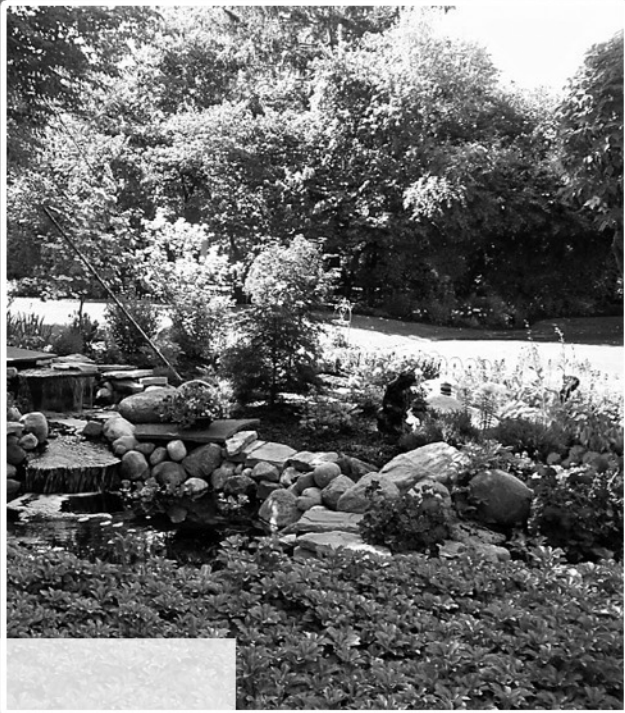


THE Bulletin

SEPTEMBER 2010 Volume 86 Number 9



PHYSICIAN – ATTORNEY COMMUNICATIONS

LEAD: AN ANCIENT PROBLEM

**MSMS PRESIDENT TO SPEAK
ON LEGISLATION PRIORITIES
& ELECTION UPDATE**



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THE BULLETIN is published monthly by
The Genesee County Medical Society.

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THE Bulletin

Read by 96% of GCMS members.

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Cover Photos by Mary Ryan.

Our Vision

That the Genesee County Medical Society maintain its position as the premier medical society by advocating on behalf of its physician members and patients.

Our Mission

The mission of the Genesee County Medical Society is leadership, advocacy, education, and service on behalf of its members and their patients.

PLEASE NOTE

The GCMS Nominating Committee seeks input from members for nominations for the GCMS Presidential Citation for Lifetime Community Service. The Committee would like to be made aware of candidates for consideration.

THE BULLETIN (USPS 552-820)

Published by the Genesee County Medical Society Publication Office
4438 Oakridge Drive, Suite B, Flint, Michigan 48532
Phone (810) 733-6260 Fax (810) 230-3737

By subscription \$60 per year. Member subscription included with Society dues. Periodicals postage is paid at Flint, Michigan and additional mailing offices. POSTMASTER: send address changes to THE BULLETIN, 4438 Oakridge Dr., Ste. B, Flint, Michigan 48532. Contributions to THE BULLETIN are always welcome. Forward news extracts or material of interest to the staff before the 5th of the month. All statements or comments in THE BULLETIN are the statements or opinions of the writers and are not necessarily the opinion of the Genesee County Medical Society.

UNCOMPENSATED CARE

Thank you for providing care to the needy people in our county. Genesee Health Plan (GHP) is a safety net plan trying to provide low-income uninsured people access to care. Their budget is very limited but the number of needy people is huge (Please see the table below). Safety net providers include all three hospitals and we the physicians who serve these disadvantaged. In GHP Emergency services are covered only for Plan A members, but inpatient services are excluded from both Plans A and B. Hospital services not covered are available only on an uncompensated, charity care basis. In Genesee County, the three local hospitals consider enrollment in the county health plan as indicating



Venkat K. Rao, MD

eligibility for charity care, usually without having to file a full application. GHP makes lump-sum payments to hospitals to defray a portion of the facilities' costs for outpatient services for Plan B members and inpatient care for Plan A members. The physicians who take care of these inpatients are not compensated at all for their services either by GHP or the hospitals. Your county society is addressing this issue with the GHP. Please continue to take care of these economically disadvantaged patients. While the newly enacted Patient Protection and Affordable Care Act of 2010 will cover an additional 30 million people in year 2014, at least 20

million people will likely remain uninsured, leaving many to rely on safety net care Plans such as Genesee Health Plan for most of their health needs in Future.

Members	Plan A (<35% poverty)	Plan B (>35% poverty)	Total
Average Number	3,811	21,669	25,480
Member Months	45,731	260,032	305,763
Av. Age	41	39	39
% Female	36	53.4	50.8
Av. months enrolled	8.8	7.5	7.6
Paid Services pmpm			
Physicians	\$49	\$32	\$35
Hospital Outpatient*	\$19	\$6*	\$8
ER	\$17	n/a	
Hospital Inpatient*	\$26**	n/a	
Drugs	\$19	\$12	\$13
Administration	\$13	\$10	\$11
Subtotal pmpm	\$143	\$61	\$73
Uncompensated Services			
Hospital Inpatient	\$84	\$23	
Hospital Outpatient	n/a	\$24	
ER	n/a	\$17	
Phys. Inpatient services	\$77	\$16	
Total pmpm	\$304	\$141	\$165

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AN ANCIENT PROBLEM IS STILL A PROBLEM



Daniel Ryan, MD

There is a hypothesis, never proven and often debunked, that one of the factors in the fall of the Roman Empire was chronic lead poisoning among the elite social castes. Lead, mined by slaves who never saw the light of day, was and is a very versatile element. Well-to-do Romans liked to paint their walls a rich Pompeian red which owed its color to the salt of lead or mercury. Lead was used in water pipes, eating utensils, cups, toys, cosmetics, statues, coffins, and roofs. A wine preservative and sweetener called sapa was boiled in lead pots and then added to the wine to become another source for lead ingestion. The theory is that lead toxicity, also called plumbism, saturnism, or painter's colic, led to gout, sterility, and mental incompetence among aristocratic males and infertility and still births among females, adding to other causes of the ruination of that society. Lead poisoning may not have had much to do with Rome's decline but it is definitely an important public health issue today.

A recent story in the *Detroit Free Press* brought attention to the chronic concern of lead toxicity that is a major problem for inner city children. The article focused on incompetence, mis-management, and outright criminal behavior in those involved in running Detroit's anti-lead program. Detroit is one of the most lead-afflicted cities in the nation due to a large stock of older homes contaminated with lead paint and decades of lots of heavy industry. According to the article, the Detroit Health Department is basically incapable of delivering the necessary services to children due to untrained and fragmented staff, inattentive supervisors, and fiscal mismanagement. As is often the case, the kids suffer as a result of adult failures.

Check Out Our Website
www.gcms.org

It is estimated that one in six children in this country has an elevated blood lead level, according to the Agency for Toxic Substances and Disease Registry. Most are exposed by eating peeling paint and breathing the dust of lead based paints found throughout older homes. Over 80% of homes built before 1978 are loaded with lead based paint on the walls and woodwork. There is no safe level of lead for any of us but children are especially vulnerable due to their still developing

brains. Lead causes neurological damage and can affect normal kidney and lung function. Lead poisoning is linked to behavioral problems and speech and learning disabilities. Very high lead levels can cause seizures and death. However, every one dollar spent on prevention and early treatment of lead poisoning can save tens to thousands of dollars over a lifetime in educational and medical costs. A stitch in time saves nine.

Treatment for lead poisoning is chelation therapy which involves infusion of agents such as sodium EDTA that can bind the lead resulting in excretion. Also, treatment of calcium and zinc deficiencies are an important adjunct therapy because these are often associated with high lead levels. Of course, the best treatment is prevention. Hence, you no longer find lead-based paint or leaded gasoline, which were common commodities just a few years ago.

Lead poisoning is one of the leading environmental medicine problems in terms of numbers affected and its toll on the public health system. Continued vigilance by public health authorities and also by members of the medical community is essential. After all, look what happened to the great Roman Empire.

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Child Health Services

- School- Based Clinics
- Audiology
- Nutrition Education
- Teen Wellness Center

Pediatric Dentistry

- Examinations, Cleanings & Fillings
- Infant Caries Prevention
- School Fluoride Programs

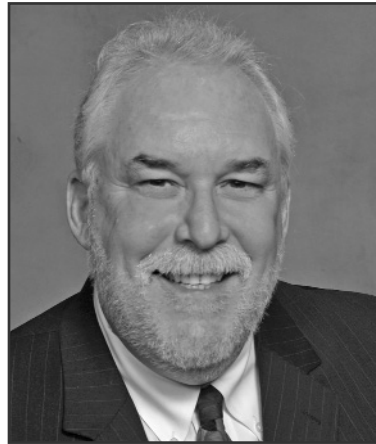
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THREE GREAT WAYS TO HELP GCMS

As we exit summer and move towards the fall season, this might be a good time to reflect on some of the ways to help GCMS, which is so vigilant on your behalf. If any of you would like to advertise to your peers, the GCMS *Bulletin* is a great vehicle, and would generate revenue for the Society at the same time! Please keep in mind that we have not had a dues increase in 20 years and GCMS is looking for new revenue sources. In addition, the Medical Society Foundation which supports GCMS's charitable activities would be a great vehicle for your charitable donations. One nice option is to make a charitable donation on behalf of your peers. We would then send a note to these individuals letting them know of your good act on their behalf. (Holiday donations are also great way to ease your gift giving dilemma. GCMS sends, to each of the people on your holiday list, a



Peter Levine, MPH

letter that you have given to the Medical Society Foundation on their behalf.)

In addition, there is always room for more involvement by members. We have some extremely active Committees working on the myriad of issues which affect physician's lives, practices, and family. It would be a pleasure to receive a call or an email from anyone who would like to discuss how to get more involved.

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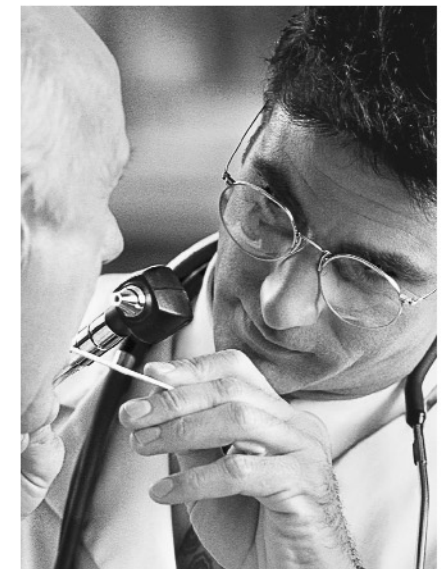
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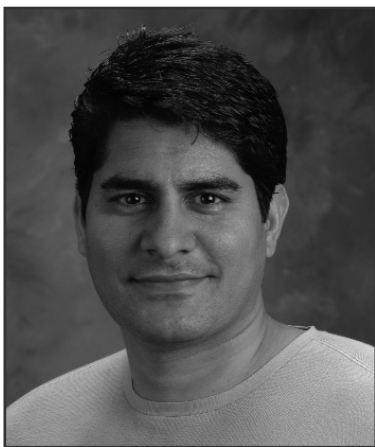
GREETINGS FROM THE MICHIGAN STATE MEDICAL SOCIETY AND YOUR DISTRICT DIRECTORS

I have recently returned from our summer board meeting. There were several topics of discussion relating to both internal and external affairs. The state society continues to be on sound financial ground. The leadership transition is going well. We hope to see more communication from MSMS staff here at a local level in order to keep our members apprised of state level issues.

The Board continues to its work based on working towards 4 main goals:

1. Ensure the Viability of Primary Care
2. Prevention, Wellness, and Personal Responsibility
3. Quality and Safety
4. Health Care Resource Stewardship

There continues to be an attempt at erosion of our tort reform by legislative efforts. MSMS continues to show



*S. Bobby Mukkamala, MD
District VI Director*

great vigilance in not letting anything "sneak" under our radar. Upcoming elections will also have a great potential to upset our fragile protections. If Justice Robert Young fails to win re-election, it is inevitable that the court will begin to find our reforms faulty and overturn them quickly. Please do what you can as individuals to support his re-election.

The state's budget continues to be hurting. We may not have seen the last of the "Physician Tax" yet. If it rears its head again, our members will be among the first to know.

So thank you for your continued membership. As you can see, your dues

allow the behind the scenes work to continue so that we all can do the one thing for which we went into Medicine in the first place: to care for patients.

HURLEY MEDICAL CENTER PRESENTS

*The 2010 Terry Thomas
Ob/Gyn Update -*

Vision for a Brighter Future:
Addressing Addiction in
Women's Health

**Wednesday,
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Genesee County Medical Society Dinner Business Meeting

Thursday, September 16, 2010

A Town Hall Meeting
on

MSMS'S LEGISLATIVE PRIORITIES AND AN ELECTION UPDATE

Dr. Dan Michael, MSMS President

Come ready for a discussion!

All physicians, spouses, and family members, members and non-members of GCMS and GCMSA and interested other professionals are invited.

\$30 - GCMS Members & Spouses (per person) \$20 - Hospital Residents and Students
\$50 - Non-Members \$30 - Member Practice Managers

RESERVATIONS REQUIRED BY SEPTEMBER 3, 2010.

Flint Golf Club
3100 Lakewood Dr., Flint, MI 48507

6 p.m. Registration and Social Hour
6:30 p.m. Dinner
7 p.m. Meeting
7:15 p.m. Presentations

Please mail check with reservations to:
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Call Marcia at 810-733-9923
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IT'S TIME TO UPDATE OUR RECORDS!

Please take a moment to complete this form. It can be faxed or mailed. Please print or type.

Name: _____

Practice Name: _____

Office Address: _____

Office Telephone: (Listed) _____

(Unlisted-for GCMS office use only) _____

Office Fax: _____ Office Email: _____

Address: _____ Pager: _____

Board Certified (Specialty): _____ Year Board Certified: _____

Board Eligible In: _____

Home Address: _____

Home Telephone: (Listed) _____

(Unlisted-for GCMS office use only) _____

Fax: _____ Home Email: _____

Address: _____

Spouses name: _____

If you are retired, where are your previous patient's
medical records located? _____

Please notify GCMS when a change in this information occurs.

Genesee County Medical Society

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(810) 733-9923 - FAX: (810) 230-3737

Physician Dinner Meeting To Learn More About Diabetes Group Visits

The **Greater Flint Health Coalition & Genesee County Medical Society** invite you to join us to learn how **Diabetes Group Visits** can be conducted in your practice, leading to:

IMPROVED PATIENT OUTCOMES, IMPROVED PRACTICE EFFICIENCY, AND BETTER REIMBURSEMENTS!



**Join us for dinner on:
September 15, 2010
6:00 p.m. – 8:00 p.m.**



FANDANGLES'

6429 West Pierson Rd #3, Flushing, Michigan 48433
(Dinner will be served.)

**This event is dedicated to providing the tools needed to implement diabetes group visits in your practice!
SPACE IS LIMITED – RSVP TODAY!**

I will be attending the September 15th Diabetes Group Visit Physician Dinner Meeting.

NAME: _____

ORGANIZATION: _____

ADDRESS: _____

PHONE: _____

EMAIL: _____

OFFICE MANAGER CONTACT: _____

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YOUR \$\$\$ AT WORK

- ⌘ GCMS met with Congressional staff regarding the importance on fixing the SGR formula
- ⌘ GCMS held Washington Update with Congressman Dale Kildee
- ⌘ GCMS members held multiple fundraisers for political candidates
- ⌘ GCMS communicated with members regarding MDPAC endorsements
- ⌘ GCMS help solve a major billing problem for one group practice
- ⌘ GCMS communicated on multiple practice management issues with Practice Managers and members
- ⌘ GCMS worked with the Greater Flint Health Coalition to submit a Smoking Cessation Grant



ALLIANCE INTERNATIONAL LUNCHEON

TUESDAY, Sept. 28th
at the home of Amita Desai
10:30 a.m. - Social Time
11:00 a.m. - Luncheon
Bring a dish to pass that will feed 10 - 15, or \$20.

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Genesee County Medical Society Board of Directors Meeting – June 22, 2010

MINUTES

Motion:

That the Budget to Actual Report for the period ending May 31, 2010 be approved as presented. The Motion Carried.

Motion:

That the GCMS members be polled via email to see who would like to receive electronic versions of the Bulletin versus the print versions. The Motion Carried.

Motion:

That the requests for membership change from Lifetime to Lifetime Retired for James Martin, MD. The Motion Carried.



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Announcement

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Jenese Reynolds, MD

Genesys Resident:

Gregory Harris, DO

Hurley Resident:

Hussein Warda, MD

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* 30-YEAR-OLD FAMILY PRACTICE FOR SALE

West Branch, Michigan. Situated on 4 acres, 1,200 sq.ft. building, 3 exam rooms, 2,000 active charts, no managed care, very little Medicaid, presently seeing 15-20 patients Monday thru Thursday. 2009 gross income = \$165,000. Asking \$65,000 for practice and \$215,000 for real estate.

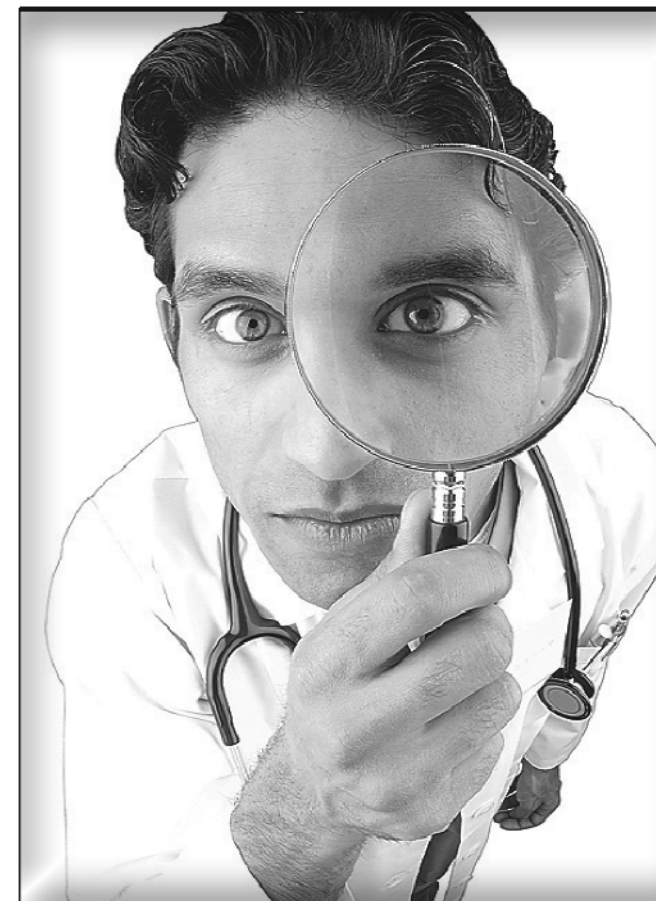
* **FOR SALE FAMILY PRACTICE IN IMLAY CITY**
Near US-69 & M-53. High visibility, 4-6 exam rooms, presently seeing patients 2-1/2 days, 30-35 patients per day or 100 patients weekly. Insurance mix 60% managed care, 40% Medicare, BCBSM - other. Approx. 2009 revenue \$250,000. Asking \$83,000 for practice. Real Estate also available: 1 story, 4,000 sq.ft. building, plenty of parking. Tax appraisal of \$500,000 for real estate. Open to offers.

* MEDICAL EQUIPMENT FINANCING

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PHYSICIAN-ATTORNEY COMMUNICATIONS A MICHIGAN SUPREME COURT UPDATE

By Jonathan M. Hartman, Cline, Cline & Griffin

The medical practitioner has for some time now been faced with a difficult dilemma concerning whether the Health Insurance Portability and Accountability Act (HIPAA) permitted or precluded communication with attorneys regarding a patient's medical condition or status. This scenario has usually involved a request from a defense attorney to meet or conduct a telephone conference with the treating provider in an effort to ascertain opinions the provider might have on the medical issue presented. Plaintiff attorneys were just as likely to make the request, albeit such request was usually accompanied by a medical authorization executed by the patient, and was therefore of much less concern to the physician when it came to stringent privacy law compliance. By comparison, the request from the defense was much more troublesome (especially to office staff processing the request).

These scenarios present in a variety of legal arenas including: personal injury, workmen's compensation, medical malpractice, domestic relations/custody disputes and even employment litigation, among others, and usually relate to a plaintiff's claim of "damages". The sought-after opinion of the treating physician is often the lynchpin of the case. It is widely perceived that the treating physician's opinions are more objective than that of the hired expert.

Until now, the law in Michigan has not been well-settled on this subject following HIPAA's enactment in 1996. Under HIPAA, the general rule pertaining to the disclosure of protected health information is that a covered entity may not use or disclose protected health information without a written authorization from the individual, or, alternatively, the opportunity for the individual to agree or object. Historically, Michigan law provided that defense counsel was permitted to seek an ex parte interview with a plaintiff's treating physician once the plaintiff had waived the physician-patient privilege by placing his or her medical condition at issue.

Michigan Compiled Laws Section 600.2157 establishes the physician-patient privilege and also sets forth the rule on waiver of the privilege. It states in part as follows:

Except as otherwise provided by law, a person duly authorized to practice medicine or surgery shall not disclose any information that the person has acquired in attending a patient in a professional character, if the information was necessary to enable the person to prescribe for the patient as a physician, or to do any act for the patient as a surgeon. If the patient brings an action against any defendant to

recover for any personal injuries, or for any malpractice, and the patient produces a physician as a witness in the patient's own behalf who has treated the patient for the injury or for any disease or condition for which the malpractice is alleged, the patient shall be considered to have waived the privilege provided in this section as to another physician who has treated the patient for the injuries, disease, or condition [Emphasis added.]

Prior to HIPAA, the Michigan courts interpreted the above statute to mean that "absent a privilege no party is entitled to restrict an opponent's access to a witness," and "[o]nce the privilege is waived, there is no sound legal or policy grounds for restricting access to a witness." *Domako v Rowe*, 438 Mich 347, 361 (1991). This had all but changed in 1996, until now.

Most recently, the Michigan Supreme Court handed down its long-awaited decision on the issue of whether HIPAA preempted Michigan law permitting ex parte interviews. The court held that ex parte interviews are permitted under Michigan law and nothing in HIPAA specifically precludes them. As such, the court concluded that Michigan's approach to informal discovery, vis-à-vis the interview in lieu of

expensive and many times otherwise unnecessary depositions, which permits defense counsel to seek an ex parte interview with a plaintiff's treating physician is not contrary to HIPAA and may be conducted largely at the physician's discretion. Id.

In sum, the physician does not have to grant the attorney's request to meet or discuss the case on an informal basis, but may do so lawfully. The alternative is that sometimes a refusal might result in a subpoena to the physician for deposition or trial testimony. The provider may now disclose otherwise protected health information to an attorney (usually defense) who does not possess a signed medical authorization under the following situations: (1) subpoena (mandatory); and/or (2) informal meeting or discussion (discretionary) - as long as the physician is assured that reasonable efforts have been made to secure (by the attorney from the court) a protective order (usually requiring the disposal of all otherwise protected health information at the conclusion of the case). The physician is also reminded of his or her proprietary right in medical opinions and entitlement of fair compensation for time spent in preparation for and attendance at meeting or telephone conferences. Notwithstanding, absent proper receipt of a subpoena, the physician can always politely decline the inquiry altogether. That should settle the issue, at least for the time-being.

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GCMS MEETINGS - SEPTEMBER 2010

Recessed for Labor Day - Legislative Liaison @ GCMS

9/1, 7:30 a.m. - Bulletin Committee @ GCMS

9/20, 12 Noon - Membership Committee @ GCMS

9/22, 12:30 p.m. - Community & Environmental
Health Committee @ GCMS

9/23, 8 a.m. - Practice Managers @ GCMS - Topic: Collections

9/28, 5:15 p.m. - Finance Committee @ GCMS

9/28, 6 p.m. GCMS Board of Directors @ GCMS

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Happy Birthday Doctor - SEPTEMBER

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Brian Shapiro	1	Kelvin Callaway	13	Benjamin Ramirez	25
Doris Suci	1	Norman Walter	13	Mahesh Sharman	25
Eugene Becker	3	Rommel Aquino	13	Hung Ming Chu	26
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Bonita Wang	4	James Kure	16	Paul Dake	27
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Robert Soderstrom	9	Pongchayut Surapipith	20	Stephen Kalstein	30
Richard Kovan	10	Peter Farrehi	21	Robert Molnar	30
Marjorie Otero	10	Michele Kreft	21	Ahmad Abdel-Halim	30
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3. **MSMS has no advantages over other agents.**
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