The staff of the Suffolk County Medical Society & Suffolk Academy of Medicine would like to extend our best wishes for the upcoming New Year.

We thank you for your continued support and we look forward to assisting you and your staff during 2013.

Stuart S. Friedman, MPS
Barbara Baumgarten
Donna DelVecchio
Linda LoPorto
Suffolk County Medical Society
Suffolk Academy of Medicine
1767-14 Veterans Memorial Hwy
Islandia, New York 11749
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Executive Committee Meetings
Upcoming Meeting Dates
All Meetings Begin at 6:00 PM at the SCMS Offices.
January 16, 2013
April 3, 2013
May 29, 2013

Board of Directors Meetings
These are open meetings to all members. Please contact the SCMS if you would like to attend a Board Meeting so appropriate time can be provided on the agenda.
February 27, 2013
May 8, 2013
June 7, 2013 (Annual Meeting)

DATES TO REMEMBER
MSSNY State Legislative Day (Albany)
Tuesday, March 5, 2013
Review of Resolutions
Wednesday, April 10, 2013
MSSNY House of Delegates (Tarrytown, NY)
Friday April 12 - Sunday, April 14, 2013

ATTENTION PHYSICIANS:
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For more information contact:
Jay B. Silverman, Partner and Co-Chair of the Health Law Department &
Chair of the Healthcare Professionals Practice Group at 516-663-6606 or email jsilverman@rmflc.com

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Happy Holidays & A Joyous New Year from RuskinMoscouFaltischek
Suffolk County Medical Society Bulletin January 2013 www.scms-sam.org
My message for this *Bulletin* concerns membership – “Change the way you look at things and things you look at change.”

As a member of The Suffolk County Medical Society and The Medical Society of the State of New York, you have direct input into those issues you believe warrant address. Don’t just sit back and let outside influences control the way you practice medicine – become involved, attend our Board meetings, join a committee, (please see a list of Committees on the MSSNY website www.mssny.org) make your voice heard.

As Teddy Roosevelt said, “Far better it is to dare mighty things, to win glorious triumphs even though checkered by failure, than to rank with those poor spirits who neither enjoy nor suffer much because they live in the gray twilight that knows neither victory nor defeat.”

I implore every member to continue their membership in the SCMS and MSSNY. We all recognize that the cost of belonging to these two organizations is not inexpensive. However, I would submit that the cost of not belonging could ultimately be detrimental to your practice and livelihood. Imagine where you would be if it were not for organized medicine fighting for you and your rights as a physician. Please understand that as we lose members, we lose whatever political influence and clout we may have in Albany and Washington. I am not crying wolf yet. However, please help us to continue to help you and your patients. While it is true that we may not have succeeded in accomplishing everything on our Agenda, we are getting there. We need you and your colleagues to stand with us as we continue the fight to preserve the medical profession.

I would like to take this opportunity to wish everyone a very joyous holiday season and very happy new year. By working together we can make 2013 a better year for physicians and patients. One thing we have learned from the recent devastation caused by hurricane Sandy, is that by working together, we can succeed and move on. It may be a slow process but it is doable and can be accomplished. If we put our heads in the sand and wait for others to do what we can do, we will only retreat and never climb out. Let’s all move on and up together as a profession.

**IN THE NEWS: CONGRATULATIONS**

Dr. Maria Basile has been named Assistant Vice President for Medical Affairs at John T. Mather Memorial Hospital in Port Jefferson. The East Setauket resident has previously served as clinical information system physician adviser in the office of the chief medical information officer.

Dr. Basile is currently serving as the Vice President of the Suffolk County Medical Society.

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Message From SCMS Councilor
Frank G. Dowling, M.D.

RESIDENT/FELLOW AND MEDICAL STUDENT POSTER SYMPOSIUM ABSTRACTS DUE JANUARY 29TH PROVIDES OPPORTUNITY FOR YOUNG PHYSICIANS AND MEDICAL STUDENTS

One of the most enjoyable opportunities available at MSSNY’s Annual House of Delegates is the Resident/Fellow and Medical Student Poster Symposium which will be held Friday, April 12, 2013 at the Westchester Marriott in Tarrytown, New York from 2-5 pm. Delegates and other physicians who attend the meetings should be sure to check out this poster session. I find the dialogue with our students and young physicians to be both enlightening and encouraging regarding our hopes for the future of medicine.

MSSNY Resident, Fellow and Student members are strongly encouraged to submit abstracts for this event. While participants must be MSSNY Members, non-Members are invited to submit an abstract and to join MSSNY at the same time. Join online at www.mssny.org. Suffolk County members are often under-represented at this event which offers a great opportunity for Residents, Fellows and Students to present a poster and attend exclusive Resident/Fellows and Student meetings with MSSNY leadership.

For more information, contact sbennett@mssny.org or call 516-488-6100 x 383. Click here for detailed guidelines or go to http://www.mssny.org/mssnyip.cfm?c=f&nm=Guidelines_2013_Poster_Symposium.

MESF OBTAINS $350 THOUSAND DOLLAR GRANT TO ASSIST PHYSICIAN PRACTICES ADVERSELY IMPACTED BY HURRICANE SANDY

Just announced at the MSSNY Council Meeting on November 29, 2012, the MSSNY Sponsored Medical Educational and Scientific Foundation has just been awarded a $350,000 Federal Grant to assist NY State physicians whose practices were adversely impacted by Hurricane Sandy. A committee will be formed to develop the application process and criteria for awarding of the funds. Physicians whose practices were severely adversely impacted, closed, and/or forced to relocate, additional information will be forth coming. While criteria for receiving assistance was not in place by the writing of this column, please be aware that the grant is intended to assist physicians whose practices were negatively impacted by Sandy, not whose homes were negatively impacted. There are other sources of assistance for those whose homes were impacted (e.g., FEMA and others).

DRASTIC MEDICARE CUTS LOOMING JANUARY 1ST - ACTION NEEDED

Unless action is taken by Congress before the end of the year, physicians face a draconian 26.5% cut in their Medicare payment on January 1, 2013 due to the flawed and unfair SGR methodology. In addition, an additional 2% across the board cut will take effect as a result of sequestration provisions contained in the Budget Control Act enacted in 2011. This nearly 30% reduction in the already inadequate Medicare Physician Reimbursement Schedule must be prevented and Congress must once and for all fix by repealing and replacing the flawed, unfair and dangerous SGR methodology that is used to determine physician reimbursement schedule.

MSSNY President Robert Hughes, M.D. was recently quoted in the Albany Times-Union (http://www.timesunion.com/business/article/Fear-of-the-fiscal-abyss-4075478.php) urging action to prevent these cuts noting “for patients who depend on Medicare, the cutbacks could be devastating.” On Thursday, December 6th, Dr. Hughes, MSSNY EVP Phil Schuh and Governmental Affairs Vice President Moe Auster will be in DC to conduct joint Hill meetings with representatives of other state medical societies. Meetings will also be held with key members of New York’s Congressional delegation.

MSSNY and other State Society Leaders need grassroots action by physicians throughout NY State for their actions to have an impact. All politics is local remains the rule of the day. Please tell your Representatives that you and your patients can no longer tolerate this instability! You can send a letter to the MSSNY’s Grassroots Action Center and call your Representatives by using the AMA Grassroots Hotline at 1-800-833-6354. Contact your Congressional Representative (Tim Bishop, Steve Israel or Peter King) and our two Senators (Charles Schumer and Kirsten Gillibrand) and let them know that these cuts will cause an access to care problem for seniors and disabled citizens of NY State. (Continued on Page 11)
MSSNY Treasurer
Charles Rothberg, M.D.

**IPAB, SGR and the Consolidation of Medical Practice**

The *New York Times* recently characterized the repeal of IPAB as a ‘bad idea’ and as ‘partisan.’ It is neither.

A quick comparison to similar policy reveals why the truly ‘bad idea’ is the IPAB itself. In fact, there are numerous policies that fly in the face of good health care and should be changed. The trend toward health care consolidation is another such policy.

While the principle goal of Obamacare is to expand access to medical care to as many of our citizens as possible, IPAB (an appointed panel of ‘experts’ that will mandate caps on Medicare spending) will devastate access for our seniors, military families and the disabled. This effect on access is why its repeal has bipartisan support.

Modeled after both the flawed SGR (automatic Medicare physician cuts) and sequestration (automatic across the board spending cuts), IPAB will impose rather arbitrary limits to health care spending based on a non-health care economic metric. Congress, when faced with similar threats to health policy under SGR, has repeatedly needed to ‘patch’ its financial impact. Likewise, at this writing, Congress appears poised to act upon sequestration in order to protect the nation’s economy. The House, in its support of IPAB repeal, recognizes its close relationship to these other very flawed policies.

Further, the House (Republican controlled) rejection of the IPAB is not partisan, as the paper suggests—it’s good policy!

A little history: Ordinarily, the Senate and House develop legislation in their own committees and convene a ‘conference committee’ to reconcile any differences between the House and Senate versions. Both chambers then vote on the final legislation that emerges. But Obamacare was to take a more serpentine course.

The IPAB was a Senate concoction. It was included in its bill to offset the projected cost of health system reform legislation (now Obamacare). It was never part of any specific Medicare policy objective. Nor was it contained in the House bill (Democratic controlled at the time). Under the normal legislative path, a House-Senate conference would have convened to reconcile the differences between the two bills. IPAB was not expected to remain in the final legislation. In anticipation of the House-Senate conference on Obamacare, the House, voted to repeal the similarly flawed SGR. But politics intervened and the conference committee never convened. The Senate bill was enacted instead, thus both SGR and IPAB have survived.

On one hand, it is unclear that even the President himself would rely on IPAB to contain costs—he has often championed more innovative solutions that ‘bend the cost curve.’ For example, he has stated that it will be the unleashing of the market forces of Medicare and Medicaid that would lead to cost containment. He also stated that it was outcomes research (now part of Obamacare) that would lead to the best care, eliminate wasteful spending and at the same time identify the best places to spend our health care dollars.

But on the other hand, the President’s advisors (such as Ezekiel Emanuel and Peter Orszag), as well as his political opponents (such as Paul Ryan), tend to favor policies that encourage the consolidation of the practice of medicine. On the surface, this would appear to promote integration of care, but data suggests that it comes at a very stiff cost. (Remember IPAB and SGR were about cost!) Only two weeks following the Op-Ed on IPAB, the *New York Times* reported that when the hospital employs the doctor, ‘Medicare (pays) … in excess of a billion dollars a year more for the same services because hospitals can charge more when the doctors work for them. According to an independent congressional panel, laser eye surgery can cost $738 when performed by a hospital-employed doctor, compared with $389 when done by an unaffiliated doctor; an echocardiogram can cost about twice as much in a hospital: $319, versus $143 in a doctor’s office.

The shift of ‘part b’ (physician) services to the ‘part a’ (hospital) payment silo, has been fueled by the ever increasing downward pressure on physician fees, a result of misguided policies such as SGR (and soon IPAB). Better policy would reward doctors who achieve these savings. It seems that an annual savings of a billion dollars would result from just a policy change, without accounting for additional savings from health care innovation.

If the President was re-elected, in part, by his commitment to keeping Medicare ‘as we know it,’ he too must recognize that arbitrary caps, such as SGR and IPAB, are not the path.
A Message From Your Executive Director
Stuart S. Friedman, MPS

As I seem to say every year at this time, where have the last 12 months gone? It feels like I just finished writing my 2011 year-end message and here we are again, another year upon us.

Your medical society has been extremely busy during 2012 under the expert guidance and leadership of SCMS President, Richard S. Zito, MD.

A very successful legislative breakfast was held at the medical society office and attended by almost all of our Assembly and Senate representatives. MSSNY Interim EVP, Philip Schuh was also in attendance as were numerous members of the medical society. A legislative questionnaire was distributed prior to the breakfast where legislators were asked to provide their comments and positions on: (1) Physician Collective Negotiations Legislation, (2) Out-of-Network Legislation, and (3) Nurse Practitioner Scope of Practice. All responses were publicized on the SCMS web site and served as the basis for our discussions during the breakfast.

As with previous meetings of this type, the majority of legislators commented on the knowledge and expertise of our physicians. While they may not always agree with everything we are looking to accomplish, they welcome the opportunity to enter into honest and open dialogue with the medical society and consider us as an excellent resource on health-related issues.

A fundraiser was also held for Assemblyman Phil Boyle (R-8th District) in his pursuit of the Senate seat being vacated by Senator Owen Johnson (R-4th District) who decided to retire after 35+ years. The medical society has had a longtime relationship with Assemblyman Boyle who has supported many of our initiatives in Albany. We are pleased to report that Phil was successful in his bid and will become the next Senator from that district. We look forward to working with him and all his colleagues in both the Senate and Assembly on helping to advance organized medicine’s agenda into 2013 and beyond.

William R. Spencer Jr., MD, SCMS Secretary and Chair of the Suffolk County Health Committee, held a press conference to announce his “Don’t Text and Drive” initiative. Dr. Spencer is trying to raise awareness of teens and high school students as to the dangers inherent in texting while driving. The SCMS has submitted a letter in support (see page 12).

Dr. Spencer is also attempting to introduce legislation which would prohibit companies manufacturing high-energy drinks from marketing to children under the age of 19.

As we have previously reported, the medical staff at Brookhaven Memorial Hospital has voted to bring all 400+ staff of physicians into the SCMS and MSSNY as part of an institutional membership initiative following in the footsteps of John T. Mather and St. Charles Hospitals, which took the bold approach in 2011 and became the first-ever medical staff membership. Brookhaven now becomes the 3rd hospital in the county to adopt this unique membership approach, and has in fact, committed to a three-year term. We anticipate that Mather/St. Charles will also extend their commitment to 2013. I just wanted to thank ALL the physicians at these hospitals for putting their faith and trust in the hands of the SCMS and MSSNY. We hope we can live up to your expectations and pledge to provide whatever guidance and assistance you may need to cope in today’s rapidly changing healthcare environment.

You may be interested to know that many other hospital medical staffs across the state have signed similar agreements with their local medical societies recognizing the value and importance of physicians remaining united through the structure of organized medicine.

The SCMS has recently introduced a new benefit offering Long-Term Care insurance to our members at an association discounted rate. Please call Joyce Kahn of the AJK Financial Group at 516-677-0270 to learn more about this exciting member benefit.

It is that time of the year again when I ask (implore) those physicians who have not yet paid their membership dues to give serious thought to what their future would be without organized medicine’s involvement on a county, state and national level. Do they honestly believe that they would be better off acting on their own without the influence, clout and oversight which accompanies their membership? An unfortunate reality is that many physicians unwisely weigh their decisions to continue membership based solely upon the overall cost of dues. I would submit that in the long run, the cost of not belonging would be far greater. Medical societies, whether they are specialty, county, state or national, exist to protect and advocate for the interests of their members.

(Continued on Page 11)
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© 2009 Citigroup Inc. Citibank, N.A. Member FDIC. Citibank is an equal credit opportunity lender. Citibusiness, Citigold, Citibank and Arc Design and Cit never sleeps are registered service marks of Citigroup Inc. 1205-6 COH Healthcare Association Flyer John Madigan
Below is a description of the organizational structure of the response that included federal, state, county and local governments used in the recent weather event, Sandy.

At the federal level disaster services are led by the Federal Emergency Management Agency (FEMA). FEMA’s mission is to support citizens and first responders to build, sustain, and improve the capability to prepare for, protect against, respond to, recover from, and mitigate all hazards. FEMA uses County Community Emergency Response Teams (CERT) as first aid and emergency skills-volunteers.

The federal Department of Health & Human Services (DHHS) through the Office of Public Health Preparedness & Response coordinates Public Health emergency preparedness and response, the Strategic National Stockpile (SNS), CDC, Health Resources Service Agency (HRSA), Food & Drug Administration (FDA) and the National Institutes of Health (NIH) depending on the nature of the disaster.

At the NY State level, emergency preparedness efforts are coordinated through the NY State Department of Homeland Security and Emergency Services (DHSES), where the State Office of Emergency Management (SOEM) resides. When local resources are exhausted, the local government communicates with the state government, and if needed, to the federal government, through the SOEM.

The National Incident Management System (NIMS) under Homeland Security provides a systematic, proactive approach to guide departments and agencies at all levels of government, nongovernmental organizations, and the private sector to work to prevent, protect against, respond to, recover from, and mitigate the effects of incidents, regardless of cause, size, location, or complexity, in order to reduce the loss of life and property and harm to the environment.

Incident Command System (ICS)

Incident Command (IC) is responsible for overall management of the incident, which includes assignments of staff to support the event. IC may be a single incident commander or a unified command of multiple jurisdictions or agencies. The functions include centralized direction of tactical efforts, coordinated resource ordering, finance/administration, and information releases. There is coordination with agencies on determining objectives, overall strategies, joint implementation objectives, integration and optimum use of resources.

Suffolk County is a National Incident Management Systems (NIMS)-compliant county with all agencies responding to an emergency operating with the Incident Command System - ICS/NIMS. ICS is Standardized Management System. NIMS further enhances the ICS and is used by federal, state, and local agencies to manage all hazards. The concepts of Unified Command and interoperable communications are the basis of functioning.

How Disaster Preparedness Agencies Function in the County

Suffolk County Emergency Operations Center (EOC)

The Suffolk County Emergency Operations Center (EOC) becomes the seat of county government in an emergency led by Fire Rescue Emergency Services (FRES). FRES is the lead agency in Emergency Management (EM) focusing on mitigation, planning, response and recovery. The Commissioner of FRES oversees all functions, and is the county’s designated Emergency Manager.

The Center responds and coordinates response and recovery to any disaster in Suffolk County. It assumes all functions of management for the crisis period including people designated for purchasing responsibilities.

There is a Countywide Comprehensive All-Hazards Emergency Management Plan under the general direction and supervision of the Suffolk County Emergency Manager. The plan outlines roles and responsibilities of many different Departments within Suffolk County Government, consistent with their respective missions and is based on a contemporary all-hazards approach, not the traditional calamity-specific approach. It collectively, provides a framework for the response by Suffolk County to natural or man-made events.
The All-hazard plan is based on an analysis of hazards and vulnerabilities summarized in the Hazard Identification Matrix. It presumes planning for the hazard of greatest risk will prepare the County for hazards of lesser risk. Disaster management activities that are unique to a given hazard are addressed in separate plans consistent with this plan.

The Office of Emergency Management (OEM) coordinates the county’s response to natural and man-made disasters. OEM personnel are responsible for development of the Comprehensive All-Hazards Emergency Management Plan, the operation of the county’s Emergency Operation Center (EOC) and work with local, state, and federal officials in all aspects of shelter management, planning, resource management, and emergency response and recovery activities.

The County Department of Health Services (DHS) is a component of the Suffolk County Emergency Response System and may serve as the lead agency or a supportive role depending on the type of disaster.

Summary of Responsibilities of Public Health

- Advise on matters related to public health & environmental protection
- Ensure health and medical problems are addressed
- Ensure continuity of medical care in the community
- Perform bio-surveillance and epidemiologic investigations
- Assist in outreach to medically fragile / chronically ill population
- Support hazmat response for biologic contaminants
- Manage SNS, Points of Distribution (POD), vaccine clinics
- Assist and support in overall response to medical/surgery mass care
- Assist in the deployment of Medical Reserve Corps (MRC)

The above organizational structure was used during tropical storm Sandy and its aftermath to address many issues including, but not limited to the following:

1. Evacuation and repatriation of community residents, institutionalized people and those community residents with special medical needs (Special Needs Persons)
2. Immediate shelters for residents and their pets; food supply and sanitary conditions
3. Long-term housing
4. Power outages for community residents, businesses, health care facilities and special needs persons
5. Food safety and distribution
6. Evaluation and monitoring of sewage and water systems
7. Gas shortages, lack of bus service and transportation for first responders and disaster staff
8. Dissemination of information to public and media
9. FEMA, Environmental Protection Agency, Army Corps of Engineers, NYS Department of Health, NYS Division of Environmental Protection coordination regarding environmental issues-e.g., hazardous material spills
10. FEMA centers established to aid residents
11. Tdap and influenza vaccination points of dispensing in at-risk areas
12. Coordination of volunteer agencies-e.g., Red Cross
13. Clean up, restoration and rebuilding

The issues presented as a result of the storm are various, short-term, long-term, and ranged from the simple to the complex. Many issues are predictable and many are not. This recent episode provides the opportunity to learn from this experience and provides information for additional planning and preparedness for subsequent events.
Hospitals are once again in the market for physician talent. Hospitals are buying physician practices and entering into employment arrangements with physicians at unprecedented rates. But how does such a transaction unfold?

If you have been approached by a hospital or health system you might have already received and signed a Letter of Intent or at minimum, a Nondisclosure Agreement.

If you are interested in pursuing such a transaction with a hospital, the next likely step will be due diligence. During this stage of the process, you may be given a due diligence request which amounts to a laundry list of everything the hospital needs to know about your practice, including your assets, liabilities and productivity.

As the due diligence process unfolds, you can expect the hospital or health system to commence fair market value analyses for purposes of setting the purchase price of the practice and your compensation package. The measure generally used for setting the purchase price of a practice is the value of the tangible and intangible assets of the practice, with the majority of the purchase price based on tangible assets (i.e., furniture and equipment). In fact, certain intangibles, such as “good will” may be wholly ignored.

Your compensation likewise, will have to fall within the range of fair market value and more often than not, will be based, in large part, on your productivity. In most instances your productivity will be measured in Relative Value Units (“RVU”), but it can be based on charges, collections or patient encounters as well. In addition, if you are dealing with a tax-exempt hospital (as is the case in the New York market), your compensation may be capped to ensure that it is reasonable since excessive compensation could result in intermediate sanctions under federal tax laws.

As a hospital employee, it is unrealistic to expect to receive a big guaranteed salary, and it is unlikely that you will be able to augment your salary based on the productivity of other physicians or physician extenders who were previously employed by you but who may continue to work under your supervision after your practice is taken over by a hospital.

However, once the hospital takes over your practice, you may not have to concern yourself with rising costs associated with rents, equipment, supplies, personnel, etc., and will likely have no obligations to pay for electronic health record systems. Moreover, if you structure your compensation based on RVUs rather than on collections, you can insulate yourself from reductions in reimbursement, capitated fee schedules, contract adjustments and any failures or delays by the hospital in your professional billing and collection.

Once the preliminary due diligence has been completed (bear in mind it will not be fully and finally completed until after the transaction has closed), there may be some re-negotiation of the terms of the Letter of Intent, or if no Letter of Intent was signed or term sheet exchanged, you may receive a term sheet, or you will be invited to participate in a face-to-face meeting where the terms of the transaction will be clarified. It is at this point that the terms of the transaction really take shape, including what is being sold, the price, the payment terms, and conditions to closing begin to take shape.

At or about this point, you should expect to receive the first draft of the deal documents. In addition to the sale document, you should expect to receive a draft of a proposed employment agreement. Do not be alarmed or surprised to learn that your employer is or may be, in the future, a captive professional entity to the hospital. The captive professional entity is an entity whose owner is a nominee of the hospital; usually a trusted hospital employee who owns the entity as long as he remains an employee of the hospital. The captive professional entity, as a model for the delivery of health care under a hospital’s aegis serves several important functions for the hospital in New York State, and should be of no moment to you. In fact, in many instances, the hospital will be able to include the captive professional entity employees in many of its group benefits plans.

It is strongly recommended that you engage health care counsel as early as you can in the process. Competent counsel, knowledgeable in health care can help you negotiate everything from the non-disclosure agreement, Letter of Intent and final sale and employment agreements. A good health care lawyer will also help you and your staff with due diligence requests, and once the documents are delivered will explain the provisions to you and endeavor to negotiate them in your favor. Your attorney will work with you to prepare any required schedules to the agreements. These schedules will serve to identify things described in the agreement such as assets to be sold and contracts to be assumed. (Continued on Page 11)
Message From SCMS Councilor
Frank G. Dowling, M.D.
(Continued from Page 4)

PHIL SCHUH, CPA APPOINTED MSSNY EXECUTIVE VICE PRESIDENT (EVP)

After serving as Interim EVP since March 2012, Philip Schuh, CPA was unanimously approved by MSSNY’s Board of Trustees and Council as MSSNY’s next EVP. Mr. Schuh has served MSSNY in various capacities since 1988 including COO of the Empire State Medical Educational and Scientific Foundation, CFO and COO of MSSNY. Those who know Phil will agree that he brings a wealth of experience, relationship and consensus building and common sense that will be sure to help MSSNY and SCMS move forward in our mission to support physicians and patients in NY State. Thanks and Kudos to the Search Committee (including SCMS’s Charles Rothberg, MD) on making a wise choice.

A Message From Your Executive Director
Stuart S. Friedman, MPS
(Continued from Page 6)

While some of the decisions made by these organizations may, at times, be viewed as “unpopular” or “incongruent with” a physician’s practice environment, political affiliation or philosophical outlook, it is important to remember that only organized bodies of medicine have the structure, manpower and expertise to be invited to provide opinion and commentary. Please understand that without your ongoing support, we become impotent in our ability to continue to effectuate meaningful change and to provide input into those issues which affect both your professional and personal lives. While your dues dollars enable us to continue to represent you, your membership and participation will enable you to continue to have a voice in your future and in the future of your profession. With the many challenges now facing the medical profession, it is time for ALL physicians to come together and speak as one voice. If we are divided, we will not survive.

Please allow me to take this opportunity to wish everyone a joyous holiday season and a very happy and healthy new year.

Legal Page: From the Office of Ruskin Mouscou Faltischek, PC
Everything Old is New Again: Physician Hospital Integration

By: Leora F. Ardizzone, Esq.
(Continued from Page 10)

Additionally, schedules can serve to carve out exceptions to representations and warranties that you will be asked to make with respect to the operations of your practice. Last, a health care attorney will be able to perform such functions that will enable you to meet the pre-conditions of closing, such as obtaining the consent of third parties, including your landlord, to assign certain liabilities, such as your office lease.

Before signing on the dotted line, do your own due diligence. Search your own heart and investigate life on the other side. Speak to similarly situated colleagues about their experience. Hospital employment can offer security, in a world where the business of health care seems to offer fewer monetary rewards and greater risks. But hospital employment also means the loss of autonomy in running your business. As with all things in life, you take the good with the bad and try to surround yourself with able advisors who will help you make an informed decision.
October 22, 2012

Honorable William Spencer, MD
15 Park Circle, Suite 209
Centerport, NY 11721

Dear Legislator Spencer,

The Suffolk County Medical Society would like to go on record as officially supporting your recently announced “Don’t Text and Drive” initiative.

As a medical society, the health and well-being of the residents of Suffolk County is of major concern to us. Anything that distracts a person while driving has the potential of causing accidents, leading to serious harm and even death. We strongly believe that use of mobile devices, especially when used for texting, has been a leading contributor to the rapid rise in car crashes nationwide.

A very unfortunate reality is that while most teens would acknowledge the dangers associated with texting while driving, this mode of communication has become all too common and has led to thousands of deaths which could have easily been avoided. Drivers who use handheld devices are four times more likely to be involved in serious crashes.

Experts have concluded the average time someone’s eyes are off the road while they are texting is about 5 seconds. When traveling at 55 mph, this is enough time to cover the length of a football field. In 2011, 23% of automobile accidents involved drivers using cell phones, while 13% of drivers age 18-20 who were involved in accidents, admitted to texting (or talking) on the cell phone at the time of the crash.

It is also important to realize that texting while driving is not limited to teens. Seventy-seven percent of young drivers have stated that they have seen their parents texting behind the wheel, while 48% of children age 12-17 have been in a car while their parents were texting.

Your initiative seeks to raise public awareness, especially among teen drivers, as to the dangers inherent in texting while driving. As you have aptly stated, “the problem of texting while driving has become almost epidemic.” Your awareness campaign will hopefully inspire young and old to take the pledge – “It Can Wait.” No text is worth dying for. How could anyone oppose an initiative that can help save lives, especially those of our younger generation? Their future is in our hands.

Sincerely,

Richard S. Zito, MD
President
January, 2013

Dear Colleagues,

I am proud to be the first physician to serve in the Suffolk County Legislature since its inception in 1960. Furthermore, I am honored to be the chairperson of the Legislature’s Health Committee which is most appropriate as the health and well-being of my constituents as well as all of the residents of Suffolk County is paramount to me.

Since my tenure began in January, 2012, I have sponsored more than thirty-five resolutions with almost one-third of them related to health and safety issues. One of my first resolutions in February, 2012, was a request for money from a dedicated fund to improve the Wastewater Treatment Collection System in Northport thus insuring that the water in that community remains safe to drink.

When “hookah bars” were brought to my attention, I felt the need to act. We are all aware of the consequences of carbon monoxide, and up until my resolution went into effect, there was no protection mechanism for the patrons. As of August 1, 2012, all “hookah bars” must have a functioning carbon monoxide detector with a digital readout in every room of the establishment. Any violation of this resolution will result in significant fines which will increase with each infraction.

Over the years, it has been determined that the effects of secondhand smoke pose a serious threat to the health, safety and welfare of citizens who do not smoke. It was troublesome to me that our County parks and beaches, which provide our residents with easy access to the beauty of nature and recreational activities, permitted smoking. Fortunately, a majority of my colleagues in the Legislature agreed with me and as a result of my sponsored resolution, smoking is no longer permitted there.

Public education campaigns are an effective vehicle for getting the message out and because of another of my resolutions, September 19th was declared “Don’t Text and Drive Awareness Day” in Suffolk County. I have recently introduced a resolution that is waiting Legislative action to establish “The Truth About Energy Drinks,” a public education campaign to increase awareness of the side effects associated with energy drink consumption.

Please know that the door to my office is always open and I would welcome your input and suggestions. Thank you for the opportunity to share some of my successes with you.

Sincerely,

William R. Spencer, M.D., FAAP, FACS
Suffolk County Legislator
RETIREMENT PLANNING FOR 2012 & 2013!!!

UPDATING YOUR ANNUAL QUALIFIED RETIREMENT BENEFIT LIMITS

The Internal Revenue Service recently announced the 2013 inflation-adjusted Pension Plan Limitations, which are detailed below. In summary, there were some changes to contribution limits because the increase in the cost of living index met statutory thresholds that triggered their adjustment.

Remember, the key advantage to qualified retirement plans is that your contributions are tax deductible and grow tax-deferred. This will result in more dollars for your retirement years. In addition, for most readers who are self-employed, there is tremendous flexibility in selecting the appropriate plan to maximize your contributions.

QUALIFIED PLANS-MAXIMUM ANNUAL CONTRIBUTION

<table>
<thead>
<tr>
<th>Type of Plan</th>
<th>2012</th>
<th>2013</th>
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<tr>
<td>Defined-contribution plans/SEP Plans</td>
<td>$50,000</td>
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<tr>
<td>Defined-benefit plans</td>
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<td>$205,000</td>
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<tr>
<td>401(k), 403(b), and 457 plans</td>
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<tr>
<td>50+ Catch up</td>
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<tr>
<td>Total for 401(k), 403(b), and 457 plans</td>
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<td>Savings incentive match plans for employees</td>
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<tr>
<td>50+ Catch up</td>
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<tr>
<td>Total for SIMPLEs</td>
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<tr>
<td>Traditional and Roth IRAs</td>
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<tr>
<td>50+ Catch up</td>
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<td>$1,000</td>
</tr>
<tr>
<td>Total for Traditional and Roth IRAs</td>
<td>$6,000</td>
<td>$6,500</td>
</tr>
</tbody>
</table>

Don't forget the "catch up provisions" for those individuals who are age 50 or older!! These additional amounts will not only save on your taxes, but also will help cushion your retirement nest egg!!!

Determining Your Best Retirement Program!!!

The key to maximizing your retirement contributions and minimizing your taxes today is to select a retirement program that works best for your professional practice.

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  - Restrictive covenants
  - Non-compete clauses
- Employment issues
  - Physician compensation issues: understand your true worth when negotiating with employers!
  - Ongoing relationships with employers
  - Employment agreements
  - Understanding your rights
  - Conflict resolution
- Assistance when seeking to change compensation or employment models
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MSSNY’s legislative experts and lobbyists advise and advance the objectives of physicians with local, state and federal governments, e.g. to:
- Ensure that health system reform does not diminish or dilute the physician’s role in directing patient care
- Prevent the malpractice environment from worsening: defeating efforts to lengthen the statute of limitations, to increase the percentages of judgments and settlements going to attorneys, etc.
- Restore balance to a system that has allowed insurance companies to profit excessively at the expense of patients and physicians
- Prohibit inappropriate “economic credentialing” of physicians
- Make sure that global payments under new delivery models are distributed appropriately and give adequate weight to the value of physicians’ services
- Recognize differences in education and appropriate scope of practice for physicians vs. allied health professionals
- Work to prevent further unfunded mandates

(Continued on Page 18)
Online Grassroots Action Center enables you to contact your legislators and provides sample messages about current proposals that you can modify with your individual concerns and experiences and send by mail or email.

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- Global payments under health system reform
- Physician compensation models
- Physician employment agreements and compensation
- Avoiding audit problems
- Medical-legal implications of social networking
- ACOs

Lunch hour webinars on clinical and advocacy topics offered monthly

NEWS FOR PHYSICIANS
- The Daily, a digest of clinical and other health-related news items with links to full articles in major news publications
- eNews, an electronic bulletin with updates on the week’s developments and reports on the status of relevant bills in the legislature
- News of New York, MSSNY’s monthly newspaper for in-depth coverage of society activities and important issues for physicians

CAREER RESOURCES
- MSSNY Online Job Board lists medical jobs statewide. No cost to search, low rates to post
- Speaker’s Bureau – Become a media contact or present at public meetings on topics of special interest or expertise when MSSNY is asked for referrals
- Curriculum Vitae Service – MSSNY can format your CV and assist with personal statements.

Residents and young physicians have a voice in MSSNY through special interest groups.
- Leadership training
- Targeted educational programs
- Committee involvement
- Online Young Physician Network for referrals and to connect with other YP members
- Members-only online search tool for patients seeking physicians
- Social and business networking events, statewide gatherings

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Check www.mssny.org for details on the following discounted goods and services
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  - MEDLINE, full-text access to hundreds of health/business publications
  - Health library with information for patients
- Insurance programs available to members include
  - Long-Term Care
  - Disability Income
  - Medigap
  - Life
  - Medical Savings Accounts
  - Auto and Homeowners/Renters
- MSSNY platinum plus MasterCard
- MSSNY Deposits Program
- Members-only access to Medical Directory of New York State for listings of all physicians and numerous healthcare resources
- Dell Computer discounts
- Magazine discounts

Benefits and Services for MSSNY Members
(Continued from Page 17)
Dear Colleagues,

I have a story to tell you about a dispute between physicians and Oxford Health Plans, entitled Robert Scher, M.D. v. Oxford Health Plans, Inc. and Oxford Health Plans of New York Inc., American Arbitration Association Case No. 11 193 00548 05 (the “Arbitration”). A settlement agreement has been signed, the arbitration panel hearing the case has granted the settlement preliminary approval, and the settlement will become effective upon entry of a Final Order and Judgment after there has been a Final Fairness Hearing to determine whether the settlement is “reasonable, fair and adequate” to the Settlement Class.

To translate the legalese, the Claimant – that’s me – has agreed for himself and on behalf of all Settlement Class members – that includes you, if you were a participating physician in Oxford’s New York networks at any time from August 15, 1995 through September 25, 2008 – for good and valuable consideration (a twenty-two million dollar payment and releases from Oxford) that the Arbitration and Released Claims shall be finally and fully resolved. Meaning, we are settling and releasing the claims asserted in the Arbitration. Whatley Kallas, LLC is the law firm representing both me and the class in the Arbitration.

OK, so what’s the story? Eleven years ago, I, along with two other physicians, initiated an action in New York State Supreme Court against Oxford by filing a class action complaint. MSSNY simultaneously filed a complaint in a parallel action on its own behalf and on behalf of its membership. We challenged Oxford’s wrongful automated claims processing practices of improperly bundling CPT codes and ignoring modifiers submitted by physicians in their claims for payment. We also challenged Oxford’s routine practice of making late payments without paying interest. We alleged millions of dollars in damages on behalf of all of Oxford’s participating physicians in New York.

In 2003, the Court entered an order dismissing some claims, compelled some claims to go to arbitration, stayed the Litigation and dismissed MSSNY’s claims because the arbitration clause in the doctors’ agreements with Oxford meant that they could not sue in court and therefore MSSNY did not have the standing to represent them in court.

In 2005, on appeal, the Appellate Division of the Supreme Court of the State of New York vacated the lower court’s order in part, reinstating certain claims and allowing the arbitration to go forward, but upheld the dismissal of MSSNY’s claims. I then filed the Arbitration with the American Arbitration Association. Because MSSNY did not have an arbitration agreement with Oxford, MSSNY could not, itself, bring claims against Oxford in arbitration, but MSSNY provided support and assistance all along the way in our Arbitration. After drawn-out proceedings in the Arbitration, in the trial court and in the appellate court, the ability to proceed with a class action arbitration was upheld. Having the class certified was crucial.

The claims asserted in the Arbitration were for breach of contract and violations of Public Health Law 4406 and N.Y. Insurance Law 3224-a (standards for prompt, fair and equitable settlement of claims for health care and payments for health care services).

Some years ago, I gave a deposition in the Arbitration, facing an attorney for Oxford whom I later found out was a prime health care litigator. I argued with him about AMA-issued rules of payment.

My office manager, also gave her deposition. Then the lawyers battled it out, while at the same time a lengthy arms-length negotiation for a legal settlement, including the use of a mediator was under way. Ultimately we were able to come to an agreement this fall.

(Continued on Page 20)
Oxford says that it believes that its defenses against our claims are meritorious; however, it also feels that further proceedings would be protracted and expensive and has therefore agreed to the settlement. We strongly believe our claims have merit, but the risk, expense and length of continued proceedings, as well as the substantial benefits conferred upon Settlement Class members through this settlement, make settlement the best option.

In a nutshell, there is to be a payment of $22 million, with Class Counsel receiving up to 1/3 of that amount for its eleven years of work, plus the expenses Class Counsel has expended litigating and arbitrating this case, and each member of the Class who files a simple claim form receiving his or her share of the rest. All of this will happen only if the settlement receives final approval.

You are going to be receiving a Notice in the mail from the Settlement Administrator, along with a claim form and instructions for filling out the form. Read the instructions, which have been carefully summarized for you at the top of the first page. You have to fill out the claim form and return it by the deadline to claim your share of the settlement fund.

There is an opt-out provision in the settlement, but not an opt-in. You are automatically in the Settlement Class unless you formally opt out by submitting an opt-out request. Also, remember, even though you’re automatically in the Settlement Class, you still have to file a claim form to share in the settlement fund.

So that’s the rest of the story. Look for the Notice in the mail, which should be arriving soon!

Greetings of the season, and may all go well in the future.

Sincerely,
Bob
CONGRATULATIONS to Assemblyman Phil Boyle on his recent election as NYS Senator

Fund Raiser for Phil Boyle for Senate held October 19, 2012
Stuart Friedman, MPS; Mark Lerman, DO; Charles Rothberg, MD, (MSSNY Treasurer); Frank Dowling, MD, (MSSNY Councilor); Assemblyman Phil Boyle, John Muratori, MD; Bruce Berlin, MD; Kara Kvilekval, MD; Maria Basile, MD; Paul Pipia, MD, (Chair of MSSNY Legislative and Physician Advocacy Committee)
Welcome To Our New Applicants

ACTIVE

Diane M. Garrigan, D.O.
West Islip; Diagnostic Radiology

PILOT PROGRAM

Louis Filippone, M.D.
Huntington; Emergency Medicine

Joseph E. Zena, M.D.
Middle Island; Family Medicine

STONY BROOK MEDICAL STUDENTS

Jordam S. Goldstein  Preeti Kohli  Alexis Newmarkn  Lady P. Velez
Ping He  Kevin Lu  Julianne Pereira  Bao J. T. Vu
Jeffrey Jiang  Hillary C. Moss  Daniel Satnick  Melanie L. Wegener
Tahsin Khan  Matthew D. McClure  Evan Andrew Shreck  Elizabeth A. Yakaboski
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Restrictions on Requiring Disclosure of Social Security Numbers:

Effective December 12, 2012, as per N.Y. Gen. Bus. Law § 399-ddd, healthcare providers, among others, are prohibited from requiring an individual to disclose or furnish his or her social security number (SSN), as well as from refusing any service, privilege or right as a result of an individual's refusal to disclose or furnish such number, unless an exception applies. Such exceptions include when the individual consents to the acquisition or use of his or her SSN, when the SSN is expressly required by federal, state or local law or regulation, or when the SSN is requested for purposes of internal verification, tax compliance, employment, credit transactions or is requested by an authorized insurer for the purpose of furnishing information to the Centers for Medicare & Medicaid Services. In light of the new rule, healthcare providers who require patients to furnish SSNs should review their policies and remember to implement appropriate safeguards to protect such information. To review the amended law and all exceptions, go to: http://ow.ly/frB2Y. For an updated policy template, go to www.drlaw.com. For more information on any of the above items, please contact Michael Schoppmann, Esq at 1-800-445-0954 or via email at mschoppmann@DrLaw.com

5 Questions to Consider When Searching for the Right Electronic Medical Record Software

by Amanda Guerrero (Courtesy of HealthTechnologyReview.com)

Finding the right electronic medical record software and making it work for your practice is a lot easier said than done. It involves careful planning, research, and health IT insight. However, not all healthcare professionals – particularly first-time EMR users – know what to look for in an EMR or what to expect when they start using their medical software in a live environment. This results in many practices ending up with software solutions that do not fully meet their clinical or financial needs. In order to prevent this from happening, it is important for physicians to know what questions to ask themselves and the EMR vendors, before making any final purchasing decisions.

Here are five questions to get you started:

1. How well does the EMR vendor know my specialty? Look for a company that specializes in your field and employs people with experience working in it. You want to know that the people who designed the product understand your specialty’s workflow and charting needs.

2. Is the software customizable? Not all doctors practice medicine the same exact way. Therefore, even if you purchase a specialty-specific system, you will still want to customize it to meet your unique needs. If there is more than one provider in your practice, make sure the electronic medical record software you choose allows for different customizations based on each caregiver’s preferences.

3. Can you access a free trial of the EMR before purchasing it? EMR demonstrations can be useful in order to see the software in action before buying it – but remember that it’s the sales representative’s job to make the medical software look easy to use. After seeing a demo, ask if you can try a trial version on your own. Vendors that are confident about their product will generally let you do so.

4. What kind of support comes with the software? Find out whether the EMR vendor’s support staff is U.S.-based, as well as what hours their support representatives are available for any problems you might have. You may also want to verify that the company has a 24-hour support line for emergencies after-hours.

5. Does the vendor offer a money-back guarantee? Products – EMR software or otherwise – don’t always meet our expectations. If you find that the electronic medical record software you chose doesn’t quite meet your practice’s needs once you start using it in a live environment, you might want to return it and recoup some of your investment. To do so, you will first need to make sure that the vendor offers a written money-back guarantee.
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<tr>
<td>501 Route 111</td>
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</tbody>
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