

## 2011 Meetings and Events

### LCMS General Meeting

**Friday, January 21, 2011**

Edison State College  
8099 College Parkway  
Fort Myers, FL 33919  
Community Room AA-177

### Installation of 2011 Officers

### Annual Medical Service Awards

### Dedication of the Museum of Medical History

**Note: Meeting is on Friday**

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



*Wishing each  
of you a very  
Happy New  
Year!*

## Inserts

- January Meeting Notice
- Mentoring Program Insert

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## President's Message

### New Year - New Challenges

Shahid Sultan, MD

It was 1996 when the late Dr. Alan Siegel practically forced me into joining the Ethical and Judicial Committee of the Lee County Medical Society. Ever since, with the exception of two years, I have been involved with the society in one capacity or another. I have always enjoyed the mutual camaraderie among physicians practicing different specialties and their differing views on Medicare, Medicaid, FMA, AMA, area hospitals, Hospitalist and many other issues.

Last year in particular was interesting. It started with the AMA supporting the Health Care Bill with the hope that it would include permanent repeal of the SGR formula. Unfortunately, the bill passed but the SGR never got fixed. At the time this message went to press the lame duck session of congress had extended the deadline for the 23% cuts in Medicare payments to become effective the 31<sup>st</sup> of December. The Senate Finance Committee also had reached a bipartisan agreement on a proposal to stop the Medicare physician payment cuts due to SGR formula for another twelve months, through the end of 2011. This bill was headed to the House for passage and then to the President for his signature. The cost of this one-month postponement is figured to be \$1 billion over 10 years and it will be paid by a decrease in payments for multiple outpatient therapy services provided for Medicare recipients in a single day. This temporary patch did retain the 2.2% update in physician payment through the end of the year.

According to CNNMoney cost of this twelve-month extension is estimated to be approximately \$19.3 billion over ten years. There are no provisions in this bill to achieve savings to offset cost of this extension through changes in physician payment policies. I am hopeful that during these twelve months legislators will figure out ways to fix the flawed formula for good. I do believe that our efforts to keep pressure on legislators have been successful and the congress knows the devastating effect these cuts in Medicare payments will have on healthcare delivery to seniors. That said it is still not the time to relax. We need to keep pressuring the legislators to fix the flawed formula for good instead of kicking

the ball further down the road.

In view of the decreasing payments from Medicare, Medicaid and commercial insurance companies it is going to be a struggle for us to continue to practice medicine without a change. Physicians are smart and we will learn how to deal with the new realities. It just means offices with smaller staffs, more hours and physicians seeing more patients. Unfortunately, this will result in a different kind of medical care – not necessarily poor care, but different care. Patients will have to get used to longer waits for appointments, longer waits in the offices and probably delayed elective surgeries. (All things that we don't like in the Canadian or British health care systems).

One of my goals for the next year will be to figure out ways for the independent physicians to decrease expenses without sacrificing care. One project of the LCMS spearheaded by Dr. Audrey Farahmand is to develop a cooperative to buy office supplies from organizations like OfficeMax at a group discount. She has already negotiated discounts of up to 65% on certain items. Audrey is to be commended for her individual efforts to bring this endeavor to fruition. I have asked her to form a committee and select other members of the society to help her develop this idea further to include additional items, services and suppliers.

The other major expense looming on the horizon is conversion to Electronic Medical Records, which will be an expense for which very few of us have budgeted. The LCMS is working closely with IPALC to bring more cost effective ways to accomplish this. IPALC has already done major work in this area. I don't see any reason to duplicate efforts. I will continue to work closely with their leadership on this and other issues facing our medical community. More on this as things develop in the next few months.

Another area I will be looking at is the difficulty in attracting physicians to Southwest Florida, specifically primary care physicians and general surgeons. Our high concentration of Medicare patients and a poor medico-legal environment



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#### PRINTERS

Insta Print

#### **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 Phone Number

Daniel de la Torre, M.D.  
Tel: 239-343-2837 Fax: 239-343-3164

#### Moved

**George Kovacevic, M.D.**  
Physicians Primary Care  
1265 Viscaya Parkway  
Cape Coral, FL 33990  
Tel: 239-574-2229 Fax: 239-574-2762

**The Medical Society has moved our office to:**  
**13770 Plantation Road Ste 1, Ft Myers 33912**  
**Tel: 239-936-1645 Fax: 239-936-0533**

#### New Practice

**Christine Mackie, M.D.**  
**Excellence Medical Centers, LLC**  
4406 SE 16th Place # 104  
Cape Coral, FL 33904  
Tel: 239-540-0800 Fax: 239-303-9493

## 2011 Dues Are Past Due as of January 31st

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

## Congratulations

We would like to thank **Randolph Knific, MD** who recruited three new members to the Lee County Medical Society. His 2011 dues are free because of his recruiting efforts.

**Key Contact needed for Legislators;** If you are interested in a relationship as a Physician Key Contact, please call our office at 936-1645

## New Member Applicants

**Michael Chancellor, MD** — Dr. Chancellor received his MD degree from the University of Mississippi, Jackson, MS in 1982. He completed his internship at the Univ of Florida, Jacksonville, FL (1982-1983) and residency at Vanderbilt Medical Center, Nashville, TN (1983-1986). Dr. Chancellor is certified by the American Board of Radiology. He is in group practice with Premier Radiation Oncology, 4571 Colonial Blvd, Fort Myers, FL 33966 - Tel: 333-2575.



**Robert Libbey, MD** — Dr. Libbey received his MD degree from the University of South Carolina, Columbia, SC in 1999. He completed his internship, residency and fellowship from the University of Florida, Gainesville, FL (1999-2004). Dr. Libbey is certified by the American Board of Internal Medicine in Internal Medicine and Nephrology. He is in group practice with Associates in Nephrology, 7981 Gladiolus Drive, Fort Myers, FL 33908 - Tel: 939-0999.



**Nagesh Ravipati, MD** — Dr. Ravipati received his degree from the JJM Medical College, India. He completed his internship at Union Memorial Hospital, Baltimore, MD (2003-2004); Surgery residency from Mayo Clinic, Scottsdale, AZ (2004-2008) and fellowship at Cleveland Clinic, Weston, FL (2008-2009). Dr. Ravipati is certified by the American Board of Surgery and the American Board of Colon and Rectal Surgery. He is in practice with the Colorectal Institute at 13770 Plantation Road Ste 2, Fort Myers, FL 33912 - Tel: 275-0728.



**Jitka Vasek, MD** — Dr. Vasek received her MD degree from the University of Witwatersrand in Johannesburg, South Africa in 1991. She completed her internship and residency from Boston University Medical Center, Boston, MA (1994-1998). Dr. Vasek is certified by the American Board of Psychiatry and Neurology. She is in practice with Jerry S. Kantor, MD, PA at 3949 Evans Avenue Ste 203, Fort Myers, FL 33901 - Tel: 936-3202.





## As I Recall...

Roger D. Scott, M.D.

### Southern Ambulance Surgery

As reported to you in previous articles, ambulance service in Lee County in 1958 was provided by the three funeral homes (Englehardt, Harvey, & Anderson) at no charge, but with hope of obtaining a new "client". The ambulances were actually hearses driven by non-medically trained personnel carrying a stretcher and perhaps a portable oxygen tank. In April of 1969 the funeral homes decided to discontinue this service so the Lee County Commissioners put the service out for bids. This is when Ray E. Dean appears on the scene so I need to go back a little in time and talk about Ray.

In 1944, Ray was born in the Alachua General Hospital (The hospital that had the operating room light that now rests in our Museum of Medical History) and grew up in Gainesville, Florida. When about sixteen years of age he started work at a funeral home with an ambulance and continued working until he went into the Navy for two years. He then went to the University of Florida for about a year. When Ray was about age twenty-two Alachua County decided to put up for bid an ambulance service to replace those that were currently being done by funeral homes. A student at the University of Florida won the bid and asked Ray to join him, and they formed the Alachua County Ambulance Service. Ray gradually "climbed the ladder" to become part owner.

When the bids were opened by Lee County, Ray's partner suggested that they place a bid. They won the bid for \$42,000 per year with a non-exclusive three-year contract. In May 1969, Ray began the Southern Ambulance Service with ten employees (two were qualified first-aid instructors & the rest mainly trained in first-aid) and three white station wagon ambulances equipped with two-way Motorola radios thus already an improvement over the old mortician service. The ambulance call signs were Medic 1, 2, 3 and so on. Medic was the acronym for Medical Emergency Intensive Care Unit and Mecom (pronounced medcom) 1, 2, 3, etc. were the call sign for the supervisors. Did you know that?

Incidentally the Gainesville operation was then considered the Northern Ambulance Service. A newspaper article (undated & unnamed but presumably the Ft. Myers News-Press) states "Subsidized Service Starts - Ambulances Make Four Runs On First Day of Operation." Two emergency calls made were taking a patient having a seizure to the hospital and taking a heart attack victim from Ft. Myers Beach to the hospital (Round-trip in 17 minutes.) & two non-emergent transfers. Dean stressed that the ambulances were not to exceed the speed limit except in extreme emergencies when they might go up to 75 mph in uncongested areas, but never speed or use the sirens in school zones. The law stated that an emergency vehicle "running" through a red light or Stop sign without the siren & flashing red light on would be considered at fault for the accident should one occur. Ray advised his drivers who were all well-trained in defensive driving to only go thru at a speed at which they could stop in the intersection to avoid an accident.

The ambulances were located on Johnson Street across from the offices of Drs. Lee Howington (Obstetrics) & Fred Burford (Internal Medicine) who participated along with Dr.

Duffy Moore (Pediatrics) as medical advisors in the vital education with training classes for the medics. The business expanded with upgraded vehicles & more & more trained personnel (Ray believed in continuing education for his personnel and salary was dependent upon level of training.) so that on February 1, 1972 Lee County purchased Southern Ambulance & it became the Lee County Emergency Service. Ray Dean remained as Chief until 1977. During Ray's reign, the EMS grew to 10 modern ambulances, two up-to-date helicopters, and seventy-two employees of whom three were the first female paramedics in Florida. He created substations in North Ft. Myers, Cape Coral, Sanibel Island, Bonita Springs, East Ft. Myers, and Ft. Myers. He along with Drs. Howington, Burford, & Moore created the first Paramedic program with Edison Community College. Curtis House, M.D. (the first hired ER physician), Katy Zurich, R.N. (ER Nurse Supervisor) & Lee Memorial Vice-President Larry Adams worked closely with Ray to further improve the EMS service. In approximately 1972 or 73, 911 service was begun in Lee County with calls being directed to the Sheriff's office or city police and they would call the ambulance if needed. In 1973, Lee Memorial was the first in Southwest Florida to have telemetry equipment to allow the transmission of EKGs from the ambulance to the ER physician. In 1975, Dr. House retired & Dr. Anthony Puglisi replaced him. Joe Lawrence, M.D. was Director of the Lee County Health Department and was appointed by the state to certify all medics & ambulances, and he also became one of the medical directors. After certification, certain emergency medications furnished by Lee Memorial Emergency Room were allowed to be carried on the ambulance, but empty bottles were required for exchange for new medications.

Great Britain was the first country to have a single number (999) to dial for emergencies near the beginning of World War II in 1937. This was pretty much forgotten worldwide until 1967 when the U.S. Congress declared 911 to be the American universal emergency number. The inaugural 911 emergency call was made in Alabama on February 16, 1968. Why 911? These were three numbers easily remembered that were not used in the United States for any phone number or area code. The Lee County EMS website states that it "covers more than 1,000 square miles including 75 islands (only four have road access) with 31 Advance Life Support ambulances that respond to 911 emergency, two twin-engine helicopters, two ALS non-transport units, five inter-facility ambulances, and on-call bicycle paramedics. Each ALS ambulance consisted minimally of a State certified Paramedic and EMT. In the FY 2009, Lee County EMS was dispatched to 76,390 emergency calls and transported more than 500 patients by "air". Our thanks go out to this excellent EMS and keep up the good work.

We are greatly indebted to Ray E. Dean for the foundation that he developed for the now fabulous Lee County EMS. Now there's more to the story in this little follow up. After 1977, Ray went to work for Motorola for 33 years and then retired. After six months of retirement, he was going "crazy" so now he works as a special consultant for Sprint. He & only two other persons can solve the special problems that arise in the national Sprint network!



## Medicare Pay Cut Averted for One Year

On Wednesday, December 15th, in a small ceremony in the Oval Office, President Obama signed into law H.R. 4994, the "Medicare and Medicaid Extenders Act of 2010," which stabilizes Medicare physician payments through the end of 2011. The legislation also includes funds to enable Medicare contractors to reprocess claims for physician services affected by provisions of the Patient Protection and Affordable Care Act with a retroactive effective date of January 1, 2010. AMA President Cecil Wilson, MD, and Board of Trustees Chair Ardis Hoven, MD, attended the ceremony, along with representatives of the AARP and the Military Officers Association of America, Senators John Barrasso, MD (R-WY) and Max Baucus (D-MT), and Representatives Pete Stark (D-CA), and Henry Waxman (D-CA).

In a statement made when this legislation cleared the Senate, President Obama noted: "It's time for a permanent solution that seniors and their doctors can depend on and I look forward to working with Congress to address this matter once and for all in the coming year." The AMA is committed to working with its Federation partners in the coming months to develop a long-term solution to the flawed Medicare physician payment formula that will achieve bipartisan support in Congress and by the Administration.

Remember to thank our US Senators and Representative for their work on our behalf.

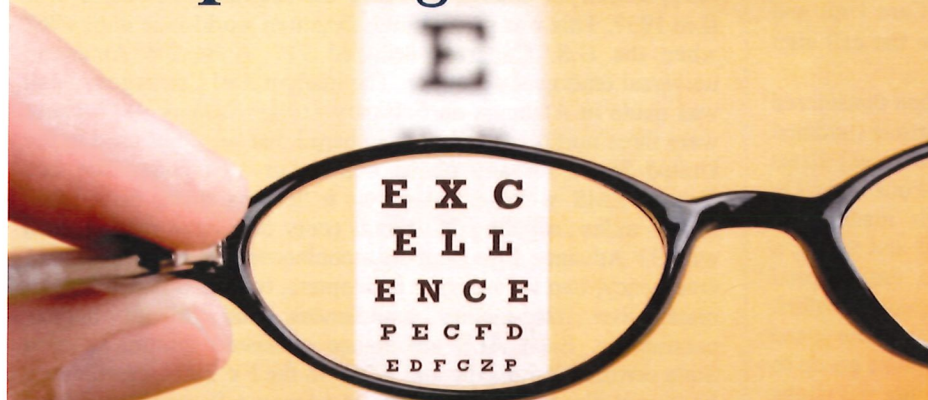
### PACE Holiday Women Physicians' Event

The PACE event was held at the home of Harmindar Gill of 12/8/2010. Women Physicians brought a gift for the young women who are in the PACE Program in Lee County. This program helps girls ages 12-18 who have dropped out of school and are referred by the Juvenile System to educate and improve their lives.



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Fort Myers Office | 12670 New Brittany Blvd., Suite 102 | Fort Myers | MONDAY THRU FRIDAY 8 A.M. TO 5 P.M.



# Mandatory Reporting - Medicare Secondary Payer Act

Cliff Rapp, LHRM, Vice President, Risk Management, FPIC, Anesthesiologists Professional Assurance Company

*The information below does not establish a standard of care, nor is it a substitute for legal advice. The information and suggestions contained herein are generalized and may not apply to all practice situations. First Professionals recommends you obtain legal advice from a qualified attorney for a more specific application to your practice. This information should be used as a reference guide only.*

## The Center for Medicare and Medicaid Services ("CMS") recently issued an alert ("Alert") revising the timeline for liability carriers reporting Medicaid settlements or judgments.

**Effective April 1, 2011** (rather than January 1, 2010), the Medicare Secondary Payer Act [42 U.S.C. 1395y(b)(7) & (8)] requires that all liability carriers report payments made to any Medicare plaintiff/claimant to the CMS. This reporting requirement may also apply to payments made directly by a physician and by "self-insured" physicians.

*First Professionals Insurance Company will report payments made on behalf of its policyholders to CMS. For payments made by a physician directly to a claimant, the physician may be responsible for reporting to CMS. See reporting information below.*

Reports must be submitted to CMS in **electronic** format only, on the CMS website: <http://www.com.hhs.gov/MandatoryInsRep>. However, the electronic reporting may be waived when there is no method available for the submission of claims (a) in an electronic format; (b) for a provider of services with fewer than 25 full-time equivalent employees; or (c) for a physician, practitioner, facility, or supplier (other than provider of services) with fewer than 10 full-time equivalent employees.

### Extension for Reporting:

Liability insurance (including self-insurance) total payment obligations to claimant ("TPOC") must be reported if the settlement date is **on or after October 1, 2011** (rather than October 1, 2010). The reporting must be no later than the designated submission window in the first quarter of 2012.

The Alert states that the reporting entity has the option to report liability (including self-insurance) TPOC settlements prior to the first quarter of 2012. The reporting entity must report during their assigned quarterly submission window.

### Extension of Current Dollar Thresholds:

The Alert provides for the interim dollar reporting thresholds, to be **extended by one year**. The thresholds for exemption from reporting are summarized as:

- Settlement date prior to January 1, 2013 and amount is \$5,000 or less
- Settlement date during 2013 and amount is \$2,000 or less
- Settlement date during 2014 and amount is \$600 or less

CMS will assign each registered liability carrier a specific date for reporting every quarter. If a physician makes a payment directly to a plaintiff/claimant which meets the reportable threshold, CMS should be contacted as soon as possible regarding how and what to report. Generally, the report date is determined by the date of settlement, date of verdict, or date of appeal result, not the date that payment is made.

### Factors to consider in determining whether you must report a payment:

1. Is the plaintiff/claimant a Medicare recipient? Look at the

entitlement at the "time of incident":

- Persons who have reached age 65 and are entitled to receive either Social Security, widows or Railroad Retirement Benefits;
- Disabled persons (totally disabled) receiving SSDI;
- Persons of any age who have received Social Security, widows or Railroad Disability Benefits for 25 months (this may apply to disabled minors/adults);
- Persons with end-stage renal disease who require dialysis treatment or kidney transplant; and
- Working persons over age 65 that are not eligible for either Social Security or Railroad Retirement Benefits who purchase Medicare coverage by monthly payment or as active employees for an employer of 20 or more employees.

2. Is the payment over the dollar threshold for the year it was made?

### If you must report, how and what do you report?

Generally, unless a waiver is received for **electronic** reporting, every report must contain the following information for each claimant:

- Name of claimant (with middle initial);
- Social Security number (HICN when available);
- Complete address;
- Telephone number;
- Gender;
- Date of birth;
- Date of death, if applicable;
- Full contact information on any estates, siblings or other representative claimants, if applicable;
- Full contact information for claimant's attorney including tax ID numbers, if applicable;
- Dates and the nature of any injuries, including whether the injury involved an allegedly defective product, if applicable;
- Information detailing any resolution or settlement of a claim, with a focus on explaining whether the claim was contested or not, and whether the primary payer has assumed ongoing responsibility for medical costs associated with the claim.

There are very steep **fines** (\$1,000 per day, per claimant) for failure to report pursuant to these requirements.

The reporting requirement **does not apply to Medicaid** recipients.

Contact CMS at <http://www.cms.hhs.gov/MandatoryInsRep> or by phone at 800-999-1118. Additional information may also be obtained by contacting the First Professionals Risk Management Department at 800-741-3742 ext. 3016 or via e-mail to [rm@fpic.com](mailto:rm@fpic.com).



## 2011 Board of Governors

The Lee County Medical Society elected a new Board of Governors at the November 18th Annual Meeting. Meet your 2011 Board of Governors:



**President**  
**Shahid Sultan, M.D.**  
Neonatology  
Pediatrix Medical Group of Florida  
343-6906



**President-Elect**  
**Richard Macchiaroli**  
Emergency Medicine  
Lee Memorial Emergency Physicians  
432-3825



**Secretary**  
**Valerie Dyke, M.D.**  
Colon/Rectal Surgery  
The Colorectal Institute  
275-0728



**Treasurer**  
**Audrey Farahmand, M.D.**  
Plastic Surgery  
Farahmand Plastic Surgery  
332-2388



**Past President**  
**Craig R. Sweet, M.D.**  
Reproductive Endocrinology  
Specialists in Reproductive Medicine & Surgery  
275-8118



**Jon Burdzy, D.O.**  
Family Medicine  
Jon P. Burdzy, D.O., P.A.  
275-6778



**Carlos Chavez, M.D.**  
Anesthesiology  
Medical Anesthesia & Pain Mgmt Consultants  
332-5344



**Douglas Henricks, M.D.**  
Internal Medicine  
Internal Medicine of SWFL  
275-0040



**Mary Magno Mouracade, M.D.**  
Nephrology  
Associates in Nephrology  
939-0999



**Andrew Oakes-Lottridge, M.D.**  
Family Medicine  
Personalized Health Care, Inc.  
694-6246



**Kultar Singh, M.D.**  
Neonatology  
Pediatrix Medical Group of Florida  
343-6906



**Shari Skinner, M.D.**  
Dermatology  
Associates in Dermatology  
936-5425

## Members-at-Large



**Rachid Aouchiche, M.D.**  
Ophthalmology  
West Coast Eye Care  
466-3111



**Barry Blitz, M.D.**  
Urology  
Florida Urology Physicians  
689-8800

## Ex-Officio Members



**Dean Traiger, M.D., FMA Delegates Chair**  
Family Medicine  
Physicians Primary Care  
574-1988



**Stephen Zellner, M.D.**  
**IPALC Representative**  
Infectious Disease  
Internal Medicine Associates  
936-1343



## Presidents Message

### Continued from cover page

has discouraged physicians to move to Florida. I am already working with the International Medical Graduates (IMG) section of the AMA to attract more IMGs to relocate here. IMGs traditionally have gone into primary care more often than their counterparts from US medical schools.

The Florida Legislature approved two new medical schools a few years ago and they will be graduating their first class in a few years. This will increase the numbers of medical graduates from Florida universities but research has shown that doctors tend to locate where they complete residency training and not at the place from which they graduated. We desperately need more residency slots in the state, otherwise all new graduates will seek residency and then will settle in other states. Efforts by Lee Memorial Health System to establish a Family Medicine Residency program will go a long way in alleviating the shortage of primary care physicians in the area. I intend to explore ways to work with the Hospital Administration and the LMHS Board to facilitate this worthwhile idea.

The Annual FMA Meeting this year was full of fireworks when Dr. Doug Stevens's resolution to leave the AMA was debated. Emotions ran high on both sides of the argument but at the end the decision was not to leave the AMA. In today's difficult environment it will be almost impossible both financially and physically to create a new organization from scratch. I was a member of the reference committee that listened to the arguments from the both sides; I voted to reject the resolution. I do believe that the AMA is a sound organization which needs changes in the leadership. They need to listen to the physicians in the trenches and not take actions just to be at the negotiating table. AMA does need to be at the table but it needs to represent the concerns, wishes and ideas of their constituents and not the other way around. I think the resolution did serve its purpose and feelings of anger and frustration were clearly conveyed. In my tenure I will continue to work on your behalf in conveying your desires to both the FMA and AMA and will continue my attempts to bring the needed changes in the leadership of these organizations.

There are a number of hard fights looming ahead of us: SGR fix, Medicare Patient Empowerment Act and implementation of Health Information Technologies to name a few. Dr. Craig Sweet has done an excellent job in keeping all of us informed about them on a monthly basis. I intend to carry his torch and continue to work on these issues which were dear to him and more.

I will keep you informed. Please get involved. Come to the meetings and let me know if you have a comment, suggestion or criticism.

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## Legal Corner

From the office of the FMA

### What do you do with refund checks sent to a patient but they have not cashed them?

According to the Bureau of Unclaimed Property Reporting Division, you are required to retain the checks for five (5) years. After 5 years of dormancy, the checks must be turned over to the state by the reporting process. There is only one annual filing period of April 30th of each year for any checks that became dormant within the previous year. (example: check issued in 2005, been dormant for 5 years by 2010, reporting period is April 30, 2011)

Businesses (holders of unclaimed property) are required to try to locate the owner, but when their attempts fail, they report the property and the owner's name, last known address and other information to the Department. The Department acts as custodian for the State of Florida, but never takes legal ownership of the property. Unclaimed Funds are deposited into the State School Fund and used to support public schools. The State uses various methods, including database searches, in an effort to notify owners of their property. However, the original amount reported can always be claimed by the owner, or his/her heirs, at no cost.

The State of Florida has a website for individuals to search for unclaimed properties (including checks) at <http://www.fltreasurehunt.org>.

## Renew Your Medical License

Check your Medical License to see if it expires this year!

In October 2010, the FL Board of Medicine sent out license renewal postcard reminders to those Florida physicians whose medical licenses must be renewed by January 31, 2011. **This is the only reminder that the Board of Medicine will send to you!**

For first time renewers, or if you did not keep a copy of your 2009 renewal materials, visit [ww2.doh.state.fl.us/mqaservices/PractitionerServices.asp](http://ww2.doh.state.fl.us/mqaservices/PractitionerServices.asp) to access your license information, create a new password and renew your license online. For login assistance, call the Department of Health Help Desk at 850.488.0595 and choose option 3. For other questions, call the Board of Medicine at 850.245.4131.

## Lawyer On Call Program Ready to Help

This program allows LCMS members the opportunity to speak with qualified healthcare legal counsel for 15 minutes at no charge on issues such as:

- Regulatory Compliance
- Subpoena
- Electronic Medical Records
- Medical Malpractice Situations
- Integration Strategies
- Board of Medicine Matters
- AHCA & Dept of Health Issues
- Other Health Law

### CARDIOLOGY CONSULTANTS

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## Lee County Medical Society & Alliance Holiday Party

The Lee County Medical Society and Alliance held our Annual Holiday Party on Monday, December 6, 2010 at the Gulf Harbour Golf and Country Club. It was a beautiful evening sponsored by FineMark National Bank and Trust and FPIC.

We would like to thank Dr. Mark Gorovoy and Mrs. Lynne Gorovoy for donating two beautiful baskets for the raffle. The LCMS Alliance raised \$2,885 for **C.A.R.E.S. Suicide Prevention**—\$2,540 from their raffle of two beautiful holiday baskets and \$345 in donations. Congratulations to Dr. & Mrs. Richard Lane and Dr. & Mrs. Robert Pascotto won the raffles. We would also like to thank Mrs. Valarie Hoffman and her daughter Sarah for lending their professional photography for the Holiday Party. We would also like to thank Lynne Gorovoy, Michele Hon, Betty Rubenstein, and Sherri Zucker for selling raffle tickets and everyone who supported the Alliance by being bought raffle tickets and making donations to this worthy cause.





## Summary of Health Care Provisions in the Report of the National Commission on Fiscal Responsibility and Reform

### December 1, 2010

The National Commission on Fiscal Responsibility and Reform released its revised and final report on December 1, 2010. The report was assembled by the Commission's co-chairs, former White House Chief of Staff Erskine Bowles and former Senator Alan Simpson (R-WY). Pursuant to the executive order that established the Commission, if 14 of its 18 members approve the final report it will be sent to Congress. If the report is formally approved, the Democratic leadership has committed to bringing the Commission's recommendations up for a vote.

Currently, the Commission's report is not expected to garner the requisite 14 votes. However, given the current emphasis on spending control and deficit reduction, it is likely that many of the proposals in the report will be relevant during the 112<sup>th</sup> Congress. The AMA has engaged the Commission extensively, urging that its recommendations include Medicare physician payment reform. A summary of the recommendations on replacing Medicare's sustainable growth rate (SGR) formula and other key health care recommendations follows.

#### Health Care Savings

Title III of the Commission's report addresses reforms to the SGR formula and the Community Living Assistance Services and Supports Act, or CLASS Act. To offset the costs of the Commission's recommendations, it proposes offsets totaling nearly \$400 billion from 2012 to 2020. This title also makes a few short and long term health care reform recommendations based on provisions in the Affordable Care Act (ACA), with an eye toward reforming the delivery system and reducing health care spending over the long term.

**Reforming the SGR:** The Commission assumes in its baseline that freezing Medicare payments to physicians from 2012 to 2020 would cost \$267 billion relative to current law. The Commission also believes that this amount, or any adjustments in physician payments, should be fully offset. In the short term, the Commission recommends replacing scheduled Medicare cuts with a payment freeze through 2013, followed by a 1 percent cut in 2014. It further recommends that the Centers for Medicare and Medicaid Services (CMS) develop a new physician payment formula that "encourages care coordination across multiple providers and settings and pays doctors based on quality instead of quantity of services." To maintain the pressure to reform the payment system, the proposal calls for reinstating the SGR in 2015 (using 2014 spending as the base year) until CMS develops a new formula. The Medicare Actuary would be required to certify that the new formula would not cost more than what would have been allowed under the SGR. The proposal is estimated to save \$3 billion in 2015 and \$26 billion through 2020, relative to a continued freeze in Medicare physician payments.

**Reform or Repeal the CLASS Act:** The CLASS Act establishes a voluntary long-term care insurance program and was enacted as a part of the ACA. The program is viewed as financially unsound, and absent reform, it is believed that the program will require large general revenue transfers in the future to avoid collapse. The Commission recommends that the program either be reformed so that it is financially sustainable or that it be repealed. Doing so will cost \$76 billion through 2020.

**Offsets:** Below is a summary of some of the nearly \$400 billion in offsets in Title III of the Commission's report that are most relevant to physicians:

- **Tort Reform:** The Commission recommends pursuing a series of reforms to the medical liability system including: (1) modifying the collateral source rule; (2) imposing a statute of limitations

(perhaps one to three years) on medical malpractice lawsuits; (3) replacing joint and several liability with a fair-share rule; (4) creating health courts; and (5) allowing safe haven rules for providers who follow best practices of care. Of note, the Commission eliminated an initial recommendation to impose caps on non-economic damages, and instead replaced it with a recommendation that Congress "consider this approach and evaluate its impact." As a result, savings in this proposal are estimated at \$18 billion through 2020, as opposed to the original score of over \$60 billion in the earlier draft.

- Increase government authority and funding to reduce Medicare fraud (saves \$9 billion through 2020).
- Reform Medicare cost-sharing rules (saves \$110 billion through 2020). The Commission recommends establishing a single combined deductible of \$550 for Medicare Parts A and B, along with 20 percent coinsurance on spending above the deductible. The proposal would reduce coinsurance to 5 percent after costs exceed \$5,500, capping total cost sharing at \$7,500.
- Restrict first-dollar coverage in Medicare supplemental insurance (saves \$38 billion through 2020. Medigap savings were also included in the previous option).
- Reduce "excess payments" to hospitals for graduate medical education (Saves \$60 billion through 2020). The Commission recommends limiting hospitals' direct GME payments to 120 percent of the national average salary paid to residents in 2010 and updated annually thereafter (by a modified CPI). It also recommends reducing the IME adjustment from 5.5 percent to 2.2 percent.
- Cut Medicare payments to hospitals and other providers for bad debts (saves \$23 billion through 2020).
- Place dual eligibles in Medicaid managed care (saves \$12 billion through 2020).

**Aggressively Implement and Expand Payment Reform Pilots:** The Commission recommends directing CMS to design and begin implementation of Medicare payment reform pilots, demonstrations, and programs, and allow for their expansion without further Congressional action.

**Eliminating provider carve-outs from IPAB:** The Commission recommends providing the Independent Payment Advisory Board (IPAB) with the authority to make recommendations regarding hospitals and other exempt providers.

**Establishing a long-term global budget for total health care spending:** The Commission recommends establishing a global budget for health care spending and limiting growth to GDP plus 1 percent. It recommends setting up a process for reviewing total federal health care spending, and requiring action by the President and Congress if growth exceeds the target. It also proposes a series of structural reforms to the health care system that should be considered to the extent that expenditures are projected to grow faster than the target.

#### Health Care Tax Proposal

The Commission's report would cap the value of the employee tax exclusion for employer provided insurance. Specifically, as part of its illustrative plan (the report acknowledges that Congress could choose other options), the Commission proposes capping the exclusion at the 75<sup>th</sup> percentile of premium levels in 2014, with the cap frozen in nominal terms through 2018 and phased out by 2038. The excise tax on high cost plans would be reduced to 12 percent (currently, there is a 40 percent excise tax on high-cost plans – generally \$27,500 for families – beginning in 2018 that is indexed for inflation).



## Senate Approves Legislation to Clarify Red Flag Rule

AMA Advocacy Update

On November 30, the Senate unanimously passed S. 3987, the “Red Flag Program Clarification Act of 2010.” The legislation, which was introduced by Senators John Thune (R-SD) and Mark Begich (D-AK), would limit the type of “creditor” that must comply with the Red Flags Rule.

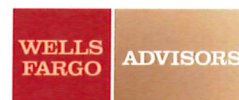
The Red Flags Rule requires creditors to develop identity theft prevention and detection programs, and was originally scheduled to take effect on November 1, 2008. According to the Federal Trade Commission (FTC), physicians who do not accept payment from their patients at the time of service are creditors and must comply with the Rule by developing and implementing written identity theft prevention and detection programs in their practices. As a result of continued discussions with FTC’s Chairman Jon Leibowitz and an aggressive congressional advocacy campaign, AMA efforts prompted the agency to delay the November 1, 2008 compliance deadline on multiple occasions, up through December 31, 2010. On May 21, 2010, the AMA Litigation Center, along with the American Osteopathic Association (AOA) and the Medical Society of the District of Columbia (MSDC), filed a lawsuit in federal court seeking to block FTC enforcement of the Red Flags Rule on physicians. On June 25, 2010, the FTC entered into a stipulation with the AMA agreeing not to enforce its Red Flags Rule until the D.C. Circuit Court issues a decision in the pending challenge brought by the American Bar Association (ABA) to block the FTC from applying the Red Flags Rule to attorneys.

To further clarify protection for physicians from misguided federal regulation, Senators Thune, Begich, and Christopher Dodd (D-CT) inserted a colloquy into the Congressional Record in support of S. 3987, stating that its purpose is to clarify that physicians should no longer be classified as “creditors” for the purposes of the Red Flags Rule.

Efforts are under way to secure House consideration and passage prior the adjournment of the 111<sup>th</sup> Congress.

**AMA Position: The AMA strongly believes that physicians are not creditors and should not be subject to the Red Flags rule.**

*Taken from the December 6, 2010 AMA Advocacy Update*



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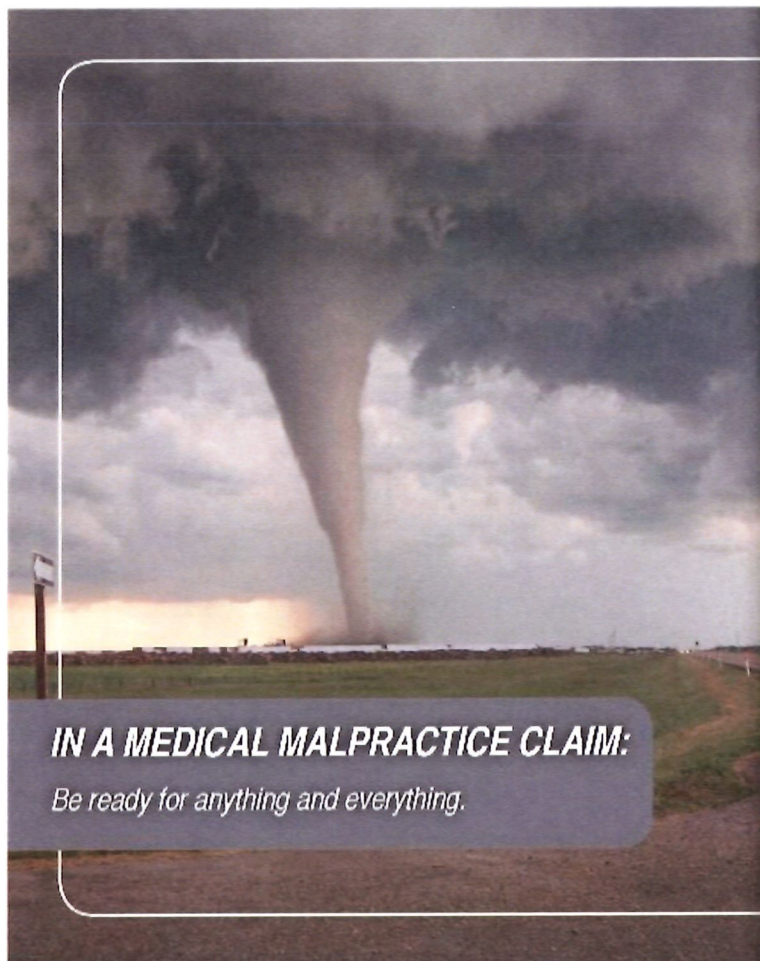
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