



# BOULDER COUNTY MEDICAL SOCIETY

# HeartBeat

**NEW OFFICE:** 6650 Gunpark Drive, Suite 100, Boulder, CO 80301

Summer 2016

## **BCMS stands up for physicians and patients in the fight against insurance mega-mergers: #1**

### ***BCMS President Leto Quarles MD sends letter to DOJ opposing Aetna-Humana merger***

Working closely with attorneys and policy leaders from the Colorado Medical Society and the American Medical Association, BCMS President Leto Quarles, MD, sent a detailed 14-page letter and extensive supporting documents to the U.S. Department of Justice Antitrust Division in opposition to the proposed Aetna-Humana merger. As the Colorado Division of Insurance has already given this merger the go-ahead despite our grave anti-competitive concerns, the Antitrust Division of the DOJ is our last best option to oppose the merger. Here's a quick recap of the highlights of why this fight matters so much to the physicians and patients of Boulder County:



- **How big are these players in our local market?** If Aetna and Humana are allowed to merge, that would give them a disproportionate market concentration of Medicare Advantage in Boulder County, a move which would be anti-competitive in an already highly-concentrated market. Currently, four largest insurance companies account for 95.8% of the Medicare Advantage market in Boulder County, far exceeding the 75% threshold by which the state of Colorado defines a “highly concentrated market.”
- **How would the merger affect patients?** Past experience with insurance mergers, and in-depth independent analysis, strongly suggest that we can expect: more rapidly rising premiums for Medicare Advantage and potentially for employer-sponsored health plans as well; narrower restricted networks; increased out-of-pocket expense when going out-of-network (often because there is no relevant provider within network for a specific need, or because physicians affiliated with an in-network hospital have been excluded from the narrow network); and

possibly diminished prescription drug benefits.

- **How would the merger affect physician practices?** In BCMS's estimation, we would be facing extreme market pressure – we would have to accept whatever terms (reimbursement and administrative requirements) the new Super-Aetna chose to offer us, or give up seeing Medicare Advantage patients. If some of us reject the terms or find ourselves squeezed out of a narrow network, others will have to absorb the community needs, and as reimbursement diminishes, our ability to afford robust and well-trained support staff diminishes as well. So we will all find ourselves trying to care for an aging and medically vulnerable Medicare Advantage patient population with fewer and fewer resources, and ever-greater administrative burdens.

Meanwhile, Boulder County Medical Society continues to work closely with our team of attorneys and policy leaders from CMS and AMA to prepare to fight the proposed Cigna-Anthem merger as well.

*For a full copy of BCMS's letter to the DOJ and all supporting attachments, [click here](#).*

*For the Colorado Medicine interview with Dr. Quarles about these issues, [click here](#).*

## **BCMS stands up for physicians and patients in the fight against insurance mega-mergers: #2**

### **The Colorado Division of Insurance, Aetna and Form E: Why disclosure matters**

One contentious issue in our ongoing fight against these insurance mega-mergers has been the public disclosure of the economic, market-share and public health implications of a proposed merger. Under Colorado law, in order for insurers to merge, they must provide to the Division of Insurance a document known as "Form E" which discloses the current and predicted market-shares of each involved insurer. In April, BCMS joined CMS at the Denver District Court for a hearing to have these Form E filings made public (they were not previously statutorily sealed, but the legal language was ambiguous and both Aetna and Cigna had opposed disclosure).

In a case filed by the Division of Insurance in response to a CMS request for the Aetna Form E under Colorado's Open Records Act (CORA), the Denver District Court judge ruled that, while Aetna's Form E is not automatically a public document under Colorado law (because Aetna is a "foreign" insurer, its official business address being registered with the DOI as outside of Colorado), the Commissioner of the Division of Insurance does have the discretion to release Aetna's Form E "if it is in the public interest." Both CMS and BCMS have already responded by formally requesting that Insurance Commissioner Salazar release Aetna's Form E immediately in the public interest. As of this writing, we await a response from the Division.

Aetna's attorney argued to the court in part that the Form E should be confidential because it contains "admissions" regarding the competitive impact the proposed

merger will have in Colorado. This is the precise reason CMS generated the CORA request. The Aetna attorney's statement is also consistent with records obtained from a second CMS CORA request to DOI for all documents about the merger which show DOI concluded the merger violates the competitive standard contained in Colorado law for two lines of health insurance. Despite Aetna's admissions in the Form E, DOI went on to approve the merger through inaction, ostensibly finding exceptions apply to permit the merger. The two permissible exceptions under Colorado law are that the proposed merger will not create a statewide monopoly or that it will not substantially lessen competition among health insurers in the lines violating the competitive standard. The problem with these exceptions is that they apply only statewide and do not account for the proposed merger's impact on the local health care markets where providers practice and patients seek medical care. CMS is seeking the Form E to submit the data to an independent evaluator and for inclusion in a letter to U.S. DOJ.

Meanwhile, the judge's ruling did also affirm that any Form E filed by a domestic insurer is indeed a public document. Under Colorado law, both Anthem and Cigna are recognized as domestic insurers.

And so the struggle continues. Boulder County Medical Society is proud to have your back as we work tirelessly to advocate for Boulder County physicians and their patients.

### **BCMS Celebrates Laird Cagan, MD, as he retires from clinical practice**



Former BCMS President (twice!) and Longmont internist Laird Cagan, MD, formally retired from clinical practice this spring after 24 years of serving Boulder County patients. BCMS was there with him to celebrate his career, his retirement, and his continued commitment to advocacy with BCMS, CMS and his numerous personal endeavors. BCMS members were joined in an evening of celebration at Colterra in Niwot on May 26<sup>th</sup> by Laird's wife, Mary Poole, MD – also a Longmont internist and also retiring together with him – daughters Laurel (and husband Justin Bretting and new son Preston), and Ariel (and husband Mat Irving), CMS CEO Alfred Gilchrist, CMS COO Dean Holzkamp, incoming BVIPA Executive Director Rich Fey, and other guests.



**Local political scene: BCMS and CMS interview candidates for CO House District 10 open seat**



While the 2016 election will prove to be contentious on both the state and national scene, only one local legislative seat is up for grabs in the coming election. Boulder County's current House District 10 representative (for the district covering the City of Boulder east of Broadway), Dickey Lee Hulinghorst, is term-limited and will not run for re-election. Two Democratic candidates were vying for their party's nomination in the June primary, and no Republican or Independent has announced an intention to enter the race. Prior to the Democratic primary, BCMS sat down with each candidate,

Edie Hooton and Angelique Espinoza, to hear their views, discover where we can forge meaningful partnerships, and help them to understand the pressing political issues for Boulder County physicians and the well-being of our patients.

Both women were well-educated on the topics we raised, intelligent and strategic in their support of both public health and physician autonomy, and committed to meaningful conversation and hard work around issues of mutual concern. As we were impressed with both candidates, and felt that either would be a welcome ally in the State House, BCMS decided not to endorse one over the other, and after a very close race, Edie Hooton has secured the nomination for Colorado House District 10. We congratulate her, and look forward to collaborating in the future. We were equally impressed with Angelique Espinoza, and welcome the hope that she will remain involved as a strategic partner in Boulder County public policy as her career evolves.



### **BCMS Soiree: Telemedicine at the Cork**

On April 21<sup>st</sup>, BCMS members gathered at the Boulder Cork for a dynamic and exciting conversation with Charolette (Charlie) Lippolis, MD, MPH, and Samantha (Sam) Lippolis about ways telemedicine can transform physician practices and patient access to care. Thank you to everyone who made it a spectacular evening of learning and camaraderie.



### **BCMS Soiree: Launching The New CMS at Fiske Planetarium**

On May 11<sup>th</sup>, BCMS members joined our statewide leaders CMS CEO Alfred Gilchrist and CMS President Michael Volz, MD, for an unforgettable night at the Fiske Planetarium, celebrating the launch of The New CMS. After robust discussion of the structural changes taking place to make our Colorado Medical Society among the most member-responsive and interactive medical societies in the nation, we were treated to a private tour of the universe by dynamic, expert and personable Planetarium staff.



**BCMS Soiree: Do Doctors Die Differently? at Rembrandt Yard**



On June 15<sup>th</sup>, BCMS hosted an intimate conversation about the end of life with Drs. Rohini Kanaganti and Myra Tuckerman at the Rembrandt Yard gallery in downtown Boulder. We shared in exploring ideas, beliefs, experiences and hopes – with just a touch of humor – as we took time out to contemplate our own mortality, and the mortality of those we love. It was a unique and profound experience to share these deeply human

moments with colleagues and friends – heartfelt thanks to all who made this possible.





### **Conversation coming soon: Amendment 69/ColoradoCare**

On November's ballot in Colorado, we will be not only be selecting the elected leaders who will shape the face of health care and life in our communities, but also a statewide ballot initiative, Amendment 69 ("ColoradoCare") about whether to create a universal single payer system throughout our state. Structured as a constitutional amendment, this ballot measure proposes to radically redesign how we pay for health care in Colorado. We all know the status quo is failing – is this measure the right next step forward for us and for our patients? Stay tuned as BCMS brings you a balanced discussion of the pros, the cons, the knowns and the unknowns of this initiative, and how it could affect Boulder County physicians and our patients.

### **Come to the CMS Annual Meeting in Keystone Sept 16-18**

Looking to get away for a weekend? Looking to connect with colleagues? Connect with your passion for why you chose a career in Medicine in the first place? Come join us for the 2016 CMS Annual Meeting in Keystone, CO, Sept. 16-18. The meeting registration itself is free, and BCMS provides funding for transportation and lodging for up to 20 BCMS physicians to attend.

[Click here](#) to check out 7 Reasons to Attend the CMS Annual Meeting.

[Click here](#) to register online.



*After inaugural meeting of BCMS Roundtable on Community Health*

## **Get more involved!**

BCMS needs YOU! Are you passionate about being a physician? About what needs changing and fixing in the business of health care? About how, despite all the challenges, serving as a physician is still among the most honorable, rewarding, fulfilling, humbling and inspiring things a human being can do for a career? ***Then we need you!***

Your voice, your ideas, your contributions, your gripes and your visions are what keeps us as a medical society alive and kicking.

Come join us.

- Join us in Keystone this September.
- Come to our next Soiree or social event (keep an eye out for announcements as dates are set).
- Join us for a BCMS board meeting if you might be interested in serving.
- Call or email us with your questions, suggestions, ideas and debates anytime.

YOU are the reason we are the Boulder County Medical Society!

Office phone: 303-527-3215

Email: [BCMedSoc@aol.com](mailto:BCMedSoc@aol.com)

## **Worth sharing:**

- From the AMA Wire: [What Makes Doctors Great Also Drives Burnout](#)
  - From COPIC: [Physician, Heal Thyself / Building Resilience in your Medical Practice](#)
  - From Forbes Magazine (perfect for July): [Doctors' Declaration of Independence](#)
  - From the Washington Post: [Nation's Psychiatric Bed Count Falls to Record Low](#)
  - [CMS "Chart Notes"](#) for the health of insurance coverage for patients in the State of Colorado today
-





# WE'VE GOT MORE THAN JUST YOUR BACK.

**100+**

education courses  
and seminars offered  
each year.

Nationally recognized patient safety and risk management programs provide knowledge and guidance to help you navigate current challenges in health care. COPIC has you covered from front to back.



Better Medicine • Better Lives  
callcopic.com | 800.421.1834

COPIC is endorsed by

