

GENERAL MEMBERSHIP MEETING

THURSDAY, NOVEMBER 21, 2002

"ARE YOU READY FOR HIPAA?"

Bruce Rappaport M.D.  
Royal Palm Yacht Club  
2360 West First Street

6:30 p.m. - Social Time & 7 p.m. - Program

ELECTION OF 2003 OFFICERS

MONDAY, DECEMBER 9, 2002

Lee County Medical  
Society & Alliance  
Annual Holiday Party

7:00 p.m. - 11:00 p.m.  
held at

The Veranda Restaurant  
2122 Second Street  
Cost: \$35 per person

RSVP - LCMS, PO Box 60041,  
Ft Myers, FL 33906

Tel: 239-936-1645 Fax: 239-936-0533

Inserts

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Happy  
Thanksgiving

President's Message

YEARNING TO BE FREE

Eliot Hoffman, M.D.



By the time this makes the press, the November election will be completed. Hopefully, Governor Jeb Bush has been reelected to a second term so that he can continue to press for tort reform and be an advocate for the patients and physicians of Florida. With any luck, he will have two Supreme Court justices to nominate as well.

The physicians of Florida and the entire House of Medicine will continue to face the expanding problem of tort reform (by way of malpractice premiums), as well as the continued reimbursement cuts from Medicare. The state of Emergency Services in Lee County is also in the voter's hands.

Nationally, the House Bill HR 3882 has passed on to the Senate for consideration. This bill will reverse the planned Medicare physician fee schedule cut and institute a 2% "increase" for 2003. If this does not achieve Senate approval before the end of the legislative session, physicians will be subject to another reported reduction of 4.4% on January 1st. This very likely for many of us, will equate to substantially more.

The physicians of Lee County, and indeed the entire country, have made clear their concerns. As far back as this past summer, Congress has been aware of an AMA physician survey reporting that at least 44% of doctors will NOT renew participation in Medicare if the proposed payment cuts go into effect. I hope that by the time this article makes print, the US Senate has seen the wisdom of correcting this inequity.

A fundamental problem, of course, is that the delivery of medical services in the United States is

not within the purview of a "free market". In a free market, a service with an ever-increasing client base (the aging population), a declining supply of qualified providers (physicians), and an exploding cost of providing business (malpractice premiums, labor costs, group health coverage), would command a dramatic increase in fees to appropriately compensate for such a circumstance. Under the current reimbursement constraints, we are left at the mercy of the payors. The physicians of Lee County, the State of Florida and the entire United States of America have an alternative.

This alternative is not easy, not "pretty" and not to be undertaken lightly. The alternative is to be among those who when surveyed, reported they would NOT PARTICIPATE in the Medicare program if continued payment cuts to physicians went into effect January 1, 2003.

In order to change status in Medicare, a physician must give written notice at least 30 days prior to initiation, and must accept this change for a minimum of two years! Anyone contemplating such a change in status should contact the Lee County Medical Society office for specific requirements and assistance if needed, and obtain a detailed analysis of what such a change would mean in "real dollars" to the practice in question from their corporate accountant. This includes changing from a "par participant" to a "non par participant" as well as a change to a "nonparticipant".

Until the general public is faced with a majority of the medical community as "nonparticipants" in the Medicare program, we will not garner their emotional or their political support.

DON'T BE A VICTIM OF BAD CHECKS;  
STATE ATTORNEY'S BAD CHECK RESTITUTION  
PROGRAM CAN HELP

Paula Paquette, Community Relations Representative, 20<sup>th</sup> Judicial State Attorney's Office

If your medical practice has received a bad check, you can seek restitution through the 20<sup>th</sup> Judicial State Attorney's Bad Check Restitution Program. Bad check complaints are easy to file and follow-up action is prompt. There is no cost to you to submit a bad check complaint.

The goal of the State Attorney's Office through its Bad Check Restitution Program is: 1) to obtain full restitution for victims; 2) to increase the accountability of bad check writers; and, 3) to accomplish these first two goals at no cost to businesses, the county or taxpayers. The Bad Check Restitution Program provides assistance to individuals and businesses in the 20<sup>th</sup> Judicial Circuit: Charlotte, Lee, Collier, Hendry and Glades Counties.

Submitting a bad check complaint is easy. Send the check writer a certified letter with return receipt requested. (See enclosed brochure.) This letter gives the check writer seven days to remit payment. If you do not receive payment from the check writer, request a Bad Check Complaint Form from your local Sheriff's Office, from the State Attorney's Office, and mail it to the address on the complaint form. The State Attorney's Bad Check Restitution Program will then process the complaint.

In addition to helping merchants and individuals seek restitution for bad checks, the State Attorney's Bad Check Restitution Program helps educate business in preventative check acceptance procedures and requires bad check offenders to complete a special remedial eight-hour class. A toll-free Victim's Hotline (1-800-832-1131) allows you to track and monitor the status of your case.

For more information about the State Attorney's Bad Check Restitution Program or to request a brochure and Bad Check Complaint Form, please call toll-free: 1-800-832-1131, or call Paula Paquette

As I Recall...

THE BOOK  
Roger D. Scott, M.D.



The above was just uncovered in the Brungard Collection. There are all or part of 13 counties in our area covered by this directory including Ft. Myers, F.M. Beach, Boca Grande, Bonita Springs, Cape Haze, Clewiston, Everglades City, Immokalee, Labelle, Lehigh Acres, Moore Haven, Naples, Pine Island, Punta Gorda, and Port Charlotte (Cape Coral covered under NFM exchange). Quite an area! If necessary, get a magnifying glass to read all of the cover, it's quite interesting. The width and height of the old book are the same as our new books; however, the thickness is 1.8 cm with 176 pages of combined residential and business listings and 257 yellow pages that contain no advertising for the attorneys or physicians & surgeons! They are listed one time only and not in the many subgroups as in today's book. The 2002 Sprint "Lee County Area" white book is 3.5 cm thick with 163 residential pages and 193 business pages. The 2002 "Best Red Yellow Book" has 1284 pages and as you know, is loaded with advertisements.

The 1961 book details for the first time how to direct dial long-distance by dialing 80, the area code, and the phone number. This feature was available for only 500 cities within the United States. Before the call could be connected, a telephone operator would come on the line to write your number on the charge card, and then the call would be connected. At this point you should be made aware of a strange happening or circumstance in that Ann Wilke (yes, our secretary) was employed for six years by this telephone company in 1960 when she first came to town. Her first year, she was the operator who intercepted the direct dial call and recorded the numbers. I did not know prior to talking to Ann about this book that she had been thus employed. Coincidence?

There were two area codes for the entire state of Florida; our area 813 covered Brooksville to Okeechobee to Cape Haze and all the area in between these and the Gulf of Mexico. The remainder of Florida was area 305. The Yellow Pages list MDs: Fort Myers 40, Fort Myers Beach 2, Bonita Springs 2, Immokalee 1, Moore Haven 1, and Naples 12. DOs: Fort Myers 3, Clewiston 1, Naples 1, Labelle

See AS I RECALL, page 3



LEE COUNTY MEDICAL SOCIETY  
BULLETIN

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The editors welcome contributions from members. Opinions expressed in the Bulletin are those of the individual authors and do not necessarily reflect policies of the Society.

## PRINTERS

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LEE COUNTY MEDICAL SOCIETY  
NOMINATIONS FOR 2003 OFFICERS

The following slate of nominations for the 2003 officers of the Lee County Medical Society is presented for your consideration. The membership will vote at the November 21, 2002 general membership meeting. If you wish to nominate someone else for an office, please be sure to have that person's approval before nominating them from the floor.

## President Elect

## Secretary

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## Members-At-Large:

Douglas Stevens, M.D.  
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Chaim Jay Margolin, M.D.  
P. Jeff Richards, M.D.

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Howard Barrow, M.D.  
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James Fuller, M.D.  
Ralph Gregg, M.D.  
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Gerald Gamez, M.D.  
F. L. Howington, M.D.  
Ronica Kluge, M.D.  
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Rick Palmom, M.D.  
Daniel Robertson, M.D.  
Michael Rosenberg, M.D.  
Douglas Stevens, M.D.  
Joel Van Sickler, M.D.

## Previously Elected Members Of The LCMS Board Of Governors:

2003 President –  
2002 President –  
Members-At-Large:

Ralph Gregg, M.D.  
Eliot Hoffman, M.D.  
Daniel Dosoretz, M.D. (2003)  
Ronica Kluge, M.D. (2003)  
Daniel P. Robertson, M.D. (2003)

## Previously Elected Members Of The Committee On Ethical And Judicial Affairs:

Michael Raymond, M.D. - (2002) Chairman  
Andree Dadrat, M.D. (2003)  
Javier Sosa, M.D. (2003)  
Craig R. Sweet, M.D. (2003)

Joseph P. O' Bryan, M.D. (2004)  
Stephen Smith, M.D. (2004)  
Shahid Sultan, M.D. (2004)

## LEE COUNTY MEDICAL SOCIETY ALLIANCE NEWS

Ann Shah, PhD, Corresponding Secretary

## LCMS Alliance Holiday Basket Raffle

Please plan to attend the annual Holiday Party on December 9<sup>th</sup> at the Veranda Restaurant — always a festive event! There you may participate in the LCMS Alliance Holiday Basket Raffle. All proceeds this year will go to the LCMS Alliance's newly established "Reaching Out" Endowment Fund.

During this past summer, the Alliance received an anonymous donation of \$5,000 to start the fund with the SWFL Community Foundation. A second anonymous commitment has been made to match this initial gift, but only if we can raise a third \$5,000 by May 2003. If we succeed, we will have collected a total of \$15,000 for our endowment fund in the first year!

Please join our "\$5K Reaching Out Race" and become a Founding Member! (Thank you to Drs. Eleanor and Peter Blitzer, our newest Founding Members!) Help the Alliance maintain and preserve our legacy of giving to health-related charities and programs benefiting Lee County. For more information, please contact Alliance President Cheri O'Mallia at 334-3375.

## FMA Alliance Gift Fruit Fundraiser

The Family Component of the Physicians Recovery Network (FC/PRN) needs you to order fruit to ship to your friends, relatives, kids away at school, teachers — anyone you want to send the gift of Florida sunshine in winter months.

The Family Component supports the families of physicians being treated for chemical dependency or psychological illness with the Physicians Recovery Network by supplying counseling for spouses and children, as well as funds for necessities, like food and utilities, to keep the family afloat during this difficult time.

Gift fruit sales are the FMA Alliance's primary fundraiser for this lifeline for medical families. Please take the time to order some delicious and healthful Florida produce to support this worthy project. Log onto the FMA Alliance web site at <http://www.fmaalliance.org/health/oranges.htm> to make your purchase on-line. Please contact Alliance member Mary Delans at 489-4564 if you have any questions.

## AMA Foundation "Holiday Sharing Card"

Share the warmth this holiday season by participating in the AMA Foundation's "Holiday Sharing Card." For a tax-deductible donation of \$50 or more, your name will be listed with other contributing members on a special greeting card that will be sent to all 550+ Lee County Medical Society families in time for the holidays.

You choose the medical school that will receive your generous contribution...perhaps an alma mater or other favorite institution. All funds go directly to the AMA Education, Research and Service Scholarships that support our medical schools and aspiring physicians.

Please contact Alliance members Juli Bobman (481-3854) or Pam Gross (768-9717) to find out how to make your donation to the AMA Foundation by November 15<sup>th</sup>. Help foster the spirit of the season while making an investment in the future of quality healthcare in our country.

THE QUESTION MAN  
OPINIONS-EDITORIALS  
LETTERS TO THE EDITOR

John W. Snead, M.D.

## NOVEMBER'S QUESTION: "IS MEDICAL CARE A RIGHT?"



Raymond Kordonowy, M.D.  
Internal Medicine

No, medical care is a service. The last time I read the US Constitution, medical care was not listed in the Bill of Rights. Medical care requires a mutual agreement between the patient and a health care provider. The patient requests medical evaluation/advice and a qualified health professional agrees to provide this service. In medical school I was taught that a patient-physician relationship is a contract. The contract does not occur until the patient initiates an actual physical interview. It also requires an agreement by the physician to assist. The physician has the right not to care for the patient if he/she chooses. Until both mutually agree, there is no obligation by either the patient or the provider to carry out medical care. There is always choice involved on either party's side as to whether their relationship will continue. The above described contract was somewhat thrown into confusion with the advent of HMO's. Under HMO agreements, the contract for medical care appears to be determined by the insurance company. If the patient doesn't actually list a chosen physician, the insurance company will do this for the patient. Under this model, the physician doesn't actually meet the patient before tacitly agreeing to manage their health as well as assume the risks of that agreement. I feel that this is a very dangerous and unfavorable arrangement for both the patient and the health provider. I also feel this form of doing business has increased lawsuits against physicians.

HIPAA  
UNWITTING VIOLATIONS

What are some simple ways that a health center can violate HIPAA?

- Leaving a medical record in an unsecured area (for just a minute!)
- Disposing of materials with patient health information in a public trash can.
- Handing over patient health information to a vendor such as a consultant, auditor, ancillary provider, pharmacist, disposal service provider etc. with whom they do not have a Business Associates agreement in place.
- Discussing a patient with a colleague in an area where non-authorized personnel can overhear the discussion.

Taken from Community Health Forum.

## WANTED: EXAMINING TABLES

Donations of used examining tables for Florida Gulf Coast University School of Nursing to be used in our student practice center. Please contact Michele Kroffke, project secretary to Dr. Karen Miles, Director, School of Nursing at 590-7454. Your generosity is greatly appreciated.

Thanks for your help.

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## RETIRED

Tin Myo Than, M.D.

## LAGNIAPPE

The dogmas of the quiet pawt are inadequate to the stormy present. The occasion is piled high with difficulty, and we must rise with the occasion. As our case is new, so we must think anew and act anew. We must disenthrall ourselves.

-Abraham Lincoln

These are the times that try men's souls. The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of their country, but he that stands it now, deserves the love and thanks of man and woman.

Tyranny, like hell, is not easily conquered; yet we have this consolation with us, that the harder the conflict, the more glorious the triumph.

-Thomas Paine

In these times of international crisis, sniper(s) in Maryland, and the woes of failure of government to correct mistakes with Medicare and failure to fix the broken liability system now, reflect on the above quotes for inspiration. And never forget Point du Hoc. WE CAN DO IT.

-Donald Palmisano, M.D., J.D.  
AMA President-Elect

## LCMS STATS

SEPTEMBER 16, 2002-OCTOBER 14, 2002			
	Current	YTD	
PHONE CALLS RECEIVED	641	5297	
From Physicians and Office Staff	158	1166	
FOR REFERRALS	187	1760	
For Background Checks	35	257	
Filing Complaints	4	50	
Regarding Non-Members	14	152	
Regarding Alliance	10	71	
Regarding CMS, FMA, and AMA	40	250	
Miscellaneous Calls	193	1594	
Applications sent to physicians	3	225	
Meetings	10	91	
Attended on behalf of LCMS	4	61	
Society Meetings	6	30	
DIRECTORIES DISTRIBUTED	26	676	



**FMA TORT REFORM INITIATIVE**

By: Sandra Mortham, EVP/CEO

The FMA is working diligently on all fronts to ensure relief from the skyrocketing medical liability rates. These efforts include:

- Work through FLAMPAC,
- Support Federal Legislation,
- State Legislation,
- Seek Regulatory Changes,
- Workshops,
- Constitutional Amendment to cap non-economic damages,
- Expert Witness Database, and
- Grassroots efforts through communication

Through work with FLAMPAC, the FMA can ensure that pro-tort reform legislators are elected. FLAMPAC works hand in hand with the FMA when reviewing the efforts of a legislator or a potential legislator. With nine full time registered lobbyists on staff at the FMA and numerous contracted lobbyists, the FMA continues to keep tort reform in the forefront of the legislature and the Governor's initiatives. In fact, Governor Jeb Bush called during the Board of Governors meeting on September 1st to express his commitment to healthcare and tort reform. The Governor has established a committee to review and make recommendations for solutions to the medical liability crisis in Florida. He consistently looks to the FMA for guidance on health care issues and depends on the FMA as a resource of information.

The 2003 Florida Legislative Session is just around the corner and the FMA has established tort reform as the number one priority. State legislation will be sought to include changes to reduce professional liability insurance rates; changes to the current trial system to make it more just; changes to eliminate frivolous lawsuits; and changes to ensure that the patient, not a trial attorney, receives the compensation awarded.

Federal and state legislation are not the only remedies planned. The FMA will also sponsor workshops around the state to provide professional advice from attorneys and financial planners. We will also look for regulatory changes, such as the recent Board of Medicine decision to rescind the rule that required physicians to obtain tail coverage. We will continue to seek changes to state rules that impact the professional liability crisis through the Board of Medicine and other entities such as hospitals and other health care associations.

We must stand united in voice and action when relaying the message of tort reform. All entities, including the Florida Medical Foundation and the FMA Alliance are involved in educating patients on this important issue. It was through Foundation funding that a poster was developed. This became the first effort in a tort reform campaign. This campaign consists of posters, brochures, and a pin for physicians' offices. Information is available on the FMA website at [www.fmaonline.org](http://www.fmaonline.org) or contact the Communications Department at 800-762-0233.

When speaking to patients about this crisis you must focus on how this crisis will affect them. Use personal stories, especially if they affect access to care. Patients don't care that your insurance has risen by any percentage, but they do care that they will no longer be able to see you or that you will no longer be able to perform services that they need. The following talking points have been developed to communicate a consistent message and they are also available on the FMA website.

• **ACCESS:** The professional liability insurance crisis affects patients. Because many physicians are being forced to stop performing certain procedures, retiring early or leaving to practice in other states where the premiums are lower, patients are losing access to their doctor.

At a time when Florida's population has grown faster than any other state, 63 hospitals have closed in the past 15 years. Patient care is at risk; more people with less access.

• **FAIRNESS:** Doctors are precluded by Medicare, Medicaid and managed care organizations from increasing their fees. Doctors cannot raise their fees to recoup their costs like other businesses. A supermarket will pass on their costs by raising their prices but doctors cannot.

The Florida legal system does not work. Trial lawyers receive more money from every dollar than patients. Many of these so-called "patient groups" who say that there is no crisis are actually front groups for the trial lawyers. Currently patients receive 43 cents of every dollar awarded and lawyers collect 57 cents. This is outrageous.

Professional liability insurance rates in Florida are by far the highest in the nation. An ob-gyn in Miami-Dade pays \$200,000 per year while the same specialist pays \$60,000 in Los Angeles. This is because they have passed legal reforms in California.

• **SOLUTION:** Enact state legislation that will change the legal system to make it fairer. Seek federal legislation that will put a cap on non-economic damages ("pain and suffering") while allowing patients to receive compensation for lost wages and medical expenses.

Citizens for Tort Reform is the entity that was established by the Board of Governors to seek a constitutional amendment to cap non-economic damages ("pain and suffering"). The FMA will continue to support this entity and collect funds to bring this issue to the ballot in 2004. To make contributions, please send your check payable to Citizens for Tort Reform, 6675 Weeping Willow Way, Tallahassee, Florida 32311.

The FMA is working night and day to address your most important issues: how to keep practicing the profession to which you have dedicated your life. The FMA knows that without meaningful tort reform physicians cannot continue to practice, and patients will be denied medical care. If the physicians of Florida work together we will succeed.

**SELECTED REPORTABLE DISEASE DIAGNOSIS DATA OF INTEREST**

by Michael Barnaby, Public Information Officer, Lee County Health Department

Visit us online at <http://www.lee-county.com/healthdept>

The following information is based on preliminary cumulative totals ending September 30, reporting years 2001 and 2002, Health Department statistics (3<sup>rd</sup> quarter compared to 3<sup>rd</sup> quarter). Of all reportable diseases, these show sufficient change to make them worth noting.

**Increases:**

- AIDS – Increased 8%
- Chlamydia – Increased 4%
- Giardiasis – Increased 41%
- Hepatitis A – Increased 64%
- Salmonellosis – Increased 41%
- Shigellosis – Increased 50%
- Syphilis – Increased 26%
- TB – Increased 44%

**Decreases:**

- Animal Bites – Down 39%
- Campylobacteriosis – Down 48%
- Gonorrhea – Down 23%
- Hepatitis B – Down 73%
- HIV – Down 21%
- Drug Resistant Strep Pneumonia – Down 62%

**AS I RECALL** from page 1

1, Lehigh Acres 1. No physicians in the other communities.

For the first time Fort Myers had an answering service that was begun by Frank Nardone, not to be confused with Frank Nodine the local TV personality (or was it vice versa?!). I'm quite sure that I was the first subscriber to this answering service and originally one had to direct dial the answering service (which was Frank's home) to get the messages and you could hear children screaming in the background as well as radio playing, TV going, etc. By 1961 the service could be connected into the office phone and would be relayed directly to him after hours. In 1961, the telephone book definitely indicates that we were moving forward, but we only had rotary dial (pulse) phones, previously only in black, but now available in different colors. One of the colors was blue called "Starlite". (It is also coincidental that Ann lived at the "Starlite Motel" in North Fort Myers in 1961!)

The binder for the book was supplied by "Leo W. Englehart Funeral Home, phone 51166" and advertises that they have "Oxygen Equipped Ambulances". It does not state however that these ambulances were hearses fitted with oxygen and the drivers were morticians.

When going to new cities I always try to read the phone book. There's lots of valuable information and you can see how many surgeons, etc. are in the area. I thought that maybe I was a little "tetched in the head", but am somewhat relieved after talking to Dr. Alan Siegel. He advised me, without any prompting, that he did the same thing! So, I guess at least two of us are a bit "tetched".

**CONGRATULATIONS TO LEE COUNTY MEDICAL SOCIETY****2002 & 2003 LIFE MEMBERS**

The following physicians have been members of the Lee County Medical Society and Florida Medical Association for 35 or more years. Thank you for serving our Medical Profession and our community.

Cecil Cook Beehler, M.D.

John J. Klingerman, M.D.

James Howe Fuller, M.D., F.A.C.S.

Douglas S. McCall, M.D.

Larry Philip Garrett, M.D.

John Ritrosky, Jr., M.D.

George Thomas Hinkle, M.D.

Samuel Walker Smith, M.D.

Francis Lee Howington, M.D.

**WORKERS' COMP SYSTEM IN CRISIS**

By Renee Howerton of Kelly Services

When Gov. Jeb Bush created the Commission on Workers' Compensation Reform in May, he briefly summarized the main problem.

"The cost of workers' compensation in Florida is among the highest in the nation, yet benefits paid to or, on behalf of, injured workers in Florida are among the lowest nationwide," he said in a press release.

Although the roots of this crisis are tangled and deep, higher medical costs and attorney involvement are often the targets of reform efforts and the focus of political battles.

According to the National Council on Compensation Insurance, Florida's medical and temporary total disability claims are 60 percent higher than the national average, while reimbursement for doctors is the lowest, at \$37 per office visit. Despite this, workers' compensation premiums charged to employers are among the highest in the nation and will increase another 21.5 percent in January 2003.

Confused? You're not alone.

Michael Webb, M.D., an occupational physician and Medical Director of U.S. Healthworks in Ocala, faces these problems daily. Webb treats injured employees and works closely with employers as well as insurance carrier representatives to bring cases to a speedy resolution. He is chair of the physician advisory panel to the Division of Workers' Compensation and vice chair of the Florida Medical Association/Medical Economics Committee, which addresses workers' compensation issues.

According to Webb, the problem has many layers. The injured worker's expectation for a magic pill, the impact of attorney involvement early in the care of injured worker and the conflict of low reimbursement/high administrative burden for doctors all contribute to the complex mess of workers' compensation in Florida.

Being injured on the job "changes the mindset of the patient and creates a different expectation for recovery," Webb said.

Often, the patient's higher expectation for recovery leads to attorney involvement, which can increase the cost of medical care by complicating and prolonging treatment.

In June, the NCCI issued a report on factors driving the cost of workers' compensation claims. The report said attorney involvement in Florida is significant and that attorneys "may contribute to the frequency of (physical therapy) claims and to increased medical services." Additionally, medical/indemnity costs for cases with attorney involvement averages more than \$40,000 in Florida, more than 25 percent higher than the national average.

Webb also notes that many physicians choose to opt out of the system because they are losing money and cannot provide quality care. Despite the low reimbursement for doctors, the administrative costs in managing the patient in the workers' compensation system are greater than traditional medicine. As doctors and specialists exit the system, patients must wait longer for consultation, prolonging their care and, you guessed it, increasing costs.

The governor's commission will examine the issue in the coming months, including reform supported by the Florida Medical Association. Webb says the proposed reform includes a fair and reasonable fee schedule for providers, injured worker education and a panel to review medical issues. In addition, the reform would allow the physician to determine the cause of the work injury and disallow continued compensation for patient complaints that cannot be firmly established as work related.

"I am optimistic and hopeful that everybody who has a stake in this will support the reform," Webb said.

Bush, emphasizing the importance of the commission in his press release, said "the high cost of this insurance is placing an unnecessary burden on Florida's employers and remains an impediment to the state's ability to attract and retain businesses."

If we are not able to get costs under control, the health of Florida's economy and its injured workers could suffer.

\*\*\* This article is the third in a series addressing the Workers' Compensation crisis affecting Marion County Businesses. Renee Howerton of Kelly Services submitted this article on behalf of the Marion County Staffing Services Association.

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## Gifts to Physicians from Industry

## THE AMERICAN MEDICAL ASSOCIATION'S CLARIFICATION OF GIFTS TO PHYSICIANS FROM INDUSTRY

## Scope

Opinion 8.061, "Gifts to Physicians from Industry" is intended to provide ethical guidance to physicians. Other parties involved in the health care sector, including the pharmaceutical, devices and medical equipment industries and related entities or business partners, should view the guidelines as indicative of standards of conduct for the medical profession. Ultimately, it is the responsibility of individual physicians to minimize conflicts of interest that may be at odds with the best interest of patients and to access the necessary information to inform medical recommendations.

The guidelines apply to all forms of gifts, whether they are offered in person, through intermediaries, or through the Internet. Similarly, limitations on subsidies for educational activities should apply regardless of the setting in which, or the medium through which, the educational activity is offered.

## General Questions

(a) Do the guidelines apply only to pharmaceutical, device, and equipment manufacturers?

"Industry" includes all "proprietary health-related entities that might create a conflict of interest."

## Guideline 1

Any gifts accepted by physicians individually should primarily entail a benefit to patients and should not be of substantial value. Accordingly, textbooks, modest meals and other gifts are appropriate if they serve a genuine educational function. Cash payments should not be accepted. The use of drug samples for personal or family use is permissible as long as these practices do not interfere with patient access to drug samples. It would not be acceptable for non-retired physicians to request free pharmaceuticals for personal use or for use by family members.

(a) May physicians accept gram stain test kits, stethoscopes or other diagnostic equipment?

Diagnostic equipment primarily benefits the patient. Hence, such gifts are permissible as long as they are not of substantial value. In considering the value of the gift, the relevant measure is not the cost to the company of providing the gift. Rather, the relevant measure is the cost to the physician if the physician purchased the gift on the open market.

(b) May companies invite physicians to a dinner with a speaker and donate \$100 to a charity or medical school on behalf of the physician?

There are positive aspects to the proposal. The donations would be used for a worthy cause, and the physicians would receive important information about patient care. There is a direct personal benefit to the physician as well, however. An organization that is important to the physician – and one that the physician might have ordinarily felt obligated to make a contribution to – receives financial support as a result of the physician's decision to attend the meeting. On balance, physicians should make their own judgment about these inducements. If the charity is predetermined without the physician's input, there would seem to be little problem with the arrangement.

(c) May contributions to a professional society's general fund be accepted from industry?

The guidelines are designed to deal with gifts from industry which affect, or could appear to affect, the judgment of individual practicing physicians. In general, a professional society should make its own judgment about gifts from industry to the society itself.

(d) When companies invite physicians to a dinner with a speaker, what are the relevant guidelines?

First the dinner must be a modest meal. Second, the guideline does allow gifts that primarily benefit patients and that are not of substantial value. Accordingly, textbooks and other gifts that primarily benefit patient care and that have a value to the physician in the general range of \$100 are permissible. When educational meeting occur in conjunction with a social event such as a meal, the educational component must have independent value, such as a presentation by an authoritative speaker other than a sales representative of the company. Also, the meal should be a modest one similar to what a physician routinely might have when dining at his or her own expense. In an office or hospital encounter with a company representative, it is permissible to accept a meal of nominal value, such as a sandwich or snack.

(e) May physicians accept vouchers that reimburse them for uncompensated care they have provided? No. Such a voucher would result directly in increased income for the physician.

(f) May physicians accumulate "points" by attending several educational or promotional meetings and then choose a gift only if they are not of substantial value. If accumulation of points would result in physicians receiving a substantial gift by combining insubstantial gifts over a relatively short period of time, it would be inappropriate.

(g) May physicians accept gift certificates for educational materials when attending promotional or educational events?

The Council view gift certificates as a gray area which is not per se prohibited by the guidelines. Medical text books are explicitly approved as gifts under the guidelines. A gift certificate for educational materials, i.e., for the selection by the physician from an exclusively medical text book catalogue, would not seem to be materially different. The issue is whether the gift certificate gives the recipient such control as to make the certificate similar to cash. As with charitable donations, pre-selection by the sponsor removes any question. It

is up to the individual physician make the final judgment.

(h) May physicians accept drug samples or other free pharmaceuticals for personal use or use by family members? The Council's guidelines permit personal or family use of free pharmaceuticals (i) in emergencies and other cases where the immediate use of a drug is indicated, (ii) on a trial basis to assess tolerance and (iii) for the treatment of acute conditions requiring short courses of inexpensive therapy, as permitted by Opinion E-8.19: Self-Treatment or Treatment of Immediate Family Members. It would not be acceptable for physicians to accept free pharmaceuticals for the long-term treatment of chronic conditions.

(i) May companies invite physicians to a dinner with a speaker and offer them a large number of gifts from which to choose one?

In general, the greater the freedom of choice given to the physician, the more the offer seems like cash. A large number of gifts presented to physicians who attend a dinner would therefore be inappropriate.

There is no precise way of deciding an appropriate upper limit on the amount of choice that is acceptable. However, it is important that a specific limit be chosen to ensure clarity in the guidelines. A limit of eight has been chosen because it permits flexibility but prevents undue freedom of choice. Each of the choices must have a value to the physicians of no more than \$100.

(j) May physicians charge for their time with industry representatives or otherwise receive material compensation for participation in a detail visit?

Guideline 1 states that gifts in the form of cash payments should not be accepted. Also, Guideline 6 makes clear that, in the context of the industry-physician relationship, only physicians who provide genuine services may receive reasonable compensation. When considering the time a physician spends with an industry representative, it is the representative who offers a service, namely the presentation of information. The physician is a beneficiary of the service. Overall, these guidelines do not view that physicians do not view that physicians should be compensated for the time spent participating in educational activities, nor for time spent receiving detail information from an industry representative.

## To Be Continued:

Gifts to Physicians from Industry will be an ongoing series of articles that was taken for the AMA's Council on Ethical and Judicial Affairs. Clarification on Gifts to Physicians from Industry (E-8.061). Issued 1992. Updated December 2000 and June 2002.

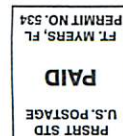
JOINT COMMISSION ANNOUNCES  
2003 NATIONAL PATIENT SAFETY GOALS

The Joint Commission on the Accreditation of Health Organizations (JCAHO) Board of Commissioners has approved implementation effective January 1, 2003, of a set of six national patient safety goals.

The goals, developed by the Sentinel Event Alert Advisory Group, are as follows:

- 1) Improve the accuracy of patient identification.
  - a) Use at least two patient identifiers (neither to be the patient's room number) whenever taking blood samples or administering medications or blood products.
  - b) Prior to the start of any surgical or invasive procedure, conduct a final verification process, such as "timeout," to confirm the correct patient, procedure, and site using active not passive-communication techniques.
- 2) Improve the effectiveness of communication among caregivers.
  - a) Implement a process for taking verbal or telephone orders that require a verification "read back" of the complete order by the person receiving the order.
  - b) Use of standardized abbreviations, acronyms, and symbols throughout the organization, including a list of abbreviations, acronyms, and symbols not in use.
- 3) Improve the safety of using high-alert medications.
  - a) Remove concentrated electrolytes (including, but not limited to, potassium chloride, potassium phosphate, sodium chloride > 0.9%) from patient care units.
  - b) Standardize and limit the number of drug concentrations available in the organization.
- 4) Eliminate wrong-site, wrong-patient, wrong-procedure surgery.
  - a) Create and use a preoperative verification process, such as a checklist, to confirm appropriate documents (e.g. medical records, imaging studies) are available.
  - b) Implement a process to mark the surgical site and involve the patient in the marking process.
- 5) Improve the safety of infusion pumps.
  - a) Ensure free-flow protection on all general-use and PCA (patient controlled anesthesia) intravenous infusion pumps used in the organization.
  - b) Improve the effectiveness of clinical alarm systems.
    - a) Implement regular preventive maintenance and testing of alarm settings.
    - b) Assure the alarms are activated with appropriate settings and are sufficiently audible with respect to distances and competing noise within the unit.

Additional information regarding the new patient safety measures is available at <http://www.jcaho.org>. Taken from Preventive Action, FPIC Quarterly Risk Management Newsletter for Policyholders of FPIC.



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