



# WESTCHESTER PHYSICIAN

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Volume 37, Issue 8



## NOT AGAIN

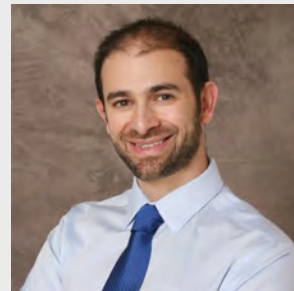
**PETER ACKER, MD—IMMEDIATE PAST PRESIDENT**

It is strange to refer to early July of this year as a halcyon period, less than three months ago, but add that to the list of strange unbelievable things of the COVID era. My wife and I were feeling buoyed by the increasingly warm weather and the steady downward trend of covid cases, booked a trip to Turks and Cacaos our first vacation venture since 2019. I had miles aplenty that had accumulated mightily over the previous 2 years via credit card spending and so our flight was virtually free. Of course there were reports of the delta variant, but like most people I never anticipated how rapidly it would come to dominate our world. Our mood was ebullient as we headed to the airport, our vaccine cards and negative covid results tucked in next to our passports. I even whispered to my wife that I may order a corona beer while on our Delta airlines flight. I cringe today at the hubris and tastelessness embodied in that joke, but I am sure like many people after the long covid induced strain, did not have the imagination to conceive of yet another wave looming.

Our one week there was a tonic: long walks on a pristine beach, a sunset cruise, a day long snorkeling extravaganza, a visit to “Iguana Island”, and a guided kayak tour of mangrove inland waterways. We made many friends and invariably shared stories of how we endured the pandemic of the century and how grateful we were to be seemingly in sight of its demise.

The feeling today is a bit different than that of the early days, when our world was shocked with the horror of the pandemic. Now it was, less shocking, but more of a grim feeling of “here we go again”. There was another emotion that I began to feel: an increasing impatience with people who eschew getting vaccinated. As a pediatrician, I have long toiled in the land of “antivax”, trying to convince the small minority of vaccine hesitators in my practice (parents who resolve to get absolutely nothing injected into their kids are strongly encouraged to seek care elsewhere). I often cite how in my own career, I have seen dramatic changes in public health as the result of childhood shots. When I trained in the early eighties, there were no vaccines available against haemophilus influenza and pneumococcus, the leading causes of bacterial meningitis in young children. The impact of those two

*(Continued on page 4)*



**JEFFREY JACOBSON, MD**  
*President, WCMS*

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***FROM THE EDITOR...*****MY WEEKEND WITH LEVY AND NOMI**  
**PETER ACKER, MD**

Last Thursday, I participated in the Westchester Academy of Medicine's annual golf outing. I was lucky enough to be paired with Dr. Joseph Taglia, who just stepped down after an unprecedented ten years as the Academy's president. The academy thrived under his leadership as he initiated such activities as the wine tasting gatherings that have proven to be a great opportunity for Westchester's doctors to mingle with medical students. After we brought the Westchester Country Club's fabled West Course to its knees, we sauntered into the club house for dinner. There I chatted with our esteemed director of the Westchester Medical Society Janine Miller who asked me if I could write an extra piece for the Westchester Physician and no pressure but can you do it in the next couple of days?

Nothing focuses me like deadlines. In fact I would probably get nothing done without them. I am a lifelong procrastinator. In college, I used to sit down at midnight and type all night to get a paper done that was due the next day. I remember one paper that my philosophy professor handed back with a C and the comment that it was just one non sequitur after another! I ended up dropping my philosophy major and squeaked out a bio major and eventually found my way to medical school (oldest one in my class!).

General pediatric practice has turned out to be perfect for me. My wandering attention and procrastinating nature is brought up short by the urgency of now. There is a patient in room 2 wheezing, a high fever in 3 and the days just fly back. You can't procrastinate when there are sick children to take care of!

Wait, the discerning reader is thinking at this moment. I thought this was about your weekend with Levy and Nomi! Patience, my dear reader, I am getting there. You see my assignment was to get this done over the weekend. But alas, one of my daughters dropped off two of my grandchildren for the weekend. Every time I sat down to write I would either hear a cry (from 8 month old Nomi) or a plaintive, "Granddad, can we go outside to the swings" (from 2 and 1/2 year old Levy).

So now I find myself early on a Tuesday morning writing after dropping the kids off at their parents last night. It is always interesting as a pediatrician to get an occasional reminder of what it is like to care for two very young children 24/7 (or in this case, 24/2!): the exhausting relentless scramble to get them fed, bathed, in bed, entertained, and diaper changed. Call it a pediatric field conditions CME! I thought and cringed many times during the weekend of my pious counseling of parents to offer healthy choices at mealtime and not offer substitutes if they refuse the offering, to have consistent sleeping routines, etc as I caved in over and over again. Ok, you want fries instead of broccoli? Don't want to go to bed now (it is frigging 9 o'clock!), ok just lie here while we watch The Sopranos. If only the parents could see me now sniveling and on my knees! But what can you do? Those kids are adorable and already I can't wait until the next chaotic weekend with the grandkids!



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**NOT AGAIN****PETER ACKER, MD—IMMEDIATE PAST PRESIDENT***(continued from page 1)*

vaccines was brought home to me a few years ago when my daughter Jessica called me in May of her internship year of pediatric residency and excitedly told me that she had performed her first spinal tap. I was of course proud, but also thought to myself, OMG, by May of my internship I had performed dozens of spinal taps.

Today, I will see the occasional patient whose parents have fully vaccinated their kids, but balk at getting vaccinated themselves against covid. I am finding it increasingly difficult to hide my irritation at some of the insouciance behind their justifications, to wit: “oh, I’m fit and eat healthy,” or “I’ll just wait a bit and will do my own research –(ie google it). I want to shout, it’s not just about you –as I think of the hordes of unvaccinated clogging up our nation’s ER’s and ICU beds. Just today on the news was the report of a Florida boy who waited six hours to be seen for acute abdominal pain. Of course, it turned out to be appendicitis and had burst.

I will end this by quoting from a column that wrote a number of years ago. *“There is no question, however, that there is a ground swell of people who are witnessing an outbreak with real life consequences to the population at large and are looking askance at those who are not “sharing the load”. The question of freedom, of course, enters the argument, so many politicians are “in favor” of vaccines, yet honor the right of parents to not vaccinate their children. I realize this is a contentious issue – can we really mandate people to vaccinate? Well, let me ask you this: can we really force people to not drive 100 miles per hour on our highways? Shouldn’t our most vulnerable citizens have the right to exist in a safe immunized community?”*



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**From: Psychiatric Times**  
**Rearview: A Psychiatrist Reflects on Practice and Advocacy in a Time of Healthcare System Change**

**BOOK REVIEW**

**Rearview: A Psychiatrist Reflects on Practice and Advocacy in a Time of Healthcare System Change**

by Barry B. Perlman, MD; BookBaby, 2021

292 pages • \$15.99 (paperback)

Reviewed by H. Steven Moffic, MD

A natural pearl is formed when an irritant works its way into certain mollusks. The mollusk secretes a fluid to coat the invasive irritant, and layer upon layer of this coating produces a lustrous pearl. So, it seems, is the life and times of Barry B. Perlman, MD, as the irritants he encounters transform him into a pearl of a psychiatrist to his patients, colleagues, and society. Such irritants, big and small, include the stigma of psychiatry, the intrusion of for-profit managed care, political maneuvering, and his own medical illness. It is as if, after each irritant, obstacle, and/or trauma, he and psychiatry come back stronger and more resilient. If this play on words and spelling seems trite, his work is anything but that.

Reading about his journey in this memoir will reveal pearls that will enhance the lives of anyone interested in mental health and illness, including the public, patients, medical students, and other physicians, especially primary care physicians. How could a memoir by a psychiatrist have this sort of scope? First of all, Perlman always values and uses his medical skills and knowledge. Secondly, most of his career was at St Joseph's Medical Center, a rather unique community system that included a small community hospital; nursing home; freestanding psychiatric hospital; and outpatient clinics in Yonkers, a suburb just outside of New York City. For many years, Perlman was a director of the department of psychiatry, then before retirement he was medical director of the entire system—a rare administrative and leadership position for a psychiatrist. In addition to those interested in the medical field, family and friends should enjoy this inside look at a psychiatrist's working life too, especially given that the confidentiality of our field inhibits workday sharing of information.

The title and image on the front cover illustrates Perlman's journey. There is a rearview mirror and car windshield that have some clear sight spaces among what seem to me to be like many cracks and blurriness. When I asked Perlman by email why he named the memoir *Rearview*, he answered: "Because I'm retired. The initial impetus for

a book was as a legacy for my kids . . . Once it got going & took on its own life it began to transcend the legacy project idea."

I was a fellow traveler at the start of his medical journey. We were both medical students at Yale University from 1967 to 1971, both of us surprised, if not shocked, that we were accepted. After graduation, we met occasionally at reunions or communicated when our paths overlapped, like now in retirement. Since we were friendly, though not close friends, I can offer both a real-life confirmation of some of his story, but also the perspective of someone who took a slightly different, albeit eerily overlapping, psychiatric road. Our 50th year class reunion is fast approaching, and like so much of medicine in this COVID-19 era, it will be held virtually. Perlman closes the book with comments on the pandemic's devastation, much of it seemingly preventable.

Still, he ends on a happy note: "I do assuredly feel an enormous sense of gratitude for my life despite the pandemic that has radically disrupted its later years." Hopefully, most everybody in our class, as well as readers of this review, has felt that gratitude in being able to help others.

The structure of this book is unique, and it reminds me of the free association process that Freud advised for his patients. Perlman describes them better than I can: "These are recollections of sound bites, actions taken, or visual images retained in my mind's eye, each within a particular context. Serious or humorous, I have amplified upon each as a story or tale providing content and personal meaning, joined to a discerned lesson or distilled thought."

As you may be able to tell already, he tells his story in easy-to-read, conversational language and a touching thoughtfulness, full of grace. It falls into the tradition of narrative medicine, and it can be thought of as a book of personal short personal reminiscences.

There are 41 of these fragments. Everyone will have their favorites, but here are a few of mine, as I try to follow the model of conveying his fragment, elaborating on it a bit, and providing some afterthoughts.

**Chapter 4.**

My recalled fragment: "S\*\*t, s\*\*t, s\*\*t . . . s\*\*t..." (stars for letters are mine)

In describing learning about aphasia during a summer placement as a teenager, he meets an elderly gentleman who had a stroke. An executive at the Tootsie Roll

*(Continued on page 6)*

**From: Psychiatric Times**  
**Rearview: A Psychiatrist Reflects on Practice and Advocacy in a Time of Healthcare System Change** (Continued from page 5)

company, all he could communicate was different expressions of “s\*\*t.” Later, as a psychiatric resident, a teacher raised the possibility of why the patient used that word, and only that word, as it could be a symbolic, possibly Freudian anal connection with the physical appearance of Tootsie Rolls, those small, dark brown, and linked chocolate candies.

**Chapter 21.**

My recalled fragment: “Tell me doc, wasn’t there any piss in it?”

Here, the “piss” in the joke refers to the colloquial language of the patient, compared with the clinical, informational language that a doctor used to convey the results of a urine lab test (a language the patient cannot understand). Perlman tries to teach family practice residents to appreciate the psychiatric patients’ point of view by both play acting and sharing firsthand accounts from the literature. It is hard to imagine reading these recommendations and not wanting to read everything he references, including a *New Yorker* series titled “Personal History”; Andrew Solomon’s book, *The Noonday Demon: An Atlas of Depression*; Daphne Merkin’s *The Black Season: Falling Out of Love with Mental Hospitals*; Sylvia Nasar’s book, *A Beautiful Mind*; Kay Redfield Jamison’s book, *An Unquiet Mind: A Memoir of Moods and Madness*; and Elyn Saks’s book, *The Center Cannot Hold: My Journey Through Madness*.

**Chapter 25.**

My recalled fragment: “They are not art.”

Perlman was curious and humanistic enough to rescue about 600 drawings of a preceptor done by a patient. They were going to be thrown out, as the preceptor was moving, but Perlman asked if he could have them, and he got them. This chapter discusses what is outsider art or not, and it includes some of the patient’s evocative and informative pictures on the subject of her reaction to the analyst and the analysis. If he still kept the rest of the 600, that could make for a whole new book.

**Chapter 31.**

My recalled fragment: “I wondered, ‘is he, she?’”

Here, Perlman describes his growth in understanding transgender individuals and the associated terminology changes. This is a subject of great importance to me, as I was the medical director for Pathways, the sole clinic in the Midwest processing those with gender concerns in the 1990s, and there is a trans child in our extended family. Expanding his curiosity beyond gender identity to bodily integrity (when someone might want an amputation of a normal limb to feel that their body is correctly aligned), he wonders if these can be called “misalignment syndromes.” Good idea! He

acknowledges that transgender care and terminology remain complicated issues. This fragment “has been among the most difficult to write.”

**Chapter 36.**

My recalled fragment: “I couldn’t pull the plug on my father.”

This chapter poignantly illustrates the difference between personal and professional medical decision making. During his beloved father’s dementia, Perlman was unable to decide not to place a pacemaker, even though he wondered if his father would have refused it.

**Other Pearls**

Besides these chapter pearls, Perlman also writes many short, sentence-length pearls scattered throughout the memoir. Here are a few that particularly struck me:

“Deceptively, history makes the present seem foreordained; or so it may seem as we look back at our lives.”

“It did not take me long to become aware that better self-understanding meant more successful engagement in advocacy.”

“Asserting my position, I found, often made me into an acquired taste.”

When the reader finishes the book, the Introduction section becomes even more striking, as Perlman deservedly begins to find his retirement pearls on the day after he retired. He and his supportive and understanding wife drive to their country home.

“I quietly observed to myself how beautiful the scene was. For the first time in decades, I could relish the snow-covered landscape without the attendant worry about whether the “moonlighter,” the off-hours psychiatrists, would be able to get to the hospital, and if they could not what arrangements I could make to assure that the psychiatric service was covered.”

Then, if you happen to turn to the back cover, you see Barry with sunglasses on, smiling over the small lake near his country home, the sun shining on his world. Likely, that lake does not have pearl-bearing mollusks, but he has enough of them anyways.

With this book, he is giving some of those pearls back, back to his medical and family descendants. I am quite sure that any reader will be mentally enriched by reading this memoir.

**Dr Moffic** is an award-winning psychiatrist who has specialized in the cultural and ethical aspects of psychiatry. A prolific writer and speaker, he received the one-time designation of being a Hero of Public Psychiatry from the Assembly of the American Psychiatric Association in 2002. He has recently been leading Tikkun Olam advocacy movements on climate instability, burnout, Islamophobia, and anti-Semitism for a better world. He serves on the Editorial Board of *Psychiatric Times*<sup>TM</sup>.



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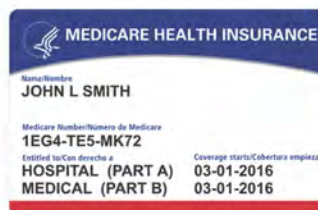


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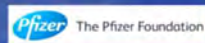
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## **ACTIONS OF THE 2021 MSSNY HOUSE OF DELEGATES—9TH DISTRICT RESOLUTIONS**

### **50 Physician-driven Medical Assistant Specialty Training in the Office Setting** *Introduced by the Orange, Putnam, Rockland & Westchester County Medical Societies* **MSSNY POLICY RE-AFFIRMED**

115.984 Expanded Clinical Roles for Medical Assistants in New York State MSSNY will work with New York State approved medical assistant teaching programs to develop suitable rules defining clinical work guidelines that can be incorporated into current New York State regulations.

115.994 Certified Medical Assistants/Medical Assistants Preservation of Physician Autonomy in Employment and Assignment of Duties: MSSNY will develop and promote regulation and/or legislation that allows Certified Medical Assistants and Medical Assistants to continue to perform the usual duties of their position under the direct supervision of their physician employers if the physician has evaluated and approved their ability to do so, making this a part of the Annual Legislative Agenda until this goal has been attained.

### **54 Site of Service Availability** *Introduced by the 9th District Branch* **SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED**, that the Medical Society of the State of New York continue to advocate to reduce health insurer pre-authorization burdens, including eliminating pre-authorization requirements and restrictions based on site of service

### **104 Covid-Related Mental Health Coverage** *Introduced by the Ninth District Branch.* **ADOPTED AS AMENDED**

**RESOLVED**, that MSSNY support legislation and/or regulation to assure that there is coverage for a full continuum of services to treat mental health illnesses brought on by the COVID-19 pandemic, and be it further

**RESOLVED**, that the Medical Society supports legislation and/or regulation that will eliminate the outpatient and inpatient limits and equalize co-payments and deductibles for mental health coverage.

### **153 Require Methadone Dispenser to Report to I STOP – PMP** *Introduced by the Ninth District Branch* **AMENDED SUBSTITUTE ADOPTED**

**RESOLVED**, That the Medical Society of the State of New York seek legislative or other regulatory interven-

tions to require the reporting of methadone into the state's Prescription Monitoring Program (PMP); and be it further

**RESOLVED**, that the Medical Society of the State of New York support requiring the interconnectivity between the state PMP and methadone clinics

### **250 Insurance Coverage for Scalp Cooling (Cold Cap) Therapy** *Introduced by the 9th District Branch and Bonnie Litvack, MD* **ADOPTED**

**RESOLVED**, That our MSSNY seek by legislation and/or regulation, universal insurance coverage for Scalp Cooling (Cold Cap) Therapy; and be it further

**RESOLVED**, that our MSSNY work with consumer groups to challenge insurers on Scalp Cooling (Cold Cap) Therapy medical necessity denials and encourage appeals to independent third party reviewers, and be it further  
**RESOLVED**, that our MSSNY transmit a similar resolution to the AMA

### **251 Prohibition of Insurer Processing Fee on Claims** *Introduced by the 9th District Branch* **AMENDED RESOLUTION ADOPTED**

**RESOLVED**, that the MSSNY through legislation, regulation or other appropriate means, advocate for the prohibition of health insurers charging physicians and other providers to process claims and make payment; and be it further

**RESOLVED**, That the MSSNY AMA Delegation introduce a similar resolution at the next meeting of the AMA House of Delegates for federal actions

### **256 Improving Workers' Compensation Medical Treatment Guidelines Compliance by Insurers** *Introduced by the 9th District Branch* **SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED**, that the Medical Society of the State of New York urge the Workers Compensation Board to ensure that insurance carriers are covering injured workers' medical care that is consistent with the Board's medical treatment guidelines; and be it further

**RESOLVED**, that the Medical Society of the State of New York work with the Workers Compensation Board to ensure that various health care providers authorized to provide services under the Workers Compensation Law are familiar with the Board's medical treatment guidelines.

## Westchester Academy of Medicine 11<sup>th</sup> Annual Golf Outing & Fundraiser Thursday, October 21 2021—Westchester Country Club—Rye, NY

On Thursday, October 21<sup>st</sup> the Westchester Academy of Medicine held its *101<sup>th</sup> Annual Westchester Academy of Medicine Golf Outing & Fundraiser*. After the original date scheduled for June was rained out, we got an amazing day with beautiful weather. The Outing was held at Westchester Country Club in Rye. Following the golf, an additional group of members and guests joined the golfers for dinner, fellowship, and prizes. Joseph Tartaglia, MD, Immediate Past President of the Westchester Academy of Medicine, welcomed everyone, thanked the Golf Committee, recognized and thanked all sponsors. All proceeds directly benefit the Academy's very busy CME activities and its scholarship fund, which annually contributes toward events which foster student interest in careers in medicine.



Joseph Tartaglia, MD; Jesse Frieling, Altfest; Peter Acker, MD



Constance Skinner; Teddy Yuengling; Mary Ellen Pilkington



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*Thank you to all who sponsored and attended this year's event!*



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***"I have so much of you in my heart".***

-John Keats

Hi everyone.

Our hearts are full of the **love** we feel, the **tears** we shed, and the **joy** we share with our patients.

The **tools** we learn to use in medical school may be what our patients think they need and what we think we have to give, but there is so much more.

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We can be the **"refuge"** and shelter one another from the danger of an illness or disease.

We, **providers and patients**, are lucky to have one another.

Thanks for reading.

Be safe.

E

*"Her daughter insisted. She needs you because she loves you."*

**A Therapeutic Relationship**

[https://www.nejm.org/doi/full/10.1056/NEJMp2109812?query=WB&cid=NEJM%20Weekend%20Briefing,%20October%2023,%202021%20DM401431\\_NEJM\\_Subscriber&bid=682397612](https://www.nejm.org/doi/full/10.1056/NEJMp2109812?query=WB&cid=NEJM%20Weekend%20Briefing,%20October%2023,%202021%20DM401431_NEJM_Subscriber&bid=682397612)

*"His dying process had easily conquered my most effective tools."*

**A Good Death?**

[https://www.nejm.org/doi/full/10.1056/NEJMp2107941?query=WB&cid=NEJM%20Weekend%20Briefing,%20October%209,%202021%20DM361736\\_NEJM\\_Subscriber&bid=648262045](https://www.nejm.org/doi/full/10.1056/NEJMp2107941?query=WB&cid=NEJM%20Weekend%20Briefing,%20October%209,%202021%20DM361736_NEJM_Subscriber&bid=648262045)

*"...I'm more appreciative of each bench's quiet stoicism, the way they're willing to wait out their turn in every weather, remaining available to all-comers."*

**The Park Bench Is an Endangered Species**

In a world that wants you to pay for everything, public seating is becoming a luxury.

[https://www.nytimes.com/2021/10/12/magazine/park-benches.html?](https://www.nytimes.com/2021/10/12/magazine/park-benches.html?un-locked_article_code=AAAAAAAAAAAAAAAAACEIPuonUktbfqohlSFUaASbQVNcuvByAiL_XyaY_w3XzK_iOVRCoEz_gQB8LI3XbxUpdZRol52SWHFpgGOaUzRfd2w6hSbkUxFwCh-t6PxMldZnhk8I_2V2hoh9eQAeA20DaxNTXpccr1jK_eySBOOnHGrtX6HY1XElIh804sc2MAH3hgFbg_vNAeV32dFh3f4-BpEcRT8IZyOCv_SAGAwpcZzdLUMasl9qLrkdDTL_Dntec66YDcBFQCT_FTHB_42U_7LBMKc2B89wF_c57HEX6G1Hm3DIs&smid=em-share)

[un-locked\\_article\\_code=AAAAAAAAAAAAAAAAACEIPuonUktbfqohlSFUaASbQVNcuvByAiL\\_XyaY\\_w3XzK\\_iOVRCoEz\\_gQB8LI3XbxUpdZRol52SWHFpgGOaUzRfd2w6hSbkUxFwCh-t6PxMldZnhk8I\\_2V2hoh9eQAeA20DaxNTXpccr1jK\\_eySBOOnHGrtX6HY1XElIh804sc2MAH3hgFbg\\_vNAeV32dFh3f4-BpEcRT8IZyOCv\\_SAGAwpcZzdLUMasl9qLrkdDTL\\_Dntec66YDcBFQCT\\_FTHB\\_42U\\_7LBMKc2B89wF\\_c57HEX6G1Hm3DIs&smid=em-share](https://www.nytimes.com/2021/10/12/magazine/park-benches.html?un-locked_article_code=AAAAAAAAAAAAAAAAACEIPuonUktbfqohlSFUaASbQVNcuvByAiL_XyaY_w3XzK_iOVRCoEz_gQB8LI3XbxUpdZRol52SWHFpgGOaUzRfd2w6hSbkUxFwCh-t6PxMldZnhk8I_2V2hoh9eQAeA20DaxNTXpccr1jK_eySBOOnHGrtX6HY1XElIh804sc2MAH3hgFbg_vNAeV32dFh3f4-BpEcRT8IZyOCv_SAGAwpcZzdLUMasl9qLrkdDTL_Dntec66YDcBFQCT_FTHB_42U_7LBMKc2B89wF_c57HEX6G1Hm3DIs&smid=em-share)

*"Seeing the beauty, and being seen for our beauty connects us to everything and everyone around us."*

**The Call To Glory**

[https://www.nejm.org/doi/full/10.1056/NEJMp2112010?query=featured\\_home](https://www.nejm.org/doi/full/10.1056/NEJMp2112010?query=featured_home)

**Refuge**

*David Whyte*

Sometimes a nook, a wall half down,  
a swerve in the path where the breeze  
can't catch you: other times a made shelter,  
a shepard's build up of flat stones curved  
to keep the wind off. Once, at the top of the pass,  
it was a cave in the mountain rock taking you  
in from the swirl and eddy of snow  
and the killing cold so you could live  
to a grey blank dawn.

Then in Galacia, it was a breath of warmth  
from a kitchen door, palatial with light  
and a daughter's smile; the family behind,  
asking you in, as if to say, of all shelter,  
traveler, you'll ever find on the road,  
even with those you know,  
the stranger's love is best of all.

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## PHYSICIAN ADVOCACY URGED TO PUSHBACK AGAINST HHS' INSURER-BIASED INTERPRETATION OF "NO SURPRISES ACT"

MSSNY thanks the several members of the New York Congressional Delegation who have added their names to a letter co-authored by Rep. Tom Suozzi (D-Long Island) and others to Xavier Becerra, Secretary of Health and Human Services (HHS), Janet Yellen, Secretary of Treasury, and Martin J. Walsh, Secretary of Labor, regarding an Interim Final Rule (IFR) that was released on September 30, 2021 entitled, "Requirements Related to Surprise Billing; Part II". The letter urges Congress to amend the IFR to synchronize the law's implementation with the legislation Congress passed in 2020.

Instead of following the statutory language included within the No Surprises Act enacted by Congress last December, HHS and other federal agencies designed an Independent Dispute Resolution (IDR) process for resolving out of network surprise medical bills that heavily favors health insurance companies in payment disputes.

Among the many members who signed the letter initiated by Representatives Suozzi, Wenstrup, Ruiz and Bucshon include Representatives Clarke (D-Brooklyn), Higgins (D-Erie County), Meng (D-Queens), Morelle (D-Monroe County), Torres (D-Bronx).

MSSNY President Dr. Joseph Sellers recently issued a statement ([Surprise Billing Legislation Interim Final Rule: MSSNY Calls for Prioritizing Patient Care Over Insurance Profits](#)) in which he said, "In implementing the Independent Dispute Resolution (IDR) process for resolving patient surprise medical bills – a process that New York physicians have strongly supported for many years – HHS has clearly sought to put its thumb on the scale in favor of multi-billion-dollar insurance companies."

The rule has also been criticized by numerous national medical organizations, including the AMA, the American Hospital Association (AHA), Federation of American Hospitals and numerous specialty societies. The Congressional intent articulated in the "No Surprises Act" was to create an IDR process to protect patients that was appropriately balanced and did not favor either the insurer or the physician in claims disputes. Specifically, the final language adopted by Congress required that numerous factors be considered, including patient acuity or complexity of services, demonstrations of previous good faith efforts to negotiate in-network rates and previously contracted rates, in addition to the insurers' median in-network rate, without specifying that one factor take precedence over another.

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With the law scheduled to take effect January 1, 2022, MSSNY intends to work with the AMA, and other allied groups, to advocate for needed changes to the regulation to ensure that the IDR process is implemented in a way that better achieves balance in the IDR process, to protect care availability in hospital emergency departments.

MSSNY members can also help by sending a letter to Senators Schumer and Gillibrand, as well as their respective member of Congress, from here: [Urge Congress to Urge HHS to Revise Independent Dispute Resolution Regulations](#)



## GOVERNOR HOCHUL SIGNS INTO LAW LIMITED PRESCRIBING PRIVILEGES FOR OPTOMETRISTS

This week, Governor Hochul signed into law legislation (S.1519/A.1921) that would permit optometrists to prescribe a limited number of oral medications. As is noted in the Governor's message of approval, it makes New York the very last state in the country to permit optometrists to prescribe oral agents. MSSNY collectively advocated with the New York State Ophthalmological Society (NYSOS) and other county and specialty medical societies to ensure there were appropriate patient safeguards within the legislation. The final version is a significant improvement over far broader earlier versions.

While there still remain some concerning aspects of the new law, NYSOS notes it is **one of the most restrictive optometry prescribing laws in the country**. Prescriptive privileging is limited to six specific antibiotic medications, two antiglaucoma medications (with immediate referral to an ophthalmologist), and two antiviral medications (for one specific ophthalmic condition with mandatory referral to a primary care physician or ophthalmologist).

Also included within Governor Hochul's approval memo is that the State Education Department has committed to conducting a survey of optometric prescribing to be submitted to the Board for Optometry and Medicine, as well as conducting a random audit of continuing education compliance, and investigation and prosecution of complaints of professional misconduct involving inappropriate prescribing practices.

MSSNY will continue to work with NYSOS to ensure that the law is being followed as written.



## MSSNY Podcasts

MSSNY

The Medical Society of the State of New York has created a number of podcasts on topics that are timely and relevant. In addition to weekly MSSNY Updates from the Division of Governmental Affairs, there are myriad timely and relevant podcasts on COVID-19 (both for physicians and patients) as well as a number of others on veterans, adult immunizations and emergency preparedness.

- |                 |              |
|-----------------|--------------|
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*Click on the podcast titles to listen*

### MSSNY Announces two NEW Podcasts on COVID-19

#### ★ A Discussion on COVID Vaccine for Patients ★

MSSNY President, Dr. Bonnie Litvack, President-elect, Dr. Joseph Sellers and Dr. William Valenti, Chair of MSSNY’s Committee on Infectious Diseases discuss vaccines currently available for COVID-19 and answer many questions patients may have about the vaccines.

#### ★ How to Talk to Patients About Vaccine Hesitancy ★

Dr. William Valenti, Chair of MSSNY’s Committee on Infectious Diseases discusses the history of vaccine hesitancy and offers sage advice to listeners on talking to vaccine hesitant patients.

★★The additions of these podcasts marks 100 podcasts published on the MSSNY Podcast website!★★