Kansas Physician

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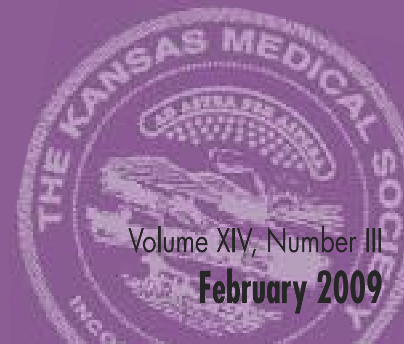

Volume XIV, Number III
February 2009

Governor Sebelius to join Obama Cabinet

As many had expected, Democrat Kathleen Sebelius recently accepted the President's nomination to lead the federal Department of Health and Human Services. Her departure will mark the first time in Kansas history that a sitting Governor has resigned to accept a Cabinet appointment.

The former state legislator and Insurance Commissioner will lead a sprawling agency of 65,000 employees and a nearly $700 billion budget. In addition, HHS' role in health care reform was underscored with its new responsibilities to facilitate nationwide adoption of health information technology it assumed in the recently enacted federal stimulus bill. As the administrator of the massive Medicare and Medicaid programs, HHS is expected to be a key agency leading the transformation of the nation's health care system. By all appearances, though, Sebelius relishes the opportunity. "I share (the President's) belief that we can't fix the economy without fixing health care," she said during a White House news conference. "The work won't be easy, but bringing about real change rarely is."

Upon her confirmation by the U.S. Senate, Sebelius will turn over Cedar Crest's keys to Mark Parkinson, the current Lieutenant Governor. Parkinson will serve out the remainder of Sebelius' term, and has already declared his intent to sit out the Governor's race in 2010. Whether he reconsiders his decision to not run, now that he would be running as an incumbent, is a matter of much speculation in the Capitol. ▲

KMS-KHA joint quality project progresses

The Kansas Healthcare Collaborative continues to move forward with the development of its internal structure and the formulation of its plans for the coming year. Readers will recall that the Collaborative, which was founded jointly by KMS and the Kansas Hospital Association, is a provider-led organization dedicated to providing physicians and hospitals the tools and information they need to continuously improve patient care.

KHC's Steering Committee recently began work planning its first major initiative: a "best practices" quality conference scheduled for October 16, 2009 in Topeka. The conference will be directed toward physicians, clinic managers and hospital administrative staff; it will focus on providing attendees access to tangible, relevant initiatives which can be implemented in a clinic or hospital setting and will positively impact the delivery of patient care.

As has been previously reported, the Collaborative received grant awards from the Kansas Health Foundation and the Sunflower Foundation. The $580,000 award is to be dispersed over a period of three years and is expected to fund the majority of the program's operations. Additionally, both KMS and KHA have committed to providing significant staff and financial support to the project's development.

The Collaborative is currently in the process of hiring a Program Director, who will be the organization's first, full-time employee. Additionally, KHC has contracted with Tom Evans, MD, for the provision of consulting services. Dr. Evans is the President of the Iowa Healthcare Collaborative, the organization on which KHC is modeled; he will be providing our organization guidance in a variety of areas including program development, strategic planning, leadership development, staff training and general operations. ▲

If you would like more information about KHC, you may contact Allison Peterson at the KMS office. She can be reached by email at apeterson@KMSonline.org or by phone at 785.235.2383/800.332.0156.

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150 years young

Jerry Slaughter; KMS Executive Director

1859 was quite a year. Abraham Lincoln celebrated his 50th birthday. Louis Pasteur suggested in a paper that microorganisms may cause human diseases. Charles Dickens published *A Tale of Two Cities*. Big Ben became operational in London. British naturalist Charles Darwin published *The Origin of Species*. The first intercollegiate baseball game was played, between Amherst and Williams Colleges, which Amherst won, 66-32. Oregon became the 33rd state. And the fiery abolitionist John Brown raided the federal armory at Harper's Ferry, Virginia, for which he was later hanged.

The young America was being torn apart by the bitter struggle over the question of slavery. Nowhere were the emotions running higher than in "Bleeding Kansas." Skirmishes between pro and anti-slavery factions resulted in considerable loss of life and property in the easternmost part of the new Kansas territory, which extended west to the summit of the Rocky Mountains.

Against that backdrop, twenty-nine frontier physicians gathered at the Eldridge Hotel in Lawrence on a snowy, cold February 10, to breathe life into the Kansas Medical Society. Many of KMS' founding members were outspoken and deeply involved in the struggle of whether Kansas would become a free or slave state. When Kansas became a state in 1861, its three highest-ranking officers were all physicians, and participants in the original KMS incorporation meeting, including the first governor of the 34th state, Charles Robinson, MD.

From its beginning, the KMS was a place where physicians could look past their political differences and share knowledge, experiences and hopes about improving patient care. They met once a year–except during the Civil War years–to debate the politics of the day and to read medical papers. Some years the scholarly offerings were so meager that a cash prize of $5 was awarded to encourage the submission of papers.

The priorities which shaped the work of the new organization were to advocate for the elimination of quackery and charlatanism, more rigorous training and higher ethical standards for physicians, the passage of more effective public health and sanitation laws, and the development of an accredited, state-supported medical school. In time, all were achieved, though not without years of trial and tribulation.

The rich history of the Kansas Medical Society is the story of the commitment, perseverance and vision of the thousands of physicians who worked to build an organization that over the last century and a half has served its members, their patients and the state with pride.

Happy Birthday, KMS! ▲

KMS plans to celebrate 150th Anniversary at Annual Meeting, May 1-3

KMS is busily preparing for its 150th Gala Celebration which will take place the first weekend in May at Topeka's Capitol Plaza Hotel. The important work of policy-making will be central to the meeting, but this year members and guests will also have the opportunity to attend a black-tie (optional) gala on May 1, marking the organization's sesquicentennial. In addition to the celebration of KMS' rich history, the evening will also be used to recognize the 20th anniversary of the founding of KaMMCO, the professional liability insurance company started by KMS.

The Saturday, May 2, luncheon will feature a keynote address from George Will. Mr. Will is a well-known syndicated columnist and panelist for ABC television's "This Week." He plans to share his perspective on today's political environment.

Registration materials for the meeting and its related events will arrive soon. ▲

Survey results help us advocate for you

Mary Redmon, DO; KMS President

Recently, I asked the staff at KMS to survey our membership on three important issues. I wanted to know more about the charitable care being provided by Kansas physicians, how they were responding to the declining payment rates in Medicare and how they thought the health care system should be reformed. I want to thank each of you who responded.

The web-based survey, which was open for two weeks, yielded nearly 400 responses. We advertised the survey's availability in our weekly email newsletter, *eConnect*, and publicized it on our website. We were appreciative of our county medical societies and the Kansas Academy of Family Physicians for their willingness to promote the survey to their constituencies. Overall, the response rate exceeded our expections and we are looking forward to utilizing this technology again in the future.

As we analyzed the results, I was not surprised to learn that more than 85 percent of Kansas physicians report providing charitable care during a given month. Physicians are providing that care in a number of different settings, with the highest proportion (83 percent) choosing to do so through their practices. More than a third of them also indicated they participate in community programs which coordinate care for the uninsured. Programs such as HealthAccess in Shawnee County, Project Access in Sedgwick County, Wy-JoCare in the Kansas City area, and many others across the state all provide physicians the opportunity to positively impact their communities while donating their time and expertise within a coordinated, effective system.

Survey respondents confirmed with their answers KMS' beliefs about the strength of the Medicare network in Kansas–nearly 66 percent indicate they accept all new Medicare patients. According to the data, only eight percent of physicians who answered our survey have decided to close their practices to new Medicare patients; fewer still (about five percent) have chosen not to accept any Medicare patients. Of particular note is the fact that the chronic uncertainties surrounding the Medicare fee schedule updates have had a tangible impact on Kansas physicians: nearly 75 percent of them reported deferring the purchase of new medical equipment and/or the implementation of health information technology because of those issues.

(Continued on next page)

Survey results and advocacy

(Continued from page 2)

President Obama's determined commitment to remaking the health care system and instituting universal health insurance coverage, spurred us to ask physicians about their general feelings toward insurance reform. Not surprisingly, their responses mirrored those of the general public: about 54 percent think health insurance coverage should be mandated for all Americans, another third disagreed and more than 10 percent did not express an opinion. Nearly 2 out of 3 respondents agreed that the responsibility for health insurance premiums should be spread over a combination of individuals, employers and the government.

Overall, I wasn't very surprised by the answers we received to the survey questions. We already knew physicians were generous with their time and talents; we understood that uncertainties in the payment structure of government programs have a real impact on the ability of practices to adopt new technologies; we had surmised, through numerous discussions over the years, that the physician community has no more consensus on health care reform than the general population. As physicians, our perspective on issues is impacted by a myriad of factors–gender, age, geography, politics–but on one thing we easily agree: providing quality care to Kansas patients is our primary commitment and we will do what we can to work within the system to ensure that our patients continue to have access to the best health care possible. ▲

SAVE THE DATE

Join us at the 2009 Annual Meeting to celebrate KMS' 150th Anniversary & KaMMCO's 20th Anniversary

Event highlights:

- **KMS/KaMMCO Education program**–On Friday, come learn from Jay Kaplan MD, a nationally recognized expert, how to revitalize your medical practice and create a highly-performing work team
- **Anniversary Gala Celebration**–Friday evening join both KMS and KaMMCO and help us celebrate the rich tradition of our two organizations
- **House of Delegates**–Be a part of the next generation of physicians who help define and develop KMS policy. This year, our annual business meeting will be held in two parts: the first on Saturday and the second on Sunday morning
- **Keynote speaker George F. Will**–This well-known syndicated columnist and panelist for ABC television's *This Week* will join us for lunch on Saturday to share his perspective on today's political environment

May 1-3, 2009
Capitol Plaza Hotel–Topeka

Registration & additional schedule information will be mailed soon.

CMS releases 2009 Medicare fee schedule

The Centers for Medicare and Medicaid Services has issued the 2009 Medicare physician payment rule that replaces a scheduled 15.1 percent cut with a 1.1 percent increase as required under the Medicare Improvement for Patients and Providers Act of 2008 (MIPPA).

The new conversion factor for 2009 is $36.07 which incorporates the 1.1 percent payment update. This figure is roughly $2 lower than the current conversion factor of $38.09. A provision in MIPPA altered the way the budget neutrality adjustor works. The neutrality adjustor had been applied to work relative value units (RVU), but under MIPPA, the adjustment is applied to the entire conversion factor instead, making the final conversion factor less than 1.1 percent higher than the 2008 conversion factor. Other MIPPA related provisions include:

- Changes to the Physician Quality Reporting Initiative (PQRI), including a 2.0 percent bonus payment for 2009 and 2010.
- Implementation of a five-year program of incentive payments for eligible professionals who are "successful electronic prescribers."
- Changes in the "Welcome to Medicare" initial preventive exam.
- Changes to Medicare enrollment and billing rules: the rule defines the effective date of billing for physicians and non-physician practitioners (NPPs) as "the later of" either: 1) the filing date of a Medicare enrollment application that's ultimately approved; or 2) the date an enrolled physician or NPP first started providing services at a new practice location. You may bill retrospectively for services provided up to 30 days prior to the effective date in either of the above cases, which is a major change in policy as previously CMS allowed for a 27 month backdating.
- Deferral of a proposal to require physicians who provide imaging and other tests in their office be certified as Independent Diagnostic and Testing Facilities.
- Seeking of additional input on exceptions to physician self-referral laws in order to permit incentive payments or shared savings programs. ▲

If you have questions or need more information, contact Ruth at the KMS office.

Budget discussions dominate first half of legislative session

Dan Morin; KMS Director of Government Affairs

The Kansas Legislature spent most of its first six weeks focused on money–mainly the lack of it in the State General Fund. As you are probably aware, the State faced a $300 million deficit in this current budget year which ends June 30; for the fiscal year which begins on July 1 (FY 2010), the shortfall had been predicted to be nearly $1 billion, although passage of the federal stimulus bill will improve the bleak budget picture, at least in the short run. Balancing the existing 2009 budget forced legislators and the Governor to agree on cuts to nearly every state agency, including education funding, which consumes the largest share of state government funding. It was a contentious beginning to a 90-day session which is expected to only become more divisive. As they began work to pass the 2010 budget, legislators faced yet another significant shortfall, and with 85 percent of the State's dollars allocated to either education or the public health programs of Medicaid, there didn't seem to be much hope either of those areas would be spared cuts.

Passage of the economic stimulus bill, however, has cast Kansas' lack of revenue in a different light. As one state lawmaker put it, "federal dollars are going to start raining down" on the Wheat State. President Obama's signature on the American Recovery and Reinvestment Act will begin a torrent of spending in Kansas on everything from roads and bridges, to schools, health care, energy, infrastructure and on and on. In total, Kansas will likely receive more than $1.7 billion over the next several years; included in the mix is approximately $440 million over two-and-a-half years for enhanced Medicaid funding.

Prior to the stimulus bill's passage, state Medicaid officials were predicting that provider fees would have to be cut by as much at 12.7 percent to bring spending in line with revenues. Now, however, the stimulus bill should make enough dollars available to avert provider fee cuts, assuming the legislature spends the funds as they were intended–to protect eligibility and access in the Medicaid program. While Medicaid provider fees may seem safe for the moment, the continuing slide in state revenues will keep this issue on the table throughout the legislative session, and the potential for provider reimbursement cuts will remain a possibility. KMS will continue to oppose such cuts, and will work to avert them entirely, or minimize their impact.

Governor cuts WCGME and Stabilization Fund

When signing the 2009 budget rescission bill, Governor Sebelius vetoed $2.9 million which had been appropriated to support the residency training programs at the Wichita Center for Graduate Medical Education (WCGME). The funds would have been used mainly to pay resident stipends. She also prohibited the state's general revenue fund from repaying the Health Care Stabilization Fund (HCSF) for costs it incurs in medical malpractice settlements and legal bills for KU medical school faculty and residents. Under state law, the HCSF pays costs associated with such claims in advance and then the state reimburses those costs. It is estimated that the state of Kansas will owe the HCSF about $2.5 million this fiscal year.

KMS had urged the Governor to allow the WCGME appropriation to remain in the bill. KMS also strongly opposed the Governor's action related to the HCSF, which in effect uses the Stabilization Fund to subsidize the state's obligation to pay liability costs for medical school faculty and residents. The HCSF has formally appealed the Governor's action to the State Finance Council, and KMS is reviewing all legal options available for reversing the Governor's action.

While most of the legislature's efforts have been focused on fiscal matters, there are a number of other important issues which KMS has been following.

Expanded Bill Tracker available online

Readers familiar with this publication might notice the absence of our long-running "Bill Tracker." In a nod to all things electronic, the Bill Tracker has migrated to the world-wide web. You can now access up-to-date information about each bill, learn more about the KMS position on legislation and access copies of the testimony presented on various pieces of legislation.

Visit the Advocacy area on our website, www.KMSonline.org, to learn more.. ▲

RNA practice

Because of a recent Attorney General's opinion, registered nurse anesthetists (RNAs) approached the House Committee on Health and Human Services with a proposal to amend their practice act to give them the ability to order certain pre- and post-op medications and diagnostic tests in addition to selecting and administering anesthetics. The Attorney General opined that RNAs are not authorized under current law to independently order pre- and post-operative medications and diagnostic tests, unless authorized to do so pursuant to a physician order, which is a requirement of their licensing statute. The RNA licensing law also requires them to function as a "member of a physician or dentist directed health care team." KMS has been meeting with several groups including the Kansas Association of Nurse Anesthetists, the Kansas Society of Anesthesiologists, the Kansas Hospital Association, and the Board of Nursing in an attempt to address concerns about the effect of the AG opinion on this issue. KMS has suggested that, if necessary, a simple clarification of the physician delegation statutes would address the issue in a manner that is consistent with the existing RNA practice act. The groups are continuing to meet and discuss options.

I'm Sorry legislation

The Senate Committee on Judiciary did not take action on a bill that would give health care providers more freedom to express empathy and apologize for adverse medical outcomes without it being used against them in court. Senators determined the issue too complex to address during the legislative session and instead referred the bill to the state Judicial Council for review later this year.

False Claims Act

The Senate unanimously passed Senate Bill 44, which establishes a state-level false claims act that is, for the most part, consistent with the Federal False Claims Act. The law is intended to address intentionally fraudulent claims submitted by contractors who defraud the government. The bill would allow the Attorney General to file a civil action in lieu of a criminal action, however, it would not include an option for individuals file private claims (qui tam or private causes of action), which is allowed under the Federal False Claims Act. KMS support for the bill is predicated on maintaining the prohibition on private causes of action.

(Continued on next page)

Medicare e-prescribing bonus now available

Ruth Cornwall; KMS Director of Health Care Finance

Compliments of the Medicare Improvements for Patients and Providers Act (MIPPA), you could receive a two percent incentive payment if you adopt and use qualified electronic prescribing (e-prescribing) systems to transmit prescriptions to pharmacies. Practices that meet the e-prescribing criteria will be eligible for a two percent bonus in 2009 and 2010, a one percent bonus in 2011 and 2012 and a 0.5 percent bonus in 2013. Practices not e-prescribing will face a one percent cut in 2012 and 2013. That cut will grow to two percent in 2014 and beyond.

You are eligible for the new two percent bonus if 10 percent of your total Part B payments come from a list of office based codes; consisting of commonly used new and established E/M outpatient visits. You must successfully report what you e-prescribed or attempted to e-prescribe 50 percent of the time during the eligible timeframe: January 1, 2009 to December 31, 2009.

To participate in the e-prescribing incentive program, you will need to have a qualified e-prescribing system with certain required capabilities. Qualified systems must be able to:

- Communicate with the patient's pharmacy;
- Help identify appropriate drugs and provide information on lower cost alternatives for the patient;
- Provide information on formulary and tiered formulary medications; and
- Generate alerts about possible adverse events, such as improper dosing, drug-to-drug interactions, or allergy concerns.

To earn the incentive payment, you must successfully report one of three codes for the e-prescribing measure when submitting claims for specified types of medical visits, indicating either that:

- All prescriptions in connection with the visit billed were electronically prescribed;
- No prescriptions were generated during the visit;
- You did not use e-prescribing for a prescription because the law prohibits electronic prescribing for the specific type of drug, such as a controlled substance.

No registration is required for the program and you can begin reporting for the bonus at anytime in 2009; however, you must successfully report any of the three e-prescribing G codes 50 percent of the time. You could wait and begin reporting April 1, 2009, but then you'd have to report 75 percent of the time, or you could wait until July and report 100 percent of the time. The two percent bonus will be applied to all of your payments under Part B and not just those for e-prescribing claims or office visits.

(Continued on page 6)

Legislative update, *continued*

Dosage substitution

The Senate recently passed SB 249, so it heads to the House for consideration. The proposal would allow pharmacists to substitute dosage forms of an orally administered prescription drug product on a limited basis. Substitutions would be allowed only if the patient consented to the substitution, if it presented no increased cost to the patient, if the substituted drug contains the identical amount of active ingredients and is not a combination medication product containing two or more active ingredients, if the substituted dosage form is not intended to be split, if the substitution is not enteric-coated or a time-release product and if the dosage form is consistent with the desired clinical outcome. Substitution, however, would be prohibited if the prescriber indicates "dispense as written" or without approval from the prescriber if a proposed alternative is compounded by the pharmacist. The bill, which KMS now supports, was amended before its introduction to address our concerns.

Smoking ban

The state Senate recently passed SB 25 which would prohibit smoking in bars, restaurants and workplaces. The legislation includes exemptions for private homes, personal vehicles, tobacco shops, some hotels, adult care homes and long-term care facilities with designated smoking areas. KMS testified in support of the bill and it now heads to the House for consideration.

Abandoned medical records

A Board of Healing Arts proposal (HB 2010) to address abandoned medical records passed the full House by a 110-9 vote. The bill addresses record retention protocol for maintenance, transfer, and access of medical records in the case of retirement, death, or loss of license by a provider. Initially, the proposal would have required physicians and other licensees of the Board to submit a written record retention protocol for the maintenance, transfer, and access of medical records each year when renewing a license. The bill would also have made it a disciplinary offense to not have such a protocol. The House committee adopted amendments proposed by KMS which eliminated the penalty provision and the requirement to develop and submit a record retention protocol at licensure renewal. KMS then expressed support for the legislation, which now provides for an expedited legal process currently that will allow the Board to designate a custodian for abandoned records more quickly. The bill now heads for Senate review.

Fees for Dept. of Corrections patients

In 2006, the Kansas Legislature passed a law limiting the fees paid to health care providers treating offenders in custody of local law enforcement, Kansas Highway Patrol and county correctional agencies to the lesser of the actual amount billed or the Medicaid rate for services provided. The prevailing argument in favor of the bill was the difficulty of counties to absorb the substantial costs of treating inmates stricken by expensive treatment and procedures. During debate on the 2006 bill, amendments were proposed which would have added to the bill the Kansas Department of Corrections and the Kansas Juvenile Justice Authority. KMS understood the budgetary challenges faced by county commissions in providing medical care to persons in their custody, considered that the number of individuals in the custody of local law enforcement agencies is relatively small statewide and did not oppose the 2006 bill.

However, KMS did oppose suggestions to expand the bill to cover the larger populations of the Kansas Department of Corrections and the Kansas Juvenile Justice Authority. Senate Bill 252 was introduced this session to again attempt to include the latter groups and KMS does not support the bill as written. The current bill would essentially mandate hospitals and local physicians receive Medicaid rates as maximum reimbursement. ▲

Executive Committee honors 150th anniversary of KMS' founding

On snowy, cold February 10 in 1859, twenty-nine frontier physicians gathered at the Eldridge Hotel in Lawrence and held the organizational meeting of the newly-formed Kansas Medical Society. One hundred and fifty years later, the KMS Executive Committee met in that same location to recognize and honor the sesquicentennial of our organization's founding.

The evening activities, including a meeting to address KMS business and legislative matters, concluded with a program which honored the special occasion. Committee members and their spouses heard a presentation from Ken McClintock, a historical re-enactor, who addressed the guests in the person of Charles Robinson, MD, one of KMS' original incorporators and the first Governor of the State of Kansas. "Dr. Robinson" shared information about his background, his travels to Kansas from Massachusetts and his experiences as a "free stater" during the height of Bleeding Kansas. Mary Redmon, DO, KMS President, and Jerry Slaughter, KMS Executive Director, also shared brief historical

KAFP Director honored for service

Carolyn Gaughan, Executive Director of the Kansas Academy of Family Physicians, has been selected to receive the prestigious Award of Merit from the American Academy of Family Physicians. The award recognizes those individuals who have made significant, distinguished contributions toward the advancement of family medicine.

In his nomination letter, KAFP President Lee Mills, MD summarized Carolyn's unique achievements. She "manages to combine in one person," Mills wrote, "the skills of an extremely effective executive, a trustworthy fiscal steward, a tireless advocate and an expert in volunteer leader development."

KMS Executive Director Jerry Slaughter echoed Dr. Mills' praise by commenting, "The family physicians of Kansas, in fact the entire primary care community, are fortunate to have Carolyn Gaughan leading KAFP. She is a terrific advocate for family physicians and their patients. Committed to serving and advancing the profession, involved in her community and working tirelessly to improve the primary care practice environment, Carolyn consistently leads by example. In addition to being an extremely competent administrator, Carolyn conducts herself in a way that reflects the finest attributes of the physicians she represents."

Ms. Gaughan, who has now led KAFP for twenty years, will receive the Award of Merit in a special ceremony at the AAFP's Annual Leadership Forum on April 25 in Kansas City. ▲

Jeter first physician to lead KHA

John Jeter, MD, an emergency physician who is also President and CEO of Hays Medical Center, was recently inducted as Chairman of the 2009 Kansas Hospital Association Board of Directors. Dr. Jeter is the first physician/administrator to lead the organization.

Dr. Jeter has been a member of KMS since 1987 and has also been active at KHA. He has served as a member of the KHA Executive Committee as well as Treasurer and Chair-Elect. KHA President Tom Bell praised Dr. Jeter's background and valuable perspective saying, "John has many years of experience in the health care industry and we look forward to his leadership as he serves in this impor-

Two KMS members appointed to Board of Healing Arts

KMS members Kim Templeton, MD, and Garold Minns, MD, have been appointed by Governor Kathleen Sebelius to the Kansas State Board of Healing Arts. Both are faculty at the University of Kansas School of Medicine.

Dr. Templeton is an orthopaedic surgeon who practices at the Kansas University Medical Center in Kansas City. A member of KMS since 1998, she currently serves on the KMS Legislative Committee and is President of the Medical Society of Johnson and Wyandotte Counties. Dr. Templeton also serves as Director of the orthopaedic residency program in Kansas City.

Dr. Minns, a KMS member since 1980, specializes in internal medicine and infectious diseases; he is the chair of the Department of Internal Medicine at the University of Kansas School of Medicine-Wichita. Dr. Minns has served KMS in a number of capacities and is the current president of the Kansas Chapter, American College of Physicians.

Service on the Board of Healing Arts requires a significant investment of time and energy; KMS is grateful to Dr. Minns, Dr. Templeton and the many other physicians who have served their profession and the public by serving on the Board. ▲

e-prescribing bonus, *cont'd*

There will likely be costs associated with participation, such as choosing a qualified system. Current system/software upgrades, server capacity and educating staff are other considerations.

Questions remain as to how CMS will collect the data. Will it be done by tax ID number or by NPI? When a claim is denied by the carrier are there appeal rights? Answers to these questions are still pending and we encourage to you check out the CMS website for updated information. You can find more information in the PQRI section under "E-Prescribing Incentive Program." A separate "Clinician's Guide to Electronic Prescribing," is available at the website, www.ehealthinitiative.org.

This incentive is in addition to a two percent incentive payment for 2009 for physicians who successfully report measures under the Physician Quality Reporting Initiative, launched in 2007, and the 1.1 percent fee schedule update allows for a possible 5.1 percent pay boost for 2009. ▲

How much may be charged for copying medical records?

According to Kansas law, K.S.A. 65-4971(b), health care providers may charge patients for copying medical records. **The charges may not exceed $18.18 for supplies and labor, plus $.60 per page for the first 250 pages, and $.43 per page thereafter.** The fee schedule is effective as of January 1, 2009. In January 2010, the fee schedule will be adjusted annually thereafter in accordance with the all-items consumer price index, as stated by the Kansas Department of Labor.

Keep in mind, however, that according to K.S.A. 65-2837, it is "unprofessional conduct" for a physician to fail to transfer records to another licensee when requested to do so by a patient or his or her representative. Therefore, if a patient requests medical records be copied and sent to another health care professional, the records should be copied and sent without waiting for payment from the patient. The patient may still be billed for the copies, but delivery of the records to another health care professional should not be delayed. The first health care provider should not condition the furnishing of records upon payment of the copying charges. ▲

KaMMCO announces spring Loss Prevention programs

Catherine Walberg, JD; KaMMCO Vice President & General Counsel

This spring, KaMMCO will offer a series of loss prevention programs for clinic and hospital administrators and risk managers. During KaMMCO's spring loss prevention program, "What You Don't Know Can Hurt You . . . An Administrator's Guide to Medical Professional Liability Insurance," KaMMCO will cover the basic features of professional liability insurance policies. The programs are a great way to introduce new administrators and risk managers to the intricacies of professional liability insurance and serve as a good refresher course for seasoned staff. During the program, KaMMCO will address the following questions and more:

- What does your organization's policy cover (or not cover)?
- What coverages and coverage limits are available to your organization's employees?
- What happens if a claim exceeds your organization's medical professional liability coverage?
- Do mid-levels need professional liability insurance?
- What is the Kansas Health Care Stabilization Fund and how does it interact with your organization's insurance policy?

Registration will be from 12:00-12:45pm during which time lunch will be served. The presentation will be from 12:45–1:45pm at all locations. There is no charge for these programs. Dates and locations are as follows:

March 17	Overland Park	Overland Park Marriott
March 18	Salina	Courtyard by Marriott
March 24	Parsons	Municipal Building
March 31	Wichita	Wichita Marriott
April 7	Hays	Fox Pavilion
April 8	Topeka	Capitol Plaza Hotel

Brochures with registration information were mailed in February. You can also register online at KaMMCO's redesigned website: www.kammco.com or by calling KaMMCO's Education Department at 800.232.2259. ▲

CMS Customer Service changes requirements for authentication

Effective April 6, 2009, when your practice calls either the Interactive Voice Response system or a Customer Service Representative, CMS will require three data elements be provided for authentication:

- The provider's National Provider Identifier
- The Provider Transaction Access Number
- The last 5-digits of the provider's tax identification number. The TIN is the number that was submitted on your enrollment application and is also on all claims sent to Medicare.

The Medicare contractor's system will verify that the NPI, PTAN, and the last 5-digits of the TIN are correct and belong to the caller before providing the information requested. The caller will only be allowed three attempts to correctly provide the information.

Providers should refer to Medicare Learning Network (MLN) Matters Article MM6139 for this and other important information concerning this new requirement. The article is available on the CMS Website at: http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM6139.pdf ▲

Important information about your membership

The 2009 KMS Membership Directory will be distributed later this spring. Members whose dues are received by April 1 can be assured their names will be included. If you have any questions about the directory, please feel free to contact Trisha at the KMS office. She can be reached by phone at 785.235.2383/ 800.332.0156 or by email at tmcalexander@KMSonline.org. ▲

Final ICD-10 code sets and electronic transition standards issued

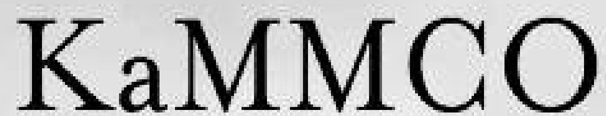
On January 15, 2009, the U.S. Department of Health and Human Services announced two final rules aimed to ease the transition to an electronic health care environment through adoption of a new generation of diagnosis and procedure codes (ICD-10) and updated standards (X12 standard, Version 5010) for electronic health care and pharmacy transactions.

The first final rule to replace ICD-9-CM, the current code set used to report health care diagnoses and procedures, with ICD-10, a code set said to contain 200,000 codes now has a compliance date of October 1, 2013. This allows the industry nearly five years from the date of publication to implement the new code set.

The second final rule adopts updated versions of the standard for certain electronic health care transactions, under the authority of HIPAA (X12 standard, Version 5010). Version 5010 includes updated standards for claims, remittance advice, eligibility inquires, referral authorization and other administrative transactions. Version 5010 also accommodates the use of the ICD-10 code sets, which are not supported by the current version 4010/4010A1, the current X12 standard. The implementation for this is January 1, 2012.

- The final rule modifying implementation of ICD-10 may be viewed at the following website: http://edocket.access.gpo.gov/2009/pdf/E9-743.pdf
- The final rule adopting updated versions of the standards for certain electronic health care transactions is available at http://edocket.access.gpo.gov/2009/pdf/E9-740.pdf
- A release on both rules may be viewed at www.cms.hhs.gov/apps/media/press_releases.asp ▲

If you have any questions or would like additional information about the new rules, please contact Ruth Cornwall on the KMS staff; she can be reached by phone at 785.235.2383/800.332.0156 or by email at rcornwall@KMSonline.org.



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