



# Physician *Newsletter*

January 2010

## **Consult Code and SGR - Still Seeking Permanent Fix**

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**Director's  
Check Up**

The new Defense appropriations bill approved by Congress in December includes one provision that is very important to physicians – an amendment to delay Medicare physician payment cuts until March 2010.

The American Medical Association favored the temporary provision in the Defense bill, but it says Congress must pursue a path for permanent repeal of the Sustainable Growth Rate (SGR) before the Medicare physician payment cut goes into effect on March 1.

The Department of Defense Appropriations Bill was signed by the president before the Christmas break, averting a 21.2 percent payment cut that would have taken effect on Jan. 1, 2010, under the current Medicare Physician Fee Schedule.

Under the current Medicare Physician Fee Schedule, the Centers for Medicare and Medicaid Services will eliminate a “consult code” that allows physicians to bill Medicare for time speaking to a patient. This cut provides funds for a 6 percent increase to family

*Seeking Fix~ continued page 2*

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**2010  
Community  
Service  
Award**

## **How To Respond When Patients Don't Pay**

~Risk Tip from The Doctors Company~

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**Surviving  
Spouses  
Struggle  
with Legal  
Obstacles**

The struggling economy continues to put a strain on healthcare services and serious issues involving the doctor-patient relationship can occur when patients don't pay their co-pays or when they refuse to pay their physician charges. What is an appropriate response when an established patient comes in but is unable to pay?

It makes handling this type of difficult situation easier.

It is always advisable to talk to the patient first. Investigate why the patient isn't paying the bill; in other words, is he or she unhappy with the care? After that you can consider alternative financing options, including bill collection.

If a patient did not come to you as a result of a referral from an Emergency Department and you have an established policy of not accepting patients who cannot pay, you can refuse to establish the doctor-patient relationship. Potential patients should be given some indication of your practice's financial requirements when they make an initial appointment for treatment. A process in which the biller checks the status of coverage before the patient comes in can expedite your decision on whether to accept him or her as your patient.

It is helpful to have a written policy summarizing the practice's policy on financial matters that you give to each patient at the initial visit. A physician has the right to expect payment for services rendered. The practice should have a policy and apply it consistently in a nondiscriminatory fashion. When you can, “remind” a patient that he or she received a copy of your policy at the time of the first visit.

If you decide to terminate the doctor-patient relationship for nonpayment, you must follow a formal process that includes giving the patient proper notice and treating emergencies in the interim. For more information, please reference the article “Terminating Patient Relationships” under Practice Guidelines at [www.thedoctors.com/patientsafety](http://www.thedoctors.com/patientsafety). ■



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### ***Seeking Fix cont. from page 1***

practitioners for basic evaluation and management codes, but it fails to compensate specialists for their time, and they will have to modify how they do business.

Similar to other years, since Congress acted so late in the year to avert the cut, the Center for Medicare and Medicaid Services CMS held claims for the first 10 business days of January (January 1 through January 15) for 2010 dates of service to allow its contractors time to update their systems and pay claims based on the updated rates. CMS does not anticipate any cash flow problems for physicians since by law no claims are paid prior to 14 days after receipt.

In addition, CMS has extended the 2010 Annual Participation Enrollment Program end date from Jan. 31, 2010, to March 17, 2010. Physicians still have time to consider their participation options with the Medicare program. Additional information can be found on the AMA's web site <http://www.ama-assn.org/ama1/pub/upload/mm/399/med-par-options.pdf>. The effective date for participation status change during this extension remained Jan.1, 2010, and will be in force for the entire year. Medicare contractors will accept and process any participation elections or withdrawals made during the extended enrollment period that are received or post-marked on or before March 17, 2010. ■

# Director's Checkup

## First, an Introduction

~ Sheila Bush ~ WMS Executive Director ~



On your marks... get set... wait. Before I get too far, I should formally introduce myself. I feel blessed to already call many within our membership friends, but for

those whom I have not yet had the privilege to meet, my name is Sheila Bush and I am the new Executive Director of the Wyoming Medical Society.

Some of you may recognize my name from my previous roles with WMS. In past years I served as Director of Membership and Communications, Associate Executive Director and most recently as Interim Executive Director. From new membership campaigns and newsletter publications to hard-fought battles at the Capitol, I have been working on your behalf under the phenomenal leadership of previous executive directors to promote the practice of medicine and protect patient safety in Wyoming.

Winston Churchill said, "There is nothing wrong with change, if it is in the right direction." Physicians are watching Congress daily wondering if the change being sought is change in the right direction. Great controversy lies in the answer to that question, and we all have uncertainties about the future we might face. No one yet knows what the final legislation will look like, what it will include or what

it will exclude, but we do know there's never been a more important time for physicians and healthcare leaders to be involved and to get engaged in the process.

For Wyoming physicians, participating in the process can mean a number of things. While scheduling Capitol Hill visits to engage our congressional delegation is certainly important, it's not for everyone. We are fortunate to have leaders among us to take our message to Washington, D.C., so the rest can focus attention here within the state and in local communities. It's important that every link in the advocacy chain of organized medicine be strengthened, and each member has a role in making our collective voice heard.

The Wyoming Medical Society is a powerful organization, but it is only as strong as our weakest county. WMS makes decisions at the guidance of the Board of Trustees. Six members comprise the Executive Committee, which is elected by the full membership. Twenty additional Trustees sit at the Board table through election within their county medical societies or partner affiliations. The WMS Board meets four times each year to advise WMS staff and guide policy decisions for the society. Their decisions shape the future of WMS, and the Board relies on the vitality of the counties to ensure the ideas represent the opinions of members throughout the state.

Whether we're ready or not, the familiar sound of the starting gun lingers in the air. Change is coming, and it's coming fast. You can bet that WMS will be ready to support and guide our members through the months to come, but we can do it only with your support and involvement. Our counties are the foundation of WMS, so expect to see a Board Trustee and me in your county soon. We'll be making the rounds pursuing an ambitious goal to see each and every county in 2010. If you haven't been involved in the past, there's never been a better time to join the effort. If you are involved, please help us by informing us of your next county medical society meeting so we can make every effort to be there to support your county.

It's a new day at WMS with new leadership to carry the organization forward. Expect to see better communication, more county involvement, increased accountability among the Board of Trustees and greater focus on seeking input from the full membership through surveys and personal visits across the state. WMS has always been a strong organization with incredible leadership, but there is always room to grow, so grow we will. Please call the office or email me anytime with your thoughts and ideas about what we can do to serve you better.

Here's to a great year in 2010. ■

### **Geriatric Health Promotion for Health Care Providers**

2010 Telehealth Series January-March 2010, Presented by Wyoming Geriatric Education Center, University of Wyoming. Cablecast at 11 sites around Wyoming via Interactive Media Group, University of Washington Telehealth Services Network. Register for one or all 10 dates in the series. Free but must register. CME credits available. For information call 307-766-2829 or email [wgyec@uwyo.edu](mailto:wgyec@uwyo.edu).



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## 2010 Community Service Awards

The Wyoming Medical Society is preparing for the 2010 Community Service Award selection, our highest award given annually to an outstanding provider in a Wyoming community.

WMS is asking for help from the membership to identify those physicians who deserve special recognition for their contributions to their communities.

Please take a moment to nominate a distinguished Wyoming physician for this award. Nominees must maintain a current Wyoming medical license, hold a WMS membership, have an outstanding record of community service and has not won the award before.

Find nomination forms at [www.wyomed.org](http://www.wyomed.org). Forms must be completed and returned to the WMS office by **Monday, April 5**.

The Board of Trustees will select the 2010 recipient to be honored at the WMS Annual Meeting June 10-12 at the Jackson Lake Lodge. ■

### Recent Community Service Award Recipients

- Brent Sherard, MD ~ Cheyenne, 2009*
- Kayo Smith, MD ~ Torrington, 2008*
- Seymour Thickman, MD ~ Sheridan, 2007*
- J. Stephen Sloan, MD ~ Green River, 2006*
- James Little, MD ~ Jackson Hole, 2005*
- Robert Fagnan, MD ~ Rock Springs, 2004*
- Robert Kanard, MD ~ Cheyenne, 2003*
- R. Larry Meuli, MD ~ Cheyenne, 2002*
- Larry Kirven, MD ~ Buffalo, 2001*

## More Wyoming Communities Eligible for Rural Health Clinics

The U.S. Health Resources and Service Administration has approved additional areas of Wyoming as underserved and eligible for Rural Health Clinic status, qualifying for higher Medicaid and Medicare reimbursement rates.

Wyoming has 16 Rural Health Clinics in eight counties serving 185,000 residents. All primary care clinics in Albany, Crook and Sheridan counties are eligible to apply to the Office of Healthcare Licensing and Surveys to become certified Rural Health Clinics, as are clinics in eastern Uinta, southeastern Fremont and northern Campbell counties. Rural Health Clinics can be an extension of an existing hospital or can be privately or publicly owned. A 2008 study indicated an annual reimbursement increase of \$25,000 on average per clinic for patient care they already provide.

Get more information at [www.health.wyo.gov](http://www.health.wyo.gov) or the Office of Rural Health at (307) 777-2930 or the Office of Healthcare Licensing and Surveys at (307) 777-7123. ■

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## Surviving Spouses Struggle with Legal Obstacles

~Nick Healey, JD - Dray, Thomson & Dyekman, PC~

A spouse's death is a difficult enough event to deal with. In the aftermath, the surviving spouse often must get copies of the deceased spouse's medical records to obtain insurance benefits or even to investigate a case of professional negligence or wrongful death.

However, existing Wyoming and federal privacy laws make it very cumbersome for the surviving spouse to gain access to this information. Under the federal Health Insurance Portability and Accountability Act's Privacy Rule (HIPAA), only persons with the right under state law to act for a deceased spouse are entitled to obtain the deceased spouse's protected health information (PHI), including medical records.

Under Wyoming law, however, a surviving spouse does not automatically have the right to act on the deceased spouse's behalf. The surviving spouse first must be appointed the personal representative of the deceased spouse's estate before they are entitled to act for the deceased spouse. Thus, a surviving spouse may be required to go through the frustrating, time consuming, potentially expensive process of opening an estate for the deceased spouse. This is true even where the couple conducted all their estate planning to avoid having to probate an estate. Not only is this counterintuitive, but it comes at the worst time. Health information management professionals delivering this news are understandably met with anger and disbelief by the surviving spouse.

The Georgia Supreme Court recently confronted this issue in *Alvista Healthcare Center et al v. Miller*. In *Alvista*, the hospital refused to provide the surviving spouse copies of the decedent's medical records, on the basis that HIPAA prohibited it from doing so. The court seemingly agreed with the hospital's interpretation of HIPAA. However, a 2006 Georgia law entitles a surviving spouse to a copy of the decedent's PHI if no personal representative has been appointed for the decedent's estate. So the Georgia high court found that the spouse was authorized under state law to act for the person, and thus the covered entity was required to furnish the surviving spouse with the PHI.

Unfortunately, Wyoming does not have a similar law that would allow a surviving spouse access to the deceased spouse's protected health information. Under Wyoming law, a surviving spouse does not automatically "step into the shoes" of the deceased spouse. In most cases, the surviving spouse must be appointed by a court as the personal representative of the deceased spouse's estate in order to be able to exercise the deceased spouse's rights under to gain access to protected health information.

As a result, Wyoming health care providers covered by HIPAA are put in the difficult position of being barred by

federal law from releasing a decedent's PHI to a surviving spouse, unless the surviving spouse can show that he or she has authority to act for the decedent.

In most cases, this requires the surviving spouse to be the court-appointed personal representative of the decedent's estate. It is also becoming common practice for couples to execute HIPAA-compliant authorizations for the release of PHI as part of their estate planning. If the surviving spouse has a HIPAA compliant authorization from the decedent for the release of the PHI, the health care provider can likewise rely on that to release the information.

However, there are few other avenues in Wyoming for this information to be released, until the Legislature passes a law similar to the Georgia statute discussed by the *Alvista* court. ■

### LEGISLATOR (MINI) HEALTH FAIR

Sponsored by The Wyoming  
Medical Society, Wyoming Hospital  
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Health Fairs

6:30 a.m. - 2 p.m. Feb. 10, 2010  
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## **WMS Doctor of the Day**

Take advantage of this unique opportunity to be an active participant in moving WMS' legislative agenda forward. Volunteer to be an honored Doctor of the Day at the Wyoming State Legislature.

If interested in volunteering, please contact the WMS office for more information, visit our website at [www.wyomd.org](http://www.wyomd.org), or email [info@wyomed.org](mailto:info@wyomed.org).

Wyoming Medical Society  
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Cheyenne, WY 82003  
307.635.2424

## **THANK YOU TO OUR 2009 NEW MEMBERS**

Kimberly Broomfield, MD	Kevin Ross, MD
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Kathleen Hannifan, MD	Dominique Walker, MD
Kleanthis Dendrinios, MD	Kipley Siggard, MD
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## ***Time to Pay 2010 Membership Dues***

**Don't put it off!** Please return your 2010 membership dues statements to the Wyoming Medical Society right away. Every physician and physician's assistant membership is important to the WMS, which is recognized as a respected authority on issues that affect Wyoming physicians and their patients.

Also, please consider using WMS to help track your Continuing Medical Education hours with our CME Tracking Service. For a \$50 annual fee WMS will record and keep documentation of your completed CME. The Wyoming Board of Medicine continues to perform random CME audits for licensing purposes and WMS can ensure the process goes smoothly for you if you are audited.

Your membership in the American Medical Association helps strengthen WMS' ability to carry out our advocacy agenda. If you join the AMA along with your WMS membership renewal by Jan. 31, 2010, the WMS directly benefits.

Be a part of the solution by sharing your passion for medicine! Be someone who makes our voice stronger.

**Join the WMS and AMA Today! ■**



Wyoming Medical Society  
Physician *Newsletter*  
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## *Please Plan to Attend the 2010 WMS Annual Meeting in Jackson*

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Questions? Call us at 307-635-2424 or e-mail us at [info@wyomed.org](mailto:info@wyomed.org). ■

