

The Florida Society

NEWS of Thoracic & Cardiovascular Surgeons

Volume No. 26

Winter 2004



Greetings, I hope everyone had a wonderful holiday season as we look forward to this New Year.

From a national legislative standpoint, for the first time in recent memory, fees for cardiac surgery are going up for 2004. For CABG and all major cardiac procedures, the increases are approximately 4.5%. Fee changes for general thoracic surgical procedures varied from a reduction of 4% for a thoracotomy to an increase of 4.1% for a pneumonectomy. These increases over 2003 are a combination of three factors: the action of Congress to increase the Medicare conversion factor by 1.5%; an increase in reimbursement for professional liability insurance with a resultant reweighing of these three components of the Medicare fee schedule (work, practice expense, and PLI expenses); and a belated agreement by CMS to use the data on practice expense submitted by the Society of Thoracic Surgeons in 1998. These three factors, individually, adds about 1.5% each to our fees for cardiac procedures. Through the Society of Thoracic Surgeons health policy committee, we will continue to focus on physician liability issues on a national basis. I will continue to work on these issues as Chair of the Workforce on Health Policy for the Society of Thoracic Surgeons. It remains to be seen whether the state initiative on liability reform will have an impact on our insurance cost.

Through our Society we are continuing our efforts with the FMA to better delineate this as well as how it will affect our bottom line with liability insurance. A significant number of our membership are now going "bare", as time will tell regarding the concerns arising from being uninsured and resulting liability issues. Chris Nuland, our Society legal council for legislative issues, continues to work hard for our efforts in Tallahassee. He has continued to keep us updated on current events and issues concerning our specialty concerns to the state legislative agenda. We would not be able to provide these services if our membership did not continue to support these efforts with resources from our "assessment" this past year. Our newly formed legislative committee with Gary Dworkin, M.D., as chair, has also been actively involved with the state regarding legislative issues. The Society is very appreciative of their efforts and the numerous hours sacrificed.

Our February meeting in Miami at the Doral Golf Resort & Spa should be another wonderful experience as we focus on new technologies of valve surgery as well as complex aortic surgery. The council is excited about the program format as well as the interactive sessions, which we have included. Again, we will have ample time to work in fellowship with our surgical colleagues throughout the state. Saturday night should be an exciting evening with Story Musgrave, M.D. speaking at our President's Reception and Dinner. As he is also a physician, he will enlighten us with his experiences in space, from a clinician's viewpoint, which I assure you will add to this enjoyable evening. On Sunday, Dr. Peter Downing, our president elect, will lead discussions on current socioeconomic issues and actions that our specialty can take which could have an immediate impact on all of our practices. During our meeting this February, we will be adding an Allied Health Professionals membership category for practice administrators, physician assistants, and nursing personnel. We have provided a forum time for breakout sessions with practice administrators. The council felt that this would be additive for our practices throughout the state as our practice administrators and office managers share opportunities and experiences to enhance each other's practice. Mr. Steve Dickson from Orlando will coordinate the practice administrators' breakout sessions, which should be very informative, and I encourage you to have your practice administrator attend these valuable sessions.

In closing, these past two years have been an incredibly rewarding experience for me as it has been a privilege to serve as the Society president. These are trying times for our specialty and other specialties as well. As we begin to accept change as inevitable, we can then become an

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Florida Society of Thoracic & Cardiovascular Surgeons 2003-2004 Council

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PRACTICAL ANALYSIS OF SB2D FOR PHYSICIANS

Christopher L. Nuland, Esq.
General Counsel

The Legislature finally passed its tort reform package, SB2D, on August 13, 2003. Most of the provisions became effective upon the Governor's signature, although the malpractice litigation changes only apply to those cases in which a notice of presuit was filed after September 15, 2003.

Practical Implication: There was an immediate spike in the number of malpractice claims, as trial attorneys attempted to file cases and send out presuit notices prior to September 15, 2003 in order to avoid the caps, expert witness limitations, and other reforms of the bill.

1. MEDICAL MALPRACTICE

- * Expert Witness: Expert witnesses now have to have similar credentials as the defendant and have been actively engaged in the same specialty within past three years (five years for general practitioners) as a practitioner or teacher. Experts who have been found guilty of fraud or perjury are automatically disqualified, and contingency fees are prohibited. The presuit expert affidavit is now be subject to discovery.

Practical Implication: This should result in a better pool of expert witnesses who are truly knowledgeable about the care that was given. The potential discovery of presuit affidavits should deter "experts" from merely signing affidavits without a thorough investigation of the case.

- * Presuit Investigation: Presuit notice must include a list of all health care providers involved and the medical records upon which the expert relied. Either side may ask for answers to written interrogatories and may interview subsequent treating physicians (with notice to claimant). Failure to cooperate can lead to the striking of a claim or defense at trial.

Practical Implication: All of these provisions should encourage full disclosure during presuit and hopefully lead to quicker settlements.

- * Mandatory Mediation: In person mediation is required within 120 days of filing suit.

- Caps on Non-Economic Damages:

- a. \$500,000 cap per claimant against practitioners and those working under them, with a \$1,000,000 aggregate total. No practitioner is liable for more than \$500,000.
- b. \$750,000 cap per claimant against other non-practitioner defendants (including hospitals and ASCs).
- c. These caps may be "pierced" and doubled in the event of death, permanent vegetative state, or catastrophic injury

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Legislature 2004 Preview

Christopher L. Nuland, Esq.
General Counsel

Exhausted by their efforts to reform medical malpractice laws in 2003, legislators already have expressed reluctance to tackle contentious health care issues again in 2004. Nevertheless, several key issues already have emerged that the Florida Legislature will indeed address during its upcoming session.

CON Reform: Three years of legislation, rulemaking, and litigation has resulted in virtually no new CON laws, and several arguably deserving facilities remain unable to procure open heart CONs. Moreover, the CON program no longer is self-supporting, and critics argue that ongoing regulation is needed after a facility is granted a CON. The result is flurry of legislation to reform the process, although FSTCS thus far has succeeded in ensuring that each piece currently contains strict criteria for equipment, staffing, and volume.

Controlled Substances: With legislators critical of ongoing fraud and patient overdoses, legislation already has been introduced that would limit the ability of physicians (and impostors) to call in prescriptions, limiting such oral requests to 72 hours for Schedule II drugs and 30 days for Schedule IV medications. The proposed legislation also would encourage counterfeit-proof prescription pads and establish a statewide prescription registry through which physicians could track the prescription record of their patients.

Scope of Practice: ARNPs, nurses, naturopaths, and other allied health professionals all want more authority and independence in their practices, while medicine has countered with several bills that would increase the supervision requirements of such practitioners. The challenge for medicine will be to ensure that the debate is characterized as a patient safety issue, as opposed to an economic "turf war."

Tort Reform: Nobody is happy with the results of the 2003 legislation. Physicians obtained significant yet inadequate relief, and plaintiff advocates argue that deserving patients will be undercompensated. Medicine must therefore repel anticipated attacks on what progress was made last year and hopefully take the opportunity to improve upon last year's product.

Access to Care: Legislators are alarmed at Florida's escalating uninsured rate and are studying ways in which to increase patient access to health insurance. The challenge to medicine is to ensure that any proposed "solution" allows sufficient access to quality health care.

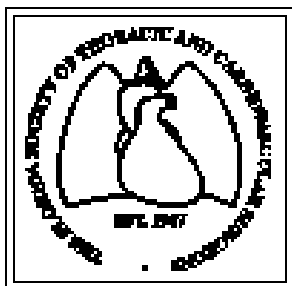
As one can see, 2004 promises to be another hectic year in Tallahassee. I thank those who worked so hard in 2003 and encourage all members to stay informed and to work with the Society and legislators in 2004.

President's Message continued from page 1

integral part of the process of improvement...we can choose to adapt, migrate or die. I feel the Society will be left in good hands as our President elect, Peter Downing, M.D. and our current council members focus on adapting collectively for the good of our Society membership and our specialty. Of course, I am indebted to our council and the time and energies they have put into these past two years in assisting me throughout our meetings as well as in legislative agendas. Each of them has contributed in numerous ways, which I am very thankful for. I would also like to thank our past President, Brian Hummel, M.D., for his support and efforts over the past two years. All these individuals commit time, energy and resources to the Society and should be commended. I also am very appreciative of the managerial assistance that both

Bridget Anderson and Dawn Moerings have provided over these past two years. Organizational aspects of our meetings are a tribute to their capabilities and the Society appreciates their efforts. I would like to thank the Society for this opportunity and privilege to be a part of this adaptation process over these past two years and encourage continued Society membership support as we can make a difference actively. Our state society is stronger and better organized than any other state in the country. We must continue to remain that way as well as be an example and a template for other states to use as they become more organized.

Kevin D. Accola, M.D.



The Florida Society

37th Annual
Meeting

of Thoracic & Cardiovascular Surgeons

February 27 - 29, 2004

Doral Golf Resort & Spa - Miami, Florida

REGISTER NOW!

Before Time Runs Out
Special FSTCS Room Rate -
\$315.00/night

(Cut-off date extended to Feb 4, 2004)

Reservations 1-800-71DORAL



It's not too late to register for the 37th Annual Meeting of the Florida Society of Thoracic and Cardiovascular Surgeons, scheduled for February 27 - 29, 2004, at the Doral Golf Resort & Spa in Miami, FL. This year's conference promises to offer a diverse program (see next page) which will provide a unique learning opportunity for all FSTCS members. As in past years, our conference agenda features an intensive scientific program with nationally known speakers and socioeconomic sessions with information pertinent to your success.

DON'T MISS THE Practice Management Seminar

Friday, February 27, 2004

1:00 p.m. - 4:00 p.m.

Avoiding Costly Employment Discrimination & Harassment Lawsuits

Claire Saady, HR Corporate Solutions

State & National Legislative Update

Christopher L. Nuland, Esq.

Saturday, February 28, 2004

8:00 a.m. - 11:00 a.m.

Practice Costs Using RBRVS & Evaluating Fee Schedules

Steve Dickson; Cardiovascular Surgeons, Orlando, FL

**Please call Bridget
Anderson at the FSTCS
Office for additional
information and registration
forms.**

Phone: (904) 683-8200

Fax: (904) 619-0642

E-mail: fstcs@comcast.net

Florida Society of Thoracic & Cardiovascular Surgeons - 37th Annual Meeting Agenda

Friday, February 27, 2004

1:00 - 4:00 p.m.

Practice Management Seminar

**Avoiding Costly Employment Discrimination
& Harassment Lawsuits**

Claire Saady, HR Corporate Solutions

State & National Legislative Update

Christopher L. Nuland, Esq.

3:00 - 5:00 p.m.

FSTCS Executive Council Meeting

6:00 - 8:00 p.m.

Welcome Reception with Exhibitors

Saturday, February 28, 2004

7:00 - 7:45 a.m.

Breakfast with Exhibitors

7:45 - 7:55 a.m.

Opening Remarks by President

Practice Management Breakout Session

8:00 - 11:00 a.m.

**Practice Costs Using RBRVS &
Evaluating Fee Schedules**

Steve Dickson

Scientific Session

7:55 - 8:35 a.m.

**Minimally Invasive Mitral Valve Surgery -
New Technologies**

Aubrey Galloway, MD

8:35 - 9:15 a.m.

Neurological Complications of Cardiac Surgery

David A. Stump, PhD

9:15 - 9:45 a.m.

Networking Break With Exhibitors

9:45 - 10:25 a.m.

Nuances of Aortic Aneurysm Surgery

Lars G. Svensson, MD, PhD

10:25 - 11:30 a.m.

Complex Aortic Surgical Cases

Case Presentations:

Gary H. Dworkin, MD

Wistar Moore, MD

J. Crayton Pruitt, Jr, MD

Panelists:

Lars G. Svensson, MD, PhD

Tomas Martin, MD

Saturday, February 28, 2004 cont.

11:30 - 12:30 p.m. **Working Lunch**

**Liability Insurance Company Perspective on
Medical Malpractice**

Robert White, FPIC Insurance Company

1:00 - 6:00 p.m.

Golf Tournament

7:00 p.m.

Presidents Reception and Dinner

Speaker: F. Story Musgrave, MD;
former NASA Astronaut

Sunday, February 29, 2004

7:30 - 8:00 a.m.

Breakfast with Exhibitors

8:00 - 8:30 a.m.

Annual Business Meeting

8:30 - 9:00 a.m.

**Working Together to Improve
The Practice of Medicine**

Lynn Bodiford; State Affairs Coordinator, AARP

9:00 - 9:30 a.m.

Alternative Risk

William J. Thompson; Gulf Atlantic Legal Defense, Inc.

9:30 - 9:45 a.m.

Break

9:45 - 10:00 a.m.

Asset Protection

Jeffrey Phipps, Sr; Janney, Montgomery, Scott, LLC

10:00 - 10:30 a.m.

**What is Fair Reimbursement and
How Can We Achieve It?**

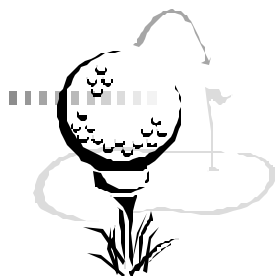
TBD

10:30 - 11:15 a.m.

Town Hall Meeting/ Q & A Session

11:15 a.m.

Adjournment



Don't forget to sign up for
**The 5th Annual
FSTCS Golf Tournament**

Saturday, February 28, 2004
1:00 p.m.

The Florida Society of Thoracic & Cardiovascular Surgeons
Presents

PRACTICE MANAGEMENT SEMINAR

You won't want to miss this **VERY IMPORTANT AND INFORMATIVE** seminar presented as part of the Florida Society of Thoracic & Cardiovascular Surgeons 37th Annual Meeting at the Doral Golf Resort & Spa in Miami, Florida

Friday, February 27, 2004

1:00 p.m. - 4:00 p.m.

- **Avoiding Costly Employment Discrimination & Harassment Lawsuits**
Claire Saady, HR Corporate Solutions
- **State & National Legislative Update**
Christopher L. Nuland, Esq.

Saturday, February 28, 2004

8:00 a.m. - 11:00 a.m.

- **Practice Costs Using RBRVS & Evaluating Fee Schedules**
Steve Dickson; Administrator, Cardiovascular Surgeons, Orlando, FL

This seminar is intended for Surgeons, Administrators & Billing Managers

Don't Miss the President's Award Banquet

Saturday, February 28, 2004 - 7:00 p.m.

Special Guest Speaker: F. Story Musgrave, M.D.; former NASA Astronaut

Dr. Story Musgrave's NASA career spanned the Apollo era to the Space Shuttle program into initial development of space walk strategies for the International Space Station. He loves to share his experiences as an astronaut, marine, surgeon, scientist and literary critic.

NASA selected Dr. Musgrave as an astronaut scientist in August 1967. He completed astronaut academic training and then worked on the design and development of the Skylab Program. Story learned invaluable leadership and teamwork skills as a backup science-pilot for the first Skylab mission, and was a CAPCOM for the second and third Skylab missions. Dr. Story Musgrave participated in the design and development of all Space Shuttle extra vehicular activity equipment including space suits, life support systems, airlocks, and manned maneuvering units. From 1979 to 1982, and 1983 to 1984, he was assigned as a test and verification pilot in the Shuttle Avionics Integration Laboratory at Johnson Space Center.

Dr. Story Musgrave applies unique perspective to his favorite photographs (in the form of slides) of our Earth, the Heavens and Humanity. His powerful motivational speaker messages, and stories will stir leadership, teamwork, innovation and creativity for all audiences.

Dr. Musgrave's NASA astronaut experience fuels his passion to instill innovation, creativity, leadership and teamwork skills as a professional speaker.

For additional information or registration materials, please contact Bridget Anderson, Society Administrator.
(904) 683-8200 • Fax (904) 619-0642 • E-mail fstcs@comcast.net



FSTCS 2003 Summer Family Retreat Highlights



The FSTCS Summer Retreat Meeting at the Ocean Reef Club in Key Largo was a wonderful opportunity to meet with colleagues in a relaxed environment while including our families in some fun summer activities. Our Summer Retreat continues to grow with a record 261 people attending this year! Twenty two companies came to exhibit, sponsor and share in the social activities of the weekend. Saturday morning, Raymond Waters, MD spoke on Post Operative Treatment of Atrial Fibrillation, and Vinay Badhwar, MD presented Pharmacological Treatment of Heart Failure. Sunday, Legislative & HIPAA Updates were given by Kevin Accola, MD, Gary Dworkin, MD and Christopher Nuland, Esq., as well as an Asset Protection Update by Jeffrey P. Phipps.

Our Friday evening festivities were enjoyed by all. At dinner, the adults were entertained by James on his guitar with relaxing "beach" music, and our children thoroughly enjoyed the magic show by James the Magician.

Seventy children attempted to "catch the big one" in Saturday morning's fishing tournament, making it our

largest group of junior anglers yet. They caught many different kinds of fish, including a barracuda! After lunch, our afternoon family activities were once again enjoyed by all. Over fifty snorkelers braved the deep to go out and explore the coral reefs on our annual family snorkeling trip. Our newest activity; the Polaroid Scavenger Hunt; was a rousing success, with about 40 people searching the property for clues, taking pictures



and performing activities like Human Pyramid building on the beach and Congo Lines at the Fire Station. The winning team was treated to Ice Cream at the Sweet Shoppe! The evening culminated in another wonderful beach reception and dinner. As we were entertained by the sounds of steel drums, some danced the night away under the stars, while others roasted marshmallows and made s'mores

at the bonfire. Some families even settled in for Outdoor Movie Night by the pool. It was another night where memories were made.


Mark your calendars now for next year's retreat at the Ocean Reef Club July 9 - 11, 2004 so you won't miss another year of family fun!

2003 Family Summer Retreat Sponsors

We are pleased to recognize the following companies for their support of the 2003 FSTCS Summer Family Retreat.



MARLIN
FPIC
Guidant Cardiac Surgery
Medtronic Cardiac Surgery
SCIOS, Inc.



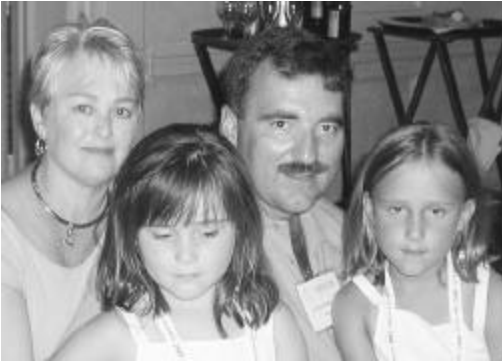
DOLPHIN
CarboMedics, Inc
Edwards LifeSciences
St Jude Medical

Exhibitors

Abiomed
Arrow International
Atricure
ATS Medical
Bayer
Boston Scientific/Classic Medical
CardioGenesis
Datascope Corp/Cardiac Assist

Ethicon/CardioVations
Genzyme Biosurgery
ILEX Medical
InterVascular, Inc.
Janney Montgomery Scott, LLC
Life Systems, Inc./MCRI, LLC
Pioneer Surgical Tech

FSTCS 2003 Summer Family Retreat Highlights



Friday Night Dinner



**Fun in
the
Lagoon**



Children's Fishing Tournament



Polaroid Scavenger Hunt



**Saturday Night
"Beach Bash"**



"Practical Analysis" continued from page 2

- (serious spinal cord injuries, amputations, brain injuries, serious burns, blindness, and loss of reproductive organs). It must be noted that the caps per practitioner are NOT doubled.
- d. \$150,000 "hard" cap on practitioners providing emergency care; defined as pre-stabilization screening, diagnosis and treatment, AND surgery provided "within a reasonable time" in response to an emergency medical condition. These lower caps do not apply for the treatment of a patient with whom the physician has an existing relationship (a relationship for an earlier, unrelated problem does not disqualify the physician from the protection).
- e. Non-economic damages are set off by any collateral source payments.

Practical Implications: Most physicians providing on-call coverage will be protected by the lower caps. Those physicians who own a separate ASC may want to consider delicensure of the facility and bringing it back as an "office surgery center" under the medical practice corporate umbrella in order to limit the possible non-economic damages. It remains unclear as to whether this level of caps will result in significant premium reductions, especially in light of anticipated lawsuits by the trial bar.

- * Bad Faith: An insurer cannot be held in bad faith for failing to settle for policy limits within 210 days of the filing of a suit or 60 days after the conclusion of discovery (may be extended by 60 day increments if new charges are added). After 210 days, the court will look at nine factors; physicians may still assign

claims to the claimants.

Practical Implications: Physicians still have the right to sue for bad faith, but insurers have objective criteria by which to govern themselves. Insurers have said that this will help lower rates somewhat, although the language virtually assures that no policy limit settlements will be made within the first six months of a suit.

- * Vicarious Liability: HMOs are not liable for the actions of their non-staff practitioners, so long as they do not control the judgment of the practitioner.

Practical Implications: HMOs will be under increasing pressure not to second guess physicians, as to do so makes them liable for malpractice.

- * NICA. Recovery under NICA or civil suite precludes recovery under the other compensation system. Revises the records that must be provided by claimant, calls for a death benefit instead of a funeral expense award, and allows hospitals to pay NICA assessments on health care providers.

Practical Implications: These revisions cover some glitches and makes the system a bit more streamlined.

- * Good Samaritan: Protects physicians who provide emergency care, even in a hospital, gratuitously. Also protects state university team physicians.

2. MEDICAL PRACTICE

- * CME. Requires 2 hour course on misdiagnosed conditions as part of existing 40 hour requirement.

- * Fee increases. Allows the boards to increase fees by more than 10% to cover actual expenses.

Practical Implication: BOM fees will increase, especially in light of the increased volume of investigations it will have to pursue.

- Practitioner Profiles: Call for fines of up to \$100/day for not providing information within 15 days of new information. Allows the Boards to require additional information on profiles, as determined by the Boards themselves.

- * Reporting Claims: All claims for medical malpractice must be reported to both the Department of Health and Office of Insurance Regulation. The disposition of all such claims, regardless of whether any indemnity was paid, must be reported.

Practical Implications: All claims will be public record, as will the amounts of any and all settlements.

- * Adverse Incidents: Adverse incidents must be immediately disclosed to patients, and the confidentiality of adverse incident reports has been eliminated.

Practical Implication: Physicians should tell patients or families of adverse incidents as soon as possible, and cannot protect themselves with a "peer review" defense.

- Financial Responsibility: Prohibits "wasting policies" and requires that \$250,000 always remain available to pay claimant.

Practical Implications: Physicians may still self-insure, but funds set aside for financial responsibility cannot be used for defense costs.

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"Practical Analysis" continued from page 10

This may lead some to reconsider defense cost policies.

3. PHYSICIAN DISCIPLINE

* DOH Investigations: DOH may investigate any claim in excess of \$50,000 over the past 6 years, and MUST investigate three or more claims of more than \$50,000 over the past five years.

* Alternative Dispute Resolution: Authorizes expended use of "non-disciplinary" mediation and citations for non- standard of care and non-adverse incident investigations.

Practical Implication: Should allow minor violations to be resolved more quickly without a permanent "black mark" on physician's record.

* Standard of Care: Board of Medicine, not ALJ, determines professional standard of care.

Practical Implication: Defendant physician must convince his peers, not a layperson, that the standard of care was met. Eliminates a venue of appeal by defendant physician.

* Final Order: Final Order from Board of ALJ must state whether the physician committed gross or repeated malpractice.

* Emergency Action: Three liability claims within a 60 month period will trigger an automatic expedited probable cause hearing.

Practical Implication: The BOM will have to handle many more of these types of claims. How it handles these will be an issue of contention. Unfortunately, this will give prospective claimants additional ammunition against the physician.

4. INSURANCE REGULATION

* Rates: Rates approved as of July 1, 2003 are frozen until a new rate filing is approved. Rates effective 1/1/04 must include a "presumed factor" of savings resulting from this legislation, unless a deviation is proved by insurer.

Practical Implication: New rates are still higher than last year by approximately 13%. According to the Department of Insurance Regulation, the average increase would have been approximately 21% had it not been for the reforms.

* Self-Insurance Funds: Commercial self-Insurance funds of as few as 10 physicians are now authorized.

* Renewals and Cancellation: Insurers must give at least 90 days notice of cancellation, at least 60 days notice of premium increase.

Practical Implication: Allows an affected physician to shop for new coverage.

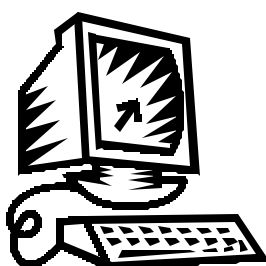
Any questions regarding the bill or its implications may be forwarded to the general counsel's office at nulandlaw@aol.com.

Web Sites of Interest

Society of Thoracic Surgeons
<http://www.sts.org>

American College of Surgeons
<http://www.facs.org>

The Cardiothoracic Surgery Network
<http://www.ctsnet.org>



Coding Questions?

American College of Surgeons
Coding Hotline
800-227-7911

STS/AATS Coding Hotline
720-946-4817



Have your membership numbers ready when calling.

Record Corrections and Alterations

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

The medical record is often the most important piece of evidence in a malpractice case. In the unfortunate event that a claim is made against you, it is likely that your defense will rest on having accurate medical records. These medical records should be complete and up to date. However, keeping accurate and complete records is not always possible. Occasionally you may omit an entry or make an error - such as entering the wrong date or dictating "proximal" instead of "distal" - and need to correct it. If so, do not attempt to correct the original entry by obliterating it. If the patient brings suit several years later, it will be impossible to remember the contents of the original entry. At best this can undermine your defense and at worst, destroy your credibility.

To make a correction, simply draw one line through the original entry so that it is still readable. Initial and date the correction, then make a separate entry of the proper information. Never "white out" handwritten entries or obliterate any part of a record. If a copy of the record has been sent to anyone or a claim has been presented, do not make corrections or alterations. At this point, the record should be preserved in its original form. Seek legal or risk management guidance before making any addendums or corrections.

Alteration of Medical Records

Few occurrences are more devastating to a physician's right to practice medicine, or to the successful defense of a medical malpractice action, than the revelation that the doctor has altered his/her medical records. One might think that given the publicity surrounding the importance of the integrity of records, this would no longer be a problem. However, in the supercharged atmosphere of medical malpractice claims, alteration still occurs with surprising frequency. It is not always done with intent to defraud, but rather at times, with the hope that by recording correctly a prior error, a claim may be avoided. Regardless of the reason for the alteration, its effect will still be destructive.

A physician cannot expect, given the sophistication of today's litigation techniques, that alterations will

go unnoticed. Attorneys have access to document examiners who can, with surprising accuracy, uncover the truth. These experts are routinely retained to examine critical entries in an attempt to determine whether any alteration may have occurred. They are able to examine the types of ink used and draw conclusions as to whether the writing instruments were the same; they can analyze the writing itself to determine whether entries were made at or near the same time; and they are able to inspect the paper to determine whether it came from the same stock as the pages before and after it in the same document.

The accuracy of these experts is uncanny. One can well imagine the great flair with which a plaintiff's attorney would introduce such an expert, armed with blow-ups and scientific equipment, to explain to the jury the methods that were employed in arriving at the conclusion that the



doctor had attempted to "put one over on them." If the evidence is convincing, as it often is, the doctor's credibility with the jury will be lost. Regardless of how good a physician's treatment may

otherwise have been, the jury will not believe the doctor, and a judgment that may have been in favor will be forfeited. Furthermore, a verdict for relatively minor injuries may be compounded many times to an amount that far exceeds the value of the case as a punitive signal.

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.



FSTCS Membership Invitation

Dear Fellow Surgeon:

I invite you to apply for membership in the Florida Society of Thoracic and Cardiovascular Surgeons.

To qualify for membership, certification from the American Board of Thoracic Surgery is required as well as having been in practice in the state for a minimum of two years. Annual dues are \$250 for Active Membership and \$200 for Associate Membership and are payable upon approval. To apply for membership, simply complete and return the application form on the reverse side of this letter along with the \$50 application fee to the society office by January 25, 2004.

Applicants for membership will be presented to the Executive Council during our next annual meeting to be held February 27 - 29, 2004 at the Doral Golf Resort & Spa in Miami, Florida. We urge you to complete the application as soon as possible in order for your name to be presented at this meeting. We will contact your two references to request their letters of recommendation. I also suggest that you personally contact them and request that they respond to our request promptly, so that the application process for membership will not be delayed.

This year, new member candidates may attend the annual meeting with COMPLIMENTARY MEETING REGISTRATION (a savings of \$350.00) To take advantage of this special benefit, please submit your membership application with the \$50 application fee along with your annual meeting registration.

If you have any questions regarding the activities of the Society or the membership application procedure, or if you need additional information about the upcoming annual meeting, please contact Bridget Anderson at our society office at (904)683-8200. I believe you would enjoy the professional fellowship of our organization and find your membership worthwhile.

Sincerely,

Dennis F. Pupello, M.D.
Membership Chairman



Florida Society of Thoracic and Cardiovascular Surgeons

APPLICATION FOR MEMBERSHIP

Active ____ Associate ____

(Please Type or Print)

NAME _____ PHONE _____
(Last) (First) (Middle)

OFFICE ADDRESS _____ EMAIL ADDRESS _____
(Street)

(City, State and Zip) FAX _____

YOU MUST BE A RESIDENT OF THE STATE OF FLORIDA FOR AT LEAST TWO YEARS TO BECOME AN ACTIVE MEMBER OF THIS SOCIETY. IF NOT, YOU MAY APPLY FOR AN ASSOCIATE MEMBERSHIP.

DATE OF BIRTH _____ PLACE OF BIRTH _____ SPOUSE NAME _____

PREMEDICAL EDUCATION (with dates) _____

MEDICAL EDUCATION (with dates) _____

INTERNSHIP (with dates) _____

RESIDENCY / Other Graduate Training (with dates) _____

PRACTICE EXPERIENCE (since residency) _____

BOARD CERTIFICATIONS:	Date of Certificate	Certificate Number
American Board of Surgery	_____	_____
Board of Thoracic Surgery	_____	_____
Royal College of Surgeons	_____	_____
Other Professional Memberships:	_____	_____

Date licensed to practice in Florida (Must be at least 2 years for Active Membership): _____

List two FSTCS Members outside your own group who will provide references for this application: _____

(1) _____

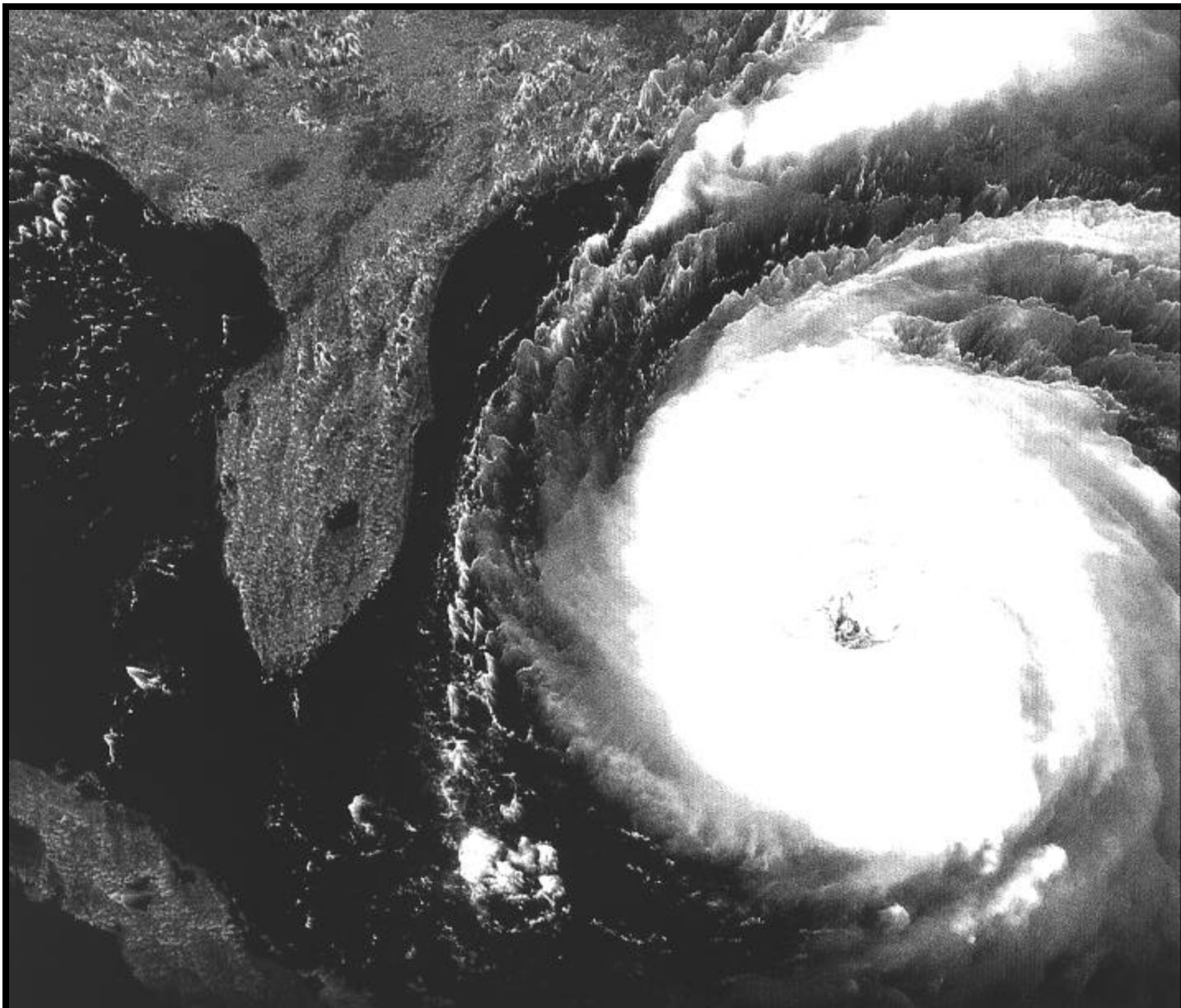
(2) _____

Signature of Applicant: _____ Date _____

PLEASE RETURN WITH \$50 APPLICATION FEE TO:

Florida Society of Thoracic and Cardiovascular Surgeons
5101 Ortega Boulevard
Jacksonville, Florida 32210
(904) 683-8200 / FAX (904) 619-0642

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The Florida Society of Thoracic and Cardiovascular Surgeons News

The Florida Society of Thoracic and Cardiovascular Surgeons newsletter is published periodically and mailed to members of the Society.

Kevin D. Accola, M.D., President
T. Peter Downing, M.D., Secretary/Treasurer
Bridget H. Anderson, Administrator

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c/o 5101 Ortega Boulevard
Jacksonville, FL 32210

Phone: (904) 683-8200
Fax: (904) 619-0642
E-mail: fstcs@comcast.net

MARK YOUR CALENDAR WITH THESE IMPORTANT DATES

2004 FSTCS Annual Meeting
February 27 - 29, 2004
The Doral Golf Resort & Spa - Miami, FL

2004 FSTCS Summer Retreat
July 9 - 11, 2004
Ocean Reef - Key Largo, FL

FSTCS
5101 Ortega Blvd.
Jacksonville, FL 32210