

WESTCHESTER PHYSICIAN

November 2016

Volume 32, Issue 10

PRESIDENT'S MESSAGE MEDICINE WARS

My last few messages have been long so I will make this one short.

We have all recently been outraged by events shown in the news about drug companies price gauging. The recent incident with Mylan sending a box of Epipens (2) to \$900 for a prescription was the latest example. Before that was the increase of Daraprim from 13.50 to 750.00 dollars.

Although met with shook and indignation, there was nothing illegal about what these companies did. But this is more than immorality, it is a crime against humanity. The real question is; aside from these few examples in the news, how common is this activity? I believe that these stories are just the tip of the iceberg!

Last week I saw a patient on coumadin with a bloody nose. The INR was very high when checked stat, and I ordered 5mgs Vit K PO for her to take. She called from the pharmacy that they did not have it. We then called multiple pharmacies and were told the same, that they did not carry it. They did have over the counter Vit K at 5 micrograms a pill. A whole bottle would give her enough of a dose.

So, I called the head of the hospital pharmacy and asked "What happens when I order 5mgs of Vit K?". What they started doing was to squirt the dose into a cup from an IV solution of Vit K to give to the patient. Why? Because the price of a case of oral Vit K had gone up to over 25,000.00 dollars and they were not going to buy the pills any longer! I was shocked.

Going online it is not hard to find sites that look at drug prices and recent increases. More and more Canadian pharmacies are selling drugs to Americans over the internet because of the huge price discrepancies that are found. And what is being done to fix this? Nothing.

Did you know that in Washington there are over 4,000 lobbyists working for the drug companies? PhRMA, which spent \$18.4 million lobbying lawmakers last year and BIO which spent \$8.4 million, are among the top lobby groups on the Hill. Since then, conflicts of interest have only worsened. The new FDA commissioner, Robert Califf, was confirmed despite 23 financial links to drug makers.

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GINO C. BOTTINO, MD
President, WCMS

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UPCOMING EVENTS

**WAM/WCMS & NYMC
Student Wine Tasting**
Thursday, November 17, 2016
7:00pm-10:00pm
New York Medical College
Alumni House
20 Sunshine Cottage Road
Valhalla, NY

WCMS/WAM Holiday Party
Friday, December 9, 2016
7:00pm-10:00pm
C.V. Rich Mansion
305 Ridgeway
White Plains, NY

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FROM THE EDITOR...
PETER J. ACKER, MD
COINCIDENCE



One of humankind's pleasurable experiences is that of coincidence – running into someone that you were “just thinking about” or reading a novel that outlines an experience you just had or finding out that the person next to you on a train shares the same birthday. I suppose it is that element of surprise that lifts us out of our humdrum quotidian existence and freeing us just for an instance from the predictability of life, allowing us to forget the Newtonian physics of cause and effect and enter a more Einsteinian time warp. Sometimes, as is our nature, there is an attempt to insert meaning into coincidence and indeed it is hard not to do so if you say meet the love of your life via noticing that a person on the subway is carrying the same book that you are reading and a meeting ensues.

Coincidence is oft used as a literary device – in skilled hands it can reveal irony or hidden meaning. In less skilled hands, it can be merely a lazy author's way of injecting suspense or advancing plot. One of the most common types of coincidence in literature involves birth such as Oedipus banished as a baby who by sheer chance ends up marrying his mother and killing his father. Another example is in **Oliver Twist** in which a major plot element hinges on the secret origins of the orphan Oliver and the way he discovers them which enriches the plot and also puts into sharp relief the irony of class distinction and privilege.

Hopefully, the reader has followed me onto this third paragraph, but is probably wondering where I'm going with this and perhaps thinking that he or she got enough literary stuff while fulfilling the one year English requirement for premeds. But, as I often say to my kids after a long preamble, I'm getting to the point! I had two recent experiences that involved birth and coincidence.

My eldest daughter Karen was born at NYU where I did my residency and in fact due to some artful planning, came into life exactly one week after my residency had been completed. It was long overnight labor on July 4th weekend. One obstetrician was covering for many and the house was packed. As it turned out, my best friend in residency, an Aussie named John Paul, a third year resident, was on call and though the delivery was not high risk, attended at 3 AM on a Sunday, did the first exam and assigned the APGARs (10, 10 – I mean that's what friends are for). John Paul after various peregrinations, returned to Australia and over a number of years we completely lost touch, to the point that I no longer had his phone number or email. Out of the blue, I got a call from him and we had very nice reunion with him, my wife and my daughters.

(Continued on page 7)



**The Westchester Academy of Medicine &
The Westchester County Medical Society**

Cordially Invites Our Members & Their Families to Our

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**Friday, December 9, 2016
7:00 p.m. to 10:00 p.m.**

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Please consider donating an item for our Raffle, to be held in conjunction with our Holiday Party. All proceeds from the Raffle benefit the Westchester Academy of Medicine and our Scholarship Fund activities.

Please RSVP to Janine Miller at jmiller@wcms.org,
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SALLY DRESLIN, M.S., R.N.
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Medicaid Pharmacy Prior Authorization Programs Update

On September 15, 2016, the New York State Medicaid Drug Utilization Review Board (DURB) recommended changes to the Medicaid pharmacy prior authorization programs. The Commissioner of Health has reviewed the recommendations of the Board and has approved the following changes to the Preferred Drug Program (PDP) within the fee-for-service pharmacy program.

Effective **November 17, 2016**, prior authorization (PA) requirements will change for some drugs in the following PDP classes:

- ARB Combinations
- Hepatitis C Agents – Direct Acting Antivirals
- Pulmonary Arterial Hypertension (PAH) Oral Agents - Other

Also effective **November 17, 2016**, the fee-for-service pharmacy program will implement the following parameters recommended by the DURB:

- Gabapentin
 - Dose Limit: Based on maximum daily dose of 3600 mg per day
- Injectable Anticoagulants
 - Duration Limit: No more than 30 days for members initiating injectable anticoagulant therapy
 - Diagnosis Requirement: Documentation of FDA or Compendia-supported indication is required for patients requiring longer than 30 days of therapy
- Products for Irritable Bowel Syndrome with Diarrhea (IBS-D)
 - Diagnosis Requirements:
 - Alosetron: Adult females with severe IBS-D lasting ≥6 months who have failed other treatments
 - Eluxadoline: Adults with IBS-D
 - Step Therapy:
 - Alosetron: Trial with both eluxadoline AND rifaximin prior to using alosetron

For more detailed information on the above DURB recommendations, please refer to the meeting summary at: https://www.health.ny.gov/health_care/medicaid/program/dur/meetings/2016/

Below is a link to the most up-to-date information on the Medicaid FFS Pharmacy PA Programs. This document contains a full listing of drugs subject to the Medicaid FFS Pharmacy Programs:

https://newyork.fhsc.com/downloads/providers/NYRx_PDP_PDL.pdf

To obtain a PA, please contact the clinical call center at **1-877-309-9493**. The clinical call center is available 24 hours per day, 7 days per week with pharmacy technicians and pharmacists who will work with you, or your agent, to quickly obtain a PA.

Medicaid enrolled prescribers can also initiate PA requests using a web-based application. PAXpress® is a web based pharmacy PA request/response application accessible through a button "PAXpress" located on eMedNY.org under the MEIPASS button.

Additional information, such as the Medicaid Standardized PA form and clinical criteria are available at the following websites: <http://www.nyhealth.gov> or <http://www.eMedNY.org>, as well as Magellan Medicaid Administration's website at <http://newyork.fhsc.com>.

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PRESIDENT'S MESSAGE

MEDICINE WARS

(Continued from page 1)

Drug prices have risen an average of nearly 10% over the 12-month period ending in May 2016—a time when the overall inflation rate was just 1% in the U.S. According to data cited by the Wall Street Journal, while food and alcohol prices have risen 2.8%, and clothing and accessories are up 5.7%, pharmaceutical prices have increased 9.8% in the past year.

Meanwhile, a new report from Americans for Tax Fairness says that Gilead Sciences, the world's sixth most valuable pharmaceutical company, has been gouging consumers, raking in billions in profits, and dodging U.S. taxes—all based on medications that were developed by taxpayer dollars.

Gilead's profits rose from \$4.2 billion in 2013 to \$21.7 billion in 2015; during the same time period its effective tax rate decreased from 27.3% to 16.4%. The company pulled off this magic trick by purchasing a company called Pharmasset, which makes the hepatitis C treatment drug Sovaldi, and whose owner, a nearly full-time federal employee, received at least \$2.7 million in taxpayer money for research. After Gilead snatched up the company, it raised the price of Sovaldi through the roof, and "Gilead made its investment back in less than a year," Sen. Bernie Sanders explained: Gilead's greed is particularly reprehensible because the American public paid for these drugs twice: first taxpayers bankrolled the research behind the hepatitis C drugs and then they paid a second time when Gilead decided to charge Americans the highest price in the world for the treatment.

Nearly one-third of Americans are facing stiff increases in drug costs this year — on top of rising insurance premiums, deductibles, and overall healthcare expenditures, according to a new poll by Consumer Reports. The survey found one in three consumers experienced at least one major drug price hike in the past 12 months — shelling out \$2 billion more for medication. To save money, half of those facing higher drug costs stopped taking their meds or cut back on other household items, such as food.

Don't get me wrong about where I stand on this. I am all in favor of capitalism, and companies making a good profit on what they bring to market. I believe they need to make a great profit so that they are motivated to bring new drugs to market. But there must be some control from government overseeing this

process. There is a big difference between making a toy, or a car, or other items that are not necessary for sustaining life in the treatment of disease, and medically indicated drugs.

Clearly we need to be aware of this trend in drug pricing and try to help as much as we can. The first thing we can do is make sure we are prescribing drugs that are a reasonable cost and think of "bang for the buck" when giving a medicine. If it's 90% as effective and less than half the price; why start with the higher priced drug?

Even after choosing the drug you want to give we can help patients find where they can get it for a lower price. There are several new smartphone apps available now to help find the cheapest drug prices for the patients. The one I use is called "LowestMed" which works well. There are others, "dealers' choice." Or simply tell they patients to get the app and use it.

We need to continue to advocate for our patients in Albany and through the national organizations we belong to. We need to be outspoken about this. We don't have the 20 million plus to fight them with lobbyists, but we have the population's ear, as we are their caregivers. In the long run, we can and will make a difference.



FROM THE EDITOR...

PETER J. ACKER, MD

COINCIDENCE

(Continued from page 2)

The more discerning of you are probably crying foul — that really isn't a coincidence! Hang on, there's more. Shortly after John Paul winged his way back to Sydney, my youngest daughter Daniella was scheduled to have minor surgery at Greenwich Hospital. She needed some preop tests and she asked that I meet her at the hospital. After finishing rounds, while I was waiting in the lobby for her, I spotted a familiar face moving towards me. It took me a minute to recognize her. It was the OB nurse who had attended Daniella's birth 18 years before who I had not seen in a decade or more. We had a great talk, though she seemed nonplussed on learning that it had been 18 years!

What does this all mean? Nothing in the grand scheme of things, but it was exciting to have memories jogged of the births of two of my three children. Now I'm sure, just around the next corner, is one of the attendees of Jessica's births 24 years ago!



WESTCHESTER ACADEMY OF MEDICINE : GRANTED REACCREDITATION WITH COMMENDATION.

On September 30, 2016 The Westchester Academy of Medicine was granted Accreditation with Commendation by the Medical Society State of New York and the American Academy of Continuing Medical Education. Accreditation with Commendation is a six year term and is the highest achievement granted by MSSNY/ACCME for a CME joint provider. We are extremely proud of our WAM staff for taking on such a monumental task and accomplishing more than was expected. We are confident that our Academy will continue to grow and flourish through our CME program. The Westchester Academy of Medicine is prepared to take on new partnerships in CME and would be happy to accredit any programs that our members or their organizations would like to hold. WAM has always been extremely helpful in guiding the CME process, working with our joint providers, and managing to keep our fees reasonable. Please contact our office (914) 967-9100 or visit our website www.wcms.org for more information on the application process and fees.

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Get Smart About Antibiotics Week 2016 Partner Toolkit

To All New York State Physicians:

As cold and flu season settles in, the New York State Department of Health (NYSDOH) offers you a way to demonstrate to patients your commitment to safe and appropriate antibiotic prescribing. As a participant in the Centers for Disease Control and Prevention's (CDC) Get Smart: Know When Antibiotics Work campaign, NYSDOH would like to announce the Get Smart Guarantee poster is now available in print and electronic formats.

Healthcare providers may be pressured by patients to prescribe antibiotics even when they have a viral infection. Displaying this poster in waiting or examination rooms sends a message to patients that antibiotics aren't always appropriate. We hope the posters will help facilitate conversations with patients on the appropriate use of antibiotics. It also demonstrates your commitment to safe, effective prescribing.

The Get Smart Guarantee poster is designed to be personalized by attaching a photo of your choice. The poster is available at no cost to you and may be ordered by contacting the NYSDOH Get Smart Program Coordinator, Mary Beth Wenger, at marybeth.wenger@health.ny.gov or by downloading the poster at: <http://www.health.ny.gov/publications/1156.pdf>

The patient "palm card" may be found here: <http://www.health.ny.gov/publications/1157.pdf>

Additional information about the CDC Get Smart: Know When Antibiotics Work program is available by visiting the website: <http://www.cdc.gov/getsmart/index.html>.

4th Annual Doctors of Distinction Awards

The Fourth Annual Doctors of Distinction Awards honored twelve doctors at a special awards ceremony held on October 27th at New York Medical College in Valhalla, NY.

The **Doctors of Distinction** awards, co-founded by the Westchester County Medical Society, the Westchester Business Journal, and Citrin Cooperman, were established to recognize those dedicated physicians who go “beyond the diagnosis.”

It was a beautiful event with over 100 guests gathered at New York Medical College to honor this year's twelve awardees. After considering more than 45 stellar nominees, the judges chose:

George Alexopoulos, MD, was awarded the *Cutting Edge* award. Dr. Alexopoulos is the S.P. Tobin and A.M. professor of psychiatry and professor of the Graduate School of Medical Sciences of Weill Cornell Medical College. Alexopoulos has made fundamental contributions to the biology of late-life depression leading to novel treatment models. He identified brain mechanisms contributing to poor response to antidepressant drugs, developed several new treatments for depressed patients with severe medical illnesses and improved the practice model for identification and treatment of depression in primary care. Dr. Alexopoulos founded the Weill-Cornell Institute of Geriatric Psychiatry and still serves as its director.

Farah Ansari, was awarded the *Physician in Training* Award. Ms. Ansari is a third-year and chief resident of the Northwell Phelps Family Medicine residency program. As a physician in training with Open Door Family Medical Centers, she has had the unique experience of caring for the underprivileged and uninsured members of her community. Through her training in the inpatient setting she has been exposed to a diverse variety of disease processes and interesting cases, some of which she presented at national conferences. She has also undertaken a research project on pediatric obesity, which she introduced at the Community Health Care Association on New York State.

Lydia Bunker, was awarded the *Promise for the Future* award. Ms. Bunker was raised in Holliston Mass., and attended Harvard University receiving her bachelor's degree, cum laude, in molecular and cellular biology. At New York Medical College (NYMC), Bunker has been elected to the student senate each year, has served as vice president and is the current president. In the summer of 2014, she was selected to participate in the Medical Student Training in Aging Research internship at Harvard University, under the mentorship of Dr. Sharon Inouye. Bunker has applied for an internal medicine residency and plans to pursue either hospitalist medicine or critical care and is eagerly awaiting Match Day. Ms. Bunker has been a member of the Westchester County Medical Society since 2013.

Richard Charney, MD, was awarded the *Caring for All* award. Dr. Charney has practiced clinical and interventional cardiology in New Rochelle for 22 years and is affiliated with the Westchester Medical Center, Montefiore-New Rochelle (formerly Sound Shore) and White Plains Hospital. He received his medical degree from Mount Sinai School of Medicine in 1986, as part of their combined six-year BS/MD program. Charney completed his interventional cardiology fellowship in 1993 and remained at Montefiore until 1994 when he joined Sound Shore Cardiology P.C. in New Rochelle. In addition to his other responsibilities, Charney has worked part time at the Mount Vernon Family Health Center providing cardiology care to the underinsured and uninsured since 2006.

William H. Frishman, MD, was awarded the *Cutting Edge* award. Dr. Frishman is the Barbara and William Rosenthal Professor of Medicine and chairman of the department of medicine, as well as professor of pharmacology at New York Medical College, and chief of medicine at Westchester Medical Center, in Valhalla. Frishman is a clinical cardiologist, cardiovascular pharmacologist, and internist. A noted clinical

(Continued on page 11)

investigator, Frishman has authored for than 1,100 original articles, reviews and book chapters related to cardiovascular pharmacology and clinical cardiology, and serves as supplements editor for the American Journal of Medicine. Frishman has served as principal investigator and co-principal investigator of multiple NIH funded cardiovascular drug trials, including the Women's Health Initiative, studies of left ventricular dysfunction and co-principal investigator of the NIH-funded Bronx Longitudinal Aging Study. Dr. Frishman has been a member of the Westchester County Medical Society since 1984.

Lopa Gupta, MD & Mantu Gupta, MD were awarded the *No Land Too Far* award. Lopa Gupta, MD is one of New York's premiere eyelid and cosmetic surgeons. Gupta super specialized in eye plastic surgery through the prestigious fellowship approved by the American Society of Ophthalmic Plastic and Reconstructive Surgery. Her compassion has not only earned her numerous accolades from patients, but it inspired her to found her own not-for-profit foundation, SaDilka, through which she and her family perform medical and surgical missions throughout the world to help those less fortunate. Mantu Gupta, MD is a professor of urology at Icahn School of Medicine at Mount Sinai; chair of urology at Mount Sinai West and Mount Sinai St. Luke's Hospital, and director of endourology and stone disease for the Mount Sinai Health System. Dr. Gupta is the recipient of numerous honors and awards, Gupta was given a Presidential Gold Medal by President Ronald Regan for his academic achievements. Gupta teaches various surgical skills courses throughout the world and has served as editor and guest editor for numerous publications.

Paul Khoury, MD; Andre Khoury, MD & Nabil Khoury, MD were the recipients of the *All in the Family* award. All three brothers, Paul a radiologist; Nabil an OB/GYN and Andre also a radiologist are fellowship trained, known innovators, and specialized experts in their fields. Each has a well-deserved reputation both within the hospitals and in the greater community as consummate professionals and dedicated humanitarians. A remarkable family of accomplished physicians who left their home country of Lebanon for a better life, more than three decades later they have helped improve the lives of thousands of others in the process. Paul Khoury, MD has been member of WCMS since 1983.

Maureen Killackey, MD received the *Female Trailblazer* award earned her MD at Cornell Weill Medical Center, trained at New York Hospital and Memorial Sloan Kettering and then started as a surgical oncologist dedicated to the delivery and education about high-quality, patient centered care for women with gynecologic cancers in 1984. Her present role with the NCI-designated Herbert Irving Comprehensive Cancer Center/CU Medical Center is to develop and provide oversight of the multidisciplinary, disease-focused cancer program at New York Presbyterian/Lawrence Hospital and establish academic, community and organizational collaborations.

Bok Y. Lee, MD was awarded the *Lifetime Achievement* award. Dr. Lee is a graduate of the Seoul National University College of Medicine. He completed his internship at the William McKinley Memorial Hospital in New Jersey and residency at the St. Clare's Hospital and Health Center in New York City. Lee held the position of staff surgeon, chief, surgical service and director of surgical research at the Veterans Administration Medical Center, Castle Point. As director of the surgical residency program, Lee established the first surgical residency program affiliated with St. Clare's Hospital and Health Center. During his career, Lee has authored more than 300 journal publications and numerous scientific exhibits and books. Dr. Lee is the chairman of clinical research and development at the Life Support Technologies group, Tarrytown. His honors include The Society for Vascular Surgery Distinguished Fellow, Certificate of Excellence for Extraordinary Achievement as a faculty author on the Library Director's list of "Top 7 NYMC Faculty Authors of Books for the 2004/2005 academic year" and the New York Chapter of the American College of Surgeons Lifetime Membership Award. Dr. Lee has been a member of the Dutchess County Medical Society since 1963.

Photos of the event can be seen on page 12.

The Officers, Directors and Members of the Westchester County Medical Society salute all of the Winners! WCMS would also like to thank this year's judges for their hard work in choosing this year's awardees.



DOD Winners: George Alexopoulos, MD; Bok Y. Lee, MD; Maureen Killackey, MD; Paul Khoury, MD; Richard Charney, MD; William H. Frishman, MD; and Lydia Bunker



Photos of the Doctors of Distinction awardees displayed at the event held at New York Medical College.



Dr. Malcolm Reid, MSSNY President & Emily Reid



WMCS Member and Awardee William H. Frishman & Friend



Awardees Maureen Killackey, MD & George Alexopoulos, MD

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**A STEP-BY-STEP FOR SPECIALISTS USING
TELEHEALTH FOR CARE COORDINATION**
POSTED BY LAWRENCE KERR ON TUE, OCT 25,
2016 @ 07:30 AM ON BLOG.CLICKCARE.COM



Last week, we talked about how primary care providers can use telemedicine for care coordination -- and looked at a simple workflow for getting a consult or asking a question.

Today, we want to look at how "specialists" can organize their workflow to ensure ease and efficiency in answering questions.

Whether you are a primary care provider *or* a specialist, you will sometimes be requesting a consult, and sometimes be providing a consult. The advantage of a platform that supports true healthcare collaboration is that the "help" can go two ways, or multiple ways, in a single case.

The workflow is always up to you, but here are some guidelines for when you respond, consult, or answer.

A step-by-step workflow for providing a consult via telemedicine:

- **Make sure you understand the question.** If you are not sure what the question is,

then ask a question back. Ask for clarification. Mostly, being a specialist means knowing what to ask and letting the patient provide the answer. Do so with respect. What is obvious and easy for you in your field is probably not obvious and easy for someone in another field. Indeed, you yourself may soon be off your turf and need help.

- **Add your own data, be concise, be focused.** While we have become used to the four page referral letter -- because we bill based on how many elements or how many domains we provide -- most data is not pertinent and too much information decreases precision.
- **Help the requestor be the judge and jury.** The requestor knows the whole picture more than you. Ask the requestor to get other specialty help. For example: an open fracture with marginal skin loss, or a case of white-coat hypertension shockingly found by you the night before the patient's surgery. If you did not receive follow-up, ask for it. Otherwise, skeletons in the closet are there when they don't need to be.
- **Consult with the team to get a consensus.** Before you bring tablets down from your lofty mountain, make sure there aren't other opinions you should gather. As a specialist, I have to remind myself that my opinion is not final and there might be some other aspect to the problem that I might not see. By engaging in discussion, my opinion becomes more valuable. We need to move on from the four page referral letter and its unidirectional pronouncements. **Sometimes, you just have to see the patient.**

Don't be afraid to ask, but don't ask just to avoid thinking. There is a human and financial cost to seeing you.





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Special offer for all WCMS members! Special Discounted Advertising Rates in the *Westchester Healthcare News*, *Boomer's & Beyond* and *Hospital Newspaper*.

The Westchester County Medical Society has formed a special partnership with *Healthcare News* that allows all physician members and their medical practices to receive a substantial discount of 30% on any marketing plans in the publications by *Healthcare News*.

Healthcare News is a respected monthly publication which focuses on health, wellness and other important trends in healthcare and the medical field. Started in 2006, *Healthcare News* has a circulation of nearly 100,000 with editions in Westchester, NY and nearby Fairfield County, CT. The target audiences are residents who seek the best health options, along with a diverse array of physicians aiming to promote their services in the community. Inserted into each edition of *Healthcare News* is *Boomer's & Beyond* publication for the ever growing 55 and over demographic.

In addition *Healthcare News* has a companion bi-monthly publication called *Hospital Newspaper* for which the advertising discount also applies. *Hospital Newspaper* has been a top source of news and information for medical professionals in the hospital industry since 2001.

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Mark Your Calendars! Upcoming WCMS Board Meetings:

All Board meetings are held on Thursdays beginning at 6:00pm in the WCMS Headquarters located at 333 Westchester Avenue, Suite LNO1 in White Plains, NY. If you are interested in attending a meeting, please call or email our office.

December 8

January 12

February 9

March 9

April 13

May 11

June 8

(914) 967-9100—jmiller@wcms.org



The Current Pace of Hospital Mergers

Question: What is going on with hospital mergers, and is the trend continuing?

Answer: Without question, the recent trend has been for hospitals to merge, creating ever larger entities. Although hospital merger and acquisition transactions nationally have declined somewhat from the levels reached in 2015, there were still 64 mergers and acquisitions involving United States based hospitals in the first three quarters of 2016. Indications have been that this trend will continue. For example, on June 21, 2016, a new entity named “Hackensack Meridian Health” was formed when the merger of Hackensack University Health Network and Meridian Health was finalized, creating the second-largest hospital system in New Jersey, said to unite 11 hospitals in seven counties from the New York border to the Jersey shore. The trend has been to approve these mergers, despite opposition from the Federal Trade Commission under the antitrust laws. However, some recent court decisions may be an indication that this trend is reversing. In our October issue of StatLaw® New Jersey, we reported on the United States Court of Appeals for the Third Circuit’s opinion blocking a proposed merger between the two largest hospitals in the Harrisburg, Pennsylvania area, Penn State Hershey Medical Center and PinnacleHealth System. In *Federal Trade Commission v. Penn State Hershey Medical Center*, – F.3d –, 2016 WL 5389289 (3d Cir. 2016), filed on September 27, 2016, the Court reversed a decision of the United States District Court for the Middle District of Pennsylvania, which had refused to issue a preliminary injunction blocking the proposed merger. Subsequent news reports have stated the hospital systems have abandoned their integration efforts as a result of this decision. On October 31, 2016, in *Federal Trade Commission v. Advocate Health Care Network*, – F.3d –, 2016 WL 6407247 (7th Cir. 2016), the United States Court of Appeals for the Seventh Circuit reversed an Order of the United States District Court for the Northern District of Illinois which had denied the FTC’s injunction seeking to block a merger between Chicago-area health systems Advocate Health Care Network and NorthShore University Health System, ruling the District Court’s geographic market finding to have been “clearly erroneous.” The merger had been stayed pending the appeal, and the 7th Circuit, leaving the stay of the merger in place, remanded the case to the District Court to reconsider the injunction in light of the appellate Court’s opinion. It is perhaps too early to make a prediction, but it is possible this case, along with *Penn State Hershey Medical Center*, indicates a trend of stricter scrutiny of hospital mergers.

Weekly Charting Tip:

Must your chart somewhere indicate the length of your E/M visit in order to be reimbursed? Unless the majority of your visit concerns counseling the patient, the answer is NO! The “typical times” attached to the various E/M codes are suggested times, not mandatory times. The key to your chart is its content, not its length, or the length of the patient encounter. Similarly, putting down the amount of time of the patient encounter, by itself, does not entitle you to bill a particular E/M code. Again, we are referencing the typical office visit. Until next week! – Larry Kobak

If you have any questions, please contact Kern Augustine, P.C. at 1-800-445-0954 or via email at info@DrLaw.com.



Creating a Welcoming Clinical Environment for Lesbian, Gay, Bisexual, and Transgender Patients

Mark Ambrose

Risk Management Consultant

Medical Liability Mutual Insurance Company

The lesbian, gay, bisexual and transgender (LGBT) patient population often faces unique challenges in obtaining medical care. Issues such as access to healthcare coverage and providers, identification of appropriate restrooms, and the limitations of some electronic health record systems to properly identify gender are just a few of the challenges this population faces when seeking routine healthcare.

For many LGBT patients, it is difficult to reveal their sexual orientation to providers due to perceived or actual biases within the medical community. Conversely, medical personnel may simply feel uncomfortable asking about sexual orientation or gender identity. Whichever the case may be, this lack of communication can result in sub-standard care. It may even lead LGBT patients to delay care, avoid care altogether or even receive inappropriate care.

Healthcare providers can take positive steps to promote the health of their LGBT patients by examining their practices, offices, policies, and staff training for ways to improve access to quality healthcare for LGBT patients. Implementing policies and practices conducive to the needs of LGBT patients will foster better communication, assist in the identification of an appropriate care plan, enhance access to necessary studies, and improve patient relations. Here are a few resources to assist providers to take positive steps to improve the health of their LGBT patients.

- The American Medical Association has published guidelines that will assist you, including creating an LGBT-friendly office practice and guidelines for effectively communicating with LGBT patients, as well as offering additional resources to consider when caring for this patient population. You can find these sources on the AMA website at: <http://www.ama-assn.org/ama/pub/about-ama/our-people/member-groups-sections/glb-adv-committee/glb-resources.page?>
- Lambda Legal has published “Creating Equal Access to Quality Health Care for Transgender Patients: Transgender-Affirming Hospital Policies.” This publication offers guidance to hospitals looking to develop LGBT-affirming policies and practices. The publication can be found at: http://www.lamdalegal.org/sites/default/files/publications/downloads/hospital-policies-2016_5-26-16.pdf
- The National LGBT Health Education Center provides background information on transgender people and their health needs as well as tips and strategies to improve communication and create a more affirming environment. The publication “Affirmative Care for Transgender and Gender Non-Conforming People: Best Practices for Frontline Health Care Staff” can be accessed at http://www.lgbthealtheducation.org/wp-content/uploads/13-017_TransBestPracticesforFrontlineStaff_v6_02-19-13_FINAL.pdf

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NYS DOH ANTICIPATES RENEWAL OF WAIVERS FOR EPRESCRIBING STARTING IN DECEMBER 2016

The New York State Department of Health anticipates potential renewal of waivers for the e-prescribing requirement. As of March 27, 2016, practitioners must electronically prescribe both controlled and non-controlled substances. A letter was sent electronically to all individuals who have had a waiver in early November. The letter stated that current Department of Health (DOH)-approved waivers from the requirement to electronically prescribe will expire on March 26, 2017. DOH indicated that all practitioners requiring a waiver after March 26, 2017, must submit a new request which includes an updated statement of facts describing the continuing circumstances supporting the waiver. Beginning December 27, 2016, a renewal request can be submitted for review to the DOH Bureau of Narcotic Enforcement (BNE). Please note, practitioners who no longer need a waiver are required by law to notify BNE, within five business days of gaining the capability to issue an electronic prescription.

Practitioners issuing less than 25 prescriptions per year for both controlled and non-controlled substances combined should submit a certification (DOH-5221) in lieu of a waiver request. Unlike a waiver request, a certification does not require DOH approval. It is a simpler process which only requires a practitioner's attestation and upon submission, allows low-volume prescribers (25 prescriptions or less per year) to continue to issue paper prescriptions. To request a new waiver or to submit a certification online, log into the Health Commerce System at: <https://commerce.health.state.ny.us> and access the "Electronic Prescribing Waivers" (EPW) application. If you need to request a paper form, please call 1-866-811-7957. Additional information regarding electronic prescribing can be found on our website at www.health.ny.gov/professionals/narcotic. A copy of the letter can be found on page 19.



Save the Date

MSSNY Legislative Day
Wednesday, March 8, 2017

Join your fellow colleagues in Albany to meet with Westchester legislators and discuss the issues that are important to the physicians of New York State.

Please contact our office for more information
(914)-967-9100



ANDREW M. CUOMO
Governor

Department of Health

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

Dear Electronic Prescribing Waiver Requestor:

As of March 27, 2016, practitioners must electronically prescribe both controlled and non-controlled substances. Current Department of Health (DOH)-approved waivers from the requirement to electronically prescribe will expire on March 26, 2017. Practitioners requiring a waiver after March 26, 2017, must submit a new request which includes an updated statement of facts describing the continuing circumstances supporting the waiver. Beginning December 27, 2016, a renewal request can be submitted for review to the DOH Bureau of Narcotic Enforcement (BNE).

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To request a new waiver or to submit a certification online, log into the Health Commerce System at: <https://commerce.health.state.ny.us> and access the "Electronic Prescribing Waivers" (EPW) application. If you need to request a paper form, please call 1-866-811-7957. Additional information regarding electronic prescribing can be found on our website at www.health.ny.gov/professionals/narcotic.

Sincerely,

A handwritten signature in blue ink that reads "Joshua S. Vinciguerra".

Joshua S. Vinciguerra
Director
Bureau of Narcotic Enforcement

Westchester County Medical Society
333 Westchester Avenue
Suite LN 01
White Plains, NY 10604

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CJS 346 10/15

Exp. 10/31/17