



President's Message

"Election 2012 – An Impact Analysis and Call to Action"

By Thomas T. Lee, MD

The 2012 election is behind us. The results are in, and a majority of the American people have spoken: they want the continuation of the President's policies and priorities. With the lowest presidential year voter turnout in the past three presidential elections, President Obama received 62,611,250 votes (50.6%) and Governor Romney received 59,134,475 votes (47.8%). The final tally of Electoral College votes was 332 for President Obama and 206 for Governor Romney. The Democrats gained two additional seats in the U.S. Senate to firm up its majority of 53-45 over the Republicans. Republicans retained control of the U.S. House of Representative, though losing 8 seats to hold on to the majority, 234 to 201. NY State Senate races saw the current Republican majority lose one incumbent seat, and the Senate governing coalition was formed between Senate Republicans and the Independent Democratic Caucus (IDC). Democrats increased their solid control of the NY State Assembly up from 99 to 105 seats of the total 150 Assembly districts. The immediate pre-election polls did not predict the eventual outcome in many national and local races, owing to the Presidential election year effect. President Obama helped swing several national and local races in his party's favor. Seventy percent of New Yorkers voted for the President's second term. With the apparently increasing Democratic tilt since the 2010 mid-term election both nationally and locally, what do physicians of Westchester County face?



The President's re-election solidifies the status and continued implementation of the 2009 Affordable Care Act (ACA). Policies and concepts such as Accountable Care Organizations (ACOs), Health Homes, Medicare value-based purchasing, Medicare bundled payment, health insurance exchanges, individual mandate, employer mandate, Medicare withholding tax increase, and an excise tax on higher premium plans are many elements which will impact the New York health care delivery system in the immediate and foreseeable future. As the Center for Medicare and Medicaid Services (CMS) and many health care policy think tanks pointed out (on account of the Accountable Care Organization), the new paradigm favors the larger organizations in health care: hospital-based physician employment, physician hospital collaboration, multi-specialty groups, and the independent practice association. Increased tax liability for most physicians is the new reality; with "fiscal cliff" resolution returning the top margin income tax rate to 39.6% from 35%, increased FICA/Medicare payroll tax rate from 1.45% to 2.35% for combined incomes above \$250,000, additional/new Medicare investment income tax rate of 3.8% for investment income above \$250,000, and stubbornly high state income tax and property taxes. The physician community faces significant headwinds on the revenue front: the ongoing repetitive saga with the flawed Sustainable Growth Rate (SGR) formula; a commercial insurance payment environment favoring the larger integrated health systems and multi-specialty group; and further erosion of the

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Upcoming Events Mark Your Calendar

Wednesday, January 16th - 6:30 pm
Putnam CMS Annual Business Meeting
(The Arch Restaurant – Brewster, NY)

Wednesday, January 23rd - 6:30 pm
Long Term Care Seminar
(Open to ALL members)

Monday, February 4th - 5:00 pm
CME Committee Meeting

Thursday, February 7th - 6:00 pm
Board of Directors Meeting

April 12th - 14th
MSSNY House of Delegates
(Westchester Marriott – Tarrytown)

Friday, June 7th - 6:00 pm
WCMS Annual Meeting
(Westchester Country Club – Rye)

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
February 2013 issue is January 25th.**

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

FROM THE EDITOR

"Eagle Hill School"

By Peter Acker, MD



Many years ago, my daughter Jess enrolled in a very special school: Eagle Hill in Greenwich. Established in the mid seventies, Eagle Hill has provided education for children with learning disabilities. Jess was a late talker and by the time she reached second grade it had become clear that she had a language based learning disability. I still remember vividly our first visit as we sat in a small conference room with Rayma Griffin, the director of admissions at that time (she and her husband, Mark Griffin, who founded, the school have since retired), a large golden retriever ambled in and settled cozily at our feet. This is the place for us, I thought, as I reached down to give the dog a friendly pat. Jess was there for three years and benefited tremendously from the personal attention and expertise that Eagle Hill was able to provide her. She returned to public school in 6th grade, struggled a lot but steadily improved throughout high school. "I'm closing the gap," she once told me during her junior year. She went on to Colby College in Maine where she was a dual major in biology and art.

Around the time she started at Eagle Hill, I had embarked upon piano lessons. I had never been particularly musical, but I watched my oldest daughter Karen play and I thought I'd give it a whirl. I discovered it did not come easily to me. I thought several times to give it up, but somehow I kept going (I have a very patient teacher) and I discovered that I could learn to play even very difficult pieces, but that it took an incredible amount of practice. In addition, because of all the time I have been forced to put in, I notice small nuances and have learned to listen to music in a whole new way. I realized later that it was the same for Jess – at some point, she accepted the fact that some academic aspects just took her longer to get than many of her more facile classmates. Yet in the end, the acquired knowledge was in many ways more valued and detailed. She became a very good artist and she attributes much of it to the keen attention she was forced to give to her material and she therefore developed great powers of observation. Eagle Hill fostered this. Indeed, in college, she often would use the same organizational rubric in writing her papers that she was taught at the age of ten at Eagle Hill.

As a pediatrician, I learned a tremendous amount from my involvement with Eagle Hill. After Jess left there, I was fortunate to be invited to join the board of trustees where I served for 12 years and I got great satisfaction from my participation in Eagle Hill affairs. After I left the board, I found myself missing my visits to the school and the spirited discussions that took place at board meetings. So when I got an email recently inviting me to an event entitled: Alumni Panel: Life After Eagle Hill, I responded with alacrity.

The evening was monitored by Dave Sylvestro, the school psychologist and the panel consisted of Tim Hughes, a Clinical Psychologist, Craig Vitale, a Certified Personal Trainer and gym owner, Manon Bailly, a psychology student and varsity volleyball player at Brooklyn College, and Nevin Steiner, a video producer and editor at ESPN. I sat near the front in rapt attention next to Marjorie Castro, the current headmaster. All were extremely well spoken and had much to say about their experiences at Eagle Hill and the impact it has had on their subsequent life paths. One theme was echoed over and over – that Eagle Hill nurtured confidence, self acceptance and self advocacy.

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Commissioner's Corner

Dear Colleagues,

I would like to take this opportunity to share some information about Tuberculosis, so that you can be aware of it as a concern both for your patients and the staffers in your medical practice and/or hospital and so that you will be attuned to ways we can work together to reduce the spread of this disease.

First, I'd like to tell you the professions of three of our recent cases:

- Anesthesiologist
- ER nurse
- Physical therapist in a hospital/group home

There is much that is troubling about this. First, these are all health care workers who exposed many of their co-workers and patients to TB. Second, these individuals all told their employers they had previous positive skin tests for TB, but their employers did not request documentation of the test, repeat the tests, or offer latent TB treatment. **I am highlighting these cases to emphasize the importance of regular testing and treatment for health care workers.** NYSDOH requires that health care workers have a Tuberculin skin test (TST) or Interferon Gamma Release Assay (IGRA)[Trade names - QuantiFERON®-TB Gold In-Tube test (QFT-GIT) or T-SPOT®.TB test (T-Spot)], at least annually, and that health care workers with a documented (+) TST or IGRA, be screened for symptoms at least annually. It is strongly recommended that employers offer treatment or make arrangements for health care workers who test positive for latent TB to be treated. It also is strongly recommended that employers provide such health care workers information about such treatment, and have employees sign a form to be kept on file that they have been informed of such treatment and indicating whether s/he plans to be treated or declines such treatment, similar to the practice for Hepatitis B vaccination.

Westchester residents diagnosed with TB come from a diverse range of ethnic, racial and socioeconomic backgrounds and have included young children and students, retail store and restaurant workers, housekeepers and people employed in schools in addition to health care. Two other recent Westchester cases illustrate this: one was a 13-year-old middle school student, born abroad but raised here, and another was an 18-year-old high school student born in this country.

Because TB is relatively uncommon in the U.S., there is often a delay in diagnosing and treating the disease. Although universal TST or IGRA testing is not recommended, all patients should routinely be screened for risk factors for TB. Please visit the Physician's Corner on our website, at www.westchestergov.com/health for more information about risk factors. Please consider TB in the differential when patients report symptoms such as cough that lasts longer than three weeks, loss of appetite, fatigue, weakness or night sweats, and especially in those with risk factors for TB.

Westchester has the second highest number of residents with TB (40) and the highest case rate outside of New York City, and our cases are growing more complex and time-consuming to manage. For example, since December 2011, four cases of multi-drug resistant Tuberculosis were identified and are being managed in Westchester. Drug resistance can occur when people are not properly treated or fail to complete their full course of treatment. Without an extensive medication regimen and follow-up medical management, people with MDR TB can spread the infection to others. These patients must take anti-TB medications for an average of two years and must be monitored for an additional two years.



(continued on page 5)

(continued from page 4) Commissioner's Corner

It is critical (and required by NYS Public Health Law) that physicians and others notify WCDH immediately of any individuals who are even suspected of having TB so that WCDH can provide the following services to prevent the spread of the infection: Reporting information and forms can be found and downloaded from

http://health.westchestergov.com/images/stories/pdfs/wcdh-cd-reporting_requirements.pdf and <http://health.westchestergov.com/images/stories/pdfs/tb-patient-intake-form.pdf>.

Through its TB clinics, the Westchester County Department of Health provides free medical care and medications to residents with active TB. The Health Department also follows up with residents with active TB being managed by physicians throughout Westchester to ensure that all patients are appropriately treated, in order to decrease the likelihood of spreading the infection to others.

We make sure that people with active TB do not go to work, attend school or go to other places where they may spread the infection to others and also visit patients to ensure they take their multiple medications as directed until they complete a CDC recommended course of treatment (Directly Observed Therapy or DOT). In 2012, Health Department staffers are on track to make nearly 5,600 visits to patients with tuberculosis to observe them taking their medications and to provide additional education to prevent disease transmission.

People exposed to individuals with active TB also require special management and treatment. To prevent more residents from getting and spreading TB, our disease control staff identified nearly 400 people who were exposed to someone with infectious TB at work, school and healthcare facilities and another 100-200 who were exposed to a household or social contact. In 2012, this included contact investigations at a public high school, a renowned outpatient health care facility, and an upscale retirement community.

We know the hurdles of promoting preventive treatment. When people are healthy, they rarely want to take medication for as long as nine months. But treatment for a person who develops symptoms of TB can take as long as two years. And preventive treatment eliminates the risk of exposing family members, friends and colleagues to TB.

TB is an area of expertise for us, and our physicians and nurses are available to assist you. Please feel free to contact us at 914 813-5159. And for more information about TB, please visit the Physician's Corner of our website at www.westchestergov.com/health or go to www.cdc.gov.

Thank you for your continued cooperation. Wishing you a healthy, happy new year. ♦

Sincerely,



Sherlita Amler, MD

(continued from page 1) President's Message

out of network reimbursement system, which will likely result in decreased payment to arbitrary government rates such as Medicare or Medicaid.

While the changes in the federal health care and tax environment may prove challenging, the Medical Society will continue to strongly advocate for the medical profession. We will work with NY State legislators and the Governor in a bipartisan fashion to improve our practice environment through our legislative efforts on insurance reimbursement methodology, health care costs and coverage transparency, bureaucratic/administrative burden relief, funding of excess layer premium payment, and common sense liability system improvement. It should be noted that Westchester physicians are also constituents for many of the State Senate legislative leaders, including Senator Andrea Stewart-Cousins, who is the new Democratic caucus leader, and Senator Jeff Klein, who is the leader of IDC. We, at WCMS, will continue to advocate for our members and to achieve positive outcomes on many issues important to the medical profession. The Society has been, and will continue to be, in frequent contact and discussions with our elected officials to discuss issues important to our profession.

Since the Medical Society cannot meaningfully lower the expenses associated with professional liability premium nor the taxation structure, we will work to advocate for regulations and rules favorable to physicians, and for a permanent fix to the ongoing repetitive struggle with the flawed Sustainable Growth Rate (SGR) formula. We will also focus on working to maintain and improve physician payment and reduce the headaches of practices discussed earlier. We have gathered significant good will from our ongoing advocacy efforts, and can hope to achieve tangible progress on out of network transparency legislation. Even NY State Senate and Assembly legislators who were not willing to support hard caps on medical liability reform have voiced strong support for our other important agenda issues. This is the time for all of us to unite and re-focus our efforts on these and other issues vital to the future of physicians.

The WCMS Board looks forward to hearing from our members and non-members on issues important to our profession, practice, and patients. We look forward to your active participation in the Westchester County Medical Society and Academy of Medicine activities; whether it's our annual membership meeting in June, holiday party in December, summer membership pool party, March legislative/lobby day in Albany, fall Academy of Medicine golf outing, WESEF science fair, election year fall legislative brunch, or committee activities. Your membership does count. Your participation in MSSNYPAC also helps MSSNY get its voice out. If your professional colleagues are not members, please encourage them to join this great organization. **It is only with one voice and in great numbers that we can achieve our goals.** Please call the society at 914-967-9100 to find out how you could be more involved.

♦

The Westchester County Medical Society

And

White Plains Hospital

Are pleased to host the following presentation by

New York State
Office of Professional Medical Conduct
(OPMC)

Thursday, January 31, 2013

6:00 – 8:00pm

White Plains Hospital Auditorium

41 East Post Road

White Plains, NY 10601

Joann V. Dawson

Deputy Director, OPMC

“OPMC & Patient Safety: New Initiatives”

Terence J. O’Leary

Director, Bureau of Narcotics Enforcement

“I-Stop Legislation”

The Presentations will be followed by a

Question & Answer Session

Group Purchasing, It Really Works to Reduce Expenses!

by Dwight Ryan, CEO, MedTech For Solutions

Does a Group Purchasing Organization (GPO) really reduce practice expenses? The answer is a very emphatic YES! Guaranteed! And the really good news is that if you are a member of the WCMS, you're already a member of a GPO. Are you using it?

The WCMS and MedTech For Solutions have partnered to bring you a GPO that costs you absolutely nothing to join or use and provides substantial savings on medical and office supplies and equipment, financing services, major capital purchases and much more.

How can that be? There has to be a catch somewhere. No catch, no tricks. The MedTech GPO brings \$48 billion in purchasing power to bear through its agreement with MedAssets (formerly Broadlane) which is a preeminent supplier of products to the medical industry serving more than 4,200 hospitals and over 100,000 non-acute health care providers. This relationship ensures you the best possible prices and brings you more than 1000 vendor and manufacturer contracts covering more than 5,000 products.

So, how does this work for the individual physician practice? Seamlessly.

Not only is there no cost, if you currently use one of the major suppliers like Henry Schein, McKesson, PSS or Cardinal, as most practices do, there are absolutely no changes in your office ordering procedures and you keep your present suppliers, representatives and brand name products, with no minimum order requirements.

How much will you save? That's the really good part. You can expect savings of 10-50% on medical and pharmacy supplies, significant savings on medical waste disposal, capital equipment, computers, office furniture and office supplies from Staples or Office Depot. You will also save 60% on Federal Express overnight mail. The savings do not end here. A good rule of thumb is to use MedTech's GPO Concierge Service whenever you need some product or service just to see if it is included under the array of GPO items. You will be amazed by your savings.

One of the first WCMS MedTech GPO members is your former Society president, Dr. Amy Newburger. Her practice joined about four years ago and Dr. Newburger said that her office "averaged a 28% savings on our monthly purchases." She further stated, "There is no cost to you, as a member of the Westchester County Medical Society, to join the GPO, so I encourage those of you who have not taken advantage of this benefit to take a serious look at the opportunity."

Joining the GPO could not be easier. Take advantage of the MedTech GPO Concierge Service by calling 866-634-9144, ext 404 or go to www.medtech4solutions.com and click on GPO application.

These are difficult times but it has never been easier to take a step that will save your practice serious money. You can't lose. Do it now. ♦

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WCMS Board Highlights - December 2012

At its meeting on December 6, 2012, the WCMS Board...

- **Welcomed representatives from the Fairfield (CT) County Medical Association (FCMA) - Robin Oshman, MD, Vice President, and Mark Thompson, Executive Director** – who provided an update on programs and activities ongoing in Fairfield County, CT. Additionally, the WCMS and FCMA reaffirmed their commitment to a collaborative membership program whereby physicians who live or work in one of the counties can become affiliate members of the other county provided they are full dues paying members of their home county. This program will be marketed to both counties in January 2013.
- **Received the Report of the Executive Committee and the President, as presented by Thomas Lee, MD. Dr. Lee reported that the Executive Committee:**
 - Accepted and recommended the approval of the Audit Engagement Letter for 2012 as presented by Shavelson, Neuman and Company, LLP, who has been the WCMS Auditor since 2009.
 - Discussed an offer by the NYS Office of Professional Medical Conduct (OPMC) to present an educational program to physicians in Westchester in January 2013. The WCMS is currently exploring a suitable venue and co-host. The purpose of the presentation is to increase physician awareness of the OPMC and improve communication with physicians. (see page 7.)
 - **Discussed the current lease of space for WCMS at 333 Westchester Avenue, which expires in August 2013. The WCMS is exploring the option of renewal for an extended term at a much-reduced cost.**
- Heard a report from the President, Westchester Academy of Medicine, Joseph Tartaglia, MD, who reminded everyone about the December 14, 2012, Holiday Party at Knollwood Country Club. There is no cost for members to attend and this is another opportunity to support the Academy. He also reported that the **Academy's Third Annual Golf Outing, Dinner and Fundraiser, held on September 20, 2012, at Westchester Country Club, netted approximately \$6,000 for the Academy.** This event has quickly become the primary fundraiser for the Academy in support of its CME and philanthropic efforts.
- **Approved the Report of the Membership Committee welcoming nine (9) new members to the WCMS and Academy (see page 11).** The Board also approved five new Life members. ♦

RENEW YOUR MEMBERSHIP TODAY!

If you haven't already done so, we urge you to renew your membership in the WCMS, Westchester Academy of Medicine, and MSSNY. Your continued support allows us to continue to provide you with valuable member benefits, such as:

- The Academy accredits CME programs for most of the area hospitals at no charge to members.
- WCMS advocates and builds relationships on your behalf with local and state legislators on issues important to physicians and the practice of medicine.
- Member-only benefits such as group purchasing, discounted insurance rates and legal fees.
- Many social and educational events throughout the year at little or no cost to members and their guests.

To pay your dues online go to www.mssny.org, mail your check or credit card information to the WCMS, or call Karen Foy at 914-967-9100.

Remember – membership doesn't cost, it pays!

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 December.

New Members

Arthur Badikian, M	Psychiatry	Harrison
Marcelo Facciuto, MD	General Surgery	Valhalla
William Higgins, MD	IM/Abdominal Radiology	Cortlandt Manor
Michael Kerin, MD	General Surgery	Tuckahoe
Anthony Maffei, MD	General Surgery	Hawthorne
Lisa Nason, MD	Orthopedic Surgery	Valhalla
Consuelo Rodriguez, MD	OB/GYN	New Rochelle
Margaret Vaughan, MD	Geriatric Medicine	Katonah

Life Members

**Congratulations to the following physicians
who have attained Life Member status in WCMS.**

Maria De Corse, MD	Joined May, 1966
Abe Levy, MD	Joined October, 1974
Allan Lind, MD	Joined May, 1963
Lucy R. Waletzky, MD	Joined January, 1993
Richard Weiss, MD	Joined March, 1965



News from MSSNY

Hurricane Sandy Relief – MSSNY Medical Educational and Scientific Foundation Ready to Help

From Robert Hughes, MD, President, MSSNY

If You Were Affected by Hurricane Sandy, Apply for Funding; If Not, Please Donate!

On October 29, 2012 Hurricane Sandy blew in and brought the furious sea and a destructive wind with her. Before she left, she ate up chunks of our beautiful state, pulled down forests of mighty trees, drenched us and cut off our electricity. The result was unparalleled destruction and untold misery. Governor Cuomo said he believed it would cost nearly \$33 billion to pay for storm cleanup, including more than \$15 billion in New York City, and an additional \$9 billion to prepare for future storms. Hospitals and other health facilities in New York will need more than \$3 billion to restore services. The extraordinary amount of outreach, both locally and nationally, has offered us some solace. Now, we need to rebuild, and prove, once again, the toughness and generosity of New Yorkers.

Grants for Physicians

In the spirit of professional brotherhood, the Physicians Foundation of Excellence has granted MSSNY \$350,000; Henry Schein, Inc. has donated \$10,000, and on November 16, 2012, hosted a Recovery Empowerment Summit in Manhattan whereby physicians could access all the information and resources they needed in one place. MSSNY's Alliance has also been contacted by several other states' Alliance groups offering to make donations available to medical students and residents who were affected by the storm.

The following areas have been identified by FEMA as disaster areas and are eligible for funding: Bronx, Kings, Nassau, Suffolk, New York, Queens, Richmond, Westchester, Orange, Putnam, Rockland, Sullivan and Ulster. We want to help physicians from these specific counties. MSSNY's Medical, Educational and Scientific Foundation (MESF), nonprofit 501(c)(3) organization, is determined to disperse our grant funds in a fair and expedient manner. ***(All donations to MESF are tax deductible.)***

The grant can be used in many ways—including relocating or rehabilitating the physicians' medical offices, replacing equipment, rebuilding patient records, and payment of temporary operating expenses. If you know physicians affected by the storm, please pass along the grant information.

Each physician is eligible for up to \$5,000 in funds, and multiple-physician offices are eligible for up to \$10,000. To apply for a grant, please call Mary Rush, MSSNY MSEE, at 516-488-6100, ext. 351 and she will email the application to you. Details of the grants are available at mssny.org; click on "Hurricane Sandy Grant Details." Applications will be vetted by an Advisory Committee dedicated to this effort so that funds can be granted in a timely fashion. Applicants must be MSSNY members. Deadline for applications is March 31, 2013.

Donations Are Welcome!

If you wish to donate, visit the website (www.mssny.org) and click on **"I want to donate to the Hurricane Sandy Relief Fund."** Every dollar will be distributed to grant applicants. ♦

(continued from page 3) From the Editor

As Tim Hughes put it, "I learned I was not alone in my struggles and they understood what I was going through and helped me learn, cope and even to 'relax' and 'give myself a break' and helped me overcome the stigma of having learning disabilities and how to embrace these differences and own them." Manon Baily put it this way: "Probably the most important thing I gained from Eagle Hill was to not let my dyslexia define me or use it as an excuse for failure." These sentiments were reiterated repeatedly throughout, that while they valued the technical aspects of their education such as specific reading and outlining techniques, it really was the empathy and the "permission to succeed" that was the crucial element of their Eagle Hill experience. All four are successful in what they are doing and freely acknowledged that they learned and accepted that they had to work harder than many of those around them.

My daughter Jess is now a second year medical student and she will tell me from time to time that she has to work harder than her classmates. I have observed that it is this work ethic which often imbues the efforts of the learning disabled student, especially if they have had the help of skilled and empathic educators. A doctor who has learned to work harder than those around her – not a bad quality for a doctor to have. As for me, I'm in my fifteenth year of piano lessons and while for me that old saw "practice, practice, practice" has not led me to Carnegie Hall, I can play a reasonable rendition of Beethoven's Sonata Pathétique, which still has my teacher pinching herself.

◆



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The MedTech For Solutions GPO is endorsed by the Westchester County Medical Society

2012 ACADEMY & WCMS ANNUAL HOLIDAY PARTY

The Westchester Academy of Medicine held its Annual Holiday Party on December 14 at the Knollwood Country Club. About 90 people, including physicians and their families, enjoyed great food and fellowship. Congresswoman Nan Hayworth, MD was given special recognition for her service to physicians and their patients. The Academy would like to thank the following sponsors for their generous support of the Annual Holiday Party and our educational activities:

**The Affinity Group, LLC
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Citibank
DataMatrix Technologies
Med Tech for Solutions
Nixon Uniform Service
Novo Nordisk**

We also extend a thank you to those who donated items to the evening's raffle:

**The Honorable Nan Hayworth, MD & Scott Hayworth, MD
Drs. Robert & Kira Geraci-Ciardullo
Dr. & Mrs. Thomas Lee
Dr. & Mrs. Robert Lerner
Drs. Joseph & Antonella Tartaglia
Michael & Alyce Kitt - M-Tech Printing
Michael Schoppmann, Esq. - Kern Augustine Conroy & Schoppmann**



Melinda Walsh and WCMS Past President, William Walsh, MD



Janice Fox and WCMS Past President, Mark Fox, MD



Drs. Sanda & Stere Carniciu; Helen Lerner; Dr. William & Melinda Walsh; Trey Gardner; Kathleen Sellers



Academy President & WCMS Past President, Joseph Tartaglia, MD; Thomas Lee, MD, WCMS President, The Honorable Nan Hayworth, MD and Scott Hayworth, MD

Call for Resolutions to 2013 MSSNY Annual Meeting!

The Annual Meeting of the MSSNY House of Delegates is set for April 12-14, 2013, at the Westchester Marriott in Tarrytown. All resolutions are due to MSSNY by February 15. The WCMS Delegation to MSSNY began meeting in early January to consider resolutions submitted by members. *ANY member of the WCMS may submit a resolution or topic, in writing*, directly to the WCMS, Attn: Brian Foy, Executive Director at bfoy@wcms.org. Do not worry about resolution format; we are interested in your ideas for new MSSNY policy or changes to current policy. WCMS will put your ideas into the required format. If you have any questions, please call Mr. Foy at 914-967-9100. Please submit your resolutions/topics to WCMS at your earliest convenience but no later than January 25, 2013.

Charles J. Sellers & Co., Inc. is pleased to announce that your Westchester County Medical Society has approved Member Benefit Insurance Programs administered by our Agency. These Programs are specifically designed for Physicians and their practices and provide Special Discounts and/or Benefits based on Society membership. Annually recurring savings can more than offset the cost of your Medical Society dues.



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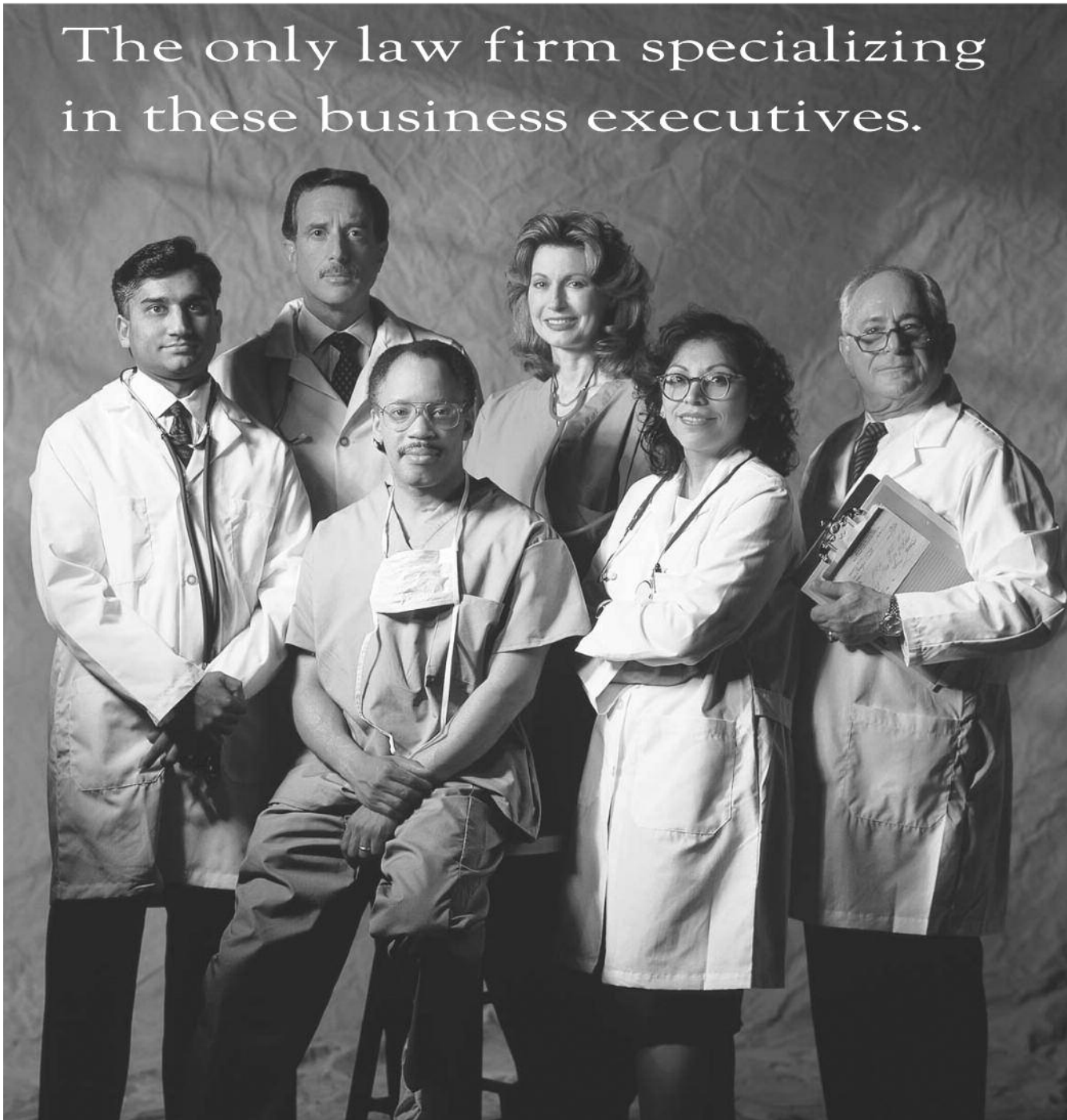
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STATLAW

Q&A

January 8, 2013

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

Red Flag: Some Good News

Question: I offer patients the option to pay their bill with a credit card. Does doing so subject me to the FTC Red Flags Rule?

Answer: Here is some good news: the answer is still no. Merely accepting credit cards doesn't make you a creditor under the Red Flags Rule. Coverage as a creditor is based on whether your activities meet the definitions in the law. As you may recall, the Federal Trade Commission (FTC) Red Flags Rule required "financial institutions" and "creditors" to put written programs in place to identify, detect and respond to possible identity theft risks relevant to their businesses. The intent was that, by identifying in advance potential "red flags" indicating a threat of identity theft, businesses will be able to spot suspicious patterns at an early stage and prevent them from escalating into costly and harmful incidents of identity theft.

The initial FTC rule defined the term "creditor" broadly. Medical practices were fearful that they were swept up in that definition if they took credit card payments. Lawsuits ensued and, in 2010, Congress passed the Red Flag Program Clarification Act, which narrowed the scope of who is considered a "creditor" under the Red Flags Rule. Recently, to be consistent with the new law, the FTC recently issued an interim final rule that further "clarified" the Clarification Act. For purposes of determining who is a creditor (someone who "advances funds") the Rule says that a creditor is covered only if, in the ordinary course of business, it regularly:

- gets or uses consumer reports in connection with a credit transaction;
- furnishes information to consumer reporting agencies in connection with a credit transaction; or
- advances funds to or on behalf of a person.

"Advances funds" doesn't include merely deferring payment of debt or deferring payment for the purchase of property or services. And "advancing funds" does not include a creditor that advances funds on behalf of a person for expenses incidental to a service provided by the creditor to that person. Thus, unlike a commercial lender making a loan, a business will not be deemed a creditor merely by advancing funds or deferring payment for fees incurred in the course of providing services to a client or customer.

Not billing for or receiving payment in full at the time of service, or allowing credit card payments for services, does not make you a "creditor" under the Red Flags Rule, so long as you don't regularly use consumer reports or provide information to a consumer reporting agency in connection with a credit transaction. You should still protect the privacy of any financial information you acquire from patients. And conducting credit card transactions could trigger requirements under the Payment Card Industry-Data Security Standard or under your state's identity theft prevention laws.

For more information on this topic, please contact our Managing Partner, Michael J. Schoppmann, Esq at 1-800-445-0954 or via email at MSchoppmann@DrLaw.com.



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CONGRESS PASSES LEGISLATION TO PREVENT MEDICARE PHYSICIAN CUTS

As has been widely reported, a nearly 30% cut in Medicare physician payments was averted when the US House of Representatives passed H.R. 8, the American Taxpayer Relief Act, also known as the Middle Class Tax Relief Act, by a vote of 257 to 167. Previously the Senate approved the package on a vote of 89-8, on New Year's Day. The President has signed the bill.

In addition to preventing the impending 26.5% SGR cut for all of 2013, the bill also defers for two months the impending sequestration cuts that would have further cut Medicare physician payments by 2%. The sequestration provisions had been contained within the Budget Control Act of 2011. The delay in the 2% sequestration cuts (which impact all Medicare health care providers, not just physicians) will end at the beginning of March, at which point proposals to prevent these cuts will be considered along with proposals to address increases in the nation's debt ceiling.

A link to a summary prepared by the AMA of the health provisions in the tax-reform legislation is available at:

<http://mssny.informz.net/MSSNY/data/images/fiscalcliffsenatedec31pkg.doc.pdf>

A summary of the offsets for preventing the SGR cut is available at:

<http://mssny.informz.net/MSSNY/data/images/fiscalcliffsenateoffsetsdec31.doc.pdf>

The \$25 billion cost for the SGR patch and additional expenses for other Medicare extender provisions were offset with an array of provisions. On a positive note, proposals to eliminate the increase in Medicaid payments for primary care services starting in 2013, which had been authorized in PPACA, were not adopted. MSSNY had worked with the federation of medicine and AMA to advocate to ensure that the Medicaid primary care increases could go forward.

However, the legislation did include other problematic provisions as "pay-fors," including reduced payments for advanced imaging services based on a change in assumptions regarding the utilization of equipment, extending the statute of limitations from 3 to 5 years for recoupment of Medicare overpayments, and elimination of funding for new health insurance co-ops that had been authorized by the Affordable Care Act (funding will still be provided to existing co-ops).

We thank all physicians for their grassroots advocacy on this issue, and ask all physicians to continue to place pressure on their members of Congress to provide long-term stability in Medicare physician payment, including through repeal of the flawed SGR formula as well as enactment of the Medicare Patient Empowerment Act. ♦

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