



The following is a preliminary report of actions taken by the House of Delegates at its May 3, 2019 Meeting and should not be considered final. Only the Official Proceeding of the House of Delegates reflects official policy of the Medical Society of New Jersey.

2019 ANNUAL MEETING- REPORT OF THE REFERENCE COMMITTEE

Donald Cinotti, MD, Chair, Hudson County

Nicole Henry-Dindial, MD, Union County

W. Jesse Kayal, MD, Hunterdon County

Barry Prystowsky, MD, Essex County

Sumul Raval, MD, Ocean County

The Reference Committee recommends the following 2019 Reports accepted for filing.

2019 REPORTS RECOMMENDED FOR ACCEPTANCE and FILING.

1. Secretary
2. Deceased Members
3. Nomination for Emeritus Members
4. Treasurer
5. Finance & Budget
6. Annual Review of Outside Contracts
7. Judicial Council
8. Status of 2018 Resolutions

EXTRACTED REPORTS

CONSTITUTION AND BYLAWS COMMITTEE REPORT – Donald Cinotti, MD

RECOMMENDATION A: (1-7)

1. County medical societies that hold charters **or affiliation agreements acceptable to the House** shall be known and referred to as component societies. There shall be no more than one component society in any county of this state. **(New language in bold).**

TESTIMONY: There was very little testimony in opposition, mostly informational.

COMMITTEE DELIBERATIONS: The Committee feels that it is important to have a working agreement between the component societies and MSNJ.

RECOMMENDATION: The Committee recommends adoption.

2. **Affiliation Agreement Language:** The President of MSNJ shall appoint 3 MSNJ Trustees and 3 current county Presidents to review and adopt the draft affiliation agreement by ~~July 1, 2019~~ **September 30, 2019.**

TESTIMONY: Testimony was provided indicating that the committee would need more time to draft an agreement.

COMMITTEE DELIBERATIONS: **The Committee agrees with allowing more time.**

RECOMMENDATION: The Committee recommends adoption as amended.

3. **Direct payment.** When a component society is not functioning, any member in that component society in good standing may send yearly dues directly to the state Society and by so doing may remain in good standing with the state Society.

TESTIMONY: **No testimony was heard.**

RECOMMENDATION: The Committee recommends adoption.

4. **Functioning Component Society Definition.** To be considered functioning, a Component Society should conduct: a business meeting at least once per year; an election of a governing body; maintenance of separate legal and non-profit status; participation in the activities of the House and other criteria as may be required by the House of Delegates.

TESTIMONY: **There was limited informational testimony.**

RECOMMENDATION: The Committee recommends adoption.

5. **Due Process for non-functioning component societies.** The Board of Trustees shall develop and publish a process to afford a non-functioning Component Society due process. The process must include: notice; an opportunity to be heard and to present evidence to prove functioning status; and, an opportunity to cure deficiencies. The Board of Trustees shall be the final arbiter on the question of whether a Component Society is functioning.

TESTIMONY: A process for appeal was confirmed.

RECOMMENDATION: The Committee recommends adoption.

6. **Proximate Component Society Membership.** Direct to state eligible members may petition to join an adjacent county or the next closest functioning county.

TESTIMONY: Testimony provided was informational.

RECOMMENDATION: The Committee recommends adoption.

7. **Proposed Nominating Committee Composition:**

3 delegates (voting) and 3 alternates (non-voting) from each of the 3 districts **with 1 optional delegate per district from a non-represented county** (total of 9 **to 12** voting) selected by agreement of the county Presidents in each district

1 delegate (voting) and 1 alternate representing large groups

Current president (voting if not conflicted) (total of 11)

Immediate past president who is the chair (~~non-voting~~ **may vote in case of a tie**)

RECOMMENDATION B: Adoption as amended.

TESTIMONY: Testimony was mixed.

COMMITTEE DELIBERATIONS: The Committee recognized the difficulty in coming to consensus. The Committee recommends adding 1 potential delegate per district to allow representation for each county.

RECOMMENDATION: The Committee recommends adoption as amended.

2019 RESOLUTION RECOMMENDATIONS:

RECOMMENDED FOR ADOPTION

Resolution 3
Resolution 11

RECOMMENDED FOR ADOPTION AS AMENDED

Resolution 1
Resolution 4
Resolution 5
Resolution 6*
Resolution 8
Resolution 10

RECOMMENDED FOR REFERRAL

Resolution 2
Resolution 6*
Resolution 7

RECOMMENDED FOR NOT ADOPTION

Resolution 9

RECOMMENDED FOR REAFFIRMATION

Resolution 12

RESOLUTION 1

TITLE: Physician's role to aid the dying

SPONSOR: MSNJ Committee on Biomedical Ethics

- A. **RESOLVED** that the Medical Society of New Jersey adopt the following principles to guide physicians when evaluating any policy permitting licensed physicians to facilitate a natural death;
- 1) **THE POLICY NOT ERODE PUBLIC TRUST IN THE PHYSICIAN/PATIENT RELATIONSHIP.**
There is already significant lack of trust of the medical community by some members of the public. Wondering if your physician is trying to cure your illness or is trying to convince you to die would not increase that trust. While many distrust the system, they still trust their own doctor. Discussion and implementation should not be delegated to nursing or subordinate staff but should be by the physician or Advance Practice Nurse.
 - 2) **THE POLICY BALANCES BENEFICENCE/NON-MALEFICENCE.**
The physician's responsibility is to help and not harm the patient. Ensure decisions are based on clinical criteria.
 - 3) **THE POLICY RESPECTS PATIENT AUTONOMY.**
Qualified adults who retain decision making capacity have the right to accept or refuse interventions and their decisions should be determinative.
 - 4) **THE POLICY IS DESIGNED TO REDUCE SUFFERING.**
A goal of medicine is to reduce patient suffering as defined by the patient.
 - 5) **THE POLICY PROTECTS VULNERABLE POPULATIONS.**
Prevent exploitation by involved parties whose priorities are not those of the patient. Ensure that those with disabilities are not undervalued or coerced
 - 6) **THE POLICY ALLOWS PHYSICIAN CHOICE.**
No practitioner should be required to perform an activity that undermines their own deeply held moral beliefs. Physicians are obligated to ensure prompt transfer of care.
 - 7) **THE POLICY PROTECTS CONFIDENTIALITY WHILE KEEPING RECORDS TO MONITOR THE POLICY.**
Respect existing HIPAA requirements, but maintain transparent records of how the policy is implemented and to monitor for compliance. And Be It Further;
- B. **RESOLVED**, that the MSNJ not oppose legislation that, meets the principles adopted by the Medical Society of New Jersey, and allows a physician who chooses to respond to the request of a patient within the context of an ongoing doctor/patient relationship, and when that patient has an imminently terminal illness, retains decision making capacity, and whose suffering cannot be otherwise sufficiently resolved by palliative care, to prescribe lethal medication for self-administration by that patient. that MSNJ supports physicians using their individual clinical, ethical, and moral judgment when treating patients at the end of life.

C. RESOLVED, that MSNJ replace existing policy 10.990.

TESTIMONY: There was emotional mixed testimony. The Committee recognized the differences in opinion among physicians regarding this issue.

COMMITTEE DELIBERATIONS: Taking into account MSNJ's existing policy, which conflicts with the new law, and the spirit of the resolution, the Committee amended the resolution. The Committee acknowledges the work of the Committee on Biomedical Ethics to establish a framework for physicians to work with when treating patients with advanced disease. To resolve the existing conflict between MSNJ policy and the newly passed legislation, allowing physician aid in dying, the Committee considered a new position on this topic.

RECOMMENDATION: The Committee recommends adoption by addition and deletion.

D. The Committee recommends adoption as amended.

RESOLUTION 2

TITLE: Regenerative Medicine Practice Standards

SPONSOR: Union County Medical Society

RESOLVED, that The Medical Society of New Jersey be a leader in developing ethical standards based in a medical framework to allow patient access to regenerative medicine treatment options while protecting patients from harmful practices; and be it further

RESOLVED, that The Medical Society of New Jersey will establish a work group to draft guidance for the appropriate and ethical standards for healthcare providers delivering regenerative medicine or who plan to render regenerative medicine treatments (current and/or future); and be it further

RESOLVED, that a draft guidance document on regenerative medicine be provided to the Medical Society of New Jersey's Board of Trustees to review for approval; and be it further

RESOLVED, that MSNJ make an approved guidance document on regenerative medicine available to New Jersey regulatory agencies, insurers, legislative leaders and the public.

TESTIMONY: Testimony suggested further study by the Policy & Strategy Panel (PSP.)

COMMITTEE DELIBERATIONS: Additional information is needed and the Author suggests establishing a working group. MSNJ's Policy & Strategy Panel is the vehicle to create a working group and report on issues in medicine.

RECOMMENDATION: The Committee recommends referral to the Board of Trustees (BOT) to go to PSP.

RESOLUTION 3

TITLE: Elimination of CMS Hospital Readmission Penalties

SPONSOR: Middlesex County Medical Society

RESOLVED, that our AMA immediately write a letter to CMS and Congress with the goal of working together to remove this penalty for readmissions; and therefore be it,

RESOLVED, that our AMA reaffirm policy H-340.989.

TESTIMONY: Testimony included a request to add another resolved.

COMMITTEE DELIBERATIONS: The AMA delegation has already vetted this with the South East Delegation and several other states. The proposed resolved will be provided to the AMA Delegation for consideration.

RECOMMENDATION: The Committee recommends adoption.

RESOLUTION 4

TITLE: Implementing Naloxone Training into the Basic Life Support (BLS) Certification Program

SPONSOR: MSNJ-Medical Student Section

RESOLVED, our MSNJ inquire with the local American Heart Association and American Red Cross to determine steps needed to incorporate naloxone training into the Basic Life Support (BLS) Certification Program; and therefore be it,

RESOLVED, our ~~MSNJ~~ **AMA** collaborates with the Occupational Safety and Health Administration to include naloxone rescue kits in first aid equipment.

TESTIMONY: Testimony was all in support. One commenter saw value in working with OSHA to broaden access to naloxone rescue kits.

COMMITTEE DELIBERATIONS: The Committee believes the AMA is the appropriate body to work with OSHA and therefore amends the second resolved to include the AMA.

RECOMMENDATION: The Committee recommends adoption with amendment.

RESOLUTION 5

TITLE: Allocation of Marijuana Revenue and Change in Marijuana Classification to Allow Research

SPONSOR: Camden County Medical Society

RESOLVED, that MSNJ request the New Jersey Legislature to allocate a portion of the revenue generated by marijuana sales for medical research into the effects of marijuana use, and therefore be it,

RESOLVED, that the AMA petition the ~~FDA~~ **DEA** to change the schedule classification of marijuana so that it can be subjected to appropriate research.

TESTIMONY: Testimony recognized that MSNJ official policy is opposed to recreational adult use marijuana; however, if the law passes, a portion of the tax revenue should be allocated for medical research and education.

COMMITTEE DELIBERATIONS: The Committee feels this is consistent with existing BOT Policy, *Legalization of Recreational Marijuana MSNJ BOT September 2018*.

RECOMMENDATION: The Committee recommends adoption as amended.

RESOLUTION 6

TITLE: Investigation of the autonomous practice of physician extenders in New Jersey and education of the public regarding the differences between physician extenders and physicians.

SPONSOR: Camden County Medical Society

RESOLVED, the Medical Society of New Jersey call on the New Jersey licensure and regulatory agencies to investigate the legitimacy, guidelines and regulations pertaining to physician extender advertisements and autonomous practice, and be it further

RESOLVED, the Medical Society of New Jersey educate the public on the differences in education, ability and licensure requirements of physician extenders versus physicians.

TESTIMONY: Testimony was in favor. The proponent was agreeable to looking for cost effective solutions to public education on the topic.

COMMITTEE DELIBERATIONS: The Committee discussed referral of the second resolved to the BOT for development of a cost effective program.

RECOMMENDATION: The Committee recommends adoption of the first resolved. The Committee recommends the second resolved to be referred to BOT.

RESOLUTION 7

TITLE: Registry of insurer abuse of physicians and patients

SPONSOR: Cumberland County Medical Society

RESOLVED that: The MSNJ establish a registry and database to document incidents and patterns of insurer abuse of both physicians and patients reported to the registry by MSNJ member physicians, the collected information to include both information the MSNJ may choose to release publically and information to be kept confidential unless needed as evidence in legal proceedings.

Information to be kept confidential will include:

1. Physician name and ID
2. Patient name and identifying information
3. Insurance ID and any applicable HMO referral records.

4. Any details of incident or pattern of abuse that might break anonymity including enabling insurer to identify reporting physician.

Information the MSNJ may choose to make public:

1. Name of insurance company.
2. Nature of abuse and whether each individual incident constitutes abuse of physician, of patient, or both.
3. How victim (physician or patient) suffered or was injured as a result of this incident or pattern of abuse.
4. Number of similar episodes of various types of abuse by different insurers.

Outcomes:

1. Confirm whether, as insurers claim, they are protecting the integrity of the health care system by punishing corruption, or, as physicians claim, insurers are exploiting the fact that the documentation needed to track the care of patients who already failed to respond to care tracked with the algorithm driven digital EHR's insurers are set up to audit, will typically approximate but not exactly comply with audit criteria developed for algorithm-driven digital EHR's, and that insurers are using these medically unavoidable variances to punish physicians who choose not to simply be docile cogs in the insurers' money machines.
2. Identify types and frequency of different forms of insurer abuse of patients.
3. Document the frequently, ways and extent to which both physicians and patients are injured by these insurer practices.
4. Consider asking the Division of Banking and Insurance to hold insurers accountable for practices that violate the mission of the Division.
5. If the registry uncovers evidence of patterns of insurer abuse that measurably degrade the outcomes, increase costs to the federal government or both for patients covered by federally paid Medicare Advantage &/or managed Medicaid health insurance, consider the filing of federal false claims act Qui Tam lawsuits including individual physicians who were also injured in the course of those insurer actions as co-plaintiffs to share the plaintiff fraction of any sums recovered & penalties collected from defendant companies found guilty in such actions.

TESTIMONY: There was limited testimony in favor.

COMMITTEE DELIBERATIONS: The Committee feels sympathetic to the goals of the resolution, but does not want to put MSNJ in danger of the legal and fiscal implications of a HIPAA breach. It would not be prudent for the society to adopt this resolution without further study into costs and liability. The Committee also saw the need for more information on encryption of PHI.

RECOMMENDATION: The Committee recommends referral to BOT.

RESOLUTION 8

TITLE: Elimination of Membership Fee for the Medical Practice Manager Section
SPONSOR: Middlesex County Medical Society

RESOLVED, the Medical Society of New Jersey shall include membership in the Medical Practice Managers Section, without an additional fee, to all staff of physicians with a fully paid regular membership.

TESTIMONY: All testimony was in favor.

COMMITTEE DELIBERATIONS: The Committee amended the resolution because the author agreed that the Medical Practice Managers Section dues rate should be included in the regular member rate.

RECOMMENDATION: The Committee recommends adoption as amended.

RESOLUTION 9

TITLE: Creation of a Hospital Based Physicians Membership Category to be offered when a large advocacy donation is paid by a hospital or health care facility
SPONSOR: Middlesex County Medical Society

RESOLVED, the Medical Society of New Jersey shall include a category for hospital or healthcare facility physician membership when a significant donation is paid to the MSNJ Advocacy Fund.

TESTIMONY: Testimony was a starting point for future conversations.

COMMITTEE DELIBERATIONS: The Committee acknowledges that the Board is actively recruiting hospital employed physicians into membership at many of the hospitals that make Advocacy Fund donations.

Advocacy donations are made by hospital medical staffs and not hospital administrations. MSNJ has three hospitals that pay memberships for physicians from hospital administration funds. Adoption of this resolution would be in conflict with those hospitals already paying membership dues for their physicians.

RECOMMENDATION: The Committee recommends not adoption.

RESOLUTION 10

TITLE: Education for Physicians and Legislators on Out – of – Network Fees
SPONSOR: Union County Medical Society

RECOMMENDATION A:

1. **RESOLVED**, that MSNJ educate its members on the out-of-network regulations and Fair Health fee schedules through the use of a recorded webinar that members may access at any future date should they not be available when the webinar is produced, and be it further
2. **RESOLVED**, that MSNJ advertise this webinar through all available social media – e.g., email, E-News, fax, Facebook, Twitter, etc., and be it further

- ~~3. **RESOLVED**, that MSNJ educate legislators on the need for physicians to be able to openly discuss their fees with each other in order to create and maintain a fair and reasonable negotiating tool for reimbursement use that is equitable for individual practitioners, small groups and large groups alike, and be it further~~
- ~~4. **RESOLVED**, that MSNJ educate legislators that price transparency must exist for in network providers as well, and be it further~~
5. **RESOLVED**, that MSNJ ~~create~~ provide access to a model in and out of network fee schedule (through the utilization of data provided by Fair Health ~~and open communication~~) that is equitable for individual practitioners, small groups and large groups alike.

TESTIMONY: Testimony was limited. Mr. Downs advised the House that MSNJ has anti-trust policies in place and that we do not allow the sharing of fee information among competitors in the market at our events.

COMMITTEE DELIBERATIONS: The Committee reviewed current antitrust laws and previous attempts to overturn these laws.

RECOMMENDATION: The Committee recommends:

- adoption of first resolved and second resolved;
- deletion of the third resolved, due to longstanding difficulty in changing national antitrust laws;
- deletion of the fourth resolved because it is incorporated in the recent NJ Out of Network Law; and
- adoption of the fifth resolved as amended.

RECOMMENDATION B: The Committee recommends amendment by addition and deletion.

RESOLUTION 11

TITLE: New MSNJ Board Seat

SPONSOR: Bergen County Medical Society

RESOLVED, that our Bergen County Medical Society call upon our Medical Society of New Jersey to create a new seat on the Board of MSNJ for hospital-based physician groups.

TESTIMONY: There was limited testimony in favor.

COMMITTEE DELIBERATIONS: The Committee heard no testimony against and therefore recommends adoption.

RECOMMENDATION: The Committee recommends adoption.

RESOLUTION 12

TITLE: Healthcare as a Human Right

SPONSOR: Bergen County Medical Society

RESOLVED, that our Bergen County Medical Society call upon our Medical Society of New Jersey to recognize, advocate, and support the right to healthcare as a duty of a civilized society.

TESTIMONY: Testimony was mixed.

COMMITTEE DELIBERATIONS: The Committee recognizes that the concept of healthcare as a human right is in accord with Article 25 of the United Nations' Declaration of Human Rights. MSNJ has multiple policies supporting healthcare reform and access.

RECOMMENDATION: The Committee recommends reaffirmation of existing MSNJ policy numbers:

60.995 Alternatives to national health insurance: MSNJ supports the following: 1) Agree that while providing at its best the best care in the world, the current system of health care carries certain disadvantages in its costs, particularly administrative costs. 2) Propose that any new system provides for universal access and relieves physicians of the necessity of choosing between their livelihoods and the need to provide uncompensated care rather than none at all. 3) Relieve patients and physicians alike of distant, at times unqualified and unfeeling, control of the delivery of health care by untrained nonprofessionals. 4) State and justify any limits or "rationing" of care that might become necessary, working to minimize the effects of such limits, rather than deny that they exist. 5) Provide compensation appropriate to the qualifications, training, time, and responsibilities of the health care professionals who bear the primary burden of caring for the health and lives of the people of the nation. *(BOT, 4/93; reaffirmed Res 3, Trans 99)*

60.998 Health care reform: MSNJ endorses the access to health care insurance of a varied nature to every citizen in New Jersey. *(BOT, 9/92)*

60.987 Coverage for all who need it: MSNJ advocates that any federal health system reform plan should include reimbursement strictly for the urgent and emergent treatment of illness and injuries of indigent non-U.S. citizens while they are in the United States or its territories. *(Res 5, Trans 94)*