

Maine medicine



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ELECTION 2006 RECAP: 123rd Maine Legislature & Leadership Taking Shape

Democrats retain control of the Blaine House and both houses of the Maine legislature - by an 18-17 margin in the Senate and an 89-60 margin in the House with 2 unenrolled House members. The MMA Legislative Committee plans agenda for the new legislature.

The 2006 elections are finished and the state's political landscape is settled for at least the next two years. The races for federal offices yielded no surprises with U.S. Senator Olympia J. Snowe, 1st District Congressman Tom Allen, and 2nd District Congressman Mike Michaud all winning their re-election efforts.

Governor John Baldacci succeeded in his bid for a second term as Maine's governor, defending his record against four challengers. Of primary importance to Maine physicians, the Governor's re-election means that the Dirigo Health Program will continue, and probably will evolve, and physicians have another opportunity to obtain a MaineCare (Medicaid) fee increase. The Governor has committed to MMA that he will include a \$3 million General Fund fee increase in his SFY 2008-2009 biennial budget proposal to the legislature.

The Senate in the 123rd Maine Legislature will be composed of 18 Democrats and 17 Republicans, a gain of 1 seat for the Republicans from the 122nd Maine Legislature. You can see a list of the successful Senate candidates on the web at: <http://www.maine.gov/legis/senate/>. The Senate will include 1 physician, Lisa T. Marrache, M.D. (D-Kennebec), who will represent Senate District 25 after serving 3 terms in the House. Dr. Marrache is a family physician in Waterville.

On November 20, 2006, the final composition of the House in the



From left, Michele MacLean, Senator Olympia Snowe, Mayor-elect Andrew MacLean.

123rd Maine Legislature still is uncertain because 7 of 14 recounts remain to be completed. None of the 7 recounts completed, however, have changed the results from the apparent winner on Election Day. If the final 7 recounts, due to be finished by November 27, 2006, confirm the apparent winners, the House will be composed of 89 Democrats, 60 Republicans, and 2 Unenrolled individuals. This result means a net gain of 29 seats for the Democrats from the 122nd Maine Legislature in which Democrats and Republicans had the same number of seats. You can find information about the House election results on the web at: http://janus.state.me.us/house/123_cand.htm. The House also will include 1 physician, radiologist Robert P. Walker, M.D. of Lincolnville, who will represent House District 44. Dr. Walker's victory was confirmed in a recount completed on November 15, 2006.

Three of the four partisan caucuses now have chosen their leadership for the new legislature.

continued on page 3

MMA congratulates MMA Deputy EVP **Andrew B. MacLean** upon his successful election as Mayor of Gardiner, Maine. **CONGRATULATIONS ANDY!** *Note: This a part time position that will not interfere with Andy's work for MMA.*

AMA Interim Meeting Concludes with a Plea to Congress to Avert Medicare Cut

The 2006 Interim Meeting of the American Medical Association House of Delegates adjourned Tuesday, Nov. 14 with a plea to the United States Congress to avert the upcoming Jan 1, 2007 reduction in Medicare reimbursement. Delegates added their signatures to hundreds already on an open letter to America's patients which appeared in full page ads in the Washington Post and USA Today. Maine was well represented at the meeting with all four Maine delegates and alternates present as well as six specialty society representatives. Maine's senior

delegate, David Simmons, M.D., an internist from Calais, chaired reference committee K which handled all the issues taken up at the meeting regarding advocacy.

Several medical students from UNE and a representative to the Young Physician Section also attended the meeting.

Along with the Medicare issue, following are some of the issues discussed at the meeting:

- The AMA voted to implement the 2007 Strategic Plan. It outlines the association's integral commitments in six major areas considered especially relevant to members: health care environment, clinical excellence, physician practice viability, *continued on page 2*

save the date

4th Annual
MMA
Benefit Golf
Tournament

Monday, June 18, 2007
at the Augusta Country Club
Call 622-3374 for details!

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Information in this newsletter is intended to provide information and guidance, not legal advice. Since exact language and definitions of key terms are critical to understanding the requirements of legislation, rules or laws, we encourage you to read each carefully. Articles submitted to Maine Medicine represent the views of the author only and do not necessarily represent MMA policy.

Subscribe to MMA's Maine Medicine Weekly Update

Each Monday, Maine Medicine Weekly Update keeps physicians and practice managers in the loop with breaking news – by fax or e-mail only. It's a free member benefit – call 622-3374 to subscribe.

President's Corner



Kevin Flanigan, M.D.,
President, MMA

As autumn comes to a close and winter approaches, your leaders and staff at the MMA are working through the end of our annual membership renewal and this year's recruitment project. Every year at this time, a membership dues statement goes out to all active members. This year

however, we are also focusing on recruiting new members as well as reaching out to former members in an effort to embrace and welcome all physicians.

This has led to physicians across the state asking me two questions. The first question is simple; 'Why?' The second one invariably is; 'What is in it for me/us?'

Both of these questions are of paramount importance when we consider the fact that for nearly every medical practice, revenue is down and workload is up. This however is in part exactly WHY every physician in this state should belong to this association. It is this physician-member association that remains the best and strongest advocate for us and our patients.

So I ask; 'If not the MMA, then who?'

- Who will advocate for us when new legislation is proposed that impinges upon the patient physician relationship?
- Who will work on behalf of physicians and patients when fiscal constraints replace medical quality as the driving force behind reimbursement decisions?
- Who will ensure that Quality Initiatives are initiatives that benefit the patient and the community, not primarily the insurer?
- Who will stand up to the personal injury attorneys and ensure that the malpractice environment in Maine does not get to the same critical stage as we are witnessing in Florida and Pennsylvania?
- Who will be there for us and our patients if we don't ensure, through our membership, that this powerful and venerable association has the opportunity to continue to work on behalf of physicians and their patients, as it has since 1853.

The question is answered today with a resounding sense of importance. For in the absence of organized medicine, physicians would have a limited ability to advocate for patients and their wellbeing.

The "What is in it for me/us?" question is equally important to a practice when it is trying to figure out the best way to invest a limited amount of money and get the best return on that investment.

The importance of this question is also recognized by the MMA. We realize that there is a limited amount of money that a practice has to invest. We also realize that each practice, large or small, needs to ensure that its investment is one that realizes a return that justifies its expense.

AMA Interim Meeting...continued from page 1

- health of the public, physician education and professionalism, and a sustainable AMA.
- The AMA voted to revise its mission and vision statements. The new, simplified mission is to promote the art and science of medicine and the betterment of public health. Its core values are (1) leadership and service; (2) excellence in all we do; and (3) integrity and ethical behavior. The new vision is to be an essential part of the professional life of every physician.
 - The AMA voted to work with state medical associations, employer coalitions, physician billing services and other appropriate groups to evaluate on an annual basis and recommend standards for "payer measures" for the insurance industry and government payers to be publicly reported for consumers that may include information about several measures.
 - The AMA adopted recommendations from the Council on Medical

To this end, the MMA has developed a membership package that we believe provides benefit to each individual and group member, while at the same time, not detracting from our mission:

Uniting and supporting the physicians of Maine in promoting the health of Maine's citizens, protecting the quality of medicine, and supporting the physician's function as advocate for their patients.

Currently we have 80 corporate affiliates. These vendors provide products and services to our members at discounted rates. This cost savings is frequently greater than the cost of membership. Members also have access to two lawyers, Andy MacLean and Gordon Smith. Each in his own right is recognized as a leading expert in the area of healthcare law. They also professionally review and comment on employment agreements and insurance contracts for physicians. This arrangement saves both time and money for the physician and the employer. Among these benefits and others, there is also our Physician Health Program (PHP) that assists impaired physicians regain control of their lives and preserve their practices. We are pleased to announce the PHP will have a full-time clinical director beginning February 1, 2007.

In closing, I will quote a politician who rose to prominence when I was a kid growing up in New Jersey. Ed Koch, former Mayor of New York City once answered a voter this way when asked why should I vote for you?

"Look if there are twelve issues that are important to you and if you only agree with me on one or two of them, vote for my opponent. If however you agree with me on eight of these issues, you need to vote for me. And if you agree with me on all twelve issues, then you should have your head examined."

I bring this to your attention because the MMA cannot stand on both sides of any issue. On occasion, individual member advocacy will be accomplished through the efforts of the MMA. At other times we connect our members with others who can best assist them in accomplishing what is most important to them.

Hence we recognize that we cannot be all things to all people. Instead we are different things to different people but no less important to everyone involved.

With your support, we will continue to ensure that Maine will be the premier state in the nation for physicians to provide high quality, personal care. This will be true as long as the MMA ensures that the necessary support structures are in place to allow physicians to function as physicians and patient advocates; not just a cogwheel in the industry of healthcare!

I would like to invite you to visit our website at www.mainemed.com or contact me via phone at 207-487-5875 or email at flanmansvpc@pol.net to discuss what we can do for you and what you can do for this association.

Service Report 6 that any physician payer, clearinghouse, vendor or other entity that collects and uses or warehouses electronic medical records and claims data adhere to a series of principles. Among those principles are that electronic medical records data remain accessible to authorized users for the purposes of treatment, public health, patient safety, quality improvement and research, and that anyone seeking to access and use individually identifiable clinical data obtain physician or patient permission to do so. The AMA also will continue to monitor the economic implications of the secondary sale and use of nonidentifiable, aggregate data.

- The AMA approved policy on several aspects of abusive practices by insurers, including opposing the development of tiered, narrow or restructured networks inappropriately driven by economic criteria. Highlights of all the reference committees are posted to www.ama-assn.org/go/interim2006.

Upcoming Specialty Society Meetings

FEBRUARY 2 - 4, 2007 *Sugarloaf Grand Summit Hotel*
Maine Radiological Society and Maine Urological Association Winter Meeting
MMA Contact: Warene Eldridge 207-622-3374 ext: 227 or weldridge@mainemed.com

FEBRUARY 10 - 11, 2007 *Sugarloaf/USA*
Maine Society of Anesthesiologists
Contact: Anna Bragdon 207-441-5989 or msainfo@adelphia.net

MARCH 2 - 4, 2007 *Bethel Inn – Bethel, ME*
Maine Gastroenterology Society Winter Meeting
MMA Contact: Gail Begin 207-622-3374 ext: 210 or gbegin@mainemed.com

MARCH 8 - 10, 2007 *Sugarloaf/USA*
Maine Society of Orthopaedic Surgeons Winter Meeting Contemporary Topics in Orthopaedics
MMA Contact: Lauren Mier 207-622-3374 ext: 223 or lmier@mainemed.com
Program Coordinator: Donna Rogers 207-947-8381 ext: 212 or drogers@downeastortho.com

APRIL 29, 2007 *Harraseeket Inn – Freeport, ME*
Gastroenterology for Primary Care
MMA Contact: Gail Begin 207-622-3374 ext: 210 or gbegin@mainemed.com

MAY 4, 2007 *Harraseeket Inn – Freeport, ME*
Maine Society of Eye Physicians and Surgeons Spring Meeting
MMA Contact: Shirley Goggin 207-445-2260 or sgoggin@mainemed.com

MMA Welcomes Our Newest Corporate Affiliates:

Harvard Pilgrim Health Care
SynaMed, LLC
Vista Staffing Solutions, Inc.

We appreciate their support!

Thank You
to the first and founding sustaining members of the MMA:

John Bosco, MD
Jens Jorgensen, MD
Roger Renfrew, MD
David Simmons, MD
Derrick Tooth, MD
Mark Zajkowski, MD

Election 2006 Recap...continued from page 1

The Senate Democrats have chosen the following:

Senate President: Beth Edmonds (D-Cumberland),
for a second term

Senate Majority Leader: Libby Mitchell (D-Kennebec)

Assistant Senate Majority Leader: John Martin (D-Aroostook)
Senators Mitchell and Martin both are former Speakers of the Maine House.

The Senate Republicans have chosen the following:

Senate Minority Leader: Carol Weston (R-Waldo)

Assistant Senate Minority Leader: Richard Rosen (R-Penobscot)
Senator Weston was the Assistant Senate Minority Leader in the 122nd Legislature.

The House Democrats have chosen the following:

Speaker of the House: Glenn Cummings (D-Portland)

House Majority Leader: Hannah Pingree (D-North Haven)

Assistant House Majority Leader: Sean Faircloth (D-Bangor)
Representative Cummings was the House Majority Leader in the 122nd Legislature.

The House Republicans have not yet conducted their leadership caucus, but they are expected to choose the following:

House Minority Leader: Josh Tardy (R-Newport)

Assistant House Minority Leader: John Robinson (R-Raymond) or Robert Crosthwaite (R-Ellsworth)

The 123rd Maine Legislature will be inducted on December 6, 2006 and will begin its work during the week after New Year's Day.

The MMA's Legislative Committee, chaired by Katherine S. Pope, M.D., is scheduled to meet on Tuesday, November 28, 2006 to review the election results and to discuss the MMA's legislative agenda for the 123rd Maine Legislature.

During the legislative session, the MMA publishes a weekly e-mail legislative update called *Political Pulse*. To subscribe, go to www.mainemed.com and visit the Legislative & Regulatory Advocacy section of the site. You will find more information about the Maine Legislature, including schedules, committee assignments, legislator contact information, audio coverage of legislative work, and newly enacted laws on the web at: <http://janus.state.me.us/legis/>.

The MMA welcomes your participation in our legislative advocacy activities. For more information, please contact Andrew MacLean, Deputy Executive Vice President, at amaclean@mainemed.com.

Classified Ad

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If you would like to know how your classified ad can appear in the next issue of Maine Medicine, contact Shirley Goggin at 445-2260 or sgoggin@mainemed.com.

UPCOMING AT MMA

2006

DECEMBER 13 8:30AM – 11:30AM

Quality Counts Board Meeting

DECEMBER 19 8:00 AM – 4:00PM

Pine Tree Chapter of APIC

DECEMBER 20 2:00PM – 4:00PM

HealthInfoNet Board

DECEMBER 25

Office Closed for Christmas

2007

JANUARY 1

Office Closed for New Years

JANUARY 8

6:00PM

MMA Committee on Physician Health

JANUARY 11

5:30PM

Maine Association of Psychiatric Physicians, Executive Committee & Committee Chairs

JANUARY 12-14

Executive Committee Retreat
(Balsams, Dixville Notch, NH)

JANUARY 17

4:00PM – 6:00PM

MMA Public Health Committee

MARCH 7

2:00PM

MMA Executive Committee

MARCH 29

ALL DAY

Physicians Day at the Legislature

Note: All upcoming meetings are posted on the home page of the MMA website. MMA Committee agendas and minutes, when available, are available on the MMA website under members only. Members may register to access the section by clicking on "Register" in the upper right-hand corner of the home page and completing the simple form. The address is www.mainemed.com.

Are you still

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and

sneezing

the way they did
during the

Plague?

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coughsafe.com



Jana Purrell, CPC

The Coding Center by Jana Purrell, CPC, Coding/Reimbursement Specialist



Maine Medical Association/NH Medical Society/VT Medical Society Tel: 888-889-6597 Fax: 207-787-2377 jpurrell@thecodingcenter.org

Every year at this time besides trick-or-treating and setting our clocks back, we can look forward to information from the Office of the Inspector General. As mentioned in

the recent *Maine Medicine*, the OIG has released their 2007 workplan.

Reminder, this plan alerts providers to areas that the OIG will be watching in the upcoming year. It is important to look at these areas and if you are performing any of these services, determine that your policy and procedures related to billing are following Medicare's guidelines. Below are the areas outlined by the OIG for Medicare Physicians and Other Health Professionals for 2007.

As always, The Coding Center can be reached at 888-889-6597 if you have questions or concerns. The highlights this year include:

CARRY OVER FROM LAST YEAR (see workplan for details)

- **Payment to Providers of Care for Initial Preventive Physical Examination (IPPE)** The OIG will be evaluating the impact of the IPPE on Medicare payments and physician billing practices.
- **"Long Distance" Physician Claims** The OIG will determine if Medicare Part B long distance physician services are being inappropriately billed for beneficiaries of home health and skilled nursing home services.
- **Billing Service Companies** Under review will be the types of arrangements that physicians and other Medicare providers have with billing services.
- **Physician Pathology Services** The focus will be on pathology services performed in the physician office and if the billing for these services complies with Medicare Part B requirements.
- **Cardiography and Echocardiography Services** There will be a review of claims to see if physicians are billing appropriately for the professional and technical components of the service.
- **Physical and Occupational Therapy Services** Medicare claims for therapy services will be reviewed to determine if the services were reasonable and medically necessary, documented appropriately, and certified by physician certification statements.
- **Part B Mental Health Services** The OIG will determine if those services provided in the physicians' office setting were medically necessary and billed according to Medicare requirements.
- **Wound Care Services** Claims for wound care services will be reviewed for medical necessity and to see if they were billed correctly in accordance to Medicare requirements.

NEW THIS YEAR

- **Eye Surgeries** Medicare payments for ophthalmology services related to cataract and lasik eye surgery will be reviewed to ensure these were billed in accordance to Medicare requirements.
- **Polysomnography** This service involves sleep testing to assess

possible biological causes of sleep disorders. This review is to determine why reimbursement for these services has risen approximately 175% over a 4 year period and if the services were billed appropriately to Medicare.

- **Advance Imaging Services in the Physician Office** The intent of this review will be to examine the appropriateness of imaging services (MRI, CT, PET) provided in the physician office. Reimbursement for these services has grown by 20% per year over each of the past 6 years.
- **Place of Service Errors** This review will focus on whether physicians properly coded the place of service on claims provided in ambulatory surgery centers and hospital outpatient departments.
- **Violations of Assignment Rules by Medicare Providers** The OIG will determine the extent to which providers are billing beneficiaries in excess of the allowed amount by Medicare. Participating providers must accept Medicare's payment and the beneficiary's copayment (Medicare allowable) as payment in full for all covered services. Providers cannot bill beneficiaries for amounts in excess of the allowed amount.

E/M RELATED SERVICES UNDER REVIEW THIS YEAR

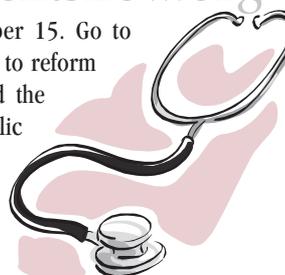
- **Evaluation of "Incident to" Services** The purpose of this study is to evaluate the appropriateness of Medicare services performed "incident to" the professional services of physicians.
- **Psychiatric Services Provided in an Inpatient Setting** Medicare pays physicians and certain nonphysician practitioners for therapy sessions provided to beneficiaries, including individual and group therapy sessions. Group therapy sessions are reimbursed at a lower rate than individual sessions. The concern is that physicians may be billing individual sessions when actually a group session is provided to receive a higher reimbursement.
- **Evaluation and Management Services During the Global Surgery Period** Industry practices related to the number of E/M services provided during the global surgical period have changed since the global surgical fee concept was developed in 1992. Under this system, the physician bills a single fee for all their services associated with the surgical procedure and related E/M services provided during the global surgical period. E/M services related to the procedure should not be billed and paid separately by Medicare—The OIG will determine if physicians received separate payments for E/M services provided during the global surgical period.

Again, I have mentioned just the areas directly related to Medicare Physician services. There are other sections to the work plan including Hospitals, Home Health, Nursing Homes, Hospice, and Other Medicare Services (i.e. lab, ambulance, preventive services). You may want to read (or at least scan) the entire plan since there may be areas that could impact your practice that are not listed here.

You can find the entire plan at: <http://oig.hhs.gov/publications/docs/workplan/2007/Work%20Plan%202007.pdf>

Liability Coalition Unveils New Website www.protectmepatientsnow.org

The website for the Maine Coalition for HealthCare Access and Liability Reform went live on November 15. Go to www.protectmepatientsnow.org to see what the coalition has been doing the past year to continue the effort to reform Maine's medical liability laws. The coalition was formed by MMA, the Maine Hospital Association and the Maine Osteopathic Association in an effort to keep liability reform before the medical community, the public and the legislature. The coalition is chaired by Roy Hitchings, CEO of Pen Bay Medical Center. Physician representatives include Lee Thibodeau, M.D., Hector Tarraza, M.D., Thomas DeLuca, D.O., and Douglas Jorgensen, D.O. Other Board members are Vince Conte, CEO of Maine Medical Center, Andrew MacLean of MMA, Mary Mayhew of MHA and Kellie Miller of MOA.



Update on Voluntary Practice Assessment Initiative

The Voluntary Practice Assessment Initiative has a contracted staff in place and has conducted its first practice assessment. Nearly 50 practices have agreed to participate in the project which is funded through a contract with the Maine Quality Forum. While any volunteers will be considered, the targeted group is small primary care offices which are privately owned. The metrics being utilized involve diabetes care and CVD for adults and immunizations and asthma for children. There is no cost for the assessment and the results are confidential.

For more information on the project or to volunteer to be assessed, contact the MMA at 622-3374. The project is directed by Jean Eichenbaum who is assisted by Cynthia Burnham, D.O. and Noel Genova, P.A.

Valuable MMA Program for Members and Their Families

When you're doing your financial planning have you considered how you will pay for care if you need it? This is an often-overlooked area in planning. Most of us will rely on assets that we are accumulating to provide us with a secure retirement. A long-term care need that could easily require sixty thousand dollars per year or more could have a devastating impact on the quality of life in our retirement years.

The MMA is pleased to announce that we have partnered with affiliates to help our members and their families properly address this issue. Three professional planners have formed an alliance to help you address this critical planning need. They can provide you with advice and access to a program that offers a discount to MMA members and their family members.

For further information you may contact:

Marcus Barresi at 1-866-764-5639 or e-mail mbarresi@barresifinancial.com

Scott Davis at 1-800-938-9441 or e-mail scott.davis@uig-me.com

James McAllister 1-207-232-1590 or e-mail jim@profplamllc.com

Check out our re-designed web site



MMA
MAINE MEDICAL ASSOCIATION

HOME ABOUT THE MMA CME CODING CENTER CORPORATE AFFILIATES MEMBERS ONLY SITE MAP

About Welcome
Working to unite and support the physicians of Maine in promoting the health of Maine's citizens, protecting and promoting the quality of Medicine, and supporting the physicians' function as advocates of their patients.

November 2006

			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

Next MMA Events
11/17/2006 Preventing Prescription Drug Abuse
11/20/2006 Maine Medical Education Trust Conference Call
11/20/2006 Committee on Physician Health Meeting
11/28/2006 Membership and Member Benefits Committee Meeting

→ [View all MMA events](#)
→ [View events @ the MMA](#)
→ [View Specialty Society Events](#)

This month's Poll
The Blue Ribbon Commission on Dirigo Health is currently

MMA Member Access
Register Membership Benefits

Pay Your Dues Online

MMA Spotlight
Cough Safe: "Why Don't We Do It In Our Sleeves" Information
• Cough Safe Website [Cough Safe Website] "View video and order online"
Testimony in Support of Chapter 270 [PDF]
The Maine Center for Disease Control and Prevention Influenza Website Launched [PDF]
Spotlight Archive

Affiliate Focus
★ [Kozak & Gayer, PA](#)
[Click for a full listing](#)

Our site has been re-designed to provide convenient access to relevant information to assist you in your practice of medicine.

- Calendar of Events
- CME Programs
- Corporate Affiliates
- Coding & Reimbursement
- Legislative & Regulatory
- Physician Health Program
- Upcoming Programs, Seminars & Events
- Medical and Specialty Society Links
- Patient Resources
- Online Registration for MMA Programs
- MMA Spotlight

Members are encouraged to visit the members-only area of our web site. It's easy to register, just click on the REGISTER button in the upper right hand corner of our home page, complete the brief registration form and click SUBMIT. Your username will be your email address and you will choose a password. After approval by MMA Staff, you will receive an email granting access. From then on, you can take advantage of additional members-only benefits on our site such as: MMA Committee member lists, meeting dates, agendas and minutes; current and past issues of *Maine Medicine*; peer locator; web site poll question; and more...

www.mainemed.com

Blue Ribbon Commission on Dirigo Health

The nineteen member Blue Ribbon Commission on Dirigo Health will have met on Nov. 29 and Dec. 11 by the time you read this article. An additional meeting has been scheduled for Dec. 19, presumably to review a final copy of the report to the Governor which was going to be delivered by Dec. 15.

The first six meetings were largely informational with time spent getting all the commission members the same foundation of knowledge regarding the savings offset payment and the current financing of Dirigo.

The primary purpose of the Commission is to find an alternative to the use of the controversial savings offset payment as the major funding source for the Dirigo Health Agency, including the funding for the Dirigo Choice product offered currently through Anthem. At the Nov. 9th meeting of the Commission, the Maine Hospital Association, the Maine Association of Health Plans and the Maine State Chamber of Commerce jointly presented recommendations to the Commission calling on the state to eliminate the savings offset payment and instead paying for Dirigo through the general fund.

Two physicians, Robert McAfee, M.D. and Peter Toussaint, M.D. are on the Commission, as is MMA EVP Gordon Smith.

ACCME Announces Updated Accreditation Criteria

To help ensure that continuing medical education (CME) accredited by the Accreditation Council for Continuing Medical Education (ACCME) system contributes to patient safety and practice improvement, provides evidence-based content, and is independent of commercial interests, the ACCME recently adopted updated accreditation criteria. The criteria will focus on rewarding accredited CME providers for moving through levels of accreditation while changing and improving their practice of CME. As part of the council's Bridge to Quality initiative, learning and change will be the goals – for both learners and providers.

The updated accreditation criteria are explained in the ACCME's document, "CME as a Bridge to Quality: Updated Accreditation Criteria." Visit the ACCME website, <http://www.accme.org/>, and click on News Releases to access further information. Accredited CME will be a valuable tool in support of physicians' maintenance of certification and licensure requirements.

Focus on Maine's Medical Liability Laws: Limits on Attorney Contingent Fees

In recent issues of *Maine Medicine*, the MMA has highlighted two aspects of Maine law governing legal actions for medical malpractice, part of the common law "tort" of "negligence." These short articles have briefed you on the statute of limitations for medical malpractice actions and on Maine's unique medical malpractice pre-litigation screening panels. Black's Law Dictionary (5th Edition) defines "tort" as "a private or civil wrong or injury, other than a breach of contract, for which the court will provide a remedy in the form of an action for damages." Each action for negligence requires the existence of a legal duty from the defendant to the plaintiff, breach of that duty, and damage as a proximate result of that breach. In 24 M.R.S.A. §2961, *Contingent Fees*, the Maine legislature has limited the contingency fees that plaintiffs' attorneys may charge in order to mitigate the incentive to inflate fee recovery by pushing for higher damages. The limits, excluding litigation expenses, are: 33 1/3% of the first \$100,000 in damages; 25% of the next \$100,000 in damages; and 20% of any amount over \$200,000.

A plaintiff's attorney may, however, petition the court for a higher award and based upon anecdotal reports, it is common practice for attorneys to make such requests of the court. According to AMA data, approximately 16 states have limits on attorney contingent fees.

You can find 24 M.R.S.A. §2961 on the web at:

<http://janus.state.me.us/legis/statutes/24/title24sec2961.html>.

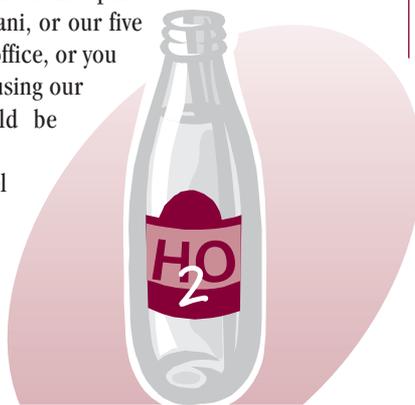
Achapani and Custom Label Bottled Water

The Northern Maine Bottling Company, LLC (NMBC) bottles and distributes one of the few spring waters available today that can truly be called "pure spring water." NMBC's flagship brand of Achapani, which means "good water" in the Hindi language of India, originates from one of the largest aquifers in North America in the pristine Northern Maine location of West Chapman. The water flows naturally to the surface without any assistance and no chemicals are ever added. Thus, our product can truly be called clean, pure, natural spring water. This Northern Maine pure spring water is transported from West Chapman to Presque Isle where it is bottled under the brand name of Achapani and other custom label brands by NMBC.

The spring was first used in the 1920's by local residents. The first commercial spring water company was established in 1948 and has since been delivering the same crystal clear water to its customers in five-gallon containers for over fifty years.

The demand for this Northern Maine pure spring water continues to grow. Our Achapani and custom label brands in smaller bottles provides the convenience that will allow that same great refreshment to be available anytime, anywhere. So, if you desire to purchase our pristine Northern Maine pure spring water via our name brand of Achapani, or our five gallon containers for use in your home or office, or you choose to create your own brand of water using our unique custom label concept, we would be delighted to meet your needs.

NMBC is currently bottling custom label water for numerous clients around the state. Look at some of our most recent labels at www.MaineH2O.com. Feel free to contact Charlie Beck at 207-769-2800 or via cell phone at 207-551-6705 or email Maineh2o@mfx.net.



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Medical Mutual Insurance Company of Maine: Risk Management Practice Tip

Part II: Closing Your Practice: Medical Records

A valid, signed authorization is necessary to provide a new physician a copy of a patient's medical record. The physician-patient relationship is normally an individual relationship. Obtain each patient's consent to allow colleagues in a group practice to assume care and access your patients' medical records. Do not release the original medical record. Forward a copy of a complete file to the new physician. You may not withhold the records of a patient whose account is in arrears. Be sure to retain medical records according to your state's requirements.

Storage of Medical Records: Safe storage requires that the confidentiality of the records be protected. Storage options include: archiving records, using a storage firm, arranging for a custodial physician, scanning into a read-only CD or copied to microfilm.

■ Arranging for Physician Custodians of Medical Records

A written agreement is encouraged and it should address the following:

- Length of time to maintain the records
- Indemnification provisions
- Access by a patient or the physician to the medical records.

■ Storage Facility:

Any relationship established with a firm that handles the storage of sensitive information should include a formal written contract outlining the mutual obligations of the storage firm and the physician. There should also be in place a HIPAA business associate agreement with the storage firm. Before contracting with any such facility, some due diligence should be performed to verify the contractor's ability to maintain the confidentiality of medical records and its ability to limit access to appropriate persons.

Destruction of Medical Records: Review your state's retention requirements. Some older inactive records may be purged. Confidential destruction (shredding) is an option. Contact either your local hospital which may have the capacity to safely dispose of medical records or an attorney to locate a secure record destruction service. HIPAA requires that a business associate agreement be entered into when a destruction service is used.

Additional Considerations: Review your contracts related to notification requirements. It is always advisable to contact your attorney to ensure compliance with state laws and to review written contracts.

Take into consideration the amount of time patients need to establish a relationship with another physician based on the location and availability of other similar practitioners in your geographic area.

Remember to destroy prescription pads and letterhead after your last appointment.

Resources: *American College of Surgeons and American Medical Association*

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