

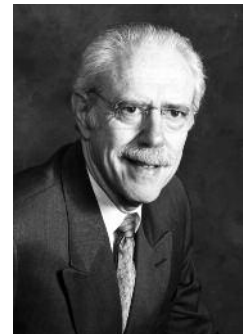


President's Message

"Get Ready for Electronic Decision Aids for Informed Consent"

By Abe Levy, MD

Just when you thought that healthcare has sustained all of the change it possibly can, we are now seeing the deployment of electronic Decision Aids for patients by physicians and hospitals. The not-for-profit Informed Medical Decisions Foundation (IMDF) <http://informedmedicaldecisions.org/> offers paper or electronic modules for patients to review a range of options for the treatment of knee osteoarthritis, prostate cancer, breast cancer, etc.



Another approach is to focus on Informed Consent for specific procedures in the traditional way with electronic modules focused on each procedure. EMMI Solutions <http://www.emmisolutions.com/AboutUs> is a company offering electronic web-based modules focused either on Informed Consent for procedures or patient education regarding many diseases.

These electronic modules take 15 to 50 minutes to view, and both companies report a greater than 75% rate of patients completing their modules. EMMI uses interactive steps to engage and document the patient's understanding and informed consent. IMDF uses a post-viewing analysis.

While hospitals and large groups will lead the way with these electronic Decision Aids, it is likely that they will become pervasive in the next few years. ♦

RSVP Today!

WCMS

Annual Meeting and Program

Friday, June 22

Westchester Country Club

6:00pm - 9:00pm

(Please see Page 8)

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The Westchester Physician

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Upcoming Events

Mark Your Calendar

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

Monday, May 28th
Memorial Day - Office Closed

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

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

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

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
June 2012 issue is May 20th.**

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

FROM THE EDITOR

Trip to India - Part Two

By Peter Acker, MD



In my March column I wrote about my trip to India. I would now like to focus more specifically on what I learned about India's healthcare system. First off, a few introductory words about India: it is a huge, sprawling country that encompasses a growing population which is expected to surpass that of China by 2030. It has an economy that is growing by leaps and bounds. Unlike China, it is a democracy. It is a country of enormous contrasts: opulence of an unbelievable degree exists right next to slums of abject poverty. The challenges facing the country, I think it is fair to say, dwarfs anything we are facing in the USA – to wit, infrastructure underdevelopment, lack of sanitation, and malnutrition just to name a few. Diseases such as tuberculosis, HIV, malaria and dengue exact a huge toll, especially upon the large rural population. In addition, ironically for a country that battles malnutrition, it is also facing a burgeoning epidemic of Type 2 diabetes, a consequence of a genetic predisposition combined with the increasing adoption of Western style eating habits.

The whole panorama of India's challenges is evident during even a very short trip through Delhi. Traffic is a constant snarl and the cacophony of horns is deafening as drivers attempt to wend their way through the chaos without colliding with one another. A ubiquitous sight is men urinating at the side of the road. Traveling from city to city takes easily twice as long as a similar distance in the US. Instead of overpasses, there are speed bumps – so every ten miles or so everyone slows down to 3 mph. The roadsides are populated with camels, elephants, peacocks and even monkeys.

Our group had the opportunity to visit six hospitals, two each in Delhi, Jaipur and Agra. India has a two tier system: private and public and we sampled one of each in the three cities. The private hospitals are generally run by large healthcare conglomerates that each own many hospitals. The facilities are top of the line: every possible technological advance is available and they have robust programs in transplantation, joint replacement and advance cancer treatment modalities. India, by virtue of their huge population, has a tremendous pool of human capital to draw on. In the last ten years or so, there have been advances in educational opportunities, particularly in high technology, and the sciences including medicine. Reversing a trend of many years, many Indian physicians have opted to complete their training in India and remain rather than pursue opportunities in the United States.

The public hospitals, on the other hand, are more utilitarian and simple in the services they provide. The hospital beds are crammed into large open rooms. A neonatal unit I visited was wall to wall preemies. Yet I detected a real spirit de corps and dedication among the physician and non physician staff. I also got the impression that the Indian government is increasingly active in pursuing a broad preventative medicine strategy. One physician connected with the polio immunization program spoke with pride that so far in 2012, there had been no new cases of polio. The public hospitals are mandated to provide care for all comers, which is important since only about 5% of the population has health insurance. At the private hospitals, fee for service rules the day and therefore close to 80 % of the health care dollar goes there. Yet despite this, it is far cheaper than the United States both as a percentage of gross national product as well as in absolute dollars. For example, the total cost for a hip replacement is about a tenth of what it is in the United States. As a consequence, medical tourism has become a huge industry.

All in all, it was a fascinating experience to view another health care system up close. I'm already thinking seriously about another trip, this time to Mumbai and Southern environs of India. We can all learn from each other.



Commissioner's Corner

Dear Colleagues,

As you see your pediatric patients for their annual exams in this busy season of school, camp and summer job preparations, I urge you to review their vaccine records to determine whether they are fully immunized for Meningitis, Pertussis, and HPV and to also take this opportunity to remind them and their parents to receive their annual flu vaccine.



Your recommendations continue to carry weight, and we encourage you to take every opportunity to emphasize the importance of protecting your pediatric patients against vaccine-preventable disease. Over the past two years, Westchester had two pediatric flu deaths and a serious case of meningococcal disease, both in previously healthy young people who had not been vaccinated.

While cases of meningococcal disease are rare, the disease can be devastating. The recommendations for meningococcal vaccination were updated last fall by the CDC and the vaccine is recommended for all children, starting at age 11 or 12.

Two doses of MCV4 are recommended for adolescents 11 through 18 years of age: the first dose at 11 or 12 years of age, with a booster dose at age 16. If the first dose (or series) is given after the 16th birthday a booster dose is not needed, as long as they have no risk factors. All people who remain at highest risk for meningococcal infection should receive additional booster doses. More information is available on these fact sheets from the NYS Department of Health and from the CDC:

http://www.health.ny.gov/diseases/communicable/meningococcal/fact_sheet.htm

<http://www.cdc.gov/vaccines/pubs/vis/downloads/vis-mening.pdf>

I also urge you to review your patients' charts to determine whether they have completed the series of Pertussis immunizations. Pertussis should be considered in patients with persistent coughing and proper testing should be done. Several schools in our area have had cases of Pertussis that spread among high school students who were vaccinated, but who had waning immunity. For more on Pertussis control, labs and vaccine:

<http://health.westchestergov.com/physicians>

<http://www.cdc.gov/mmwr/preview/mmwrhtml/00041801.htm>

In addition, it is also important to remind parents and grandparents to be up-to-date with their own Tdap vaccinations and where they can get Tdap. They can be carriers who can pass this on to infants who have not been fully immunized. ACIP now recommends use of Tdap in older children to seniors, and especially for all health care personnel, pregnant women preferably after the 20th week of gestation, post-partum women who did not receive Tdap during pregnancy and adults 65 years of age and older with close contact to infants. By being vaccinated, close contacts of infants create a protective "cocoon" for newborns and infants who either cannot yet be vaccinated or have not completed their initial vaccine series. Studies have indicated that 75%-83% of infant pertussis cases with a known source exposure were caused by an infected household member. Parents and siblings are the most common source, with 55% of cases in infants linked to an infected parent.

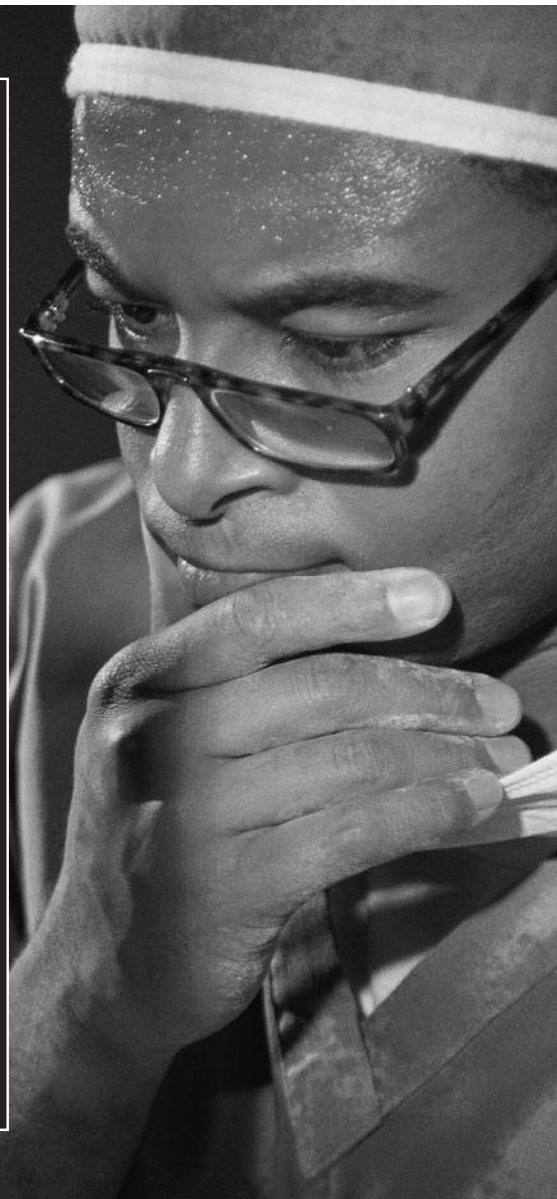
This flu season, there has been lower than usual flu activity. However, flu has been known to peak in the spring as late as March or April and most flu vaccines do not expire until the end of June. The two pediatric flu deaths over the past two years in Westchester occurred in children without known health conditions who were not vaccinated and one of these deaths occurred during the spring. So it is important to continue to vaccinate your patients against flu until the flu vaccine you have has expired.

(continued on page 5)

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MSSNY Highlights of the 206th House of Delegates

- MSSNY should have Governor Cuomo appoint a Task Force on Medical Liability Insurance Reform.
- MSSNY should support the business model of a concierge physician practice and oppose any measure that would require concierge physicians to be subject to any regulations beyond those to which any other physician is subject.
- MSSNY should assure continued access to quality care for seniors through repeal of IPAB not support recertifying patients for Medicaid formulary changes.
- MSSNY should assure physicians fully understand restrictive covenants in employment contracts.
- MSSNY should urge that use of opioids follow American Academy of Medicine guidelines.
- MSSNY should urge AAMC to annually survey and publish the national incidence of medical student mistreatment.
- MSSNY should petition CMS to limit RAC reviews to less than one year of payment of claims.
- MSSNY should request CMS and NGS to perform a feasibility study to secure technology that would allow physicians to file formal Re-Determination Requests via a secure log-on function on the NGS website.
- MSSNY, in coordination with the Communication Division, should form a “Truth Squad” whose purpose is to act expeditiously in setting the record straight as it relates to any negative publicity, comments or statements which may be viewed derogatory or anti-physician.
- MSSNY should seek legislation that would expand physician protections for non-renewal of a network contract; Physicians should have the right to appeal the non-renewal decision and have right to a hearing.
- MSSNY should advocate to DOH and the legislature for physicians to have informed consent discussions with patients in regard to their dietary restrictions and medication protocols for patients in skilled nursing facilities; when patients express a judgment not to follow those protocols, they should not be ordered.
- MSSNY should seek AMA advice in crafting a response to CMS that allowed a union that established an insurance carrier to benefit from start up loans, thus depriving New Yorkers of a new issuer.
- MSSNY should support head and neck safety for Boxing/Mixed Martial Arts.

New Officers Elected and New Policies Adopted at MSSNY's 206th House of Delegates

Following are a roster of new MSSNY officers, who were elected at MSSNY's 2012 House of Delegates meeting, held April 20-22, in Saratoga Springs, NY. Highlights of some of the resolutions passed by the physician delegates from around the state who attended are on page 11. A full report on the actions taken regarding Westchester resolutions and the activities of the Westchester Delegation will be reported in the June issue.

(MSSNY's 2012-13 Officers and their home NYS counties:)

President - Robert Hughes, MD, FACS (Saratoga)

President-elect - Sam Unterricht, MD (Kings)

***Vice President* - Andrew Kleinman, MD (Westchester – Rye Brook)**

Treasurer - Charles Rothberg, MD (Suffolk)

Assistant Treasurer - Thomas Madejski, MD (Orleans)

Secretary - Malcolm D. Reid, MD (New York)

Assistant Secretary - Joseph Maldonado, Jr., MD, MBA, DipEBHC (Oneida)

Speaker - Jerome Cohen, MD, FACP (Broome)

***Vice-Speaker* - Kira Geraci-Ciardullo, MD, MPH (Westchester – Mamaroneck)**

Chair, Board of Trustees - Richard M. Peer, MD (Erie)

(continued from page 4) Commissioner's Corner

One more vaccine that should be added to your checklist for preteens and young adolescents in your practice is the HPV vaccine. HPV vaccination is now recommended for preteen girls and boys at age 11 or 12 years. According to the Centers for Disease Control & Prevention, if a teenager or young adult (age 13 through 26 years old) did not complete the HPV vaccine series when they were younger, they should ask their doctor about getting them now.

There are two different HPV vaccines (Cervarix® or Gardasil®) that can be given to girls and young women. Only one HPV vaccine—Gardasil®—can be given to boys and young men. Both Cervarix and Gardasil protects against HPV types that cause most cervical cancer and have been shown to prevent cervical cancer. Gardasil has been studied and shown to protect against cervical, anal, vaginal and vulvar cancers. Gardasil also protects against HPV types that cause most genital warts and has been shown to prevent genital warts.

Thank you for all that you do to protect your patients from vaccine-preventable diseases. I look forward to our ongoing collaborations and to hearing from you regarding any public health concerns relevant to your practice that you would like to discuss.

Wishing you and your patients a pleasant and healthy summer. ♦

Sincerely,

Sherlita Amler, M.D.

Sherlita Amler, MD

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



Cordially Invites you to Attend our

Annual Meeting and Program

Friday, June 22, 2012

Westchester Country Club

99 Biltmore Avenue

Rye, NY 10580

(914) 967-6000

6:00 - 7:00 pm

Networking Reception

7:00 pm

Buffet Dinner

Installation of 2012-2013 Medical Society/Academy Officers

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

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

Awards - WESEF Science Fair Honorees

.....
Remarks of Abe Levy, MD, Outgoing WCMS President

Recognition of Members Celebrating 50 years in Medicine

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

.....
Special Recognition:

Mary Ellen Pilkington & John Pilkington, Esq.

"Friends of Medicine" Awardees

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

Non-members and Guests \$250.00/per person

Tables of 10 - \$2000

***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 or mail to 333 Westchester Ave., Suite
LN01, White Plains, NY 10604. Checks should be made payable to the Westchester
County Medical Society.***

Name: _____ Guest(s) _____

Email: _____

Report of the Nominating Committee 2012-2013

The Nominating Committee of the Westchester County Medical Society and the Westchester Academy of Medicine met on March 13, 2012, at the Medical Society Offices and hereby nominates the following candidates for office **effective July 1, 2012:**

President-Elect

Robert G. Lerner, MD

Vice President

Louis F. McIntyre, MD

Treasurer

Robert C. Ciardullo, MD

Secretary

Howard S. Yudin, MD

President - Academy of Medicine

Joseph J. Tartaglia, MD

Delegates to the MSSNY House of Delegates

(Four for two years; term ending 2014)

Mark Fox, MD

Thomas T. Lee, MD

Stephen 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***

(Four for two years; term ending 2014)

Gino Bottino, MD

Robert G. Lerner, MD

Abe Levy, MD

Alfred Tinger, MD

Note: Per the Bylaws, the current President-elect, Thomas T. Lee, MD, automatically assumes the Office of President and the current President, Abe Levy, MD, assumes the Office of the Immediate Past President.

Elections will be conducted on June 22, 2012, at the WCMS/Academy Annual Meeting (see page 8). Additional candidates may be nominated from the floor at the Annual Meeting, provided that each nomination is supported by a petition signed by at least 100 members, as specified in the Bylaws.

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Physicians Participate in Advocacy Day and Capitol Forum

Thomas T. Lee, MD, FACS, President-elect and Chair, Legislative Committee

WCMS Physicians joined with their colleagues in Albany on March 20th to lobby for issues critical to protecting the ability of doctors to provide quality care and the rights of patients to access this care.

MSSNY's Annual Physician Advocacy Day and Capitol Forum began with a Panel Discussion on March 19th. The WCMS offices were one of seven venues around the state where physicians were able to participate via webcast.

The Panel included Senator Kemp Hannon and Assemblyman Richard Gottfried, the Chairs respectively of the Senate and Assembly Health Committees; Senator James Seward and Assemblyman Joseph Morelle, the Chairs respectively of the Senate and Assembly Insurance Committees. The Panel discussion was preceded by presentations from Jason Halgerson, Medicaid Director and Deputy Commissioner of the Office of Health Insurance Programs, and Troy Oechsner, Deputy Superintendent of Health of the new Department of Financial Services. The format was an interactive one – physicians were able to ask questions, personally or electronically. Kira Geraci-Ciardullo, MD, WCMS Past President and MSSNY Vice Speaker, served as one of the moderators.

On Tuesday, March 20th, the Westchester County Medical Society Legislative Team, which included: Dr. Abe Levy, WCMS President; Dr. Joseph Tartaglia, WCMS Immediate Past President; Dr. Kira Geraci-Ciardullo, WCMS Past President and MSSNY HOD Vice Speaker; Dr. Louis McIntyre, WCMS Secretary; Dr. Andrew Kleinman, Vice Chair of WCMS Legislative Committee and MSSNY Treasurer; Drs. Robert Soley, Gino Bottino, Steven Francescone and Ed Stephens, members of the WCMS Legislative Committee, along with Brian Foy, WCMS Executive Director, and myself traveled to Albany to participate in the MSSNY Advocacy Day.

After a briefing by the MSSNY Legislative team and MSSNY Officers, the WCMS team headed to the Capitol to meet with members of the Westchester delegation and other lawmakers. Assemblyman George Latimer (Assembly District 91), Dr. Tartaglia and Dr. Geraci-Ciardullo were interviewed by Capitol TV and discussed several of the health care bills, which are outlined below. The WCMS team met with several members of the senate and assembly, as well as their legislative staff. Meetings were held with Assemblymen George Latimer, Robert Castelli (89th District), Steve Katz (99th District), Thomas Abinanti (92nd District), Joseph Morelle (132nd District), Assemblywoman Sandra Galef (90th District), Senators Andrea Stewart-Cousins (35th District), Greg Ball (40th District), Suzi Oppenheimer (37th District), and Ruth Hassell-Thompson (36th District).

Our team focused their efforts on three bills being considered in both the Senate and Assembly:

- 1) **Medical Liability Reform Act – S.3187 (Hannon)/A.4381 (Schimminger)** – essential elements of the liability reform legislation include a cap on non-economic damages, expert witness qualifications, elimination of joint and several liability, and certificate of merit for medical experts. Many legislators from both sides of the aisle agree that the significant cost and inefficiency to compensate the injured of the current

(continued on page 11)

(continued from page 10) Advocacy Day

tort system needs to be reformed. The financial cost of practicing defensive medicine was also discussed at length. When some legislators expressed concern with a cap on non-economic damages, they were informed that it is the only measure proven to substantially reduce professional liability premiums for physicians. Some flexibility of the cap amount based on New York state cost of living adjusted with the medical care inflation rate was discussed as a potential compromise.

- 2) **Fair Health Transparency Bill – S.5068 (Hannon)/A.7489 (Gottfried)** – the Fair Health Transparency legislation, which promotes out-of-network transparency, protects health care consumers, and fair physician reimbursement, was well received by most legislators. This legislation was passed by the Health Committees of both Chambers earlier this year and is under consideration in the respective Insurance Committees. Governor Cuomo and his executive team in the Department of Financial Services have weighed in and proposed broader legislation to improve transparency and consumer protection. Through recent articles in the New York Times, New York Daily News and the Wall Street Journal, the public's awareness of the problems created by the insurers' policy changes has been improved.
- 3) **Physician Collective Negotiation – S.3186 (Hannon/A.2474 (Canestrari))** – this legislation aims to give small practices the ability to negotiate with insurers, under strict guidelines, and would help level the playing field for small practices when negotiating managed care contracts. The potential cost of the legislation, and compliance with federal anti-trust statutes, is being investigated.

The legislative team also voiced its concern on the current **Internet System for Tracking Overprescribing (I-STOP) plan**. If enacted, I-STOP would create a real-time online database enabling doctors and pharmacists to report and track certain controlled substances. Many physicians are concerned that this will impact the patient's access to pain medication for legitimate uses and also place a tremendous administrative burden on physician practices. Several scope of practice issues were discussed with the focus on patient safety and the potential higher overall cost to the system. The physicians expressed their strong reservations about medical services being provided by less qualified/trained professionals. It was also pointed out that a database for narcotic prescriptions is already kept by the state's Department of Health and that the duplication of efforts and legal requirements will harm patient care and access.

The physicians were pleased with the constructive conversations held with the legislators and their staff and we plan to follow up on key issues with meetings here in Westchester. WCMS members will have a chance to hear from legislators, and their challengers, during the Medical Society's Legislative Brunch. The Brunch will be held on Sunday, September 23, 2012, from 10:00 am to 1:00 pm at Knollwood Country Club. **PLEASE SAVE THE DATE!**



WCMS Board Highlights - April 2012

At its meeting on April 5, 2012, the WCMS Board...

- Received the Report of the Executive Committee and the President, as presented by Abe Levy, MD. Dr. Levy reported:
 - That the Executive Committee recommended that the Board hold its annual Leadership Retreat in early June in preparation for the 2012-13 Association Year. The Board agreed on June 11 in the evening at a location TBD.
 - The Executive Committee recommends that the cost of the annual audit be reduced in future years, if feasible. The Board directed the Audit and Finance Committee to explore all available options.
 - The Nominating Committee has met and is expected to complete its leadership slate prior to the May Board meeting. A draft slate of officers for 2012-13 will be sent to the membership per the Bylaws. The WCMS Academy Annual Meeting is set for June 22, 2012, from 6-9pm at Westchester Country Club in Rye.
 - That the HIT Survey, completed in conjunction with CMIT Solutions and EZ-EHR Consulting, has been sent to all members. Based on feedback, free workshops will be scheduled to meet member interests/needs. The initial focus will be on EMR's.
- Heard from Brian Foy, Executive Director, that the Academy of Medicine has completed its quadrennial application for reaccreditation from MSSNY. A site survey will soon be scheduled and it is expected that the Academy will be reaccredited to provide CME to Westchester hospitals and other organizations for the next four years.
- Approved the Report of the Membership Committee welcoming seven new members to the WCMS and Academy (see page 13). The Board also approved three requests for life membership and welcomed one new medical student to membership.
- Heard from Brian Foy, Executive Director, regarding the Annual Bronx County Medical Society Doctors' Day Symposium, held on March 28, 2012 at Albert Einstein College of Medicine. This year, the WCMS was a co-sponsor and the Academy provided one hour of Category I CME credit for the clinical lecture. All WCMS members were able to attend at no cost. This successful joint venture will likely continue in future years.
- Heard from Thomas Lee, MD, President-elect and Chair, Legislative Committee, who reported on MSSNY Physician Advocacy Day, March 20 in Albany. Eight WCMS physicians and staff travelled to Albany for a full day of legislative briefings and visits with state legislators on issues and pending legislation critical to physicians. In all, ten (10) briefings were held with legislators representing Westchester County. The WCMS Legislative Committee will follow up on all Albany visits with meetings in Westchester to reinforce WCMS/MSSNY positions. All legislators were reminded of the WCMS Legislative Brunch scheduled for September 23, 2012 at Knollwood CC in Elmsford.



Welcome to our Newest WCMS/Academy Members

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

New Members

Maria Luisa De la Morena, MD	Pediatrics	Mamaroneck
James C. Di Lorenzo, MD	Gastroenterology	Scarsdale
Rose Millagross Guilbe, MD	Family Medicine	White Plains
Mark Kramer, MD	Orthopedics	Bronxville
Peter K. Slotwiner, MD	Gastroenterology	Scarsdale
Thomas B. Wilson, MD	Oral & Maxillofacial Surgery	Purchase
Kenneth E. Redcross, MD	Internal Medicine	New Rochelle



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AMA NEWS

Senate HELP Committee approves FDA reauthorization bill

On April 25, the Senate Health, Education, Labor and Pensions (HELP) Committee passed by voice vote the "Food and Drug Administration Safety and Innovation Act," legislation to reauthorize the Prescription Drug User Fee Act (PDUFA), the Medical Device User Fee Act (MDUFA) and newly authorized generic drugs and biosimilars user fees. **The legislation includes provisions that address the drug shortage crisis and incentivize the development of new antibiotics.** The AMA urged the committee to expand manufacturers' early notification requirements to report expected shortages for all drugs and to modify provisions relating to new antibiotic development. The version of the bill approved by the HELP Committee was a significant improvement over the original draft, and reflects a number of the AMA's requested changes. Negotiations will continue on several issues before the bill is considered by the full Senate, later this month.

The House Energy and Commerce Committee continues to negotiate its version of the user fee agreement legislation. As negotiations move forward, the AMA will remain actively engaged in discussions on issues such as drug shortages and antibiotics. The Energy and Commerce Health Subcommittee is scheduled to mark-up the bill on May 8, with a full committee mark-up scheduled for May 10. Although the user fees are set to expire on September 30, final Congressional action is expected by June 30.

AMA position: The AMA strongly supports the passage legislation to address drug shortages and properly incentivize new antibiotic development as a part of the PDUFA bill. The AMA sent a letter to the HELP Committee commending the improved language.

ICD-10 delay proposed in unique health plan identifier rule

CMS published a proposed rule on April 9 that formally calls for delaying the implementation date of ICD-10 for one year, from Oct. 1, 2013 to Oct. 1, 2014, along with a standard for unique health plan identifier, as required under the Health Insurance Portability and Accountability Act (HIPAA). The formal proposal to delay ICD-10 follows an announcement made by CMS Administrator Marilyn Tavenner during the AMA's National Advocacy Conference last February. HHS' decision to propose a one-year implementation delay of ICD-10 was a direct result of significant advocacy by the AMA, one of many steps we feel are needed to reduce the number of costly, time-consuming regulatory burdens on physicians. In addition, the AMA believes that a robust unique health plan identifier is an administrative simplification solution that has the potential to bring about significant savings by eliminating the ambiguity that makes health care transactions so costly today. There is a 30-day comment period on the proposed regulation.

(continued on page 15)

(continued from page 14) AMA News

Take steps now to avoid the 2013 e-prescribing penalty

CMS is urging physicians to report on at least 10 electronic scripts by June 30, 2012, to avoid the 2013 Medicare e-prescribing penalty that amounts to a 1.5 percent reduction in their 2013 Medicare Part B payments. Physicians can also file for a hardship exemption prior to June 30, 2012. The AMA has put together a tip sheet on the steps physicians can take to avoid the 2013 e-prescribing penalty. The tip sheet can be found at:

<http://www.ama-assn.org/resources/doc/hit/avoid-erx-penalty-tip.pdf>

AMA advocacy helps ensure patient and physician protections in health insurance policies in New York

The AMA recently sent letters of support for legislation regarding private payer issues pending before the New York General Assembly and the New York State Senate. Assembly bill 5040 would require health insurers to honor an assignment of benefits regardless of whether the physician is in or out-of-network. S. 3186/A. 2474 would permit limited collective negotiations between health care providers and health insurance plans. S. 5068/A. 7489 would require health insurers to clearly disclose to patients the scope of their out-of-network coverage and to base reimbursement for out-of-network services on a percentage of the likely cost of care. All of the legislation is consistent with efforts by the AMA to ensure patient and physician protections are included in health insurance policies. For more information on the AMA private payer reform campaign, please visit the AMA Advocacy Resource Center website.



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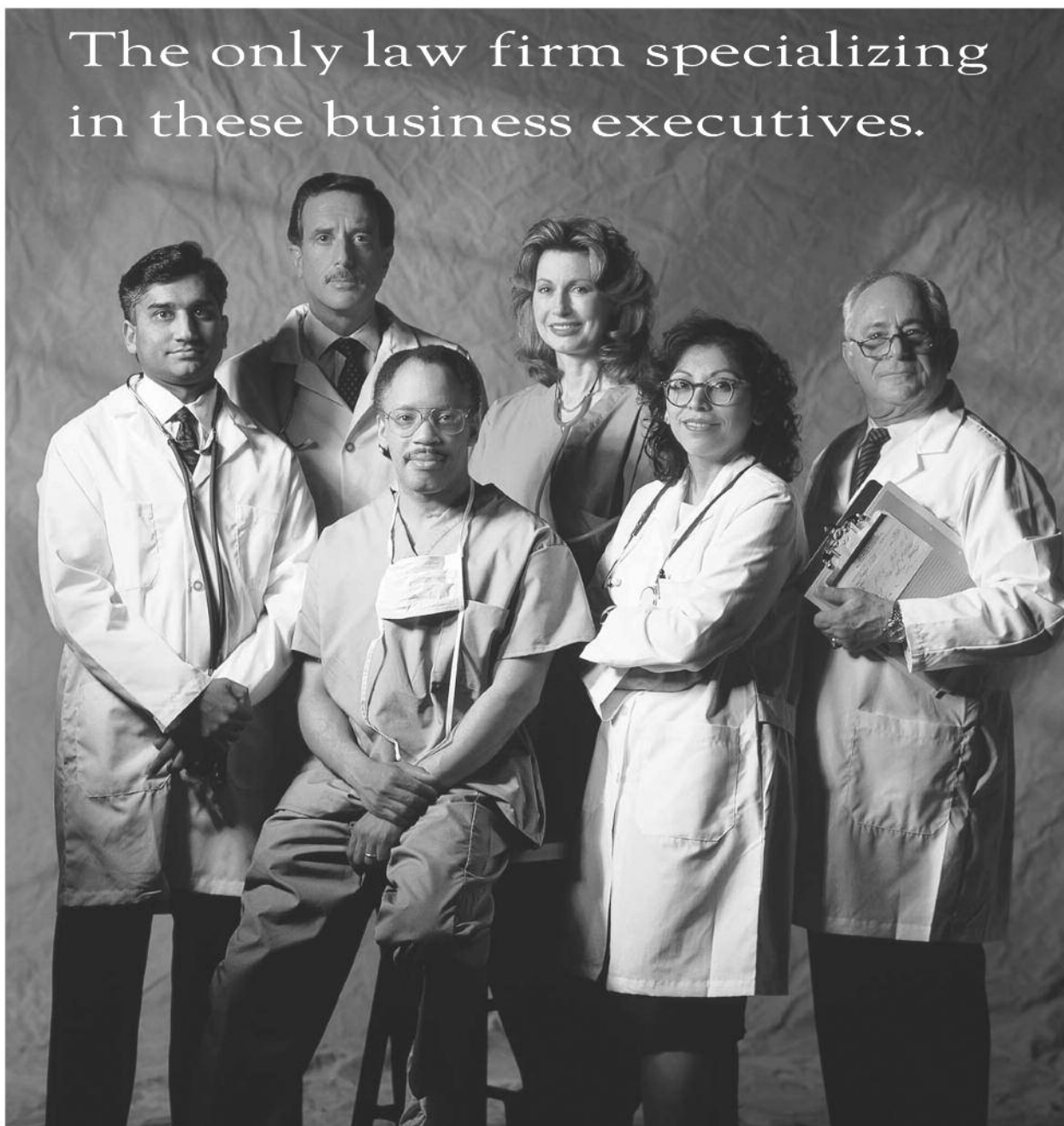
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Legal Corner

Consent Order Held No Basis for Medicaid Exclusion

The NYS Supreme Court, Appellate Division, ruled unanimously on March 23, 2012, in Koch v. Sheehan, that a physician's entry into a consent order by the NY Office of Professional Medical Conduct (OPMC), pleading no contest to charges of negligence in treatment of non-Medicaid patients, did not support the NY Office of Medicaid Inspector General's (OMIG) decision to exclude the physician from the Medicaid Program. This is the first appellate court ruling to decide this issue, which had been decided inconsistently in the lower courts. The appellate division concluded that those lower courts that have invalidated OMIG's determination excluding physicians from the Medicaid Program are persuasive, and held that OMIG's determination in this case was arbitrary and capricious. The initial charges of negligence were investigated by the OPMC, resulting in the physician's no contest plea to the specifications in full satisfaction of the charges. The penalty imposed did not include any suspension, but rather was "akin to censure and reprimand with conditions." The Appellate Division stated that to adopt OMIG's view would create an irrational result, allowing the physician to continue to treat non-Medicaid patients, but prohibiting the physician from treating Medicaid patients. The Court also noted that there is no indication in the record that OMIG investigated or independently evaluated the physician, but instead excluded him from the Medicaid Program based upon the consent order.

Private Right of Action under Prompt Pay Law

The Koch court also ruled earlier this year, in Maimonides Med Ctr. v. First United Am. Life Ins. Co., that NY's prompt pay law can be enforced through a private lawsuit. The defendant health insurer requested that the court dismiss the plaintiff hospital's claims alleging that the insurer violated the prompt pay law, arguing that the prompt pay law does not establish a private right of action. The court disagreed with the insurer and held that there is an express legislative intent to provide a private right of action for violations of the prompt pay law.

FAIR Health Launches Medicare Compare

FAIR Health has launched FH Medicare Compare, a free web-based tool at www.fairhealthconsumer.org/medicalcostlookup, to help consumers better understand their out-of-pocket medical costs if their insurers base out-of-network reimbursement on the Medicare fee schedule. Many private health plans base out-of-network reimbursement rates on a percentage of Medicare fees, generally 110% to 140% of Medicare fees. A switch from a usual, customary and reasonable (UCR) reimbursement methodology to Medicare-based rates often means the insurer's reimbursement decreases, leaving the consumer to pay more out-of-pocket costs. The Medicare Compare feature enables consumers to look up Medicare-based reimbursement for a specific procedure and "compare" Medicare and UCR-based amounts side by side.

NLRB Poster Regarding Employee Rights

Question: I run a small medical practice. My office manager tells me that we have to post a notice required by the National Labor Relations Board. Can that be right?

Answer: The answer is "maybe". The National Labor Relations Board's (NLRB) jurisdiction is broad and covers most non-government employers. Included are private sector employers whose activity in interstate commerce exceeds a minimal level which, for medical offices, is defined as having a gross annual volume of business of \$250,000 or more. Under an NLRB rule, employers are required to post a notice advising employees of their rights under the National Labor Relations Act, even if the employer does not have union employees. The rule was to be effective in November, 2011. Ongoing court challenges have continually delayed the posting, however, with the latest posting deadline scheduled for April 30, 2012. Now, because one federal district court has ruled that the agency has authority to issue the rule and another federal district court has ruled the opposite, the D.C. Circuit Court of Appeals has temporarily enjoined the NLRB rule. As a result, the rule will not be enforced until the legal challenge is resolved.

If the rule ultimately is upheld, and you meet the financial threshold, you can obtain the posting and information on posting by going to: <http://www.nlr.gov/faq/poster>.

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Save Up to 50 Percent on the Cost of Long Term Care Insurance

By Michael J. Lehrhaupt, CLTC

(The WCMS and Strategies for Long Term Care recently hosted an information session regarding the issue of Long Term Care and its impact on retirement. The speaker, Michael J Lehrhaupt, who specializes in Long Term Care Insurance and Retirement Planning, covered many interesting topics regarding this subject. In case you missed the meeting, below is one of the issues that were discussed at this well attended meeting.)

If you have been considering Long Term Care Insurance and are self-employed or a small business owner in New York State, good news - you can now save up to 50% on Long Term Care Insurance premiums.

This savings is realized when you take advantage of the allowable federal tax deductions for Long Term Care premiums for self-employed and small business owners and add in the generous tax credit that New York State allows for Long Term Care Insurance premiums. New York State now allows residents to take a tax credit equal to 20% of the total Long Term Care Insurance premiums.

For example, take a 60 year old with a premium of \$2500. Based on the chart below they will be able to deduct 100% of their Long Term Care premiums since their premium is below the limit of \$3500. Based on a 28% tax bracket, the net cost of their Long Term Care premium will be \$1700.

2012 Long Term Care Insurance Federal Tax Deductible Limits (Table 1)
Taxpayer's Age At End of Tax Year - Deductible Limit

40 or less	\$ 350
More than 40 but not more than 50	\$ 660
More than 50 but not more than 60	\$1,310
More than 60 but not more than 70	\$3,500
More than 70	\$4,370

Source: IRS Revenue Procedure: 2011-52

Now if you add in the tax credit for New York State residents of 20% of the total premiums (\$2500 reduced to \$1700 based on federal tax deduction - \$500 for the New York State tax credit = \$1200) you get a total premium of \$1200. Amazingly, this is over a 50% savings for the total premium. If you have been considering Long Term Care Insurance and are self-employed or own a small business, now is the time to make a move and find out more about this important coverage that you can purchase with discounted dollars.

Members of WCMS are being offered a discounted rate on Long Term Care Insurance. For more information about this New Member Benefit, please call Michael J. Lehrhaupt toll free at 1-888-582-8632 or email Michael at Michael@strategies4ltc.com.

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Credit for 20% of premium paid for qualifying LTCi premiums. Taxpayer is permitted to carry over to future tax years any credit amount in excess of taxpayer's tax liability for the year. Employers are eligible for a credit equal to 20% of the premiums paid during the tax year for the purchase of, or for continuing coverage under, a LTCI policy. The credit is not refundable and the credit may not reduce the tax to less than the minimum tax due. Please consult a tax professional for further advice.



SAVE THE DATE - Westchester County Medical Society LEGISLATIVE BRUNCH

Sunday, September 23, 2012

10:00 am – 1:00 pm

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