

# FRS & FRBMA *focus*

SPRING 2009

Florida Radiological Society • Florida Radiology Business Management Association



## FRS President's Message

by Richard L. Morin, Ph.D., FACR

### TRANSITIONS

**“....Change, that is the only thing in the world which is unchanging.”**

Indeed it is true that our professional and personal lives are constantly in transition. Each year at this time the Florida Radiological Society is in a time of transition. The FRS has new Officers and Board of Directors. I thank **Dr. Richard Benator** for his leadership, vision, and his dealing with trying issues last year. Our transition is congenial and honorable. That certainly is not the case in other areas. Transition often is a method to manage change. When CPT Codes change, we have a transition, not controlled by us. So who cares? Well sometimes it is difficult to manage change but most times we can manage transition. We shall have challenges. Both diagnostic radiologists and radiation oncologists are faced with medical specialists who wish to image or treat patients. In addition, these physicians have patients who would be better served by diagnostic radiologists and radiation oncologists. It may very well be that the future of diagnostic imaging lies in sub-specialization. Basically, doing it better than others who are not so well trained and not so experienced.

While through 2008 we have heard much about change, change without a plan is ill conceived. I think we should change mostly, because we have to change, and I believe that being pro-active is better than being re-active. The truth is that radiologists have changed far more than other in medicine over the last three decades. Our colleagues are diagnosing and treating maladies or diseases using modalities that they mastered far after completion of their residency, because these modalities and techniques did not exist during their residency. We do not celebrate this enough or sufficiently point out to CMS and payers that we do it better.

Medical imaging has handled, arguably, the greatest change in medicine. The availability of electronic practice has enabled new technologies to be come ubiquitous. We have not fully tapped the potential of this transition. But,

**FRS President's Message** continued on page 1



## FRBMA President's Message

by Al Falco

I would like to say thank you to our Board and members for the honor to serve as your President. I also want to thank my group (Radiology Associates – Daytona Beach) for their gracious support that has encouraged me to serve the FRBMA over the years. I am proud to say that they have a long history of support and involvement with the FRBMA. Years ago they saw the value of our organization to them personally. As a matter of fact, every radiologist in the state of Florida has benefited economically from the efforts of dedicated FRBMA members. As president, I look forward to sharing this “value” message with radiologists and their business professionals throughout our state. There really is strength in numbers. I encourage managers to enlist support from their radiologists for FRBMA. I also want to encourage radiologists to get their billing and management staff involved in our training and educational offerings. After all, the RBMA was founded in 1968 by radiologists who recognized the need for full-time, professional management of their business affairs. At that time, there were only 15 to 20 radiology business managers in the country. Today, RBMA represents over 2,200 radiology practice managers and other radiology business professionals. FRBMA has the distinction of being the largest state chapter in the country! We owe many thanks to those radiologists who forty years ago foresaw the need for an organization like ours. RBMA (on a national level) and FRBMA (on a local level) provide the necessary knowledge and resources for members to remain on the cutting edge of the industry. It all begins with RBMA membership (radiologists are welcome!). You will automatically become a member of FRBMA at no extra cost (we charge no dues). We can be certain of one thing – the challenges will keep coming and at a faster pace. You and I need to be prepared! I encourage your membership and active participation in FRBMA – there is strength in numbers.

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## Legal Corner

by Michael M. Raskin, M.D., MPH, JD, FACR



### Question: Has there been any decision yet in the peer-review cases that were before the Florida Supreme Court?

**Answer:** Yes. These cases are important because they successfully challenged a Florida statute on grounds that it constricted a state constitutional guarantee of broad access to internal reports about medical errors, regardless of peer-review and related privileges.

In 2004, Florida voters approved the constitutional amendment (codified at FLA. CONST. art. X §25(a)) guaranteeing to any member of the public the “right to have access to any records made or received in the course of business by a health care facility or provider relating to any adverse medical incident.” (The provision requires appropriate redaction of identifying information to comply with HIPAA.) It defines “adverse medical incident” very broadly, including acts “that are reported to or reviewed by any health care facility peer review, risk management, quality assurance, credential, or similar committee, or any representative of such committees.” *Id.* at (c)(3). It provides that access is to be granted “upon formal or informal request by the patient or a representative of the patient.” *Id.* at (c)(4).

The Florida legislature then purported to implement the amendment by enacting a statute. That statute, FLA. STAT. § 381.028 (2005), appeared to *narrow* the constitutional guarantee of access. It allowed access only to the “final report of any adverse medical incident,” and provided that non-final documents, “including drafts ... [and] notes ... may not be considered ‘records.’” Sec.381.028(3)(j). It also limited the constitutional amendment by providing that in order for a requester to get access to adverse incident records about other patients, those records must pertain to a condition, treatment, or diagnosis that is the same or substantially the same as had by the requester. It also specified that the amendment did not disturb any of numerous evidentiary privileges.

Then along came the plaintiffs in *Bowen v. Notami Hospital of Florida, Inc.* The three plaintiffs in this consolidated case alleged that a physician was negligent in performing surgery and that the defendant hospital was negligent in credentialing, retaining, or supervising the physician. The plaintiffs issued a request for production that included files, papers, and computer records relating to the selection, retention, or termination of the physician. The hospital withheld credentialing and related documents on the basis of risk management, peer review, and statutory privileges. The hospital’s counsel also, at a deposition, instructed the hospital’s CEO not to answer questions about the hospital’s investigation into the physician’s background. Plaintiffs moved to compel answers and the unproduced documents, and broadened the scope of their production request to include records made or received by the hospital relating to any adverse medical incident involving the physician. The trial judge wrote a bracing opinion in favor of the plaintiffs, holding that the 2004 constitutional amendment extended to all covered records even if they were produced before the effective date of the amendment, and that the amendment overrode any statutory constrictions - including privileges other than that of attorney-client - imposed by the legislature. An appellate court affirmed. *Notami Hospital of Florida, Inc. v. Bowen*, 927 So. 2d 139 (Fla. Dist. Ct. App. 2006). The *Notami* opinion conflicted on the retroactivity issue with

the opinion of another appellate court in *Florida Hospital Waterman, Inc. v. Buster*, 932 So. 2d 344 (Fla. Dist. Ct. App. 2006), but the courts were in agreement on the key question of whether the 2004 amendment preempted statutory privileges. According to *Florida Hospital Waterman*, “the people have clearly expressed their preference for freedom of information regarding adverse medical incidents over the privileges that protect the self-policing processes enacted by the legislature and protected by the courts. The people have made their choice, and it is not for us to question the wisdom of it.”

The Florida Supreme Court took up both cases and decided them under the consolidated caption of *Florida Hospital Waterman, Inc. v. Buster*, SC06-688 (Fla. March 6, 2008). Among other things, the opinion held that the amendment applied to records that were produced before its effective date and that the Florida legislature’s purported statutory implementation of the amendment impermissibly conflicted in key respects with the amendment. One of those ways was, indeed, the legislature’s pronouncement that the amendment would have no effect on existing privileges. The result is that adverse medical incident reports are now available regardless of peer review and related privileges.

### President’s Message continued from front page

without questions, electronic imaging practice has changed medicine in a remarkable way. So we have change before us. We shall always have change before us. From Sputnik to the International Space Station to a persons aging, change is continuous. Those with children fully understand this. From eating habits to recreational activities we change and adapt to the situation at the time. For this is basic to life. Other species change only to survive, we have other choices. We sometimes change for good or bad reasons, but nonetheless, we change. Not only change, we evolve.

On a personal level, I truly understand change. A washing machine leak recently blossomed to pool repair and kitchen update. I understand change. While painful in more ways than one, the FRS First Lady is much happier and hence my life is much richer. The results of change can be good. This year will undoubtedly involve many transitions which I believe will continue to enhance our practices and the FRS.

This year your FRS Board of Directors will address the consistency of our meetings, our committee structure and function, membership involvement, and our web-based communications. As always, we shall work closely with our lobbyists, **Ms. Alison Dudley** (the best in Tallahassee) to watch over the interests of the FRS and our specialties. We also look forward to working with FRBMA President **Mr. Al Falco** and Executive Director **Ms. LaDonna Nichols** to continue our close relationship with the FRBMA, truly a lifeline to so many practices. I welcome your thoughts regarding other areas or issues your Board should address.

I am honored to direct the FRS in this time of transition. I can assure you that you are the beneficiary of a very dedicated Board of Directors who serves on your behalf. Finally, I wish to thank you for the opportunity to direct the FRS this year. I shall always do my best.

By the way, the quote at the beginning of this column was from Heraclitus of Ephesus at around 500 B.C. Apparently, change has been with us for quite some time.



### Historic Election Night Nationally - but Republicans in Florida hold on

While Americans witnessed history in the election of Barack Obama whose campaign will serve as the new paradigm in modern politics, Floridians voted for Obama but then returned nearly all incumbents to office with few exceptions in Congressional and legislative races.

In Congress, Florida returns a net 1 gain for Democrats with Republican incumbents Rick Keller and Tom Feeney losing in the Orlando/Volusia areas, while Democrat Tim Mahoney was soundly defeated in the Treasure Coast. Miami incumbent brothers Lincoln and Mario Diaz Balart - who were nationally targeted by Democrats - both were re-elected with impressive margins.

In the State Senate, no changes as Republicans maintain their 26 to 14 advantage. The House will be controlled by Republicans 76-44.

### FRS Election Scorecard:

Candidates who won without opposition:

|                |                |                  |
|----------------|----------------|------------------|
| Tom Anderson   | Ed Hooper      | Ray Sansom       |
| Gary Aubuchon  | Dennis Jones   | Kelly Skidmore   |
| Anitere Flores | Steve Precourt | Will Weatherford |
| Audrey Gibson  | Garret Richter |                  |

Candidates who won their Primary Elections:

|               |             |               |
|---------------|-------------|---------------|
| Paige Kreegel | Gary Siplin | Eleanor Sobel |
|---------------|-------------|---------------|

Candidate who lost Primary:

Mike Grant

I am sad to report that Mike Grant did not beat his primary opponent. He lost by only 1,847 votes. The Governor weighed in supporting him but unfortunately Senate Leadership weighed in against him as they were concerned about the Democrat in this race. They felt his opponent was a stronger Republican nominee for the General election. We are very saddened by his loss.

Candidates who had General Elections on November 4<sup>th</sup> and are now elected:

|                 |                 |                |
|-----------------|-----------------|----------------|
| Sandy Adams     | Dan Gelber      | Doc Renuart    |
| JD Alexander    | Denise Grimsley | Gary Siplin    |
| Thad Altman     | Adam Hasner     | William Snyder |
| Jeff Atwater    | Doug Holder     | Eleanor Sobel  |
| Steve Bovo      | Matt Hudson     | Kelli Stargel  |
| Nancy Detert    | Dorothy Hukill  | Nick Thompson  |
| Brad Drake      | Paige Kreegel   | Mike Weinstein |
| Eric Eisenaugle | John Legg       | Alan Williams  |
| Michael Fasano  | Evelyn Lynn     | Steve Wise     |
| Clay Ford       | Debbie Mayfield | Juan Zapata    |
| Jim Frishe      | Peter Nehr      |                |
| Andy Gardiner   | Pat Patterson   |                |

Candidates who had General Elections on November 4<sup>th</sup> and were defeated:

Peter Boulware – Tallahassee – open seat - lost by 400 votes – this seat was in a recount. This was a seat heavily pursued by the Republican Party.

Laura Benson - took on an incumbent Democrat – this is another seat that the Republican Party was pursuing. Unfortunately, she was not successful.

Tally: The FRS supported 50 candidates in this year's elections. We had 47 wins and 3 losses.

### Campaign Involvement:

The Radiologists have been very active through many fundraisers throughout the state supporting candidates that would represent us well in their respective legislative arenas. I would particularly like to thank the Radiologists around the state who have stepped up and made these various fundraisers a success.

During the 2007-2008 election cycle we hosted the following events:

- Representative Mike Grant for Senate at FRS 2007 Annual Meeting
- House Republicans at the Dudley's 11/07
- Three-for-One Event held in Naples 3/08 – Senate President
- Designee Atwater, Richter for Senate and Senate Republican Fundraiser
- Representative Dorothy Hukill at FRS 2008 Annual Meeting – re-election event
- House Republican Fundraiser at the Dudley's 9/08

### Senator J.D. Alexander Fundraiser in Tampa

Thanks go out to the FRS, Dr. Entel, Dr. Baran and his group and Dr. Epstein and his group for their campaign support for Senator J.D. Alexander.

I was approached by Senator Don Gaetz (sponsor of the physician direct pay bill that was successfully passed this last session) for the FRS to help Senator Alexander with his re-election bid.

Senator Alexander is one of the major players in the insurance arena in the Legislature and without his support Senator Gaetz's bill would not have passed.

Dr. Entel attended the fundraising lunch on behalf of the FRS and presented the checks to Senator Alexander. Senator Gaetz was also in attendance.

Senator Gaetz and Senator Alexander were very appreciative of our help. Special thanks to those who made it possible.

### Republican Party Event at the Dudley's

The Dudley's hosted a House Republican event at their house on September 12, 2008. Leadership selected House candidates from around the state to attend.

Attending the event were Speaker-Designate Ray Sansom, Representative Will Weatherford (Speaker-Designate 2012), Speaker Pro-Tem Larry Cretul (Ocala), Chair of Rules & Calendar Council Rep. Bill Galvano (Bradenton), Majority Leader Adam Hasner (Boca Raton), Representative Marcelo Llorente (Miami), recently elected Tom Grady (Naples). Also in attendance were Rep. Clay Ford (Pensacola), Rep. Dorothy Hukill (Daytona), Rep. Paige Kreegel (Punta Gorda) and Rep. Denise Grimsley (Sebring) and candidate Peter Boulware

(Tallahassee). On behalf of the Radiologists, Dr. Robert Entel (Palm Harbor) and Dr. Charlie and Mrs. Pat Williams (Tallahassee) attended the event. Over \$100,000 was raised for the House Republicans and each candidate raised in excess of \$6,000.

Special thanks go out to the doctors from the following groups: Radiology Associates of Tampa, Radiology Associates of Tallahassee, Radiology Associates of Daytona and Radiology Associates of Hollywood for helping make this such a successful event.

### Legislative Update:

#### House Speaker-designate Ray Sansom conducts first official press availability

On Wednesday, November 5<sup>th</sup>, House Speaker Ray Sansom conducted a press availability and reiterated that he still sees no need for a Special Session later this year to address any further budget reductions in Florida. Rep. Sansom believes the Governor continues to have enough authority to access various funds and indicated that the Governor's four percent agency holdback will likely become permanent given the projected budget deficits. The Revenue Estimating Conference will be issuing an updated forecast on November 21<sup>st</sup> and this could conceivably require further legislative budget action.

Rep. Sansom also indicated that he would be returning the House committee structure to a separation of the Appropriations committees from the Policy committees. He indicated that this change was necessary to bring more focus to the budget challenges Florida will face over the next two years. He anticipates making budget committee appointments the first week of December and making policy committee appointments during the second week of December. At this point, he is planning on budget committees only meeting the week of December 15<sup>th</sup>.

#### House Speaker-designate Ray Sansom releases Speaker's Office staff appointments

TO: Members, Florida House of Representatives  
FROM: Speaker-designate Ray Sansom  
DATE: November 5, 2008  
RE: Speaker's Office Staff

Congratulations on your election and reelection to the Florida House of Representatives. It was evident that an enormous amount of energy, strategy and hard work went into your campaigns, producing results of which you can be proud. Now, we begin the even more challenging and essential job of reducing state spending and enacting legislation during one of Florida's and the nation's most difficult financial periods. I have confidence we can accomplish both in the interests of Floridians -- especially working families.

As your Speaker-designate, I have begun the task of transition into the Speaker's Office. This note is to announce the staff appointments for the Speaker's Office. Each of these individuals is available to provide assistance to you, so please feel free to contact them.

- Chief of Staff Michael Hansen
- Deputy Chief of Staff Janice Gilley
- Deputy Chief of Staff Carlos Muniz
- Clerk of the House Bob Ward
- Sergeant at Arms Ernie Sumner
- Executive Director of Operations Michelle Davila
- Communications Director Jill Chamberlin

- Scheduling Coordinator Dort Baltes
- Appointments & Special Projects Coordinator Melanie Phister\*
- Special Legislative Assistant Eric Edwards
- Senior Executive Assistant Lynn Imhof
- Senior Administrative Assistant Lisa Griffin

Information on the November 18<sup>th</sup> Organization Session will be emailed to your district offices today and will include details about the schedule, parking, and other matters.

\*Effective December 1, 2008

### Legislative Dates To Remember:

Regular Session convenes on March 3<sup>rd</sup> and goes through May 1<sup>st</sup>.

I highly encourage a trip to Tallahassee during the Legislative Session to see how the process works. Please contact me in advance if you are planning to come to Tallahassee and I will help set up meetings to make your trip more memorable.

Thanks to all of the Radiologists throughout the state for all their political support.

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# Pre-authorization By Third Party Payors-Point

by James B. Wieland, JD

In considering whether a radiology practice or imaging center, rather than the referring physician, can obtain prior authorization from third-party payors under the federal anti-kickback law, the key question is what the parties intend in allocating responsibility for this task. As between the referring practice and the radiology-imaging provider, the prior authorization is clearly for the benefit of the radiology practice or imaging center since without it the imaging service would not be reimbursed by the third-party payor. Logically, obtaining prior authorization relates to the radiology-imaging service, not to the office visit or other services rendered by the referring physician that generates the referral. If the third-party payor nevertheless specifically requires the referring physician to obtain the prior authorization, then under the contract of insurance it is the referring physician's responsibility and they must carry it out.

Before a radiology-imaging provider "just says no" to the idea of undertaking the responsibility of obtaining prior authorizations for services referred to it, however, I would suggest it is worth determining exactly what individual third-party payors for the patients of the radiology-imaging provider require. This determination requires a payer-by-payer analysis. Depending on the results, radiology-imaging providers who decide to undertake this responsibility may need to implement it on a payer-by-payer basis. In situations in which the insurance contract does not require the referring physician to obtain the prior authorization, such radiology-imaging practices may decide to obtain prior authorization on behalf of their patients from their thirdparty payors. If the insurance contract or the third-party payors' rules and regulations for participating physicians is not clear, it may be advisable to write to the third-party payor for advice.

In terms of what to expect from third-party payors now and in the future, it is important to note that, at base, prior authorization is a process directed at determining medical necessity and appropriateness of care (i.e., directed at cost-savings for the third-party payor). The third-party payor's motive is to ensure the process is followed. The payor does not necessarily care one way or the other who accesses the process. This is especially true in an environment in which transactions such as obtaining prior authorizations are conducted over the Internet and when the patient information needed for medical necessity determination is available to both the referring physician and the radiology-imaging provider through an electronic medical-records system or otherwise.

My understanding is radiology-imaging providers that decide it is appropriate to obtain prior authorizations usually do so through their own personnel in their own office. However, it is worth noting even under the OIG's 1994 Fraud Alert regarding the placement by a clinical laboratory of a phlebotomist in a referring physician's office, it is clear the practice is permissible if the phlebotomist only provides services for the clinical laboratory and not for the benefit of the referring physician. This seems consistent with the logic that, absent a third-party payor requirement that prior authorization be obtained by the referring physician, prior authorization is for the benefit of the radiology-imaging provider and not the referring physician, and may be performed by the radiology-imaging provider.

Intent, of course, does not matter under the federal Stark statute. If there is a compensation relationship between the parties to a referral of a designated health service, such as a radiology-imaging service, referrals are prohibited, absent an exception, regardless of what the parties intend. However, the analysis discussed above would seem to apply: who

benefits from obtaining the prior authorization? If there is no third-party payor requirement that the referring physician obtain the prior authorization, it seems reasonable to conclude the radiology-imaging provider's obtaining prior authorization does not give rise to a compensation relationship between the radiology practice and the referring physician. A compensation relationship requires remuneration to pass between the parties, either in the form of financial payment or the provision of some other benefit. Absent a contrary third-party payor requirement, the benefit is to the imaging provider.

The prior authorization issue is a "look before you leap" situation but it is also a "look before you give up" situation. Radiology-imaging providers should look to their patients' third-party payor arrangements to determine whether referring physicians are required to obtain prior authorization under the insurance contract at issue. To the extent that there is no requirement, obtaining prior authorization for an imaging or radiology service does not benefit the referring physician and, thus, should be permissible. As with any regulatory matter, radiology-imaging providers should consult with their healthcare counsel before making an individual decision.

JAMES B. WIELAND, JD, is a partner in the healthcare group of Ober Kaler and is lead legal counsel for RBMA. James may be reached at Ober, Kaler, Grimes & Shriver, 120 East Baltimore Street, Baltimore, MD 21202-1643; 410.685.1120; 410.547.0699 Fax; jbwieland@ober.com.

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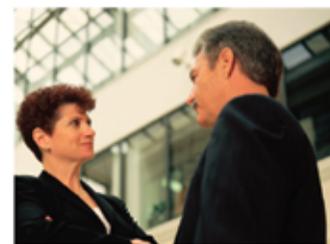
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# Pre-authorization By Third Party Payors-Counterpoint

by Thomas W. Greeson, JD

In expressing caution when radiologists and imaging centers consider whether to provide preauthorization “assistance” to referring physicians, I begin with a premise that many – if not all payors – require by contract that referring physicians perform pre-authorization for the advanced imaging services, such as MR, CT or PET, they order. The question that must be asked, therefore, is what purpose is served when an imaging center relieves a referring physician of the burdens of performing the burdensome administrative steps of obtaining payor preauthorization. When relieved of that burden for private payors, one must surmise a referring physician may have an incentive to steer all their orders for diagnostic imaging services – including Medicare patients – to that imaging center.

Providing free preauthorization services can range from having on-site personnel at large referring physician offices to making calls to payors “on behalf of” the ordering physician group. This “assistance”: to referring physicians, radiologists and their imaging centers – and referring physicians – could not only cause the imaging provider to face potential termination from health plans for failing to comply with their utilization programs, but would also create the risk of fraud and abuse scrutiny.

The federal anti-kickback statute authorizes the government to impose criminal penalties on any person or entity who, knowingly and willfully, offers or pays any remuneration in an attempt to induce someone to refer patients for items or services that can be reimbursed, in whole or in part, under Medicare, Medicaid or other federal healthcare programs. The term “remuneration” has been broadly defined by both the federal government and the courts to mean essentially anything that has value, including free services.

In a 1994 fraud alert the HHS Office of the Inspector General (“OIG”) addressed the issue of whether a clinical laboratory would be providing prohibited remuneration to a referral source if the laboratory placed a phlebotomist in a physician’s office to draw and prepare samples for the lab. The OIG observed that “[w]hile the mere placement of a laboratory employee in the physician’s office would not necessarily serve as an inducement prohibited by the anti-kickback statute, the statute is implicated when the phlebotomist performs additional tasks that are normally the responsibility of the physician’s office staff. These tasks can include taking vital signs or other nursing functions, testing for the physician’s office laboratory or performing clerical services.” (emphasis added).

The OIG has long observed “although many compensation arrangements are legitimate business arrangements, compensation arrangements may violate the anti-kickback statute if one purpose of the arrangement is to compensate physicians for past or future referrals.” Thus, if even one purpose of providing preauthorization assistance is to induce the physician to generate referrals of Medicare, Medicaid or any other federal healthcare program patients, fraud and abuse scrutiny may be possible. Because payors also require the referring physician to obtain authorization, federal fraud and abuse enforcement authorities could view the act of providing a physician practice with pre-authorization services at no charge as offering the physician something of value or “remuneration.” Relieving the referring physician group of this obligation reduces costs referring physicians would otherwise incur, not to mention the time and obvious hassle factor associated with obtaining payor approval. In short, the nexus between the free services

and patient referrals, including federal healthcare program beneficiaries, causes the anti-kickback statute to be potentially implicated.

Sadly, there is no clear and unambiguous guidance. It may not be until someone in the industry is publicly and visibly sanctioned that the pressures to accede to these demands for “assistance” may continue. In the meantime, radiology groups and other imaging providers – as well as referring physicians – must seriously consider the risk of anti-kickback enforcement action should they engage in the provision and/or receipt of free preauthorization assistance. My bottom line advice remains: just say “NO!”

THOMAS W. GREESON, JD, is a partner in the Falls Church, Virginia, office of the international law firm of Reed Smith LLP. Reed Smith is an industry member of RBMA. His practice focuses on the regulatory and transactional needs of diagnostic radiologists and imaging centers. He served as general counsel of the America College of Radiology for many years before entering private practice in 1998. Among his awards and honors is receipt of the RBMA President's Award in 2003. He holds his MBA from the Terry School of Business at the University of Georgia. He is an honors graduate of Chicago-Kent College of Law. Tom can be reached at Reed Smith LLP, 3110 Fairview Park Dr., Suite 1400, Falls Church, VA 22042; 703.641.4242; tgreeson@reedsmith.com.

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## Award Winners

### Resident and Fellow Section Douglas M. Hornsby Leadership Award

Richard M. Benator, M.D., FACR

### Resident Of The Year Award, Sponsored By M.A. Financial

Melissa Themar-Geck, M.D.

### FRBMA Above And Beyond Award, Sponsored By Megas - Alpha II

Charles Allan

### FRS President's Plaque

Presented to outgoing President, Richard M. Benator, M.D., FACR by incoming President Richard L. Morin, Ph.d., FACR

### FRS Gold Medal Award

Robert M. Quencer, M.D., FACR

## Golf Tournament Winners

**1ST PLACE TEAM with a score of 65:**  
James Smith, Gerald Hendrix, Michael Mazeres

**CLOSEST TO THE PIN:** Staige Hoffman

**2ND PLACE TEAM with a score of 66:**  
Larry Muroff, Dennis Wiseman, Thomas Herald, BJ Lutzk

**Longest Drive:** Debbie Simone



# FLORIDA RADIOLOGICAL SOCIETY, INC. MINUTES OF THE BOARD OF DIRECTORS MEETING

Friday, July 11, 2008

The meeting was called to order by the President, Dr. Richard Benator, at 2:10pm on July 11, 2008. Members of the Board of Directors and guests present were: Drs. Baran, Benator, Cernigliaro, Cook, Davila, Deitte, DePrima, Entel, Katz, Kotsenas, Landry, Levine, Morin, Muroff, Murray, Porter, Raskin, Sharp, Wahab, Young; FRBMA President, Al Falco; FRS Lobbyist, Alison Dudley; FRS Executive Director, Stephen Hunter; FRS Associate Director, Elizabeth Trombetta; Society Administrator, Heather Lauro.

## President's Report, Richard Benator, MD, FACR

We had a strategic meeting this past fall at which many things were discussed. We have completed important tasks such as creating a mission statement, becoming financially stable, resident & fellow involvement, an annual meeting task force, increased communications, database improvements, legislative fellowship, lobbyist activity as well as increased involvement with the ACR. We do still need to improve in many areas such as FMA delegate positions, ACR standards, vendor support, and FRS/FRBMA communications.

## Secretary's Report, Joseph Cernigliaro, MD

**MOTION:** To suspend reading and accept the minutes of the January, 2008 board meeting as published.

*Secoded and passed.*

## Treasurer's Report: Gregg Baran, MD

Our income and dues revenue stream are stable. We had 61K of support for the 2008 meeting. Our main expenses this year were the annual meeting as well as lobbying; however, our surplus is 28.5K and the net is good. The last dues increase was in 2006. A dues increase applying it incrementally throughout a number of years was recommended by Dr. Morin.

**MOTION:** Finance committee to put together a dues increase structure.

*Secoded and passed.*

## Executive Director's Report, Stephen Hunter

Mr. Hunter provided updates on membership, financials and the projections for the 2008 annual meeting. (A copy of the presentation will be archived with these minutes.)

## FRBMA Report, Al Falco, MBA, FRBMA President

Senate passed the Medicare Bill reprieve through 2009 with a 1.1% increase. By 2012 everyone must be accredited in order to be paid by Medicare; however, President Bush may veto.

## OLD BUSINESS

## FRS Logo, Richard Benator, MD, FACR

**MOTION:** To accept new logo.

*Secoded and passed.*

## FRS Legislative and Government Relations Fellowship Program, Lori Deitte, MD

Drs. Andrew Rivard and Melissa Themar-Geck accepted the fellowship and made the trip to Tallahassee this summer. Dr. Deitte was amazed by Ms. Dudley's energy and ability to interact. \$1,275.00 was the total cost to the FRS and would like to continue the fellowship program going forward. Dr. Deitte is unaware of any other fellowship like this at the state level.

## 2008 Annual Meeting Report, Amy Kotsenas, MD, Program Chair

We had a good mix of lectures this year as well as Radiation Oncology breakout sessions. The Passport program that was implemented last year in exhibit hall to increase vendor visitation was a great success and is being offered again this year. Dr. Kotsenas would like to thank everyone for their assistance with planning and creating another successful meeting.

Drs. Wahab and Buskirk stated that the CAC had approved the following: Use of Herbattox, Stereotactic Radio Surgery and Stereotactic Body Surgery.

There was a Program and Education meeting this morning per Dr. Cook. Issues and details will be forthcoming as all need more structure including ESI, FRS, FRBMA, Radiation Oncology breakout sessions, etc.

Dr. Deitte would like to acknowledge that we had a record number of Residents attend this year's meeting-25! Dr. Murray stated there are 5 confirmed poster presentations at the annual meeting. Dr. Cernigliaro stated we need to have the poster presentations done in April. Mr. Max Adams provides a 1 hour discussion on contract negotiation, asset protection and estate planning which fills the gap and is well received by the residents. Mr. Adams and Dr. Hornsby also provide assistance with rooms and a resident outing. To help formalize it for Residents, ESI will create a block (15) of rooms and receive a grant to cover those expenses which would help the Residents plan ahead.

**MOTION:** To invite President and Vice President of residents to participate in Board of Directors meeting as a non-voting position.

*Secoded and passed.*

## NEW BUSINESS

## National Face of Radiology, Michael Raskin, JD, MD, FACR

According to the ACR campaign 50% of the public does not know who we (Radiologists) are. Currently the ACR is trying to brand Radiology and they are at a cross road of what to do. At the end of the month they will hold a Board of Chancellors meeting to discuss their advertising possibilities. In the fall of 2008 all ACR members will be made available customizable advertising material to use at their place of employment.

## Website for Delinquent Center, Abner Landry, MD, FACR

The FRBMA has decided against accepting Dr. Landry's proposal to combine the FRS/FRBMA website with the company payment type website. Dr. Landry will create his own website.

## COMMITTEE REPORTS

### Lobbyist Report, Alison Dudley

Rep. Renee Garcia is now termed out; however, she will run again in two years as will Steve Bogo both of which are proponents of Radiologist. Bills not in favor of the FRS are trying to be passed. Ms. Dudley needs the Board of Directors to advise her.

### Nominating Committee, Robert Entel, MD, MPH, FACR

Dr. Entel presented the nominations for 2008-2009 slate of officers: President - Richard Morin, Ph.D., FACR; President Elect - Gregg Baran, MD; Treasurer - Joe Cernigliaro, MD; Secretary - Lori Deitte, MD.

**MOTION:** To accept slate as presented.

*Seconded and passed.*

Councilors are three year terms for which they can serve two three year terms then must sit off for a minimum of one year. Alternate Councilors are one year positions.

Dr. Entel presented the nominations for Councilor positions: Councilors – Drs. Amos, Baran, Benator, Cernigliaro, Cook, Davila, Deitte, Morin, Northup, Raskin, Rose, Sharp, Singer, Wahab.

**MOTION:** To accept slate as presented.

*Seconded and passed.*

Dr. Entel presented the nominations for Alternate Councilor positions: Alternate Councilors – Drs. Epstein, Hornsby, Katz, Landry, Levine, Martinez, Meader, Otero, Schiering, Buskirk, Davis, Williams, Broderick, Killius.

**MOTION:** To accept the first 14 alternate councilors as presented.

*Seconded and passed.*

Dr. Entel presented the nominations for the Alternate Councilor 15<sup>th</sup> position: Dr. Rajendra Kedar, MD and Dr. John Steel, MD.

**MOTION:** To approve Dr. Rajendra Kedar, MD for the 15<sup>th</sup> position of the alternate councilors.

*Seconded and passed.*

These slates will be presented to the members for voting during the Business meeting on Sunday.

### Fellowship Report, Lawrence Muroff, MD, FACR

Please look around the table and at your own practices for Fellowship applicants.

**MOTION:** To accept chapter nominations as presented.

*Seconded and passed.*

## Legal and Bylaws Report, Michael Raskin, JD, MD, FACR

**MOTION:** To accept change article IV, section 1 of the bylaws which included allied health members.

*Seconded and Passed.*

### Radiology Task Force, Barbara Sharp, MD

Dr. Sharp provided an update on the FRS Radiology Workforce project. (A copy of the presentation will be archived with these minutes.)

### ACR Council Steering Committee/Board of Chancellors Report, Lawrence Muroff, MD, FACR

Dr. Thrall and the ACR are successfully lobbying congress. They are being provided with more access to the Board of Chancellors. An effort is being extended toward accreditation and self referral. SGR revenue is increasing. The ACR's new education center is very impressive. Dr. Michael Raskin, JD, MD, FACR is now on the council steering committee.

### E-Brief Report, Robert Entel, MD, MPH, FACR

The E-Brief has been a success so far and Dr. Entel requests feedback as well as help from the Board of Directors for articles. Requests for staff to receive resident email addresses so that they may be kept informed as well.

### The business meeting was adjourned at 5:20pm.

## FLORIDA RADIOLOGICAL SOCIETY, INC. MINUTES OF THE BUSINESS MEETING July 13, 2008

The meeting was called to order by President, Dr. Richard Benator at 11:50am on July 13, 2008.

**MOTION:** To suspend reading the minutes of the previous board of directors' meeting and accept them as published.

*Seconded and passed.*

Dr. Gregg Baran, FRS Treasurer, reported the income and expenses for the Society.

Dr. Benator provided the ACR Councilor report from the ACR Annual Meeting in Washington, D.C.

Dr. Benator presented the bylaws changes to add Allied Health Members as a membership category for the FRS.

**MOTION:** To accept amendment as read.

*Seconded and passed.*

Dr. Entel presented the slate of Officers, Councilors and Alternate Councilors nominated for open positions.

**MOTION:** To accept the nominating committee's recommended slate of officers, councilors and alternate councilors.

*Seconded and passed.*

### The meeting was adjourned at 12:00pm.

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- Gold Medal Cocktail Reception
- Legacy Lecture Breakfast
- Resident and Fellow Poster Sessions

# DOH Physician Workforce Survey

by Barbara L. Sharp, M.D.



## Background:

In 2007, the Florida Legislature saw the need for governmental and non-governmental stakeholders to assess Florida's physician workforce and its impact on accessing quality care. Senate Bill 770, sponsored by Senator Atwater, and House Companion Bill HB 877 sponsored by Representative Homan authorized the Florida Department of Health to create a physician workforce forecasting model, to develop a mandatory physician workforce survey and to create a strategic plan for physician availability.

In 2008 a Healthcare Practitioner Ad Hoc Committee was appointed by the Secretary of Health. I serve on this committee. The committee's first objective was to develop a comprehensive survey to collect geographic distribution and specialty data for all active Florida physicians. Once the data is available, we will create a strategic plan focused on graduate medical education (residency) and on attracting and retaining physicians to practice here. The members of this committee include representatives from medical schools, Florida Medical Association, Florida Osteopathic Medical Association and the Boards of Allopathic and Osteopathic Medicine, Florida Hospital Association, Florida Justice Association, and the Florida Radiological Society.

The new mandatory Florida Physician Workforce Survey is being distributed to all Florida Physicians with their license application or renewal, starting in 2008. The Survey collects data about key impact areas, such as emergency on-call issues and projected changes to a physician's scope of practice. Regarding radiology, new questions are included addressing shortages in pediatric nuclear medicine and pedi-

atric interventional radiology, the geographic distribution of radiology subspecialists and mammography.

On Sept 25<sup>th</sup>, the committee met in Tampa to review the initial data from the Survey. Fifty percent of Florida physicians renewed their medical license in 2008. Ninety-nine percent responded to the survey. Only 71% of physicians filling out the survey actually have a valid practice address in Florida. Of those completing the survey, 23% are female while 77% are male with most of the physicians aged 46-55. Seventy-eight percent of physicians are Caucasian, 12% are Asian, 5% are Black, and 5% are Hispanic. Three percent of physicians practice in rural areas. Only 31% respondents take ER call or work in an ER department. Liability and lifestyle considerations are the two predominant reasons why physicians refrain from taking ER call.

With regard to radiology, a total of 1,801 radiologists participated in the survey. Twenty-seven percent of radiologists read mammograms. For those who do, 18 percent of radiologists plan to discontinue (9%) or decrease (9%) the number of mammograms they read over the next 5 years, while 20% expect that their number of mammograms read will increase. Approximately half of those who read mammograms perform biopsies and approximately 25% perform MRI guided breast biopsies.

I will keep you informed of the progress of the Physician Workforce Survey as more data is analyzed. Members can contact me if for specific questions at [bsharp@moribeanbrooks.com](mailto:bsharp@moribeanbrooks.com).



## ACR Young Physician Section

by Jesse A. Davila, M.D.

Have you heard about the ACR Young Physician Section (YPS) which represents those radiologists that are either within 7 years of completing training or less than 40 years of age? This section of the ACR was created to help promote and identify the specific needs and concerns of newly practicing radiologists. The YPS also seeks to improve communication among young radiologists and provide opportunity for involvement at both the state and national level. The YPS has been created to help its members shape their profession and ensure its existence for future generations. The ACR recently approved additional funding that will support including a YPS member as an alternate councilor to the Annual Meeting and Chapter Leadership Conference (AMCLC) that takes place every spring in DC. This meeting is an invaluable opportunity to learn about the activities of the ACR and to advocate on behalf of the College on Capitol Hill. Look for updated information on our new Facebook group site.

## Resident Poster Session is a Highlight of FRS/FRBMA Meeting

by Lori Deitte, M.D.

Florida radiology residents participated in the third annual Research Poster Symposium at the 2008 FRS & FRBMA annual meeting in Orlando. Congratulations go to Dr. Laura Hogan from Mayo Clinic Jacksonville for receiving the Honors Award for her poster titled "Simple Craniosynostosis and Craniosynostosis Syndromes: A Pictorial Review". Dr. Madhura Desai from Mayo Clinic Jacksonville received the Highest Honors Award for her poster titled "MR Imaging of the Shoulder after Common Surgical Interventions: A Pictorial Review." We want to thank all of the residents who participated in the symposium as well as to the poster judges, Drs. Michael Katz and Michael Raskin for their efforts.

## FRS Receives Award for Membership in Division (D) from ACR!

The ACR extended their appreciation to the Florida Radiological Society for participating in the ACR Chapter Recognition Program for 2007. After they reviewed all of the submissions, they were pleased to announce that the Florida chapter has been selected to receive the award for Membership in Division D. The Florida Radiological Society's commitment to excellence in Membership has not gone unnoticed.

The award ceremony for the Chapter Recognition Program took place during the ACR Annual Meeting and Chapter Leadership Conference on May 19, 2008. Richard Benator, M.D., FACR, President of the Florida Radiological Society was presented with a certificate acknowledging the FRS's accomplishment. In addition to receiving a certificate, the Florida Radiological Society's name now appears on a plaque that resides in the ACR national office located in Reston, Virginia.

Congratulations!

## More Simpler Times

by Dr. Charlie "Pedro" Williams

Dr. Charlie Williams, a radiologist from Tallahassee has just released a collection of stories titled **More Simpler Times** about growing up in South Georgia in the 1940's. It is the sequel to his successful first book called **Simpler Times**, where he continues to reflect on the wisdom and humor of his grandma and her three boys through the eyes and innocence of "Pedro". These stories can take us out of the reading room and into our own simpler times and special memories. Dr. Williams has previously served as President of the FRS and as Vice-President of the ACR, and lectures extensively on radiology issues throughout the country. The proceeds from the book go to the We Care Program, which is sponsored by the Capital Medical Society Foundation to provide medical care for the indigent. To obtain a copy, you can call the Capital Medical Society Foundation at 850-877-9018 and ask for Rosalie or write the Capital Medical Society Foundation, 1204 Miccosukee Road, Tallahassee, FL 32308. The cost of the book is \$19.95 plus \$3.00 for shipping. Make the checks payable to the Capital Medical Society Foundation.



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# more simpler times

**M**ore *Simpler Times* is the sequel to Dr. Williams' first book, *Simpler Times*, and is a collection of stories about growing up in South Georgia in the 1940s during the time when life was less complicated – a time when people had to make over, make do, or do without. Written through the eyes and innocence of “Pedro” (pronounced “Pee-dro”), Dr. Williams reflects on the wisdom and humor of his Grandma and her three boys – Millard, Dillard, and Willard.

It is hoped that these stories will warm and touch your heart and tickle your mind. By revealing the source of Dr. Williams' roots and background in the 1940s, may this stimulate some special memory from your past. We need to understand and appreciate where we came from so that we can recognize where we are. It is hoped that you laugh at these stories, laugh at yourself, and look back at your own *Simpler Times* with special memories and love for your kinfolks and family.

#### CHARLES D. “PEDRO” WILLIAMS, MD

Dr. Williams was born at home in the country in Colquitt County on Cook Road near Jerusalem Church between Moultrie and Berlin, Georgia, on March 24, 1940. He is currently active in the private practice of radiology with Radiology Associates of Tallahassee. In spite of all his “edukashun,” he never lost his sense of appreciation for his roots and his love for family. He and his wife, Pat, have six children and fourteen grandchildren. Spending time with the family is one of their greatest joys. They both love to garden and dig, as long as it is not for survival.



#### 'WE CARE' PROGRAM

*More Simpler Times* is a fundraiser for the Capital Medical Society's We Care Program, which provides medical care for the indigent. For more information about We Care, please call the Capital Medical Society at (850) 877-9018. Copies of Dr. Williams' book can be obtained by calling the same number or can be purchased directly from the Tallahassee Memorial Hospital Gift Shop.

# THE RESIDENT AND FELLOW SECTION: An Invitation to Submit Papers

by Lori Deitte, M.D.

The FLORIDA RADIOLOGICAL SOCIETY is committed to promoting an increased level of involvement in the Resident and Fellow Section.

As part of this ongoing effort, we would like to extend an invitation to all residents and fellows in Florida radiology training programs to submit a paper for publication in the FRS & FRBMA *focus*, a quarterly publication of the FRS & FRBMA. It is anticipated that one paper will be published in each FRS & FRBMA *focus* edition.

The guidelines are as follows:

- Manuscripts, figures and tables should be submitted on-line to [lori.deitte@jax.ufl.edu](mailto:lori.deitte@jax.ufl.edu).
- A title page should be submitted including the first and last names of the authors, academic degrees, and institutional affiliation. An address, phone number, fax number and e-mail address for the author responsible for correspondence should be included.
- The format is flexible and may include Introduction, Methods, Results and Discussion sections. Figures and tables should be numbered.
- The total manuscript length is flexible but generally should not exceed 3-4 pages (1000 – 1500 words).
- Original illustrations and figures are encouraged. Written permission to reprint in print and electronic media should be submitted for use of all previously published illustrations or figures.
- Suggested topics: practical practice related topics/clinical observations, case reports, evaluations of new technology, commentaries.

We are enthusiastic about developing the Resident and Fellow Section of the FRS & FRBMA *focus* and welcome your comments, suggestions and/or feedback via e-mail to [ldeitte@bellsouth.net](mailto:ldeitte@bellsouth.net).

**WE LOOK FORWARD TO HEARING FROM YOU!**

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