Robert McMahon, JD, MD
SLMMS President 2012

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The Twenty-Seven Per-Cent Solution: Being a Reprint from the Reminiscences of Richard J. Gimpelson, M.D.

By Richard J. Gimpelson, MD

How often do we see art imitate life? This column was inspired by The Seven Per-Cent Solution: Being a Reprint from the Reminiscences of John H. Watson, M.D. Sherlock Holmes spends two months in seclusion until he summons his old friend, Dr. Watson, to relate his suspicions about a plot to launch a war involving all of Europe. (Note: this novel begins in 1891.)

Our Administration and Congress will spend two months in seclusion trying to figure out what to do about the Sustainable Growth Rate (SGR) to avoid an all-out war with the medical care of United States citizens.

The seven percent solution is the concentration of cocaine that Holmes is addicted to. The twenty-seven percent solution is the scheduled cut in Medicare reimbursement to physicians if our government does not cure its addiction to spending money it does not have.

Dr. Sigmund Freud helps Holmes overcome his addiction to cocaine. The American people will have to cure the government’s addiction to irresponsible spending by voting out the guilty parties.

The two-month delay in imposing the twenty-seven percent solution will probably not be resolved right away. Since Groundhog Day is February 2nd, Congress will probably see its shadow and give us two more months’ delay.

Let us look at the definition of SGR – “the maximum amount a firm can grow without increasing financial leverage” (without borrowing more money). In other words at some point, Congress will have to stop voting for extensions and either make the cut or kill the formula. If this is not done before 2016, physicians may be looking at a Medicare cut of 40 percent which would eventually put nearly all physicians out of business, create a medical care accessibility panic and eliminate the need for death panels. (My mistake, there are no death panels.) For some reason laboratory tests, imaging services and physician-administered drugs are included in physician’s expenses under the Medicare SGR. These are costs that the physician has no control over, but count in the cost of physician services.

Twice in 2010, Congress failed to address the issue of physician pay, instituted pay cuts, then retroactively rescinded the cuts. At the present rate, Congress could do this at least six times in 2012 for a new record of incompetence.

Well, let’s look hard at The Seven Per-Cent Solution to see what “The Twenty-Seven Per-Cent Solution” may have in store for us. Sherlock Holmes solved the crime, eliminated the foe, but unfortunately only delayed the European war until 1914.

Oh! This does not look good! I guess I better get started on writing “The Forty Per-Cent Solution.”

Don’t forget to vote November 6, 2012.

I chose the words of George Herbert (1593-1633), a Welsh poet, to invigorate this homily. Simply interpreted: one cannot or should not put off the chance to try something new. The opportunity missed may not reappear. (Don’t these statements remind you of half a dozen more quotes?) Most of us are so busy that we hardly find time to complete all of the plans that we have made, let alone go looking for some new adventure that may be out there. On the other hand, wouldn’t it be fun to take that trip or start that hobby or marry that girl? Don’t be afraid to bring your ideas to the mill and return with fine flour.

Dr. Gimpelson, a past SLMMS president, is now co-director of Mercy Clinic Minimally Invasive Gynecology. He shares his opinions here to stimulate thought and discussion, but his comments do not necessarily represent the opinion of the Medical Society. Any member wishing to offer an alternative view is welcome to respond. SLMM is open to all opinions and positions. Emails may be sent to editor@slmms.org.
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The Twenty-Seven Per-Cent Solution: Being a Reprint from the Reminiscences of Richard J. Gimpelson, M.D.
Thank you and welcome. It is an honor and a humbling experience to be installed as president of the St. Louis Metropolitan Medical Society in its 175th year (1836). There is a wealth of tradition from the years of the Medical Society, which was founded before the War between the States and predates the Board of Healing Arts, the 1910 Flexner Report on Medical Education, the founding of Washington University School of Medicine in 1891 (Washington University itself was founded in 1853), the Saint Louis University School of Medicine (it traces its origin to the Marion-Sims-Beaumont College of Medicine merger in 1903, although Dr. William Beaumont was professor of surgery as early as 1837). SLU was founded in 1818, chartered in 1832.

In 1799, less than 40 years before the Medical Society’s beginnings, George Washington died after the ministrations of three practitioners for an acute respiratory illness. These treatments included blood-letting, blistering, and purgatives. Accounts indicate this was the contemporary standard of care. In 1881, 80 days after an abdominal wound, President James Garfield succumbed to effects of repeated probing of the wound and the efforts of some 16 prominent physicians. Again, the accepted practice of the time and standard of care prevailed.

Tradition is a ritual or custom of long standing. This installation dinner and the speeches and presentations are traditions. I thank our past presidents and councilors for their leadership and service. I also thank our staff, particularly Executive Vice President Tom Watters, Liz Webb and Jim Braibish. Thank you to our members as well.

Our library of past Medical Society journals and newsletters is extensive and contains the text of addresses by presidents for many years. The structure is traditional, the themes reflect the then-current events. As the science of medicine progressed, and as academic centers of excellence such as Saint Louis University School of Medicine and Washington University School of Medicine assured the concern of scientific and medical education, public health issues became more significant themes. The understanding of public health, preventive medicine, microbiology and virology grew in the early 20th century. Antibiotics and vaccines became available, and local and state public health departments became prevalent. Much has changed in 175 years.

Anachronism refers to a logical argument that is based on the faulty comparison of people, ideas, or values from widely different time periods. For example, “blood-letting for illness and rotating tourniquets for congestive heart failure was good enough in 1836, so it is good enough for me.”

Although we can praise the continuity of tradition in the St. Louis Metropolitan Medical Society, we should not adapt the past to the present: we must recognize our progress as physicians and accept the newness of the present. Advances in science and technology make our training, continuing education and what we do to care for patients, vastly different from the era when organized medicine was started. We can and will adapt the Medical Society for the present.

Nowhere is the conflict between tradition and anachronism – the failure to adapt to the present – more evident than in our civil court system.

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the present – more evident than in our civil court system. By keeping the traditions of the past and following the legal continuity of precedent, the newness of the present is denied and the past is adapted anachronistically to the present. The real history of past legal disputes and their effect on society are obscured in deciding modern problems arising from modern events.

So where am I going with this?

I have an uncomfortable feeling that something is wrong in the practice of medicine, and that the costs of health care are unsustainable. I fear we cannot base our hopes for the future on a system that imposes costs on physicians, hospitals, insurers and ultimately patients without a commensurate benefit. Of course, I refer to malpractice lawsuits, or “the litigation industry.”

Ninety-three percent of physicians in a survey admit to risk aversion tactics, or defensive medicine, including ordering tests or imaging, avoiding high-risk procedures or the sickest of patients. Defensive medicine adds $60 billion dollars a year to health costs and may be expected to increase. The burden of practice is increased beyond the financial cost.

Lawsuits do not advance the practice of medicine. It is science, study and reflection that amend medical practice. The reasons we don’t use bloodletting or rotating tourniquets is not lawsuits – it is because we learn from science and try new methods.

The American College of Obstetricians and Gynecologists reports 76 percent of its members had been sued once or more, 57 percent at least twice, and 41.5 percent three or more times.

Nearly half of lawsuits filed are dropped, dismissed or settled without payment. The vast majority of filed suits involved no medical injury in the Harvard Medical Practice Group study. Only 17 percent involved injury by doctor negligence.

Many physicians are faced with ongoing lawsuits for years before resolution. No real educational benefit comes from lawsuits – the affected physician may alter some behavior to avoid risk. However, the real profit in medical education is learning from somebody else’s mistakes. Current litigation practice prohibits discussing the facts of pending cases with anyone except one’s lawyer.

A fair, prompt method of compensating the small fraction of patients actually injured could discourage or speed disposition of groundless or marginal suits that clog court dockets today. … Juryless courts exist in family law, tax, bankruptcy and workers’ compensation.

Juryless courts exist in family law, tax, and bankruptcy cases, and workers’ compensation awards are determined by administrative courts. Professional discipline matters are juryless.

Workers’ compensation legislation started in the United States at the beginning of the 20th century (Wisconsin 1911). With some refinements and adaptation, the workers’ compensation system was adopted by all states by 1948. Prior to this, usual civil remedies pitting employee against employer caused increasing court congestion and employee judgments rose to some 15 percent of workers’ cases pursued in court.

The workers’ compensation system has values of universal coverage and “no-fault.” It is far from perfect, but it has done much to accomplish the goals of prompt compensation and furtherance of safety in the workplace. The great trade-off for universal no-fault coverage was the employee giving up the right to sue the employer.

Lawsuit reform for medical practice, adopting a system similar to workers’ compensation, may seem far-fetched, or even an impossible goal. Everything seems difficult at first.

Physicians may have the most to lose from the costs and burden of defensive medicine. The problems of defensive medicine and the specter of lawsuits are personal and pervasive. Many physicians contemplate retirement or alternative employment in response to the uncomfortable feeling that something is wrong in their practice. Many alter their practice to limit exposure to risky patients or procedures, or move to states providing greater protection. We will be judged with great astonishment if we who have so much at stake do nothing to alter this course.

We are not captive to a few plaintiffs’ lawyers, or a removed legislature. We have a voice. We have an eager au-
dience in our patients. We are not alone in our frustration with an anachronistic legal system.

Health-care costs and lawsuit reform are complex issues. I haven’t discovered the perfect solution. However, if we proceed with conviction, we can tell our elected officials, our peers and our patients that lawsuit reform is necessary, and is possible. We can be a resource for everyone who supports lawsuit reform. We should support the values of prompt and fair compensation without punishment or blame.

In the 1920s, the Medical Society funded, then built a headquarters on Lindell that remains a respectable achievement. “Bricks and Mortar” accomplishments have less importance for us today. Our achievements over the next decade may be more conceptual, and I suspect lawsuit reform will be incomplete in the next 10 years. We will continue to support non-economic damages caps and other existing reforms while we try to address deeper problems. Our commitment to values and pursuit of every avenue to accomplish broader reform should be resolute.

The Medical Society brings physicians together across specialties and out of their isolated place of practice. It provides opportunities to define common ground. We stand for freedom in practice and the freedom to enjoy our lives and families.

Let me close on a lighter subject. Another tradition of the Medical Society is to sponsor social and sporting events, and I hope we can reinvigorate this important tradition. In recent years, interest in these kinds of activities has waned, but we’d like to try to dust off a couple of the old traditions. We are looking at a few options like a sports tournament, a 5K run and walk, family outings or maybe even just a get-together for the sake of socializing. I look forward to your suggestions and participation. You can watch for more information on this coming from our SLMMS office staff.

I have tried to address a serious topic tonight, but I assure you that we plan to have some fun during the next year. Having fun will never go out of style, although the way we do so will certainly change.

Thank you. It has been a pleasure to speak to you, and I look forward to being your president for the next year.

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**As in all successful ventures, the foundation of a good retirement is planning.**

—Earl Nightingale

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I would like to thank the Medical Society and the physicians in the St. Louis community for the opportunity to serve as president this past year. It has been an interesting and enjoyable adventure.

I also want to recognize my colleagues at West County Radiology for their support and the clinical coverage which has made my involvement in Medical Society activities practical. One of my partners, past SLMMS and MSMA president Dr. Jeff Thomasson, is the one who encouraged me to participate in organized medicine from the beginning.

Most importantly, I want to thank my lovely and talented wife, Claire, for her encouragement and support this past year. We have been together since the beginning of medical school and she has always been my source of inspiration and advice. Claire and the ladies of the Medical Society Alliance had a successful 2011. Together they piloted a new program, Voices of Excellence, which taught communications skills to at-risk youth in the city of St. Louis.

As I mentioned, 2011 was an interesting year for medicine. 2012 promises to offer even more change.

At the national level, the Affordable Care Act will begin to come online this year. What will this mean for medicine? No one knows for sure. The SGR formula has been pushed on down the road, but this time for only two months. Medicare funding for graduate medical education is threatened, making a shortage of residency slots for U.S. medical school graduates a real possibility. Debt load for our medical graduates continues to grow, discouraging more young physicians from primary care careers.

In the state and local arena, a court challenge to Missouri’s successful tort reform law will probably occur this year. Physicians face continued loss of autonomy due to initiatives by insurers and hospital systems. Physician leadership is under assault as never before.

This is precisely why it is so important that each of you is here tonight. You are the physician leaders in our community.

You are the leaders who will advocate for reimbursement reform that is fair and sustainable for patients and providers.

You are the leaders who will represent our trainees and the future of our profession.

You are the leaders who will promote tort reform in our state and our nation.

You are the physician leaders who will make sure that health care is accessible to our patients and our community.

As I tell the students who come through our practice, medicine remains a noble profession. We do a little good every day, and over the course of a career it really adds up.

Patient by patient and colleague by colleague, we can spread our influence a little each day. Working together we can preserve that which is best in American medicine.

St. Louis is fortunate to have a rich 175-year history of medical leadership. As you will see tonight, that history continues with the incoming officers and councilors of the St. Louis Metropolitan Medical Society.
Biography Robert McMahon, JD, MD

SLMMS President 2012

Practice
Gastroenterology, St. Louis
Gastroenterology Consultants, PC
Co-founder, South County Outpatient Endoscopy Services (SCOPES)

Board Certification (ABIM)
Gastroenterology
Internal Medicine

Education
B.A., University of California, San Diego
J.D., University of California Hastings College of the Law
M.D., Washington University Internship and residency, Barnes-Jewish Hospital
Gastroenterology fellowship, University of Arkansas Medical Sciences

Hospital Staff Appointments
St. Anthony’s Medical Center
SSM St. Clare Health Center
Des Peres Hospital
Missouri Baptist Medical Center

SLMMS/MSMA Service
SLMMS:
- Vice President, 2010
- President-Elect, 2011
- Chair, Physician Grievance, 2010
- Chair, Finance & Endowment, 2010
MSMA:
- House of Delegates speaker, 2009-2010

Professional Specialty Memberships
Fellow, American College of Gastroenterology
Fellow, American College of Legal Medicine
American Society for Gastrointestinal Endoscopy

Academic Appointments
Assistant Clinical Professor, Saint Louis University School of Medicine
Clinical Instructor, Washington University School of Medicine

Other
Vice President, Washington University Medical Center Alumni Association Executive Committee
Licensed attorney in Missouri and California

From left, family friend Colleen Coburn, daughter Natalie McMahon, Dr. McMahon, Bobbi Rapley.

At a 2006 site tour with former state Sen. Harry Kennedy, right. Others from left are Michael Ladevich and medical student Megan Nakashima.

On a 2010 Alaska trip, near Sheridan and Sherman glaciers.
SLMM: Tell us about your practice.

Dr. McMahon: St. Louis Gastroenterology Consultants is a single-specialty private practice with five physicians providing general GI care. I also helped to found South County Outpatient Endoscopy Services (SCOPES) where we perform endoscopy, colonoscopy and other services.

SLMM: Why did you choose to go into medicine? Why did you choose gastroenterology?

Dr. McMahon: Originally I went to law school and practiced law in California for 11 years. However, I was a chemistry major in college and always had the notion that medicine was what I really wanted to do if I had the chance. In medical school I became drawn to gastroenterology after rounding with a GI fellow who was quite talented and really enjoyed what he did. I was impressed by the diagnosis and therapy he provided, such as finding and removing a potentially cancerous polyp. I am very fortunate to have been admitted to medical school, let alone a great medical school.

SLMM: Tell us about your family.

Dr. McMahon: I have a daughter Natalie who is a paralegal in St. Louis. I’m very proud of her.

SLMM: What are your hobbies and interests?

Dr. McMahon: Many are technical and creative in some way. I enjoy sailing and astronomy, as well as cooking, amateur painting and manipulating digital photos. Since I was a kid I’ve worked with radio-controlled model airplanes. I like to travel but am limited due to the time constraints of practice.

SLMM: What accomplishments are you most proud of?

Dr. McMahon: I’m proud of my daughter and what she’s done. I’m proud of getting into medical school, completing the training to be a gastroenterologist, and my role in the formation of SCOPES. I’m also proud of being able to make a difference for my patients.

SLMM: What are your goals and priorities for SLMMS this year?

Dr. McMahon: Personally, I would like to see us make progress in the area of lawsuit reform. Also, I would like to see the Society develop more continuity by establishing specific measures that we want to achieve from year to year.

SLMM: What is your biggest concern about the future of health care?

Dr. McMahon: The cost of health care is becoming prohibitive and access to health care could become impossible for many people. The cost of practice could cause many physicians to retire or discourage people from going into medicine. One of the growing costs without benefit is defensive medicine due to lawsuits. I would like to explore the idea of alternate remedies similar to the special courts now in place for workers’ compensation, tax court, family law and bankruptcy. Judges knowledgeable and dedicated to the field make the decisions with known guidelines rather than juries. With the jury system today, we have something that provides a punitive and adversarial atmosphere.

SLMM: What is the role of the local Medical Society in supporting physicians and advocating for medicine?

Dr. McMahon: The Medical Society is the voice of the physician in advocating for our common concerns. As individual physicians, we also have a responsibility to speak up for medicine with our patients. The Medical Society is where you can meet physicians outside your narrow specialty or place of practice and gain a better understanding of our common needs.

SLMM: What would you ask individual physicians to do this year to support the Medical Society?

Dr. McMahon: One, join the Medical Society. Two, tell the leadership of the Medical Society what you want. Three, let your patients know your concerns about the future of medicine.
SLMMS members and guests joined on Jan. 14 to celebrate the installation of SLMMS 2012 leadership including President Robert McMahon, MD, and the other officers and councilors. Installing official was Missouri State Medical Association President P. Gary Pettett, MD, from Kansas City. Congressman Todd Akin and his wife, Lulli, attended the pre-dinner reception. Orthopedic surgeon Richard Hollocher, MD, received a lifetime achievement award.
New President Robert McMahon, MD, right, shakes hands with new Vice President Joseph Craft III, MD, President-Elect David Pohl, MD, is at center.

John Marino, MD, SLMMS 2010 President Sam Hawatmeh, MD; Thomas Greco, MD; David Stansfield, MD.

SLMMS Alliance members Angela Zyka, Nancy Marino, Millie Bever, Sue Ann Greco, Claire Applewhite.

SLMMS past President Elie Azrak, MD, and his wife Karin, and SLMMS 2012 Treasurer Jay Meyer, MD.

Installing officer Missouri State Medical Association President P. Gary Pettett, MD.

SLMMS 2011 President Thomas Applewhite, MD, and his wife, Claire; and Lulli and Congressman Todd Akin.
Medical Society Welcomes 2012 Leadership

First- and second-year SLMMS councilors and their guests/spouses, from left, Barbara Hawatmeh and her brother Councilor Salim Hawatmeh, MD; Amy Cabbabe, MD and Councilor Samer Cabbabe, MD; Jill and Councilor Brian Peterson, MD; Hiba and Councilor Bashar Safar, MD.

Councilor Robert Brennan, MD, and his wife, Joan.

Harry and Ilona Stadnyk; Cheri Stadnyk and her husband SLMMS Secretary Michael Stadnyk, MD; Barry Highbloom, MD.

SLMMS Councilor Jessica Smith, MD, right, and her husband Adam Pratt.

President Robert McMahon, MD, third from left, and his St. Louis Gastroenterology Consultants partners, Picha Moolsintong, MD; James Dimitroff, MD; and Tomothy Brady, MD. Also serving with the practice is Sajid Ansari, MD.