



# Michigan CHAPTER

# NEWS

Volume 14 | Number 1

## Medical Malpractice — A Crisis in Michigan?



**Eric R. Bates, MD**  
Chapter President

According to the American Medical Association (AMA), a medical malpractice crisis exists in 19 states. In the 1990s, the business cycle was good for medical malpractice insurance companies. Premiums were relatively high and fixed, claim rates and settlements were relatively stable, and investment returns were high. Therefore, competition by insurance companies for business was fierce. Since 1999, however, claims and payouts have risen dramatically, investment returns have declined, and insurers have left the market, decreasing affordability of policies offered by the remaining insurers. Lower physician income due to price controls and fee schedules and rising overhead costs have rendered physicians less able to handle the hikes in practice costs compared with previous malpractice crises in the 1970s and the 1980s.

The response by some in the medical community has been to refuse high-risk cases, defensively order more tests, defer needed capital purchases, reduce nonreimbursed services, move to states with more favorable business climates, or choose early retirement. Work stoppages and demonstrations occurred in some states last year. In response to the latest crisis, medical liability reform legislation was considered in 34 states last year. Fifteen states passed some sort of legislation, although the legislation in Missouri was vetoed by the governor. However, passage of a medical liability reform bill again failed in the U.S. Senate by a party line vote, with Democrats against and Republicans in favor.

A review of the current Michigan Liability Law suggests that our state has been progressive in malpractice reform. Full compensation of all economic

damages is permitted, but there is a cap on noneconomic damages (pain and suffering, etc.) and punitive damages are not allowed. The statute of limitations for an adult is two years from the date of the act or omission or six months after discovery. The affidavit of merit must be signed by an expert health professional, and expert witness qualifications are detailed. A 182-day presuit notice is required. Attorney contingency fees are limited to one-third of the award. The collateral source rule denies compensation that can be recouped from other sources, such as health insurance. Periodic payments are permitted for future losses. A joint and several liability law exists, which means that defendant liability is not proportionately limited to the respective contribution causing the injury.

The state of Michigan's Limitation on Noneconomic Damages law was last amended in 1994. At that time, a cap of \$280,000 was set (with a cap of \$500,000 for certain permanent neurologic injuries), adjusted annually to the Detroit Consumer Price Index.

Last year the respective caps were \$359,000 and \$641,000. On November 15, 2002, the Michigan Court of Appeals ruled that the noneconomic damage cap was constitutional (*Zdrojewski vs. Murphy*). However, on April 1, 2003, the same court ruled that the cap was inapplicable in cases brought pursuant to Michigan's Wrongful Death Act (*Jenkins vs. Patel*), because when tort reform was enacted in 1994, the Legislature did not similarly amend the Wrongful Death Act. The decision was carried by three Democratic judges and will be appealed to the Michigan Supreme Court. Therefore, there currently is no cap on noneconomic damages in wrongful death suits in Michigan, a fact probably not recognized by most of us.

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Learn how  
medical liability reform  
will affect  
your practice and  
your patients at

[ProtectPatientsNow.org](http://ProtectPatientsNow.org)

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## Get a "Go Red for Women" Tool Kit

A 2004 American Heart Month Kit is available [online](#) to help physicians and patients participate in the "Go Red for Women" campaign. Log on to [local.americanheart.org](http://local.americanheart.org), type your ZIP code, and click on "February is American Heart Month."

The AHA Greater Midwest Affiliate's 2004 American Heart Month Community Education Kit contains information sheets that can help you spread lifesaving "Go Red for Women" messages during February and year-round. These materials are not copyrighted and may be reproduced without permission.

A limited number of "hard copy" kits are available by mail. To receive a kit, call 1-800-968-1793 or e-mail your name and address to [carolyn.swerdlow@heart.org](mailto:carolyn.swerdlow@heart.org).

## Winston is Chapter President-elect

Stuart A. Winston, DO, will be the next President of the Michigan Chapter of ACC. He will serve one year as President-elect and will then assume the office of the President for a three-year term beginning March 2005.



"I look forward to the opportunity to continue the Chapter's drive to be the voice of cardiology in Michigan," Dr. Winston said. "It is important for us to provide the impetus for quality cardiovascular health care in the Legislature, with payers, and within our own profession."

An active member of the Michigan Chapter, Dr. Winston currently chairs the Joint Michigan

ACC/American Heart Association Midwest Affiliate Legislative Affairs and Advocacy Committee and leads the ACC Medical Advisory Group (Electrophysiology) for Blue Cross Blue Shield of Michigan. His contributions to the Chapter include serving as a District Councilor, as member and Chair of the Annual Conference Planning Committee, as a judge for the Fellows' Clinical Vignette Competition, as a participant in the Chapter's strategic planning retreat, and as a member of the Quality Committee. Dr. Winston is also a member of the College's Medicare Reform Subcommittee.

Dr. Winston is Chief of Cardiology at St. Joseph Mercy Hospital in Ann Arbor. There, he is a cardiac electrophysiologist and also chairs the Quality Committees for the Section of Cardiology and the Michigan Heart and Vascular Institute.

## February is American Heart Month

In February 2004, the American Heart Association (AHA) will launch a public awareness campaign entitled "Go Red for Women." The campaign will be a call to action for women to take charge of their heart health. It will empower them with knowledge and tools to make positive lifestyle changes to reduce their risk of heart disease — their No. 1 killer.

"Go Red for Women" is a sister project to the National Heart, Lung, and Blood Institute's campaign for women, "The Heart Truth." In

a memo announcing ACC's support for and participation in both campaigns, ACC President Carl Pepine, MD, MACC, wrote: "While the primary audience for each of these campaigns is women, an equally important audience is health care professionals. As the leading professional society representing cardiovascular specialists, our support and participation is key to assuring that physicians and cardiac care team members have up-to-date infor-

mation about the diagnosis and treatment of heart disease in women."

The "Go Red for Women" campaign will build upon the AHA's primary and secondary prevention guidelines for women and will include tools for consumers and health care providers to assure that

women are treated according to these guidelines.

In support of AHA's program, the Board of Trustees recently endorsed AHA's newly developed "Evidence-based Guidelines for Cardiovascular Disease Prevention in Women." This document will be

printed in Circulation on February 9, 2004, and subsequently in the *Journal of the American College of Cardiology*. In addition, the College has endorsed the report of the October 2002, National Heart, Lung, and Blood Institute workshop entitled "WISE: Women's Ischemic Syndrome Evaluation: Current Status and Future Research Directions." This report will be published by AHA with ACC listed as an endorsing organization.



## Michigan Initiatives Focus on Heart Failure

Michigan is a hotbed of quality improvement activity focusing on improved care for patients with heart failure. Nine mid-Michigan hospitals are participating in the ACC Mid-Michigan Heart Failure GAP Project and more than 40 hospitals statewide have committed to the Michigan Heart Failure Discharge Documentation Initiative. Both heart failure projects are modeled after the ACC AMI GAP projects that proved that when guideline-based tools were used, indicator rates improved much more significantly than when the tools were not used. The goal of both projects is to significantly improve the quality of health for Michigan's heart failure patients just as GAP did for AMI patients.

The Mid-Michigan Heart Failure GAP project evolved from the successful Flint/Saginaw AMI GAP project. The HF project was spearheaded by Stephen Skorcz and the Greater Flint Health Coalition (GFHC) and co-chairs Anthony DeFranco, MD and Todd Koelling, MD. It is a unique partnership between the GFHC, national and local members of ACC, Michigan Cardiovascular Outcomes Research and Reporting Program (MORRP) and MPRO. Physician and clinical leadership is provided via oversight of the GFHC Heart Failure Task Force. On site hospital leadership is provided by physician champions and project leaders who direct the vital components for improvement.

The mid-Michigan project tests the use of standardized orders, a HF discharge document, a patient diary, clinical pathway, and patient education and the impact that tool use will have on left ventricular function assessment, angiotensin converting enzyme inhibitor for left ventricular systolic dysfunction, discharge instructions, smoking cessation counseling, and readmission. As in other GAP projects, there is a special focus on identifying barriers to high tool use and developing strategies to overcome the barriers.

"We are grateful for grants from Astra Zeneca, Pfizer, Inc., Glaxo SmithKline and BCBSM," said Dr. DeFranco, "these funds will support our project in mid-Michigan and the Chapter's statewide HF initiative."

The Michigan Heart Failure Discharge Documentation Initiative, the Chapter's first

statewide quality project, is a partnership with MPRO and Blue Cross Blue Shield of Michigan (BCBSM). The goal of the project is to improve patient outcomes, and decrease readmission rates via the systematic use of a discharge document. This tool ensures that all the required CMS and JCAHO heart failure quality indicators are applied reliably and consistently. Emphasis on education and compliance will also empower patients with key information that they can use to help manage their disease. The heart failure discharge document is incorporated into Michigan hospitals' patient care records and treatment plans.

Web-ex conferences on January 22 laid out expectations and responsibilities for the project leaders and physician champions at all the participating hospitals. Learning Sessions in February and June will detail project planning, monitoring of tool use, and re-measurement of performance, with a focus on strategies for overcoming barriers to success.

Project leaders will submit periodic reports of project implementation to MPRO. The success of the project will be assessed by the impact on the use of the discharge document, engagement of the quality network, and readmission rate. Data analysis will be provided by MPRO and BCBSM. Only aggregate data will be used to evaluate the impact of the project.

"The Chapter is fortunate to have Cec Montoye, working with us on the HF project," said co-chair Arthur Riba, MD, "she brings a wealth of experience from the ACC/AMI GAP project and the ongoing mid-Michigan HF GAP project." Cecelia Montoye, MSN, Cardiac Care Associate, ACC is Project Manager for Guidelines Applied to Practice (GAP) Projects in Michigan, Consultant for the American College of Cardiology. She and Harriet Gammon, MSN, CPHQ, Cardiovascular Project Manager, MPRO, have been instrumental in

*(continued on page 4)*



## College Adds Cardiac Care Associate Membership

RNs, NPs, CNSs, and PAs are eligible to join the American College of Cardiology under the new Cardiac Care Associate membership category.

Cardiac Care Associates will have access to basic cardiosource.com, *Journal of the American College of Cardiology* (JACC), and *Current Journal Review* (CJR) online and enjoy reduced fees for ACC programs and the Annual Scientific Session. They will have access to and will be included in the ACC Online Membership Directory and will have access to all the ACC Standards and Guidelines — pocket forms, instant Web updates, and PDA format. Annual dues are \$100, plus a nonrefundable application fee of \$25. A complete list of the benefits of membership and directions for application are available at [www.acc.org/about/join/procedures\\_cca](http://www.acc.org/about/join/procedures_cca)

*(Heart Failure — continued from page 3)*

the design of the statewide project and will conduct the training and learning sessions.

Co-chair Syed Jafri, MD, looks forward to reporting interim results at the Chapter's annual con-

ference in October. "This project will be a model for other ACC Chapters to emulate," Jafri said. "It has been exciting to see this project evolve, and we look forward to utilizing our Quality Network for ongoing quality initiatives."

# CARDIOLOGY Reimbursement and Coding Seminar

**Tuesday, April 27 ~ Crowne Plaza Hotel ~ Grand Rapids**  
**Wednesday, April 28 ~ Embassy Suites Hotel ~ Southfield**



Sponsored by:  
**Michigan Chapter ACC**

Presented by Terry Fletcher, BS, CMSCS, CPC, CCS-P, CCS, CMC,  
McVey Associates, Inc.

## HIGHLIGHTS

**A full day of coding for physicians and staff:**

- **2004 Diagnosis Coding Update — new & revised codes that impact cardiology**
- **The latest ICD-9 changes for 2004**
- **Bundling vs. unbundling by the payers — Medicare's CCI**

**Cardiology coding techniques that work and ease paperwork!**

## REGISTRATION FEE

**Chapter member rate: \$245 first person, \$220 each additional**  
**Non-member rate: \$270 first person, \$245 each additional**

**Registration includes workbook, all materials and refreshments.**  
**Lunch is on your own.**

**Call 800-227-7888 or 517-663-6622 for a seminar brochure.**

# BCBSM Liaison Update

**Donald G. Dimcheff, MD**

**Associate Medical Director  
Blue Cross Blue Shield of Michigan**

*Editors Note: The Michigan Chapter meets regularly with a Blue Cross Blue Shield of Michigan (BCBSM) liaison team to resolve problems and discuss policy. The BCBSM Liaison Update will be a standard feature in the Michigan Chapter News to keep you informed of the results of the liaison process. To suggest issues that should be addressed at future liaison meetings, contact Alice Betz (517-663-6622 or [alice@accmi.org](mailto:alice@accmi.org)).*

## Do claims for EKGs and Office Visits pay separately on the same day of service?

- EKG codes 9300, 93010, 93040, and 92042 will pay separately when billed on the same day with Evaluation and Management (E/M) codes 99201-99499.
- McKesson ClaimCheck considers the EKG as inclusive to the E/M service. However, we have customized both the local and NASCO (National Accounts Servicing Company) so that both will pay separately.
- The effective date is September 2002.

## Does Holter Monitor, Procedure Code 93227, pay?

- Holter Monitor interpretation, code 93227, will pay for the following locations: 1 (inpatient hospital), 2 (outpatient hospital), 3 (doctor's office) and B (freestanding facility).
- The effective date is July 2001.

## Please explain Procedure Code J1245 (Injection, Dipyridamole, per 10 mg).

- This code is covered when billed with the stress testing procedure code on the same day, by the same physician (or facility) as a part of the diagnostic service. This was effective for all groups in December 1999 except for General Motors, Delphi, and Saturn. In January 2002 it became effective for General Motors, Delphi, and Saturn Traditional/PPO hourly and salaried employees.
- This procedure code covers both the injection and 10 mg of dipyridamole. If more than 10 mg is used e.g., 20 mg, enter 2 in the quantity box.

## Is T-Wave Alternans Testing payable?

- No. The Joint Uniform Medical Policy Committee will discuss this procedure at the April 2004 meeting.

## Is Cardiac Rehabilitation (93797, 93798) payable to programs other than the pilot rehabilitation programs?

- Yes. Cardiac Rehabilitation (Phase II and III Outpatient) for the nonpilot programs became payable in August 2001. The claims processing will become automated and the article will soon be published in *The Record*.

- Either 93797 or 93798 may be reported on the date of service.
- The guidelines — a condensed version of BCBSM Medical Policy — include that:
  - \* The program is prescribed by the attending physician.
  - \* The outpatient department of a hospital or a physician-directed clinic performs the services.
  - \* A physician is on the premises at all times the facility is open.
  - \* The facility has all necessary cardiopulmonary emergency and diagnostic equipment for immediate use.
  - \* The facility has those personnel necessary to conduct the program safely and effectively staff the program.
  - \* The program begins within 90 days of a cardiac event and is completed within six months.
  - \* Three sessions per week for up to 12 weeks, or 36 sessions, are covered. Any sessions beyond will be reviewed on a case-by-case basis.
  - \* Medical necessity is established by a diagnosis that is considered to be an indication of eligibility for the cardiac rehabilitation program:

Acute myocardial infarction  
Coronary artery bypass graft surgery  
Percutaneous transluminal coronary angioplasty  
Valvular heart surgery  
Heart transplantation  
Compensated congestive heart failure  
Ischemic heart disease  
Pacemaker  
Congenital cardiovascular disease

\*Condensed version of BCBSM Medical Policy.

The above are summaries of BCBSM policies. Official policies may be found in *The Record*. Archives of *The Record* may be accessed on Web-DENIS.

**Payment of Claims:** If a claim does not pay, please check first to see if the rejection is a front-end edit issue. If there was no front-end edit issue, please **status** the claim and if it does not pay:

- Contact **Provider Inquiry** and if Provider Inquiry cannot resolve the problem:
  - \* Contact your **Field Representative**, and if there is still no resolution:

Contact the **Physician Ombudsman** for assistance. Check the "Blue Pages," *How to Contact Blue Cross Blue Shield of Michigan*, for phone numbers.

## Smoke Free Dining—Not Just Wishful Thinking

You can show your support for smoke-free restaurants in Michigan by “signing” an online petition at <[www.smokefree diningpetition.com/petition.php](http://www.smokefree diningpetition.com/petition.php)>

Sen. Ray Basham (D-Taylor) created the petition and is the sponsor of SB186, which would provide for smoke-free restaurants in Michigan. As of February 12, there were already 27,799 signatures on the petition.

## Licensure and Scope of Practice — Growing Controversies

**Peter Ruddell, Legislative Counsel**

One of the most controversial series of issues facing the Legislature this session is the licensure and scope of practice of health professionals such as audiologists and respiratory therapists. The Legislature is walking a very fine line between shortages for some professionals and the expansion of scope into physicians and other health professionals.

During his tenure as Governor, John Engler blocked all licensure of new professionals – health or otherwise. As a result, there have been numerous groups working for years to become licensed and have recognized an opportunity now with a new Governor and a new, term-limited Legislature.

In addition to licensing numerous health professionals, there is also interest developing in expanding the scope of practice for many professionals.

The dental hygienists and the dental assistants have legislation pending to allow those professionals to administer block anesthesia and nitrous oxide. The nurse practitioners are developing legislation to expand their scope.

HB 4898, introduced by Representative Larry Julian (R-Lennon), passed the House in November 2003. HB 4898 would establish greater education standards for radiography. This legislation is a scope of practice dispute between the radiologists and the rad-technicians.

The bottom line is that we need to be watching out for health professionals who are going to be demanding greater recognition from state government — both in terms of licensure and scope of practice issues.

### Legislative Currents

- Senator Gilda Jacobs (D-Huntington Woods) is planning to introduce legislation that would require schools to be smoke-free at all times.
- The newly formed Healthy Michigan Caucus held its first press conference to encourage residents of Michigan to get walking. Senators Jacobs and Bev Hammerstrom (R-Temperance), along with Representative Gary Newell (R-Saranac) were among those present to showcase their pedometers.
- SB 50, introduced by Senator Jacobs, is pending before the Michigan House of Representatives. SB 50 requires health clubs to have an AED on site, a staff member certified in CPR on site at all times, and an established emergency plan.
- HB 4655, introduced by Representative Newell, has been signed by Governor Jennifer Granholm. HB 4655 makes it a crime to practice medicine under the influence of drugs or alcohol.

## You are invited to the Michigan Reception at ACC's 53rd Annual Scientific Session



Monday, March 8, 2004 • 5:30–7:00 P.M.  
Sheraton New Orleans • Waterbury Ballroom  
New Orleans

*The Michigan Reception is sponsored by:*

Beaumont Heart Center	Munson Medical Center
Cardiovascular Clinical Associates/Botsford Hospital	Oakwood Healthcare System
Heart Center for Excellence	Providence Heart Institute
Henry Ford Heart & Vascular Institute	St. John Hospital & Medical Center
Michigan Heart & Vascular Institute at St. Joseph Mercy Hospital	University of Michigan
	Wayne State University/Detroit Medical Center
	and Michigan Chapter of the American College of Cardiology

*No RSVP required. Questions? Call 517-663-6622*

## In Memory of Park W. Willis, III, MD

Park W. Willis, III, MD, is remembered as an exemplary teacher, a great cardiologist, a tireless volunteer, and a gentle leader. He died on December 28, 2003, at age 78.



“Park was one of the great cardiologists and leaders in cardiology in Michigan and well known throughout the country for his interests in mitral valve prolapse, pulmonary embolism, and prevention,” said his colleague Melvyn Rubenfire, MD. “He was a preeminent teacher and trained many of the fine cardiologists in Michigan. He will be missed.”

Dr. Willis was Chief of Cardiology at the University of Michigan (UM) from 1969 to 1977 and at Michigan State University (MSU) from 1979 to 1995. He retired from full-time work in 1996 but continued seeing patients through 2003.

His lengthy list of leadership positions includes terms as President of the Detroit Heart Club and the Michigan Heart Association. He was Governor of the Michigan Chapter of the American College of Physicians (ACP) and later

Master of the College. Dr. Willis was Governor of the American College of Cardiology for Michigan from 1969 to 1972.

He continued to volunteer his time to the Chapter after his term as Governor, serving on the Council and Legislative Affairs Committee, judging fellows competitions, and participating often in the annual Chapter conference. He also represented the Chapter on numerous projects and committees initiated by the state of Michigan. His numerous awards included the Michigan Chapter ACP's first Lifetime Achievement Award and the American Heart Association's Dodrill and Dodge awards.

Endowment funds for cardiovascular education have been established in Dr. Willis' name at MSU and UM. Memorial contributions can be made to:

MSU Development Fund, c/o Linda East,  
Michigan State University, A205 Clinical Center,  
East Lansing, MI 48824

or

Park W. Willis, III Educational Fund, c/o  
Kim A. Eagle, MD, University of Michigan  
Cardiovascular Center, Room 8B02, 300 N.  
Ingalls, Ann Arbor, MI 48109 0477.

### Thank You

The Chapter thanks the following companies for their generous support.

#### GOLD HEART

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Glaxo SmithKline  
Pfizer, Inc.

#### SILVER HEART

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Heartlab, Inc.  
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Tycos Healthcare/  
Mallinckrodt  
Wyeth Pharmaceuticals

#### BRONZE HEART

King Pharmaceuticals

## 15th Annual Chapter Conference Shines

Current Controversies  
**Cardiology**



**2003**  
New Directions

The sun shone on the 15th annual conference literally and figuratively. The program, carefully crafted by Conference Chair Claire Duvernoy, MD, and her planning committee, was enlightening and unique from start — a symposium on stroke — to finish — three intriguing controversies.

The spectacular weather enhanced the ever-popular golf scramble. The team of Brett Burgess, MD, Roger Burgess, Tim McElroy and Darren Dorset took home the Cardiology Cup, proving that their 2002 win was warranted for skill as well as perseverance.

After two question-and-answer sessions, the judges awarded first place in the annual poster competition to Kamal Nasser, MD, and second place to Apurva Motivala, MD, — both are residents from Sinai-Grace.

**Mark your calendar for the 16th Annual Conference: October 15–17, 2004!**

*President's Message (continued from front page)*

Last year it was estimated that cardiologists with limits of liability of \$200,000 per claim/\$600,000 per year paid premiums of \$30,092 in Wayne County and \$11,511 in Western Michigan. For those with \$1 million/\$3 million limits, the premiums were \$48,083 and \$18,272, respectively. The average cost to defend a claim is approximately \$25,000. The number of claims in Michigan increased from 651 in 1997 to more than 800 in 2001. Fortunately, only a very small percentage of claims ever go to trial. Unfortunately, over half of the jury awards exceed \$1 million, with the average award being almost \$3.5 million.

Not much progress will be achieved by complaining about plaintive attorneys trying to win the lawsuit lottery or about the previously poor business decisions of the insurance industry. We can decrease our malpractice risk by embracing efforts to decrease medical errors and to improve patient satisfaction. Perhaps we should re-evaluate how to credential the 5 percent to 10 percent of physicians who are associated with a disproportionate number of wrongful death cases. Our attorney colleagues certify and revoke privileges through the legal bar, whereas we

have no mechanism to similarly police our profession.

Both the AMA and the ACC have made malpractice reform a top advocacy issue this year (see [ProtectPatientsNow.org](http://ProtectPatientsNow.org).) The most effective way to support these efforts is to write a check to the ACC Political Action Committee (PAC). Visit <http://www.acc.org/advocacy/pac/pac.htm> to learn more about the ACC PAC. The Association of Trial Lawyers of America received more than \$2.7 million in PAC money last year. Medical specialty groups such as the orthopedic surgeons, radiologists and emergency physicians received \$619,000, \$506,000 and \$355,000 in contributions, respectively. The ACC PAC raised \$97,000 in 2003. All members are urged to donate at least \$20 so that we can support the advocacy agenda of our professional society.

Is there a medical malpractice crisis in Michigan? Are you having difficulty obtaining coverage because of previous claims? Have you recently altered your practice of cardiology because of issues related to medical malpractice? Please forward your comments to Alice Betz at [alice@accmi.org](mailto:alice@accmi.org) so that she can compile them and send them to the national office.

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