

# Stark County Medical Society *News*

March/April/May 2013

## President's Message

JoAnn Krivetzky, MD, FACOG



*Dr. JoAnn Krivetzky*

As we are approaching this year's annual Ohio State Medical Association meeting, I want to take the opportunity to share some information regarding the process and meeting itself. Currently, SCMS is in District 6. Our district includes Stark, Mahoning, Trumbull and Columbiana Counties.

Each county medical society has a certain number of delegates that represent their geographic area at the district and state level. The number of delegates is based on each county medical society's membership.

The OSMA House of Delegates is the legislative body for governance of the Ohio State Medical Association. The House of Delegates is responsible for deliberating issues presented in the form of resolutions and determining if organizational policy should be established for a particular issue. Resolutions that are adopted at the meeting are then carried forward by the OSMA leadership to their appropriate destination such as the AMA or legislators. Physicians, county medical societies, districts or medical specialty societies can author and introduce a resolution to the House of Delegates. A resolution begins by stating or defining an issue. It then lists resolves or suggestions for further exploration or resolution of the issue at hand. Listed below are examples of some of the resolution topics that have been proposed and will be debated at this year's annual meeting of the OSMA House of Delegates. A comprehensive list of resolutions can be found on the OSMA website.

- Counsel restructuring (includes redistricting)
- Adopting a new mission statement for OSMA
- Discount for OSMA dues
- New education loan repayment program for Ohio physicians
- Crafting innovative ways of funding graduate medical education
- Mandatory mediation for a pre-suit medical malpractice agreement
- Oppose the criminalization of medical statements
- Advocating public education for the use of appropriate healthcare resources
- The obesity epidemic and patient accountability
- Concussion care
- Maintenance of Certification and Maintenance of Licensure vs. Board Certification, Continuing Medical Education, and Life-long Commitment to Learning
- Physicians Caring for Family Members
- Transparency, fairness, and abiding by laws of the State Medical Board of Ohio
- Decrease in medical license renewal fee in the State of Ohio
- Maintain access to continuing medical education

*continued on page 15*

### 2013 BOARD OF TRUSTEES

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JoAnn Krivetzky, M.D. - President  
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Roger Palutsis, M.D.  
Charles Smith, M.D.  
Mark Stachel, M.D.  
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Anthony Degenhard, D.O.  
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Robert Hamilton, M.D.  
Kathy Haupt, M.D.  
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Michael Van Ness, M.D.  
Mark Vogelgesang, M.D.

#### CREDENTIALS COMMITTEE

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Mark Vogelgesang, M.D.

#### EXECUTIVE DIRECTOR

Kevin P. Metz, Executive Director  
Becky Bors, Administrative Assistant

### INSIDE THIS ISSUE:

2013 Calendar of Events.....	3
6th District Councilor.....	5
111th Annual Meeting.....	7
Stark County Physicians Alliance.....	9
New OH Statute on Notice to Patients...10	
Stop TB.....	11
New Ohio Legacy Trust.....	13

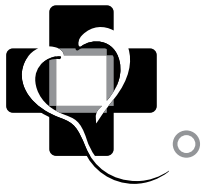
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*Opinions expressed by the authors are their own, and not necessarily those of the Stark County Medical Society, Trustees or individual members. SCMS News reserves the right to edit all contributions for clarity and length, as well as to reject any material submitted.*

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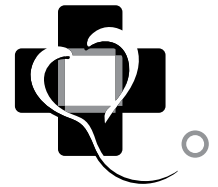
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## 2013 CALENDAR OF EVENTS

### March 7 (Thursday)

- Board Meeting

### March 21 (Thursday)

- General Membership Meeting

### April 6 – 7 (Saturday-Sunday)

- OSHA Annual Meeting

### May 2 (Thursday)

- Board Meeting

### May 8 (Wednesday)

- OSHA Seminar

### September 18 (Wednesday)

- Golf Outing
- General Membership Meeting & Board Meeting

### October 10 (Thursday)

- General Membership Meeting

### November – 7 (Thursday)

- Board Meeting

### December 5 (Thursday)

- Board Meeting

*Every effort has been made to publish an accurate Calendar. Please continue to check the SCMS News for any unforeseen modification in dates and locations. Thank you.*

## OHIO MEDICAL RECORD COPYING CHARGES

Method to determine % change in Consumer Price Index (CPI) to Increase or Decrease Costs Associated with Providing Medical Records in Accordance with Ohio Revised Code Section 3701.742

CPI for current period (2012)	229.594
Less CPI for previous period (2011)	224.939
Equals Index point change	4.66
Divided by previous period CPI (2011)	224.939
Equals	0.021
Result multiplied by 100	2.07
Equals percent change	2.07%

### Costs for Calendar Year 2013 Based on a 2.07% change in the CPI

If the request is **made by the patient** or the patient's personal representative, total costs for copies and all services related to those copies shall not exceed the sum of the following:

With respect to data recorded on paper or electronically, the following amounts:		
For the first ten pages:	\$2.98	per page
For pages eleven through fifty:	\$0.62	per page
For pages fifty-one and higher:	\$0.26	per page

With respect to data resulting from an X-ray, MRI, or CAT scan, recorded on paper or film:	2.04	per page
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The actual cost of any related postage incurred by the health care provider or medical records company.	Actual Cost
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If the request is made **other** than by the patient or the patient's personal representative, total costs for copies and all services related to those copies shall not exceed the sum of the following:

An initial fee which shall compensate for the records search:	18.34
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With respect to data recorded on paper or electronically, the following amounts:		
For the first ten pages:	\$1.20	per page
For pages eleven through fifty:	\$0.62	per page
For pages fifty-one and higher:	\$0.26	per page

With respect to data resulting from an X-ray, MRI, or CAT scan recorded on paper or film:	\$2.04	per page
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The actual cost of any related postage incurred by the health care provider or medical records company.	Actual Cost
---	-------------

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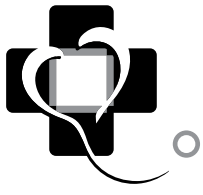
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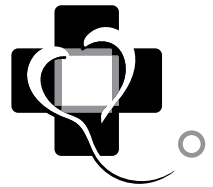
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FROM THE DESK OF  
**6TH DISTRICT COUNCILOR,** *Carl Foster, M.D.*

In January, the Council of the Ohio State Medical Association (OSMA) met by teleconference to consider whether to support expansion of Medicaid as permitted by the Affordable Care Act. (ACA) This expansion had already garnered the support of the American Academy of Family Practice and the Ohio Hospital Association.

The expansion would extend health care access to an additional 700,000 Ohioans whose income is 138% of the federal poverty level. (About \$23,000 for a family of four) The entire cost of the expansion will be covered by the Federal Government for the first three years and the Federal contribution will gradually decrease to 90% by 2020. As OSMA President Deepak Kumar has said, expansion

"...means we have a tremendous chance to improve the overall health of our society in a short period of time while at a modest cost to our state." Indeed, Medicaid expansion of coverage to low-income adults has been associated with a reduction in mortality from all causes and improved access to care<sup>1</sup>.

The expansion will also have positive effects on the Ohio economy at large. The expansion will be funded by tax dollars that would otherwise leave the state. There will likely be an increase in employment as the health care industry gears up to care for more Ohioans. This will increase consumer activity and boost commerce. The expansion would also substantially maintain the reimbursement that hospitals receive for non-compensated care. Otherwise these payments would be substantially reduced.

The OSMA will continue its advocacy on behalf of Ohio Physicians with the Legislature and the Governor's Office. Concerns about equitable reimbursement, simplifying rules for participation in Medicaid, and tort reform will be addressed as always. The OSMA also recognizes that access does not always equal care. The OSMA will also continue its patient advocacy to help fulfill the promise of health care expansion.

*1 NEJM; 9/13/2012,  
 Vol.367 Issue 11, p1025-1034*



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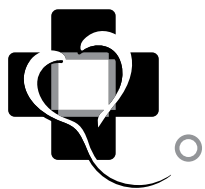
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**In addition to medical liability insurance, the Agency also provides:**



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- Disability Income
- Dental
- Vision
- Medicare Supplements
- Life
- Long Term Nursing and Home Health Care Plans
- Auto and Home Owners

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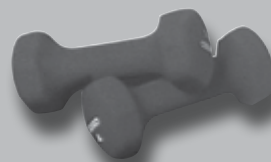


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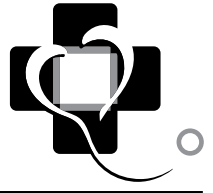


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# SCMS 111<sup>TH</sup> ANNUAL MEETING

*January 11, 2013*

*Stark County Medical Society Honors:*  
**Richard Pryce with Lifetime Achievement Award !**



Richard Pryce



Dr. Kotnik, Eileen Kelly  
& Dr. Vogelgesang



Terri & Ed Roth



Drs. Gurney & Haban

Drs. Van Ness &  
Krivetzky



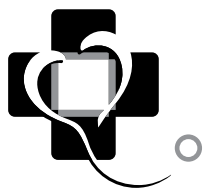
## IN RECOGNITION OF OUR 2102 RETIRED MEMBERS

*William Fiegenschuh, M.D.  
Richard Fuller, D.O.  
Alexis Sayoc, M.D.*

## IN RECOGNITION OF 50 YEARS IN MEDICINE

*Seth Brown, D.O.  
Delbert Craner, M.D.  
Surendra Dash, M.D.  
Alan Kamen, M.D.  
Irwin Lilesfield, D.O.  
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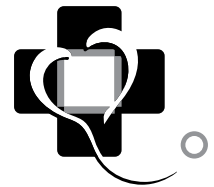
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Thank you for your continued support of Stark County Medical Society.  
 Regards, Stark County Medical Society

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Current Insurance Company: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Best Number to call: \_\_\_\_\_

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**For questions, please call (800) 597-8102 and ask for Sheila Klenner or Barry Riggs**

**Read what one of our members is saying about the Stark County Physicians Alliance.**

*"Since joining the Stark County Physician Alliance through the Stark County Medical Society, our group has enjoyed excellent service and competitive pricing with Sirak Insurance Agency. I highly recommend Sirak Insurance Agency and their Stark County Physician Alliance program to the members of Stark County Medical Society."*

*Syed Zaidi, MD, Radiology Associates of Canton, Inc. Dr. Zaidi has been a member of the SCMS since 2007.*

## ADAM P. OLENICK QUALIFIES FOR EDWARD JONES' FINANCIAL ADVISOR LEADERS CONFERENCE

Adam P. Olenick, an Edward Jones financial advisor in Canton, qualified for the firm's 2013 Financial Advisor Leaders Conference. This conference recognizes financial advisors who are among the leaders in the financial-services firm. The conference also will provide additional training to help them serve more individual investors in their communities. Olenick was one of only 793 financial advisors who qualified out of the firm's nearly 12,000 financial advisors. The 2013 conference will be held in May at the firm's headquarters in St. Louis, Mo.

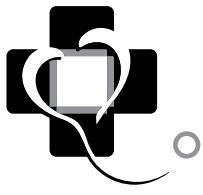
"Qualifying for this conference shows a tremendous amount of discipline, commitment and work ethic," says Alan Kindsvater, an Edward Jones partner responsible for Advanced Branch Training, and host of the conference.

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## NEW OHIO STATUTE ON NOTICE TO PATIENTS

*By: Scott P. Sandrock*

*Brennan, Manna & Diamond, LLC*



A new statute was adopted by the Ohio Legislature to go into effect March 22, 2013 that requires written notice be given to patients of any Ohio physician who changes their employment.

Currently, the Ohio Medical Board has a regulation dealing with the termination of the physician-patient relationship (OAC 4731-27-01). Under this rule, a physician has the right to terminate a relationship with patients, provided written notice is sent to the patient and the physician takes other steps. This provision does not apply to patients seen on an episodic basis such as an emergency room or a drop-in clinic setting. If a physician is leaving a practice, the physician is required to give a notice 30 days in advance of their last date of service by regular mail to all patients seen by that physician during the preceding three years and take other steps.

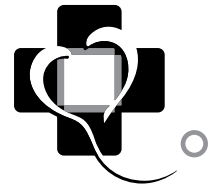
There has been some confusion or uncertainty about whether these notice provisions were required in the setting of a physician leaving a group or a hospital based practice where other physicians continue to practice. This uncertainty created some conflicts where the departing physician would like his or her patients to know where the physician is going so that the patient could have a continuity of care with that physician. At the same time, practices may want to have those patients be aware that the patient could continue to be seen by other physicians in the group.

To deal with this situation, a new statute was adopted going into effect on March 22, 2013. Under the statute, in the event a physician terminates their employment for any reason, the employer is required to send a written notice to each patient seen by that physician in the two years prior to the termination, which notice has to describe that the physician will no longer be practicing at that location, provide the physician's new contact information so the patient could contact the physician if they wish to do so, the date when the physician will no longer be treating patients, information of how the patient may obtain their medical records, and if applicable, contact information for an alternate physician at that practice who could provide care for the patient. The notice must be sent no later than the date of termination or 30 days after the employer has knowledge that the termination or resignation is going to be effective, whichever event is later.

If the employer does not want to send the notice, the employer can provide the physician with the contact information for their patients, and can require the physician to send the notice. The statute specifically requires the State Medical Board to develop a form notice and regulations to implement this requirement. This notice requirement does not apply in the circumstances of a physician who performed services on an episodic basis such as an emergency department or urgent care center, medical residents, or physicians providing patient services through community health programs.

While this new legislation will answer some questions on notice to patients, it unfortunately leaves other questions yet to be answered. Ohio currently still permits medical practices to include non-competition provisions in their contracts with their employed physicians. The new statute does not appear to make any changes concerning the legality of non-compete provisions. There are other questions that remain unanswered and we will keep the Medical Society posted of any additional information as it becomes available.

**If you would like a copy of the statute or regulations or should you have any questions concerning these matters, please contact Scott P. Sandrock, Brennan, Manna & Diamond, LLC, phone: (330) 253-4367, facsimile: (330) 253-4876, email: [spsandrock@bmdllc.com](mailto:spsandrock@bmdllc.com).**



## SHORTAGES PROMPT PRIORITIZING TB CONTROL



Shortages of Isoniazid (INH) an anti-TB drug and Tubersol (PPD) a TB skin test reagent prompt local health authorities to prioritize TB Control.

Local health authorities recommend prioritizing treatment with INH for 1) those with active TB disease; 2) recently diagnosed contacts to current infectious TB cases; and 3) those individuals with LTBI who are at the greatest risk for progression to active TB disease (i.e. HIV-infected individuals) or face the hazard of severe illness (i.e. children <5 years old).

Screening for latent M. tuberculosis infection (LTBI) should be conducted based upon a facility's risk for transmission of TB. Stark County is a low risk community and most facilities in Stark County are low risk. Through prioritized testing, fewer Health Care Workers (HCWs) will be tested and many facilities will discontinue annual testing and adopt these low risk guidelines:

annual testing and adopt these low risk guidelines:

- All HCWs should receive baseline TB screening upon hire, using two-step TB skin test (TST) or a single blood assay for M. TB (BAMT).
- After baseline testing for infection, additional TB screening is not necessary unless an exposure to TB occurs.
- HCWs with a baseline positive or newly positive test result for M. tuberculosis infection or documentation of treatment for LTBI or TB disease should receive one chest radiograph result to exclude TB disease (or an interpretable copy within a reasonable time frame, such as 6 months). Repeat radiographs are not needed unless symptoms or signs of TB disease develop or unless recommended by a clinician.

Risk assessment protocols can be found in the CDC's "Guidelines for Preventing the Transmission of Mycobacterium tuberculosis in Health-care Settings, 2005": <http://www.cdc.gov/mmwr/pdf/rr/rr5417.pdf>.

**If you have questions or need assistance obtaining INH, notify your local health department.**

*Facilities with TB screening guidelines outlined in Ohio law such as LTCF's, prisons, hospice, jails, maternity homes and adult care facilities should continue to follow state requirements. Requirements for these are available at: <http://codes.ohio.gov/>.*

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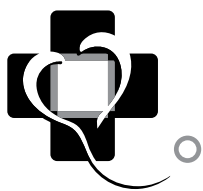
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## ADOPT-A-RESIDENT PROGRAM

For the 19th consecutive year, the SCMS has appealed to the generosity of its members to adopt one or more Resident Members by paying their 2012 – 2013 OSMA dues of \$30.00. This is an excellent opportunity for Active and Retired Members to support the new Residents in our medical community.

### *Sincere Thanks to:*

Michael Markel, M.D. – 3 residents  
Brian McClain, M.D.

Todd Meyerhoefer, M.D. – 3 residents  
David Stachel, M.D.



## Welcome... NEW MEMBERS!

### **FARES ALQARA, M.D.**

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### **MATTHEW F. KNOCH, M.D.**

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Critical Care Medicine  
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### **KURT L. MUELLER, D.O.**

Alliance Medical Associates, Inc.  
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Alliance, OH 44601  
330-596-6000 • FAX: 330-821-2170

### **JOHN W. PERRY, M.D.**

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### **ELIZABETH A. RUSS, M.D.**

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### **MARK S. SLABINSKI, M.D.**

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### **STEVEN WILLARD, M.D.**

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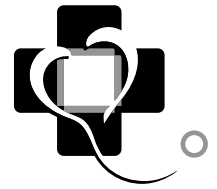
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## NEW OHIO LEGACY TRUST OFFERS ASSET PROTECTION OPTIONS FOR DOCTORS

By Brian C. Layman

It is a perilous time to be a Doctor in today's litigious society. As a doctor your personal financial health is threatened by the daily routines in your work place. Medical malpractice claims that exceed your insurance policy limits can result in ruin. It is important to note that tort reform provides no cap for economic damages. Claims from employee harassment or wrongful discharge may not be covered by insurance.

Even outside of the work place your accumulated assets are at risk. The title "Doctor" is synonymous with "target defendant" or "deep pocket defendant". As a result of this perception, individuals who have a claim against you for an automobile accident or an injury at your home will push for maximum compensation from you.

Up until now in Ohio there wasn't much you could do to protect yourself and your family, from creditors. This is about to change. Because I was involved in drafting House Bill 479, I had the distinct honor of being with Governor Kasich when he signed it on December 20, 2012. Part of this bill includes the Ohio Legacy Trust Act which allows an individual to put assets into a trust that are protected from creditors. Beginning on March 27, 2013 you will have an opportunity to take advantage of this new law.

States like Nevada, Alaska and Delaware have had this kind of law for years, but Ohio is the first state in the Midwest to pass such a law. Ohio borrowed the best provisions from these other states and now has one of the most protective laws in the country.

An Ohio Legacy Trust is an irrevocable trust and can be established by anyone, not just an Ohioan. However, there must be at least one Ohio trustee who has custody of the assets, maintains the trust records or materially participates in the management of the trust. The person establishing the trust (called a settlor) cannot be trustee. Typically the trustee would be an Ohio bank or trust company. The settlor then transfers assets to the trustee of the Legacy Trust and is the primary beneficiary, often with spouse and/or children as permissible beneficiaries as well.

Under the laws of most states, if a settlor is a beneficiary of a trust she established, creditors can reach the trust assets to the extent that the settlor could benefit from the trust. However, the purpose of the Legacy Trust is to permit the settlor to benefit from the trust but enjoy protection from the settlor's personal creditors. Sound too good to be true? Well, the answer is yes and no.

Transfers to the Legacy Trust (like any gift transfers) are subject to claims by a specific creditor that the transfer was "fraudulent". A transfer to an Ohio Legacy Trust cannot be effective if it renders you insolvent – you cannot transfer all of your assets to a Legacy Trust and then jilt current creditors.

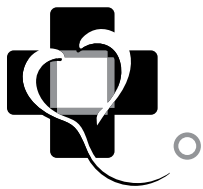
There is also a statute of limitations period determining how long a creditor might have to contest such a transfer. Ohio's period is the shortest in the country.

Ohio's statute protects transfers to Legacy Trusts after only eighteen months from the date of transfer with respect to *non-preexisting* creditors. Ohio's statute protects transfers to Legacy Trusts after the greater of eighteen months from the date of transfer or six months from the date the creditor discovered or should have discovered the transfer to the trust with respect to *preexisting* creditors. Most other states, including Nevada, Alaska or Delaware, allow plaintiff/creditor's attorneys a much longer time to try to undo a transfer - from two to four years.

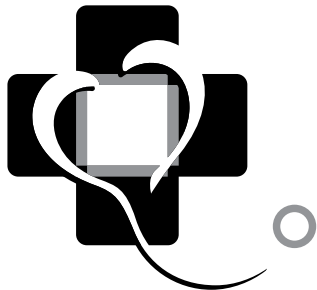
The Ohio legislature determined that it was necessary to allow certain classes of creditors to access the trust assets even though most creditors are barred (known as "exception creditors"). Ohio provides an exception for divorcing spouses (but only if the settlor was married to the divorcing spouse prior to the transfer to the Legacy Trust). Ohio also extends protection to child support orders.

While the Ohio Legacy Trust is not a panacea, it will offer you an opportunity to protect you and your family's wealth. In addition to the right to receive income and principal from the Legacy Trust, the settlor can retain other significant powers, including the right to change trustees, the right to change the distribution of the ultimate distribution of the trust, the right to manage investment of the trust assets and the right to use the trust assets. The rules governing the formation and administration of the Legacy Trust (both tax and non-tax) can be quite complex. To learn more about how a Legacy Trust can benefit you and your family, seek the advice of competent and qualified counsel and a qualified trust company that has experience with these types of trusts.

Brian Layman is a principal attorney with Layman, D'Atri and Associates, a law firm specializing in estate planning, trust and business law ([brian@laymandatri.com](mailto:brian@laymandatri.com)) and was involved in the drafting and passage of the Ohio Legacy Trust Act.



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<sup>1</sup> Actual benefit amount issued depends on medical specialty, applicant's income and amount of other disability income insurance in force and applied for. The maximum benefit amount with Lifetime Benefit Rider is \$10,000 per month.

<sup>2</sup> Actual benefit amount issued depends on amount of covered business overhead expenses and the amount of other BOE insurance in force and applied for. The amount of BOE coverage issued may also be limited based on the benefit period selected.

<sup>3</sup> Age 65 in some states.

<sup>4</sup> Some limitations apply. Ask your representative for details.

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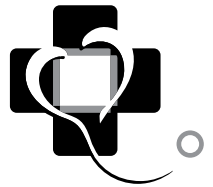
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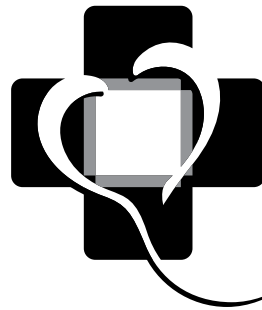
## President's Message

*continued from front cover*

- Clear identification of degrees for health care providers
- Establishing standards for State prescription drug monitoring programs
- Medicaid expansion in Ohio
- Obligations of insurance companies of full payment of the rate schedule
- Mandate creation of oversight panel for health insurance carriers
- Peer review by specialists with knowledge of the situation under review
- Recovery audit contractor audits
- Electronic health record surveillance

Many of these issues affect the daily practice of medicine. Please notify Stark County Medical Society or one of our physician delegates with questions or concerns regarding these or any of the resolutions listed on the OSMA website. Additionally, if there is a topic of concern that is not represented in the resolutions, please make your local society aware of this matter.

## ANNOUNCEMENTS



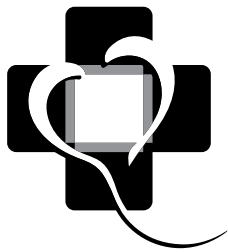
### Stark County Medical Society

- Special Thanks to Florin Stan from MetLife for sponsoring our February Board Meeting!
- Please join the Board in welcoming Becky Bors, Administrative Assistant. Becky will be working part-time and can be reached at 330.492.3333 or [blbors@ameritech.net](mailto:blbors@ameritech.net).
- Thanks to Huntington Insurance and Ed Hassay (330.742.5307) for sponsoring our March 21st General Membership Meeting.
- Tired of paying high credit card processing fees? Contact Russell McAllister from First Data/Huntington for excellent rates only available to SCMS members. Russell can be reached at 330.304.7201.
- Watch your inbox for details of our upcoming Annual OSHA Seminar sponsored by Accu Medical.

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