



Bulletin

Editor: Mary C. Blue, M.D.

General Meetings

No Meeting in October

Lee County Medical Society
Annual Meeting &
Election of 2007 Officers

November 16, 2006

Speaker:

Craig R. Hersch, Esq.
How the 2007 Changes
to the Florida Trust
Code Affect You

6:30 p.m. Social Time

7:00 p.m. Dinner

Royal Palm Yacht Club
2360 West First Street
Downtown Fort Myers

Need RSVP for meal by
November 10, 2006

President's Message

Florida Medical Association Annual Meeting Julio Rodriguez, M.D.



This year the Annual Florida Medical Association (FMA) Meeting was held during Labor Day Weekend at the Gaylord Palms in Kissimmee. As in previous years this annual event offers members the opportunity to obtain various

CME's and unites physician delegates from across the state to participate in the House of Delegates (HOD). The Lee County Delegates in attendance included the following physicians: Ralph Gregg, Chairman, Howard Barrow, Stuart Bobman, Valerie Dyke, Larry Hobbs, Elliott Hoffman, Otto Kunst, James Rubenstein, Douglas Stevens, Dean Traiger, Steve West and myself. The Lee County Medical society staff, Ann Wilke and Cynthia Greenfield were also in attendance collecting all pertinent information and making sure the 6:30 am Caucus Meetings were attended by all!

Reference Committees are: I. Health, Education, and Public Policy, II. Finance and Administration, III. Legislation, IV. Medical Economics. These sometimes passionate meetings discuss resolutions, recommendations and reports by the FMA Board of Governors, after discussion of the Resolutions the Committee votes and results are presented at the HOD for 1) Recommended for adoption 2) Recommended for adoption as amended or substituted 3) Recommended for not adoption 4) Referrals to the Board of Governors 5) Recommended for filing or reaffirmation. A few of the Resolutions included:

- **06-05 Medicare Reimbursement**—Asks the FMA to petition the Centers for Medicare and Medicaid Services that the state of Florida become one single geographic locality for the purpose of physician reimbursement. This hot topic generated lengthy discussion and the Reference Committee felt that passage of this resolution would create division among physicians. It was determined that the FMA should work to change the Medicare reimbursement formula rather than creating one single locale for the state. (Referral to Board of Governors)
- **06-08 Motorcycle Helmet Requirement**—The FMA shall support legislation to require that all motorcycle drivers wear helmets. (Adopted)

- **06-20 Insurance Reimbursements**—The FMA shall seek legislation requiring managed care companies to request a refund from a physician in the same time period they give physicians to file a claim in the contract and in no case be allowed more than 180 days to request a refund. (Adopted)

- **06-29 Expansion and Enforcement of Florida Prompt Pay Law**—The FMA shall seek legislation to expand upon the prompt pay law charging interest and a per claim late fee. (Adopted)

- **06-30 Physician Compensation for Emergency Department Call Rotation**—The FMA shall support and campaign for financial compensation for physicians who are required to be on-call in emergency rooms. (Adopted)

All of our members have reason to be proud of the many accomplishments and awards the Lee County Medical Society and Alliance were presented. Dr. Steve West was installed as FMA Vice President. Steve's leadership, knowledge of medical economics and legislative issues on the national, state and local levels has gained him the respect of his colleagues and the medical community. He will serve the FMA and all of his commitments with honesty, courage, thoughtfulness and dedication. Dr. James and Betty Rubenstein were presented with the Pride In Partnership Award at the Alliance luncheon on Saturday. "Established in 2000 to honor physicians and their spouses who, through their volunteer efforts, have together made significant contributions both to organized medicine as well as to the healthcare and/or health education of the citizens of the communities in which they reside." Jim and Betty have worked tirelessly over the years and this statement reflects their genuine commitment. Congratulations to Jim, Betty and Steve.

I wish to extend a sincere thank you to all the delegates and spouses who gave so generously of their time. I urge other members to get involved and consider attending the Annual Meeting next year. It is certainly an unforgettable experience and we need your ideas and participation.

TOGETHER WE ARE STRONGER.



Inserts

- General Meeting Notice
- Alliance Holiday Sharing Card
- Gulf Shore Rehabilitation Driving Rehabilitation
- Wine Styles Brochure
- SWFL Symphony

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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@lcmsfl.org
www.lee-county-medical-society.org

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CO-EDITORS

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John W. Snead, M.D.

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PRINTERS

Distinct Impressions

MEMBERSHIP RECRUITMENT

Recruit 3 new physicians and get 1 year LCMS dues free

Valerie Dyke, M.D.'s 2006 Dues were free for recruiting 3 new physician members to the LCMS.

Larry Hobbs, M.D.'s 2007 dues are free for recruiting 5 new physician members to the LCMS.

Membership Activity

New Locations

M. Erick Burton, M.D.
Richard Chazal, M.D.
Michael A. Corbellini, D.O.
Michael D. Danzig, M.D.
Edward Palank, M.D.
The Heart Group
9800 S Health Park Dr #320
Fort Myers, FL 33908
Tel: 239-433-8888
Fax: 239-433-8863

Brian Taschner, M.D.
Coastal Cardiology
16281 Bass Road Ste 304
Fort Myers, FL 33908
Tel: 239-343-9933
Fax: 239-343-9920

Saurabh Patel, M.D.
Florida Health Center
268005 Tamiami Trail
Bonita Springs, FL 34134
Tel: 239-390-3339
Fax: 239-390-0445

Saurin J. Shah, M.D.
Advanced Radiology Imaging Associates, LLC
12700 Creekside Lane #101
Fort Myers, FL 33919
Tel: 239-333-ARIA (2742)
Fax: 239-333-4FAX(4329)

Moved from Area
Chia-Hui Lee, M.D.

Retired

Congratulations to Peter Sansone, M.D. on his August 10th retirement. Dr. Sansone has been a member of the Lee County Medical Society Since 1972. We wish Dr. Sansone much success in the future.

Support your organizations, pay your 2007 membership dues

New Member Applicants

Dennis Cardone, D.O. — Dr. Cardone graduated from New York College of Osteopathic Medicine in 1990. He completed his internship at Brookdale Medical Center, Brooklyn, NY in 1991, and his residency in family medicine and fellowship in sports medicine at University of Medicine and Dentistry in New Brunswick, NJ. Dr. Cardone is certified by the American Board of Family Medicine and Sports Medicine. He is in group practice with Pediatric Orthopedics of SWFL at 9800 South Health Park Drive Ste 110, Fort Myers, FL 33908



Carlos Cuello, M.D. — Dr. Cuello graduated from Universidad Nacional Pedro Henriquez, School of Medicine in Santo Domingo, Dominican Republic in 1977. He completed his internship/residency/fellowship at Lincoln Hospital-New York Medical College specializing in cardiology. He completed a fellowship in electrophysiology at Medical College of Pennsylvania and University of Massachusetts. He is in solo practice at Heart Rhythm Specialists at 2675 Winkler Ave, Ste 201, Fort Myers, FL 33901.



Russell Gilchrist D.O. — Dr. Gilchrist graduated from Philadelphia College of Osteopathic Medicine in 1997. He completed his internship at Horizon Hospital System in Farrell, PA, his residency at Moss Hospital in Philadelphia, PA in Psychiatry and a fellowship in Pain Management at the Hospitals of the University of Pennsylvania. Dr. Gilchrist is certified by the American Board of Physical Medicine and Rehab and Pain Management. He is in group practice with Advanced Pain Management Specialists at 6120 Winkler Road Ste J, Fort Myers, FL 33919.



Anne M. Lord-Tomas, D.O. — Dr. Lord-Tomas graduated from Nova South Eastern University, Ft. Lauderdale, FL in 1995. She completed her internship and residency at Botsford General Hospital in Farmington Hills, MI specializing in Obstetrics/Gynecology. Dr. Lord-Tomas is certified by the American Osteopathic Board of Ob/Gyn. She is in group practice with Physicians Primary Care of SWFL at 13031 McGregor Blvd, Fort Myers, FL 33919.



Christine Mackie, M.D. — Dr. Mackie graduated from University of Arizona College of Medicine in Tucson, AZ in 2001. She did her internship and residency at Cedar Rapids Medical Education Foundation in Cedar Rapids, IA specializing in Family Medicine. She is in group practice with Physicians Primary Care of SWFL at 1304 SE 8th Terrace, Cape Coral, FL 33990.



As I Recall...

Roger D. Scott, M.D.

Urological Florida—Part II

As promised in Part I, here is presented a most unusual "urological happening" that occurred about 1956 soon after John Gadd became the administrator for Lee Memorial. John relates that one of the old family doctors, Dr. Whisnant, anxiously approached him and stated "Mr. Gadd we got a bad problem. Mr. X. [a patient] got up to pee and his penis (*Will the censors-I mean editors blank this out?*) just fell off & into the toilet for no apparent reason!" Dr. Larkum (You readers should remember him from previous AIR articles as the first pathologist in Southwest Florida.) examined the "thing" & said he did not find any evidence of cancer. The consensus of the small staff of doctors upon reviewing the problem was that Mr. X had thrombosis of the dorsal artery of the penis (*Am I in trouble again with the editors?*) with painless necrosis of the p--. (*Editors, is this word better?*) causing the auto-amputation.

Well, now in a small town, gossip is often rampant so a male reporter (Jewell Dean) was dispatched to get an interview & pictures of this "happening". Even in those days some patient privacy (but not like now days) was required despite the fact that daily admissions and discharges to the hospital were placed in the newspaper. Gadd said he could allow only one picture relevant to this patient & that was of a poster in the small Admitting Office that read: "HOSPITAL NOT RESPONSIBLE FOR ANY VALUABLES NOT PLACED IN THE SAFE". Obviously nothing appeared in the newspaper!

In July 2005 there were 17,789,864 Florida residents (legal & ? illegal) and 477 members of the Florida Urological Society. The 544,758 registered residents in Lee County are served by 20 urologists (as best I can tell). Would anyone care to help with the count? Now let's go for more information from the **HISTORY OF UROLOGY IN FLORIDA** as described in Part I.

In 1931 there were 13 recorded urologists practicing in Florida (*serving the 1,510,207 citizens in the state. Remember italics indicate my special comments. County & population are in parenthesis.*)

Robert B. McIver, M.D. (1892-1979) graduated from Jefferson Medical College in Pennsylvania (1916), and then completed two years of "residency" followed by service in the U.S. Army Medical Corps in World War I, 1918-19. In 1920 he began practicing general medicine & urology (**the first urologist in Jacksonville** (Duval 155,503). In 1935 (*the same year the American Board of Urology incorporated*) he limited his practice to solely urology. Over the years he developed a large urological clinic & was a great teacher. He was my

mother's doctor, & I also knew him over the years as a very fine man with a most distinguished career.

In more recent years **Dr. Roger** (*With that name he has to be good!*) **Browning** of Jacksonville contributed significantly to the development of the "**TURP**" (transurethral resection of the prostate) that became a major development in the history of urology (*by keeping the urine flowin'*), but today is commonly being replaced by medication.

Louis M. Orr, M.D. graduated from Emory Medical School in Georgia in 1924 & in 1926 served as resident in urology & general surgery. He began practicing urology (& *initially possibly medicine & surgery*) in **1927 Orlando** (Orange ~45,000). He was the **first urologist in Orlando as well as Central Florida**. He must have been grandfathered in the "Board" in 1935. He twice served in the army, first as a draftee private in World War I (1918) & secondly in World War II (1942-45) as a physician (colonel & hospital commander) in the Army Medical Corps. Over the years he published more than 50 scientific papers and became a voracious opponent to the control of medicine by the government. He was the 113th **President of the American Medical Association (1959-60)** & came to Ft. Myers to speak to us (Lee County Medical Society). He was an eloquent speaker with grave predictions for the future of medicine, and unfortunately many of his predictions are now reality! A very special gift was made in 1938 by **Dr. Orr & Dorothy Brown Orr** (his wife) to fund the **first blood bank in Florida** which became the fourth blood bank in existence in the entire U.S. (*Remember Karl Landsteiner just discovered the four (A, B, AB, & O) blood types in 1901-09 but not widely accepted by physicians for some years. The Rhesus factor for typing (blood) was discovered in 1937. The 1938 Orange County population was about 65,000.*) Dr. Orr died in 1961.

Once again the coincidence of something being associated with a topic that I have already written about, but not yet published occurred. To wit, much of the information in these articles was gleaned from the **HISTORY OF UROLOGY IN FLORIDA** donated to the Museum of Medical History four years ago by Ronald D. Castellanos, M.D. This was long before I became aware of the recent significant achievement by not only another Florida urologist, but one of Ft. Myers own (Cape Coral is his office of record.). **Dr. Ronald Castellanos** has become the first private small group physician appointed to the 17 member MedPAC that makes recommendations to federal legislators to improve all aspects of medical care. Hearty congratulations to "Commissioner Ron". Parts III & IV will appear next year so I suggest you keep Parts I & II for reference.

"To do things differently, we must see things differently"

Lee County Medical Society Alliance & Foundation News

Michele Tyson, President



The Race is On-The Membership Drive Begins September 1st!

This year one of the Alliance's goals is to increase membership by 10%, which would mean 22 new members. We currently have 220 members and have the largest membership in the whole state of Florida! The Alliance is very proud that we have so many spouses continually dedicated to supporting all the facets of the organization and their strong commitment to the medical family of our community. Unfortunately, when we put our numbers in perspective to the Lee County Medical Society membership numbers, we do not even meet 50% of the LCMS membership. This is the year to change that ratio!

We are stepping up our membership focus this year not only to increase our numbers but to increase the level of participation at our events as well. We have put together a calendar of diverse and FUN events to meet all interests of our perspective and current members. Whether it is attending our traditional events such as Welcome Brunch and Potluck, or doing something different, like our Children with Learning Disabilities Lecture and Fashion show in March, Wine Tasting in April, or our Progressive Dinner Fundraiser at the Bell Tower Shops in April, we are looking to meet the needs of our members. Additionally, we will be mailing out our September *In Touch* newsletter to both current and prospective members so that everyone can see what we are about.

Our dues are \$115 per year. Of that \$115 per member, our county keeps \$35 to cover our Membership Events, Legislation, Membership Directory, Insurance, Accounting Fees, Leadership Training and State and National Meetings. We run a tight budget and are careful with every dollar! When the FMAA increased dues this year to cover such important items such as Legislation, we as a board decided to maintain our current dues structure. Whether your spouse chooses to be active in the organization or not, making the membership commitment allows us to continue all of the wonderful programs that we provide to the Medical Community. As the dues statements arrive in the mail this month, please let the office manager know to include the Alliance dues for your spouse with your membership. We are counting on you to change the membership ratio. Are you going to meet our challenge?

Welcome Brunch

Welcome Brunch was held on Wednesday, September 6th at the Blue Coyote Business & Social Club in the Caloosa Yacht & Racquet Club. Co-Chairs: Irene Fuchs, Nicole Laquis and Anne Wittenborn planned a fun and relaxing luncheon to greet the newest members of our medical community.

Alliance Upcoming Events

Potluck in Paradise is at the home of Dr. Don & Mrs. Sylvia Gerson on Saturday October 7th. Committee Chairs Robin Sonn and Traci Mehalik will be throwing a great party for the medical community. Please join us to make these events successful!

Odds & Ends

FRONTLINE ALERT - PROHIBITION ON USING INTERNET WHEN PRESCRIBING FOR A PATIENT

Many physicians know that the Florida Board of Medicine passed a rule in 2003 that prohibits Internet prescribing. But some don't realize that the rule doesn't just affect doctors who work for Internet pharmacies. The rule requires a physician to complete a history and physical examination on a patient prior to prescribing any drug. The only exceptions are as follows: (1) true emergencies requiring immediate administration of medication, and (2) consults with another physician, or on-call or cross-coverage situations. Although newly available technology might allow a physician to access the patient's records via the Internet or communicate with patients via email, the requirements of the Board of Medicine remain the same. Click here for a copy of the rule. FMA members can email any questions about this rule to fplendl@medone.org.

FMA FILES COURT CHALLENGE AGAINST BOARD OF PHARMACY

On Monday, Aug. 14, the FMA filed a challenge at the Division of Administrative Hearings to block a rule proposed by the Board of Pharmacy that would allow a pharmacist to alter a prescription written by a physician. The rule would allow the pharmacist to change the drug prescribed without first consulting with the physician. This is a serious threat to the safety of Florida patients and contravenes every tenet of good patient care. The FMA has spoken out against this rule since it was first proposed two years ago, and will continue to utilize all of its means to ensure that it does not go into effect. We will keep you informed as the case proceeds. For more information on this challenge, FMA members can contact fplendl@medone.org.

CUTTING EDGE DIAGNOSIS & TREATMENT: A COURSE FOR THE PRACTICING PHYSICIAN

Medical Surgical Specialists (formerly Cleveland Clinic Florida) will be hosting a 16 AMA PRA Category 1 credits for the program "Cutting Edge Diagnosis & Treatment: A Course for the Practicing Physician" February 8-10, 2007 at the Naples Beach Hotel and Golf Club. Please contact Teri Antonucci, CME Manager at 239-348-4366 or teri.antonucci@pmc.hma.org.

Newly Renovated Mental Health Facility Opens Its Doors

To Those Who Need It the Most

After several years in the planning, and months under construction, the doors at **VISTA** opened in February 2006 to those who need it the most. The new and updated facility is the county's only 24-hour emergency assessment and crisis stabilization unit where children and adults with mental illnesses and their families can turn to in a crisis. By renovating a building on the former Charter Glade Hospital site, space became available to improve the continuum of care for emergency and crisis stabilization. The need has never been greater and much of what has been done is due to a determined Board of Directors, caring individuals, and corporate leaders and sponsors who understand that mental health services are a critical component in the overall development for a healthy community.

VISTA is Lee County's only "emergency room" for people in mental health crisis and the only facility that provides this specialized care in the county. The adult and children crisis stabilization units were moved from their former Lee Mental Health location on Ortiz Avenue to Lee Mental Health **VISTA** services located off Colonial Blvd. at 10140 Deer Run Farms Road. It was a flawless transition from the old center to the new state-of-the-art **VISTA** facility and staff report that the new and brighter surroundings are much more conducive to the treatment and care of their clients.

The new facility includes 30 adult beds on two separate units, a 10-bed unit for children, activity/dining rooms on the secure units, and out-door sitting and play areas. New at **VISTA**, is an emergency receiving area that is **open 24 hours a day, seven days a week**, to provide emergency assessment, crisis stabilization, psychiatric observation and referral. **VISTA** also has an in-house pharmacy, a cafeteria, and clinical space for outpatient counseling.

VISTA manages a monthly inpatient census on the average of 47 children and 163 adults. The average length of stay for crisis stabilization is 3.3 days. The majority of adults and children are admitted under a Baker Act status that requires a hearing to determine their competency prior to release from the locked facility. Those hearing are held at **VISTA** to better serve the clients.

An elite group of industries in Lee County have stepped up to help raise money needed to pay for the **VISTA** renovations and furnishings. Supporters include the Building Industry Association (BIA), Lee Memorial Health System, Southwest Florida Regional/Gulf Coast Hospitals, Southwest Florida Community Foundation, and the local print, radio and TV media outlets.

On August 1, 2006 the Lee Mental Health Center, Inc. Board of Directors hired a new CEO to run the agency operations including **VISTA**. **Nancy Langman**, CEO, joins the mission of Lee Mental Health and it's 350 employees providing the highest quality of service to consumers in Southwest Florida. **Nancy Langman** comes to Lee Mental Health with an impressive behavioral health care background that includes leadership roles as VP Psychiatric & Professional Services, May Institute, MA; VP Medical Affairs, MCAP The OakGroup, Wellesley, MA; VP Clinical Integration, CareGroup Boston, MA; Executive Director, CareGroup Behavioral Health, Boston, MA; and Director Mental Health Blue Cross Blue Shield of MA. Nancy has worked in the mental health and substance abuse arena for over 30 years and received her M.P.H. from Tulane University School of Public Health and Tropical Medicine; M.S. Boston University Graduate School of Psychiatric Nursing; and B.S. Wagner College of Nursing.

Contact Numbers:

Lee Mental Health (239) 275-3222

Advocacy Services (239) 275-3222

Development Office (239) 791-1521

Non-Emergency Evaluations (239) 275-3222 and request the Access Center

Crisis Emergency Support at **VISTA** (239) 275-4242



**NEW DATE FOR
GOLF TOURNAMENT
SUNDAY, DECEMBER 3, 2006**

**11th Annual Legal/Medical Golf
Tournament at Pelican Preserve
on October 7, 2006 has been
rescheduled due to low registration.
Please see insert and RSVP to Lee
County Bar Assn.**

The Health Law Group of Henderson Franklin is pleased to announce that Amy Lewis Bergen has joined the Firm.

Amy Lewis Bergen practices Health Care Law, focusing on health care compliance, regulatory and operational matters, contracting and general corporate matters.

Bonita Bay Executive Center I • 3451 Bonita Bay Boulevard, Suite 206

Bonita Springs, FL 34134

Direct Dial 239.344.1388

Direct Fax 239.344.1493

amy.bergen@henlaw.com



Henderson|Franklin
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Florida Medical Association

September

Reference Committee I

Health, Education & Public Policy

Prescriber Profiling

Dean Traiger, M.D.

To find the AMA's "Prescribing Data Restriction Program" --
<http://www.ama-assn.org/ama/pub/category/12054.html>

Since 1993, pharmaceutical companies have been collecting very detailed information on prescribing practices, including the number and type of prescriptions written by individual healthcare providers. This information is a powerful tool used by sales representatives to increase prescriptions of their company's drug.

The pharmaceutical industry is coming under increasing criticism for its approaches to sales and marketing. Drug companies use up to 90% of their advertising budgets to influence prescribers. Some of the money is spent to buy data that show what you prescribe...which the sales reps then use to tailor their sales pitch to you. *Studies have shown two-thirds of physicians are against this.*

According to the Prescriber's Letter (www.prescribersletter.com), legislation banning drug companies from using prescriber data has been signed into law in New Hampshire. Similar laws are being considered in Arizona, West Virginia, and Hawaii.

While AMA does not sell prescription data, it does sell access to physician data, which companies use to create the physician profiles. As a result, AMA is promoting an alternative plan to individual state regulations. The AMA's Prescribing Data Restriction Program (PDRP) will allow physicians to limit sales representatives' access to the physician's own prescription records.

The AMA's position regarding state proposals to restrict disclosure of physician prescribing data is available at: www.ama-assn.org/ama/pub/upload/mm/432/webxposition.pdf.

The web-based Prescribing Data Restriction Program (PDRP) is available now at: www.ama-assn.org/ama/pub/category/12054.html.

The program is open to any physician, not just AMA members. In addition to blocking access to prescription data, the program also allows physicians to report questionable use of such data by sales representatives.

A physician's decision to opt out is effective for three years, but may be cancelled by the physician at any time. Physicians should expect at least a 90 day lag between opting out and sales representative level access to their data. After three years, physicians will need to renew their participation in the program.



The LCMS Delegation to the FMA. Back Row: Ralph Gregg, M.D., James Rubenstein, M.D., Dean Traiger, M.D., Stuart Bobman, M.D., Julio Rodriguez, M.D., Larry Hobbs, M.D., Douglas Stevens, M.D. Front Row: Otto Kunst, M.D., Valerie Dyke, M.D., Steven West, M.D., Howard Barrow, M.D., Elliott Hoffman, M.D.

Reference Committee II

Finance and Administration

Otto Kunst, M.D.

There were two issues from Reference Committee II, which reached the floor of the 2006 House of Delegates that appeared to generate the most discussion.

The proposal was to give the International Medical Graduates (IMG) section a permanent seat on the Board of Governors, similar to that for the Medical Student Section. The House felt that this might be a door to open other "entitlement" seats, such as for women physicians, African-American physicians, etc. It was felt that physicians from these and any other constituencies should run for seats just as all other physicians in the FMA, rather than being guaranteed a set as a minority group, and the issue was defeated.

The other issue generating the most debate was whether or not the Board of Governors should require a super-majority vote of 2/3 before taking certain actions—including changing policies established by the House of Delegates, spending more than a certain percentage above the budget, or invading the reserve funds, in between annual meetings. The majority of the delegates felt that, given the rapid pace of change, that to hamstringing the board with a higher supermajority than the one which has hogtied the U.S. Senate, would be unwise, and these proposals were defeated, as well.

Although this was my first opportunity to be a delegate to the Florida Medical Association, I have been a delegate or alternate delegate in other states' medical societies for 13 years, albeit with a 7-year hiatus. I was glad to see that, not only did the FMA seem to be in good hands, and in good financial shape, but that I had lost none of my enthusiasm for being involved in taking part in helping to decide the path of organized medicine for our future. I encourage each of my fellow LCMS members to become involved, in some way, in the workings of our county medical society. You may find it to be as enjoyable and fulfilling as have I.

ation Annual Meeting

1-3, 2006



Reference Committee III Legislation

Stuart A. Bobman, M.D.

I had the privilege of attending the Annual Meeting of the Florida Medical Association as one of your delegates. I was asked to sit in on the meetings of Reference Committee III, Legislation.

This group has set the 2007 FMA legislative agenda. The more important points include the following:

1. Continue to oppose all scope of practice expansions.
2. Oppose legislation that will take away a physician's ability to self insure.
3. Oppose any legislation that allows a physician to practice in Florida without meeting the same requirements as all other applicants.
4. Protect advances the FMA has made relating to physician supervision of nurses and physician assistants.
5. Pass a legislative package regarding the uninsured.
6. Pass legislation that requires expert witnesses to become licensed in Florida and clarifies that giving expert testimony is the practice of medicine.
7. Pass legislation to retain the current personal injury protection (PIP) system.

Additionally, the Committee and House of Delegates heard many proposed resolutions. The more important of these which were adopted included support of a law requiring motorcycle helmet use, participation in online state immunization registry for pediatric patients, funding for hepatitis C prevention and treatment, a dedicated license plate for diabetes research and educational awareness, expansion and enforcement of Florida prompt pay law, and physicians' financial compensation for emergency department call rotation. Other resolutions were referred to the Board of Governors for adoption and/or action and their disposition is pending.

I hope this coming year is as successful for the FMA as the last several have been.

Thank you Dr. Michael Kim

Dr. Michael Kim donated a gift basket and a \$500 gift certificate for products and services to the FMA Annual Meeting Silent Auction.

The auction helps to raise money for the Florida Medical Association Foundation.

Reference Committee IV Medical Economics

Douglas Stevens, M.D.

For the first time ever I sat in session at the Florida Medical Association meeting and listened as the AMA President stated that in view of the lack of progress in negotiations with congress and CMS perhaps it is time walk away from Medicare. I want you all to know - *the President of your AMA "gets it."*

It is coming. Pay For Performance, in the words of the AMA President himself, is a "scheme", a word he was forced to switch to after the word "scam" was deemed too strong. If you have had enough now is the time to consider alternative pathways to providing patient care. What this means for your specific practice I cannot say but the time has come for serious deliberation.

Be aware of the leadership that members of your Lee County Medical Society are providing at the state and national level. Dr. Steven West is now Vice President for the FMA. Dr. Jim Rubenstein is Vice President of FLAMPAC. In the State of Florida we are now a political force to be considered - this is a significant change for us! Dividends are starting to pay off at the state level so please support both FLAMPAC and the MD 1000 club. Hopefully we will start to have some impact at the Federal level - personally I believe that will happen when we all support the AMA and as individual physician/businesses we look at our options to our practices involving the Medicare/Medicaid system. Just keep in mind that should the system fail then honest negotiations will occur. I feel that it does not appear that honest negotiations will occur prior to that time. It is crises management as usual in Washington D.C.

The air of pessimism and victimization is gone. I felt a new found pride and defiance at our meeting this year. For the first time in years I felt the presence of a certain resolve to meet the future head on. Medicine in the 21st century is going to be really challenging. I only hope that the lip service we are hearing about "quality" actually yields something more positive than the currently proposed "pay for performance" scams, I mean schemes, from the likes of CMS and United Healthcare.



Newly installed FMA President
Patrick Hutton M.D.



New FMA Vice President
Steven West M.D. and wife



James Rubenstein M.D. and
Betty Rubenstein received the
Alliance Pride in Partnership
Award.

Electronics Health Records (EHR) Survey Results

In July, the Medical Society sent a survey to 217 physician offices inquiring about their activity on purchasing and using electronic health records systems. We received 87 responses and would like to share some of the information.

Current status of their practice:

38 do not plan to implement EHR for the following reasons:

9 physicians are nearing retirement and 29 physicians offices are concerned the benefits don't justify the costs.

Initial investment and time for implementation seemed to be the number one reasons stopping the purchase and use of EHR. Followed by no national standards. The Government is working on a plan for certification of the National Standards and the companies that will be selling the products. Other factors included reliability and security.

Implementing the system requires the physician to consider the cost, selecting the appropriate system and the training. At this time there does not seem to be sufficient interest in the products on the market.

30 plan to implement in the future:

16 offices are either implementing a system or will begin the implementation process in the next year. All others are least two years away from implementation.

Assistance to optimize new system efficiency and effectiveness and guidance on appropriate EHT products were the top concerns. Training presents many challenges with staff and the time to do it well and again financial concerns arise in that the product you purchase today may change drastically in the future.

19 currently use a system:

17 offices have a system in full use by physicians and staff. The other two are in the implementation stage.

Costs:

Purchase of the above systems ran between \$10,000 and \$66,000. It was hard to compare the costs as the programs were widely different in their services, technologies and implementations. The monthly maintenance cost ran from \$105 to \$5,000. The medium cost was about \$1,200 a month. It was suggested that those seeking to purchase a system negotiate all costs prior to purchase. This includes your upgrades for the next two years as well.

Satisfaction of EHR Systems:

10 offices are extremely satisfied, 6 are somewhat dissatisfied, and 1 is actively looking for another program. Nine offices find their systems extremely reliable, 7 have had some down time, and 3 feel that their system is only somewhat reliable.

What is most liked about EHR Systems:

Electronic charting, prescribing, sharing information on practice management system, cost savings and reporting abilities.

What is least liked about EHR Systems:

Does not interface the hospital/lab/ancillary provider systems, new kind of errors, input of data into systems, and training and lost productivity.

How it has changed practice:

Reduced staff, transcription and overhead expenses. Better, faster medical records, improved patient problems, improved efficient access to records and information flow to staff.

The products used in Lee County are: Misys, Allscripts, E-MDs, Med Informatix, Alchemy, NexTech, DrNotes, Allmeds, Medical Manager Consider Systems, e Clinical Works and LMHS provided system. It was felt by those with EHRs that it would have helped if there was cost assistance, ability to network with same specialty using system, negotiate interfaces up front and visiting other sites currently using EHR.

IMPORTANT SURVEY

The Lee County Medical Society has mailed each physician a survey on the new acquisition of the Southwest Florida Regional Medical Center and Gulf Coast Hospital. Please fill out the survey and return to our office by fax at 239-936-0533 as soon as possible. Call us at 239-936-1645 with any questions or if you did not receive your survey .

Florida Doctors Begin To Reap the Benefits of Amendment 3

First Professionals Insurance Company Files for 8 Percent Base Rate Decrease

First Professionals Insurance Company (First Professionals) recently filed for a rate decrease pursuant to which, effective December 1, 2006, most Florida physicians insured by First Professionals will see an 8 percent decrease in medical malpractice premiums. However, about 900 physicians in some specialties will see larger decreases ranging from 14.2 percent to 19.5 percent because of changes in their specialty relativities.

The reasons for this decrease are threefold: the company's strict underwriting guidelines, its claims handling excellence, and the positive impact of Amendment 3 on loss frequency. Fewer claims are being presented against physicians since the passage of the amendment.

"This is a result of the successful efforts by Florida's organized medicine groups to pass Amendment 3 in November 2004," First Professionals President, Robert E. (Bob) White, Jr. said at the recent FMA annual meeting. "Amendment 3 is the reason we are in a position to reduce rates and provide some relief from the medical liability crisis."

The Florida Medical Association together with county and specialty medical groups invested \$7.5 million to make that happen. Nearly two years after Florida voters passed Amendment 3, "The Medical Liability Claimant's Compensation Amendment," losses among First Professionals' policyholders have continued to decrease. White attributes that to Amendment 3, which placed a limit on attorneys' contingency fees in medical malpractice cases. This rate decrease represents a significant return on that investment to Florida physicians. Based on 2005 written premiums, if every insurer in Florida made a similar rate adjustment, Florida physicians would save \$50 million per year.

White explained that the passage of tort reform causes a spike in loss frequency followed by a lull in claims activity that usually lasts 18-24 months and then claim activity returns to pre-tort reform levels. Florida is now three years out from the passage of tort reform and claims frequency remains at a level that is lower than it was prior to the passage of tort reform. According to White the single variable responsible for this – the only thing that changed since the tort reform legislation was enacted – was the passage of Amendment 3 in November 2004, which limited attorneys' contingency fees in medical negligence cases.

"We salute the doctors of Florida for their vision and fortitude in fighting the good fight having recognized that the 2003 tort reform legislation did not provide an adequate solution for the doctors of Florida and their patients," said White.

For 30 years First Professionals has been dedicated to Florida physicians. In recent years, under the leadership of President Bob White, First Professionals has worked with organized medicine in our effort to achieve tort reform. First Professionals has been a partner with the Florida Medical Association and more than 30 county and state specialty societies, and we will continue to work together in the forefront of the legislature when it comes to issues affecting physicians.

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



Stark's 75% Rule Still Confuses Doctors

Jeffrey Cohen, Esq.

Healthcare regulations are enough to choke a horse. Even healthcare lawyers scratch their heads over the meaning of many regulations. Nevertheless, understanding some of the more specific aspects of the regulations may be easier than you thought.

By now, among physicians, "Stark" is as common a word as "Medicare." It is the federal law that does two things: (1) it forbids doctors from referring their patients to businesses they own which provide "designated health services," and (2) it contains a long list of permitted financial relationships between health care providers. What it takes away with one hand, it gives with the other.

"Designated health services" include such things as clinical lab, physical therapy and diagnostic imaging. If a doctor has an ownership interest (or financial relationship) in a business that provides a DHS, he/she may not refer to it unless some exception applies. Probably the most important exception for doctors is so called "group practice" exception, which allows doctors who are solo practitioners or who are part of a "group practice" (as defined by state and federal law) to refer their patients WITHIN the practice for designated health services provided by the practice to its own patients.

Being a group practice requires, among other things, a single legal entity, a tax identification number, a Medicare group number, billing and collecting everything through the tax identification number and Medicare group number. It also requires that the doctors who are part of the group practice to devote substantially all of their professional time to the group practice. They could not, for instance, be in five different groups.

So what does "substantially all" mean? Under Stark, it means that the doctors in the practice devote, on average, 75% of their total professional time working through that particular group practice (that provides the designated health service to its patients). As such, if there are two physicians in the practice, and if one of them spend 100% of his total professional time working through the group but the other spends on 25% of her total professional time working through the group, they fail the group practice test because they do not spend, on average, 75% of their total professional time working through that practice. They spend only 62.5% (125% divided by 2-the number of doctors).

Florida confuses the issue. While it has a law like Stark, it has not said what "substantially all" means in general.

Florida law is clear, however, that under one circumstance, each doctor must spend at least 75% of his/her total professional time working through the group. This is not an averaged calculation, as in Stark.

So what is the circumstance under which each doctor has to spend 75% of his/her time working through the group? When the group practice takes in "outside referrals" for certain diagnostic imaging services. Generally speaking, a Florida medical practice that provides, for instance MRI, clinical lab or physical therapy services to its patients, may not provide those services to people who are not patients of the medical practice. Those "outside patients" cannot receive designated health services from the group. But wait, there is an exception that applies to diagnostic imaging services. The exception does not apply to any designated health service other than diagnostic imaging. What is the exception? Florida law allows up to 15% of a practice's diagnostic imaging services to be performed on "outside patients" if the practice registers to do so through Florida's Agency for Healthcare Administration ("AHCA"). Having said that, however, each physician in the practice must devote at least 75% of his or her total professional time working through the practice.

So to rehash:

1. A "group practice" or solo practitioner can provide designated health services to their own patients;
2. One of the requirements of the "group practice" exception is the 75% Rule, which applies on average to the physicians in the practice; and
3. If the practice also provides diagnostic imaging services to "outside patients" via registration with AHCA, EACH doctor in the practice must devote at least 75% of his or her total professional time working through the practice.

Easy...

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.

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Board of Medicine Laws and Rules

The Lee County Medical Society General Membership Meeting was held September 21, 2006 at the Royal Palm Yacht Club. Larry McPherson, Jr. Executive Director of the Florida Board of Medicine talked to 53 physicians and guests about the Board of Medicine (BOM) Regulatory System, the complaint process, avoiding conflicts, and the new laws and rules. Physicians were given 1.5 CME credits.

Mr. McPherson started his presentation by giving us important websites we all must be familiar with.

- Finding Statutes that affect you and your practice can be researched at www.leg.state.fl.us
- Florida Administrative Code Rule 64B-8 <http://election.state.fl.us>
- Board of Medicine website http://www.doh.state.fl.us/mqa/medical/me_home.html

Mr. McPherson gave a wonderful question and answer segment about the BOM Complaint Process. There are an average of 10,000 complaints a year filed against health care practitioners; of those 10,000 complaints 300 practitioners are disciplined by the BOM. The most important thing to remember when you are being investigated by the Board, is to be proactive, do not sit and do nothing. A physician can hire their own expert. Remember when hiring an attorney make sure to ask the attorney how many times he or she has appeared before the BOM. Since you are dealing with your medical license you want to make sure you have good representation.

Mr. McPherson gave us the top 12 tips to help ensure patient safety and to avoid regulatory conflicts.

1. You must update your profile within 15 days. [SECTION 456.042, FS]
2. Before you move to a new practice, notify the Board and follow notice rules. [SECTION 456.035, FS, 458.319(3) ANI 458.327(2)(E), FS, 64B8-10, FAC]
3. Do not pre-sign prescriptions [SECTION 456.331.1(AA), FS]
4. At license renewal, read the fine print [SECTION 458.319, FS]
5. Pre-approve any advertisement of your services. There are rules you must follow for advertising and you will be held responsible. [Rule 64B8-11, FAC and SECTION 456.062, FS]
6. You must keep charts on the family, employees and friends you treat [SECTION 458.331(1)(R), and 458.331(1)(M), FS]
7. Patient Boundaries. BOM has zero tolerance policy on sexual contact between physicians and patients [SECTIONS 458.329 and 458.331(1)(J), FS]
8. Make the incision on the correct site of correct patient. The BOM accepts no excuses; take a time out before you cut. [RULE 64B8-9.007 and SECTION 456.062, FS]

9. Internet Prescribing. Do Not Jeopardize Your License. Do not prescribe on the internet. [RULE 64B8-9.014, FAC]
10. Citations. The first citation a licensee receives is not considered discipline. If you accept the citation it will be public but not count as discipline on your record. [SECTION 456.077 (1), FS]
11. Fees for copying Patient records. Patients can be charged a copying fee of \$1 a page for 25 pages and 25 cents a page after that plus reasonable costs of reproduction for x-rays and other special kinds of records. **However, you cannot condition release of records on payment of fees owed for services.** [RULE 64B8-10.003, FAC]
12. Staff privileges and licensure applications. Make sure you are answering all questions on any application for staff privileges, licensure, or licensure renewal completely and honestly. [SECTION 458.331, FS]

NEW LAWS & RULES: 2006 LEGISLATION

- Physician Assistant on Probable Cause Panels (SB 1690)
- CME Changes and New Standards for Supervising Physician Extenders (HB699)
- Notice to Patients of Practitioner's License Type (MD, PA, ARNP, Etc) (HB 587)
- Medical Records and New Electronic Prescribing Procedures (SB 1408)

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NEW DATE: SUNDAY, DECEMBER 3, 2006

The Golf Tournament was rescheduled due to low registration.

11th ANNUAL LEGAL-MEDICAL CHALLENGE CUP

"The battle of the professions"

DATE:	PLACE:	TIME:	COST:
<i>Sunday,</i>	<i>Pelican Preserve</i>	7:30 a.m. Registration	\$220
<i>December 3, 2006</i>	10571 Veneto Drive	8:30 a.m. Start Time	Per Team
	Fort Myers, FL 33913		(\$110 per person)

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Deadline for Entries: November 23, 2006

The tournament format requires an equal number of teams from each profession. For further information call the LCBA office at 334-0047, LCMS at 936-1645, Dr. Bruce Lipschutz at 432-0101, or Ken Jones, Esq. at 337-3850.