The CCMS Delegation – Your Voice at the FMA Annual Meeting

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FMA Delegates from l to r: ACOG Delegate Dr. Rafael Haciski, CCMS Delegate Dr. Alejandro Perez-Trepichio, County Executive April Donahue, CCMS Delegates Dr. Rebecca Smith, Dr. Catherine Kowal, Dr. Gary Swain, Dr. Rebekah Bernard, Dr. Fritz Lemoine, Dr. Cesar DeLeon, Dr. George Brinnig, and Dr. Jose Baez

In this issue:
Managing your online reputation in the era of MIPS pg. 8; The focus of the Americans with Disabilities Act turns to websites pg. 10; Cyberattacks threaten patient safety pg. 12; Member Event Photos pg. 14
CALENDAR OF EVENTS
Unless otherwise noted, register at www.ccmsonline.org or call (239) 435-7727

Thursday, September 7, 5:30pm
Foundation of CCMS Social
PGA Tour Superstore

Saturday, September 23, 8:00am
4th Annual Foundation of CCMS “Docs & Duffers” Charity Golf Tournament
Bonita Bay Club East in Naples

Friday, October 13, 5:30pm
CCMS After 5 Social
Cavo Lounge

Thursday, October 26, 5:30pm
CCMS Vascular Disease Symposium
Kensington Country Club

Friday, November 10, 6:00pm
CCMS Women Physicians Wine Tasting Social
Mutual of Omaha Bank

Friday, November 17, 6:30pm
CCMS New Members Welcome Reception
Wyndemere Country Club

Save the Date:
Saturday, February 3, 8:30am
CCMS Women’s Health Forum
St. John the Evangelist Church

Saturday, May 19, 6:30pm
2018 CCMS Annual Meeting
Wyndemere Country Club

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New Resident Physician Members (continued)

Daniel Morales, M.D.
Rachel J. Pyngolil, M.D.
Zakia H. Rauf, M.D.
Jared P. Schprechman, M.D.
Lesly Silva, M.D.
Julia R. Skettini, D.O.

Reinstated:

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Medi Weight Loss Clinics
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New Location:

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A Message from the President
Catherine Kowal, M.D., President, Collier County Medical Society

After a whirlwind weekend in Orlando August 4th-6th attending the FMA annual meeting, I have had the time to digest all the events and would like to give you an update.

Your medical society was well represented with 8 delegates; myself and Drs. Cesar De Leon, José Baz, Rebekah Bernard, Fritz Lemoine, Alejandro Perez-Trepičio, Rebecca Smith, and Gary Swain with Dr. George Brinnig as an alternate, and of course our executive director April Donahue who now is the chair-elect for the Conference of Florida Medical Society Executives. The meeting was run very efficiently by no other than our Dr. Corey Howard, the Speaker of the FMA House of Delegates. Lo and behold he was also elected President-Elect for the FMA. Congratulations Corey. Dr. Rafael Haciski also attended as a delegate for the American Congress of Obstetricians & Gynecologists, and Dr. Craig Eichler for the Florida Society of Dermatology and Dermatologic Surgery.

Saturday morning the official meeting began with pomp and circumstance including the Pledge of Allegiance, the Star-Spangled Banner and a meditation prayer. Many awards were presented and we elected the non-contested board members of the FMA. We also heard from the 2 candidates for vice-speaker of the house as well as those running for AMA delegates.

Next the resolutions brought by the delegates were divided into 4 reference committees where our voices were heard. Each committee had 10 members who listened to all the physicians who had an opinion about the resolutions. From our Medical Society we had one member on each committee. I was honored to chair the committee on finance and administration. CCMS also had submitted 3 resolutions, two written by Dr. Bernard and one by Dr. Brinnig. After hearing all the input from delegates who testified on the resolutions, the committees met in closed sessions to make their recommendations, which are presented to the house the next day.

The next big event was the Good Government Luncheon. It is here that we realize how important it is to get to know our political representatives and what they can do for us. Attending were numerous representatives who helped last session with the defense we needed to help protect physicians and patients. At the luncheon it was also evident how much the PAC (Political Action Committee) can help make changes through legislative action. Many of us have no desire to be political, “We just want to practice medicine the way we know best.” Without the political influence of physicians, the insurance companies, the lawyers, and the pharmaceutical companies will control what we do. We need to stop this and we can’t do it alone. PLEASE BECOME PART OF THE CCMS and FMA PACs.

Saturday night was the installation of the new FMA president, Dr. John Katopodis. We heard a wonderful story about his father, who was present at 93 years old to celebrate his son’s installation. He emigrated from Greece with a suitcase, 18 dollars, a wife and 2 sons to Canada and then the U.S. He was a chemical engineer and started a small pharmaceutical company that was eventually sold – what a great American immigrant story. This was followed by a Greek-themed dinner with Greek dancing as well.

Sunday was the big day when the reference committees presented their resolution consent calendars to the whole house of delegates. These again are not final until the house agrees so any member could still contest the resolution or alter it in front of the whole house. Any delegate can make a difference! Many of the contested topics included eliminating MOC, changing the childhood immunization laws to make it more difficult to get a child excluded, opposing smoking as an avenue to give medical cannabis, to name a few. Two of our resolutions were accepted without debate and one was referred to the board of governors to get more information for a decision. See the report on page 6 for more details on some of the resolutions passed this year.

All in all, it was a very good meeting and successful for the Collier County Medical Society. We hope to continue to make an impact on what happens in Tallahassee, but can only do it with your help. In one year both the president of the FMA and the chair of the executive directors will be from CCMS. It’s time for us to show the FMA what we can do. I encourage each of you to join FMA today, to increase our voice and our delegation at the state level.
The Foundation of Collier County Medical Society presents

Docs & Duffers 2017

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Your CCMS delegation recently returned from the Florida Medical Association 2017 Annual Meeting, August 4-6 at Universal Studios, Orlando. The delegation was active with appointments to each of the reference committees, as well as the credentials & rules committee and three resolutions brought on behalf of CCMS members. The meeting included a full weekend of House of Delegates sessions, CME, legislator presentations, and celebrating the installation of new FMA officers.

CCMS was allotted eight delegates, based on the number of FMA members in our County. This was an increase in one delegate allotment from 2016. The delegation consisted of CCMS President and delegation chair Dr. Catherine Kowal and delegates Dr. Jose Baez, Dr. Rebekah Bernard, Dr. Cesar De Leon, Dr. Fritz Lemoine, Dr. Alejandro Perez-Trepichio, Dr. Rebecca Smith, and Dr. Gary Swain; and alternate delegate Dr. George Brinnig. Additional CCMS members present at the Annual Meeting included FMA Speaker of the House and AMA Delegation Chair Dr. Corey Howard; Dr. Rafael Haciski, a delegate for ACOG, Dr. Craig Eichler, delegate for the Florida Society of Dermatology and Dermatologic Surgery; Dr. Jerry Williamson, a CME presenter; and Dr. Kriston Kent, representing Physicians Indemnity Risk Retention Group.

In addition to the important tasks of offering testimony, voting on resolutions, and casting votes in the elections on behalf of the CCMS membership's concerns, each year the delegation makes critical connections with colleagues from around the state and in particular, in the Lower West Coast Caucus (Charlotte, Collier, Hillsborough, Lee, Manatee, Polk, and Sarasota counties). These connections can further increase our county's voice at the state level.

The FMA Alliance (FMAA) and the Conference of Florida Medical Society Executives (CFMSE) also held their Annual Meetings during the weekend. The CCMS Alliance received three awards from the FMAA board, and CCMS Executive Director April Donahue was voted chair-elect of the CFMSE board.

**FMA Elections**

Each year at the Annual Meeting the House of Delegates elects FMA's leadership. Dr. John Katopodis from Tallahassee County was installed as FMA's 141st President. CCMS is proud to announce the election of Dr. Howard as 2017 FMA President-Elect, and reelection to the AMA delegation. This year, only one of the races was contested, that for Vice-Speaker, which was won by Dr. Ashley Norse of Jacksonville.

**Committees**

CCMS was privileged to have representation on all FMA reference committees, which review the resolutions proposed to the House, hear testimony and make recommendations for action. Dr. Smith served on the committee for Health, Education and Public Policy; Dr. Kowal was chair of the committee on Finance and Administration; Dr. Perez-Trepichio was appointed to the Medical Economics committee; and Dr. Bernard to the committee on Legislation. Dr. Baez was a member of the Credentials & Rules committee, which makes recommendation to the House on late resolutions and has the responsibility of ensuring fair elections.

**Resolutions**

Two resolutions from CCMS were passed without debate on the floor:

- **The Study of Methodology to Track Uncompensated Care in Florida**, written by Dr. Brinnig who provided testimony at the reference committee hearing, this provides that the FMA identify current resources for tabulating the costs of uncompensated or under-compensated care and, should no reliable current resources be identified, that the FMA study mechanisms that would facilitate the tabulation of the costs and report back possible delivery of such means to Florida physicians. Additionally, the FMA should compile data for uncompensated and under-compensated care and report it to Florida physicians and policymakers.

- **Patient Right to Decline Treatment by Non-Physician Clinicians**, written by Dr. Bernard with supporting testimony from Dr. De Leon, provides for the FMA to affirm that patients have the right to be treated by a physician and to decline treatment by a non-physician clinician.

Below is a synopsis of some of the meeting’s more noteworthy adoptions.

**Promotion of Life-Long Learning for Maintenance of Certification.** Resolves that the FMA reaffirm current policies to oppose efforts to require MOC as a condition of medical licensure and providers shall not be required by any public or private entity to comply with MOC requirements after initial board certification, other than CME requirements set by the licensing board, and resolves that the FMA recognizes that life-long learning for a physician is best achieved by ongoing high-quality CME appropriate to that physician's medical practice, that the FMA call upon ABMS and component boards to end the current MOC process in favor of CME courses, and support legislation that advances FMA policy on MOC and promote these policies to the appropriate organizations.

**Mental Health Confidentiality for Physicians and Medical Students.** Resolves that the FMA seek administrative action to change the questions on the Florida physician licensure application regarding prior mental illness and mental health treatment to ask whether there are any physical or mental conditions that would currently interfere with the safe practice of medicine.

continued on page 7
Delegating Prior Authorization Responsibilities to the Patient. This resolution was passed as amended, in the final version resolving that the FMA seek legislation to allow physicians to charge a standalone fee to insurers for the service of obtaining prior authorizations for medications.

Endorsement for the Alliance for Transparent and Affordable Prescriptions. Resolves that the FMA work with interested groups to educate Florida state legislators, citizens, physicians, and state advocacy organizations about Pharmacy Benefit Managers (PBMs) and their role in the prescription drug market, and the FMA support legislation that would increase transparency for PBMs, reduce patient cost-sharing obligations for prescription drugs, restrict health plan and PBM use of step therapy, prior authorization, non-medical switching, and other utilization management techniques, and further regulate the rebate system, PBM practices, and the drug market to ensure patients have access to effective and affordable medications.

Keep Patient Satisfaction Separate from Reimbursement and Incentive. Resolves that the FMA take a public stance on keeping patient satisfaction scores separate from physician payment and incentive bonuses, and the FMA delegation to the AMA encourage a national stance.

Trauma-Informed Care Learning Communities. Resolves that the FMA recognizes the significant relationship between cumulative Adverse Childhood Experiences and numerous health, social, and behavioral problems throughout a person’s lifespan, including substance use disorders and premature death, and that the FMA encourages Florida communities to adopt the principles and practices of trauma-informed care learning prevention and intervention programs.
Managing your online reputation in the era of MIPS
Jason Dolle, CEO, Testimonial Tree

By now, everyone should be aware that not submitting any Merit-based Incentive Payment System (MIPS) data in 2017 will result in a 4% payment penalty in two years. Even worse, hidden deeply in the details, is that future penalties dramatically increase both monetarily and may also damage a provider’s reputation. The first reporting year for MIPS is now half over. Do you know if you’re on the right track?

While financial incentives for the program can be big, more importantly the Medicare Quality Payment Program lets the CMS publish each physician’s annual score (as well as scores for all participating physicians) on its Physician Compare website. Furthermore, it will also share that data with other third-party ratings sites including HealthGrades, Yelp and Google.

That means patients and others will see physicians’ scores online, likely without the context included. So a low score, either due to poor performance or just simply doing the bare minimum to meet quality metric requirements will essentially look the same. The score also follows physicians who switch organizations—becoming, a part of that physician’s permanent file. While a poor score will be a negative mark, a top score has huge potential. This now becomes a new and easy marketing opportunity for those first adopters, especially those with practices focusing on improving the patient experience.

Simply obtaining feedback and follow-up on your patient’s experience is the first step in improving your online reputation. This same collected data also can be used to improve your MIPS score. Proactively ask your patients for feedback/survey of their experience at your practice, link the results to your website, and then have them share a testimonial about you or your practice to third party sites.

This creates organic links, and the more organic links there are online, the better your search engine optimization (SEO). When you receive positive feedback that is shared not only on your website but also on social media, you’ll be increasing connections and exposure to new patients. This becomes the basis to developing a new marketing program that can improve your third-party reviews.

For this update, I will focus on the newest component of MIPS, the Clinical Practice Improvement Activities (CPIA) category and how patient experience data is used as an activity.

In 2017, this performance category accounts for 15% of your Final Score. Some activities carry more points than others and in the Transition Year, you need just 40 points to get “full credit” for this category. You must demonstrate that you are doing them for at least 90 days to get credit for the activity. Performance in this category is calculated based on the provider’s attestation to completing 2 high-weighted activities or 1 high-weighted and 2 medium-weighted activities for a minimum of 90 days.

An example of high-weighted activity (20 points) that is not only easy to perform, but very valuable for your practice is: MIPS ID# IA_BE_6 Beneficiary Engagement: Collection and follow-up on patient experience and satisfaction data on beneficiary engagement, including development of improvement plan. Using the same collection data also allows completion of MIPS ID# IA_BE_13 Beneficiary Engagement, a medium-weighted activity (10 points) and MIPS ID# IA_PSPA_18 Patient Safety & Practice Assessment, another medium-weighted activity (10 points). The entire CPIA category is then completed with all 40 points.

This is an example of how easy it can be to improve your online reputation and comply with the CPIA portion of MIPS at the same time. Unfortunately, the year-end is approaching quickly, so don’t let this opportunity slip away.

Lastly, remember in case of audit, you will have to prove that you did CPIA. CMS has already shown that it doesn’t simply hand out incentive monies based on attestations alone. The agency continues to perform audits of attestations for its EHR Meaningful Use Incentive Program, and there’s no reason to think CMS won’t come up with a similar strategy for MIPS bonus payments.

Testimonial Tree offers testimonial management software to help physicians gather feedback about patient experiences through 5-star ratings, satisfaction surveys, and reviews. Patients share recommendations on social media and syndicate testimonials on the physicians’ own websites and third-party review websites. CCMS members are eligible to receive $50 off the monthly fee.
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The focus of the Americans with Disabilities Act turns to websites: Is your site compliant?
Joshua M. Bialek, Anthony R. McClure, and Jamie A. LaPlante, Partners, Porter Wright Morris & Arthur LLP, a CCMS Circle of Friends vendor

As modern technology evolves, the practice of medicine (like almost any other industry) will inevitably change with it. As a result, physicians across the country will transact more and more business with their patients on the internet - in some form or another. For instance, many medical practices now offer what is known as a “patient portal,” which integrates a web presence with the in-person experience of a physical office visit. And as this trend continues, patients will increasingly schedule appointments, communicate with the physician, check test results, and renew prescriptions through the web.

But these advances in technology come with risks. Indeed, litigation has been increasing in recent years based on whether companies’ websites must provide accessibility for disabled users. Although this litigation has not yet hit the medical practice industry, as discussed below, physicians in Florida and elsewhere should be prepared, and consider making their websites more accessible through features such as easier navigation and compatibility with assistive technologies.

Title III of the Americans with Disabilities Act (ADA) prohibits discrimination on the basis of disability in places of public accommodation, including restaurants, movie theaters, schools, day care and recreational facilities – and doctors’ offices. This law, enacted in 1990, does not specifically address website accessibility for the disabled. There are detailed regulations that specify how physical places of public accommodation must comply with the ADA, but while websites may virtually serve the public, there are no corresponding federal regulations for compliance with the ADA in the arena of website accessibility that apply to private businesses. Despite the lack of regulatory guidance, we have seen increasing litigation in recent years related to website accessibility.

Currently, federal appellate circuit courts are split on whether websites are “public accommodations” within the meaning of ADA Title III. Certain federal courts apply the ADA only to websites that have a connection to goods and services available at a physical store or location (such as coupons for a grocery store). But others apply the ADA more broadly to include websites that lack a connection to any physical space. Other appellate circuits have yet to rule on the issue, including the Eleventh Circuit, which covers Florida. Despite the split, one thing is for certain: the tide is moving toward ADA compliance for websites.

In June 2017, a federal judge in Florida ruled that Winn-Dixie violated the ADA by failing to make its website accessible. Juan Carlos Gil, a blind Florida man who attempted to use Winn-Dixie’s website to find store locations, fill and refill prescriptions, and obtain store coupons, sued Winn-Dixie alleging that he was unable to access these services. Winn-Dixie’s website was not integrated with his screen reader technology. Screen reader technologies, such as “JAWS”, read the content of websites to blind users and assist them in navigating websites through voice prompts. The judge in the Winn-Dixie case found that Winn-Dixie’s website was a place of public accommodation. The judge further held that the website did not permit access to the visually-impaired and that it denied Gil “the full and equal enjoyment of Winn-Dixie’s goods, services, facilities, privileges, advantages, or accommodations because of his disability.” As a result, Gil was awarded attorney’s fees and costs, and the court issued an injunction against Winn-Dixie requiring it to make its website accessible to individuals with disabilities.

What should physicians do?
1. Discuss with your website providers whether your website is already compatible with Web Content Accessibility Guidelines (WCAG) 2.0 A or AA standards. WCAG is a widely recognized standard for web content accessibility.
2. As a best practice (where possible in negotiations), place the burden of accessibility on the website provider or vendor.
3. Consider hiring a third-party consultant to conduct a thorough website audit to determine what accessibility features might be lacking and develop a roadmap for implementing necessary updates. There also are simple (and free) resources available online that can identify any accessibility gaps. A plan with a timeline for implementing accessibility improvements can go a long way in demonstrating good faith compliance with ADA accessibility legal requirements and can aid in the defense of any actual or threatened claims.
4. Always consider accessibility in the implementation of any “new” website or website re-design. It is considerably easier to design with accessibility in mind, than to retrofit accessibility into an existing website.

Determining the amount of time and money necessary to design or retrofit a website is difficult, and the standard for what constitutes an “accessible” website remains unclear. However, it’s not too early to begin working with a website design professional who can help you understand the potential standards that may apply, receive an estimate of the time and cost for enabling accessibility, and address possible legal obligations.
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Cyberattacks Threaten Patient Safety

Robin Diamond, MSN, JD, RN, Senior Vice President of Patient Safety and Risk Management, The Doctors Company, a CCMS Circle of Friends vendor

The recent WannaCry ransomware attack that crippled the United Kingdom’s National Health Service (NHS) showed how more than money and IT security are at risk—patient safety is also compromised by a cyberattack.

Hospitals and doctors’ offices in parts of England had to turn away patients and cancel appointments because their IT systems were infected with ransomware. Electronic health records (EHRs) were not accessible, and entire communities were advised to seek medical care only in emergencies. The same scenario could play out here in the United States.

Ransomware is not the only risk to patient safety. As the use of computerized medical devices continues to grow, hackers may target these devices. And because healthcare is the most frequently attacked form of business, more cyber threats to patient safety are certain to arise. Our nation’s healthcare providers must approach cybersecurity as an organizational risk management and quality-of-care issue. And they must do it now.

After WannaCry, I asked myself: Would physicians and hospital staff know how to respond to protect patient safety if all computer access suddenly vanished? With 79,000 member physicians nationwide, The Doctors Company has access to experts in specialties that might be most affected by a cyberattack: obstetrics, emergency medicine, anesthesiology, and surgery. So I reached out to some of these experts to share their concerns as well as their plans to protect patients. Their insights are a wake-up call to be prepared.

Some physicians have considered the potential danger and prepared a response, which is often a return to paper records when EHR systems go down. But that might not always be easy, or even possible. Paper copies of patient medical records may not always be available, a situation that could jeopardize patient care when clinicians must act without sufficient knowledge of allergies, medications, and past treatment.

This is why Marcus Tower, MD, director of gynecology at Hillcrest Hospital (part of the Cleveland Clinic Health System), always keeps a paper backup of patient records that can be accessed quickly in the event of a computer failure. While he said losing access to computer records would be devastating to patient safety, access to paper backups would enable him to continue seeing patients even if his system was offline. Without a computer system, Dr. Tower would keep notes with time stamps. Diligence with time stamping is particularly important in obstetrics, where so much hinges on exactly when decisions were made and care was provided.

Anesthesiologist Randolph Steadman, MD, MS, at the University of California, Los Angeles, said in case of computer failure, ordering labs, imaging, and other diagnostic tests would be done by paper form and transmitted within the hospital by fax and/or conveyed by phone with paper forms to follow. But that would only be a workaround. Patient care overall would be affected, with registration slowed, he noted. Many clinicians and staff would be challenged to adapt to non-digital processes, as happened in the March 2016 cyberattack on the MedStar Health system, which has 10 hospitals and more than 250 outpatient clinics. When hackers seized control of their computer data, senior staff had to assist their younger counterparts with learning how to use paper messages and recordkeeping.

The ER could be hit hard by a cyberattack, but the physicians and staff there might be best prepared to respond, says Roneet Lev, MD, FACEP, chief of emergency medicine at Scripps Mercy Hospital in San Diego, California, and president of the Independent Emergency Physicians Consortium.

“Emergency departments have all experienced downtime with computer systems,” Dr. Lev said. “At our facility, we call this ‘Code White.’ When we hear ‘Code White’ on the speaker system, we know to get out the white board and the markers, and that things will be slower. It’s annoying and no one likes it, but we’d manage by keeping track of patients the old-fashioned way.”

Even so, a “Code White” still leaves clinicians without a way to refer to any medical records that are stored electronically. Not knowing a patient’s allergies or medical conditions is not optimal, she said, suggesting that all patients should always carry a list of their medications, allergies, and pertinent medical history on paper or on their smartphone.

Workarounds can only accomplish so much, Dr. Lev noted. A cyberattack could affect all computer-related hospital activities such as labs, x-rays, patient tracking, operating room scheduling, access to previous medical records, and treatment recommendations.

“While the emergency department would function using ‘Code White’ procedures, this is not sustainable for long-term operation of a hospital,” she said.

What these experts all seem to agree on is that in the face of an attack, the best way to protect patients is to return to practices that worked before computers.

As Ralph Gambardella, MD, orthopedic surgeon and president of the Kerlan-Jobe Orthopaedic Clinic (affiliated with Cedars-Sinai) in Los Angeles, so aptly stated: “Rather than relying on computers, I still believe that talking to—and communicating directly with—my patients is the best way to impact patient safety.”
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