

**November 2013**

## 2013 Meetings & Events

### LEE COUNTY MEDICAL SOCIETY

#### NOVEMBER

#### GENERAL MEMBERSHIP MEETING

**November 21, 2013**

**6:30 pm – Social**

**7:00 pm – Dinner – Program**

#### Topic:

*"Mergers, Hospital Deals, and networks - Oh my!  
What Physicians Practices doing to Survive?"*

FineMark National Bank & Trust  
12681 Creekside Lane  
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#### SAVE THE DATE

#### LCMS & ALLIANCE HOLIDAY PARTY

**December 9, 2013**

**7pm – 11 pm**



Gulf Harbour Country Club  
14500 Vista River Drive  
Fort Myers, FL 33908

#### 2014 Annual Medical Service Awards

**January 17, 2014**

Lexington Country Club  
16257 Willowcrest Way  
Fort Myers, FL 33908

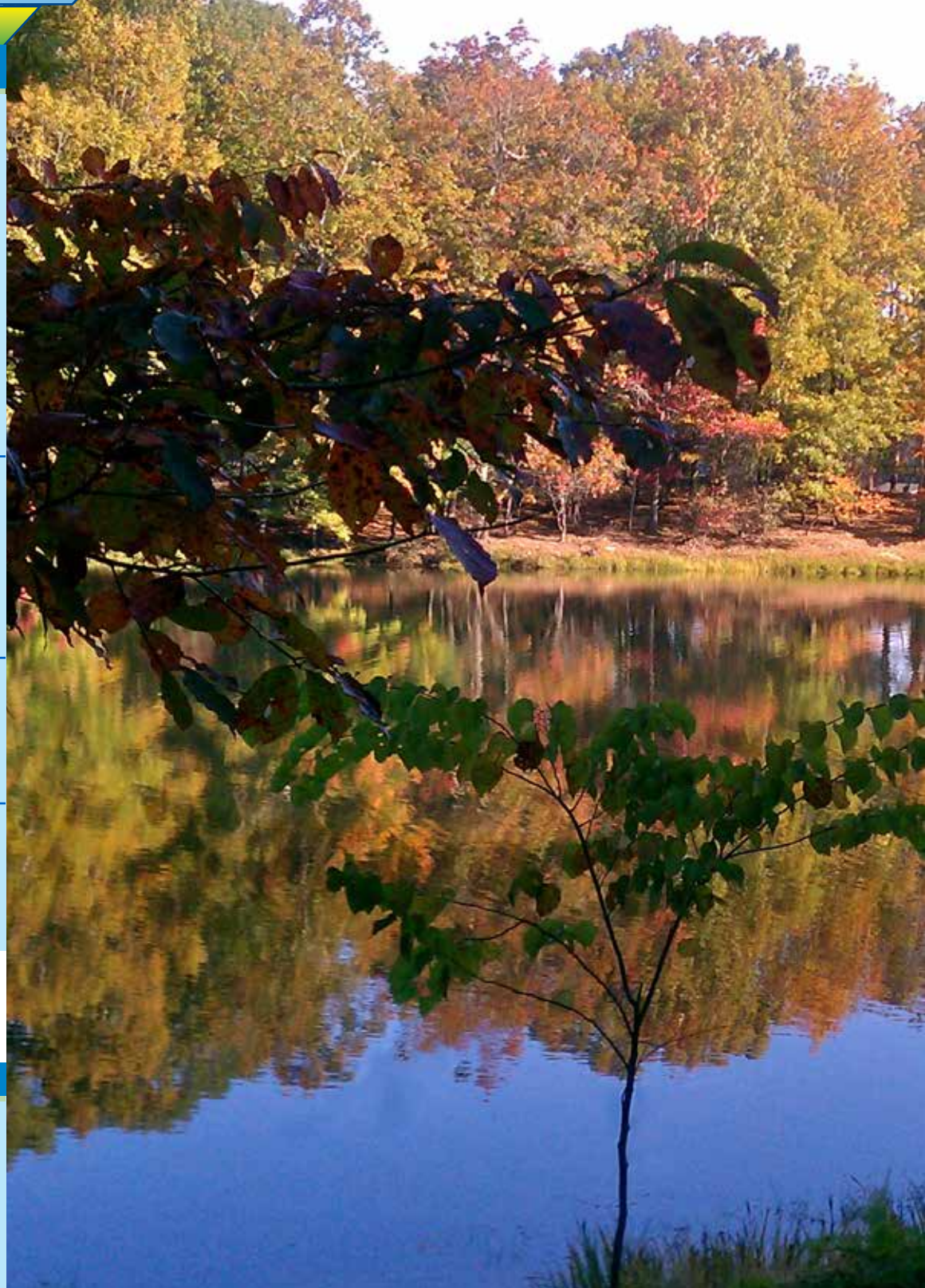
**RSVP to:** Lee County Medical Society  
13770 Plantation Road, Ste 1  
Fort Myers, FL 33912  
Tel: 936-1645  
Fax: 936-0533

#### Inserts:

Women's Symposium on Cancer  
CME's Available/License Renewal  
November Meeting Notice

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**About the Cover:** Ed Guttery, M.D.

An autumn afternoon sun illuminates color October foliage on Lake Atagahi  
in the Blue Ridge Mountains of North Carolina



## LEE COUNTY MEDICAL SOCIETY BULLETIN

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### PRINTERS

The Print Shop

### Lee County Medical Society Mission Statement & Disclosure Policy

*The purpose of the LCMS is to unite the medical profession of Lee County, FL, into one compact organization; extend medical knowledge and advance medical science; elevate the standards of medical education; strive for the enactment, preservation and enforcement of just medical and public health laws; promote friendly relations among doctors of medicine and guard and foster their legitimate interests; enlighten and alert the public, and merit its respect and confidence.*

*All LCMS Board of Governors and Committee meeting minutes are available for all members to review.*

## MEMBERSHIP NEWS

### NEW MEMBERS

Bhalla, Munish, MD – Internal Medicine  
De Light, Mardelle, MD - Family Medicine  
Drago, Denise, MD – Pediatrics  
Durando, Christopher, DO – Internal medicine  
Eichten, David, DO – Orthopedic surgery  
Felt, Suzanne, MD - Emergency Medicine  
Felt, William, MD - Emergency Medicine  
Franklin, Joshua, MD – Radiology  
Gill, Harmindar, MD – Radiology  
Graham, Lindsay, MD – Pediatrics  
Jacob, Thomas, MD – Psychiatry  
Lewis, Peter, MD - Internal Medicine  
Mannan, Abou, DO - Family Medicine  
Stanfill, Amy, MD – Pediatric Surgery  
Taha, Margaret, MD – Radiology  
Witham, Nancy, MD – Pediatrics

### NEW APPLICANTS



**Barry N. Haicken, MD** – Dr. Haicken received his MD degree from the University of Rochester School of Medicine, Rochester, NY in 1970. He completed an internship at Bronx Municipal Hospitals, Bronx, NY from 1970-1972 and a residency at Montefiore Hospital, Bronx, NY from 1972-1976. He was board certified in Surgery by the American Board of Surgery in 1978 and recertified in 2007. Dr. Haicken is in group practice with Lee Physician Group, 1435 SE 8th Terrace, Ste B, Cape Coral, FL 33990 Tel: 239-424-2755.



**John G. Raheb, DO** – Dr. Raheb received his DO degree from Philadelphia College of Osteopathic Medicine in 1991. He completed an internship at Naval Medical Center, San Diego, CA from 1996-1997, a residency at Wilford Hall Medical Center, San Antonio, TX from 1997-2001 and a fellowship at Eastern Virginia Medical School, Norfolk, VA from 2009-2010. He was board certified in Surgery by the American Board of Surgery in 2002 and recertified in 2011. Dr. Raheb is in group practice at Surgical Healing Arts Center, 6150 Diamond Centre Ct, Ste 1300, Fort Myers, FL 33912 Tel: 239-344-9786.



**Robert G. Chami, MD** – Dr. Chami received his MD degree from Loma Linda University, Loma Linda, CA in 1983. He completed residencies at Loma Linda University, Loma Linda, CA from 1983-1988 and Wright State/Kettering Medical Center, Kettering, OH from 1988-1990. He was board certified by the American Board of Plastic Surgeons in Plastic Surgery in 1993. Dr. Chami is in group practice with Riverchase Dermatology, 413 Del Prado Blvd S, Ste 101, Cape Coral, FL 33990 Tel: 239-443-1500.



**Joseph Gauta, MD** – Dr. Gauta received his MD degree from Albany Medical College, Albany, NY in 1994. He completed an internship and a residency at Tulane University, New Orleans, LA from 1994-1998. Dr. Gauta was board certified by the American Board of Obstetrics and Gynecology in Obstetrics and Gynecology in 2000 and Female Pelvic Medicine and Reconstructive Surgery in 2013. He is in practice at Florida Bladder Institute, 1890 SW Health Parkway, Ste 205, Naples, FL 34109 Tel: 239-449-7979.



**George M. Comas, MD** – Dr. Comas received his MD degree from Cornell University, New York, NY in 2003. He completed a residency at Columbia University, New York, NY from 2003-2009 and fellowships in Thoracic Surgery at Columbia University, New York, NY from 2009-2011 and Emory University, Atlanta, GA from 2011-2013. Dr. Comas was board certified by the American Board of Surgery in General Surgery in 2010. He is in group practice with Gulf Coast Cardiothoracic and Vascular Surgeons, 8010 Summerlin Lakes Drive, #100, Fort Myers, FL 33907 Tel: 239-939-1767.



**Quentin B. Allen, MD** – Dr. Allen received his MD degree from Duke University, Durham, NC in 1995. He completed an internship at Mayo Clinic, Jacksonville, FL from 1995-1996 and a residency at Cleveland Clinic Foundation, Cleveland, OH from 1996-1999. He was board certified by the American Board of Ophthalmology in Ophthalmology in 2001. Dr. Allen is in group practice with Eye Centers of Florida, 4101 Evans Avenue, Fort Myers, FL 33901 Tel: 239-939-3456.

### Resigned

Daron Scherr, MD

### Moved from area

Laura White, MD

### New Practice

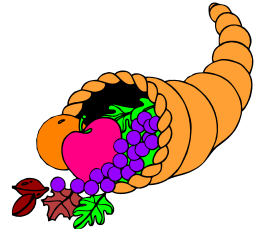
**Steven Woodring, DO**  
**NBO Medical**

90 Cypress Way E #60  
Naples FL 34110  
Tel: 239-325-8408 Fax: 239-325-8209

### Harold Tsai, MD

**Fort Myers Urology**

7331 Gladiolus Drive  
Fort Myers, FL 33908  
Tel: 239-985-1900 Fax: 239-985-1901



## **President's Message:**

by Audrey Farahmand MD

### **United's Medicare Advantage decision: Good for business, Bad for Public Relations**

United Healthcare informed 300 doctors in Southwest Florida that they will be dropping them from their Medicare Advantage Program. Similar moves have been made in Connecticut and Rhode Island. In Southwest Florida, the move affects 35,000 beneficiaries. For those of us who don't know, United's Medicare Advantage is an alternative to traditional Medicare in which a private health plan manages all care for a flat per-patient fee.

The doctors who have been dropped are mostly specialists - especially cardiologists, dermatologists, endocrinologists, ophthalmologists, and nephrologists, to name a few. As many physicians cannot remember any similar incident of a health insurance company dismissing mass numbers of physicians from different specialties, we are left wondering what was behind that decision.

The official statement by United is the following: "We're looking at a more focused network of physicians, especially to deal with some of the financial pressures that have come down and cutbacks, quite honestly, in the Medicare Advantage program and other government-sponsored programs," said spokesman Tyler Mason.

We can assume that by dropping specialists who treat expensive patients, those patients would then be forced to choose another insurance plan, pay higher out-of-pocket expenses, or switch doctors (unlikely, because the cuts affect most specialists in this area). This effect would relieve United from their contractual obligations to these expensive patients, allowing the company to seek higher profits.

We can understand the desire to seek higher profits. What has upset physicians and patients is the manner in which United Healthcare is seeking higher profits.

First, the patients being left to either scramble for care, change insurance plans, or pay more out-of-pocket are sick and elderly. Even cancer patients were affected when Moffitt Cancer Center was dropped.

Second, when physicians were notified of the decision, most of their patients were not yet notified by United and were first learning of the decision when the physician's office contacted them.

There have been numerous articles written and television segments broadcast illustrating the negative impact the decision has had on patients and physicians since the physicians received their notification. Unfortunately, United probably had already determined that the increase in profits was worth the hit to their public relations before abruptly dropping the specialists. We can only hope that other insurance companies do not follow suit.

### **New Date for Kool Science Event**

Due to unforeseen problems, we have changed the date for the Kool Science Event to **April 24, 2104**.

I apologize for any inconvenience this may cause. You can still reserve your place for the event by going to our website: [www.koolscience.fortmyerskiwanis.org/events.html](http://www.koolscience.fortmyerskiwanis.org/events.html). Please note that space is limited and reservations must be made in advance. No tickets will be sold at the door. Please contact Tim Jones with any questions you might have. Science Fair Judges Coordinator, 239-940-5930, Cobra64@comcast.net

### **LCMS Friends in Medicine**



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## Lee County Medical Society Nominations for 2014 Officers



The following slate of nominations for the 2014 officers of the Lee County Medical Society is presented for your consideration. The membership will vote at the November 21, 2013 General Membership Meeting. If you wish to nominate someone else for an office, please be sure to have that person's approval before nominating him or her from the floor.

### **BOARD OF GOVERNORS**

**President:** Peggy Mouracade, MD (*elected 2012*)

**President-Elect:** Andrew Oakes-Lottridge, MD

**Secretary:** Jon Burdzy, DO

**Treasurer:** Shari Skinner, MD

**Past President:** Audrey Farahmand, MD

#### ***Previously elected Members-at-Large:***

Daniel de la Torre, MD (2014)

Valerie Dyke, MD (2014)

Paul Makhoul, MD (2015)

E. Trevor Elmquist, DO (2015)

Joanna Carioba, MD (2016)

Kultar Singh, MD (2016)

F. Rick Palmon, MD (Legislative Chair)

\*Stephen Zellner, MD (IPALC Representative)

### **DELEGATES/ALTERNATES TO THE FMA ANNUAL MEETING**

#### **FMA Delegates**

Cy Anderson, MD

Stuart Bobman, MD

Stefanie A. Colavito, MD

Daniel de la Torre, MD

Valerie Dyke, MD

\*Larry Hobbs MD, Chair

Richard Macchiaroli, MD

Peggy Mouracade, MD

Jeff Neale, MD

F. Rick Palmon, MD

James, Rubenstein, MD

Shari Skinner, MD

#### **FMA Alternate**

Joshua Franklin, MD

Ray Kordonowy, MD

Shahid Sultan, MD



### **GRIEVANCE COMMITTEE**

R. Thad Goodwin, MD, Chair

### **LEGISLATION COMMITTEE**

\*F. Rick Palmon, MD

### **COMMITTEE ON ETHICAL & JUDICIAL AFFAIRS**

\*Kultar Singh, MD, Chair (2014)

#### ***Newly Elected EJA Members:***

Elizabeth Cosmai-Cintron, MD (2016)

Tracy Vo, DO (2016)

#### ***Previously elected EJA Members:***

Darius Biskup, MD (2014)

Andy Oakes-Lottridge, MD (2014)

Jacob Goldberger, MD (2015)

Steven Guterman, MD (2015)

**We would like to thank Dr. Richard Macchiaroli, for his years of service on the Board of Governors of the Lee County Medical Society. He will be leaving the Board at the end of 2013.**

### **\*EX-OFFICIO MEMBERS OF THE BOARD OF GOVERNORS.**

### **November Meeting**

Our November program is being done to educate our physicians. We hope you will consider attending.

FineMark National Bank & Trust  
12681 Creekside Lane  
Fort Myers, FL  
6:30 PM Social Time  
7:00 Dinner-Program

#### **Topic:**

*"Mergers, Hospital Deals, and networks - Oh my!  
What are Physician Practices doing to Survive?"*

#### **Speakers:**

**Karen Mosteller, CPA, CHBC**  
**Joe Rugg, Esq**

#### **Sponsors:**

Markham, Norton, Mosteller, Wright & Company  
Capital Guardian Wealth Management - Peter Montalbano

Please RSVP by Nov. 18<sup>th</sup>, 2013.

**LCMS Dues have been mailed and are due by January 1, 2014**  
**Please remit your dues today**





### Alliance Potluck in Paradise Held at the Home of Drs. Denise & Andy Oakes-Lottridge

by Leya Neizvest, Alliance President

2013 Potluck in Paradise was a wonderful event! We would like to thank all of the volunteers on the Potluck committee and everyone who attended and shared the event. We would very much like to thank Drs. Denise and Andy Oakes-Lottridge for hosting the event in their lovely home. There were 55 attendees. LCMS Alliance put together goodie bags as welcome gifts for new doctors. We plan to hand deliver them to those doctors who could not attend the event.

### Alliance Up Coming Events

Alliance Saturday Morning Run. Juli Bobman is Chair of the Running Club and started the Saturday Morning Run on Sep 28 and have been meeting ever since.

We meet in the parking lot under the Matanzas Pass Bridge at Fort Myers Beach at 6 am for a 3-5 mile run. All paces are welcome! This event is open to Alliance members, prospective members, and their spouses / significant others.

New Alliance Member Lisa Donabedian Tafel is offering free BalletFit classes to Alliance Members the first Thursday of every month. The first free class is Nov 7, 9-10 am, at Gulfshore Ballet. If you take two of these classes a week, you will see your body change!

Gulfshore Ballet is located at  
2155 Andrea Lane C5-6  
Fort Myers, FL 33912



### New Fort Myers Office Opening...

September 3, 2013



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## We Care of Lee County Provider Appreciation & Program Update October 3, 2013 ~6: 30pm~ FineMark National Bank & Trust

### Sponsors: Joe Catti-FineMark National Bank & Trust, The United Way The Salvation Army & We Care of Lee County

The evening was filled with some of SWFL finest physicians. The Salvation Army's We Care staff (Daisy, Paul, Jessica, Gayle & Ana), Salvation Army leadership, The United Way team, our fine friends at Fine Mark Bank and the We Care steering committee had the opportunity to express our gratitude for the people that make it all possible, by hosting this wonderful event.

"Tonight we want to share our gratitude to the investment that has been made by our physicians, staff, hospital systems, partners and We Care Advisory Board Members," -Daisy Ellis, TSA Medical & Outreach Services Director.

On behalf of We Care, a program managed and operated by TSA, an initiative of the United Way (in partnership with Lee County Medical Society, LCHD, LMHS and FHC of SWFL), we would like to share our deepest appreciation to all of you, our partners who make it happen! Without your support, investment and participation, this would not be possible. Thank You!

"Through the mission of TSA, the success of this program speaks for itself. Each day, our goal is to not only meet the physical needs of the person, but the emotional and spiritual needs," -Paul Whitear, We Care Coordinator.

We were also very privileged to have in our presence, John Fenning, MD; one of We Care's founding members and champion....His remarks did not leave a dry eye in the building.

The evening was filled with fine food, fellowship and special recognitions. *Judith Hartner, MD (DOH-Lee County) made remarks expressing her indebtedness and support for this program, followed by awards to:*

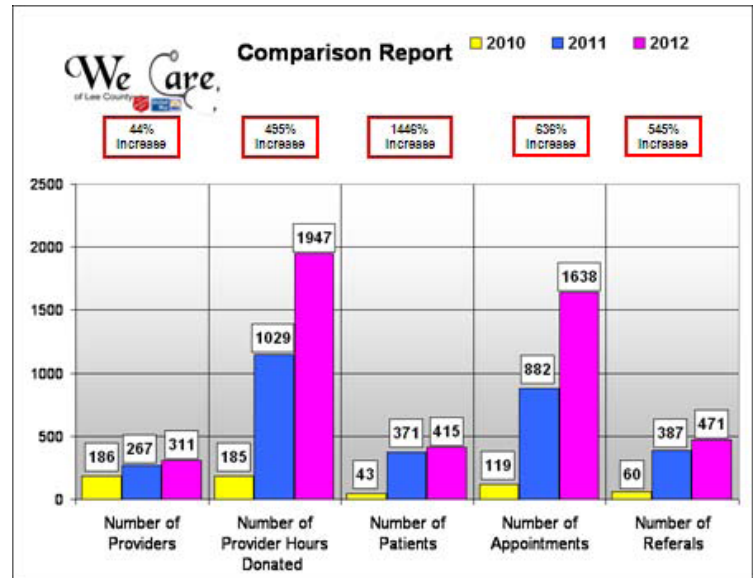
- **Ear, Nose and Throat Specialists of FL**
- **Florida Cancer Specialists**
- **Florida DOH-Kathy Wilzinski**
- **Dr. Robert Gear, DMD, M.D.**
- **Judith Hartner, M.D.**
- **Lee Memorial Health System**
- **LPG Cardiology "Metro"**
- **Orthopedic Center of Florida**
- **Radiology Regional Center**
- **The Colorectal Institute**
- **Harold Tsai, M.D.**
- **21st Century Oncology**
- **Joint Implant Surgeons of Florida**

"These physicians, practices, or agency have contributed a significant amount of hours and support to the We Care program.....these special recognition awards are for your outstanding service and dedication to this phenomenal program...." – Judith Hartner, MD

We Care of Lee County would like to extend a personal invitation to all specialty care physicians to share their gifts and talents, with those that would otherwise have no access to this care.

To enroll as a provider or for more information, please call or email: Paul Whitear, We Care Coordinator - 239-628-1455 or paul\_whitear@uss.salvationarmy.org

### We Care Statistic Updates



### Total Value of Donated Care Costs

**2010**  
\$672,756.34

**2011**  
\$3,813,208.58

**2012**  
\$5,431,401.89

**Jan. – May 2013**  
\$1,771,847.23



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# Planning Around the New Medicare Tax on Investment Income

By: Markham, Norton, Mosteller & Wright, PA - In Addition Newsletter for October 14, 2013

**The new 3.8 percent Medicare tax** on net investment income took effect at the beginning of this year. It only affects higher-income individuals, but that can include anyone who happens to have big one-time taxable income or gains in one year. This article covers some planning strategies that individuals can implement between now and year end to avoid or minimize the new tax for 2013.

## Net Investment Income Tax Basics

The following types of income and gain (net of related deductions) are generally included in the definition of net investment income and thus potentially exposed to the 3.8 percent tax.

- Gains from selling assets held for investment including gains from selling investment real estate and the taxable portion of gains from selling personal residences.
- Capital gain distributions from mutual funds.
- Gross income from dividends and interest (not including tax-free interest such as municipal bond interest).
- Gross income from annuities and royalties.
- Gross income and gains from passive business activities (in which you do not materially participate) and gross income from rents. Gross income from non-passive business activities is *excluded* from the definition of net investment income and so is gain from selling property held in such activities.
- Gains from selling passive partnership interests and S corporation stock (meaning you do not materially participate in the partnership or S corp's business activities).
- Gross income and gains from the business of trading in financial instruments or commodities (whether you materially participate or not).

## Affected Individuals

You are only exposed to the 3.8 percent Medicare tax if your modified adjusted gross income (MAGI) exceeds: \$200,000 if you're unmarried, \$250,000 if you're a married joint-filer or qualifying widow or widower, or \$125,000 if you use married filing separate status. The amount subject to the 3.8 percent tax is the *lesser* of:

1. Your net investment income or
2. The amount by which your MAGI exceeds the applicable threshold.

For this purpose, MAGI is defined as regular AGI from the bottom of page 1 of your Form 1040 plus certain excluded foreign-source income net of certain deductions and exclusions (relatively few individuals are affected by this add-back).

*Note:* The 3.8 percent tax can also hit estates and trusts that have investment income but we will not cover them in this article.

## Planning Strategies Must Aim at Proper Target

Since the 3.8 percent Medicare tax hits the *lesser* of: your net investment income or the amount by which your MAGI exceeds the applicable threshold, planning strategies must be aimed at the right target.

- If your exposure to the tax mainly depends on your net investment income, focus first on strategies that will minimize that amount.
- If your exposure to the tax mainly depends on your MAGI, concentrate on strategies that will reduce that number.

Here are three examples to illustrate different taxpayers' situations.

### Example 1: Target Net Investment Income

In 2013, you will file as an unmarried individual. Unless something changes, you will have \$370,000 of MAGI, which includes \$95,000 of net investment income. You will owe the 3.8 percent Medicare tax on all net investment income (the lesser of your excess MAGI of \$170,000 or your net investment income of \$95,000).

Your exposure to the 3.8 percent tax mainly depends on your net

investment income level. Therefore, you should focus first on strategies to reduce that amount. For instance, you could sell loser securities from your taxable brokerage firm investment accounts to offset earlier gains. Additional strategies are explained later in this article.

In contrast, strategies that would lower your MAGI would *not* reduce your exposure to the 3.8 percent tax unless they reduce your MAGI by a whole lot. For instance, making an additional \$15,000 deductible contribution to your tax-favored retirement account would not by itself reduce your exposure to the 3.8 percent tax.

### Example 2: Target MAGI

In 2013, you and your spouse will file jointly. You plan to have \$325,000 of MAGI, which includes \$100,000 of net investment income. You will owe the 3.8 percent Medicare tax on \$75,000 (the lesser of your excess MAGI of \$75,000 or your net investment income of \$100,000).

Your exposure to the tax mainly depends on your MAGI level. Therefore, you should focus there first. For instance, making \$25,000 of additional deductible contributions to your tax-favored retirement accounts would reduce your MAGI by \$25,000 and therefore reduce the 3.8 percent tax. Selling loser securities from your taxable brokerage firm accounts to offset earlier gains would also reduce your MAGI.

In contrast, using a method that allocates more deductions to offset your investment income would *not* reduce your bill for the 3.8 percent tax unless the method reduces your net investment income amount by a great deal, which is not likely.

### Example 3: Reduce the Impact of One Big Transaction

In 2013, you and your spouse will file jointly. Between now and year end, you expect to sell a greatly appreciated vacation home, which you've owned for many years. The whopping \$650,000 gain will be fully taxable for federal income tax purposes and will also count as investment income for purposes of the 3.8 percent tax. Let's assume you'll have no other investment income and no capital losses. But you'll have \$150,000 of MAGI from other sources (salary, bonuses, self-employment income, and so forth).

Due to the vacation home profit, your net investment income will be \$650,000 (from the sale) and your MAGI will \$800,000 (\$650,000 from the vacation home plus \$150,000 from other sources). You would owe the 3.8 percent tax on \$550,000, which is the lesser of: your net investment income of \$650,000 or your excess MAGI of \$550,000. In this case, that means \$800,000 minus the \$250,000 threshold for joint-filing couples. The 3.8 percent tax would amount to \$20,900 (3.8 percent times \$550,000). Ouch!

In this example, the sole source of your exposure to the tax is the vacation home gain. Therefore, consider the following strategies:

- Sell the vacation home on an installment plan to spread the gain over several years and thus minimize or maybe even eliminate exposure to the tax.
- If possible, swap the vacation home in a Section 1031 "like-kind exchange," which would defer the big gain and completely eliminate your exposure to the 3.8 percent tax for now.
- Take other steps (described below) to reduce your net investment income, which would reduce your exposure to the tax.

**Recruit three new members this year and your 2015 dues will be free of charge.**



## One Hundred Years Ago in America

By Patricia M. Warren, RN, Administrator  
Senior Home Companions, Inc. Nurse Registry



### One hundred years ago in America:

- Average life expectancy in the U.S. was 47.
- Only 14 percent of the homes in the US. had a bathtub.
- Only 8 percent of the homes had a telephone.
- There were only 8,000 cars in the U.S., and only 144 miles of paved roads.
- The maximum speed limit in most cities was 10 mph.
- Alabama, Mississippi, Iowa, and Tennessee were each more heavily populated than California.
- The average wage in the U.S. was 22 cents per hour.
- The average U.S. worker made between \$200 and \$400 per year.
- A competent accountant could expect to earn \$2,000 per year, a dentist \$2,500 per year, a veterinarian between \$1,500 and \$4000 per year, and a mechanical engineer about \$5,000 per year.
- More than 95 percent of all births in the US. took place at home.
- Ninety percent of all U.S. doctors had no college education. Instead, they attended so-called medical schools, many of which were condemned in the press and by the government as "substandard."
- Sugar cost four cents a pound.
- Eggs were fourteen cents a dozen.
- Coffee was fifteen cents a pound.
- Most women only washed their hair once a month, and used borax or egg yolks for shampoo.
- Five leading causes of death in the U.S.: Pneumonia and influenza, tuberculosis, diarrhea, heart disease, and stroke.
- The population of Las Vegas, Nevada was only 30!
- Crossword puzzles, canned beer, and ice tea had not been invented yet.
- There was no Mother's Day or Father's Day
- Two out of every 10 U.S. Adults could not read or write.
- Only 6 percent of all Americans had graduated from high school.
- Marijuana, heroin, and morphine were all available over the counter at the local corner drugstores. Back then the pharmacist said, "heroin clears the complexion, gives buoyancy to the mind, regulates the stomach and bowels, and is, in fact, a perfect guardian of health."
- Wonder what will surprise people in October 2113 about us?

Information gathered from United States Census Bureau / State & County Quick Facts October 2013.

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## **Florida Telemedicine Law:** **Time to Embrace Advances in Telemedicine and Address Legal Barriers**

Elizabeth P. Perez, Esq.

The use of technology and telecommunications in healthcare seems to evolve at a fast pace, but telemedicine laws and regulations are slow to catch up. Most would agree that telemedicine provides invaluable benefits to providers and their patients, such as increased access to healthcare. But there are still some ambiguities that are not fully addressed in Florida's laws, which may have the unintended effect of hindering the progress of the use of telemedicine. As well, there are no laws that mandate insurance coverage or reimbursement for telemedicine services. The time seems right for an expansion of telemedicine laws and regulations in Florida.

The American Telemedicine Association tracks recent changes to State telemedicine legislation (ATA 2013 State Telemedicine Legislation Tracking chart is available on their website). For example, ATA reports that there are currently 21 states that have enacted legislation mandating private insurance coverage for telemedicine services. Florida is not one of them.

Presently, Florida laws provide no statutory definition of "telemedicine" and there are only two regulations that provide guidelines for the use of telemedicine. The Board of Medicine and Board of Osteopathic Medicine have promulgated standards for the practice of telemedicine, respectively. Under the Board of Medicine regulation, telemedicine includes prescribing legend drugs to patients via Internet, telephone, and/or facsimile. And, the regulation provides the parameters for treatment recommendations and prescribing legend drugs.

However, there are few reported cases that provide guidance to address certain ambiguities in the regulations. Recently, the Board of Medicine considered the issue of telemedicine in a request for declaratory statement, *In Re: Petition for Declaratory Statement of Jack Daubert, M.D., F.A.C.S.* (08/13/2013). Dr. Daubert, a Florida ophthalmologist, petitioned the Board to consider whether his proposed usage of technology to perform remote eye exams would be in compliance with applicable state regulations. His petition noted that "[t]he Florida Department of Health has issued standards for prescribing in connection with the provision of remote care (telemedicine), but no specific guidelines or standards for the general use of technology in connection with the remote provision of healthcare services." The Board's final order indicated that it was presented with insufficient information to make an informed determination and declined to issue a declaratory statement at this time. While the Board has been supportive of the concept of telemedicine, there remains a paucity of cases interpreting or analyzing current telemedicine regulations.

There may be some welcomed changes to Florida's telemedicine laws in the near future, as Florida lawmakers revisit the issue in the 2014 Legislative Session. A new bill has been filed (SB 70), which may expand Florida's current telemedicine laws, particularly in the area of insurance coverage for telemedicine; an area that seems ripe for new legislation. The bill's proposed language could provide the desired clarity with respect to the ambiguities and broaden the scope and use of telemedicine. The bill contains, among other things, the following proposed provisions: (a) enacting a statutory definition of "telemedicine"; (b) mandating private health plans and Medicaid to provide coverage and reimbursement for services without the prerequisite of the face-to-face contact between a health care provider and patient; (c) clarifying that the use of telemedicine technology under the supervision of another health care practitioner may not be interpreted as practicing medicine without a license; (d) authorizing the Department of Health to adopt rules and requiring the department to repeal any rules that prohibit the use of telemedicine; and (e) requiring the Department to conduct a study on options for implementing telemedicine for certain services.

Technology and telecommunication in healthcare continues to evolve at a rapid pace and the time seems right for the Florida healthcare industry and lawmakers to embrace these advances in telemedicine and address the legal barriers that may hinder its progress.

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## LCMS Members Cash in on Rewards from Workers Comp Plan!

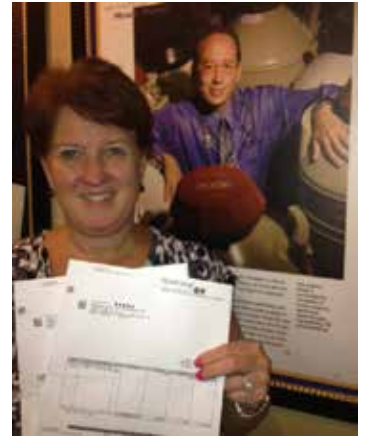
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