



WESTCHESTER PHYSICIAN

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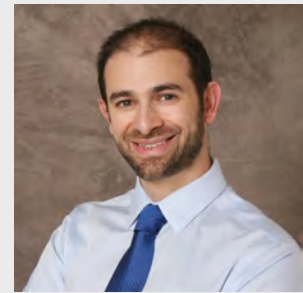


HOW I GOT MY START AT WCMS

PETER ACKER, MD—IMMEDIATE PAST PRESIDENT

I recently participated in this year’s House of Delegates meeting. It was my first time serving as a delegate and it was quite an experience. It was a good feeling to be in a large space with some 300 of my colleagues as we patiently slogged through a long list of resolutions. I was very impressed by the erudition of the various speakers as they addressed important MSSNY policy issues. It was interesting to hear the different perspectives from a variety of specialties and geographic locations. As I sat there, I couldn’t help but reflect upon my long career as a physician and how satisfying it was and is. At some point a delegate at the mic mentioned that she had graduated from medical school in 1982 and everyone applauded noting that this was her 40th year as a physician. I thought, OMG, I graduated that year. I had overlooked that anniversary. I also got married that year so at least I did not forget that one!

When it was over, I was still in a reflective mood when I got home and took the opportunity to go through some boxes of papers and mementos of my long career and I stumbled on something that caused me to remember how I first got involved in writing my monthly for the Westchester Physician. In the late 90’s I was in a small private practice in Rye Brook and next door was the office of Dr. Andrew Bronin, a dermatologist. It was my habit to take a refreshing walk at lunchtime, often accompanied by my longtime partner, Dr. Norman Berkowitz. We were walking by Dr. Bronin’s office and he saw us and we stopped in for a quick visit. He decided to take a picture of Dr. Berkowitz and myself. The next day he sent us a copy photo accompanied by a hilarious faux ad for a miracle hair growth discovery! I wasn’t about to take this sitting down (us bald guys are sensitive!) so I wrote satirical faux newspaper article which I sent back to him (both are reprinted in these pages). As it turned out, Dr. Bronin was the editor of the Westchester Physician at the time and after reading my piece invited me to write something for it. It had never occurred to me to do so, but I knew that I did like to write so I took him up on the offer. I found myself increasingly enjoying writing these columns that allowed me to reflect and comment on the myriad experiences and issues that occupy our lives as physicians. After a while, I decided to kick it up a notch and attended some writing workshops. That led me to enrolling in Manhattanville’s MFA program in writing which I completed over six years, during which I wrote a medical thriller (Blood Brain Barrier). So there it is, how I got involved in the medical society, just in case you wanted to know!



JEFFREY JACOBSON, MD
President, WCMS

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WCMS/WAM
ANNUAL MEETING
Wednesday, June 29
Westchester Country Club
Rye, NY

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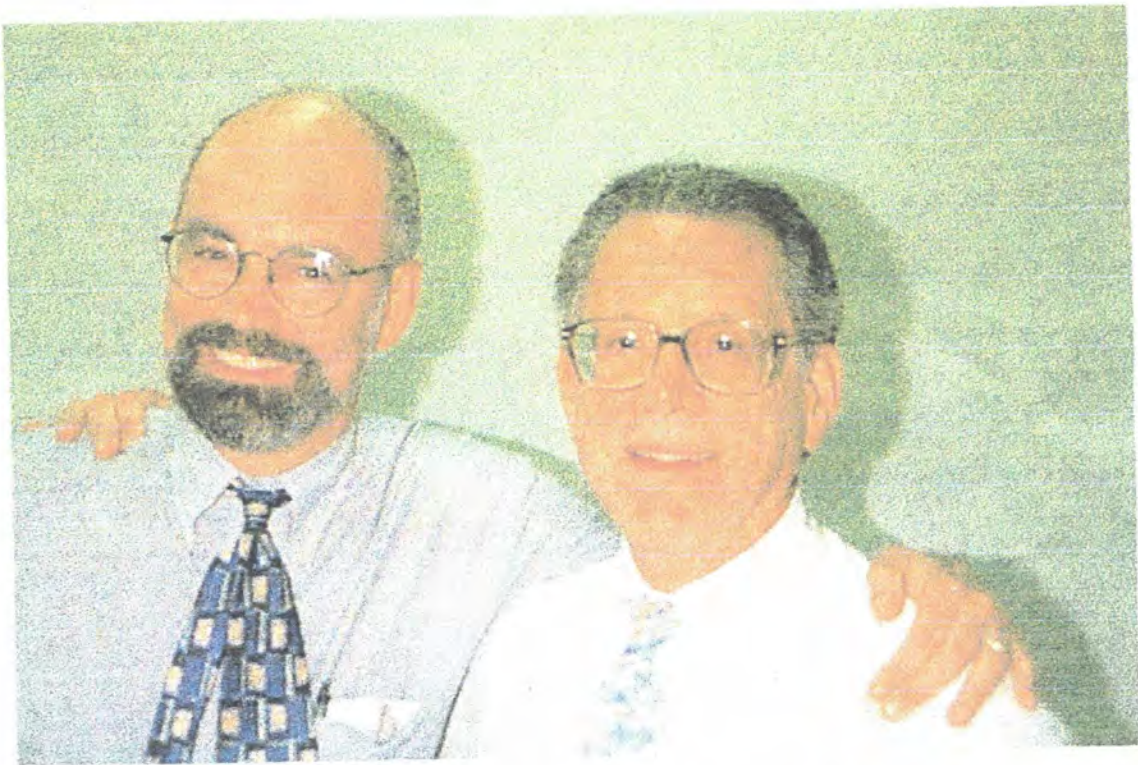
FROM THE EDITOR...**HOW I GOT MY START AT WCMS
PETER ACKER, MD**

**** FOR IMMEDIATE RELEASE****

BRONIN BALM BOMBS

6-26- 97 - Rye Brook, NY. Two prominent pediatricians were horrified to find that some 18 hours after applying Bronin Balm that they had begun to grow feathers. While initially pleased with some immediate hair growth, their smiles quickly turned into expressions of abject despair when they noticed first a downy fuzz and then frank feathers. Contacted early this morning at his home, Dr. Peter Acker, told his tale of woe as he pecked at his breakfast in a desultory, miserable fashion. "How could he do this?" Dr. Acker crowed. The only happy person was Dr. Acker's wife Gila who thought his new appearance was an improvement. This whole situation has already caught the attention of FDA officials and they are very desirous of an interview with Dr. Bronin. "This is not the first flap that Dr. Bronin has been involved in . He really laid an egg this time" said Dr. Jack Mortimer of the FDA. Dr. Bronin when reached by phone, simply clucked gleefully and hung up. He was last seen boarding a plane for Brazil.

NEW HAIR-GROWTH DISCOVERY
Rye Dermatologist's Revolutionary Discovery
Grows Hair on Two Pediatricians



Pictured above (L to R): Dr. Peter Acker and Dr. Norman Berkowitz, grateful users of the miraculous *Bronin Balm*, smile with happiness over the results achieved after a mere 15 minutes of application of this revolutionary new product. Dr. Berkowitz had previously been totally bald, and Dr. Acker's face had been, until moments before, smooth as a baby's behind.

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Call today: 800-DRBRONIN for your jar of Bronin Balm

Altfest Launches YouTube Channel “Wealth Matters for Physicians”

Altfest Personal Wealth Management, selected 14 times as one of *Barron's* **Top 100 Financial Advisors**, is pleased to announce the launch of its financial wellness YouTube channel dedicated to empowering physicians to optimize their financial lives.



Wealth Matters for Physicians features timely and actionable investment and other planning videos. Short in length, the videos provide information quickly and spark discussion points for physicians to have with their families, their advisors, and, if desired, with an Altfest advisor on a complimentary basis. The topics will cover the full spectrum of investment and personal financial planning subjects - including which investment areas are appealing, tax reduction strategies, business succession and retirement planning, estate planning, student debt management, and many more.

The channel complements Altfest’s series of webinars and in-person events for physicians. It can be found at www.altfest.com/physicians or by typing “Wealth Matters for Physicians” on YouTube.

“We are thrilled to launch ***Wealth Matters for Physicians***,” said Andrew Altfest, CFP®, MBA, President of the New York-based firm. “Altfest has served doctors since 1983 as well as having partnered with healthcare associations for over 10 years. This work has given us strong insights into ways to help associations and their physician members.”

If you are a physician and would like to learn about ***Wealth Matters for Physicians***, please contact Jesse Frehling at 212.796.8732 or jfrehling@altfest.com.

If you are an association and would like to learn about ***Wealth Matters for Physicians*** and how Altfest may help you better serve your members, contact Rob Lamb at 212.796.8703 or rlamb@altfest.com.

About Altfest

Since 1983, Altfest Personal Wealth Management has helped physicians optimize their personal financial lives in an objective, no-commissions manner while serving as a fiduciary to always put their best interests first. The firm has been recognized for excellence in wealth management by *Barron's*, *Medical Economics*, *Forbes*, and *Financial Times* among others.

Altfest is the preferred wealth manager for members of the Medical Society of the State of New York, and the preferred wealth management education provider for members of the Westchester County Medical Society, the New York Chapter of the American College of Surgeons, and the New York State Society of Orthopedic Surgeons.

THE MEDICAL SOCIETY OF THE COUNTY OF WESTCHESTER
 AND
THE WESTCHESTER ACADEMY OF MEDICINE
CORDIALLY INVITES YOU TO ATTEND OUR



ANNUAL MEETING AND PROGRAM
WEDNESDAY, JUNE 29, 2022

WESTCHESTER COUNTRY CLUB
 99 BILTMORE AVENUE
 RYE, NY 10580

6:00 - 7:00 P.M.

NETWORKING RECEPTION

7:00 P.M.

BUFFET DINNER

INSTALLATION OF 2022-2023 MEDICAL SOCIETY & ACADEMY OFFICERS

REMARKS OF JEFFREY JACOBSON, MD
OUTGOING WCMS PRESIDENT

REMARKS OF BRUCE MOLINELLI, MD
INCOMING WCMS PRESIDENT

JOHN LOMBARDO, MD, FACS, CHIEF MEDICAL OFFICER
MLMIC
"FRIEND OF THE SOCIETY" AWARDEE

SHERLITA AMLER, MD, COMMISSIONER OF HEALTH
WESTCHESTER COUNTY DEPARTMENT OF HEALTH
"FRIEND OF MEDICINE" AWARDEE

NO COST FOR WCMS MEMBERS & SPOUSE OR GUEST; ADDITIONAL GUESTS OF MEMBERS
 \$125; NON-MEMBERS & GUESTS \$250/PER PERSON
 TABLES OF 10 - \$2000

RSVP TODAY TO JANINE MILLER, 914-967-9100, BY EMAIL TO [JMILLER@WCMS.ORG](mailto:jmiller@wcms.org)
 CHECKS SHOULD BE MADE PAYABLE TO THE WESTCHESTER COUNTY MEDICAL SOCIETY.

STOP THE TRAIN Elliot Barsh, MD

Hi everyone.

Mother's day was celebrated on May 8th this year.

Can one day truly hold the feelings we have for our mothers?

Motherhood is a celebration of everyday life.

It is a mix of boring and lonely, smelly and messy, along with awe and wonder.

It is a giving of life, a consuming dedication to another, and an acceptance that one day you will say goodbye.

There is nothing more daunting, thrilling, or important than being a mom!

Happy Mother's Day.

Be safe.

"As a mother there is a loss of personal space, of modesty, of identity."

The Conflict Zone of Motherhood

Why is the remote more valuable to a photographer than the world right around them?

"You'll get your self back, but it will be a deeper self, a different self. It changes. It's so much richer, and it's new."

A Mother's Fragmented Identity

My partial selves — writer, runner, mother — have become like islands I travel between and my life is the ocean around them, unknowable.

"...what a loaded holiday this can be. It's terrible for those who mourn a mother now gone, and also for those whose mothers were just not equipped to nurture a child. It's terrible for women who desperately wanted to be mothers but couldn't be, and also for women who didn't want to be mothers but are too often vilified for that perfectly reasonable choice. It's beyond terrible for women who have lost a child.

Mother's Day Can Be Painful. It Can Also Reconnect Us to the World.

Mother's Day is a time for contemplating the ways we're connected, through joy and sorrow, across time and across species.

"There is a grief that strangles and a grief that holds....this grief is so much sweeter. Because I get to keep her. I get to miss her."

I Cherish My Grief for the Mother I Never Ex-

pected to Have

There is grief that strangles you and grief that holds you.

"By reframing motherhood as a privilege, we redirect agency back to the mother, empowering her, celebrating her autonomy..."

Motherhood Isn't Sacrifice, It's Selfishness

When we talk about being a mom as a job or a duty we rob women of their power.

Messenger by Mary Oliver

My work is loving the world.

Here the sunflowers, there the hummingbird—equal seekers of sweetness.

Here the quickening yeast; there the blue plums.

Here the clam deep in the speckled sand.

Are my boots old? Is my coat torn?

Am I no longer young, and still half-perfect? Let me keep my mind on what matters, which is my work,

which is mostly standing still and learning to be astonished.

The phoebe, the delphinium.

The sheep in the pasture, and the pasture.

Which is mostly rejoicing, since all the ingredients are here,

which is gratitude, to be given a mind and a heart and these body-clothes,

a mouth with which to give shouts of joy to the moth and the wren, to the sleepy dug-up clam, telling them all, over and over, how it is that we live forever.



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The Medical Society of
the State of New York


Feeling Stress? Let's Talk



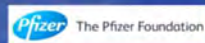
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WCMS Cinco de Mayo Networking Event Recap



On Thursday, May 5, 2022 WCMS along with several of our business partners, hosted a Cinco de Mayo networking event for members and non-members who are interested in learning more about the Westchester County Medical Society. We were joined by 60 guests at the Brazen Fox in White Plains for an evening of networking with colleagues. We saw many new faces, and some familiar ones, and a great time was had by all who attended. Thank you to our Young Physician Committee Chair, Dr. Kham Ali and our Communications and Public Relations Committee Chair Dr. Anaïs Carniciu for helping to plan, facilitate and get the word out about this wonderful event. We plan to host more of these in the future and encourage any new members, along with anyone who might be interested in WCMS and getting to know folks from the physician community in Westchester to attend. Thank you to our sponsors, without you these events would not be possible: Centerlight; Data-matrix Medical; Wells Fargo—The Voyage Group; Charles J. Sellers & Co., Inc.; Acadia Professional, LLC. Thank you to everyone who attended the event and made it a true success. We hope to see you all again at future events.



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Westchester County Medical Society

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MARCH 18, 2022

Medical Malpractice Insurance Coverage in New York

BY: KENNETH R. LARYWON, ESQ. AND THOMAS A. MOBILIA, ESQ.

With ever-increasing pain and suffering awards, unsuccessful legislative attempts to establish caps on damages through tort reform, and expanded statute of limitations, such as Lavern's Law concerning failure to diagnose cancer claims, New York healthcare providers, practices and hospitals, often question what they can do to protect themselves in the event of a medical malpractice judgment. While the importance of insurance is obvious, practitioners should be appropriately informed as to their medical professional liability coverage, available limits of coverage, insurance coverage maintained by potential co-defendants, and the priority as between them.

OCCURRENCE, CLAIMS-MADE AND TAIL COVERAGES

Occurrence and Claims-Made coverage are the two basic types of medical malpractice insurance policies. An Occurrence policy covers a physician for any incident that "occurs" during the policy period regardless of when the malpractice claim is filed. Accordingly, it will continue to provide coverage even after a policy ends. A Claims-Made policy, however, will only provide coverage if both the alleged malpractice took place and the claim is filed during the policy period. Given that a lawsuit may be initiated years after an incident occurred, a Claims-Made policyholder must obtain extended reporting or "Tail" coverage if, for example, the practitioner changes from a Claims-Made to an Occurrence policy, or the practitioner retires, thereby ensuring continued malpractice coverage for incidents that may have occurred years earlier. Another consideration with Claims-Made coverage is to ensure that the retroactive date remains the first Claims-Made policy effective date. This will mean that as long as the Claims-Made policy is renewed with the same

retroactive date, the new policy will cover claims reported during that policy period.

WHO WRITES PROFESSIONAL LIABILITY COVERAGE IN NY?

There are a number of insurance companies writing medical professional liability insurance in New York. Some companies are licensed and regulated by the State of New York, and are thereby required to follow NY insurance laws and regulations. Others write coverage as registered Risk Retention Groups (RRGs) or as excess and surplus insurance carriers, and are not subject to all of the State's laws and regulations. It is highly advisable to be aware of the differences between insurance companies, as well as the coverage they offer, before making a choice.

LIABILITY LIMITS IN NEW YORK

The most common medical malpractice coverage in New York is a primary policy with limits of \$1.3 million per occurrence/\$3.9 million in the aggregate for a 1-year policy period. Physicians must consider several factors in deciding whether the limits of liability

coverage adequately protects their personal assets from a judgment in favor of plaintiffs, including the incidence of lawsuits associated with their specialty and potential sustainable verdict values for a plaintiff's non-economic (pain and suffering) and economic (e.g., loss of income) damages.

HOSPITAL PRIVILEGES

Another significant consideration with regard to coverage limits involves hospital privileges. Hospitals in New York routinely have bylaws requiring attending physicians to carry certain limits of coverage as a prerequisite to granting privileges. In addition to \$1.3 million/\$3.9 million primary insurance, a hospital may require the physician to maintain an additional layer of \$1 million/\$3 million in excess coverage. The decision to require primary limits versus primary plus excess and/or entity coverage will substantially alter the amount of coverage a hospital has in front of it in the event of a lawsuit against the hospital arising from alleged malpractice by an attending physician. A physician should also explore what types of policies the hospital will

Medical Malpractice Insurance Coverage in New York

CONTINUED FROM PREVIOUS PAGE

accept in the credentialing process prior to purchasing coverage.

IMPACT OF ALAE ON POLICY LIMITS

Hospitals and physicians should be aware that some policies issued by excess/surplus insurers include allocated loss adjustment expense (ALAE) within the policy limit. ALAE is the cost of settlement and defense, most notably defense costs, but also including expert witness fees, court costs, claims and investigation costs. Given the substantial defense costs in medical malpractice litigation, policyholders should be informed regarding whether ALAE costs will reduce their available primary limit.

DEDUCTIBLES AND RESPONSIBILITY FOR PAYMENT

Excess and surplus policies may also contain a deductible that is to be reimbursed by the policyholder. Typically, this involves the hospital or insurance carrier paying the judgment or settlement, then seeking reimbursement from the insured practitioner for the deductible amount. Under these circumstances, hospitals or practices should consider whether there is any credit risk created by a deductible or other risk sharing device in the policy.

SHARED VERSUS SEPARATE POLICY LIMITS

Insurance policies issued to practice groups and hospitals may have shared limits or separate limits. While physicians often have separate limits, there are also times when hospitals or groups may share limits with employed physicians and other practitioners. With shared limits, it is important to know both the policy limits for each practitioner and the aggregate or total shared limit. Is the aggregate sufficient to cover the number of practitioners insured under the policy? While a Certificate

of Insurance (COI) may appear to cover each physician with separate limits of \$1.3 million/\$3.9 million, this amount of coverage may not actually be available to each physician if the total aggregate is less than \$1.3 million times the number of insured practitioners. Therefore, best practice includes review of the COI and confirmation of the coverage provided for each practitioner.

IS EXCESS COVERAGE AVAILABLE?

For eligible physicians, New York State has a program which is often referred to as "Section 18" or "free" excess coverage above their primary coverage. If the eligibility requirements of the Section 18 program are met, and slots are available, its excess coverage provides an additional \$1 million/\$3 million above qualified primary coverage at no cost to the physician. In order to be eligible, the physician must maintain primary policy limits of \$1.3 million/\$3.9 million with a NYS licensed insurance carrier, have a current affiliation with a NYS acute care hospital and complete the required risk management course every two years. Another consideration for hospitals and physicians is that physicians covered with shared limits are not eligible for the free Section 18 excess coverage. Because Section 18 excess coverage is only available when primary coverage is through a NYS licensed carrier, a physician with primary RRG insurance should consider purchasing additional excess coverage. A physician should explore this issue prior to purchasing coverage.

CONTRACTUAL INDEMNIFICATION

Agreements between practitioners, groups or hospitals may provide for contractual indemnification, specific minimum coverage requirements, shared or separate limits, other insur-

ance, priority of coverage, named insured or additional insureds. Hospitals and practice groups often have these types of agreements for coverage of hospital specialty areas, including, most commonly, emergency medicine and radiology. These contracts and their effect on liability and limits should be considered in assessing the overall sufficiency of coverage.

PROFESSIONAL ENTITY COVERAGE

Practice groups may also have separate entity coverage providing an additional layer of insurance if the practice or its employee is named as a defendant.

CONCLUSION

In light of the foregoing considerations, healthcare providers, practices and hospitals can better protect themselves by being informed regarding the insurance coverage they have, additional coverage that is potentially available, and the coverage of those practicing around them. ■



Kenneth R. Larywon is a Senior Trial Partner at Martin Clearwater & Bell LLP, where he defends physicians, hospitals, and other medical personnel in myriad health care law cases, as well as professional liability and staff credentialing matters.



Thomas A. Mobilia is a Senior Trial Partner at Martin Clearwater & Bell LLP, where he defends teaching hospitals, medical practices and individual physicians in high exposure medical malpractice lawsuits. He also heads the Firm's COVID-19 litigation group.

1. Section 18 coverage is not available to new participants unless previously qualified physicians fail to reapply for the coverage. Physicians seeking Section 18 coverage for the first time are placed on a waiting list until an opening is available; however, a physician can purchase coverage from his or her admitted carrier during the waiting period. If a physician is accepted into the Section 18 program during the same policy year, the premium paid for the additional coverage will be reimbursed by the carrier.



MSSNY Podcasts

MSSNY

The Medical Society of the State of New York has created a number of podcasts on topics that are timely and relevant. In addition to weekly MSSNY Updates from the Division of Governmental Affairs, there are myriad timely and relevant podcasts on COVID-19 (both for physicians and patients) as well as a number of others on veterans, adult immunizations and emergency preparedness.

- | | |
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MSSNY Announces two NEW Podcasts on COVID-19

★ A Discussion on COVID Vaccine for Patients ★

MSSNY President, Dr. Bonnie Litvack, President-elect, Dr. Joseph Sellers and Dr. William Valenti, Chair of MSSNY’s Committee on Infectious Diseases discuss vaccines currently available for COVID-19 and answer many questions patients may have about the vaccines.

★ How to Talk to Patients About Vaccine Hesitancy ★

Dr. William Valenti, Chair of MSSNY’s Committee on Infectious Diseases discusses the history of vaccine hesitancy and offers sage advice to listeners on talking to vaccine hesitant patients.

★★The additions of these podcasts marks 100 podcasts published on the MSSNY Podcast website!★★



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