



President's Message

The State of your County Medical Society

By Thomas T. Lee, MD

The Westchester County Medical Society (WCMS) welcomes its new institutional physician members from Northern Westchester Hospital. As a member of the WCMS, you are also automatically a member of the Westchester Academy of Medicine (Academy). In late January, the medical staff at Northern Westchester voted overwhelmingly (85% in favor) to join the Medical Society of the State of New York (MSSNY) and the WCMS. As a result, 400+ physician members will be joining our Society. In late 2012, the Putnam County Medical Society (PCMS) entered a collaborative service agreement with WCMS for WCMS to provide basic membership benefits and administrative support to PCMS members.



Membership benefits at the WCMS include discounted legal fees from our legal counsel Kern Augustine Conroy & Schoppmann, a favorable Group Purchasing Organization (GPO) contract, New York State Worker's Compensation certification free of charge, and admission to Society/Academy sponsored events. There are many educational, practice management solutions and financial planning events held throughout the year at the Society headquarters and off-site. WCMS has preferred vendors in financial planning, disability and life insurance policies, long-term care insurance, benefit management (including health care benefits), healthcare real estate services, and transcription services. We continue to explore collaboration with vendors who bring value and benefit to the membership. WCMS holds, in conjunction with other physician organizations or by itself, many other membership and social events including the Annual Physician Advocacy Day held in Albany in March, the Annual Meeting held in June, a family Pool Party in August, election year fall Legislative Brunch, the Annual Academy Golf Outing scheduled for September 19th, and the Holiday party.

As a member physician, you can get more involved with the Society by participating in its committee structure. The Membership Committee, Budget and Finance Committee, Legislative Committee, and CME Committee meet regularly and are open to the membership by the appointment of the President. Please contact Mr. Brian Foy, Executive Director, at 914-967-9100, if you are interested in getting involved or if you would like additional information.

WCMS has traditionally been one of the most politically active county societies in the country. Many of our members have been or are now active in MSSNY leadership. Past WCMS presidents have served as or are on track to become MSSNY President, Trustee, House of Delegate Speaker or Vice Speaker. Many legislative and public health initiatives originated in this very county society you are a member of. WCMS has the distinction of being the only county medical society cited on the floor of Congress during the federal health care reform debate in 2009. WCMS, with MSSNY, has continued to work hard on liability system and process reform, including a cap on non-economic damages, expert and ex parte witness reform, and certificate of merit rule clarification.

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Upcoming Events Mark Your Calendar

Wednesday, March 20th
Doctors' Day Celebration/CME Event
(see page 17)

Thursday, March 21th - 6:30 pm
Financial Seminar:
*The American Taxpayer Relief Act of 2012 –
What You Don't Know CAN Hurt You!*

Tuesday, March 26th - 6:30 pm
Long Term Care Seminar

Monday, April 1st - 5:00 pm
CME Committee Meeting

Thursday, April 4th - 6:30 pm
Board of Directors Meeting

Tuesday, April 9th - 6:00 pm
Delegates 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
April 2013 issue is March 25th.**

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

FROM THE EDITOR

"History and Medicine" By Peter Acker, MD



My father, who graduated from Yale in 1939, majored in history. He wrote his senior dissertation on John Quincy Adams, a fact that I recalled during the presidential election of 2000, which echoed that of 1824 in which the winner failed to win the popular vote. After his graduation from Yale, my father attended the University of Michigan law school for one year until financial problems and the looming war forced him to drop out. After the war, with a new wife and a child on the way, he felt compelled to give up his dreams of law or writing in order to find work to support his family. That job came in the form of an entry level executive position with Esso (Exxon, today) in Bogotá, Columbia. Having participated in Pacific theatre of the second great historical conflagration of the 20th century, he soon found himself witnessing history once again when the Columbian revolution of 1948 broke out after the assassination of Jorge Gaitan, a presidential candidate from the Democratic Liberal party on April 9, 1948. This event instigated eleven hours of rioting which resulted in 5000 deaths. My mother and older sister, as luck would have it, had arrived in Bogotá just a week prior to join my father who had already been there for six months. My father first learned of this when a Columbian co-worker burst into the office holding a blood soaked book. He had been in a crowd very close to Gaitan, when he was shot. He reached forward with a book he had with him to soak up the blood, sort of macabre keepsake. That, along with the sight of large mobs rioting, was his first exposure to the volatile, emotional side of the Columbian people that contrasted with his more cool New England Yankee temperament. My father hurried home to his family and the three of them huddled in their apartment bathroom (with my sister, 9 months old, placed in the bath tub) for protection against the bullets that were flying in the streets below.

My father enjoyed a long and successful career at Exxon, but he never completely abandoned his earlier interests: he wrote short stories and one novel in his spare time and was a prodigious reader of fiction and history. Unfortunately, the history genes did not percolate down to me. I took medieval history as a freshman in college and earned a C-. It is the last time I have attempted a history course. My older sister, on the other hand, got it in spades. She got her PhD in history and is now the chair of the history department at Carnegie Mellon. Her field: history of medicine! Holy invasion of territory! At the dinner table many years ago, my father posited a question from the head of the table (as he was wont to do), a medical question as it so happened. He fixed his gaze at me as he asked it. I looked up from my plate and paused, chewing thoughtfully as I considered the question, when suddenly I heard my sister embarking upon a disquisition on the topic. "Excuse me," I sputtered, "but I think in this one small area, I am qualified to answer." The floor was ceded to me, a rare occurrence!

So what set off these ruminations about my family and history? I'm currently in the middle of a book entitled *"The Emperor of All Maladies: A Biography of Cancer"* by Dr. Siddhartha Mukherjee. It is a fascinating and well written history of cancer. Encyclopedic in scope, it covers the origins of man's knowledge of cancer – the oldest surviving written description of cancer in hieroglyphics from about 1600 AD – to the understanding of cell theory and to the modern era of chemotherapy. One of medical history's starkest ironies as is outlined in this book is that one of the first chemotherapeutic agents came out of the war research the resulted in mustard gas used in the trenches during World War I.

As I thought about this, I realized that doctors are perforce historians. We take histories and mine a patient's past in order to diagnose and prognosticate. Our studies and our day to day encounters with disease constantly harkens back to our past. So perhaps I'm not so bad at history after all and I should dust off my medieval history texts and see if I can improve my grade! ♦

(Continued from page 1)

We continue to advocate for out-of-network transparency/coverage adequacy legislation, S2551 (Hannon), which was re-introduced for this legislative session. This version passed the full Senate in June, 2012, and a prior version passed the full Assembly in June, 2011. The Physician Collective Negotiation legislation, S3563 (Hannon), was also reintroduced, after passing the Senate in 2012. The 2013-14 Governor's proposed executive budget contains several provisions MSSNY/WCMS object to, including: limitation on excess layer liability coverage (mandatory ED coverage, mandatory Medicaid participation, and risk-stratified first-come-first-serve enrollment); retail clinic ownership and administration by non-physician entities such as pharmacies; provider prevail revocation on psychiatric medications not on drug formulary; and further expansion of physician extender roles. The WCMS delegation, alongside other county societies, headed to Albany on March 5 to advocate on behalf of the medical profession. We generally have one of the largest delegations on Physician Advocacy Day in Albany. We have traditionally had and continue to maintain strong working relationships with our legislators in Albany. Even if you are not able to physically attend these meetings, please contact your state Senators and Assemblyman/ Assemblywoman to voice your concern and opinion.

Your county medical society is working hard on your behalf. We continue to strive to unite all physicians, regardless of their background: primary care or specialists, employed or private practice physicians, and small or large group practice physicians. I urge you to become more involved in the Society's activities and committee work. **It is with one unified voice and strong advocacy that our profession will continue to survive and flourish in this difficult health care environment.** ♦



Medicare Sequester Cut set for April 1st

On Friday, March 1, President Obama officially gave the order to begin the automatic sequestration of federal spending as required under provisions of the Budget Control Act of 2011. The sequester was originally set to begin on Jan. 1, 2013, but legislation signed into law on Jan. 2 included a two-month delay, as part of an unsuccessful effort to provide time for developing an alternative savings plan. The \$85.4 billion 2013 sequester includes: (1) a 7.9 percent cut in defense spending, for savings of \$43 billion; (2) a 5.3 percent cut in domestic discretionary cuts, for savings of \$29 billion; (3) a 2 percent cut in Medicare provider payments, for savings of \$10 billion; and (4) 5.8 percent cuts to defense and non-defense mandatory programs to achieve \$4 billion in savings. Certain safety net programs, including Medicaid, are exempt from the cuts, as are military personnel salaries. While sequester cuts are to be applied across-the-board, the precise impact on specific public health and other programs will vary, depending on their pattern of Fiscal Year 2013 spending.

The Medicare provider cuts are scheduled to take effect on April 1. However, certain details of the Medicare sequester still have not been made public. For example, we still do not know if the 2 percent payment cut will be applied to allowed charges under the Medicare physician fee schedule (and so affect beneficiary copayments), or if it will be applied only to the physician's Medicare claims payment. The AMA will continue to press federal officials for clarifying information, which will be shared with physician members and Federation groups as soon as it is available.

The AMA, together with state medical societies and national specialty societies, has opposed both the Medicare cuts and sequestration of funds for discretionary health programs. We are continuing to urge Congress to develop alternative budget savings plans. ♦



Westchester County Medical Society

The WCMS & The Affinity Group present the first in a series of programs on Financial topics of interest to Physicians:

The American Taxpayer Relief Act of 2012...What You Don't Know CAN Hurt You!

Nick Preddice, CEO, The Affinity Group & Steven Bellon, CPA, CFP

Taxpayers and investors anxiously awaited the changes promised in the American Taxpayer Relief Act of 2012, only to find that most of the provisions passed in the Act generally create more questions and concerns for the 2013 tax year and beyond. To help unravel the changes made to the current tax laws please join the WCMS and your colleagues for this informative program.

Thursday, March 21, 2013
WCMS Offices
6:30

Nick and Steve will take you through the various aspects of the Act and how it may impact your financial planning.

There is no charge for this program, but seating is limited, so reserve your spot today. Spouses and guests are welcome.

To RSVP, contact Karen Foy by email: kfoy@wcms.org, or by phone: 914-967-9100.

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MSSNY House of Delegates Meeting

April 12-14, 2013

Westchester Marriott, 670 White Plains Road, Tarrytown, NY

A reminder that **all** WCMS members are welcome to participate in the MSSNY Annual Meeting. **You do not have to be a delegate to MSSNY to attend.** Below is a summary of the resolutions submitted by the Westchester County Medical Society and the Ninth District Branch. Any member may attend and speak at Reference Committee hearing on Friday, April 12, beginning at 9:30am. Members can sit in on the deliberations of the MSSNY House of Delegates (Saturday, April 13 and Sunday morning, April 14) as it debates/establishes policy based upon resolutions submitted by physicians from all over New York State. If you are interested in attending, please contact Brian Foy, Executive Director, at (914)967-9100 or bfoy@wcms.org so you can be registered in advance.

Clear, Informed Consent Regarding Release of Medical Records

RESOLVED, That the Medical Society of the State of New York seek through legislation and/or regulation informed consent language concerning the release of medical records to insurers requiring:

- **Clear, concise, and easy to understand wording;**
- **A detailed explanation of exactly how the information will be used; and**
- **Notification to the signing party/parties that they can limit the scope of their consent.**

Initiation of the Physician Patient Relationship

RESOLVED, That the Medical Society of the State of New York seek legislation changing the initiation of the doctor patient relationship from when referring information is communicated to when the doctor first examines the patient.

Maligning of Physician Practices on Internet "Rating" Sites

RESOLVED, That the Medical Society of the State of New York explore offering some level of support to physicians and physician practices who feel that they have been injured by improper/inaccurate statements on internet "rating" websites.

(continued on page 7)

(continued from page 6) Resolutions

Managed Care Contract Payment Should be above Medicare Fees

RESOLVED, That MSSNY seek legislation and/or regulation to prevent managed care companies from utilizing a physician payment schedule below the updated Medicare professional fee schedule; and be it further

RESOLVED, That the MSSNY Delegation to the American Medical Association (AMA) introduce a similar resolution at the next meeting of the AMA House of Delegates.

Retired Physicians

RESOLVED, That the Medical Society of the State of New York (MSSNY) investigate and report back on or before the 2014 House of Delegates as to how best to capture the time, talent and resources of retired physicians, many of whom are willing to contribute their time and services to MSSNY and their communities in the best interest of the medical profession.

Scientific Accuracy Rating for NYS Medical Legislation

RESOLVED, That the Medical Society of the State of New York develop a scientific accuracy rating system and report for all proposed New York State legislation impacting clinical services to include whether or not the legislation adheres to specialty practice guidelines and appropriateness criteria.

ST Elevation Myocardial Infarction

RESOLVED, That MSSNY lobby the New York State Emergency Medicine Advisory Committee and the Department of Health Bureau of EMS to adopt a policy and develop a protocol wherever feasible that suspected STEMI patients be transported directly to a PCI capable facility rather than the nearest available emergency facility and that the Regional Emergency Advisory Committees also be directed to implement such policies and protocols. ♦

Let Your Voice Be Heard!

Dear Colleagues:

Please accept my invitation to attend the State Medical Society's House of Delegates (HOD) on **Friday, April 12, beginning at 9:30 am**, at the Westchester Marriott in Tarrytown. We are fortunate that this meeting takes place in Westchester two out of every three years. Doctors from all over the State come to the House of Delegates each year to debate, discuss and form policy. They represent the voices of the physicians in the entire state.

Westchester needs your voice along with the voices of our Delegates!



Westchester County, like all other counties in the state, is represented by selected delegates and alternate delegates that volunteer their time to present, defend, and discuss resolutions generated by Westchester physicians. These delegates can also support resolutions from other counties.

Any member of the medical society, as well as invited guests, can speak on resolutions brought before the reference committees. These committees hear testimony from all interested parties on resolutions brought to their review by other physicians. I have chaired and participated in reference committees in the past and it is a very democratic process.

There are five reference committees dealing with many issues from legal issues, to regulatory issues, to socioeconomic issues, as well as public health concerns. If you have an experience to share or have significant interest or knowledge in a subject, please share your expertise and opinion at the reference committee on Friday, April 12. MSSNY will publish in advance a listing of all resolutions to be considered via their website and News of New York.

If you are interested in attending the MSSNY Annual Meeting, please contact Brian Foy, Executive Director at 914-967-9100 or bfoy@wcms.org.

I hope to see many of you there! Make sure you find me and let me know you came at my invitation!

Sincerely,
Kira Geraci-Ciardullo, MD
Vice Speaker, MSSNY HOD
WCMS Past President



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.

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WCMS Board Highlights - February 2013

At its meeting on on February 7, 2013, the WCMS Board...

- Welcomed **Marisa Manley, President, Health Care Real Estate Advisors (HCREA)**, who addressed the Board on the services HCREA offers to its clients, many of who are physicians and group practices. Such services include lease negotiations, real estate strategy, market surveys, site inspections, practice location and/or relocation, etc. HCREA currently works with New York County Medical Society. The Board asked Ms. Manley to present an informational seminar open to all WCMS members to gauge interest. The Board thanked Ms. Manley for her enlightening presentation and sponsorship.
- Welcomed **Michael LaValley, President, Park Avenue Benefit Planning, Inc.**, who briefed the Board on the various health care benefits and insurance options his company can offer to WCMS members. Mr. LaValley is seeking the opportunity to fill the void left by Kevin Lynch, who was the preferred business partner for WCMS members for approximately 15 years. Mr. LaValley will return to the Board at a future meeting for more discussion of specific products he can offer.
- **Received the Report of the Executive Committee and the President, as presented by Thomas Lee, MD. Dr. Lee reported on the following:**
 - The terms of the new lease for WCMS in its current space, which will save the WCMS approximately 20k per year. ***The Board approved signing the new lease as soon as possible, effective no later than March 1, 2013.***
 - The Institutional Membership program proposed by WCMS/MSSNY to the entire Medical Staff of Northern Westchester Hospital (NWH) has been overwhelmingly approved. This program will bring over 400 new members to WCMS and MSSNY and will lower the combined dues of all medical staff members by over 60%. WCMS leadership will be meeting with NWH Medical Staff leadership in late February to discuss implementation.
- **Approved the report of the President of the Academy of Medicine, which authorized the Academy to sponsor the prizes for the 4th Place Winners at the upcoming Westchester Science and Engineering Fair, March 9, 2013.**
- **Approved the Report of the Membership Committee welcoming two (2) new members to the WCMS and Academy**, five (5) new MLMIC-sponsored residents, and one new transfer (from NY County). *The Board observed a moment of silence to note the passing of Michael Miller, MD, age 95.*
- **Approved seven (7) resolutions for submission to MSSNY for the April 12-14, 2013 MSSNY Annual Meeting, to be held at the Westchester Marriott, Tarrytown. A description of these resolutions can be found on pages 6-7.** These resolutions were also approved by the counties of Putnam, Rockland, and Orange, who along with Westchester are members of the MSSNY Ninth District Branch.

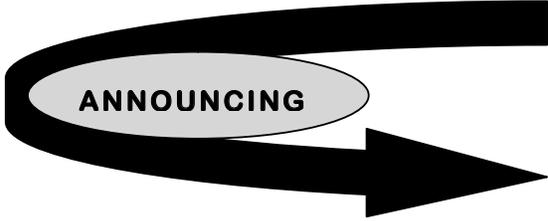


MLMIC Update

A lot of change is occurring in healthcare today, which can increase costs and/or lower reimbursements. As the leading professional liability insurer of physicians, hospitals and dentists in NYS, we know that this can put pressure on our insureds to manage the cost of their professional liability insurance. There are several things you can do to prudently manage the cost of your professional liability insurance:

1. See if you qualify for our claims-free discount. MLMIC offers a 7.5% discount for physicians that have continuously been in practice for a minimum of 5 years and have no open or closed claims within the past 5 years. About half of our insured physicians currently receive this discount. Some that haven't received it may soon qualify. Others that meet the criteria and are currently not insured by us could qualify for the discount if they became insured by MLMIC. For more information, please visit the Underwriting section of MLMIC.com.
2. Take full advantage of MLMIC's online risk management course. We offer an online risk management course that can be completed in just a few hours from a home or office computer. It offers CME credits and a 5% premium discount upon successful completion. Many physicians take advantage of this course, but some do not. For more information, please visit the Risk Management section of MLMIC.com.
3. Request a risk management survey for your group. MLMIC has a team of riskmanagement professionals that works with its insureds to identify causes of loss and ways to mitigate them. This can help lower professional liability insurance costs over time. For more information, please visit the Risk Management section of MLMIC.com.
4. Be wary of professional liability insurance quotes that are materially lower than your current premium. This can occur when the proposed coverage is not as comprehensive as your existing coverage. For example, switching coverage from occurrence to claims made initially triggers a substantial reduction in premium, but it may also create the need for tail coverage when the policy is cancelled. If you are comfortable with this, we can make this switch for you at MLMIC. We stand ready to help you compare quotes, explain the key differences, and discuss coverage options, if desired. For more information, please visit the Underwriting section of MLMIC.com.
5. Monitor the financial condition of your insurer. If the insurer is weak, they may have difficulty honoring their policyholder obligations. Some insurers may not be protected by the NYS guaranty fund, which protects insureds in the event of an insurer's insolvency. Also, strong insurers are better able to reduce rates or declare dividends when actuarially indicated. Financial statement information is often available on insurer websites (please visit the About Us section of MLMIC.com). It also may be obtained independently from the National Association of Insurance Commissioners at www.naic.org.

MLMIC recognizes that change can present challenges and opportunities. As a mutual insurer, we are committed to meeting the professional liability insurance needs of our policyholder owners, as we have since our founding in 1975. If you have specific questions, please contact Gary Andelora at 716-648-5923. ♦



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Long-Term Care Planning: Tax Advantages for Business Owners.

BY MICHAEL J LEHRHAUPT, CLT

Most Business Owners invest a lot of time and money building their estate; then they spend even more money protecting their property and liability with policies such as homeowners and automobile insurance. Most, though, overlook a critical part of asset protection, *long-term care insurance* (LTCI). Yet, the likelihood that a Business Owner will require some type of extended custodial or medical support, and the cost of that care, keeps rising all the time. In fact, the odds of an individual experiencing the need for a long-term care (LTC) claim are one hundred twenty times greater than losing their house due to a fire or other catastrophic loss.¹

Who Pays for Long-Term Care?

Most people think that Medicare, Medicaid, health insurance and long-term disability (LTD) policies will pay for all of our long-term care needs, but that is a common misconception. Medicare, Medicare HMOs and Medicare Supplements were designed to pay for the costs of hospitals, doctors, and skilled professional care, *not* LTC services. Although Medicare does provide short-term coverage for stays in skilled nursing facilities, it does not cover custodial (unskilled) care or assisted living care, nor does it cover extended home health care. The government's Medicare guidebook suggests that *Americans should not count on Medicare as their primary source of LTC funding*. To receive Medicaid benefits, one's income and assets must meet federal poverty guidelines. A person must "spend-down" his or her assets before becoming eligible. Medicaid does not cover services provided at home or in assisted-living facilities — only in skilled nursing homes. Medical insurance covers specific treatment for acute care, and long-term disability may replace one's income, but neither of these will pay for the costs associated with long-term care.

New Federal Tax Incentives

Business owners and employers across America can take advantage of significant tax benefits when buying a Long Term Care Policy. *These policies can protect the business owner's personal assets and independence with pre-tax dollars.*

HIPAA Legislation in 1996 created generous incentives for business owners to purchase LTCI for themselves, spouses and/or their key executives. Here are some of the highlights:

- State Tax Credits – NY State will allow a 20% tax credit of premium.
- Business owners can deduct 100 percent of premium paid for employees
- Business owners can deduct up to 100 percent of their own premium (C-Corps, PC's, LLP's, LLC's, S-Corps, etc.) based on Federal Taxes.
- Spouses can be added to policies at significantly discounted rates, and the premium can be deducted
- Policy benefits are income tax-free
- Benefits do not inflate employees' income
- "Discrimination" is allowed in offering coverage (carve-outs)
- LTCI is fully portable
- Return of premium features may be available (varies by state)

Long-term care insurance can play a critical role in one's complete financial plan. Not only will LTCI protect the business owner's assets, but it can assure independence, personal dignity, quality and choice in one's extended health care.

Michael Lehrhaupt is the Principal of Strategies for Long Term Care, the "endorsed" provider of LTC insurance for WCMS members. If you would like more information regarding the Tax Deductibility of Long Term Care Insurance or would like to receive a quote, He can be reached at 1-888-582-8632 or Michael@strategies4ltc.com.

Disclaimer: Federal and State laws in this area are complex and subject to change. Please consult with your advisors regarding applicable tax or legal considerations. ♦

Legal Corner



Physician Legal Alert: "I-STOP" Mandates Severe Penalties for Noncompliance

By: Michael J. Schoppmann, Esq.

Developed through the offices of New York State Attorney General Eric T. Schneiderman, a new law¹ has been passed by the State Legislature and signed by Governor Cuomo that would "exponentially enhance the effectiveness of New York's existing PMP to increase detection of prescription fraud and drug diversion."²

The Internet System for Tracking Over-Prescribing Act, (I-STOP), establishes an on-line, real-time, controlled substance reporting system that requires prescribers (including physicians) to consult the prescription monitoring registry prior to prescribing or dispensing Schedule II, III or IV Controlled Substances. In addition, pharmacists, who did not previously have access to the registry, as a result of I-STOP will have access to the registry in order to review the controlled substance history of an individual for whom one or more prescriptions for controlled substances are presented to the pharmacist.

"I-STOP"

- Requires the Department of Health to establish and maintain an on-line, real-time controlled substance reporting system to track the prescription and dispensing of controlled substances;
- Requires practitioners to review a patient's controlled substance prescription history on the system prior to prescribing;
- A practitioner may authorize a designee to consult the registry on his or her behalf, provided that the practitioner takes reasonable steps to ensure that the designee is sufficiently competent to use the registry, and the practitioner remains ultimately responsible to ensure that the registry is used for authorized purposes and is used in a manner that protects the confidentiality of the information obtained from the registry;
- A practitioner is not required to consult the registry prior to dispensing a controlled substance, provided that all other requirements pertaining to dispensing controlled substances are followed;
- There are a number of exceptions whereby the duty to consult the registry does not apply, such as (A) it is not reasonably possible to access the registry in a timely manner; (B) no other practitioner or designee who is authorized to access the registry is reasonably available; and (C) the quantity of the controlled substance prescribed does not exceed a 5 day supply (regulations of the NYS DOH will provide more specific information regarding the exceptions); and

¹ Chapter 447 of the laws of 2012 became effective August 27, 2012. The duty of physicians and other practitioners to consult the prescription monitoring program registry is found at Public Health Law 3343-a, and becomes effective August 27, 2013.

² Report of the New York State Office of the Attorney General, "internet System for Tracking Over-Prescribing (I-STOP)"
(Continued on page 15)

(Continued from page 14) Legal Corner

- The duty to consult the registry does not apply to Schedule V Controlled Substances.

Unknown to most physicians, the New York Department of Health (NYDOH) already maintains an on-line database accessible to the 49,000 DEA-licensed practitioners throughout New York known as the Prescription Monitoring Program (PMP). In fact, only 3,600 prescribers have ever accessed the PMP to obtain patient information. Moving forward, NY DOH will update the current PMP in an attempt to increase participation, however, compliance with I-STOP is not being delayed pending that update to the PMP.

However, what is being overlooked by most practicing physicians who seek to comply with I-STOP is that they must first have an active "Health Commerce Account" with The State of New York, Department of Health's Health Commerce System. Physicians seeking to establish such an account must go to:

<https://hcsteamwork1.health.state.ny.us/pub/top.html>

Given that electronic prescribing will be mandatory for all physicians as of December 31, 2014, coupled with the incredible magnitude of this issue (termed an "epidemic" by Gov. Cuomo and Attorney General Schneiderman) every physician throughout New York should take immediate note of their prescribing protocols and begin whatever process is necessary to comply with the law and maintain that compliance without fail or exception.

Painkiller overdoses nationwide killed nearly 15,000 people in 2008. In New York, the number of prescriptions for all narcotic painkillers has increased from 16.6 million in 2007 to nearly 22.5 million in 2010 - prescriptions for hydrocodone have increased 16.7 percent, while those for oxycodone have increased an astonishing 82 percent. In New York City, the rate of prescription pain medication misuse among those age 12 or older increased by 40 percent from 2002 to 2009, with nearly 900,000 oxycodone prescriptions and more than 825,000 hydrocodone prescriptions filled in 2009.

Report of the New York State Office of the Attorney General, "internet System for Tracking Over-Prescribing (I-STOP)"

Of significant note, the duty for physicians to comply is strict and mandatory, carrying severe potential penalties for any failure to comply, including but not limited to, loss of license, civil penalties and/or criminal charges. To avoid the possibility of such dire events, plans for compliance with I-STOP must be built, implemented and adhered to immediately, and without fail, by every physician throughout New York.

Kern Augustine Conroy & Schoppmann, P.C., Attorneys to Health Professionals, DrLaw.com, is solely devoted to the representation and defense of physicians and other health care professionals. Mr. Schoppmann may be contacted at 1-800-445-0954 or via email at mschoppmann@drlaw.com.

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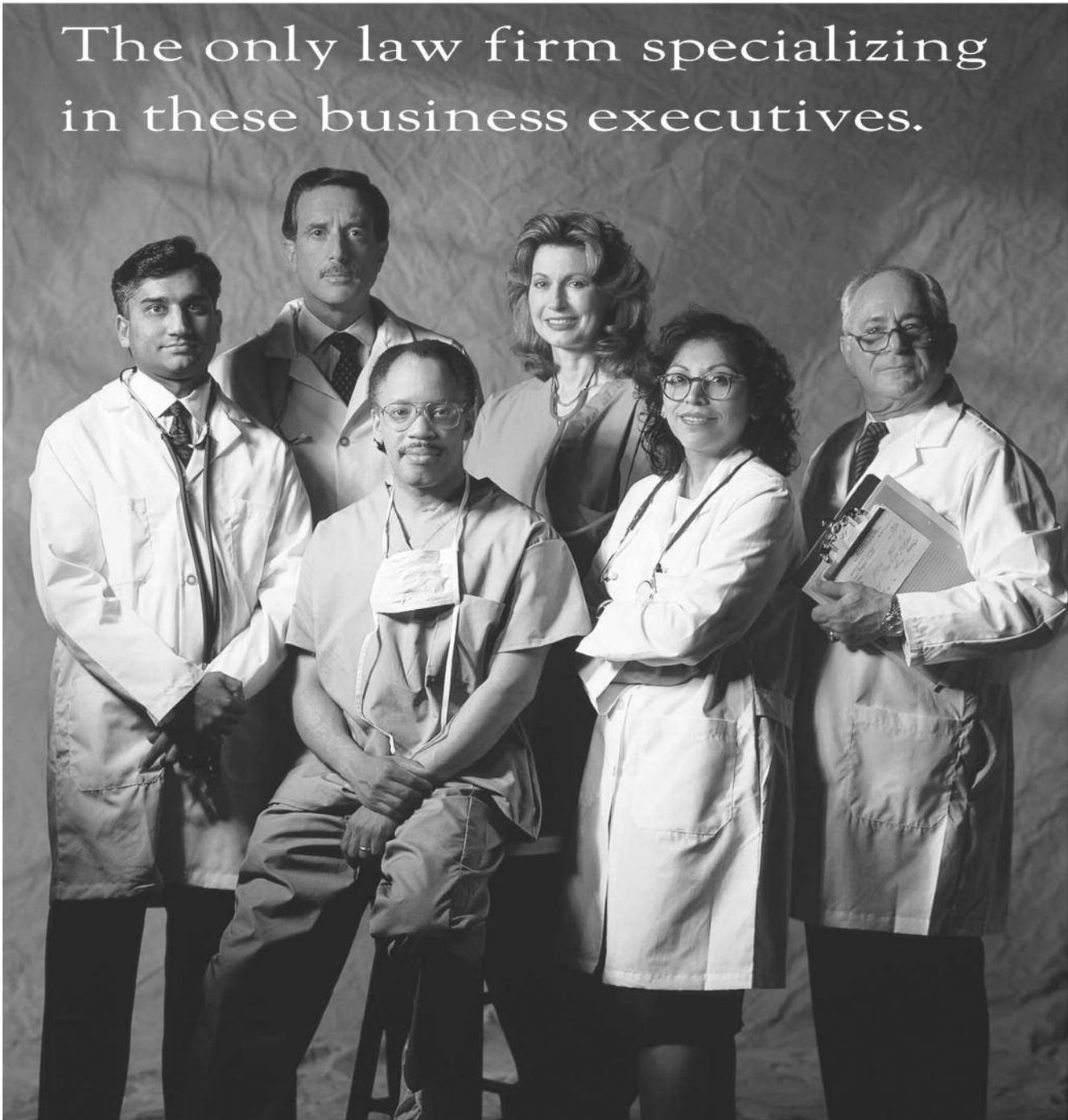
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Tuesday, March 26, 2013

6:30 PM

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