I have a bird’s eye view of the compassion, altruism, and innovation expressed by our physician members. As we begin 2024, I continue to be astounded by the resiliency of physicians. MSNJ members are truly leaders in medicine and leaders in life.

The Medical Society of New Jersey is the home of the medical profession in New Jersey. As more and more physicians become employed, working at hospital systems, large group practices and in other care settings, we have programs and resources to enrich your career and your life.

This year we will pilot the Employed Physicians Services Program, which provides educational programs on topics like employment contracts, bonus compensation, and understanding your rights as a member of a medical staff. You’ll also have professional contract review services included with your MSNJ membership. And we’ve teamed up with one of our partner law firms to offer a fee-based legal compliance program to ensure you’re getting the legal advice you need.

MSNJ provides practical solutions to issues facing the practicing physician. For example, this year, new federal laws require eight hours of CME to renew a federal DEA license. MSNJ’s DEA Resource Center lets you complete this entire requirement in just one day.

Also new this year is our members only lecture series; these monthly, one-hour presentations cover key issues facing you as a physician. Topics include “Inside Trenton,” taught by MSNJ lobbyists, and updates on key issues in medical liability cases. These presentations will be available to members live and as recordings posted on our website.

MSNJ will be co-sponsoring a MEDX CME event in September 2024. MSNJ members can attend this one-stop CME festival at member only pricing. The event will bring together physicians from multiple hospital systems and practice sites to learn together. Stay tuned for more info in our weekly MSNJ e-News.

All these offerings build on MSNJ’s significant legislative wins in 2023. Our top priority, fixing prior authorization in New Jersey, was signed into law at the tail end of the 2023 session. Effective in 2025, this new law reduces the time for prior authorization decisions from 15 days to just 48 hours in most cases and 24 hours in urgent circumstances. The law also newly requires that you’ll have peer-to-peer conversations with physicians, not call-center employees, and those physicians will need to be in a specialty that treats the medical condition at issue.

MSNJ membership delivers great value to physicians. Representing physicians in legislative and advocacy work in Trenton and courtrooms around the state is just the beginning. This year MSNJ has added new member benefits, discounts and affinity programs exclusively for our membership. Take full advantage of these discounts and your membership will pay for itself!

Thank you for your continued support of MSNJ. The profession and your patients appreciate your leadership.
The Medical Society of New Jersey is pleased to release the 2023-2024 Annual Report of the Advocacy Fund. The Fund is used to supplement MSNJ’s investment in physician advocacy. The Fund supports research, media advocacy, legal advocacy and efforts that amplify the voice of organized medicine in New Jersey.

Through contributions, MSNJ has made great progress on behalf of physicians by conducting economic and policy research, commenting on proposed regulations, and participating in legal cases. We have included a list of activities supported by the Advocacy Fund in the report on page 3.

The Fund is supported by hospital medical staffs, individual and corporate contributions. MSNJ Policy #200.898 directs that revenues and expenditures from the Advocacy Fund be reported to the MSNJ Board of Trustees on a periodic basis. MSNJ is distributing this report to all organizations making contributions to the Advocacy Fund.

MSNJ recognizes the leadership of the contributing medical staffs. We provide timely educational material to medical staffs that support MSNJ. Active leadership is essential to bring the physician voice and perspective to health care reforms occurring at the state and national levels.
ADVOCA CY 
EXPENDITURES

Administrative Cost
- Postage
- Other communications

Media
- Press coverage
- Printed material

Managed Care
- Continued Advocacy on Prior Authorization
- Continued Advocacy on Scope of Practice

Legal
Amicus briefs filed:
- Stewart v. Cigna
- Rivera/Ruscitto v. The Valley Hospital
STATE - LEGISLATIVE ADVOCACY

During the 2023-2024 state legislative session in Trenton, the Medical Society of New Jersey secured major victories across key legislative areas. These legislative wins ranged from physician payment to insurance process reform to public health and beyond. Here are highlights of the wins we had:

Prior Authorization Reform
In January 2024, MSNJ’s top priority bill (A1255) was signed into law. This legislation made big improvements to existing law on prior authorization, covering all state-regulated plans and millions of New Jersey patients.

Under existing law, insurer decisions are made within 15 days. Under our new law, urgent medication requests must be decided in 24 hours and non-urgent ones within 72 hours, with the treating physician determining urgency. Diagnostics and procedures also see faster decision times: 72 hours at most if urgent and nine days if non-urgent. Missed deadlines mean automatically approved requests, and prior authorizations for chronic conditions or multiple treatments (e.g., chemotherapy) will remain valid for at least six months. Appeal denials now must be made by a physician specialist – not a call-center employee – and a true peer-to-peer with an in-specialty physician is now your right on appeal. New reporting mandates will expose what insurers used to keep secret.

Potential Elimination of APN Joint Protocols and Other Scope Expansions
MSNJ also was able to stop three major pieces of legislation that would expand non-physician scope or allow non-physicians to practice without physician collaboration. A223 would have eliminated the requirement that Advanced Practice Nurses enter into joint protocols with physicians to prescribe medication. MSNJ was able to convince the legislature that the bill is inconsistent with fundamental public health principles. MSNJ maintained an extensive public relations campaign aimed at legislators and legislative leadership, and worked with former DOH Commissioner and Board of Medical Examiners President Fred Jacobs, MD, who penned an Op-Ed on risks from APN independent practice. In addition to the bill regarding APN independent practice, MSNJ successfully halted two additional bills, one that would dangerously expand the scope of practice of optometrists, allowing them to perform laser eye surgery; and another that would expand the scope and provide for independent practice by midwives.
Health Care Heroes Violence Prevention Act
In mid-2023, A3199, the "Health Care Heroes Violence Prevention Act," was signed into law. MSNJ strongly supported this law, which was first introduced by Assembly Majority Leader Greenwald and Senator Singleton. The law responds to a recent surge in violence against physicians and other medical professionals. Multiple critical provisions of the law will protect physicians and other healthcare workers and punish those who commit crimes against them. The law

- allows a court to consider violence against a healthcare worker to be an aggravating factor during sentencing
- establishes a disorderly person’s offense, punishable by up to six months in prison and a $1,000 fine, for threatening a healthcare professional
- provides for enhanced sentencing, such as participation in anger management courses and completion of community service, and
- requires certain health care facilities to display a written notice that it is a crime to assault a healthcare worker.

Law Protecting Physician Payments
In the last few years, insurers have begun paying physicians by what is known as a virtual credit card, which physicians must run through their merchant terminals to collect stored funds. By engaging in this practice, insurers impose funds transfer costs onto physicians in the form of merchant terminal fees. MSNJ worked successfully to have a bill signed into law that ensures physicians can be paid by means other than a virtual credit card – such as by check or EFT. This will ensure that physicians are not forced into unfair fee arrangements.

Prescription Drug Price Reduction Legislation
Also in 2023, Governor Murphy signed into law three important pieces of legislation that MSNJ supported, which are aimed at reducing prescription drug costs for patients statewide. Together, the new laws cap certain out-of-pocket costs, establish greater oversight of PBMs and promote transparency across the pharmaceutical supply chain. The three bills are:

- A536/2841 – Establishes greater oversight of PBMs, the third-party companies that manage many prescription-drug plans, to prevent certain practices that drive up costs. This law requires rebates to be used to lower premiums and out-of-pocket costs for consumers and prevents the practice of spread pricing (when a PBM pockets the difference between what it charges a health plan and reimburses a pharmacy). It also requires PBMs to apply for a license from the NJ Department of Banking & Insurance to strengthen regulatory oversight.
- S1614 – Caps out-of-pocket costs for many residents by extending Medicare’s new $35/month insulin out of pocket cap to state-regulated markets and NJ public employee plans, as well as capping out of pocket costs for EpiPens and asthma inhalers at $25 and $50 respectively for a month’s supply.
- S1615 – Creates a new data and transparency system within the Division of Consumer Affairs to collect, analyze, and report on the entire process of drug pricing across the supply chain to gain greater insight into drugs with high price increases and launch prices. The law also establishes a Drug Affordability Council to formulate legislative and regulatory policy recommendations that help advance the goal of prescription drug affordability and accessibility.
Workers’ Compensation Bill Signed into Law
In late 2023, Governor Murphy signed a bill supported by MSNJ that raises maximum workers’ compensation fees for evaluating physicians and expands circumstances for which physician legal fees are permitted.

Bill Strikes Back at Insurer’s Modifier 25 Cuts
In late 2023, MSNJ introduced a bill responding to across-the-board payment cuts by insurers, namely Horizon’s BCBS’s cuts to payments for claims appended with Modifier 25. Specifically, earlier in 2023, Horizon cut in half the lesser of two payments when physicians appropriately bill an evaluation code and procedure code in the same day. Previously, Horizon paid 100% of CMS’s recommended rates for both codes. Now Horizon pays only half of the lesser code. Horizon took this action despite CMS having already reduced by half the rates for procedure codes generally billed with an E/M code.

Horizon’s decision will hit hardest some of New Jersey’s most vulnerable residents, as the policy effectively targets patients including those with cancer, kidney disease and severe autoimmune disorders. We have heard from many of New Jersey’s practice groups that the cuts will have a significant impact on patient access. For this reason, we worked with our legislative partners to introduce a bill that would require state government approval before insurers make across-the-board cuts to payments appended with modifiers. Introduction of the bill was MSNJ’s shot across the bow, indicating to insurers that we will not sit idly by as insurers engage in unacceptable practices.

Ensuring Rx Discounts go to Patients
In early 2024, at the tail end of the legislative session, the Governor signed a law requiring PBMs to allow patients to use discount platforms like GoodRX and SingleCare to pay for medications and telehealth services. MSNJ supported this bill as protective of patient health and financial wellbeing, recognizing that PBMS and insurers should not never gain by unduly burdening the patients they cover.

Election Update:  
On November 7, 2023, all of New Jersey’s legislators – 40 senators and 80 members of the Assembly – faced reelection. In an unexpected turn, Democrats retained control in the State Senate and expanded their advantage in the Assembly by 5 seats, a result that surprised most observers who saw Democrats facing political headwinds.
Importantly for MSNJ and physicians throughout the state, two new physician candidates won their elections, bringing the total number of physicians in the legislature from one to three, the highest number in years. Specifically, John Azzariti, MD, a Republican from Saddle River, won his election for an Assembly seat in the 39th District. Margie Donlon, MD, Democrat of Ocean Township, won her Assembly election in the 11th District, and Herb Conaway, MD, who for many years was the only physician in the legislature, won his election in District 7. Notably, in a closely watched and hotly contested race, Senator Vin Gopal, a long-time friend of medicine and frequent partner of MSNJ, won resoundingly in district 11.

The balance of power in the legislature returns almost to the split before the 2021 wave that gained Republicans several seats. At the time, Democrats held a 25 to 15 Senate advantage and 52 to 28 Assembly advantage.

**Media Exposure for MSNJ on Health Care Landscape**

Throughout 2023, MSNJ was in the news on important issues concerning the practice of medicine in the state. For example, MSNJ’s CEO Larry Downs was featured in ROI-NJ, discussing the evolving healthcare landscape in New Jersey and how the consolidation of physician practices is contributing to this change, while MSNJ’s Director of Government Relations, Josh Bengal was featured in a NJ Spotlight News piece on how lawmakers in NJ are working to ease the shortage of healthcare workers, specifically through proposed changes to the primary care practitioner loan-redemption program and other assistance programs.

**FEDERAL - LEGISLATIVE ADVOCACY**

**Medicare Payment Reform**

Working closely with the AMA, MSNJ continues to advocate at the federal level for Medicare payment reform. This advocacy came in many forms in the last year, including expressing support for a recent “Dear Colleague” letter sent by members of congress to House leadership and in-person advocacy in Washington, DC with New Jersey Senators and Representatives. We will continue to advocate bringing the physician Medicare payment program into the 21st century, recognizing that physician reimbursements have declined by 22% from 2001-2021.

Medicare payment reform is the first pillar of the AMA Recovery Plan for America’s Physicians. Our needs include immediate relief from annual funding cuts and fundamental changes to Medicare reimbursement centered on simplicity, predictability, relevance and alignment, principles first outlined in reform principles issued last fall. Efforts to change the trajectory of Medicare payments for the better have been and remain one of the AMA and MSNJ’s top priorities.
Medicare Payment Schedule Rule (Regulatory)
Leading up to 2024, MSNJ and the AMA also advocated for changes to the 2024 Medicare Physician Payment Schedule (MFS) proposed rule, which included key proposals that impact Medicare physician payment and the Quality Payment Program (QPP). These proposals included a predicted 3.36 percent reduction in the 2024 Medicare conversion factor – a reduction that was partly cut in final form - implementation of the Evaluation and Management (E/M) add-on code with a modified utilization assumption, a delay in implementing updated Medicare Economic Index (MEI) weights, an increased performance threshold in the Merit-based Incentive Payment System (MIPS), and a delay in mandatory eCQM adoption for MSSP participants.

CMS Final Rule on Changes to Prior Authorization in MA and Part D
CMS also issued a Final Rule that reforms prior authorization practices in Medicare Advantage (MA) and Part D programs. Under the new rule, prior authorization may only be used to confirm the presence of diagnoses or other medical criteria or ensure an item or service is medically necessary.

Cigna Delay of Implementation of Modifier 25 Policy
Following advocacy and receipt of a sign-on letter from the AMA, MSNJ and other organizations, Cigna updated its modifier 25 policy to announce a delay in implementing the required submission of documentation to support the use of modifier 25 when billed with E&M CPT codes 99212 – 99215 and a minor procedure code. This policy would place enormous, unjustified administrative burdens on physician practices.

Opposing Non-Physician Scope Expansion - I CAN Act Sign-on Letter
MSNJ also signed-on to an AMA letter of opposition to H.R. 2713, the “I CAN Act.” This legislation would endanger the quality of care that Medicare and Medicaid patients receive by expanding the scope of practice for non-physician practitioners, including nurse practitioners, certified nurse midwives, certified registered nurse anesthetists, and clinical nurse specialists. Specifically, the bill would allow non-physician practitioners to perform tasks and services outside their education and training and could result in increased utilization of services, increased costs, and lower quality of care for patients. It would also remove supervision requirements for certified registered nurse anesthetists, a change that could have a negative impact on quality outcomes for patients.
**LEGAL ADVOCACY**

**AMA v. Cigna**
The Medical Society of New Jersey (MSNJ), the Washington State Medical Association (WSMA) and the American Medical Association (AMA) joined a class action lawsuit to represent their respective members in challenging the legality of Cigna’s use of Multiplan to lower physician fees and saddle consumers with higher medical bills.

Last week, the judge hearing the case dismissed the medical societies as plaintiffs, finding the physician organizations lacked standing to bring the lawsuits. MSNJ, WSMA and the AMA disagree with the court’s finding and are currently evaluating options to remain in the case.

An article in The New York Times detailed the relationships between health insurers and private equity-backed third party companies (like Multiplan) that effectively boost insurer profits by paying less than contracted rates to physicians and pushing more costs onto patients.

The medical societies have long been aware of these issues; this is why MSNJ, WSMA and AMA decided to challenge these arrangements in court. The class action lawsuit will continue despite the ruling that dismissed the medical societies as plaintiffs. In addition to evaluating our options going forward, MSNJ, WSMA and AMA will monitor the case closely through their attorneys and will provide ongoing updates as the matter continues. Unfortunately, the case may take years to resolve. In the interim, organized medicine will continue to push policy makers to create fair market standards for physicians and patients.

**Moschella v. Hackensack Meridian**
**Issue- Is there a different standard for Affidavit of Merit compliance for Pro Se litigants?**
The estate of a hospital patient brought a wrongful death action against the hospital and one of its doctors after an unknown syringe, potentially containing narcotics and not insulin, was found in the decedent’s IV line. The hospital and doctor sought to dismiss the action in part based on the estate’s failure to support the claim with a physician affidavit of merit as required by New Jersey law. The estate subsequently submitted a purported affidavit by a retired nurse, which did not satisfy New Jersey’s affidavit of merit requirements. The estate then submitted a letter from a board-certified endocrinologist, providing general information about patients diagnosed with diabetic ketoacidosis such as the decedent, and a letter by another nurse opining on the medical standard of care for a patient in diabetic ketoacidosis being treated with insulin. The trial court held that these submissions did not satisfy New Jersey’s Affidavit of Merit Statute. The mid-level appellate court affirmed, finding that although “strict compliance” with the statute is not required the estate’s submissions did not substantially comply with the affidavit of merit requirement.

**Keyworth v CareOne**
**Issue: Is information developed under peer review protections of the Patient Safety Act discoverable in medical liability actions?**
The case is Keyworth v. CareOne at Madison consolidated with Bender v. Harmony Village at CareOne.
The case involves the scope of the privilege for information developed in connection with the New Jersey Patient Safety Act. The plaintiffs had prevailed on motions to compel disclosure of incident reports developed by the healthcare facilities following a fall and fracture (Keyworth) and a death (Bender). Although not submitted to the Department of Health, the reports had been generated as part of the healthcare facilities’ Patient Safety Act compliance. The trial court ordered disclosure. On leave to appeal, the Appellate Division reversed with a published opinion at 476 NJ Super 86 (App. Div 2023). The Supreme Court granted plaintiff’s motion for leave to appeal.

The Supreme Court accepted the case with an Order that was posted on January 12, 2024. Pursuant to R.1:13-9, a motion for leave to appear as amicus along proposed merits brief must be submitted within 75 days of the posting. That deadline date is March 27, 2024.

Plaintiffs’ principal argument is that the Patient Safety Act did not eliminate the entitlement to discovery of “facts” but only protected the self-critical analysis process and conclusions. The record demonstrated that discovery efforts were ineffective because of claimed lack of recollection of the events that had with defense counsel refusing to allow the witnesses to refresh their recollection through use of the incident reports that were prepared contemporaneously with the occurrences. MSNJ and AMA were granted leave to appear Amici Curiae on March 7, 2024.

**Amicus Brief for TMA III**

This case in the US Court of Appeals for the Fifth Circuit challenges the method the implementing regulations of the No Surprises Act. The case contends the regulations allow insurers to develop the Qualifying Payment Amount against Congressional intent in the law.

MSNJ has participated in each phase of this case as a sign on Amicus participant.
Inaction vs. IN ACTION

The Litigation Center of the American Medical Association and the State Medical Societies is committed to protecting doctors and upholding the highest standards of patient care.

In courtrooms across America, we are achieving legal victories that preserve the rights of physicians, promote public health and protect the integrity of the profession.

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