



## BREAKING NEWS

MAY / JUNE 2004

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# Battista Out At Blue Cross

## ABRUPT TERMINATION ENDS 34-YEAR CAREER; PURCELL IS ACTING CEO

MAY 7- Ron Battista yesterday resigned his long-time position as president of Blue Cross and Blue Shield of Rhode Island.

The sudden departure appears to have been prompted by his and the Blue Cross board's sense of diminishing options, the shared instinct

for self-preservation, and their awareness that still more unwelcome chickens would be coming home to roost in the coming days. (The *Journal's* May 8 headline announcing Battista's ouster shared the front page with new revelations of improprieties by Blue Cross' CEO.)

The Battista story broke just as *RI Medical News* was going to print. For more information and updates, visit [www.rimed.org](http://www.rimed.org).

## RIMS Hosts Press Conference

# RI Health care organizations unite in call for changes at Blue Cross

The doctors, nurses, social workers, dentists, podiatrists, psychologists, physical therapists, chiropractors and optometrists of Rhode Island stood together at the Rhode Island Medical Society on April 28 and called for the resignation or removal of the CEO of Blue Cross and Blue Shield of RI, and reorganization of the company's board of directors.

Speaker after speaker at the RIMS-organized press conference spoke of threats to the quality and availability of patient care and called Blue Cross' current leadership "an obstacle to change."

Representatives of each professional group spoke of the need to move ahead and pledged their commitment to working with a revitalized, redirected, and refocused Blue Cross under new leadership.

Speakers emphasized the substantial disadvantage in which Rhode Island has placed itself nationally and blamed an entrenched "culture of disrespect" at Blue Cross. Speakers held senior management responsible for this culture and said that the company's board of directors has condoned it through inaction.

Six hours after the RIMS' press conference concluded, the Blue Cross board of directors issued a statement of support for their



RIMS President Tilak K. Verma, MD, MBA answered a wide range of questions during the conference.

CEO. A RIMS spokesman responded immediately on the Dan Yorke radio show, expressing disappointment that the board would override a vote of no confidence by more than 7,000 health professionals, and pointing out that without those professionals, Blue Cross has no product to sell.

Asked the same day if he thought Mr. Battista should resign or be removed, Governor Carcieri said it was up to the Blue Cross board. In the next breath he chided the board for "not doing their jobs."

By Thursday, April 29, a Providence *Journal* on-line poll showed 82% of 402 respondents agreeing that the Blue Cross CEO should resign.



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**EDITOR**

Newell Warde, PhD

The Rhode Island Medical Society was founded in 1812 to promote the art and science of medicine. RIMS is the eighth oldest state medical association in the country.

In cooperation with the Brown University School of Medicine, Rhode Island Quality Partners, Inc., Rhode Island Chapter of ACP/ASIM, and the Rhode Island Department of Health, the Society also publishes a monthly magazine, *Medicine and Health Rhode Island*.

*Why, man, he doth bestride the narrow world  
Like a Colossus, and we petty men  
Walk under his huge legs and peep about  
To find ourselves dishonorable graves.*

- Caius Cassius in *Julius Caesar*

**Letter From The President:**

Tilak K. Verma, MD, MBA

**In the thick of it**

We are in the thick of it now. A lot is happening.

For those who can connect the dots, the hand of the Rhode Island Medical Society — your Medical Society, I should say — has been apparent in the front-page headlines almost daily over the past five months. We must still see to it that the current turmoil results in meaningful and lasting relief for Rhode Island doctors and assures good access to care for Rhode Island patients.

The Society remains tenacious in its pursuit of regional parity in reimbursement as well as insurance reform, liability reform and antitrust reform.

**Insurance reform**

In promoting this comprehensive agenda, RIMS has tenaciously directed the attention of the public and the General Assembly to the contradictions and disparities that affect all Rhode Islanders — high premiums, low reimbursements and a single dominant payer that has controlled the system.

These are key elements of the “perfect storm” that David Etensohn spoke about so eloquently when he was the President of the Medical Society.

A year ago, we created PPACC (Protecting Patients’ Access to Care Coalition) as a vehicle to fund our campaign of advertising, public relations and legislative advocacy.

Many physician organizations contributed generously to that common effort last year and have stepped forward again this year, because our work is obviously not finished.

We are reinforcing our series of newspaper and radio advertising this year with several new components of outdoor advertising, using billboards, bus shelters and door hangers.



**RIMS President** Tilak K. Verma, MD, MBA, sees an opportunity for the Society to influence long-term health care reform in Rhode Island.

We are grateful to the Brown medical students who have helped us walk the neighborhoods and distribute the door hangers.

You may remember that last year’s series of RIMS newspaper advertisements included the now-famous “shell game” ad that everyone loved so much.

We are still experiencing the impact of that powerful ad. When it first appeared last June, RIMS was the only one to take on Blue Cross’ “87 – 10 – 3” campaign. We did it with that “shell game” ad, which was also how we finally caught the imagination of certain investigative journalists.

A direct result was Steven Stycos’ masterful exposés, which appeared in the *Providence Phoenix* on October 3 and December 19, and the *Providence Journal’s* on-going research, which I am sure you have been following with interest ever since their watershed editorial of November 24.

That’s how the dots connect.

Mission accomplished? By no means. We are pressing ahead for regional parity in reimbursement and full transparency in the way health insurance companies determine rates, reserves and the premiums, as well as liability reform and antitrust reform.

Toward those ends, Dr. David Carter, Dr. Kathleen Fitzgerald and I testified on your behalf before the Permanent Joint Committee on Health Care Oversight on February 23. The white paper we developed for that occasion has been widely read and well received.

CONTINUED ON PAGE 14 **RIMS PRESIDENT ►**

# General Assembly leaders propose legislation to make Blue Cross more responsive

## RIMS HAS BEEN INVOLVED FROM THE BEGINNING

State legislators have announced new legislation which they say is intended to:

- Strengthen state oversight of Blue Cross and all health insurers.
- Prohibit compensation for Blue Cross board members
- Establish a code of ethics at Blue Cross
- Prohibit Blue Cross executives from benefiting if the company is sold.
- Establish a health insurance commissioner position at the dept. of Business Regu-

lation which will regulate insurers and oversee rate increases.

The announcement came from the Permanent Joint Committee on Health Care Oversight following three months of intensive meetings and discussions with representatives from all sectors of RI's health care industry.

RIMS leadership had appeared before two General Assembly committees to present information and testimony in support of key health care legislation.

In late February, RIMS leaders spoke before the Health



Medical Society representatives testify before the Joint Legislative Committee on Health Care Oversight in February at the RI State House.

Care Oversight Committee.

The complete text of the RIMS president's prepared remarks are reprinted in this issue of *RI Medical News*.

More recently, a large entourage of RIMS physicians

were on hand at the State House to speak before the House Judiciary Committee in support of liability reform (House Bill 7850).

**RIMS Testimony**  
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## RIMS FOCUS

# Why are professional liability rates rising so fast in Rhode Island?

## CAUSES AND SOLUTIONS

Rhode Island's medical liability experience is more adverse than the national average because the state's legal and cultural climate for liability is much worse than the national average. Nationally, according to the U.S. General Accounting Office (GAO), total direct paid losses in medical liability increased by some 40% from 1997 to 2001 (corrected for inflation), while direct incurred losses doubled during the same period.

### Losses are way up

These adverse trend curves became significantly steeper starting about 1999, both nationally and in Rhode Island. Insurers' total actual annual paid losses have more than tripled in Rhode Island since the year 2000, with 2003 being the most expensive year in history for paid losses in medical liability in the Ocean State. Moreover, the incurred loss curve continued to accelerate even faster and higher than the paid loss curve.

Both nationally and in Rhode Island, the size of settle-

CONTINUED NEXT PAGE **LIABILITY** ►

# Governor Carcieri meets RIMS members over 'Breakfast'

## GOVERNOR SHOWS HIMSELF TO BE INFORMED, RECEPTIVE

Rhode Island Governor Carcieri talked with about 85 physicians for nearly 90 minutes at a "working breakfast" organized by the Rhode Island Medical Political Action Committee (RIMPAC) on March 31.

The wide-ranging discussion reflected general agreement between physicians and the Governor on what the problems are: flat and uncompetitive reimbursement levels, powerlessness of medical practices to control either revenue or expenses, sharp increases in physicians' overhead, soaring costs of a deeply flawed and wasteful liability system, excessive bureaucratic burdens, fragmentation and inefficiencies in the health care system.

Except in the area of liability reform, solutions were harder to agree upon. The



Governor Carcieri answered questions from a full-house of Medical Society members and guests.

value of somehow encouraging greater competition among health insurers was questioned by some physicians, one of whom asserted that competition based on "how low can you go" in reimbursing doctors is ultimately to blame for the enormous regional disparities that now threaten Rhode Island with a "brain drain" in medicine.

The inability of physicians collectively to influence the behavior of insurers was seen as a key underlying problem. "The pendulum has swung too far one way," Carcieri said.

CONTINUED ON PAGE 6 **GOVERNOR**

ments and awards, rather than their frequency, accounts for most of the upward trend; frequency of lawsuits is actually lower in Rhode Island than in most of the rest of the nation.

Defense costs are also skyrocketing. Two recent cases tried in Rhode Island cost some \$150,000 each, just for defense costs.

Certainly, factors other than defense costs, paid losses and incurred losses have contributed to rising liability premiums for doctors in Rhode Island and elsewhere. However, the GAO, the National Association of Insurance Commissioners and other highly credible authorities have strongly refuted allegations from trial attorneys that premium increases primarily reflect insurance industry-wide misfeasance or malfeasance, rather than actual claims experience.

### Prejudgment interest is badly out of balance in Rhode Island

The rate at which prejudgment interest accrues is fixed by Rhode Island state law at the excessive level of 12% per annum. Because it provides plaintiffs with a strong disincentive to settle in a timely manner, Rhode Island's exorbitant prejudgment interest rate is a significant driver of costs.

High prejudgment interest explains why plaintiff attorneys typically wait until the statute of limitations has almost expired before they file suit, then drag out the discovery process as well.

Ideally, prejudgment interest should be tied to an economic indicator so that the interests of plaintiffs and defendants in arriving at a timely settlement are balanced.

At the very least, prejudgment interest should be reduced to a more reasonable rate.

**Solution:** RIMS supports lowering the prejudgment interest rate overall and applying different rates as an incentive to expedite the legal process rather than retard it.

### The sky is the limit on settlements and awards: RI's "anti-cap"

Not only past loss experience but also lack of future predictability and the potential for upward volatility in settlements and awards helps to drive premiums upward.

Nationally, settlements and awards are becoming less predictable. Rhode Island has two problems that increase the potential for unpredictability high awards. One of these problems is unique to the Ocean State.

The elements of a settlement that can be objectively quantified (e.g., lost wages, future earnings, loss of homemaker services, unreimbursed medical expenses, etc.) are by definition fairly predictable and are known as "economic damages."

In contrast, non-economic damages (e.g. "pain and suffering") defy objective measurement. While non-economic

damages can be one component of a just and fair settlement or jury award, reasonable and predictable limits or "caps" should be placed on these subjective components. Nineteen states currently impose such caps; Rhode Island is not among them.

But Rhode Island has an even bigger problem. A 1999 Rhode Island Supreme Court case rendered liability insurance policy limits irrelevant, even when the insurance company is acting entirely in good faith.

This extreme precedent exposes liability insurers to unlimited losses and severely weakens their position in any settlement negotiation.

If the case goes to trial, the company is liable for whatever the jury may award, regardless of the policy limit. This exorbitant potential for upside volatility in excess of policy limits is a radical and unacceptable feature of the Rhode Island tort system.

**Solution:** RIMS supports capping awards for non-economic damages ("pain and suffering") at a reasonable level and re-establishing the relevance of policy limits when insurance companies act in good faith.

### Rhode Island's statute of limitations is less effective than it should be

The statute of limitations, nominally 3 years, is full of holes and out of step with what other states do.

Two simple changes would significantly enhance the predictability and reduce the volatility of the liability system without unreasonably limiting plaintiffs' rights.

**Solution:** RIMS supports reducing the pediatric exception from 18 years to 8, and the late discovery exception from 3 years to 1.



**Bus stop signage** (as pictured above on a street near the state capital) and informational door hangers (at right) have been two of the many components in the RIMS grassroots campaign to raise public and legislative awareness on medical liability issues during the current General Assembly session.



## In The Courts

Besides the General Assembly, the RI Medical Society is now looking to the courts in various venues to address abuses of the health insurance industry.

These aggressive new steps came in response to the industry's demonstrated intransigence, particularly on the part of RI Blue Cross, as underscored by two events in 2003.

The first was BCBSRI's closing off of communications at all levels with RIMS for most of the calendar year.

The second was the failure of the BCBSRI Board to respond to a constructive letter that was sent by RIMS to each Blue Cross board member on Sept. 4, 2003.

### RICO class action suit against the Blues

In January 2004, RIMS became a named plaintiff in a new class action suit in which Blue Cross & Blue Shield of Rhode Island and other Blues affiliates across the country are named as defendants.

The suit alleges fraud and conspiracy in violation of the RICO Act (Racketeer Influenced and Corrupt Organizations Act) and various other federal laws.

Specifically, the complaint alleges that the defendants:

- (a) used cost-based or other actuarial criteria unrelated to medical necessity to approve or deny claims;
- (b) systematically denied valid claims;
- (c) systematically manipulated CPT codes in standard claim forms in order

to improperly change the code assigned to a particular service to a less expensive one;

(d) systematically manipulated CPT codes in standard claim forms in order to improperly combine the codes of two or more procedures into one;

(e) systematically refused to properly recognize modifiers; and

(f) systematically delayed payments by pending claims and through calculated understaffing.

### RIMS endorses anti-trust class action suit against Blue Cross of RI

On December 1, 2003, the Council of the Rhode Island Medical Society voted to endorse a class action against Blue Cross & Blue Shield of RI for violations of antitrust law. (See story below)

### RIMS signs onto the RICO settlements against Aetna and Cigna

By votes of the Council, the Medical Society became a signatory to the landmark Aetna settlement in Sept. 2003 and has now become a signatory to the similar Cigna settlement.

Being a signatory enables RIMS to enforce the terms of both settlements for the benefit of physicians in Rhode Island.

### Doctors move to take on the RI Blues in court

A group of Rhode Island physicians and attorneys is developing an antitrust law-

suit against Blue Cross & Blue Shield of Rhode Island. The work and planning started in late 2002.

The goal of the suit is to provide permanent assurance that Blue Cross' payments to RI health care professionals will be consistent with regional norms.

Empirical evidence shows that RI doctors are paid substantially less than their peers in Connecticut, Massachusetts, New Hampshire and Maine. At the same time, RI health insurance is among the highest in the country.

The discrepancy between the high cost of insurance and exceptionally low reimbursement to professionals has made physician recruitment and retention more difficult in RI than in the rest of New England.

The organizers of the litigation believe that Rhode Island's exceptional situation reflects a monopolist's abuse of both purchasing power and selling power. Physicians, as both purchasers of health insurance and providers of medical services, are doubly harmed. Organizers of the suit believe the time is now for permanent change.

Licensed RI physicians will receive a mailing signed by a number of doctors who support the suit. The suit will only go forward if a large number of doctors participate.

The organizers of the suit welcome additional contacts from physicians who want to participate in the formal announcement and endorsement. Interested physicians may contact attorney Don E. Wineberg (331-5700; [dwineberg@cm-law.com](mailto:dwineberg@cm-law.com)) for information.

*Below is the full text of RIMS' endorsement of a class action against Blue Cross Blue Shield of RI, as voted by the RIMS Council on December 1, 2003.*



The Rhode Island Medical Society endorses efforts to establish that Blue Cross & Blue Shield of Rhode Island illegally expanded its monopoly power in violation of federal and state antitrust law in the 1990's and continues to abuse this power illegally, resulting in substantial and continuing harm to patients, employers, physicians and institutions in Rhode Island.

The Society endorses these efforts for three reasons.

First and foremost, the theories of the case against Blue Cross are compelling and important, and they deserve to be tested in a court of law.

Second, the litigation being proposed has a reasonable prospect of stimulating positive changes, ending current abuses and preventing future ones.

Finally, the team of attorneys involved in this effort is comprised of experienced, reputable and skilled individuals who are highly regarded in this community.

# Does RIMS have your current e-mail address?

Electronic mail has become the most important means by which RIMS communicates with Society members. If you use e-mail, but have not received e-mail notices from RIMS in recent months, please e-mail your address to Maureen Murphy, [mmurphy@rimed.org](mailto:mmurphy@rimed.org) as soon as possible.

E-mail is now RIMS' most essential tool for information and advocacy. RIMS uses e-mail sparingly to provide timely information for your practice, to alert you about critical events in the General Assembly and in Congress, and to highlight important developments locally.



## FOR EXAMPLE:

- Early this year we sent a series of informative e-mails to help members navigate the rocky transition to Arkansas as Medicare Part B Carrier.
- We used e-mail to announce the now famous Massachusetts study on regional payment inequities.
- We made available to our members the seminal exposé on Blue Cross by investigative journalist Steve Stycos as soon as it appeared in the *Phoenix* last fall.
- We are using e-mail to generate hundreds of well-timed and effectively-targeted grassroots contacts from physicians with their own legislators at critical junctures in the legislative process.
- E-mail helped us organize the successful State House rally last year.
- In February, we used e-mail to generate over 400 physician responses to a survey about the Rhode Island practice environment. (See report elsewhere in this newsletter.)

RIMS will not give your e-mail address to others without your permission, nor will we use it for other than important matters. *Thank you!*



**Campaign Trail** - L. Anthony Cirillo, MD, (left) and Rhode Island Lt. Governor Charles J. Fogarty were key figures in RIMS 'Campaign School' held last fall at the Society's conference center. The Campaign School attracted a large audience RIMS members and others interested in running for the RI General Assembly. Dr. Cirillo, Chair of the RIMS Political Action Committee (RIMPAC) hosted the day-long seminar which featured state legislators and campaign strategists including Fogarty. The keynote speaker for the event was US Congressman Honorable Charles Norwood (R-GA).

## GOVERNOR (continued from page 3)

Physicians expressed concern to Carcieri that Rhode Island does not have much time to make the meaningful changes required to stem the accelerating erosion of patient access and professional morale in RI.

Mr. Carcieri made two announcements. He has brought a new health care consultant, Charles Donahue, into his administration.

In addition, he said would unveil his own medical professional liability reform package in a press conference on Friday, April 2.

Mr. Carcieri expressed optimism about the role technology could play in reducing health care costs and enhancing patient care by promoting such things as centrally accessible electronic medical records.

He suggested that federal funds may be available to help Rhode Island become a leader in this area.

RIMPAC Chair L. Anthony Cirillo, MD, presided at the gathering and re-

minded physicians of the importance of being involved in the political process.

The Governor later underscored the point, telling physicians they "have an obligation professionally to make yourselves heard."

Howard Schulman, MD, who is running for the General Assembly in House District 3 on Providence' East Side, participated in the discussion with the Governor and distributed campaign materials to those present.

Dr. Schulman is one of at least three physician graduates of the Medical Society's "Getting Elected 101" Campaign School last fall who are actively preparing a run for public office.

RIMS President Tilak K. Verma, MD, MBA, opened and closed the session.

He thanked Governor Carcieri for his attention to health care and for the open and productive working relationship he and his staff maintain with the Rhode Island Medical Society.



A Letter From Patricia A. Nolan, MD, MPH  
Director of Health

## RI physicians to receive unique workforce study

By early April, all physicians licensed to practice in Rhode Island will have received a survey from Harris Interactive. The purpose of the survey is to develop a clear picture of medical practice in Rhode Island, with an emphasis on the demand for physicians. I personally urge each of you to respond to this survey.

Many will recall the concerns physicians had with the initial SHAPE study published in 2002. That study was based on existing data, largely the licensure database, with very limited electronic information about physician practice patterns. We all felt that it over-stated the availability of physician services and under-stated the problems of recruiting and retaining physicians.

As a part of SHAPE Phase II, a panel of physicians and I have worked closely to create a survey that seeks answers to the many questions raised. The panel is committed to a thorough analysis and public discussion of the findings. We believe there will be important policy and practice implications in what we discover about the supply of physicians and the climate of practice in Rhode Island.

We need your participation, and that of your colleagues, to help us uncover these important findings. You can be confident that the raw data from your questionnaire will be kept **strictly confidential** by Harris Interactive and Booz Allen Hamilton. It will not be available to the panel, to SHAPE, to Blue Cross & Blue Shield of RI, or any other entity. The data will only be shared at the aggregate level.

Please complete your packet and return to Harris Interactive for compilation. For your convenience, you will also have the option to respond to the survey electronically. Detailed instructions for completing and submitting the survey are included in the survey packet.

Thank you for helping in this important effort to understand the medical practice baseline in Rhode Island, a critical step toward improving statewide medical practice and patient care.

Patricia A. Nolan, MD, MPH  
Director, RI Department of Health

## RIMS Notes



### Poster competition finals

The nationwide tobacco education project known as *Tar Wars* held a judging on Saturday, May 8 of Rhode Island entries in their annual poster art competition.

Artwork from fifth-grade students across the state was viewed by a panel of celebrity judges at the carousel in Roger Williams Park. The challenge for the contest was to promote health and non-smoking.

The overall winner in the TAR WARS poster competition was Nathan Michaels from Lippitt Elementary in Warwick.

This year's panel of judges included: Barbara Morse Silva, Channel 10 News; Lt. Governor Charles Fogarty; Laurie Johnson, WPRO Radio; Dr. Fredric V. Christian, RIMS President-elect; and Dr. Richard "Woody" Smith, President of the RI Chapter of the American Academy of Pediatrics (AAP).

*Tar Wars* is co-sponsored by RIMS, the RI Academy of Family Physicians and the RI Chapter AAP. For more information and pictures, visit [www.rimed.org](http://www.rimed.org).



TAR WARS winner Nathan Michaels (above center) from Lippitt Elementary in Warwick displays artwork with runners-up Jennifer Smith (left, Horgan School, W. Warwick) and Brittany Thurman (Pennfield School, Portsmouth). Below, Dr. Michael Migliori was among the RIMS personnel who helped make the hundreds of helmets fit just right.



### RIMS distributes safety helmets

RIMS staff and doctors were busy again this May with their annual distribution of children's bicycle safety helmets and other safety related items. The helmet giveaway was part of a morning of child safety events and programs at the carousel in Roger Williams Park.

RIMS worked with the RI Academy of Family Physicians and other organizations to purchase hundreds of safety helmets and safety equipment for RIte Care kids. This year, the safety program also included gun safety literature and trigger locks.

### Traveler's Aid needs more volunteers

The Traveler's Aid Medical Van needs physicians, nurses and other health care professionals. The van serves the shelters in Providence and around the state on a rotating basis. Needed are health care professionals who can volunteer one evening a month from 6:30 to 9 PM.

The medical care provided is generally low-tech and involves providing comfort to people who are otherwise without access to care and may have respiratory or simple musculoskeletal complaints. Conditions that need more thorough medical or social intervention are referred to the Traveler's Aid Clinic on Union Street.

There are more homeless in RI now than at any time in the state's recent history, a reflection of the poor economy, increased housing prices, and limited institutional capacity.

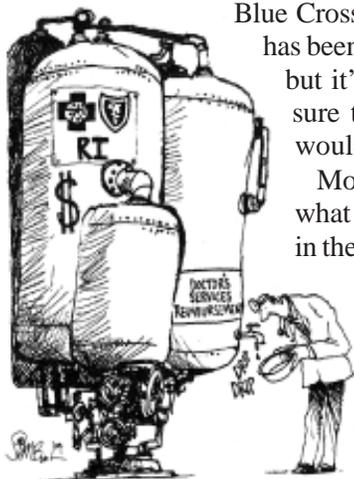
For more information, contact Michael Fine, MD ([m1fine@aol.com](mailto:m1fine@aol.com)) or Linda Dziobek ([ldziobek@travelersaidri.org](mailto:ldziobek@travelersaidri.org)). Donations to Traveler's Aid can be sent to 177 Union St., Providence, RI 02903, attn: Jan Hall Stinson.

# On The Trail Of Blue Cross

**DOCTORS, CUSTOMERS, STATE LEGISLATORS - AND NOW THE GOVERNOR - ARE SCRUTINIZING BLUE CROSS'S FREE REIGN IN RHODE ISLAND**



Jim Bush, Editorial Cartoonist for The Providence Journal.



Blue Cross & Blue Shield of Rhode Island has been getting a lot of attention recently, but it's probably not the kind of exposure their new public relations team would hope for.

Most Rhode Islanders are learning what doctors and health care providers in the state have known for a long time:

Blue Cross has systematically alienated users and providers in our health care system, while at the same time building up cash reserves and spending lavishly on their board members and inner circle executives.

Physicians in RI have watched Blue Cross steadily build a virtual health insurance monopoly. In fact, Rhode Island is last among all 50 states for having the least competitive health insurer market. Blue Cross controls almost 75% of the commercial health insurance business in the Ocean State - the most disproportionate health insurance marketplace in the U.S..

From their position of market dominance, Blue Cross has operated with impunity, raising premiums for customers and freezing physician reimbursement rates to such an extent that Rhode Island is currently tied with Mississippi for having the lowest overall reimbursement rates in the country.

A study by the Massachusetts Medical Society revealed that Providence has reimbursement schedules

The headlines here are a sampling of Providence newspaper stories during the past seven months. This time line shows an increase in public and legislative attention following investigative articles about Blue Cross in October and November of 2003.



**Articles & Editorials**



**Letters To The Editor**

By March, stories questioning Blue Cross's questionable business practices had become one of the hottest topics in Providence newspapers, television and talk radio.

<p><b>Doctors-Blue Cross Rapport Has 'Never Been Worse'</b> PROJO Nov 14, 2003</p>	<p><b>Blue Cross Offers Rebate</b> PROJO Dec 18, 2003</p>	<p><b>RI Health Care System Ailing, Providers Say</b> PROJO Feb 24, 2004</p>	<p><b>Executive Pay At Blue Cross Stirs Debate</b> PROJO March 17, 2004</p>
<p><b>Blue Cross Does What It Wants</b> PROVPHOENIX Oct. 3 2003</p>	<p><b>Where's Our Rebate?</b> PROJO Jan 2, 2004</p>	<p><b>Blue Cross Changes</b> PROJO Feb 12, 2004</p>	<p><b>Where Was The Board?</b> PROJO March 19, 2004</p>
<p><b>What's Next For Blue Cross?</b> PROVPHOENIX Nov. 2003</p>	<p><b>Questions On Blue Cross</b> PROJO Nov. 24, 2003</p>	<p><b>RI Legislators Put Blue Cross under Their Microscope</b> PROJO Jan 2, 2004</p>	<p><b>Lynch Blasts Blue Cross's Give Back To Doctors And Hospitals</b> PROJO March 17, 2004</p>
<p><b>Let's Reconnect Blue Cross To RI</b> PROJO Letter Nov. 18, 2003</p>	<p><b>Health Insurance Companies In RI Are Fiscally Fit</b> PROJO Nov. 10, 2003</p>	<p><b>RI Billing Nightmare Is Making Doctors Ill</b> PROJO Feb 8, 2004</p>	<p><b>Blue Cross Fights Tax Proposal</b> PROJO March 18, 2004</p>
<p><b>Honest And Balanced Blue Cross Debate Needed</b> PROJO Letter Nov. 28, 2003</p>	<p><b>A Virtual Monopoly</b> PROJO Dec 30, 2003</p>	<p><b>Health Insurance Squeezes Wages</b> PROJO Jan 25, 2004</p>	<p><b>Blue Cross Created In Its Own Image</b> PROJO Letter Dec. 27, 2003</p>
<p><b>My 61% Blue Cross Co-Pay</b> PROJO Letter Dec 3, 2003</p>	<p><b>Mr. Battista Should Look In The Mirror</b> PROJO Letter Dec 24, 2003</p>	<p><b>Blue Cross Blue Shield-Bad Math</b> PROJO Jan. 3, 2004</p>	
<b>OCTOBER 2003</b>			
<b>NOVEMBER</b>			
<b>DECEMBER</b>			

which are significantly below those of similar cities in New England including Manchester, NH, Hartford, CT and Portland, ME.

It is safe to say that a large part of Rhode Island's health care community has learned the hard way, that Blue Cross has used its position of strength to further its own ends. Doctors have seen, first hand, a growing conflict between the Blue Cross which was originally chartered as a non-profit organization to serve the public's interest, and the Blue Cross which has become secretive and overly profitable.

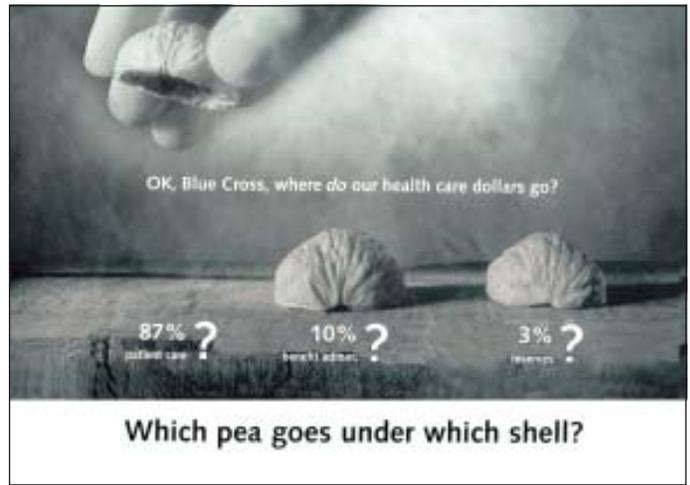
Blue Cross has continued to conduct business as usual - the Blue Cross way.

That is until six months ago, when the first in a series of investigative articles appeared in Providence newspapers, asking questions about Blue Cross business practices.

The Providence Phoenix was first to break the ice with an October front-page article. Steve Stycos's report titled, "*Blue Cross Does What It Wants.*" chronicled some of the behind-the-scenes Blue Cross business activities. Stycos raised the question, "Is Blue Cross more interested in strengthening it's franchise than serving the public good?"

The Stycos article was well researched, and it unearthed legitimate public concerns about Blue Cross - concerns that have led to sharp public criticism and legislative scrutiny of the state's largest health insurer.

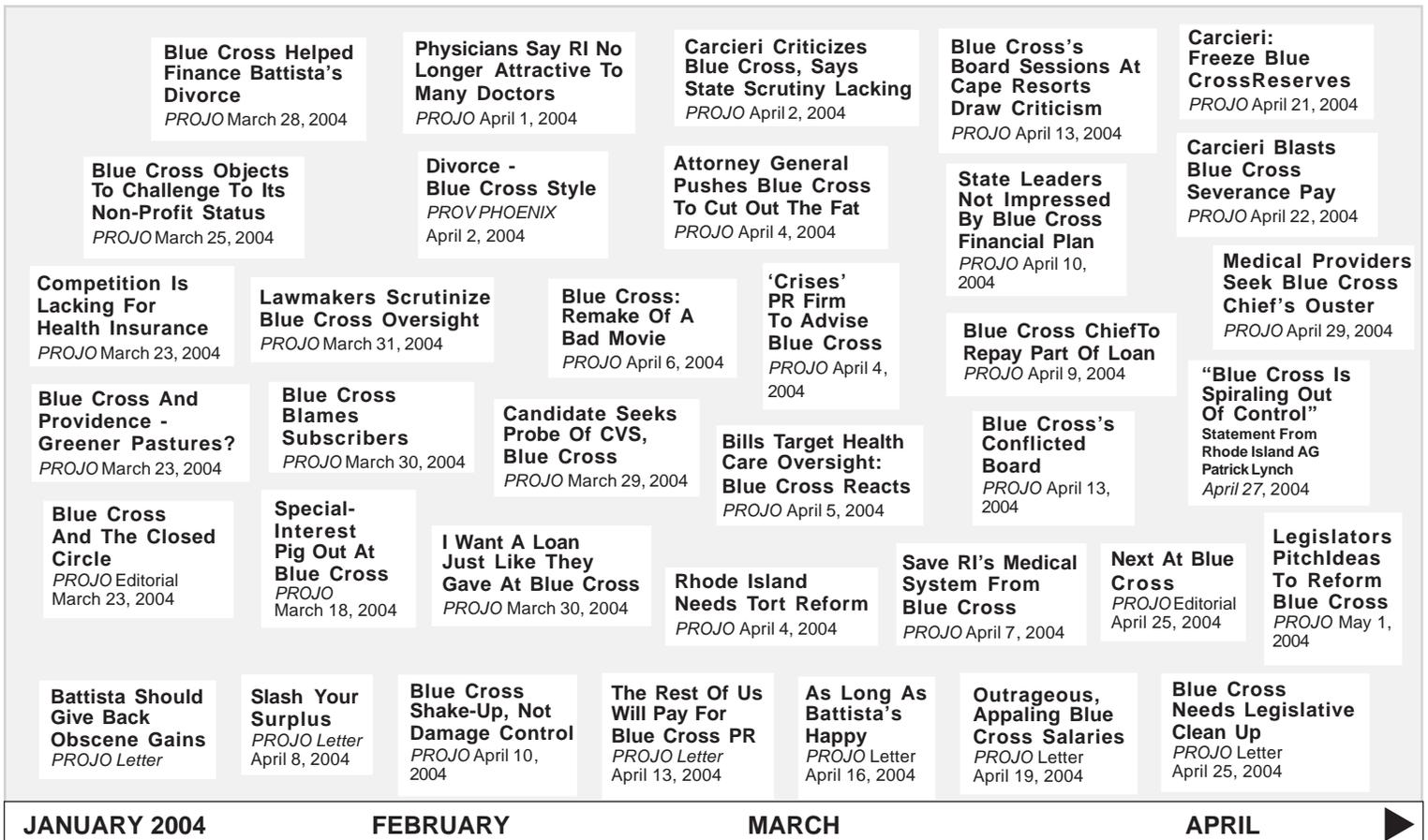
The Rhode Island Medical Society has been involved throughout the daunting process of getting Blue Cross to be more accountable to the public.



The ad that started it all: RIMS' "shell game" poster questioned Blue Cross's accounting of revenue from customer premiums.

The timeline below features a collection of newspaper headlines which illustrate the progression of media and legislative attention to the Blue Cross issue over the past six months. Reviewing the headlines over the past year and beyond, it is clear that it was business as usual for Blue Cross up until October of 2003. From that point, with the *Phoenix* articles, and the groundbreaking *ProJo* editorial "*Questions On Blue Cross*" in November, the flood gates started to open. More information came to light - and more questions.

What ever headlines lie ahead, it is clear the days of Blue Cross operating autonomously in Rhode Island are over. No more Blue Cross business as usual.



JANUARY 2004

FEBRUARY

MARCH

APRIL





## RIMS testimony before the Joint Legislative Committee on Health Care Oversight

Presented By RIMS President Tilak K. Verma, MD, MBA  
Rhode Island State House February 23, 2004

Mme. Chair, Mr. Chair,  
Members of the Joint Committee.

I am Tilak Verma, President of the Rhode Island Medical Society. I have 3 people with me today who will help me respond to your questions after my brief opening remarks.

On my left is Dr. Kathleen Fitzgerald. Dr. Fitzgerald is a gynecologist practicing in Providence. On my right is Dr. David Carter. Dr. Carter is a family physician practicing in Pawtucket. Finally, Newell Warde is with us. He is Executive Director of the Medical Society.

As for me, I am in a small private practice with two other doctors in Cumberland. We do pulmonology, critical care medicine and sleep medicine.

My prepared remarks today are brief, but there is a lot to say about where health care is going in Rhode Island. The Medical Society has therefore prepared a white paper for your reference. I believe the clerk has already distributed our white paper to you. Our white paper summarizes the problems we see and offers a number of positive steps that the General Assembly can take to address them.

It is worth noting that in Rhode Island right now, licensed health care professionals of *all* kinds share the same basic set of primary concerns. Medical doctors, osteopaths, dentists, nurses, podiatrists, psychologists, optometrists, chiropractors, physical therapists and social workers are all caught in the same squeeze right now. We are talking about some 7000 health care professionals in total.

These are the highly trained, hard-working individuals who are on the front lines of health care. In many ways, they *are* the health care system. They are the dedicated people you and I all depend on, the people who devote their lives to taking care of *patients* every day. And all of them are looking to the General Assembly this year for some important relief.

The great majority of these 7000 professionals practice their profession as participants in small businesses. Medical practices *are* small businesses. Like thousands of other small businesses in RI, they have payrolls to meet and overhead expenses, including salaries and benefits, and health insurance premiums to pay. Like other small businesses, medical practices are being hurt by the high and rising cost of health insurance. Another huge concern is the high and rising cost of liability insurance.

*Unlike* other small businesses, though, medical practices *cannot* pass on their overhead expenses. Why not? Because health insurance companies in this state are able simply to dictate to doctors how much they are paid for taking care of patients. The professionals can take it or leave it. They have no real choice. This has been true for many years.

Frankly, it is a business model that does not make a lot of sense. We have reimbursement levels that have been essentially flat for health care professionals in Rhode Island since 1991, while our overhead goes up and up and is currently accelerating through the roof.

We must recognize that we have a very special set of circumstances in Rhode Island, and we need to address them decisively and quickly.

Professional liability premiums are high and rising nearly everywhere in the country, including Rhode Island. ►



Health insurance costs are high and rising nearly everywhere in the country, including Rhode Island. Rhode Island is in the mainstream with regard to these two cost trends.

Where Rhode Island is *out* of the mainstream, — *far* out of the mainstream, — is with regard to what we pay to health care professionals. There, Rhode Island is in the deep cellar, both regionally and nationally. The disparities between RI and Connecticut, Massachusetts, New Hampshire and Maine are not subtle. They are huge and well documented. (I refer you to the bar graph on page 4 of our white paper.)

### **“The Rhode Island Penalty”**

The combination of high, mainstream overhead and exceptionally low reimbursement is what we call “the Rhode Island penalty.” The “Rhode Island penalty” is keeping young doctors from coming to Rhode Island to practice. It also demoralizes the 7000 professionals who are here taking care of patients every day.

Believe me, they are angry. What keeps them here in Rhode Island? The main answers seem to be family ties and inertia. That is what is holding much of the fabric of health care together in Rhode Island today: family ties, and the inertia of professionals who know they could move across the border to Massachusetts or Connecticut, or almost anywhere else in the country, and work less hard for a lot more money.

The good news is that there are things we can do. In particular, there are important, positive steps the legislature can take. In the “Solutions” section of our white paper, we name five actions the General Assembly can take to relieve some of the pressure that health professionals in Rhode Island are feeling:

#### **1. Reform the liability system**

We believe the system can be improved for the benefit of all parties by borrowing best practices from other states and enabling the system to work more quickly and fairly at lower cost.

#### **2. Revisit existing statutes and regulations governing Rhode Island health plans**

We recommend a review of laws and mandates that may be outdated or no longer relevant.

#### **3. Enhance insurer transparency and accountability**

We recommend that the state create a dedicated insurance regulatory agency and an independent, cabinet-level position for an Insurance Commissioner.

#### **4. Reorganize and redirect Blue Cross & Blue Shield of Rhode Island**

We recommend the state use its authority to reassert the public’s interest in a stable, transparent, accountable, non-profit health insurer.

#### **5. Pass the Health Care Fairness Act**

We recommend the passage of this act to enable professionals, under the supervision of the Attorney General and the courts, to sit across the table from payers and address problems in the system.

Let me conclude my prepared remarks on a personal note.

Back in 1981, when I was completing my training as a medical resident at Massachusetts General Hospital, I was lucky enough to have a world of options open to me as to where I would practice medicine. I chose Rhode Island. If I were a resident today, with loans and perhaps a young family, I would not be able to make the same choice in good conscience.

Mme. Chair, Mr. Chair, we thank you and members of the Joint Committee for your attention to these urgent matters. That concludes my prepared remarks. We are happy to respond to questions.



## RIMS Survey

# Physician survey documents RI's growing health care crisis

RIMS e-mailed a first-ever electronic interactive survey to some 1200 Rhode Island physicians in mid-February. More than 30% (413) of the recipients responded.

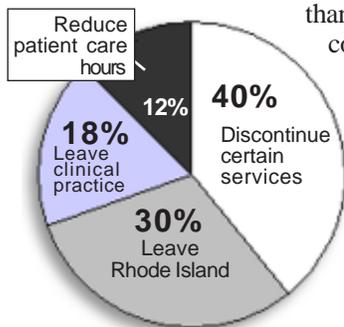
Comparisons between 2003 and 2004 survey results reflect physicians' deepening frustration with the Rhode Island practice environment. Asked "Compared to one year ago, how has the environment for medical practice in Rhode Island changed for you," 75% responded that it had "become worse," and 23% indicated that it had "stayed about the same," while 5% said it had improved.

Economic pressures and inequities lead doctors' list of concerns.

The single most important issue to Rhode Island physicians is "overall practice costs versus reimbursement" (71% of respondents ranked this as a top concern); second was "low commercial reimbursement rates" (69% of respondents ranked this as a top concern). "Administrative hassles with insurers" was a top concern for 58% physicians.

### Liability, health insurance costs lead physicians' practice concerns

Concern about the high and rising cost of liability insurance narrowly outstripped concern about the high and rising cost of health insurance. A year ago, the reverse was true: health insurance costs were a slightly greater concern than liability premiums. Both are major concerns to the great majority of physicians.



**Has the increase in your medical professional liability costs prompted you to consider OR to take any of the following actions?**

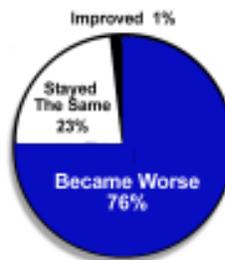
Compared with last year, the potential consequences for Rhode Islanders have become graver. This year, 40% of respondents indicated that extreme hikes in liability premiums had prompted them to discontinue or to consider discontinuing certain services, and 30% said liability costs have forced them to consider leaving RI.

Underscoring the accelerating decline in availability of medical services were physicians' perceptions of the state's medical workforce.

Asked "Does Rhode Island have an adequate number of physicians in your specialty to meet the needs of Rhode Islanders?" a remarkable 41% said "no."

In effect, these physicians are saying that they do not have enough competitors; this number is up significantly from an already substantial 34% a year ago.

An impressive 68% of responding physicians said they had experienced difficulty in recruiting other doctors to their



**Compared to 1 year ago, how has the environment for medical practice in RI changed for you?**

practice or hospital in the past 3 years.

Fifty-eight percent said they had experienced difficulty in retaining physicians in their practice or hospital in the past 3 years.

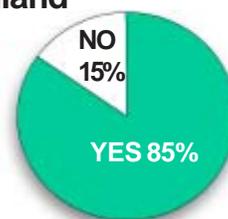
The numbers are roughly consistent with last year's survey. A clear majority of RI physicians have first-hand experience of the competitive disadvantage in which RI finds itself when it comes to attracting new medical talent.

Asked what steps they had taken or planned to take in response to rising costs and inadequate reimbursement, 20% said they were working longer hours. 15% said they had dropped or considered dropping participation in an insurance plan. 12% said they had or might cut salaries and/or benefits, and an almost equal number said discontinuing certain services was an option.

Asked "Do you support the creation of a Rhode Island Department of Insurance with authority to regulate premiums, reserves, reimbursement levels and contracts?" 82% answered in the affirmative.

### United Healthcare of New England

The survey appeared to confirm the special role of United Healthcare in enforcing the "Rhode Island penalty." 85% of respondents indicated they accept reimbursement from United.



**Do you currently accept reimbursement from United Healthcare?**

YES- 85% NO- 15%

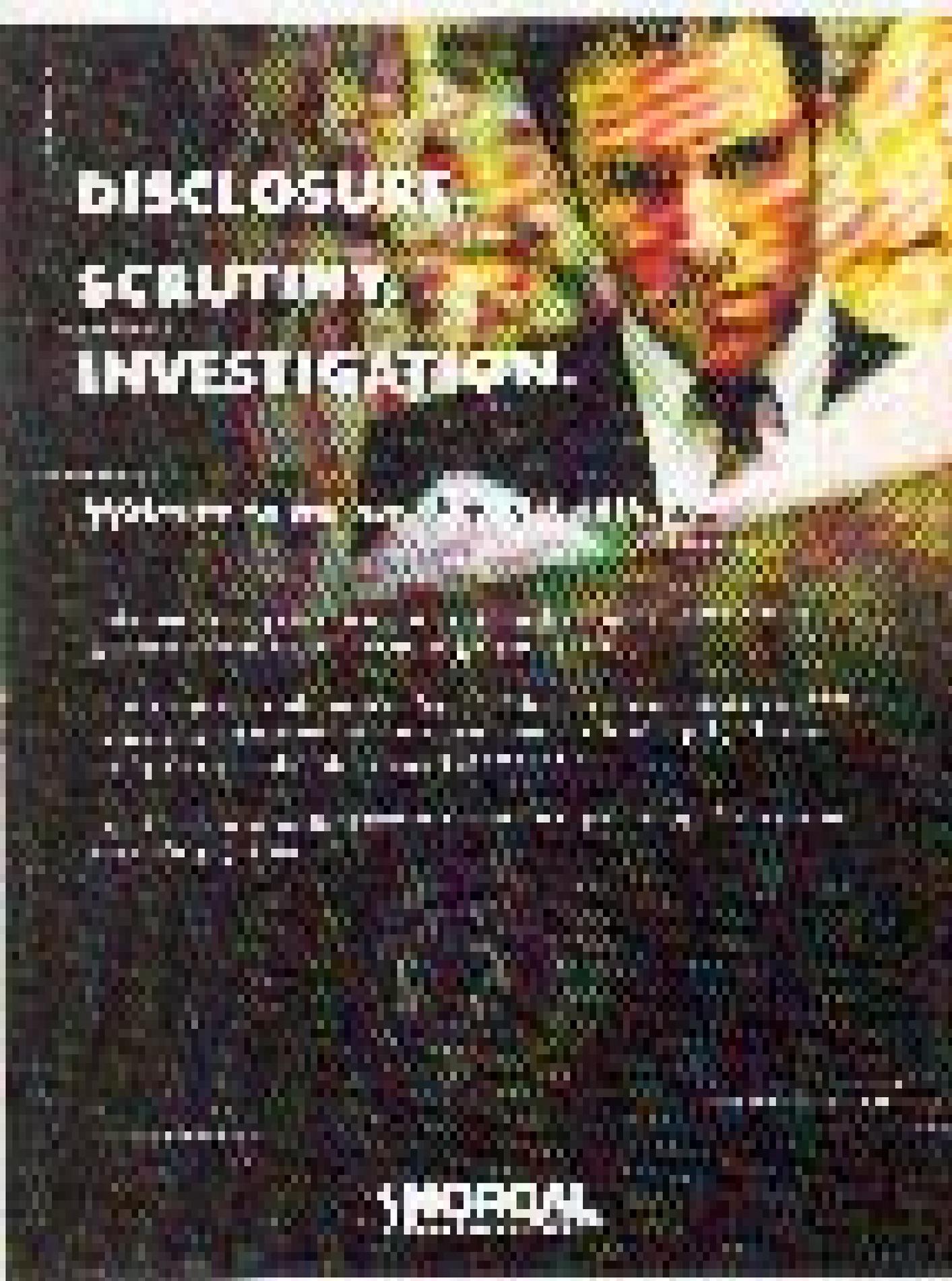
Asked why they do so, respondents often selected more than one reason. 42% of the total responses indicated "patient convenience" as a reason; 25% marked "significant part of patient mix," 23% said it was a "business decision," and 10% indicated "other" reasons for United.

Sixty-four percent of respondents indicated that, based on their 5 most frequently billed codes, United reimburses at a level that is below Blue Cross & Blue Shield of RI. 28% thought the two insurers reimbursed them "about the same," and 8% believe that United pays them more than Blue Cross.

Other evidence corroborates physicians' impressions of United as an even poorer payer than Blue Cross, but it also indicates that the magnitude of the actual payment disparities between United and Blue Cross may be even greater than many physicians realize.

Physicians are sometimes surprised when they learn just how low United's reimbursements really are. One physician discovered that United was paying his practice at an overall rate that is 37% lower than what Blue Cross is paying.

Better than 98% said they would support the implementation of a single credentialing form and database.



# DISCLOSURE & SCRUTINY INVESTIGATION

Hydroxyurea is the most common drug used to treat sickle cell disease.

The drug is used to reduce the number of sickle cells in the blood, which can cause pain and other complications. It is also used to prevent the formation of sickle cells. The drug is taken orally and is generally well-tolerated. However, it can cause side effects such as nausea, vomiting, and diarrhea. It is important to take the drug exactly as prescribed and to avoid alcohol and certain foods while taking it. The drug is also used to treat other conditions such as leukemia and certain types of cancer.

HOPKIN

Our message to the Committee was clear: we are hurting from spirally premiums, both on our health insurance and our liability insurance, and these rising costs combined with the abusive power of the health insurers is eroding patients' access to quality care in Rhode Island.

We offered the legislators a number of specific solutions to help address what we refer to as "the Rhode Island penalty,"— the price we all pay for practicing here, and the price patients are paying too.

### **Liability reform**

On April 6 we were at the House Judiciary Committee testifying in support of House bill 7850, our coalition's liability reform package. Many of your colleagues spent six full hours participating in this grueling process, which finally ended at 11:20 p.m.

We were successful, I think, in impressing upon reluctant legislators that professional liability is a serious problem that they must address this year. Again, it is far from over. But the battle has been joined.

### **Anti-trust reform**

RIMS is once again at the forefront of this issue with support of our coalition of allied professional associations. The dentists are especially enthusiastic and hard-working in support of our Health Care Fairness Act, which passed the House unanimously last year and should have better chances in the Senate this year as a result of leadership changes there.

RIMS has been working diligently to win the active support of the current Attorney General, who is so far less impressed with the need for the Fairness Act than his predecessor was.

### **Billing issues**

In January and February many of our colleagues and their practices faced a complex crisis associated with the transfer of Medicare Part B to Arkansas, a software snafu at CMS, the demise of Blue Cross' PNS, Blue Cross' conflict with Medical Manager, and service problems at WebMD.

RIMS' intercession with CMS and the Arkansas and Rhode Island Blues resulted in a 90-day reprieve for hundreds of PNS clients who otherwise would have faced an impossible and catastrophic situation.

So what is the Rhode Island Medical Society doing, you ask?

Well, I would say we have demonstrated again and again in recent months what one small medical society can do with good leadership, many committed members, and a capable support staff. We share the obligation to maintain, support and strengthen all of these things in order to keep our fighting momentum.

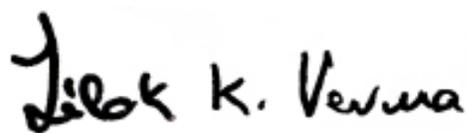
Over the last three months I have traveled (this being Rhode Island I cannot exactly say far and wide) and met with many hospital staffs, specialty societies and PHO's. I know we all our busy with our clinical duties. And I know you cannot all be the State house until late at night. But the circumstances affect you and impact *your* future.

The very least you can do is make sure every one of your partners and colleagues are members of RIMS and that your group, your medical staff, your specialty society, and your PHO have all done their share this year to support the work of PPACC.

To complete the quote from *Julius Caesar*:

*Men at some time are masters of their fates:  
The fault, dear Brutus, is not in our stars,  
But in ourselves, that we are underlings.*

Let's change that.



Tilak K. Verma

NOTE: The RIMS White Paper - Rhode Island Health Care: Symptoms, Causes and Solutions, is available for downloading from the website at [www.rimed.org](http://www.rimed.org).

# What's in a Name???

GOOD - authentic, honest, just, kind, pleasant, skillful, valid

NEIGHBOR - friend, near

ALLIANCE - affiliation, association, marriage, relationship

CORPORATION - company, business establishment

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