



President's Message

By Thomas T. Lee, MD

The following remarks were made by Dr. Lee at his installation as the 206th President of the WCMS at the Annual Meeting held on June 22, at the Westchester Country Club:

Welcome! This great event would not have been possible without all your support. This is in fact the best attended annual meeting in recent years. I would like to acknowledge our business partners, sponsors, members, and friends for their support of this event. I would especially like to acknowledge my wife, Margaret, and my three children for their understanding, encouragement, and support.



WCMS' past presidents have made unique contributions to the society: Dr. Al Tinger initiated individual membership recruitment at the hospital medical staff level and was the one who brought me to the Board of WCMS. Dr. Amy Newburger implemented the GPO concept. Dr. John Stangel led WCMS and rallied physicians during the federal Health Care debate; Dr. Joseph Tartaglia spearheaded membership recruitment and resurrected the annual golf outing as an Academy fundraiser; and Dr. Abe Levy facilitated our institutional membership drive and focused on fiscal discipline. **I intend to focus on stabilization and diversification of our membership base, improvement of revenue through academy and membership functions, and sharpening our legislative focus through collaborative efforts with our partners in health care.**

WCMS has been at the forefront of state healthcare legislative efforts as demonstrated by our past legislative achievements. This past year, the WCMS Legislative Committee took leadership role and worked with MSSNY, other county medical societies, specialty societies, and state legislators from both sides of the aisle to enact legislation to protect out of network benefits. The legislation passed the respective Health Committees in the Senate and the Assembly and prompted the Governor's own comprehensive proposal on this matter. The NYS Senate just passed its version of the comprehensive legislation to reshape the out of network system (\$7745) two days ago. The WCMS and MSSNY team, myself included, visited our NY congressional delegation in Washington D.C. four months ago to discuss issues ranging from SGR repeal, Medicare private contracting (HR1700), Federal liability reform (HR5) and repeal of IPAB, and support for continued GME funding. I cannot over-emphasize the importance of our legislative efforts.

Our Society has a strong tradition of diversity and inclusion. A prime example is our past and potential future presidents: Dr. Levy is an internist and the Medical Director and Chief Quality Officer at Mount Kisco Medical Group, Dr. Tartaglia is a solo-practice cardiologist in White Plains and Port Chester; Dr. Robert Lerner is an academic hematologist-oncologist with New York Medical College; Dr. Louis McIntyre is an employed orthopedic physician at White Plains Hospital; and Dr. Howard Yudin is a solo-practice internist in Rye Brook. Our Society serves physicians of all stripes.

WCMS will advocate for physicians and the patients we take care of. As physicians, we have many more interests in common than we do differences. We will work with our

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The Westchester Physician

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Upcoming Events Mark Your Calendar

Saturday, August 18th - 1:00 pm
WCMS Member & Family Pool Party

Thursday, September 6th - 6:30 pm
Board of Directors Meeting

Monday, September 10th - 5:00 pm
CME Committee Meeting

Thursday, September 20th - 12:00 pm
**Academy Golf Outing -
Dinner and Fundraiser**
Westchester Country Club, Rye, NY

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

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 WCMS communications only and will not be shared with third parties.

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
September 2012 issue is August 20th.**

Please email your submissions for review to
Karen Foy, Managing Editor @ kfoy@wcms.org

FROM THE EDITOR

My Day Off

By Peter Acker, MD



My usual day off is Monday, but I had an extra day coming and decided to see what it was like to be off on a Thursday. So on July 12, instead of rushing to the hospital or to the office to start a hectic day, I was at my kitchen table enjoying a second cup of coffee and giving *The New York Times* a leisurely read. The house was empty, my wife having departed in her usual flurry of last minute gathering of materials and frequent pauses to remind me of various household chores that I, being off and all, would be in a perfect position to perform. The final word, the quick kiss good-bye, the slammed door and peace descended. Our dogs settled into their places and were resting comfortably and the sun shone on the deck outside our kitchen window, illuminating the long pots of impatiens which were fluttering slightly in a morning breeze. I sipped my coffee and perused the paper, pausing from time to time to look out the window, spotting the occasional bird flying across my visual field or a squirrel in short jerking movements crossing the lawn. In a word, it was heavenly. That is until I got to page A 15, when my equanimity was shattered.

It was an article about a twelve year old boy who was sent home from the emergency room of NYU Langone Medical Center (where I did my residency) with a presumed diagnosis of viral gastroenteritis only to return the next day with signs of septic shock from which he succumbed some two days later. This sequence of events was initiated by a most mundane and common childhood event – he had dived for a basketball in his school’s gym and had scraped his arm. The next day he was taken to his pediatrician with fever and vomiting. He was sent to the emergency room where he received IV fluids and was sent home. His parents, understandably reassured by the diagnosis given at a premier medical center, tended him at home for the next 24 hours as he became increasingly ill. They talked with his pediatrician a couple of times who, probably also reassured by his visit and evaluation in the ER the previous day, advised acetaminophen, fluids and crackers. Finally, the pediatrician advised his parents to return to the ER where the seriousness of his condition was immediately apparent.

As a parent, I can imagine the agonies that the family went through. For a pediatrician, it is a worst nightmare. Vomiting and fever are very common presentations in both the pediatric office setting and the emergency department. The possibility of missing a child with early sepsis keeps us up at night. Sometimes a gut instinct causes us to worry more about a particular child, somehow picking up from the inchoate picture a sense of impending sepsis. In pediatric training, perhaps to a greater extent than in adult medicine because many of our patients can’t talk to us, we are taught to recognize a “sick child”.

Unfortunately, children with vomiting from any cause are frequently ill appearing, lethargic, pale and glassy eyed.

The article made much of the vital signs in the ER and how they were consistent with early sepsis. I’m sure that this will resonate with the public at large, who are used to top quality medicine and perhaps overestimate a doctor’s ability to diagnose whatever the situation. But most physicians will look at tachycardia, fever and slight tachypnea as consistent with a viral illness.

The kicker, though, was the lab test that came back some two hours after the child had been sent home. His total white count was 14.7 which by itself not too alarming, but his band count was 53% for a total band count of 7.8. This result was never acted upon. A tragedy all around and a sobering reminder of just difficult our profession can be.





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**WESTCHESTER ACADEMY OF MEDICINE
2012 GOLF OUTING & FUNDRAISER**

**Thursday, September 20, 2012
Westchester Country Club**

**99 Biltmore Avenue
Rye, NY 10580**

Registration, Driving Range & Box Lunch -11:30 am

Tee Times begin at 12:30 pm

Golf Format: Scramble

6:00 pm – Cocktails

6:45 pm – Buffet Dinner/Awards/Silent Auction*

*** Please consider making a donation – Contact Karen Foy at kfoy@wcms.org
for more information**

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Hole Sponsor \$250

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Cocktails/Dinner Only - \$120 per person/\$200 per couple

**All proceeds will benefit the Westchester Academy of Medicine
For more information, and other sponsorship opportunities, contact
Brian Foy at bfoy@wcms.org**



WCMS Vice President, Louis McIntyre, MD, a Fellow of the American Association of Orthopaedic Surgeons (AAOS), was recently asked by AAOS to testify in Congress before a meeting of the House Small Business Subcommittee on Investigations, Oversight and Regulations on the cause and impact of the decline in private medical practices. A press release from AAOS highlighting his testimony appears below.

Reduction in Number of Solo Practices Could Negatively Impact Patients and Economy

AAOS testimony expresses concern about decline in private medical practices

Washington, D.C.—On Thursday, July 19, American Association of Orthopaedic Surgeons (AAOS) Fellow, Louis McIntyre, M.D., who practices in White Plains, NY, testified before the House Small Business Subcommittee on Investigations, Oversight and Regulations on the cause and impact of the decline in private medical practices. During the hearing entitled, “Health Care Realignment and Regulation: The Demise of Small and Solo Practices?”, Dr. McIntyre told the subcommittee how increasing administrative and regulatory burdens from the American Recovery and Reinvestment Act (ARRA) and the Patient Protection and Affordable Care Act (PPACA), coupled with decreasing reimbursements, has forced his New York-based private practice to join a hospital group.

“The combination of decreased reimbursement, increased reporting requirements, the need for huge outlays for technology improvements and uncertainty about future earning potential are driving private practice physicians to seek employed positions,” said Dr. McIntyre during his testimony. “Doctors cannot take care of patients and, at the same time, meet all of the demands placed upon them, especially in an environment of shrinking revenues and increasing costs.”

According to the AAOS, Medicare reimbursements for common orthopaedic procedures, such as torn meniscus surgery, have decreased up to 28 percent in the last decade, and reimbursements from private insurers have fallen in a similar fashion. At the same time, practice costs, especially medical liability insurance costs, have risen exponentially. Dr. McIntyre told the subcommittee that his medical liability insurance rates have risen by 300 percent from 1994 to 2010. According to the AAOS, this has resulted in a 300 percent increase in hospital employment of orthopaedic surgeons between 2004 and 2010.

Should this trend continue, Dr. McIntyre fears that growing physician-hospital employment could lead to:

- A shortage of employed positions which could threaten patient access to care
- Decreased physician autonomy
- Reduced physician awareness of the cost of care
- Barriers to innovation
- Loss of jobs and tax revenue

“There is, and will continue to be, an increased need for physicians with the implementation of PPACA,” warned Dr. McIntyre. “If private practice disappears, patient access to care, local employment and tax revenue will all suffer. We need to strengthen private practice as well as the other models of healthcare delivery to ensure patient access to quality care.”



WESTCHESTER COUNTY
MEDICAL SOCIETY

LEGISLATIVE BRUNCH
SUNDAY, SEPTEMBER 23, 2012
10:00 am – 1:00 pm
KNOLLWOOD COUNTRY CLUB
Elmsford, NY

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.

******* \$30 per person *******

Please make checks payable to the "Westchester County Medical Society" and mail checks to: WCMS, 333 Westchester Ave., Suite LN01, White Plains, NY 10604 (Attn: Karen Foy)

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) _____

Email: _____

2012 WCMS ANNUAL MEETING



On Friday, June 22nd, the Westchester County Medical Society held its Annual Meeting at the Westchester Country Club in Rye. Members and their guests were able to network with WCMS preferred partners and sponsors, as well as socialize with their colleagues. Westchester Engineering and Science Fair Project winners were presented with their awards from the Westchester Academy of Medicine and physicians who have devoted 50 or more years to medicine were honored. MSSNY President Robert Hughes, MD was also in attendance. Outgoing WCMS President, Abe Levy, MD, was thanked for his leadership and dedication over the past year. Incoming President, Thomas T. Lee, MD, was welcomed along with our newly elected officers and representatives. Also honored was outgoing Academy President, Karen G. Gennaro, MD, and Joseph J. Tartaglia, MD, was installed as the new President of the Westchester Academy of Medicine.

Friends of Medicine Award

Mary Ellen and John Pilkington, Esq. were honored with the first "Friends of Medicine" award presented by the Board of Directors of the WCMS.

Mrs. Pilkington, the daughter of WCMS Past President Charles A. Bertrand, MD, has done much to contribute to the charitable work of the Westchester Academy of Medicine. Mr. Pilkington, a partner in the law firm of Pilkington & Leggett, has been providing legal defense services to physicians for many years. He has also served on the former WCMS Medico-Legal Committee.

Your newly elected officers and delegates are as follows:

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(Term July 1, 2012 – June 30, 2013)

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Thomas T. Lee, MD

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Robert G. Lerner, MD

VICE PRESIDENT

Louis F. McIntyre, MD

TREASURER

Robert C. Ciardullo, MD

SECRETARY

Howard S. Yudin, MD

PRESIDENT – ACADEMY OF MEDICINE

(Two Year Term ending 2014)

Joseph J. Tartaglia, MD

Delegates to the MSSNY House of Delegates

(Four for two years; term ending 2014)

Mark L. Fox, MD

Thomas T. Lee, MD

Stephen O. Schwartz, MD

Joseph J. Tartaglia, MD

Delegate to the MSSNY House of Delegates

*(To fill unexpired term of Andrew Kleinman, MD,
term expiring 2013)*

Robert C. Ciardullo, MD

Alternate Delegates to the MSSNY House of Delegates

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Gino Bottino, MD

Robert G. Lerner, MD

Abe Levy, MD

Alfred Tinger, MD

A Special "Thank You" to the Sponsors of our Annual Meeting

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**And a big thank you to M-Tech Printing for donating
 the time and resources for the signage!**

(continued from page 1) President's Message

colleagues in academic medicine, multi-specialty practices, small private practices, and employed models. We will collaborate with state specialty societies to broaden organized medicine's support for our legislative agenda. We will work with our friends in hospitals, pharmaceutical and medical device industries, and consumer groups to advance our common interests and agenda. **Forging an alliance with our partners in health care is the only viable way to achieve our goals. Continued support of MSSNYPAC is also an essential element of such efforts. We need to continue to be actively involved in the political process to shape our future.**

The medical society maintains several programs and initiatives for its membership, including access to discounted health care legal counsel, informational and educational meetings, other discounted vendors, and worker's compensation certification. Several officers of the medical society and community physicians started a community-based clinically integrated IPA last year to help independent practices gain market clout through the economy of scale and clinical integration. I believe unity in numbers adds power to our position, and ask all willing members to consider the IPA model. To increase WCMS membership, we will evaluate institutional and group memberships, and start offering joint MSSNY/WCMS new and returning membership signing incentives. We will improve and expand our CME programs to benefit institutions and physicians alike. At the same time, we will focus on fiscal discipline. With all the above efforts, we hope to assure the future financial viability and success of the society.

In closing, I greatly appreciate the ongoing support of our sponsors and friends. I ask for all physicians' continued participation and involvement to preserve our profession. We will continue to add value to our membership going forward. Thank you very much. ♦



2012 WCMS ANNUAL MEETING



Brian Foy, WCMS Executive Director,
Karen Foy, WCMS Director of
Membership & CME,
Robert Ciardullo, MD, WCMS Treasurer



Robert Amler, MD and
William Zurhellen, MD, President,
Putnam County Medical Society



Thomas T. Lee, MD; Gloria Chambers;
Ted Chambers, MD; John Pilkington, Esq.



Brian Foy presents outgoing
Academy President,
Karen Gennaro, MD, with a plaque



Joseph Tartaglia, MD,
Incoming Academy President,
presents Mark Alexander,
WESEF winner with his award.



WESEF Awardees Mark
Alexander, Maria Mavrommatis,
Colson Campbell
and Jurgen Bushi

2012 WCMS ANNUAL MEETING



50 Years in Medicine Honorees – George Kurian, MD, Joseph Wojcik, MD, Peter Voges, MD, Bento Mascarenhas, MD, WCMS President Abe Levy, MD; MSSNY President Robert Hughes, MD, Elliott Gross, MD



Brian Foy presents outgoing WCMS President, Abe Levy, MD, with a plaque



Pat Levy and Abe Levy, MD



Incoming WCMS President, Thomas Lee, MD and Abe Levy, MD



Dr. Lee presents the first "Friends of Medicine" Award to Mary Ellen and John Pilkington, Esq.



Congresswoman & WCMS member Dr. Nan Hayworth presents Dr. Lee with a Special Congressional Recognition Certificate.

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News from the AMA

CMS posts the proposed 2013 Physician Fee Schedule Regulation

The Centers for Medicare & Medicaid Services (CMS) posted the proposed 2013 Physician Fee Schedule rule on July 7. Some of the issues discussed in the proposed regulation include: care transition codes, telehealth, advanced molecular pathology services, preventive services, multiple procedure payment reductions, face-to-face requirement for high-cost durable medical equipment, the Physician Compare Program, the Physician Quality Reporting System, e-prescribing, and the value-based modifier. Over the coming weeks, AMA staff will be working with our specialty and state society colleagues to identify and address proposed policy changes in the proposed rule that the profession can support as well as those that raise concerns. The regulation can be found at: <http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/index.html?redirect=/PhysicianFeeSched/>

Medicare Patient Empowerment Act Campaign Continues

A state-by-state progress report is available on the AMA's grassroots advocacy campaign to generate public support for Congressional passage of H.R. 1700 and S. 1042, the Medicare Patient Empowerment Act. This legislation, introduced by Rep. Tom Price (R-GA) and Sen. Lisa Murkowski (R-AK), is based on policy developed by the AMA House of Delegates, and will create a new Medicare option to allow patients and physicians to enter into private contract arrangements without penalties for either party. The grassroots effort is focused on securing House and Senate cosponsors for the bills, and assistance is being sought from Federation groups and individual physicians.

A range of resource material has been developed to support this work, including:

- An educational slide deck, with script, for physician audiences that can be personalized by the presenter.
- A physician-focused frequently asked questions document.
- An educational slide deck, with script, for patient audiences that can be personalized by the presenter.
- A patient-focused frequently asked questions document.
- A short educational video for patients.
- A downloadable patient flyer for physician offices.
- A web-based petition for patients and physicians, which provides access to education material and enables patients to send email directly to their legislators. This can be accessed through a dedicated microsite at MyMedicare-MyChoice.org. Physicians who sign the petition may also order patient brochures for their offices through this website, at no cost.

The resource material is available through the AMA website at: ama-assn.org/go/privatecontracting.

CMS Announces 89 New ACOs, Nearly Half are Physician-led

CMS announced the addition of 89 accountable care organizations that will participate in Medicare's Shared Savings Program beginning in July, almost half of which are physician-led organizations. Taken together, these new ACOs have responsibility for coordinating care for nearly 1.2 million beneficiaries in 40 states and the District of Columbia. Moreover, these new ACOs are in addition to 27 Shared Savings Program participants that kicked off the program in April – 21 of which were physician-led – and 32 Pioneer Model ACOs that were announced last year.

Going forward, new ACO applications will be accepted annually. The application period for organizations that wish to participate in the Shared Savings Program in 2013 is from August 1 through September 6, 2012. This is in addition to the extension of the Advanced Payment ACO model through 2013 – a key win for the AMA. Applications for this model, which must be completed in addition to the regular shared savings program applications, will be available from August 1 through September 19, 2013. ♦

Exciting Teaching Opportunities at New York Medical College

New York Medical College's **Foundations of Clinical Medicine** program for first and second year medical students invites you to participate in this exciting teaching opportunity. It is our belief that students acquire the deepest understanding of patient care and the best clinical know-how by working with preceptors. This is the role we hope you will fill. There are a number of ways that you can participate with us:

- You can lead small group sessions at New York Medical College
- You can precept a single/ group of medical students in your office

Our first year course centers on Patient-Doctor Relationships and Communications Skills. In addition, students learn basic physical exam skills. Students attend weekly small group sessions on campus, beginning August 15th on Wednesday afternoons through May. During this course students attend small group sessions on campus and reinforce their skills with preceptors in their offices both, once per month on **Wednesday afternoons** from August through May.

For further information please contact:

Marissa Casale at Marissa_Casale@nymc.edu or phone (914) 594-4609.

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DataMatrix has established invaluable long term relationships with the Westchester County Medical Society and with numerous other societies in Orange, Dutchess, and the Bronx, and, with medical professionals in New York, Maryland and Florida. Stuart Hajman, former executive at WCMS and current executive director of the NY State Society of Anesthesiology, says the relationship has been a "win, win, win" for everyone, with DataMatrix furnishing the highest quality, human powered transcription by medically trained transcriptionists. Its competitive pricing includes special offers for members of medical societies and associations.

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THE AFFORDABLE CARE ACT SURVIVED, BUT WILL PHYSICIANS?

Michael J. Schoppmann, Esq.



The U.S. Supreme Court, in reviewing appeals as to the constitutionality of the Affordable Care Act (ACA), with a 5 to 4 Decision and Chief Justice Roberts breaking with dissenters, has left the ACA intact, for now. The foundational requirement that most citizens buy health insurance or pay a fine was held to be a tax permitted by the Constitution, and not decided under the Commerce Clause. As all provisions hinging upon the mandate remain intact, the focus should now shift to – what will the ACA mean to physicians?

Some key surviving insurance provisions:

- Insurers cannot deny coverage based on pre-existing condition,
- Annual or lifetime coverage limits are barred,
- Dependent coverage is now mandated to age 26,
- Preventive services must be provided without cost-sharing.

In addition, the ACA provides that insurers must also now meet medical loss ratio limits, maintain quality reporting requirements, coordinate with health insurance exchanges, meet employee enrollment/coverage requirements, include prescription drug benefit expansion, provide funds for recruitment/training/retaining of healthcare work force, and empower Accountable Care Organizations and the Medicare Shared Savings Plan.

However, the ACA's Medicaid expansion provision was limited by the Supreme Court. Originally, the ACA would have forced states to expand Medicaid or face the loss of all of their Medicaid federal dollars. The ACA is now limited to acting on the potential loss of funds only for the newly eligible poor.

So, what does the ruling mean for physicians? While expanded insurance coverage should equate to additional patients, the "reimbursement" system remains profoundly broken. The ACA did not fix the reimbursement formula and the "hidden" provisions affecting physicians will continue, unless and until Congress acts to repeal.

Some of the ACA's provisions that the public and the average practicing physician doesn't hear about:

- Failure to comply could result in severe sanctions,

(continued on page 17)

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

With so much at stake, shouldn't you be represented by Kern Augustine?

The sad truth is, everything you've worked for can all disappear if you're not prepared for a government inquiry. Which is why if you or your practice is being investigated, you need counsel experienced and thoroughly knowledgeable in health law. At Kern Augustine, our goal is always to help you reach your goals by advising you on managed care, risk prevention, business planning, contracting and today's growing

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(continued from page 15)

- Increased funding for health care fraud and abuse enforcement,
- Expansion of civil monetary penalties,
- Claims for services from an Anti-Kickback Statute violation now equate to false claims,
- Lower triggers for application of federal False Claims Act,
- Modified “knowing and willful” requirement under Anti-Kickback Statute,
- No need to prove actual knowledge of Anti-Kickback Statute, nor specific intent,
- CMS can suspend provider pending investigation of “credible allegation of fraud”,
- Increased scrutiny of Medicare enrollment applications,
- CMS can exclude for knowing false statement or omission on the application,
- Overpayments must be refunded within 60 days or face False Claims Act liability.

The hard reality of the ACA ruling is that the regulatory burden on physicians will continue to accelerate, building an exponential growth curve of unprecedented scrutiny. To survive, physicians must actively and aggressively embrace a new concept – Prospective Compliance. It is no longer advisable, acceptable or survivable to focus exclusively on patient care. Physicians and medical practices must become multi-dimensional – caring for patients while also remaining compliant with law, regulation and contract.

Post ACA, Prospective Compliance means that physicians and practices must permit (if not dedicate) staff time and focus on issues beginning with proper credentialing, progressing through periodic snapshot audits and risk self-assessments, building toward a compliant medical practice. However, what the ACA foretells is that every physician, every practice must become Prospectively Compliant now, not after an investigation or action commences. Under the ACA, the risks and requirements lie not only with issues of fraud or abuse. The ability of any physician and/or practice to be compensated, compensated on a timely basis and rewarded under a “pay for performance” system will be dictated by the level of compliance held by the physician and the medical practice. While mandatory compliance plans presently exist only in the arena of Medicaid, they are certain to become an integral part of health care “reform”.

In conclusion, to survive the aftermath of the ACA ruling, physicians must view it as an awakening. While an awakening of the giant known also as government oversight, it must also be an awakening to every physician that the need for Prospective Compliance is no longer a political question, a legal dispute or an option.

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. The authors may be contacted at 800-445-0954 or via email – info@DrLaw.com. For more information log on to DrLaw.com. ♦

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