

# The Florida Society

## NEWS of Thoracic & Cardiovascular Surgeons

Volume No. 26

Spring 2004



### President's Message

*T. Peter Downing, M.D.*

Dear Colleagues:

I would first like to thank Kevin Accola for the superb job he did organizing and directing our Society for the previous two years. During his tenure we were able to accomplish significant consolidation of our legislative efforts. The meetings which he directed were superb, and the participating members had an opportunity to become more bonded. He is to be congratulated for his dedication, organization and, of course, his wit. Hopefully, I will be able to come close to these standards established by Kevin and our presidential predecessors. Naturally, the Council has been extremely supportive in helping the Presidents accomplish any goals.

At the February meeting, during the socioeconomic session, I had planned on providing some information regarding my thoughts about the problems facing our Specialty. The members in attendance were mainly Council Members, and we acceded the time to Congressman Allen Boyd. He addressed us about the problems in getting the Federal Government interested in our plight. He basically said that the problems of cardiovascular surgeons, or perhaps even surgeons in general, at the current level is too specific a problem for the Federal Government to address, as there are so many other issues taking precedence. I had also planned on having Ms. Lynn Bodiford, the State Coordinator of AARP, to talk with us about possible coalition between our group and AARP. Unfortunately, at the last minute she had to cancel because of acute family problems. We will continue to get AARP involved in our next meetings.

When I accepted the nomination for Presidency, I promised that I would try to dedicate much of the Council's time towards halting the deterioration in our specialty caused by a distortion of the public perception and subsequent increased litigation and decreased reimbursement. We are hospital based surgeons, and as have our general surgery colleagues, we have lost the mystique associated with our specialties. We are exposed to increased legal embarrassment, frustratingly overburdening regulations, and insidious deterioration of our financial status. Also, because

of the improvement in invasive cardiology, our jobs have become much harder, as the patients who are left for surgical intervention are much more complicated. Obviously, the incentive for other physicians to follow in our footsteps is diminishing rapidly.

I believe that we have specific problems which can be addressed. Unfortunately, we must worry about the legality of conglomerate efforts, but despite this menace, we must continue to band together. There is a necessity for a major change in the way our Society has functioned. In the past, we have functioned with 10-12 elected Councilors attending almost all the meetings and having conference calls to make a decision which involves the quiet majority of the other 80% of our members. A positive result, however, from any actions will not be taken unless the other quiet majority becomes a vocal majority, as we will talk about later. We must have a greater number of the Florida state heart surgeons active at our meetings, although this perhaps can be facilitated with the new updated FSTCS.org website.

In my opinion, there are a number of items which can be addressed. We should be strong supporters of the FMA and its goal towards reducing the contingency fees of attorneys via the Medical Liability Claimants Compensation Amendment. We can help with this by enlisting our patients, not just those in our office, but by mailing old patients position papers so that they may send them in and pass them out to their friends. We can interact with each other about the benefits and risks of going bare, or perhaps even consider creating an in-house insurance which will satisfy the requirements of the state and still provide us with some much less expensive protection. We may be able to decrease our liability by creating a legal review panel, which

*continued on next page*

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# The Florida Society of Thoracic and Cardiovascular Surgeons News

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will be presentable in court, both in defense and also to perhaps expedite a settlement for true malpractice.

We must address our economic situation, as reimbursement has dropped to a point which for 98% of the surgeons in the State is far too low. There are acceptable ways which we can work together in both the public and private sectors to hopefully change the direction that reimbursement has gone. An outside consulting firm could advise us of the necessity to establish a minimum charge for a procedure. The policymakers can be influenced if we enlist the help of our patients by letter and by regional discussions with our elected legislators. Perhaps there would be a possibility of deducting non-reimbursed care (indigent) on our tax returns to entice us to want to do it. It also seems reasonable that the new Cardiac Surgery Licensing Board, which is replacing the Certificate of Need, should have one of our members on its panel. Hopefully, these are things we will be able to accomplish.

This is a brief composition of my thoughts. We cannot affect anything unless more of you participate. Hopefully, in the next 2 years, during which I will be President, I will be able

to enlist your help on various committees, most of which will be for enlisting the help of individuals to bring everyone into a similar fold.

I look forward to this opportunity.

Sincerely yours,

T. Peter Downing, M.D.

**\*\*\*ANNOUNCING\*\*\***

**FSTCS IS NOW ONLINE!!**

For the latest Society  
News and Information,  
please visit our  
**NEW website:**

**[www.fstcs.org](http://www.fstcs.org)**



## FSTCS Council 2004 - 2005

### Officers

T. Peter Downing, MD; **President**  
J. Crayton Pruitt, Jr, MD; **Secretary/Treasurer**  
Kevin D. Accola, MD; **Immediate Past President**

Palm Beach Gardens [tpdowni2@aol.com](mailto:tpdowni2@aol.com)  
Clearwater [kjoling@heartsurgery-csa.com](mailto:kjoling@heartsurgery-csa.com)  
Orlando [kaccola@cvsorlando.com](mailto:kaccola@cvsorlando.com)

### Councilors

Scott H. Bronleewe, MD  
Roger G. Carrillo, MD  
Gary D. Dworkin, MD  
Edward G. Izzo, Jr., MD  
John M. McKinney, Jr, MD  
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Derek D. Muehrcke, MD  
Edward D. Staples, MD  
M. André Vasu, MD

Tampa [c.csaot@gte.net](mailto:c.csaot@gte.net)  
Miami Beach [rogercar@aol.com](mailto:rogercar@aol.com)  
Clearwater [kjoling@heartsurgery-csa.com](mailto:kjoling@heartsurgery-csa.com)  
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Jacksonville [dmuehrcke@aol.com](mailto:dmuehrcke@aol.com)  
Gainesville [stapled@mail.surgery.ufl.edu](mailto:stapled@mail.surgery.ufl.edu)  
Punta Gorda [mvasu@comcast.net](mailto:mvasu@comcast.net)

### By-Laws & Membership Committee

Dennis F. Pupello, MD; **Chairman**  
Derek D. Muehrcke, MD

Tampa [eleal@pupello.net](mailto:eleal@pupello.net)  
Jacksonville [dmuehrcke@aol.com](mailto:dmuehrcke@aol.com)

### Legislative Policy Committee

Gary D. Dworkin, MD; **Chairman**  
Brian W. Hummel, MD  
Edward G. Izzo, Jr., MD

Clearwater [kjoling@heartsurgery-csa.com](mailto:kjoling@heartsurgery-csa.com)  
Ft Myers [Bhummel@swflheartsurgery.com](mailto:Bhummel@swflheartsurgery.com)  
Tampa [eizzomd@tampabay.rr.com](mailto:eizzomd@tampabay.rr.com)

### Program Committee

Thomas F. Kelly, Jr., MD; **Chairman**  
Jeffrey N. Bott, MD  
Mark A. Malias, MD

Sarasota [heartsurgeon4@aol.com](mailto:heartsurgeon4@aol.com)  
Orlando [kbott@cfl.rr.com](mailto:kbott@cfl.rr.com)  
Melbourne [mark.malias@health-first.org](mailto:mark.malias@health-first.org)



## 2004 Legislative Wrap-Up

Christopher L. Nuland, Esq.  
Society Legal Counsel

2004 has been an active year for medicine, and especially so for the FSTCS, with the Society participating in a myriad of public policy debates throughout the State:

**CON:** The ongoing CON debate was finally settled this year, with two bills (SB 182 and HB 329) being passed that will change the way in which open heart surgery is regulated. While Open Heart Certificates of Need will not vanish (so as to allow current programs to continue), new programs that meet staffing, equipment, and patient volume standards will be allowed to obtain licenses. The actual standards will be promulgated by AHCA, with the assistance of a workgroup of which the FSTCS has a statutorily mandated seat. While this issue no longer will be a major legislative issue, the next twelve months will be intensive in the regulatory arena, as the rules surrounding the licensure process are developed.

Also within this legislation was an exemption for non-open heart programs to provide angioplasties so long as they complied with certain quality guidelines (already approved by the FSTCS) and have a transfer agreement with an open heart facility.

**HMO Fee Schedules:** The Legislature passed, and Governor Bush has just signed, SB 1088, which requires managed care organizations to disclose their complete fee schedules to contracted providers.

**Trauma:** While Senate Bill 1762, passed, Governor Bush vetoed the \$21 million in trauma funding that was to have been appropriated with the bill. The Governor hopes that a permanent funding source can be found that does not resemble a tax. One option that was gaining much attention at the end of the session was Senator Atwater's proposal to place a \$7 surcharge on all traffic tickets to fund trauma centers.

**Anesthesiologist Assistants:** After years of trying, the Legislature finally passed the AA Bill (SB626), which will allow PA-type anesthesia providers to work under the direct supervision of an anesthesiologist.

**Bills Defeated:** Organized medicine succeeded in defeating all scope of practice expansion bills, as well as proposals to forbid families and physicians to make end-of-life decisions for patients who are both incapacitated and terminally ill.

A special "thank you" goes to all those physicians who took the time to contact legislators this past year, as well as to the FMA and FHA, whose staffs and diligence helped greatly. Special thanks go to Legislative Chairman Gary Dworkin, M.D., and to staff members Bridget Anderson and Dawn Moerings.

**Regulatory:** The Board of Medicine has been busy all year promulgating rules designed to stem the apparent tide of wrong patient and wrong-site surgeries; a synopsis of these rules is provided.

**Constitutional Amendment Campaign:** As all should know, the FMA is leading an amendment to limit attorney contingent fees in medical malpractice fees, with the trial bar having responded with three amendments of their own. An analysis of the four amendments is attached.

I hope that the above and attached is useful. Should you have any questions, or if I may be of further assistance, please feel free to contact me at (904) 355-1555 or via e-mail at [nulandlaw@aol.com](mailto:nulandlaw@aol.com).



## 2004 ANNUAL MEETING HIGHLIGHTS



The 2004 Annual Meeting at the Doral Golf Resort & Spa in Miami, FL, was a great meeting!

The meeting kicked off Friday afternoon with a very informative Practice Management Seminar covering Legislative Updates on the state and national level and Practice Costs using RBRVS with presentations by Christopher L. Nuland, Esq., and Steve Dickson, Practice Administrator of Cardiovascular Associates in Orlando, FL. Following the seminar, members and industry representatives enjoyed the opportunity to socialize at the welcome reception.

Saturday morning's session included our first Practice Management Breakout Session on "Evaluating Fee Schedules" presented by Steve Dickson. The scientific session began with Dr. Aubrey Galloway presenting "Minimally Invasive Mitral Valve Surgery - New Technologies" followed by a very

informative presentation on "Neurological Complications of Cardiac Surgery" by Dr. David Stump. Following a networking break with our sponsors and exhibitors, Dr. Lars Svensson spoke on the topic "Nuances of Aortic Aneurysm Surgery", and then moderated "Complex Aortic Surgical Cases" presented by Dr. Gary H. Dworkin, Dr. Wistar Moore, and Dr. Crayton Pruitt. During our working lunch, Robert White of FPIC presented "Liability Insurance Company Perspective on Medical Malpractice".

Saturday evening's Awards Banquet was well attended and enjoyed by all. Gift Certificates were presented to the winning foursome from the golf tournament ; Kevin Accola, MD, Dan Corizzo of Bayer, Pete Barcia of CarboMedics, and John Kiriako of Boston Scientific. A special memorial award for Gary Izzo of FPIC was presented to Patrick Ellis. Dr. Kevin Accola was honored as outgoing President with a gavel plaque as Dr. Peter

Downing moves into the Presidency. Entertainment for the evening was Former NASA astronaut, Story Musgrave, MD who shared his spectacular photography and stories from space.

Sunday's socioeconomic session included "Alternative Risk" by William Thompson of Gulf Atlantic Legal Defense, Inc., and "Recent Developments in MD Wealth Preservation" by Jeffrey Phipps of Janney, Montgomery, Scott, LLC; followed by Congressman Alan Boyd presenting "What Can Congress Do?".

This intellectually stimulating scientific meeting provided all the attending surgeons an opportunity to spend more time with each other in a relaxed environment.

Mark your calendar for next years Annual Meeting which will be held February 17 - 20, 2005 at the Westin Innisbrook in Tampa Bay, Florida.

**The Florida Society of Thoracic & Cardiovascular Surgeons gratefully acknowledges the unrestricted educational grants from the following sponsors:**

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**Thank you  
to the  
following exhibitors:**

#### **EXHIBITORS**

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St Jude Medical, Inc.  
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Terumo Cardiovascular Systems**

## 2004 ANNUAL MEETING HIGHLIGHTS



Aubrey Galloway, M.D.



David A. Stump, PhD



Lars G. Svensson, M.D., PhD



Robert White

### 2004 Annual Meeting Invited Guest Speakers



William Thompson



Dr. Downing presents the President's  
Gavel Plaque to Dr. Accola



Golf Tournament Winners: Pete Barcia,  
Dr. Kevin Accola, Dan Corizzo and John Kiriako



Dr. Accola presents Gary Izzo  
Memorial Award to Patrick Ellis



Sheila Palmer, Dr. Story Musgrave  
and Kristin Hummel

### President's Reception and Award Banquet



Dr & Mrs. Peter Downing and  
Dr. & Mrs. George Palmer



Dr. & Mrs. Roger Carrillo



Bayer Representatives enjoying the  
Saturday Night Reception



Dr. Story Musgrave

## FSTCS MEMBERSHIP

You are invited to apply for membership in the Florida Society of Thoracic & Cardiovascular Surgeons. Application forms may be obtained by contacting Bridget Anderson in the Society office; (904) 683-8200 or fstcs@comcast.net or on the Society's NEW website www.fstcs.org. Please send your application with the \$50.00 application fee to:

Membership Committee Chairman  
Florida Society of Thoracic & Cardiovascular Surgeons  
5101 Ortega Boulevard  
Jacksonville, FL 32210

Application deadline is December 15, 2004. Applicants for active and associate membership will be presented for consideration to the council at the 2005 Annual Meeting; February 17 - 20, 2005. Dues are payable upon notification of acceptance.

### **ACTIVE MEMBERS**

- Qualifications:**
1. Certification by the American Board of Thoracic Surgery
  2. Established in the practice of thoracic and cardiovascular surgery for a minimum of two (2) years in the state of Florida.
  3. Provide names of 2 current FSTCS Members outside your own group practice as references.

**Dues:** Annual Dues will be \$250.00 per Active Member

### **ASSOCIATE MEMBERS**

- Qualifications:**
1. Have completed training in an approved thoracic and cardiovascular residency program
  2. Are in the process of acquiring certification
  3. Are licensed to practice in the State of Florida.
  4. Provide names of 2 Current FSTCS Members outside their own group practice as references.

**Dues:** Annual Dues will be \$200.00 per Associate Member

### **\*\*\*NEW\*\*\* ALLIED HEALTH PROFESSIONALS**

- Qualifications:**
1. Any allied health professional that is employed in the field of cardiovascular and thoracic surgery in the State of Florida (i.e. - Administrators, Billing Managers, P.A.'s and Nurses.)
  2. Nomination by an Active member of the Society.

**Dues:** Annual Dues will be \$50.00 per AHP Member

### **FSTCS WELCOMES NEW MEMBERS**

Alessandro Golino, MD - Bradenton  
Robert R. Lazzara, MD - Tampa  
Narayana S. Rattehalli, MD - Brandon

Fraser Keith, MD - Tampa  
Jeffrey H. Newman, MD - Delray Beach  
John S. Schor, MD - Miami  
Ravi Sharma, MD - Brandon

# AMENDMENT WARS

Christopher L. Nuland, Esq.  
General Counsel

With the Trial Bar and Organized Medicine both moving forward with their respective constitutional amendment campaigns, physicians have an increasing need to understand the terms of each of the amendments. Because Organized Medicine likely be outspent considerably during the campaign, its success on these issues will depend largely on the ability of its individual members to communicate to patients and the public the value of Medicine's proposals and the dire public health ramifications of those proposed by the Trial Bar. Moreover, a thorough understanding of each of the amendments will allow an educated physician the opportunity to take full advantage of the favorable law changes while mitigating the negative effects of those adverse amendments that may pass.

### Limitation of Attorney's Fees in Medical Malpractice Cases

Organized Medicine's amendment would limit attorney contingency fees in medical malpractice actions to 30% of the first \$250,000 of any award and 10% of the portion of any award in excess of \$250,000, regardless of whether the award was the result of a judgment or settlement. In determining the amount of any "award," the plaintiff's costs (e.g., expert witnesses, court fees, etc.) would be deducted, and the percentage available would be applied to the lowered amount. The intended and probable result is a larger share of malpractice awards actually being received by the patient, with a proportionately lesser amount going to the attorney. The following is an example of how the amendment could affect an award:

	<u>Current Scenario</u>	<u>If Amendment Passed</u>
\$	\$500,000	\$500,000
Costs	\$80,000	\$80,000
Atty \$	\$166,667	\$92,000
Pt. \$	\$253,333	\$408,000
\$	\$1,000,000	\$1,000,000
Costs	\$80,000	\$80,000
Atty \$	\$333,333	\$142,000
Pt. \$	\$586,667	\$778,000

Some have argued that trial attorneys simply will respond by billing exorbitant hourly charges and write off the fees from losing cases. While there is some merit to this point, it must be remembered that Rule 4-1.5 of the Florida Bar forbids "clearly excessive fees," thereby eliminating the most outlandish of

potential hourly fees.

This amendment would benefit deserving patients by increasing their percentage of monetary awards. It also is felt by many that by discouraging non-meritorious lawsuits, which in turn will reduce and stabilize PLI premiums, more physicians will be able to stay in practice, thereby increasing the public's access to health care.

### **TRIAL BAR AMENDMENTS**

Privately, even the leadership of the Trial Bar itself concedes that its three amendments are vindictive in nature and are designed to punish physicians for having attempted to control attorney fees. Nevertheless, each of the amendments appears patient-friendly at first glance, and only a careful examination of the possible ramifications of each will reveal the dire public health consequences should any of these measures pass. Fortunately, each of the initiatives has severe limitations, and a well-prepared physician may be capable of mitigating the most harmful aspects of each.

#### Three Strikes

This amendment's purported purpose is to eliminate "bad doctors" from the system by revoking the licenses of those physicians adjudicated (by the Board, courts, or arbitration) guilty of at least three instances of medical malpractice. While appealing on its face, this amendment would virtually eliminate the availability of specialists such as neurosurgeons and cardiovascular surgeons, both of whom average more than three suits during their careers (Governor's Task Force Report, 2003).

Fortunately for both physicians and the public, however, the drafters were forced to comply with the Fifth Amendment of the United States Constitution, which forbids a state to deprive any citizen of any property (in this case, a medical license) without due process. As a result, the initiative could not be worded in such a way as to allow a license to be revoked unless each of the "strikes" afforded the physician full due process. It is for this reason that settlements and Board of Medicine findings for violations other than malpractice would not count as "strikes." Therefore, physicians may mitigate the negative consequences of this amendment by carefully negotiating the terms of any settlement agreement.

One facet of this amendment that is likely to be litigated is whether an adjudication of malpractice prior to the amendment's effective date will constitute a "strike." The wording of the amendment itself, along with the Trial Bar's comments, are intended to count past transgressions, but Article I, section 10 of the U.S. Constitution forbids any state from passing an "ex post facto Law," that would punish behavior retrospectively.

#### Lowest Charge

Perhaps the most draconian of the Trial Bar's measures is the proposal to limit a physician's charges to the lowest reimbursement that the physician has agreed to accept for a specific service. For instance, if a physician accepts Medicaid, he would be precluded from charging any payor (private, insurance, HMO, or government) more than the Medicaid rate for that service.

The appeal to the voter is the promise of lower medical costs, as each patient would be paying the lowest possible cost. Such logic, however, is based upon the faulty assumption that physicians will not act as logical economic actors; rather than lowering all of their charges to match their lowest reimbursements, physicians are more likely to refuse lower reimbursements, thereby eliminating most physicians from Medicaid and managed care panels. The most likely result will be a severe disruption to the Medicaid and Managed Care health care delivery networks and a health care crisis for those who rely on such panels for their care.

#### Elimination of Peer Review Privilege

Finally, the trial bar has proposed to eliminate the confidentiality of peer review. This proposal certainly appeals to the public upon first glance, as a lay person's first instinct is that medical errors should not be hidden. Further, the Trial Bar argues that substandard providers (hospitals, practitioners, etc.) will be exposed through such disclosure.

The more likely effect, however, will be the virtual elimination of meaningful peer review, as these programs, knowing that their deliberations and notes would be subject to discovery, will have an incentive to cover-up bad practices instead of openly and honestly addressing them. The result will be an inability for health care providers to make necessary improvements to the health care delivery system, and it will be patients who ultimately suffer.

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## FSTCS 2004 FAMILY SUMMER RETREAT

JULY 9 - 11, 2004



REGISTER NOW for family fun at the Ocean Reef Club & Resort in Key Largo; a 4-star resort with 36 holes of championship golf, 10 tennis courts, award winning restaurants and a 175-slip marina. The Society's "Summer Family Retreat" is fun for the whole family and we invite you to join us for rest, relaxation and a myriad of recreational activities.

The weekend kicks off on Friday, July 9th with the Family Welcome Reception & Dinner at 6:30 p.m.

Saturday morning's breakfast will begin at 7:00 a.m. Beginning at 7:45 a.m., the Scientific Session topic will be R F Ablation - The Maze Procedure. The Eighth Annual Children's Fishing Tournament will be held on Saturday from 9:30 a.m. - 11:30 a.m. Be sure to register your "little one", they might just catch the "Big One"! A Family Buffet Luncheon will be served from 11:30 a.m. to 12:30 p.m. Following lunch, there are two optional family activities: The Snorkeling Trip participants will meet at the Fishing Village at 1:00 p.m. with the boat departing at 1:30 p.m. Space is limited for this popular activity, so make your reservations early!! For those who are landlubbers, a Family Scavenger Hunt will take place from 1:30 p.m. - 3:30 p.m. The Ocean Reef has a wonderful program of organized children's activities;

Reef Club Kids; for children 5 - 11 years. Please call them directly at (305) 367-5830 for schedules, rates and to make your reservations. If you would like to pursue your own adventures, try fishing, sailing, bicycling, golf, tennis, croquet, shopping or sightseeing. The Saturday Evening "Beach Bash" Reception and Dinner on the beach begins at 6:30 p.m., so plan on ending your activities in time to join the evening's festivities.

Sunday morning's breakfast will begin at 7:30 a.m. The Socioeconomic Session will include The Socioeconomic State of Heart Surgery in FL as well as Legislative and Asset Protection Updates from 8:00 - 10:00 a.m.

Make your hotel reservations directly with the Ocean Reef Club & Resort at (800) 741-7333 and ask for the FSTCS group rate of \$125.00 (S/D) or \$230.00 (2 BR condo). For additional resort information, please call the Ocean Reef Club's main

phone #: (305) 367-2611.

If you need more information or a registration form for this meeting, please contact Bridget Anderson; Society Administrator; at (904) 683-8200 or [fstcs@comcast.net](mailto:fstcs@comcast.net) or visit our website at [www.fstcs.org](http://www.fstcs.org).



**Don't forget to register your children for the**

**8th Annual FSTCS  
Children's Fishing Tournament**

**Saturday, July 10, 2004  
9:30a.m. - 11:30 a.m.**

**Come catch  
"The Big One!"**



**Register for your  
choice of family activities:**

**Family Snorkeling Trip  
Saturday, July 10, 2004  
1:00 p.m.**

or

**Family Polaroid Scavenger Hunt  
Saturday, July 10, 2004**





## 2004 SUMMER RETREAT AGENDA

### Friday, July 9, 2004

2:00 p.m. - 5:00 p.m. *Hibiscus Room*

#### FSTCS Executive Council Meeting

6:30 p.m. *Ocean Room*

#### Family Welcome Reception & Dinner

### Saturday, July 10, 2004

7:00 a.m. - 9:00 a.m. *Poinciana/Frangipani*

#### Breakfast with Exhibitors

7:45 a.m. - 9:00 a.m. *Hibiscus Room*

#### RF Ablation (Maze Procedure)

Gary Allen, MD

Irving David, MD

J. Crayton Pruitt, MD

Raymond Waters, MD

9:00 a.m. - 9:30 a.m. *Hibiscus Room*

#### Q & A Session

9:30 a.m. - 11:30 a.m. *Fishing Village*

#### Children's Fishing Tournament

11:30 a.m. - 12:30 p.m. *Reef Conference Center*

#### Family Luncheon

1:00 p.m. - 4:30 p.m. *Dive Shop*

#### Family Snorkeling Trip

1:30 p.m. - 3:30 p.m. *Location TBD*

#### Family Scavenger Hunt

6:30 p.m. *Buccaneer Beach*

#### "Beach Bash" Reception & Dinner

### Sunday, July 11, 2004

7:30 a.m. - 9:00 a.m. *Poinciana/Frangipani*

#### Breakfast with Exhibitors

8:00 a.m. - 8:45 a.m. *Hibiscus Room*

#### The Socioeconomic State of Heart Surgery in FL

T. Peter Downing, M.D.

8:45 a.m. - 9:15 a.m. *Hibiscus Room*

#### Legislative Update

Christopher L. Nuland, Esq.

9:15 a.m. - 9:30 a.m. *Hibiscus Room*

#### How Not To Sabotage Your Life's Purpose

Jeffrey Phipps, Sr.

9:30 a.m. - 10:00 a.m. *Hibiscus Room*

#### Q & A Session

10:00 a.m. **Adjournment**

## How Not to Sabotage Your Life's Purpose

It is my pleasure once again to write a brief article on timely wealth/income preservation issues that effect your practice.

++ Please confirm with your tax advisor that your practice is taking full advantage of IRS Code Section 179, which provides for some pretty significant 2004 tax deductions. You should also inquire as to IRS Code Section 223 applicability to you through your group health insurance plan-a major pre tax deduction may exist for you.

++ The Bonsetto case - court ruled that a homestead owned in a **revocable trust** lost it's exemption from attachment.

++ The Craft case - court allowed Tenants by the Entirety property to be pierced, for the first time, by the IRS. Fear is this could spread to other non tax disputes.

++ The Chauncey case - court allowed, for the first time, a lien on homestead due to fraudulent transfer.

++ The Yates case - court ruled that an employer and employee are both protected under ERISA, in this instance, an MD corporate retirement plan. Good news for the physician.

Please contact me if you have questions.

*Jeffrey P. Phipps, Sr.*

*Executive Vice President / Investments*

*Janney Montgomery Scott LLC*

### The Phipps Group - Physician Wealth Management

*jphipps@jmonline.com*

*tel: 561-361-3954 • 800-613-1327 • fax: 561-362-7470*

## Web Sites of Interest

The Florida Society of  
Thoracic & Cardiovascular Surgeons:  
[www.fstcs.org](http://www.fstcs.org)

Society of Thoracic Surgeons:  
[www.sts.org](http://www.sts.org)

American College of Surgeons  
[www.facs.org](http://www.facs.org)

The Cardiothoracic Surgery Network  
[www.ctsnet.org](http://www.ctsnet.org)

## Communications for Staff

Communications for Staff

Cliff Rapp, Vice President of Risk Management, First Professionals Insurance Company

Establishing good communication and rapport is tantamount to creating a solid physician-patient relationship - a significant challenge since the advent of managed care. Good communication is arguably the most effective claim prevention measure a physician can institute. Often the anger that patients feel stems from their perception of a lack of communication or support. At times a patient's communication with those on staff can be more important than that of physician-patient dialogue. Studies indicate that patients tend to spend more time communicating with a physician's office staff than with their doctor. Consequently it is important that every level of your staff be trained in effective communication and prevention of communication errors when dealing with patients.

### Communication Errors

Office staff should be mindful that the patient may be experiencing a variety of emotions, including uncertainty, embarrassment, shyness, and fear. When these emotional states exist, it takes very little in the way of real (or imagined) miscommunication to create a negative environment that could have serious consequences.

Inadvertent mistakes in attitude and/or body language, no matter how trivial they may seem at the time, can be important in triggering a chain of events that could lead to litigation. In contrast, a comforting word, an unexpected gesture of kindness, or a simple

expression of caring often will engender positive patient relations and favorable relationships. Members of the physician's staff should be trained in the same effective communication techniques as the physician.

### Telephone Routines with Patients

The telephone, that most essential tool of communication, also can be a dangerous instrument. It is your principle conduit to the patient, the hospital, the laboratory, the radiology department, other physicians, and even your fellow office staff members. Great care should be taken to practice good communication skills.

The following points should be remembered by physician's staff when communicating with patients whether by phone, fax or in person.

- Remember that the patient is under stress. Always be courteous and maintain your professionalism.
- Do not practice medicine over the telephone. If there is the slightest doubt about instructions or advice, check with the physician first. If the physician is not immediately available, assure the patient that you will return the call as soon as possible.
- Establish procedural guidelines with your physicians for managing urgent problems, scheduling difficulties, or unexpected visits.

- Always try to obtain sufficient information about the patient's medical problem and the degree of urgency so the message you convey to the physician is sufficiently detailed in order to facilitate (to allow him/her to make) enlightened decisions. If the patient is reluctant to discuss details of symptoms or distress, refer him/her directly to the physician.
- The same recommendations apply to phone calls from anxious or irate relatives of the patient. They should be referred to the physician.
- Be sure you have the names and phone numbers of the physicians who are on call.

Cliff Rapp is Vice President of Risk Management for FPIC (First Professionals Insurance Company), a leading provider of professional liability insurance for physicians, dentists, and other healthcare providers in Florida, Georgia, and Arkansas.

Information in this article does not establish a standard of care, nor is it a substitute for legal advice. The information and suggestions contained here are generalized and may not apply to all practice situations. FPIC recommends you obtain legal advice from a qualified attorney for a more specific application to your practice. This information should be used as a reference guide only.

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### *Amendment Wars continued from page 7*

It remains to be seen whether this law may supercede the provisions of the federal Health Care Quality Improvement Act of 1986 (42 USC 11111, et seq.), as that national law already provides a measure of confidentiality for reports to the National Practitioner Data Bank, and the supremacy clause of the U.S. Constitution forbids any state law (including a constitutional provision) from contradicting a federal law. However, the federal law does not confer confidentiality on peer review proceedings, allowing state law to address this issue; as a result, the passage of this amendment effectively would eliminate confidential peer review within the State of Florida.

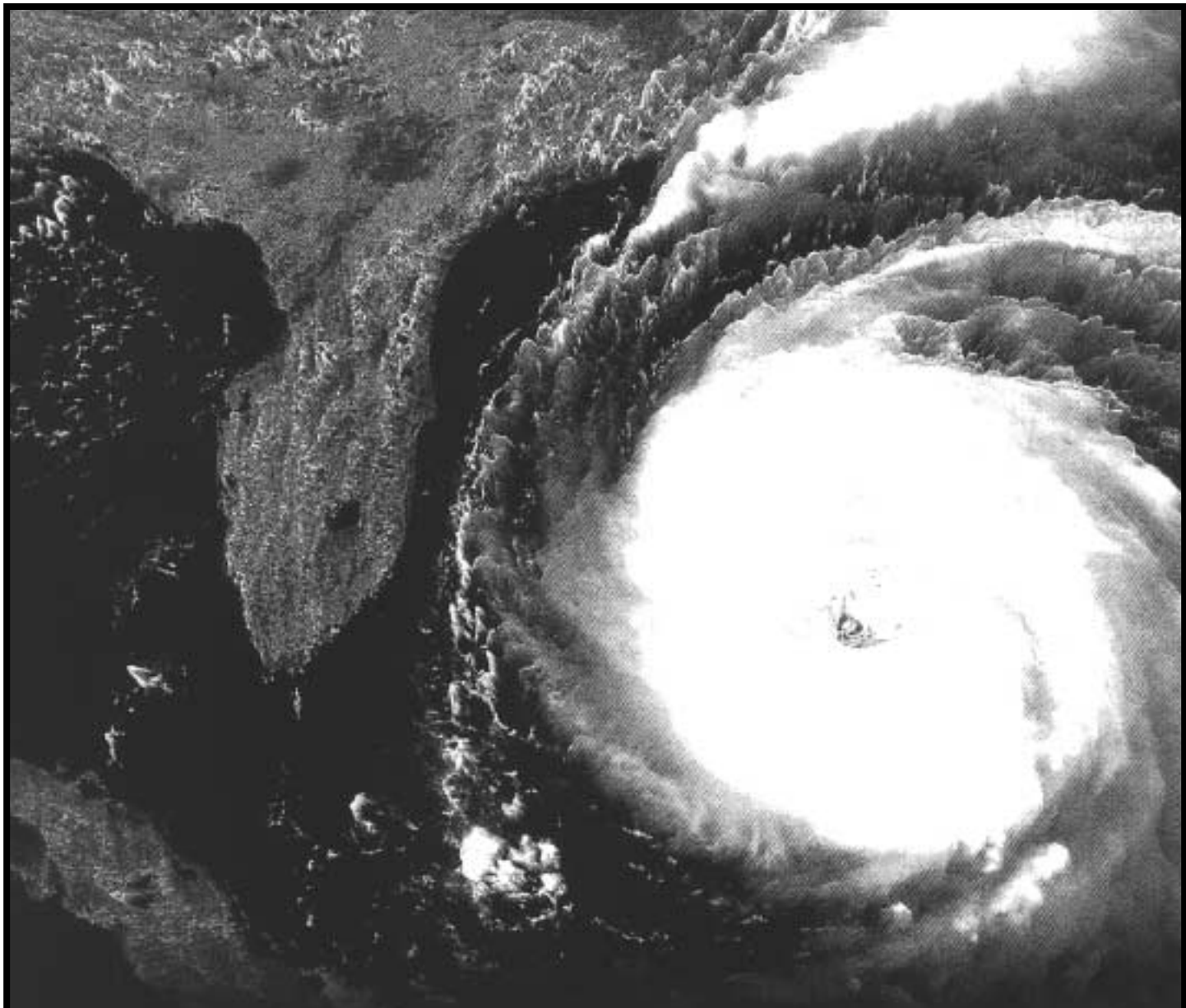
### **Conclusion**

If there is a common theme to the Trial Bar amendments, it is that the State of Florida has not adequately protected its citizens from the medical community. In response, the medical community may point to its support for patient-friendly initiatives such as the newly-formed Patient Safety Organization, as well as the fact that the Florida Board of Medicine disciplines a higher percentage of its Florida licensees than any other Board in the country.

Each of the proposed amendments certainly will alter the ways in which lawyers and physicians act, with the trial bar amendments posing serious consequences for public health. However, a well-informed physician will

be capable of mitigating (but not eliminating) the negative consequences of these amendments.

Of course, the most effective way of addressing these issues is to work to ensure passage of the Citizens for a Fair Share Amendment and the defeat of the Trial Bar's vengeful reprisals. Politically, such success will be a difficult task, as Organized Medicine is likely to be outspent significantly during the campaign season. It is for this reason that physicians themselves must take the initiative of educating their patients and the public of the respective merits and ramifications of the respective constitutional amendments.



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## The Florida Society of Thoracic and Cardiovascular Surgeons News

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