

# Maine medicine



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### MMA President Dieter Kreckel, M.D. Named MAFP Family Physician of the Year

MMA President Dieter Kreckel, M.D. was honored in April as the Family Physician of the Year by the Maine Academy of Family Physicians. The award was presented at the MAFP Annual conference held at Sunday River. During the presentation it was noted that Dr. Kreckel has volunteered hundreds of hours to serve both MMA and the MAFP in leadership positions. In addition to serving as President-elect and President of MMA (and as a Board member for more than a decade), Dr. Kreckel also served as President of the MAFP and continues to serve that organization as a Delegate from Maine to the Congress of the AAFP.



Dr. Kreckel practices family medicine at Swift River Family Medicine in Rumford where he also teaches residents as Director of the Central Maine Medical Center Rural Track Residency Program. He holds active privileges at Rumford Community Hospital where he has also served in a variety of leadership positions, including Medical Staff President. He is active in his church and community and for several years has chaired the Finance Committee of the City of Rumford. Dieter and his wife Jennifer, an attorney, are the proud parents of two children and two grandchildren.

Dr. Kreckel is a graduate of Edinboro State University and received an MS in Wildlife Biology from Washington State University. He received his medical degree from Temple University School of Medicine and completed his residency in family medicine at St. Joseph's Hospital Health Center in Syracuse. He remains Board Certified by the American Board of Family Medicine. He is a lifelong learner and in May will begin the Hanley Center's Physician Executive Leadership Institute (PELL).

MMA was proud to nominate Dr. Kreckel for the award and the Board and staff extend our heartiest congratulations and heartfelt thanks for all he has done for his patients, his community and medicine in Maine. It is an honor well deserved.

### Record Crowd of 800 Fills Augusta Civic Center for Annual Quality Counts Conference

By Lisa M. Letourneau, M.D., MPH, Executive Director, Maine Quality Counts

Maine Quality Counts (QC) hosted over 800 participants, local speakers, and national experts to explore ways to improve patient experience, advance population health, and decrease health care costs in Maine. The April 3 conference, "Aligning Maine's Forces to Become the First State to Achieve the Triple Aim," reached record attendance, with over 800 health care providers, employers, and consumers coming together to learn more about efforts to improve health care quality. MMA is a founding member of Quality Counts and EVP Gordon Smith is the immediate past Board chair.

The conference was highlighted by keynote speaker, Dr. Don Berwick, pediatrician, policymaker, and leading US health care quality advocate. Dr. Berwick, former interim head of Medicare and Medicaid under the Obama administration and founding CEO of the Institute for Healthcare Improvement stated, "We must stop the bleeding. The country needs to focus on better public health, while improving patients' experience with medical providers," and urged attendees to work aggressively to control health care costs.

Other speakers included Rosemary Gibson, author of "The Treatment Trap" outlining opportunities to curb overuse of medical treatments, and Dr. Christine Cassel, president and CEO of American Board of Internal Medicine and ABIM Foundation, discussing the "Choosing Wisely™" initiative, which aims to help physicians and patients engage in conversations about more effective health care choices. The conference also featured local providers and other stakeholders through a set of 21 breakout sessions highlighting specific tools and opportunities for improvement, including sessions offered by MMA's Academic Detailing team.

*continued on page 2*



Dr. Donald Berwick, keynote speaker addresses the record breaking crowd of 800, points out that the country needs to focus on better public health, while improving patients' experience with medical providers, and urged attendees to work aggressively to control health care costs.



"Quality Improvement Leadership Awardee, Peter Wood, Executive Director and President of the MMC Physician-Hospital Organization (PHO), recognized for his outstanding leadership in developing a system to promote improved care of individuals with chronic illness in primary care, and improving care transitions for patients through the hospital discharge processes.



"Quality Improvement Leadership Award for an Organization, NovaHealth/Intermed, under the leadership of Thomas F. Claffey, MD President, NovaHealth/Intermed, Daniel McCormack, MBA, Chief Executive Officer and Elizabeth Collet, Executive Director, NovaHealth (receiving the award) for their quality outcomes and lower cost in their Medicare Advantage population.



Dr. Erik Steele, Chief Medical Officer & Senior Vice President at Eastern Maine Healthcare Systems receives the first "Dirigo Award for Health Leadership", recognized for his exemplary leadership in advancing patient-centered care, making outstanding and lasting contributions to transform health and health care in Maine, serving as a catalyst and inspiration for change. Presented jointly by Maine Quality Counts, the Maine Health Access Foundation, and the Hanley Center for Health Leadership.

# Save the Date

## MMA 2013 First Fridays Education Programs

8:30am

Registrations and Breakfast

All programs

9:00am – Noon at

Maine Medical Association

\$70 per program, per attendee  
(\$60 if attending three or more  
in one calendar year)

### June 7

Annual HIPAA Update

### September 6

Risk Management Seminar  
presented by Medical Mutual  
Insurance Company of Maine

### November 1

Annual Compliance Seminar:  
Preventing Allegations of Fraud  
and Abuse

### December 6

Accountability, Transparency &  
Public Reporting: The Importance  
of Your Data

Register today at

[https://www.mainemed.com/  
events/first-fridays](https://www.mainemed.com/events/first-fridays).

## Thanks to 2013 Sustaining Members

Thank you to the following individuals and practices who have shown their support for the MMA's long-term growth by renewing at an additional sustaining membership level.

Jutta Eichelman, MD

Jo Linder, MD

Michael Parker, MD

Central Maine Orthopedics

Coastal Women's Health Care

Franklin Memorial Hospital

InterMed

PenBay Medical Center

## MMA Welcomes Our Newest Corporate Affiliates:

CDI - Insight  
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Dr. First, Inc.

We appreciate  
their support!

## President's Corner

Dear Colleagues:

It is hard to believe that my current year is already more than half over. Your Association continues to be quite active on a variety of fronts.

The legislative committee has been meeting by conference call every Tuesday to go over pending legislation. The participation by our members has been fantastic and Amy Madden, MD continues to do a wonderful job as chairperson. There have been numerous bills brought forward that impact us in our daily work as physicians taking care of patients (aka Maine's citizens). Your input on these issues is vitally important as we shape our response and advocacy on these bills. I would refer you to our weekly online news briefings for the latest information on what is going on in the Medical World of Maine.

In February, I traveled with Gordon to Washington for the AMA Advocacy conference and had the opportunity to meet with our national legislators or their representatives. We discussed a number of issues including one of our most favorite topics, the Medicare SGR and its reform/peel. Hopefully, this will be accomplished in the current session. Recently, Dr. Madden and I were at the State House advocating for the expansion of coverage for Maine citizens who are uninsured, a priority of the Association.



Dieter Kreckel, MD and Senator Angus King at  
AMA National Advocacy Conference

At the board level, we continue to work on redefining how your Association will move ahead to meet the needs of you, our members. The emphasis is to expend our energy on the issues and needs that mean the most to you day in and day out. We hope to allow you to focus on the physician-patient relationship and lessen some of the distractions being imposed on you.

Lastly, I would like to express my condolences to the victims and their families of the recent bombings during the Boston Marathon. Many of us knew people who were either participating or were there. Hopefully they are all safely back home. I would also like to recognize the courage and care given by the 'citizens' of Boston. These are times when we should all stand together and extend a helping hand.

I hope all is well with you and yours. We will continue to serve you in the best manner possible. Let us know how we can help you. Please contact me at any time at 369-0146 or [president@mainemed.com](mailto:president@mainemed.com).

Dieter Kreckel, MD, President

### Quality Counts continued from page 1

QC 2013 also provided an opportunity to recognize outstanding Maine health care leaders through its "Quality Improvement Leadership Awards." These awards recognize outstanding efforts of individuals and organizations dedicated to advancing health care quality in Maine. 2013 awardees included:

- Holly Gartmayer-DeYoung, CEO of Eastport Health Care, was recognized for spearheading a county-wide movement to bring together patients, providers from the hospital and ambulatory practices, and law enforcement through "Community Circles," an effort recognizing spiritual, whole person dimensions to care. A key initiative of the current Community Circle effort is to improve the system of care for the severe mentally ill and vulnerable populations in Washington County.
- Peter Wood, Executive Director and President of the MMC Physician-Hospital Organization (PHO), was also recognized for his outstanding leadership in developing a system to promote improved care of individuals with chronic illness in primary care, and improving care transitions for patients through the hospital discharge processes.
- NovaHealth/Intermed, under the leadership of Thomas F. Claffey, MD, President, NovaHealth & Intermed, Daniel McCormack, MBA, Chief Executive Officer, and Elizabeth Collet, Executive Director, NovaHealth, was recognized for achieving significant improvements in access to care, consumer engagement, quality outcomes and lower cost in their Medicare Advantage population. This InterMed initiative employs a practice-based care management model that centers on a multi-disciplinary care team.
- Poppy Thacher Arford was also recognized with the "QC Patient and Family Leadership Award" for her unwavering commitment, passion and persistent consumer advocacy to transform health care in Maine and by bringing the patient voice to critical health care system development and improvement efforts.
- Dr. Erik Steele, Chief Medical Officer & Senior Vice President at Eastern Maine Healthcare Systems received the first "Dirigo Award for Health Leadership" presented jointly by Maine Quality Counts, the Maine Health Access Foundation, and the Hanley Center for Health Leadership. Dr. Steele was recognized for his exemplary leadership in advancing patient-centered care, making outstanding and lasting contributions to transform health and health care in Maine, serving as a catalyst and inspiration for change.

Materials from QC 2013 including a video highlighting the "Triple Aim in Maine" and content from the 21 breakout sessions, keynote speakers and panel presentation are available online at [www.mainequalitycounts.org](http://www.mainequalitycounts.org). Those interested in being part of next year's QC conference are encouraged to save the date - Wednesday, April 2, 2014!

## Notes from the EVP

### Role of the Association CEO

I try in these quarterly columns to share with members and other readers insights and nuances from my personal perspective that are not simply duplicative of what appears in other articles in *Maine Medicine* and in *Maine Medicine Weekly Update*. How to improve MMA communications with members is a constant issue at both the Board and staff level as we are well aware of the danger

of information overload in our modern society. While we do not want to add unnecessarily to the inbox of your e-mail account, we also do not want to provide you materials by snail mail that you do not read and in all likelihood do not want. Customizing our information to meet your individual personal needs is a goal, but frequently requires resources far beyond what MMA has available. But I do want members to know that in 2013 we will be reviewing all of our member communications as part of an over-all strategy to become a more member-focused organization. Part of that strategy has to involve giving you the opportunity to easily communicate with us. Too frequently we find ourselves guessing at what you, the members, need and desire in the way of information, resources and assistance. And we are acutely aware that the needs of one group of members may differ greatly from the needs of others. Primary care physicians may need information and resources different from the needs of specialists. Employed physicians may need resources that differ from members in independent private practice. Please feel free to communicate with us regarding your needs, rather than leaving us guessing.

My second theme in this article relates to the role of the CEO in a membership association. In the interest of full disclosure, a lot of the ideas expressed in the remainder of this article are drawn from various association colleagues writing in our national trade publication called simply, *Associations Now*, published by ASAE, the Center for Association Leadership. Our staff leadership at MMA has been members of ASAE and the Center for many years and each year we endeavor to attend a symposium that is offered for the chief elected officer and chief executive officer of associations. Attendance at this program on a regular basis has helped MMA develop a modern, knowledge-based, governance structure.

### Steer a Board without Taking the Wheel

One of my colleagues in the association management world (Therese Brown) recently used the above phrase to describe her role with her board. She went on to say, "...my role with the board is facilitation. I hold the map of the organization, guiding where it goes and getting everyone there safely. One of the key ways to do that is to bring out the best your board members have to offer." She goes on to note how important it is for the CEO to know the board members (to know them as people, their passions, individual talents and preferences). "The better I know our MME board member, the more likely I will be successful in engaging them in the association's work." She also notes the need to manage conflict within the board, to challenge the biases associated with groupthink (seeking out non-confirming information) and the need for transparency, especially about mistakes. Finally, she emphasizes the importance of the CEO providing perspective and context to board discussions and decision-making.

On a more personal level, I think that the longer a CEO is in a position, the more difficult it is to maintain the facilitation role and resist the temptation to take the wheel and steer the discussion in the direction that the staff feels is the right way to go. We have to fight the tendency to believe that we know more than the members about their needs, desires and wants. We need to listen more but at the same time provide information that is relevant to the context of the discussion. And we must bring out the best in our board members to ensure that they are fully engaged in the discussion and decision-making. Otherwise, the default becomes staff inappropriately taking the wheel and steering the discussion or worse, making the decision ourselves.

Like you, I do not always get a chance to read my professional journals on a timely basis. They too frequently get on the bottom of the pile, only to be thrown out two or three years later never having been read. But it is important occasionally (or perhaps regularly) to get out of the e-mail and read a good book or a journal article. I got a lot out of Ms. Brown's comments and they struck a chord with me. By the way, she doesn't run a medical society. She is Executive Director of the Association of Catholic Publishers in Ellicott City, Maryland. But she has been in association management for thirty years, as have I, and she has learned some very valuable lessons for association executives in any voluntary membership organization. I thank her for letting me share them with you and I thank you for taking the time to read my column. I always welcome your comments and ideas sent to [gsmith@mainemed.com](mailto:gsmith@mainemed.com). When I don't hear from you, it is too easy to take the wheel rather than facilitate the discussion. By engaging with staff and the board members, you help MMA become the kind of organization that physicians will want to join, support and engage with.



## 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 email only.

It's a free member benefit – call 622-3374 to subscribe.



Stacey Mondschein Katz, Esq.

## Common Sense Compliance

### HIPAA Has Gone HITECH

The Health Information Technology for Economic and Clinical Health Act (HITECH) Omnibus Final Rule (Final Rule) was issued in January and became effective March 26, 2013. Basically, the Final Rule adds, updates and changes some of the details around HIPAA privacy and security practices. How do you prepare for these changes and hopefully avoid the upgraded enforcement penalties effective

September 23, 2013? Besides beginning with your HIPAA risk/gap analysis to review and update your current safeguards for PHI in all formats, here are a few action items for you to consider:

- 1. Update Your Notice of Privacy Practices.** Maine Medical Association is updating its form Notice, or you can update your own with the newly specified language from the Final Rule. Additionally, if you are a member of HealthInfoNet, you will want to explain those uses and disclosures in your Notice as well. Provide the Notice to new patients, make a good faith attempt to obtain a signature for it, and make copies available for the taking.  
And please POST your Notice "conspicuously" in your reception area, as has been required by HIPAA for the past 10 years. Given the penalties, don't provide regulators with an easy compliance failure as they walk in the door.
- 2. Have an Updated Breach Notification Process in Place.** The Final Rule makes breach notification necessary where you can demonstrate a **low probability that the (unsecured) PHI was compromised**, unless the potential breach situation falls into several exceptions. Documented proof of your risk assessment investigation, and updated policies, procedures and training are mandated.  
Here's a tip: You would not have to report the breach where the PHI was appropriately encrypted or destroyed so that it is "unusable, unreadable or indecipherable to unauthorized individuals."  
If your breach impacts 500 persons or more, you generally have to send notification letters to the affected individuals, notify the media, report to DHHS through its online reporting template, and post notice of the breach on your website, all within a 60-day window. Maine providers may also have to report to state regulators or the Attorney General, depending on the details of the breach.
- 3. Prepare to Keep Self-Pay Services Confidential.** In brief, the Final Rule requires providers to honor a patient's request to keep from sharing PHI about a service with a patient's health plan where the patient or personal representative pays out of pocket in full for the service. The provider must comply with the request so long as the disclosure is not for treatment purposes or required by law. Maine mental health rules have provided a similar option for years, so you may already have a process in place. The Final Rule will require discussion with the patient where services cannot be unbundled, or where treatment is ongoing, requiring a new request at each visit.
- 4. Business Associate Agreements:** The Final Rule expands who is considered a Business Associate (BA), including those who maintain or store your medical records in paper or digital format. To be in HITECH compliance, ensure that you have appropriate BA Agreements that meet the current updated requirements.

**Taken step-by-step, you can make your practice ready for the HITECH enforcement date.**

Stacey Mondschein Katz, Esq. is the founder and president of SMK Consulting Services, LLC, a healthcare compliance and education company. She may be reached at [stacey@smkconsultingservices.com](mailto:stacey@smkconsultingservices.com) or visit her website at [www.smkconsultingservices.com](http://www.smkconsultingservices.com).

## Upcoming Specialty Society Meetings

**May 17 - 19, 2013** Harborside Hotel & Marina – Bar Harbor, ME  
**Maine Chapter, American College of Surgeons**  
Contact: 1-877-249-9321 or [maine@mainefacs.org](mailto:maine@mainefacs.org)

**June 27, 2013** Fisherman's Wharf – Boothbay Harbor, ME  
**Maine Chapter, American College of Emergency Physicians**  
**Lobster & Clam Bake on Cabbage Island**  
Contact: Maureen Elwell 622-3374 x219 or [melwell@mainemed.com](mailto:melwell@mainemed.com)

**September 4, 2013** MMA Headquarters – Manchester, ME  
**Maine Chapter, American College of Emergency Physicians**  
**Fall Business Meeting**  
Contact: Maureen Elwell 622-3374 x219 or [melwell@mainemed.com](mailto:melwell@mainemed.com)

**September 20, 2013** Harborside Hotel & Marina – Bar Harbor, ME  
**Maine Society of Eye Physicians and Surgeons Fall Business Meeting**  
*(To be held in conjunction with the 12<sup>th</sup> Annual Downeast Ophthalmology Symposium)*  
Contact: Shirley Goggin 207-445-2260 or [sgoggin@mainemed.com](mailto:sgoggin@mainemed.com)

**September 20 - 22, 2013** Harborside Hotel & Marina – Bar Harbor, ME  
**12<sup>th</sup> Annual Downeast Ophthalmology Symposium**  
*(Presented by the Maine Society of Eye Physicians and Surgeons)*  
Contact: Shirley Goggin 207-445-2260 or [sgoggin@mainemed.com](mailto:sgoggin@mainemed.com)

**September 27 - 29, 2013** Atlantic Oceanside – Bar Harbor, Maine  
**American College of Physicians - Maine Chapter**  
**Annual Chapter Meeting**  
Contact: Warene Eldridge, Executive Director 207-215-7118 or [warene54@yahoo.com](mailto:warene54@yahoo.com)

**October 4 - 6, 2013** Holiday Inn by the Bay – Portland, ME  
*The following Specialty Societies will be holding meetings in conjunction with MMA's Annual Session taking place at the Holiday Inn by the Bay in Portland, Maine:*

**Maine Society of Orthopedic Surgeons Annual Education Sessions (Oct. 5)**  
Contact: Warene Eldridge, Executive Director 207-215-7118 or [warene54@yahoo.com](mailto:warene54@yahoo.com)

**Maine Urological Association**  
Contact: Dianna Poulin 207-622-3374 ext: 223 or [dpoulin@mainemed.com](mailto:dpoulin@mainemed.com)

**Maine Association of Psychiatric Physicians**  
Contact: Dianna Poulin 207-622-3374 ext: 223 or [dpoulin@mainemed.com](mailto:dpoulin@mainemed.com)

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**It means you're taking charge.**

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## MICIS Update: Obesity module to be launched this summer

This summer the Maine Independent Clinical Information Service (MICIS) will launch a module on obesity providing an independent, academic counter-balance to the marketing messages surrounding new weight-loss drugs. Plans are also underway for an upcoming module on antibiotic stewardship.

Watch out for the launch of these new modules. In the meantime, a module on antipsychotics, including their pediatric use, is currently being offered. If you are interested in inviting one of MICIS's highly-trained clinician educators, Elisabeth Fowlie Mock, MD, MPH, FAAFP or Erika Pierce, PA-C, to present at your practice or hospital, please contact the MMA at 622-3374 or email Program Manager Jennifer Reck at [jreck@mainemed.com](mailto:jreck@mainemed.com).

Since the MICIS began offering independent, evidence-based educational outreach on prescription drugs in 2009, it has shared more than 2,000 modules

on topics such as diabetes, anti-platelets, hypertension, chronic pain, and atrial fibrillation with more than 1,000 prescribers in Maine. Approximately 75% of these prescribers report that the information they received would change the way they practice. After participating in their initial module, many prescribers invite MICIS academic detailers back to present again and again as new topics are made available.

**MICIS**  
Maine Independent Clinical Information Service

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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.



## Invite a Physician to Join MMA

Encourage your colleagues to become an MMA member and take advantage of the benefits of membership.

Contact Lisa in the MMA Membership Department at 622-3374 ext 221 or email [lmartin@mainemed.com](mailto:lmartin@mainemed.com)



Maine Medical Association

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Visit the newly re-designed MMA website at: [www.mainemed.com](http://www.mainemed.com)

## Credit Card Processing – Don't Be Fooled By Low Qualified Rates

Do you know the real rate you are paying for your credit card processing? Many processors will give you an extremely attractive qualified rate when they know that most of your transactions will not qualify at that rate. What is your real rate? You can determine what you are really paying by some simple analysis of your processing statement. Take the total amount of fees you are paying and divide that by the total dollar volume of the transactions you processed. The resulting number is what is called your effective rate – the average rate you pay per transaction.

Although your real rate is determined by the number and volume of transactions you process, the following example will help illustrate how your qualified rate and your effective rate can differ.

### Maple Street Medical Practice

Total Fees: \$250  
Total Volume: \$10,000  
Effective Rate: \$250/\$10,000  
= 0.025 or 2.5%

Elavon has partnered with the Maine Medical Association to bring you a processing program designed to fit the needs of your business. We will analyze your practice and provide a customized program that clearly discloses all rates and fees. If your effective rate is 2.15% or higher, you could benefit from our processing program.

To get started, call Kimberly Layton at (866) 638-8614 or email [Kimberly.layton@elavon.com](mailto:Kimberly.layton@elavon.com).



Andrew MacLean, Esq.

## Legislative Update

### 126<sup>th</sup> Maine Legislature Passes Midpoint in First Regular Session

*The 126<sup>th</sup> Maine Legislature continues the work of its First Regular Session at the State House in Augusta. The First Regular Session is scheduled to conclude by the statutory adjournment deadline of June 19, 2013. Prominent in the health policy debate so far have been proposals to pay the MaineCare debt owed to Maine's hospitals, to*

*pursue expanded MaineCare eligibility as authorized by the Affordable Care Act (ACA), and to reduce current hospital reimbursement rates. The MMA Legislative Committee, chaired by Amy Madden, M.D., continues its weekly conference calls – all members and/or their staffs are welcome!*

At this point in the session, the legislature's joint standing committees are occupied with public hearings and work sessions on more than 1400 bills that have been printed and referred to them. The Appropriations Committee has completed work on a FY 2013 supplemental budget (L.D. 250) which has been enacted and signed by the Governor and has just completed public hearings on the Governor's FY 2014-2015 biennial budget. While the biennial budget includes no direct cuts to MaineCare physician reimbursement, the MMA has opposed proposals to reduce reimbursement for all hospital outpatient services by 10% and to reduce reimbursement for Critical Access Hospitals from 109% to 101% of costs. Work sessions on the biennial budget may occupy much of the rest of the session as the Appropriations Committee seeks a budget deal that can achieve a two-thirds majority vote in each chamber and the Governor's signature.

The MMA has been working as part of the *Cover Maine Now* coalition to persuade the legislature and the LePage Administration to accept the federal funds available through the ACA to provide MaineCare coverage for an additional 69,500 low income Mainers through L.D. 1066 sponsored by Representative Linda Sanborn, M.D. (D-Gorham). The MMA also supports the Maine Hospital Association's efforts through L.D. 239 to secure payment of the \$484 million MaineCare debt attributable to settlements for the years 2009-2012. Negotiations among members of the legislative leadership and the Governor's Office continue on these issues.

The MMA Legislative Committee is tracking nearly 300 bills of interest to the medical community and is actively engaged in the development of bills addressing health care reform, drug diversion and abuse, public health priorities, and scope of practice issues. The MMA was pleased to advocate successfully, along with the Maine Chapter of the American Academy of Pediatrics (AAP) and dermatologists, for a bill to prohibit indoor tanning by minors (L.D. 272) through the legislative process, but was disappointed (though not surprised) by the Governor's veto of the bill.

During the legislative session, the MMA staff provides links to bills for review and comment, updates on the legislature's work, and calls-to-action through our weekly electronic newsletter, *Maine Medicine Weekly Update*. Also, the MMA Legislative Committee holds a weekly conference call to review bills and brief members on legislative action every Tuesday night at 8:00 p.m. for any interested physician or physician staff member. The conference call information is published each week in the *Maine Medicine Weekly Update*.

To find more information about the MMA's advocacy activities, visit the Legislative & Regulatory Advocacy section of the MMA web site, <http://www.mainemed.com/advocacy-policy/legislative-regulatory>. 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://www.maine.gov/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](mailto:amaclean@mainemed.com).*

## Department of Justice Set to Heighten Enforcement of ADA

Now is a good time to check the accessibility of your medical office to patients in wheelchairs and review your process for communicating with the hearing impaired. New scrutiny is coming, prompted by the 22<sup>nd</sup> anniversary of passage of the Americans with Disabilities Act (ADA).

The U.S. Department of Justice (DOJ) has announced a renewed focus on making sure medical buildings accommodate people with disabilities. They'll also work to ensure that those who are deaf or have hearing loss receive information in an understandable format.

Called the Barrier-Free Health Care Initiative, the new DOJ activity includes a partnership between the department's Civil Rights Division and U.S. attorneys' offices across the nation to ensure individuals with disabilities have equal access to health care.

The ADA was passed July 16, 1990, and provides that "[n]o individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation."

"Physicians' offices are considered places of public accommodation," said Andrew MacLean, MMA general counsel." Maine law also prohibits discriminating against patients with disabilities."

### Some specific cautions

Under the ADA, medical facilities must be accessible to those with disabilities and physicians' offices must provide auxiliary aids or services to patients who are deaf or have a hearing loss. Physicians are prohibited from charging patients or patients' insurance companies for providing auxiliary aids and services, and must incur all costs associated with the aids, although MaineCare and some commercial carriers will partially reimburse the cost of providing sign-language interpreters.

Auxiliary aids include qualified interpreters and note-takers, as well as other effective methods of communicating to individuals who have hearing impairments. Check with your medical malpractice carrier and the patient's insurance company to see if any discounted rates are available for auxiliary aids or services.

"Failure to comply with the ADA or state discrimination laws may result in a discrimination lawsuit against you," MacLean advised.

For example, Illinois physician Steven Senica, M.D., recently entered into a settlement agreement with the DOJ following his failure to provide an interpreter for a deaf patient.

That settlement agreement included a \$7,000 fine, payable to the patient, and mandated by numerous other requirements, including provision of special ADA training for employees and physicians in the practice, implementation of policies on auxiliary aids and services, and maintenance of a log of all requests for aids and services.

"If an issue arises within your office, contact your medical malpractice carrier, MMA, or your private health care attorney for specific advice and recommendations," said MacLean.

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## Diversion Alert Program to be Available in June 2013

In response to the continuing problem and abuse of prescription drug addiction in Maine, the Diversion Alert Program will be made available to all prescribers and pharmacists in Maine in June 2013. Diversion Alert is a statewide program for medical professionals that (1) alerts health care providers to patients arrested for diverting or abusing prescriptions; (2) provides an online, password protected arrest database; and (3) provides educational resources to assist in responding to patients arrested or charged with illegally diverting prescriptions. Diversion Alert is a free program made available through funding from the Maine Attorney General's Office. Licensed prescribers, pharmacists or their designated representatives can register to (1) receive monthly alerts via mail or email and (2) access a 24/7 online arrest database that provides a six-month historical record of arrests submitted to Diversion Alert by Maine law enforcement agencies. Since Diversion Alert was initiated in Aroostook County in 2009, numerous medical providers have been surprised to discover patients they thought they knew very well in a Diversion Alert monthly installment. Patients who are abusing or diverting prescriptions, though in need of professional help, all too often take up a significant portion of a provider's office time. Diversion Alert data will identify both patients who may be in need of substance abuse treatment and patients who may be drug-seeking for the purpose of diversion. To register to receive Diversion Alert, visit [diversionalert.org](http://diversionalert.org). If you have questions about the program, call Clare at 521-2408 or email [clare@diversionalert.org](mailto:clare@diversionalert.org).

## Medical Mutual Insurance Company of Maine Risk Management Practice Tip: e-Communication with Patients: e-mail, texting, portals and networks

### Part I

In the past few years, opportunities to communicate electronically have increased significantly and electronic communication (e-communication) is no longer limited to e-mail on the desktop. The advent of web enabled (or "smart") phones and pad computers makes it possible to access information and send and receive messages anywhere there is a cell signal or wireless network.

### Platforms and Risks

- E-mail has been available for years and many organizations such as the American Medical Association, American Health Information Management Association and the American Academy of Pediatrics have position statements, talking points and guidance on the use of e-mail to communicate with patients.

**Risks:** E-mail is difficult to encrypt and easy to forward/resend, making it inappropriate for sending electronic protected health information (ePHI) over public networks. E-mail is discoverable and may be recovered from hard drives even after deletion.

- Text Messaging (also known as SMS) is a common platform on cell phones, smartphones and some tablet computers (mobile devices). It is possible to attach photographs, video and embed links in text messages. Depending on the type of phone plan, there may be a cost to both the sender and receiver for each message.

**Risks:** Text messages are also very difficult to encrypt. The ability to attach images and embed links and the fact that most mobile devices do not have antivirus protection installed creates a significant risk of malware contamination. Text messages are discoverable, but may be very difficult to recover if needed later

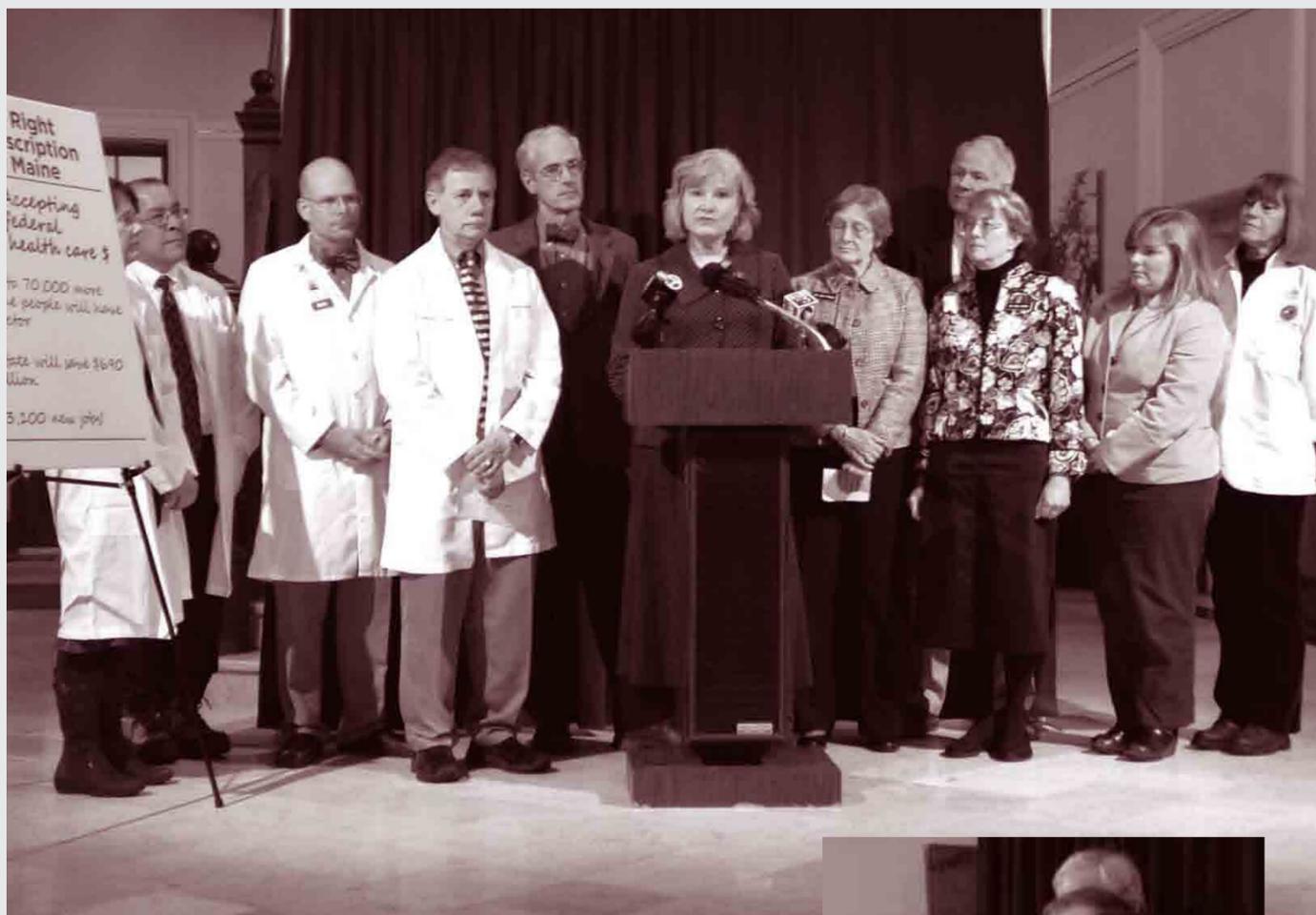
(particularly if a significant amount of time has passed or if the user has replaced the phone). Without a separate text management software solution, there is no direct way to incorporate text communications with patients directly into the patient record – they must be transcribed. Failure to document important clinical text messages into the medical record can create problems down the line if the record is needed to defend a claim or Board complaint. The Joint Commission has deemed text messaging inappropriate for physician orders.

- Patient Portals are password protected web pages that facilitate the exchange of information. Portals are very secure; users must be authenticated before they can access/use the portal. They may be integrated with the organizational EHR, which facilitates medical record documentation of communications and can help the organization meet the CMS Meaningful Use requirement for sharing patient health information with them electronically. Some organizations provide patients access to their own EMR via the portal; others limit use to messaging and sharing of diagnostic test results.

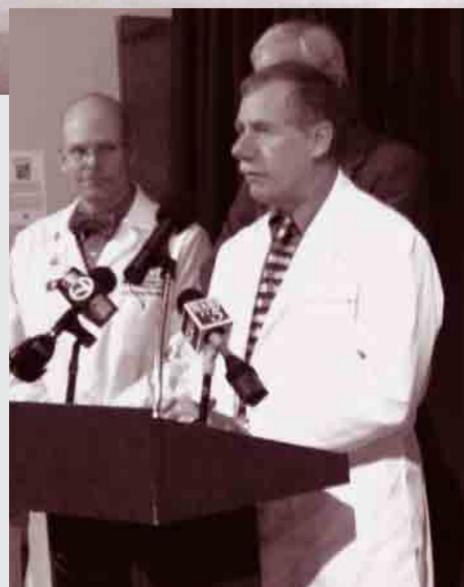
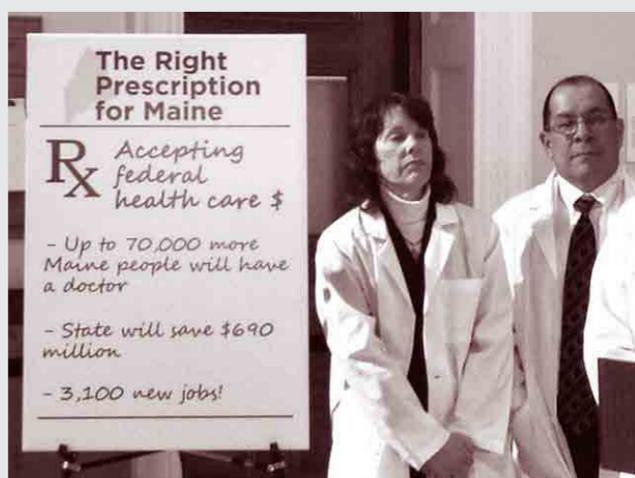
**Risks:** Include a disclaimer on portal and private network sites. For example: This site may not be read every day and should not be used for sensitive or urgent issues. Educate patients on the type of questions that may be asked, as well as the type of information they may access. Obtain partial consent to communicate via the portal and acknowledgement that the patient is responsible to monitor for a response to a request.

*Medical Mutual Insurance Company of Maine's "Practice Tips" are offered as reference information only and are not intended to establish practice standards or serve as legal advice. MMIC recommends you obtain a legal opinion from a qualified attorney for any specific application to your practice.*

## March 20, 2013 Press Conference Advocating for L.D. 1066, Excepting Federal Funds to Expand Coverage for Maine Families



Left to right: Lani Grabam, MD, MPH, Steve Diaz, MD, FACEP, Joel Kase, DO, Immediate Past President, Maine Osteopathic Association, Dieter Kreckel, MD, President, Maine Medical Association, Sen. Geoffrey Gratwick, MD, Rep. Linda Sanborn, MD, Rep. Jane Pringle, MD, Kenneth Christian, MD, Rep. Ann Dorney, MD, Rep. Anne Grabam, PNP, and Kirsten Thomsen, PA.



MMA President, Dieter Kreckel, MD

Lani Grabam, MD, MPH and Steve Diaz, MD, FACEP



### Northern New England Poison Center

In Maine, New Hampshire & Vermont, the Northern New England Poison Center provides immediate treatment advice for poison emergencies.

They also provide information about poisons and poison prevention, twenty-four hours a day, seven days a week.

## UPCOMING AT MMA

**May 13**  
4:00pm – 7:00pm  
Medical Professionals Health Program Committee (MPHP)

**May 16**  
6:00pm – 8:00pm  
Maine Association of Psychiatric Physicians

**May 21**  
3:00pm – 5:00pm  
Maine Independent Clinical Information Service (MICIS)

**June 3**  
9:00am – 12:00pm  
Maine Independent Clinical Information Service (MICIS)

**June 4**  
1:00pm – 4:00pm  
Maine Council on Aging

**June 5**  
8:00am – 12:30pm  
Maine Health Management Coalition

4:00pm – 6:00pm  
MMA Board of Directors

**June 7**  
9:00am – 12:00pm  
First Fridays Educational Program: Annual HIPAA Training

**June 11**  
4:00pm – 6:00pm  
MMA Committee of Physician Quality

**June 12**  
4:00pm – 6:00pm  
MMA Public Health Committee

**June 20**  
8:00am – 3:00pm  
Pathways to Excellence

6:00pm – 8:00pm  
Maine Association of Psychiatric Physicians

**June 27**  
9:00am – 11:00am  
Maine Health Management Coalition Board of Directors

**July 8**  
4:00pm – 7:00pm  
Medical Professionals Health Program Committee (MPHP)

continued on next page



Stephen D. Sears, M.D.

### From the State Epidemiologist

By Stephen D. Sears, M.D., M.P.H., State Epidemiologist, Maine Center for Disease Control and Prevention

#### Holy Rabies, Batman!

Raccoons, skunks, foxes, and bats can all be evil villains. Rabies is carried by all these animals in Maine, and rabies is a big deal. It's no joke - bats are the most misunderstood animals carrying rabies. Many of us who grew up here remember seeing bats in our homes, and you might also remember opening a window to free these critters with little afterthought. So, why do bats cause such a stir these days?

According to the CDC, bat bites are implicated in most human rabies cases. Between 1960 and 2010, 89% of indigenously acquired human rabies cases were associated with bats, although an exposure was not always identified. Rabies is spread when saliva or neural tissue of an infected animal comes in contact with a person or animal through a bite or scratch, or cut in the skin or mucous membranes.

Human rabies is a rare but serious event. The last human case of rabies in Maine occurred in 1937, although neighboring Massachusetts investigated a case last year. Due to its rarity, most healthcare providers have not encountered rabies before and may be less likely to consider it in the differential diagnosis of an encephalitic patient. Bat bites can be challenging to detect since North American bats are small and inflict superficial bites, wounds are unlikely to require medical attention. Bites are more likely to be blamed on an insect than on a bat. If a true exposure goes undetected, it could take weeks to years until a person develops symptoms of rabies. By that time, even treatment by Batman himself is unlikely to be effective.

Thanks to folklore and their nocturnality, bats can generate panic in a household. This is unnecessary as only 1-2% of bats tested annually actually have rabies.

We don't recommend testing all bats, as it would be unnecessary and even destructive to the dwindling bat population. Bats are being threatened by a fungal disease called White Nose Syndrome. Bats play an important role in the ecosystem, providing over 3.7 billion dollars of pest control services per year across the U.S. Bats provide an important public health service as well by taking out the vectors for West Nile Virus and Eastern Equine Encephalitis. Did you know that a bat can eat 1,200 mosquitos per hour?

#### Here are some pointers on how to respond to bat encounters:

- **Exposure:** For all instances of human or domestic animal bat exposures, safely capture the bat and submit it for testing. Game Wardens can help capture and transport bats to the state lab.
- **Possible exposure:** Sometimes it is difficult to tell if direct contact occurred, such as if a sleeping person awakes to a bat in the room or if a bat is found in a room with an unattended child or mentally challenged or intoxicated person. Be safe and submit the bat for testing.
- **No exposure:** If there was no direct contact with the bat, take these steps to help the bat out of your home. Keep a level head, close all doors to seal-off the room, turn on all the lights in the room, and open a window from the top down to allow the bat to exit.
- **In all instances of exposure or possible exposure in which the bat is unavailable for testing, call Maine CDC right away at 1-800-821-5821.**

So, we value bats but have to stay cautious to avoid rabies, a fatal disease that without proper treatment could even destroy Batman. Stay safe by avoiding wildlife and any animal you don't know, and be sure to vaccinate your pets against rabies. For questions, or to report a bat exposure, call Maine CDC at 1-800-821-5821. Got it? Na na, na na, na na, na na...Batman!

To view and/or print copies of the "Top Five Lists," visit the ABIM's website or go directly to [www.choosingwisely.org/doctor-patient-lists](http://www.choosingwisely.org/doctor-patient-lists). There you will find the 26 lists currently available as well as additional patient-friendly resources created in cooperation with Consumer Reports.

## Choosing Wisely: A Physician-Led Campaign Seeking to Reduce Unnecessary Tests and Procedures

#### WHEN LESS IS MORE

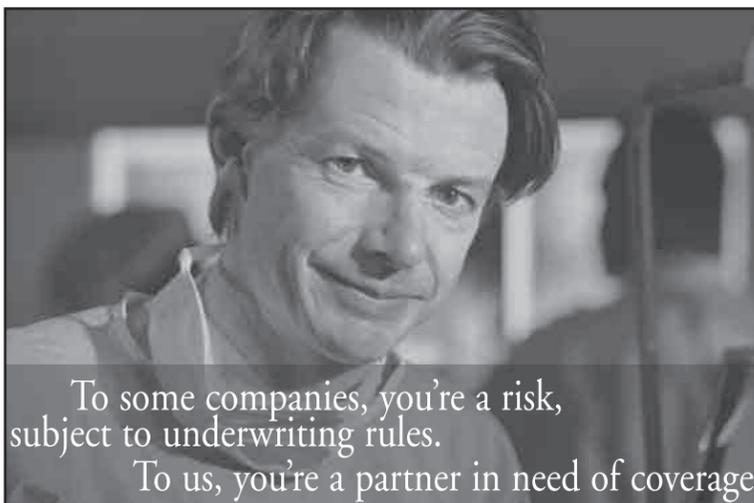
Choosing Wisely™ is a physician-led initiative intended to reduce the use of common practices and procedures identified by specialty societies as unnecessary or wasteful care. Unnecessary care is not only estimated to account for 30% of all health care spending but also unjustifiably exposes patients to potential harm without the promise of benefit. The Choosing Wisely approach leaves responsible stewardship of medical resources in the hands of practitioners in conversation with their patients. If successful in bringing about a shift in culture toward the voluntary elimination of unnecessary care, it could result in savings estimated at more than \$5 billion according to the *Archives of Internal Medicine*.

#### FIVE THINGS PHYSICIANS AND PATIENTS SHOULD QUESTION

Choosing Wisely is a project of the American Board of Internal Medicine (ABIM) that was originally conceived and piloted by the National Physician's Alliance. ABIM invited a wide range of medical societies to create their own independent, evidence-based list of the top "Five Things Physicians and Patients Should Question" with the goal of improving care by eliminating unnecessary tests and procedures. The first round of nine "Top Five Lists" developed by specialty societies was released in April of 2012, followed by an additional 17 "Top Five Lists" lists released this February. Fifteen additional lists are expected this year.

Some examples from "Top Five Lists" of things that physicians and patients should question and discuss in order to avoid unnecessary care include:

- Annual stress cardiac imaging or advanced non-invasive imaging in patients without symptoms (American College of Cardiology)
- Non-medically indicated induction of labor before 39 weeks gestation (American Academy of Family Physicians)
- CT or MRI imaging scans for patients who faint (American College of Physicians)



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Jessa Barnard, J.D.

## Public Health Spotlight

By Jessa Barnard, J.D., Associate General Counsel, MMA

*The Maine Medical Association, Maine Chapter of the American Academy of Pediatrics, American Cancer Society Cancer Action Network, dermatologists, families and public health experts all came together this session to support LD 272, a bill to prevent minors from using commercial tanning facilities. The bill passed both the Maine House and Senate however it was ultimately vetoed by Governor Paul LePage. On April 9th, the Senate voted 19-16 to override the veto, failing to achieve the 2/3 vote necessary and sustaining the veto. The MMA and others will continue with a long term strategy to achieve this important public health measure. Thank you to all of the legislators who supported the bill and the physicians who took the time to testify and speak with their local legislators, especially Janice Pelletier, MD, Robert MacNeal, MD and Carrine Burns, MD.*

The following editorial was posted by the *Bangor Daily News* on March 28, 2013, and is reprinted below with its permission.

### Research Supports Youth Tanning Bed Ban



*Tanning technician Meghan Jordan wipes down a tanning bed after a client has left Sunrich Tanning Boutique in Bangor on July 29, 2009. Photo by Kevin Bennett/BDN*

A bill being considered in the Legislature proposes to keep young Maine people out of tanning beds until they reach age 18. The bill, LD 272, "An Act To Reduce Youth Cancer Risk," represents prudent public health policy because it is based on significant scientific research.

The proposed legislation, sponsored by Sen. Geoffrey Gratwick, D-Bangor, won initial passage Tuesday in the Maine House of Representatives, but it elicited vociferous opposition from Republicans on the House floor and via social media after Tuesday's vote. Opponents argued that the bill would infringe on parents' rights and extend the power of government too deeply into personal decisions.

Opposing arguments, however, are lodged mostly in rhetoric. Gratwick's bill is backed up by documented research, not an opinion about the place of government.

In 2009, the International Agency on Research for Cancer elevated tanning beds to its highest risk category, "carcinogenic to humans." Further, the agency's review of 23 separate studies revealed that tanning bed use increases the risk of melanoma of the skin by 75 percent when use starts before age 30. It also detected a strong correlation between tanning bed use and heightened risk of melanoma of the eye.

Skin cancer is the most common form of cancer, and, although melanoma accounts for less than 5 percent of reported skin cancer incidences, the American Cancer Society also reports that it often leads to other types of cancer.

The American Cancer Society recommends against the use of tanning beds altogether, labeling indoor tanning a practice that is "dangerous to your health, and should be avoided," according to Dr. Len Lichtenfield, the society's deputy chief medical officer. Gratwick's bill proposes to let adults make those decisions for themselves while having government set parameters for children,

as it does with smoking, drinking, driving, voting, education and military service.

Critics of LD 272 argue that young people seeking to tan quickly because of social pressures will simply expose themselves to the sun for longer, unhealthy periods. We recommend against doing so, but that's an imperfect comparison.

A 2010 American Association for Cancer Research study, which factored a comparison of sun exposure to tanning-bed exposure into its methodology, concluded that "indoor tanning is carcinogenic in humans and should be avoided to reduce the risk of melanoma." That study showed that damaging forms of ultraviolet radiation are more concentrated and therefore more harmful in tanning beds than from the sun.

Medical evidence provides a compelling argument that indoor tanning should fall into the same public health policy category as youth smoking and alcohol use. It's no coincidence that some of the strongest legislative advocates for the bill - Gratwick, Rep. Anne Dorney of Norridgewock, Rep. Linda Sanborn of Gorham and Rep. Anne Graham of North Yarmouth - are all medical professionals. When diagnosing or treating patients, they would not be able to do their jobs if they let political ideology override science.

In recent years, the Legislature has taken incremental steps designed to protect young people from the dangers of indoor tanning, but given the mounting evidence of the risk it poses, those measures seem like inadequate, partial treatment.

As Maine and the nation grapple with spiraling health care costs, LD 272 also serves as a cost-containment tool. With data showing a far greater likelihood that people who use tanning beds regularly at an early age will get cancer, delaying that exposure and giving young people more time to fully comprehend the risk represents a prevention tool likely to save money and lives.

## UPCOMING AT MMA

**July 18**  
6:00pm – 8:00pm  
Maine Association of Psychiatric Physicians

**July 23**  
5:00pm – 9:00pm  
ME Chapter American Academy of Pediatrics

**July 31**  
8:00am – 12:30pm  
Maine Health Management Coalition

**August 7**  
4:00pm – 6:00pm  
MMA Board of Directors

**August 13**  
4:00pm – 6:00pm  
MMA Committee of Physician Quality

**August 14**  
11:30am – 2:00pm  
MMA Senior Section

4:00pm – 6:00pm  
MMA Public Health Committee

**August 15**  
6:00pm – 8:00pm  
Maine Association of Psychiatric Physicians

**September 3**  
1:00pm – 4:00pm  
Maine Council on Aging

**September 4**  
8:00am – 12:30pm  
Maine Health Management Coalition

**September 6**  
9:00am – 12:00pm  
First Fridays Educational Program: Risk Management

\*\*All MMA Committee Meetings are now being offered through WEBEX

## Save the Date

**MMA's 160th Annual Session**  
**October 4-6, 2013**  
**Holiday Inn by the Bay**  
**Portland, ME**

### MMA wants to hear from you!

Issues or concerns you would like to see addressed by the MMA:

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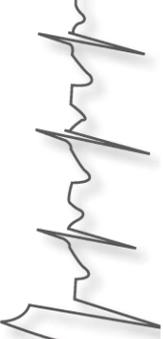
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## Save the Date: MMA's 160th Annual Session October 4-6, 2013 at the Holiday Inn by the Bay, Portland, ME

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