

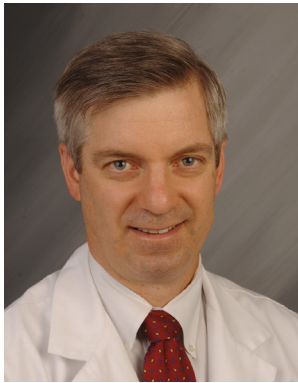
BACKBONE

a publication of the Connecticut Orthopaedic Society

Volume 14

Spring 2011

President's Corner *Brian Smith, M.D. - President*



Two years ago, the price of gasoline was \$2.35. This week, my local gas station has the cash only price close to \$4.00. Two years may not seem like a huge amount of time, but much can happen in only two years. Indeed in the two years since I have had the pleasure and privilege of leading the Connecticut Orthopaedic Society, an awful lot has happened.

Within the last two years, we have seen the signing into law of The Patient Protection and Affordable Care Act as well as the recent vote by the U.S. Congress to overturn it. At least 26 states have filed suits against so-called ObamaCare and the constitutionality of the individual mandate. This law represents a huge fundamental change of the healthcare system of the United States and it still remains very unclear what the ultimate outcome may be.

Our neighbor to the North has the so-called ObamaCare experiment up and going now since 2006. The early returns on the MassCare system are not impressive and indeed concerning. A recent article by John Calfee in the Wall Street Journal highlights the fact that coverage has increased for Massachusetts' citizens such that the insured now have increased from 88% prior to the implementation of this Act to 96%. However, the number of emergency room visits actually has gone up, not down, as these newly covered people have difficulty finding primary care providers.

Other facts include the reluctance of unionized town and city employees to move into the so-called state sponsored Health Insurance Exchange for fear that their healthcare benefits actually will be downgraded and that their co-pays will increase. Indeed, many individuals refuse to purchase insurance in advance despite the individual mandate and wait until a healthcare issue or crisis ensues before paying a small penalty and obtaining coverage. The net effect has been to drive up costs of insurance at least 6% or 7% beyond what there were prior to the reform, and Massa-

chusetts now has the highest insurance rates in the country.

In an effort to stem the increases requested by insurance companies for policies, the governor and the legislature there have sought to institute price controls not only on insurers, but healthcare providers as well. If MassCare represents the future of ObamaCare, all of us, whether physicians, patients, or insurance providers would seem to be in for some perilous times. One of the fundamental principles of ObamaCare is to move potentially 20 million people across the country into Medicaid programs. This will have the effect of providing coverage, but not increasing access to care. My own experience as a pediatric orthopaedist at the Yale-New Haven Children's Hospital is instructive in this concept. Of the 3.5 million people in our state, over 800,000 are children. Of those children, a little less than 300,000 are in Medicaid or one of the Medicaid programs and about 57,000 have no insurance at all. Thus, in Connecticut, often the wealthiest state in the country per capita, fully 43% of the children in this state are either in Medicaid or uninsured at this time. Since Connecticut pays on average for outpatient care for Medicaid patients a level that ranks about 42nd out of the 50 states, few if any of you in private practice in our state can see a Medicaid patient. The reimbursement simply does not cover the overhead for the visit.

As a consequence of this, when children have orthopaedic issues, they are referred to and are seen primarily at the Children's Hospitals in Hartford and New Haven. The current wait for a nonurgent problem in our Orthopaedic Pediatric Clinic in New Haven is about six months. Of course, we get children in quickly with clubfeet and fractures, but we have a Pediatric Orthopaedic Clinic for

(cont. on p. 3)

In Practice

Insuring the Business of Medicine ~ A Risk Management Perspective

Today's medical practice is faced with an array of risk exposures and litigation threats from patients, employees, regulatory agencies and parties of interest outside the practice. Although medical malpractice is what immediately comes to mind for physicians, the reality is that any litigation exposure that the practice encounters can have an immediate effect on the financial bottom line. Every practice is required by regulation to carry limits of liability insurance for medical malpractice, but when other risk exposures are examined practices often do not have appropriate insurance coverage. Particular areas of concern are executive liability, employment related liability, Medicare and Medicaid investigations, HIPAA privacy breaches and contractual succession planning arrangements.

Executive liability is a prevalent exposure that many physicians and/or management staff overlook when analyzing a comprehensive insurance package. Executive liability includes claims that allege a breach of responsibility as director or officer of the medical practice. These claims can name individual physicians, managers and shareholders in their duties as they relate to the medical practice. These claims are not covered by any other type of insurance and often lead to both a personal and corporate exposure. In addition to having a qualified risk manager set practice parameters for executive committee meetings, compliance guidelines and board member participation, practices should consider the purchase of Directors and Officers insurance.

Employment related liability claims have been on the rise steadily over the last 15 years. These claims can arise from current, former and prospective employees. They can also be brought by third party vendors that have a relationship with the practice. Many practices are not aware of what the true exposure to their bottom line is for these types of potential claims. These claims can arise from allegations of wrongful termination, retaliation, discrimination, and sexual harassment to name a few. As medical practices continue to grow and/or reduce staff through mergers and acquisitions, the chance of an employment practice claim increases. A combination of strong risk management and employee practices liability insurance can help a practice prevent and/or defend these claims.

Protecting your medical practice from costly billing errors, medical regulatory violations, network security issues and HIPAA privacy issues is a priority for every

Editor's Note - Article by Kristin Parker, RN CPHRM - Risk Management Consultant for Smith Brothers Insurance, a highly specialized healthcare practice group focused on the medical professional liability insurance needs of healthcare practitioners.

physician practice. According to the Semiannual Report to Congress, the Department of Health & Human Services Office of Inspector General (OIG) announced successes in the fight against fraud, waste and abuse in the medical insurance system. The OIG reported recoveries of \$25.9 billion for 2010. These recoveries mean an increase in the number and frequency of medical practice investigations. In addition physician practices are not immune to the security and privacy breach exposures that all small businesses encounter. Medical practices must have a comprehensive risk management plan that addresses these potential exposures and a means to defend any claim that may arise. *Several new insurance products have been introduced to the market and vary widely in their scope of coverages. Physicians are cautioned to have an analysis performed by a healthcare risk manager that has expertise in this arena. (**Editor's Note: See page 6 for related product information*)

Physician business owners are also challenged with the overwhelming responsibility of operating a business. Every day brings new challenges, opportunities and decisions that must be made. A comprehensive risk management plan must include an analysis of potential economic "Business Killers". These "Business Killers" exposures include an examination of common mistakes that lead to unexpected business failures. Those mistakes include discussing issues such as premature death of a partner or key manager, spousal involvement into the practice, how to sustain business income in the event a business partner can no longer practice and other important issues. A complete risk management analysis can identify exposures that a practice may have and assist the practice in accessing products, contracts and services that may prevent an unexpected event's impact the operational bottom line.

Insulating a practice against liability exposures extend well beyond the purchase of a medical professional liability policy. Practices today are faced with a wide array of exposures to analyze and expanded portfolios of products and services to cover the exposure. It is important that each medical practice take the time to review and discuss these important issues and through a carefully constructed risk management plan choose the most comprehensive, cost effective ways to protect the bottom line.

The Backbone is a publication of the Connecticut Orthopaedic Society. Comments and suggestions should be directed to: **Susan Schaffman, Executive Director**
26 Riggs Avenue, West Hartford, CT 06107
(860) 561-5205 phone
email: sasshops@aol.com

President's Corner (cont. from front page)

indigent patients every Friday afternoon and frequently see 40 to 45 patients. I could virtually almost see Medicaid or uninsured patients all of the time without seeing an insured patient, and indeed my partner and I see a significant number in our “private practice,” the volume is great. Some parents become angry about the long waits to receive care, whether they wait a couple of hours in the clinic or months for an appointment. Our staff very patiently explains that we are doing the best we can, but what of course is left unspoken is the question of: “Where else can you go for care?” Is the Yale Pediatric Orthopaedic Clinic a microcosm of what we can expect in the future when ObamaCare is more fully implemented and millions of patients are now covered by Medicaid? Who will see them?

There is no question that fundamental change to our healthcare system must occur and like the majority of Americans, I have serious questions and concerns about the Patient Protection and Affordable Care Act. I have never been in private practice in my entire professional life, having worked in The US Air Force, and then at Newington Children's/CCMC, and more recently at Yale in the University System. Yet, I believe that private practice and private health insurance remain the vital foundation of our healthcare system and indeed the privacy of the patient-physician relationship without government intervention or even government support is critical and the only means by which we can preserve our healthcare system and bring down costs.

The experience in Massachusetts, our entitlement programs including Medicaid, Medicare, and even Social Security and the examples of healthcare in Canada and the United Kingdom serve to illuminate the fact that **socialized** systems collapse under their own weight: there is not enough of other people's money to pay for care. The only way to succeed in reigning in healthcare cost is to have people have their own skin in the game. Then, patients will ask more carefully about their healthcare issues, whether for example they need that additional test or imaging study. They will shop around and the less informed and less well educated among us still would have access through libraries or other means to internet services where healthcare questions are typically one of the top queries in various search engines.

In a system where patients are paying out of pocket for outpatient care, primary care physicians and even orthopaedic surgeons would start to compete based on quality, cost, and accessibility. If Medicaid patients had a debit card that was good for cash, the doors at private practices would be open to them and they would stay out of the emergency rooms where their treatment drives up health-

care costs. Even Medicaid patients and families with debit cards that had fixed amounts per year would learn how to economize, save the money, probably quickly learn that they may not spend it wisely on chiropractic care or acupuncture when they are sick and conserve it for things like immunizations and well visits. Most people have the incentive to spend their own money to change the oil in their car, service their engines, and change their tires, all of which is done without insurance.

As orthopaedic surgeons, we must continue to advocate for our patients and for a healthcare system that meets their needs in the most efficacious, honest, ethical, and financially viable way possible. The government run systems or supported systems will never be able to sustain or support healthcare as well as a privately run system. We also need to continue to push and advocate for changes in our medical liability system, which serves no one but the trial attorneys. A recent article by Jack Flynn from Philadelphia, indicates that about 19% of imaging studies ordered by surveyed orthopaedic surgeons in Pennsylvania and as much as 35% of the total cost of ordered outpatient imaging studies involve defensive medicine, another burden that must be remedied.

We as orthopaedic surgeons must continue to inform our patients about what would work best for all in terms of healthcare. Your Connecticut Orthopaedic Society has worked very hard to represent your interests in our state. In the last few months the COS has signed on to bills that support fairness in contracting among insurers for providers as well as protected the certificate of merit process in medical malpractice cases. Your American Academy of Orthopaedics through its PAC continues to be a leading advocate for your values on the national level and I urge all of you to support the AAOS PAC to the extent reasonably possible.

Much has changed in the last two years and the pace will only continue to increase in the years ahead. All of us have a responsibility to provide the best possible care to our patients, but also to advocate for change in our healthcare system that best suits the needs of all parties. The case that we are going in the wrong direction certainly seems to have been made, but patience and leadership are necessary to try to steer reform in a better direction. Ideally that would be one that preserves some of the critical and fundamental values of our healthcare system such as the doctorpatient relationship, the very high quality care that we provide and the innovation and creativity that mark our American system.

It has been a sincere honor and privilege to serve you these

Member Exclusive

According to the Semiannual Report to Congress, the Department of Health & Human Services Office of Inspector General (OIG) announced successes in the fight against fraud, waste, and abuse in the medical insurance system. The OIG reported savings and expected recoveries of \$25.9 billion for 2010

The Connecticut Orthopaedic Society is pleased to offer our members an exclusive program from Smith Brothers Insurance and NAS Insurance Services. Smith Brothers, based in Glastonbury, Connecticut is one of the largest independent insurance agencies in New England; NAS Insurance Services is a nationwide leader in speciality insurance for the healthcare industry.

As our endorsed vendor, Smith Brothers is offering our members two exciting products designed specifically for solo physicians and physician groups at a significant savings for members of Connecticut Orthopaedic Society.

MEDEFENSE Plus™

Foundation

In 2010, Connecticut Orthopaedic Society members contributed over \$3,000.00 to support the future training of the next generations of orthopaedic surgeons by contributing to the Connecticut Orthopaedic Foundation. Please join your colleagues in making a tax-deductible contribution and help make a difference.

Your Contribution Makes a Difference.

Enclosed is my contribution, made payable to the "Connecticut Orthopaedic Foundation, Inc." *(Please Print)*

Name _____
_ Home Address _____
City _____
_____ Zip _____ Pho _____
ne _____
Email _____

I am pleased to support the Connecticut Orthopedic Foundation with a gift of *(check one)*

_____ \$500.00 _____ \$250.00 _____ \$125.00
_____ \$ _____ (other)

Please send to the Connecticut Orthopaedic Foundation, 26 Riggs Avenue, West Hartford, CT 06107. Your cancelled check is your receipt. **Thank you!**

Protect your orthopaedic practice from costly billing errors, medical regulatory violations, network security and privacy issues.

- Defense against actual or alleged billing errors
- Defense against medical regulatory violations

e-MD™

- Network security and privacy coverage
- Credit monitoring after a loss
- Data recovery costs

MEDEFENSE Plus and e-MD are offered to all members that meet the program's qualifications. When both products are purchased together, there is a significant discount applied to the premium amount. And the premiums are affordable; as low as \$1,500. For more information and a comprehensive quote call David Burke, healthcare practice specialist at Smith Brothers, 860 430-3256.

2011 Board Members

President Brian Smith, M.D.

Phone: (203) 737-5660, E-mail brian.g.smith@yale.edu

Vice President (President-Elect) William Cimino, M.D.

Phone: (203) 255-7000, E-mail wgciminomd@aol.com

Secretary/Treasurer Ross Benthien, M.D.

Phone: (860) 549-0920, E-mail rbenthien@me.com

AAOS Councilors

Michael Connair, MD

Phone: (203)777-2044, E-mail uniondoctor@yahoo.com

Michael Marks, MD, MBA

Phone: (203)845-2200, E-mail mmarks1988@aol.com

BOARD MEMBERS

Michael Aronow, M.D.	Farmington	860-679-6652
Dante Brittis, M.D.	Fairfield	203-337-2600
Bruce Browner, M.D.	Farmington	860-679-6655
Gary Friedlaender, M.D.	New Haven	203-737-5666
Frank J. Gerratana, M.D.	New Britain	860- 832-4666
F. Scott Gray, M.D. Danbury		203-792-5558
Robert Green, M.D.	Bloomfield	860-242-3000
Mariam Hakim-Zargar, M.D.	Torrington	860-489-6363
Michael Joyce, M.D.	Glastonbury	860-652-8883
Jay Lieberman, M.D.	Farmington	860-679-2640
Dieter Lindskog, M.D.	New Haven	203-785-3719
Michael Kaplan, M.D.	Waterbury	203-754-4868
T. Jay Kleeman, M.D.	Norwalk	203-845-2200
Bruce Moeckel, M.D.	Middletown	860-685-8540
Michael Saffir, M.D.	Fairfield	203-337-2600
Stephen Scarangella, M.D.	Willimantic	860-456-3997
Lane Spero, MD	Torrington	860-482-8592

Legislative Arena

U.S. Congress

Landmark Legislation Seeks to Give Antitrust Relief to Physicians

Connecticut orthopaedic surgeons were well represented at the 2011 AAOS NOLC meeting April 6 -8 in Washington, DC. The Society's delegation included AAOS Councilor, Michael Connair, MD, President-Elect William Cimino, MD, Vice-President-Elect, Ross Benthien, MD, Board Members, Frank Gerratana, MD and Bruce Browner, MD and COS Member, Robert Dawe, MD.

Thanks to Dr. Frank Gerratana and the political relationships he has built through the years, the delegation met personally with all of Connecticut's House of Representatives and freshman Senator, Richard Blumenthal. Issues discussed included the need for tort reform, sponsorship of the AAOS Act to unify the data collection of musculoskeletal diseases, repealing the Medicare IPAB and most significantly, the Health Care Coalition Act of 2011.

This landmark bill was submitted by Congressman John Conyers(D-Michigan) to the U.S. House Judiciary Committee and cosponsored by Congressmen Paul and Miller. It is with special recognition for Dr. Michael Connair's decade long commitment to ensuring collective bargaining and antitrust relief to physicians that H.R. 1409 was written and it will provide health care professionals with the right to collectively negotiate contracts against commercial insurers and if passed will alter the balance of power among insurers, doctors and patients.



(L to R) Drs. Michael Connair, Robert Dawes, Frank Gerratana, Ross Benthien, Senator Richard Blumenthal, Drs. Bruce Browner and William Cimino and Susan Schaffman, Society Executive Director(center) outside the Senator's office in Washington, DC.

Organized support for H.R.1409 will be the key to facilitate the passage of this critical piece of health care reform legislation that will help assure future patient access to quality care and the viability of the private practice of medicine.

(Note: Please contact the COS at ctorthoexec@gmail.com if you would like a copy H.R. 1409 and how you can help promote the sponsorship of this bill with your Connecticut Representative.) There is much work to be done and the Society will continue to work with the AAOS to augment the grassroots efforts of orthopaedic surgeons.

Connecticut

Society Seeks Precertification Legislation

Since the beginning of the 2011 Legislative Session in January, the CT Orthopaedic Society has been busy working on a variety of healthcare issues at the State Capitol.

A major initiative of the Society is precertification legislation to guarantee reimbursement by health insurers for procedures and services that receive a preauthorization, predetermination or precertification, SB 54. Robert Green, MD (COS Past President) provided the Society's testimony at the Committee on Insurance and Real Estate public hearing and written testimony by F.Scott Gray, MD and a patient's family impacted by a retroactive denial were submitted. Discussions continue with our lobbying firm, Halloran & Sage and key legislators.

The proposed changes to the Certificate of Merit statute, HB 6487, that would eliminate important thresholds in order to move forward with a med mal complaint was opposed by the Society in written testimony by Dr. Michael Marks (COS Past President). Our Society's testimony was signed on by other state specialty societies: Eye Physicians, Dermatology, ENT and Urology Society along with Norwalk Hospital to strengthen medicine's opposition to the changes. The Society continues to oppose this bill.

Collective bargaining for Connecticut physicians, HB 6343, is strongly supported by COS and written testimony was submitted to the Joint Committee on Judiciary urging the legislative relief for doctors. Other bills related to health insurer practices we supported in conjunction with other state specialty societies are prohibiting most favored nation clauses, HB6471, and urging changes to the appeals of health insurance benefit denials to protect patients, SB 18.

We support the Connecticut College of Emergency Room physicians who are seeking legislation, HB 6622, that would enhance access to ER care and help control cost by enacting significant medical malpractice reform for EMTALA providers.

There is still work to be done before the session ends in June and the Society will continue to work on behalf of all orthopaedic surgeons. We encourage members to take an active role in key bills under consideration and urge you to contact the Society to take an active role in legislation that impacts your practice, your patients and the delivery of healthcare in our State.

Register Today!

Connecticut Orthopaedic Society Annual Meeting Friday, May 13, 2011

Registration & Continental Breakfast 8:00 a.m.

Program 8:30 a.m. - 3:15 p.m.

Farmington Marriott Hotel, 15 Farm Springs Road, Farmington, Connecticut

You won't want to miss this year's program with educational speakers, cme credits, resident paper presentations, election of new Society officers and awards presentation. New this year - enter to win an Apple I-Pad. Entry details will be available at the registration desk the day of the program and Winner must be present on May 13, 2011 at time of the raffle drawing.

All 2011 dues paying Society Members*, Affiliate Members, medical students, interns and residents are invited to attend this event free of charge. Emeritus members of the Society will be charged the reduced rate of \$40.00. If you have not submitted Membership Dues for 2011, please contact the Society at 860-690-1146 or pay online at www.ctortho.org.

REGISTRATION IS EASY!

EMAIL YOUR NAME AND PRACTICE ADDRESS TO: CTORTHOEXEC@GMAIL.COM

or Contact the Connecticut Orthopaedic Society's Executive Director, Susan Schaffman at (860)690-1146.

Michael Ries, MD

Chief Arthroplasty Service - University of California San Francisco

"Fracture of Highly Cross Linked Acetabular Liners in Total Hip Arthroplasty"

"Management of Acetabular Bone Loss in Revision Total Hip Arthroplasty"

Robert Trousdale, MD

Department of Orthopedic Surgery at the Mayo Clinic - Rochester, Minnesota

"Role of Pelvic Osteotomy in 2011"

"Surgical Exposure in THA: Pros & Cons of Various Approaches"

Bruce McCormack, MD Neurospine Institute, San Francisco, CA

"Carpal Tunnel Syndrome: Old and New Treatments"

Stephen O'Brien, MD

Vice Chairman, Sports Medicine, Hospital for Special Surgery, New York

"Shoulder Instability 2011: An Update"

"The Biceps/Labrum Complex 2011: An Algorithmic Approach"

S p e a k e r s

Augustus Mazzocca, MD

Director of Orthopaedic Resident Education, University of Connecticut

"Treatment of Failed Rotator Cuff Repair"

Chris Chiodo, MD

Chief Foot and Ankle Division, Brigham & Womens' Hospital - Boston, MA

Ankle Arthritis

Luncheon and Awards Presentation

Orthopaedist of the Year (posthumously) – C. Robert Biondino, MD

Honorary Member - William Malitsky

Resident Paper Presentations (UConn and Yale)

Election of Officers & Business Reports

Thomas Baier, MD

Major - U.S. Army Reserve Surgeon

"Injuries on the Battlefield – Uncommon Medical Experience in Iraq & Afghanistan"

Tricia Marriott, PAC - Director, Reimbursement Policy - AAPA

"Physician Assistants in Your Orthopaedic Practice – Utilization, Billing and Reimbursement"