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### New Mexico Medical Society Newsletter - August 1, 1964

New Mexico Medical Society

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# NEWS Letter

NEW MEXICO MEDICAL SOCIETY • 211 First National Bank • Albuquerque, New Mexico

AUGUST 1, 1964

## PRESIDENT'S COLUMN

A bleak missile site near Hagerman, mentally deficient youngsters and tuberculous adults: These were the unlikely ingredients of a puzzle which presented itself last Fall. Governor Campbell appointed a first rate committee, which included Dr. Bunch, and Dr. Fitz as chairman, to come up with a solution. All are to be congratulated for the time, effort and thought contributed. With additions and renovations the site will be made habitable for several hundred mentally deficient on the long, long waiting list for admission to Los Lunas. A long range program emerged for the future handling of the tuberculous which envisions care of some at the local level as well as hospitalization of others in a few properly equipped centers in the State. [Implicit is the recognition that the consignment of the tuberculous patient to some remote East Twinkletoe is not in keeping with modern medicine and the scientific advances we have every hope will be forthcoming.]

U.S. Dept. of Commerce studies show that in 1942 the physician's share of the consumer's health dollar was 30¢. In 1962 it had dropped to 24¢. The hospital's share has risen from 16¢ to 28¢. Drugs accounted for 22¢ in 1942, and in 1962 were 19¢.

At the University of Michigan's 15th Annual Advocacy Institute held this Spring the topic was Medical Malpractice. Bernard D. Hirsh, Director of the American Medical Association's Law Department, "stressed these points: It is difficult for one doctor to evaluate the works of another in terms of negligent treatment, except in obviously flagrant cases. In most cases there are several choices of treatment available and therefore for one doctor, with the benefit of hindsight, to brand the work of another as malpractice is often beyond the pale of good conscience.

"There's no truth in irresponsible charges that a doctor who testifies against another in a malpractice action will inevitably lose his hospital privileges, or forfeit his liability insurance or be thrown out of his medical society. Attorneys with the AMA Law Department have yet to discover one single doctor to whom this happened.

"Ironically, the very skill of modern doctors is one of the principal producing causes of malpractice claims. Doctors have achieved such good results

so often that many patients expect a perfect solution to most medical problems."

We would like to commend to all - general practitioners and specialists alike - the Inaugural Address by Norman Welch, President of the AMA, in JAMA, July 20, 1964, entitled UNITY IN MEDICINE, partially quoted herewith:

"I have just returned from the World Medical Association meeting in Helsinki, Finland, where I represented the AMA as a delegate. I was interested in the number of physicians from other countries who singled out the AMA representatives and engaged us in conversation concerning the status of socialized medicine legislation (as they described it) now under consideration by our Congress.

Their fervent appeal was the same: Do NOT let it happen in the United States. 'Your country', they told us, 'is the greatest stronghold of private medical practice in the world: the American medical profession is a boon to us because of the strength of your determination to remain free'.

'We are constantly struggling', they said, 'to expand what little professional freedom is left to us and to our patients. If you fall under the domination of government, we shall lose the last important beacon of medical freedom left in the world'.

When I asked why the medical profession had not been more effective in its opposition to such government dominated programs, two reasons were repeated over and over again. One was that the medical profession lacked a unity of purpose and action which weakened the overall structure and impact of medicine as a profession.

And the second reason was the ineffectiveness of their national organization in counteracting the propaganda and political action of the Socialist governments which control most of their nations. One physician readily admitted that doctors were forced to create an opposition organization completely separate from the national medical association because many of the leaders of their national association were either full- or part-time employees of the government and sympathetic to the nationalization of medicine.

In most areas of the world physicians have lost a significant part of their freedom to practice as their training, experience, and professional judgment dictates. Usually, this situation has developed because the profession was split into contending segments that invited capture by govern-

ment. The technique of 'divide and conquer' has been all too successful in many lands. This same technique is not without its disciples in this country. Here too, there are those who exploit every opportunity to divide the medical profession. They pit the general practitioners against the specialists, the full-time salaried employee against the private practitioner, the medical college against the medical society, the full-time salaried chief of staff against the professional staff and even at times the medical specialty organization against the American Medical Association.

We must not let this happen in the United States of America.

I would appeal to those of you who represent specialty organizations, to the individual specialists, to the general practitioner, to those in administrative medicine and in government service, and to the medical educators to impress upon your members and colleagues that if medicine is to serve the

public in the future to the high degree that it has in the past, it must be united, standing strong and firm with a heart and conscience tuned to public need, with a respect for the rights and privileges of the individual, and with an abiding faith in our free competitive system of medical practice.

Only one organization represents all of us, acts for all of us, serves us, and asks that each of us, no matter what his specialty, take part in its activities. That is the American Medical Association, of course, and if you will it, together we can reestablish and exceed whatever measure of unity we have achieved before; while at the same time, preserving that incomparable quality of care that specialization has helped to create."

Omar Legant, M.D.,  
President,  
New Mexico Medical Society

JOINT MEDICO-LEGAL PLAN  
FOR SCREENING MALPRACTICE CASES

This panel operation, approved late in 1963 by the New Mexico Medical Society, the State Bar of New Mexico and the Board of Bar Commissioners, is obviously a worthwhile organization in these days of ever increasing numbers of malpractice suits. By providing both a medical and legal preliminary evaluation of the merits of a complaint, it gives the Plaintiff's attorney a perspective of his case which he usually cannot get from his personal legal estimation of the situation alone. As a concrete example of the inestimable value of the Plan, within the past week a malpractice case against a New Mexico Physician was dropped by the Plaintiff's attorney because the attorney had submitted the case to the Joint Panel and had been advised that the Panel's appraisal was that no grounds for suit existed.

The Panel Plan will also provide an answer to the oft repeated "conspiracy of silence" criticism directed at the medical profession. When the Panel decides that sufficient grounds exist for trial of a malpractice case, the Plaintiff's attorney will no longer have to face the sometimes impossible task of finding medical witnesses to testify in the conduct of his case. The Panel will provide such witnesses. This is a step forward in the interest of true justice.

These and other important considerations make the Plan valuable in decreasing the number of "nuisance" and "settlement" types of suits, filed simply in the hope of forcing a financial settlement by the doctor in order to forestall the notoriety and publicity which are so damaging even in successfully defended suits. The cooperation of the medical profession in providing medical witness aid to the plaintiffs will enhance good working relations between ourselves and the legal profession. It is hoped it will also make us less suspect by the public.

The Plan is in operation and we can foresee great benefits to us from its continued function.

However, as good as it is, we see one important flaw in its operational rules, a flaw which might well be eliminated by an amendment of the Plan rules to still further reduce the number of nuisance suits filed.

The flaw lies in the provision that the the Panel will only consider cases submitted to it by Plaintiffs' attorneys. The Plaintiff's attorney submits his case at his own discretion, and may not be required to do so. A physician against whom a suit is filed, or who suspects that a suit will be filed, even if he and his attorney feel that no grounds for suit exist, is not allowed to submit his case to the Panel, and will be refused consideration if he attempts to do so.

This came to our attention several days ago when a physician faced with a suit, and advised by legal sources that no apparent evidence of negligence or malpractice seemed to exist, attempted to submit the case to the Joint Panel, knowing that the Plaintiff's attorney would not be legally bound by decisions of the Panel, but hoping that he would in good judgment and in good faith drop the suit if so advised by the Panel. The Physician was informed that rules of the agreement between the Medical Society and the Bar prohibited consideration of cases unless submitted by the Plaintiff. He was advised that his only possible course of action would be to approach the Plaintiff and Plaintiff's attorney and request that they submit the case to the Panel. It would hardly seem likely that a Plaintiff's attorney would accede

(Continued on Page 3)

to such a request from the Defendant. The more groundless the suit and the more "settlement minded" the Plaintiff's attorney, the less likely that he would be inclined to submit his case to the Panel as a favor to the Defending physician.

An early effort by the Medical Society to correct this defect in the Panel's operations is called for. This Medical-Legal Panel of Physicians and Attorneys can be very useful in serving the purposes of Justice, but we believe that equal opportunities should be given to Plaintiff and Defendant in the matter of submission of case material. Then justice will be served just a little bit better.

J.J.C.

JUST TO KEEP YOU AWAKE

A union on a policeman's foot: Corn on the Cop.

A LAW DECLARING THE LAW TO BE THE LAW

It is a sad commentary on the American sense of moral values that we have found it necessary to enact a Civil Rights Law almost two hundred years after this nation was born.

The title of the law is a misnomer. The Rights involved are not Civil Rights but Natural Rights. Civil Government does not create or bestow human rights. All men without exception have inborn rights which are a part of their human nature. Civil government is but the means of protecting these pre-existing rights, and makes it possible to exercise liberty bestowed by the Creator.

Perhaps we should have called this the Natural Rights Law. But such a title would have proved too embarrassing to those of us who have positively by our actions or negatively by tacit permission, made possible the many enduring economic, educational, political and social blocks to enjoyment of fundamental freedoms by Negro citizens.

On the other hand we could have named it the Civil Enforcement Law. However, this term has the opprobrious connotation that some of us, although recognizing the existence of Natural Rights intrinsic to the very nature of man, are ready to grant them to others only when forced to do so under threat of punishment.

Still a third choice of title might have been more appropriate. We could have used some such phrase as Civil Rights Reiteration, or Civil Rights Bicentennial Statement thereby eliminating the word Law. By dropping from the title the word "Law", which connotes some legislative change, we would not be creating confusion in the minds of those people who thought that equality, freedom and justice for all citizens were already provided for by the law of the land for almost two hundred years. There are some Americans who for one reason or another assumed that the Declaration of Independence guaranteed a birth-right of liberty, and held self evident the truth that all men are created equal, and stated that all citizens of the United States are endowed by their Creator with unalienable Rights. These people are surprised that we wasted so much time, effort and heated argument in the drafting and enactment of an identical law, setting forth the same old facts, two centuries later. Perhaps we should compound their confusion as ad absurdum by enacting still another law stating that it is the law of the land that all laws of the land shall be obeyed.

J.J.C.

ORGANIZATIONAL NOTES AND NEWS

ASK FOR YOUR MALPRACTICE "INSURING AGREEMENT" ENDORSEMENT

The following specific language has been added to most malpractice coverages, "acts and omissions of the insured as a member of a formal accreditation or similar professional board or committee of a hospital or professional society."

Endorsements were apparently distributed upon request, therefore, it is each physician's responsibility to make certain his policy contains this endorsement in order to be protected when functioning on various committees.

NEW STATE HEALTH DIRECTOR BEGINS DUTIES

Edwin O. Wicks, M.D., new Director of the State Health Department, is in the process of moving to Santa Fe from Juneau, Alaska, where he was Director of the Alaska State Health Department.

Dr. Wicks received his M.D. from Minnesota and Doctor of Public Health from Michigan.

COLORADO MEDICAL SOCIETY'S ANNUAL SESSION, SEPT. 16-19.

The Broadmoor Hotel at Colorado Springs will be the resort location for the Colorado Medical Society's 94th Annual Session. All members of the N.M.M.S. are invited. A well-planned scientific program plus entertainment and social activities will fill the four-day meeting.

ORGANIZATIONAL NOTES AND NEWS (Cont'd. from Page 3)

SEMINAR ON HUMAN AGING TO BE HELD IN CLOVIS

A seminar on Human Aging will be presented by the N.M. Conference for Post-graduate Training in Neurology and Psychiatry in Clovis, October 1-3.

Chairman of the seminar will be George Prothro, M.D., and Arrangements Chairman is Allan L. Haynes, M.D.

Sponsoring organizations other than the New Mexico Medical Society are: New Mexico State Hospital and New Mexico Chapter, American Academy of General Practice

COUNCIL HOLDS A FAMILY OUTING, JULY 11, 1964.

The Council held a meeting in Kachina Lodge, Taos, July 11. Most councilors and officers brought their families for the weekend meeting.

Some of the actions taken by the Council were:

A. Received a financial report from the sub-committee studying the reserves of the Society and took the following actions on the report:

- (1) That the financial position of the Society is secure and that the reserves of \$23,674.26 are not excessive.
- (2) That the committee's judgment regarding feasibility of a reduction of dues is duly in order, but it is the Council's recommendation that no change in the present dues structure be taken at this time.
- (3) That a six months' operating reserve be maintained as one which would constitute an adequate reserve. (This particular item was not a recommendation of the committee.)
- (4) That the Council authorize a complete audit every year, beginning with 1964-65, with the implication that it would be a complete audit annually.
- (5) That a blanket sum should not be given the Auxiliary, however, specific budgetary items submitted to the State Society by the Auxiliary will be considered and approved on the merit of each item.
- (6) That the present policies (investing reserves in Time Deposits, Savings Deposits and Building & Loan Deposits) of managing the reserves be continued.
- (7) That a budget committee of the Council be appointed to serve with the Secretary-Treasurer in preparing and presenting the Annual Budget.

B. That the Society proceed with the publication of the News Media Code at the added range of \$126.-\$129. (The House had approved an approximate budget of \$60.00)

C. That two members be given another year to take the Orientation Course sponsored by the State Society.

D. That the President be authorized to provide travel expenses for the Chairman of the Mental Health Committee (to attend the National Congress on Mental Health in Chicago) from his budgeted travel fund and that an additional \$50.00 be provided from the general fund.

E. That the applicant for membership-at-large be requested to appear before the next Council meeting and that action on the application be deferred until that time.

F. That a secretary attend all Council meetings and that she be reimbursed at an adequate financial level.

G. That a used postage meter machine be purchased at a cost of \$203.70.

H. That a State Speakers' Bureau be established.

I. Gave the Council's consent to the President for his actions in accepting the resignation of our AMA Delegate, Leland S. Evans, and appointing James C. Sedgwick to serve as AMA Delegate until December 31, 1964.

J. Requested the Insurance Committee to pursue the matter of malpractice insurance for Society members acting in official capacities for the Society.

K. Approved the Insurance Committee's request for an increase in premiums for our hospitalization program.

L. That the Council recommend to the House of Delegates the endorsement of Blue Shield's request to sell a Co-Pay Service Benefit Plan and that Mutual of Omaha be notified that this has been considered.

M. That the Welfare Committee inform the Welfare Board of the problems of additional expense to smaller hospitals occasioned by closing of the collection facilities of the Blood Bank and that an effort be made to have the Board arrange for payment of blood on Welfare patients or, if feasible, attempt to insure in Southwest Blood Bank's insurance plan.

R. R. M.

STANDARD INSURANCE CLAIM FORM ORDER BLANK

New Mexico Medical Society,  
211 First National Bank Building, NW  
Albuquerque, N.M.

Please send \_\_\_\_\_ insurance pads @ \$2.00 each. Check for \_\_\_\_\_ enclosed.

NAME: \_\_\_\_\_ ADDRESS: \_\_\_\_\_