The Green Mountain Physician

A Publication of the Vermont Medical Society

"Not for ourselves do we labor"

Sept./Oct. 2011

In This Issue:

Page 1
- **Conversation wtih Rep. George Till, M.D.**

Pg. 2
- **From the President's Desk**

Pg. 3
- **Health Care Policies Discussed**
- **First VT Practice Achieves Meaningful Use**

Pg. 4
- **Understanding Workers' Compensation Part II**

Pg. 5
- **Physician Loan Repayment Program Accepting Applications**
- **VMS President to Receive National Award**

Pg. 6
- **VMS Annual Meeting**

Pg. 8
- **Conferences**

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A conversation with George Till, M.D., the Vermont Legislature's only physician member

By day, George Till, M.D., is a member of the Vermont House of Representatives. By night, he's an OB/GYN hospitalist at Fletcher Allen Health Care who, prior to his election to the House in 2008, was part of a group practice in Chittenden County for 21 years.

The Green Mountain Physician recently talked to Dr. Till about his dual roles and the dominant health care issue of his two terms in the House; health care reform.

GMP: You are half way through your second term as a Vermont State Representative, so you aren't a newbie anymore. What has serving in the House been like?
Dr. Till: The first session was both incredibly rewarding and eye opening. There was significant drama with large social issues and veto override votes. I found a lot of very bright, dedicated, hard working people both in the Legislature and the among the Legislative staff. I found a wide range of expertise within the citizen legislature. It was exhilarating. The feeling of entering the House Chamber as a representative for the first time was very much like the first entrance to the anatomy lab in Medical School. It was clear this would be a very different and special personal experience.

The past year was much less fun. The politics were quite different. The health care debate was quite difficult and troubling in a number of ways.

GMP: As the only physician in the General Assembly, do you feel any pressure to represent the interests of your profession?
Dr. Till: The Vermont Medical Society does an excellent job of representing the interests of Vermont's physicians. Paul Harrington and Madeleine Mongan are a constant, highly respected and highly effective team within the Statehouse.

What I bring is not so much representation of the interests of physicians but a personal boots on the ground perspective which can be important to the other House members who have no way to know how things actually work in many parts of the health care system and have no way to see some of the unintended negative consequences of the well-intentioned things they are attempting to do. I also can be a ready conduit for legislation in the medical area. A number of bills have come forward by physicians contacting me over issues that should be addressed. I encourage physicians throughout the state to contact me with proposed legislation or ideas for legislation.

GMP: You obviously had a very unique perspective during the past session's health care reform debate. What were you able to bring to the debate that perhaps your colleagues in the House weren't able to since they don't have the background in medicine?
Dr. Till: I think, especially with the data from my Vermont Physician Survey to communicate to other members that all was not as they were being led to believe. I think I was able to communicate the deep sense of divide within the medical community over the legislation and demonstrate that providing coverage, while critical is not enough.

There is tremendous risk of actually reducing access, especially to specialist care outside of Chittenden County. The message was not well received by some in leadership but I think a lot of the members get it.

Continued on page 6

From the President's Desk

By Paula Duncan, M.D.

In the wake of the destruction wrought by Irene at the end of August, I sincerely hope that all of your families were safe and your homes and places of work were spared. For members whose homes, practices and communities suffered extensive damage, I wish you and your neighbors a quick recovery.

I'd also like to welcome you to the latest edition of the Green Mountain Physician. In it you'll find a number of important articles, including:

- A conversation with the Vermont General Assembly's only physician member, George Till, M.D. Dr. Till shares his views about the goals of health care reform in the state, his thoughts of the recently passed Gov. Shumlin-supported reform bill, and why it is becoming increasingly important that physicians engage in public policy (page 1);
- An article about the first Vermont physician practice to achieve meaningful use, and thereby qualify for incentives (page 3);
- Information about the Physician Loan Repayment Program (page 5); and,
- The second in a series of enlightening workers' compensation articles written by the North Country Hospital Occupational Medicine Clinic's Nelson S. Haas, M.D. (page 4).

On page 3 you'll also find a recap of the Vermont Medical Society planning retreat we held in July, during which we discussed many issues that will shape the Society's advocacy in coming years.

We discussed many topics during the retreat, but the one that impacted me the most was hearing from several members that the practice of medicine is becoming much more isolated than it was in the past. We can debate whether or not this development is a result of changes such as the transition to hospital employment, the introduction of hospitalists, or even increasing use of EHRs, but what is probably not up for debate is that we as physicians do better when we have each other's collegiality and advice as we strive to provide the best care we can to patients. Our profession also benefits from discussing our excitement and/or concerns about the future direction of health care – and opportunities to organize those thoughts into public policy goals.

While the underlying trends creating this sense of isolation are difficult to overcome, there are a few simple things we can do to fight it. Through our membership in the Vermont Medical Society we have multiple avenues to get together and share our thoughts, concerns and professional opinions with each other.

Each year VMS organizes five council meetings, a planning retreat and an annual meeting that includes CMEs, presentations and an awards banquet (for meeting dates and locations, *visit http://www.vtmd.org/about-us/meetings*). Each one of these opportunities offers members a chance to get to know their colleagues better and share their common concerns.

I encourage you to join us.

Sincerely,

Paula M. Duncan MD

Paula Duncan, M.D., President

Health Care Policies Discussed During Annual VMS Planning Retreat

VMS' annual policy-setting process began on July 16th when the Society held a planning retreat at the Three Stallion Inn in Randolph.

The well-attended retreat served as a brainstorming session and gave members an opportunity to suggest and discuss various health care policies. Many of the issues raised will ultimately become resolutions that members will vote on during the Oct. 29th annual meeting at Topnotch Resort and Spa in Stowe.

Among the several topics discussed were:

- Opposition to a Medicaid tax on physicians' net revenue;
- Issuing an annual report card on the state government's compliance with the Act 48 principles;
- The dangers of distracted driving;
- Patient education and incentives for health; and,
- Reconvening the Vermont Medical Society Physician Policy Council.

Once drafted by VMS staff, the resolutions will be presented to the VMS Council during its Sept. 14th meeting. The Council will review the resolutions and vote on whether to recommend, remain neutral or not recommend them to the membership at the annual meeting being held on October 29th at Topnotch Resort in Stowe.

First Vermont Physician Practice Achieves Meaningful Use

Middlebury Family Health has become the first Vermont practice to achieve electronic health records (EHRs) meaningful use, a designation that has netted a first-year Medicare incentive of $18,000 for each of its four physicians.

The practice plans to use the federal funds to pay for the EHR technology and to continue to make investments in improving patient care.

"I am delighted that this targeted federal investment has enabled Middlebury Family Health to become the first Vermont practice to receive incentive payments from Medicare for using an electronic health record system," Senator Patrick Leahy during a ceremony honoring the achievement. "Better records mean better patient care and patient safety for Vermonters. Vermont has been in the front ranks of health care reform, and Middlebury Family Health's adoption of an electronic health record system is an excellent example of this leadership."

As part of the American Recovery and Reinvestment Act of 2009, Congress appropriated $27 billion to fund the Medicare and Medicaid Electronic Health Records (EHR) Incentive Programs. To participate in either of the programs, eligible health care professionals must use federally-certified EHR technology, and meet a number of criteria for becoming "meaningful users" of EHRs and improving patient care. Once documenting that they have achieved meaningful use, eligible professionals receive up to a total of $44,000 in incentive payments from Medicare over the five years they choose to participate in the program or up to $63,750 in incentive payments from Medicaid over the six years they choose to participate in the program. Hospitals may also participate in the programs, receiving incentives based on a number of factors, beginning with a $2 million base payment.

Vermont Information Technology Leaders (VITL) staff worked with Middlebury Family Health to implement its EHR system and connect it to the Vermont Health Information Exchange, a secure statewide health data network operated by VITL.

Vermont Medical Society

Understanding Workers' Compensation Part II: Vermont's Workers' Compensation Statutes, Rules, and Legal Precedents

By Nelson S. Haas, M.D., North Country Hospital Occupational Medicine Clinic

Editor's note: A more comprehensive version of this article, including workers compensation statues, rules, and legal precedents with references, can be found online at VTMD.org/workerscomppart2.

Knowing the workers compensation system will prepare physicians for caring for their patients who claim workplace injury or illness. This is the second in a series of articles about the workers compensation system. The first article (available online at *VTMD.org/workerscomppart1*) described the history and basic principles of the workers compensation system. This article covers Vermont workers compensation statutes, rules, and supreme-court precedents. Forthcoming articles will describe ethics applicable to the workers compensation system; an evidence-based approach to determining causation; and suggestions for improvements in the way cases are handled.

The statutes specify that employers who are responsible for their employees' occupational injuries and illnesses will pay for treatment of occupational injuries and illness, expenses related to covered treatment, replacement wages, and awards for impairment. There is no provision for awards for pain and suffering. Aspects of the workers' compensation laws that are important to physicians are covered below. Passages in quotation marks are from the Vermont Statutes and Workers' Compensation Rules.

Occupational Injury and Illness – An occupational injury or illness is any harmful work-related change in the body "arising out of and in the course of employment." An occupational illness must be caused by "conditions characteristic of and peculiar to a particular trade, occupation, process or employment, and to which an employee is not ordinarily subjected or exposed outside… employment. The purpose of the definition of occupational illness is to differentiate illness arising in the general population without a relationship to work from illness caused by conditions specific to a work environment.

A workers' compensation claimant bears the burden of proof, and must establish "all facts essential to their claim." Proximate cause may be proven "with facts that any layperson of … would know." However, if the etiology of disease is "obscure and abstruse," and one that "a layman can have no well founded knowledge… [beyond] speculat[ion]," then cause cannot be established "without expert... testimony." As part of meeting the burden of proof the claimant should have his physician furnish an explanation as to how an injury or illness was caused by work.

Claimant's Rights to Payment for Medical Care and Related Expenses, Missed Time, and Seniority – An employer is required to furnish to an injured employee who is covered under workers' compensation health care services and equipment, assistive devices, modifications to vehicles and residences that are reasonably necessary to an injured worker who has or is expected to suffer a permanent disability, and reasonable expenses related to travel for evaluation and treatment.

Many services are paid according to a fee schedule. An employer should not withhold wages from an employee for an employee's absence from work for treatment or to attend a medical examination related to a work injury. Care is medically necessary when it is supported by accepted medical or scientific evidence and consistent with "accepted practice… recognized by health care professionals in the same specialties;" and must help restore or maintain health, prevent deterioration, palliate, prevent the likely onset of a health problem, or detect an incipient problem.

Where a workplace injury or illness causes total disability, the injured employee is paid two-thirds the employee's average weekly wages, but if an employee is out of work less than 10 consecutive calendar days, they will not be paid for the first three days out of work. A claimant has some rights to maintain their employment position, and seniority; and unused annual, personal, and sick leave, and compensatory time.

Employers' Rights to Have Claimants Assessed by Medical Providers of their Choice – The claimant's employer may designate the initial health care provider who evaluates and treats the claimant. Thereafter, the claimant may select another health care provider upon giving the employer written notice. If the employee selects a new health care provider, the employer has the right to require other medical examinations.

Work Capacity – Workers' compensation rules require a claimant with a work capacity to seek work within his or her medical restrictions. Payment of replacement wages maybe withheld and the security of the claimant's job is in jeopardy if the claimant refuses to work or search for suitable work if they have a partial disability.

Medical End Point – A workers' compensation claim reaches an "end medical result" (also "medical end result" and other phrases) when a claimant recovers completely or

Continued on page 5

Physician Loan Repayment Program Accepting Applications

The Vermont Education Loan Repayment Program for primary care practitioners is now accepting applications. To qualify for the awards, which are awarded annually in amounts of up to $20,000, applicants must apply by Sept. 19, 2011.

The repayment program is funded by the State of Vermont, through the Department of Health, and is administered by the University of Vermont College of Medicine Area Health Education Centers (AHEC) Program. The goal of the program is to ensure a stable and adequate supply of primary care practitioners to meet the health care needs of Vermonters.

AHEC provides loan payment awards in exchange for service commitments by health care practitioners. Recipient must reapply annually and may receive loan repayment funds for maximum of six years per individual.

Recipients are required to practice a minimum average of 20 hours per week during the year of service in one of the following practice areas: family practice, general internal medicine, pediatrics, obstetrics/gynecology, or psychiatry.

Participating physicians must practice in an under-served area, defined as:

- An area with less than the average recommended number of FTE physicians to serve the population. This may be based on the total, adult/child or individual specialty categories.
- An area with only one physician of that specialty, regardless of the FTE rate.
- An area where the loss of one physician, due to retirement or relocation, would reduce the area to less than average.
- An area where more than 15 percent of physicians are over the age of 60.
- An area with a documented special need approved by the UVM AHEC Program and the VT Department of Health.

Practitioners already practicing, practices seeking to hire providers, and FAHC residents and UVM College of Medicine students are all encouraged to apply.

For more information, visit *vtahec.org*.

Workers' Comp Part II

(Cont'd from pg. 4) "has reached a substantial plateau in the medical recovery process, such that significant further improvement is not expected, regardless of treatment." After end medical result is reached, temporary disability payments cease and permanent impairment is determined; and a claimant is still entitled to reasonable palliative care and care to maintain function, and may be entitled to permanent partial or permanent total benefits, and vocational rehabilitation services.

Permanent Impairment – When a permanent partial impairment occurs, its existence and degree is made in accordance with the whole person determinations in the American Medical Association Guides to the Evaluation of Permanent Impairment, 5th edition (AMA Guides). The impairment is paid as the "percent of the whole person" specified in the AMA Guides, at a rate of two-thirds of the claimant's average weekly wage; determined by multiplying the employee's percentage of impairment of the whole person, two-thirds of average weekly wages, and 405 (weeks) for non-spine impairments or 550 (weeks) for spine impairments.

Summary and Conclusion – Vermont's workers' compensation statutes, rules, and supreme-court precedents provide the medium in which physicians evaluate and treat their patients who make workers' compensation claims; and provide for reasonable medical care, and other losses a workers' compensation claimant may face. The employer has rights under the workers' compensations system, too. Knowing the framework of the system can help the physician advise patients and avoid conflict.

The author would like to thank J. Stephen Monahan, Director, Vermont Department of Labor, Workers' Compensation and Safety Division for his review of this article.

VMS president to receive American Academy of Pediatrics award

Vermont Medical Society President Paula Duncan M.D., has been named by the American Academy of Pediatrics as the 2011 recipient of the Abraham Jacobi Memorial Award.

Sponsored by the AMA Section Council on Pediatrics and established in 1962, the award recognizes pediatrician who has made long-term notable contributions to pediatrics nationally in teaching, patient care, and/or clinical research.

Dr. Duncan will be presented with the award during the American Academy of Pediatrics National Conference & Exhibition, Oct. 15-18 in Boston.

A conversation with George Till, M.D.

(Cont'd from pg. 1)

GMP: What is your opinion of the bill that was passed by the legislature and signed by Governor Shumlin?
Dr. Till: First and foremost Vermont can and must provide health insurance coverage for all Vermonters. We were able to change the bill title to reflect that the essence of this legislation was a health care system to cover all Vermonters. We were able to remove the provision that would have disallowed any other insurer from selling coverage for services that Green Mountain Care covers, the "single payer" enforcement language.

During the 2009-2010 sessions the prior Administration had been unwilling to expand Catamount Health to further reduce the uninsured due to the severe fiscal constraints we were under. The fact is however Vermont's hospitals currently provide over $60 million of uncompensated care to the uninsured yearly. The Hsiao report estimated the price tag for covering the uninsured at $190 million total. We're already cost shifting nearly 1/3 of this total price presently.

Another provision we were able to add at the eleventh hour was a preliminary evaluation by the Joint Fiscal Office of the legislation. The report issued May 21 was limited but in some ways reassuring, calling for an evaluation of Vermont-specific data related to the Hsiao predicted savings. This has not been done. I have been clear in my opinion and every bit of Vermont specific data I've seen suggests overestimated administrative savings in the Hsiao report.

However, preliminary reports of savings from the two longest standing Vermont Blueprint for Health pilot projects demonstrate very encouraging savings. Vermont's new all payer claims database "VHCURES" also demonstrated we are actually spending less than prior health care spending estimates have suggested. Payment reform pilots, again part of ACT 128 of 2010 and neither expanded nor accelerated by the current legislation, offer additional hope of real savings too. The combination of these leaves me confident we can cover Vermont's 47,000 uninsured.

The legislation no longer contains the words "single payer" anywhere. In truth the system will be universal but could never be a real single payer. It will combine the three main current private insurers, Medicare and Medicaid if federal waivers are obtained. Beyond this however, 65,000 Vermonters are currently covered by out-of-state employers (BISHCA 2011). An additional 105,000 Vermonters are covered by self-funded employer ERISA governed plans. These can not be regulated by a Vermont system. Military and federal employees can not be forced into s Vermont system. When you add theses Vermonters using other insurances you're left with about 60 percent of people in your "single payer." It becomes clear why the administrative savings can't happen on the provider side.

In terms of controlling real drivers of health care costs increases, there is nothing concrete in the legislation, but I remain hopeful. The promise is that the Green Mountain Board will address these issues. There are provisions to explore alternative avenues for pharmaceutical purchasing. Drugs and supplies have now surpassed physicians to become the second biggest expenditure category in the most recent BISCHA Vermont provider analysis. On a percentage basis, drugs and supplies grew faster than even hospital expenditures in the most recent survey.

End-of-life spending remains a major cost driver. H.201, the Palliative Care legislation, requests both Medicare and Medicaid waivers to allow hospice referral without requiring cessation of attempts at curative care. Hospice care saves tremendous amounts of money yet is underutilized largely due to Medicare's restrictive rules. Other reducible drivers of utilization such as obesity, smoking and behavioral health issues were not addressed in the legislation.

Continued on page 7

Save The Date for the VMS 2011 Annual Meeting

The 198th VMS annual meeting will be held Saturday, Oct. 29, 2011, at Topnotch Resort and Spa in Stowe Vt..

Mark your calendars today!

For reservations call 1-800-451-8686. Make sure to mention the VMS room block when you call.

Topnotch is a great place to bring the family for a weekend getaway. All attendees get 20% off in the spa!

A conversation with George Till, M.D.

(Cont'd from pg. 6) The legislation is politically bold. It affirms the need to provide coverage to all Vermonters. I would have preferred a methodology of building a sound financial model, testing assumptions, refining the model, and retesting. I would have liked a clear discussion of what services are included, what are not. I would have preferred a frank discussion of who will pay and how they will pay upfront. I would have preferred to tell health care providers how and how much they will be reimbursed at the start of the process not mid-2013. What we know now is that the conversations will happen. Physicians will need to force themselves into the conversation en mass.

GMP: What will physicians like about the bill? What will they not like?
Dr. Till: I think physicians are very unhappy with the uncertainties of the legislation. I don't think any physician is happy with the idea that levels of compensation are not scheduled to be announced until July 2013. I think physicians, especially those in private practice like all employers, are very troubled by the delay until January 2013 of proposing a financing plan for the system. The delays are not necessary but are political in nature. The exact price tag can't be known, but that is always true in state budgeting. That is why we do a budget adjustment bill every single year. However, what part of the new system will be financed through payroll tax, what part through income tax, what part through new and expanded consumption taxes, what other funding sources will be included does not require waiting until 2013. The delay causes unnecessary uncertainty which neither businesses nor physicians like.

Primary care physicians will like the reaffirmation of the Vermont Blueprint for Health. We should be clear that this legislation neither accelerates nor changes anything about the Blueprint. The accelerated statewide roll out by 2013 was in ACT 128 of 2010. Physicians should like the language we added about ensuring compensation should be fair and adequate to sustain a practice in Vermont.

Thoughtful Vermonters in general will be torn by the choices around the Green Mountain Board. The Board will have a huge amount of power. The balances on the power are minimal. The checks on the power are very blunt instruments. Is it better to have the Board as insulated from the politics as possible? I think so but the cost is they become directly accountable to nobody.

GMP: This bill has been described by many as the first in numerous steps before we really get to a publicly financed health care system for all. Are you ready to be at this for another five-plus years?
Dr. Till: Realistically it will be more than 5 years. In 2017 Vermont can get a waiver from the Secretary of HHS to forgo health insurance exchanges and use the associated federal money to help fund our system. Prior to that time the waiver requires an actual act of Congress. I remain skeptical that the current Congress will give us both the waiver and the hundreds of millions of dollars needed to make this new system work. Once the waiver and financing are obtained, that will only be the beginning. Dr. Hsiao suggested 12 years was an optimistic time frame.

If I've learned nothing else, it is that life takes unexpected turns along the way. Especially in the world of politics and public policy things can change drastically every couple of Novembers. It is the Achilles heel of our political system. Time frames are mostly the next election. It inhibits both long-term thinking and statesmanship. It tends to make political calculations paramount for too many elected officials.

GMP: If you were named U.S. Secretary of Health and Human Services, what would be your first policy enactment?
Dr. Till: There are a number of things I would change around family planning and reproductive rights. We seem to be headed to another era of assault upon women's rights.

However, the first thing I would try to do is to update the underlying RBRVU system used to calculate Medicare reimbursements. It is the essence of why we have such a shortage of primary care physicians. The current system undervalues the kinds of services provided by primary care physicians. The pipeline for primary care internal medicine physicians is very nearly dry and the underlying reasons trace back to the RBRVU-based reimbursements.

GMP: Why are you involved with the Vermont Medical Society?
Dr. Till: The Vermont Medical Society does a tremendous service for the physicians of Vermont. Most physicians have found themselves too busy to closely follow the things happening in Montpelier.

The Society has been our safety net. I can't say emphatically enough however that during the next few years physicians must be actively involved. There are tremendous threats to health care access for Vermonters and to the very practice of medicine in many parts of this state.

Conferences

Primary Care Sports Medicine Conference

September 28-30, 2011
Sheraton Conference Center
Burlington, Vt.

For more information
go to: http://uvm.cme.edu
or call 802-656-2292

25th Annual Imaging Seminar

September 30-October 2, 2011
Stoweflake Conference Center
Stowe, Vt.

For more information
go to: http://uvm.cme.edu
or call 802-656-2292

Autumn in New England Otolaryngology Update

October 10-11, 2011
DHMC
Lebanon, N.H.

For more information
https://ccehs1.dartmouth-hitchcock.org/eventschedule.html
or call (603) 650-5000

Vermont Ethics Network to celebrate its 25th anniversary, host conference

The Vermont Ethics Network will celebrate its 25th anniversary by hosting an Oct. 5th conference titled "Who lives, who dies, who decides and who pays?"

The conference will take place at the Hilton Hotel in Burlington and will feature numerous speakers, including:

- Joanne Lynn, M.D., director of the Center for Elder Care and Advanced Illness
- John Lantos, M.D., director of Children's Mercy Bioethics Center
- Robert Macauley, M.D., VMS member and medical director of clinical ethics at Fletcher Allen Health Care; and
- Anya Radar Wallack, Ph.D, special assistant to the governor on health care reform in Vermont

As of press time, an application for 5.5 continuing education credits in ethics has been submitted. For more information, visit vtethicsnetwork.org or call (802) 828-2909.

Mark Your Calendars!

Vermont Medical Society 198th Annual Meeting
October 29, 2011
Topnotch Resort and Spa, Stowe, Vt.

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