

WESTCHESTER PHYSICIAN

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PRESIDENT'S MESSAGE POWER PLAY

The Text came through early in the morning. The Network was down. Not just NextGen, but e-mail, and many of the phones as well. There were subtle warnings in the days before – error messages, unusual delays, crazy lapses in documentation, but no one saw it coming. At least the lights were on. I thought back to an earlier challenge...

It was the fall of 2012, and I woke up in a cold sweat. I was fully clothed – sweat pants, turtle neck, and winter sox, and buried beneath mounds of heavy blankets. Anastasia was next to me, snoring like a stevedore. The alarm clock was blinking - 12:01 12:01. All of the lights were on, as was the TV, and the furnace was roaring. I climbed out of bed, and stumbled through the house. Shutting off lights, closing the empty refrigerator door, and adjusting the thermostat. Dirty dishes, pizza, and laundry littered the floor. Eight days without power, and now suddenly back. The meals in the dark, games with the kids, reading by flashlight, and sponge baths using baby wipes flashed through my mind. Difficult at first, but then somehow strangely satisfying, and determined to see it through, I was both relieved, and disappointed. It would be an experience I would never forget.

Working without the EMR is a major challenge. No data to review. No way to place orders, the paper charts long gone. We have become completely dependent on a tool we all love to hate. We have been converted to data keepers. Entering structured notes to satisfy our monitors, our backs to our patients, furiously typing away. We have gained a lot by the transition, even though we do not like to admit it. Accurate Medication lists, up to date Allergies, an electronic warning system – all improve patient safety. But at what price? Our patients feel alienated. We do not hear them, and never get to know them. We simply do not have the time. How is it that we complain about being without a tool that has destroyed our lives? What can we do to get through the day? How can we react if not in anger? I think again about Sandy, and lessons learned.

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THOMAS J. LESTER, MD
President, WCMS

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UPCOMING EVENTS

WCMS/WAM Annual Meeting
Friday, June 3, 2016
Westchester Country Club
Rye, New York

WCMS/WAM Annual Pool Party &
Barbecue
Sunday, August 21, 2016
West Harrison, New York

WAM 7th Annual Golf Outing
Thursday, October 6, 2016
Westchester Country Club
99 Biltmore Avenue
Rye, New York

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



In the pediatric world, perhaps more so than in any of the other branches of medicine, there is a seasonal rhythm. Our progress through the calendar year is marked by almost predictable occurrences: the January/ February onslaught of flu and myriad other Winter ailments, the first red allergic conjunctiva which competes with the arrival of the robin as the preeminent harbinger of spring, the fiery red throat punctuated by painful blisters of the dreaded coxsackie virus, herald the arrival of summer, and finally, what is fall without the office cacophony of sonorous wheezes and coughs of every timbre? Our work is not only dictated by the natural seasonal affinities of diseases, but also by manmade constructs: such as the artificial urgency of the camp medical forms. All these combine to make our year a feast or famine situation: we deal with each onslaught that nature or man throws at us and in between we pause to catch our breaths until the next one.

One of the most predictable ebbs in the pediatric year is of the manmade variety. On the last Sunday of June or thereabouts, there can be heard throughout Westchester the hum of idling buses as tanned young men and women load duffels and sleeping bags into the bus bays and anxious parents bid tearful adieus to their progeny. Soon the last bus crosses the county border and lumbers northward, following the mass of behemoths, like wildebeests migrating to greener pastures, to the bucolic environs of summer camps. A sense of peace descends upon the county. Some parents, particularly first timers, crane their necks until the bus is out of sight and then make their teary way home. The old timers, on the other hand, leap with alacrity towards their cars and I can almost imagine them singing "Free at last, free at last, thank God almighty I'm free at last". An almost equal and opposite movement of vehicles then ensues to the airports and parents fan out to all points of the compass, though Europe is probably the top destination.

That first Monday of this year, as always, I'm sure a palpable calm settled over our office and for pediatricians, this is truly the first day of summer, though I wasn't there to enjoy it. I had decamped the Friday before, taking an overnight flight with my wife to Dublin. It was a wonderful feeling to have completed the seasonal work, like a farmer who has stowed his last bushel of corn and to be off to a land I had never seen before.

Ireland exceeded our expectations. A few of the highlights: I toured the Guinness Brewery (my wife demurred from this outing) and received a certificate for successfully completing training in how to pour the perfect pint (it's always good to get additional training in this economy), a day spent traveling to Limerick, the Cliffs of Maher and Galway, and random encounters with Dubliners who are very prone to strike up conversations.

(Continued on page 4)



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PRESIDENT'S MESSAGE**POWER PLAY***(Continued from page 1)*

At first, I was frustrated. How could I possibly get through the day without it? The patients wanted their lab results, and I did not have access. I could not document my notes, and I wondered how late I would be getting home. I spent a lot of time apologizing to the first few patients, and they seemed unhappy. And then something changed. I realized that the patients enjoyed talking to me. I looked at them, and did not turn my back. I remember the patient when the tide turned, and the power was with me. I walked into the room and said hello. I asked her what was new, and just sat waiting for her reply. It was slow at first, but then seemed more natural. I heard about her father's recent death, the stress her illness created on her marriage, and the sleepless nights prior to every follow up visit with me. Sick with worry about recurrent disease. I reassured her as best I could. Her exam was normal, and I told her she was doing great. We decided together that there would be no labs this visit. We would put them off until next time. We walked out of the exam room laughing about our kids going off to college, and my medical assistant greeted us in the hall. I was ahead of schedule, and my next patient had not yet arrived. As I turned to say goodbye, the patient refused my handshake, and gave me a hug. At that moment, I realized that the three of us were the most powerful people in all of medicine. No edict from the Governor, no letter from a litigator, and no change in reimbursement was ever going to change that.

*FROM THE EDITOR...***PETER J. ACKER, MD****DUBLIN***(Continued from page 2)*

The absolute high point, for me at least, was the walking tour with a graduate student of Irish literature in which we traced the steps

that Leopold Bloom, the protagonist of James Joyce's *Ulysses* takes in the chapter entitled "Lestrygonians" (flesh eaters). The group was small, my wife and two others, one of whom was a young staff writer for the *New Yorker*. We walked from spot to spot and our guide read portions of the novel and pointed to where various events took place. James Joyce, interestingly, initially left Ireland in order to study medicine in Paris. In this chapter, as can be imagined by the title, the focus was on food. Our guide pointed out that our route was virtually a straight line but then abruptly turned rightward towards the end and that this represented an esophagus coursing to the stomach and ending at the pylorus. Bloom's movements and thought processes, he explained, have a peristaltic and dyspeptic quality as he ruminates on his life and marriage. You never know when medical training can be put to good use!



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PHYSICIAN WELLNESS—MINDFULNESS AND STRESS MANAGEMENT FOR THE BUSY PROVIDER**MARK BERTIN, MD**

If you're a practicing physician, you don't need anyone else to tell you that the risk for chronic stress and burn out has been rising. A recent Mayo clinic survey found more than half of physicians today have at least one symptom of burn out. Excessive stress of this kind doesn't affect only your own wellbeing, but often affects communication and patient care.

Mindfulness-based stress reduction programs have been shown through hundreds of studies to decrease stress and anxiety, along with many other specific benefits. Smaller studies report improvements in how health-care providers feel, and suggest gains in patients' perceptions of provider empathy, as well as other measures. The evidence behind mindfulness has become so strong that I've been told it is now considered 'mainstream' medicine instead of 'alternative' for the purpose of funding grants.

Most importantly, mindfulness is meant to be practical and accessible to anyone. It isn't specifically a meditation technique, nor does it aim for bliss, perfection, or the elimination of stress – none of which is possible. It also doesn't take a lot of time, and can be integrated into anyone's busy life.

What mindfulness really shows is that we can intentionally develop traits that help manage the stress and uncertainty of life. When we regularly train ourselves to be more focused, less reactive, and to settle ourselves throughout the day before stress takes over, our lives get easier. The best analogy is exercise. Work out, your physical health improves. Practice mindfulness, your mental health does.

Personally, I was introduced to mindfulness as a medical resident back in the 1990s and found it useful. Initially, I kept it to myself. But the science behind mindfulness has been picking

up exponentially for several decades, and eventually I sought training so I could teach mindfulness techniques to stressed parents – and health-care providers, too. For any care giver, a small amount of time dedicated to increasing your own resilience and strength benefits whomever is in your care.

For several years I have been teaching a mindfulness program for physicians at The Kaiser Permanente Medical Group. Through the pilot program, we tracked data and found improvements in physician wellness, and in measures such as quality of sleep. The program has since expanded and is offered to all Kaiser physicians in Northern California.

Westchester County Medical Society has asked me to pilot the same program. Even though I live and work locally, the program will be offered online to cut down on logistics. While live and interactive, anyone can log in from any Internet-connected device. If you need to miss a class, recordings are available to watch at any time. We hope you'll be able to join us for this exciting trial program.

Our recent survey regarding physician wellness received a great response, and in light of that we have decided to partner with Dr. Mark Bertin, a member of WCMS, to create this 8-week online class for our Westchester physicians.

Please call our office (914) 967-9100 or email Janine Miller— jmiller@wcms.org to let us know if you are interested in participating, as space is limited.

Register by July 15 and receive a discounted price of \$350 for the entire 8-week class. After July 15 the cost will be \$425.

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Volume XXIV Number V – May 15, 2016

Single Issue Price: \$5.00

*Late breaking news on medical-legal developments
affecting physicians and health care professionals*

UnitedHealth to Drop Out of Most Affordable Care Act Exchanges: In mid-April, UnitedHealth CEO Stephen Hemsley announced the company would pull out of most of its ACA marketplaces. However, the company will not withdraw from all the exchanges, and will continue to sell individual plans in what Mr. Hemsley said would be a “handful” of states. Thus far, UnitedHealth has withdrawn, fully or partially, from Arkansas, Georgia, Louisiana, Michigan and Oklahoma. Previously, the company had sold plans in thirty-four (34) states, and has not yet announced which states it plans to stay in. However, a recent analysis from the Kaiser Family Foundation concluded that UnitedHealth’s withdrawal will not have a major impact on competition and prices on a national basis, as it has a relatively small ACA footprint and has consistently charged higher premiums for its products. Despite heavy losses in its ACA plans (expected to be some \$1 billion on its exchange plans for 2015 and 2016), UnitedHealth nevertheless obtained substantial profits (said to total approximately \$5.8 billion in 2015) from its other lines of business.

Medicare Draft Regulations Would Radically Change How Physicians are Paid: In a new 962-page proposed rule, CMS advances radical alterations to the way physicians will be paid for treating Medicare patients. The regulations were proposed pursuant to the 2015 Medicare Access and CHIP Reauthorization Act, which replaced the controversial “sustainable growth rate” formula. In order to move more physician payments through so-called “value-based arrangements,” the regulations set forth a “Quality Payment Program.” Physicians will have to choose one of two paths: the “Merit-based Incentive Program” (“MIPS,” into which the majority of practitioners are expected to fall) or a qualifying “Alternate Payment Model” (“APM”). Although, based upon data from 2014, Medicare spending on inpatient services was nearly double that spent on physicians, CMS has targeted physicians to be responsible for keeping hospital expenditures down. Basically, MIPS combines parts of the Physician Quality Reporting System (“PQRS”), the Value Modifier (“VM” or “Value-based Payment Modifier”) and the Medicare Electronic Health Record (“EHR”) incentive program into one single program, theoretically based upon quality of care, resource use, clinical practice improvement and meaningful use of certified EHR technology. Based upon a composite performance score in each of these four categories, physicians will receive either a positive, or a negative, adjustment in compensation. Negative adjustments are capped at 4% in 2019, 5% in 2020, 7% in 2021 and 9% in 2022 and beyond, while positive adjustments must be paid out in an amount equal to the total negative payment adjustments among all providers, and can reach up to three times the amount of negative adjustments. To participate in an APM requires a physician to be in a qualifying program (one of which is the Accountable Care Organization (“ACO”)), which may have the effect of steering doctors into large group practices or into employment by hospitals.

Discipline Imposed in New Jersey Affects a Physician’s Status in New York: In a recent decision of the New York State Supreme Court, Albany County, *Mehta v. Rosen* (April, 20, 2016), a finding of professional misconduct against a physician in New Jersey led to adverse collateral consequences to the physician’s status in New York. In 2004, the physician sued a health insurer in NJ for payment of disputed claims and the insurer counterclaimed for fraud. The court granted summary judgment in the insurer’s favor on its fraud claim and the parties then settled the lawsuit. Subsequently, the New Jersey State Board of Medical Examiners (“NJSBME”) charged the physician with professional misconduct on the basis of the fraud judgment. After a hearing the Administrative Law Judge (“ALJ”) concluded that two violations were proven, but that no sanctions were warranted. The NJSBME rejected the ALJ’s determination and imposed suspension to be served as “probation” and a \$10,000 penalty. Pursuant to New York Education Law §6530, a finding of professional misconduct in another state may lead to charges against a physician in NY, and the New York State Office of Professional Medical Conduct (“OPMC”) initiated its own action against the physician on the basis of the adverse finding in NJ. The physician entered into a consent agreement with OPMC, to be subject to censure and reprimand and pay a \$3,000 fine. Several months later the Office of the Medicaid Inspector General (OMIG) notified her of her exclusion from the Medicaid program. The physician then commenced an Article 78 proceeding in Supreme Court, contending OMIG had exceeded its lawful authority and had no rational basis to exclude her from the Medicaid program as she had not participated in the program in NY, or treated Medicaid patients there, for over 15 years. Nevertheless, Medicaid exclusion has serious adverse collateral consequences to a physician’s practice, including exclusion from other health care programs. Despite this argument, the court held that OMIG had a rational basis to exclude her from the Medicaid program. Citing the NYS Court of Appeals decision in *Koch v. Sheehan*, the Court in Albany stated that the physician...“and her attorney should have considered all ramifications of entering into a Consent Agreement,” and that “concern over whether she would face possible exclusion from the Medicaid list, should have been brought up during negotiations with OPMC.”

For more information on the above items, contact Kern Augustine Conroy & Schoppmann, P.C. at 1-800-445-0954 or via email at info@DrLaw.com.



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LOOKING FOR SKILLED EMPLOYEES FOR YOUR PRACTICE? START WITH 'JOBS WAITING,' YOUR CONNECTION TO TRAINED, READY-TO-WORK TALENT!



Recruiting and retaining qualified staff is critical to the success of healthcare and medical practices.

Finding top talent can be a challenge, but there's a new, no-cost tool to support your recruiting efforts. It's 'Jobs Waiting,' a federally-funded job training program that provides a vetted pipeline of qualified candidates to fill positions in your organization.

The key word here is "vetted." All of the participants in this program have been retrained in skills that are critical in today's marketplace. Many of these people are highly educated and have interesting backgrounds, but for one reason or other, had been unemployed for a while. They qualified for

retraining for new careers high-demand jobs including registered nurses, clinician assistants, medical technicians, certified medical billers and coding clerks, customer service representatives, and more. Jobs Waiting participants attend a six-week healthcare training "boot camp," which provides specialized training and support services to prepare candidates for work in the healthcare sector.

In case you wonder how that's working out: many healthcare employers are already reaping the benefits of this terrific workforce re-training program.

"We've been thrilled with our new hires from the Jobs Waiting program because they are professional and reliable," says Eric Saidel, director of human resources at ENT and Allergy Associates, a large medical practice with 43 locations. He has already hired eight graduates from the program. "Because they've gone through this intensive program, they've proven themselves to be committed. The training and coaching are a real benefit to employers."

Employer support

Led by Westchester County, in partnership with the Westchester-Putnam Workforce Development Board, and managed by the Westchester County Association, Jobs Waiting includes a team of professionals who will work with you identify the skills and qualifications needed for your open positions, and provide you with access to an online database of candidates' resumes. Employers who sign up to work with the program are able to post open positions to the program's jobs database, shared with the region's most qualified candidates.

(Continued on page 11)

LOOKING FOR SKILLED EMPLOYEES FOR YOUR PRACTICE? START WITH 'JOBS WAITING,' YOUR CONNECTION TO TRAINED, READY-TO-WORK TALENT!

(Continued from page 10)

"The Jobs Waiting program fills an important need for an industry desperate for talent," says Amy Allen, vice president of the Westchester County Association. "Many of the program participants are highly educated and have enjoyed long careers, but because they had been out of work for over six months, they needed retraining and a confidence boost. This program accomplishes that and more. It's a great, great resource for employers."

Participating employers may apply for funding to pay for up to 50 percent of the boot camp graduate prospective employee's salary for up to six months, allowing employers to train the employee at a reduced cost.

Motivated, mature candidates

Tina Master, a Bedford resident, is one example of how well the program works. One of 86 participants who have graduated from the boot camps so far, she landed a job almost immediately as an information technology assistant at Cabrini Eldercare.

She had more than a decade of experience in engineering and technology jobs, an undergraduate degree in engineering and two master's degrees – in finance and library science. But she'd lost confidence in her ability to find full-time work after three years of working part-time and in consulting roles while staying home with her children.

"I hadn't thought about a career in healthcare, but I knew my skills could be a perfect fit," says Master, explaining her decision to apply for the free program. "The Jobs Waiting program gave me my self-worth back, helped me perfect my 'elevator pitch,' and taught me how to prepare for a job interview. Most importantly, I had the chance to meet employers who were looking for candidates – one of whom ended up hiring me."

Employers in Westchester who are involved with the program include Cabrini of Westchester, Children's & Women's Physicians of Westchester, Community Home Healthcare, Dominican Sisters Family Health Services, ENT and Allergy Associates LLP, New York Presbyterian Hudson Valley Hospital, Northern Westchester Hospital, Phelps Memorial Hospital, PracticeMax, Visiting Nurse Association Of Hudson Valley, Westchester Medical Center Health, WESTMED, White Plains Hospital, and more.

Want to recruit employees from the program? Visit JobsWaiting.com or call 914.948.4144.



BEING HIPAA COMPLIANT IS PART OF HOW PHYSICIANS GET PAID

On April 27, CMS came out with a proposed rule on how physicians will get paid under MACRA (the Medicare Access and CHIP Reauthorization Act). If you want to read the whole 962 page snoozefest, you can find it [here \(PDF\)](#). But sleep or not, this regulation changes the fundamental Fee-For-Service (FFS) system that CMS has used since Medicare's enactment in 1966. The new system is premised on tying physician payments to quality and value, and is directly related to the [Triple Aim](#) of providing better care, lower costs, and improved health.

Open for comments

Like all proposed rules, there is a 60 day comment period, and we fully expect an army of criticism from lobbyists, vendors and a whole host of other interested parties. Based on the comments, a final rule will be published, most probably in the fall. The final rule will be imperfect and controversial. It will be despised by many. But don't expect MACRA to be repealed. According to [Anne Phelps](#) of Deloitte & Touche,

MACRA is the rare health care law that was passed with overwhelming bipartisan support and continues to enjoy strong support from Republicans and Democrats in Congress. This all but ensures its continued implementation, regardless of the outcome of the November elections”.

Who can blame Congress, with health care costs spiraling out of control, something has to be done. So once it comes out, all affected parties should remember the saying “if you can't beat'em, join'em”.

HIPAA is not optional in MACRA

We are not here to give you the complete low-down on MACRA. There are lots of other resources for that. However, we do want to emphasize one very important point: **the role of HIPAA compliance**. As indicated above, MACRA changes the way physicians will be paid. No longer will they be paid for just providing services (FFS). Rather, there is a very complicated formula called the MIPS Composite Performance Score (CPS) that will be used to determine adjustments to a physician's Medicare payment. These adjustments can be as high as +-9% by 2022 (By the way, in order to amplify the effect of MACRA, [CMS is explicitly encouraging private payers \(PDF\)](#) to implement similar programs). In order to receive a substantial portion of the MIPS CPS and maximize revenue opportunity, each provider will have to have performed a HIPAA Security Risk Analysis (SRA) within their practice. It is important to understand that since the SRA is for the practice, it can be used for all physicians within the practice. Here is a quote from the MACRA Rule:

“We would require the MIPS eligible clinician to meet the requirement to protect patient health information created or maintained by certified EHR technology to earn any score within the advancing care information performance category; failure to do so would result in a base score of zero, a performance score of zero, and an advancing care information performance category score of zero.”

BEING HIPAA COMPLIANT IS PART OF HOW PHYSICIANS GET PAID

(Continued from page 12)

Furthermore, the document also states

“As privacy and security is of **paramount** importance and applicable across all objectives, the Protect Patient Health Information objective and measure would be an **overarching** requirement for the base score”.

Maximize payments

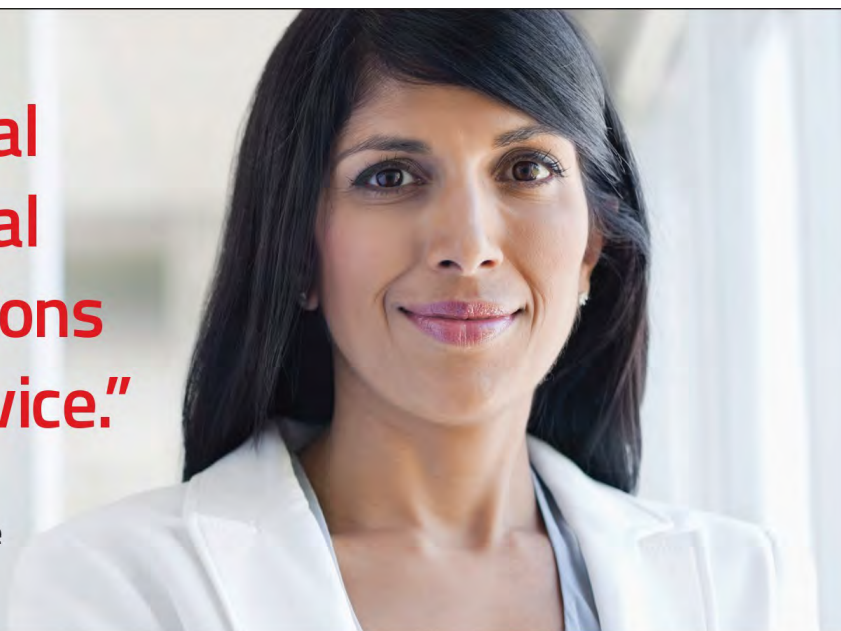
Clearly there is some MACRA/MIPS specific language in those quotes. Don't get hung up on these terms. What is important is the role of HIPAA compliance: **perform a HIPAA Security Risk Analysis and you are in position to maximize your MIPS CPS and your revenue. Don't perform the Risk Analysis, and be prepared to take a hit on your payments.**

This article was written by Jonathan Krasner, Director of Business Development at HIPAA Secure Now!



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7th Annual Westchester Academy of Medicine Golf Outing and Fundraiser

Thursday, October 6, 2016

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