

BULLETIN



Vol. 62, No. 3

Bulletin of The Mahoning County Medical Society

May/June 1992



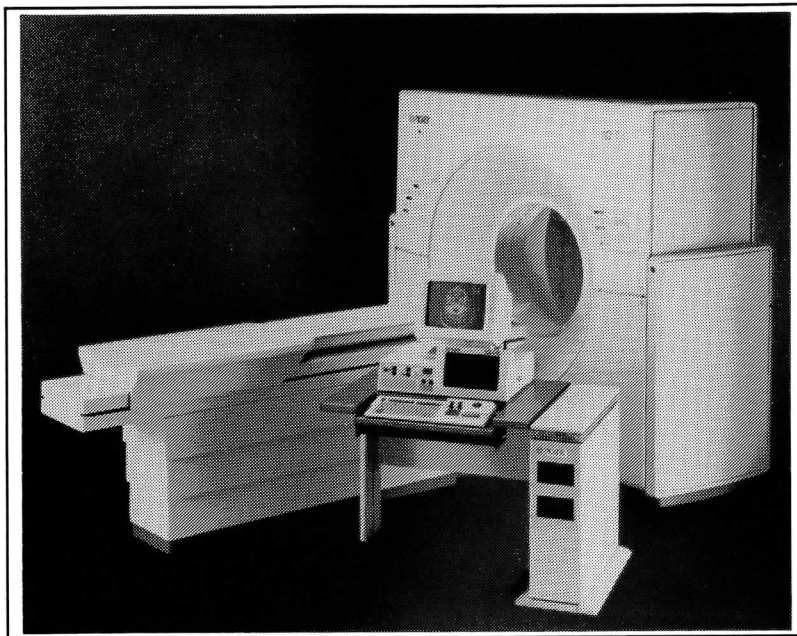
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BULLETIN

Mahoning County Medical Society

Volume 62 May/June 1992 No. 3

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SOCIETY MEETINGS

January 21, 1992

March 19, 1992

May 21, 1992

September 15, 1992

November 17, 1992

December 15, 1992

The *Bulletin* is published six times a year, by the Mahoning County Medical Society, 5104 Market Street, Youngstown, Ohio 44512.
Phone (216) 788-4700.

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TOUGH, SMART AND YOURS

medical
economics
SEPTEMBER 4 1989

Successfully defending a brain-damaged baby case is the courtroom equivalent of pitching a no-hitter. Few of the "sympathy factor" can add millions to a jury's award, many insurance carriers would rather settle than fight.

Not so the P-I-E Mutual Insurance Co., of Cleveland, Ohio, and the 4-year-old law firm—Jacobson, Maynard, Tuschman & Kalur—that does all its defense work. In 23 brain-damaged baby cases it has defended for the two-county company, its record is a remarkable 19-1, the best known—all malpractice cases.

There's more to those numbers than that, "it's even legal skill," adds JMT&K founding partner Aaron Jacobson, who was one of Ohio's leading plaintiff-lawyers before he, Larry E. Rogers, Herbert S. Bell, E. Rogers, and 70 other Cleveland M.D.s, and 70 other Cleveland doctors formed PIE in 1975.

"It's the concept behind the firm that makes it work. Physicians specially panels review every lawsuit to decide whether the defendant deviated significantly from the standard of care. If he did, we pay. If he didn't, we defend. Makes no difference whether it's a \$5,000 or a \$5 million case. We label it. No pay. That policy has resulted in a lot of cases being dropped. Perhaps more important, it's

DON'T YOU WISH THESE DEFENSE LAWYERS WERE YOURS?

This big, multistate firm rarely loses a case. But it's more than luck, or even legal skill, that's behind its enviable record.

By Howard Eisenberg

discouraged the filing of many other cases. Plaintiff attorneys have learned that we're not negotiators when our doctor's in the wrong, but won't back down when he's right."

That approach pays off. "Accounting to the most recent year I've seen from the General Accounting Office," says Larry Rogers, PIE president and CEO, "in 1984, about 67 percent of medical-malpractice claims were closed without payment. Through 1988, we've closed an average of 78 percent of our cases without a dime changing hands. And it's my understanding that, without including the Marine Insurance Co.'s 1988 average gross payout for cases closed in Ohio with payment was \$32,500. Our comparable figure was about \$10,000 below theirs. That partly you can sell an OBG specialist in Ohio— an industrial state that ranks among the most litigious—\$1.2 million in coverage for just \$26,000."

The unique marriage of PIE and JMT&K has been so successful that the carrier has expanded into five other states: Indiana, Kentucky, Maryland, Missouri, and West Virginia. Where, PIE goes, there goes JMT&K, with nine branch offices in date. The firm has 45 trial attorneys, and may well be the nation's largest devoted exclusively to medical-malpractice defense.

Could the insurer-defender symbiosis, duplicated by other doctor companies, make a significant contribution to reducing malpractice litigation nationwide? An up-close look at



The winning firm's four founders of Cleveland's 8th District Court of Appeals (from left): Jerome S. Kalur, Aaron Jacobson, James E. Tuschman, and Robert Maynard.

how JMT&K operates may help to answer that question.

Every lawyer develops a medical specialty

"Our firm's lawyers read more medical books than law books," says PIE Vice President Gerard C. Oppenorth, himself a veteran defense attorney. Robert Wagoner explains: "New cases are discussed at our weekly staff meetings so that every lawyer is familiar with every case. But we assign cases to our attorneys according to medical specialty. They're well-versed in their fields, so they don't have to reinvent the wheel with each case."

Last year, the firm's OBG specialist, attorney Jerome S. Kalur, who had won 18 consecutive brain-damaged baby cases, faced one of its toughest challenges when he defended a GP

who attempted a misfire procedure that ended in a Cesarean section and a severely brain-injured baby. Recall Kalur: "I didn't think the doctor had caused the damage, but our position was weakened by the fact that he didn't have malpractice coverage. Based on that departure from the standard of care, our doctor panel decided to settle, and, since the hospital was also involved, a combined sum of \$1.5 million was offered. Plaintiffs turned us down flat."

"I wanted to depose the doctors who'd been involved in the mother's care during her hospitalization, but the attorney for the plaintiff baby insisted it would violate the mother's physician-patient confidentiality. That privilege would terminate automatically when her medical

records were introduced at the trial end of the plaintiff's case. Meanwhile, I was in the position of having to tell the jury: 'It couldn't have been the misfire; without offering them another reasonable brain-damage theory.'

Fortunately, the plaintiffs settled their case on a Friday afternoon, giving JMT&K time for a weekend rally. "Twenty minutes later," says Kalur, "I was in the hospital pathologist's office with an order permitting me to view the mother's placental slides." Meccanism staining had been charted, and Kalur had a hunch that fetal distress had begun long before the fac-

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Organized Medicine

The term *organized medicine* has not held a particularly positive meaning for me in the past. After attending district and now the OSMA Annual meeting in Dayton, the term carries a very strong and positive connotation. Individuals can make a difference – and working together can create positive changes. There was very serious consideration of more than 50 resolutions in four sub-groups of delegates. The majority of these do deal with improving the delivery or the quality or the follow-up of care of the patient in Ohio. Because of my experience at both the county and state level, I can now unequivocally state that the purpose of these organized medicine meetings is not self-serving but actually directed toward the ability to provide the highest quality of care possible. There is also, however, an element of self-protection which would be necessary in order to provide that level of care.

I would like to share some of the patient care directed resolutions which were presented, discussed and passed for further action. The first deals with long term prescriptions which are frequently required of physicians by patients with specific insurance coverage. The resolution directed OSMA to work with the Health Insurance Association of America regarding inappropriate medications where long term prescriptions would be potentially dangerous. A second resolution involves working with the pharmaceutical industry on printing the date on the prescription after which it would be unsafe to use the medication. A resolution was passed to direct OSMA to take to AMA the requests for work with the FDA regarding federal regulatory investigation of the safety of tanning parlors. This multi-million dollar industry has grown exponentially. There are major concerns regarding intensity of bulbs in relationship to the life of the bulb used, reactions with

drugs and aggravation of diseases, precipitation of cancers, etc.

A major cost of the current pertussis vaccine is a 73 percent tax on that vaccine; the availability of a new vaccine invalidates that need as there are far fewer risks. A resolution was approved to address this.

There was extensive debate and discussion and presentation of expert testimony regarding the WTI Hazardous Waste Facility in East Liverpool. The resolution was finally revised to request that OSMA support a moratorium on the construction of any more hazardous waste facilities until the public health impact of this one can be determined.

Also receiving considerable debate were the problems in the current Living Will law in Ohio which is apparently extremely cumbersome and difficult. OSMA is to be directed to approach the Ohio General Assembly to discuss changes which would allow better health care for the citizens of Ohio. The burgeoning problem and indeed epidemic of family violence was discussed at depth, and OSMA was directed to work with AMA in disseminating educational information to doctors regarding this problem.

Concerns regarding lack of knowledge in the age levels where greatest problems could be potentially circumvented by education were addressed, and a resolution to OSMA to work to pass legislation requiring the Ohio Board of Education to adopt minimal standards for courses for kindergarten through 12th grade in which human growth and development, development of self-esteem, personal rights and responsibilities, and the results of premarital sexual activity would be presented.

Also after great debate a resolution addressing individual county physicians' concerns regarding the Medical Board was referred to the OSMA Council with a direc-

"...we can individually and collectively accomplish appropriate changes to improve the health care which we provide for our patients..."



Jane F. Butterworth, MD

tive for action recommendations by the next annual meeting. An item of extreme frustration has been insurance carrier denials, and OSMA was directed to work with the insurance carriers to require that any denial include the medical reasons for the denial as well as the dates and other items currently included.

A resolution was presented to ask OSMA to seek enactment of legislation for the state to extend liability protection to physicians volunteering services in the care of the poor without reimbursement. Also debated and passed was a resolution to OSMA to issue a position paper on the prescription of medications for self, family, and friends, but requesting vigorous opposition of any action by the Ohio State Medical Board restricting the scope of practice of appropriately licensed physicians in this and any area of practice. There is currently payment discrimination against young physicians in the first four years of practice, and a resolution was passed to direct OSMA to work with AMA to work with Medicare to abolish that discrimination.

I found it fascinating to watch the intensity of discussion. There was a feeling of open forum with debate occurring on opposite sides as well as tangential sides of most issues. After my participation in this meeting, I feel a strong re-affirmation that indeed we can individually and collectively accomplish appropriate changes to improve the health care which we provide for our patients and also to create appropriate changes in some of the hassles that interfere with the provision of that care. It does take time and effort to gain knowledge and understanding to effectively form individual opinions and work together to create these changes. However, all of us will suffer if we do not make this effort. With the increasing life span and survival of men and women in our country, we will all probably eventually

be consumers of any health care structure in this country. The actual process of working toward the best possible care can be both intellectually stimulating and personally and professionally rewarding. Self-serving politics has absolutely no appeal to me personally. However, what I observed at the OSMA annual meeting in Dayton, though of course including a small amount of that, was a stimulating example of what we can accomplish. I would encourage you to each assume the personal responsibility of keeping your information level current and to join us at the Mahoning County Medical Society Meetings in debating and discussing the issues that have such tremendous current and near future ramifications for each of us, and our patients. □

In The News

Dr. James Anderson was elected as Alternate Delegate to the AMA at OSMA's Annual Meeting held May 1-3 in Dayton.

Dr. Denise Bobovnyik is one of several young physicians from around the state who will appear in a video highlighting the benefits of OSMA membership. The video will be distributed to 1,800 non-members under the age of 40. Dr. Bobovnyik was recently appointed to the OSMA Young Physicians Committee by president Stanley J. Lucas. She currently serves as chairman of the MCMS Young Physicians Committee.

Dr. Brian Gordon was one of four physicians who were recognized for their contributions to the OSMA-HMSS Steering Committee. The OSMA Hospital Medical Staff Section honored the physicians at the May 1 Annual Meeting in Dayton. □

Politics and the Cleveland Indians

If you were to tell me one year ago that I would be listening willingly to a speech by Congressman James Traficant, I would have stated, "sure, and the Cleveland Indians are going to win the World Series." I found myself sitting in the Youngstown Club on Tuesday, April 21, listening to a speech given by our congressman, James A. Traficant.

A committee had been set up to offer specific questions for the congressman to answer. To no one's surprise, he really did not answer any of our questions. He was not, however, the left wing liberal ogre that I had expected. Though we heard a political speech for most of the evening, he did comment on two very important points. The first was that he certainly is not an advocate of a national health plan. This came as somewhat of a surprise to me. He thinks that government has muddled up so many things in the past that it would be very ineffective in running such a national health plan. The second area that was very important is that he is willing to listen. He did admit that he does not know all of the intricacies of the health care issues and certainly does not know the physician's point of view. I will say that it is certainly partially our fault because we have ostracized the congressman in the past. Dr. Chester Amedia spoke at some length with the congressman following the dinner, and the congressman reiterated his interest for a close contact between the physicians of his congressional district and himself to keep him abreast of our concerns.

I also had the opportunity recently to hear a speech by Lieutenant Governor Dewine at the annual OSMA meeting. Lt. Gov. Dewine is a candidate for the United States Senate. Lt. Gov. Dewine's political soapbox issues were different from the congressman; he did agree with the congressman on two important points. He was

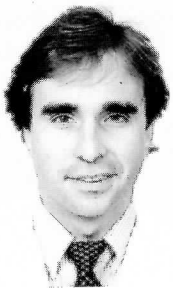
willing to discuss the issues with the physicians, and he opposed a national health care plan.

The sad fact is, however, that in the United States and certainly in politics, money speaks. Another sad fact is that physicians, as a group, are cheap. In 1990, physicians spent \$19 each for political support groups. This is as compared to optometrists who spent \$43 each, and this does not include their recent assessment for additional political action. Chiropractors spent \$175 each and trial lawyers \$84 each. Though it would appear that we are improving with some increased contributions to OMPAC, through regular memberships and also through the new 300 Club, certainly we have much room to improve. If you are interested in specifically contributing to OMPAC, this can be done through Dr. Dan Handel, who is the 6th District representative to OMPAC. In addition, at this time, a committee is being formed to act as a liaison between our local politicians and the medical community. If you have an interest in being part of this committee, or acting as an advisor, I would urge you to contact Dr. Dan Handel concerning this.

I think it is important that we move forward and move forward quickly, as numerous bills are proceeding through both state and federal legislatures, and certainly several doors have been opened to us. I do not think that we should allow these doors to close, secondary to our apathies. We have allowed doors to close on us in the past. I would urge you to support these maneuvers through your active participation and through your monetary contributions.

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Chris A. Knight, MD

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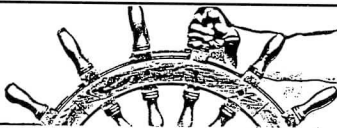
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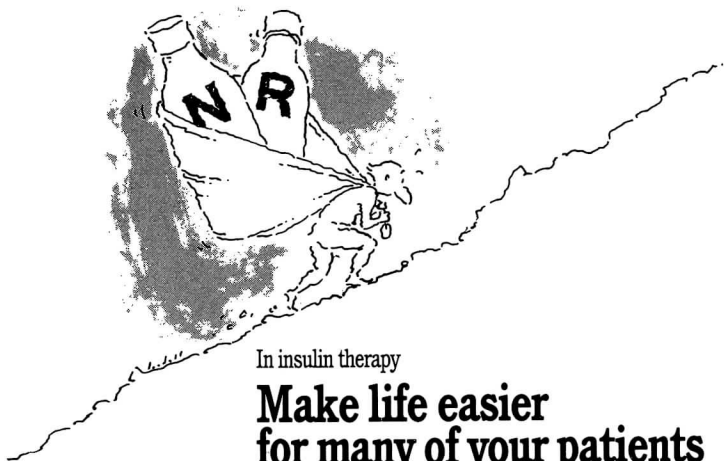
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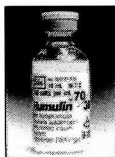
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A Better Way to Be Politically Correct

*P*olitically correct is a term commonly used to define the proper political stance to be taken with reference to racial, sexual and social issues that confront Americans today. In its present context, it engenders strong emotional feelings dependent upon one's point of reference.

Politically correct can also mean the proper attitude and actions of American physicians in addressing the health care reform issues which face them.

No longer will the *practice* of medicine be confined to the doctor/patient relationship - many outside economic and political forces are helping to shape the course of health care in this country.

Physicians must take the time to become politically astute and become active participants in the political process which will be responsible for the implementation of health care reforms in this country. Let there be no doubt - health care reforms will take place.

Currently in 1992, three states, Vermont, Florida, and Minnesota, have enacted comprehensive reform legislation. Six states, Idaho, Illinois, Massachusetts, Wisconsin, Kansas, and West Virginia, are looking at a Canadian-style plan this session. Four states, Alaska, Georgia, Washington, and Oregon, may have ballot initiatives calling for a national health care plan.

How, as physicians, can we help to shape health care reform in this country to the satisfaction of all concerned parties? Several steps can and should be taken.

1) Take the time to learn about the health care reform proposals and the positions of our respective state and national legislators.

2) Become actively involved in a dialogue with our legislators individually and

within the context of our local, state and national medical organizations.

3) Be an active participant in the political process by promoting those candidates who see the merits of our present health care system and preserving them while working to correct the flaws.

4) Support candidates who are from the medical community and who wish to serve in a legislative capacity. Currently, three people with strong ties to medicine are seeking election to the Ohio House of Representatives and are deserving of our support.

You are strongly encouraged to give financial support to these individuals:

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John Fink, MD
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Personal and not corporate checks should be sent. These individuals are highly regarded, and each stand a good chance of winning. They will help to bring the concerns of Ohio physicians to the attention of the legislature in a more captive manner.

5) Support OMPAC, the political action arm of the Ohio State Medical Association. This group effectively addresses the concerns of physicians concerning health care matters to our state legislators. This can be easily seen through OMPAC's efforts to blunt the onerous aspects of House Bill 478.

If you have not contributed to OMPAC, please do. If you have done so, please consider increasing your levels of contribu-

tion. An individual contribution of \$125 can be given to become a sustaining member. Another level of contribution for physician and spouse sustaining membership is \$200. A new level of major donation has been formed and is called the "\$300 Club." This will be money well spent. Mail check to:

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Now is the time for physicians to broaden their activities with reference to health care reform issues. Physicians must take a *politically correct* stance in safeguarding the rights of their patients and profession.

Please join the health care reform debate in a meaningful and constructive fashion.

*Daniel Handel, MD
Member, OMPAC Board*

The following applications for membership were approved by Council:

Active:

James J. Botsko, MD
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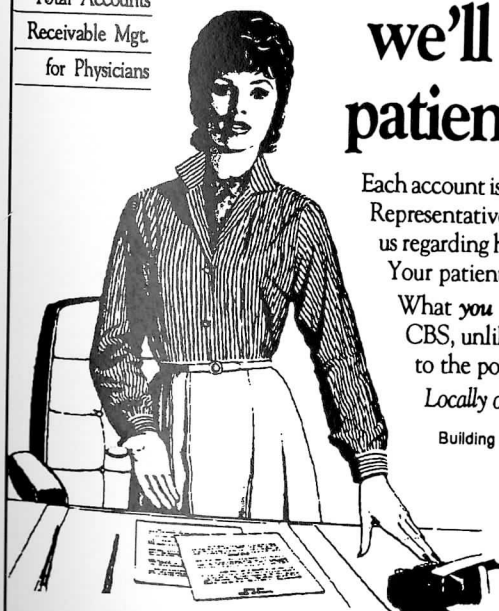
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**Robert Martin Foster, M.D.
1925 – 1992**

Dr. Robert M. Foster was born February 3, 1925, and died on April 11, 1992. He attended Adelbert College of Western Reserve University from 1942-1943. During World War II, students were able to attend medical school without completing a pre-medical education. Dr. Foster graduated from the School of Medicine at Western Reserve in 1947. He served a one-year internship at Cleveland City Hospital. He then had a one-year residency in surgery at Youngstown Hospital. His medical education was interrupted by a two-year tour of duty in the United States Army with the occupation forces in Japan. He returned to Youngstown for a two-year residency in orthopedics. He then went to Childrens Hospital in Philadelphia for additional training in orthopedics.

In 1954, Dr. Foster returned to Youngstown where he was associated in practice with Dr. Maeda and the late Dr. Cook for the private practice of orthopedics. His training at Children's Hospital gave him a gentle approach, and he was soon in demand. In 1970, he moved to Salem where he joined the staff at Salem Community hospital. Salem's gain was our loss.

Dr. Foster was active in community activities, and he served with the American Medical Association's Volunteer Physicians for Vietnam. In 1969, he was presented a Humanitarian Award by the Mahoning County Medical Society. Though many years had elapsed since he left Youngstown he had many friends here.

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Mahoning County Medical Society Auxiliary Honors Past Auxiliary Presidents

The Mahoning County Medical Society Auxiliary held a brunch at Tippecanoe Country Club on April 28 and honored past presidents for their accomplishments and continued dedication to the Auxiliary. President Pauline Sarantopoulos welcomed members, and Rosemary Memo reflected on the past fifty years of service that Auxiliary members have donated in an attempt to provide support to community organizations through charity fund-raising. Each past president who attended was given a chance to highlight the most meaningful events



Sitting - Left to Right: Dolly Handel, Cherri Garcia, Joyce Bernstine, Carolynn Ditez. Standing: Beth Bacani, Mary Ann Anderson, Charlotte Tandatnick, Fran Barton, Renee Bitonte, Angela Gilliland, Anita Gestosani, Eleanor Pichette and Velma Holden.

of their office. Those attending were Mary Ann Anderson, Beth Bacani, Frances Barton, Joyce Bernstine, Renee Bitonte, Nicolette Bleacher, Carolyn Dietz, Cherri Garcia, Anita Gestosani, Angela Gilliland, Dolly Handel, Velma Holden, and Eleanor Pichette.

A business meeting was held and a slate of officers was voted in for the 1992-1993 year of service. Officers elected were President Rosemary Memo; President-elect Donna Hayat; Vice-President Mary Walton; Secretary Paulette PannoZZo; Corresponding Secretary Debbie Wilson; and Linda Evan, treasurer for her second year. Mrs. Donna Tallam was the Chairperson for the brunch.

With new officers in place, the Auxiliary looks forward to another rewarding year of service.

BUREAU OF WORKERS' COMPENSATION

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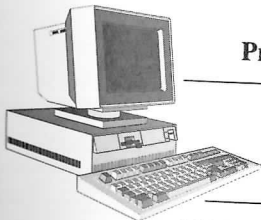
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OSHA Update

Perhaps a fitting salutation would be "Welcome to the world of OSHA!" I was asked to write this, so don't blame me for upping your misery quotient about the bloodborne pathogen legislation during the few leisure minutes left to you which haven't been wrenched away by various government agencies.

I am new to your community and by way of introduction let me say that I practice occupational medicine and therefore get to read OSHA and NIOSH regulations, the Federal Register, and various states' workers compensation laws for a living ... so who should be pitying who? But I do sympathize with the difficulty an employer will have in implementing this statute and so thought providing the record-keeping templates and sample exposure control plan, that are now available through your Society, would be a fitting introduction to a few of the services occupational medicine can provide to the medical community. The fact that many *consultants* will provide essentially the same thing for hundreds of dollars, as evidenced by the many brochures I have received in the mail, etc., has my accountant rethinking this whole position.

Those fortunate enough to have attended either of the seminars by Barbara Giles Thompson on the bloodborne pathogens regulations now have a very good understanding of this law and how to implement it in the workplace. Invariably though, questions arise, and I would like to address a few of the issues that physicians have asked me about and discuss enforcement procedures should OSHA come knocking.

I think it is important to remind your employees that universal precautions do not apply to tears, saliva or sputum, nasal secretions, vomitus, urine, feces, or sweat unless they contain visible blood. This means that obtaining throat cultures, dealing with diapers and crying, sick children, or getting coughed, sneezed or otherwise on do not need to be treated any differently

by you or your staff. You may have heard differently elsewhere. Don't believe it; it's hard enough to deal with what is mandated.

Another frequent question concerns the use of mucous membrane barriers. If the reasonable possibility exists that a potentially infectious material, as defined in the standard, could spray or splash you in the face, then either a full face shield or safety glasses and a mask must be worn. It would be a violation if just glasses or just a mask is worn. Prescription eyeglasses can be utilized if they are fitted with full side shields.

Lasers, electrocautery, surgical power tools, etc., may produce aerosols, but OSHA currently does not believe that the data support the mandatory use of respiratory protection to aerosol exposure. However, a citation would be issued if the cleaning procedures of the equipment unnecessarily cause splashing, spraying or generation of drops of blood or other potentially infectious material.

Barrier type gowns would not be a necessity in the majority of office medical practices, but it's a good idea to have a few available in the event of a major bleeding episode. Even office suturing of wounds would not generally be expected to result in soaking of clothing. Barrier gowns would be appropriate in offices where elective surgeries or more invasive procedures are common place. The compliance officer will look to your exposure control plan where those procedures which might result in exposure are documented and will then interview staff and review work practices engineering controls to determine if the level of protection is adequate.

The likelihood of an OSHA compliance officer at your door is fairly remote unless a complaint has been lodged. A common practice, however, is to inspect similar facilities to types where problems are found. The first thing the compliance officer will do is review the facility's exposure control plan and note if it has been reviewed annu-

ally and updated as appropriate. If you cannot prove that the plan has been reviewed annually, then a violation would be assessed. Also the location of the plan is very important. The compliance office will determine if employees can access the plan during the workshift. This would mean that should you keep your plan on the computer you must prove that your staff has the necessary training to access the plan on the computer. Also, a hard copy of the plan must be made available within fifteen working days if the employee requests one.

In response to a mailer many have received concerning the posting of signs about bloodborne pathogens, etc., being mandatory for OSHA compliance and available at the low, low, one time price of.... There is no requirement for such signs that I am aware of and, while not a bad idea per se, caveat emptor. I am still trying to check on this as part of some other OSHA regulations, but it's a lot like calling the Ohio Bureau of Worker's Compensation office ... answering phones is not an essential function of anyone's job.

And speaking of essential functions - If you are a primary care provider who does pre-employment physicals or other work for companies as part of your practice, the next piece of legislation about to drop on your head arrives July 26 and is titled the Americans with Disabilities Act. This is a wonderful and fascinating piece of legislation and is seen as a modern day emancipation proclamation by the disabled community. But if you, as medical counsel to the employer, are not very comfortable and familiar with this new law, it may be time to reconsider the importance of this work to your practice. You see, Congress has decided that what constitutes an act of discrimination will be decided on a case law basis and provides only rough guidelines. To say that plaintiff attorneys are ready to prosecute tomorrow would be to understate the obvious by half. (You'll be hearing whole new tag lines on some of your favor-

ite commercials.)

Pre-employment physicals are outlawed, as are any inquiries as to health or any other questions in the pre-offer stage that might reveal the presence of a disability. Medical examinations are allowed as part of a conditional job offer as long as it is required of all applicants to that position, but how that medical data is treated is subject to certain restrictions. There are different rules that apply to the medical examinations of current employees and a large section on the question of medical opinions in the determination of "direct threat" as a basis for denial of employment. A physician who would make a recommendation concerning employment, without actual knowledge of the specific workplace and job demands, may make incorrect assumptions about the ability of an individual to perform the essential job functions with or without accommodation. It is not yet clear what liability, if any, the physician would incur if an employer acts on the basis of the medical report and is subsequently challenged by the applicant.

There is a technical assistance manual available from the EEOC concerning the ADA for those determined to persevere, and an enforcement procedure guideline for inspection officers from OSHA, only 2 cm. thick each. The Occupational Health Services department of WRCS is a resource for these new laws, and I am always available to address your concerns ... although I can't really say I've got it all straight yet either. □

*John L. Dunne, DO
Medical Director
Occupational Health Services, WRCS*

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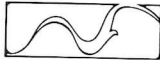
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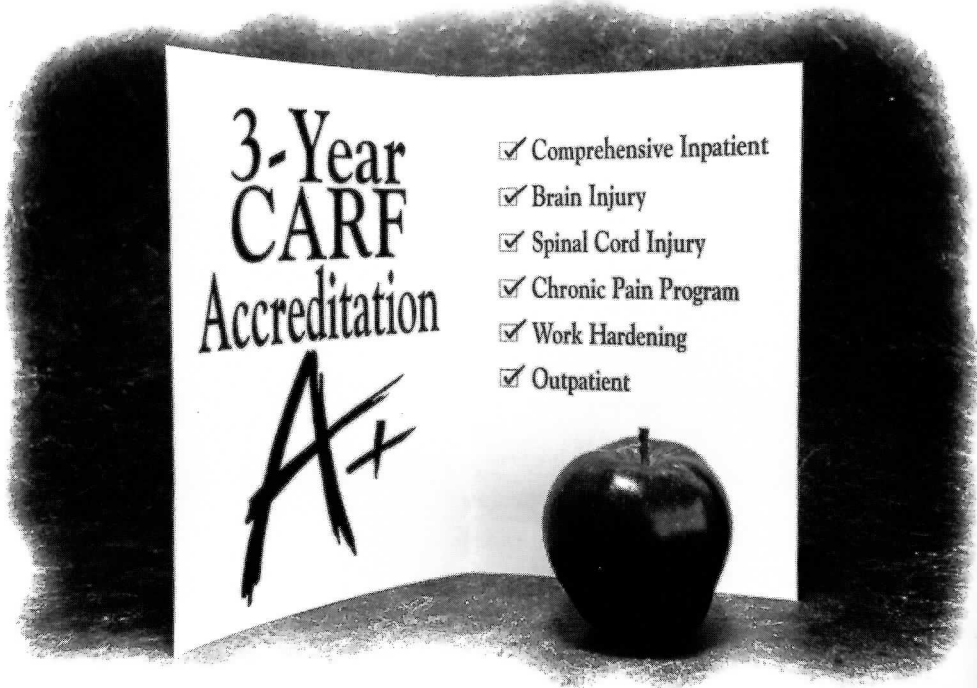
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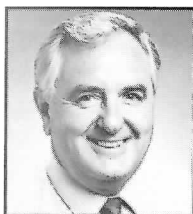
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Dr. Robert Maruschak
President

Dr. Maruschak is a retired dentist from Poland, Ohio.



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Tri County Coalition for Organ Donation Education

Tri County Coalition for Organ Donation Education (TRICODE) came into being on January 2, 1992, triggered by a comment made at a Leadership Warren meeting nearly a year ago. It is a multi-racial, multi-ethnic grass roots organization created to increase public awareness and education regarding the need for organ and tissue donations. Every member of the coalition, at least one health care professional from each hospital in Trumbull, Mahoning, and Columbiana Counties, as well as concerned individuals, is committed to the same bottom line - a significant increase in donors from the tri-county area.

At any given time, approximately 25,000 people in our country are waiting for organ transplants. As you are reading this, over 800 in Northeast Ohio hospitals are on waiting lists. The issue of organ and tissue donations hits hard when one of your patients, or someone in your circle of colleagues, friends and acquaintances, or a media blitz on behalf of someone within days or hours of dying causes it to impact on your life. Perhaps the urgency is closer - a family member? You?

So long as the demand continues to exceed the supply, many will die who might have lived. Because of this shortage of donors, an average of six people die every day while waiting. It seems possible, even probable, that at least six potential donors also die every day.

The question arises, "Would more awareness and education cause more families to offer organs and tissues from the deceased for transplantation?" TRICODE feels the answer is "Yes!"

Judy McCoy from LifeBanc schedules in-service presentations for health care professionals at all area hospitals. Our concern is community education. We are in the process of developing a Speakers Bureau to

make presentations in area schools and to any group/organization who desires this topic for a program. We will also honor requests from corporations who want to offer this information to their employees. You may see us at health fairs, county fairs, and community events distributing literature and organ donor cards.

The need for volunteers from the general public is pressing - ALL WILL BE TRAINED. We will match requests to your schedule. Be assured, this will be a gratifying experience for those who participate.

As we are a non-profit, self-funded unit of the Mahoning Shenango Area Health Education Network, we are also in great need of financial help. Thus far, our contributors include Trumbull Memorial Hospital, St. Elizabeth Hospital Medical Center, St. Joseph Riverside Hospital, Youngstown Osteopathic Hospital, Cleveland Clinic Foundation, Ruth H. Beecher Charitable Trust, the Honorable June Lucas, and the Mahoning County Medical Society Auxiliary. We thank these donors for their generosity, support, and encouragement. Our funding needs are ongoing.

If you would like more information, and/or to arrange for a presentation, and/or would like to become a TRICODE volunteer, please call Jackie Bibo at (216) 783-2040.

On behalf of Bill Cushwa, president, and all members of the Tri County Coalition for Organ Donation Education, thank you for this opportunity to share our mission and commitment. □

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The State Medical Board — An Overview

Since my appointment to the State Medical Board in March 1991, I've been surprised to discover the scope of the Medical Board's authority when it comes to setting and enforcing medical practice standards. In this article, I hope to share with you some of what I've learned.

YOUR STATE MEDICAL BOARD

The governor appoints 12 Ohioans to serve on the Medical Board for five year terms. The board is comprised of seven medical doctors (MDs); one doctor of osteopathic medicine (DO); one doctor of podiatric medicine (DPM); and three consumer representatives. The Medical Board licenses physicians, physician's assistants, and limited branch practitioners, including massage therapists, cosmetic therapists and mechanotherapists. Each year the Medical Board licenses approximately 2200 physicians and 300 limited branch practitioners.

Every two years, renewal applications are sent to each of the over 33,000 physicians licensed by the Ohio Board. During this time, the board's staff verifies and updates all licensee address information. Following renewal, the staff also conducts a random audit of 2 percent of renewing physicians to assure that the Continuing Medical Education requirement is met. Failure to complete required CME and/or to properly respond to audit notices can result in formal disciplinary action.

INVESTIGATIONS AND DISCIPLINARY ACTIONS

The Medical Board is bound by statute to investigate potential violations of the State's Medical Practices Act. Grounds for disciplinary action include, but are not limited to:

- *prescribing drugs in excessive amounts or without legitimate reason*
- *impairment of ability to practice due to drug or alcohol abuse, or due to physical or mental illness*
- *medical incompetence*
- *inappropriate sexual conduct*
- *failing to meet continuing medical education requirements*
- *performing duties beyond the scope of a license*

- *falsifying information; fraud*
- *conviction of a misdemeanor in the course of practice or conviction of a felony*

The Medical Board receives complaints about physician conduct from a variety of sources, including other physician licensees. The latter are legally required to report to the board if they believe a colleague has violated the statutes or rules enforced by the board. All complaints received by the board are considered confidential. Each is reviewed by the secretary and supervising member—two members of the board who are responsible for overseeing the agency's investigations—to determine if the complaint is within the board's scope of authority.

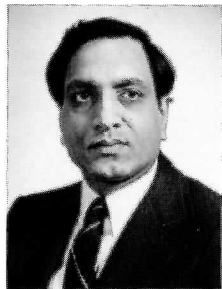
Approximately 60 percent of the complaints received are forwarded to one of the board's 17 investigators for follow-up. As "fact gatherers," they are responsible for obtaining additional information about the complaint. The investigator's report is submitted to the secretary and supervising member for further consideration. If it is determined that no violation of the Medical Practices Act has occurred or if there is insufficient evidence to prove a violation, the complaint will be closed.

If formal charges are issued and the full board determines that there has been a violation of the Medical Practices Act, the board may impose one or more of the following formal disciplinary actions:

- *reprimand the licensee*
- *put the licensee on probation under a variety of terms*
- *limit the practitioner's license (e.g., limit the type of procedures the licensee may perform)*
- *suspend the practitioner's license, or*
- *permanently revoke the practitioner's license*

This is, of course, only a brief overview of the Medical Board's activities which may have triggered questions you would like me to address. I welcome your feedback and will attempt to respond to your concerns in future articles. □

Anand G. Garg, MD



Anand G. Garg, MD

OSMA – CLIA Update

Does CLIA-'88 Apply To You?

Most likely, *CLIA-'88* applies all testing of human specimens for the diagnosis, prevention or treatment of disease or health problems. This includes physicians who perform only basic tests for their patients, health fairs, hospitals, to those who operate complete clinical laboratories. The only exceptions are for forensic purposes, research labs that do not report patient results and facilities certified by the National Institute on Drug Abuse to perform only urine drug testing.

Does CLIA-'88 Apply If There Is No Charge For Tests?

Yes. *CLIA-'88* is not a reimbursement regulation and applies to *all* clinical laboratory tests no matter whether they are reimbursed or not.

Does CLIA-'88 Apply Only To Tests Reimbursed by Medicare?

No. *CLIA-'88* applies to all clinical laboratory tests — not just those reimbursed under the Medicare program.

What Are The Sanctions For Failure To Comply With CLIA-'88?

Sanctions may include suspension of testing certain analysis or specialties, suspension of Medicare/Medicaid payments, civil monetary penalties, and limitation or revocation of the *CLIA-'88* certificate. Also, corrective action may be imposed prior to sanctions unless there is an immediate threat to patients. That means your office labs can be closed, testing ability suspended, BEFORE final evaluations are completed.

What Do You Have To Do To Sign Up?

First you need to obtain a registration certificate or a 2-year certificate of waiver. If you perform waived tests only, you will need to obtain a certificate of waiver. If you perform non-waived tests, you'll need a 2-year registration certificate.

As a result of a survey form sent to physicians last fall, HCFA will mail each

physician who responded an application form, along with a statement of fee owed for the certificate.

If you did not respond to the survey, you need to contact HCFA immediately or fill out the enclosed registration form.

When Do You Have To Register?

By September 1, 1992 each physician should have a waived certificate or a registration certificate along with a *CLIA* ID number. On September 1, 1992, Medicare/Medicaid will not reimburse for clinical laboratory services if this *CLIA* ID number is not submitted with the claim. You will also be liable for penalties.

How Do You Know Which Category Your Tests Fall?

CLIA-'88 sets out three levels of testing: waived, moderately complex and highly complex. Most physicians will fall within the waived or the moderately complex levels. Regulations are based on the highest level of testing performed. For example, if four of the tests performed are listed as waived tests, but one test falls into the moderately complex level, regulations will be based on the moderately complex level.

What Do You Need To Do To Comply?

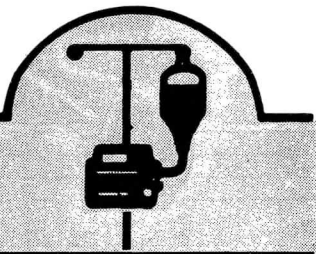
If the physician performs tests only in the waived category, they need do nothing more than follow the manufacturer's guidelines for using the laboratory equipment. No inspection will occur, except on a random basis to determine compliance with the waived certificate.

Within the next two years, each physician who performs moderately complex laboratory tests will be required to enroll in and successfully pass proficiency testing for each test performed. In addition, by 1995, a federal or state laboratory inspector will inspect the laboratory testing site to determine if other standards such as quality control, quality assurance, and personnel are met.

Continued on pg. 33

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Medical Assistants Install Officers

The Mahoning County Chapter of Medical Assistants recently installed new officers at a dinner meeting held at the Tippecanoe Country Club. Yolanda Lipari, medical assistant for Dr. Linda Cuculic, was installed as president of the Chapter. Other officers installed were Carol Tybor, vice-president; Barbara Zabloski, president-elect; Sally Kelley, recording secretary; Jacqueline Burley, corresponding secretary; and Mary Ann Rushton, treasurer. Councilors installed were Helene Clay, Beverly Jones, and Stephanie Pizzuto. Mary Ann Rushton chaired the Installation Committee.

Membership Chairperson Mary Ann Rushton recognized the following new members: Barbara Zabloski, Carol Tybor, Helene Clay and Bonnie Van Wyke.

A special guest attending the installation dinner was Carol Bilski of Cleveland, president of the Ohio State Society of Medical Assistants.

The Chapter will hold its first meeting for the 1992-1993 year in September.

WRCS Offers Teens Out-patient Drug Treatment

The Adolescent Recovery Center at the Northside Medical Center recently began offering a new outpatient program for the treatment of adolescents with drug and alcohol addictions. The program incorporates partial hospitalization (for daytime treatment) with the adolescent's return to the home environment at night. Counselor Sarah Stein Coviello oversees the program. For more information, call the center at 740-3581.

Canton Child Health Clinic Seeks to Fill Post

The Margaret B. Shipley Child Health Clinic is seeking a pediatrician or a family practitioner with children's health care experience to fill the position of clinic physician. The United Way Agency operates Monday through Friday from 8 a.m. to 4:30 p.m. providing health care only during clinic hours. Interested physicians may contact the clinic at the following address and telephone no.: Margaret B. Shipley Child Health Clinic, 919 Second Street, N.E., Canton, Ohio 44704 - phone (216) 453-3386.

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Auxiliary President Pauline Sarantopoulos Reflects on Successful Year

Auxiliary President Pauline Sarantopoulos reports with a degree of pride that the fifty-second year of the Auxiliary was a successful one.

Every effort was made to focus on creating programs and events that would involve more active participation of regular members and stimulate the interest of new and perspective members.

In the fall, local membership reflected 139 paid members. Presently, the roll indicates 192 members. The high percentage of member retention was acknowledged at the state convention.

The main fall charity event, a fashion show, "Phantom of the Opera," realized a profit of \$12,000 which was given to the Youngstown Speech and Hearing Center to establish an Auditory Training Program for Autistic Children.

Another fund-raiser, a first of its kind in Mahoning County was held in early May. "Sumptuous Settings '92," table top artistry, was a huge success, and plans are underway for next year's event. More than 40 area regional artists, designers and businesses set-up tables. The table top displays were to reflect a period design, a holiday setting or special occasion. Creations ranged from floral artistry from some of our local florists to gourmet cooking tables. On display were very rare and expensive china table settings from both businesses and private collections.

Guests were served a gourmet luncheon provided by Mr. Anthony's, and live entertainment was provided throughout the day. The innovative fund-raiser was organized and implemented by Project Chairperson Mrs. Nicholas Garritano, board members, and committee members, who all worked diligently to provide an exciting event.

The purpose was to raise money and to

focus community awareness on the Auxiliary's three-year commitment to help finance the establishment of a Functional Training Center for Multi-Handicapped Children who are housed at West Junior High School. Proceeds from "Sumptuous Settings '92" benefited the project, as well as the Mahoning Valley Food Bank. Community retailers, Auxiliarians and friends can be credited with the success of this new fund-raising venture. Good will, creativity and purpose were fostered with this project which was held at Mr. Anthony's, May 8, 1992.

During the recent Installation meeting, a \$1,000 donation was allocated to the Mahoning - Shenango Area Health Education Network - Tri County Coalition for Organ Donation Education (MSAHEN/TRICODE).

In total, Auxiliarians raised and contributed \$14,300 to the local community this year.

A "Better Health Day" for Auxiliarians and friends was held in January. Members of the medical community joined in presenting a strong program that promised the potential of an annual event.

Our county participated in the "Red Ribbon Project." This National event sponsored by the National Federation of Parents for Drug Free Youth, was funded by the Ohio Medical Education and Research Foundation. Red ribbons and posters for the National Red Ribbon Week were displayed in the offices of Dr. Michael Evan, Drs. Louis Brine and William Houser, Dr. Steven Kalavsky, Dr. Manual Spirtos, and Drs. Khalid and Riffat Iqbal. The ribbons signified a commitment to a drug free America. Also, 1,400 coloring books published by the National Auxiliary Office were distributed to area schools as a health awareness education tool for young children.

"Doctors' Day" events included news media coverage of the Mayor's Proclamation being presented to the Society president and Auxiliary officers. The chairperson for the event managed to have three hospitals host a continental breakfast for physicians and focused on the hospital administrations honoring their staff doctors.

The "Annual International Dinner," a combined meeting with the Trumbull County Auxiliary, and a Gavel Club Brunch in observance of our county's fifty-second year of existence completes our county's offerings this year.

Our Auxiliary president was one of ten county presidents recognized by State President Joyce Penn as having achieved or contributed in some special way to her year's work.

President Sarantopoulos also received a special health award in Dayton, Ohio, April 30 on behalf of the Auxiliary. The Auxiliary was recognized for its work in helping to fund the Functional Training School.

The year was filled with many activities, including opportunities to make new acquaintances and two fund-raisers that increased the Auxiliary's visibility in the county. The Auxiliary also met the challenge of creating viable avenues for contributing to the on-going work of the Medical Society.

President Sarantopoulos appreciates the honor of serving as the fifty-second President of the Auxiliary. She commends her board comprised of officers and special program chairpersons for their support and work.



Congressman Traficant Attends Society Meeting

Congressman James Traficant, Jr., was a guest and featured speaker at the Mahoning County medical Society Meeting held April 12, 1992, at the Youngstown Club.

The meeting was well-attended with 135 members present. Prior to the dinner meeting, members browsed at a product display provided by Geigy Pharmaceuticals.

The program, "Dialogue with U.S. Representative James A. Traficant, Jr.," was conceived by the Program Committee chaired by Dr. C. Amedia. Committee members were Drs. D. Handel, C. Knight, J. Lambert, and K. Nash.

The congressman responded to a prepared agenda of questions on health care issues. Congressman Traficant presented an American Flag to the Society and a House of Representatives pin to Society

President Dr. Jane N. Butterworth.

Dr. Butterworth conducted the business meeting. Emeritus membership was accorded to Drs. John Bruccoli, Rene Cossette, Vincent Lepore and Hendrik Marcella.

In other new business, the membership approved a \$50 dues increase for active members. The increase will become effective for the year 1993. Active membership will then be \$275. Dues for other membership categories will remain prorated as before. Physicians in their first year of practice will be assessed 1/2 of active dues; physicians in their second year of practice will be assessed 3/4 of active dues. Non-resident membership will remain \$25.

The next scheduled Society Meeting is September 15, 1992. □

Young Physicians Repeat TV Appearance

On April 27, a second segment of "Health Matters: Live Line" aired on WYTV's channel 33. The live broadcast again featured physicians from our Medical Society and received overwhelming viewer response. Physicians fielded 548 completed calls during the one-hour program.

As before, the chairperson of the Society's Young Physician Committee, Dr. Denise Bobovnyik, opened the show with anchor Len Rome. The show featured interviews and profiles of five medical specialists. Those doctors interviewed were family practitioner Dr. Thomas Albani, orthopedic surgeon Dr. Raymond Boniface, plastic surgeon Dr. Daniel Garritano, urolo-

gist Dr. John McElroy, and dermatologist Dr. Anthony Mehle.

The following physicians participated in a 15-line phone bank and answered calls from viewers: Drs. Albert Bleggi, Art Duran, Nicholas Garritano, James Leonelli, Jenifer Lloyd, Michael Miladore, Sandy Naples, Larry Nash, Douglas Naylor, Madeine Ortiz, Jay Osborne, Robert Piroli, Eugene Potesta, Nicholas Proia, Santucci Ricciardi, Suzan Selim, Melinda Smith, Lyn Yakubov, and Bruce Willner.

The Society thanks all those Society members who contributed to this second successful effort by the Young Physicians Committee. □

OSMA - CLIA Update, *continued from pg. 27*

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60 Years Ago — May/June 1932

MCMS Council was meeting every Monday night to discuss ways and means of starting our own central office, telephone exchange and collection service. Thus was the beginning of the Medical/Dental Bureau we use today.

50 Years Ago — May/June 1942

The war was going badly; the Pacific fleet was shattered, but hope was revived by General Doolittle's raid on Tokyo in April. Local doctors were heeding the call to arms and were volunteering for service. **A.R. Cukerbaum, S.J. Klatman, J.A. Rogers, Sam Schwebel, W.J. Tims and Herman Zeve** were soon to leave for military service. There were 117 physicians of military age among the membership.

40 Years Ago — May/June 1952

After 20 years of testimony, the AMA was still trying to make the Internal Revenue Service allow doctors to deduct the cost of postgraduate study.

Newmembers were **Ray Catoline, Henry Shorr, Fred Friedrich, and Ken Hovanic. Lawrence Segal** retired from practice and left "**Jake**" **Stechshulte** to fight on alone.

President **Carl Gustafson** said that profits from State Liquor Stores should be used to operate rehabilitation centers for alcoholics. Editor **McNeal** stated that physical diagnosis was a lost art.

30 Years Ago — May/June 1962

President **Charles Stertzbach** congratulated everyone on the success of the mass polio vaccine inoculation program conducted by chairman **Kurt Wegner**. Editor **Ben Berg** encouraged members to continue the fight against what was then known as "Eldercare." **Asher Randell's** committee on Osteopathy Relations reported that consultation with Osteopathic Physicians

was considered ethical. (We've come a long way.

William James Cleary became a member. **James Calvin** completed postgraduate study in cardiology and returned to active practice. **John Kalfas** was certified by the American Board of Neurological Surgery.

20 Years Ago — May/June 1972

The Centennial Year Celebration was in full swing. Editor **John Melnick** continued his historical research by printing a picture of Youngstown's second hospital, the Mahoning Valley Hospital. Located on Commerce St., it opened in 1897 but dissolved in 1912. Dr. Melnick also did a biographical sketch on **Dr. Helen Betts**, Youngstown's first woman physician, and also told about **Dr. Carlos Booth**, who built his own "horseless carriage."

The President's Ball was held on May 6 in honor of President **Henry Holden**. Chairperson for the event was Mrs. A. William Geordan.

10 Years Ago — May/June 1982

There was no May *Bulletin* that year, since the executive director could not handle the demands of the OSMA Meeting and get the *Bulletin* published in the same month. It was also decided not to publish during July or August for much the same reasons.

James Fulks had an interesting article on the history of medical musicians in the Mahoning Valley. Among those mentioned were **Sanford Gaylord and James L. Fisher**, who started the Medical-Dental Orchestra, and the "Docs of Dixieland," which included **Jim Fulks, Paxton Jones, Bob Kiskaddon, Ed Beynon**, along with **Al Mangie** and two non-physicians, Tony Altiero and Lou Heyer.

Stephen Barolsky had an interesting article on the use of cardiac catheterization for the diagnosis and treatment of coronary heart disease. □



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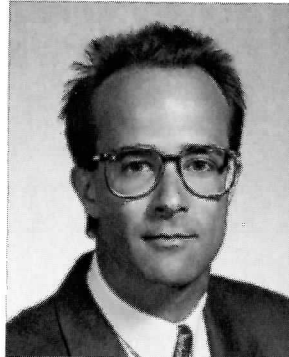
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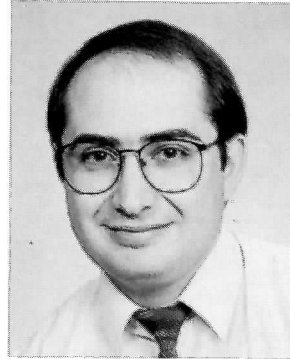
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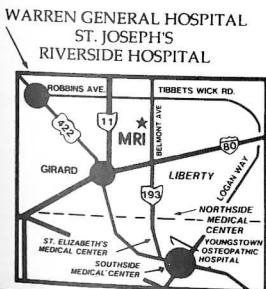
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“Bettina and Children”

Porcelain: 36" x 24" by Edna Hibel (1917 –)

Popular and familiar national artist, Edna Hibel, was born January 1917 in Boston, Massachusetts. By age ten, she was drawing and painting. She began to accrue prizes in art soon afterward. Her introduction to art began interestingly enough in math class, where the teacher gave Edna a small box of watercolors to fill spare time left from work completed quickly in the classroom. Edna's mother immediately began encouraging and promoting her interest in art to the extent she arranged private lessons with several masters over the years.

At age 23, Edna exhibited her paintings at the Boston Museum of Fine Arts School, whereupon the BMFA acquired a painting for its permanent collection, making Edna the youngest living artist to have a painting in the permanent collection of a major United States museum. During the following years, Edna traveled extensively throughout the world, including the Orient. Much of her time on these trips was devoted to sketching and observing the people, along with studying the artistic resources each of these countries offered. Oils, watercolors and drawings were mediums most widely used until the age of 49 when at the urging of a friend, Edna tried lithography out of curiosity and was smitten big time...“combining as it does drawing, form and color in a distinctive way, lithography opened up fresh and provocative aesthetic adventures.” Ten years later, Edna became similarly smitten with creating an art form using porcelain. It's challenges have brought her much joy and the creation of many beautiful porcelain pieces including plates, figurines and plaques.

The featured selection, *Bettina and Children*, is typical of the themes used by Edna. Most of her works are easily recognizable, creating her own unique signature in the art world. Portraying humanity is her goal “to depict the unity, fragility, and miracle of beauty of nature and

mankind...despite the burdens and pressures of society.” Her most popular theme is a mother-child/children combination. She portrays them as she feels them, not as she sees them. While colors are important and each stroke of the brush is carefully executed, they are not her goal. Colors are a vehicle to the total image impression she is striving for in a piece.

The selected piece is a porcelain done in eight colors and hand painted with highlights of 24kt gold on what was at the time the largest porcelain plaque ever made. The process involves putting the image on a paper coated with a film-like substance. The paper is moistened to allow the film to slip off and be carefully placed on the surface of the porcelain where it makes a perfect union with the porcelain. When fired, the film burns off to leave the image permanently bonded to the porcelain. The chemicals used for colors can make odd combinations when fired together, so they must be kept separate. The image must be broken down into many colors for different values to be obtained in the piece. Since each workshop has its own guarded secrets in working with porcelain, Edna works closely with different shops and their special capabilities to create a particular art work on porcelain.

It would be impossible to list the multitude of Edna Hibel's awards, recognitions, honors and many One-Man Shows held world-wide. Her works have honored places in museums the world over, and a collector's club has thousands of members who cherish both the artist and her works. Whatever medium Edna chooses to use, her works are lyrical, delicate, full of exceptional grace and beauty, with a touch of love and spirituality on the faces of the women and children...These qualities help make her works so desirable and comforting to view.

□



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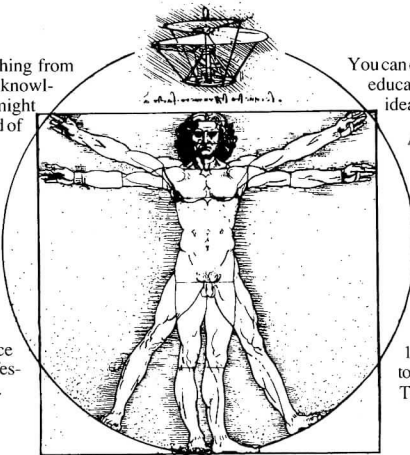
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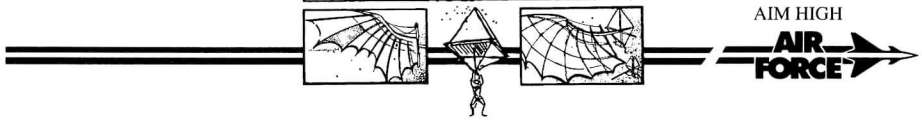
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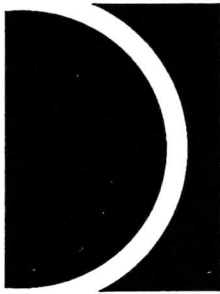
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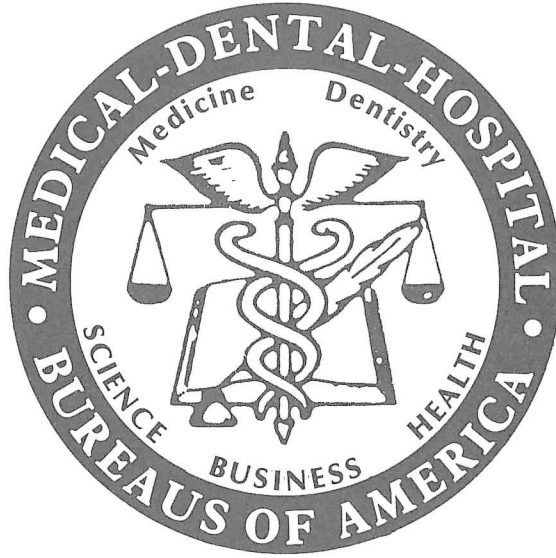
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