Member Benefits

By Lawrence Howes
Sharkey, Howes & Javer, Inc.

Patience will yield greener pastures

Despite the parched landscape of the markets these days, there is room for optimism here. I believe the U.S. economic recovery *is* underway. The current discontent is mainly attributable to the concerns over Iraq and some lingering overvaluation in equity prices. But a recovery is a recovery, and no matter how dull it may be, it beats a recession if you are watching the value of your portfolio.

If you want to find bad news, however, you don't have to look far. Employment is still unpredictable and the outlook for ballooning federal deficits has not changed. These two indicators are classic bad news bears.

It is interesting that workers are still getting laid off yet personal income is growing at a pretty good clip. Those who are employed are doing their own work plus the work of the newly unemployed, and some of the ones still working are getting paid more. This is a direct result of productivity soaring like never before—the one thing the U.S. economy has over every other system on the globe. The U.S. is producing (not manufacturing) more with less, and it might just be that the 6 percent level of unemployment is the new norm. We will see.

As far as the federal deficit is concerned, it couldn't come at a better time other than not coming at all. Yields are at 30-year lows so every dollar the government borrows costs less than at any time since the 1950s. Uncle Sam is refinancing the house and taking some cash out.

For the prudent investor, however, I suggest continued caution. There is clearly more observable risk in the stock and bond markets today than there is potential reward. Go slowly. Those bond positions, which have made us all lots of money in the past three years, are likely to lose 10 percent of their value by year-end. Telecom stocks, which some inconsolable investors keep hanging on to, are like that mysterious key on your key ring that looks important, but no one knows what lock it's supposed to fit.

The vast majority of telecom companies are not going to return to anywhere near their old stratospheric valuations. Most of them are already toast. Just let them go! The next market leaders will not be telecoms.

If you must take a risky bet, think about Japan. At new 20-year market lows, the Japanese just might surprise us and start to return from the last decade of deflation and face-saving. Japan is bound to recover in our lifetime, maybe. The rest of Asia is a safer bet. Europe will be as fickle as the U.S. When political tensions ease, some on the Continent will do all right. It likely will not be France or Germany, however. They are both struggling with domestic promises they made to keep retiring employees happy. Unfortunately they have no money

(Continued)

to pay for the health benefits or pensions that have been promised. Not good.

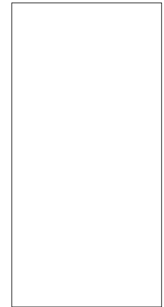
It is reasonable to expect that 2003 will provide the patient stock investor with single or low double-digit returns by year's end. This, of course, assumes a "good result" with the Iraq situation and a rapid decline in the price of a barrel of that black stuff. These returns will come quickly amidst the frenzy of buying and selling that will transpire. Once something of a rally starts, don't be surprised if it takes off like the good old days of the 1990s and then suddenly stutters and stalls. Then we will see some hefty selling into the rally. The stage is already set for such an event. It will be entertaining.

For now, keep in mind that the U.S. economy and the domestic investment environment are both getting better but it is not a very friendly place. We are going to have to wait for more moisture before the pasture gets green again. Right now it looks pretty dry and parched.

Lawrence Howes, MBA, CFP®, is a principal at the CMS-endorsed financial planning firm of Sharkey, Howes & Javer, Inc., a Denver based, FEE-ONLY, financial planning and investment management firm that has worked with many physicians over the years. Mr. Howes is listed as "The Best Financial Advisor for Doctors" for 1999, 2000 and 2001 in Medical Economics. *Visit us at SHWJ.com or call Donna for more information at 303-639-5100.*

www.cms.org

NEW MEMBERS



Congratulations and welcome to these newly elected CMS members

Arapahoe Medical Society
Martin Boublik, MD
Joseph E Burchenal, MD
Vito J Calandro, MD
Mark J Ceraso, DO
Karen A Davis, DO
Brian J Hopkins, MD
Audrey C Krosnowski, MD
Julie A Mahoney, MD
Andrew J Nemechek, MD
Thomas J Noonan, MD
Tracy A Paeschke, MD
Theodore F Schlegel, MD
Douglas B Tippin, MD
Mehendra I Vyas, MD
Douglas J Wyland, MD

Boulder County Medical Society
Coco Dughi, MD
Evan H Schwartz, MD

Clear Creek Valley Medical Society
Douglas J Dart, MD
Robert P Domaleski, MD

CMS Direct
Kapil K Anand, DDS, MD

Delta County Medical Society
Jeffrey L Berkosky, MD

Denver Medical Society
Christopher J Ott, MD
Sanford D Peck, MD
Rodney D Rothstein, MD
Howard P Sherr, MD
Brian T Shields, MD

El Paso County Medical Society
Roland Baiza Jr, MD
L Patricia Barrett, MD
James M Bee, MD
William C Boelter II, MD
Meredith A Cassidy, MD
Casie L Chen, MD
Erik W Ellis, MD
Susan S Ellis, MD

El Paso County Medical Society
Richard G Harbison, MD
Terry H Johler, MD
Walter L Larimore, MD
Rebecca L Moore, MD
John W Nelson, MD
Gil Porat, MD
C Scott Russell, MD
Kari A Schultz, MD
Jonathan A Velez, MD
Eric R Weidman, MD
David L Williams, DO

Fremont County Medical Society
Lance W Pysher, MD

Intermountain Medical Society
Shelly R Stelzer, MD

Mesa County Medical Society
Ellen W Price, DO

Northwestern Colorado Medical Society
Gary D Snook, MD
Randi R Wagner, DO
David A Wilkinson, MD

ASAP

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720.859.1001 (800.654.5653)

CMS Education Foundation

Education Foundation provides student scholarships; supports state Science Fair

Dr. John Farrington (middle) with 2002 scholarship award winners Leslie McGowan (left), and Jennifer Huddleston (right)

To the Colorado Medical Society,

For some of you medical school may be a distant memory, perhaps for others it may seem like yesterday. As a past recipient of a Colorado Medical Society Scholarship, I would like to share some of my thoughts with you.

My journey through medical school has been filled with both excitement, and at times frustration. The first year was, to be honest, terrifying. Just when I thought my brain was at absolute capacity, more information was demanding to be let in! Many nights of studying extended well into the wee hours of morning. As I watched some of my classmates seemingly "sail" through first year, I often wondered if I should be in medical school at all.

After a much needed summer break, the journey continued to second year. Perhaps it was me, but things seemed different, less intense. The road was smoother and everything seemed to "fall into place". There was no longer any doubt in my mind that I belonged in medical school. As the year comes to a close, I look forward to my clinical years with anticipation and excitement.

I will continue to rely on the love and support of family and friends, and I would again like to extend my gratitude to the CMS for supporting my education. You can be assured of periodic updates as I continue my journey.

Sincerely,

Jacquelynn Gould

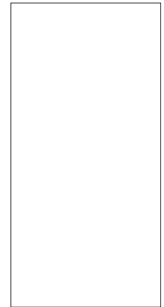
Since 1957, the Colorado Medical Society Education Foundation has provided financial and volunteer support to the Colorado State Science Fair.

Dr. Bill Kieger and Dr. Parker Preble represented CMS as judges for a junior and senior high school award in the Health and Behavior Science category at the 48th Annual Science Fair April 10-13 on the campus of Colorado State University in Fort Collins.

This year's winners are Jaimie Jennings, a sixth-grader from North Middle School in Colorado Springs, (pictured above with Dr. Kieger) and Diane Gumina, a junior from Merino High School, (pictured below with Dr. Preble).

Jennings' project was titled "Just Wash Your Hands" and Gumina's project presented "A Possible Breast Cancer Treatment." Both winners and their parents are invited to receive their $100 award at this year's annual meeting in Breckenridge.

HEALTH CARE FINANCING



The CMS Health Care Financing Division is visiting doctors offices across the state over the next sixty days to audit for health plan compliance with legislative and regulatory requirements as well as to audit promises made during the 2002-2003 rounds of individual plan meetings held by CMS leadership and staff.

This project is being completed in accordance CMS House of Delegates (HOD) Resolution 26-A directing CMS staff to . . ."investigate health plan compliance with the new legislation, the information we have gathered from the Quarterly Assembly of Payers Meetings, the meetings with the individual health plans, and the data from the Hassle Factor Project."

The pilot studies started in March and it will be expanded to over 30 offices across the state throughout the summer with a final report due to the (HOD) at this year's Annual Meeting.

Participants for the audits were selected after reviewing the results of a survey of CMS members conducted in mid-January. The survey was designed to get a general picture of how physicians' billing staff view the issues that CMS is currently investigating.

CMS received back a total of 326 surveys, representing 2,231 physicians throughout the state with 51.8% representing the metropolitan areas and the remaining 48.2% the non-metropolitan areas of the state.

"While it is too soon in the audit process to reach any conclusions, the survey does indicate that the primary issue is no longer delay in payment but problems associated with appeals, denial of claims and incorrect reimbursement," said Edie Register, Director of the CMS Health Care Financing Division. "It is hoped that the audit findings will identify the underlying issues associated with these problems so that they can be addressed."

"Most of the health plans have demonstrated a genuine willingness to work with physicians to improve the system," said Marilyn Rissmiller, Program Manager for the CMS Health Care Financing Division. "However, the key to any agreement for change is to roll up our sleeves and do the detail work in the field to guarantee follow through."

Each audit takes one to two full days to complete and requires a significant commitment from the participating physician offices. "I want to thank all of the physicians and their staff who agreed to be part of this project," said Register. "Their hard work is helping all CMS members to improve business practices with the health plans."

Colorado Medical Society Alliance

2003 Officers

President
Debbie Lazarus (Metro Denver)

Co-President-elect,
Patti Brown (Metro Denver)

Co-President-elect,
Linda Culberson (Metro Denver)

Secretary
Jeanette Bowles (Boulder)

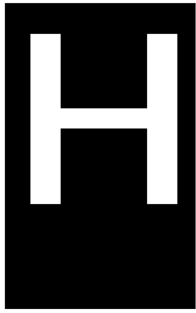
Treasurer
Kathy Bartee (Metro Denver)

General information: The Colorado Medical Society Alliance (CMSA) is a federation of physician's spouses in three expressions: National, the AMA Alliance; State, the Colorado Medical Society Alliance; and County, counterparts of individual county medical societies.

The real work of the Alliance is done at the county level. Efforts are coordinated at the state level. The whole picture is seen from the national level. The national Alliance also provides resources and leadership training opportunities for all members.

Alliance Members:
- Provide support for each other at a time when changes in the practice of medicine are so great;
- Participate in health projects and community service projects within their own communities;
- Become aware and informed about issues pertaining to medicine;
- Promote good health practices, and;
- Provide education to the public about health issues or practices.

For membership information anywhere in the state, contact:
CMSA Offices, P. O. Box 17550, Denver, CO 80217-0550
or call Patty Mejia-Osborne at 720-858-6323 or 1-800-654-5653, extension 6323.



IPAA-The Big Picture

By Kari MacKercher Hershey
Montgomery Little & McGrew, P.C.

HIPAA and the Minimum Necessary Standard

Editors Note: The following article is the seventh in a series on HIPAA regulations that will be appearing regularly in Colorado Medicine.

A key aspect of the HIPAA Privacy Rule is its minimum necessary standard. Derived from the current confidentially practices observed by most health care providers, the standard is based on the premise that protected health information should not be used or disclosed except as necessary to carry out a legitimate function or purpose.

The Privacy Rule requires covered entities (health plans, health care clearing houses, and health care providers) to evaluate their practices and implement reasonable safeguards to prevent unnecessary use and disclosure of protected health information.

Exemptions from the Standard

The minimum necessary standard does not apply to certain uses or disclosures of protected health information, including:

- *Disclosures* to, or requests by, health care providers for treatment purposes;
- *Disclosures* to the individual who is the subject of the information;
- *Disclosures* made pursuant to an individual's authorization;
- *Uses* or *disclosures* made to comply with HIPAA, its accompanying regulations, or other laws.

In other words, in the above situations, a covered entity does not need to determine the minimum necessary information to use or disclose. It is important to note that *uses* of protected health information *by* health care providers (as distinguished from *disclosures to* providers) remain subject to the minimum necessary standard, even if the provider is treating the patient. Hence, a treating provider must employ professional judgment to *use* information only as necessary.

Implementing the Minimum Necessary Standard

Policies and Procedures

Under the Privacy Rule covered entities must develop and implement policies and procedures regarding use and disclosure of protected health information, which are consistent with the minimum necessary standard. Thus, policies and procedures should be appropriate for the individual entity and reflect the entity's specific business practices and workforce.

While the minimum necessary standard is often described in general terms, the Privacy Rule does provide some specific elements that must be present in an entity's policies and procedures, including:

- Identification of persons or classes of persons who need access to protected health information to carry out their jobs;
- Categories or types of information needed; and
- Conditions appropriate to access.

Accordingly, role-based access policies may be helpful in complying with the standard. For example, a policy may identify scheduling personnel as a class of persons needing access to demographic information and orders or information relating to follow up care. Thus, demographic and follow up care information is appropriate for scheduling personnel to access when used for the purpose of scheduling patient appointments or future tests.

Where it is not practicable to identify categories or types of information because access to the entire medical record is necessary, the policy must expressly state and justify the need for such broad access. For example, a policy may identify nurses as a class of persons needing access to the complete medical record because such access is required for identification of medication issues, risk factors, or trends in a patient's health status. In fact, in many physician practices, application of the minimum necessary standard may include access to a patient's entire record by all practice employees. For example, in some offices, a receptionist may respond to patient or provider inquiries that make such access appropriate.

Standing protocols may also be employed to define the minimum necessary information required for handling routine requests or disclosures. If a standing protocol is established, an individual determination of the minimally necessary response to a routine request is unnecessary. Rather, each request can be responded to according to the protocol without individual assessment.

In contrast, a policy regarding non-routine requests must outline criteria for determining and limiting disclosures of protected health information to disclosures that are minimally necessary. Accordingly,

(Continued)

HIPAA: *(Continued)*

non-routine requests must be individually reviewed against the enumerated criteria.

Reliance on Others to Determine What Information is Minimally Necessary

A covered entity may reasonably rely on a judgment as to the minimum amount of information needed by a requesting party who is an employee or business associate of the entity from whom information is requested, a public official or agency, another covered entity, or a researcher with appropriate IRB documentation.

Closely related to the principal of reasonable reliance is the requirement that covered entities making requests for protected health information must apply the minimum necessary standard to their requests.

What is Reasonable?

It is important to keep in mind that the minimum necessary standard is not absolute, and covered entities need not limit uses or disclosures of information to those that are objectively necessary for a particular purpose. Rather, the test is whether a particular approach is reasonable given the circumstances.

HHS has indicated that it does not consider facility redesign necessary to meet the requirements of the minimum necessary standards of the Privacy Rule. Yet, HHS has also indicated that certain facility adjustments may be considered reasonable. Some examples given by HHS include isolating and locking files, providing extra security, and implementing computer password systems.

Often, most questions related to whether a particular use or disclosure is consistent with the minimum necessary standard can be answered with common sense. More difficult questions regarding minimum necessary policies or determinations should be directed to legal counsel.

For more information about HIPAA, visit the Colorado Medical Society website at www.cms.org.

WORKERS' COMPENSATION

Lynn Parry, MD
Member, Workers' Compensation/Personal Injury Committee

The HIPAA Privacy Rule in Workers' Compensation

"April is the cruelest month" Although T.S. Eliot was probably not referring to the April 14th 2003 date when all entities must demonstrate compliance with the Privacy Rule of HIPAA. While there has been abundant, if not excessive, information on HIPAA rules for providers, there has been a relative dearth of useful information about the Privacy Rule as it applies to Workers' Compensation.

The explanation for the paucity of information is that HIPAA is a federal program; compliance with the privacy Rule is monitored through the Office of Civil Rights (OCR). Worker's Compensation is a state-run program that is established legislatively and differently in each state. Therefore, in order to ascertain whether the rules in HIPAA apply, it is necessary to know both the individual State's Worker's Compensation law and when the federal laws preempt state laws.

Under the Privacy Rule (45 CFR 164 (l)): *Standard: Disclosures for workers' compensation.* A covered entity may disclose protected health information as authorized by and to the extent necessary to comply with laws relating to workers' compensation or other similar programs, established by law, that provide benefits for work-related injuries or illness without regard to fault.

Colorado statute, with regard to Workers' Compensation, has a *limited* waiver for release of personal health information. C.R.S. 8-47-203 states: "the filing of a claim for compensation is deemed to be a limited waiver of the doctor-patient privilege to persons who are necessary to resolve the claim."

The more stringent law or rule prevails. In the case of Colorado, the more stringent rule is the Privacy Rule of HIPAA. The physicians who see patients in the workers' compensation system should familiarize themselves with the requirements of the Privacy Rules.

Provider/Health Plan obligations:

- To disclose to the patient where, when, and why personally

Remember,

the next HIPAA deadline is coming October 16, 2003. Physicians must be ready to submit electronic claims in the HIPAA compliant format. Talk to your vendors to be sure they are ready.

HIPPA AND WORKERS' COMP: *(Continued)*

identifiable health information might be shared.

- To change or amend health records at patient request.
- To communicate with others in the information network that changes have been made. (Records revised, etc.)
- To track and report changes and disclosures of personal health information.

A recent Interpretive Bulletin from the Director of Workers' Compensation has indicated that the Privacy rule may be interpreted in a manner which could restrict medical providers and other covered entities from disclosing medical information which is not clearly related to workers' compensation cases. The limited waiver in state law allows the release of information but the medical treatment and medical reports are **limited to the work-related injury or disease.** The Privacy Rule states that covered entities can release "the minimum amount of Personal Health Information (PHI) necessary."

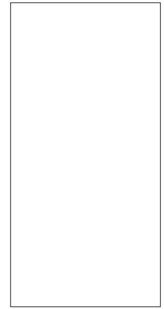
The Director, therefore, distinguishes a medical *report* from a medical *record.* A medical *report* in the workers' compensation system refers to information regarding the work-related injury or disease at issue. A medical *record* is broader and can include information not directly related to work-related injury. While medical *reports* that are limited to the injury or disease at issue may be released to the insurer, third party administrator or self-insured employer, parties in a workers' compensation case, medical *records* containing protected health information not related to the injury or disease at issue should not be presumed to be subject to the mandates of 8-43-404, C.R.S., and Rule XI, which require exchange of medical *reports* between the parties. The parties are cautioned to carefully assess at each stage of the case what medical information is being forwarded to other parties.

It is clear that no one is clear about the details of how exactly the HIPAA Privacy rule will impact those entities in workers' compensation. It is, therefore, suggested that every effort be made to follow the guidelines set forth in HIPAA:

- To obtain appropriate Consents and Authorizations for transmission of protected health information.
- To document that appropriate safeguards are in place to protect health information.
- To provide patients with information regarding their rights with respect to personal health data, particularly health data that is not directly related to the work-related injury or disease at issue.

The Privacy Rule in HIPAA does create new rights and obligations for patients and providers. These will, to some extent, also apply in workers' compensation in the State of Colorado.

Colorado Physician Network



As previously discussed, the decision by Rocky Mountain HMO (RMHMO) last year to terminate its collaborative agreement with Colorado Physician Network (CPN) was deeply disappointing, but beyond our control. The CPN Board of Directors has investigated other potential areas of service to our network physicians, but none have met the essential criteria of timeliness, economic feasibility, and compatibility with our original values and goals.

We are thus left with the unavoidable option of bringing our eight year endeavor to closure. All CPN physicians have recently received a letter with similar content to this article accompanied by the legal documents and a ballot. Thus far, too many members have left the ballot in their "To Do—Sometime" outbox, and it is essential that we hear from you ASAP.

A summary of the key elements include:

1. Approximately 1600 physicians joined CPN by agreeing to pay a nonrefundable entry fee of $800-$1000 (either by lump sum or installment).
2. These fees and payments from RMHMO for services provided have been used for over eight years of operational expenses.
3. At the date of anticipated closure (August 31, 2003) CPN will have a projected cash balance of slightly over $200,000.
4. The CPN Board of Directors has considered numerous potential uses of these funds, including developing new lines of business, pro rata return to physician members, charitable contributions, etc.
5. CMS funded CPN start-up expenses of about $50,000, and the original CPN bylaws provided that CMS would be the recipient of residual funds should CPN activities cease.
6. No "fair" way to calculate pro rata payment to member physicians can be devised (proportional to entry contribution, dollars generated by patient care, number of patients seen, years of membership, etc.), and if evenly distributed would amount to only $135 to each member physician.
7. The CPN Board of Directors therefore recommends that the residual balance be returned to CMS as originally intended, but as designated funds to be used only for specific physician services and benefits - not for general CMS operations.

Since this can only be decided by a general membership vote, it is essential that you mark, sign, and return the ballot in this issue of Colorado Medicine immediately! We must receive your completed ballot to authorize appropriate action. Initially we required that ballots be submitted by May 31. To give our members additional time to vote their desire, we have extended the ballot deadline until June 30, 2003.

Only CPN members can vote. If you already have mailed or faxed your ballot, no further action is needed!

If you have misplaced your original mailing, and need more specific information to vote knowledgably, please contact David A. Ginsberg, Executive Director of CPN, **at (720) 859-1300.**

Thank you very much for your cooperation and prompt attention to this matter.

COLORADO PHYSICIAN NETWORK, INC.

BALLOT

FOR IMMEDIATE COMPLETION BY CPN MEMBERS

(PLEASE COMPLETE AND FAX IF YOU HAVE NOT ALREADY DONE SO)

I, [PRINT NAME] ____, a Member of Colorado Physician Network, Inc., a Colorado nonprofit corporation ("CPN"), hereby vote FOR or AGAINST the Plan. I understand that the Plan must be voted on in its entirety.

_____ ***FOR***

_____ ***AGAINST***

Dated as of this _____ day of _________________, 2003.

____
Signature

____
Print Name

____
Street Address

____
City *State* *Zip code*

Please return this Ballot by fax or mail so it is received by CPN no later than June 30, 2003.

To Fax: **(720) 859-1424.**
To Mail: **Executive Director**
Colorado Physician Network, Inc.,
7351 Lowry Boulevard
Denver, Colorado 80230

*Execution of this Ballot constitutes an acknowledgement of receipt of the Information Statement with respect to the matters set forth herein. If this Ballot is properly executed and no vote is indicated, the Member shall be deemed to have voted **FOR** the Plan.*

*** Please Note: NO cover page needed, fax this page only ***

HIGHLIGHTS OF BOARD OF DIRECTORS MEETING

CMS Offices - Denver, January 24, 2003

COPIC: Dr. Jerry Buckley reported that two of the tort reform bills have passed out of the House and have been sent to the Senate. He briefly reviewed a few other bills COPIC is following. COPIC has once again received the AM Best A rating. COPIC now insures 5,500 physicians. Drs. Buckley and Lazarus have been discussing how PIAA can assist in getting Dr. Lazarus elected as the AMA Vice Speaker. Dr. Buckley thanked CMS for allowing COPIC to include an article in "Colorado Medicine" regarding the tort reform issue.

CMSA: Ms. Debbie Lazarus presented the report. She stated that Legislative Day at the Capitol was very successful. Legislative day was cosponsored by CMS, COPIC, the Colorado Psychiatric Society, Colorado Family Physicians, the American College of Emergency Room Physicians, Colorado Society of Eye Physicians and Surgeons, the CMSA, and the Colorado Obstetrical Society. Over 100 legislators, physicians and physicians' spouses participated in the continental breakfast followed by a legislative seminar. Their luncheon was at the Warrick Hotel, where Dr. Buckley spoke on tort reform. Dr. McDonald spoke at the Alliance meeting yesterday to assist promoting interest in legislation. They will conduct their general membership spring meeting on May 2, at the Sonnenalp. The El Paso County Alliance is going to disband, but any members who wish to maintain their membership can become members-at-large.

AMA Delegation: Dr. Lazarus stated that we no longer have enough AMA members to maintain four seats at the AMA House of Delegates, and we have dropped to three. Dr. Jack Cletcher is now a delegate for the Orthopedic Society. The Interim Meeting in December was a good meeting, and focused mostly on advocacy. Two of our resolutions were put on the reaffirmation calendar. After lots of debate at the reference committee, the Direct to Consumer Advertising resolution was not adopted. The licensing board resolution passed. He then discussed some of the other issues that the AMA House of Delegates considered. Drs. Lazarus, Unrein and Ms. Maloney will attend the "Organization of Organizations" (COO) meetings in January, March and May.

Medical Executives Group: Ms. Karla Barrett stated that they received information from COPIC about their annual retreat. Ms. Maloney attended their meeting to discuss the CMS Bylaws regarding component charters. Ms. Marilyn Rissmiller presented information on the HIPAA Conference that will be held on January 28, 2003. Ms. Karla Barrett announced that this is her last meeting, as she and her family are moving to North Dakota. Her replacement is Ms. Jackie Foose.

BOARD MEMBER REPORTS

Dr. Tom Allen stated that they are getting a new hospital in Northern Colorado although there is some dispute about where this hospital will be built.

Dr. Joe Bonelli reminded the Board that the Northeastern Medical Society represents physicians from Sterling, Sedgwick and Phillips Counties. There are also two small county societies in Yuma and Morgan.

Dr. Al Carr stated that the Boulder County Medical Society has published their directory. These are distributed free to their members, welcome centers, churches, hospitals, etc. They have made a profit selling these to other entities. These were also distributed to the CMS Board and staff. Their summer meeting will be held on June 5, 2003.

Dr. Cory Carroll stated that the Larimer County Medical Society discussed physician involvement in the community, and plans to send a survey to their members.

Dr. Jack Cletcher stated that Dr. Nelson Trujillo, Past President of Boulder County Medical Society, was quoted extensively in a recent "AM News" article.

Dr. Andy Fine stated that they have a Medicare Sub-Committee that meets with the congressional Health Aides. Doctor's Care will celebrate their 15th anniversary. Arapahoe asked the CMS Board for assistance in how to research businesses for non-dues revenue. Ms. Maloney stated that each business needs to be looked at on an individual basis. She also stated that Arapahoe could contact Mr. Dean Holzkamp.

Dr. Glenn Foust stated that DMS has recently sponsored a medical Spanish seminar, with another one coming up in August. The DMS Board has taken the position to agree with the possible ban of smoking in Denver. Dr. McCartney wrote a letter to the editor of the Denver Post stating their position.

Dr. Muryl Laman stated that Pueblo has recently passed a smoking ban. The various restaurant, bar, and bowling alley owners have submitted a petition to the City Council to have this rescinded. This issue will most likely be put on the ballot for the next election.

Dr. Bonnie McCafferty stated that the Denver Medical Society conducted a CME program to discuss non-dues revenue. They will conduct another one in April.

Dr. William Mandell stated that El Paso County Medical Society is conducting an end-of-life care program. They are also working on access to medical care with CEOs from the hospital, laboratories and pharmacies. They are also discussing forming advisory committees to meet with legislators.

Dr. Louise McDonald stated that the Cost of Health Care Initiative Task Force continues to meet. At their recent meeting, they met with a representative from the American Academy of Family Practice. They will also look at the CMS Policy Manual to see which policies need to be replaced. They are also trying to find ways to educate patients and physicians about the true cost of health care. The Patient Safety Brochure has been printed, with funding by several of the managed care companies. PacifiCare was the main contributor.

Dr. Lynn Parry stated that the Clear Creek Valley Medical Society has switched their investments over to Merrill Lynch and Mr. Gene Fitzgerald. Their Bioterrorist Subcommittee continues to meet. At their February 12, 2003 membership meeting Dr. Bruce Richards will present a program on end-of-life care. The Clear Creek Valley Medical Society Directory is ready for distribution.
Dr. Barbara Reed stated that the Denver Medical Society would conduct a program on disruptive patients. Their Web Site will have a "members only" section where members can conduct conversations with other members.
Dr. Gene Sherman stated the Aurora-Adams County Medical Society plans to have a winter get together. Dr. Rick May is now president of Aurora-Adams County Medical Society, and Dr. Sherman is the president-elect. The Board of Medical Examiners (BME) conducted a program for the Aurora-Adams County physicians. Dr. Sherman stated that the BME would like to go to the medical school and give their program there. Dr. Lazarus stated that CMS would try to assist in getting this accomplished.
Dr. Ben Vernon thanked the Denver Medical Society for their outstanding Spanish Class.

PRIORITY ACTION ITEMS

Executive Committee: Dr. Lazarus briefly discussed the Clinical Skills Assessment Examination. A resolution passed at the AMA House of Delegates requesting that the AMA oppose this examination. Dr. Lazarus has forwarded this information to Dr. Ned Calonge. A meeting of the Federation of National Licensing Boards is scheduled for April in Chicago. Dr. Lazarus requested board approval for him to represent CMS at this meeting, and to agree with the AMA policy. Discussion was held. MSC for CMS to oppose the Clinical Skills Assessment, and to allow leadership to present this opposition to the Federation of National Licensing Boards.
Finance Committee: Dr. Bonelli reported on the state of our finances. We are still in good shape. We have taken a small loss in our investments. He stated that CMS received a good audit, with no Recommendation to Management letter this year.
Council on Legislation: Dr. McDonald requested and received ratification of the all motions made by the Council on Legislation and subsequently reported in the Legislative Digest. A survey was mailed to all CMS members to find out who would be willing to assist CMS in its lobbying efforts. A training session will be held for the physicians who volunteer to testify at the Capitol. Dr. McDonald stated that she and CMS Staff are meeting with patient consumer groups in an attempt to forge a working relationship with them.

EXECUTIVE OFFICE REPORTS

President: Dr. Lazarus stated that he recently met with Joe Nunniez, the new Region VIII Director for Health and Human Services. Drs. Chris Unrein, Rich Quinn and he attended the AMA State Legislative meeting in Tucson. Dr. Lazarus participated on a panel discussion regarding scope of practice. We are still looking at businesses that can create non-dues revenue for CMS. One of the top items we plan to look at is how to offer group insurance to our physician members and their staff. Dr. Lazarus was the keynote speaker at the 9Healthfair. A meeting will be arranged with the medical directors of managed care organizations, most likely for next month. Dr. Lazarus testified at Dr. Calonge's confirmation hearing for medical director of the health department.
President-elect: Dr. Unrein stated that he was able to attend the AMA IM in New Orleans. At the meeting in Tucson he attended an exceptional meeting regarding ERISA. Dr. Unrein is on the Board of Directors of the Colorado Foundation for Medical Care (CFMC) and has been discussing data extraction tools with CFMC. The Leadership Conference will focus on antitrust issues. Information will be forthcoming in the February issue of "Colorado Medicine". Dr. Unrein is in the process of planning the Annual Meeting.
Executive Director: Ms. Maloney stated that she felt Dr. Lazarus did an excellent job speaking at the 9Healthfair. Dr. Doug Benevento was recently approved by the Senate HEWI as the Executive Director of the Health Department. A meeting is being planned for the CAHP/CMS Joint Committee. The legislative session has been very busy so far this year. She continues to meet with Dr. Buckley on a monthly basis. The page from the CMS Bylaws regarding charters needs to be rewritten and will be given to the Organizational Study Committee.
Staff Reports: Ms. Finney stated that a brochure would go out to vendors to see who may be willing to help sponsor the CMS Annual Meeting.
Ms. Marilyn Rissmiller briefly described the handout of the CMS Action Plan for Health Plan Compliance Monitoring. The surveys for health plan compliance were mailed at the beginning of this week. These surveys will be utilized to pinpoint the offices that CMS will monitor for health plan compliance. A small practice, a medium size practice and a management company have been contacted to see if they will work with CMS as test sites to develop the actual procedures.
Mr. Chet Seward reminded everyone about the 7th Annual Caring for Colorado Conference March 10th.
Ms. Suzanne Hamilton stated that the Legislative Day was successful. For Legislative Day next year, a date early in the legislative session can be requested. She briefly discussed some of the bills listed on the current "Legislative Digest". The "Legislative Digest" is now on-line and will be updated every Friday.
Mr. Dean Holzkamp stated ASAP would have a link to the Legislative Digest.
Mr. Tim Roberts stated that the membership brochures are almost ready to be sent out for the membership recruitment program. Copies of the brochure were distributed to the Board. The brochure itself is "timeless", with an insert that will be updated as needed.

COPIC COMMENT

Jerome M. Buckley, MD
Chairman & CEO
COPIC Insurance Company

Proof that Claims Losses - Not Investment Losses - are Driving Malpractice Crisis

After reading yet another news story asserting that insurers' investment losses-not claims losses-are at the heart of the current national malpractice crisis, it occurred to me that it might be helpful to address some of these spurious and misleading allegations for the benefit of physicians who may not have been exposed to the discussions on this topic that have taken place in COPIC publications for a year or more.

In its widely-quoted materials, an organization calling itself Americans for Insurance Reform (AIR) asserts that "...when investment income decreases-because interest rates drop or the stock market plummets or cumulative price cuts make profits become unbearably low...-the [malpractice insurance] industry responds by sharply increasing premiums...creating a 'hard' insurance market usually degenerating into a 'liability insurance crisis'." Mainstream media such as USA Today and The New York Times have echoed these accusations in recent months, apparently willing to accept the assertions of such self-styled "consumer groups" without first determining their validity.

According to a comprehensive examination recently published by global banking and investment management firm Brown Brothers Harriman (BBH), the arguments "...are both misleading and inaccurate. The root causes of the [malpractice affordability] problem are quite different from what is often suggested by the media." The study was conducted by Raghu Ramachandran, a Senior Portfolio Strategist with BBH's Insurance Asset Management Group. Mr. Ramachandran undertook the rigorous statistical work necessary to fully examine the assertions made by AIR and echoed by the media and conclusively prove their utter lack of merit.

In "Did Investments Affect Medical Malpractice Premiums?" and "A Note on Investment Income of Medical Malpractice Companies," Mr. Ramachandran demonstrates that "...investment returns have had little, if any, correlation" to development of the current problem. The crisis is rather, he says, "the result of a generally unconstrained increase in losses...." Ramachandran methodically and carefully examines the data and charts that AIR proffers as "proof" and shows in a clear, concise manner where the assumptions are false and the statistical analysis is faulty.

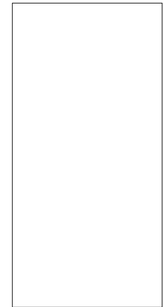
Investment Returns
Over the last six years, Ramachandran found, the investment gain of malpractice insurers has not declined. The percentage of gain derived from equities declined, but the bond rally has more than offset it. Regarding COPIC, despite the greater than 30% decline the stock market has experienced since March 2000, the overall rate of return for COPIC's investment portfolio for the last three years was 8.7% (or 2.8% per year). Like most insurers, COPIC by regulation has 75% or more of its portfolio in bonds. Regulation also prescribes that COPIC and other insurers may not assume future investment returns of greater than 4% when setting premiums. (In other words, insurers cannot underprice the product and "bet" that sufficient investment returns will come along to make up the difference.)

Increase in Losses
As regards losses, Ramachandran found over the 27-year period from 1975 through 2001, medical malpractice insurers' average paid loss ratio (paid losses to premiums) was 27%; values ranged from a low of 16% in 1976 to a high of 79% in 1999. In 2001, the industry paid loss ratio was nearly 75%. COPIC's paid loss ratio has increased steadily over the last few years, from 55.9% in 2000 to 63.9% in 2001 to 86.6% in 2002.

Ramachandran examines several factors in addition to investment returns and paid losses, but even when the analysis is limited to these two primary factors, it is easy to see that when it comes to truly understanding the root causes of the malpractice premium increases of recent years, AIR and the media are either unable or unwilling to "get it."

To be fair, I should mention that Ramachandran also points to inadequate premium income (i.e., deliberate underpricing in an effort to "buy" market share) as another important factor in the crisis. I want you to understand that while some insurers engaged in such predatory pricing, COPIC has always priced its coverage on a break-even basis supported by well-researched loss projections from both internal and external actuaries. For COPIC policyholders, previous underpricing is simply not a factor in the premium increases of recent years.

If you would like further education on this topic, you can read Mr. Ramachandran's excellent analysis yourself at http://salsa.bbh.com/news/Articles/MedMal.html(http://salsa.bbh.com/news/Articles/MedMal.html) and http://.bbh.com/news/Articles/MedMal2.html).



Medicare carrier's provider call center hours change May 5, 2003

Effective May 5, 2003, the Provider call center hours for Colorado changed to 8 a.m. to 3:30 p.m. MT. The Automated Response Unit (ARU) continues to be available to callers. The ARU Hours of Operation for Colorado are from 6 a.m. to 8 p.m. CT.

Noridian Administrative Services would like to remind providers to utilize the ARU to obtain claim status information when at all possible. Statistics indicate that this is the number one reason for inquiries to their office. Claims mailed to their office on a CMS 1500 claim form take 28 days to finalize compared to only 14 days for Electronic claims.

Remember to allow for mail and response time from their office when researching claims. Additional information on utilizing the ARU was included on the 2003 Medicare Physician Fee Schedule (MPFS) Compact Disc.

To comply with the Privacy Act and insure prompt answers to your questions, have the following information available when calling.

Claim Status Calls:
Caller's Name and Title
Medicare Provider Number and Name
Beneficiary Health Insurance Number
Date Of Service

Eligibility Calls:
Provider Medicare Number and Name
Beneficiary Health Insurance Claim Number
Beneficiary Last Name and First Initial
Beneficiary Date of Birth
Beneficiary Gender

Colorado Division of Insurance will enforce state insurance laws related to medical provider issues

The Colorado Division of Insurance will enforce state insurance laws related to medical provider issues, such as prompt payment of claims and required provider contract provisions. Many patients, however, have health coverage that is not subject to state insurance laws. Government programs, such as the Federal Employees Health Plan (FEHP), Tricare, Medicaid and Medicare, are exempt from state insurance laws. In addition, single-employer self-funded plans and union negotiated plans are preempted by federal law from state insurance regulation.

As a general rule, the Division does not have jurisdiction to arbitrate, mediate, or settle contractual disputes between a carrier and its providers and is prohibited from being involved in disputes about whether a provider should be included in a particular plan's network. However, state insurance law requires that managed care plans maintain a dispute resolution mechanism to provide a reasonable and expedient means to resolve provider issues. The dispute process is outlined in Division of Insurance Regulation 4-2-23. Carriers are also required to have an appeals process that complies with Regulation 4-2-17 (internal appeals) and Regulation 4-2-21 (external appeals) for denials of benefits based on medical necessity. You may access copies of insurance laws and regulations through the Division of Insurance website, www.dora.state.co.us/insurance.

Division activities with respect to enforcement of insurance laws and regulations related to provider issues are varied. Regularly scheduled Market Conduct Examinations on health carriers include a review of claims practices, and violations of prompt pay requirements have been a frequent finding for which carriers have been cited and fined. Recently, the Division promulgated a regulation (4-2-24) to provide greater clarification on the criteria for a "clean claim." A new internal procedure for reviewing and handling provider complaints has enabled the Division to identify problematic trends and "batch" complaints for more effective handling. Finally, the Division is committed to maintaining an on-going relationship with organizations, such as CMS, to provide open dialogue on important provider issues related to insurance.

Colorado Medicaid suspends Therapeutic Consultation Pharmacy program

Effective April 1, 2003, Colorado Medicaid implemented a Therapeutic Consultation Pharmacy (TCP) Program. The TCP process occurs when a client exceeds eight (8) prescriptions in a calendar month.

The Colorado Medical Society (CMS) along with numerous physicians has been working with the Colorado Health Care Policy and Financing (HCPF) Department, which oversees Medicaid, regarding problems that have arisen with this program.

HCPF has listened and as of May 28, 2003 they have temporarily suspended the program for review.

State officials have indicated that they are trying to iron out some of the difficulties being experienced by physicians. If this can be achieved, the revised program will be reinstated. CMS will keep you updated regarding this program.

If you have any questions or comments regarding this program, please contact Edie Register at edie_register@cms.org or (720) 858-6321.

Statewide HIPAA Implementation Summit to be held Thursday, June 26, 2003

The Workgroup for Electronic Data Interchange (WEDI) Foundation and CoSNIP - Colorado Strategic National Implementation Process - announce "HIPAA Solutions: Achieving Compliance", a statewide HIPAA Implementation Summit to be held Thursday, June 26, 2003 at the Executive Tower Hotel in Denver, Colorado.

Nationally known WEDI faculty and healthcare industry experts from Colorado will address topics related to HIPAA compliance, address administrative simplification transactions, code sets, privacy and security standards requirements, and provide options and strategies for achieving compliance by healthcare industry stakeholders. The Summit will bring together healthcare covered entities for intermediate through advanced level training. In addition to exceptional training opportunities, you will be able to network with healthcare industry leaders, providers, payers, health plans, standard setting bodies, clearinghouses, chief information officers, business office managers, compliance officers, health information technology professionals, representatives of government agencies, consultants, and vendors.

For more information about registration and program content, please contact Ann Marie Railing, WEDI Director of Regional Education and Operations, (703) 391-2718 or AMRailing@wedi.org.

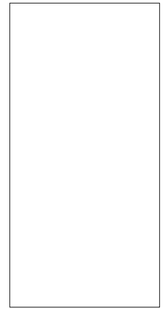
Hassle Factor Project now HIPAA compliant and available only to CMS members

With the HIPAA Privacy deadline approaching, the CMS Division of Health Care Financing has determined what will be needed to make the Hassle Factor Project compliant. After several meetings with attorneys and an analysis of what is typically done with a complaint that is filed, they have developed the Hassle Factor Services Agreement and have also revised the complaint form to include a HIPAA privacy statement.

"In addition to making the project HIPAA compliant, we have also decided to limit the scope of the project to members only," said Edie Register, Director of the Division of Health Care Financing, "This means that in order to access any Hassle Factor Project information on the CMS website, you will need your CMS User ID and password. We apologize for any inconvenience this may cause you or your office staff."

A new link to download the services agreement and the revised complaint form in .PDF format has been posted on the home page of the CMS website at www.cms.org.

"We suggest that you download the agreement and keep it for your records and ask that you begin using the new complaint form immediately," said Ms. Register.



Colorado Alliance to hold annual meeting of CME professionals for August 1- 3 at Copper Mountain

Copper Mountain Resort will be the site of the annual gathering of Colorado CME professionals August 1-3, 2003 . According to a press release from Kevin Bunnell of the Alliance, participants from other states are always welcomed at these meetings.

Featured speaker at the opening session on Saturday August 2, will be Marcia Jackson, Ph.D., incoming President of the national Alliance. She will speak and lead a discussion abut the evolving character of CME in North America and participate in other events of the meeting through Sunday noon.

The schedule will include an opening reception on Friday evening, August 1, and a free afternoon on Saturday to enjoy the delights of one of Colorado's favorite mountain resorts.

Following a brief Sunday morning business meeting, there will be two rounds of small group sessions. One of these will be led by David Herr, MD, of Rocky Mountain HMO, who will provide practical tips on using clinical data in planning CME activities.

A second session will be led by Anne Wilson, manager of Education and Accreditation Services at the CMS. This session will feature thumbnail sketches of exemplary practices identified by the accreditation process and presented by CMS staff from organizations accredited by CMS. The sessions will be repeated so that all participants can attend both sessions.

For more information and registration forms, contact Gina Brooks at 303-788-8839 or regina.brooks@healthonecares.com.

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Colorado Department of Health launches campaign to help protect Coloradans from West Nile Virus

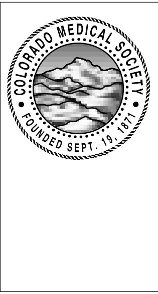
The Colorado Department of Health has launched a public information campaign to remind Coloradans to protect themselves and their families from West Nile Virus this summer.

The theme of the campaign, which features a mean-looking mosquito embedded in the international symbol for no, is *Fight the Bite! Join the Swat Team Against West Nile Virus.*

Doug Benevento, the department's executive director, said, "West Nile virus is expected to hit Colorado harder this year. As a result, state and local public health agencies want to make certain Coloradans are well informed about the dangers of the virus and what they can do to protect themselves from this mosquito-borne disease."

The virus will be traced in Colorado as it was last year through testing of any suspected human cases; testing of numerous mosquitoes, grouped by species, for the virus; testing of some dead birds and plotting on a map where other dead birds are found across the state; and regular testing of blood samples from the 19 sentinel chicken flocks located throughout Colorado.

For more information visit www.fightthebite.com on the Web.



RUMINATIONS

(**def:** chewing again what has been chewed slightly and swallowed; to **REFLECT**)

by Bill Pierson
Contributing Editor

Lost and Found

To my knowledge, we've never run a "Lost and Found" column in Colorado Medicine. I'm only mentioning that because this is sort of a "lost and found" column. I have titled it thusly so I can feel all right about mentioning someone's name.

This column relates to one of my treks through the railroad yards (my morning walk when I'm in Denver). One day, not so long ago, I had my eyes cast to the rails and ties when I spotted a government issue "dog tag". That's the identification tag issued to each serviceman/woman and kept close to the heart at all times while on active duty.

Finding this one tag truly affected me deeply. When I was in the Army the tag was used for every imaginable thing. It was often used to pry up lids on some "C Ration" containers. It was used at sick call when you had to provide your blood type. It was used in the pay line if you were so hapless that you couldn't remember your I.D. number. If ever there were a time (and these times did occur) when you couldn't even remember or say your own name, the "dog tag" was there. We were required to wear the tag on a chain around our neck. I remember some of those sweaty days when I would have a decidedly green cast to my chest, caused by the chain or the tag's chemical reaction to the perspiration. I always wore my tag, and my G.I. can opener. Fifty-some years later I still have both.

Back to the "lost and found": The tag I found bears the name of Richard L. Hageman, Jr. It carries his blood type, "B-POS," his religious preference and some other information, including his social security number. Through all this information I'm certain I can find Mr. Hageman; however, Richard might well not want to be found, not want to be reminded what the military had done for (or to) him. He might not want to remember his treatment by the "civilians" when he returned from Vietnam. He just might want to forget the whole period in his life.

I am always struck when I see anything that suggests rejection by a U. S. veteran or by civilians of a veteran. And the thought has been bothering me these past few weeks as we've watched the United States again engaged in deadly conflict. I am reminded of this by the fact that one CMS member, Gene Bolles, MD, of Boulder, is involved in the present conflict, serving at a U. S. base in Germany. He has been treating many young Americans who have been injured in Afghanistan and Iraq. A few weeks ago he sent me a letter, which I forwarded to the local newspapers. The letter was about what is happening to the lives of these young men and women, how their lives are being changed forever by this conflict, and what he hopes and prays the people at home will feel about these veterans. Dr. Bolles writes of his concern for these veterans when some of us at home do not agree with the political philosophy or the reasons we have been at war with Iraq. He fears that the many antiwar protests will overshadow the impact that the war is having on the young people injured by war.

It is a remarkable thing that the U. S. military forces are at present totally volunteer but, lest we forget, these volunteers are giving up a great deal to fight to protect the United States from such things as the September 11th attack. I also admit that maybe, just maybe, further diplomatic talk could have prevented this war, but it would have done nothing to prevent another sneak occurrence such as 9/11. It was extremely meaningful to me to discover later on that Dr. Bolles operated on the 19 year-old girl from Palestine, West Virginia, Pfc. Jennifer Lynch who said she joined the Army to help her make something of her life, such as higher education so she could become a teacher. Hopefully, she will be able to recover the part of her life that was shot away and beaten out of her as a prisoner. I am certain that Dr. Bolles felt that same hope when he worked to repair her injuries.

I am saddened by the fact that over 100 U. S. service members lost their lives in this conflict. I am saddened by the knowledge that countless Iraqi people died or were injured as a result of the war. I am heartened by believing that the United States will make every effort to build a better Iraq for the Iraqi people than what they've experienced the past three decades.

I can only hope that someone who reads this knows Richard L. Hageman, Jr., and will tell him I found his dog tag and I am also proud of his service.

32nd Annual Montrose Fall Clinics

September 26 & 27, 2003
Montrose Pavilion - 1800 Pavilion Drive
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Presented by Montrose Memorial Hospital and the Fall Clinics Committee of the Medical Staff

Legrand P. Belnap, M.D. Rocky Mountain Associated Physicians, Salt Lake City, Utah

- Surgical Management of Benign Diseases of the Upper GI Tract
- Surgical Management of Malignant Diseases of the Upper GI Tract

Roger A. Freedman, M.D. Professor of Internal Medicine, Director, Arrhythmia Services, Acting Director, Division of Cardiology, University of Utah, Salt Lake City, Utah

- Biventricular Pacing
- Current Indications for Ablations and AICD Devices

John S. Nichols, M.D. InterMountain Neurosurgery and Neuroscience, St. Anthony Hospitals/CenturaHealth, Denver, Colorado

- Neuro Assessment
- Neurological Emergencies

Christopher R. A. Sartori, M.D. Chief, Dermatology Clinic, United States Air Force Academy Hospital, Colorado Springs, Colorado

- Cutaneous Signs of Systemic Disease and Connective Tissue Diseases and the Skin
- Papulosquamous Eruptions

Barbara A. Pockaj, M.D. Senior Consultant, Department of Surgery, Assistant Professor of Surgery, Mayo Clinic, Scottsdale, Arizona

- Breast Cancer
- Melanoma

Bruce Paton, M.D. Retired Cardiac Surgeon. Former Chief of Cardiac Surgery and Acting Dean of the University of Colorado Health Sciences Center School of Medicine

- Frontier Medicine – Lewis and Clark

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