

THE LIGHTHOUSE

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Medical Staff Services, published by and for the
MeAMSS membership.



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We're on the Web! Check us out!

meamss.org

President's Message

Frederica Jackson, CPMSM

Claudia e-mailed me with a request for a brief President's message for the newsletter. My first thought to myself was "Oh my God! President! I'm not ready! Maybe Kim will do it for another year!" But then the panic wore off and I realized that, okay, ready or not, I'm the President of this organization. I've had my two years of experience on the Board. I've had my leadership training. I've had my 12 years of experience in the profession. Is it enough? Will I be a good leader? All I can tell you is that I am committed to being the best leader I can be for MeAMSS. I am reassured knowing that I will have the support of the top-notch group of individuals who comprise the 2005 Board of Directors. And I'm thrilled to have the guidance of Kim Pelletier, our courageous leader for the past two years.

Our first Board meeting is scheduled for January 14th here at Mercy. Outgoing Board members will also be invited to the meeting for the purpose of orienting the new folks. We'll also do some planning for the year. I'm excited to get started.

Okay, so my presidency has begun. Two years ago, it seemed a long way off. Two years ago seems like yesterday now. To use a cliché, I have some mighty big shoes to fill, following Cheryl, Edna, Pat and Kim. Hopefully my feet will grow. And quick!

Freddie

Past President's Message

Kim Pelletier, CPMSM

Dear Members,

I have enjoyed serving you in the capacity of President. I have no great pearls of wisdom to bestow upon you, and quite frankly was at a loss as to what to say. And then I read Ben Stein's last article for "Monday Night at Morton's." For those of you who don't know, Morton's is a famous chain of steakhouses frequented by the rich and famous. Mr. Stein decided to call it quits because of his changing attitudes. He no longer felt that someone who 'memorizes lines' and who makes 'huge sums of money' deserves to be treated as a "star". He feels these are 'interesting, nice people but they are not heroes' to him.

Mr. Stein cited the real 'stars' are our soldiers who risk their lives every day for us in Iraq. He thought about the firemen who raced up the stairs to save people during 9/11 whose names most of us don't know. There are heroes among us every day: Firemen, policemen, teachers, clergy, physicians and nurses – all looking out for our collective welfare. These people are the real stars, the heroes, who work tirelessly every day protecting and caring for us.

We should all strive to put value into our lives by putting our family and friends first, for being willing to contribute to our community and performing well in our careers. And now dear members, this is where you fit in.. You are the everyday heroes whose names are not known to our patients but without whose work there would be no assurance that the practitioner caring for your loved one or community member

Continued from Page 1 - Past President

is qualified and competent.

Take great pride in knowing you play a big role in this 'movie' we call life and that you have played an even bigger role in my life. Each of you has encouraged me in one way or another. By attending meetings, becoming members, by offering pearls of wisdom and support when times were somewhat rough. As I end my term as president, I want to thank each of you for your encouragement and wish Freddie the best of luck as your new MeAMSS president.

Kim

Report from the Education Committee

by MaryCarol Rumsey, CPMSM

“The beautiful thing about learning is that no one can take it away from you.”

B.B. King

As we look to the New Year, your Education Committee is already planning sessions to help you grow in your chosen profession. We have set the dates for the first three sessions:

Friday, March 18

Thursday, June 23 and

Friday, September 16

We would like some feedback about the winter meeting. We originally set the date for November 4th but now have some misgivings. I can appreciate holding the November meeting in the first week of the month so we can celebrate our profession during Medical Staff Services Awareness Week, but I miss the Christmas Party! Do any members feel as I do?

The Education Committee has decided to “tag” onto the 2005 MHA Summer Forum for our June meeting. There will be two or three speakers scheduled for

Thursday morning; we will break for the luncheon; and then hold the rest of our meeting in one of the meeting rooms at the Samoset. This will allow for some quality speakers at a reasonable rate, with networking opportunities that we don’t usually get at our regular meetings. Most all hospital administrators and other members of the Maine healthcare community attend the MHA Summer Forum.

We are looking for volunteers to host the March 18th and the September 16th meetings. If you have room for 30-35 members, please let me know at your earliest convenience. MeAMSS will help defray the cost of the breakfast/lunch.

Also, we are always looking for suggestions for topics of interest and suggested speakers for our sessions. If your hospital has an active Education Department, they probably bring in speakers of interest on a wide variety of topics related to the healthcare field. If you’ve attended a session you found interesting, we would appreciate it if you would contact any member of the Education Committee. They are: Kim Pelletier, Claudia Edwards, Lisa Miller and yours truly as chair.

Thank you for your support.

HELPFUL WEBSITES

ecri.org

jcaho.org

namss.org

docboard.org

msleader.com

msspnextus.com

qualityforum.org

credentialinfo.com

http://www.upinregistry.com/provider_form.asp

Check out the Board of Licensure in Medicine’s Website -

http://www.docboard.org/me/me_home.htm

1. Fees for licenses have changed (look under Policies, also look under Physician Assistants and Nurse Practitioners)
2. Form C registration has been revised (look under Physician Assistants and Nurse Practitioners). Though white forms will be accepted, it’s probably wise to copy the downloaded form on “blue” paper.
3. Applications are now on line.
4. Prescriptive Authority for Physician Assistants and Nurse Practitioners – (look under Policies). “It is the policy of the Board that Physician Assistants and Advanced Practice Nurses, working under delegation, when working in a hospital setting, may order and dispense schedule II drugs as authorized in their written Plan of Supervision, including emergency department analgesic starter packs (as defined by emergency department protocols).” Sample addendum to the Plan of Supervision is listed in this section. Please be sure that current Plans of Supervision for mid-level practitioners working in the hospital setting indicate the type of medications that will be dispensed.

Centers for Medicare & Medicaid Services (CMS) Requirements for Hospital Medical Staff Privileging

In a memo dated November 12, 2004, addressed to State Survey Agency Directors, CMS intended to provide survey and certification clarification regarding hospital privileging and complying with Condition of Participation 42 CFR §482 (subsections 482.12, 482.22). The background information in the memo provides a primer for surveyors in understanding the responsibilities of the Governing Body, the Medical Staff, and Categories of Practitioners and is intended to emphasize that the hospital's governing body is legally responsible for the conduct of the hospital as an institution.

With regard to categories of practitioners, however, there is now a requirement to include in the bylaw, not only categories of those practitioners eligible for membership, but those who are not eligible for membership "but are eligible for privileges." The example cited was the granting to certain practitioners temporary privileges without becoming members of the Medical Staff but who are required to comply with the bylaws, rules, regulations and policies of the hospital in delivering care.

The memo further states that the Medical Staff "bylaws **must** (*emphasis added*) include criteria for determining the privileges that may be granted to individual practitioners and a procedure for applying the criteria to individual practitioners." Most Medical Staff bylaws establish general categories and criteria for privileges and outline a vague procedure for granting privileges but few include specific language that addresses **duties and scope of privileges of each category of practitioner granted privileges.**

On Page 2, last paragraph, the language in the memo with regard to the privileging process has caused confusion (not clarification) to hospitals' medical

staffs in determining type of privileges: laundry list vs. core privileges. **"Specific privileges for each category must clearly and completely list the specific privileges or limitations for that category of practitioner."** Certain institutions delineate privileges not only by specialty but level of care that the practitioner is allowed to provide within the hospital walls. Usually the process in determining the levels of care or limitations is spelled out elsewhere and is not delineated within the Medical Staff bylaws. "The specific privileges must reflect activities that the majority of practitioners in that category can do and that the hospital can support. It cannot be assumed that a practitioner can perform every task/activity/privilege listed specified for the applicable category of practitioner. The individual practitioner's ability to perform each task/activity/privilege must be assessed and not assumed".

Page 3, second paragraph: "The Medical Staff must actually examine each individual practitioner's qualifications and demonstrated competencies to perform each task/activity/privilege he/she has requested from the applicable scope of privileges for their category of practitioner." Suggestions for compliance include reviewing "current work practice, special training, quality of specific work, patient outcomes, education, maintenance of continuing medical education, adherence to medical staff rules, certifications, appropriate licensure, and currency of compliance with licensure requirements." (Much of this is already mandated either by DHHS and/or JCAHO and is the review process used by most hospitals at time of reappointment.) "...Board certification, certification, or licensure in and of itself is not recognized as an appropriate basis to bestow or award any or all of the privileges included in a particular practitioner's category."

Checking each activity, task or privilege? Anyone utilizing the laundry list approach knows the inherent problems of this system (particularly if you have used the list from the American

Academy of Family Practice – no less than 17 pages!). Physicians frequently miss checking privileges necessitating inquiries about privileges requested. The nursing staff has difficulty sifting through the numerous pages of privileges looking for a specific procedure. These are just two examples. I'm sure all of you can recount several other problems. It is not practical to examine each task or activity or privilege requested (required if one were to take the literalist point of view from this memo). You can establish review criteria, however. Your bylaws must now include language that otherwise would have been delineated by policy. Review the Clinical Privileges Restricted article of your bylaws. This article would seem to be the appropriate section to incorporate language that defines the process used in granting privileges to categories of practitioners as well as those who are not members of your Medical Staff. Include in this section the clinical review criteria used in assessing the competence of each specialty (random review of certain procedures, as an example, something that is more easily accomplished in the surgical specialties). A case can be argued that each practitioner is subjected to the same review criteria. You should also review your Medical Staff's Quality Management Plan to cross-reference it with any revisions made in your bylaws.

Now here is the current problem: I have been trying to convert our organization to core privileges with limited success. **The CMS memo is requiring that the process in granting privileges be delineated in the Medical Staff bylaws yet our organization has not embraced any one type of privilege format.** Many of the current privileges are laundry lists, but they do not meet the intent of the CMS memo as no threshold criteria have been established for each privilege checked. My next step is to review this memo with our Credentials Committee. The Medical Staff will need to take a position as to type of privileging system.

Our Medical Staff bylaws have been under review to ensure compliance with

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CMS Continued

the DHHS revisions to Chapter IX. The CMS memo necessitates more scrutiny as well.

Concerns have been expressed in the credentialing literature about core privileges in light of the CMS memo. I believe core privileges meet the mandates of the CMS memo, provided there are clearly stated threshold criteria for any special privileges held within a specialty group. **This must be delineated in your bylaws.** I have obtained sample core privileges from various sources, and there are drawbacks.

The most frequent problem encountered is **how does one determine the number of procedures required in order to maintain proficiency and thereby be eligible to request the privilege?** Certainly it's difficult to compare rural Maine to the larger urban centers in Massachusetts and New York. Clinical white papers seem to list competency numbers that reflect the volume found in urban healthcare facilities. In rural Maine there isn't the population density to meet these higher numbers. The hospital administration along with the Medical Staff must weigh the risks and benefits of offering certain services to the community. With any new service comes the mandate to establish criteria to ensure that safe, competent medical care is rendered.

Physicians resist numbers being assigned because of concerns of losing a privilege they did not exercise in the two-year period under reappointment review, but for which they believe they still have competency. It's difficult to escape the "numbers" criteria, however. Many would argue that requiring a certain number of procedures, or patient admissions (in the case of medicine) provides unbiased eligibility criteria for the practitioner seeking the privilege.

And then there is the issue of requesting new privileges as technology evolves. One of the challenges faced by my Credentials Committee was to establish

competency criteria for hand-assisted laparoscopic nephrectomies. We had one urologist on staff and the technology was new to the facility. We researched the procedure on the Internet. I checked the Bureau of Health statistics for a two-year period and learned that only 482 nephrectomies were performed in the entire State of Maine (open and laparoscopic). A query was made to Mass General as well as to certain urology groups in Maine. Based on our research the Credentials Committee concluded that a laparoscopically-trained urologist who has performed open nephrectomies should certainly have the skills to perform the hand-assisted technique. Given the absence of large numbers in the State, the Credentials Committee required evidence of ongoing continuing medical education in laparoscopic hand-assisted nephrectomy and requested that this procedure be reviewed in the appropriate peer review committee.

The following is an excerpt from proposed language in our Medical Staff bylaws addressing new privileges (I stress this language has not been approved by my Medical Staff):

"When new privileges are requested by a medical staff member, it is the responsibility of the applicant to provide proof to the Credentials Committee concerning his or her competency. Competency to perform requested privileges can be ascertained from any one or more of the following sources: peer references, program directors, continuing medical education, surgical logs (where appropriate), mentoring attestations, or compliance with FDA requirements on new technology.

The application shall be considered by the Credentials Committee in accordance with the provisions of Article X. All new privileges are provisional for the first twelve months. "

One way to approach the numbers problem is to set up threshold criteria using in-house statistics by CPT or ICD-9

codes going back historically for a number of years. This would provide you with a baseline from which you could set your own benchmarks.

A helpful publication is the AMA's Graduate Medical Education Directory, more colloquially referred to as 'the Green Book'. The book includes program requirements for residency education programs including the subspecialties. In addition, it lists those residency programs that are ACGME accredited, which is particularly helpful in ascertaining the quality of the residency training at time of initial application. I find this book helpful in the areas of medicine such as internal medicine, family practice and pediatrics from which to develop core privileges. The book is not helpful in the surgical specialties and one would have to refer to other resources such as *hcPro's* Clinical White papers for suggested formats. I believe *Horty-Springer* also has core privileges available. Remember, the "core" privileges are the training a resident receives in an ACGME accredited program. The "special requests" are those procedures that may or may not be offered or that present a level of risk, and thus harm, to the patient and for which the practitioner must show competency. The cost of the Green Book is well worth the expense. It is true that not all practitioners are alike, but that is what the peer review process is intended to monitor. Incorporating in your bylaws that you accept only ACGME accredited trained residents provides a widely accepted benchmark for quality of training and from which you could develop specialty-specific privileges.

"CMS does not have a preference as to the 'term' used to name the hospital's privileging process", just that the privileging process complies with Conditions of Participation. This last sentence opens the door for surveyor interpretation. **Review your bylaws.**

Claudia Edwards, CPMSM

NOTE: The memo is available at www.cms.hhs.gov/medicaid/survey-cert/sc0504.pdf.

QUIZ CORNER

Source: www.msspnxexus.com

Federal Legislation Impacting Healthcare

- The Hill Burton Act, which provides subsidies for construction/expansion of hospitals and requires the provision of a percentage of free care was passed in:
 - 1937
 - 1942
 - 1946
 - 1953
- This "anti-dumping" law was enacted as part of the COBRA Act of 1985:
 - Consolidated Omnibus Budget Reconciliation Act (COBRA)
 - Safe Harbors Federal Anti-Kickback Law
 - Americans with Disabilities Act (ADA)
 - Emergency Medical Treatment and Active Labor Act (EMTALA)
- The Medicare Program was established by an amendment to the Social Security Act in:
 - 1955
 - 1965
 - 1970
 - 1975
- The Medicare Conditions of Participation for Hospitals are federal regulations relating

- to the Medicare and Medicaid programs. The COP and updates are published under what Title of the Federal Register?
- Title 21 – Food and Drugs
 - Title 24 – Hospitals and Asylums
 - Title 42 – The Public Health and Welfare
 - Title 44 – Public Printing and Documents
- The Health Insurance Portability and Accountability Act (HIPAA), which governs the use of individually identifiable health information, was passed in what year?
 - 1992
 - 1996
 - 1998
 - 2000
 - This 1990 Federal law prohibits pre-employment medical examinations:
 - Americans with Disabilities Act (ADA)
 - Health Insurance Portability and Accountability Act (HIPAA)
 - Tax Equity and Fiscal Responsibility Act (TEFRA)
 - Safe Medical Devices Act (SMDA)
 - This law provides immunity from liability for damages resulting from good-faith peer review:
 - Health Insurance Portability and Accountability Act (HIPAA)
 - Health Care Quality Improvement Act (HCQIA)

- Hill Burton
 - Tax Equity and Fiscal Responsibility Act (TEFRA)
- The Patient Self Determination Act of 1990 requires:
 - Fair hearing rights for physicians
 - Hospitals to take steps to accommodate qualified persons with disabilities
 - Healthcare entities to develop policies addressing a patient's right to refuse treatment and execute an Advance Directive
 - A policy for TB testing for all health care workers
 - Potential penalties for violation of EMTALA include all of the following EXCEPT:
 - Hospital and physician fines of up to \$50,000 per violation
 - IRS investigation relating to the hospital's tax-exempt status
 - Loss of hospital and physician participation in the Medicare program
 - Barney the Dinosaur singing "I Love You, You Love Me"
 - HIPAA, which created the Healthcare Integrity and Protection Data Bank (HIPDB), allows health care providers, suppliers or practitioners access to HIPDB information through self-query.
 - True
 - False

(Answers on Page 7)

MeAMSS Board Members 2005

President
Frederica Jackson, CPMSM
jacksonf@mercyme.com

President Elect
Ron Lambert, CPCS
rlambert@yorkhospital.com

Past-President
Kim Pelletier, CPMSM
kpelletier@emh.org

Secretary
Melissa Tibbetts
m.tibbetts@mainenetwork.org

Treasurer
Debra Carter, CPCS
carterd@mercyme.com

Education Chair
MaryCarol Rumsey, CPMSM
mcrumsey@sjhealth.com

Lighthouse Editor
Claudia Edwards, CPMSM
cedwards@mainehospital.org

Media Chair
Allison Meyer, CPCS
allisonm@martinspoint.org

Membership Chair
Jamie Mark, CPCS
jmark@synernet.net

Member at Large
Sarah Wilkins
swilkins@synernet.net

JCAHO FAQs

Verification of Credentials Information

Q. Can a documented phone conversation be utilized as primary source verification for licensure, education, training and experience, competence and peer references?

A. A documented telephone conversation can be utilized as primary source verification for all information including licensure, education, training and experience, competence and peer references. When verifying information via telephone the following information should be documented:

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MEDICAL STAFF STANDARDS UNDER JCAHO

As all of you should know by now the Medical Staff standards were "reformatted" in such a way as to allow flexibility in adding standards while maintaining the current number for each standard. In many cases, the standards are now less proscriptive; however, one must be aware of the changes in scoring. In JCAHO, the **standard** is the "goal". The **rationale** explains why it's important to achieve this goal, and the **elements of performance** identify the step(s) needed to achieve this goal. Whether your facility is JCAHO accredited or not, it's helpful to be aware of the trends.

An organization is either "compliant" or "not compliant" with a standard. The CAMH Update 3, dated August 2004 has a helpful Self- Assessment Grid to enable you to assess your compliance with the Medical Staff Standards

The scoring grid after each element of performance for each standard is as follows:

0	Insufficient compliance
1	Partial compliance
2	Satisfactory compliance
NA	Not applicable

"Before you can determine your compliance with the standards, you must score your compliance with EP... There are three scoring criterion categories: A, B, and C."

Category A relate to the presence or absence of the requirement(s) and are scored "yes" or "no"; however, Score 1 for partial compliance is also possible.

Category B elements of performance are scored in two steps: The first step relates to whether the requirement(s) are present or absent. If your hospital does not meet the requirement(s), the score is 0. If the element of performance is bulleted, the hospital must meet the

requirements of all bulleted items to get a score of 2. If the hospital meets the requirement(s) of some but not all of the bulleted requirements, it receives a score of 1. If there is concern about whether you meet all bulleted requirements, go through the principles of good process design.

"Use the following rules to determine your EP score:

- Your EP score is 0 if your hospital does not meet the requirement(s) you *do not* need to assess your compliance with the preceding applicable principles of good process design.
- Your EP score is 1 if your hospital does meet the requirement(s) but considered *only some* of the preceding applicable principles of good process design.
- Your EP score is 2 if your hospital does meet the requirement(s) *and* considered *all* the preceding principles of good design process."

Category C elements of performance are scored 0, 1 or 2 based on the number of times your hospital does not meet the EP. These EPs are frequency based and require totaling the number of occurrences. Each situation encountered by a surveyor will be counted as a separate occurrence. If an EP in Category C has multiple requirements, the following scoring guidelines apply:

- If there are fewer than 2 findings in all bullets, the EP is scored 2
- If there are three or more findings in all bullets, the EP is scored 0
- In all other combinations of findings the EP is scored 1.

. If you do not have a copy of the Self Assessment Grid, please ask your supervisor for a copy. It's a very easy method of ascertaining compliance and highlighting areas requiring revisions.

"Depend on the rabbit's foot if you will, but remember it didn't work for the rabbit." --R. E. Shay

JCAHO FAQs Continued

- the date of the conversation
- the name and title of the person providing the information
- the name of the organization when appropriate, e.g., the school, certifying board, employing organization, etc.
- the specific information provided
- the date and signature of the person receiving the information

Origination Date: September 14, 2001

Expediting the MEC Function

Q. As part of the expedited credentialing process, can the responsibilities of the Medical Executive Committee (MEC) be delegated to the chairman of the committee?

A. No. There is no expediting or delegation of the responsibilities of the MEC. The expedited credential process outlined in MS.4.30 relates only to the governing body function, and allows the governing body to appoint a committee of two or more members of the governing body to review and approve applications between regularly scheduled governing body meetings.

Effective Date: March 11, 2002

Peer References

Q. Who can provide a peer reference for independent or dependent allied health practitioners such as nurse practitioners, physician assistants, and psychologists, midwives, and social workers when there is no other similar practitioner on staff?

A. The definition of a peer is someone from the same discipline with essentially equal qualifications. To be able to provide a reference the peer would need

Continued on Page 7

JACHO FAQs *Continued*

to be familiar with the individual's actual performance. For the nurse practitioner, physician assistant, and psychologist, midwife, or social worker ideally this should be another individual from the same discipline and the organization should attempt to obtain such references. This could be someone within the same organization or someone from outside the organization.

However, in situations where there is no nurse practitioner, physician's assistant, psychologist, midwife, or social worker who could provide a peer reference it is acceptable for a physician or D.O with essentially equal qualifications, who is familiar with the allied health practitioner's performance, to provide the reference. For example, a pediatrician could provide a reference for a pediatric nurse practitioner, an internist could provide a reference for a physician assistant, an obstetrician could provide a reference for a nurse midwife, an anesthesiologist could provide a reference for a nurse anesthetist, and a psychiatrist could provide a reference for a psychologist and a psychologist with similar responsibilities could provide a reference for a social worker.

Origination Date: September 14, 2001 - Updated: October 25, 2002

JCAHO IS SEEKING ADDITIONAL INPUT ON MS.1.20

In the December issue of Perspectives, a description and discussion of MS.1.20 (Medical Bylaw requirements) is presented. In the time since that publication, the Joint Commission has received questions and comments about this requirement, especially the new Element of Performance #19 (**Under Credentialing, Privileging and Appointment**, #19 says the bylaws will have a description of the privileging process, including temporary and disaster privileging).

The Joint Commission is in the process of collecting comments on this standard, which will continue through **February 15th**. This information will then be analyzed in order to determine if modifications to the standard are indicated.

Please note the following:

- EP #19 of standard MS.1.20 will not be part of an organization survey until January 2006

- The Joint Commission is expecting to release additional comments and any changes to this standard in March 2005.
- It is recommended that organizations make no bylaw changes specifically related to this requirement until after the Joint Commission has release its comments in March 2005.
- Please send all comments to John Herringer, Associate Director, Standards Interpretation Group. (jherringer@jcaho.org)

NOTE: Please remember that the CMS memo of November 12 is requiring that the bylaws include this language. It would appear that the CMS memo would render this issue moot unless your institution does not participate in the Medicare and Medicaid programs.

FEEDBACK

The MeAMSS Board would appreciate receiving your feedback. Let us know what you would like to hear from your Board, articles you would like to read in the newsletter, topics presented at our Education sessions. Perhaps you would like to suggest alternative days of the week for these meetings (responses would be aggregated)? Do you have a suggestion for an ongoing column in *The Lighthouse*? Has anyone in your organization received recognition, special achievement or certification that you would like to share with us? Do you visit our website? Do you have any suggestions for that?

Your input is very important to us. We can serve you better when we can address your needs.

Our e-mail addresses are listed under our names on Page 5. We would encourage you to contact us.

QUIZ ANSWERS

1. 1946
2. Emergency Medical Treatment and Active Labor Act (EMTAL). This was designed to prevent hospitals from refusing to treat patients or transferring them because of source of payment.
3. 1965
4. Title 42 – The Public Health and Welfare
5. 1996 – created the Health Care Integrity and Protection Data Bank (HIPDB)
6. Americans with Disabilities Act (ADA) – also prevents pre-employment inquiries regarding disabilities
7. Health Care Quality Improvement Act (HCQIA)
8. Healthcare entities to develop policies addressing a patient's right to refuse treatment and execute an Advance Directive (outlines the patients' health care instructions if they are unable to speak for themselves)
9. Barney the Dinosaur singing...
10. True

**NEWSLETTER DEADLINE:
FEBRUARY 23, 2005**