

## 2011 Meetings and Events

### March General Meeting

**Thursday, March 17, 2011**

**6:00 pm - Social Time/Tours**

**7:00 pm - Dinner/Program**

### Edison State College

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

### Program

#### *"Update on Graduate Medical Education in Lee County"*

**Scott Nygaard, MD, MBA**  
 Lee Memorial Chief Medical Officer,  
 Physicians Services

&

#### *"Update on the 2011 Legislative Session"*

**John N. Katopodis, MD**  
 Chairman of the FMA Council on  
 Legislation

*See Insert for sign up*

## President's Message

## Accountable Care Organizations (ACOs)

Shahid Sultan, MD



Jenny Gold, a correspondent for NPR, compared ACOs to a unicorn: everyone knows what it looks like but no one has ever seen one. ACOs which took only seven pages in the massive new healthcare bill has the potential of completely

changing the healthcare delivery system. It offers doctors and hospitals incentives to provide good quality care to Medicare recipients while keeping the costs in check. The Congressional Budget office estimates that by 2019, ACOs will save Medicare \$1.2 billion a year. A small part of the overall Medicare budget, but advocates hope that the savings will grow.

The healthcare bill is short on details for these organizations, therefore no one really knows how they will be in practice but that has not prevented everyone including hospitals, physician groups and insurance industry from looking for ways to form ACOs before the launch date of January 2012.

The full details are still to be released by the Centers for Medicare and Medicaid Services but in general an ACO will consist of a network of hospitals and physicians that provide coordinated care to Medicare beneficiaries. ACOs will have to enroll a minimum of 5,000 beneficiaries for at least three years.

words the ACO will be the central processing unit responsible for the complete coordination and provision of the healthcare to a Medicare beneficiary. The concept has great potential but ACOs will have to show that they can provide quality care which is efficient and less costly, encouraging patients to enroll in the plan.

In the traditional fee for service system Medicare pays for individual services and tests creating an incentive to order more tests. Under new healthcare reforms, ACOs will be paid a fixed amount (details of how and how much are due to be released soon) and any savings will be kept by the ACOs. Whoever controls the ACOs will capture the largest share of the savings.

Large hospital systems are well positioned to take advantage of the change. There is a mad rush to buy group and individual physician practices. According to the Medical Group Management Association, last year half of the new physicians were hired by the hospitals and in 2009, according to a report by the AMA, one in six doctors worked for a hospital and the number is quickly growing. There is a myriad of reasons for physicians to make this change but in the process they are making the hospitals very well suited to create more efficient healthcare delivery and bolster their bottom line.

Physicians, too, can create an ACO and contract with the hospitals to provide their part of the service but it will be an uphill battle. Nearly 95% of physician practices are solo or in a group of five or less and we have seldom demonstrated the ability to cooperate and work towards a single goal. ACO will require its participants to cooperate not only clinically but administratively and financially. They have to develop clinical guidelines to avoid duplication of tests, procedures and hospitalization. ACO will have to put in place administrative staff and technology

The concept behind an ACO is that the care presently is disjointed and multiple providers are responsible for caring for a patient, making the care inefficient and costly. An ACO will knit together all facets of patient care by bringing together primary care, specialist, hospital, home health care and out patient services. Health care information technology will provide seamless communication among these entities thereby making the care more efficient, eliminating the duplication of testing and reducing the cost to Medicare. In other

## Inserts

- March Meeting Notice
- Doctor's Day Shred
- Doctor of the Day
- Diabetes Camp
- Red Sox vs Twins Game

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**LEE COUNTY MEDICAL SOCIETY BULLETIN**  
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#### PRINTERS

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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 Phone/Fax Numbers

**Anne Lord-Tomas, DO**  
**Robert Tomas, DO**  
U First Surgery and Gynecology  
Tel: 243-8222 Fax: 236-1595

### Physicians in the News

The LCMS has donated \$100 to each of the following charities, as chosen by the recipients as part of the 1st Annual Medical Service Awards:

**Mark Gorovoy, MD** – Visually Impaired Persons of SWFL

**William Liu, MD** – Lee Memorial Health System Foundation, Children's Hospital, Neonatal Intensive Care Unit

**Roger D. Scott, MD** – Museum of Medical History, Edison State College

**Robert D. Pascotto, MD** – Heart to Heart Mission: Perfusion.com Inc.

### Mentoring New Physicians

The Medical Society has a New Physician Mentoring Program. The purpose is to assist new physicians to the community or the Society by providing an LCMS member in a mentoring role. This will help the new physician to acclimate to the community with a fellow professional that is not associated with their professional practice. Contact the Medical Society office at 239-936-1645 if you are interested. The following new physicians and their mentors have been teamed up.:

Staci Van Winkle, MD / Barry Blitz, MD  
Michael Chancellor, MD / Andy Oakes-Lottridge, MD  
Cayce Jehaimi, MD / Craig Sweet, MD  
Robert Libby, MD / E. Trevor Elmquist, DO  
Jitka Vasek, MD / Krista Zivkovic, DO  
Nagesh Ravipati, MD / Shahid Sultan, MD  
William Figlesthler, MD / Shari Skinner, MD



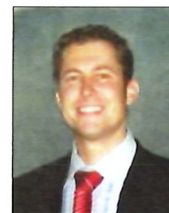
### Corrections

- In the February Insert *Officers and Committees 2011* Dr. John Bishop's incorrect phone and fax were listed. His phone is 239-343-0454 his fax is 239-343-1078.
- On page 7 of the February 2011 issue of the Bulletin. The correct caption under the picture to the right should have read "Ms. Sue Lien, Dr. David Gaar and Ms. Lou Griffin."



## New Member Applicant

**Jeff A. Neale, M.D.** — Dr. Neale received his MD degree from St Eustatius School of Medicine in 2004. He completed his internship and residency at Mercy Catholic Medical Center, Darby, PA (2004-2009) and his fellowship at Henry Ford Hospital, Detroit, MI. Dr. Neale is board certified by the American Board of Surgery. He is a colon rectal surgeon with The Colorectal Institute, 13770 Plantation Road Ste 2, Fort Myers, FL 33912 - Tel: 275-0728.



### 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.**



## As I Recall...

Roger D. Scott, M.D.

## WOW

**Wow!** What a banner day January 21, 2010 was for the Museum of Medical History, David M. Bernstein Memorial, the Bernstein family, Dr. Jacob Goldberger, Dr. Mark Gorovoy, Dr. William Liu, Dr. Robert Pascotto and me!

I went to the museum at 2 PM to meet Earl and Ellie Hewitt and their son-in-law and daughter (Dr. Sandy and Mike Collins) for a private tour and pictures of the museum. Ellie (*AIR Nurses Notes 1*) is the retired registered nurse from Ocean Pines, Maryland who has been responsible for collecting many of our nurse items and whose uniform is in the front window of the museum.

Between 2:30 and 3:00 PM approximately fourteen members of the Bernstein family arrived for their private tour. At 4:00 PM the official opening of the dedication ceremony began with tours and wine, soft drinks, and scrumptious hors d'oeuvres (that's French you know) served by Erleene Sanders until about 5:15 PM when Edison State College President, Dr. Kenneth Walker extended a welcome to all. Dr. Jacob Goldberger gave a short talk and presented Anne Malone with a plaque expressing gratitude as Museum of Medical History secretary for ten years. I then made a very brief (Can you believe it?) talk and presented plaques expressing gratitude and thanks to Mary Deurr for eight years volunteer service, Thelma Lee Jones for the most volunteer hours worked over eight years of service, Genevieve Matz for excellence in many areas while developing the Edison site, Ron Bishop for his artistic skills, guidance, and patience with me, and last, but far from the least Dr. Jeffrey Elsberry of Edison for his diligent guidance, ideas, coordinating and physical labors. Jacob then along with David's mother unveiled David's picture, and completion of the dedication was with a very touching eulogy rendered by David's sons. There were many in attendance, and it was truly a marvelous event hosted by Edison State College. We are greatly honored by being included in this college that is very progressive but is still looking back at history.

After the dedication, the Lee County Medical Society began its social hour with wine, soft drinks, and more of Erleene's "goodies" and visits to the museum before the meeting. There was a large crowd at the meeting with a fabulous dinner (Erleene planned the event). Jake and I were recognized by Dr. Sweet and co-host Craig Wolf for our work with the museum, and I was honored with the presentation of an extremely large portrait by the Lee County Medical Society and Edison State College of me captioned as "The First Curator of the Museum of Medical History". They say men don't cry, but there were tears of joy upon receiving this gift, and remembrance of all those who have passed on and left me behind to carry on.

It was indeed an honor to have Dr. Butler, President of the Florida Medical Association speak and install our new Society Board. A great event occurred when the Lee County Medical Society Alliance presented me with a check for \$1,000 that I thought was for a new suit, but I found out it was made out to the Museum Of Medical History! Dr. Craig Sweet (such a nice and learned gentleman and physician) then awarded beautifully engraved crystal plaques to: Dr. Mark Gorovoy for Scientific Achievement (As a joke I always recognize him by blindly feeling around his face to be sure that it's him when we meet because he removed my cataracts but truly very successfully.),

Dr. Robert Pascotto for Citizenship & Community Service, Dr. William Liu for Medical Ethics & Professionalism, and **WOW** lastly for me the First Annual Medical Service Award "THE LIFETIME ACHIEVEMENT AWARD" from the Lee County Medical Society. Again, **Wow**, what an honor the members and staff of the LCMS have bestowed upon me. I am so honored by my colleagues, and this reestablishes the fact that when I graduated from high school and didn't know where to go, my father advised me to go into medicine. He said, "You won't make a lot of money, but you will do a lot of good and have a good home." Medicine has indeed been a "good home" for me, and I would like to dedicate this symbol of success (as determined by my peers) to my father, T.T. Scott.

He left school after the fourth or fifth grade to begin work, and he worked many years of his life to become a successful businessman who received a doctorate degree (honorary) from Florida Southern College in Lakeland. He also served several years in the early 1940's on the Florida State Board of Control for the Deaf and Blind School (in St. Augustine) and all the universities and colleges funded by the state of Florida. Daddy repeatedly "pushed" the state to found a medical school, as he was extremely interested in more education for more people. He frequently donated personal funds to varying colleges and schools to enhance education. I have many newspaper articles that quote his sentiments and one "at hand" is from Miami with his picture captioned "T.T. Scott Wants Medical School". The article is titled "FLORIDA'S LACK OF MEDICAL SCHOOL BLAMED ON POLITICS" BY T. T. SCOTT: "He said the sole obstacle to the establishment of the institution is the continued wrangling and bickering among sections of the state anxious to get it for their own district. There's no logical reason why Florida can't have a medical school. If the state legislators get together, we can have a first-class institution. Let Jacksonville, Miami, Tampa, and all other interested cities enter their bids and award the school to the highest bidder, he suggested. Approximately 150 out-of-state doctors enter Florida each year to practice. Yet our own sons must leave the state to study medicine. Many can't afford the expense and therefore are deprived of their chosen profession. We owe something to our Florida boys and absence of a state school is a shameful situation." A letter from the Miami Chamber of Commerce, August 6, 1947, addressed to Mr. T.T. Scott Live Oak, Florida: "We have agreed that you are the man that we want to head up this committee (Medical College Committee)". There were no medical schools in Florida at that time so the private University of Miami went ahead and opened a medical school in 1952, one year after I graduated from the University of Maryland Medical School in 1951. I know we have at least four medical schools now and I believe a fifth one is underway. This was truly a dream of Daddy's sixty-five or more years ago, and I know he is proud of the state and probably me after having received this distinguished award and especially since I'm on the staff of Edison State College. I'm sure he's now smiling down on all of us in the Lee County Medical Society. He surely would indeed be surprised and happy at how many female students are in medicine and how many female doctors are practicing.

There are many stories in the life of T.T. Scott and perhaps later I will share more with you.



## CMS Tools for Physicians

Centers for Medicare and Medicaid would like to highlight a few tools on our website for physicians:

### Interactive Eligibility Tool for Eligible Professionals

Are you eligible to participate in the Medicare or Medicaid EHR Incentive Programs? Use the tool found at the bottom of the Eligibility page on the CM website. — [http://www.cms.gov/EHRIncentivePrograms/15\\_Eligibility.asp](http://www.cms.gov/EHRIncentivePrograms/15_Eligibility.asp)

### Registration Webinar for Eligible Professionals

How do I register? CMS created a video containing step-by-step instructions to help ensure the registration process is a success. Watch the video found on the Registration and Attestation page of the CMS website. — [http://www.cms.gov/EHRIncentivePrograms/20\\_RegistrationandAttestation.asp](http://www.cms.gov/EHRIncentivePrograms/20_RegistrationandAttestation.asp)

### Medicaid State Launch Dates and Websites

When will your State offer an EHR Incentive Program? Information on when registration will be available for Medicaid EHR Incentive Programs in specific states is posted at Medicaid State Information — [http://www.cms.gov/EHRIncentivePrograms/40\\_MedicaidStateInfo.asp](http://www.cms.gov/EHRIncentivePrograms/40_MedicaidStateInfo.asp).

Click on the map for information about your State — <http://www.cms.gov/apps/files/medicaid-HIT-sites>

### Medscape Participant Self-Assessment, Medicare and Medicaid EHR Incentives

What Do You Know and Do You Know Enough? Earn CME credit while you learn! Take the Medscape EHR Self-Assessment — <http://www.medscape.org/public/about>. Participation may require the user to log in to Medscape; however registration is free and does not require any commitment.

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## Presidents Message

Continued from cover page

infrastructure to share medical information seamlessly. All this will need considerable effort and upfront capital investment. In addition, they will have to overcome the hurdle of deciding how to distribute the profits generated by the savings among the participants which will include primary and specialty care physicians.

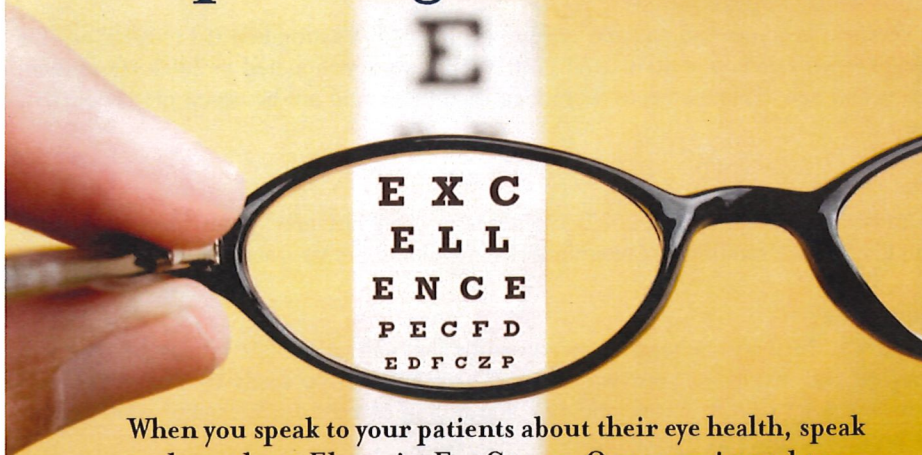
On the other hand hospital systems, especially in an area like Lee County, where there is only one hospital system that has a well integrated multi-specialty physician group and multiple out patient facilities is very well positioned to create an ACO and dominate the market. Systems like LMHS that had the far sight to position themselves for this change most likely will develop commercial insurance instruments as well thereby controlling all three facets i.e. hospital, physician and insurance parts of this triangle.

The health care reform bill has been passed and ACOs are an integral part of it. I don't believe it will be a wise strategy to fight their creation. We need to make sure that physicians are an integral part of this change. FMA Board of Governors has adopted a set of principles that are available on FMA website ([www.fmaonline.org](http://www.fmaonline.org)). The most important theme of the principles is that an ACO should increase access to care, improve quality of care and it should be physician led to ensure that medical decisions are not based on commercial interest, but rather on professional medical judgment that puts patient first.

Physicians have endured great stress due to increasing rolls of Medicare beneficiaries, cuts due to SGR formula and difficult economic environment, and now ACOs will exacerbate this pressure. If the trend continues independent physician practices may become a thing of the past. Sand is shifting under our feet and the paradigm has changed. The only way to weather this storm is by collaborating with each other, making multi-specialty groups to create strength in numbers and provide quality care while keeping the cost in check.

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E. Trevor Elmquist, D.O.; Nina Burt, O.D.

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## Physicians Must Prepare Now To Use Version 5010 HIPAA Transactions

From the American Medical Association

Physicians who file Health Insurance Portability and Accountability Act (HIPAA) claims electronically need to be ready for January 1, 2012, which is when the new HIPAA electronic transaction standard, known as version 5010, takes effect. If physicians are not using version 5010 for all HIPAA electronic transactions by January 1, their electronic claims will be rejected—and they won't be paid for the claims they submit.

Transactions covered by the federal requirement to use version 5010 include submitting claims, receiving a remittance advice and checking a patient's eligibility. If physicians send electronic data to a billing service or clearinghouse that then submits transactions on their behalf, they need to make sure the billing service or clearinghouse is ready.

The AMA offers various resources at <http://www.ama-assn.org/go/5010> to make sure physicians are prepared for the January 1 deadline. In addition, Get Ready 5010, a national effort aimed at helping doctors transition to version 5010, has a three-part webinar series that spells out what doctors need to do to prepare. Visit <http://www.getready5010.org> to learn more.

### **“5010” ---- Frequently Ask Questions**

#### **What is “5010”?**

5010 is the next version of the HIPAA electronic transaction standards. “5010” is the abbreviated way to refer to Version 005010 of the Accredited Standards Committee (ASC) X12 Technical Reports Type 3 (TR3s). The TR3s are the implementation guides for the ASC X12 administrative transactions, some of which are named in HIPAA and are required to be used when conducting the transaction electronically.

#### **Do I have to upgrade to 5010?**

Yes. Providers, including physicians, are HIPAA “covered entities”, which means that you must comply with the HIPAA requirements when conducting the named transactions electronically. If you currently send and receive HIPAA transactions and plan to continue doing so, then you will be required to upgrade to 5010.

#### **Who else has to upgrade to 5010?**

Health care clearinghouses and payers are also HIPAA covered entities, so they will need to upgrade to 5010 as well.

#### **Why is the current version of the transactions being replaced?**

Just like other software applications you use, the versions become outdated and need to be updated. Version 004010 (“4010”) of the transactions was completed in 2000. Later changes, known as Version 004010A1 (“4010A1”), were completed in 2002. Since then, many technical issues were found in the transactions and new business needs were identified that could not be accommodated. ASC X12 developed version 5010 to correct these issues.

#### **When do I have to upgrade to 5010?**

The compliance deadline for using only the 5010 transactions is January 1, 2012. The necessary software and system changes need to be in place by the compliance date in order for you to continue sending and receiving HIPAA electronic transactions.

#### **What if I’m not ready by the compliance deadline?**

Any 4010/4010A1 transactions sent on or after January 1, 2012 will be rejected as non-compliant and will not be processed. You will have disruptions in your transactions being processed and receipt of your payments. If you will not be ready by the compliance deadline, you will need to talk to your trading partners, e.g., payers, clearinghouses, and billing service, to determine what actions you can take to continue to have your transactions processed and receive payments.

#### **Deadlines for other HIPAA requirements have been delayed. Will the compliance date for 5010 be delayed?**

Do not expect there to be a delay in the compliance deadline. The Centers for Medicare & Medicaid Services (CMS) is responsible for oversight of compliance with the HIPAA administrative transactions requirements. CMS has made it clear that there will be no extension of the deadline for 5010. Work within Medicare to upgrade to the 5010 transactions is on target and they expect to be ready on time.

#### **What do I need to do now to prepare for the upgrade to 5010?**

There are several steps you need to take to prepare for the conversion to 5010.

Continued on next page



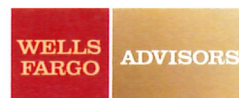
- Begin by talking to your practice management or software vendor. Determine when they will have your software updates available and when they will be installed in your system. Your conversion to 5010 will be heavily dependent on when your vendor has the upgrades completed and when they can be installed in your system.
- Talk to your clearinghouses, billing service, and payers. Determine when they will have their upgrades completed and when you can begin testing with them.
- Identify any workflow changes that you need to make in your practice to accommodate the changes in 5010. You may need to collect new data or report data differently than you do in the current version.
- Identify staff training needs and complete the necessary training.
- Conduct internal testing to make sure you can generate in 5010 the transactions you send.
- Conduct external testing with your clearinghouses and payers to make sure you can send and receive the 5010 transactions.

### **If I finish all of this work before the compliance deadline, can I start to use the 5010 transactions?**

Yes. If you are prepared to send and receive 5010 transactions and any of your clearinghouses or payers are ready as well, you can begin to use the 5010 transactions with them if you mutually agree to this. No one is required to begin using the transactions prior to the compliance deadline. Using the transactions before the deadline will give you the ability to see that the transactions are working smoothly and are continuing to be processed. If any issues are identified, you can solve them before the compliance deadline.

### **How does upgrading to 5010 relate to ICD-10?**

ICD-10 is the upgraded version of ICD-9. The ICD-10 codes have a different format and length than the ICD-9 codes. The new format of the ICD-10 codes cannot be reported in the current version of the HIPAA transactions. So, the upgrade to 5010 needs to be completed before the ICD-10 codes can be reported in the HIPAA transactions. Additionally, ICD-10 codes cannot be used in HIPAA transactions prior to the October 1, 2013 compliance date.



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## Meet & Greet at Lush

The Lee County Medical Society and Alliance held the first Meet & Greet of 2011 on Thursday, February 17th at Lush, 13451 McGregor Blvd in Fort Myers,





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## FMA PAC Contributions from LCMS Members

FMA PAC would like to acknowledge the following physicians for supporting the PAC fundraiser for Sen. Don Gaetz:

- James Penuel, MD
- Craig Sweet, MD
- Charles Eby, MD
- Raymond Kordonowy, MD
- Valerie Dyke, MD
- Lee PAC
- 21st Century Oncology

Please make your contribution to FMA PAC, your check can make a difference by supporting medicine friendly politicians.

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## Give a Gift That Can Make a World of Difference

Consider giving a simple gift that can make a world of difference: a stethoscope. WorldScopes is a global, philanthropic initiative of the AMA Foundation that works with leading humanitarian organizations to collect and distribute stethoscopes to health care professionals in areas of need. Anyone can donate a new or gently used stethoscope or make a monetary donation in just minutes on the WorldScopes website.



"A stethoscope is among the most basic and essential medical instruments a physician uses, but in many parts of the world access to this important tool is severely limited, and many physicians have to treat the sick and suffering without it," said AMA President Cecil B. Wilson, MD. "WorldScopes has already donated more than 9,000 stethoscopes to health care professionals around the globe to help aid in the care of countless patients."

Visit the WorldScopes website at <http://www.ama-assn.org/go/worldscopes> to learn more or make a donation.

Visit <http://www.ama-assn.org/ama/pub/news/news/worldscopes-stethoscopes-donation.shtml> to view a full AMA news release about WorldScopes.



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# How Should You Disclose a Medical Error?

By the Risk Management Experts at First Professionals Insurance Company

Although most states require that a physician inform their patient in the event an adverse incident results in injury or serious harm, virtually all physicians consider it a moral and ethical duty. The legal requirements to disclose a medical error are often set forth by statutes and administrative codes governing professional licensing. Generally, such disclosure is a non-delegable duty and should be done, in person, by the physician. In many instances, the same statutes that require disclosure of medical error or outcomes of care that result in harm to a patient also serve to protect the disclosing physician to the extent that the disclosure itself may not later be used against the physician as an acknowledgment of an admission of liability, or introduced as evidence. Regardless, the manner in which an adverse event or medical error is disclosed is tantamount to claim avoidance.

## Defining Medical Error

There are situations when it is difficult, if not imprudent, to differentiate an adverse event from a medical error and thus determine if the legal threshold to disclose has been met. In such instances it is best to seek legal or risk management guidance before notification is made to the patient. However, in most cases, defining a medical error becomes a legal, rather than medical issue. While some states do not define a medical error, they may have statutes which define a "medical injury". The following statutory language is an example of one state's rather expansive definition of what constitutes a medical injury:

*"...any adverse consequences arising out of or sustained in the course of the professional services being rendered by a medical care provider, whether resulting from negligence, error, or omission in the performance of such services; or in breach of warranty or in violation of contract; or from failure to diagnose; or from premature abandonment of a patient or of a course of treatment; or from failure to properly maintain equipment or appliances necessary to the rendition of such services; or otherwise arising out of or sustained in the course of such services."*

An unanticipated outcome may be an omission as well as a commission. The most common cause of an unanticipated outcome is the known, but low probability, adverse event.

## Failure to Disclose Medical Error

There may, however, be barriers to disclosure. Financial, psychological and cultural barriers are examples of why disclosure of medical error has been withheld. The pre-mature assignment or assumption of blame and risk of a failed response are prevalent root causes for failing to inform or timely disclose an untoward event to patients. Ethical and legal requirements notwithstanding, patients are far more likely to seek legal action following an adverse event or unanticipated outcome when disclosure is not made or made incorrectly.

## How to Disclose Medical Error

Disclosure of a medical error or unanticipated outcome is an uncomfortable situation to be sure. To avoid compounding the situation, adhere to the essential components of disclosure:

1. Timely
2. Proper Setting
3. Accurate
4. Factual
5. Responsive
6. Document

An admission of liability is never required as means of disclosure. Before disclosure is made to the patient or patient's family members, try to obtain as much factual information pertaining to the error or outcome as possible. Seek legal or risk management guidance. Communicate in a manner that is open, forthright and expresses empathy. Do not seek to lay blame nor make excuses. Make it known should information or details be unknown at the time of disclosure. Indicate what steps will be taken to obtain such information. Invite questions and seek answers. Remain responsive to the emotional needs of the patient or family member.

## Documenting Disclosure

Carefully document the disclosure. Chart the time, date and place as well as the individuals present. Note the information conveyed, including the known facts, condition and treatment of the patient. Document your discussion of the immediate and long term effects or prognosis, if known. Delineate the current and future clinical interventions. The records should clearly reflect what questions were posed and what the responses were, offers of assistance, if any, as well as the treatment plan agreed upon including consultations. Document the agreement (or refusal) for subsequent meetings, the reason for any incomplete disclosure and what follow-up is intended.

Any subsequent discussions should also be carefully documented. The medical record should reflect the efforts that were made to accommodate the patient and family members as well as the information which was known, or unknown, predicated the extent of disclosure made. The motivation behind pursuing a claim or suit following an unanticipated outcome or medical error may ultimately come from someone other than the patient. Depending on the circumstances, the best risk management measure may be to increase your communication with the patient and the patient's family members.

## Risk Management Guidelines:

- Comply with applicable legal requirements regarding disclosure
- Do not delegate the duty of disclosure
- Disclose adverse events and medical error in person to the patient or family member
- Do not assume or assign blame
- Adhere to the essential components of disclosure: Timely, Proper Setting, Accurate, Factual, Responsive, and Document
- Ascertain as much factual information as possible before disclosure is made
- Communicate in a manner that is open, forthright and expresses empathy
- Invite questions and seek answers
- Remain responsive to the emotional needs of the patient or family member
- Carefully document the disclosure
- Document the measures undertaken to accommodate the patient
- Seek legal or risk management guidance, when necessary

*For more information regarding this and other medical professional liability insurance risk management issues, please contact the risk management consultants at First Professionals Insurance Company at (800) 741-3742, ext. 3016 or send an e-mail to [rm@fpic.com](mailto:rm@fpic.com).*

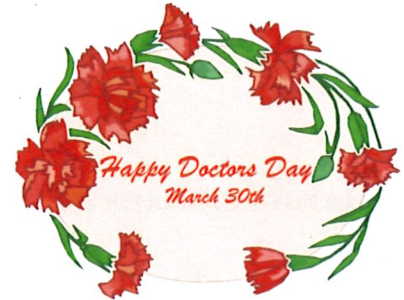
*This information does not establish a standard of care, nor is it a substitute for legal advice. The information and suggestions contained herein are generalized and may not apply to all practice situations. First Professionals recommends you obtain legal advice from a qualified attorney for a more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



## Out With the Old on Doctor's Day

### Shred your stuff at the new Medical Society office

In honor of Doctors Day, on Wednesday March 30, 2011 the Lee County Medical Society will be hosting a shred-a-thon at our new office at 13770 Plantation Road in the back parking lot. Goodwill Secure Shred will help us with the purge. See insert for more details.



## Doctor of the Day Program

The Florida Office of Legislative Services is looking for physicians to participate in the Doctor of the Day Program for the 2011 Legislative Session. Physicians who are willing to spend a day in Tallahassee during the session perform an invaluable service by providing health care for members of the Legislature and legislative employees. For each day of the legislative session, two physicians will be scheduled to serve as Doctors of the Day – one for the House of Representatives and one for the Senate. If you are interested in serving, please contact Althea Houston at [HOUSTON.ALTHEA@leg.state.fl.us](mailto:HOUSTON.ALTHEA@leg.state.fl.us) or 850.488.6803. See enclosed Registration Form.

## Send A Child with Diabetes To Summer Camp

The Lee County Medical Society will once again offer Lee County children with diabetes the opportunity to go to summer camp at no cost through our McCourt Memorial Scholarship Fund. Through the generous contributions of our members each year we are able to offset the costs for Lee County children who may not otherwise afford to go to summer camp. Please fill out the enclosed Diabetes Camp Recommendation Form and send it back to the Lee County Medical Society and we will do the rest.

*We would like to thank those who have made contributions to the McCourt Memorial Scholarship Fund.*

## Mailing Labels Available Through the Medical Society

Are you moving your practice, welcoming a new partner, or providing a new service? The Medical Society has physician mailing labels available to LCMS members at a discounted rate. Please call us for more information - 239-936-1645.

## Healthcare Lawyer On Call Program

Do you have a legal question? Remember that the Lee County Medical Society has a special program for LCMS members - The Healthcare Lawyer on Call Program. The Program allows members the opportunity to speak with qualified healthcare legal counsel on issues such as:

- Regulatory compliance
- Subpoenas
- Electronic medical records
- HIPAA
- Medical malpractice situations
- Integration strategies
- Board of Medicine matters
- AHCA and Department of Health issues
- Other healthcare law matters.

This program is a benefit of membership only for LCMS members through The Florida Healthcare Law Firm. You may call their office and leave a message during the day or after hours. **The lawyer on call will return your call by noon the next business day and spend up to 15 minutes with each Medical Society member.**

For security purposes and tracking, they issue each members a code. The code will be changed periodically, so check with the LCMS office to make sure you have the right code. This service is for physicians only and not your staff. If you do not remember the number and code provided, you can always call our office during normal office hours - 9 am - 5pm, (936-1645). We will let you know when the code changes.

**Beginning Code is 909 - Tel: 561-306-5699**

This is a member benefit of the Lee County Medical Society  
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The Law Offices of Jeff Cohen, P.A.  
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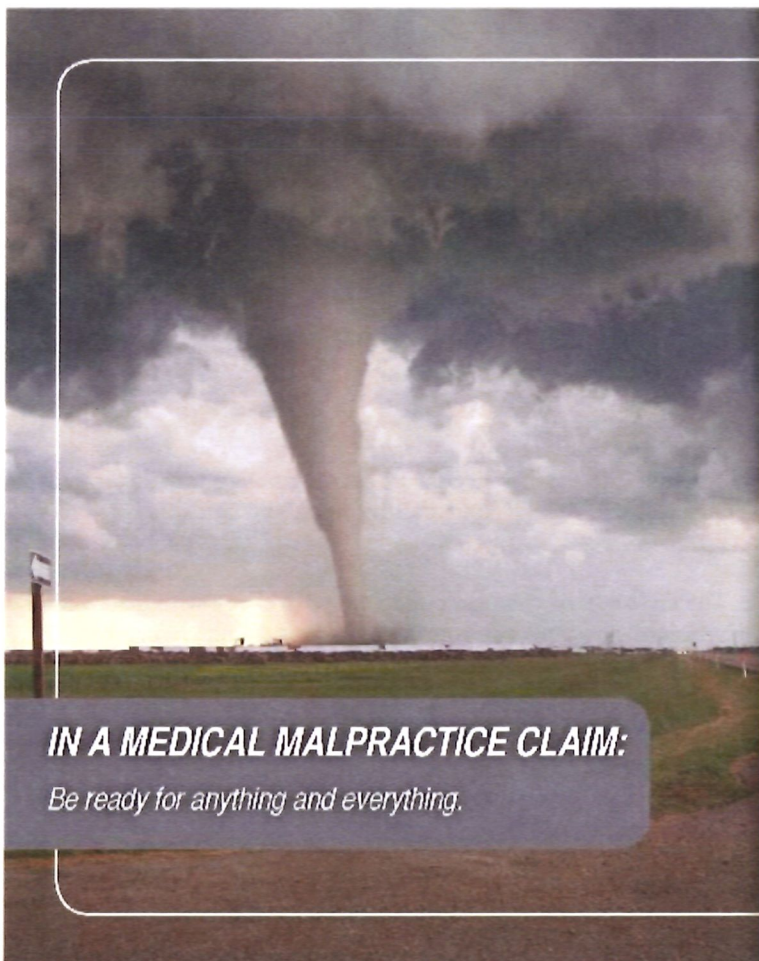
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