

# WYOMING Medicine



## Wyoming's CHANGING HEALTHCARE LANDSCAPE

*How the Affordable Care Act's Insurance Exchange  
May Affect the Work of Wyoming's Physicians*

Dr. Shannon Evans Answers  
the Call as a Rural Doctor

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Here be Monsters: Physician  
Employment Contracting

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# WYOMING Medicine

Spring 2014

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EDITOR'S PAGE

## WWAMI: A Unique Opportunity for Wyoming Students

By Robert Monger, MD



This is my second year serving on the Wyoming WWAMI Medical School Admissions Committee, and I couldn't be more impressed with the quality of the students who apply to the program.

Wyoming currently accepts 20 students per year into the program, and since 2010 the state has averaged about 55 applicants per year. In order to be invited for an interview, students must meet GPA and MCAT standards as well as a number of other requirements. In recent years, the committee has invited about 40 students per year for an interview.

Interestingly, of the six physicians on the admissions committee, only the two chairpersons know each interviewee's GPA and MCAT score at the time of the interview. The reason behind this decision is that if a student passes the initial screening process and is invited to an interview, then we have already determined that they are academically fit to get through medical school and we don't want the interviewers to focus too much on the applicant's test scores or GPA during the interview.

### Cutting the Cost

Medical school is expensive. First year in-state (resident) tuition at the University of Washington School of Medicine is about \$30,000 with an estimated total cost for the first year (including books, room, board, and other expenses) of \$50,000. The tuition and total costs go up in the third and fourth year of medical school, and the current fourth year in-state tuition is about \$39,000 with a total estimated cost for that year of \$65,000. If you add everything up, the total cost of four years of medical school at the University of Washington for in-state students is well over \$200,000.

Wyoming WWAMI medical students currently pay about \$12,000 per year in tuition, plus room and board and other expenses. If they return to Wyoming for three years after they complete their medical training, then all their other debt is forgiven. If they don't return to Wyoming, then they owe the State about an additional \$164,000 that is paid back over an eight-year period of time.

### Informed and Ready

What is the admissions committee looking for in an applicant? In addition to academic excellence, applicants are encouraged to have research and volunteer experience as well as time shadowing a physician. The University of Washington encourages students to have a minimum of 40 hours of shadowing experience before they apply to medical school, but I've seen applicants who have had hundreds of hours. If an applicant doesn't have shadowing experience, it's unlikely that he or she will be invited for an interview.

Why is shadowing so important? The hope is that shadowing will help students know what it's really like to be a physician before they embark on the long road of medical education. (One problem

with the shadowing requirement is that many pre-med students don't know many doctors or how to arrange a shadowing experience. The WWAMI office at the College of Health Sciences in Laramie tries to help pre-med students arrange shadowing experiences, and if you would be willing to have a pre-med student shadow you, please contact that office.)

### Investing in the Future

My advice to students who ask me about the WWAMI medical school program is that it's an amazing opportunity for Wyoming students, particularly if they plan to return to the state. And while it's great that much of their

medical school tuition will be forgiven if a student later returns to Wyoming, the best part about the program is that the University of Washington is a top-rated medical school that provides a world-class education to its students. Medical school graduates from the University of Washington have virtually unlimited opportunities.

Serving on the admissions committee is very inspiring. The applicants have worked extremely hard to get into medical school, and interviewing them makes you appreciate what a privilege it is to be a physician. We're fortunate to have such a great medical school program for Wyoming residents. We're extremely fortunate to have such wonderful young adults in our state who are so dedicated to becoming physicians. Hopefully many of them will return to live and practice in Wyoming.



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FROM THE DIRECTOR

## Top Five Reasons Why Attending the Annual Meeting is Vital to Your Practice

By Sheila Bush



*“I believe that attending the annual meeting is well worth the investment of your time. Please join us at this year’s event to learn, network, and even fit in a little fun on the trails at Curt Gowdy.”*

Whether a seasoned physician or just starting a practice, face-to-face networking is essential to build professional relationships that will help you improve patient care and strengthen the fabric of Wyoming’s physician community.

One of the best avenues for forming and fostering those relationships is the WMS annual meeting. The 2014 meeting will take place at the Little America Hotel and Resort in Cheyenne from June 6-8, and here are my top five reasons for why attending is crucial to your practice.

- 1. Growing your knowledge in order to be successful:** In response to requests to increase educational opportunities, WMS will offer 36 hours of continuing medical education (CME) in a two-track format running concurrently, allowing attendees to obtain 18 hours of CME credit. Lecture topics range from pediatric dermatology and chest-wall deformity to perspectives in diabetes, optimizing fracture prevention in patients with osteoporosis, and opioid Rx challenges in 2014. In addition to clinical topics, we will highlight some of the political issues pertinent to Wyoming medical practice and invite guest lecturers to speak to the business side of medicine, estate planning, and wealth management specific to physicians.
- 2. Fitting in a little fun at Curt Gowdy State Park:** Make sure to bring your hiking boots, road bike, or mountain bike! We want to bring back a little fun to the annual meeting where members can relax and meet each other in an informal setting. We will be holding a barbecue at Curt Gowdy State Park and offer options to bike to the park from Cheyenne or simply drive there to enjoy its famous mountain trails.
- 3. Obtaining valuable insights, new perspectives, and strong connections:** Beyond being fun, networking events like the barbecue can be very valuable to your practice. Physicians

like to work with and refer to other physicians whom they know and trust. The best way to form genuine connections with likeminded physicians is to meet them face to face, not over email. The stronger your professional network, the more information, insights, and resources you can tap into to improve care for your patients.

- 4. Attracting more opportunities:** Networking also raises the visibility of your practice with other physicians, community leaders, and physician service vendors. The return on investment on cultivating relationships may not be immediate, but you will be exposed to future opportunities that can help keep your practice vibrant. Specialty societies joining WMS this year include the Wyoming Chapters of the American Academy of Pediatrics, American Academy of Family Physicians, American College of Physicians, and the American Psychiatric Association.
- 5. Strengthening the voice of the state’s physician community:** Fighting ongoing efforts to expand the scope of practice to non-physician providers requires a strong, unified voice. As the only organization in the state dedicated to representing physicians, we need your involvement in order to be an effective advocate on your behalf. With your participation and input at the annual meeting, we will be better equipped to improve the physician practice environment and the quality of healthcare for Wyoming patients.

You can register by filling out the form in the information packet that will be mailed in March, and will also be made available at [wyomed.org/2014-annual-meeting](http://wyomed.org/2014-annual-meeting). Look for an option to register online soon at [cvent.com/d/x4q7pn](http://cvent.com/d/x4q7pn).

I believe that attending the annual meeting is well worth the investment of your time. Please join us at this year’s event to learn, network, and even fit in a little fun on the trails at Curt Gowdy.

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## The Office Assistant

By Amy Hayes

Since it opened in 1996, The Office Assistant, LLC (OA) has developed into a company that offers state-of-the-art professional medical coding, billing, education, and chart review and auditing services.

OA is a Wyoming-owned and operated business based in Cheyenne. As the owner, Amy Hayes has spent the past 10 years developing affordable and efficient services to support Wyoming providers, practices, and facilities. As a healthcare consultant, Hayes's expertise in revenue cycle management, coding, auditing, and ICD-10 CM/PCS are just a few areas in which she continues to focus on and support entities across the state. OA is proud to employ certified medical billers and coders to aid the organization and their clients.

When it comes to the essential aspects of a healthcare business, the coding, billing, and collection functions have the potential to limit the delivery of clinical services when problems arise that demand "management" attention. Furthermore, with new legislation and forthcoming carrier audits, even the smallest practice will need support simply to stay abreast of changing requirements in coding,



billing, collection, and credentialing and to ensure that clinical documentation supports medical necessity and billing practices.

As a service organization, OA takes the responsibility to be informed, manage the client revenue stream, and keep providers and practitioners aware of the ever-changing regulatory environment. In addition, OA offers audit and consulting services in preparation for in response to carrier audits. These services become invaluable as they identify areas of change or concern, which may include registration processes, HIPAA compliance standards, and other processes and procedural changes that enhance the efficiency and effectiveness of your organization.

Regulatory and economic pressures have caused the coding, billing, and collection functions to be some of the largest stressors in a practice. So outsource the functions to those whom you can rely on to be the experts and your stress relief: The Office Assistant, LLC.

The Office Assistant, LLC is a part of the new Wyoming Medical Society Preferred Vendor Program. To learn more about the program visit, [wyomed.org/wms-preferred-vendors](http://wyomed.org/wms-preferred-vendors).

## Wyoming Access

By Rebecca Kurz

In partnership with the Wyoming Department of Health, Wyoming Access delivers a unique program designed to provide comprehensive, individualized, and cost-effective care to Medicaid-eligible youth who have complex behavioral health needs. By using the High Fidelity Wraparound model, Wyoming Access delivers intensive care coordination to help youth and families develop self-sufficiency, build natural supports, avert and respond to crises, and participate effectively in treatment.

Youth and families with very complex needs are often involved with multiple providers and systems and may be at risk for hospitalization or out-of-home placements. No single provider or system can respond comprehensively to the variety of needs presented. As a Care

Management Entity, Wyoming Access addresses this by enhancing communication and coordination among providers and others, promoting engagement in a medical home, reducing redundant or contradictory efforts, and engaging and empowering the youth and family to leverage strengths, make choices, and access appropriate treatment.

**Wyoming Access currently provides services in Albany, Carbon, Converse, Laramie, Goshen, Niobrara, and Platte counties. Referrals may be made by any provider, agency, or by self-referral (1-855-883-8740).**



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## Telehealth in Wyoming

By James Bush, MD



When you mention telehealth, physicians may think of telepsychiatry, which is certainly a growing field in Wyoming. In October 2013, Medicaid alone paid for over 1,000 telehealth services—the majority being telepsychiatry. However, other specialties are also able to use telehealth, and the benefits to our patients and providers can be significant.

One recent example that illustrates this occurred in Farson, Wyoming. In August 2013, a burn patient came into the Eden Valley Telehealth clinic seeking advice on how to care for his wounds. Immediate assistance supplied by the Telehealth Outreach team at CRMC ensured associated networks were coordinated that allowed the patient to get connected with a physician at the Burn Center within 30 minutes of his arrival at the clinic.

With direction from Dr. Stephen Morris at the Burn Center and the professional staff at the Eden Valley Clinic, the patient's wounds received daily care. A follow-up video consultation with Dr. Morris after 10 days confirmed that the patient was healing well. This telehealth visit alone saved many out-of-pocket dollars, many insurance dollars, and many hours of travel.

Both Medicaid and Medicare patients and most private payers in Wyoming now pay for telehealth services the same as they do for in-person care—you just need to add a "GT" modifier to your CPT code if you are the physician providing the telehealth service. The destination is able to use an originating site code (Q3014) and then they can receive an originating site fee. Originating sites can be an office, hospital, community mental health clinic, FQHC, RHC, or nursing home.

Currently, any of these facilities can receive a camera, connections, and technical support under the Innovation Grant Award from the Wyoming Institute of Population Health by contacting Dana Barnett at 307-633-6083.

More details on how to receive payment can be found in the Medicaid Provider manual at [http://wyequalitycare.acs-inc.com/manuals/Manual\\_CMS%201500.pdf](http://wyequalitycare.acs-inc.com/manuals/Manual_CMS%201500.pdf). For any general questions, please contact Dr. James Bush at [james.bush@wyo.gov](mailto:james.bush@wyo.gov).

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## WDH Immunization Unit: State-Funded Vaccinations Crucial for State Health

BY WENDY BRAUND, MD



Wyoming physicians who vaccinate children are familiar with the Wyoming Department of Health's (WDH) immunization programs. There is much to learn about how these efforts play a key role in the health of Wyoming citizens.

To combat vaccine-preventable diseases in Wyoming, the WDH Immunization Unit supports and promotes immunization services through collaboration, education, and resources. The unit manages the federally funded Vaccines for Children (VFC) and state-funded Wyoming Vaccinates Important People (WyVIP) programs, and oversees the Wyoming Immunization Registry (WyIR).

The WDH Immunization Unit facilitates vaccine ordering for enrolled providers, which is a valuable benefit. Any vaccinating practitioner in Wyoming in good standing can enroll. Vaccines are purchased through a combination of state and federal funds and administered to qualifying children 0-18 years of age. To be eligible for federal VFC vaccines, children must be uninsured, Medicaid eligible, or a Native American or Alaskan Native. Underinsured children may receive VFC vaccines as well if they are vaccinated by a facility with proper authority. For state WyVIP eligibility, a child must simply be a Wyoming resident.

### Less Funding, Fewer Vaccinations

Providers can receive all vaccines recommended by the national Advisory Committee on Immunization Practices (ACIP) through the federal VFC program. The state WyVIP program provided the same vaccines until 2011. At that time, the program stopped providing HPV, meningococcal, hepatitis A, and influenza vaccines. While these vaccines are still available for VFC-eligible children, providers must use their private stock of these four vaccines for others.

Unfortunately, the removal of these four recommended vaccines from the state-funded WyVIP program has significantly affected vaccination rates. According to the WyIR, from 2011 to 2012 the administration of these four vaccines in Wyoming decreased between 45-62 percent, with the greatest impact on HPV. Two years later, we continue to see HPV as the greatest need for improvement: the latest National Immunization Survey indicated Wyoming is next to last for the male one-dose HPV rate (11.2 percent) and in the lower quadrant for the female three-dose completion rate (59.7 percent).

Reviewing what happened to immunization rates for the vaccines WyVIP was forced to remove in 2011 illustrates what could happen if financial challenges continue for the program. If enough funding isn't available, more recommended vaccines may be removed from the WyVIP list and we would likely see immunization rates sink for those vaccines. If state funding for WyVIP vaccines is completely eliminated, we could face significant public health issues.

The bottom line is that state support of vaccine purchasing and the role of the WDH Immunization Unit encourage higher vaccination rates.



### Collaborating With Providers


The WDH Immunization Unit would not exist without the important work of Wyoming's healthcare providers who meet with patients on a daily basis. They are the frontline for education and administration of vaccines. The role of primary physicians is vital because they accept responsibility for the immunization programs within their office when they sign enrollment agreements. One aspect of this responsibility is ensuring staff members participate in WDH Immunization Unit trainings. The WDH Immunization Unit supports providers with education in many areas, including clinical guidance, storage and handling, and WyIR technical support.

The WDH Immunization Unit staff strives to be a good steward of program resources. The staff closely monitors provider storage and handling practices to ensure vaccines are viable through annual site visits and the auditing of monthly temperature logs. When questionable practices are identified, the WDH provides education to correct the problem. The unit's Vaccine Replacement Policy requires the replacement of vaccines lost due to negligence in providers' offices. Proper training can avoid the need for vaccine replacement.

By ordering through the program, providers have greater flexibility, which helps prevent waste. This is especially important in remote communities because smaller, rural providers do not have the money or the patient population to justify purchasing the typical minimum 10 doses of vaccine.

### A Healthier Wyoming

By supporting 130 facilities with their vaccination needs, the WDH Immunization Unit encourages greater access to immunizations for Wyoming's children. Each vaccinated child promotes a healthy community through herd immunity. Herd immunity occurs when a significant portion of a population is vaccinated, providing a level of protection for those who do not have immunity. Herd immunity protects infants and those with immune-compromised conditions.

Immunizations are one of history's greatest public health achievements, leading to many lives saved and fewer hospitalizations. For a healthier Wyoming, there is no doubt that the work of providers and the WDH Immunization Unit is crucial to the health of our state's children. 

*Wendy Braund, MD, is the senior administrator and state health officer for the Wyoming Department of Health.*

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# Dr. Shannon Evans Answers the Call As a Rural Doctor in Marbleton

BY TOM LACOCK



*“I realized that you not only have to be knowledgeable in medicine, but you also have to have a good bedside manner. People want to be able to tell you what is going on and feel like they are actually being listened to.”*

About the time she tells you she grew up near Cody with a pet buffalo, you understand Dr. Shannon Evans isn't the type to shy away from a challenge. And maybe that makes her a perfect candidate for practicing medicine in a rural setting in the shadow of the Wind River Mountains.

Evans is in her third year practicing at the Marbleton Clinic in Sublette County, a facility with four providers that offers primary care and also acts as its own Emergency Department.

“I think it is a great place to practice rural medicine,” Evans said. “It is a rural setting, so we do ER and outpatient. You see all types of patients and all types of problems. It lets you use the skills you learned in residency, especially since the nearest hospital is 90 miles away.”

### Young Impressions

Evans grew up on farms and ranches in northwest Wyoming where her family raised horses and other livestock—including her pet buffalo, Cooper (she reports that few believed her then and few believe her now about Cooper). Her childhood also included a year of bouncing from hospital to hospital trying to diagnose heart and lung issues. The experience shaped her interest in medicine, as well as her philosophy in dealing with patients.

“I realized that you not only have to be knowledgeable in medicine, but you also have to have a good bedside manner,” she said. “People want to be able to tell you what is going on and feel like they are actually being listened to. For that reason, I want people who come to Marbleton Clinic to feel like someone is really listening to them.”

[CONTINUES ON PAGE 16]

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Dr. Evans and her husband Patrick Collins hiking

[CONTINUED FROM PAGE 14]

“Some patients don’t have much medical knowledge, so I can understand how that is frustrating,” she continued. “I feel that a big part of my job is to understand that frustration and work to explain it a little better. I think it is a big challenge just trying to understand how things work in the medical profession, especially with insurances and government involvement.”

After graduating high school in Burlington, Wyo., Evans attended Casper College, and then transferred to Montana State-Billings. Following her undergrad, Evans studied at the Kansas City University of Medicine and BioSciences, and then joined the University of Wyoming’s Family Medicine Residency Program in Cheyenne.

### A Rural Commitment

Among its state goals, The University of Wyoming Family Medicine Residency Program in Cheyenne seeks to place doctors in the medical field in Wyoming.

“We are trying to get doctors to do primary care in general instead of become specialists and also to get them to stay in state,” said Dr. Robert Monger. “Part of that means helping doctors become interested in serving the small communities of Wyoming. One of the best things we do is expose residents in our programs to those areas to help them find out if it is a good fit.”

*“I think it does take a certain personality. You have to be okay with not having a hospital or specialist right at your fingertips.”*

Bailey Doctor, the CEO of the Castle Rock Hospital District in Sweetwater County, said physician recruitment to hospitals and clinics is important to the health of the community. She added that lately the Castle Rock Hospital District has been lucky to establish a strong reputation and pipeline to physicians willing to make the move to Green River.

“It is a challenge to recruit doctors, but if they have roots in Wyoming you are more likely to recruit them,” Doctor said. “You have to have the right mindset to work here. You can have a great doctor who stays a couple of years but that doesn’t do much for your community.

“It can be intimidating for a physician if they are not comfortable being a big part of the community.”

For Evans, the decision to serve a rural population was an easy one, and it was that career path that led her to attend to the

residency program in Cheyenne. She said the program gave her the tools to find the answers without making her reliant on specialists.

“Since I am from a rural area in Wyoming, I always wanted to do rural family medicine,” said Evans. “That is why I chose Cheyenne as my residency program. I feel the residency program prepared me for rural family medicine. We learned all aspects of medicine and we were very independent, so it really prepared us to go into a rural community and practice.”

Monger said that during his time at the University of Wyoming’s Family Medicine Residency Program he was impressed with what he saw out of Evans.

“She’s smart and really cares about her patients,” said Monger. “I’d absolutely want her to be a physician for me or somebody in my family.”

### Investing in People, Serving the Community

Evans left the residency program in the summer of 2011 and came to the Marbleton Clinic, which, along with a four-provider sister clinic in Pinedale, operates under the Sublette County Hospital District. Serving the twin cities of Marbleton (population 1,110) and Big Piney (565) allows her to get to know her patients and their social history very well.


“I think it is exciting,” said Evans. “It is challenging, because where I practice, the nearest hospital is 90 miles away. We have a clinic setting and an ER setting. You see incidents from geriatric patients and all sorts of injuries, trauma, and issues that make it challenging. It is never boring.

“I think it does take a certain personality. You have to be okay with not having a hospital or specialist right at your fingertips.”

In addition to enjoying her medical career in Marbleton, Evans said she and her husband, Patrick Collins, take advantage of the mountainous area of Sublette County by hiking, camping, biking, and snowshoeing.

Even though Evans practices in rural Wyoming, she had the opportunity to see a different version of rural medicine practiced in April 2010 when she was in Honduras on a medical mission trip.

“Their rural is a lot different than our rural,” Evans says. “They don’t have running water or electricity. It was adventurous and a lot of fun. These people would hike for days to come and see us, which was inspiring. They were excited to get Tylenol, ibuprofen, and multi-vitamins.

“I’d really love to do something like that again.” 

*Tom Lacock is a staff writer for gowogo.com and a contributing columnist for Wyoming Medicine.*

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## Dementia Cases in Your Practice: Detect Them Early, Manage Them Well

By Kristina Stefka, MD



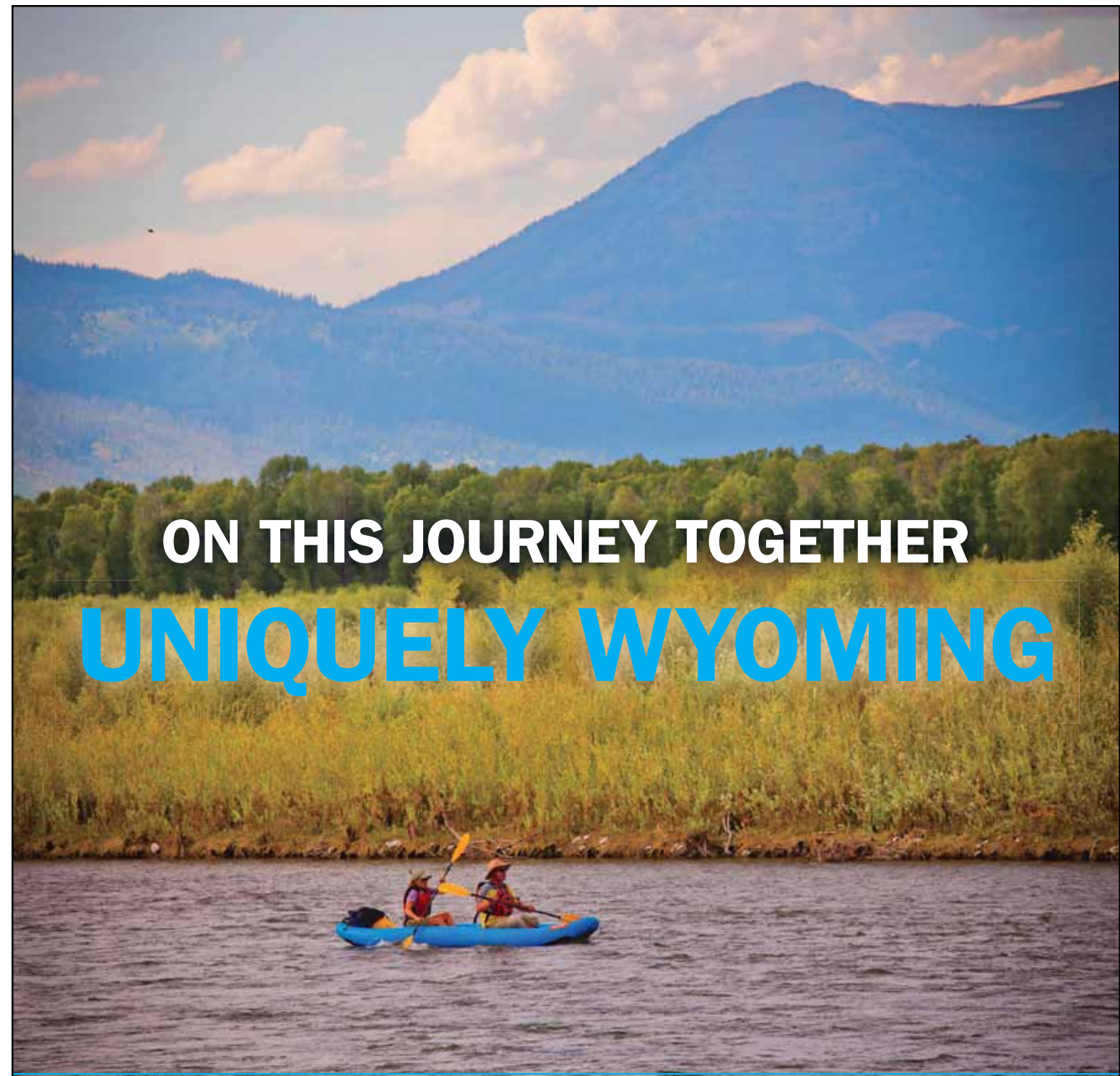
*“An estimated 5.4 million Americans currently have Alzheimer’s disease, and it is predicted that the number will approach 6.7 million by 2025.”*

An estimated 5.4 million Americans currently have Alzheimer’s disease, and it is predicted that the number will approach 6.7 million by 2025. Because Alzheimer’s disease is so prevalent, guidelines increasingly recommend that this disease be diagnosed and managed to a great extent within primary care settings. It is important to note, however, that the cognitive and functional consequences of Alzheimer’s will require coordinated efforts among a variety of health professionals. The chronic and deteriorating nature of the disease necessitates that these services be provided to both the patient and their caregivers over an extended period of time.

Given the magnitude of the Alzheimer’s disease problem, the US Department of Health and Human Services developed a National Plan to Address Alzheimer’s Disease that echoes seminal practice guidelines set forth by national organizations over the past few years. Both the guidelines and the National Plan encourage the early detection of dementia, including at the stage of mild cognitive impairment.

Although the employment of routine cognitive screening in primary care has been controversial, recent reforms mandate cognitive assessment for all Medicare beneficiaries in initial and annual wellness visits. Early case finding not only provides the patient, family, and

[CONTINUES ON PAGE 20]



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[CONTINUED FROM PAGE 18]

caregivers with a greater understanding of behavioral changes experienced, but it can also improve timely treatment that is designed to optimize patient functioning.

The screening, diagnosis, and management of dementia presents a variety of concerns for providers, including (but not limited to) a lack of time, difficulty managing behavior or other problems in dementia, and poor connections with community social service agencies (Geldmacher & Kerwin, 2013).

In response to these challenges, researchers and providers alike have examined the feasibility of innovative approaches to the screening, diagnosis, and treatment of Alzheimer's disease. Moreover, the National Plan to Address Alzheimer's Disease has allocated funds for the provision of provider training in the screening, diagnosis, and management of Alzheimer's—with the goal to enhance providers' capacity to meet the needs of the rapidly increasing number of patients with Alzheimer's disease and their caregivers.

One portion of the National Plan allocates funds to Geriatric Education Centers with the express purpose of disseminating information about evidence-based practice for Alzheimer's disease. The Wyoming Geriatric Education Center, located at the University of Wyoming, was one of 45 grant awardees.

Through these funds, providers in Wyoming will have an opportunity to attend a fully subsidized, two-day continuing education workshop on the diagnosis and management of Alzheimer's disease at the Rocky Mountain Alzheimer's Summit in June 2014 at Little America in Cheyenne.

This workshop, scheduled immediately prior to the Wyoming Medical Society Annual Meeting, will feature trainings on the evidence-based screening, diagnosis, and treatment of Alzheimer's disease as well as policy issues related to diagnosis and management of the disease. Specific topics in this workshop will include evidence-based cognitive screening and diagnosis, pharmacologic and nonpharmacologic management of behavior problems in dementia, management of the disease within your practice, evidence-based interventions for family caregivers, and accessing community and social service resources for patients and their caregivers.

**For more information about the Rocky Mountain Alzheimer's Summit visit [www.uwyo.edu/geriatrics](http://www.uwyo.edu/geriatrics). I hope you will consider attending this valuable event.**

*Kristina Stefka, MD, is a geriatric medicine, hospice and palliative medicine, and internal medicine provider in Cheyenne.*



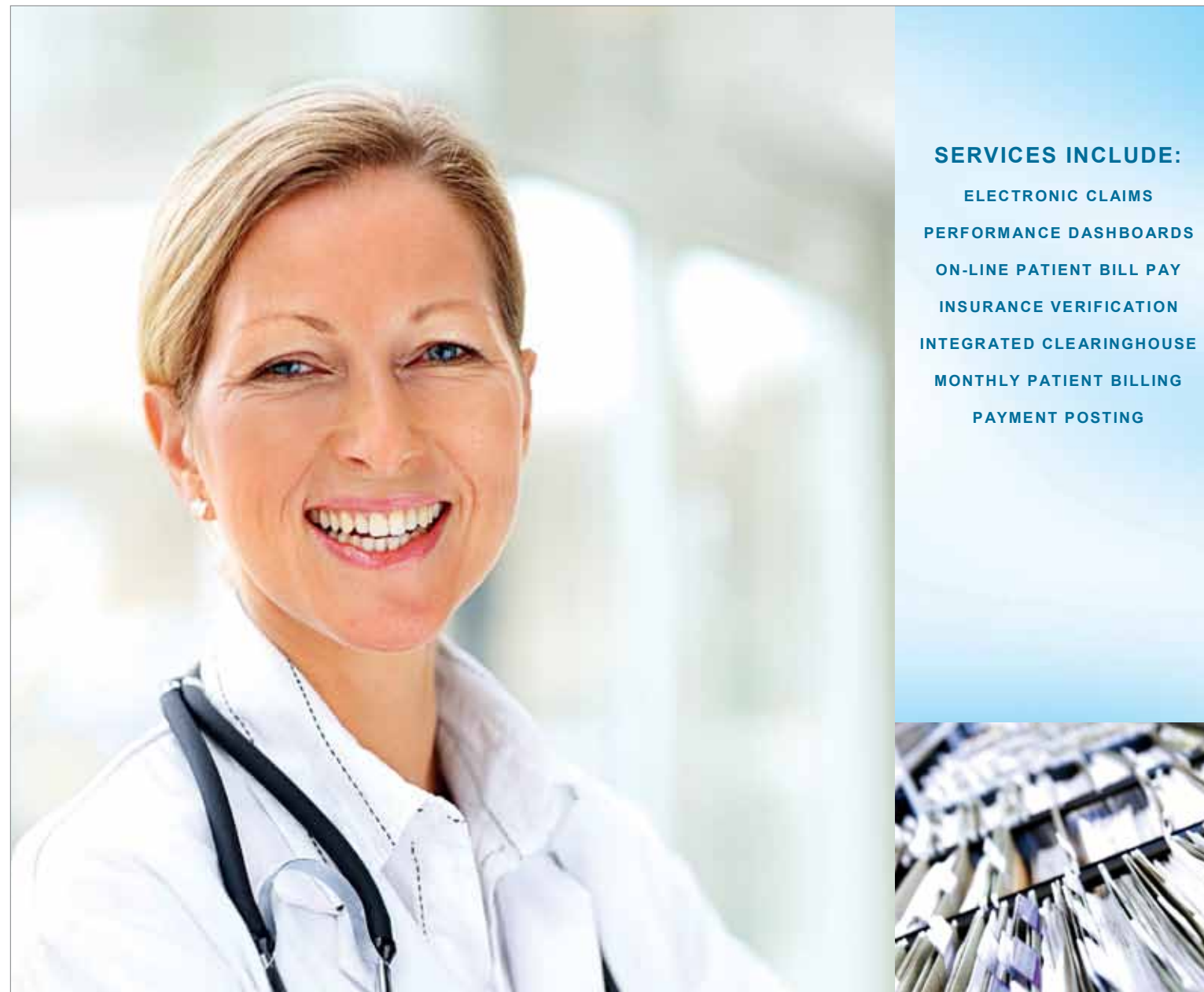
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# Wyoming's

## CHANGING

### HEALTHCARE LANDSCAPE



## How the Affordable Care Act's Insurance Exchange May Affect the Work of Wyoming's Physicians

BY RON FEEMSTER



**With the rollout of the Affordable Care Act's insurance marketplace into its sixth month, insurance companies, patients and physicians are wondering how much has changed in Wyoming. What does the new health insurance exchange mean for the medicine in the state? So far, the answers are "everything" and "nothing."**

Let's take "nothing" first. Even with more than 5,000 people enrolled in ACA-approved plans since Oct. 1, there is no telling how many of Wyoming's estimated 85,000 uninsured people have purchased coverage.

"A lot of the people who signed up for insurance may have had insurance already," said Tom Hirsig, director of the Wyoming Department of Insurance. "They may have found a better plan with more benefits on the exchange. Or they may have found a cheaper plan because of the subsidies. But there is no way to know if they are newly insured. We just don't have that data."

Hirsig expects to see a trickle of relevant data after the open enrollment period ends on March 31. The Centers for Medicaid and Medicare Services (CMS) release data once a month. But many details about demographics and the uninsured are missing.

"It's going to take time," he said. "But it is working very well. The original rollout was not very good, but we are not getting the calls we used to get. No one is calling us and saying they can't get on the exchange or they can't get insurance."

Nor is there enough evidence to show whether people buying insurance on the exchanges are those whose treatment might lead to uncompensated care for hospitals and clinics around the state. The Department of Insurance knows how many people have bought policies. And they know that most policies are bronze and

*"It's going to take time, but it is working very well."*

silver plans. But they do not know how many buyers received large subsidies. This latter number could provide an indicator of how many financially needy people are being covered.

Another very important demographic—young healthy people who pay premiums but are unlikely to make sizeable claims—is not broken out in the reports that Hirsig sees from CMS. The data for healthcare.gov belong to the federal government.

To assess the true impact of the new healthcare law on Wyoming may take two years, Hirsig estimates. The state and the insurance companies may not understand the impact of the law until they have a much bigger set of enrollment and claims data.

Which brings us to the "everything" assessment. Perhaps for the first time, the way is open for everyone of moderate income in Wyoming to purchase health insurance. Although the premiums are higher in Wyoming than in any other state, the cost of insurance is based on a percentage of income for people who earn less than 400 percent of the federal poverty level. In 2014, that 400 percent comes to \$46,680 for an individual and \$95,400 for a family of four.

Under that limit, the cost of insurance is calculated as a percentage of income, not as a fixed price. This does not necessarily make insurance affordable for everyone, but it may herald a new era of expanded access to care.

"The law is designed to make it possible for more people to get insurance," said Hirsig. "If you get a subsidy, insurance is not any more expensive in Wyoming than it is in other states."

According to a Gallup Poll published at the end of January, 53 percent of all uninsured Americans said they planned to buy insurance. These are not Wyoming numbers, which may differ simply because the state has been more opposed to the Affordable Care Act and President Barack Obama than the country as a whole. Nationally, 38 percent of the Gallup respondents said they would be more likely to pay the penalty—the tax according to the Supreme Court—than purchase insurance.

Overall, the percentage of uninsured in Wyoming may be slightly lower than in the United States as a whole. Most estimates put the number of uninsured in the state at about 83,000. That is around 14 percent of the 583,000 people living in the state, according to the 2013 Census Bureau estimate. Nationally, Gallup reported in early January that 16 percent of Americans were uninsured.

“In a lifetime of selling insurance,” said Hirsig, “I have been amazed at people’s attitudes about risk. There are people who just don’t want to buy insurance. Some people just do not see the magnitude of risk they face.”

## Profits and the ACA

Many of the new plans under the ACA—primarily the bronze plans and the catastrophic plans available to people under 30—have high deductibles that patients must meet before any insurance reimbursement kicks in. When patients are newly insured—and especially when they have little experience with health insurance—they may not understand the deductible. Many practices may have problems collecting from these patients. In this way, again, nothing has changed. Collection is already a headache for many small practices and clinics.

“Some people can only afford the policies with higher deductibles,” said Amy Hayes of The Office Assistant, LLC, a company that manages billing and reimbursement for many solo practitioners and clinics around the state. “We are seeing some \$2,500 deductibles. We are sending out more patient bills. The concern is that we are going to have to continue to rebill those patients or that we may not collect at all.”

This is not a new problem, but it is one that Hayes sees getting worse under the ACA. “I really think it will increase unless clinics are proactive about verifying eligibility at the time of scheduling and informing the patient that they have a deductible and they need to pay at the time of treatment,” she said.

The big issues are verification and communication. Providers need to understand their patients’ coverage and communicate the patients’ responsibility before the first visit. “If they don’t verify, there will be people who have a \$200 office visit and can only pay \$10 a month, even with insurance,” Hayes said. “That’s a long time to wait to get paid.”

Although the problems of immediate payment are most pressing, the ACA does reduce some of the long-term risk factors for practices in Wyoming. The fairly low annual limits and the lack of lifetime limits reduce providers’ and hospitals’ exposure to catastrophic losses.

“The upside is there is less risk of getting no payment forever and ever, amen,” Hayes said. But that is a long-term upside. Hayes sees practices in the state focused on the coming weeks and months. When the regulatory climate changes, she suggests, physicians must think first about how to continue to practice effectively and still make a profit.

“My clients are more concerned about the immediate situation,” Hayes said. “How will we mitigate the issues in the short run while providing quality care?”

## Trusted Messengers

One thing providers can do is help patients—especially self-paying patients—educate themselves about insurance.

“There is a big population out there that has never had coverage,” said Tracy Brosius, operational director of the Wyoming Institute of Population Health. Brosius oversees a network of navigators who help consumers become informed about the insurance available under the Affordable Care Act. “Or maybe they have had coverage on a job and lost it. But they have never bought insurance for themselves before.”

Brosius noted that many people are likely to buy a policy based on the lower premium, and forget about the out-of-pocket costs until it is too late.

“They see that the premium is \$50 less,” Brosius said. “But they don’t think about the \$6,000 in out-of-pocket costs that may come with that lower premium.”

Some providers are clearly sending their patients to meet with navigators. Physicians are the most trusted messengers when it comes to healthcare, Brosius said, and patients mention them when they come in to talk about insurance.

“Patients come to navigators and say, ‘My doctor said to come here,’” Brosius said.

“Doctors have a huge amount of influence. They can make sure that people understand their medical condition and what their risks are. This will help them be a better educated consumer.”

Over the past six months, even before the grants to train and deploy navigators kicked in, Brosius and her staff reached out to the provider community to find the self-payers.

“There is no magic list of people,” Brosius said. “We asked hospitals, mental health centers and family practice clinics to help us identify people.”



“One thing providers can do is help patients—especially self-paying patients—educate themselves about insurance.”

Once they had a list, Brosius and her staff organized informational meetings for patients. They sent out 1,500 personalized invitations to self-payers in Laramie County. A similar group in Casper sent out even more, Brosius believes. The results were mixed. Many of those people came to learn about the plans. But some never responded.

The navigators are busy now, but Brosius expects the pace will pick up even more in March, as the end of open enrollment approaches. People who want to buy insurance on the exchange must do so by March 31. Those who are not covered by March 31 must pay the tax penalty prescribed by Congress.

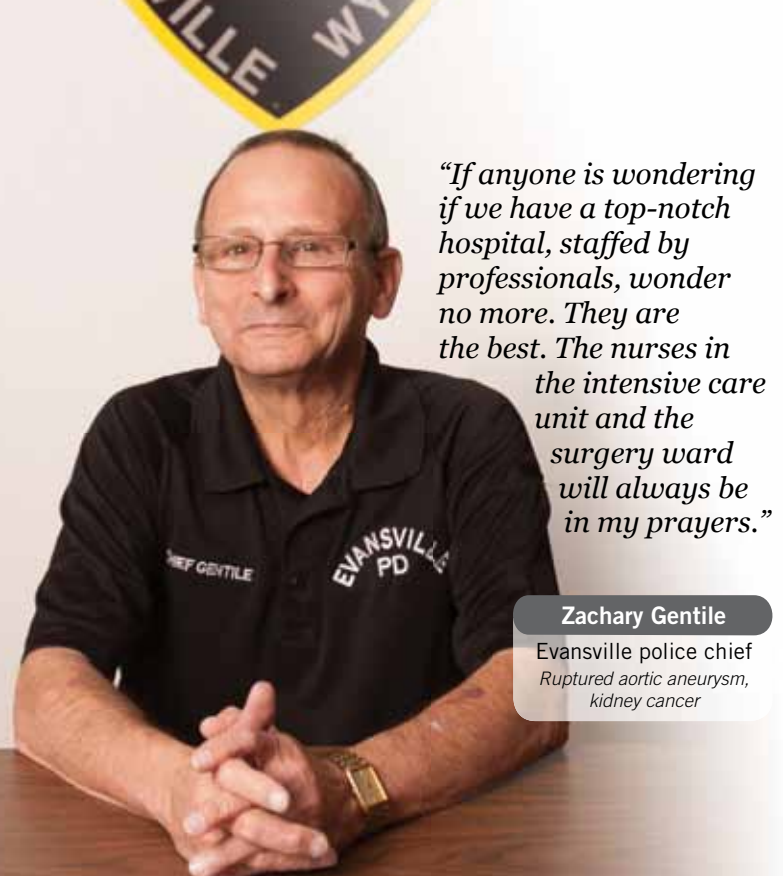
The education process will not stop at the end of March, however. According to healthcare.gov, a new open enrollment period is slated

to begin Nov. 15, 2014 for insurance coverage that begins Jan. 1, 2015. That enrollment period will be shorter than this year’s, ending on Jan. 15, 2015.

“We expect to do a great deal of work to prepare for that shorter open enrollment period,” Brosius said.

In the meantime, Brosius and her colleagues hope that providers will encourage patients to be proactive and buy insurance. Some people are well informed but somehow stop short of actually purchasing a policy.

“Some people come to us and have done all of their homework,” Brosius said. They may know what they need but still not commit to a plan. “In some cases,” she said, “a provider could intervene to help them over the edge.”



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*"We expect to do a great deal of work to prepare for that shorter open enrollment period."*

### More Patients

In the long run, the Affordable Care Act is likely to increase the number of patients seeking treatment in Wyoming. Preventive care will be covered for free under all ACA policies, so more patients are likely to book more appointments.


Less likely to increase is the number of physicians in the state. Recruiting is notoriously hard in Wyoming. With more work for the same number of physicians, the organization of practices and even larger medical communities may have to change. Some close observers of the Wyoming medical community are understandably skeptical of Accountable Care Organizations in such a sparsely populated state.

"It relies on a critical mass of patients to get things accomplished," said Nicholas Dray, a partner at the law firm Dray, Dyekman, Reed & Healey. "ACOs are features of the ACA intended to create efficiencies in the delivery of care. But you need 5,000 people on Medicare. That can be hard to achieve in Wyoming."

On a more local level, physicians may choose to become more like managers of a practice that distributes work to qualified colleagues.

"Not every patient needs to see the physician," said Phyllis Sherard, executive administrator of the Wyoming Institute of Population Health. "Physician-led teams can deal with the shortages by using mid-levels. Physician assistants and nurse practitioners can deliver care working at the top of their licenses."

Patient-centered medical homes are thriving in Casper, Cheyenne, and Fort Washakie on the Wind River Indian Reservation. By tracking patients' medical conditions and care, physicians concentrate their resources on people who need it the most, even if they have to treat more patients than ever before.

Changes in practice have begun in Wyoming already, even if changes in insurance coverage are hard to identify. When slow, long-term change begins in the state's medical community, it might be tempting to see nothing new. But that may not last. In a couple of years, everything might be different. 

*Ron Feemster covers healthcare for **WyoFile**, a non-profit online news service in Wyoming.*



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## The Times They Are A-Changin'

By Kevin Bohnenblust, JD

The song's title seemed prophetic at the time. While it's hard to believe it's now 50 years old, its fundamental premise—that nothing ever stays the same—rings true today even in the practice of medicine and the regulation of the profession.

The Internet has opened new opportunities for every aspect of society. Information travels faster and there is an unprecedented variety of sources. Consumers have myriad opportunities to shop for nearly any product or service from the comfort of home, or while traveling or sitting in a meeting. Businesses, government agencies, and even families and friends take advantage of video conferencing tools to bring people from around the country and the world face to face.

Little wonder, then, that medicine has followed this trend. Telemedicine has made it possible for patients in small towns to receive the services of specialists without traveling great distances. Wyoming hospitals use telemedicine to staff intensive care units and emergency rooms, and to get diagnostic reads from radiologists and pathologists around the clock, often using physicians from halfway around the world. Children and adolescents in Wyoming covered by Title 19 are able to receive care from psychiatrists who never leave their offices at the University of Washington's medical school.

These changes have led to growth in physician licensing in Wyoming. Just seven years ago, about 2,400 physicians were licensed in Wyoming. Today, more than 3,200 physicians hold Wyoming licenses. Nevertheless, we continue to experience a shortage of physicians in our communities. While the total number of licensees has increased by about one-third, the number of physicians resident in Wyoming has stayed steady at around 1,200. Put another way, in 2007 almost 50 percent of Wyoming-licensed physicians were residents; in 2013, less than 40 percent live here.

This is in stark contrast to national trends. In the U.S., about 25 percent of physicians hold more than one medical license. In Wyoming, 75 percent of our licensees hold more than one state

license—the highest percentage in the country—yet less than 40 percent of our licensees are residents of our state.

So why is the number of resident physicians staying static, while the number of Wyoming-licensed physicians continues to grow? The answer seems to lie in the practice models being used.


Sixty percent of new licensees plan to serve Wyoming patients in one of three ways: 1.) Telemedicine; 2.) outreach clinics in Wyoming communities while the physician maintains a primary practice

in a neighboring state; or 3.) locum tenens assignments, or out-of-state practices providing specialty staffing such as emergency room physicians on rotations in Wyoming hospitals. The first two—telemedicine and outreach clinics—have helped give Wyoming patients access in their home towns to specialties they could previously receive only by leaving the state.

Given the current landscape, it is difficult to see the number of physicians resident in Wyoming growing any time in the near future. Our low population—combined with the skyrocketing costs of operating a medical practice, improving technology, increasing patient comfort levels, and complying with government mandates—suggests that telemedicine and outreach clinics will continue to be the major growth area for licensing physicians in Wyoming.

In an ideal world, the growing number of physicians licensed to practice in Wyoming would lead to more doctors “hanging out a shingle” on Main

Street. The reality, though, may be that while patients will have access to more physicians and a greater breadth of specialties, most of the physicians providing those services will never move to Wyoming, and perhaps never even set foot in the state.

The times they are, indeed, a-changin'. 

*Kevin Bohnenblust, JD, is the executive director of the Wyoming Board of Medicine.*



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# Willis

## Wyoming WWAMI Program: A Look Back and Forward

By Larry E. Kirven, MD



*“ One of the strengths of the WWAMI program is the opportunity for the participating students to spend part of their third and fourth years in clinical clerkships back in their home states. ”*

Wyoming joined the WWAMI program in 1997 with a class of 10 students, becoming the second “W” and the fifth state in the regional medical education program affiliated with the University Of Washington School Of Medicine (UWSOM).

In 2013, the Wyoming WWAMI program had a leadership change with First-year Program Director Matt McEchron, PhD, leaving to join the faculty at the University of Arizona, and Assistant Clinical Dean Rich Hillman, MD, retiring after 12 years. Timothy J. Robinson, PhD, is now the interim director of the first-year program, and Larry E. Kirven, MD, is the assistant clinical dean. Dean Steiner of the College of Health Sciences at the University of Wyoming has formed a search committee to select a permanent first-year program director.

### A Steady Return

The Wyoming WWAMI program continues to provide successful medical education to Wyoming students and brings many of them back to the state as physicians. A total of 223 Wyoming students have been enrolled in the program, and only 2 students have left without finishing. There are 79 Wyoming graduates who have completed residency training, 52 of whom have returned to Wyoming to practice. Currently, there are 49 graduates of the program practicing in the state of Wyoming.

One of the strengths of the WWAMI program is the opportunity for the participating students to spend part of their third and fourth years in clinical clerkships back in their home states.

Currently, there are 17 required third-year clerkships and a number of fourth-year clerkships in Wyoming. In 2014, there will be three new clerkships added to the program. OBGYN clerkships will start in Gillette and Sheridan, and a Chronic Care clerkship will be offered in Cheyenne. There are three WRITE (WWAMI Rural Integrated Training Experience) sites in Wyoming. Located in Lander, Powell, and Douglas, these sites will each have a third-year student in their community for 22 weeks.

### Adapting to a Changing System

The future of WWAMI will see curriculum renewal, which is a nationwide trend to modernize medical education. The majority of U.S. medical schools are renewing their curriculum to adapt to the country’s changing medical landscape. UWSOM is among many schools undergoing a renewal of their curriculum that will begin in 2015.

One of these changes will be to divide the educational experience into three phases: a Foundations Phase that will encompass the first 18 months, a Patient Care Phase, and an Explorations Phase. These changes will allow for earlier clinical teaching in the Foundations Phase as well as the introduction of longitudinal-integrated clerkships in the Patient Care Phase in place of the current “block” clerkship scheduling.

The goal of these changes is to streamline the medical educational experience, ensure the consistency of the educational content across the WWAMI region, and move toward competency-based medical education. Curriculum renewal will also serve to adapt medical education to meet the current physician workforce needs of society, particularly for the rural WWAMI region.

For Wyoming, this could include having students in Laramie for up to 15 months of the Foundations Phase, an increased need for clinical faculty in Laramie, and a re-structuring of some of the clinical clerkships to become integrated training experiences where students spend 22 to 28 weeks in one community.

Also for 2014, Wyoming will join the TRUST (Targeted Rural Underserved Training Track), which is a program that seeks to provide a continuous connection between rural and underserved communities, medical education, and health professionals in the WWAMI region. The program is based on linking an incoming student to a specific community within their home state for the duration of their medical school training.

In 2014, three student volunteers from the E2014 class will be asked to participate in a pilot of the TRUST program. In 2015, Wyoming students will have the opportunity to make a formal

application to the TRUST program as a condition of acceptance to the UWSOM. In the future, it may be possible for up to five Wyoming students to participate in the program.

### A Strong Partnership

The Wyoming WWAMI program has been fortunate to have very strong support since its inception from the Wyoming Medical Society (WMS). Many members of the WMS have contributed to medical education in the state of Wyoming by serving as mentors and clinical faculty. This strong commitment from the membership of the WMS is one of the major reasons why the WWAMI program has been so successful in Wyoming. With curriculum renewal there will be an even greater need for physician involvement in mentoring and clinical teaching, both in Laramie as well as all around the state.

The Wyoming WWAMI program and the University Of Washington School Of Medicine would like to thank the WMS and its membership for their contributions to the program. We hope to continue this successful partnership into the future as we adapt to the changing landscape of medicine and medical education.

*Larry E. Kirven is a Buffalo physician and the assistant clinical dean for the Wyoming WWAMI program.*





# HERE BE Monsters:

## Physician Employment Contracting for the Employer and Employed

BY NICK HEALEY, JD

**Popular myth states that early mapmakers would put the phrase “here be monsters” on maps to denote an area in which serious, but unknown, danger could be expected to lurk. The term applies equally to physician employment contracting, for both the physician employer and employee.**

In fact, physician employment contracts are usually intended to avoid, rather than create, uncertainty and to steer employers and employees away from legal jeopardy. Most physician employment agreements cover typical issues that nevertheless often leave open the possibility for “monsters” later in the relationship. This article discusses some of the most common terms in physician employment agreements as well as reasonable options for both physician employers and employed physicians to protect their interests for a long and smooth employment relationship.<sup>1</sup>

### I. Term

**Typical language:** “This Agreement will be in effect from [a specific date, or “the Effective Date,” or “the date executed”] for a term of three (3) years.”

As the name states, this provision describes how long the employee will be employed. Often employment agreements are signed before the employee begins work, to give the employee some time to make a transition between jobs, or (often in Wyoming) move to the employer’s state.

Since employees may be incurring costs to make that move, it’s important that any transition benefits (such as moving costs) are specified in the agreement and payable before the employee begins work. This is particularly true for things like the cost of

an employee’s Wyoming medical license application and travel for licensure interviews.

It’s also important from the employer’s perspective to ensure that it is clearly stated when the employer’s obligation to begin paying the employee and providing employment benefits (such as health insurance) starts—whether at the time of or before the employee actually starts work. If left unstated, the employment agreement may be interpreted to mean that the employer will provide benefits (or even compensation) from the date the agreement is signed or its “Effective Date,” rather than when the employee starts work.

“Survival” clauses are also important to ensure that both parties are clear on the employee’s post-employment obligations. The employer will want to make sure that all contract terms that are intended to remain effective after the contract terminates (such as a non-disclosure obligation, or an agreement to cooperate with billing and collections or to complete medical records) explicitly survive the end of the contract. Typical survival clauses will state:

Notwithstanding anything else in this Agreement, the employee’s obligations in sections 1, 4, 7, 9, and 13 [for example], and any other term of this Agreement that must survive to give it full effect, will be deemed to survive termination of this Agreement.

Employees will want to ensure there are not significant pre-employment duties that the employee must complete, on their own time and at their cost, before starting work. Likewise, employees will want the post-employment duties to be specifically described, and to know whether it is the employee’s or employer’s obligation to pay any support staff needed to complete those duties.



For instance, employment agreements often state that the employee must complete his or her medical records by the time the contract is terminated or the employer will withhold the employee’s final paycheck. If it’s necessary for the employee to use a “scribe” to complete those records, or the employee has typically used a dictation service, it is in the employee’s best interests to specifically state in the Agreement who bears the costs of the scribe or dictation service.

It may seem obvious to the employee that the employer should bear this cost, but under Wyoming medical licensure statutes, it is the employee’s duty to keep accurate and complete patient records, and that duty cannot be delegated to an employer. While the employer may have other legal obligations to ensure accurate and complete patient records (such as for billing), the employee will not be able to defend against a Wyoming Board of Medicine disciplinary action by pointing back at the employer.

### II. Description of Duties

**Typical language:** “During the term of this Agreement, the Employee will provide professional medical services on behalf of the Employer, including but not limited to performing the following duties and obligations...”

As the name states, this provision describes the employee’s job duties and position with the employer. It is in both parties’ interest for this language to be as specific and accurate as possible. Clearly stated expectations regarding all aspects of employment, particularly job duties such as call-coverage, administrative duties, and expectations for non-clinical patient care (such as arranging for continuity of care or referrals) can help tremendously in ensuring a smooth employment relationship.

Employees and employers often have unstated expectations about employment duties and obligations, particularly when there are generational gaps between employer and employee. These can be especially prevalent with “lifestyle” issues, such as call coverage, vacation and paid time off, benefits, and specific aspects of practice (such as surgery time or patient assignment). To avoid miscommunication, these expectations should be clearly and explicitly stated without using vague words that employers and employees may understand differently (e.g., “customary,” “typically,” “standard”).

### III. Termination

There are generally two “termination” provisions in an employment contract: “without cause” and “for cause.”

#### A. “Without Cause”

**Typical language:** “This Agreement may be terminated by either party, for any or no reason, upon ninety (90) days written notice provided by the terminating party to the non-terminating party.” “Without cause” termination allows the parties to terminate the employment and move on without ascribing fault or incurring liability.

Employers will want to ensure that the employee gives enough notice before terminating that the employer can make coverage arrangements. Conversely, employees will want to ensure the employer gives enough notice to allow the employee to secure alternative employment.

It is in both parties’ interest to have a reasonable length of notice for this “without cause” termination provision. Anywhere from 90 days (or three months) to 180 days (six months) is typical. It is important for the physician employee to keep in mind that they

<sup>1</sup> Please note: This information is not intended to provide legal advice and should not be relied on in lieu of consultation with an attorney. The materials have been prepared for education and information purposes only. Transmission of this information is not intended to create, and receipt does not constitute, a lawyer-client relationship between the author and you or any other user.

will be obligated to keep providing services, as they did before the notice, to the employer during this period, or else risk breaching the employment agreement.

It is common that working relationships become difficult during the notice period even in “without cause” terminations, and that it is in both parties’ interest for the employee to be able to leave more quickly. One solution to this issue is for the employer to “buy-out” the employee’s notice period and agree to compensate the employee at their regular rate of pay (with benefits) during the whole notice period, but for the employee to be relieved of their day-to-day duties.

Alternatively, this could take the form of a lump-sum “severance package.” It is important for the physician employee to understand, however, that they may still have obligations during the post-employment period that are described in a survival clause, discussed above. These can include completing medical records and transitioning patient care to a new practice employee.

#### B. “For Cause”

**Typical language:** “This Agreement may be terminated by the Employer for any of the following reasons immediately upon provision of written notice to the Employee...”

This provision allows one party (but usually the employer) to terminate employment immediately if there is a serious issue with the employee’s performance. This is one of the most litigated provisions in an employment agreement, since being terminated “for cause” has tremendous stigma attached to it. Termination “for cause” is also often required to be reported on state licensure applications, and in some situations is required by Wyoming law to be reported to the Wyoming Board of Medicine.

It is in both the employer’s and employee’s best interest for the causes to relate to serious issues that could seriously harm the practice or its patients. Likewise, both parties are best served by making sure the causes are specific. Open ended causes (e.g., “behavior injurious to the reputation of the Employer in the community”) should be avoided since they are difficult to prove.

From the employee’s perspective, a reasonable “cure” provision—allowing the employee a short period of time to remedy any circumstance that would put them in breach of the employment agreement (and be cause for the employer to terminate it)—is helpful. If the employer agrees to this, it’s often helpful for the employer to also have an “immediate termination” provision, with a list of red line causes for which no cure will be acceptable, such as Medicare/Medicaid fraud and abuse or physical violence.

It is also common for hospitals or hospital-affiliated medical groups to “tie” employment termination, with or without cause, to termination of the employed physician’s medical staff membership or privileges. This can be done in the hospital’s Medical Staff Bylaws or the employment agreement, with language often stating that termination of the physician’s employment with a hospital-affiliated medical group will be deemed automatic resignation by the physician from the medical staff. It is important, from the employed physician’s perspective, that if this language cannot be negotiated out of the employment agreement, the physician has the opportunity to reapply for medical staff membership and privileges immediately.



#### IV. Non-compete

**Typical language:** “During the term of employment, and for a period of three (3) years thereafter, the Employee shall not be employed by, or render services or advice to or on behalf of, any person or entity providing professional medical services at any location within [a geographic area] that competes with the Employer.”

Contrary to popular belief, “non-compete” clauses are generally enforceable under Wyoming law, with very few exceptions. Common exceptions include when the time, scope of restricted services, or geographic scope are unreasonable; or when enforcing the restriction would be contrary to “public policy” (i.e., the

individual’s services are critical to the community and not easily replaced). Courts are not quick to apply these exceptions, however, and proving that an individual case falls into one of them can be a very lengthy and expensive process in court.

Moreover, Wyoming courts will apply the “blue pencil” rule, meaning that even if the non-compete is unreasonable for some reason, the court will apply the restriction to the greatest extent reasonable to give maximum effect to the parties’ intent in entering into the agreement. Therefore, physicians entering into an employment agreement with a non-compete should expect to have to abide by it if their employment terminates.

To avoid challenges to non-competes, and in the interests of fairness, employers should not try to protect more than their “legitimate business interest” by use of a non-compete. Employers generally have a legitimate business interest in protecting the value of an investment, not in preventing an ex-employee from competing with the employer. Therefore, the time, services, and geographic restrictions should be only what the employer believes are reasonably necessary, not what the employer thinks they can get away with.

“Popular myth states that early mapmakers would put the phrase ‘here be monsters’ on maps to denote an area in which serious, but unknown, danger could be expected to lurk. The analogy applies equally to physician employment contracting, for both the physician employer and employee.”

Employees should, however, expect to have to abide by a non-compete after leaving the employer’s employment. Employed physicians should not agree to restrictions that are broader than reasonably necessary to protect the employer’s legitimate business interest (e.g., the employer’s investment in its business, patient base, or employees). Often a “non-solicitation” provision is an acceptable alternative to a non-compete, preventing the former employee from soliciting patients of the former employer, but not preventing the former employee from accepting former patients that have not been solicited.

#### A. Related provisions: “Liquidated damages”

“Liquidated damages” provisions are also a common alternative to non-compete provisions, in which the employee agrees to compensate the employer a specific amount if the employee practices within a restricted area after employment. Under Wyoming law, liquidated damages provisions are only enforceable if they are reasonably related to the damages the employer could be expected to suffer by the employee’s competition, and will not be enforced if the only purpose is to penalize the employee for competing. Therefore, employers have nothing to gain from making a liquidated damages provision unreasonable, and these should be tied to the costs of training, recruitment, or some similar measure to ensure fairness and enforceability.

#### V. Full-time/Part-time

**Typical language:** “The Employee shall be scheduled to see patients no more than 29 hours per week, and shall therefore be considered a part-time employee under this Agreement, entitled to all fringe benefits the Employer regularly provides to part-time employees under the Employer’s policies and procedures.”

[CONTINUES ON PAGE 36]



[CONTINUED FROM PAGE 35]

Employers usually provide different benefit levels to full-time and part-time employees. Under many laws, such as the federal Family Medical Leave Act and the Affordable Care Act, an employer has different legal obligations depending on the number of full-time employees they have. To manage its obligations, it is often important for employers to ensure they don't inadvertently create more full-time employees than they expect to have.

Employers should carefully determine how much time an employee's required job duties actually take, not just one aspect of them.

Employers that use arbitrary classifications for full- and part-time employees may find that they inadvertently cross federal thresholds for full-time employees, and can incur liability for not following those laws. Under the Affordable Care Act, "full time" is defined as 30 hours of service per week. While there is not yet definitive guidance on an "hour of service," the IRS's proposed regulations provide that an hour of service includes each hour that an employee is paid or entitled to be paid for performing services for an employer.

It is important to note that a physician's actual scheduled patient time is usually less than their actual working time. The hours a physician provides contractually required services on the employer's behalf, whether or not it is part of their scheduled patient time, may be interpreted as an hour of service, particularly if the employee can be in breach of contract if they don't provide those services. Thus, a physician may be scheduled to see patients only 29 hours per week (5.8 hours per day) but likely has patient and work-related responsibilities that take more time. These can include completing medical records, arranging for continuity of care, administrative and HR duties, and call coverage. These are usually contractual duties that an employee can be terminated for not performing.

Therefore, it is in an employer's best interest to carefully consider all hours an employed physician is required to work to determine whether they are full time or part time, rather than using a measure like the time scheduled seeing patients. Employees, likewise, should determine the total amount of time all their job duties will require and negotiate with the employer to receive the proper level of benefits based on that amount of time.

#### A. Related provisions: "Moonlighting"

**Typical language:** "The Employee shall devote his or her full professional time to his or her practice with the Employer, and shall not perform professional services on any other person's or entity's behalf during the term of the Agreement without the Employer's permission."

Employers want to ensure that the employee is focused on building their practice with the employer, and that if the employer has provided training or other benefits, that value is being used for the employer's benefit and not on behalf of another employer. Employers should state their expectation with respect to whether "moonlighting" is permitted or not permitted, since employees typically believe that their "non-work" time is their own.

Legally, employees owe a duty of loyalty to their employer, and managerial employees are not permitted to moonlight for competitors, even on their "own time." Whether another employer will be deemed "competitive" is often contentious, and if an employee knows or reasonably expects that they will want to provide professional services outside their full-time employment arrangement, it should be stated explicitly in the employment agreement.


#### VI. Liability

**Typical language:** "Notwithstanding the Employee's employment by the Employer, the Employee shall be liable for all professional services provided under this Agreement as if practicing individually and not through the Employer's practice."

Under Wyoming law, physicians cannot protect themselves from professional liability (malpractice) by practicing through a corporation or other business entity, and will be held personally liable for all professional acts whether or not they are practicing with or through an employer. Employers can still be held liable for a physician employee's actions, however, notwithstanding that the employee will be held liable as well.

An employer typically deals with this by providing malpractice insurance with reasonable acceptable coverage limits (typically \$1 million per claim, \$3 million annual aggregate). In many Wyoming hospitals, a minimum level of coverage is stated in the Medical Staff Bylaws; therefore, employees should ensure that the coverage provided by the employer is expected to meet the minimum limits of any hospital in which the employee expects (or is required) to practice. It is also reasonable for the employer to assume the cost of an appropriate "tail" period, or at least to ensure that the coverage provided has a tail option, which the employee (or the employee's subsequent employer) can pay if desired.

#### Conclusion

Virtually all physicians (employer and employee) begin an employment relationship hoping and expecting that it will last forever. Very often, it does not—for reasons beyond the control of either side. A good employment agreement, drafted with a view to clearly stating each parties' expectations, and potentially unwinding the relationship as smoothly and professionally as possible, can prevent "monsters" from being created when the relationship ends. As everyone knows, Wyoming is a small state, and preserving relationships to the extent possible after they end is critical to a productive career and to providing the best care possible to Wyoming patients. A good employment agreement can facilitate those goals. 

*Nick Healey is a partner at Dray, Dyekman, Reed & Healey, P.C. and a member of the Wyoming Medical Society General Counsel.*

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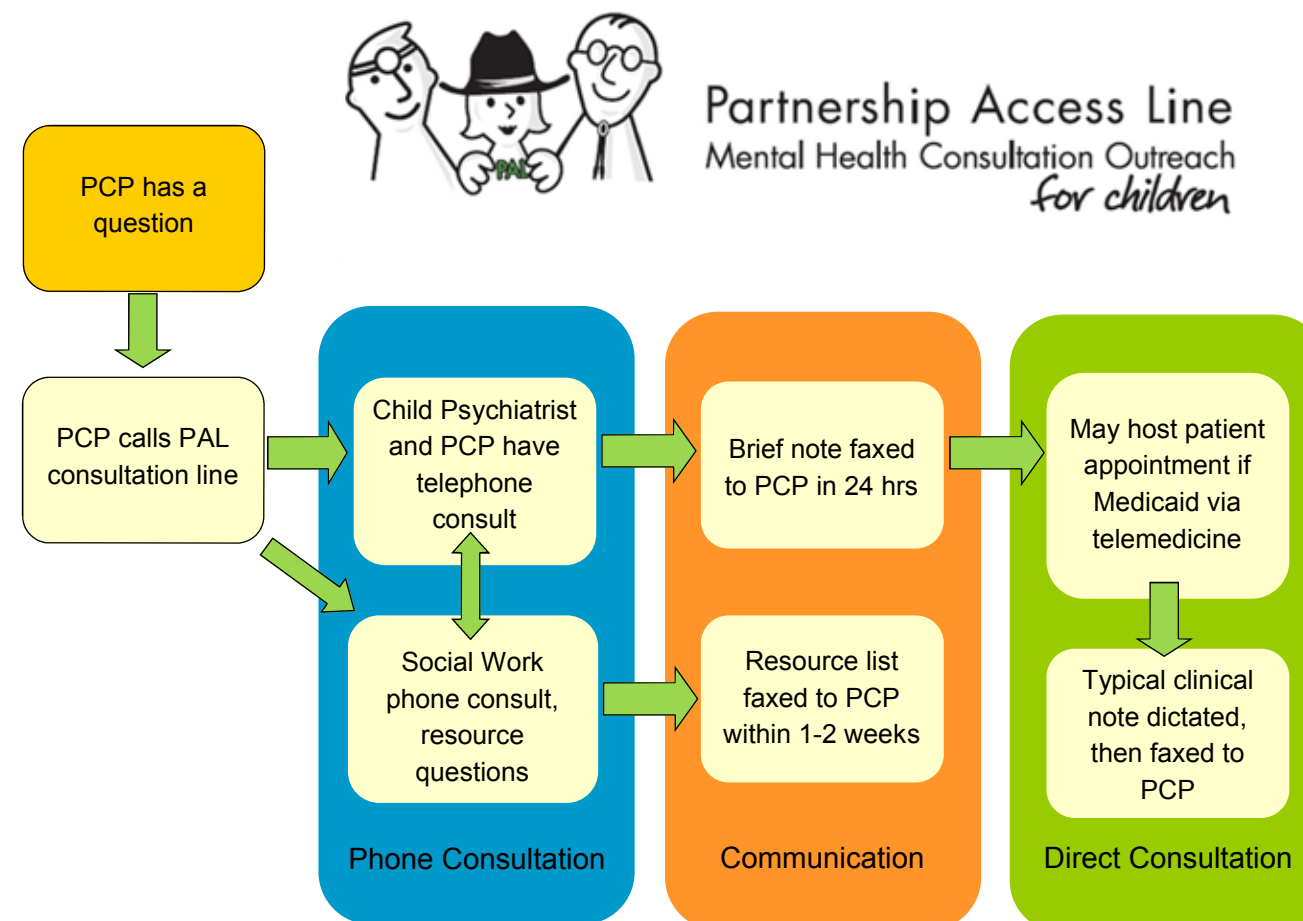


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## Mission: Lifeline Wyoming

By Stephanie Elsea, AHA

To help Wyoming residents improve their odds for surviving a heart attack or sudden cardiac arrest, the American Heart Association (AHA) has launched Mission: Lifeline Wyoming.

Funded in part by a \$5.9 million grant from The Leona M. and Harry B. Helmsley Charitable Trust, the three-year, \$7.1 million statewide project seeks to close the gaps separating heart attack patients from timely access to the most appropriate care. The program will also allow for comprehensive and in-depth analysis of emergency cardiovascular care and system-level performance in Wyoming. First Interstate Bank and The Wyoming Community Foundation's Working for Wyoming Fund have provided additional support.

The community-based approach will improve the system of care for heart attack patients throughout Wyoming by coordinating and streamlining protocols to reduce the amount of time it takes for heart attack and sudden cardiac arrest patients to receive lifesaving

treatment. It will also ensure equipment compatibility, consistent training, and uniform protocols for both transporting and treating patients across the state.

Participating hospitals are collecting non-identifiable patient-level data (e.g., time of symptom onset, age) and provider-level data (e.g., EMS on-scene time, hospital reperfusion rate, discharge status). The confidential data is released to the AHA and independent, third-party analysts—including some from the University of Wyoming—for review.

Participating hospitals have access to their data, as well as access to an aggregated and blinded quarterly statewide report. Providers performing at levels below the regional or national average are contacted confidentially by AHA staff to further review data and to identify opportunities to improve future patient care and reported outcomes.

**To find out more, visit [www.heart.org/mlwyoming](http://www.heart.org/mlwyoming).**

**MISSION:  
LIFELINE**



## Telehealth

BY DANA BARNETT

In 2012, the Wyoming Institute of Population Health, a division of Cheyenne Regional Medical Center, was granted a Health Care Innovation Award for the purpose of impacting the transformation of rural healthcare delivery in Wyoming. One of the five strategies of the award was to deploy enabling telehealth technology throughout Wyoming. In the emerging medical neighborhoods around the state, telehealth increases access to specialists, improves coordination between sites of care, and facilitates effective decision making.

The Telehealth program includes the following primary components:

1. Upgrade the central video conferencing infrastructure to ensure redundancy, security, privacy, capacity, and support as clinical, educational, and administrative applications for video conferencing increase in healthcare settings.
2. Replace aging equipment in many of Wyoming's hospitals with high definition equipment. Sixteen hospitals have currently taken advantage of this with five more facilities in process.
3. Deploy high definition webcams and software to desktops and mobile devices for providers and other healthcare professionals who may benefit from live interactive connections with providers, patients, and peers. Nearly 200 providers and other healthcare professionals across the state are currently connected and are using the system for a wide variety of applications, including clinical education, administrative purposes, and clinical consultations such as psychiatry, cardiology, wound, neurology, rheumatology, and diabetes education. Many other applications are being developed.

**How do I get involved and what is the cost?** If you are interested in finding out about how you can use telehealth technology in your practice or other hospital or healthcare program, please contact Dana Barnett at [dana.barnett@crmcwy.org](mailto:dana.barnett@crmcwy.org) or 307-633-6083. During the award period ending June 2015, there is no cost for the equipment or support and there is no obligation to use the equipment after the award period is concluded.

## The Wyoming Prescription Drug Monitoring Program Gets an Upgrade

By the Board of Pharmacy

In July 2004, the Wyoming Legislature established a Prescription Drug Monitoring Program, as authorized in W.S. 35-7-1060. The program requires both resident and non-resident retail pharmacies to provide Schedule II-IV controlled substance prescription information to the Board of Pharmacy every week.

Last July, the program added a major enhancement to the program, called the Wyoming Online Prescription Database (WORx). WORx allows the Board of Pharmacy to streamline patient care so practitioners and pharmacists can provide more efficient treatment at the point of care—that is, when the patient is still present.

Practitioners and pharmacists can log into the database around the clock to access patient profile reports. So, for example, a practitioner who does a rotation at a hospital's Emergency Department can log into the database at 1:00 am if a patient comes in complaining about back pain. Before online access, this practitioner would have had to treat the patient and wait for the report to come the next day (or after the weekend) to verify the patient's history.

To access the online database, go to [www.worxpdmp.com](http://www.worxpdmp.com) and register. Once registered, our office will complete the registration and you will be notified by email that online access has been granted. You can also continue to fax a request to the Board office regarding any patient with whom the practitioner has a patient-practitioner relationship. However, such requests must be signed by the practitioner; signature stamps will not be accepted. Profiles are returned by fax or mail, according to the preference of the practitioner.

**Please do not hesitate to contact the Board if you have any questions regarding the WORx program.**

### PRIMARY CONTACT:

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## Lifestyle Briefs



As part of the Wyoming Medical Society's efforts to connect the state's doctors with each other, we conducted brief interviews with three Wyoming physicians. Read below to learn a bit of the personal and a bit of the professional sides of Dr. Stewart North, Dr. Ian Hunter, and Dr. Brian Veauthier.



### Dr. Stewart R. North

**WMS:** Where are you practicing?

**Dr. North:** I'm in Cheyenne at the University of Wyoming Family Practice Residency.

**WMS:** What has been your biggest challenge as a doctor in Wyoming thus far and what has been the most fulfilling aspect of the job?

**Dr. North:** The steep learning curve has been the biggest challenge. Medicine is an exacting field and it requires a great deal of precision.

Several things have been fulfilling. I enjoy any time I get to use my hands, I've enjoyed delivering babies at the hospital, and also using Osteopathic Manipulative Therapy (OMT) and other procedures in the office.

**WMS:** Because we all know life isn't all work, name a book that you have read or are reading as a means of relaxation after a hard day.

**Dr. North:** I read from the Scriptures every day. My daily devotions are important to me. They keep me grounded and remind me that there is help available as I face the problems of each day.

**WMS:** What's playing on the iPod?

**Dr. North:** Right now I'm listening to a free app from Jazzradio.com. If you like jazz, it's great! One of my fourth-year attendings turned me on to smooth jazz. This app has lots of different selections. You should check it out.

**WMS:** What play or movie have you seen recently?

**Dr. North:** My wife and I recently attended "Joseph and the Amazing Technicolor Dreamcoat" put on by the Cheyenne Little Players Theater. They did a great job. It was a lot of fun for us.

**WMS:** Many residents in the Wyoming program are new to the area they practice in. What have you enjoyed about Wyoming and the place you currently call home?

**Dr. North:** Well, I've only been here six months, but so far I have been impressed with Cheyenne's city parks. We live near the Botanical Gardens and the little lake up there. They are great places to take walks. We are also close to Vedauwoo and other great outdoor venues.



### Dr. Ian Hunter

**WMS:** Where are you practicing and what is your specialty?

**Dr. Hunter:** I'm at Big Horn Mountain Medicine, an internal medicine group in Sheridan with 10 providers.

**WMS:** What has been your biggest challenge as a doctor in Wyoming thus far and what has been the most fulfilling aspect of the job?

**Dr. Hunter:** The patients...for both. Going to Albertson's on Thursday afternoon during Senior Discount day is impossible. At the same time I've been blessed with a wonderful practice full of great people.

**WMS:** Because we all know life isn't all work, name a book that you have read or are reading as a means of relaxation after a hard day.

**Dr. Hunter:** I just finished "Unbroken" by Laura Hillenbrand. It's a pretty inspiring story about an Olympic runner and Japanese prisoner of war named Louis Zamperini.

**WMS:** What's playing on the iPod?

**Dr. Hunter:** Zac Brown, Brad Paisley, Flo Rida, Keb Mo, Styx...it's an eclectic mess.

**WMS:** What play or movie have you seen recently?

**Dr. Hunter:** "2 Guns"—on video. With four kids I don't get out much.

**WMS:** Many residents in the Wyoming program are new to the area they practice in. What have you enjoyed about Wyoming and the place you currently call home?

**Dr. Hunter:** First, I'm all about family and this is a great place to raise a family. I also love the outdoors, so I get to enjoy elk and pheasant hunting, skiing, and fly fishing. Wyoming offers it all.

**WMS:** What is your sales pitch to a doctor who might be considering a move to Wyoming?

**Dr. Hunter:** In Wyoming you can still prioritize your family while practicing medicine in a state with a low incidence of managed care. We have less of the collateral parts of medicine that limit medical decision-making. As opposed to many other places, in Wyoming you can still "be a doctor."



### Dr. Brian M. Veauthier

**WMS:** Where are you practicing and what is your specialty?

**Dr. Veauthier:** My specialty is Family Medicine and I am currently the associate program director at the University of Wyoming Family Medicine Residency in Casper.

**WMS:** What has been your biggest challenge as a doctor in Wyoming thus far and what has been the most fulfilling aspect of the job?

**Dr. Veauthier:** The biggest challenge I face as a doctor is figuring out how best to care for patients without insurance or who are under-insured without making them go broke.

The most fulfilling part of my job is training residents. It really is a privilege to shape our future physicians. Plus, it's a lot of fun and keeps you sharp.

**WMS:** Because we all know life isn't all work, name a book that you have read or are reading as a means of relaxation after a hard day.

**Dr. Veauthier:** "Fool's Paradise" by John Gierach.

**WMS:** What play or movie have you seen recently?

**Dr. Veauthier:** "Frozen." What can I say? I have four kids between the ages of 2 and 10.

**WMS:** Many residents in the Wyoming program are new to the area they practice in. What have you enjoyed about Wyoming and the place you currently call home?

**Dr. Veauthier:** Definitely the outdoors. Two of my favorite activities are cross-country skiing and fly fishing and there are not many places better than Casper for both. Casper is also a great place to raise a family—not too small and not too big, great people, plenty of things to do without a lot of hassle. My kids are happy and my wife is happy. What more could I want?

**WMS:** Finally, what is the best thing about your job?

**Dr. Veauthier:** I am amazed at how many lives I can impact through educating residents. If each resident takes care of 3,000 patients or so and we graduate 8 residents a year and I work for a lot of years, you can do the math. When I think about this fact, I am really inspired to push my residents to be the best they can be.

# WYOMING Medicine

## Ask about our Friends of WMS program

Wyoming Medicine is published bi-annually. Your message will reach more than 70 percent of Wyoming physicians as well as healthcare policy leaders and citizens from across the state. The circulation of over 1,500 includes Wyoming Medical Society member physicians, as well as legislators, medical-related organizations, media outlets, and other regular subscribers.

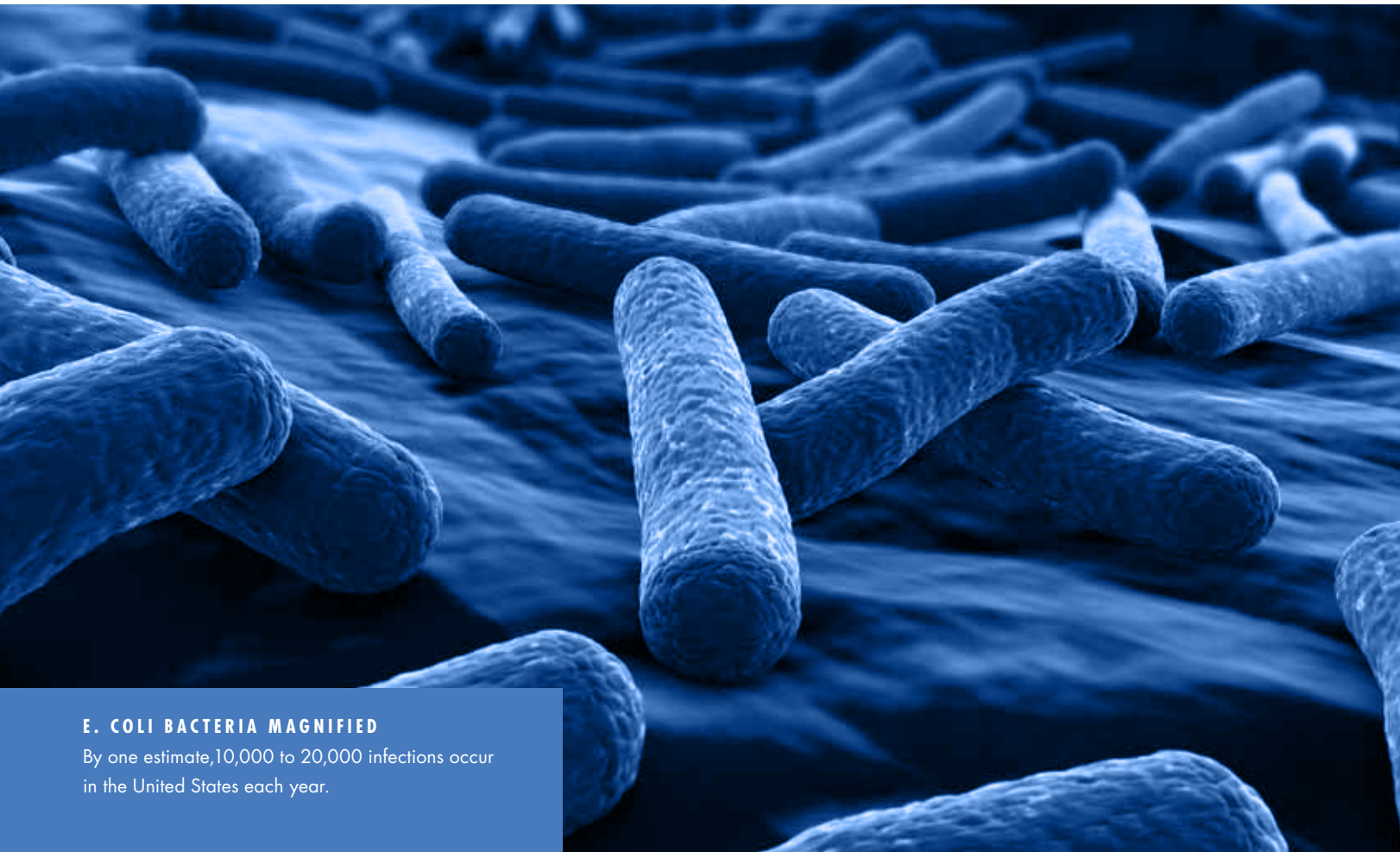
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\* Figures reflect Physicians Insurance claims data over a ten-year period from 2003 to 2012 and indicates the percentage of all claims, by specialty, that ended up as lawsuits.

\*\* Does not include tooth claims.

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Afzal Khan, MD

Bilal Khan, MD

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Casey Miller, MD

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