolution 57

RESOLVED, the MSSNY undertake to relieve the private insurance companies of their unethical and unprincipled fiduciary duty to prioritize Profits over People by endorsing the Medicare for All Act of 2021, **Putting People First**, and calling on the United States Congress to immediately pass the Act and the President to promptly sign it into law; and be it further

RESOLVED, the MSSNY forward to the AMA a resolution to undertake to relieve the private insurance companies of their unethical and unprincipled fiduciary duty to prioritize Profits over People by endorsing the Medicare for All Act of 2021, **Putting People First**, and calling on the United States Congress to immediately pass the Act and the President to promptly sign it into law.

Resolution 58

RESOLVED, the MSSNY undertake to relieve the private insurance companies of their unethical and unprincipled fiduciary duty to prioritize *Profits over People* by endorsing the New York Health Act, **Putting People First**, and calling on the New York State Legislature to immediately pass the Act and the Governor to promptly sign it into law; and be it further

RESOLVED, the MSSNY forward to the AMA a resolution to undertake to relieve the private insurance companies of their unethical and immoral fiduciary duty to prioritize *Profits over People* by endorsing the New York Health Act, **Putting People First**, as a model for healthcare reform in the United States.

At the House of Delegates, the reference committee heard some testimony in support but much testimony in opposition to both resolutions 57 and 58, which are substantially similar except that Resolution 57 calls for MSSNY to support federal legislation to enact a single payor health care system and Resolution 58 calls for state legislation. Supporters raised the inherent conflicts that investor-owned health insurance companies have with paying for needed patient care, while opponents raised concerns regarding potentially insufficient payment structures (similar to Medicaid and Medicare) and potential delays and hassles in facilitating needed patient care. During the debate on the (virtual) floor, there was some support expressed, but there was also significant opposition expressed. There was similar discussion and debate on this issue at the February 16 meeting of the MSSNY Legislative & Physician Advocacy Committee.

This topic has been regularly debated at MSSNY's House of Delegates and by the MSSNY Legislative & Physician Advocacy Committee. MSSNY has long-established policy in support of

a multi-payor insurance system. MSSNY Policy 130.996, first adopted in 1992 and re-affirmed in 2014 and 2017, states that

“MSSNY is opposed to universal health care proposals with single-payor reimbursement systems. It reaffirms the position reflected in its Universal Health Plan (UHP) Proposal for improving the U.S. Health Care System which call for: (1) Retention of the present multiple payor system with tighter oversight mechanisms to enhance administrative controls and cost efficiencies; (2) Free-market competition as a stabilizing factor in choosing among a multiplicity of health insurers offering a standard and appropriate benefits package.”

Recognizing the differing perspectives of physicians on the single payor issue, when a similar resolution was brought in 2017, after it was referred to Council by the HOD, the MSSNY Council adopted Policy 130.931, which called for it to

“continue to consider the feasibility of other payment methodologies including single payer and will also continue to work collaboratively with physicians who both support and oppose such proposals in order to assess the strengths and weaknesses of such proposals. MSSNY will continue to advocate that physicians are ensured direct input and ongoing involvement on all aspects of any single payer system or other system that may be considered by the New York State Legislature or United States Congress”.

After being referred to Council from the 2019 HOD, the policy was then further revised that year to add criteria for the consideration of a single payor proposal including ensuring patients maintain timely access to needed care and a fair payment methodology. The updated Policy 130.931 was re-affirmed at the 2020 House of Delegates.

The two policies, taken together, mean that even as MSSNY is opposed to the concept of a single payor structure, it will continue to engage in productive dialogue with state and federal legislators regarding this issue, and to provide evaluation of various proposals. Policy 130.931 directs MSSNY to work with physicians regardless of their perspectives to engage with their legislators about the “on the ground” implications of specific proposals. Among the questions physicians should be asking: How burdensome will prior authorization requirements be? What will be the process for patients to appeal when recommended care has been denied? How meaningful will be the right to collectively negotiate? Could state or federal budget limitations result in a grossly inadequate Medicaid-type payment structure that would make it impossible for many physicians to remain in practice in New York?

As a result of dialogue between MSSNY, the NY County Medical Society and Assemblyman Gottfried, some improvements have been made to the New York Health Act legislation including: a) parameters to limit burdensome prior authorization requirements; b) additional steps to facilitate fairer negotiations between a government bureaucracy and the physicians delivering care; coverage for long-term care; and d) mandatory consideration of a fee schedule that is based upon usual and customary charges for services. MSSNY issued a statement that acknowledged the improvements to the legislation, but also noted the “huge ramifications not only for patients considering their options for receiving needed care, but also for physicians and other health care providers deciding in which states they would like to deliver patient care” (<http://www.mssnyenews.org/press-releases/health-act-legislation/>). Assemblyman Gottfried regularly in public forums credits MSSNY and the New York County Medical society with making constructive suggestions to the legislation that have been incorporated into the bill.

Moreover, various MSSNY and county society physician leaders testified at an Assembly-Senate hearing on the single payor legislation. On behalf of MSSNY, Dr. Art Fougner praised

the sponsors for their efforts to ensure New Yorkers have coverage for the care they need, as well as the efforts to revise the legislation to address concerns that physicians have raised with the legislation. His testimony noted that these improvements included provisions to reduce prior authorization requirements and additional mechanisms to help physicians more fairly negotiate with a monolithic bureaucratic structure. He noted that MSSNY has a long-standing position in opposition to a single payor insurance system, though many physicians across the State have expressed support for such a system.

He also noted that while there are aspects of such a system that are appealing, such as the potential for administrative simplification, MSSNY remains concerned that the good intentions of the sponsors of this proposal may not be how the NY Health system will ultimately operate, particularly when they must respond to situations where anticipated tax revenues do not meet spending projections. He also noted that continued promotion and expansion of the varied programs to provide health insurance coverage for New York's uninsured and underinsured is MSSNY's preferred approach to covering the uninsured and underinsured. These points were also made by New York County Medical Society and Dutchess County Medical Society physician leaders at similar hearings. Furthermore, similar conversations have regularly been had between various MSSNY physician leaders and the sponsors of the legislation.

Based upon the significant groundwork that had already been done in discussions with the Legislature, as well as the continued wide and entrenched difference of opinion by physicians on this incredibly far-reaching subject, the vast majority of the Legislative Committee supported re-affirming existing MSSNY policy. Some physicians did express their belief that it was important for MSSNY to continue to have proactive dialogue with the sponsors and key legislative leaders on the bill, given the overall broad support by legislators for the concept of this legislation and the possibility that this legislation could be enacted in the future despite its very high potential costs. (In fact, MSSNY staff continues to have discussions with legislators about this issue). The Committee agreed that MSSNY DGA staff and physician leadership should continue to meet with key legislators to highlight principles that must be included (and articulated in policy 130.931) were a single payor system to be enacted.

RECOMMENDATION: That the MSSNY Council re-affirm MSSNY Policy 130.931 in lieu of Resolutions 57 and 58.

130.931 Healthcare Delivery System Including Single Payer Insurance

MSSNY will continue to consider the feasibility of other payment methodologies including single payer and will also continue to work collaboratively with physicians who both support and oppose such proposals in order to assess the strengths and weaknesses of such proposals. MSSNY will continue to advocate that physicians are ensured direct input and ongoing involvement on all aspects of any single payer system or other system that may be considered by the New York State Legislature or United States Congress. Among the critical aspects that should be considered and included: the ability of patients to receive needed quality care and medications in a timely manner; whether the administrative burden to physicians of participation and facilitating needed patient care in such a system are an improvement from, or worsening of, existing systems; and whether the payment methodology is and will continue to be fair to physicians regardless of practice setting or specialty. (Adopted Council Nov, 2017 [sub res for 2017-62 & 63]; Reaffirmed HOD 2019 in lieu of resolution 69; 2019-70 Referred to Council, amended and adopted 11/2019; Reaffirmed HOD 2020-61)