



Bulletin

Editor: John W. Snead, M.D.

November 2006
Volume 30, Issue 6

General Membership Meeting

Lee County Medical Society
Annual Meeting & Election of
2007 Officers

November 16, 2006

6:30 p.m. Social Time

7:00 p.m. Dinner

at

Royal Palm Yacht Club
2360 West First Street
Downtown Fort Myers

Speaker:

Craig R. Hersch, Esq.

How the 2007 Changes to the
Florida Trust Code Affect You

Need RSVP for meal by
November 10, 2006

President's Message

Hospital Acquisition Julio Rodriguez, M.D.



This past Labor Day weekend is one many of us will remember for years to come. I was at the FMA Annual Meeting when word came about of the hospital acquisition. Like most, I was shocked. The Lee Memorial

Health System purchase of the two HCA hospitals gave them control of 95% of the acute care in Lee County. What does this mean for our community? How will this acquisition affect the quality of care we offer our patients and what does this mean to our medical economics? Everyone I speak with has different questions and concerns. While these are uncharted waters everyone must know that your Medical Society, FMA and the AMA are all working together to find answers and resources.

- Identify the issues that concern physicians. Make sure that the issues directly relate to the mission statement.
- Initiate a dialogue with hospital administrators and advise them of our intent to help with the transition.
- Schedule a workshop, forum or round table discussion where physicians can develop the issues.

We have to keep in mind that this is a transition not only for us but for the hospital as well. Now is the time for us to establish the relationship that will determine the future of healthcare in our community. When the workshop or forum is scheduled—attend. Don't leave your issues or concerns for someone else to do.

Our first step was to invite Jeffrey Cohen, Esq., to speak at the Lee County Governors' meeting. Jeff has vast experience with hospital laws and regulations that relate to doctors, hospitals, contracts, medical staff, joint ventures, Stark, fraud and abuse and other healthcare businesses. His very first bit of advice was to begin a dialogue with the hospital. Communication is essential and physicians should be vigilant and outspoken especially concerning medical staff bylaws.

He recommended that doctors should have available outside independent representation that they can turn to for advice. While he spoke at length about our unique situation at this point he suggested we begin by:

- Identifying a task force composed of respected community physicians that have the confidence of both the community and the hospital.
- Develop a mission statement.

Remember first and foremost we are patient advocates.

Medical economics will certainly have an impact on the physician community. With the reimbursement rates for insurance and Medicare declining and the cost of doing business increasing many physicians count on outpatient and ancillary revenue. It is naive of us not to expect LMH to want a larger piece of that pie. How large? Who knows? They certainly have the resources to be a large competitor in that market. With such competition recruiting good physicians to practice in Lee County will be a challenge. What incentives do we have to offer? How many good physicians will retire early or leave town? The physician community needs to remain united. Brilliant minds are out there and together we will find the solutions.

Together We Are Stronger!

Inserts

- November Meeting Notice
- Golf Tournament
- Medical Museum Brochure
- UF Foundation/Siegel Award
- Medicare Crisis
- Gulf Shore Rehab

Inside this issue:

<i>Membership Activity</i>	2
<i>As I Recall...</i>	3
<i>Alliance News</i>	4
<i>Board of Medicine Members</i>	4
<i>Laws That Affect Your License</i>	5
<i>Medical Staff Doctors</i>	6
<i>Amendment 3 Ruling</i>	6
<i>Nominations for 2007 Officers</i>	7
<i>Medicare Reform</i>	8
<i>Odds and Ends</i>	9
<i>Remembering Alan Siegel, M.D.</i>	10
<i>Flu Shot Season</i>	10
<i>2007 Medicare Drug Plan Options</i>	11

**LEE COUNTY MEDICAL
SOCIETY BULLETIN**
P.O. Box 60041
Fort Myers, Florida 33906-0041
Phone: (239) 936-1645
Fax: (239) 936-0533
E-Mail: awilke@lcmssfl.org
www.lee-county-medical-society.org

The Lee County Medical Society Bulletin is published monthly with the June and August editions omitted.

CO-EDITORS

Mary C. Blue, M.D.
John W. Sneed, M.D.

EDITORIAL BOARD PRESIDENT

Julio Rodriguez, M.D.

PRESIDENT ELECT

M. Erick Burton, M.D.

SECRETARY

Cherrie Morris, M.D.

TREASURER

Dean Traiger, M.D.

PAST PRESIDENT

Richard Murray, M.D.
MEMBERS-AT-LARGE
Larry Hobbs, M.D.
Raymond Kordonowy, M.D.
Craig Sweet, M.D.
Howard Barrow, M.D.
Stuart Bobman, M.D.
Kenneth Towse, M.D.
Michael Kim, M.D.
Shahid Sultan, M.D.

MANAGING EDITOR

Ann Wilke, 936-1645

DESIGNER

Cynthia Greenfield

The editors welcome contributions from members. Opinions expressed in the Bulletin are those of the individual authors and do not necessarily reflect policies of the Society. Advertisements do not imply sponsorship by or endorsement of Lee County Medical Society. © 2006 LCMS.

PRINTERS

Distinct Impressions

SAVE THE DATE:

December 4, 2006

**The Lee County Medical
Society and Alliance Annual
Holiday Party**

The Verandah Restaurant

Membership Activity

NEW LOCATIONS

H. Scott Harris, M.D.

2721 Del Prado Blvd., Ste 200
Cape Coral, FL 33904
Tel: 772-3636 Fax: 772-5073

Krista Zivkovic, D.O.

Southwest Internal Medicine, P.A.
1708 Cape Coral Pkwy West, Ste 4
Cape Coral, FL 33914
Tel: 945-5940 Fax: 945-5941

Edward Steinmetz, M.D.

12600 Creekside Lane, Ste 7
Fort Myers, FL 33919
Tel: 939-2412 Fax: 275-6566

Thomas Teufel, M.D.

1708 Cape Coral Pkwy West, Ste 10
Cape Coral, FL 33914
Tel: 541-4633 Fax: 541-1852

Katie Drake, D.O.

1530 Lee Blvd., Ste 1700
Lehigh Acres, FL 33936
Tel: 369-6115 Fax: 369-0515

CLOSED PRACTICE

Michael Rosenberg, M.D.

has closed his Lehigh Acres private practice and will be practicing locum tenens.

MOVED OUT OF AREA

Laszlo Csury, M.D.

Arthur Miller, M.D.
John Wade, M.D.

New Member Applicants

Evan Gross, M.D.—Dr. Gross attended Wake Forest University School of Medicine in Winston-Salem, NC and he graduated in 2000. He completed his internship, residency and nephrology fellowship at Washington University/Barnes Jewish Hospital in St. Louis, MO. He is board certified by the American Board of Internal Medicine. Dr. Gross is in group practice with Associates in Nephrology at 7981 Gladiolus Drive, Fort Myers, FL 33908.



Irit Hemed, M.D.—Dr. Hemed attended the University of South Florida and she graduated in 1994. She completed her internship and residency at Emory University in Atlanta, GA from 1994-1997. She is board certified by the American Board of Internal Medicine. Dr. Hemed is in group practice with Coastal Internal Medicine Specialists at 5248 Red Cedar Drive #102, Fort Myers, FL 33907.



Aldith Lewis, D.O.—Dr. Lewis attended Ohio University College of Osteopathic Medicine and she graduated in 2001. She completed her internship and residency at Doctors Hospital, Columbus, OH from 2000-2004. She is board certified by the American Osteopathic Board of Internal Medicine. Dr. Lewis is in group practice with the Family Health Centers at 2232 Grand Avenue, Fort Myers, FL 33902.



Nancy Witham, M.D.—Dr. Witham attended the University of Pennsylvania School of Medicine and graduated in 1985. She completed her internship and residency at The Children's Hospital of Philadelphia from 1985-88. She is board certified by the American Board of Pediatrics. Dr. Witham is in group practice with Lee Physicians Group Pediatrics at 4751 S. Cleveland Avenue, Fort Myers, FL 33907.



Cesar Santiago, M.D.—Dr. Santiago attended the Ponce School of Medicine and graduated in 2000. He completed his internship and residency in general surgery at Mt. Sinai in New York from 2000-2005, and a fellowship in colorectal surgery at the University of Miami/Jackson Memorial in 2006. Dr. Santiago is in group practice with The Colorectal Institute at 2675 Winkler Avenue, Suite 130, Fort Myers, FL 33901.



As I Recall...

Roger D. Scott, M.D.

Four Score

"Four score and seven years ago our fathers brought forth on this continent, a new nation conceived in Liberty, and dedicated to" etc, etc. Abraham Lincoln, Gettysburg, Pennsylvania November 19 1863. Four score years ago on November 5, 1926, my parents brought forth on this continent a new baby boy conceived in love, and named Roger David. Scott; however, no record of the birth was obtained until December 6, 1941. This annual birthday article is presented as a timeline (*personal thoughts italicized*) of only a few events of the past 80 years. (*Did you remember that a score is 20?*)

1926—Goddard invents liquid fuel rocket, Winnie the Pooh created. I was *born in the deep Florida pinewoods*. **1927**—Lindbergh first to fly solo across Atlantic (*fantastic feat*); aerosol can, "Technicolor" & iron lung invented. Cancer, Flu & pneumonia greatest killers. **1928**—Flemming discovers penicillin (*but not available until 1944*), bubble gum & electric shaver appear. Destructive unnamed, killer (2,000-3,500+ FL deaths) hurricane sweeps Florida & *I just about blew away mother said*. **1929**—Car radio & Yo-Yo appear as Great Depression begins. Silent films die. *My early memory appears*. **1930**—Analog Computer & jet engine invented, sliced bread & frozen foods appeared. **1931**—Empire State Bldg. opens. Electron microscope invented. *Memory now good. Late in year move out of the deep woods to smaller woods, Townsend, GA*. **1932**—Polaroid Camera & parking meters invented. *Move to Live Oak, FL & begin first school & find friends*. **1933**—FM radio, stereo-records & Drive in Movie originate. **1934**—*First time ever saw a doctor*. Monopoly, first magnetic tape recording & road reflectors appear. **1935**—Social Security Act, canned beer, radar appear & Prontosil (1st sulfa drug) used. **1936**—Boulder (Hoover) Dam completed, voice recognition machine developed, & "Gone With The Wind" published. **1937**—Jet engine & photocopier developed. *First time I ever saw a dentist*. National Cancer Institute founded. Elixir of Sulfanilamide mixed in error with a toxic substance killed 107 people. **1938**—National Institute for Infantile Paralysis founded. Polio was a significant problem (see 1953). Nylon, freeze dried coffee, turbo-prop engine, & ball point pen invented. *"War of the Worlds" on the radio scared us half to death!* **1939**—N.Y. World's Fair began, we attended & my first time in the North. World War II begins. TV introduced. Electron microscope & helicopter invented. *About now Buick developed Dynaflo (sluggish) & Oldsmobile had Hydramatic (jerky) as the first automatic car transmissions later integrated into our modern smooth transmissions*. **1940**—Color TV developed. Jeep appears & method to produce usable form of penicillin was successfully used in **1941** when black & white TV was broadcast, aerosol spray cans along with the first computer using software appeared. *Attended Riverside Military Academy*. Pearl Harbor. **1942**—first atomic chain reaction. **1943**—Synthetic rubber developed, aqualung, slinky & silly putty invented. **1944**—Normandy invasion (D-day), streptomycin (*1st anti-TB drug*), kidney dialysis & synthetic cortisone invented. *Graduated from Riverside, best drilled cadet & least demerits*. **1945**—U. of F.,

Whip Topping (1st. substitute whip cream invented & produced by Bob Rich from soy beans, very few know this!) Atomic Bomb 1st exploded in New Mexico & then Japan. W.W. II ends. **1946**—*Married @ U. of Va.*, microwave oven invented also 18,000 vacuum tube digital computer. **1947**—*My wife was saved from mastoidecimy by penicillin in bees wax (inventor of process, Romansky, died 8/2006)*. Began med school at U. of Md., mobile phones invented but not commercial until 1983 (*earlier in cars & expensive*) Chloromycetin (*researched at U. of Md.*) a wonderful antibiotic discovered. **1948**—Velcro & Frisbee invented. **1949**—Cake mix invented, *1st son born in Florida*. **1950**—Diners Club (1st credit card), Terramycin invented, SMOKING NOTED AS CAUSE OF LUNG CANCER (*about time!*), Korean War begins. **1951**—*2nd son Md. born*, DNA discovered, power steering, video-recorder & super glue invented. *Graduated med. school (HALLELUJAH!)*. *Rotating Internship U of Md*. **1952**—First diet soft drink, hydrogen bomb, and bar codes invented. *Began surgical residency program*, first external cardiac pacemaker, severe polio epidemic throughout the nation. Isoniazide (*by mouth*) developed to replace streptomycin (*IM*) for TB. **1953**—flight recorder (*Black box*), radial tires, & transistor radio invented. First successful open-heart surgery using heart-lung machine & Salk (*injectable*) polio vaccine begins (*with some contaminated lots containing live virus*). *I enter US Air Force as a general surgeon in Air Research and Development Command & 1st jet flight*. **1954**—McDonald's hamburgers, Teflon as a nonstick pan, and oral contraceptives appear. *In the Air Force on the desert in New Mexico 30 miles from Trinity Site where the first atomic bomb was exploded & the atomic age begun*. **1955**—Birth of fiber optics leading to major changes in medicine and tetracycline appears. *Return to Maryland to continue residency in surgery*. **1956**—First computer hard disk drive appears & "Mistake Out" to whiteout typing errors. **1957**—*first daughter born in Maryland*. *Chief Resident in surgery*. "I Love Lucy" ends. **1958**—laser, modem, and Hula Hoop and we move to Ft. Myers July 1, 1958, *I am the youngest of the doctors*. Barbie doll (*no Ken*), internal pacemaker invented. **1961**—Sabin (*oral*) vaccine helped eradicate polio. **1965**—Medicare and Medicaid established & first coronary artery bypass vein graft performed. **1967**—*I am the oldest of the young doctors*. *About 1974 I became the youngest of the old doctors and gradually progressed to being the oldest of the old practicing doctors about 1995*. *The birth of one daughter in 1972 and one in 1974, both in Fort Myers and native Floridians!* In **1982** the AMA lost a court battle against advertising by physicians and look how the Yellow Pages have swelled! **2006** *I become the youngest of the old living retired doctors (Barry 4 score & 7, Glenn 86, Wiley 84, Isley & Stubbs 81, Scott 80)*.

An old Chinese proverb says: "Life just gives you time and space and it's up to you to fill it." My life has been filled with many joys and many sorrows, much learning and some forgetting, much aging but still some youth and a true love of God, family, and surgery. There's much more for next November.

Lee County Medical Society Alliance & Foundation News

Michele Tyson, President

The Race Continues—Take the Membership Challenge!

One of the Alliance goals this year is to increase membership by 10%. We currently have 220 members and the largest membership in the entire state of Florida! We are asking for an increase of only 22 new members. The Alliance is very proud we have so many spouses who continually dedicate their time in supporting all facets of the organization and have a strong commitment to the medical family and our community. When we compare our numbers to the Lee County Medical Society membership numbers, we do not even meet 50% of the LCMS membership. We are working hard to change that.

We have devised a system to help increase our membership. The golden key to success is persistence. We are going to persistently seek out membership from those members who have not paid through letters or invoices sent through the mail. We will do this every month starting with November until May. For those remainder members who have not paid we will start a phone tree. Many people are so busy with their hectic lives they need a gentle reminder. Remember a quitter never wins and a winner never quits. We will be successful with our membership challenge.

FMAA Annual Meeting at Gaylord Palms Convention Center & Resort, Kissimmee

Once again the Lee County Medical Society Alliance was well represented in the House of Delegates. We were allowed 10 delegates and we filled all 10 spots. The delegates enjoyed a wonderful awards luncheon with other county Alliances around the state. Representing Lee County were Betty Rubenstein, Tami Traiger, Michele Tyson, Ann Shah, Anne Wittenborn, Nicole Laquis, Juli Bobman, Karma Marino, Mary Macchiaroli, and Jennifer Kim. Lee County was presented with the following awards:

Health Information Program: 1st place—Lee County-Breast Cancer Awareness Luncheon/Fashion Show

Youth Oriented Program: 1st place—Lee County-Stride Right: A Fitness for Life Program

Adult Oriented Program: 2nd place—Lee County-Medi-Bags/Wine Tasting

County Fundraiser: 1st Place—Lee County—"Dining Under the Stars"

Newsletter: Over 100 Membership Category—2nd place Lee County

Membership: 5% increase in AMAA membership

Foundation Award

FC/PRN: 1st place—Lee County

5% increase in membership

Third Greatest % increase in contribution to the AMA Foundation

Pride in Partnership Award: Dr. James & Mrs. Betty Rubenstein



Alliance Upcoming Events

November 10th will be our Holiday Cooking Lesson held at the home of Alice Manuelidis at 10:30. We will learn about some great new holiday recipes.

Florida Board of Medicine Members

Chairperson

Mammen Zachariah, M.D.—Ft. Lauderdale

Members

Mark Avila, M.D.—Coral Gables

Carmel J. Barrau, M.D.—Miami

Fred Bearison, M.D.—Valrico

Robert Cline, M.D.—Ft. Lauderdale

Manuel Coto, M.D.—Orlando

Laurie Davies, M.D.—Gainesville

Ronald Dyches—Riverview

H. Frank Farmer, Jr., M.D.—Daytona Beach

Onelia G. Lage, M.D.—Miami

Monique Long—Orlando

Marsha Nippert—Sarasota

Elisabeth Tucker, M.D.—Pensacola

R. Vijayanagar, M.D.—Tampa

Gary Winchester, M.D.—Tallahassee

It Pays To Be a Member of the Lee County Medical Society

Florida based First Professionals Insurance Company (FPIC) is the official provider of professional liability insurance for LCMS members.

Members in good standing with the LCMS are eligible for a 5% discount on malpractice premiums. LCMS members may also be eligible for additional claims-free discounts for even greater savings up to 25%.

We Are Florida's Physicians Insurance Company

For more information visit our website at www.firstprofessionals.com or contact Angie Nykamp, Director of Society Relations, FPIC, 800.741.3742, ext. 3071, or by email at angie.nykamp@fpic.com



Four New Laws That Affect Your Medical License

At our September 21, 2006 meeting Mr. Larry McPherson, Executive Director of the Florida Board of Medicine, spoke about four important laws that will affect your license. Governor Jeb Bush signed the following bills into law July 1st of this year. To read the full text of these new laws go to www.flsenate.gov. Information below was previously faxed to your offices July 6th.

HB 587—Relating to Health Care Practitioners/Licensees:

All health care licensees must provide notice to patients of what type of license the health care provider has (e.g., Medical Doctor, ARNP, Physician Assistant, etc.):

- A name tag meets the requirement,
- An oral notice to patient meets the requirement; advertisement must include this notice as well.
- Exemptions apply to Chapter 394, 395, and 400 facilities.
- Boards may promulgate rules to further define compliance with the statute

HB 699—Relating to Health Care Practitioners:

This bill has a lot of changes and is very important! Continuing education requirements for Board of Medicine Licensees are changed as follows:

- HIV/AIDS and Domestic Violence CE are no longer required for initial licensure.
- HIV/AIDS CE is now a one-time, 1-hour CE requirement to be completed prior to the first renewal (if you have taken a 1-hour course on HIV/AIDS, you have completed the requirement).
- Domestic Violence CE is now a 2-hour requirement every third renewal. For example, if you renew your license on January 31, 2007 you are required to complete the Domestic Violence CE before the January 31, 2011 renewal.

Supervisory relationships with Physician Assistants (PA) and Advance Registered Nurse Practitioners (ARNP) in medical office settings are now subject to new requirements/limitations:

- An M.D. may supervise a PA and ARNP offering primary health care services at no more than (4) satellite offices, in addition to the primary place of practice.
- An M.D. may supervise a PA and ARNP offering specialty health care services at no more than two (2) satellite offices, in addition to the primary place of practice.
- An M.D. may supervise a PA or ARNP offering primarily dermatologic or skin care services, which include, aesthetic skin care services other than plastic surgery, may only supervise PAs and ARNPs at one (1) satellite office, in addition to the primary place of practice. The following apply only to satellite offices offering primarily dermatologic or skin care services, which include, aesthetic skin care services other than plastic surgery:
 - The supervising physician may supervise a second satellite office until July 1, 2011 if he/she immediately notified the Board of Medicine of the address of the two satellite offices no later than June 30, 2006.
 - The physician must be board certified or board-eligible

in dermatology or plastic surgery. The satellite office must be within 25 miles of the supervising physician, unless it is in an adjacent county, in which case the distance must be no more than 75 miles from the primary practice location. PAs in these satellite offices are not required to have their charts reviewed by the supervising physician. An MD who supervises any satellite office must post in each of the offices a current schedule of regular hours that the physician is present in that office, and the hours that the office is open when the physician is not present. An MD receiving a referral must ensure that the Patient is informed of the type of license held by the physician and the type of license held by any other practitioner who will be providing services to the patient. When scheduling the initial examination or consultation following such referral, the patient may decide to see the physician or any other licensed practitioner supervised the physician, and prior to the initial examination or consultation shall sign a form indicating the patient's choice of practitioner. The supervising physician must review the medical record of the initial examination or consultation, and ensure that a written report on the initial examination or consultation is furnished to the referring practitioner within 10 business days following the completion of the initial examination or consultation.

The bill exempts most institutional supervised settings, such as hospitals, rural health clinics, nursing homes, and medical student and resident training. The bill does not change current law regarding what services an ARNP or PA may provide; change current law regarding who may perform hair removal; change current law regarding who may utilize a laser; change current law regarding who may perform dermatologic services, including aesthetic skin care services, or change current law regarding what services a physician may offer in his or her primary place of practice. The bill affects ARNP protocols. ARNP protocols will be posted on the licensee's Practitioner Profile, which is accessible online; the Board of Nursing will review protocols for regulatory compliance, and protocols not in compliance will be sent to the Department.

SB1408 Relating to Medical Records

Places confidentiality and disclosure requirement on employers of health care practitioners and records custodians, provides what data is required on electronic prescriptions, prohibits software that attempts to influence pharmacy choice decisions in electronic prescribing and provides for practitioners to identify medically necessary brands in electronic prescriptions.

SB 1690 Relating to Physician Assistants:

Probable cause panels reviewing PA disciplinary cases shall have a PA member appointed by the PA Council. The PA member hears only PA cases.

Medical Staff Doctors: Know Your Rights

Jeffrey Cohen, Esq.

Doctors who base their medical practices to any degree in hospitals sometimes feel they are living "in the mouth of the lion." Still, the nature of their practices require close and cooperative working relationships with hospitals. For most, this means some give and take, but they work. For a few, it means all out war, which is exactly what one doctor found in Naples. Lucky for him, he knew his legal rights well enough to fight the hospital...and to win.

The Naples doctor was a neurologist and a pain management specialist who practiced at the hospital without a contract. An anesthesia group obtained an exclusive contract at the hospital to provide anesthesia and pain management services. When the doctor's two year grant of privileges were up and he reapplied for the same privileges he had held, the hospital denied him (without a hearing) the right to continue practicing at the hospital.

The doctor sued the hospital to allow him to continue practicing at the hospital. He argued, among other things, that the hospital owed him a hearing before his privileges could be taken. Though the trial court agreed and granted him the right to a hearing, the hospital appealed the ruling. On appeal, the court found that in fact the Medical Staff Rules and Regulations did not give the doctor the right to a hearing. Fortunately, however, the appellate court decided that a hearing would be meaningless and that the hospital had no legitimate grounds to deny his reapplication for pain management privileges.

The case is extremely important for a couple reasons. First, it

reaffirms the long-held view in Florida that Medical Staff Bylaws and Rules and Regulations are a contract between a hospital and a medical staff. Second, it underscores the importance of how those documents are worded. For instance, the doctor did not have a right to a hearing when his reapplication was denied. Unlike many medical staffs, the language simply was not contained in the Bylaws, Rules and Regulations.

The case is yet another wake up call for physicians and hospitals alike. Medical staff privileges are sacred and cannot be impaired in any way unless (1) the medical staff bylaws, rules and regulations are strictly followed, or (2) the doctor has entered into a contract with the hospital that allows the hospital to terminate his or her medical staff privileges on terms other than what is described in the medical staff bylaws, rules and regulations. Both medical staffs and hospitals should carefully review their bylaws, rules and regulations. They have to be very clear about termination provisions when exclusive agreements are entered into. The hospital should represent and warrant that they have the ability to enter into an exclusive agreement.

And finally every doctor must remember that, unless he or she has a contract with a hospital that allows it, he or she cannot be forced off a medical staff without a fair hearing.

Mr. Cohen is a partner with the Delray Beach/Ft. Lauderdale law firm of STRAWN, MONAGHAN & COHEN, P.A. He is Board Certified by the Florida Bar as a Specialist in Health Law. He may be reached at (561) 278-9400. ©2006 STRAWN, MONAGHAN & COHEN. All rights reserved. Publication with attribution is permitted.

Urgent Supreme Court Ruling On Amendment 3

Sandra Mortham, FMA EVP/CEO

For several months, the Florida Medical Association has been anticipating today's ruling by the Florida Supreme Court allowing trial lawyers to use a legal waiver which allows attorneys to earn larger fees than current law dictates and provides less dollars for the patients and families who have suffered in a medical liability case.

The FMA has prepared for this day and stands ready with Florida's physicians to continue the fight to bring fairness to Florida's court system and to patients. Our sound victory in passing Amendment 3 in 2004 is a clear signal of the will of the people. With that in mind, Florida's physicians have no choice but to move forward with our own waiver.

The FMA will provide members with a legal patient waiver. The waiver will empower Floridians, giving them a personal choice to limit potential malpractice case awards. The legal form - which must be signed and notarized - would limit legal recourse for non-economic damages to \$250,000. It places no limit on the amount of economic damages that could be awarded to the patient.

Over the years, we have worked with the Florida Legislature, the Courts and the Constitution of Florida to improve the medical liability crisis in this state - each time to be met by the trial bar's unscrupulous tactics.

Florida's doctors won't allow fairness to fall victim to the greed and power of trial lawyers; instead we will continue our efforts to make sure Floridians have access to the quality health care they deserve.

Over the next couple of months, the FMA will be working with the county and specialty societies to set up short seminars to explain the legal issues and implementation processes necessary for physicians to participate. (Prior to the use of the waiver, please contact the FMA at 800.762.0233).

Nominations For 2007 Officers

The following slate of nominations for the 2007 officers of the Lee County Medical Society is presented for your consideration. The membership will vote at the November 16, 2006 General Membership Meeting. If you wish to nominate someone else for an office, please be sure to have that person's approval before nominating them from the floor.

BOARD OF GOVERNORS

President: M. Erick Burton, M.D.(Elected 2005)

President-Elect: Dean Traiger, M.D.

Secretary: Larry Hobbs, M.D.

Treasurer: Cherrie Morris, M.D.

Past President: Julio Rodriguez, M.D.

Members-At-Large:

Stephen Laquis, M.D. (2009)

Stephen Schroering, M.D. (2009)

Previously elected Members-at-Large:

Craig R. Sweet, M.D. (2007)

Stuart Bobman, M.D. (2007)

Howard Barrow, M.D. (2007)

Kenneth Towe, M.D. (2007)

Michael Kim, M.D. (2008)

Shahid Sultan, M.D. (2008)

GRIEVANCE AND ETHICAL & JUDICIAL AFFAIRS

GRIEVANCE COMMITTEE

R. Thad Goodwin, M.D. Chair

COMMITTEE ON ETHICAL & JUDICIAL AFFAIRS

(3 Year Appointment)

William F. O'Brien, M.D., Chair

Audrey Farahmand, M.D. (2009)

Allen Jacobs, M.D. (2009)

Joseph O'Bryan, M.D. (2009)

Previously elected EJA Members:

David Gutstein, M.D. (2007)

Lowell Hart, M.D. (2007)

Jeremy Schwartz, M.D. (2007)

Michael Raab, M.D. (2008)

James Butler, D.O. (2008)

DELEGATES/ALTERNATES TO THE FMA ANNUAL MEETING

FMA Delegates

Howard Barrow, M.D.

Stuart Bobman, M.D.

Valerie Dyke, M.D.

James Fuller, M.D.

Ralph Gregg, M.D.

Larry Hobbs, M.D.

Otto J. N. Kunst, M.D.

Julio Rodriguez, M.D.

James Rubenstein, M.D.

Douglas Stevens, M.D.

Dean Traiger, M.D.

Joel T. Van Sickler, M.D.

Steven West, M.D.

FMA Alternates Delegates

M. Erick Burton, M.D.

Jonathan Daitch, M.D.

Elliott Hoffman, M.D.

F. L. Howington, M.D.

Cherrie Morris, M.D.

Stephen Schroering, M.D.

We invite all of our members to participate on any committee. If you are interested, please contact the Lee County Medical Society at 936-1645.

We wish to thank the physicians who will be leaving our Board and who gave their time and decision making for the Medical Society for 2006.

- From the Board: Raymond Kordonowy, M.D. and Richard Murray, M.D.
- From the Committee on Ethical and Judicial Affairs: Susanna Beshai, M.D. and John Green, D.O.

We also thank Irwin Kash, M.D. for his involvement and many years of service as the chair of the Public School Health Advisory Committee. He has served this Committee since 1982.

PROPERTY DETAILS:

For Lease

Strap Number: 36-44-24-P1-00005.0020

Address- 3610 Broadway, Fort Myers, FL 33901

Square Feet	Price per Square Foot	Total Monthly Rent
4612	\$16.50	\$6,341.50

The building was originally used as a medical office. The building consists of 7 exam rooms, 6 offices, 4 bathrooms, reception, waiting room, lab, file room, employee facilities and can be further modified to suit your needs. Network wired! Great location within medical office area, on the corner of Broadway and Carrell Road and is located close to Lee Memorial Hospital. Easily accessible from Colonial Blvd. and US 41. Quoted price \$16.50/SF includes \$4.50/SF CAM. If you have any questions please give us a call at (239) 437 6892. Broadway Management, LLC

Medicare Physician Payment Reform

If Congress fails to act, Medicare will cut physician payments by about 5 percent on Jan. 1, 2007, with cuts totaling nearly 40 percent through 2015. And while physician payments plummet, practice costs during the same period are expected to increase over 20 percent.

Clearly, the Medicare physician payment update system needs to be reformed. If it is not, Medicare payment rates in 2007 will have fallen 20 percent below increases in physicians' costs since 2001. These cuts make no sense as millions of Baby Boomers begin to retire.

Physician payment updates are driven by a flawed formula called the Sustainable Growth Rate, or SGR. Instead of the SGR, payment updates should be based on annual increases in practice costs, as recommended by the Medicare Payment Advisory Commission.

Other Medicare providers are not subject to the SGR. In fact, hospital payments are slated to continue to rise by more than 3 percent a year under current law and payments to Medicare Advantage plans are estimated to increase by 7.1 percent in 2007.

Results of a recent American Medical Association Member Connect Survey (2006 AMA Medicare Physician Payment Survey [PDF, 164KB]) indicate that Medicare payment cuts to physicians will hurt access to care for America's seniors. The results show that 45 percent of physicians will either stop accepting or decrease the number of new Medicare patients they accept if Medicare payments are cut in 2007.

How will the Medicare Cuts affect Florida?

From 2007-2015, Medicare payments in Florida will be cut by \$18.72 billion. For physicians in Florida, the average annual cut over this period of time will be \$42,000 per year for each physician.

The 2007 cut to Florida physicians will be \$320 million due to the negative 5% update. Florida's 2,888,635 Medicare beneficiaries comprised 16% of the state's population in 2005.

TRICARE, which provides health insurance for military families and retirees, ties its physician payment rates to Medicare, so the Medicare cuts will also hurt access for Florida's 685,629 TRICARE beneficiaries.

Data from the Bureau of Labor Statistics show that these Medicare physician payment cuts will have an impact on 195,288 employees in Florida.

These figures represent the impacts on Medicare Physician Payment Schedule services only and do not include potential spillover effects from private, Medicaid, TRICARE and other plans that tie payments to Medicare rates. In addition, per physician impacts may vary considerably within the state depending on each physician's Medicare patient load and utilization. There are also a number of other Medicare physician payment policy changes occurring in 2007 that will affect different physician practices in different ways.

The projected negative Medicare physician payment updates are from the 2006 Medicare Trustees Report and the CMS Office of the Actuary. The source of the state impact analysis is the American Medical Association Division of Economic and Statistical Research.

What can you do?

Congress failed to avert the Medicare Payment cuts before the 2006 fall recess. AMA Board Chair Cecil B. Wilson, MD. commented that "It is critical that Congress return during the lame duck session this fall to stop the Medicare cuts and tie payments to increases in practice costs to preserve seniors' access to health care." Visit the AMA website at <http://www.ama-assn.org/ama/pub/category/14332.html> for information, flyers and fact sheets physicians can use.

Please e-mail and/or call your Representative TODAY and urge them to prevent 2007 Medicare Physician Payment Cuts.

U.S. SENATE

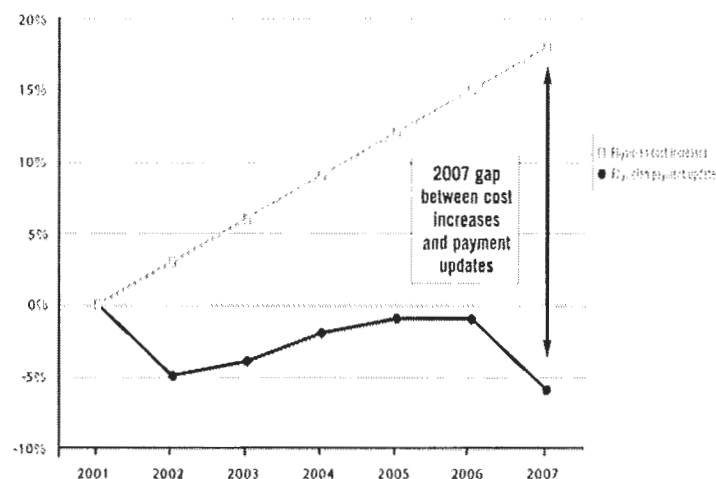
Senator Mel Martinez (R)
317 Hart Senate Office Bldg
Washington, DC 20510
Tel: (202) 224-3041
mel_martinez@martinez.senate.gov

Senator Bill Nelson (D)
716 Hart Senate Office Bldg
Washington, DC 20510
Tel: (202) 224-5274
(888) 671-4091 – Toll Free
<http://billnelson.senate.gov>

U.S. HOUSE OF REPRESENTATIVES

Representative Connie Mack (R-14)
317 Cannon House Ofc Bldg
Washington, DC 20515-0913
Tel: (202) 202-225-2536 Fax: (202) 226-0439
<http://www.house.gov/mack>

The UN-Sustainable Growth Rate—2001 through 2007



Sources: Physician cost data is from the MEI, a conservative index of practice cost growth maintained by the Centers for Medicare and Medicaid Services (CMS). Conversion factor updates are from CMS Office of the Actuary, Analysis of Medicare Payment updates relative to MEI by American Medical Association, Division of Economic and Statistical Research, August 2006.

Odds & Ends

Finding Board of Medicine Laws and Rules

A simple way to get to the Board of Medicine Rules and Laws is to go to www.doh.state.fl.us/mqa.

CMEs Available —Cutting Edge Diagnosis & Treatment: A Course for the Practicing Physician

Medical Surgical Specialists (formerly Cleveland Clinic of Florida) will be sponsoring the program, *Cutting Edge Diagnosis & Treatment: A Course for the Practicing Physician*. This program will be held February 8-10, 2007 at the Naples Beach Hotel and Golf Club, Naples, FL. This activity has been approved for 16 AMA PRA Category 1 credits. For more information please contact Medical Surgical Specialists, Department of Continuing Medical Education at 239-348-4366 or email teri.antonucci@pmc.hma.org.

Lee County National Provider Identification Booklet

The Lee County Medical Society has just completed a new National Provider Identification Directory and we mailed a copy of this directory to each of your office managers. This directory includes physicians, medical groups and allied healthcare workers. The information and NPI numbers in the directory were provided by office managers. We hope this directory is a great tool for your office. We made a great effort to ensure that the directory was accurate at the time of printing. We printed a very limited amount of directories and do not have great numbers available. Please call our office at 936-1645 if you would like to make any changes to our NPI booklet.

Prescription Fraud Alert

The Lee County Medical Society, Fort Myers Police Department and local pharmacies have set up a network where local pharmacies are given immediate fax notification when an individual is committing prescription fraud. If an individual is "doctor shopping" or if their M.O. is to find work at a doctor's office we strive to notify physicians' offices as well. We feel this is an important resource. If you need to, please contact the Medical Society at 936-1801.

Lee County's Museum of Medical History

Just a reminder that the Museum of Medical History needs your support to preserve our area's medical history. Please contact us if you have any artifacts or antique medical instruments. See insert on how you can help.

End of An Era in Lehigh Acres

Robert V. Wallace, M.D., Peter Sansone, M.D., Michael Morgan, M.D. were among the first general practice physicians in Lehigh Acres. Dr. Wallace practiced from 1971 to 2006, he served on the Board of Governors in 1975. (At that time the Medical Society had only one member-at-large of the Board of Governors, besides the officers). Dr. Sansone practiced from 1972 to 2006. Dr. Morgan practiced from 1969 to 1999, he served on the Board of Governors in 1975, 1984—85, and in 1988.



L to R: Drs. Wallace, Sansone & Morgan

Happy Thanksgiving



Henderson Franklin's Health Law Group represents the interests of health care providers and health care related businesses.



Henderson|Franklin
ATTORNEYS AT LAW

The hiring of a lawyer is an important decision that should not be based solely on advertising. Before you decide, ask us to send you free written information about our qualifications and experience.

Fort Myers • Bonita Springs • Sanibel
239.344.1100 • www.henlaw.com

Help Us Remember Our Friend Alan Siegel, M.D.

Dear Friends;

It is hard to believe that it has been nearly a year since Alan Siegel's passing. Hardly a day goes by without someone mentioning Alan and what he meant to them. We would like to celebrate Alan's life by asking you to contribute to the Alan Siegel Fund for Medical Residents and Fellows at the University of Florida. We know many of you have donated previously and would like to give you an update of where things stand with the fund at this point.

One of Alan's diary entries says: "Work hard, Play hard, Eat well and Love deeply." His love for medicine was balanced by his passion for friends and family. His goal was that the fund named for him would help the Florida house-staff learn this important balance between taking care of patients and caring for people.

With limited solicitation (primarily word of mouth), the fund is now at nearly \$50,000. The University of Florida Department of Internal Medicine has agreed to name one of their Chief Residency positions after Alan, with a goal of reaching \$100,000. At that point the state will match with another \$50,000 and the fund will be endowed for \$6,000 a year for the Chief Resident's use.

This is an excellent, and meaningful, tribute to Alan—one that we know would have touched him deeply. We are all aware of his strong love for medicine, the University of Florida and their house-staff program. Many of you may remember when he was "Hyper-Al", energetic Chief Resident, bouncing around the UF Medical Center.

If you haven't donated previously, please do so. If you have, we thank you and hope that you can give again—to contribute to Alan's legacy at the University of Florida and a new generation of compassionate, well-rounded physicians. We would like to reach the \$100,000 this year and look forward to a big party to celebrate the Alan Siegel Chief Residency in Internal Medicine (that's how he would have wanted it).

Your contribution may be made out to the UF Foundation/Siegel Award and sent to: University of Florida College of Medicine, Office of Development and Alumni Affairs, Alan Siegel MD Residents and Fellows Award, P.O. Box 100243, Gainesville FL 32610-0243. Should you have any questions or need further information, please don't hesitate to contact one of us.

Thank you for your interest and your generosity. Please see insert for more information.

Best Regards... *H. Scott Harris, MD—239-772-3636 & Keith L. Miller, MD—239-489-3420*

After Hurricane Season? Flu Shot Season!

Michael Barnaby, Public Relations Officer, Lee County Health Department

An estimated 10% to 20% of the American population contracts the flu every year; in Lee County this amounts to a potential 100,000 cases, making very clear the need for an annual vaccination. Annual, because the flu virus changes, or mutates, from year to year. Based on surveillance conducted by the National Influenza Centers at over a hundred sites worldwide and reported to the World Health Organization (WHO), different viral strains are chosen to be included in each year's upcoming vaccine.

A simple vaccination can prevent from 50% to 60% of all hospitalizations and 80% of influenza-related complications and deaths among the elderly. And Medicare Part B pays for the shot (and also pneumonia shots, offered wherever the health department gives flu immunizations). The Visiting Nurses Association will be manning over 200 temporary clinics county-wide. Maxim Healthcare expects to administer over 55,000 shots through clinics. The Lee

County Health Department will focus on high risk populations. After these populations are served the clinic at 3920 Michigan Avenue will open to the general public for flu shots. Visit lee-county.com/healthdept for more information

Here are the CDC recommendations. Please note that there are some changes from last year.

- People 50 years of age and older
- Children aged 6—59 months of age and their siblings
- Household contacts and out-of-home caregivers of children 0 to 59 months of age should be vaccinated annually to prevent these contacts from infecting young children with influenza.
- Children 6 months—18 years of age with chronic illness
- Anyone who wishes to reduce their chance of catching influenza, particularly those who provide essential community services
- People with chronic disorders of the

lungs or heart

- People less able to fight infections because of a disease they are born with
- Those with Human Immunodeficiency Virus Disease (HIV)
- Patients under long-term treatment with steroids
- People being treated for cancer with x-rays or drugs
- People who have required regular medical follow-up or hospitalization during the preceding year because of chronic diseases, including diabetes mellitus, kidney diseases and blood cell diseases such as sickle cell anemia
- Pregnant women
- Residents of nursing homes and other long-term care facilities
- Health care workers and others in contact with people in high-risk groups
- Children who are receiving long-term aspirin therapy and might be at risk for developing Reye's Syndrome after influenza.

2007 Medicare Drug Plan Options

Molly Schild, Office of the Administrator
Centers for Medicare and Medicaid Services

Medicare Releases Data on 2007 Drug Plan Options: More Plans with Coverage in the Gap

HHS Secretary Mike Leavitt announced that seniors and people with disabilities who are satisfied with their current Medicare prescription drug coverage will not have to take any action when the Medicare Open Enrollment period begins November 15th, but those who wish to make a change will find new options with lower costs and more comprehensive coverage available for 2007. They will also find new tools from Medicare to help them make a choice. Surveys consistently show over 80 percent of Medicare beneficiaries are satisfied with their current coverage and drug plans. As a result of the Medicare prescription drug benefit, more than 38 million seniors and people with disabilities now have some form of drug coverage.

"With next year's drug coverage, we want to build on the high level of beneficiary satisfaction in 2006 by strengthening the drug benefit in key ways," said CMS Administrator Mark B. McClellan, M.D., Ph.D. "As a result of robust competition and smart choices by seniors, plans are adding drugs, removing options that were not popular, and providing more options with enhanced coverage."

Across the country, nearly all beneficiaries enrolled in Medicare prescription drug plans will be able to remain in the plan in which they enrolled for 2006 since almost all Part D sponsors are either continuing their current plans in 2007 or streamlining and consolidating their 2006 plans. They will be able to choose from plans that offer enhanced benefits or services, such as coverage in the gap and little or no deductible.

Beneficiaries will have a wide range of plans that have zero deductibles, some of which also offer other enhanced benefits. There are also options that cover generics and preferred brand name drugs through the coverage gap for as low as \$38.70, and generally for under \$50.

Beneficiaries with limited incomes who qualify for the extra help will have a range of options available for comprehensive coverage. Beneficiaries who qualify for the full Medicare subsidy will pay no premiums or deductibles in these plans. Nationally, over 95 percent of low income beneficiaries will not need to change plans to continue to receive this coverage for a zero premium.

There are eight new national organizations offering drug plans to beneficiaries, in addition to the nine national organizations that were available in 2006. The list of national plans, as well as links to the state-level prescription drug plan lists (PDP landscapes) can be found at www.medicare.gov/medicarereform/local-plans-2007.asp.

For state-specific press releases, which provide further plan information at the state level, please visit the following link: <http://www.cms.hhs.gov/apps/media/?media=pressr>

ADVERTISING AVAILABLE

Lee County Medical Society
Bulletin is looking for
advertisers.

If you are interested, please
contact our office at
239-936-1645 for rates.

For your family, your business, your future.

Expert guidance and innovative solutions
to help you reach your financial goals.
It's time for a Quiet Conversation.™

Business needs analysis • Estate analysis
Life insurance • Disability insurance
Annuities, IRAs • Employee benefits



William L. (Chip) Graddy, CLU, ChFC
Financial Representative
8191 College Pkwy., Ste. 206
Fort Myers, FL 33919
(239) 985-2850 • (239) 985-2806
www.nmfn.com/chipgraddy



Northwestern Mutual
FINANCIAL NETWORK®

The Quiet Company.™

06-2560 ©2005 Northwestern Mutual. Northwestern Mutual Financial Network is a marketing name for the sales and distribution arm of The Northwestern Mutual Life Insurance Company, Milwaukee, WI and its affiliates. "The Quiet Company" is a registered trademark. Chip Graddy is an Insurance Agent of NM (Life Insurance, annuities and disability income insurance). NM is not a broker-dealer. 0600-573


Retina Consultants

*of Southwest Florida**

Offices in:
Fort Myers, Naples, Cape Coral,
Port Charlotte

For more information, please call
In Fort Myers (239) 939-4323
(800) 282-8281
www.eyemd.com

EXPERIENCE THE DIFFERENCE

Lee County Medical Society

3805 Fowler Street Ste 2
PO Box 60041
Fort Myers, FL 33906-0041

PRSR STD
US POSTAGE
PAID
FT MYERS, FL
PERMIT NO 534

10th ANNUAL LEGAL-MEDICAL CHALLENGE CUP *"The battle of the professions"*

ALL PROCEEDS TO BENEFIT
ACCELERATED CURE PROJECT FOR MULTIPLE SCLEROSIS



DATE:
Sunday, December 3

PLACE:
Pelican Preserve Golf Club
10571 Veneto Drive
Fort Myers, FL 33913
(Off Colonial Dr passed I-75)

TIME:
7:30 AM – Registration
8:30 AM – Start Time

Cost:
\$220
per team

If you cannot play but would like to support Accelerated Cure Project for Multiple Sclerosis please sign up for:

Hole sponsorship at \$100

Monetary Contribution

Help Sponsor the Luncheon

Contributions for raffle (Gift Certificates, jewelry, vacations, golf related items, etc)

Donate goody bag items (quantity 100)