



# Lehigh County Medical Society

The mission of the Lehigh County Medical Society is to encourage physicians and healthcare professionals to have the highest moral and ethical standards; to council and censor them when necessary; to serve as a strong and united voice for our Lehigh County physicians, our patients and our community; to promote healthful living and well-being and to advance the highest standards of healthcare and service in our region through education, service and advocacy.

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The DR Bulletin

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### FROM YOUR 2013 PRESIDENT, Eric J. Gertner, M.D.



I need to begin with an apology. I'm sorry that you're just getting this edition of the DR. It's coming to you late, and I am responsible for that.

Wow, that wasn't too difficult. Yet physicians often have a hard time apologizing to patients and families, often for the wrong reasons. When a patient has a bad outcome, even death, it's generally not the result of malpractice; there's no fault to place or fingers to point. Bad outcomes are part of medicine; we all learned that in residency. Bad things happen to sick people, and there's no reason that physicians, as healers, friends, and members of their communities, shouldn't be allowed to express their feelings of sorrow when something bad happens to a patient. Unfortunately, all too often, physicians feel they cannot tell a patient that they are sorry without risking having it misconstrued as an admission of guilt, leading to legal action against the unsuspecting physician.

The conversation about physician apologies often takes two forms. First, there are those instances when there is a poor outcome as a result of a medical error. It is beyond the scope of this column to discuss what constitutes a medical error and what outcomes occur as a result of chance, or rather, bad luck.

However, even the most conscientious of physicians likely will do something over the course of a career that is in error, knowingly or unknowingly, contrary to accepted best practice. And while it may be painful to admit our errors, many people consider offering an apology an ethical responsibility of the medical profession. Offering an apology is built on the foundation of trust that is developed between a physician and a patient over time. However, as we know, our ethical responsibility sometimes is at odds with our risk management and other legal obligations.

The other conversation that is we hear about physician apologies reflects the growing understanding of how empathy affects patient care and our efficacy as healers. Compared with those physicians who maintain a level of "detached concern" regarding their patients, those who are more empathetic tend to develop greater trust, have better adherence to recommended therapy, obtain more history from patients, reduce anxiety and, importantly, are sued less often. An apology is an expression of this physician empathy. It's not an admission of guilt for an unintended consequence, but rather a compassionate expression for a patient and her family when everything doesn't go as planned. Because despite taking all necessary precautions and proceeding using evidence-based therapies and management, bad outcomes still happen

Lehigh County Medical Society, 1620 W Highland St, Allentown, PA 18102-1033  
Phone: 610-437-2288 Fax: 610-437-0910 www.lcmedsoc.org

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Manuscripts offered for publication and other correspondence should be sent to 1620 W Highland St, Allentown, PA.

The DR Bulletin is published six times a year bi-monthly, beginning in January, by the Lehigh County Medical Society.

The editorial board reserves the right to reject and/or alter submitted material before publication. All manuscripts and letters should be typed double-spaced on 8 1/2" x 11" stationary.

Preserve Your County Medical Society - The Grassroots of Organized Medicine

in medicine, and on those occasions, empathetic physicians should be allowed to express their apologies.

House Bill 57 and its companion, Senate Bill 379, ask that physicians should be able to apologize or make other benevolent gestures after a bad outcome without having to worry that a trial lawyer will use their words against them in a malpractice lawsuit. Patients deserve answers, as well as compassion, during these times, and should turn to their physicians for both. We should feel safe in providing both to patients and their families, not to admit guilt for punitive reasons, but rather to provide comfort in times of difficulty.

Our state Senator, Pat Browne, is a co-sponsor of this legislation in the Senate. This bill would require medical professional liability insurance carriers to encourage benevolent gestures by insured health care providers to promote early resolution of issues and help to control medical professional liability insurance costs. As suggested, by having open conversation early after unforeseen bad outcomes, this bill hopes to reduce the likelihood of legal action being taken against the physician or other providers.

It does not take away any legal rights from the patient or their families, who can still file personal injury action if they choose, by offering an apology and encouraging open and frank conversation with the physician. Instead, it is more likely to diffuse any conflict rather than having it escalate into a malpractice claim. Importantly, the bill bans physician apologies from being used by plaintiff attorneys as part of legal action, thereby offering some measure of protection for these conversations.

Hopefully, by the time this column appears in the DR, the full Senate will have approved this measure, and it will move closer to the Governor's desk for signature. If not, it represents an opportunity for physicians to contact both Senator Browne as well as our individual state representatives, to let them know that we support this small measure of tort reform. Let them know that this bill will encourage open communication with patients and families, not only in the context of a poor outcome, but in all aspects of patient care. The less we need to worry about practicing defensive medicine, the richer our conversations will be with patients, the greater our understanding of their needs and wishes, and the better the chances are for good clinical outcomes with high patient and physician satisfaction.

My apologies for not sending this sooner, and my appreciation for your support of this grassroots effort to enhance the patient-physician relationship. For more information, you can turn to the PA Medical Society's Grassroots Action Center's story on physician apology. It has a link to the Voter Voice tool that makes it easy to send a message to Sen. Browne or any other legislator, as well as Governor Corbett. It can be accessed at <http://www.pamedsoc.org/Right-Side-Nav/Act-Grassroots-Center/Apology.html> Happy Spring!

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### **Legislative Priorities Focus on Protecting You, Your Practice, and Your Patients**

The 2013-2014 legislative session has just begun and the Pennsylvania Medical Society (PAMED) is already back at

work advocating for issues that affect you and your patients.

We're working to introduce a number of bills to help reduce physician hassles and protect patient safety, including legislation that would:

- Allow physician apologies without fear that anything you say can be used against you in a medical liability lawsuit
- Preserve the role of the physician-led medical staff and streamline hospital licensure
- Expedite the physician credentialing process, reducing administrative hassles and preventing unnecessary delays in patient care
- Ensure fair insurance contracts for physicians
- Create a more effective and efficient prescription-drug database to help prevent prescription drug abuse, lower non-medical use of controlled substances, and improve access to pain management care
- Define ophthalmic surgery to promote patient safety and serve as a broader template for definitions of surgery that would benefit all specialties
- Regulate tanning facilities and set age requirements for who can use them

PAMED also will continue to work to enact meaningful tort reform and resolve the Mcare Fund's \$1.3 billion unfunded liability, while opposing bills that would unsafely expand the scope of practice of non-physician providers.

Read PAMED's 2013-2014 legislative and regulatory agenda at <http://www.pamedsoc.org/MainMenuCategories/Government/Legislative-and-Regulatory-Agenda.pdf>.

What else can we help you with? If there's an issue affecting you and your patients that needs strong physician advocacy in Harrisburg, please let us know.

Stay up-to-date with what's happening at the Capitol by reading Scot Chadwick's weekly blog, <http://www.pamedsoc.org/weeklycapitolupdate>. Chadwick is the vice president of governmental affairs for PAMED.

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### **Cost of SGR Repeal Cut in Half; Good Time to Stop Medicare Cuts**

The estimated cost to repeal the flawed sustainable growth rate (SGR) payment formula is just over half the cost it would've been last year, says a new report issued by the Congressional Budget Office. That means now is a great time for Congress to permanently repeal SGR.

Tell Congress to permanently repeal the SGR formula once and for all and avert cuts to health care funding.

The cost of permanent repeal is estimated at \$138 billion, down from \$244 billion last year. However, unless action is taken, physicians will be faced with a 25 percent cut in Medicare reimbursement come Jan. 1, 2014. Congress has already spent more than \$136 billion for short-term patches over the past decade.

Physicians are also faced with a 2 percent payment cut come March 1 due to automatic federal budget reductions, also known as sequestration. Many health care programs will see cuts of 2 percent or more, including:

- Medicare physician reimbursement—2 percent annual reduction over the next eight years

- Graduate medical education—2 percent cut in Medicare financing
- Public health initiatives and biomedical research —5 percent cut this year, more than 8 percent in each of the next eight years
- Health care work force—Cuts to programs that help bring primary care physicians to rural areas

Legislation to permanently repeal SGR would prevent a loss of \$930 million for the care of elderly and disabled patients in Pennsylvania. Approximately 155,776 employees of medical practices, 2.2 million Medicare patients, and 168,228 TRI-CARE patients in Pennsylvania would be helped by legislation that averts these cuts.

The American Medical Association (AMA) and more than 100 medical associations, including the Pennsylvania Medical Society (PAMED) sent a letter to Congress outlining the impact of a 2 percent Medicare cut to read this letter, go to, <http://www.ama-assn.org/resources/doc/washington/seques-ter-senate-sign-on-letter-21dec2012.pdf>.

### Data on Gifts and Payments to Physicians to Be Collected Starting in August 2013

Drug and medical device manufacturers will be required to collect and publicly report gifts and payments made to physicians beginning Aug. 1, 2013, as the delay of implementation of the Physician Payment Sunshine Act will come to an end. The first round of data must be reported to the Centers for Medicare and Medicaid Services (CMS) by March 31, 2014, and will be released publicly on Sept. 30, 2014, through the electronic reporting system.

Physicians and teaching hospitals will have 45 days before the data is published to review it and submit corrections. CMS plans to have an online portal that physicians can use to find out what has been reported about them. PAMED will inform members when the link becomes available.

Among other concerns, many physicians had urged CMS to exclude certified CME from the reporting requirements. The final rule excludes accredited CME activities that meet the definition of indirect payments.

The Physician Payment Sunshine Act, a section of the Affordable Care Act, is aimed at discouraging inappropriate financial relationships between manufacturers and physicians.

### Lehigh County Medical Society Welcomes the following New Members

Jose A. Avila, MD (NEP)  
701 Ostrum St., Ste 602  
Fountain Hill, PA 18015

Cynthia L. Bartus, MD (D)  
1259 S. Cedar Crest Blvd., Ste 100  
Allentown, PA 18103

Yasmeen Bhatti, MD (PM)  
734 N. 38th St.  
Allentown, PA 18104

Guillermo E. Carnero Salazar, MD (NEP)  
701 Ostrum St., Ste 602  
Fountain Hill, PA 18015

Nazanin Ehsani, MD (OBG)  
200 Plaza Ct., Ste B  
E. Stroudsburg, PA 18301

Jason M. Erickson, DO (PM)  
2371 Beach View Ln. SW  
Rochester, MN 55902

Robert A. McCauley, MD (IM)  
1243 S. Cedar Crest Blvd., Ste 2800  
Allentown, PA 18103

Rita M. Pechulis, MD (PCC)  
1250 S. Cedar Crest Blvd., Ste 205  
Allentown, PA 18103

Paige E. Van Wirt, MD (HOS)  
3144 b Tilghman St.  
Allentown, PA 18104

John F. Wolf, MD (FP)  
1255 S. Cedar Crest Blvd., Ste 2200  
Allentown, PA 18103

#### ATTENTION

### Lehigh County Medical Society MEMBERS

Does your Physician Group have a Website?

*Contact the Lehigh County Medical Society and have your Website linked onto the Lehigh County Medical Society Website.*

[www.lcmedsoc.org](http://www.lcmedsoc.org)

Call: 610-437-2288

#### NOTE

Members of the Lehigh County Medical Society can now view the membership roster (Physician Directory) at our website: [www.lcmedsoc.org](http://www.lcmedsoc.org) or request a Membership Roster by calling the Lehigh County Medical Society at: 610-437-2288.

#### REMEMBER

*If you change your business or home address and/or phone or fax number, please notify the Lehigh County Medical Society. Call: 610-437-2288*

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The vision of the Lehigh County Medical Society is to be a relevant and influential leader in the Pennsylvania Medical Society; to unite our physicians and to empower them to deliver compassionate, ethical and evidence based healthcare of the highest quality and value to our community.

The Lehigh County Medical Society will accomplish its mission and its vision by the following:

Legislative Advocacy within our State Medical Society and our Government  
Community Education within the Public Health Arena  
Member Education, Collaborative Relationships and Collegiality  
Service Activities for our members and our community

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