LEE COUNTY MEDICAL SOCIETY INC.
Physicians Caring for our Community

Bulletin

Volume 33, Issue 7 | Editor: John W. Snead, M.D. | December 2009

2010 Meetings and Events

General Membership Meeting
Installation of 2010 Officers

Thursday, January 21, 2010
Royal Palm Yacht Club
2360 West First Street
Downtown Fort Myers

6:30 p.m. - Social Time
7:00 p.m. - Dinner/Meeting

Speaker: To be Announced

RSVP Medical Society Office
LCMS, PO Box 60041, Ft Myers 33906
Tel: 936-1645 Fax: 936-0533

Inserts

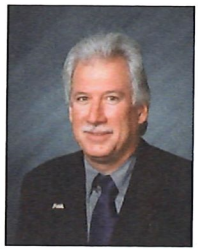
- **January Meeting Notice**
- **21st Century Care & NCH Save the Date**

Inside this issue:

President's Message

In Summary...

Larry Hobbs, M.D.



This will be my last "President's Message". It has been a very active and tumultuous year with many significant challenges facing physicians. In my past articles I have touched on the Medical Society's role in our community and the need for ALL physicians to be part of that process. I have discussed our continued effort in caring for patients even during very difficult times for physicians. We have discussed what's right and what's wrong with patient care and the continuity of care in our community. I have weighed in on the national efforts on health care reform. And, I have explored what we as physician leaders should do in directing quality of specifically hospital based patient care.

I may have ruffled some feathers, struck a nerve or began a dialogue. But, I feel strongly that our practices and businesses are going through rapid changes that we have never encountered before. Now is the time to discuss and act to protect our patients and our practices. If we do not work hard and come together for the common good for patient care then other forces with less expertise and understanding will act on these issues. If we continue to argue over the petty narcissistic minutia instead of uniting in purpose and common goals, administrations and the government will choose the political high road and legislate on what they perceive is the common good. This may sound somewhat dogmatic but I think it is what we are facing right now. Let us put our differences aside, join together and act now.

Our Medical Society has had some significant successes this past year. We have signed a lease for a brand new LCMS office that we plan to be occupying by March, 2010. It will be located just southeast of Gulf Coast Medical Center. We have re-energized the LCMS Alliance to organize many social activities throughout the year for the members and their spouses. We have expanded the West Coast Caucus of the FMA to include Hillsborough County. This gives us the second largest voice in the FMA. We have opened a meaningful dialogue with Lee Memorial Health System on improving quality care for our hospitalized patients. We began a marketing program for the LCMS. This will bring your Medical Society to the forefront when dealing with health care issues and let the public know who we are and what we represent. Our 2009-10 Pictorial Directory was produced in July and sent to all members. This directory is available to the general public free of charge getting our name in front of your patients. We have successfully increased our membership by 29 new members this year. This is paramount if we are going to be the voice of all physicians in Lee County. And we have been at the table to bring the WE CARE program back to Lee County.

By the time you read this article the WE CARE program will have begun operation. Some of your dedicated colleagues are participating on the board of directors for this program and I am grateful to them. Briefly, the program directed by the physician board asks all specialists to volunteer to care for one patient per month. The program is funded by the United Way and coordinated by the Salvation Army. The physician seeing this carefully screened patient will be covered by sovereign immunity. Self referrals to this program are possible. If you should have a patient sent to your office as part of your obligation for call at a local ED you may refer that patient to the program for screening. If the patient meets the needs criteria and is accepted into the program, you would be covered under sovereign immunity for seeing and treating that patient. It is a win-win program for the patient and the physician. Please plan to participate when you are called on to do so. Thank you ahead of time for your support.

As my tenure comes to a close, I want to thank Ann Wilke for all her support and guidance. She has kept me focused on what our society stands for and has been an invaluable resource in my representing you, the membership. We are truly blessed to have her as our Exec. Thanks to the staff at the LCMS office, Cynthia and Marian, who have also been extremely helpful throughout the year. I also want to thank all the members of the Board of Governors for the LCMS for all their insight and knowledge that they shared with me throughout the year. We had many interesting and lively discussions about many of the challenges we physicians are facing. And finally I want to thank Dr. Steve West. Being able to 'peak in' and seeing what the duties and responsibilities of the president of the FMA was very illuminating. It is quite a commitment to serve in that position and Steve was extremely good at it. And now he is leaving our area for bigger and better things (we hope). Steve will be missed by all he touched and influenced. Thank you ALL for your support and please help me welcome our new president, Dr. Craig Sweet. You're in good hands!

LEE COUNTY MEDICAL SOCIETY BULLETIN
P.O. Box 60041
Fort Myers, Florida 33906-0041
Phone: (239) 936-1645
Fax: (239) 936-0533
E-Mail: awilke@lcmsfl.org
www.leecountymedicalsociety.org

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CO-EDITORS
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Lee County Medical Society Mission Statement & Disclosure Policy

The purpose of the LCMS is to unite the medical profession of Lee County, FL, into one compact organization; extend medical knowledge and advance medical science; elevate the standards of medical education; strive for the enactment, preservation and enforcement of just medical and public health laws; promote friendly relations among doctors of medicine and guard and foster their legitimate interests; enlighten and alert the public, and merit its respect and confidence.

All LCMS Board of Governors and Committee meeting minutes are available for all members to review.

Membership News

New Physician Members

Angela D'Alessandro, DO - Pediatrics
Physicians Primary Care of SWFL

Daniel de la Torre, MD - Hospitalist/Internal Medicine
Cogent of Fort Myers

Stephen G. Fedec, DO - Cardiology
Cardiology Consultants of SWFL

David S. Gerson, MD - Radiology
Florida Radiology Consultants

Deborah M. Gerson, MD - Pathology
Ameripath Southwest FL

John E. Glazer, DO - Family Medicine
Internal Medicine Associates

Emie A. Kuyumjian, MD - Family Medicine
Internal Medicine Associates

Juliedis Quintana, MD - Internal Medicine
Internal Medicine Associates

Tasha B. Wallace, DO - Family Medicine
Wallace Family Practice

Moving out of Area

Steven R. West, MD

2010 Dues have been mailed to your office

Please contact us if you will need to make payment arrangements. LCMS dues have not increased since 1993.

Classified Ads

Classified ads are for Lee County Medical Society Members and must be 30 words or less.

GOLF MEMBERSHIP
GATEWAY COUNTRY CLUB

I no longer play golf and I need to sell. Priced at 50% discount at $10,000
Contact 239-849-0080

Correction to November Bulletin

In the 2010 Officers Nominations we left out **Cherrie Morris, MD**. We would like to thank **Dr Morris** who will be leaving the LCMS Board of Governors. She has served on the Board fo seven years and has also served as Secretary in 2005 and as Treasurer from 2006-2009.

New Member Applicant

Richard P. Perkins, MD - Dr. Perkins completed his MD degree at the Columbia University College of Physicians and Surgeons in New York (1965). He complete his internship at Strong Memorial Hospital, New York (1965-1966) and residency at Sloane Hospital for Women, Columbia Presbyterian, New York (1966-1971). Dr. Perkins has been a fellowship director twice. He has been board certified in Maternal Fetal Medicine since 1980. Dr. Perkins is in practice with Maternal Fetal Medicine of SWFL, 9981 HealthPark Circle, #459, Fort Myers, FL 33908—Tel: 239-481-5477.

Women in Medicine Event

The Lee County Medical Society attended the Women In Medicine Event on Tuesday, November 3, 2009. The event was hosted by LCMS members Valerie Dyke, MD, Veronique Fernandez-Salvador, MD and Janette Gaw, MD.

The event was sponsored by FineMark Bank and held in their Community Room.

As I Recall...

Roger D. Scott, M.D.

The Footlocker

Recently in trying to clean up some of my valuable "junk" I opened the old worn khaki colored "Scott R.D." **footlocker** that my parents were required to purchase for me when I went to Riverside Military Academy in September of 1941. A footlocker is a small trunk (31" wide x 12" tall x 17" deep), and usually used by the military for clothing and other items needed by the individual. Its name is derived because it is usually kept at the foot of the occupant's bunk. On top of the stack was my old (1953-55) USAF dress uniform that I last "squeezed into" to commemorate Armistice Day (Veterans Day) November 11th about eight years ago. At that time the event was photographed with me standing in a George C. Scott "Patton" pose in front of a wall map of Europe (actually it was of the Fort Myers area).

The next item was my 1940 Boy Scout tan hat. It is broad brimmed with a high center peak much as the US soldiers wore in World War I (1918) and National Park Rangers wear now. Next encountered was a Boy Scout short-sleeved tan shirt with "Live Oak, Fla. and Troop 86" on the left sleeve and an embroidered Eagle Scout emblem on the left-pocket. There was also a tan colored across-the-shoulder sash with 31 merit badge emblems upon it along with the Tenderfoot, Second Class, First Class, Star, and Life Scout badges. An Eagle Scout badge with gold and silver Palms was in it's case. The short tan pants, long brown socks, belt, and kerchief were missing. Next came a worn "Handbook For Boys" with a Norman Rockwell cover depicting a Cub Scout, Boy Scout, and Sea Scout. This was a ("50 cents") 1940 volume as I had completely worn out my original 1938 copy. So now I am reminiscing as explained to you in the November article about the aging process.

Beginning about 1937 Troop 86 was the first appearance of the 27-year-old Boy Scouts of America (BSA) movement in Suwannee County Florida. My closest friend, Gilliam Walton joined a little earlier, and I joined Troop 86 in November 1938 and within a few weeks the entire troop went on a weekend camping expedition on the shores of the Suwannee River. Unfortunately some of the older scouts behaved more like a mean gang of ruffians who treated us younger ones viciously and not in the manner of the Scouts. Gilliam and I were ready to quit scouting but were saved by a new wonderful Scoutmaster who booted out the bad ones and from then on it was a great troop.

The "Handbook" contained "My Scout History" revealing "Tenderfoot December 16, 1938, Second Class November 15, 1939, First Class March 8, 1940, Star June 11, 1940, Life September 18, 1940, and Eagle Scout May 26, 1941." Reading this book again after so many years revealed what a great book it is as it teaches so many useful aspects of life to include nature, health, first aid, manners, and civics. "Wash both hands carefully with soap." (A keyword even for today.) There are chapters on "Woodcraft, Camping, Citizenship, Handicraft, Fun From Games, Songs, Books". It states that "Truly great men are modest. They are quiet-men of deeds rather than words. We know them by what they do and by the way they act." (Well I guess I blew being a great man!)

It teaches that "The Constitution of the United States represents government by agreement. It is government which was not imposed from without by which grew up from within the desires of those establishing it. It is good for all time, because in its own structure is provided the means to amend it through popular processes. It provides for the three separate and coordinate branches of government each to serve as an independent check against the others. The well-informed Scout *(and all of us citizens)* should reread the Constitution in these troubled times and again see for himself what balance, what protection, what permanent assurances of personal liberty it guarantees. The most significant feature of this Constitution is in its protection against dictatorship or kingship. (*Let's hope this holds true in this decade.*) It with the Declaration of Independence are to our American Republic what the Magna Carta was to the English democracy - a sure foundation." The book lists all the requirements for advancement of rank and for obtaining the various merit badges of which there were 106. (*130 now*)

Elmo Dowling (the Scoutmaster's son) became the first Eagle Scout in Suwannee County history and I became the second with Gilliam being the third.

As each boy became an Eagle Scout in the North Florida Division of the Boy Scouts of America in Jacksonville, his picture was placed in the "Book of Gold" and he was required to write what scouting had meant to him. From the footlocker comes my handwritten note (at age 14) for the Book of Gold. "Probably the most lasting and strongest influence of all has been the Scout Oath and Law as these have affected my whole attitude towards life and had the most influence upon my daily conduct. The Scout Law expresses a goal towards which I am striving to live up to and by doing so I will be a man of strong character, a man who can be trusted, capable of serving both God and man."

I was visiting my dentist brother Frank in Jacksonville and he noticed my silver plated Boy Scout ring. In his small office dental laboratory he made an impression of the reigning as he would for making a gold inlay for a tooth. He had saved some gold from teeth that he had extracted for disease. He placed the impression in one arm of his centrifuge and the gold heated to melding with a blowtorch in the other arm and spun the gold into the impression. The result was a beautiful one of a kind gold Boy Scout ring engraved inside with my name and the date using a dental drill. What an ingenious brother! (*Wouldn't OSHA have a fit now for something like that!*)

We attended the Boy Scout camp Echookotee on the shores of Doctors Inlet near Orange Park, Florida for two summers when two unusual events occurred with me. The first was a game called Tote um Poles in which we were required to remove our shirts and then Totum Poles (creosote coated large fence posts) on our shoulders to the fence line to be inserted. We carried a number of these for about four hours in the bright sun, and then I had a horrible blistering sunburn. I lived in Florida all of my life and had my shirt off in the sun many, many hours and never had a burn. It turned out that the creosote sensitizes the skin to ultraviolet rays and a number of us developed severe burns. I've never had a sunburn since that time.

The second episode occurred as I was the lead paddler in an eight man Indian war canoe and as we were going across the water I dug the paddle deep and hard and the entire front of the canoe was lifted out of the water and almost toppled over by a wild ugly sea monster. As an inland country boy I had never seen or heard of a manatee that turned out to be my sea monster!

In September 1941 I left the scouts during the school year but participated in the summers until 1944.

It was purely coincidental that I found this book at the beginning of the Centennial for the Boy Scouts of America (1910-2010). The scouts have molded to changes of the time but still remains a wonderful organization.

REMEMBER PEARL HARBOR.
MERRY CHRISTMAS & HAPPY NEW YEAR!

Senior Friendship Centers & Physician Volunteerism

Julie Ramirez, Health and Wellness Coordinator, Senior Friendship Centers

Over the past several LCMS Bulletins, there has been made mention of physician's volunteering in the community. Please allow me to introduce to you an opportunity for volunteerism that you can be part of and change lives here in Lee County.

Senior Friendship Centers is a local non-profit organization dedicated to helping older adults live with dignity and independence here in Lee County. One of the services we offer is a health and wellness clinic. This clinic is open to seniors ages 50+ who do not have insurance and have a limited income. Our health and wellness clinic offers general physical examinations, monitoring of chronic illnesses, health screenings and education, referrals to local physicians, and the Florida Breast and Cervical Cancer Early Detection Screening Program.

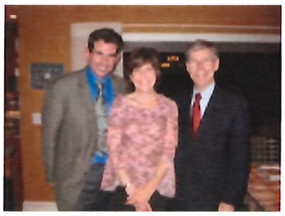
Our need is twofold:
Our greatest need is for volunteer physicians to see patients 1 day per week, twice per month. Our clinic is open from 10am-2pm Monday-Friday. Our hours are flexible and accommodating for season and holidays. Our physicians are covered under the state sovereign immunity.

Our second need is for referrals of physicians willing to see our patients for further testing at either a significantly decreased rate or pro bono. Mind you, our patients qualify for our services because their income is 200% of the poverty level.

Our health and wellness clinic is located in North Fort Myers at the Hatton Rogers Retirement Community north of the intersection of Business 41 and Bayshore. Our health and wellness clinic is supported in part by the United Way of Lee County and Goodwill of Southwest Florida.

To volunteer or find out more information about who we are and what we do, please call our office at 239-656-0221 or email Julie Ramirez at jramirez@friendshipcenters.org. We are people helping people.

Fundraiser for Bill McCollum Campaign for Governor 2010



Jim and Betty Rubenstein with Bill McCollum

Congratulations to Jim and Betty Rubenstein for a fantastic fundraiser at their home for Bill McCollum who is running for Governor of Florida in 2010. There were over 75 in attendance and they raised $40,000 for the McCollum Campaign. Danny Mellman made delicious hors d'oeuvres and Friendly Faces tended the bar.

2010 is a huge election year. Not only in Florida but for the U.S. Congress. We all must be prepared to be proactive and involved in the election cycle. Each and every vote counts. Being involved in election campaigns gives you an opportunity unlike no other to be at the table when laws are made. Make a commitment to host a fundraiser or to attend and give your time and money.
Thank you Jim and Betty for a successful fundraiser.

Memoriam
William Alan Kyle, MD
May 13, 1946 - October 3, 2009

Dr. Bill Kyle passed away on October 3rd at the age of 63. He grew up in Whiting, Indiana. He obtained his Bachelor's Degree from Indiana University in 1966. He graduated from the Indiana University School of Medicine in 1969. He performed his residency in radiology at Indiana University, and was board certified both in diagnostic radiology and in nuclear medicine.

He then moved to Fort Myers to join his brother, Dr. Mike Kyle, in radiology practice. He and Mike, along with Dr. Howard Sheridan and Dr. John Thorn, founded Kyle, Sheridan, & Thorn, which is now Radiology Regional Center. He practiced with the group until 1992, when he retired after developing cancer. I had the pleasure to work with him from 1991-1992. He was a skilled radiologist, and was well liked by the doctors, employees, and patients. He was an avid golfer and skier. After retirement, he spent much of the year at his second home in Telluride, Colorado.

He is survived by his brother, Mike, who retired from Radiology Regional Center in 1994 and still lives in Fort Myers; his sister, Gail, from Casselberry, Florida; and his sister, Patricia, from Charlotte, North Carolina.

He will be missed.
Stuart A. Bobman, M.D.

News from the Board of Medicine

Volunteers

Crystal A. Sanford, CPM, Program Operations Administrator, Florida Board of Medicine

Dictionary.com defines volunteer as "a person who voluntarily offers himself for a service or undertaking" and also as "a person who performs a service willingly and without pay." An increase in the number of uninsured and underserved individuals places a strain on Florida's health care system. Patients with no insurance find themselves in hospital emergency rooms, county health departments or finding medical care from unscrupulous unlicensed individuals. Physicians disciplined by the Board of Medicine are often required to complete from 25 – 200 hours of community service and this is a step in the right direction. But another solution is for physicians to find time in their busy schedules to provide service to the community. Many physicians in our state already perform this much needed service. In Florida, there are several ways a physician can volunteer services and volunteering can have its benefits.

Fully licensed physicians are free to volunteer as their schedule permits and at any location where their services are needed. Some obvious locations that come to mind are county health departments and local underserved areas. If serving in these areas, CME credit is available. There are also places that are not quite so obvious such as being the local high school football team physician. Be creative. There is a need for health care everywhere.

Working in Areas of Critical Need

An area of critical need (ACN) is a public health agency such as county health departments, correctional facilities, or mental health facilities. ACN facilities are also non-profit entities approved by the Department of Health and Human Services, the State Health Officer or the Board of Medicine (Board). This category includes facilities treating the indigent and underserved as well as approved community health centers. A list of approved ACN facilities is available on our web site under 'Applicant Information'.

Physicians issued a certificate to practice in ACN facilities are required to only practice in an approved facility. All fees, such as renewal fees and the neurological injury compensation assessment (NICA) fee are waived for physicians holding this certification because the physician is providing uncompensated care for low-income Floridians. [s. 458.315, F.S.]

Limited Licenses

Physicians holding a limited license are also required to work in areas of critical need as defined above. If applying for a limited license, there is an application fee. However, if a physician is already fully licensed in Florida and wishes to convert to a limited license, the application fee is waived. All other fees are waived for limited license holders. [s. 458.317,F.S.]

CME Credit

Rule 64B8-13.005, Florida Administrative Code (FAC) provides CME credit for certain volunteer services.

- Volunteer expert witnesses provide expert opinions on cases for the Department of Health can receive 5 hours CME in risk management per case with a maximum of 15 hours per biennium.
- A physician who serves as a supervising physician of a physician who is under supervision can also receive CME credit. If providing direct supervision, a volunteer monitor can receive 6 hours CME per year; if providing indirect supervision, 3 hours CME per year is awarded.
- And for those volunteers who fall into the category mentioned in the second paragraph, 5 hours CME per biennium can be awarded if the volunteer service was performed at an area of critical need.

Applicable Laws and Rules

Rule 64B8-13.005, FAC – Continuing Education for Biennial Renewal
s. 458.315, FS – Temporary certificate for practice in areas of critical need
s. 458.317, F.S. – Limited Licenses

Where do you find the laws, rules and the Board web site?

Florida Statutes (laws): http://www.leg.state.fl.us/statutes/index.cfm
Florida Administrative Code (Rules): http://www.leg.state.fl.us/statutes/index.cfm
Board's website: http://www.FLHealthSource.com.

Sign up to receive, at no-cost, automatic e-mails containing information regarding every new item put on the Board website, including meeting information, new laws, rules, alerts and advisories. You can subscribe and unsubscribe by going to this web site: http://flems.doh.state.fl.us/mailman/listinfo/boardofmedicine

AMA House of Delegates Passes Resolution 203 on Health System Reform

A view from AMA Past President Donald Palmisano, MD

Some important events occurred at the meeting. Here is my view on three items discussed at AMA.

One: The AMA Board was instructed by the House of Delegates, the policy-making body of the AMA, that they must advocate for health system reform "consistent with AMA policies". No deviation from established AMA policy. Very important step.

Two: It is very important that long-standing AMA policy now will be actively and publicly supported, namely: RESOLVED, That our AMA actively and publicly support the inclusion in health system reform legislation the right of patients and physicians to privately contract, without penalty to patient or physician;

Three: President Dr. Rohack repeatedly told the AMA House of Delegates that **the AMA DID NOT endorse H.R. 3962** but only supported elements of it and AMA is working to improve it. Some say that using "support" versus "endorse" is a distinction without a difference. Much of the press and President Obama state the AMA endorses the bill in their statements. I went to the microphone Monday and asked for the AMA position in writing on H.R. 3962 confirming no endorsement but rather support so that there will be documentation to show doctors exactly what AMA means. AMA president promised on Monday to give the House of Delegates that statement in writing Tuesday morning but that did not occur. When I requested it again on Tuesday, we were referred to a news interview. But now we know by comments of AMA president at the meeting and in an interview that AMA doesn't endorse H.R 3962 so let members know that and remind the press. Sure wish I had the written statement from AMA stating no endorsement rather than a secondary source of a news article. Also, note single-payer reference and medical liability reform in the resolution.

SUBSTITUTE RESOLUTION 203: HEALTH SYSTEM REFORM LEGISLATION

RESOLVED, That our American Medical Association is committed to working with Congress, the Administration, and other stakeholders to achieve enactment of health system reforms that include the following seven critical components of AMA policy:

- Health insurance coverage for all Americans;
- Insurance market reforms that expand choice of affordable coverage and eliminate denials for pre-existing conditions or due to arbitrary caps;
- Assurance that health care decisions will remain in the hands of patients and their physicians, not insurance companies government officials;
- Investments and incentives for quality improvement and prevention and wellness initiatives;
- Repeal of the Medicare physician payment formula that triggers steep cuts and threaten seniors' access to care;
- Implementation of medical liability reforms to reduce the cost of defensive medicine; and
- Streamline and standardize insurance claims processing requirements to eliminate unnecessary costs and administrative burdens; and be it further

RESOLVED, That our American Medical Association advocate that elimination of denials due to pre-existing conditions is understood to include rescission of insurance coverage for reasons not related to fraudulent representation; and be it further

RESOLVED, That our American Medical Association House of Delegates supports AMA leadership in their unwavering and bold efforts to promote AMA policies for health system reform in the United States; and be it further

RESOLVED, That our American Medical Association support health system reform alternatives that are consistent with AMA policies concerning pluralism, freedom of choice, freedom of practice, and universal access for patients; and be it further

RESOLVED, That it is American Medical Association policy that insurance coverage options offered in a health insurance exchange be self-supporting, have uniform solvency requirements; not receive special advantages from government subsidies; include payment rates established through meaningful negotiations and contracts; not require provider participation; and not restrict enrollees' access to out-of-network physicians; and be it further

RESOLVED, That our AMA actively and publicly support the inclusion in health system reform legislation the right of patients and physicians to privately contract, without penalty to patient or physician; and be it further

RESOLVED, That our AMA actively and publicly oppose the Independent Medicare Commission (or other similar construct), which would take Medicare payment policy out of the hands of Congress and place it under the control of a group of unelected individuals; and be it further

RESOLVED, That our AMA actively and publicly oppose, in accordance with AMA policy, inclusion of the following provisions in health system reform legislation:

- Reduced payments to physicians for failing to report quality data when there is evidence that widespread operational proble still have not been corrected by the Centers for Medicare and Medicaid Services;
- Medicare payment rate cuts mandated by a commission that would create a double-jeopardy situation for physicians who are already subject to an expenditure target and potential payment reductions under the Medicare physician payment system;

Continued on next page

- Medicare payments cuts for higher utilization with no operational mechanism to assure that the Centers for Medicare and Medicaid Services can report accurate information that is properly attributed and risk-adjusted;
- Redistributed Medicare payments among providers based on outcomes, quality, and risk-adjustment measurements that are not scientifically valid, verifiable and accurate;
- Medicare payment cuts for all physician services to partially offset bonuses from one specialty to another; and
- Arbitrary restrictions on physicians who refer Medicare patients to high quality facilities in which they have an ownership interest; and be it further

RESOLVED, That our American Medical Association continue to actively engage grassroots physicians and physicians in training in collaboration with the state medical and national specialty societies to contact their Members of Congress, and that the grassroots message communicate our AMA's position based on AMA policy; and be it further

RESOLVED, That our American Medical Association use the most effective media event or campaign to outline what physicians and patients need from health system reform; and be it further

RESOLVED, That national health system reform must include replacing the sustainable growth rate (SGR) with a Medicare physician payment system that automatically keeps pace with the cost of running a practice and is backed by a fair, stable funding formula, and that the AMA initiate a "call to action" with the Federation to advance this goal; and be it further

RESOLVED, That creation of a new single payer, government-run health care system is not in the best interest of the country and must not be part of national health system reform; and be it further

RESOLVED, That effective medical liability reform that will significantly lower health care costs by reducing defensive medicine and eliminating unnecessary litigation from the system should be part of any national health system reform; and be it further

RESOLVED, That our American Medical Association reaffirm AMA policy H-460.909 Comparative Effectiveness Research.

Final Note: If people disagree with AMA approach, let AMA know and get involved in June elections at AMA. Don't quit AMA. It does much wonderful work. Just as citizens who disagree with Congress on issues don't give up their citizenship and move to another country, the same should apply here. The greatness of America is our diversity and freedom of speech. All part of our Land of Liberty.

Donald J. Palmisano, MD, JD, Past President of the American Medical Association.

The Impact of the Federal Stimulus Package on Healthcare Delivery

Cliff Rapp, LHRM, Risk Management Vice President for Florida Professionals Insurance Company

Identity theft is a spiraling international problem. While it is often difficult to detect when the identity of a patient is stolen, measures to protect the identity and privacy of all patients continue to evolve globally. One example is the Federal Stimulus Package, which sets forth substantial changes to requirements for the protection of health information privacy and security under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Virtually every medical practice is affected by these latest revisions. Notification requirements of a privacy breach and restriction and accounting of disclosures in the face of increased enforcement measures require that physicians become acquainted with the new regulations and the necessary compliance measures.

Passage of the American Recovery and Reinvestment Act of 2009 (ARRA), often referred to as the "Federal Stimulus Bill", resulted in myriad HIPAA revisions. These revisions were enacted in response to a number of factors: the evolution of new entities holding personal health information, an absence of privacy breach notification requirements, and a lack of control over business associates – including inadequate enforcement. While the revisions primarily pertain to privacy measures of electronic health records, the existing preemption principles of HIPAA still apply. The Secretary of the Department of Health and Human Services (DHHS) is responsible for enacting HIPAA rules to conform to ARRA provisions. Consequently, additional HIPAA revisions should be anticipated.

The majority of HIPAA revisions apply to "covered entities" (*defined as a health plan or payor, a healthcare clearing house, billing service, or any healthcare provider that transmits any healthcare information in electronic form*) and their "business associates" (essentially anyone who uses or discloses a patient's personal health information in order to perform a function necessary to help carry out a healthcare function) and serves to modify HIPAA privacy and security rules applicable to electronic health records. These revisions may be summarized as follows:

Compliance
Covered entities must initiate a written, breach notification policy and procedures plan in addition to the HIPAA compliance plan. The new provisions require that specific procedures entailing breach notification include documentation of staff training, provide an accounting of disclosures and contain a corrective plan in the event of a privacy breach.

Business Associates
Business Associates (BAs) must fully comply with HIPAA Security and Privacy rules. Penalties for noncompliance apply to BAs who must secure their own business associate agreements. Health information exchanges, such as regional health information exchanges are considered BAs.

Breach Notification
Breach of personal health information (PHI) privacy or security is the responsibility of the covered entity. An individual must be notified if the breach is of unsecured PHI, such as unencrypted electronic records. Each individual affected by the breach must be notified in writing, within 60 days of discovery. An annual log must be maintained, and reported to HHS. Covered entities are required to adhere to the written notification procedures contained in their HIPAA compliance plan.

Disclosures Accounting
An accounting of all PHI disclosures, including those disclosures made for payment, treatment and operations must be maintained. Furthermore, all disclosures must be limited to the minimum necessary – as defined by HHS.

Disclosure Restrictions
Patients may restrict disclosure of PHI to their health plan, insurer or managed care organization if the PHI pertains to health information that was fully paid for by the patient.

Individual Rights
Patients have the right to obtain their electronic medical records electronically and may not be charged for more than the labor costs incurred. Patients may also take civil action against a business associate, in addition to a covered entity, for security and privacy breach occurrences.

Enforcement, Penalties, and Audits
Government enforcement capabilities of HIPAA security and privacy violations have been significantly enhanced in tandem with increased governmental monetary fines and penalties. Patients may also initiate civil actions seeking monetary damages in addition to governmental penalties. State Attorneys General can sue in federal district court for such civil damages and are free to award court costs and attorney fees in addition to monetary damages. Consequently, broadened financial incentives and increased legal action may result. Criminal penalties for wrongful disclosure of PHI apply to individuals whether employees or not of a covered entity. The DHHS is required to perform periodic audits of both covered entities and their business associates.

Many of the HIPAA revisions implemented as a result of the ARRA remain under governmental rule-making review with varying phase-in dates and compliance deadlines. For these reasons, contemporaneous legal or risk management guidance should be sought.

Risk Management Guidelines
- Prospectively seek legal or risk management guidance
- Become fluent in HIPAA terminology
- Educate and train all levels of staff
- Review and revise out-dated HIPAA compliance measures
- Revise patient information forms, consents, authorizations
- Ensure BA agreement is compliant
- Remain current – professional, governmental, and legal informational websites
- Diary applicable ARRA effective dates
- Anticipate more revisions and timeframes

References

- Health Insurance Portability and Accountability Act of 1996 (HIPAA)
- American Recovery and Reinvestment Act of 2009 (ARRA)
- 45 C.F.R. § 164.308 – Regarding administrative safeguards to protect ePHI
- 45 C.F.R. § 164.310 – Regarding physical safeguards to limit physical access to ePHI
- 45 C.F.R. § 164.312 – Regarding technical safeguards for electronic information systems that control access to ePHI
- 45 C.F.R. § 164.316 – Regarding reasonable and appropriate policies, procedures and documentation requirements of the HIPAA Security Rule as it relates to ePHI
- American Recovery and Reinvestment Act of 2009, H.R. 1, 111th Cong. § 13400(1) (2009)

Cliff Rapp, a licensed health care risk manager, is Vice President of Risk Management with First Professionals Insurance Company, a leading medical professional liability insurer. Rapp is widely published and a national speaker on loss prevention and risk management.

Thank You Doctor Steven R. West

The Lee County Medical Society would like to thank Dr. Steven R. West for his many contributions to medicine in Lee County and the State of Florida. He has worked tirelessly giving his time and resources for the profession of medicine.

We would like to wish Dr. West happiness and success in his new position in Tallahassee.

We will be honoring him with Lifetime Honorary Membership in the Lee County Medical Society.

Membership Survey Results, Spring 2009 - Part III

Public Relations Committee: Craig R. Sweet, MD & Barry Blitz, MD

The Lee County Medical Society sent out membership surveys to all our members in April. We would like to thank all those who completed and sent in the survey. Below is part III of those responses. Part I and II were printed in the September and October issues of the Bulletin.

In your opinion, how could the LCMS better attract new members?

Results & Comments:
We received a number of good ideas regarding this question. Below are some of the ideas and our responses (some are paraphrased):

How to Attract New Members?	LCMS Response:
More social events.	With the help of the Alliance, we are trying to do just that. A family event has been suggested and we may encourage the Alliance to help us with this.
Advertise the benefits of membership.	We are in the process of updating our own materials that outline the many benefits we currently offer. We are also trying to increase the overall worth of the membership.
come less aligned with LMHS.	A very complex issue. Even the IPALC has found some potential benefit in interacting with LMHS rather than trying to fight without a certainty of winning.
Lowering the fees.	An interesting issue. Few know that membership dues haven't changed in 17 years! The expenses of running the LCMS have certainly increased over the years and it has only been though the work of Ann and Cynthia that they have been able to keep the fees to a minimum. The savings on medical malpractice more than covers the dues so say nothing of all the other benefits!
Personally invite new members (especially minority physicians) to a (free?) dinner meeting.	If you are willing to call a non-member and invite them to a meeting, the society will pick up their dinner tab! (Yes, Ann, I really wrote this! CRS)
Increase business discounts.	This was also suggested in a previous question and may be an excellent idea.
Work as an advocate with LMHS.	We remain committed to representing the physicians of this community and this certainly means keeping communication open with the (only) hospital system.
By being involved in our community.	Many members are unaware of the support the LCMS gives to various meetings, functions and organizations in the name of our community physicians. Perhaps we need to communicate this better to our members.
Suggest that LMHS encourage membership.	This may indeed be part of the discussion with the hospital in the upcoming months but it is understood that money is tight. Regardless, it may inevitably be our responsibility as physicians to speak to our LMHS comrades.

In your opinion, how could the LCMS better retain existing members?

Results & Comments:
Many of the ideas presented here were discussed in the answers and comments in the questions above. Below were a two of the more novel ideas:

How to Keep Old Members?	LCMS Response:
Show a monetary benefit to membership.	Perhaps a summary sheet with true examples included in our new member packet would be a good place to start. We could use some help in putting this together. Any volunteers?
If someone doesn't show up to a meeting, activate a "what's wrong" policy.	Interestingly, though, this will include hundreds of names. The logistics of this process might also be difficult. We would never want to "nag" the membership or make them feel guilty and resentful for not showing up.

Member Opinion

Will Obamacare Destroy Medicare?

Scott Geller MD

The most serious question we should be asking about 'Obamacare' is *what will happen to Medicare patients.?*

Forget what the President tells you. Just look at the writings and statements of the individuals behind Obamacare to understand their actual *intentions.*

Obama earmarked a *Billion Dollars* for a new bureaucracy, the 'Federal Coordinating Council for Comparative Effectiveness Research,' the brainchild of former HHS Secretary Nominee Tom Daschle. Daschle's (and Obama's) stated purpose is to empower an un-elected bureaucracy to make decisions about health care rationing that elected politicians can't.

The Federal Council is modeled after Britain's NICE (National Institute for Clinical Excellence), which determines the dollar value of a 'Quality Adjusted Life Year' (QALY). NICE allows payment for treatments that cost less than that, and disallows treatments that cost more.

Congressional Budget Office Director Peter Orszag wrote repeatedly that medicines and treatments should be rationed according to their effect in increasing QALY. Placing a dollar-value on human life, Orszag wrote that a QALY was worth $50,000-$100,000.

Obama's regulatory 'Czar', Cass Sunstein wrote a paper arguing that human life varies in value and champions methods that give preference to government 'QALY' ratings. Meaning, the government decides whether a person's life is worth living. If the government decides the life is not worth living, it is the individual's duty to die to free up welfare payments for the young and productive.

One of the Council's most prominent members is Ezekiel Emanuel, brother of Rham Emanuel, Obama's Chief of Staff. Dr. Emanuel's views on care of the elderly should frighten anyone who is or ever plans on being old. He explains his discriminatory views as follows:
"Allocation by age is not discrimination; every person lives through different life stages rather than being a single age. Even if 25-year-olds receive priority over 65-year-olds, everyone who is 65 years now was previously 25 years". (Lancet, Jan.31)

On average 25-year-olds require very few medical services. If they are to get the lion's share of the treatment, then those 65 and over can expect very little care. Dr. Emanuel's views on saving money on medical care are simple: ration care. The loosely worded provisions in H.R.1 give him and his Council power to push such recommendations.

Dr. David Blumenthal, another key Obama adviser, recommends slowing medical innovation to control health spending. Blumenthal has advocated government health-spending controls, though he concedes they're "associated with longer waits" and "reduced availability of new treatments " (New England Journal of Medicine, March 8, 2001). And he calls it "debatable" whether the timely care Americans get is worth the cost. (Ask a cancer patient-delay lowers your chances of survival.)

Americans need to know what the President's health advisers have in mind for them. Emanuel sees even basic amenities as luxuries and says Americans expect too much: "Hospital rooms in the United States offer more privacy. Physicians' offices are typically more conveniently located and have parking and more attractive waiting rooms".

Emanuel bluntly admits the deception needed. "Vague promises of savings from cutting waste, enhancing prevention and wellness, installing electronic medical records and improving quality are merely 'lipstick' cost control, more for show and public relations than for true change," (Health Affairs Feb. 27, 2008).

Savings, he writes, will require changing how doctors think about their patients: Doctors take the Hippocratic Oath too seriously, "to do everything for the patient regardless of the co or effects on others".

Yes, that's what patients *want* their doctors to do. But *Emanuel* wants doctors to look beyond the needs of their patients and consider social justice, whether the money could be better spent on somebody else.

Emanuel believes that "communitarianism" should guide decisions on who gets care. He says it should be reserved for the non-disabled, not given to those "who are irreversibly prevented from being or becoming participating citizens . . . An obvious example is not guaranteeing health services to patients with dementia"

Translation: Don't give much care to a grandmother with Parkinson's or a child with cerebral palsy.

Republicans tried to attach an amendment to the law to insure that nothing the Council provides will be used in any rationing scheme. It was defeated by the Democrats. Can there be any clearer indication of their intentions?

It's easy for President Obama to traipse around the country promising that his health care scheme won't "Pull the plug on Granny". He certainly won't be doing it. The bureaucracy he set up will do it for him.

Scott Geller MD is a Board Certified Ophthalmologist practicing in Fo. Myers. 239-275-8222

Electronic Medical Records

If you are considering the purchasing of EMR equipment be sure to check out what is working best. There are practices in Lee County with EMR systems that would invite you and your staff to look at what is working best for them. If you would like more information please contact the Lee County Medical Society for practice names.

BEWARE the standards are still emerging. You need due diligence in your selection and purchase.

Governor Crist Appoints Thomas W. Arnold as Secretary of Agency for Health Care Administration

TALLAHASSEE – Governor Charlie Crist today appointed Thomas W. Arnold of Tallahassee as Secretary of the Agency for Health Care Administration. He has served as the agency's Chief of Staff since 2008.

"Tom's extensive knowledge of managing Florida's Medicaid programs is especially important as our nation's discussion of health care moves forward," Governor Crist said. "With 30 years of experience with Florida's health and human service programs, Tom has the expertise we need at this critical time."

Arnold, 60, has served in a wide variety of public health administrative roles. Previously, he was the state Medicaid director within the Agency for Health Care Administration from 2004 to 2007. He has also served within the Florida Department of Health as deputy state health officer during 2008, deputy secretary from 2003 to 2004 and director of administration from 1998 to 2003. Prior to the creation of the two state agencies, he served in various roles within the Florida Department of Health and Rehabilitative Services from 1979 to 1998. Arnold served in the United States Marine Corps Reserve from 1970 to 1976 and earned a bachelor's degree in accounting from Florida State University.

"I am honored to have the opportunity to put my years of service to work as head of Florida's Medicaid agency," Arnold said. "I look forward to addressing the challenges and opportunities that lie before us."

Arnold replaces Holly Benson who resigned earlier this month. The Agency for Health Care Administration works to improve access to affordable, quality health care to all Floridians through the management of Florida's $18-billion Medicaid program. It also licenses and regulates health care facilities and health maintenance organizations, and publishes health care data and statistics.

Getting Stuck In The Bankruptcy Process Is No Fun For Physicians

Jeffrey L. Cohen

Occasionally, physicians provide medical services to or on behalf of people or an entity that files for bankruptcy. For instance, a radiology group may provide services to an imaging center, be owed a huge sum of money, and then the imaging center files for bankruptcy protection. Being stuck in that process in no fun, but physicians need to know their rights and obligations.

Any payment made by a party indebted to the physician after bankruptcy has been filed is considered a recoverable post petition payment under the bankruptcy code. That is, if payment is made after bankruptcy is filed, then the physician would owe the money back to the bankruptcy estate. Additionally, even payments made within 90 days of the bankruptcy filing could be considered to be a preferential transfer and therefore voidable under the bankruptcy code. That is, even payments made before bankruptcy is filed could be deemed as improper and be owed back to the obligated party.

So what do you do after the party that owes you money has vanished under the bankruptcy process? What do you do after you have received an improper payment? It is actually very simple. A claim needs to be filed with the bankruptcy court, and this is not an extremely expensive or highly technical proposition. Obviously, the doctor needs to make a cost benefit choice of whether it makes sense to engage someone to do this simple task, since there may be many "secured" debtors that have filed that would be paid before the doctor would be paid. This is clearly, however, one of the unfortunate and growing incidence of our present economic situation. There are a couple ways to contract around an obligated party. For example, contracting directly with the owner of a business to which medical services was provided, rather than the bankrupt company, but this needs to be considered before services are provided.

Mr. Cohen is the founder of the Delray Beach law firm of The Florida Healthcare Law Firm, which specializes in representing physicians and other clients in healthcare business/corporate matters. He is also founder of the firm's Medical Claims Solutions Division, which gets clients paid by managed care. He is Board Certified by the Florida Bar as a specialist in Health Care Law and routinely represents doctors in health care business matters. Mr. Cohen may be reached by calling (888)

Lee County Medical Society

3805 Fowler Street Ste 2
PO Box 60041
Fort Myers, FL 33906-0041

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