



State Budget Negotiation Continue – Keep Up Physician Grassroots!

After passing their respective one-House Budget proposals last week, the Assembly and the Senate are now having negotiations with the Governor’s office to complete a State Budget before next week’s April 1 deadline. Below is a summary of the most pressing Budget issues where MSSNY has been advocating, as well as the continued need for physician grassroots efforts.

Excess Insurance

Both the Assembly and Senate Budget proposals recommended the rejection of the \$51 million cut to the Excess Medical Malpractice Insurance program and 50% physician cost share imposition that had been proposed in the Executive Budget. Physicians can send a letter to legislators urging that they continue to fight to prevent this cut from being included in the Budget: [Don't Balance the Budget on the Backs of Physicians \(p2a.co\)](#)

OPMC Changes

The Assembly Budget proposal recommended the rejection of the “OPMC Modernization Act” provisions from the Executive Budget including several provisions that would substantially curtail physician due process rights when a complaint has been filed against them with the OPMC. The Senate Budget proposal recommended the rejection of almost all of the “OPMC Modernization Act” provisions but left in components related to background checks for new licensees and expanded information on the physician profile.

Physicians can send a letter urging the Legislature to continue to fight to preserve due process protections for physicians and rejecting these seriously unfair proposed changes: [Reject Governor's Physician Disciplinary Proposal \(p2a.co\)](#)

Pharmacy Scope

The Assembly Budget proposal recommended the rejection in its entirety of the pharmacy scope expansion provisions from the Executive Budget proposal. The Senate Budget proposal recommended the rejection of Executive Budget proposals to greatly expand the physician-pharmacy Collaborative Drug Therapy program and pharmacist self-ordering of lab tests, but mostly accepted the proposal to expand the immunizations that can be performed by pharmacists.

Please urge your legislators to continue to fight to reject these short-sighted proposals that would empower big box chains at the expense of community-based physician-led medical homes: [Oppose Uncoordinated Siloed Care to be Provided by Pharmacists \(p2a.co\)](#)

Telehealth

The Assembly Budget proposal recommended the rejection of almost all of the Executive Budget telehealth Budget proposal except for a provision that expands the locations where telehealth services can be provided. The Senate

accepted the Governor's telehealth Budget proposal, but importantly added language supported by MSSNY that would require equitable payment for telehealth services as compared to in-person services.

Please send a letter urging that equitable payment for telehealth services be included in the final Budget; and ensuring out of state telehealth service providers are not prioritized over community based New York physicians for providing telehealth services: [Urge Legislators to Support Payment Parity in Telehealth \(p2a.co\)](#). (More info below)

Committee for Physicians Health

The Senate Budget proposal restored the nearly \$200,000 cut that had been proposed to CPH in the Executive Budget. While the Assembly Budget proposal did not affirmatively restore the cut, there have been indications that they will support the restoration of this cut.

E-Prescribing Waivers

Both the Assembly and Senate Budget proposals recommended the rejection of the Executive Budget proposal to eliminate the right of prescribers to apply for a year to year waiver of e-prescribing requirements.

Medicaid "Prescriber Prevails"

Both the Assembly and Senate Budget proposals recommended the rejection of the Executive Budget proposal to remove the statutory protection for the prescriber's determination (not State Medicaid's) to prevail for a medication prescribed to a patient covered by Medicaid

Nurse Practitioner Collaborative Practice

The Assembly Budget proposal included the Governor's proposal to extend the existing modified nurse practitioner independent practice statute for another 6 years. The Senate Budget proposal did not include these provisions.

Medicaid Cuts

Both the Senate and the Assembly rejected the 1% Across the Board Medicaid cut

Recreational Use Marijuana

This was excluded from both one-House Budget proposals but there are numerous reports a separate bill will be enacted.

(DIVISION OF GOVERNMENTAL AFFAIRS)

MSSNY Working to Secure Telehealth Expansion in FY 2022 Budget

Telehealth coverage expansion is among the items being negotiated extensively between the Assembly, Senate and Governor as they work to finalize a State Budget for FY 2022. Physicians are urged to send a letter to their legislators here urging equitable payment for patient care services delivered via telehealth and to ensure continued coverage of telehealth services by New York community-based physicians. [Urge Legislators to Support Payment Parity in Telehealth \(p2a.co\)](#) As shared in last week's Capital Update, the Assembly plan rejected all of the Executive Budget's Telehealth proposal, with the exception of a provision that expands the locations where Telehealth services can be provided. The Senate, however, accepted the Executive's Telehealth full, but added language supported by MSSNY, that would require payment for Telehealth services that is on par with in-person visits.

MSSNY is continuing to push for expansion of Telehealth services through the budget and is working with legislative leaders to address significant concerns with the proposal advanced in the Executive Budget, including its proposal to create an interstate compact and network adequacy, which has the potential to cut out New York-based, community physicians, especially those in network. MSSNY is also continuing to strongly advocate for physician payments for telehealth services that are on par with in-office visits.

The Governor and legislature must agree on a new budget by April 1st and MSSNY will provide updates as negotiations go forward. **(CARY)**

US Senate Passes Measure to Prevent 2% Sequester Cut; House Expected to Follow Suit in Mid-April

This week the US Senate voted 90-2 to pass an agreement reached by Leaders Schumer and McConnell to extend the 2% Medicare sequester moratorium that expires on April 1. The bipartisan legislation, offered as an amendment by Senators Shaheen and Collins, would provide a 9-month extension of the moratorium, through December 31.

Last week, the House of Representatives passed different legislation that would have both extended the moratorium through the end of the pandemic and eliminated an additional 4% Medicare sequester scheduled to take effect on January 1, which was required by so-called “PayGo” rules to offset part of the cost of passing the American Rescue Plan COVID-19/stimulus package. Consequently, the House will need to pass the Senate language when it returns to DC the week of April 12. According to the American Medical Association, the House is expected to vote favorably, and the Centers for Medicare & Medicaid Services is expected to hold off on processing April claims until then to avoid making reduced payments.

MSSNY thanks Senator Schumer and Gillibrand for their actions, as well as the 25 of the 27 New York Congressional delegation members representing both parties whose support for preventing this cut in last week’s House vote demonstrated that there was wide bipartisan support for finding a way to prevent this cut from being implemented at a time when physicians and other care providers are still struggling with the consequences of the pandemic.

Physician and other care providers affected by the upcoming 4% sequester scheduled for January 1 expect legislation to be considered later in the year to waive those cuts.

(AUSTER)

Legislature Passed Bill to Repeal Covid Legal Protections

Legislation (S.5177) to repeal the Covid liability protections provided to physicians and other care providers enacted as part of last year’s State Budget was passed by the Senate this week. The same-as legislation (A.3397) recently passed the Assembly. It will be sent to the Governor for his signature, which as of this writing has not yet occurred, nor has the Governor announced whether he will sign or veto the bill.

Many groups including MSSNY wrote to legislators to oppose A.3397/S.5177, noting that regardless of nursing home concerns that led many to question this law, it was important to maintain these legal protections for the front-line physicians and other health care workers still managing the thousands of new Covid cases in New York every day with an increasing penetration of more easily spread variants. MSSNY also raised concerns that despite statutory construction rules that presume legislation is to be applied prospectively in the absence of clearly defined statutory intent to the contrary, there was still a possibility S.5177/A.3397 could be interpreted by a court to retroactively repeal these essential liability protections for care provided during the height of the pandemic when there were not clear medical protocols for Covid treatment and when many non-Covid health care services were required to be postponed.

Importantly, there were comments made by several Assemblymembers during the floor debate on the legislation when it was passed by the NYS Assembly that the “effective date” language means that the repeal provisions would only apply prospectively. The point was also made by Senator Shelly Mayer during the floor debate in the Senate.

Please stay tuned for further updates on this issue, including potential requests for further grassroots activity.

(AUSTER)

NYS Legislature Appears to Have Reach Agreement on Legalizing Recreational Marijuana

According to news reports the New York State Legislature and the Governor’s office, appears to be close to agreement on legislation that would legalize recreational marijuana use and purchase for adults at least 21 years old. The legislation would also license dispensaries and impose special taxes on marijuana. News articles report that this legislation would include a 13% sales tax, 9% of which would go to the state and 4% to the localities. Localities are also given the discretion to opt out of allowing a dispensary in a county. News reports also indicate that some of the resulting annual proceeds are going to low-income, mostly minority neighborhoods under a “community reinvestment” program to assist communities that have been subject to disparate enforcement of marijuana laws. With preventing against impaired driving a significant concern for many groups, the legislation is also expected to allow police to use marijuana odor to help determine if a driver is impaired but would ban odor from being a reason to search a vehicle. It should also be noted that there was still discussion whether driving while ability impaired by marijuana would be treated as a violation or as a misdemeanor.

(CLANCY)

NYS Continues to Expand Vaccine Eligibility To 50 Years of Age and Older

New York State continues to expand eligibility to the COVID-19 vaccine to adults over 50. The March 23, 2021 guidance is here:

<http://www.mssny.org/Documents/2021/Public%20Health/Vaccinations/Guidance%20for%20Facilities%20Receiving%20Vaccine%203.22.21%202136.pdf>

All providers can vaccinate any New Yorker, including those with comorbidities or underlying conditions, and individuals 50+. Enrolled providers other than pharmacies may vaccinate any eligible individual. Pharmacies must prioritize K-12 school faculty and staff and childcare workers but are also authorized to vaccinate individuals aged 50 and older and individuals with comorbidities. New York State Department of Health also issued interim guidance to ensuring access to health care services and effective April 1, 2020, individuals may bring a companion with them to healthcare appointments. Companions must also wear appropriate face coverings, practice hand hygiene and respiratory etiquette, and comply with temperature checking and symptom screening. A copy of the guidance is here:

http://www.mssny.org/Documents/2021/Public%20Health/Vaccinations/Notification_106001.pdf

MSSNY has been working closely with the state to get vaccine supply to community physician offices and several physician practices around the state may receive an allocation of vaccine supply shortly. MSSNY has been informed that over 190 practices have received vaccine. Physicians who would like to become a COVID-19 immunizer, will need to enroll into either the NYSIS or CIR systems. Physicians can find information about enrolling here: <https://coronavirus.health.ny.gov/covid-19-vaccine-information-providers>

Providers in receipt of COVID-19 vaccine, irrespective as to whether such doses are via a direct State or federal allocation or a redistribution, will now be required to report to the vaccine tracker on Mondays and Thursdays by 10am. All providers with COVID -19 vaccine doses on hand or that depleted their allocation since their last report are now required to fill out the vaccine tracker both days. This reporting will continue to be used for allocation determinations and is still required. <https://forms.ny.gov/s3/COVID-Vaccine-Tracker>

Physicians and patients can determine eligibility by going to:

<https://am-i-eligible.covid19vaccine.health.ny.gov/>

(CLANCY)

MSSNY's Physician Wellness and Resiliency Committee: Peer to Peer Program

If you or someone you know is struggling with everyday life stressors, reach out to the P2P program to be connected with a peer supporter to help!

Email: P2P@mssny.org and request that you be connected with a peer supporter

Phone: 1-844-P2P-PEER (1-844-727-7337) and request that you be connected with a peer supporter

The Medical Society of the State of New York now offers to physicians, residents and medical students a completely **confidential and anonymous** opportunity to talk with a peer about some of life stressors. MSSNY's Physician Wellness and Resiliency Committee launched a Peer 2 Peer (P2P) program to assist their colleagues who are need of help in dealing with work and family stressors. With the advent of the COVID-19 pandemic, some of the emotional issues related to this event, may also be troubling for our colleagues.

MSSNY has established a confidential helpline phone number (1-844-P2P-PEER) and an email address (p2p@mssny.org) so that physicians may be connected with a peer 24 hours a day/7 days a week. In addition to offering a trained, empathetic ear, peer supporters may provide information on specific resources that can offer further support, provide positive coping skills, or connect physicians to professionals for more focused assistance when needed. MSSNY has nearly 50 trained peer supporters across NYS who are just a phone call away! (LAUDER)

MSSNY Medical Matters Program on Mental Health of Children and Teens During COVID

Registration now open

Medical Matters: COVID-19 & Mental Health of Children and Teens

Date: April 21, 2021 @ 7:30am

The COVID-19 pandemic has affected the mental health of the entire population. Learn more about how children and teens have been affected by registering for Medical Matters: *COVID-19 & Mental Health of Children and Teens*. This webinar will take place on **Wednesday April 21st at 7:30am**. Linda Chokroverty, MD will serve as faculty for this program. Click [here](#) to register for this webinar.

Educational objectives

- Identify normal stressors impacting children and teens and those that have resulted from the COVID-19 pandemic
- Examine what is known so far about the mental health impact of COVID-19 on children and teens
- Describe resources to assist children and teens during the COVID-19 pandemic
- Appraise the scope of COVID-19's long term mental health impact on children and teens

The Medical Society of the State of New York is accredited by the Accreditation Council for Continuing Medical Education (ACCME) to provide continuing medical education for physicians.

The Medical Society of the State of New York designates this live activity for a maximum of 1.0 **AMA PRA Category 1 credits™**. Physicians should claim only the credit commensurate with the extent of their participation in the activity.

(HOFFMAN)

Veterans Matters: Military Culture: Everything Physicians Need to Know about Veterans as Patients Webinar

Registration Now Open

Thursday, April 22nd @ 7:30 am

The Medical Society of the State of New York is hosting a Continuing Medical Education (CME) program entitled Veterans Matters: *Military Culture: Everything Physicians Need to Know about Veterans as Patients* live webinar on **Thursday, April 22, 2021 at 7:30 am**.

Click [HERE](#) to register for the program! View the program flyer [HERE](#)

When: April 22, 2021 at 7:30 am

Faculty: Lt. Colonel Lance Allen Wang (Ret.) & Sharran Chambers-Murphy, Desert Storm-era Veteran

Educational Objectives:

- Describe the unique aspects of military culture and how they impact patients who are veterans;
- Explain the Dwyer Peer-to-Peer program as a resource to assist veteran patients re-acclimating from a group to an individual mentality; and
- Review and identify resources to improve physician's ability to fully treat veterans who are transitioning back to civilian life.

For more information, contact Jangmu Sherpa at jsherpa@mssny.org or call (518) 465-8085

The Medical Society of the State of New York is accredited by the Accreditation Council for Continuing Medical Education (ACCME) to provide continuing medical education for physicians.

The Medical Society of the State of New York designates this live activity for a maximum of 1.0 AMA PRA Category 1 credits™. Physicians should claim only the credit commensurate with the extent of their participation in the activity.

(SHERPA)