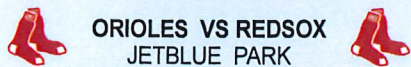


March 2013

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INSERTS

Kagan Law Firm

HAPP Program

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Old Live Oak on Fisheating Creek

This issue's cover photo was taken at Fisheating Creek, north of LaBelle, Florida, Hendry County. Dr. Ed Guttery took this photo of the live Oak while he and Mr. Tom Haskins Jr. were taking a kayaking trip down Fisheating Creek. Please visit the website listed here and find out more about taking a trip down Fisheating Creek and seeing the beautiful scenery.

<http://www.meetup.com/SOUTHWEST-FLORIDA-ADVENTURE-GROUP/>

LEE COUNTY MEDICAL SOCIETY BULLETIN

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Rapid Print of SWFL

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

Retired

K. C. Deva Caanthan, M.D.
Mary Stegman, M.D. – rejoined membership – retired

Left Area

Patrick Guadiz, M.D.



NEW APPLICANTS



Laura White, MD— Dr. White received her MD degree from Saint George's University, Grenada, WI 1997-2001. She did a residency at the State University of New York, Buffalo, NY 1992-1994. Dr. White completed a fellowship in Orthopaedic Surgery at the University of Pittsburgh, Pittsburgh, PA 2007-2008. She is in group practice with Orthopedic Associates of Southwest FL PA, 13691 Metro Parkway, Ste 400, Fort Myers, FL 33912 – Tel: 239-768-2272.



Robert Stanfill, MD— Dr. Stanfill received his MD degree from University of Iowa Carver College of Medicine, Iowa City, IA 2002-2006. He completed his internship/residency at the University of Illinois College of Medicine at Peoria, Peoria, IL 2007-2012 with a fellowship in Breast Imaging at the University of Illinois College of Medicine at Peoria, Peoria, IL July – December 2012. He is group practice with Radiology Regional Center, 3660 Broadway, Fort Myers, FL 33901 – Tel: 239-936-2316.



Irina Gershin-Stevens, DO— Dr. Gershin-Stevens received her DO degree from the New York College of Osteopathic Medicine, Old Westbury, NY 1996-1999. She completed her internship/residency at Nassau University of Medicine, East Meadows, NY 1999-2003. Dr. Gershin-Stevens completed a fellowship at Children's Hospital at Montefiore/Albeert Einstein College of Medicine, Bronx, NY 2003-2006. Dr. Gershin-Stevens is in group practice with TCH Pediatric Specialists, 15901 Bass Road, Ste 102, Fort Myers, FL 33908 – Tel: 239-343-9890.

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PRESIDENT'S MESSAGE: PHYSICIANS BECOMING ACTIVISTS

Audrey Farahmand, M.D.



Many physicians like me have functioned in a politically "sterile" fashion - choosing to avoid the political arena and focus on our scientific jobs. We may vote on Election Day or occasionally send a check to support a political candidate. However, for many of us, this is the extent of our political involvement. I'd like to blame my political complacency on my being a product of Generation X, the generation that produced a large fraction of our current medical society members. Yet, I must confess that my political complacency has been rooted in the "Other- doctors- are- taking- care- of- this" attitude. Evidently, I was not alone with this attitude as physicians have been out-lobbied by attorneys, insurance companies, and big Pharma. The recent physician-unfriendly legislative overhaul was quite a wake-up call to all of us that unless we become more involved; we will continue to be run over. The economic climate seemingly forced this monumental change in medicine and in doing so has changed how all of us will look at socialized medicine.

How do we become more organized?

First and foremost, we must open our wallets. If you have not donated to a political action committee, now is the time to start donating. Yes, this may mean donating to multiple organizations your medical specialty organization's PAC, LCMS PAC, FMA PAC, AMA PAC). If you are already donating, consider adding more dollars to that check. Many physicians, including myself, and state

medical associations have disassociated themselves from the AMA because it did not fully defend the interests of physicians. It is time for physicians and state medical associations to rethink that strategy. The AMA is our primary voice in Washington. Not only is the AMA competing against attorneys, insurance companies, and big Pharma, it is also competing against medical specialty organizations for the ears of legislators. Instead of abandoning the AMA, physicians need to join it and change the leadership from within.

Second, we must maintain our memberships. This also may mean maintaining memberships with multiple organizations. When speaking to legislators, the more physicians these organizations can say they represent, the more effective their efforts will be in defending physicians. Also, encourage colleagues to join.

Third, we must inform our patients by taking every opportunity to discuss healthcare reform topics with them. Hearing their physician's perspective may influence their decisions at the polls.

Fourth, we should strive for more direct communication with our legislators. We can do this by writing to our congressmen or by volunteering through the Lee County Medical Society to be a liaison to our legislators.

The Affordable Care Act in some form or another is here to stay. We need to be part of the discussion as amendments will certainly be proposed. By physicians becoming activists, we can strive to influence policy in a way that will protect our profession and our patients.



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HAPP PROGRAM

Please take a moment to reflect on this question. "Am I proud to be part of this medical profession and this team?" If the answer is "No"... then seek help to change things. There are many ways this can be done. If the answer is "Yes I am very pleased to be on this team!" Then the HAPP Program is for you! You can help show the world the wonderful healthy people and results we can achieve together here in Lee County. Please have your staff help us identify just one or two cases this year.

Please ask that special patient that did very well with their particular episode of medical care if they would like to 'Tell Their Story'. This may be a patient you cared for or one that another provider helped. This program (Healthy, Active, Productive, People.... HAPP) is a win-win for everyone.

Patients have an opportunity to be truly grateful for the health they enjoy. Doctors, staff, and allied health personnel feel the pride and satisfaction of a job well done. And the Lee County Medical Society participates in organizing the greatest profession on earth! Our goal of one hundred testimonials can easily be achieved with your help.

Please identify two patients this year that really don't mind telling their story. We have a simple HIPAA form that allows the distribution of their medical information. You may call me (Trevor Elmquist cell phone 826-8786) or Ann and Valerie at 936-1645 with any questions.

Our Medical Society has invested quite a bit of time and money to get this program started. I thank each of you for helping to make the HAPP program successful.

Trevor Elmquist, D.O.
Chair, HAPP Program

We have enclosed a HAPP Program flyer in the Bulletin. We would appreciate your support by placing the flyer in your waiting rooms and exam rooms for your patients to see. Please let your patients have a voice to express their appreciation for services and support they have received from you or your staff.



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From left: Kate Wagner, O.D.;
E. Trevor Elmquist, D.O.; Nina Burt, O.D.

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MED STATS

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WORKPLACE™

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Saturday, March 16, 2013 6:00-8:00PM

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RSVPs are REQUIRED to attend the reception!

RSVP by Tuesday, March 12

- online at www.lcmsalliance.org or
- by emailing Mariquita Anderson at lcmsa@lcmsalliance.org

www.lcmsalliance.org

LEE COUNTY MEDICAL SOCIETY PROVIDES PHYSICIAN REFERRAL SERVICE

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FREQUENTLY ASKED QUESTIONS: **TREATING PATIENTS IN A DIFFICULT ECONOMY**

By Susan Shepard, MSN, MA, RN, CPHRM, Director, Patient Safety Education

This article answers questions that our regional patient safety/risk managers address about the serious problems that are occurring when patients become unable or don't pay their co-pays or when they refuse to pay their physician charges.

Q: When a patient is dissatisfied with care, can he or she dispute the charge with the credit card company?

A: A credit card customer can always request that a charge be questioned. Normally, when this situation occurs, the credit card issuer will open an investigation into the disputed charge. In the meantime, the card issuer may also withhold paying the credit charge amount to the physician.

Q: What is the appropriate response when an established patient comes in but is unable to pay?

A: Talk to the patient first. Investigate why the patient isn't paying the bill; e.g., is he or she unhappy with the care? After that, you can consider alternative financing options, including bill collection. It is helpful to have a written policy summarizing the practice's policy on financial matters that you give to each patient at the initial visit. A physician has the right to expect payment for services rendered. The practice should have a policy and apply it consistently in a nondiscriminatory fashion. When you can, "remind" a patient that he or she received a copy of your policy at the time of the first visit. It makes handling this type of difficult situation easier. If you decide to terminate the patient relationship for nonpayment, you must follow a formal process that includes giving the patient proper notice and treating emergencies in the interim. For more information, read our article "Terminating Patient Relationships" under Practice Guidelines at www.thedoctors.com/patientsafety.

Q: Can the physician refuse to establish a patient-physician relationship based on the patient's inability to pay?

A: Yes, as long as the patient is not seeing you based on a referral from an Emergency Department where you were on call when the patient was seen. If that is the case, determine the requirements of the particular hospital as established in the hospital's medical staff bylaws and rules and regulations. You must follow those requirements. At a minimum, you will likely be required to see the patient at least one time to determine the patient's status and whether he or she has an emergency medical condition under EMTALA. If the patient is in need of emergent treatment, you will likely be required to provide the care regardless of his or her ability to pay, although you can ask for payment or payment arrangements. If the patient did not come to you as a result of an ED call and you have an established policy of not accepting patients who cannot pay, you can refuse to establish the relationship. Potential patients should be given some indication of your practice's financial requirements when they make an initial appointment for treatment. If the potential patient is not aware of your financial requirements, he or she may delay making other arrangements for care while waiting for an appointment with you. If the patient then arrives for an appointment and you decide not to accept him or her for financial reasons, your decision can appear questionable in retrospect if the patient is injured by the subsequent delay in receiving medical care. A process in which the biller checks the status of coverage before the patient comes in can expedite your decision on whether to accept

him or her as your patient.

Q: When a patient is dissatisfied with the result of an elective procedure and demands a concession (a free revision, a refund, a discount, or refuses to pay credit card charges), what recourse does the physician have?

A: Selecting the correct patient, providing very thorough informed consent, and keeping the lines of communication open are your best defenses against patient dissatisfaction. However, once a patient who is dissatisfied asks for compensation, contact your patient safety/risk manager, who will help you evaluate the situation from professional liability and compliance standpoints. In some situations, making a concession may be viewed as a "courtesy" gesture and may be a positive factor in the defense of a claim. Other situations may warrant the use of a Release of Claims form.

Q: What factors should I consider in choosing a commercial credit company to provide a line of credit to my patients? Where can I find a reputable company?

A: Some commercial credit companies hold the physician responsible if the patient defaults on a payment. Before using a commercial credit company, read the contract carefully to make sure you won't be liable for a patient's outstanding balance. You should also be aware of your state's consumer protection laws regarding lending and disclosure and make sure that your patients understand the terms and conditions of the financing. Your bank, local medical society, or professional society can help you locate a commercial credit company.

Patient Safety Tips:

- A credit card company will notify the physician in writing about an inquiry into a charge that is being challenged. It is very important that you respond to the letter. If you don't clarify the dispute, the charge will be disallowed. Educate your office staff so that they recognize these letters and they bring them to your attention. Be sure to respond to any letter related to charges that are in question.

- If you accept a credit card for payment, you may want to consider a limit on allowable credit card charges. The limit can be a percentage of the total treatment charge or a dollar limit, e.g., \$3,500, \$5,000, or not more than 50 percent of the procedure cost.

- Payment plans should be in writing and signed by the patient.

- Be sure to obtain a reference for credit applications. This will ultimately assist you in locating the patient if the account needs to be sent to a collection agency.

- Put a time limit on any adjustments or revisions to the original procedure (such as 60 or 90 days from the procedure date). Otherwise, a patient could come in years later and request a revision that was discussed when the procedure was first done.

- Identify poor payers early on and deal with the problem. Do not wait until the situation reaches a crisis point and puts your doctor-patient relationship at risk.

- Make sure you select a reputable collection agency. There are very specific state laws dealing with fair debt collection. A physician who selects an agency that violates state laws could face liability for negligent selection.

FEDERATION OF STATE MEDICAL BOARDS ADOPTS MODEL POLICY GUIDELINES FOR USE OF SOCIAL MEDIA IN MEDICAL PRACTICE

Guidelines for Appropriate use of Social Media and Social Networking in Medical Practice

The FSMB recommends the following guidelines for physicians who use social media and social networking in their personal and professional lives:

Interacting with Patients – Physicians are discouraged from interacting with current or past patients on personal social networking sites such as Facebook. Physicians should only have online interaction with patients when discussing the patient's medical treatment within the physician-patient relationship. These interactions should never occur on personal social networking or social media websites.

Discussion of Medicine Online – Social networking sites may be useful places for physicians to engage in peer-to-peer sharing with other physicians of experiences and education, as well as to discuss issues of medicine and particular treatments. These websites, however, should be password-protected so that non-physicians do not gain access and view discussions implying medical advice. Physicians should also confirm that any medical information from an online discussion that they plan to incorporate into their medical practice and is corroborated and supported by current medical research.

Privacy/Confidentiality – Patient privacy and confidentiality must be protected at all times, especially on social media and social networking sites. Any breaches in patient confidentiality could be harmful to the patient and in violation of federal privacy laws such as the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and applicable state privacy laws. Physicians should never provide any information that could be used to identify patients. For example, physicians should never mention patients' room number, refer to them by code name, or post their picture.

Disclosure – At times in peer-to-peer physician sites, physicians may be asked or may choose to write online about their experience as healthcare professional, or they may post comments on a website as a physician. When doing so a physician must reveal any existing conflicts of interest and they should be honest about their credentials as a physician.

Posting Content – When posting content online, the FSMB commends that physicians always remember that they are representing a medical community and should always act professionally and exercise caution not to post information that is ambiguous or that could be construed as taken out of context. When moderating any website, the FSMB recommends that physicians should delete inaccurate information.

More Suggestions For Social Media Policies

In addition to the suggested content by the FSMB, the authors suggest the following points be included in social media policies for a medical practice:

- In patient or public sites or blogs, when describing their medical experience:
- Physicians should disclose any conflicts that a patient would consider necessary such as ownership interest in a hospital named or

ownership of shares or financial benefits received from a manufacturer or a device or drug described. This disclosure may be required by the Federal Trade Commission Endorsement Guides.

- Physicians should disclose that they are not advising about a specific procedure for a specific patient, since they have not examined the individual/patient and may not be licensed to practice medicine in the state where the individual resides. State law regulates the creation of a patient/physician relationship and defines the amount of interaction and type of examination necessary to provide medical advice or prescribe a particular treatment for an individual.

- Physicians should not use or display images, company names, brand names, seals or logos of companies or organizations that might falsely imply endorsement, sponsorship or affiliation.

- In addition, physicians should comply with the state deceptive trade practices act and all medical board advertising guidelines.

A social media policy for a medical practice should also address HIPAA and state privacy law requirements regarding the disclosure of patient information and should consider the following:

- Physicians should not post photographs of patients online or on any social media website or practice website without the express permission of the patient in writing.

- Physicians should not post any patient identifying information online if discussing a particular case in a physician discussion or professional site (only use fully de-identified data).

- Physicians should comply with HIPAA and applicable state law in the event of a breach of patient's protected health information which may include notifying the patient as well as media and the Secretary of Health and Human Services in certain circumstances.

Conclusion

Physicians, physician groups and hospitals need to adopt a properly drafted social media policy for the following reasons:

- The FSMB has presented evidence of growing concerns about physician use of social media that require properly drafted social media policies.

- Best practices for use of social media in medical practices requires following of both medical ethics and legal rules.

- In the social media context, following good practices is neither obvious nor intuitive for a physician.

- Without a good Social Media Policy, the risk is increased that the entire medical practice group or hospital may be liable for the actions of a single physician.

- A physician's failure to follow best practices in using social media and applicable privacy and other laws can result in serious disciplinary proceedings and harmful consequences to the physician and the patient, or both.



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BILLING FOR ASSOCIATES FRAUGHT WITH RISK

By: Jeff Cohen

You've hired a new doctor to join your practice, but it will take several months to get the new doctor on your insurance plans and to add him or her to your group practice. What do you do? Can you bill for the new doctor's services under your own provider name or number? Can you hold the billing and submit it at a later date?

Billing for the new doctor's services under the name or provider number of a physician who did not actually perform the service is fraud. It's as simple as that. And it's a serious offense, punishable as a criminal offense, regardless of the payer involved. In other words, it's not true to say "Well, it's OK to do with HMOs, but not Medicare." It's fraud for every payer. And, with federal payers, it's a federal crime! So what do you do?

Physicians are very limited with respect to Medicare and Medicaid patients. The new doctor must be added to the practice's provider number, especially if the practice provides designated health services" such as PT, rehab, clinical lab and diagnostic imaging. Most practices time the hiring of the new doctor with adding him or her to the provider number and also ensuring that the new doctor is contracted with various payers, all of which can take several months.

There may be a little more flexibility with respect to PPOs and HMOs, though this is tricky. These payers are usually adamant about credentialing the new doctor and about having him or her sign a participating provider agreement before providing services to their insured's. In some very limited circumstances, a payer may expedite the process and may even suggest a billing arrangement that would otherwise constitute insurance fraud, but physicians still need to be careful with these arrangements. When a payer suggests such an arrangement, it is absolutely essential that the proposal and agreement be in writing and review to ensure regulatory compliance. Otherwise, the practice and the doctors involved may be subject to fraudulent claims—e.g. violations of the state insurance laws and even the federal False Claims Act.

We are pleased to announce this new member benefit that our long-time friend Jeff Cohen of The Florida Healthcare Law Firm is offering to Lee County Medical Society members.



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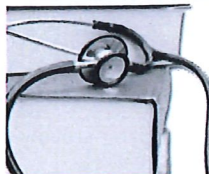
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Fri. 1 & Sat. 2
Wed. 13
Sat. 16 & Sun. 17
Fri. 22 & Sat. 23
Fri. 29 & Sat. 30

Gwinnett
S. Carolina
S. Carolina
Cincinnati
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MARCH 9, 2013 • 7:00PM

TICKETS \$25 INCLUDES PRE-GAME PARTY-TBA

Reserve your tickets by mailing your order form and payment to:

Lee County Medical Society

13770 Plantation Road, Ste 1, Fort Myers, FL 33912

For ticket information please call 936-1645



Happy 
St. Patrick's Day

BP SETTLEMENT CLAIMS FOR MEDICAL PRACTICES

As you know, the BP Deepwater Horizon oil spill had a devastating impact, not only on the environment and the Gulf's seafood and tourism industries but also on the thousands of businesses (on the coast or inland) that suffered the devastating trickle-down effect of the damaged economy—including businesses within the medical field.

The good news is that compensation is still available, even for those business owners who previously thought that their businesses were too far inland to recover.

On Dec. 21, 2012, Judge Carl Barbier granted final approval of the Economic and Property Damages Class Action Settlement. The largest civil class action settlement in U.S. history, this multi-billion dollar settlement has no cap and covers an incredibly large geographic area.

Businesses within the medical field are among the many that, because of the crippled tourism industry, suffered losses and have a potential claim. How is that possible?

Well, consider, for example, the physicians who typically see thousands of tourists on vacation or the visitors who migrate down south for the Winter—parents of children with cuts, broken bones, or illnesses or adventurers who injure themselves water skiing or parasailing. Consider the winter visitors who choose to recuperate from surgery in the sunshine not the snow. Consider the affiliated services, such as imaging centers and labs that normally process the x-rays from those broken bones or blood work from those ill children.

Businesses within the medical industry may not have had oil washing up on their doorsteps, but fewer tourists due to the oil spill equaled lost business and lost revenue. From imaging centers and labs to the offices of physicians, dentists, chiropractors, and others in the professional medical services industry, it is important that those which suffered losses in 2010 consider filing a claim.

It is also important to understand that these businesses do not have to be within a stone's throw of Gulf Waters to have an eligible claim. Many businesses felt the economic impact of the oil spill, and the settlement was crafted with this in mind to ensure fairness. The following areas are covered under the settlement: the entire states of Alabama, Mississippi and Louisiana, portions of Texas and Florida, including Lee County. Any business that falls within these states or areas is a member of the settlement class.

The settlement was designed so that all eligible claimants in the class can recover from BP. The necessary documentation varies depending on businesses' locations. Claimants can typically use records of past earnings to help establish causation and determine how much compensation BP should pay.

The court-supervised website, provides claim forms, court documents, and other helpful information to help guide claimants through the filing process. The web address is: www.deepwaterhorizoneconomicsettlement.com. Business owners can directly submit a claim through this website. Many people, however, have considered consulting a lawyer familiar with the settlement to help them gather the information necessary to maximize their claim. Elizabeth Kagan of the Kagan Law Firm and Sawyer Smith of the Wilbur Smith Law Firm would be happy to assist you with the filing of a claim.

All business owners who suffered losses as a result of the spill, directly or indirectly, have an opportunity to seek just compensation from BP for those losses. We urge you, if you were among those who felt the spill's impact, to seek guidance to recover the compensation you deserve.

Elizabeth P. Kagan
Kagan Law Firm
8191 College Parkway, Suite 303
Fort Myers, FL 33919
(239) 466-1161

Wilbur Smith
The Wilbur Smith Law Firm
1415 Hendry Street
Fort Myers, FL 33902
(239) 935-5721

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~James H. West

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LCMS CALENDAR OF EVENTS

MARCH

- 9 Red Sox Ballgame • 7PM
- 16 **LCMS Alliance - Doctors Day Celebration**
6-8PM • FineMark National Bank & Trust
12681 Creekside Lane, Fort Myers, FL 33919
- 19 **LCMS Board of Governors Meeting**
- 21 **LCMS General Membership Meeting (Cancelled)**

APRIL

- 13 **LCMS Alliance - Spring Fling Cocktail Party**
7-10PM • Brodeur Carvell Fine Apparel
Bell Tower Shops
- 16 **LCMS Board of Governors Meeting**
- 26 **HMA – Health Management Association**
Meaningful Use Conference 8AM – 12:30 PM
Registration 7AM • Pelican Preserve
10571 Veneto Drive, Fort Myers, FL 33913

MAY

- 16 **LCMS General Membership Meeting**
- 17-19 **FMA Spring Board of Governors & Council Days**
Hilton Bonnet Creek
Orlando, FL
- 21 **LCMS Board of Governors Meeting**

JUNE

- 15-19 **AMA Annual Meeting**
Hyatt Regency Chicago
Chicago, IL
- 18 **LCMS Board of Governors Meeting**

JULY

- 26-28 **FMA Annual Meeting**
Hilton Bonnet Creek
Orlando, FL

AUGUST

- 20 **LCMS Board of Governors Meeting**

Thomas P. Clark Board Certified in Health and Tax Law
Robert S. Forman LL.M. Taxation Concentrates in 401K and ERISA
Erin E. Houck-Toll Board Certified in Tax Law

Bruce M. Stanley Sr. Board Certified Civil Trial Lawyer
Guy E. Whitesman Board Certified in Tax Law

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Eliot Hoffman MD



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