Recommended Reading: Don't Sweat The Small Stuff...
and it's All Small Stuff. 100 years from now there will be all new people.

LEE COUNTY MEDICAL SOCIETY

Bulletin

THE VOICE OF LEE COUNTY MEDICINE

VOLUME 21, NO. 10 | Fort Myers, Florida | John W. Snead, M.D. | February, 1998

NO FEBRUARY MEETING
NEXT GENERAL MEETING
MARCH 16, 1998

MENDING WALLS
FMA KEEPS FLOOD AT BAY

Barbara Harty-Golder, M.D., J.D.

Last hurricane season, our neighborhood was flooded because of a storm surge that accompanied Tropical Storm Josephine. I watched helplessly as salt water filled the streets and crept up to my doorstep, and under the raised foundation of my 1920s-era house. There wasn't much I could do to prevent the storm or the rising water.

But my house is surrounded by a wall. It isn't a perfect wall-there are a few breaches here and there-but it kept some of the water at bay. The tide turned, the water receded, and, except for a few lost plants, my homestead was secure.

Until the flood, I didn't give much thought to the wall. Now, I'm patching the holes in the wall and stocking up on sandbags for the next time. That wall is important to me and the safery of the place I live.

The Florida Medical Association is a lot like that wall. It's there as a front line of defense against many of the assaults that increasingly roll out of Tallahassee, headed straight for the doorstep of medicine. It isn't a perfect wall-some of the water gets through-but, by and large, it's there to protect and support Florida doctors and their patients. If it weren't there, there would be nothing between the flood waters driven by hostile interests and the increasingly fragile house of medicine.

In short, the practice of medicine is in crisis. It's not as obvious as it was a few years ago during the attempted nationalization of health care, and not as clear-cut as the upward spiral of malpractice cases that promoted Amendment 10, but the waters are rising just the same. The biggest risk is that we will fail to recognize the impending flood in time to make sure the wall is solid.

For the FMA and the Alliance, the crisis is membership. Even though every medical family in Florida benefits greatly and directly from the efforts of the FMA and the Alliance in the legislative and regulatory arenas, fewer than one out of every two physicians will spend the cost of a soft drink and a candy bar a day to belong to the FMA. More astounding, even fewer spouses think an Alliance membership is worth less than the cost of a first class letter a day.

Ask these people why they don't belong, and they'll tell you it's too expensive-even though they often spend far more than the cost of FMA and Alliance membership on country club memberships, cable TV or Internet access. The pool services, the tennis pro, the gardener, the manicurist and the dog groomer rank higher in the family budget than membership in an organization dedicated to preserving the profession that feeds the family.

Physicians' practices are being assaulted from all sides. Incomes are down, and physicians are trying to expand practice bases and reduce overhead. Membership in the FMA is often the first to go, especially if the practice-or the hospital, university or

(continued on page two)

PRESIDENT'S MESSAGE

David M. Reardon, M.D.

"DON'T PACK YOUR BAGS"

It is now February. The season is upon us and the glow of the holidays has faded. Still I couldn't help but reflect upon a few of the gifts I received, especially several I received from several local hospitals. They are all practical and have already been put to good use. After further consideration, it occurred to me a theme might be emerging - a travel kit for toiletries, a suitcase and a bathrobe. Perhaps it is my imagination, but could someone be telling me "Pack your bags, we don't need you anymore?" Not too long ago I wouldn't have looked for such dark symbolism in what are otherwise generous and useful gifts. Times are different, things have changed; I'm not quite as young as I once was. In fact, I am more wary and cynical. My interpretation thus stems from my own sufferings. There is much to be cynical about: managed care with its attendant feelings of loss of control, burdensome and intrusive government regulations, declining reimbursement and public disaffection with medicine.

Many days in an effort to deal with all the dragons, I find myself flailing quixotically in all directions. At the height of one of these many frenzied episodes, I begin to realize the need to take a step back and put things in their proper perspective. I force myself to focus on the immediate. In the words of my sage, senior Seidekick, "Just be in the moment." Usually at times like this I am at my desk, surrounded by mounds of ever multiplying paper, when I pick up the next slide and read the accompanying requisition. It is then that I see a name, an age, and an attending physician. These are real people counting on me, trusting that I will give them my full attention and my best answer. I reconstruct in my mind the clinical setting that might have lead to the procedure producing the tissue I am evaluating. A different set of images begins to fill my head. The anxiety which preceded the procedure, the discomfort and inconvenience of the procedure, the waiting for the results and the impact of the diagnosis - relief or consternation.

It is now that I see more clearly, focus more sharply, breathe more easily and speak in a less pressured manner. I must pour my whole self into the care of this human being, not later when it might be more convenient and I might be less perturbed, but now as I am called to do - as we are all called to do.

By recognizing the "calling" I am able to consider the foundation of our roles as physicians - a relationship of sharing based on the establishment of trust. These relationships are not easily maintained. They require sacrifice, compromise and effort. As much effort, or more, as is required to negotiate with insurance companies, lobby politicians, and plan our business strategies. I wonder if we wouldn't do well to again direct our energies to those principles which first attracted us to medicine - giving, receiving, healing, privilege, and trust. I believe it is where we should start in our quest to regain control of our profession.

For the moment, the demons of medical destruction vanish or at least appear more like windmills and much less invincible. I am hopeful. I am able to remember to do one thing at a time, to prioritize and formulate a plan of attack. I will be back at work tomorrow and I will do what I can to insure the preservation of our practice of medicine.

The travel kit, suitcase and bathrobe are in my closet - I will use them - but I am not going away...not just yet.

LETTER TO THE EDITOR

Dear Editor,

I always look forward to Roger Scott's "As I Recall..." articles in the BULLETIN. His January '98 offering brought back vivid memories of my first foray into Lee County medicine.

It was July, 1964 and I was fresh out of the U.S. Navy and bright-eyed and bushy-tailed and ready to take on the world. I was to join Bob Tate in General Practice (this was before Family Practice and its Board were established) in Cape Coral. Bob took me on rounds one evening at Lee Memorial to meet some of the Doctors and staff. Bob was busier than a one-armed paper hanger with the itch that night and I sought to save him some time. We had just seen one of his patients and as he went to the next, I made what I thought was a helpful and innocent note on the progress sheet in the chart. I noticed that a rather large man was pacing the hall on the old Cox I wing at LMH and seemed to be peering at me. I shrugged it off and then left to go back to my budding practice at the Cape.

My staff privileges were to be voted on the next week and I learned later that Joe Selden (an institution in OB-GYN at Lee) had objected to my joining the staff. His objection was correct of course, however innocently I had erred. He had been the one lurking on Cox I observing my indiscretion. I also learned later that had it not been for Bob Tate's and perhaps Frank Rawl's efforts, I might never have received privileges. I was advised by Frank and others to stay away from Lee until I was a full-fledged member of the staff --and I did!

It's interesting that Joe Selden and I became fast friends as well as colleagues, later. Joe bailed me out of a difficult 3 AM primip delivery one time when a mother came out of the stirrups. I thought it was a shoulder dystocia but Joe made it look easy, (in the days when G.P.s did OB). Joe later became District Governor of Rotary and I, a President of the Cape Coral Club.

Ah, sweet memories!

Wallace L. Dawson, M.D.

AS I RECALL...

Roger D. Scott, M.D.

"TIMES HAVE CHANGED"

Yes, I was gay and used coke and pots. It was 1958 and being gay meant cheerful, lighthearted, merry, happy rather than the 1990's connotation. Coke referred to Coca-Cola and pots referred to cooking pots, chamber pots and other such utensils rather than the weed. My, how times and some definitions change.

This was a time when there were no answering services, no answering machines, no pagers, no cellular phones, no touch-tone phones, no call waiting or call forwarding or any of the features that we now find available for our convenience. When one called someone on the telephone, whether it he the telephone company, a business, or home, there was a live response or no answer. Physicians listed their home and office numbers in the small telephone book which was approximately the size of a Readers Digest in width and height but only about half as thick. The four telephone exchanges were: EDison for the Fort Myers area, OXford was East Fort Myers, WYandotte was North Fort Myers, and MOhawk was Fort Myers Beach. There was no Cape Coral and I can't remember the exchange for Lehigh Acres (long distance call). Ultimately, a telephone answering service was opened by Frank Nardone who ran the service from his home. The way that he was able to receive your call was that you put in the phone book "if no answer, call his number". When one would call his answering service, crying children or barking dogs were often heard in the background. He ultimately developed a larger and more professional answering service which was our first true answering service. Long distance calls had to be made through an operator rather than direct dialing, and overseas calls had to go on under-sea cable and very often one would have to wait several hours to get a line. All telephone communications were by line rather than by microwave or satellite, as the majority of telephones are at this time.

Mobil telephones were available for automobiles but were extremely expensive to install, rent, and use. I don't think any of the physicians in the area had car phones; however, Clifford Vinson, Harvey Funeral Home and I had a mobile radio network.

Pagers did not come out until some years later and they had only a tone page without numbers or messages. Initially it was sort of funny watching people respond when we would be in a crowd and a beep would go off and people had no idea what was going on. I carried two, one for home and one for business.

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AS I RECALL *(continued from page one)*

Gradually pagers became more widespread, being carried by many elements of the population. Pagers then evolved to a digital pager or a voice pager. It was always annoying to have someone in a room with a voice pager with an operator coming on in a loud voice. I never used a voice pager and I'm glad we don't hear the voice pagers much anymore. The alpha-numeric pagers with messages, stock markets, weather, etc. of course are all in the recent years.

Most cars and most homes were not air conditioned. Many businesses were still not air conditioned.

There was no county water system, and if one lived in the country well water was utilized. County sewerage was not available and only septic tanks or outhouses were used. Many houses along the river still dumped raw sewerage into the Caloosahatchee. City water and sewage was mostly available. Some areas of the county did not have electricity.

The Medical Society as a medical group was certainly small and we pretty much knew each other quite well. We knew office location, office hours, days the doctor was off, knew the personnel in the office, and knew the doctors families (and in some instances their girlfriends.)

As there was only one hospital (actually two with Jones Walker) we would see each other almost daily, as all of the physicians had hospital privileges and admitted patients to the hospital.

Most physicians wore suits, many with vests. No radical colors, only darker suits, white shirts and quiet ties. Many of the physicians used pocket watches rather than wrist watches. Pants were universally made with a pocket for carrying a "pocket watch". Levi continues to make their jeans with watch pockets but I don't think any others do.

MANAGED CARE: THE PHYSICIAN PERSPECTIVE

This presentation was presented by Cecil B. Wilson, M.D., President of the FMA, to the Florida Managed Care Institute, Inc.

On behalf of the Florida Medical Association and myself, I would like to thank the Florida Managed Care Institute for inviting me to represent the FMA, and for planning this valuable, comprehensive three-day conference on managed care. I have been asked to provide a physicians perspective on managed care. It's hard to talk about managed care from a physicians perspective and not sound pejorative. Therefore, what I would like to emphasize as the theme for my remarks is that we all have a responsibility to be involved in assuring that managed care, in meeting its original primary calling of controlling medical costs, also preserves access to a high quality of medical care. And by "we," I mean physicians, other medical providers, employers, patients, managed care administrators, state regulators, legislators--in short, everyone involved in the health care system.

Let me begin by presenting several non-physician perspectives that illustrate the nature of the challenge facing the managed care industry. Several weeks ago I was seeing one of my patients, a retired pilot from Delta Airlines. As he got off the examining table, he said, "Doc (that's what he calls me), I sense a rising tide of rebellion among my friends." He was referring mainly to changes in Medicare with decreases in coverage, but also to a fear of what he perceived as the inappropriate decrease in choice that accompanies managed care.

A few days later I was reading an article in which political pundits were predicting what will be the issues on the front burner for the nation in the coming days. James Carville, the political operative who ran the President's campaigns, he of the "it's the economy, stupid" quote, predicted that health care will return as a main issue because of what he described as the "tyranny of managed care."

Last weekend I watched a forum on TV that included George McGovern, former senator and presidential candidate, and William Buckley. In response to a question about health care, Mr. McGovern indicated that he did not think that managed care would ultimately survive--of course, what he was advocating was a system of nationalized health care. Mr. Buckley's response was that our current health care system (meaning managed care) is in its adolescence.

What each of these stories illustrate is what I think we all know, that the American public has a pervasive sense that the changes our health care system is going through are not improving things, and that managed care has significant imperfections. I believe that such public concern offers us the imperative and the opportunity to make improvements. Let me suggest some priorities as I see them.

1. We must assure that managed care rules aimed at controlling cost do not impinge on the clinical judgement of the treating physician. We must preserve the independence of the treating physician.

2. We must assure that capitation contracts adequately reflect the costs of providing care to patients of different ages and with complex and chronic diseases. We must also provide stop-loss insurance for those physicians in risk contracts.

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MENDING WALLS *(continued from page one)*

HMO-has been in the habit of paying for membership and suddenly refuse. The excuse for not forking over the money personally? "The FMA doesn't do anything for me."

Poppycock.

Every year, the FMA leads the battle against legislative attacks on physicians and their patients. Specialty societies regularly solicit FMA support for their narrow causes-because the FMA, and the Alliance, have demonstrated great skill (not perfect) in moving forward the agenda that protects the House of Medicine and its patients.

Every year, the FMA addresses global issues that specialty societies cannot. Just this year, the FMA was successful in preventing the reduction in PIP fees paid to the physician, preventing expansion of the wrongful death statute that would have increased malpractice premiums for every physician, preventing expansion of the tail coverage requirements for physicians leaving practice, preventing disclosure of complaints against physicians prior to finding of probable cause, preventing the imposition of risk management reporting requirements on medical offices, and preventing repeal of the physician's right to self-insure. A conservative estimate of the savings to each and every medical family is tens of thousands of dollars-far more than the cost of membership, and an excellent return on the investment.

Every year, the FMA works in the courts, providing legal assistance and amicus briefs, to defend the position of Florida physicians in the very legal system that chips away at the protections provided by law as much as-sometimes more than-the legislature.

So what does this mean to you as a LCMS/Alliance member? In the words of Ann Landers, it's time to "Wake up and smell the coffee." If the FMA and Alliance aren't there to protect medicine, nobody is. And that would mean increasing and increasingly successful assaults against medical practices and medical families. Right now, we are in real danger of not being there because our membership is slipping.

The FMA and Alliance need you. It pains me when I see a physician's wife touted in the local paper for her endless good works on behalf of the arts or the Junior League, and I know she either doesn't belong to the Alliance, or is "too busy" to help in any real and meaningful way. Don't get me wrong, the arts and Junior League are wonderful causes. But they don't pay the bills.

Increasingly at risk for medical practice is the core issue of survival. It is time we learn to take responsibility for assisting and protecting the profession we love. It is time to shoulder our share of the load.

It is time to quit making excuses about not being able to afford membership. As long as medical practices are under assault, we can't afford not to join. Cut back in luxuries, but keep supporting the FMA and Alliance.

It is time to recognize that specialty societies can't do it all. To be effective, specialty societies need (and regularly seek) the help of the united house of Florida medicine, the FMA. And specialty societies can't always address issues of general application-like increasing tail coverage, attempts to expand liability for wrongful death, and recent attempts to impose risk management reporting requirements on medical offices.

It's time to focus our efforts on the critical legislative and regulatory issues that directly affect medicine and let some of the other good works be done by someone else.

It's time for those who consistently refuse to help but gladly reap the benefits of others' work to be ashamed of their behavior-not proud of their business sense in getting something for nothing.

As medical families, our first social allegiance should be to our profession that feeds our souls as well as our families. We should be working hard to ensure that medicine in Florida remains a profession we can be proud of-one that protects and defends its patients, provides the best care possible in a reasonable and fair way, and is not just the bottom line of a corporate balance sheet.

There's an old saying: "Show me one's checkbook (or calendar) and I'll tell you his priorities."

Take a look at your checkbook and calendar. Do they reflect that you care enough about the profession of medicine to support it with your advocacy, your energy, your dues and your service?

If not, don't complain when medicine is reduced to one-size-fits all care, driven by corporate bottom lines, with bean counters instead of doctors running the show.

There is no time to lose, and no room for excuses.

Barbara Harty-Golder, M.D., J.D., is FMA Treasurer and a member of the Sarasota County Medical Society Alliance.

THE QUESTION MAN

OPINIONS - EDITORIALS
LETTERS TO THE EDITOR
John W. Snead, M.D.

"WHAT WILL IT TAKE TO MAKE THE AMERICAN VOTER REJECT MANAGED CARE?"

Mark S. Ganoczy, M.D. Ophthalmology

"Education...Education...Education. We must be willing to advise our Patients in all aspects of their medical care - including managed care."

Steven R. West, M.D. Cardiology

"The American voter and the American consumer will demand value for their health care dollar. Once they realize that Medical Savings Accounts and Provider Service Organizations are able to deliver better, high-quality health care for less, the American voter will overwhelmingly reject managed care. To make this happen, however, the government needs to stop subsidizing managed care organizations with taxpayer money and special regulations which place the alternative delivery systems at a disadvantage in the marketplace."

Marc S. Yalof, D.O. Family Practice

"One can only wonder IF the American voter will ever reject managed care. We in the health care profession will have to deal with the many frustrations of managed care on a daily basis. We are somewhat insulated from the cost of health care. However, a vast majority of our patients have a difficult time meeting the challenges of the rising costs of health care in our country.

While Americans insist upon maintaining the finest quality of medicine in the world, they also insist upon this health care being provided at a low cost. Managed care seems to provide that for the American voter. Certainly managed care is not for every American. It does, however, meet the needs of a vast majority of Americans who are in need of health care coverage at a reasonable cost. Therefore, it seems as if managed care is likely to remain with us for many years to come."

March's Question:

"WHO WILL LIKELY LEAD THE FIGHT AGAINST MANAGED CARE?"

Send your comments to the Medical Society. Bulletin deadline is the 15th of each month...we want to see you in the print media! ◆

EXAMPLES NEEDED OF UNFAIR HMO DISMISSALS

To protect physicians from unfair dismissals from HMOs, the FMA will be lobbying during the 1998 legislative session for the adoption of due process legislation. To ensure that this legislation is adopted, real life examples of managed care abuses regarding dismissal of physicians from HMO panels are needed. Please forward examples to Craig Hansen, Director of Legislative and Political Education, at FMA Headquarters, by fax at 850-222-8827, or by e-mail at chansen@medone.org.

HOW TO MAKE THE 30 SECOND PHONE CALL

(Courtesy of Collier County Medical Society Alliance)

1. We will provide you with all necessary information each time the Grassroots Lobbying Committee calls you, e.g. who to call, the Government bill number, and a yes or no response.
2. Phone your Representative's or Senator's office.
3. State your name, county and address if asked.
4. State that you are for or against the bill number that has been given to you. Then you may pat yourself on the back because you have made a difference.

LEE COUNTY MEDICAL ALLIANCE FOUNDATION

1998 Charity Ball News

Preparations for the 1998 Charity Ball, "Moon over Havana" are moving along at top speed now that the holidays are past. As many of you know, the major recipient for 70% of the 1997 Charity Ball's proceeds is the **Lee County Breast Screening Program** (LCBSP). LCBSP target over 90,000 Lee County women, ages 40 and over, from low income households so they may receive education and diagnostic services and treatment.

Kindly check with your office managers concerning your tax deductible donations. The Lee County Breast Screening Program is in dire need of funds. Sponsorship dollars go directly to the charity and this is where you can help. If you would like more information please contact Charity Ball Chairman Barbara Rodriguez at 433-9654.

Mini-Grants

Thirty percent of the Charity Ball proceeds are allocated to the mini-grant program. This year a total of $43,354.60 was awarded to 13 mini-grant applicants from funds raised during the 1997 Lee County Medical Society Alliance Charity Ball. The recipients are as follows:

Florida Gulf Coast University - $10,000.00 (our grants will be matched for a total amount of $40,000)
Big Brothers Big Sisters of Southwest Florida, Inc. - $5,000.00
Community Cooperative Ministries - $2,000.00
Fort Myers Interfaith Volunteer Caregivers Program, Inc. - $2,500.00
Fragrance Garden for the Blind and Handicapped at Lakes Park - $1,934.88
Healthy Start Coalition of Southwest Florida - $3,217.00
Hope Hospice - $2,045.22
Impact - $1,000.00
Island Coast Primary Care Project, Inc. - $2,800.00
La Leche League - $1,687.50
Lee County Medical Society Alliance Foundation - $4,170.00
Senior Friendship Centers, Inc. - $1,500.00
The Southwest Florida Autistic Society - $5,500.00

AMA-ERF

Our recent AMA-ERF Fundraiser was a big success. We raised $4,035.00 this year. The American Medical School Association Education and Research Foundation is a national organization sponsored by Medical Society Alliances across the nation. The AMA-ERF provides much needed funding to medical schools and medical students.

1997 Holiday Party

The Holiday Party held at the Veranda on December 9th, was not only great fun but proved to be a successful charitable event as well. In keeping with the AMA Alliance's national commitment to **Stop America's Violence Everywhere (SAVE)**, holiday party co-chairs Barbara Lutarewych and Jody O'Konski asked LCMSA members to save "work" clothes no longer being worn and donate the clothing to the 1997 Holiday Charity, *Abuse Counseling and Treatment, Inc. or* ACT. A van load of clothing was delivered to ACT to be distributed to survivors of domestic violence who must return to work to support their families. We were also able to donate $675.00 to ACT from the generous contributions given by our members.

Legislative News

The LCMS Alliance is gearing up for the impending Legislative Session with an update meeting being held on Wednesday, February 4, 1998 at the home of Bette Rubenstein. Craig Hansen, FMA Director of Political Action will educate us on the latest medical issues upcoming, and formulate plans for what action we should take.

MANAGED CARE (continued from page two)

•Must not continue to increase the paperwork hassles of physicians providing care.

•Must not inappropriately limit hospital stays.

•Must not unduly limit patient choice of physicians and referrals.

•Must not include perverse financial incentives that penalize physicians for referring, testing, or using financial resources.

•Must not have, as the primary measure of success, decreasing the medical loss ratio for insurance companies.

The likelihood that the federal government will not continue to have a significant role in the health care system especially as related to its Medicare and Medicaid programs, is zero to none. Likewise, I would like to submit, the likelihood that managed care will not be the form of the private health care system for foreseeable future is zero to none. Therefore, I believe the proper role for physician organizations like the Florida Medical Association is twofold:

First, we must provide help to our members to enable them to compete in the new system--help with advice, with contract evaluation, and with education opportunities.

Second, we must work to improve the system by correcting defects as they appear. We approach this in two ways:

We will work in legislative and regulatory arenas to mandate reforms to deal with the problems already so visible to physicians and the public.

And, knowing that the legislative arena is fraught with hazards and unintended consequences; and knowing that not all, or even most problems find their resolution in the legislative arena, we will work with the managed care industry, with employers and patients to develop agreements to solve problems amicably.

To the end, last year the FMA and the Florida Association of Managed Care Associations came together in a collaborative effort which we formulized into a joint committee to explore ways to work together to solve problems. I am committed to the continuation of that effort. I think Mr. Buckley may have said it best, "Our health care system is in its adolescence." Adolescence, that time after puberty but before maturity. That time when we never know what to expect, when strange crazy things happen, when we wonder if we will ever like the stranger who now lives in our house--the teenager--when we wonder if he or she will ever grow up and succeed and when that event occurs, if we will think the results are worth the effort.

But at a time when we have great hopes for the future--great optimism that there will be success, enthusiasm for the work because it is so important, and an understanding that only by persevering in our efforts can we succeed, *I would suggest that William Buckley is right, managed care is that adolescent.*

RISK MANAGEMENT

Physician Liability Issues Under Managed Care

Court cases against physicians usually result from an injury to a patient, patient anger, a perception that something wrong has occurred and/or managed care policies. Historically, physicians had complete control over medical decisions, and tort law reflected this fact.

In the 1960's, laws were changed to acknowledge the role of hospitals and most recently, managed care companies. The law, however, has not kept pace with the changing models of health care delivery.

The three most significant issues affecting physician liability today are utilization management and appeals process, financial incentives, and hold harmless clauses. Recent case law has found physicians liable if they did not take action to advocate on behalf of patients when managed care plans denied care to patients. Cases include the Wickline Case, the Wilson Case, and the Corcoran Case.

Physicians should not only prescribe care but should provide the non-covered service without delay, and vigorously follow up with the managed care company to protest the denial of coverage. Recent court cases have held physicians liable for harm to patients that resulted from delays in authorization for payment from managed care companies, if physicians did not advocate on a patient's behalf and if they did not provide non-covered services.

Outlining the appeals process for denial of coverage, physicians should employ the following course of action:

- Cross examine reviewers; make sure they have seen all the medical records and other pertinent information;
- Provide reviewers with the big picture; make sure they understand the consequences;
- Exhaust all avenues of appeal; talk to a Board Certified specialist in the same area;
- Advise the patient of the risk;
- Send a letter to the medical director or the managed care company, with a copy to the patient;
- Request reconsideration;
- Include a copy of the letter in the patient's medical record; and
- Provide service as a non-covered benefit (not necessarily as a free service).

It is important for physicians to keep records of all actions taken on behalf of patients and to go through proper channels.

Physicians are cautioned not to accept financial incentives that pressure you to preform services for which you are unqualified. Instead, refer patients to a specialist. Further, physicians should not let the financial risk get too large or too personal.

Indemnification clauses or hold harmless clauses indemnify the manage care company from liability resulting from the medical care rendered to the patient. In other words, risk is shifted to the physician-even when the managed care company denies payment for services the physician deems necessary.

In many states such clauses are prohibited through legislation, and physicians should negotiate with managed care companies to eliminate them from their contracts, prior to signing.

DOCTOR OF THE DAY NEEDED FOR '98 LEGISLATIVE SESSION

Lee County Medical Society Members should plan now to participate in the FMA's Doctor of the Day Program, which will be held during the 1998 legislative session, March 3 - May 1, 1998.

The Doctor of the Day Program is a vital professional service that the FMA provides to the members of the Florida Legislature and their staff. Through this program, each day during legislative session Florida physician serves as Doctor of the Day, performing certain limited routine medical services through the facilities of the Legislative Clinic, which is located in the Capitol.

The Doctor of the Day is introduced in either the Senate or House Chamber at the beginning of the day, and then sees patients who need minor medical attention in the clinic.

After examining patients, the physician is able to attend committee meetings or visit House and Senate Chambers, where he or she can sit with their local delegation to observe the session.

The FMA pays for the Doctor of the Day's lodging the night prior to serving. To register, complete the registration form and fax to 850-224-6627. For more information, contact Shana Hendricks in the Office of Government Relations, 800-762-0233.

1998 MEMBERSHIP DUES ~ NOW DUE!

Do your part, do not let someone else carry your share.

All physicians should be members of their professional organizations. Many physicians and staffs work on your behalf with little or no recognition.

HEALTH PLAN HAS ALL THE POWER

Aetna Contract Concerns

According to an AMA analysis of the terms Aetna US Healthcare requires of its Florida physicians, the contract:

- Uses the terms 'medical necessity' and 'covered services' interchangeably, allowing Aetna to supersede a physician's determination regarding the necessity of medical service.
- Does not clearly establish a mechanism to appeal a decision by Aetna that services are not medically necessary.
- Grants Aetna sole authority to determine what is medically necessary, while it shifts liability for such decisions to the physician.
- Leaves the definition, of 'emergency services' and 'experimental treatment' open-ended and does not state who determines if they are covered.
- Prohibits physicians from 'imply(ing) to members that their care or access to care will be inferior due to the source of payment,' which the AMA views as a gag clause prohibited by Florida law.
- Declares that patient medical records are shared property of the company and the physician, contrary to established law. Aetna may require that a physician supply information without written consent of patient, also contrary to established law.
- Gives Aetna the right to retroactively deny previously authorized referrals.
- Allows Aetna to unilaterally modify the fee schedule, contrary to basic contract principles.
- Does not allow a doctor to bill a patient for services the company retroactively decides are not covered.
- Allows physicians only 30 days to adjust claims without regard to undue hardship, serious illness, natural disaster or theft. At the same time, the contract does not obligate Aetna to pay claims in a prompt manner.
- Gives Aetna the power to unilaterally change company rules, policies and procedures without notifying physicians. The company may terminate physicians for failing to comply with these policies.
- Allows the company to terminate its relationship with a physician on 30 days' notice but requires a physician to give at least 60 days' notice.
- Limits physicians to actual damages and states the company shall not be liable for any indirect, incidental, punitive, exemplary, special or consequential damages.

A Fairer Contract

The model managed care contract recently proposed by the AMA allows a managed care company and a physician group to use one contract to govern any and all products and plans. Highlights:

Obligations of plan

- Company must have a mechanism in place to verify an enrollee's eligibility and thus guarantee payment.
- Company must notify physician of all policies, procedures and rules. Amendments require 30 days written notice; material changes require physician consent.
- Utilization review matters must be subject to a due process review by independent peers.
- Company must pursue payment from party obliged to make payment, or allow a physician to do so.
- Company must obtain a narrowly tailored consent from a patient to obtain confidential information.

Obligations of the physician or the medical services entity

- Contract contains standard licensing, nondiscrimination and credentialing requirements and an agreement to comply with the managed care companies' administrative policies and procedures. All such policies must be attached to the contract.

Compensation

- Requires that specific compensation terms be attached to the contract. Includes a checklist of issues to be identified and resolved in negotiating capitation arrangements, risk-sharing arrangements and withhold and bonus structures. Establishes a penalty for companies that fail to articulate these matters in sufficient detail.
- Requires payments be made within 45 days of a 'clean' claim. Claims not 'clean' enough for payment must be returned within 45 days of receipt and must be paid within 30 days of the company's return receipt of additional information.

Definitions

- Emergency condition: what a prudent patient would believe is an emergency. Once a physician has had opportunity to review the results of a screening, the standard becomes what a reasonably prudent physician would consider an emergency.
- Medically necessary service: what the average, reasonably prudent physician faced with such a diagnosis or condition would consider medically necessary.

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VOLUNTEER PHYSICIAN RECOGNITION PROGRAM

The PAA Task Force on Physician Volunteerism needs names of members who have provided voluntary education or professional services from March 1997 to February 1998 for: • Cholera • Tetanus • The Homeless • Indigent Elderly • Medically Indigent

Return the form inserted in the Bulletin.