

Bulletin

Physicians Caring for Our Community



MEET
New Class of Physician
RESIDENTS
July 9th

MORE 5K Run Pics
& Results on page 7



BULLETIN

Lee County Medical Society is a Virtual Operation
Mailbox address: 5781 Lee Boulevard, Suite 208-104
Lehigh Acres, FL 33971
239.936.1645 • www.lcmsfl.org

The Lee County Medical Society *Bulletin*
is published quarterly.

2Q 2024 EDITOR

John W. Snead, MD

MANAGING EDITOR

Julie Ramirez, CAE, Executive Director
239.936.1645
jramirez@lcmsfl.org

MEMBERSHIP

Mariah Evans
admin@lcmsfl.org

MARKETING

Mollie Page
marketing@lcmsfl.org

LCMS DISCLOSURE POLICY

The editors welcome contributions from members. Opinions expressed in the *Bulletin* are those of the individual authors and do not necessarily reflect policies of the Society. Advertisements do not represent sponsorship or endorsement by the Lee County Medical Society nor necessarily imply the accuracy or reliability of any advertisement displayed in this publication. ©2021 LCMS.

2024 BOARD OF DIRECTORS

PRESIDENT

Scott Caesar, MD

PRESIDENT ELECT

Gamini Soori, MD, MBA

TREASURER

Asif Azam, MD

SECRETARY

Arie Dosoretz, MD

PAST PRESIDENT

Ryan Lundquist, MD

BOARD MEMBERS-AT-LARGE

Liliana Bustamante, MD	Jordan Taillon, DO
Justin Casey, MD	Kristina Mirabeau-Beale, MD
Lucia Huffman, MD	Magali Van Den Bergh, MD

Lee County Medical Society Mission Statement

The mission of Lee County Medical Society is to advocate for physicians and their relationships with patients; promote public health and uphold the professionalism of the practice of medicine.

CONTENTS

Calendar of Events	2
New Members	3
Member News	3
President's Message: Navigating the Changing CPT Landscape	4
Ramirez Report: Planning for Emergencies & Disasters	5
New FTC Rule on Non-Competes	6
2024 5K Run Results.....	7
NEW BOI Reporting Requirement	8
Key Factors in a Deposition	10
Physician Burnout: Is It Getting Better Out There?	11
TAVR for Aortic Stenosis	11

Cover image of a participant Buck Dunn during the 2024 LCMS Foundation 5K Run/2K Walk. Members are encouraged to submit photos to be considered for the Bulletin cover. Must be large format/300dpi. Email photos to marketing@lcmsfl.org

NOMINATIONS OPEN SOON...

12th Annual

Medical Service Awards

An LCMS Foundation Fundraiser

CALENDAR OF EVENTS

TUE, MAY 21st
6:30pm - 8:30pm

LCMS Women Physicians Event

Hyatt Coconut Point Resort & Spa
Sponsors: Markham Norton Mosteller Wright
& Linda Minck Law

TUE, JULY 9th
6:30pm - 8:30pm

LCMS Residency Reception

FineMark National Bank & Trust

FRI, AUG 16th
5:30pm - 7:30pm

LCMS Cocktail Hour

Collaboratory
Sponsor: Florida Cancer Specialists

FRI, AUG 23rd
6:30pm - 9:30pm

LCMS Family Fun Night

Headpinz on Treeline

TUE, AUG 27th
6:30pm - 8:30pm

LCMS Women Physicians Event

Cooper's Hawk Winery & Restaurant
Sponsor: Florida Cancer Specialists

RVSP to LCMS events at www.lcmsfl.org

NEW MEMBERS AS OF APRIL 11, 2024



Michael Angelino, DO
Family Medicine
LPG Family Medicine
- Babcock Ranch
42880 Crescent Loop, Suite 110
Punta Gorda, FL 33982
(239) 343-3535
leehealth.org



Victor Lee, MD
Diagnostic Radiology
Florida Radiology Consultants
8791 Conference Drive, Ste. 100
Fort Myers, FL 33919
(239) 331-5566
www.flrad.com



Shauna Schwartz, DO
Anesthesiology
US Anesthesia Partners
18350 Metro Parkway, Suite 301
Fort Myers, FL 33966
(239) 332-5344
usap.com



Adriane Argenio, MD
General Surgery
Cape Coral Hospital
708 Del Prado Blvd, Suite 6
Cape Coral, FL 33990
(239) 424-2755
leehealth.org



Katherine Lietz, MD
Cardiology
HealthPark Medical Center
9981 S. HealthPark Drive
Fort Myers, FL 33908
(239) 343-5421
leehealth.org



Michael Smith, MD
Neurology
Florida Neurology Group
12670 Whitehall Drive
Fort Myers, FL 33907
(239) 936-3554
www.fngmd.com



Demetra Barr Reynolds, MD
Family Medicine
Lee Physician Group
16271 Bass Road
Fort Myers, FL 33908
(239) 343-7100
leehealth.org



Christine Orlowicz, MD
Internal Medicine
Private Physicians of SWFL
9722 Commerce Center Court
Fort Myers, FL 33908
(239) 415-1111
www.privatephysiciansofswfl.com



Katie Swanson, MD
Emergency Medicine
Lee Health
2776 Cleveland Ave
Ft. Myers, FL 33901
(239) 343-2000
leehealth.org



Timothy Dougherty, MD
Emergency Medicine
Cape Coral Emergency Physicians
P.O. Box 151368
Cape Coral, FL 33915
(239) 424-3513
capecoralemergencyphysicians.com



Robert Palmer, MD
Pediatric Orthopedic Surgeon
Pediatric Orthopedics of SWFL
15821 Hollyfern Court
Fort Myers, FL 33908
(239) 432-5100
www.pedsortho.net



Julie Tueber, MD
Emergency Medicine
Lee Health
13681 Doctors Way
Fort Myers, FL 33908
(239) 343-0000
leehealth.org



Michael Gould, MD
Interventional Radiology
Florida Radiology Consultants
8791 Conference Drive, Ste. 100
Fort Myers, FL 33919
(239) 331-5566
www.flrad.com



Maura Pipkins, MD
Family Medicine
Lee Physician Group
5225 Clayton Court
Ft. Myers, FL 33907
(239) 343-8240
leehealth.org



Jordan Vokes, MD
Pediatric Orthopedic Surgeon
Pediatric Orthopedics of SWFL
15821 Hollyfern Court
Fort Myers, FL 33908
(239) 432-5100
www.pedsortho.net



Thomas Hunt, MD
Orthopedic Hand Surgery
Lee Health
6630 Orion Drive, Suite 227
Fort Myers, FL 33912
(239) 343-1342
leehealth.org



Sujana Reddy, MD
Pediatric Endocrinology
Lee Physician Group
15901 Bass Rd, Ste 102
Fort Myers, FL 33908
(239) 343-9890
leehealth.org



Malissa Wood, MD
Cardiology
Lee Health Heart Institute
6630 Orion Drive Suite 208
Fort Myers, FL 33912
(239) 343-1346
leehealth.org



Joseph Yurich
General Surgery
General Surgery Institute
15730 New Hampshire Ct
Fort Myers, FL 33908
(239) 481-0033
generalsurgeryinstitute.com

MEMBER NEWS

Joint Implant Surgeons of Florida
Dr. John Thompson and **Dr. Darrick Saunders** will join the practice on June 1, 2024. They will be located in our new office, 657 Del Prado Blvd S., Cape Coral.

Dr. Kevin McCracken will exit the practice on May 15, 2024.

Dr. Dennis Sagini will exit the practice on June 15, 2024.

Dr. April Fetzer will exit the practice on June 22, 2024.

Patients of Drs. McCracken, Sagini or Fetzer will transition to another provider. The practice will continue to offer Orthopedic, Spine and Pain Management Services.

Dr. David Rock will exit **Regional Breast Care**, part of the GenesisCare network, at the end of May. **Dr. Kelly Elleson** will remain at the practice and assume care for all current and new patients.

CLASSIFIED AD

GET OUT OF TOWN TRAVEL.NET
Our prices are the same or less than booking online or direct. **NEVER A SERVICE CHARGE!**
You also get our **\$100 TRAVEL GIFT CARD!**
Without our 40+ years of experience, you are on your own! We do **CRUISES, TOURS, SKI & GOLF TRIPS** and more.
(239) 596-4142 or nreyelt@yahoo.com

NAVIGATING THE CHANGING CPT LANDSCAPE - KNOW YOUR MODIFIERS!

PRESIDENT'S MESSAGE: Scott Caesar, MD

At the start of 2024, The Center for Medicare Services again passed legislation to reduce medicare reimbursement by an average of 3.4% at the start of 2024.

While new legislation and spending packages passed in the Spring reduced this cut to about 2%, the trend of decreased reimbursement and increasing costs of practicing medicine continues. From primary care, to medical and surgical specialties, cuts have ranged from 1-15% for the same procedures we have done our entire careers.

While these cuts and rising costs pose new strains on our practice patterns, staff, and patients, it is important to read about other details in the new legislation. In particular, are the rules and additions of existing and new modifiers to billing that can be used to get reimbursed properly for the work you have performed.

Most of these modifiers are well known. Modifier -25 applies to E&M visits that are separate and identifiable during the same day a procedure is performed. While most surgeons know how it applies to seeing a patient for an office visit the same day as an in-office procedure such as a cystoscopy or skin biopsy, it's important for primary care doctors to utilize this modifier as well. When giving an IM injection for any diagnosis, make sure to apply at -25 modifier to the E&M visit associated with a different diagnosis. Not using it will likely get your level 2, 3, or 4 established visit denied for payment. This applies to other E&M modifiers such as -24 (care of a different diagnosis during a post-operative global

period) and -51 (multiple procedures performed in the same session) as well.

New modifiers have been introduced to try and offset the cuts CMS has bestowed on the medical community. Most notably is the modifier code of G2211. Modifier G2211 reflects the time, intensity, and practice resources involved when physicians provide office/outpatient visits that build longitudinal relationships with patients and address the majority of a patient's health care needs with consistency and continuity over longer periods of time; and the allowable reimbursement is \$16.05. This applies to all chronic conditions like diabetes, prostate cancer, HIV, sleep apnea, etc.

As always, it is imperative to discuss these new modifiers and existing ones with your coding and billing specialists before utilizing them. However, the majority of these codes, most of all G2211, are being grossly underutilized per CMS.

In conclusion, while CMS has imposed new challenges to new and existing practices, existing and new modifiers exist that should be studied and used to get you paid for the work you perform.



JOBS IN MEDICINE

CURRENT JOB OPENINGS

APRN / PAs
(Lee County)

South Florida Surgical Oncology is seeking a full-time APRN/PA to join its specialty practice in Ft. Myers.
View the entire job listing at
lcmsfl.mcjobboard.net/jobs

WHAT IS THE LCMS JOB CENTER?

LCMS is pleased to announce a new member benefit! Post job openings for doctors and medical support providers, add your resume, or search a database of available Lee County jobs in the healthcare field.

Member pricing is lower than competitor job boards. Non LCMS member healthcare providers are encouraged to use this service too!

Start recruiting at: lcmsfl.org/jobboard

6-WEEK ABORTION BAN IN EFFECT

A 15-week abortion ban passed by Florida Legislature in 2022 went into effect last month after the state Supreme Court overruled a 34-year-old decision that said a privacy provision in the state constitution protected a woman's right to terminate a pregnancy.

The court's ruling thus triggered a **6-week ban, effective May 1, 2024**, that the Legislature passed in 2023. There are exceptions for victims of rape or incest, and procedures to correct ectopic pregnancies, premature rupture of membranes or miscarriages are not prohibited. Abortions can also be performed after two physicians certify in writing, that, in their judgment, a mother's life is in danger and an abortion is necessary.

Floridians seeking an abortion after 6 weeks will need to travel to North Carolina, where the limit is 12 weeks, or Virginia, where there are no abortion bans.

In a unique twist, the Florida Supreme Court also ruled that a proposed constitutional amendment about abortion could go on the ballot in November. If approved by voters, all bans would end and Florida laws would return to a time when Roe vs. Wade was in force.

PLANNING FOR EMERGENCIES & DISASTERS

THE RAMIREZ REPORT: Julie Ramirez, CAE, LCMS Executive Director



On Friday, May 10th, I had the opportunity to be a panelist at the Horizon Council's Business Continuity Workshop. For additional assistance, check out floridadisaster.org.

The workshop concentrated on the steps required to prepare and recover from a natural disaster. I would like to thank the practice administrators who allowed me to gather information from them! Here are some items to consider and questions to ask yourself as you prepare an emergency disaster plan for your business:

- Check your business insurance to ensure that it is up to date and covers the present value of your business. Consider insurance for lost power, floor insurance or renters' insurance.
- Knowing that you will most likely lose power, buy a generator before hurricane season starts. If you evacuate, take it with you so it isn't damaged from flooding. My husband bought us a \$500 WEN generator that is 40 lbs, easy to start, and small enough to travel with. It can run my whole house, minus the AC and stove. Having a generator will at least give you lights and power for your wifi.
- Know what evacuation zone your business is in. Download the LEE PREPARES APP to receive updates on evacuation instructions.
- Can you operate at a different location or remotely if one of your offices is damaged?
- Do you have cash to continue business operations?
- When it comes to staff and employees – do you have a most recent contact list? Can you connect quickly using an app (like WhatsApp) to communicate with?
- What is your expectation of employees returning to work and do they know it?
- Where are you keeping all your important documents, such as insurance papers, tax forms, bank statements, etc? You'll need these documents for any governmental aid you might require after a storm. Consider scanning or photographing and save them to the cloud or a Google drive.
- Develop a plan early. The more you plan, the more prepared you will be.

ADVANCED PROVIDER JOB FAIR

The Society hosted its first **Advanced Medical Provider Job Fair** on Saturday, April 20, 2024 at Collaboratory. The event provided dozens of area healthcare professionals – including PAs, NPs, and ARNPs – with an opportunity to meet eight local physician practices, clinics and hospitals seeking to fill advanced provider positions in a variety of specialties. Feedback from all participants was positive and the Society is planning to include the Job Fair as an annual Spring event.



The Job Fair coincided with the launch of the **LCMS Job Center**: a healthcare provider job board that LCMS is offering to its members as an alternative to large-scale business hiring platforms. LCMS will promote job postings to its members and healthcare recruitment partners.

Discover more at LCMSFL.org/JOBBOARD

THE NEW FTC RULE ON NON-COMPETES: HOW DOES IT IMPACT PHYSICIANS?

ANALYZING THE DICHOTOMY BETWEEN REGULAR PHYSICIANS AND SENIOR EXECUTIVE PHYSICIANS

by: Attorney Ben Migra

The short of it is that most clinical workers, including physicians, will no longer have to comply with non-compete agreements.

Congrats, most have been liberated. However, if a healthcare worker is making more than \$151,164 per year AND is deemed to be a senior executive, then the non-compete provisions will apply. For instance, the CMOs are not off the hook. Let's see how the commission and the courts apply the rule, or what the legislature has in store.

Here is the Breakdown:

The Federal Trade Commission's (FTC) recent introduction of 16 CFR Part 910 represents a landmark transformation in the governance of non-compete agreements, with profound implications for the medical profession. This regulation delineates a nuanced approach to non-compete clauses, particularly affecting two distinct categories within the healthcare workforce: regular physicians engaged primarily in patient care and senior executive physicians who hold significant administrative or policy-making roles. The rule's bifurcated impact stems from its reliance on two pivotal criteria: the earnings test and the job duties test. This article delves into the ramifications of these criteria for both sets of physicians, aiming to unpack the complexities of how the new rule reshapes their professional landscapes.

Overview of the Regulatory Framework

At the heart of the new FTC rule is an attempt to strike a delicate balance: it seeks to protect workers from overly restrictive non-compete agreements while acknowledging the legitimate interests of employers in safeguarding their operational integrity. For healthcare professionals, the rule sets a compensation threshold of \$151,164, above which physicians could potentially be exempt from certain non-compete restrictions, provided they also fulfill a job duties criterion. This criterion necessitates a significant engagement in policy-making activities, thereby creating a dual threshold that distinguishes between those whose roles are primarily clinical and those with substantial administrative or executive responsibilities.

Impact on Regular Physicians

For the majority of physicians whose work is predominantly clinical, the new FTC rule offers a promising liberation from the constraints of non-compete clauses. These physicians, whose daily duties are focused on patient care rather than organizational policy-making or strategic

decision-making, are unlikely to meet the dual criteria for exemption. Consequently, this group stands to benefit from increased professional mobility, allowing for greater flexibility in employment opportunities and potentially fostering a more competitive and dynamic healthcare market. This shift acknowledges the essential nature of their clinical work and aims to ensure that patient care and access to healthcare services remain paramount, unaffected by the deterrent effects of restrictive non-compete agreements.

Senior Executive Physicians: A Differentiated Perspective

On the other end of the spectrum, senior executive physicians—those who occupy pivotal roles in the strategic and policy-making echelons of healthcare organizations—face a different set of considerations under the new rule. These individuals, by virtue of their compensation and the nature of their job duties, might qualify for the senior executive exemption, subjecting them to a more nuanced evaluation of their non-compete agreements. The rule recognizes the unique position of these physicians, whose decisions and leadership significantly influence the direction and operational strategies of their organizations. For them, the rule does not outright preclude the application of non-compete clauses but instead requires a demonstration that their roles are indeed of a nature that justifies such restrictions. This approach seeks to balance the protection of the physicians' rights to mobility with the healthcare organizations' need to protect sensitive information and maintain competitive advantage.

Conclusion

The FTC's new rule on non-compete agreements introduces a critical distinction between regular physicians and senior executive physicians, reflecting a nuanced understanding of the diverse roles within the healthcare sector. For regular physicians, the rule promises enhanced professional freedom and mobility, potentially leading to improved healthcare delivery and access. For senior executive physicians, it presents a framework that acknowledges their unique contributions to healthcare organizations while still offering protections against unwarranted restrictions on their employment. As the implications of this rule unfold, it will be essential to monitor its impact on the healthcare workforce, organizational dynamics, and the overall quality of patient care. The ultimate success of the regulation will hinge on its ability to harmonize the diverse interests at play, fostering an environment where both physicians and healthcare organizations can thrive.

For the majority of physicians whose work is predominantly clinical, the new FTC rule offers a promising liberation from the constraints of non-compete clauses.

LCMS FOUNDATION 5K RUN / 2K WALK RESULTS & PHOTOS

OVERALL MEN

First Place: Corey Duffek - 19:49
Second Place: James Murphy - 19:53
Third Place: Cameron Nicholson - 27:36

OVERALL WOMEN

First Place: Rosie Quezada - 29:03
Second Place: Maria Marraffino - 29:06
Third Place: Michele Brisson - 29:56



View all the results at [LCMSFL.org/5krun](https://www.lcmsfl.org/5krun)

More photos and finish line video on our Facebook page

NEW REPORTING REQUIREMENT FOR MOST MEDICAL PRACTICES THAT DO BUSINESS AS A CORPORATION OR LIMITED LIABILITY COMPANY

by: Attorney Linda R. Minck

Congress passed the Corporate Transparency Act on a bipartisan basis. This law creates a new beneficial ownership information ("BOI") reporting requirement as part of the U.S. government's efforts to make it harder for bad actors to hide or benefit from their ill-gotten gains through shell companies. A business which qualifies as a "Reporting Company" needs to file the BOI Application this year if the entity(ies) were filed before 2024 and anytime there is a change of beneficial owners or addresses.

If an entity is a Reporting Company and was or is filed after January 1, 2024, but before January 1, 2025, then it will need to file the BOI Application within 90 days after the entity is formed. If the entity is formed AFTER January 1, 2025, then the BOI Application must be filed within 30 days of creation of the entity. There are 23 types of businesses exempt from reporting. The definitions of a Reporting Company and those exemptions are in the Small Business Guide which can be found at <https://FinCEN.gov/BOI>. FinCEN's BOI webpage also provides a Small Entity Compliance Guide; answers to Frequently Asked Questions; and an introductory video.

There is a good probability that most medical practices who do business through a corporation or limited liability company will need to file a BOI Application. However, some entities may meet the exemption for a large operating company if all six of the criteria required apply to the entity. Thus, all medical practices should review the Small Business Guide and comply if an exception is not met.

If a practice has more than one entity, a BOI Application would likely need to be done for all entities, i.e., if there is an entity for the practice and one to own a building, then file for both. The willful failure to timely report complete or updated ownership information to FinCEN or provide false or fraudulent information may result in civil or criminal penalties, including civil penalties of \$500 per day that the violation continues or criminal penalties including imprisonment up to 2 years and/or a fine of up to \$10,000.

In order to be prepared to file the BOI Application, the following information should be gathered for each entity: Full legal name; Tradename or DBA (if any); Employer Identification Number; Business address; Owners' (members' or shareholders') names, dates of birth, residential addresses, and the same information for the Applicant of the Reporting Company (including a copy of the Applicant's driver's license). There are several other

types of Proof of Identity if any of the individuals do not have a driver's license. The Applicant information is not necessary if the Reporting Company was formed before January 1, 2024.

Tips for Filing an Online BOI Application:

Read the Small Business Guide. It has easy-to-read definitions, instructions, and a good chart to ascertain if an entity needs to report. To find the Small Business Guide, go to <https://FinCEN.gov/BOI> and click on the blue block on the left side that reflects Small Business Resources and choose Small Business Guide and review it. After you review the Guide, gather the information, and download the drivers' licenses needed, completing the Application should only take about 30 minutes. Do not stop and close a partial application without filing or info may be lost and then will need to be re-entered.

Next, file on-line by choosing "File BOI E-filing" on the top right of the Small Business Resources page. When completing the Application, leave the dash that is in your EIN out of the form.

When moving forward to the next page, at the bottom right corner, hit the blue "NEXT". To go back pages, hit the blue "PREVIOUS" button. Do not try to use the arrow keys or information may be lost.

Download the drivers' licenses to be dragged into the Application when asked to do so.

When the application is submitted, if advised that there were incomplete section(s), just hit "PREVIOUS" to see the sections with a red square around them and complete them.

When the Application is complete, a confirmation will appear. Download it for the Reporting Company's File.

Alert: FinCEN has been notified of recent fraudulent attempts to solicit information from individuals and entities who may be subject to reporting requirements under the Corporate Transparency Act. The fraudulent correspondence may be titled "Important Compliance Notice" and asks the recipient to click on a URL or to scan a QR code. Those e-mails or letters are fraudulent. FinCEN does not send unsolicited requests. Please do not respond to these fraudulent messages, click on any links, or scan any QR codes within them.

Attorney Linda R. Minck has provided legal assistance to physicians in SW Florida for over 30 years. More about her firm's services at www.minck-law.com.

The willful failure to timely report complete or updated ownership information to FinCEN or provide false or fraudulent information may result in civil or criminal penalties, including civil penalties of \$500 per day...

2nd Annual

GOLF *tournament*

October 12, 2024

8:30 AM Tee Off

**Forest Country Club
6100 Club Blvd SW
Fort Myers, FL 33908**



Want to Sponsor? Email marketing@lcmsfl.org

Start Building Your Foursome!

KEY FACTORS IN A DEPOSITION: WHAT HEALTHCARE PROFESSIONALS CAN EXPECT

by: Richard F. Cahill, JD, Vice President and Associate General Counsel, The Doctors Company

A deposition is a discovery tool used in virtually all forms of civil, administrative, and criminal litigation. It provides an opportunity for the defense and prosecution to identify information that is material to a claim, assist in developing strategies for trial, and formally preserve testimony for use at a later time.

Depositions are conducted under oath in a verbal question-and-answer format by counsel for all of the parties to the proceeding. Although the deponent (the person being questioned) is often a participant to the legal action, more commonly the individual has specific—and possibly unique—knowledge relevant to the case.

The questioning may require several sessions and is frequently conducted over many days, with weeks or sometimes months in between sessions. Depositions are always recorded, traditionally by a certified shorthand reporter, who then transcribes the exchanges into a verbatim document that the deponent is required to sign. With increasing regularity over the past decade, the testimony is now also preserved by separate audio and video technologies.

Most deponents, whether a party to the proceeding or a witness, are represented by an attorney. Legal counsel can protect the interests of the client-deponent. In preparation for a deposition, counsel will meet with a client well in advance to explain the process; offer recommendations on demeanor, dress, and other important considerations; provide valuable suggestions on pitfalls to avoid; and identify probable areas of questioning by the attorneys who will attend the deposition.

Key Factors for Deponents

Contact The Doctors Company immediately for further assistance if you receive notice of a deposition as responses are time sensitive. Deponents must keep several key factors in mind.

Prepare in advance. The deponent must be prepared in advance about the likely scope of the examination and review materials that counsel provides. Advance preparation helps to expedite the process and better ensure the accuracy of the testimony. Opposing counsel is entitled to review any documents that the deponent has examined and to know the names of any individuals the deponent has spoken with about the case. The content of any conversation between the client and lawyer is, however, protected from disclosure as a matter of law by attorney-client privilege.

Tell the truth. The oath given at the outset of the proceeding is critically important. Although the swearing-in process varies by jurisdiction, all deponents must promise to “tell the truth, the whole truth, and nothing but the truth.” Failure to comply with the oath reasonably and in good faith when responding to questioning may be considered perjury that is punishable, often as a felony, by the prosecuting authorities and may result in fines, sanctions, and even imprisonment. A deponent who is

caught in a lie will be cross-examined even more rigorously, and the court, arbitrator, or other administrative commissioner will likely allow greater latitude in the scope, tone, and severity of the interrogation. The oath also requires that responses are truthful, accurate, and complete. Embellishments, intentional omissions, and shading the truth are prohibited.

Answer the question asked. Deponents should listen carefully, answer only the question being asked, and then stop talking. Volunteering extraneous information prolongs the proceeding, identifies potential new areas of inquiry that opposing counsel may not have previously considered, and occasionally subjects the deponent to objections by any or all counsel, with corresponding motions to strike the unnecessary portion of the response. One classic tactic is for the attorney to pause, leaving dead air that tends to be uncomfortable and can lead the deponent to resume talking. This opens the possibility of revealing detrimental information not specifically sought by the original inquiry.

Consider yes and no responses. Deponents need to be careful of questions that apparently call only for a “yes” or “no” answer. This is a strategy frequently used by counsel to box the deponent into a simple and potentially damning response or admission against interest. If the question can be truthfully and fully answered with either a yes or no, respond and wait for the next question. If more information is necessary to be accurate, the deponent should state this on the record and wait for the lawyers to offer their opinions. The deponent will be given direction on how to proceed.

Provide accurate information. Deponents should do their best to provide the most accurate testimony at the time of the deposition. Although a transcript can be changed prior to the deponent’s final signature, corrections tend to lessen the individual’s credibility. If the matter proceeds, a heavily corrected transcript can even increase the probability that the deponent will be vigorously questioned during any subsequent appearance.

Maintain respect. When providing deposition testimony, be well prepared in advance, appear on time and appropriately attired, act professionally and courteously at all times, stay focused, and respond to the questions directly and with respect. Defer when counsel interrupt the proceedings with objections, motions, argument, or requests for clarification.

Additional Assistance: For more information on the litigation process in general, see “Coping With Litigation: Tips for Healthcare Professionals.” If you are served with notice of a deposition, contact The Doctors Company immediately and our experts will guide you. Contact a claim specialist or patient safety risk manager on our 24-hour hotline at (800) 421-2368, or contact the Claim Administrative Support Team or a patient safety risk manager by email.

The guidelines suggested here are not rules, do not constitute legal advice, and do not ensure a successful outcome. The ultimate decision regarding the appropriateness of any treatment must be made by each healthcare provider considering the circumstances of the individual situation and in accordance with the laws of the jurisdiction in which the care is rendered.

PHYSICIAN BURNOUT: IS IT GETTING BETTER OUT THERE?

by: Mollie Page, LCMS Marketing Coordinator

One of the American Medical Association's priorities in its 5-Part Recovery Plan for America's physicians was to reduce physician burnout by working with state medical boards and credentialing bodies to remove from their applications stigmatizing and potentially discriminatory questions that may deter physicians from seeking care. The result of this can now be enjoyed in Florida where many county medical associations—including Lee County—offer mental health wellness programs to members that are 100% confidential.

According to a 2023 article in *Mayo Clinic Proceedings*, **...Burnout differs from depression and other mental health diagnoses and is driven by a mismatch between job demands and job resources.** *Symptoms of burnout occur along a continuum, with studies suggesting that roughly 40% of US physicians, nurses, and advanced practice clinicians are experiencing substantial symptoms in 1 or more...*

At the end of 2021, the physician burnout rate was 63%. How did you feel in 2021? That's the year we met the Omicron strain, watched the Jan 6th Insurrection and the collapse of the Surfside condominium in Miami, Simone Byles withdrew from competition at the Tokyo Olympics citing mental health reasons, and Texas started its 6-week abortion ban.

Is life better for you today?

If you answered "yes...but", then we have a solution. The Lee County Medical Society's Physician Wellness Program blablabla bla bla bla bla. Did you start to tune out there? Hang on.

Give this article one more minute. You know stress increases the risk for hypertension, heart attack, and stroke. And what happens from extended physical exhaustion or mental fatigue?

The Physician Wellness Program is free. You don't have to worry about pre-authorizations, or whether the provider is an approved insurance plan participant. Sessions won't be reported to credentialing agencies or recorded in EHRs either. The only thing close to being this "free and anonymous" are pizza roll samples at Costco on Saturday.

You know what you need to become better. So take your own diagnosis seriously. Make an appointment to talk to a therapist. Because, if you think things could be better, then the PWP removes the stigmatizing barriers stopping you from getting to that better place. No one will know.

Physician members of the Lee County Medical Society can receive up to six (6) FREE counseling sessions in 2024. PWP sessions with our two contracted mental health providers are given priority and can be scheduled within a few days. You can select in-person or virtual sessions, in Collier or Lee County.

Once you select your preferred psychology group, simply call their office to schedule an appointment and let them know you are an LCMS member and would like to use the PWP program for counseling. They will verify your membership by using the physician member finder on our website.

The Center for Psychology
Private Line for LCMS Members:
(239) 208-3984

Associates In Family Psychology
(239) 561-9955

TAVR FOR AORTIC STENOSIS AVAILABLE IN LEE COUNTY

Aortic Stenosis (AS) is a debilitating, deadly, and progressive disease, with a mortality as high as 80% in 5 years, worse than many cancers. Unfortunately, it is also a common disease with a prevalence of about 5% in patients >70 years old—this is expected to triple by 2060. It is a mechanical obstruction of the aortic valve due to calcium accumulation that requires a mechanical solution to cure. Traditionally, this meant open heart surgery.

Transcatheter Aortic Valve Replacement, also known as TAVR, was FDA approved in 2011. Since this time, TAVR has given patients a safe alternative to traditional open-heart surgery. Using a catheter to deliver a replacement valve, TAVR has offered patients of all risks a solution to their AS. After this 30-minute procedure, most patients are discharged within 24 hours. These patients return to their normal lives within days. Benefits of TAVR over traditional open-heart surgery

include both a shorter procedure and recovery time, as well as less pain, smaller incision, and improved quality of life. The Lee Health Heart Institute – Cardiothoracic Surgery located at Shipley Cardiothoracic Center is the largest and most experienced TAVR program in Southwest Florida, having completed more than 2100 cases since inception in 2011. Our multidisciplinary team completed the first commercial TAVR implantation in Florida, the second in the United States. With over 98% survival rate, our program offers a safe and minimally invasive treatment for this deadly disease.

Early referral to Drs. David Cervantes, Michael DeFrain and Paul DiGiorgi is encouraged for improved outcomes. For more information and to refer your patients with aortic stenosis, please contact the Shipley Cardiothoracic Center at 239-343-6341.



5781 Lee Boulevard, Suite 208-104
Lehigh Acres, FL 33971

PRSRT STD
US POSTAGE
PAID
FT MYERS, FL
PERMIT NO 534

CHANGE SERVICE REQUESTED



Vien Phommachanh, aka "ComicDoc", is a practicing ENT in Sarasota, formerly from Fort Myers. He was past president of Sarasota County Medical Society and has started a second career as a comedian.

He will be performing in the White Collar Comedy Show at Arts Bonita's Venturino's Comedy Club in Bonita Springs on **June 13th**. Use code "CCMS20" to enjoy 20% off tickets at www.artsbonita.org
