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September, 2023

TO: MEMBERS OF THE LONG ISLAND JEWISH ORGANIZED MEDICAL STAFF

The continued growth and usage of Medical Service Organizations (MSOs), has finally caught the eye of government and there is little doubt that many MSO arrangements between commercial entities and practicing physicians will be the subject of inquiry.

New York State has always acted to assure that one's medical practice was operated and controlled by the party holding the professional license. The unlicensed was barred from entering into the equation and was barred from sharing in the professional fees earned by the licensee. We do acknowledge that many billing companies charge a percentage of what is billed and collected but we have always cautioned our professional clients that this type of agreement could result in professional discipline issues against the licensee.

The more expanded MSO arrangement can encapsulate the provision of office space- nonprofessional staff- billing- and all the other usual aspects of that which is needed to run a medical practice. What will trigger government's interest is the manner in which expenses are determined and the relationship, if any, with whether those expenses seem related to the income generated by the practitioner. The State will also be interested in practices which are purchased by unlicensed entities and the mechanics by which the practice may then be

operated.

The examination of the amount of rental being charged by and between entities in the provision of health services has long been a staple of government interest when agreements are examined. Whether the rent is consistent with the average of the area for a similar usage has caused many agreements to be challenged and is a challenge by the participants to remain reasonable in negotiations to avoid interference and voiding by the examiners.

New York has announced that it has concern that corporate intrusion in medical practices may result not only with interference with patient care but also with an increase in the cost of care.

It is of interest to note that in the recently concluded New York Legislative Session the Governor had proposed reviews of MSO agreements which provided the types of services mentioned in the preceding paragraph. Of further interest was whether the non-licensed was employing the physician. New York takes great interest in guarding against the corporate practice of medicine and it will be of interest to observe the actions of the State as the attempted commercialization of medicine continues.

Respectfully submitted.

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