



Southern New York Independent Practice Association (SNYIPA): What is it and is it for You?

Thomas T. Lee, MD, President-elect & Joseph Tartaglia, MD, Immediate Past President

Bigger is not always better. Physicians provide a service and that service is intensely personal and private. The public should be afforded diverse practice choices to fit the individual patient’s preferences. Bigger institutions aren’t necessarily cheaper and their higher overhead may not allow them to provide more cost effective care than a smaller office practice. Although the public doesn’t realize it, many small practices are already providing care at a lower cost to their insurance companies, but that lower cost is not being translated into lower premiums for the patient. Our society has a vested interest in preserving the small physician practice model.

But, is there a way for the small independent medical business to survive in this increasingly hostile business environment? The past decade has witnessed an economic environment, characterized by lower reimbursement and higher overhead, further stressing the financial health of most small and medium size practices that have seen over a decade of stagnant Medicare payments not keeping pace with inflation. Shrinking reimbursements from a few giant private insurance plans that have no incentive to negotiate fees with the small practices leave them with no choice but “take it or leave it.” Much of the downward pressure of reimbursement is created by the consolidation of insurance companies through merger and acquisition. First Oxford, and then Health Net of the Northeast were acquired by United Healthcare; HIP and GHI merged. In many New York counties, the private insurer markets are dominated by one or two insurers. Moreover, the federal Affordable Care Act continues to cast a dark shadow over the private practice model, especially for the small/medium size practices. EHR implementation, IT investment, and other regulatory pressure have been very costly and made smaller practices difficult to run. At the same time, the flawed SGR formula repeatedly threatens to impose draconian cuts to physicians’ professional revenue, and potentially shut many traditional practices down.

Small and medium size practice physicians have few viable choices to improve revenue and potentially decrease overhead. Sadly, the options available often lead to going out of business in one way or another. One can choose to retire early to get away from it all. One can move out of the state from family and friends, but face the same federal funding disaster. Other options include joining a teaching hospital faculty, or joining a teaching institutional IPA.

Others favor the employment model of multi-specialty groups or hospitals/facilities. But, what will happen if institutions are able to absorb all the remaining practices? What will happen to the ability of the individual physician to render personal medical care to his patients in the way he sees fit and his ability to choose his own working conditions? The goals of the small and medium size practices should be to legally and effectively negotiate with managed care companies and be treated fairly relative to our colleagues in large multi-specialty groups or the hospital setting, not cease to exist as a small practice. **To this end, last year many of our colleagues, and several officers of the Westchester County Medical Society, started the efforts to form a community-based,**

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Westchester County Medical Society
333 Westchester Avenue
Suite LN-01
White Plains, NY 10604
(914) 967-9100 / FAX (914) 967-9232

Peter J. Acker, MD
Editor

Karen Foy
Managing Editor

Officers

Abe Levy, MD
President

Thomas Lee, MD
President-elect

Joseph J. Tartaglia, MD
Immediate Past President

Robert Lerner, MD
Vice President

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Secretary

Karen G. Gennaro, MD
President
Westchester Academy of Medicine

Staff

Brian O. Foy
Executive Director

Karen Foy
Membership & CME

Rhonda Nathan
Accounting

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Upcoming Events Mark Your Calendar

Monday, April 16th - 6:00 pm
WCMS Delegates Meeting

Tuesday, April 17th - 6:30 pm
Medicare "Meaningful Use" Presentation

Friday, April 20th - Sunday, April 22nd
MSSNY Annual Meeting
Saratoga Hilton and City Center, Saratoga Springs, NY

Wednesday, April 25th - 6:00 pm
Ethics Committee

Monday, May 7th - 5:00 pm
Academy CME Committee

Tuesday, May 8th - 6:30 pm
Long Term Care Presentation

Thursday, May 10th - 6:00 pm
WCMS Board of Directors

Monday, May 28th
Memorial Day - Office Closed

Monday, June 4th - 5:00 pm
Academy CME Committee

Friday, June 22nd - 6:00 - 9:00 pm
WCMS/Academy Annual Meeting
Westchester Country Club, Rye, NY

Sunday, September 23rd - 10:00 am
WCMS Legislative Brunch
Knollwood Country Club, Elmsford, NY

Newsletter Submissions

Members are encouraged to submit articles, letters to the editor, classified ads, members in the news, etc. for publication in the Westchester Physician.

**The deadline for the
May 2012 issue is April 20th.**

Please email your submissions for review to
Brian Foy, Executive Director at bfoy@wcms.org.

FROM THE EDITOR

XP Rated

By Peter Acker, MD



In my last column I wrote about my trip to India and promised to write this month about my impressions of the Indian health care system. Circumstances, however, have intervened: to wit, last weekend's French Film Festival at SUNY Purchase. This has been an annual event for the past eight years and I have been an enthusiastic attendee for the last five. It always amazes me how often films will touch on a medical topic either directly or indirectly (perhaps it shouldn't be too surprising since medicine contains drama that touches so much of the human experience). Last year I wrote about two films, one that featured a character who personified cancer and the other about a man in the last stages of dementia. A cinematography course that features just films about medicine would be an interesting course indeed. This year's festival featured two films: *La Permission De Minuit (The Moon Child)* about a boy and his doctor and *UnHeureuxévènement (A Happy Event)* about a young couple expecting a baby.

The Moon Child is the first movie that I am aware of that features **Xeroderma Pigmentosum** (or **XP**, as it is referred to in the film) a rare genetic disorder. It follows the long tradition of bringing rare diseases to public awareness through cinema: witness 1985's *Mask*, starring Cher, about a boy with **Craniodiaphyseal dysplasia** (also known as **CDD** or **lionitis**). **XP** exerts a similar toll on its patients. Lacking an enzyme that facilitates repair of DNA damaged by exposure to UV radiation, these patients are subjugated to a life without day light. In the movie, David is a 50 year old dermatology professor and researcher who has taken care of Romain, a 13 year old boy with the disease who is in the throes of adolescent rebellion. The movie is beautifully acted and chronicles the close, yet tumultuous relationship between the two. It is difficult to be a caring physician and not find oneself charting the waters between the Scylla of too close emotional involvement and Charybdis of too little. David finds himself torn between his deep, caring relationship with his patient and his own needs and the needs of his family. Romain, on the other hand, in the first bloom of burgeoning adulthood, is beginning to reflect on the grim reality of his life and rebels against the constraints of his treatment, while at the same time seeking an even closer relationship with his doctor. It is adolescence writ large: the harder they are to love, the more they need it. This film mines all these issues deftly and subtly and is probably the best meditation on the doctor patient relationship that I have ever seen on the screen.

A Happy Event was polar opposite in the emotions it evoked. A young couple, following the dictates of their desire, find themselves expecting. What follows is a riotous, full bodied account of pregnancy, delivery and nascent parenthood. It transported me back to my own experience as my wife and I waited for our first child. All the hilarious foibles that can occur were amply demonstrated and enlarged upon. In typical French fashion, it did not avoid subjects such the shifting course of sexuality and desire during pregnancy and after, and any parent can identify with the scene of just when finally both are in the mood at the same time, the child beast in the cradle lets out a roar. It even featured a line I used which I thought was hilarious and clever (though my wife was less amused) when our young daughter cried at three a.m. "Honey, my milk isn't in right now, could you handle this feed?" I poked my wife who was sitting next to me in the theatre. She was just as unamused 27 years later. Another memorable scene was the lactation support group with the women intoning in turn, "The bottle is the enemy, the bottle is evil."

I highly recommend both films for doctors and non-doctors alike.



MSSNY House of Delegates Meeting

April 20 - 22, 2012

Saratoga Hilton and City Center, Saratoga Springs, NY

A reminder that WCMS members are welcome to participate in the MSSNY Annual Meeting. **You do not have to be a delegate to MSSNY to attend, Below is a summary of the resolutions submitted by the Westchester County Medical Society and the 9th District Branch.** Any member may attend and speak at a Reference Committee hearing on Friday, April 20, beginning at 11:00 am. Members can sit in on the deliberations of the MSSNY House of Delegates (all day, April 21 and Sunday morning, April 22) as it debates/establishes policy based upon resolutions submitted by physicians from all over New York State. If you are interested in attending, please contact Brian Foy, Executive Director, at (914) 967-9100 or bfoy@wcms.org so you can be registered in advance.

Regulation and Transparency of Imaging Benefit Managers' Contracts

RESOLVED, That the Medical Society of the State of New York (MSSNY) seek state legislation and/or regulation requiring that third-party insurers' criteria for the authorization of imaging procedures be appropriate and in line with recognized specialty society-approved practice guidelines; and be it further

RESOLVED, That MSSNY seek legislation and/or regulation requiring that the insurers' criteria for acceptance or denial comply with specialty society-approved practice guidelines; and be it further

RESOLVED, That MSSNY seek legislation and/or regulation requiring that insurers be required to make their criteria for both authorizations and denials completely transparent, posting them on Internet sites that are accessible by physicians; and be it further

RESOLVED, That MSSNY seek legislation and/or regulation requiring that insurers be required to: (1) make and communicate their authorization decisions within 24 hours of the request for authorization; and (2) provide a rapid turnaround time for any appeals, with immediate access to peer-to-peer review, so that no potentially harmful delay may befall the patient; and be it further

RESOLVED, That MSSNY seek legislation or regulations requiring complete transparency of contracts between third-party payers and the Imaging Benefits Managers, with stringent review by the New York State Departments of Health and Financial Services; and be it further

RESOLVED, That the MSSNY Delegation to the American Medical Association (AMA) introduce a similar resolution at the next meeting of the AMA House of Delegates.

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Reimbursement for Cost of Sign Language Interpreters

RESOLVED, That the Medical Society of the State of New York (MSSNY) seek legislation and/or regulation to require health insurers to adequately reimburse physicians and other health care providers for the cost of providing sign language interpreters for hearing impaired patients in their care; and be it further

RESOLVED, That the MSSNY Delegation to the American Medical Association (AMA) bring forward a resolution to the AMA House of Delegates asking the AMA to adopt similar policy.

Expert Witness Program for New York State

RESOLVED, That the Medical Society of the State of New York (MSSNY) work with the New York State Bar Association to develop an expert witness certification program.

Physicians should not be penalized for Non-Participation in Government Medicine.

RESOLVED, That the Medical Society of the State of New York (MSSNY) adopt as policy that no governmental entity in New York State shall enact any law requiring a physician to participate in Medicaid, Medicare or other governmentally-sponsored health services; and be it further

RESOLVED, That a similar resolution be prepared by the MSSNY Delegation to the AMA for introduction at the next AMA House of Delegates meeting.

Protecting New York State Physicians with Multiple Tax ID Numbers

RESOLVED, That the Medical Society of the State of New York (MSSNY) support legislation and/or regulation to prevent managed care organizations from requiring physicians to participate under all of their Tax ID Numbers if they participate under one Tax ID Number; and be it further

RESOLVED, That the MSSNY Delegation to the American Medical Association (AMA) bring this resolution forward to the AMA House of Delegates.



News from MSSNY

PHYSICIAN ADVOCACY ON OUT OF NETWORK REFORM LEGISLATION URGED

All physicians must continue to contact their legislators in support of legislation (A.7489-B, Gottfried/S.5068-A, Hannon) to better assure patients and employers are better informed regarding the scope of their health insurance coverage for out of network care. Moreover, with the Legislature in a two-week recess and back in their districts until April 17, now is a great time to meet with your local Assembly member and Senator on this and other key priorities for the physician community.

A.7489-B/S.5068-A would: (a) prevent insurance companies from selling policies with out of network coverage that fail to provide significant coverage for such costs; and (b) better assure transparency of health insurance policies that provide out of network coverage by requiring all such policies to expressly state the percentage of the actual costs of care, as reported in the new FAIR Health database, it will cover. Many companies have instead defined their out of network coverage as a percentage of the Medicare fee schedule, which deceptively gives consumers the impression that their policies will cover a significant portion of out of network costs when in fact the policy will not. The bill is before the Insurance Committees in both the Assembly and the Senate. The New York State Department of Financial Services is also closely reviewing this issue, and may advance legislation to address this problem as part of a comprehensive approach which would address many issues related to out of network care.

The insurance industry has been aggressively seeking to block these needed reforms so your advocacy is greatly needed to overcome their objections. This past week MSSNY submitted multiple pieces to the Legislature in support of this legislation, including an ad in the Legislative Gazette and a letter that was also signed on by the following specialty medical associations: ACOG-District 2; Midtown Medical Group; NY Chapter, American College of Physicians; NY Chapter of the American College of Surgeons; NYS Academy of Family Physicians; NYS Ophthalmological Society; NYS Psychiatric Association; NYS Society of Orthopedic Surgeons; NYS Society of Otolaryngology – Head & Neck Surgery; NYS Society of Plastic Surgeons; and the Society of NYS Office-Based Surgery Facilities.

STATE BUDGET DOES NOT CONTAIN HEALTH INSURANCE EXCHANGE, BUT EXCHANGE WILL BE ESTABLISHED BY GOVERNOR

The State Budget enacted this week did not contain a provision that would establish a health insurance exchange in New York State. Language to create such an exchange had been proposed in the Executive Budget by Governor Cuomo and was supported by the Assembly, but was objected to by the Republican Majority in the Senate. As a result, Governor Cuomo has publicly stated his intention to establish an Exchange by Executive Order.

The federal health care reform law requires each state to establish such an exchange, for the purpose of facilitating the ability of individuals and employers to purchase health insurance coverage. If this provision of the federal health care reform law is not overturned by the US Supreme Court (decision expected in June), each state is required to have an exchange in

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(SNYIPA): What is it and is it for You? *(continued from page 1)*

non-institutional IPA called the Southern New York IPA (SNYIPA) in an attempt to help preserve the private practice model of medicine. The philosophy and goals of this community-based clinically integrated IPA are consistent with that of the Medical Society and the concept was approved by its Board of Directors.

An Independent Practice Association (IPA) consists of an independent group of physicians and other health-care providers that are under contract to provide services to members of different HMOs, as well as other insurance plans. What makes SNYIPA different from the other IPA's is its ability to offer a clinically integrated product more attractive to the private insurance companies than a mere group of physicians without any clinical integration. An IPA needs to achieve either clinical or financial integration in order to legally and effectively negotiate with health insurance companies. Most physicians and small/medium size groups opting for the independent practice model do not favor a financially integrated model. Clinical integration is much more than buying the same EHR system and using e-prescribing. It entails the commitment by member physicians to establish, adopt, implement, and monitor clinical guidelines for substantially all of the specialties the IPA covers. Applicants go through an extensive application and credentialing process. Clinical guidelines have been and are continuing to be drafted by physicians for multiple specialties based on our professional/specialty society published guidelines and government/insurer policies and guidelines. With successful clinical integration, SNYIPA hopes to deliver a better product to the insurers to negotiate more favorable contracts. By keeping the patients healthier and happier, the IPA believes its structure and services add value to the health care delivery system.

The goal of SNYIPA is to preserve the choice and option for a physician or physician group to remain in independent private practices as an alternative to an employed model, large multi-specialty group, or academic practices. In other words, we do not object to a physician joining a hospital or group if that's the best fit, however, we object to that physician being economically forced to join or go out of business. We also want to preserve the opportunity of young physicians just out of training to start a small practice on their own. SNYIPA aims to preserve relative independence and autonomy (through individual physician/group administrative and financial control) for the private practice model. It is Medical Society value-driven: "Created by physicians for physicians." More importantly, it is setting up clinical integration guidelines with evidence-based medicine to promote optimal patient management, improved clinical outcome, patient satisfaction, and cost efficiency. The IPA hopes to achieve economy of scale and to negotiate managed care contracts outlined above. It is physician-centered and non-institution-based, so physicians from a wide geographic region can join - from anywhere in New York to neighboring areas like Fairfield County in Connecticut. Already the IPA has negotiated a highly favorable EHR pricing from a major national CCHIT-certified vendor and other potential membership benefits (the EHR cost differential alone can cover the cost for one's membership!!!)

Potential future collaboration and merger with other area IPA's with a similar philosophy can take place to form one "super-IPA" for more expertise, geographic span, and market power. The IPA can also potentially facilitate future practice collaboration/merger/sales since many IPA members are on the same EHR platform with identical clinical guidelines. It is not single institution based, so physicians from a wide geographic region can participate in this program. Members of Southern New York IPA, unlike members of a teaching hospital-based IPA, are not subjected to the whims of a teaching hospital-based IPA, which can drastically change its membership criteria based on institutional strategy or policy.

If a physician or physician group wishes to maintain practice autonomy and is willing to participate in the clinical integration program, the IPA model is a viable path going forward. If you have any questions, please feel free to contact us or email the Southern New York IPA at info@southernnewyorkipa.com.





News from MSSNY

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operation by 2014, or the federal government will set up the exchange for that state. While New York recently received a \$48 million grant from the federal government to assist in the creation of the Exchange, many believe that failure to have a law in place specifically establishing the structure of the Exchange by June 30, 2012 will put New York at risk of losing further federal funding. Moreover, HHS rules require a state to demonstrate by January 1, 2013 its readiness to establish an Exchange. MSSNY has urged the Governor and the State Legislature to assure that, if an Exchange is established in New York, there are practicing physicians on the Exchange Governing Board to prevent the Board from being dominated by health insurance companies and others whose chief interest is cost control, rather than assurance that patients obtaining coverage through the exchange will be able to obtain the care they need.

MSSNY CONTINUES TO MEET WITH LEGISLATORS ON THE PRESCRIPTION DRUG ABUSE AND DIVERSION ISSUE

MSSNY's Division of Governmental Affairs staff continues to meet with state legislators to discuss the prescription abuse and diversion issue. MSSNY has expressed strong concerns regarding the various legislative proposals that are pending in the New York State Legislature that would create significant delays in patients getting needed pain medications. Legislation such as the I-STOP legislation (A.8320/S.5720) would create a new prescription drug monitoring database called I-STOP and would require physicians or their staff to check the database prior to writing of any controlled substance prescription and enter the prescription information into the database. Significant penalties would be imposed for failure to comply. MSSNY believes that the I-STOP legislation could cause substantial delays in patients receiving necessary pain medications. Physicians are urged to send a MSSNY Grassroots Action Center letter to legislators expressing opposition to the I-STOP legislation. Physicians can send a letter from the MSSNY Grassroots Action Center.

MSSNY and ten specialties have issued a joint statement and recommendations for addressing the prescription drug abuse and diversion issue. That statement is located on the MSSNY website and can be accessed by logging on to www.mssny.org. Joining MSSNY on the statement are: NYS Society of Anesthesiologists, Inc., NYS Society of Addiction Medicine, NYS Chapter of American College of Emergency Physicians, NYS Academy of Family Physicians, American College Obstetricians and Gynecologists-District II, NYS Ophthalmological Society, NYS Society of Otolaryngology-Head and Neck Surgery, NYS Psychiatric Association, Inc., New York Rheumatology Society and the Upstate New York Society of Medical Oncology and Hematology.

The statement recommends that the state enhance and improve the current Prescription Monitoring Program (PMP) so physicians can help prevent or reduce diversion and abuse. MSSNY and the specialty societies support the principle that if a physician believes a patient is attempting to access a prescription for any reason other than treatment of an existing medical condition such physician has the obligation to decline to write the prescription or check the current database before a script is written or submitted electronically. MSSNY and the specialty societies also support voluntary education programs for providers on pain management, substance abuse and dependence, diversion and on the use of the PMP tool for prescribing, with the caveat that the prescribing authority remains independent of any educational requirement. MSSNY and the specialties also strongly support the implementation of E-Prescribing for all controlled substances.

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*The Medical Society of the County of Westchester
and
The Westchester Academy of Medicine*



Cordially Invites you to Attend our

Annual Meeting and Program

Friday, June 22, 2012

Westchester Country Club

99 Biltmore Avenue

Rye, NY 10580

(914) 967-9100

6:00 - 7:00 pm

Networking Reception

7:00 pm

Buffet Dinner

Installation of 2012-2013 Medical Society/Academy Officers

Remarks of Karen G. Gennaro, MD, Outgoing Academy President

Remarks of Joseph J. Tartaglia, MD, Incoming Academy President

Awards - WESEF Science Fair Honorees



Remarks of Abe Levy, MD, Outgoing WCMS President

Recognition of Members Celebrating 50 years in Medicine

Remarks of Thomas T. Lee, MD, Incoming WCMS President



Special Recognition:

Mary Ellen Pilkington & John Pilkington, Esq.

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No Cost for WCMS Members and Spouse or Guest; Additional Guests of Members \$120.00;

Non-members and Guests \$250.00/per person

RSVP TODAY to Karen Foy, 914-967-9100, by email to kfoy@wcms.org

or fill out the form below and fax to 914-967-9232

Name: _____ Guest(s) _____

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WCMS Board Highlights - March 2012

At its meeting on March 1, 2012, the WCMS Board...

- Welcomed **Paul Okura and Dan Sherman, CMIT Solutions**, and **Jeff Wexler, EZ-EHR Consulting**, who made a presentation to the Board on their services and capabilities geared toward health information technology and the implementation of electronic medical records in physician practices. The Board agreed to partner with CMIT and EZ-EHR Consulting to design an HIT Survey to identify WCMS member needs. From that survey, the Board will consider a series of workshops on topics tailored to physician interest that will be hosted by WCMS and free to all members.
- The Board received an update from **Kevin Lynch, President, NY Services, Inc.**, a preferred business partner of the WCMS, on the rapidly changing health insurance market and the diminishing options for physicians in small group settings. He will prepare an article for a future edition of the *Westchester Physician* explaining these changes and physician options in greater detail.
- **Received the Report of the Executive Committee and the President, as presented by Abe Levy, MD. Dr. Levy reported that the Executive Committee:**
 - Recommended to the Board that the WCMS partner with Fairfield County (CT) Medical Association (FCMA) in a reciprocal membership effort such that full members of the FCMA and Connecticut State Medical Society can also choose to join the WCMS at annual cost of \$200. The WCMS Bylaws current allow for such a membership category under 'Non-Resident Membership.' Non-Resident members are entitled to the benefits of membership except they cannot vote or hold office. ***The Board approved the addition of this membership category with the understanding that FCMA is offering a similar form of membership to WCMS/MSSNY members in the FCMA.*** Non-resident members would not have to join the state medical society in their new state. WCMS Legal Counsel will review the language in the bylaws again to be sure no amendment is required at the upcoming WCMS Annual Meeting. If amendment is required, then promoting this membership will be delayed until such time as the WCMS members approve a bylaws change.
- **Approved the Report of the Membership Committee welcoming seven (7) new members to the WCMS and Academy (see page 15 for listing of new members).** The Board also elected two life members: **Albert De Martino, MD;** and **Harold Galef, MD.** The Board approved membership for four residents sponsored by MLMIC and one medical student.
- **Heard from Bonnie Litvack, MD, Chair, Delegates Committee. The Committee recommended and the Board approved three resolutions as follows:**
 - *Physicians Should Not be Penalized for Non-Participation in Government Medicine*
 - *Protecting New York State Physicians with Multiple Tax ID Numbers*
 - *Expert Witness Program for New York State*

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WCMS Board Highlights - March 2012 *(continued from page 10)*

These resolutions were sent to MSSNY on March 2nd and will be published (along with two resolutions already approved by WCMS and the MSSNY Ninth District Branch) in the April edition of *Westchester Physician* (see pages 4 - 5).

- Heard from Thomas Lee, MD, President-elect and Chair, Legislative Committee,** regarding the Committee’s meeting with Assemblyman George Latimer (NY-91) on February 3, 2012. Dr. Lee also reported on his attendance at the AMA National Advocacy Conference in Washington, DC and his meetings with New York’s Congressional Delegation regarding the need for repeal of the Medicare SGR, to urge support for private contracting in Medicare, and the need for meaningful medical liability reform at the federal level. Dr. Lee was joined in Washington, DC by Dr. Andrew Kleinman as part of a MSSNY grassroots effort. Dr. Lee also discussed MSSNY Legislative Day (March 20), the scheduled meetings with New York legislators representing Westchester County, and the Legislative Brunch planned for September 23, 2012 (see page 19 for “save the date.”)
- Heard from Brian Foy, Executive Director, who reported that the Westchester County Medical Society is co-sponsoring the Annual Doctors’ Day Symposium presented by the Bronx County Medical Society on Wednesday, March 28, 2012 at the Albert Einstein College of Medicine.** All WCMS members may attend at no cost and one hour of Category I CME is available courtesy of the Westchester Academy of Medicine.



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When the FBI, OIG, IRS, OSHA (etc., etc.) Knocks on Your Door

By: Michael J. Schoppmann, Esq.

Unfortunately for physicians, the list of entities, agencies and organizations empowered to take adverse action against them continues to grow at an alarming rate. Understanding, from the very beginning, what they are, what they are not and how to handle their intrusion/investigations are the keys to risk managing the threat they inherently carry.

Anti-Physician Acronyms

- BOM – Board of Medicine
- DEA – Drug Enforcement Agency
- AG/FCA – Attorney General/False Claims Act
- CMS – Centers for Medicare Services
- OIG/FBI – Office of the Inspector General/Federal Bureau of Investigation
- HMO – Health Maintenance Organization
- FTC – Federal Trade Commission
- HIPAA – Health Insurance Portability and Accountability Act
- CLIA – Clinical Laboratory Improvement Act
- EMTALA – Emergency Medical Treatment and Active Labor Act
- OSHA – Occupational Safety and Health Administration
- MEC – Medical Executive Committees
- IRS – Internal Revenue Service

What also ties these entities together in such an unprecedented manner is the mandatory cross-referral, cross reporting and intra-communications they are required to engage in whenever a complaint, an investigation and/or an action involves a physicians or medical practice. To facilitate this legal interweaving, each of these entities also has direct access to a central, physician based depository of data as to each and every practicing physician in the United States.

Professional Discipline • Litigation and Arbitration • Contracts and Business Transactions •
White Collar Crime Regulatory Compliance • Practice Formation • Mergers and Acquisitions •
Asset Protection and Estate Planning Medical Financial Audits

The National Practitioner Data Bank

- Medical malpractice
- Hospital actions
- Licensing actions
- Health Plans/Managed Care Company actions
- Government actions

As each and every physician, regardless of guilt or innocence, faces even the most seemingly benign or innocuous inquiry by any of these entities, certain questions and considerations must be preeminent in their minds.

Written Correspondence – virtually nothing sent to a physician or a medical practice today is “educational” and/or “informational”. The true legal role of such correspondence is that it serves as a notice of investigation, nothing less.

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Without proper legal counsel, your practice could be in jeopardy.

At Kern Augustine, we dedicate our practice to counseling health professionals. Whether you are structuring business agreements or need expert advice in today's growing maze of regulations, we can help you to avoid costly, time-consuming problems. Unlike most other health law firms, our principal interest is representing the interests of physicians – not hospitals. And, our attorneys offer you years of experience and knowledge in the field. Because of this, we can help you

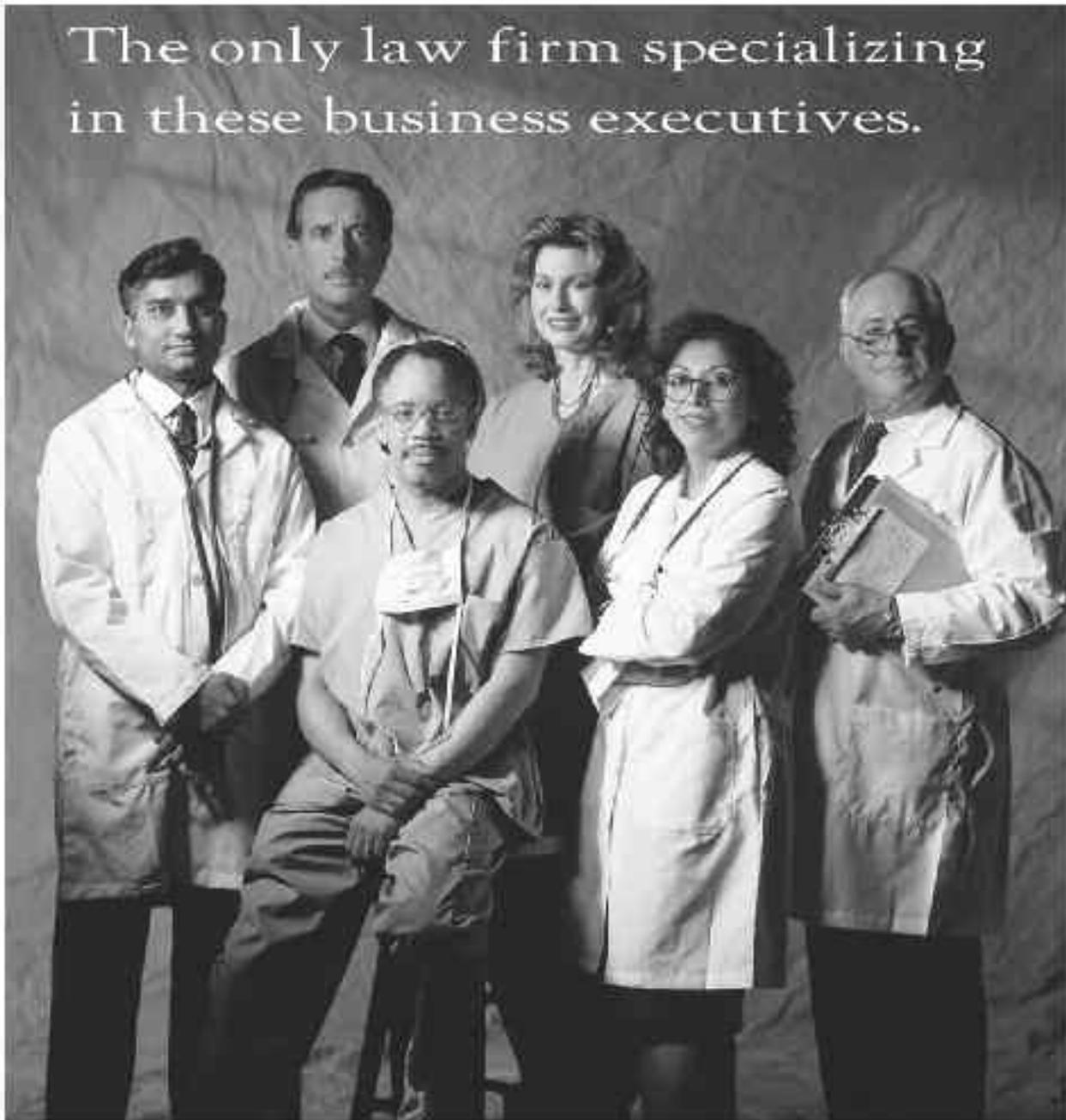
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Records Requests – escalating the level of investigation, entities that request records are thereby devoting more assets to the investigation. Careful consideration must be given as to how to produce records, what records to send and what records not to send.

Subpoenas – entering into the formal legal process, certain adverse entities also possess the power to subpoena records and/or documents. Such a measure is a serious escalation and significant legal event in the life of an investigation and/or action. Attempts to avoid service are counterproductive and legal counsel should always be consulted before issuing even a single document. Moreover, a subpoena does **not** compel a physician or a medical practice office staff member to speak with the investigators or offer a statement of any form.

Investigators – many physicians harm themselves, in a permanent, uncorrectable manner by falling prey to common, yet effective tactics utilized by investigators. Either through charm, false promises of leniency and/or intimidation, physicians all too commonly speak freely and recklessly with investigators – prior to understanding the true nature of the investigation, their legal rights and/or the threat of the underlying actions. No physician, or medical practice employee, should ever speak with any investigator without first securing the benefit of experienced health care counsel, proper preparation and/or first determining if such a discussion should ever take place.

“After the Knock” – even the most informal, initial contact by an investigator should prompt an immediate and well-coordinated reaction by the physician/medical practice. Instructions should be provided to employees regarding potential direct contact with them (even at home), the confidentiality of any issues at the practice, that the practice has legal counsel in place to represent the practice and provide each employee with counsel’s contact information.

How to Avoid a “Knock at the Door” – understanding that good intentions and ignorance of the ever changing, increasingly complex laws and regulations governing physicians are not defenses to an investigation and/or action is the first step every physician must accomplish in order to reduce the risk of being investigated. Once having come to that understanding, every physician should then undertake a risk assessment, under the protection of attorney-client privilege, of their practice and practice methods. Risk Areas include, but are not limited to, patients, medical malpractice actions, hospital actions, interacting with state or federal Agencies, insurance companies and/or managed care companies.

Risk Assessment – A proper physician-based risk assessment should include, but not be limited to, a review of all contracts, Codes of Conduct, By-Laws, Procedures and Protocols, Documentation Requirements (from any source) and other structural mandates.

Defensive Documentation – One of the most commonly exploited weaknesses inherent in a physician’s methods is the failure to secure timely documentation of events including, but not limited to, corroborating statements from witnesses (both internal and external to the medical practice).

The “Golden Rule” – in light of these new, harsh realities and as a key part of any risk management effort, no physician, no medical practice employee should ever speak to, or allow anyone else to speak to, investigators, the media and/or attorneys (other than their own health care counsel). What is not said, what is not sent and what is not done may well become more important to the defense, and potential dismissal, of an investigation than any theory of law, court ruling and/or appellate review.

Kern Augustine Conroy & Schoppmann, P.C., Attorneys to Health Professionals. For more than 30 years the firm’s practice has been solely devoted to the representation of health care professionals. Mr. Schoppmann may be contacted at 800-445-0954 or via email – mschoppmann@drlaw.com. For more information log on to www.DrLaw.com

◆

Welcome to our Newest WCMS/Academy Members

Join us in welcoming the following new members who were elected into membership of the Westchester County Medical Society and the Westchester Academy of Medicine by the Board of Directors in March.

New Members

David G. Cziner, MD	Cardiovascular Disease	White Plains
Ian R. Hantman, MD	Internal Medicine	New Rochelle
Tamir F. Kharouba, MD	Internal Medicine	Yonkers
Samantha C. Licht, MD	Pediatrics	Pleasantville
Steven H. Lin, MD	Neurology	Yonkers
Ganga R. Nair, MD	Ophthalmology	Yonkers
Kenneth E. Redcross, MD	Internal Medicine	New Rochelle

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Westchester County Medical Society

Presents

Meaningful Use of Electronic Medical Records

"Meaningful Use: The Essentials for Stage I"

Holly Miller, MD, MBA

Chief Medical Officer - MedAllies, Inc.

Dianne Koval, MHSA, RHIA, CPEHR

Senior Vice President of Operations, Hudson Valley Initiative - MedAllies, Inc.

"Meaningful Use, Adoption Incentives and the EHR Adoption Process"

Paul L. Wilder

Director of Healthcare IT Adoption - New York eHealth Collaborative

Tuesday, April 17, 2012

6:30 – 8:30pm

Medical Society Offices

333 Westchester Avenue, Suite LNO1

White Plains, NY 10604

Please RSVP to the Medical Society at 914-967-9100

or by email to kfoy@wcms.org

Or return this completed form via fax to 914-967-9232.

Name(s): _____ **email(s):** _____

This activity has been planned and implemented in accordance with the Essential Areas and Policies of the Medical Society of the State of New York (MSSNY) through the joint sponsorship of the Westchester Academy of Medicine and the Westchester County Medical Society. The Westchester Academy of Medicine is accredited by MSSNY to provide continuing Medical Education for physicians.

The Westchester Academy of Medicine designates this live activity for a maximum of 1.5 AMA PRA Category I Credit(s)™. Physicians should claim only the credit commensurate with the extent of their participation in the activity.

The Westchester Academy of Medicine adheres to ACCME Standards for Commercial SupportSM of continuing medical education. All speakers participating in Continuing Medical Education activities are expected to disclose to the program audience any real or apparent conflict(s) of interest related to the content of their presentations.



News from MSSNY

(continued from page 8)

US SUPREME COURT HEARS THREE DAYS OF ARGUMENTS ON HEALTH REFORM LAW; JUNE DECISION EXPECTED

As was widely reported in the media, the fate of the federal health care reform law enacted by Congress in 2010 rests in the hands of the United States Supreme Court after three days of oral arguments regarding whether certain aspects of the legislation are in conformity with, or in violation of, the United States Constitution. The first day of oral arguments focused whether the high Court has the power to decide on the fate of the individual coverage mandate before the law actually takes effect in 2014. The second day of oral arguments focused upon the constitutionality of individual coverage mandate itself. The third day of oral arguments focused on whether the rest of the health reform law should stand should the individual coverage mandate be deemed unconstitutional. The justices also heard arguments on the third day concerning whether the federal health care reform law impermissibly expanded the scope and costs of the Medicaid program for states. A decision from the Court is expected in June regarding whether any specific components of the law, or the entire law, will be struck down as unconstitutional. ♦

Westchester County Medical Society

PRESENTS

“Long-Term Care Planning: Your Prescription for Retirement Readiness”

Please join your colleagues at the WCMS headquarters on **Tuesday, May 8, 2012 at 6:30pm** for an informative discussion regarding the pros and cons of Long Term Care Insurance. Topics that will be covered include:

- Self-Insuring vs. Traditional vs. Asset based Long Term Care- you decide!
- What is the NY State Partnership program?
- What State and Federal Tax incentives are available to Business Owners?
- What does Long Term Care Insurance cost?
- What discounts are available as to WCMS members?

Michael J, Lehrhaupt, CLTC, from Strategies for Long Term Care, a Preferred Business Partner of the WCMS, will be leading this discussion. Michael is considered an expert in the field of Long Term Care Insurance and brings an interesting perspective along with his many years of experience on the topic.

I hope you will consider joining us for this informative meeting. WCMS Headquarters is at 333 Westchester Ave, Suite LN01, White Plains, NY 10604.

Please contact Karen Foy, WCMS, at 914-967-9100 or at kfoy@wcms.org to reserve your seat, since space will be limited. No cost to attend; spouses welcome. A light dinner will be provided.

SAVE THE DATE - Westchester County Medical Society LEGISLATIVE BRUNCH

Sunday, September 23, 2012
10:00 am – 1:00 pm
Knollwood Country Club

Come, listen to, and chat with your elected representatives and their challengers as they share their views on issues important to physicians and the practice of medicine prior to the very important Fall elections.

WCMS Blast FAX & Email Service

If you have not been receiving WCMS blast FAXES and emails, we may not have your correct fax number or email on file. This is how we communicate with our members on important and timely issues, including legislative alerts and upcoming events.

Please update this information by sending it to Karen Foy at kfoy@wcms.org. Your information will be used for WCMScommunications only and will not be shared with third parties.



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