



August 2008

MIAMI MEDICINE

The Official Publication of the Dade County Medical Association

Meet the Rest of the DCMA Board of Directors for 2008-2009



Andre Abitbol, M.D.
DCMA District 2



Elizabeth A. Etkin-Kramer, M.D.
DCMA District 4



Eugene S. Fu, M.D.
DCMA District 1



Jeff O. Gonzalez, M.D.
DCMA District 3



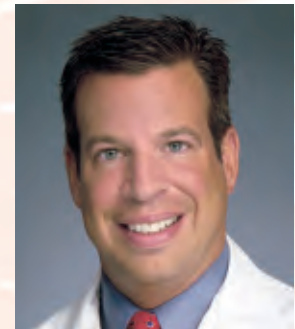
Alfonso Icochea, M.D.
DCMA District 5



Wentworth G. Jarrett, M.D.
DCMA District 2



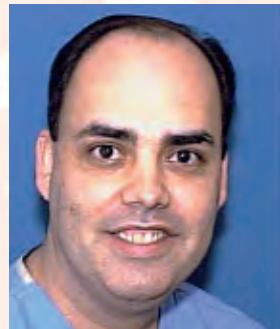
Tom Mesko, M.D.
DCMA District 4



Randy B. Miller, M.D.
DCMA District 1



Barbara Montford, M.D.
DCMA District 5



Niberto Moreno, M.D.
DCMA District 3



Eleonor Pimentel, M.D.
DCMA District 3



Athanassios I. Tsoukas, M.D.
DCMA District 1

CHANGES - See what's inside...

- Medicare Debacle - page 3
- Liability Issues - page 7
- Medical Information Technology - page 9
- When Is a Strike a Strike - page 11
- Malpractice Insurance - page 12
- Diagnosis: Pathological Gambling - page 13

First Professionals Insurance Company

Florida's Physicians Insurance CompanySM

Congratulates...

...incoming President

Bernd Wollschlaeger, M.D.

Thank you to

Nelson L. Adams, M.D.

for your dedicated service this past year.

First Professionals is proud to be endorsed
by the Dade County Medical Society



Ask about our premium discounts
Contact Shelly Hakes, Director of Society Relations
www.firstprofessionals.com
(800) 741-3742, ext. 3294



Congratulations!

Blue Cross and Blue Shield of
Florida, Inc. congratulates
Bernd Wollschlaeger, M.D.
on being selected as the
Dade County Medical Association
2008 President.



**BlueCross BlueShield
of Florida**

An Independent Licensee of the
Blue Cross and Blue Shield Association



MESSAGE *from your* PRESIDENT:

The MEDICARE Debacle

Bernd Wollschlaeger, M.D., FAFAP, FASAM
President, Dade County Medical Association

Every year we are forced to wage an epic battle to prevent a cut of the already meager Medicare reimbursement for physicians. This year we were slated for a 10.6% cut in payments. Following an intense lobbying campaign, including direct attacks on Senators who were resisting support of our issues, we were able to stop the scheduled cuts. Unfortunately, our President Bush vetoed the bill. Fortunately, we were successful in getting the U.S. House and U.S. Senate to override the President's veto. Thank you to all of you – and your patients - who called legislators. And certainly a big thank you to Senators Mel Martinez and Bill Nelson; Congressmen Lincoln Diaz-Balart, Mario Diaz-Balart, Kendrick Meek, Ileana Ros-Lehtinen and Debbie Wasserman-Schultz for their votes supporting doctors and patients.

But what did we achieve? Yes, we stopped the reimbursement cuts this year. That means that next year we will face a 20% cut! Why? Because the reimbursement formula (SGR) is flawed and therefore the legislators are obligated to “adjust” our reimbursement accordingly. Simply put - no cuts this year means a double cut next year!

So did we achieve just a pyrrhic victory? What options remain to continue the practice of medicine without going broke? First, we need to continue our lobbying campaign to convince lawmakers to discontinue subsidies for private health plans, on average, 13% more than the same services would cost through private traditional Medicare. Are those overpayments justified? A recent Government Accountability Office (GAO) report found that Medicare Advantage, managed-care plans offered by private insurers, do NOT reduce out-of-pocket health care costs for enrollees as advocates of those plans are claiming. The report, released February 28, compared spending by Medicare Advantage plans (which covered about 8 million people and received about \$59 billion from the federal government in 2006) and traditional Medicare fee-for-service plans.

Medicare Advantage plans receive a per-member, per-month payment to provide services covered under Medicare fee-for-service plans. The Advantage plans also receive additional Medicare payments that are supposed to fund benefits not covered under the fee-for-service plans, to lower premiums, or to reduce beneficiary cost sharing.

The GAO said that while Advantage plans were paid, on average, 13% more in 2007 than the cost of care found in fee-for-service Medicare, 19% of Advantage beneficiaries were in plans that were projected to have **higher out-of-pocket costs for home health services than these services would cost under traditional Medicare, and 16% were in plans that were projected to have higher out-of-pocket costs for inpatient services.** Many enrollees are finding that Medicare Advantage plans are charging more than traditional Medicare for many services, such as hospital stays, chemotherapy, and durable medical equipment.

Cecil Wilson, M.D., former AMA board chair, presented a survey painting a “bleak picture” of physicians’ experience with Medicare Advantage plans. “More than half of the physicians report that their patients in a Medicare HMO or PPO plan were denied coverage of services typically covered in the traditional Medicare plan,” Wilson said. Therefore, these plans should be called Medicare Disadvantage and the continued preferred funding of those plans is jeopardizing the financial viability of the entire Medicare system! We strongly believe that by reducing funding for Medicare (Dis)Advantage, the scheduled drastic pay cut to doctors could be postponed allowing sufficient time to work on a PERMANENT fix of the Medicare system focusing on the flawed SGR formula. According to our American Medical Association, scheduled SGR adjustments over the next nine years would amount to a 40% reduction in payments, while doctors’ costs are expected to increase 20% during the same period. Reducing Medicare Advantage payments by 12% would raise about \$65 billion over five years – roughly the same amount needed to keep Medicare physician reimbursements at current levels, with inflation adjustments, for five years.

Therefore, it should be our top legislative priority to convince our legislators to stop the subsidies for private plans, to fix the SGR and to pay physicians for the services rendered.

Second, we must contribute to an overhaul of the payment system for medical services emphasizing cost control, quality and outcome. For more information see my medical information technology article on page 9 in this issue of Miami Medicine.

Yours,
Bernd Wollschlaeger, M.D., FAFAP, FASAM
President, Dade County Medical Association



DADE COUNTY MEDICAL ASSOCIATION / POLITICAL ACTION COMMITTEE

YES, I WANT TO MAKE A DIFFERENCE IN THE LEGISLATURE

Name : _____

Address : _____

Phone : _____ Fax : _____

DCMA/PAC CAN DO WITHOUT YOUR TIME — NOT WITHOUT YOUR MONEY!

____ PHYSICIAN \$100 ____ SPOUSE \$100 ____ RESIDENT/MED STUDENT \$5.00

PLEASE MAKE YOUR CHECK PAYABLE & MAIL TO:
DCMA POLITICAL ACTION COMMITTEE
1501 N.W. NORTH RIVER DRIVE
MIAMI, FLORIDA 33125



Introducing the Next Best Thing for Dade County Medical Association Members!

The Dade County Medical Association is pleased to endorse the "next best thing" - through Comp Options, DCMA members can now **receive money back on your workers' comp premium with a potential dividend of 24.8% of your premium.** The program is offered by Danna-Gracey, an independent insurance agency with a team of specialists dedicated solely to insurance coverage placement for Florida's doctors. Money back from your insurance premium – it's the greatest thing since sliced bread!

For more information on this DCMA endorsed workers' compensation insurance program through Comp Options, please call Tom Murphy at **800.966.2120.**



Delray: 54 SE Sixth Avenue, Delray Beach, FL 33483 • **800.966.2120** • Fax 888.235.5008
Orlando: 541 Lake Como Circle, Orlando, FL 32803 • **888.496.0059** • Fax 407.896.0079
info@dannagracey.com • www.dannagracey.com

**YOU STILL HAVE TIME TO REGISTER TO VOTE
IN THE GENERAL ELECTION ON NOVEMBER 4, 2008.**

**You have until October 6, 2008 to register
in order to be able to vote in the
General Election on Tuesday, November 4, 2008.**

To apply to register to vote online, go to <http://elections.miamidade.gov> and follow the instructions. This form requires an original signature and should be filled out in black ballpoint pen. Even if you fill out the PDF form online, it must be printed out, signed and mailed to the address provided.

To register to vote in person go to any public library, division of motor vehicles or city hall.

For more information call the Miami-Dade County Supervisor of Elections at 305 499-8444. You can also visit the elections department website at: <http://elections.metro-dade.com>

Remember your vote can make a difference!

Need an absentee ballot? Send a letter to the Miami-Dade County Supervisor of Elections, P.O. Box 521550, Miami, Florida 33152. Address the Letter as follows:

Dear Supervisor of elections:

Please send me an absentee ballot for the
November 4, 2008 general election

My name is: _____

My voter registration number is: _____

My address is: _____

My date of birth is: _____

The last four digits of my social security number are: _____

Signature: _____

EXCITING NEWS FOR MEMBERS

Dade County Medical Association
is pleased to announce our endorsement of
long term care insurance from
UNUM LIFE INSURANCE COMPANY OF AMERICA

As a member of the Dade County Medical Association,
you, your spouse, and parents will receive a

5% DISCOUNT

by contacting our endorsed agent
UNUM PROVIDENT

INDEMNITY BASED BENEFITS

Unum's benefits do not require the insured to submit payment vouchers in order to receive benefits once benefit eligible.

NO COORDINATION OF BENEFITS

Unum does not coordinate with other insurance coverage

TOTAL HOME CARE

Unum's total home care offers the insured the ultimate flexibility - such as care provided by informal caregivers like family and friends.

Endorsed by:



For more information call
JEFF D. HACKMEIER, LUTCF, CSA
(305) 893-4488



Rx



An assessment and evaluation of your office budgets will reveal a cost savings opportunity of up to 24.8% on your workers' compensation insurance premiums, with returns paid directly to your practice, by virtue of your Dade County Medical Association membership.

Danna Gracey

The Malpractice Insurance Experts

Tom Murphy
Murphy@dannagracey.com

Phone # (800) 966-2120

The DCMA is pleased to bring you a member program that can generate real savings to your practice, when the cost of everything else continues to increase.

THINK OF US AS A FINANCIAL HEALTH CENTER FOR PHYSICIANS



For over a decade our team of professionals has concentrated its efforts in meeting the financial, tax and accounting needs of health care professionals. Our expertise enables us to develop truly comprehensive plans for your financial well-

being that integrate a broad range of disciplines such as financial advisory services, pension consulting, estate planning and more. Call Carlos B. Pargas, CPA for a free personal consultation at (305) 273-0990.

Carlos B. Pargas and Associates, P.A., CPAs

Registered Investment Advisor

305.273.0990

7700 N. Kendall Drive, Suite 515 - Miami, FL 33156

www.pargascpas.com

An affiliate of Pargas Health Care Financial Advisors, Inc.

DISABILITY INSURANCE CLAIMS AND DISPUTES

John Jacob Spiegel, Esq., AV rated with 22 + years experience, is available to assist claimants and their families who seek disability benefits in all types of disability policies; individual, group, ERISA, and others. Disability claims are often complex and contested. Early legal representation is highly recommended.

- Policy review and analysis
- Pre-claim consultation
- Claim assistance, including ghost writing
- Claim monitoring
- Claim dispute resolution
- ERISA mandated presuit "appeals"
- Trial, Litigation and Appeals

John J. Spiegel, P.A.

Concord Building, 9th Floor, 66 West Flagler Street, Miami, FL 33130

Phone: (305)539-0700; Fax: (305)539-1894

E-Mail: JSpiegel@bellsouth.net

The Internet continues to open new avenues for communicating. Over forty-million Americans access the Internet for healthcare information and services.⁽¹⁾ Recent data further evidences the growing demand by patients for specific healthcare information and directives as well as increasing expectation for online interactivity.

In tandem with the benefits of electronic communications are emerging liability issues and sobering legal concerns. To date, legal waters are largely untested. Consequently, it is important for pediatricians who communicate electronically to address fundamental risk management issues evolving for Internet-based communication entailing patient privacy, confidentiality of patient information, security and encryption, parental informed consent, use of disclaimers, opportunities for patient education, and the implications of website linkage.

Electronic communication systems encountered in the healthcare delivery system are fairly abundant and include practice-based Internet web pages, electronic prescribing systems, wireless personal data, drug formularies, e-mail transmission, voice mail, and internal, intranet web sites. Approximately four-million patients communicate with their physician via e-mail and over three-million Americans access physician office-based websites.⁽²⁾

There are many advantages in communicating electronically with patients. Electronic transmission of information is faster than traditional modalities, and in some cases, instantaneous. In addition to meeting growing expectations for quick and precise information exchange, electronic communication has the advantage of informing and educating patients, confirming delivery of information exchange, provides automated follow-up, enhances informed consent, facilitates compliance with treatment

regimens, and documents the sequence of communication. However, such advantages are not without consequences liability-wise.

The inherent risks in communicating electronically include online malpractice exposure, unintended creation of a physician-patient relationship, inadvertent extension of the physician-patient relationship, and inappropriate disclosure of confidential patient information under potentially draconian HIPAA and civil monetary penalties. Courts have ruled that when used in connection with patient care and treatment, electronic communication is a medical record. Seemingly intangible electronic communication is likely to become evidence should a legal proceeding arise. In this context, consider whether the communication would support a defense or facilitate a malpractice claim against the physician? Such evidence could include notes that you author, records made by others, correspondence, e-mail transmissions, answering service records, staff notations, the content of websites and their links as well as messages and insurance and billing statements.

Meeting ever increasing expectations for online interactivity should be coupled with a modicum of risk management foresight and savvy.

- (1) iHealthcareweekly.com**
- (2) [Cyper Dialogue](#)**

Risk Management Guidelines Entailing Electronic Communications

- Develop a policy and procedure entailing e-communication
- Adhere to the policy and procedure
- Do not overlook patients who do not have electronic access
- Develop a directory to ensure current and correct e-mail and website addresses
- Provide a disclosure statement specifically delineating the confines of the physician-patient relationship
- Publish disclaimers pertaining to emergencies, confidentiality, documentation, and alternative mechanisms for communication
- Utilize encryption technology
- Do not use e-mail for time-sensitive issues
- Consider initiating an e-mail triage system
- Prohibit "routing" of e-mail communications
- Include mechanisms to block non-patient e-messages
- Ensure completion of patient/physician/patient communication
- Include the text of originating message in your reply
- Develop secure patient identification/digital certification
- Include e-communication in your written disclosure policy
- Ensure that all modalities of e-communication are HIPAA compliant
- Train employees and designate a privacy officer
- Insulate clinical website content from commercial material
- Obtain confirmation of message delivery

Cliff Rapp, a licensed health care risk manager, is Vice President of Risk Management with First Professionals Insurance Company, a leading medical professional liability insurer. Rapp is widely published and a national speaker on loss prevention and risk management.

Information in this article does not establish a standard of care, nor is it a substitute for legal advice. The information and suggestions contained here are generalized and may not apply to all practice situations. First Professionals recommends you obtain legal advice from a qualified attorney for a more specific application to your practice. This information should be used as a reference guide only.

First Professionals Insurance Company is Florida's Physicians Insurance CompanySM and the endorsed carrier for professional liability insurance.



The Miami VA Healthcare System



(VAHS) is raising funds for a new Fisher House on the north side of the Medical Center grounds. Over 55,000 veterans are treated at Miami VAHS each year. The Fisher House Foundation, Inc. builds and furnishes homes for family members and caretakers of injured military personnel and veterans who are being treated at the hospital. The houses are comfortable with numerous amenities, and lodging is free of charge. More information is available at www.fisherhouse.org and donations to the foundation with Miami VAHS Fisher House in the memo section can be sent to 1401 Rockville Pike, Suite 600, Rockville, MD, 20852.

EXCLUSIVE DCMA MEMBERS ONLY BENEFIT PROGRAM DCMA Attorney Referral Program

With the assistance of our General Counsel, J.A. Ziskind, a group of prominent specialty and many board certified attorneys who regularly represent medical professionals has agreed to provide counsel to DCMA Members. Not only have we sought a group of the most competent attorneys in their specialty but the individual lawyers have agreed to a twenty-five percent (25%) professional courtesy discount off of their normal hourly rate. If you have suggestions on adding any other specialty areas please contact us and we will fill that need.

This is a unique program and will prove successful to the extent our Members utilize this program. Below is the list of attorneys who are on the panel, including their specialty and telephone numbers. If you have any questions or comments on this program, please do not hesitate to contact J.A. Ziskind, Esq. at (305) 577-4888.

MEDICAL MALPRACTICE DEFENSE

John F. Eversole, III, Esq. (305) 670-4777
Bruce Yegelwel, Esq. (305) 858-2706
David Dittmar, Esq. (305) 442-4333

BANKRUPTCY

Frank Terzo, Esq. (305) 856-2444

CRIMINAL LAW

Jeffrey Weiner, Esq. (305) 670-9919
Edward Shohat, Esq. (305) 358-7000

FAMILY LAW

Stanley Newmark, Esq. (305) 670-7826

REAL ESTATE LAW

Terrance Mullin (305) 358-1101
Mark Rivlin (305) 661-4600

TRUSTS, WILLS and ESTATE PLANNING

Terrance Mullin (305) 358-1101
Kenneth I. Arvin (305) 577-4888

HEALTH CARE and CORPORATE LAW

Lewis Fishman, Esq. (305) 670-2100
J.A. Ziskind, Esq. (305) 577-4888
Kenneth I. Arvin (305) 577-4888

DEPARTMENT OF HEALTH and AHCA DEFENSE LAW

Mark Dresnick, Esq. (305) 461-1975

LABOR and EMPLOYMENT

Chad K. Lang, Esq. (305) 808-2103
William R. Radford, Esq. (305) 808-2134

THE HIRING OF AN ATTORNEY IS AN IMPORTANT DECISION THAT SHOULD NOT BE BASED SOLELY ON ADVERTISEMENTS. BEFORE YOU DECIDE, ASK THE ATTORNEY TO SEND YOU FREE WRITTEN INFORMATION ABOUT THEIR QUALIFICATIONS AND EXPERIENCE.



TECHNOLOGY

from your PRESIDENT

Medical Information Technology

Changing The Reimbursement Paradigm: Threat or Opportunity

By Bernd Wollschlaeger, MD, FAAFP, FASAM
President, Dade County Medical Association

The recurring annual Medicare physician's reimbursement debacle exemplifies the core issue threatening the financial viability of physicians practice. This year's payment cuts were averted but only deferred to next year. **Then we will face a combined 20% cut!**

What is the problem? Medicare spending growth is driven mainly by volume growth. The default fee update is linked to volume growth and the "Sustainable Growth Rate (SGR)" system sets targets and generates fee cuts if spending exceeds targets. Curbing the spending increase requires addressing three core issues: cost, quality and outcome. Reforming the Medicare payment system must be a top priority to guarantee and maintain access to healthcare services for America's Seniors. Such reforms will include the following features outlined in a recent MedPAC report and published CMS rules and regulations. On June 13th, 2008 the Medicare Payment Advisory Commission (MedPAC) released its report to Congress entitled *"Reforming the Delivery System"*. The report emphasizes that *"To increase value for beneficiaries and taxpayers, the Medicare program must overcome the limitations and incentives for volume growth in its current payment systems and...recommends that CMS conduct a voluntary pilot program to test bundled payment for all services around a hospitalization for select conditions."* Virtual bundled payment would use the current fee-for-service system but would *"begin weaning providers away from inefficient ordering of tests and procedures"* by penalizing them for *"above average resource use."* Furthermore, the Centers for Medicare & Medicaid Services (CMS) is already linking payment updates to quality measure reporting: The Medicare Improvements and Extensions Act under Division B, Title I of the Tax Relief Health Care Act of 2006, Pub. L. 109-432 (MIEA-THRCA) requires the Secretary of Health and Human Services to develop measures to make it possible to assess the quality of care (including medication errors) furnished by hospitals in outpatient settings.

The introduction of composite ambulatory payment classification (APC) groups: In this final rule with comment period, CMS is also adopting the use of composite ambulatory payment classification groups (APCs) to encourage efficiencies by providing one bundled payment for several major services. Composite APCs encourage even greater hospital efficiencies than expanding packaging by making a single payment for the totality of hospital outpatient care provided during an encounter.

What does that mean for us physicians? That we need to implement tools to measure the services we are rendering in our practice. This does not only include electronic billing but also electronic health records to quantify the quality of our care and to ascertain the desired outcome of treatments rendered.

Many experts, including myself, believe that current cost and quality concerns can be addressed through *clinical transformation*, the systematic modernization of the health care industry on the basis of new and evolving clinical information systems. Unlike other aspects of society, the health care delivery system has been relatively unaffected by the recent revolution in information technology. But according to the Institute of Medicine (IOM), if we expect to see substantial improvement in quality over the near term, information technology (IT) will need to play a central role in the redesign of the health care system. Indeed, being able to take advantage of advances in information technology is seen as a critical catalyst and enabling factor in the process of change.

We have a great deal to learn from the experiences of companies in other major service industries, where IT has proved to be a transformative force. Banking, airlines, and retailing are frequently held up as success stories in their use of IT advances to increase efficiency and improve service quality.

A key driving force in the adoption of service quality- and productivity-enhancing IT systems and applications is the growing impact of market competition. In order for competition to be a significant force in the adoption of clinical IT in health care, the market must *reward quality, allowing health care providers to charge more for a higher quality of care.* Establishing such an effective, competitive market requires three components: 1) consumer demand; 2) provider competition; and 3) IT capabilities at a reasonable cost. Today, consumer demand and provider competition present relatively effective forces driving competition, although both could be spurred on with greater private and public sector initiatives. On the other hand, without subsidies to promote more technological innovation, the limited availability of affordable IT solutions may hinder development of a truly competitive market for the foreseeable future.

A key factor underlying company success and industry transformation is the combination of management competencies referred to as IT Leadership. As competition becomes a more significant driver of change in health care, IT Leadership must be increasingly attuned to the impact of market forces and maintain an intense focus on the customer. Effective IT leadership in health care will come to resemble what's been behind IT transformation in other industries. Health care executives and clinicians must still be prepared to deal with the traditional hurdles to IT implementation peculiar to the health care setting. However, they also need to understand and respond to the challenges presented by an increasingly competitive environment, since competition will influence their choice of overall corporate and IT integrated strategies, major IT decisions and investments, and the optimal approaches for achieving successful implementation.

What sort of IT advances should we strive for? We have to promote the use of better systems for collecting, analyzing, and, where appropriate, distributing patient-level clinical information to systematize and therefore improve the process of health care delivery. Lately, most attention has focused on the value of hospital-based computerized physician order entry (CPOE), but this is only one component of a transformed clinical system that will act as a major line of attack on the problem of medical errors. The foundation of the system would be the electronic health record which can interface with other information systems via regional Health Information Exchange (HIE) systems. The main purpose of these clinical systems is to provide targeted and timely information at key decision points along the path of diagnosis and treatment, allowing clinicians to provide more effective care and permitting managers to assess care processes to improve their cost effectiveness.

While health care faces massive challenges integrating internal and external IT systems, its most overwhelming problems relate to gaining physician and hospital staff cooperation for implementation. Many doctors hesitate to embrace the clinical transformation challenge. This attitude on the part of physicians is going to change and organized medicine has to assume a leadership role by offering educational programs, promoting group purchasing discounts for hard- and software solutions and lobbying for the adoption of universal IT standards to facilitate the exchange of medical information.

Medical societies should also consider to acquire a stake in local health IT initiatives to direct the development of medical information technology towards affordable and adaptable service solutions. Our medical practices cannot survive the challenges of the 21st century utilizing 18th century pencil and paper technologies. The time to change is now!

Disclaimer: The author is a computer consultant, founder and managing partner of VirtualMed, LLC



Looking for a few good OB/ GYNs and others interested in Maternal and Infant Health:

The Healthy Start Coalition of Miami-Dade Fetal and Infant Mortality Review (FIMR) Project is a countywide effort to better understand the issues associated with fetal and infant mortality and morbidity and to develop strategies that improve perinatal systems of care, locally and statewide. FIMR is composed of two groups, the Case Review Team (CRT) and the Community Action Group (CAG). A multi-disciplinary team of professionals, the CRT uses unidentified/patient blinded abstracted information from vital records (death and birth certificates), hospitals, clinics, physicians, police, Medical Examiner records and family/maternal interviews. We would like to invite you to participate in the FIMR Project. The members of the Case Review Team represent a wide array of personal and professional knowledge, expertise and experience as well as the ethnic and cultural diversity in the community and a board, creative range of organizations.

If you are interested in participating, please contact the Healthy Start Coalition of Miami-Dade at 305-541-0210
www.hscmd.org



BENEFITS ONLY FOR MEMBERS OF THE DADE COUNTY MEDICAL ASSOCIATION

PROMED PERSONNEL SERVICES PROVIDING TEMPORARY AND PERMANENT STAFFING SERVICES

- 10% DISCOUNT ON TEMP RATES**
- 25% DISCOUNT ON TEMP-TO PERM**
- 33% DISCOUNT ON PERM RATES**

ProMed Personnel is a temporary and permanent staffing agency devoted solely to fulfilling the staffing needs of the healthcare industry. We pride ourselves in the ability to simplify the staffing process and provide services based upon your specific requirements. We provide temporary and/or permanent employees to hospitals, laboratories, HMO's, healthcare consultants and both individual physicians and multi-doctor practices. Our staffing services include (but are not limited to):

- **RECEPTIONIST • SECRETARIES • BILLERS/CODERS • CLERKS • MEDICAL ASSISTANTS/PHLEBOTOMISTS**
- **TRANSCRIBERS • OFFICE MANAGERS • RN's/LPN's • PA's/NP's • SOCIAL WORKERS (BSW/MSW)**
- **MENTAL HEALTH/ CASE MANAGEMENT • QUALITY ASSURANCE • BILINGUAL STAFF**

FOR MORE INFORMATION ON OUR ARRAY OF SERVICES, CONTACT:
MIAMI, FL: 305-995-8225 PLANTATION, FL: 954-916-2640

www.promedpersonnel.com

When is a strike a strike?

Matt Gracey

At critical times in a close baseball game plate umpires can change the outcome of the whole game by changing the size of the strike zone. It seems that our lawmakers and judges are in the same mode while dealing with the amendments passed in 2004. The good news for doctors is that the implementing legislation dealing with the definition of a strike has helped doctors feel more secure practicing in Florida than they felt after the amendment first passed.

Attorney Alex Barker of the West Palm Beach law firm of Adams, Coogler, Watson, Merkel, Barry & Kellner, P.A. states: "Of the three amendments passed in 2004, Amendment 8 is the only one doctors can be somewhat relieved about since it has not caused the intended effect of forcing more settlements in a civil medical malpractice case."

The implementing legislation 456.50 passed in 2005 stated that there must be a finding of "clear and convincing" evidence in a standard of care case in order to constitute a strike. Since civil cases have a "preponderance of evidence" versus the "clear and convincing" standard, the effect of the legislation is not to count a physician's loss of a medical malpractice case as a strike. To be a strike, the Board of Medicine must take on the case as a standard of care issue, with their clear and convincing standard, and the Board must make a finding that the defendant doctor violated the standard of care. Such a finding is made in cases where a defendant doctor decides to fight the Board in a formal hearing and does not prevail. If the doctor decides to enter into a stipulated settlement agreement or Consent Agreement with the Board before a hearing then there is no finding, thus no "strike" against the defendant doctor.

The statute reads: "For purposes of implementing s. 26, Art. X of the State Constitution, the board shall not license or continue to license a medical doctor found to have committed repeated medical malpractice, the finding of which was based upon clear and convincing evidence. In order to rely on an incident

of medical malpractice to determine whether a license must be denied or revoked under this section, if the facts supporting the finding of the incident of medical malpractice were determined on a standard less stringent than clear and convincing evidence, the board shall review the record of the case and determine whether the finding would be supported under a standard of clear and convincing evidence."

Alex Barker on this point relates that "The most significant impact that Amendment 8 will have on Florida doctors as currently implemented is in situations where a young physician may not want to settle a case alleging a breach in the standard of care with the Board of Medicine but must do so for fear of gaining a strike."

For awhile doctors were also worried about one incident turning into multiple strikes but the implementing legislation also helped on that front by stating "multiple findings of medical malpractice arising from the same wrongful act or series of wrongful acts associated with the treatment of the same patient shall count as only one incident."

There is also confusion surrounding the time frame of the three strikes. The legislature debated this issue fairly vigorously and the final legislation was passed with no time limit, so in essence the Board can take away a license for three strikes during a doctor's whole career.

So, while doctors have had bad news on Amendment 3 that the courts have allowed attorneys to circumvent by having their clients sign waivers, and on Amendment 7 which the courts are now using to allow attorneys to request any and all adverse incident reports from hospitals without any time limits, Amendment 8 is still not as bad as it was initially feared to be. Of course, as in baseball, the judges or legislature can decide to change that with a blink of the eye, so stay tuned.

Danna Gracey
The Malpractice Insurance Experts

Matt Gracey is a medical malpractice insurance specialist with the firm of Danna-Gracey, Inc. in downtown Delray Beach. He can be reached at 800 966-2120.

Malpractice Insurance Cost Florida Doctors \$184 Million Less in 2007

Matt Gracey

By now most physicians and surgeons across Florida have realized that the malpractice insurance crisis of the early 2000s is over. Mailings, faxes, and advertisements from agents and insurers, some large, established ones, and some new start-ups are bombarding doctors with the good news. In the last two or three years almost every malpractice insurer in Florida has lowered their rates. For some doctors the rate reductions have seemed too little but in terms of actual cumulative savings across the state doctors have spent millions less on coverage.

Robert E. White, Jr., President of First Professionals Insurance Company (FPIC), reports that FPIC's base rates have been reduced by 19% since December 1, 2006, excluding the impact of Florida Insurance Guaranty Association (FIGA) assessments. The rate reductions have resulted in a savings of \$43 million for FPIC insureds since December 1, 2006, again excluding the FIGA assessments. "Although premium savings may be impacted by tort reform, we believe that the drop in claims frequency is a more accurate reason for premium decrease," reports White. "Claims frequency is down because of a number of factors, including tort reform, aggressive claims defense, wider use of alternative dispute mechanisms including arbitration, and the patient safety movement."

SNL Financial provides data included in annual statements from Florida medical professional liability insurance (MPLI) carriers. Direct written premium for those Florida MPLI carriers in 2006 and 2007 indicates that Florida doctors paid \$184,410,000 less for their MPLI coverage in 2007 than they did in 2006. Mr.

White explains, "If we assume that rates decrease an average of another 12% statewide for 2008, then Florida doctors will have paid \$263,952,000 less in 2008 than they did in 2006 for a cumulative savings of \$448,362,000."

According to Bob White, "While tort reform is not the sole reason that premiums paid by Florida physicians have decreased, they are a factor that has contributed to lower premiums as they have helped spawn the low claims frequency that has driven the reduction in premiums. The physicians of Florida need to work together to insure that the tort reform package that passed in 2003 survives the expected constitutional challenge. The most immediate task at hand in that endeavor is influencing the selection of Florida Supreme Court justices towards individuals who would support caps on non-economic damages."

So while malpractice rates have decreased greatly because of the reduced claims frequency there is still much to be concerned about. Recently the courts in Georgia ruled against their recently passed \$350,000 cap on non-economic damages and every expert in Florida has predicted numerous challenges to the reforms here. In contrast the Texas courts have so far upheld the most effective medical tort reforms of any state this decade. Because of Texas' cap of \$250,000 on non-economic damages and some other tort changes, 7,000 doctors have flooded into Texas in the last three years at a rate that has overwhelmed the medical licensing board. The savings to doctors from just one of Texas' thirty medical malpractice insurers was recently pegged at \$217 million over the last four years.



Matt Gracey is a medical malpractice insurance specialist with the firm of Danna-Gracey, Inc. in downtown Delray Beach. He can be reached at 800 966-2120.

Diagnosis: Pathological Gambling

By Pat Fowler, Executive Director, Florida Council on Compulsive Gambling

INTRODUCTION

Since 1980, the American Psychiatric Association has classified pathological (compulsive) gambling as a mental health disorder of impulse control. Pathological gambling, a progressive behavior disorder, is characterized by a psychological preoccupation and uncontrollable urge to gamble resulting in excessive gambling. Left untreated, pathological gambling will compromise and disrupt the gambler's mental and physical health, personal and family relationships, financial well-being, career and educational pursuits.

Pathological gambling is often referred to as the "hidden illness" because there are no physical or visual symptoms like you might see with substance dependence. A 1999 study within a primary care setting (Pasternek) revealed that more than 80% of the patients had gambled and 6.2% met the criteria for gambling disorders. The report solidified the need for medical assessment and concluded that a considerable percentage of patients presenting to primary care clinics are affected by their need to gamble and present with somatic symptoms secondary to their gambling. In fact, pathological gambling is associated with neurological and sleep disorders, liver, lung, and heart disease, alcohol and substance abuse, physical pain, stomach ailments, poor nutrition, and mental health difficulties. However, research indicates that physicians and other health care professionals rarely question patients about their gambling behaviors.

RESEARCH

Prevalence studies conducted among Florida adults, 18 years of age and older, and seniors, ages 55 or more, reveal that problem and pathological gamblers use tobacco, alcohol, and other drugs at a greater rate than do others, and are more likely to report depression, or to experience additional difficulties. Florida seniors are more likely to report that

their health is fair or poor, while youth experience higher rates of mental health and substance abuse difficulties in comparison to their non-gambling counterparts.

A nationwide, 2006 study revealed that pathological gamblers are twice as likely to have angina and tachycardia, and three times more likely to have liver disease, than non-addicted gamblers. Another 2006 study concluded that Internet gambling is linked to pathological gambling and is associated with poor physical and mental health. This report suggested that family practice physicians refer patients who gamble online for further treatment.

RECOMMENDATIONS

By including one question to a patient intake form (i.e. How often do you gamble?) and/or using a simple two question screen (i.e. Lie-Bet Questionnaire), physicians can identify whether a person's presenting symptoms are associated with pathological gambling. Pathological gambling is treatable for those who seek help. Recognizing and referring patients in need of assistance for a gambling problem to the Florida Council on Compulsive Gambling's 24-hour HelpLine service (**888-ADMIT-IT**) can assure that patients receive free referrals, resources, information, and supports needed.

The Florida Council on Compulsive Gambling has developed a toolkit available for primary, urgent care and other medical professionals. **Diagnosis: Pathological Gambling** includes a 10-minute video featuring important information and field experts, and a comprehensive medical professionals' manual, with patient assessment tools, collateral items and additional materials.

To receive your free copy of the Toolkit, call the FCCG HelpLine at **888-ADMIT-IT** or email fccg@gamblinghelp.org.



¹ Pasternak, A.V. & Fleming, F.F. (1999). Prevalence of gambling disorders in a primary care setting. Archives of Family Medicine, 8, 515-520.

² Shapira, N.A., Ferguson, M.A., Frost-Pineda, K., Gold, M.S. (2002). University of Florida. Gambling and Problem Gambling Prevalence Among Adults in Florida: A Report to the Florida Council on Compulsive Gambling, Inc.

³ Volberg, R.A. (April 2003). Gambling and Problem Gambling Among Seniors in Florida: A Report to the Florida Council on Compulsive Gambling, Inc.

⁴ Shapira, N.A., Ferguson, M.A., Frost-Pineda, K., Gold, M.S. (2002). University of Florida. Gambling and Problem Gambling Prevalence Among Adolescents in Florida: A Report to the Florida Council on Compulsive Gambling, Inc.

⁵ Morasco, Pietrzak, Blanco, Grant, Hasin, & Petry (2006). Health Problems and Medical Utilization Associated with Gambling Disorders: Results from the National Epidemiologic Survey on Alcohol and Related Conditions, American Psychosomatic Medicine, 68, 976-984.

⁶ Ladd, G.T. & Petry, N.M. (2006). Disordered Gambling Among University-Based Medical and Dental Patients: A Focus on Internet Gambling. Psychology of Addictive Behaviors, Vol. 16, 76-79.

President	Bernd Wollschlaeger, M.D. Tel.: (305) 940-8717
President-Elect	Frank Maderal, M.D. Tel.: (305) 822-4107
Vice President	Enrique Hanabergh, M.D. Tel.: (305) 933-2111
Secretary	Aurelio Mitjans, M.D. Tel.: (305) 836-1077
Treasurer	Beny Rub, M.D. Tel.: (305) 932-1007
Immed Past President	Nelson L. Adams, M.D. Tel.: (305) 651-0097
District One	Eugene Fu, M.D. Tel.: (305) 585-6970 Term Expires May 2010
District Two	Athanasios Tsoukas, M.D. Tel.: (305) 324-4840 Term Expires May 2011
District Three	Wentworth Jarrett, M.D. Tel.: (305) 253-4340 Term Expires May 2011
District Four	Andre Abitbol, M.D. Tel.: (305) 596-6566 Term Expires May 2010
District Five	Niberto L. Moreno, M.D. Tel.: (305) 630-2909 Term Expires May 2011
At Large	Eleanor Pimental, M.D. Tel.: (305) 445-0700 Term Expires May 2009
Advisory Board Member	Elizabeth Erkin-Kramer, M.D. Tel.: (305) 673-9444 Term Expires May 2009
Fellow-Residents	Thomas Mesko, M.D. Tel.: (305) 674-2397 Term Expires May 2010
Medical Students	Alfonso Icochea, M.D. Tel.: (305) 444-7628 Term Expires May 2010
Executive Vice President	Barbara Montford, M.D. Tel.: (305) 696-0806 Term Expires May 2009
Alliance President	Jeff O. Gonzalez, M.D. Tel.: (305) 822-4107 Term Expires May 2011
Legal Counsel	Randy Miller, M.D. Tel.: (305) 377-1700 Term Expires May 2009
AMA Delegate	Vacant
DCMA Staff Administrative Assistants	Daryl Eber, M.D. Scott Yochim, M.D.
Managing Editor	Vivek Kalra Sukhdeep Rao
	Patricia C. Handler Tel.: (305) 324-8717
	Johan Askowitz Tel.: (305) 595-4478
	Ziskind & Arvin, P.A.
	Bernd Wollschlaeger, M.D.
	Ana Silvera Ericka Carlson Nancy Nuñez
	Patricia C. Handler

CME OPPORTUNITIES THROUGH BAPTIST HEALTH SOUTH FLORIDA

Baptist Health offers many other CME conferences at no charge. To obtain information about upcoming conferences, go to www.baptisthealth.net/meded. To request monthly mailings and symposium announcements, call 786-596-2398 or e-mail meded@baptisthealth.net

THIRD ANNUAL WOUND CARE SYMPOSIUM-BENEATH THE SURFACE:

In-depth Focus on Cutting-edge Wound Care from the Foundation Up

Friday, September 26, 2008

Doral Golf Resort & Spa, a Marriott Resort, Miami, Florida

TWENTY-SEVENTH ANNUAL ECHOCARDIOGRAPHY SYMPOSIUM (11 CAT. 1)

Friday & Saturday, September 12 - 13, 2008

Marriott Doral Golf Resort, Doral, Florida

SOUTH MIAMI HEART CENTER: 2008 COMPREHENSIVE CARDIOVASCULAR CONFERENCE (10 CAT. 1)

Friday & Saturday, October 17 - 18, 2008

Location TBD

EIGHTH ANNUAL EMERGENCY RADIOLOGY SYMPOSIUM: WHAT YOU NEED TO KNOW TO GET YOU THROUGH THE NIGHT (18.5 CAT. 1)

Sunday - Wednesday, November 16 - 19, 2008

Loews Miami Beach Hotel, Miami Beach, Florida

Did you know...? You can now REGISTER ONLINE!

Go to www.baptisthealth.net/meded and click on "CME Calendar & Online Registration"

Contact information for these CME programs is: Julie Zimmert, Medical Education, 786-596-2398 or juliez@baptisthealth.net

The University of Miami Miller School of Medicine

Division of CME presents:

Online programming to meet Florida licensure requirements. Visit our website www.cme.med.miami.edu and click on the Online CME link for the following courses:

Domestic Violence:
2.0 AMA PRA
Category 1 Credits™

HIV/AIDS:
2.0 AMA PRA
Category 1 Credits™

For additional information call 305 243-6716 or visit www.cme.med.miami.edu

To obtain information about upcoming conferences, go to www.cme.med.miami.edu and click on "Conferences" or call University of Miami Miller School of Medicine, Division of Continuing Medical Education at 305-243-6716 or email us at umcme@med.miami.edu.

SEEKING – IMMEDIATE OPENING

A family physician or internal medicine for an outpatient practice, excellent opportunity in suburban S. Fla. location. Excellent growth potential for ambitious physician, fully equipped facility with homey atmosphere. Hospital strictly optional.

E-mail: dsalinsky@aol.com,
305-385-4183

Short on retirement money?

Let your home add gold to your golden years. Need cash for home improvement? Living expenses? Vacation? Grandchildren? Investment? For any reason whatsoever? Pay off your mortgage, stay in your home, get tax free cash now.

Contact:
Arthur Marshall - Value Financial
305-815-1597

Miami Medicine is the official publication of the Dade County Medical Association (DCMA). Advertising in Miami Medicine does not imply approval or endorsement by the DCMA. Any ads stating approval by the DCMA have been declared by the DCMA as worthy of consideration by its members; however, the DCMA shall have no liability in the event the user is dissatisfied.

The DCMA maintains a sponsorship program which endorses select vendors and organizations whose products and services may be beneficial to the membership and/or from which the DCMA may receive financial support.

Miami Medicine assumes no responsibility for statements made by its contributors. Opinions expressed by authors are their own, and not necessarily those of Miami Medicine or the DCMA. Miami Medicine reserves the right to edit all contributions for clarity and length, as well as to reject any material submitted.

Subscription: \$53.50 annually; single issue \$5.35

Four Hospitals.

One Goal. Saving Lives.



AT TENET WE HAVE ONE MISSION TO PROVIDE THE BEST POSSIBLE CARE TO THE COMMUNITY. WITH EXPERT PHYSICIANS AND DEDICATED STAFFS AT FOUR HOSPITALS THROUGHOUT MIAMI-DADE, YOU CAN BE ASSURED QUALITY MEDICINE CAN BE FOUND CLOSE TO YOU.

CORAL GABLES

Hospital

HIALEAH

Hospital

NORTH SHORE

Medical Center

PALMETTO

General Hospital



Aventura Hospital And Medical Center

&

Kendall Regional Medical Center

Salute The New Dade County Medical Association

Leadership

2008-2009

First Professionals Insurance Company

Florida's Physicians Insurance CompanySM

Your patients deserve *your* undivided attention.
When you are insured with Florida's market leader
you can rely on *our* undivided attention.



Significant discounts available
for eligible DCMA members

Partners in Protection



Contact Shelly Hakes

Director of Society Relations

hakes@fpic.com | (800) 741-3742 ext. 3294

www.firstprofessionals.com

MIAMI MEDICINE

Dade County Medical Association

1501 N.W. North River Drive

Miami, Florida 33125

I: www.miamimed.com

E: dcma@miamimed.com

T: (305) 324-8717

F: (305) 325-1316

Address Service Requested

PRSR STD
U.S. Postage
PAID
Miami, FL
Permit #140