## VERMONT MEDICAL SOCIETY RESOLUTION – PROPOSED 1 2 3 Adequate Workers' Compensation Fee Schedule 4 5 6 7 WHEREAS, Vermont Statute authorizes the Commissioner of the Department of Labor to set 8 a fee schedule for medical, surgical, hospital and other services provided to injured employees 9 covered by Workers' Compensation;1 10 WHEREAS, The Statute also states that "The reimbursement rate for services and supplies in 11 12 the fee schedule shall include consideration of medical necessity, clinical efficacy, cost-13 effectiveness, and safety, and those services and supplies shall be provided on a 14 nondiscriminatory basis consistent with workers' compensation and health care law;"2 15 16 WHEREAS, Vermont's Workers' Compensation Fee Schedule set by rule has not been updated since 2006;3 17 18 19 WHEREAS, Vermont practices have reported physician payments for evaluation and management services under this fee schedule falling well below current commercial rates, for 20 21 example as low as 40% of one commercial payer's rate for CPT Code 99205; 22 23 WHEREAS, Physician payments in Vermont for evaluation and management services provided 24 as of 2018 were, on average, 110% of Medicare-scheduled reimbursement amounts, compared 25 to 139% in the region and 142% countrywide; payments for these services comprise 22% of 26 physician payments, compared to 20% in the region and 23% countrywide;<sup>4</sup> 27 28 WHEREAS, An analysis of physician offices in the Los Angeles metropolitan area showed that the hourly practice expense for offices accepting workers' compensation patients was 2.5 to 3 29 times higher than the Medicare practice expense rate;<sup>5</sup> 30 31 32 WHEREAS, The results from a national study demonstrate that specialist workers' compensation participation after the adoption of a fee schedule set at a low percent of Medicare 33 (defined as anything at or below 125% of the Medicare RBRVS fee values) was strikingly less 34

1 21 V.S.A. § 640 (d))

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37 38 are not sufficiently compensated by low fee schedules;6 therefore be it

than for lower-paying alternatives such as Medicare and Medicaid; this appears largely due to

additional administrative and regulatory burdens associated with workers' compensation that

<sup>&</sup>lt;sup>2</sup> Id.

<sup>&</sup>lt;sup>3</sup> https://labor.vermont.gov/rule-40-%E2%80%93-vermont%E2%80%99s-medical-fee-schedule

<sup>&</sup>lt;sup>4</sup> NCCI Medical Data Report for the State of Vermont, October 2019

<sup>&</sup>lt;sup>5</sup> Workers' Compensation Medical fee Schedules: New Findings and Implications for California, available at <a href="https://www.aaos.org/contentassets/2267c39b70e04a90a622e9ce73fc8531/ca-workers-comp-study.pdf">https://www.aaos.org/contentassets/2267c39b70e04a90a622e9ce73fc8531/ca-workers-comp-study.pdf</a>

<sup>&</sup>lt;sup>6</sup> Id.

- 39 RESOLVED, that the Vermont Medical Society will advocate to the Vermont
- 40 Department of Labor and, if necessary, the Vermont Legislature to update Vermont's
- 41 Workers' Compensation Medical Fee Schedule in order to adequately reimburse for
- 42 services provided and to reflect average commercial payments, and to implement a
- process for routine updates to the Fee Schedule in the future.

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