

2012 Meetings and Events

LCMS General Meeting

March 15, 2012
FineMark National Bank & Trust
12681 Creekside Lane
Fort Myers, FL 33919

Speaker:

James E. Croley, M. D.

"How to Choose the Right EMR"

RSVP to:

Lee County Medical Society
13770 Plantation Road, Ste 1
Fort Myers, FL 33912
Tel: 239-936-1645
Fax: 239-936-0533

Inserts

Diabetes Camp Application
General Membership Meeting
HMA (Health Management Association)
Stevens Construction
Twins vs Red Sox Flyer
CME Flyer

Happy
St. Patrick's Day

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President's Message

Richard Macchiaroli, MD



Sovereign immunity is currently a hot topic in Florida, but what does it actually mean? Sovereign immunity is a legal concept dating back to the Middle Ages in England used to protect kings and queens. Under this concept, also known as crown immunity, the monarchy was protected from civil prosecution. In simple terms, you could not sue the king. The current day concept of sovereign immunity implies that the sovereign (or government) cannot be held accountable in tort lawsuits unless it consents to them or waives its immunity. In the United States, it is predicated on the idea that there can be no legal right against the authority on which the right depends. Sovereign immunity can be applied at multiple levels of government, including federal, state, local, and special taxing districts. It basically protects various government entities providing essential services to the community from civil lawsuits. Over time, the concept has evolved and can range from an absolute inability to sue the sovereign, to varying degrees of waivers of immunity allowing the sovereign to be sued within limitations.

In Florida, sovereign immunity has been debated in the legislature from multiple viewpoints over many years. The state of Florida, as the sovereign, has waived immunity to the extent that an injured individual can recover up to \$100,000 in damages, and possibly another \$100,000 for dependants, with a maximum award of \$200,000. Any attempt to recover more must be achieved through a Claims Bill, which is a special law passed by the Florida legislature on behalf of the injured party. The Claims Bill must progress through the normal legislative process. The top legislative priority for the Florida Medical Association in 2012 is to achieve sovereign immunity for emergency medical care in Florida. In the 2011 legislative session, sovereign immunity was granted to private physicians working at teaching hospitals such as the University of Miami and University of Florida – Shands. Currently there is significant legislative discussion in Tallahassee regarding the concept of sovereign immunity. House Bill HB-385, sponsored by Rep. Matt Gaetz, and Senate Bill SB-1506, sponsored by Sen. John Thrasher, are currently working their way through committees. Essentially the bills

Sovereign Immunity

follow this logic: access to emergency department care is ensured to all individuals through state and federal laws and regulations. That care is associated with increased medical malpractice risk and increased malpractice insurance costs. Mandated emergency care is often uncompensated care for physicians. Because of the increased risks and costs, many Florida on-call specialists have removed themselves from call duty, creating a void in emergent specialty care in the state. For these reasons, the bills would grant sovereign immunity to hospitals, emergency medical service providers, and physicians to ensure that patients have access to needed emergency medical treatment and specialty care.

The bills would also require that the burden of proof by a medical malpractice claimant be of "clear and convincing evidence" that the standard of care was not met by the defendant. This differs from the current burden of proof which is based upon "the preponderance of the evidence". This essentially sets a higher standard of proof for emergency-based malpractice cases. These bills will complement the expert witness legislation enacted in 2011, requiring specific certifications by the Florida Board of Medicine to be able to testify as an expert witness in Florida, with the ultimate hope of reducing erroneous testimony and frivolous malpractice suits.

The Lee Memorial Health System, which participates in emergency department care at four hospitals in Lee County, currently has sovereign immunity for its employed physicians and staff. By making HB385 and SB1506 into law, all physicians participating in emergency care in Lee County would be able to share in the concept of sovereign immunity. This will allow us to provide continued access to emergency specialty care of all types for many of our most vulnerable and underserved patients while allowing physicians to minimize the risks and costs associated with this care. You can support passage of the sovereign immunity legislation by contacting your state legislators.

I hope to see you all at the general meeting on March 15 and the baseball game at the Red Sox stadium on April 1.

LEE COUNTY MEDICAL SOCIETY BULLETIN

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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

Moved out of Area

Marc Bodman, M.D.
Margaret Thirston, M.D.

Retired

Horace Dansby, III, M.D.
Retiring effecting 1/28/12
He was with Associates in Cardiac Care and has been a member of the LCMS since 9/18/1973.



The true test of a first-rate mind is the ability to hold two contradictory ideals at the same time.
F. Scott Fitzgerald

Physicians in the News

The Lee County Medical Society would like to thank those physicians that helped provide judging for the Kiwanis Club Science Fair this year. We have the following names as attendees, Cy Anderson, MD, Nuel Celebrado, MD, Geoff Negin, MD, Jonathan Daitch, MD. If you are not on the list and were one of those physicians who took time out of their busy schedule to participate this year, our thanks to you.

AMSA Award Winner's Charities

The Lee County Medical Society will be sending a check for \$100 to the AMSA recipient's favorite charities. Our congratulations go out to the following physicians:

PHYSICIAN

Alexander Eaton, MD
Stephen Machiz, MD
Thomas Presbrey, MD
(SPCU)—Gulf Coast Medical Center
Surgical Procedure Care Unit

CHARITY

To Be Announced
SWFL Children Charities
Lee Memorial Health System Foundation
21st Century C.A.R.E.

New Applicants

Jeffrey Willig, MD— Dr. Willig received his MD degree from Albert Einstein College of Medicine, Bronx, NY in 1981. He completed his internship with Manhattan Veterans Adm. Medical Center, NY, NY in 1982. Dr. Willig did his residency with Lenox Hill Hospital, NY, NY in 1985. He completed a fellowship at Emory University School of Medicine, Atlanta, GA 1985-1986. Dr. Willig is in group practice with Florida Eye Health, 12731 New Brittany Blvd., Fort Myers, FL 33907—Tel: 239-418-0999.



Suzy P. Lee, MD— Dr. Lee received her MD degree from Indiana University of Medicine, Indianapolis, IN in 1993. She did an internship at St. Vincent Hospital, IN, in 1996. Dr. Lee completed her residency at Wright State University in Dayton, OH 1996-1998. Dr. Lee is in group practice with Bonita Dermatology, PA at 9411 Fountain Medical Court, Ste 100, Bonita Springs, FL 34135— Tel: 239-221-8516.



As I Recall...

Roger D. Scott, M.D.

THE GIANT

It was over 64 years ago in 1947 when I was first aware of the Becton-Dickinson Company's symbol of "B-D" as it appeared on the syringes and needles that we used in medical school. Subsequently over the last 64 years this symbol and company's name have been ever present in my daily life. About a month ago I finally found my personal angiography set (It was purchased by me as Lee Memorial Hospital would not spend the money for this specialized equipment that consisted of two B-D 16-T and 17-T gauge, seven inch needles that were similar to spinal needles but had a different tip with the aperture being on the side of the tip. As the curator of the museum I am supposed to know all and tell all about the objects in the museum collection therefore I went to the computer to look for the Becton-Dickinson catalog to obtain the proper name for my aortogram needles. The website was being rebuilt; however, there was a menu that offered history, and it is from this information that this article is being prepared.

In 1897 Maxwell W. Becton met Fairleigh S. Dickinson and with a handshake, they made the decision to become partners in a medical device import company thus forming the Becton, Dickinson and Company. The first sale was believed to have been made of a Luer all glass syringe for \$2.50.

In 1898 the company acquired one half interest in the patent rights to H. Wulff Luer's all glass syringe for \$40 and this heralded the beginning of the major company and the BD symbol was adopted that has been used for over 100 years. The company flourished and in 1904 it acquired the Philadelphia Surgical Company as its first acquisition in order to manufacture surgical instruments. BD's acquisition of other companies led to its expansion and in 1906 the building of a manufacturing plant in East Rutherford, New Jersey as well as becoming incorporated in New Jersey. This was the first facility in the United States specifically built for producing thermometers, hypodermic needles, and syringes.

In 1913 the Surgical Supply Import Company (makers of Asepto™ Bulb Syringes) owned by Oscar Schwidetzky merged with BD, and together they produced the American-made all cotton elastic Ace® bandage. Eight years later in 1921 Andrew W. Fleischer, developer of the mercurial sphygmomanometer merged with BD and spent his long career developing and refining the stethoscope and other instruments of medicine. In 1924 BD manufactured the first syringe specifically made for insulin usage. In 1925 Fairleigh Dickinson, Sr. designed, patented, and produced the first BD Yale Luer-Lok™ syringe, the same as we used until disposable sets became available. Omitted from the article I read is the information from my own experience that each BD syringe had a matching identifying number on both the syringe barrel and the plunger to assure a perfect fit. I believe these were hand ground to produce this effect.

In 1948 the sons of the founders took over with Fairleigh S. Dickinson, Jr. becoming President and Henry P. Becton becoming Vice-President of BD. Over the next 24 years under their leadership, BD expanded worldwide. In 1949 Joseph Kleiner was hired by BD to obtain his *Multifit* syringe allowing interchangeable plungers and barrels. We can now state that numbered barrels and plungers were manufactured prior to 1949. Kleiner also developed the thought for a device to draw blood by vacuum through a needle into a test tube that was produced and patented in 1949 as the BD Vacutainer® Blood Collection System, and during this same period the company

began developing sterile controlled procedures and refining processes for making disposable needles and syringes. The company had so expanded that it opened a Western factory in Nebraska as its first factory outside of New Jersey. The first sterile disposable product was a blood collection set made in 1950 and was sold to the American Red Cross. Remarkably BD was the only syringe manufacturer at that time to survive the transition from non-disposable to disposable medical devices. In 1951 BD acquired the N.S. Wright Company in Toronto Canada thereby beginning its expansion into the international market, and acquired MAPAD of Mexico to produce syringes, needles, and thermometers for the Mexican market. 1953 it acquired the French AMI company that manufactured reusable hypodermic needles. In 1954 BD produced the first completely disposable syringe, the BD Hypak™ for use in a large-scale field trial of the Salk polio vaccine. 1955 saw the acquisition of the Baltimore Biological Laboratory to enter the diagnostic product business. In 1956 BD opened in Brazil and is now the largest medical supply company in Brazil. It also merged with the Bard-Parker Company famous for its surgical blades and knives however it divested the surgical blade business in 2010. In 1957 the BD Intracath™ IV catheter was the first sterile, disposable, through the needle IV catheter designed for single use. Ever expanding and now 1959 the manufacture of disposable plastic labware with the acquisition of Falcon Plastics Company pioneering in 1959. 1960 brought a second Nebraska facility producing ten types of glass and plastic blood collection tubes. In 1961 BD Plasticpak™ syringe appeared, and in 1962 the first manufacturing facility for Europe was built in Ireland. Clay-Adams was acquired contributing Accu-Stat™ Blood Chemistry Analyzer, precursor of the QBC™ Hematology System. Schwarz BioResearch was acquired in 1965 for BD to enter the field of radioimmunoassays and in 1966 a third Nebraska facility made BD the world's largest manufacturer of insulin syringes.

In following years BD established many world wide-offices and in 1970 FORTUNE Magazine listed BD as one of the 500 largest American companies. In 1971 the first automated blood culture system BD Bactec™ appeared. In 1972 the century old Hynson, Westcott & Dunning of Baltimore joined BD. BD became the leader by producing the first Florescent-Activated Cell Sorter in 1973. BD Hypak™ Prefilled Heparin syringes became in 1975 the forerunner and worldwide standard of future prefilled syringes. In 1979 BD acquired Johnson Laboratories, Inc. & introduced the first commercial automated instrument to detect the growth of microorganisms in blood. In 1982 BD introduced a full line of plastic sharp disposable containers. The first safety-engineered syringe BD Safety-Lok appeared in 1988 and the Beaver Blade Company was acquired. The BD Vacutainer® Safety-Lok Blood Collection Set offered needle stick protection following blood drawing procedures. BD's flow cytometer FluMist® became the first approved nasal spray vaccine. In the following years to date, BD has acquired so many companies and created so many plants around the world developing so many products including molecular diagnostic and automation platforms that I cannot go into detail in this article. I think that it is important that FORTUNE Magazine recognized BD as one of America's most admired companies, and another magazine continues to recognize it as one of the most ethical companies. Who could imagine that beginning with a small insulin syringe such a **GIANT** would evolve!

We greatly regret the death of Joseph Pat O'Bryan, M.D. last month. Joe was a scholar, gentlemen, and a good friend for years.

SIGN-UP FOR THE SPEAKERS' BUREAU



The Medical Society continues to get requests for physicians throughout the year to go out into the community to speak to various civic and social groups. We are in the process of updating our files in order to fill these requests. If you are interested in participating in the Speaker's Bureau please let us know.

In addition to the above, we need physicians to speak before influential civic/business groups occasionally on the health system reform that is happening in our country.

Please contact the LCMS office for more information—936-0533.

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—936-1645.

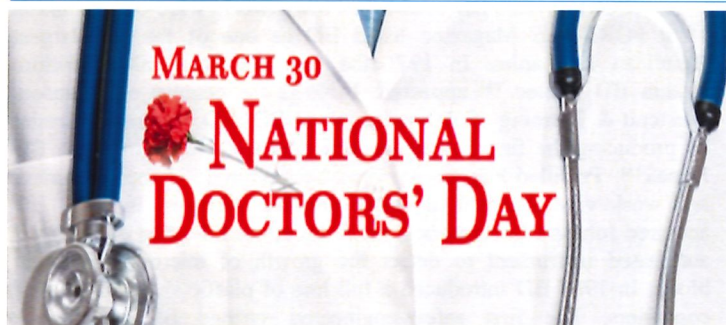


Why Office Managers should join Health Management Association

Physician, is your Office Manager / Administrator looking for Southwest Florida's foremost medical professional group to join? Open the door to successful medical practice management with the Health Management Association (HMA) which participates in professional and community service. Now there are obvious advantages that come with being a HMA member and they are not just the old cliché... "it's just a place for business networking". In the HMA group you gain trust and respect, professional development with professional speakers from top companies in Southwest Florida, forming life-long friendships while having fun and it is extremely affordable. A powerful way to connect with other business people while gaining leadership experience. You can never have too much knowledge, no matter what your niche is there are always resources through our forum from those who share their expertise with those who are in the need of help.

Come join us every third Wednesday of the month at Gulf Coast Regional Medical Center—Community Room at 12:00 noon or visit our website at: <http://hmafortmyers.com>.

Application to join is an insert in this month's Bulletin, give it to your Office Manager / Administrator to join this innovative group and stay on top of what is happening in medicine.



Directory Information

Pictorial Directories are still available for pick-up at the LCMS office at 13770 Plantation Road, Ste 1, Fort Myers, FL 33912

We are currently collecting physician and practice information to include in our 2012 Physician Directory. Your office should have received a form for you to fill out and return. If you need a form, please contact the LCMS office at 936-1645.

Doctor's Day 2012

We would like to say thank you to our LCMS Member physicians for their continued dedication and service to their medical community.

Your doctor

He or she is an attentive listener, an empathetic caregiver, a compassionate expert, and a restorer of health. To others, your doctor is adviser, a collaborator, a role model, and a mentor. Doctors are important to you for a lot of reasons.

Dues Are Past Due as of January 31st

Please contact the LCMS office if you will need to make payment arrangements.



LCMS dues have not increased since 1993.

LCMS Alliance Events

By Mariquita Anderson, LCMS Alliance President

The latest Anti Bullying Task Force meeting occurred on Wed, Jan 18, from 5-5:45 PM at the Lee County Public Education Center (LCPEC) and was led by School Committee Board Member Mary Fischer. The first person on the agenda was Morgan from Hancock Creek Elementary School. Morgan instituted Bully B Gone Pledge Cards and No Bully Signs at her school. The mascot for the anti bully campaign is a bee from the Bully B Gone Pledge Cards. Students sign the pledge cards promising not to bully people and to stop bullying when they see it. On the back of the card are positive statements to let people know how special they are. Debbie Johnston of the Jeffrey Johnston Anti Bullying Law asked if she could bring some of Morgan's material with her to Tallahassee next week.

Jackie Turner and Lori Brooks of the Student Services Department of Lee County Public Schools were next on the agenda. They recently obtained a grant to present Dennis Lewis of EduSafe on March 6-7. On Tuesday, March 6, they will hold a Community Night for parents interested in stopping bullying. On Wed, March 7, Mr. Lewis will provide Train the Trainer sessions to help staff recognize bullying and to help the targets. At least one person from every school will attend and all new teachers will attend the training.

Student Services' program for the high schools will start in a couple of months. They will show the movie *Bang, Bang, You're Dead* and make it an annual event.

Jan Klein of Island Coast HS was third on the agenda. (As reported earlier in the LCMS Alliance e-Newsletter, she has already shown *Bang, Bang, You're Dead* to all of her high school's freshmen.) She told the story of how former counselor Susan Shoemaker tried to tell Principal Dr. Peter Bohatch over and over that they had a bullying problem in their school. Dr. Bohatch denied there were any problems. Ms. Shoemaker died and Jan decided to pick up the reins. She convinced Dr. Bohatch to attend the LCMS Alliance sponsored BullySafe USA Training Institute in September 2011 despite his misgivings about attending as an administrator. After attending the 3-day event, Dr. Bohatch wanted to BullySafe his entire school. They trained 9th Grade teachers first and then showed the movie, *Bang, Bang, You're Dead*, over two class periods to all the Freshman Success classes. Together, Jan and Dr. Bohatch later went into every 9th Grade classroom and gave the BullySafe presentation. Jan worked with Island Coast's Media Department to produce a 6-7 min anti bullying video, which they aired during these presentations. The video demonstrates the five kinds of bullying: physical, verbal, emotional, sexual, and cyber. In two weeks, all juniors and seniors will watch *Bang, Bang, You're Dead* in the cafeteria. They plan to BullySafe the entire school every year.

Jan made an important point about how bullying is everywhere, not just in Lee County. In order for anti bullying training to take place, administrators need to buy into it.

Debbie Johnston said that students drive bullying and that it's up to the students to stop bullying. Kids learn better from other kids and made it analogous to stopping neighborhood crime. When an adult intervenes, it can drive bullying underground. When students intervene, the bullying can stop in 30 seconds.

Gateway Elementary issued a 30-Day Challenge in their school. Every student went home with a calendar with ways to improve social skills. The Gateway counselor explained that sometimes misinterpretations arise from poor social skills. For example, when somebody bumps into another person and doesn't apologize for it, the other person may mistake it for a sign of aggression. At the end of the Challenge, students signed a pledge to continue to improve their manners and behavior.

The next Anti Bullying Task Force Meeting is Wed, Feb 15, 5-5:45 PM at the LCPEC on 2855 Colonial Blvd, Fort Myers 33966. All are welcome to attend.

CHANGE—GOOD AND BAD

Several years ago, I wrote about how our lives are always changing. I wrote this after having been told that I had cancer, wanting to convey that what we have to look forward to is change and we should embrace it. I have been in remission (they got all of the cancer) for 18 years. Doctors perform miracles everyday and I am proof of it! As I visit the Medical Museum each time, I marvel about what we had to work with 50 years ago. CHANGE! What doesn't change in medicine is the most important tool you have as a physicians—your human touch and a sense that you care about each individual person.

Recently, I have attended several meetings on the economic outlook for Lee County and I have come away with an optimistic feeling we will not only survive but also prosper in the next few years. The Baby Boomers start social security this year and many have plans to come to Lee County. I would like to highlight the population trends in the past 50 years and if the next half is as good, the change will bring a bright future. Embrace change and keep your eye on the future. Ann W.

Lee County Population Trends

Year	Total	SCMS Members
1960	54,539	37
1970	105,216	84
1980	205,266	257
1990	335,113	391
2000	440,888	513
2010	647,500	611

Source: University of Florida, bureau of Economic and Business Research

Southwest Florida Population by County as of 2009

County	Population	Percent
Lee	615,124	55.24%
Collier	333,032	29.91%
Charlotte	165,455	14.86%
Total	1,113,611	100/00%

Source: BEBR 2009 Bulletin

Maintain Trust in the Workplace

The most effective way to cope with change is to help create it

By: Terry Salz,

“The glue that holds all relationships together — including the relationship between the leader and the led — is trust, and trust is based on integrity.” – Brian Tracy

If there is no trust the ramifications that occur plays a significant role in the lack of maximizing performance and profits. It is important for Management to acknowledge they are an important factor in the impact of employee motivation and it becomes immeasurable. Positive motivation creates trust when employees are treated as if they matter as does their quality of life. Recognition is free yet priceless. In this rapid economy of changes and of restructuring employees they need to feel secure and compensated for their dedication and productivity. When employees only hear promises and given goals that can never be attained the ramifications result in low or no trust. The goal to be predictable and be able to measure and pay for performance will untimely result in maintaining efficiency and the quality of productivity needed to prosper in these difficult economic times.

Times are difficult, people are stressed and employers are worried. With the stress that occurs on a daily basis in the work place you want your employees to feel secure. The need to increase the levels of trust with employees will reduce turnover, increase employee productivity, create a more positive work environment, and motivate employees to truly care about the organization they are employed by. Competitive organizations have a full understanding of the predominant role that trust plays in the success of their business. They know what it takes to have and keep the trust of their employees and, perhaps most importantly, they understand the ramifications of low or no trust. No organization can afford a decrease in moral motivation and lack of respect for management. Once this occurs, organizational stress levels rise, productivity plummets, and absenteeism rates rise and damaged customers relations occur.

Being clear with staff about what the expectations are of the organization, and then clearly acknowledging when expectations have been met will lead to confidence and consistency in the management. It is possible to praise someone on an individual basis when they fulfill their responsibilities. This allows employees to have feedback acknowledging that their work has been appreciated.

Boundaries must be established

A boundary is needed but is not effective unless defined. Management when understanding this concept makes this clear to help promote connection and not separation. This allows staff to work within their departments and have a clear delegation of assignment and to whom they can interact with and seek guidance from.

Honor Agreements

Trust is like a vase... once it's broken; though you can fix it the vase will never be same again.” – Anonymous

Your staff and or team need to realize that your word is the most simple, yet most crucial way to develop and maintain trust. Should management, or the organization as a whole, consider agreements trivial, trust will never be a word used to describe your organization and the lack of this creates your reputation and your value for staff in their eyes. If it's unclear whether a promise can be kept, it shouldn't be made!

Impacts of Employee Trust

“Trust is like the air we breathe. When it's present, nobody really notices.

But when it's absent, everybody notices.” – Warren Buffett

Organizational trust refers to employee faith in goal attainment and to the belief that, ultimately, will prove beneficial for employees. Employees treat their customers as they are treated. Have you ever walked in an office and the first person you see is rude, annoyed at your arrival and all you hear is complaining the entire length of your stay? I can assure you that office is not bring in all of the revenue it can and losing more than you can imagine. If you have employee (s) this consumed by the complaining about the work environment then you are breeding dysfunction. These employees are toxic and yes they can be replaced and should for the sake of your business. Just as employees need to trust management you need to trust your employees. When other employees do not get involved in the toxic behavior and they see you allowing the staff that does it sets their lack in trust in you as a manager and their opinion of your commitment to your staff and their choices and untimely your commitment to the success of the business. With this pattern without employee trust is a decline in productivity. We must also recognize that customers abandon companies they do not trust and so do employees. With this in mind, organizations with little or no employee trust can look forward to high costs of hiring and training and re-hiring and re-training with so much time being spent on finding and keeping employees, productivity, will continue to suffer. Acknowledge when change is needed, make the change and it will increase your revenue. Make 2012 the year that you put this in place. Let's not be consumed with the changes you cannot control but realize this is a change you do have control of to increase your revenue.

“In a chronically leaking boat, energy devoted to changing vessels is more productive than energy devoted to patching leaks.” -Warren Buffett.

Have a prosperous New Year and take control to make that happen.

Article provided by Terry Salz, CEO & owner of International Medical Billing, Punta Gorda, FL

The "HAPP" PROGRAM

By: E. Trevor Elmquist, DO, MBA, LCMS -Chair-Public Relations

General Motors produces cars. Apple Corporation produces I-things. What do we strive to produce as a medical community? Healthy, Active, Productive, People (HAPP).

Our patients, and their successful medical encounters are what we work hard to produce. Through our new "HAPP" Program, the Lee County Medical Society plans to present the stories of actual patients we have cared for here in Southwest Florida.

We believe that the "routine" positive outcomes that occur daily are many times taken for granted! These expected outcomes profoundly improve patients lives and should be appreciated by all of us.

To accomplish the gathering and documentation of these real-life patient stories, and their successful medical encounters, we have begun to coordinate with the Communications Department at Florida Gulf Coast University (FGCU). A student will be meeting with select patients to write up a short description of the diagnosis, treatment and recovery scenario. Of course, patient release forms will be required. Our attorney has given us a review of our basic comprehensive release form.

The LCMS plans to display these "HAPP" stories on a web-site for open access to the public. We will also be publishing patient stories in a wide variety of other media including (but not limited to) newspaper, bulletins, magazines, and possibly TV and Radio.

Credit for these successful patient outcomes belongs to everyone. From office managers and technicians to hospital administrators and insurance counselors, security personnel and nurses, right down to the lowly physician.

The entire team should be proud of the product of our very complex and imperfect system of health care.

Yes we will continue to work on our health care system to make it better, but it is time to reflect on what we have been blessed with. There's no better way to do this than to actually display our product, our patient's stories will be collected from a wide variety of providers and medical scenarios. These stories are not limited to the patients of LCMS members. All medical providers may participate. Every submitted story may not end up being published, and is subject to screening by the LCMS.

Thank you for supporting our new "HAPP" Program. Please maintain or initiate your membership in LCMS. This way we can continue to grow and bring a common sense of pride and teamwork to our medical profession and to the Lee County community.

When our website is functional, you will find forms on the site for patient identification and privacy release. You will also find information on our supporters who have already given thousands of dollars to kick off this program and have become our "HAPP Partners". Thank you.

The LCMS would like to thank our HAPP (Happy Active Productive People) Partners for their generous support and donations to this new program. If you are interested in becoming a partner in the HAPP Program, please call the Medical Society office at 936-1645.

LCMS New HAPP Partners:



Dr. E. Trevor Elmquist, D.O. of Elmquist Eye Group presents Richard Macchiaroli, M.D., President, LCMS a check to become a partner in the HAPP Program.



Adrianne Gerard, Health Care Marketing Specialist, and Lynn Schneider, AVP, Marketing & Communications present Trevor Elmquist, D.O., Chair HAPP Program, and Richard Macchiaroli, M.D. President, LCMS a check to become a partner in the HAPP Program



E. Trevor Elmquist, D.O. and Richard Macchiaroli, M.D., President LCMS are presented a check from Eric Goldsmith, D.O., President, F.O.M.A. (Florida Osteopathic Medical Association) to become a partner in the HAPP Program.

Persuasion

Benjamin Franklin's method of persuading others to his point of view took patience and endurance. It assumed that people are won over slowly, often indirectly. If you don't win the bargain today, Franklin would say, go after it again tomorrow and the next day. Here are some of Franklin's bargaining tips:

- Be clear, in your own mind, about exactly what you're after.
- Do your homework, so that you are fully prepared to discuss every aspect and respond to every question and comment.
- Be persistent. Don't expect to "win" the first time. Your first job is just to start the other person thinking.
- Make friends with the person with whom you are bargaining. Put your bargain in terms of his or her needs, advantages, and benefits.
- Keep your sense of humor.

Until There's a Cure, There's a Camp!

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.



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The Dangers of Going Bare

By Robert E. White, Jr., The Doctors Company/FPIC/APAC

Yet another large verdict has been rendered against a bare Florida doctor. Most recently, in September 2011, a jury found an OB/GYN and his professional association responsible for failing to detect physical disabilities of a child before it was born and awarded \$4.5 million to the parents.

In the past few years, several Florida physicians have been involved in trials that resulted in multi-million dollar plaintiff awards. Six of those medical malpractice trial verdicts were in excess of \$30 million. Jury awards continue to escalate, creating increased incentive for attorneys to aggressively target doctors in Florida.

While a recent national study found that 20 percent of malpractice claims against doctors lead to a payment to the patient, claims against doctors in Florida result in a payment to the patient in over 50 percent of claims. Each year about 1 in 14 doctors is the target of a claim, and most physicians and virtually every surgeon will face at least one claim in their careers. Clearly, the probability of a claim is high, and purchasing malpractice coverage should *always* be a serious consideration.

Many physicians and surgeons don't fully understand the dangers of going bare, and several popular myths need to be dispelled.

Myth number one. *Carrying malpractice insurance will make me a target for a lawsuit.* Florida's plaintiff's bar is fully aware of the monster it created. Its old habit of only suing doctors with insurance is a thing of the past. Several years ago, the plaintiff's bar began suing bare physicians and trying the case against the bare doctor if he or she refused to settle. Many bare doctors have paid six-figure amounts to settle cases, on top of six-figure legal bills to their defense lawyers. In many cases, the amounts paid add up to decades of insurance premiums for the bare doctor involved.

Myth number two. *Florida's cap on medical malpractice awards protects me from paying an excessive plaintiff award.* The cap applies only to non-economic awards. The cap does not apply to economic awards. Economic awards are often multiples of non-economic awards rendered. Further, in *McCall v. USA*, a case scheduled for oral argument in Florida's Supreme Court in February 2012, physicians face the prospect that the cap on non-economic damages they have enjoyed since 2003 will be declared unconstitutional, and the cap will be rendered null and void.

Myth number three. *If I get sued and the outcome results in a plaintiff award that is greater than the amount of my ability to pay, I can declare bankruptcy to protect my personal assets.* If a bare physician qualifies for certain bankruptcy laws, those laws impact the applicability of the important homestead exemption for the physician's personal residence. Under the law, full exemption has specific requirements that could be significantly limited. Bankruptcy laws make planning difficult and limit your ability to discharge debts.

Even with bankruptcy, the judgment is in place for 10 years, so any asset obtained within the 10 years can be transferred to the plaintiff. In many cases, the 10-year obligation can be extended for an additional 10 years.

Myth number four. *If I lose the case, my existing practice will allow me to maintain future income.* On the contrary, judgment obligations have the potential to negatively impact your income indefinitely. All of your professional association's account receivables could be attached to pay a judgment if not properly leveraged. If you don't pay a court judgment, arbitration award or settlement arising from a malpractice judgment, you risk suspension of your medical license by the Florida Board of Medicine.

"Bare Insurance"—Adequate Protection?

A reputable carrier hires defense attorneys to represent you throughout the entire length of the claims process regardless of whether the costs of that defense exceed a potential settlement or policy limit amount.

There are some defense attorneys who specialize in defending bare doctors through a retainer contract or insurers that provide "defense costs only" policies as an alternative to purchasing medical malpractice insurance. They argue that exposure can be reduced by paying a pre-paid defense retainer as a way to reduce significant attorney fees. They also argue that buying "bare insurance" may reduce the amount of a judgment against a physician. Although they admit that it is not a cap on liability, they hold the belief that Florida doctors are savvy when it comes to their personal assets, thereby protecting the doctor from the obligation to pay an award in excess of \$250,000.

Those attorneys have overlooked important consequences of a large judgment against a bare doctor:

Although the retainer *reduces* significant attorney's fees, unlike full professional liability insurance, the pre-paid defense retainer and the defense-only policy have a limit that may not cover all of the expenses associated with the defense for a case that goes all the way to trial. The physician is responsible for the balance.

Even if a physician has protected all of his or her personal assets, the first \$250,000 of the plaintiff award must be paid within 60 days.

Defense Costs

It's very common for physicians and surgeons to equate insurance simply with paying a claim. However, in addition to the indemnity payment, defense costs must also be considered. A top-quality, well-financed defense through a two-week trial will cost approximately \$150,000 to \$200,000. Defense costs can, and frequently do, exceed the amount paid to the plaintiff. It is not uncommon for defense costs to exceed the policy limits. Additionally, Florida physicians now have the right to consent to settlement in the insurance policies of some insurance carriers.

Significant costs can also be incurred *after* the trial, even if the case is not appealed. If the lawsuit results in a verdict for the plaintiff, the plaintiff's attorney has the right to file a motion to recover some of the costs the plaintiff incurred as a result of trying the case. Those costs are generally in the range of \$50,000 and can exceed \$100,000 in some cases.

LCMS CALENDAR OF EVENTS 2012

MARCH

- 15** **LCMS General Membership Meeting**
Speaker: James E. Croley, M.D.
"How to Choose the Right EMR"
- 20** LCMS Board of Governors Meeting
- 21** Alliance - Anti Bullying Task
Force Meeting

APRIL



- 1** Red Sox vs Twins Ballgame 1:30 PM
- 14** Alliance- Spring Fling
Home of Sara & Brian Krivisky, MD
- 17** LCMS Board of Governors Meeting
- 18** Alliance – Anti Bullying
Task Force Meeting

MAY

- 15** LCMS Board of Governors Meeting
- 17** **LCMS General Membership Meeting**
Speaker: **Jonathan Fleece**
- 18-20** FMA Spring Board of Governors &
Council Days
Boca Raton Resort
Boca Raton, FL

JUNE

- 19** LCMS Board of Governors Meeting
- 16-20** AMA Annual Meeting
Hyatt Regency Chicago
Chicago, IL

JULY

- 27-29** FMA Annual Meeting
Boca Raton Resort
Boca Raton, FL

AUGUST

- 10** **LCMS / Collier Event**
Bass Pro-Shop

SEPTEMBER

- 18** LCMS Board of Governors Meeting
- 20** **LCMS General Membership Meeting**
Wine Tasting: TBA
- 29** Alliance – Potluck in Paradise
Home of Maureen & Brian Schwartz, MD

OCTOBER

- 16** LCMS Board of Governors Meeting
- 19** Alliance – Happy Hour, TBA
- 26-28** FMA Fall Board of Governors &
Council Days
Loew's Portofino Bay
Orlando, FL

NOVEMBER

- 10-13** AMA Interim Meeting
Honolulu, HI
- 15** **LCMS General Membership Meeting**
Program: TBA
- 20** LCMS Board of Governors Meeting

DECEMBER

- 3** **Holiday Party**
Gulf Harbour Golf & Country Club
- 18** LCMS Board of Governors Meeting

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