



RHODE ISLAND

MEDICAL NEWS

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2013 General Assembly session: legislative report

A very old joke around the Rhode Island State House says it is a blessing in disguise that the House and Senate chambers have no air conditioning. If they did, the lawmakers might continue meeting right through the summer. (And of course Gideon Tucker's dictum is as true today as it was in 1866: no one's life, liberty or property is safe while the legislature is in session.)

This year the Smith Hill solons sweltered through several days of late June and early July heat before finally struggling to a late adjournment shortly before midnight on July 3. A snapshot of that final day would show that the House of Representatives was gavelled to order at 3:29 p.m., worked for 7 hours and 52 minutes and adjourned at 11:21 p.m. In that space of time, the 67 (out of 75) Representatives present decided the fate of 82 bills. That works out to an average of five and three-quarter minutes for each bill, not counting time taken out for breaks and dinner.

In total the General Assembly enacted 534 bills, or fewer than one in four of the 2,389 pieces of legislation introduced during the six-month session, including the mammoth state budget (but not counting 427 "resolutions")

Of concern to RIMS, of course, is the fact that legislators come up with a great many bills every year that would affect medicine and health care in one way or another. And RIMS, of course, contributes its own proposals to each year's batch of bills. Always included among RIMS' proposals are measures to address medical liability, promote fairer treatment of physicians by insurers, advance public health and, consistently since 2007, overturn or in various ways mitigate the provider taxes that were enacted in that year and have adversely affected physician-owned facilities for radiology, surgery and endoscopy ever since.

RIMS must also sift through the hundreds

of other bills and decide whether to support, oppose or monitor those that could affect physicians, patients, health care, health insurance, medical professional liability, etc. RIMS' Public Laws Committee, chaired by Dr. Michael Migliori, leads and guides this process and submits a monthly progress report to the RIMS Council and Executive Committee.

This year, most of RIMS' attention was commanded by about three dozen bills, including seven that RIMS itself put forward.

One of RIMS' successful 2013 initiatives reduces physicians' exposure to health insurers' post-payment audits. RIMS sought to cut in half the time insurers have to recoup overpayments, cutting the "look-back" interval from two years to one. In addition, RIMS sought to ensure that physicians will always have access to a valid

and fair appeal mechanism when faced with a recoupment demand from any payer. As expected, the plans were strongly resistant to any change, but in the end a compromise was struck at eighteen months, and valid avenues of appeal are now guaranteed. Both houses passed the compromise, and the Governor signed it into law.

RIMS' proposal to repeal and refund to doctors the six year-old provider taxes was given an overwhelmingly favorable hearing in the key House Finance Committee this year. The passage of time since the taxes were enacted has served to bolster RIMS' case as the true impact of the levies has become increasingly evident and incontrovertible: cost-efficient, physician-owned surgical, endoscopy and imaging facilities have retreated across state borders, and Rhode Island state coffers have never come close to realizing the level of revenue originally projected. Nevertheless, opposition from hospital interests and

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The Rhode Island Medical Society
was founded in 1812 to promote
the art and science of medicine.
RIMS is the eighth oldest state
medical association in the country.

The Medical Society also
publishes a monthly magazine,
Rhode Island Medical Journal.
Current and archived issues are
available at www.rimed.org.

LETTER FROM THE PRESIDENT



ALYN L. ADRAIN, MD
PRESIDENT

Swamped

I must confess it gave me pause when I realized that this year's annual meeting of the Rhode Island Medical Society will take place on the

seventy-fifth anniversary of "the Great New England Hurricane" of September 21, 1938. To make matters worse, our meeting will take place right on the water at the Warwick Country Club, which was the Warwick Country and Yacht Club before that deadly storm destroyed the Club's marina seventy-five years ago. The yachts, the marina and the rest of Warwick Neck, where I grew up and now live, was pretty much blown away in a few hours on that fateful night. As a child I played on the beach amid the cement steps and stone foundations left behind by that storm.

I was reminded of all this by the arresting cover on the August issue of *Rhode Island Medical Journal* and the marvelous essay inside by Mary Korr detailing some of the medical aspects of that historic disaster. All of us at one time or another have probably seen those amazing photos of submerged trolley cars on Kennedy Plaza and the roofs of automobiles barely showing above the flood waters in downtown Providence. Like me, perhaps you too have marveled at the high water markers on the old Market House on South Main and inside the lobby of the Turk's Head building. But I don't know that anyone has ever before focused on the scenes of chaos and heroics that played out in our hospitals during that epic storm. Now Mary Korr has put together some of that story in words and photographs. It is fascinating.

If you are not yet in the habit of looking at the reborn, expanded, digital-only *Rhode Island Medical Journal* each month, you should be: it is well worth your time. Each issue now comes to you by email on the first business day of the month, and you can always access everything (including issues going back as far as 2001) at www.rimed.org. The new *Journal* is visually striking, and each issue includes something of interest for everyone. In addition to carrying the expected high-quality



clinical articles and commentaries submitted by our talented local colleagues, the *Journal* is now the premier source of news about milestones and achievements among our Rhode Island medical community. It is no wonder that we are celebrating Editor-in-Chief Joe Friedman and Editor-in-Chief emeritus Stan Aronson in the context of our annual meeting and banquet on September 21.

And as for that storied date, now that I think of it, it does seem fitting to hold our RIMS annual meeting on the anniversary of a famous “soaking,” as we are now being inundated with a flood of governmental, commercial and technological importunities from every direction. We are awash in a tidal wave of prior authorization requirements, new payment models, HIPAA risks, EHR glitches, quality measures reports, provider taxes, “maintenance of certification” hurdles, and new liability threats, on top of which we can now look forward to the transition to yet another new Medicare Contractor this fall, as well as the absolute certainty that starting October 1, thousands of patients will expect us to advise them on the new Health Benefits Exchange. I don’t need to tell you: we are foundering in a rising tide of everybody else’s pet ideas about how to improve health care.

Through all this, the Rhode Island Medical Society remains our life preserver, and after a year as President, I now appreciate much more than I ever did before just how much RIMS does for all of us. While RIMS may not be able to counter all the forces of nature, it does protect us again and again from all kinds of ill winds and gives us a fighting chance to keep our heads above the water. As RIMS’ President, I serve on the state’s new Administrative Simplification Task Force (a cause dear to my heart), which was called into being by legislation RIMS worked hard for last year. The Task Force is a function of the Office of the Health Insurance Commissioner (OHIC), which was a RIMS invention in 2004 and has proven its worth many times over. I also serve on the new statewide Health Planning Council, which has already met eleven times this year and is another hugely important new effort that RIMS pushed for. These two task forces are working to stem the tide of administrative burdens on our practices, as well as looking to the future to plan for the healthcare needs of our state residents.

Meanwhile, our President-Elect, Dr. Elaine Jones, and our Secretary, Dr. Elizabeth Lange, both serve on the Advisory Committee that is shaping Rhode Island’s Health Benefits Exchange. It is vital that practicing doctors be



represented on all of these state bodies. These committees are making decisions and building structures that will affect the lives of all of us for years to come. Only RIMS can credibly play these vital representational roles – and it does so on top of the legislative, regulatory, legal, professional and public relations advocacy that has always been RIMS’ daily mission. Moreover, our efficient governance structure, conscientious leadership and dedicated staff keep us on an even keel through it all, despite the inevitable headwinds, cross currents and rip tides.

Yes, a repeat of the 1938 hurricane on its seventy-fifth anniversary this year would disrupt our annual meeting and make an apt metaphor for the forces that are buffeting medicine today. However, I will be hoping for clear skies and smooth sailing that day, because I think it’s valuable and important for us to pause together once in a while and celebrate our wonderful, noble profession. I am proud of what we, as doctors, do, proud of the great difference we make in the lives of virtually everyone in our community sooner or later, and I am especially proud of the role RIMS plays in advocating for physicians and improving the environment for medical practice in Rhode Island.

And by the way, I am also proud of getting through this entire essay without once using the cliché “perfect storm.” ❖

RIMS thanks Pfizer for supporting the transformation of the 96 year-old *Rhode Island Medical Journal* into a 21st century vehicle to serve the health care community in Rhode Island. A grant from Pfizer enabled the Rhode Island Medical Society to redesign the *Journal* for electronic distribution to a much wider audience, endowing it with an attractive new design and more diverse content, while making more efficient use of RIMS’ resources and sparing the environment. Thank you, Pfizer!

the state's desperate need for revenue combined to keep the bill bottled up in committee, and thus the status quo persists for now.

A perhaps small but sweet legislative victory paved the way for doctors to provide immediate relief and convenience to disabled patients who need parking privileges. By law doctors now have access to an official state website from which they can directly download, print, and hand to the patient an official, temporary disability parking permit.

Less sweet was the fate of this year's renewed effort to enact a new state tax on distributors, manufacturers and wholesalers of sugar sweetened beverages. Even the enthusiastic support of a broad, RIMS-led coalition of community groups was not enough to overcome the astonishing resources that the beverage industry was willing to pour into this battle again this year.

What is commonly known as "I'm sorry" legislation (an innovative approach to containing liability) enjoys ever broader support in the community and even in the General Assembly. Persuasive testimony delivered before the Judiciary Committee by RIMS' national and local experts this year sought to build on that growing support. Unfortunately, the General Assembly remains perennially in the thrall of the Rhode Island plaintiff's bar – so much so that even this most humane and patient-friendly of liability-related reforms was once again "held for further study" (i.e., strangled in its crib).

With the collaboration and support of the Rhode Island Academy of Physician Assistants, Bryant University and Johnson & Wales University, RIMS was successful in relieving the Department of Health of its anomalous and obsolete responsibility for evaluating and approving in-state PA training programs (of which Rhode Island currently has none). The archaic portions of the PA practice act dated back to the beginnings of the PA profession in the early 1970s, when regional and national academic accrediting bodies for PA programs were in their infancy. RIMS' rescue was timely: the old law not only threatened to further sap the Department's strained resources but could also have resulted in major confusion and delays in the planned launch of the state's first PA training programs in 2014 (at Johnson & Wales) and 2015 (at Bryant).

RIMS also supported a new law that provides for the creation of a nine-member advisory council appointed by the Department of Health to advise the Department on palliative care initiatives. RIMS members involved in palliative care were strongly supportive of this effort.

RIMS supported the hard work of the Rhode Island Society of Anesthesiologists in reshaping and ameliorating a bill, now law, that permits employers of Advance Practice

Registered Nurses greater discretion in defining the scope of practice of APRNs within their facility. The new law represents a pragmatic compromise that permits employers greater flexibility in managing the division of labor and workflow within their purview, as well as managing risk. (The amendments do not expand, curtail or in any way change the basic practice act that governs what APRNs can do.) The revised and improved bill passed both chambers unanimously.

RIMS also supported important amendments this year that have updated the Uniform Controlled Substances Act. In particular, physicians can now prescribe all schedule drugs electronically, including schedule III, IV and V.

(Previously the law provided for electronic prescribing only of schedule II drugs.) In addition, the amendments established safeguards for the privacy of the information that is captured in the prescription monitoring database maintained by the state.

In the context of law enforcement, however, confidentiality of personal medical information took a hit. Hospitals and health care professionals may now legally disclose certain information to law enforcement

authorities without first securing the consent of the patient or the patient's family. (Consent for disclosure to police was already optional in cases involving shootings or child abuse.) Such information includes a patient's identity, the nature and time of an injury or the time of a person's death. (Previously, only the medical examiner could verify a death to the police.) If a patient is incapacitated and may be the victim or the perpetrator of a crime, or may possess information about a suspect, fugitive, material witness or missing person, a physician may disclose further information to authorities, as long as the physician believes such disclosure to be in the patient's best interest.

In its lead editorial on July 25, 2013, entitled "Police and medical information," the *Providence Journal* hailed this new law as one that should "ease frustration among medical providers and law-enforcement agencies alike" and "improve crime victims' odds of securing justice." However, RIMS (along with patients' rights groups and mental health advocacy organizations) was obligated to oppose the bill, citing patient care as the primary concern of physicians and pointing out that physicians are leery of being co-opted into the machinery of law enforcement. The basic concerns are that individuals who are in need of medical attention may be deterred from seeking it or from being fully honest and open with a treating physician if they have reason to believe that their medical information may be shared with police. ❖

One of RIMS' successful 2013 initiatives reduces physicians' exposure to health insurers' post-payment audits.

Medicare MAC attack?

CMS consolidates contractors again, uniting New England with New York

For the third time in a decade, Rhode Island is about to transition to a new Medicare Administrative Contractor (MAC). The official Part B “cut-over” date this time is October 25, 2013. Medical offices should be receiving regular communications and instructions by email and U.S. mail on how to prepare for the transition from NHIC to National Government Services, Inc. They should also notify RIMS of any problems.

Medical practices should watch for NGS’ communications, including notices of its many scheduled educational meetings, including a “Medicare Town Hall” for physicians on Friday morning, September 20, at the Providence Marriott Hotel (Charles and Orms Streets).

A key resource is also NGS’s website www.ngsmedicare.com. Click on the “JK Transition Information” box and logo at the upper left of the screen. [As CMS consolidates from 15 MACs to 10 MACs across the nation, it is switching its designation system from numbers to letters. Thus Jurisdiction 14 (or “J14” in Medicare parlance, which is made up of Rhode Island, Massachusetts, Maine, New Hampshire and Vermont) is being merged with Jurisdiction 13 (or “J13,” i.e., Connecticut and New York State) to form Jurisdiction K (or “JK,” comprised of the seven states together).]

Initially and for most of the past half century, Rhode Island Blue Cross & Blue Shield served as Medicare’s Part A “fiscal intermediary” and the Part B “carrier” in Rhode Island. Then, in quick succession, came Arkansas Blue Cross, followed by NHIC (headquartered in Hingham, MA), and now National Government Services, which is headquartered in Indianapolis.

National Government Services is unique among MACs in that it was founded in 1966, shortly after the inception of Medicare, specifically to serve as a Medicare contractor. It has been entirely focused on that singular

federal mission for the past 47 years.

Today NGS is a division of Wellpoint and is responsible for serving 25 million Medicare beneficiaries in 15 states. NSG has for several years already held the contract for “Jurisdiction 13” (New York State and Connecticut), and it currently holds the MAC contract for “Jurisdiction 6,” as well, which includes Minnesota, Wisconsin and Illinois. (Jurisdiction 6 is ultimately slated to merge with Jurisdiction 5, comprised of Iowa, Kansas, Missouri and Nebraska to form “Jurisdiction G.” No doubt NGS is angling for that larger contract too.)

A “seamless transition”? It would seem to be good news for Rhode Island physicians and patients that NHIC will remain very much in the picture as a subcontractor to NGS. NHIC earned high marks for engineering a notably smooth transition from the Arkansas Blues the last time around. NHIC will remain largely responsible for the Ocean State and its neighbors to the north, though Rhode Island physicians will soon be submitting their claims to NGS.

It bears noting that the competitive bidding process for Medicare administrative contracts results in progressively lower levels of funding for these operations. Thus, maintaining adequate levels of responsiveness and service to caregivers and patients may become an increasing challenge for contractors and a recurring headache for medical practices. Physicians and office managers are therefore strongly encouraged to alert RIMS promptly to any and all problems they may experience with Medicare at any time, particularly during the coming transition.

RIMS has met with NGS and will maintain close communication with both NGS and NHIC. NCS has specifically assured RIMS that multiple safeguards already in place will assure that no payment delays ensue as a result of the MAC transition. ❖

RltCare / Medicaid PCP payment boost: an update

The Executive Office of Health and Human Services in Cranston issued an update on August 16 regarding Rhode Island’s compliance with the Medicaid Primary Care Fee Increase, which is required by the Affordable Care Act and in effect for the calendar years 2013 and 2014.

Some Rhode Island physicians and practices began receiving the enhanced payments in July. The payments are retroactive to January 1 for those whose attestations of eligibility were processed by June 9. Rhode Island’s three Medicaid payers (i.e., fee-for-service Medicaid and the two managed RltCare programs – one administered by Neighborhood Health Plan and the other by UnitedHealthcare) are making their enhanced payments using two different methodologies: fee-for-service and United are paying directly with each settlement for services rendered. Neighborhood, however, is paying retrospectively in quarterly lump sums.

In particular, Neighborhood told RIMS that it issued its first checks in August and estimated that about \$2 million would be paid out to about 200 practices so far. NHP noted that approximately 6% of the extra funding is going to physicians who do not fit the usual definition of “primary care” but who qualify to the extent that they provide a sufficient volume of the specified E&M and vaccination services. Most of these turned out to be gastroenterologists and cardiologists who are boarded in internal medicine, according to NHP. Neighborhood’s second quarterly wave of checks is due to go out in late October. ❖

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AMA chalks up seven (7) wins in U.S. Supreme Court

Physicians' rights to fair and timely payment, lower pharmaceutical prices, appropriate application of antitrust law and patent law, the integrity of medical boards, and combating health disparities: all of these issues received favorable attention in the U.S. Supreme Court session that concluded in June, thanks in no small part to diligent work by the Litigation Center of the AMA and State Medical Societies.

These latest, high-profile Supreme Court cases amount to only a handful of the more than 250 strategic cases in which the Litigation Center has participated since its inception in 1995. Over the years, the Litigation Center's carefully selected cases have achieved many precedent-setting outcomes at every level of the nation's state and federal judicial systems.

Most recently in Rhode Island, the Litigation Center provided generous support for RIMS' efforts to strike down as unconstitutional the provider taxes enacted in 2007.

In seven Supreme Court cases this year, AMA Litigation Center or the AMA itself filed friend-of-the-court briefs that contributed to full or partial victories for medicine in each case.

Genetic research The court ruled unanimously that naturally occurring human genes are ineligible for patenting. The decision clears the way for labs across the country, including Rhode Island, to move ahead with genetic research (*Association for Molecular Pathology v. Myriad Genetics*).

Drug prices The court confirmed that the Federal Trade Commission has authority to challenge anti-competitive agreements between pharmaceutical companies that deny patients access to affordable generic medications (*Federal Trade Commission v. Watson Pharmaceuticals*). The case involved "pay to delay" agreements, by which drug manufacturers conspire to keep generic drugs off the market.

Physicians' rights The court upheld the right of independent physicians to band together and engage in collective arbitration to oppose unfair business practices by large health insurance companies (*Sutter v. Oxford Health Plans*).

Medical education Medical schools that satisfy the "strict scrutiny" standard for discrimination may continue to evaluate applicants holistically, taking ethnicity into consideration as one factor among other personal attributes (*Fisher v. University of Texas*). The AMA's brief supported medical school's contention that increasing medical career opportunities for minorities is an important step toward bridging the gap in health and health care for minority populations.

Equal access In two other rulings, the court moved to ensure equality of access to health care under federal law for all households in those states that recognize same-sex marriage (which currently include Rhode Island, thirteen other states, and the District of Columbia). In particular, the high court overturned the federal Defense of Marriage Act (*United States v. Windsor et al.*).

Social issue with medical ramifications In a separate ruling with similar ramifications, the court let stand a California federal court decision that struck down that state's Proposition 8 ban on same-sex marriage (*Hollingsworth et al. v. Perry et al.*). The AMA's briefs in these two cases argued that denying these rights and privileges to gays would be detrimental to the health of same-sex couples and the health of their children.

Competition, antitrust and the integrity of medical boards The justices found that a proposed merger of Georgia hospitals was subject to antitrust scrutiny despite the fact that one of the hospitals government-run (*Federal Trade Commission v. Phoebe Putney Health System Inc. et al.*). The Litigation Center's involvement was

strategic, arising out of public and physician interest in limiting the consolidation of hospitals and the concern that a too narrow application of the "state action" exception to anti-trust law could undermine the authority of state medical boards.

Preserving liability reforms In addition to these Supreme Court cases, the Litigation Center of the AMA and State Medical Societies is regularly involved in helping many states defend their hard-won tort reforms. This past summer was no exception, when the Center participated in the latest successful effort to defend California's landmark Medical Injury Compensation Reform Act of 1975 (MICRA), which imposes a \$250,000 cap on noneconomic damages.

The ink was barely dry on that favorable appeals court ruling when a new challenge to MICRA arose. This one advances the novel legal theory that a certain Medicare patient's poor outcome was attributable to "elder abuse" rather than negligence, and MICRA's cap therefore does not apply. The Litigation Center is currently on that case. (Still another campaign to subvert MICRA, this time by referendum, is currently getting underway in California.)

In another liability matter this year, the AMA Litigation Center was successful in helping Maryland physicians fend off a challenge to a state law that bars recovery of damages when the plaintiffs' own negligence has contributed to the injuries.

An example of state society/AMA collaboration All 50 state medical societies have voluntarily contributed to the support of the Litigation Center since its inception 18 years ago. The Center is guided by an executive committee made up of the CEOs and legal counsel from eight states, plus two AMA Trustees and one AMA staff attorney. RIMS' Newell Warde is in his fourth year as chair of the Center's executive committee. ♦

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RIMS bike helmet give-away 2013

An especially generous contingent of Brown University medical students helped RIMS distribute and fit hundreds of bicycle helmets for RiteCare children last May. This annual rite of spring took place at the Community School in Cumberland this year. RIMS thanks the students and every one of RIMS' generous member donors who supported the RIMS Foundation's annual bulk purchase of bike helmets. Their names are listed on this page. RIMS also thanks the Rhode Island Department of Human Services for its cooperation in notifying RiteCare families in the Cumberland area of the opportunity to get free helmets for their children. ❖



Medical student volunteers [L-R] Ted Albright, Mohammed Elsayed, Juan Pablo Zhen Lio, Austin Ha, Stephanie Angione, Grayson Armstrong, Jonathan Thorndike, Tera Schaetzel-Hill, Nicole Noronha.

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Working for you

Below are some of the advocacy activities in which RIMS was engaged during the month of August 2013.

August 1 RIMS (Elaine Jones, MD; Newell Warde) meeting with BCBSRI specialty network director, medical director and managing director of practice innovation, 8–9 am

August 1–3 State Advocacy Roundtable Conference, Chicago. (This annual conference is a function of the AMA's Advocacy Resource Center, of which RIMS' Steven R. DeToy is currently the executive committee chair.)

August 2 Brown Primary Care Initiative (Warren Alpert Medical School), 7:30–9 am

August 5 Litigation Center of the AMA and State Medical Societies, planning subcommittee (Newell Warde, chair, executive committee), 11 am–12 pm (telephone conference).

August 6 RIMS Physician Health Committee (Herbert Rakatansky, MD, chair), 7:30–8:30 am

August 7–9 Colorado Health Foundation Symposium, Keystone, CO. (Mr. DeToy's attendance was sponsored by PhRMA.)

August 8 SIM (State Innovation Model: Healthy RI) Practice Transformation and Workforce work group, 8–9 am

August 13 SIM (State Innovation Model: Healthy RI) Policy and Regulation work group, 1:30–3 pm

RIMS Membership Committee (Diane Siedlecki, MD, and Fredric Christian, MD, co-chairs), 5–6 pm

August 14 Litigation Center of the AMA and State Medical Societies, Executive Committee (Newell E. Warde, chair), 12–1 pm (telephone conference).

August 15 Tobacco Free Rhode Island, 10 am–12 pm.

RIMS Medical Review Advisory Committee (Peter A. Hollmann, MD, chair), 6–8 pm.

August 16 RIMS meeting with Rhode Island Quality Institute, 10–11 am
Medical Orders for Life Sustaining Treatment (RI Attorney General's Office), 2:30–3:30 pm.

August 19 RIMS and RI Society of Emergency Physicians legislative planning, 10 am–2 pm
AMA Advocacy Resource Center Executive Committee (Steven R. DeToy, chair), 4–5 pm (telephone conference).

August 20 SIM (State Innovation Model: Healthy RI) Clinical and Payment Innovation work group (Elaine Jones, MD; Elizabeth Lange, MD), 7:30–9 am

RIMS and RI Radiological Society legislative planning, 8:30–9:30 am

RIMS 202nd Annual Member Banquet

Saturday, September 21, 2013

Warwick Country Club

Look for your invitation in the mail

We are proud to honor the following award recipients:

Joseph H. Friedman, MD

Dr. Charles L. Hill Award

Stanley M. Aronson, MD

Dr. Herbert Rakatansky Award

The following new leadership team was duly elected by the RIMS Council on June 10, 2013, and will be installed in office on September 21:

Elaine C. Jones, MD

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President-Elect

Russell A. Settipane, MD

Vice President

Elizabeth B. Lange, MD

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Patrick J. Sweeney, MD, MPH, PhD

David M. Bourassa, MD

Adjunct Councilors at Large

Joel M. Kaufman, MD

Alyn L. Adrain, MD

Delegates to AMA

Peter A. Hollmann, MD

HealthsourceRI (RI Health Benefits Exchange), 1–3 pm (Dept. of Administration)

Healthcare Professional Loan Repayment, 1–2:30 pm (State House)

August 21 SIM (State Innovation Model: Healthy RI) Technology and Measurement work group, 8:30–10 am

RIMS Insurance Brokerage Corporation board of directors (Peter A. Hollmann, MD, President), 6–8:45 pm

August 22 Health Services Council (Steven R. DeToy, Councilor), 2:30–4 pm (Dept. of Health)

August 27 SIM (State Innovation Model: Healthy RI) Community Health Initiatives work group, 1–2:30 pm

August 28 HealthsourceRI (Health Benefits Exchange), 8–9:30 am

August 29 SIM (State Innovation Model: Healthy RI) Workforce and Practice Transformation work group, 8–9 am

August 30 SIM (State Innovation Model: Healthy RI) Population-Focused work group, 8–9:30 am

Rhode Island Tar Wars® produces another national champion



Tar Wars judges join state contest winners during awards ceremony on May 11.

Rhode Island's 2013 statewide Tar Wars® winner went on to take Washington, DC, by storm in July and came home with top national honors in competition with the winners from 35 other states. Kinjal Gupta of the Metcalf School in Exeter, submitted an unusually meditative poster, carefully crafted in subdued watercolors, which earned her first place among 38 school finalists in Rhode Island and then propelled her to the top of the class in the national Tar Wars® poster competition. As the Rhode Island winner, Kinjal received an all-expenses paid trip for her and her family to travel to Washington for the culminating event. Her triumph is the second for a young Rhode Islander in just three years. The previous best showing in the 20-year history of Rhode Island Tar Wars® was a commendable fourth-place finish at the national level.

Does RIMS have your email address?

If not, you could be missing out on timely information. RIMS uses broadcast email judiciously to communicate concise and timely information of broad interest that most physicians are unlikely to receive as quickly from other sources.

It's easy to keep RIMS apprised of your email address. Just please alert Megan Turcotte by email (mturcotte@rimed.org) to any changes. You can also update and manage all your contact information and profile from the home page of www.rimed.org. Just go to the bottom of the left-hand column and click on "Update your contact info." RIMS never shares members' email addresses with third parties.

This year's Tar Wars® Rhode Island poster contest was a milestone event in other ways. The national program celebrated its 25th anniversary, while the Rhode Island Tar Wars® program observed its 20th. The Rhode Island Academy of Family Physicians launched the program in 1993 and turned over the administration of it to the Rhode Island Medical Society in 1996. Dr. Arthur Frazzano, the father of Rhode Island Tar Wars®, still oversees the effort every year. In the early years, observed Dr. Frazzano, "there were just a handful of Medical Society members presenting Tar Wars® to a handful of local elementary schools. Now we get close to 40 schools to participate in Tar Wars and reach more than 3500 students annually."

RIMS is grateful to its member physicians, Brown medical students, residents and nurses who volunteer to visit schools across the state and teach students about the short-term and long-term effects of tobacco use. "Our volunteers do such a great job because they truly enjoy teaching the students and being involved in their communities," remarks Dr. Frazzano. This year's Tar Wars® volunteers are listed elsewhere on this page.

Besides the Rhode Island Academy of Family Physicians, RIMS thanks the Rhode Island Chapter of the American Academy of Pediatrics, the Rhode Island Department of



Senator Reed takes time out of his busy schedule to visit with Kinjal Gupta and her family during their trip to Washington, DC to attend the National Tar Wars® Poster competition.

Health and school departments throughout the state for their support of Tar Wars®.

This year's Rhode Island panel of celebrity judges included Barbara Morse Silva, WJAR10 anchor and health reporter; Dr. Peter Karczmar, Vice President of the Rhode Island Medical Society; and Dr. Roanne Osborne-Gaskin, President of the Rhode Island American Academy of Family Physicians.

The second-place poster contest winner was **Robert Colomey** from The Community School in Cumberland. **Adelina Steinmetz** from St. Paul School in Cranston was the third-place winner and is the daughter of RIMS member Gregory Steinmetz, MD, who volunteers as a Tar Wars® presenter for schools in Warwick.

Tar Wars® is a national tobacco education program from the American Academy of Family Physicians. It was developed in 1988 to provide a framework for healthcare providers and community organizations to become involved in youth tobacco education.

Tar Wars® supports its volunteers with a rich selection of instructional materials and advice. Physicians and medical students who are interested in becoming Tar Wars® presenters or know of schools that would like to participate in the Tar Wars® program, should please contact Catherine Norton at RIMS, 401-528-3286. ♦

Tar Wars Volunteers 2013

RIMS Physicians and Physician Assistants

David Ashley, MD
Nathan Beraha, MD
Jeffrey Borkan, MD
Charles Cummings, MD
Suzanne DeLaMonte, MD
Keivan Ettetfagh, MD
Sarah Fessler, MD
Michael Fine, MD
Arthur Frazzano, MD
Anne Garvey, MD
Alla Goldburt, MD
Emily Harrison, MD
Donald Hebb, MD
Peter Hollmann, MD
Elizabeth Jasolosky, MD
Martin Kerzer, DO
Elizabeth Lange, MD
Anthony Lombardi, Jr., MD
R. Kurt Nicewander, MD
Martin Papazian, MD
Nick Nikolopoulos, DO
Herbert Rakatansky, MD
Renee Rulin, MD

James Schwartz, MD
Peter Simon, MD, MPH
John Solomon, MD
Suzanne Thayer-Kramer, PA-C
C. Tyler Vogt, MD
Raymond Zarlengo, MD

Brown University Medical Students

Ami Belmont
Fei Cai
Brittany Katz
Christine Krueger
Marina MacNamara
Zachary Marcus
Joshua Rodriguez-Srednicki
James Rotenberg
Milan Satcher
Gretel Terrero
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The AMA thanks Steven R. DeToy, RIMS Director of Public and Government Affairs (and chair of the AMA ARC Executive Committee) for working together with the AMA to ensure the best outcomes for patients and physicians.

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Data Breach and Your Practice – New Regulations and Their Implications

Wednesday, September 25, 2013, 7:30–9:30 am

*Hosted by the Rhode Island Medical Society
235 Promenade Street, Suite 500 (5th floor), Providence*

A panel of experts will present:

- 2013 regulations and an example of a local incident
- A case study and compliance audit for a medical practice
- How to safeguard your practice

This event is free, but space is limited. Please register with Megan Turcotte to assure yourself a seat: mturcotte@rimed.org or 401 331-3207.

A continental breakfast will be provided.

Practice Transformation

Saturday, October 5, 2013, 8:30 am–12:30 pm

Sponsored by the Rhode Island Medical Society, the Office of the Lieutenant Governor and Brown University

At the Brown University Center for Continuing Education, 200 Dyer Street, Providence

- David McGookin, MD: Coastal Medical Group, an Accountable Care Organization
- Jeffrey F. Chase-Lubitz, Esq. and Don Wineberg, Esq.: What physicians should know about contracting.
- Richard Migliori, MD, EVP for Medical Affairs and CMO of UnitedHealth Group; and Gus Manocchia, Sr. Medical Director of BCBSRI: Practice transformation from the payers' perspective

This event is free, but space is limited.

For more information contact Steve DeToy: sdetoy@rimed.org or 401 331-3207.

CME applied for.

Current webinar offerings from the RI Regional Extension Center

The RI Regional Extension Center (RI REC) is a service of the Rhode Island Quality Institute, a not-for-profit organization dedicated to improving the healthcare system in Rhode Island. To register for any of the free webinars listed below, please visit www.DocEHRTalk.org and click on "Upcoming Events." All of the REC webinars noted below include opportunities Q&A.

CurrentCare Quick Tips: Labs Edition

September 4, 2013 at 12:00 p.m.

Do your patients see multiple providers who order tests? Do you find your office is investing too much time searching for your patients' lab results? Join us for this 30-minute webinar and see how the CurrentCare Viewer provides on-demand, cross-system access to lab results from different sources. See the most recent list of information-sharing partners and hear about projects in the works. CurrentCare Viewer Trainers will walk you through Labs in the Viewer and answer any questions you may have.

Making CurrentCare Work for You

September 6, 2013 at 7:30 a.m.

This 30-minute webinar will show you how you can take advantage of the power of CurrentCare, Rhode Island's Health Information Exchange. Empower your practice with the relevant, robust and easy-to-access information your patients want you to have through CurrentCare. Save valuable staff time and eliminate the hassle of the information chase. Using CurrentCare services is easy – let us show you how!

What the HIPAA Omnibus Rule Means for You: Your Questions Answered

September 13, 2013 at 7:30 a.m.

The OIG (Office of the Inspector General) and Meaningful Use Core Measure #15 to Protect Electronic Health Information both state that all staff within a healthcare office setting should be trained on HIPAA guidelines annually. Linn Freedman of Nixon Peabody (Providence) will provide a 1-hour webinar satisfying this annual requirement for your staff. Linn will include the latest updates of HIPAA rules. With this training your office will be eligible to receive a certificate of attendance.

About the Presenter Linn Freedman practices privacy and security law and complex litigation. She focuses on privacy and security compliance and responses to data breaches. Linn is leader of the firm's Privacy & Data Protection Group and chairs the firm's HIPAA Compliance team and Health Information Technology (HIT) team. Linn has particular experience in the development and implementation of regional health information organizations (RHIOs) and privacy and security issues related to the interoperability of electronic health records. She serves as general counsel of the Rhode Island Quality Institute. She has extensive experience litigating cases in state courts, federal courts, appellate courts, and administrative bodies.

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KATHLEEN C. HITTNER, MD, was nominated by Governor Chafee and confirmed by the Senate to become Rhode Island's Health Insurance Commissioner. Dr. Hittner was the first woman president of the Rhode Island Medical Society in 1991–92 and received RIMS' Dr. Charles L. Hill Award for distinguished service in 2007. From 2000 to 2009 she was president of The Miriam Hospital. She is the second individual to serve as state's Health Insurance Commissioner, a nationally unique position that was created by the General Assembly in 2004 in response to a campaign initiated by RIMS. Dr. Hittner succeeds Christopher Koller, who now leads a distinguished health policy think tank in New York City.

PATRICK J. SWEENEY, MD, MPH, PHD, has been honored by American Congress of Obstetricians and Gynecologists for Outstanding Service to ACOG's District 1. (The District includes the six New England states, the Canadian provinces of Quebec, New Brunswick, Newfoundland, Nova Scotia and Prince Edward Island, and the nation of Chile.) Dr. Sweeney is chair of RIMS' Committee on Continuing Education and the 2012 recipient of RIMS' Herbert Rakatansky Award for Medical Professionalism. In September 2013, Dr. Sweeney joins the Executive Committee of RIMS as a Councilor at Large.

MICHELE G. CYR, MD, has been recognized by the Rhode Island Chapter of the American College of Physicians with the Milton Hamolsky Lifetime Achievement Award.

JANICE KIZIRIAN, MD, has been recognized by the Rhode Island Chapter of the American College of Physicians with the Irving Addison Beck Laureate Award for distinguished service.

PENELOPE DENNEHY, MD, has been recognized by the CDC as Rhode Island's 2013 Childhood Immunization Champion.

Rhode Island's opioid epidemic

According to the Rhode Island Department of Health, the misuse of prescription drugs:

- Causes four deaths per week in Rhode Island.
- Causes two-thirds of the deaths in Providence County annually.
- Is the leading cause of years of potential life lost in Rhode Island.
- Led to more than 4,000 ED visits in Rhode Island in 2011.
- Resulted in 2,000 hospitalizations in Rhode Island in 2011.

It has been estimated that sixty percent of opioids abused nationwide are obtained directly or indirectly through a doctor's prescription. Most of the time, doctors are unaware that their patients are abusing or diverting these medications. However, this is not always the case. An article in the *New England Journal of Medicine* with the provocative title, "Why Doctors Prescribe Opioids to Known Opioid Abusers" (Anna Lembke, MD, *NEJM* 367:17, October 25, 2012) asserts that "for physicians, treating pain pays, whereas treating addiction does not. The mainstays of treatment for addiction are education and effective counseling, both of which take time. Time spent with each individual patient is medicine's least valued commodity, from a financial reimbursement perspective." The author of the *NEJM* article concluded that "the problem of doctors prescribing addictive analgesics to patients with known or suspected addiction will be solved only when the threat of public and legal censure for not treating addiction is equal to that for not treating pain, and when treating addiction is financially compensated on a par with care for other illnesses."

Pharmacy chains enter the fray In a letter published on the website of the *New England Journal of Medicine* in August 2013, CVS Caremark Corporation disclosed that late in 2012 it had taken upon itself the extreme step of refusing to fill prescriptions for opioid pain killers written by 36 individual physicians nationwide. Additional suspensions have apparently followed in the wake of CVS' ongoing analysis of physicians' prescribing patterns. (CVS operates over 6,000 drug stores in 43 states. RIMS does not know of any physician in Rhode Island being among the 36 shut off by CVS.) Other chains are rumored to have similar programs targeting prescribers who are extreme outliers in their volume of prescribing hydrocodone, oxycodone, alprazolam, methadone and carisoprodol.


In taking such unusual actions, the chains are responding to pressure from the U.S. Drug Enforcement Agency. The DEA has recently targeted CVS, Walgreens and other large pharmacy chains for alleged negligence in record-keeping and in dispensing addictive drugs. The DEA revoked the controlled substance licenses of two CVS stores in Florida last fall, and in June of this year the DEA won an \$80 million settlement against Walgreens.

CVS' actions against physicians raise questions. Is it legal or appropriate for a private company to limit the authority of selected, licensed physicians? In such cases, what due process protections are afforded to the physicians? And what other scrutiny, intervention or support ought to complement a suspension of a physician who is identified by CVS as overprescribing opioids? What about the patients? After all, they can simply migrate to another pharmacy – or switch to street drugs. How can we assure that those patients get what they need, which is treatment for their addiction? ❖



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Managing Professional Risk (January 2013)

Tips for Steering Clear of Problems with Pain-Med Prescribing

KAREN K. DAVIS, MA, CPHRM, RISK MANAGEMENT
NORCAL MUTUAL INSURANCE COMPANY AND THE NORCAL GROUP

The following tips will help you prescribe narcotics/opioids appropriately to patients in chronic pain:

Obtain a thorough history and determine the specific cause of pain.

Patients who request pain treatment should receive a comprehensive assessment aimed at finding a specific physical process to explain their pain. Stephen Richeimer, MD, Chief of Pain Medicine at the University of Southern California, says, "Assessment is a key issue. The history and physical examination provides the information that allows the physician to judge if the patient is legitimately in pain or if the patient is improperly seeking drugs."¹

Document well. Explanations in the patient's medical record demonstrate that the patient was carefully evaluated and is being appropriately managed. Documentation verifies what modalities have been used to minimize pain, what is working, and what the overall plan of care is. Richeimer asserts: "Good record keeping is part of good medicine, and it is also your best protection from frivolous lawsuits."¹

Ask chronic-pain patients to agree to use a single pharmacy. Discussing pain treatment with the patient and getting the patient to agree to certain parameters associated with long-term pain management are mutually beneficial strategies: they help you avoid inadvertently supplying medication that might be diverted for street sale, and they reassure the patient in pain that he or she can count on obtaining needed medication. An especially useful rule is that the patient will use a single pharmacy for all pain medications.

Make use of a written pain medication agreement with chronic-pain patients.

A signed agreement by the patient that he or she will follow rules for obtaining pain medication will improve the likelihood of appropriate behavior by the patient. It discourages patients from seeking an unlimited supply of medication and helps staff members verify the legitimacy of refill requests. [A sample pain medication agreement accompanies this article on the next page.]

Monitor patients over time on their needs for and use of pain medication.

Richeimer observes that patient trustworthiness "can only be assessed by monitoring the patient over time."¹ Berland and Rodgers recommend that all patients using opioids for chronic pain management "undergo urine drug testing before opioid therapy is initiated and then at least yearly unless patient behavior suggests the need for more frequent testing."²

If you keep controlled substances in your office, establish a reliable process for safeguarding and reconciling such medications and for tracking their distribution.

The federal Drug Enforcement Administration (DEA) requires physicians who administer or dispense controlled substances from their offices to have effective controls to guard against theft and diversion. Controlled substances must be stored in a securely locked, substantially constructed cabinet. Using a controlled substances inventory log can help you account for each and every dose of medication that goes through your office.

These strategies are aimed at fostering appropriate pain management within the limits of professional practice. Furthermore, they can help physicians and staff consistently meet regulatory requirements on the management of pain medications. ❖

References

1. Richeimer S. Opioids for pain: risk management. *California Society of Anesthesiologists Online CME Program*. Available at: <http://www.csahq.org/cme2/course.module.php?course=3&module=12> (Accessed January 11, 2013).
2. Berland D, Rodgers P. Rational use of opioids for management of chronic nonterminal pain. *American Family Physician*. 2012;86(3):252-258.

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Sample Pain Management Agreement for Patients

[RIMS is indebted to NORCAL for permission to publish the following sample pain medication agreement.]

I will:

- Get my pain medication only from Dr.
- Take my pain medication as this doctor orders.
- Tell this doctor about all my health problems. This includes more than just why I need pain medication.
- Tell this doctor about all my other medications. This includes prescriptions from other doctors as well as over-the-counter and herbal medications I decide to take.
- Tell this doctor if I go to the Emergency Room and get more pain medication there.
- Tell my other doctors about all pain medications I take.
- Allow this doctor, or any other, to test my blood and urine.
This is to confirm that I am taking only my prescribed pain medication and nothing more.

I will not:

- Change how I take pain medication without first talking with this doctor.
- Share, sell or trade my pain medication.
- Use illegal drugs.

When I refill my pain medication prescription, I will:

- NOT ask for early refills (more pain medication), even if I lose or misplace my pain medication.
- Follow my doctor's refill policy: [insert your refill policy here].

I know that:

- Pain medication with narcotics can be addictive. This means that my body may need more and more pain medication or that it can be hard to stop taking this medication.
- Pain medication treats my pain but not its causes.
- I may need other medication and tests to diagnose and treat my health problems.
- Pain medication can cause side effects. It may cause me to be sleepy or slow my reflexes (how I respond or think). These side effects can make it unsafe to drive a car or use machines.

My agreement:

This doctor and I talked about my pain medication. I understand that I must follow this agreement. If I do not, this doctor or others at [practice or clinic name] will not prescribe pain medication for me. They may refuse to provide my medical care if I do not follow this agreement.

Patient's name

Patient's signature

Doctor's name

Doctor's signature

Date

A more elaborate template for a physician-patient pain treatment agreement, along with many other good resources for physicians on the general topic of opioid prescribing, is available through the website of the Rhode Island Department of Health:

<http://www.health.ri.gov/healthcare/medicine/about/safeopioidprescribing/>

<http://www.health.ri.gov/healthcare/about/paincare/>

RIMS Insurance Brokerage Corporation's new partner, Coverys, named again to Ward's prestigious top 50

For the fourth consecutive year, Ward Group has recognized Massachusetts-based Coverys as one of the 50 top-performing property and casualty companies in America. Ward's annual analysis measures financial strength, operations, service, safety, consistency and performance over the most recently completed five-year period.

Coverys is a leading provider of medical professional liability insurance in the northeastern U.S. and one of the largest 10 such insurers in the country.

Coverys is also the latest addition to the RIMS-IBC's expanding palette of high-quality offerings. These include NORCAL Mutual Insurance of San Francisco and a full array of personal and business products through a new co-brokerage agreement with Butler & Messier of Pawtucket, in addition to the long-standing relationship with service-oriented Good Neighbor Alliance for life, health and disability coverage.

Now a full-service agency, the RIMS-IBC nevertheless remains primarily focused on medical professional liability

insurance, where the IBC's exceptional level of expertise and professional service offers unique value to doctors. Medical liability coverage is of paramount importance to the financial security and professional reputation of every physician, but the market for such coverage is notoriously

treacherous and confusing. The staff of the RIMS-IBC know how to help practices understand their options and make wise choices tailored to their personal needs and timetables.

The RIMS-IBC is proud to place business with two of the strongest and most respected insurers in the nation. NORCAL and Coverys are both rated "A" by A.M. Best, and both have the DNA of physician-owned and physician-directed mutual insurance companies in their family trees.

More information is available through the RIMS website (www.rimed.org, click on RIMS-IBC). The staff of the RIMS-IBC can be reached at 401-272-1050. ❖



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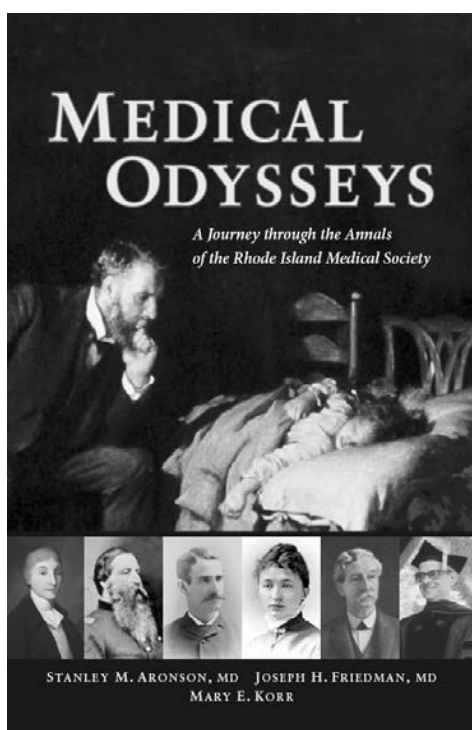
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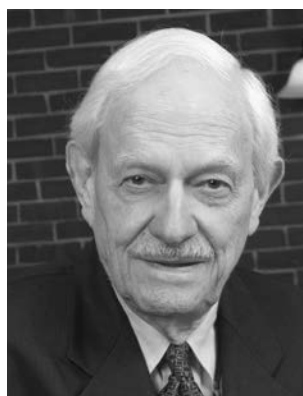
Medical Odysseys: A Journey through the Annals of the Rhode Island Medical Society



Essays by Stanley M. Aronson, MD; Joseph H. Friedman, MD; and Mary Korr. Edited by Mary Korr. Design by Marianne Migliori Design. Preface by Kathleen C. Hittner, MD. Published by the Rhode Island Medical Society, 2011. Paperback. 250 pages. Illustrated.

Connoisseurs of Dr. Stanley Aronson's uniquely erudite and entertaining essays on medicine, medical history and language will want to add this latest volume to their collection. This time around, Dr. Aronson invited the current Editor-in-Chief of *Medicine & Health Rhode Island*, Dr. Joseph Friedman, to

join him in assembling a new selection of commentaries in honor of the Medical Society's bicentennial. Mary



Korr, the editor of the new collection, was inspired to contribute her own series of well-researched and entertainingly written new essays on aspects of RIMS' history. The skilled eye and hand of designer Marianne Migliori contributed to the handsome and highly readable result: *Medical Odysseys*:

A Journey through the Annals of the Rhode Island Medical Society. The volume contains 69 short essays – 28 by Dr. Aronson, 26 by Dr. Friedman, and 15 by Ms. Korr.

Please contact Sarah at the RIMS office by email, sstevens@rimed.org or by telephone, 401-528-3281, to obtain a copy