BACKBONE

a publication of the Connecticut Orthopedic Society

Volume 9 *Fall 2005*

President's Corner *Robert A. Green, M.D. - President*

Once a month, members of the Connecticut Orthopedic Society Board of Directors get together to discuss and evaluate local and national items of interest and concern to our membership. Many board members travel an hour, spend three hours at the meeting and another hour to return home, usually after a long day in the office, the operating room, or both.

During the past year, we have confronted the issues of scope of practice, professional liability reform and open access to physical therapy. Members have testified before state legislative committees and met with Connecticut congressional representatives in Washington, D.C.

There is NO OTHER ORGANIZATION in the state of Connecticut which represents the SOLE interests of orthopedic surgeons.

In the current issue of **BackBone**, there are a few items of importance to the membership and the Society. The first is an update from the AAOS that reviews the national settlement terms with Wellpoint and a letter from the 8 Connecticut orthopedic surgeons who are plaintiffs in a lawsuit against Anthem Blue Cross in Connecticut's court system. Please read both items carefully and consider your future position. The second item is a list of the 8 orthopedic surgeons who have thus far responded to our request for donations to the Connecticut Orthopedic Society's Foundation which is the charitable and educational arm of our Society. This is a tax-deductible donation to an organization that is committed to the future development of orthopedic surgeons in the State of Connecticut. By supporting the training programs at the University of Connecticut and Yale University, we assure ourselves of a pool of well-trained, intelligent, young physicians who will carry on the highest quality orthopedic care for our state population.

While I realize that there is a never-ending solicitation for charitable donations, we believe that the Connecticut Orthopedic Foundation is an opportunity for Connecticut physicians to protect their state's future. ***Please consider a response to this appeal.***

Finally, as we approach the holiday season of Thanksgiving, Hannukah, and Christmas, let me take this opportunity to wish you and your families good health and peace.

Podiatric Scope & Workers' Compensation Issues

Podiatric Scope

Drs. Michael Aronow, William Cimino and Michael Baumgaertner have been meeting twice a month (for 2 plus hours) to discuss orthopedic surgeons' concerns as they relate to podiatrists expanding their scope of practice to the ankle. These meetings with podiatrists and staff members of the Department of Public Health will continue through the end of the year. The podiatrists are pushing this as improving access to podiatric care and there training and education substantiate the expansion of their scope. The Society is working diligently to ensure patient safety and quality of care. For more information, please contact Dr. Aronow at aronow@nso.uchc.edu or Susan Schaffman, Executive Director at (860) 690-1146.

Workers' Compensation

The Society will be meeting with Chairman John Mastriopietro to review the changes in reimbursement for Workers' Compensation claims that have been significantly reduced due to Aetna contracting with many of the major carriers. Please contact us at (860)690-1146 if you have any concerns within your practice regarding Workers' Compensation.

Anthem Blue Cross Lawsuit - Connecticut

Dear Members of the Connecticut Orthopedic Society,

We are the eight named plaintiff orthopedic surgeons named below. In 1999, we brought a lawsuit against Anthem Blue Cross of Connecticut for unfair trade practices in State court with the support of the Connecticut Orthopedic Society. Our suit alleges contractual abuses by Anthem which have compromised our ability to take optimal care of our patients and have unfairly squeezed us financially. Anthem imposes upon us a one-sided provider agreement which it changes frequently, unilaterally and with no opportunity for re-negotiations. Our sixteen allegations are detailed in *Collins et al versus Anthem Health Plans* which can be found on the Society's website, www.ctortho.org. We originally brought this case seeking class action status. Our case has now been to the Connecticut Supreme Court for the second time and the Court has unfortunately revoked an earlier court ruling certifying a class.

Experts hired by our attorneys have calculated that Connecticut orthopedic physicians have lost, as a group, approximately $12,898,514.44 per year due to Anthem's misrepresentations and breach of contract. As many of you know, a proposed national settlement between the 700,000 physicians of the United States and the Blue Cross companies of the United States is pending in Florida Federal court. This settlement proposes contractual changes similar to the Aetna and Cigna settlements and includes an insulting financial restitution of $140 million (approximately $200.00 for every physician in the United States that submits a claim). In Connecticut, this represents, on average, 1 one-thousandth of the calculated damages – a paltry sum. The national settlement contract changes are weak, do not put physicians' in charge of patient care and do not address our request for fair business practices and the terms will expire in three years! The national settlement does not adequately address financial damages caused by Anthem Blue Cross over the last decade and does not create a mechanism to ensure that future provider agreements with Anthem will treat physicians as business associates. Physicians must have meaningful input into patient care and reimbursement; under the proposed national settlement Anthem will continue to unilaterally dictate reimbursement terms and degrade patient care based on company earning goals rather than on patient needs and physicians' cost of doing business.

As plaintiffs in the State suit, we have decided to opt out of the national settlement in order for us to continue to pursue our individual claims in Connecticut's state court at our own expense. This decision will allow us to air publicly the fraudulent and deceptive contracting practices of what is now known as Anthem Wellpoint. The evidence we are prepared to present in court will demonstrate that "managed care" as practiced by Anthem is a euphemism for "managed profit" for the benefit of executives and shareholders at the expense of patients and physicians.

For more information, please contact Attorney William J. Sweeney, 860-827-6453 or Attorney Matthew Shafner,860-445-2463x386. We, the plaintiffs, are confident that our day in court will reveal the true motives and the harm they have caused to our patients and our profession.

Sincerely,

Edward Collins, M.D. ***John O'Brien, M.D.*** ***Michael Connair, M.D.*** ***John Keggi, M.D.***
Kristaps Keggi, M.D. ***Ronald Ripps, M.D.*** ***F. Scott Gray, M.D.*** ***Joseph Zeppieri, M.D.***

AAOS-National Update

Lawyers for the physician plaintiffs and WellPoint announced they had settled two class actions filed in federal court and in multiple state courts. The agreement includes the resolution of two national lawsuits against two pre-merger companies: WellPoint and Anthem. It includes commitments by WellPoint to put in place a number of business practice changes. WellPoint has agreed to apply "generally accepted medical standards" and "increase transparency" in paying claims and to an enforcement mechanism to help ensure compliance with the terms of the settlement. In addition, the agreement will "streamline communications between physicians and WellPoint," "reduce complexity in the claims payment system" and "help improve the quality of the healthcare system in general." The settlement also includes a payment of $140 million to a settlement fund for payments to physicians and $5 million to a non-profit foundation "devoted to better health care."

If approved by the court, the agreement would conclude the lawsuit against WellPoint. The deadline for filing a claim is November 17, 2005. The deadline for formally opting out of the settlement is October 18, 2005.

For more information, www.hmosettlements.com/files/tbl_s5Documents/Upload27/323/WellPointAnthemMailedNoticewithSubsidiaryCorp.pdf.

Doctors of Interest

EDITOR'S NOTE: ***The Society appreciates the assistance of Ron Ripps, M.D., Past-President, as the contributing editor for this column.***

Woodworking

J. Pearce Browning III, M.D., is a past President of the Connecticut Orthopedic Society and a historical authority on woodworking and woodworking tools. He has kindly offered us this retrospective of his sixty-five "plus" years working with lumber.

I started woodworking in grade school after I was given a workbench as a Christmas present. I still have it, and I still use it. Although I was less active when I was away in college, medical school, and residency, I turned to it as my hobby after returning to Norwich to settle down. My main project in the 60's and 70's was rebuilding and repairing the 1770 house I now live in. This led me into timber framing and the study of early Connecticut colonial homes and framed buildings. Since there was a sawmill a half-mile down the road, it was easy to get any size timber cut to order, such as wide red oak boards and pine for floors. I acquired a wood lot next to my farm, and much of the wood I use now either comes from that wood lot or from friends. I changed sawmills with a friend who has a Wood Mizer LT40 horizontal band saw mill. Now I cut white pine, oak, ash, hemlock, cherry, and apple. In the late 90's two carpenters and I repaired a post and beam barn with all my own wood. Although I recently started to build a small cherry table, I prefer to spend my time outdoors during good weather in the wood lot.

Handling logs requires heavy equipment, and I have a 1968 Ford tractor with a bucket loader that will lift 1,600 pounds. I put the logs on a trailer and haul them to wherever the sawmill is. The process of cutting logs into lumber is called "conversion", an old English term. After cutting the logs, I air-dry the lumber for at least a year.

If you think you'd like to try this, you should plan what you want cut out of the logs. To repair a post and beam barn, you may need 8"x8"x16' posts, 4"x6" corner braces, long 6"x8" plates and girts, and 2"x8" stock for joints and rafters. You need to make a plan, and from this a "cut list". You can also cut standard 2'x4' and 2'x8' planks if you don't have a specific project.

Most furniture uses 1" boards, and you'll need some 2" and 3" thick for legs, case pieces or chairs. Baseball bats require 3"x3" ash- usually 36 inches long. Occasionally I cut cherry 5"x5" for center pedestal tables. I've cut a few tabletops for friends- book matched boards 9' long, 22-24" wide, and 2" thick. I once cut a set of six red oak boards 22" wide for a "six blanket" chest for a friend's wife from a red oak in front of their house.

I strongly recommend the horizontal band saw which can not only cut up to 24" wide, but which can also cut "crotches" in the trees that have highly configured grain. It would be unsafe to attempt to cut a crotch with a circular saw. My latest project was a 12'x16' Adirondack lean-to. Now I need to finish the cherry table and repair the roof on an 1880 chicken shed. I have a 28' pine that was struck by lightening, so I have a lot to do.

If you're interested in this type of woodworking and would like to call, my number is 1-860-822-8186. I look forward to hearing from you.

Coding Workshop

Thursday, March 9, 2006

Advanced Coding Workshop for Orthopedic Surgeons and Their Practice

Popular speaker Mary LeGrand from Karen Zupko & Associates will be at St. Francis Hospital, Hartford, CT, on March 9, 2006. This day long program is offered at a significant reduced rate to all members (dues paying) of the Connecticut Orthopedic Society. Plan to spend the day learning advanced coding and updates for 2006. ***Details and registration information in the next ssue of Backbone and online at www. ctortho.org.***

Do You Have A Story?

The Connecticut Orthopedic Society would like to hear from any member who has an interesting hobby, pastime or anything of human interest to your fellow colleagues. If you would like to share your story, please email your 500 words (or less) article to the BACKBONE Contributing Editor, Ron Ripps, M.D. at ronripps@att.net. All submissions should be in Microsoft Word format and sent to Dr. Ripps prior to December 15th for the Winter issue of BACKBONE.

Connecticut ORTHOPEDIC Society

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Orthopedic Stress

(cont. from p. 2)

Surgeons need to promote the concept of the collaborative team, whose plan is always spelled out and whose contingencies are common knowledge and anticipated. Does the hospital that skimps on staffing disown its responsibility to provide time and funding for in-service education? Does the hospital administration strive to reduce expenditures and liability by discouraging new techniques? Is it not possible for the surgeon who wants more experienced staff and the hospital which needs to reduce costs to create a win-win solution?

Surgical environments offer multiple opportunities for "crazy-making". It is incumbent upon the surgeon to acknowledge this intensity yet maintain a calm and focused demeanor. Conflict de-escalation and dispute resolution are an essential part of a physician's arsenal as they wade the murky waters of the *Great Unknown*. All that is predictable is that conflicts of knowledge will occur and the certain uncertainty of every outcome.

Series Part III deals with the onerousness of call - third on the hit list of orthopedic stress. As one senior orthopedist put it, being relieved of call was like "taking a thorn out of my eye". What can we do to reduce the sacrifices we have to make for "being there in their time of need"?

Orthopedic Stress

Contributing Editor, Ron Ripps,MD

The second installment in this series has to do with ***Outcomes Stress***. Dr. John Henry Pfifferling of the Institute of Professional Well-Being (www.cpwb.org) and I consider the variables that may lead to a successful or failed outcome that are ***not*** under the surgeon's control. Do you identify them in your day-to-day practice? Do you remember them when you judge your own performance?

High staff turnover, the recruitment of inexperienced staff, the variable quality of collaborating sub specialists (anesthesia, radiology, medicine), and disinterest in the efficacy of the OR are examples of administrative factors that can have direct impact on your outcomes. Then there are the patient issues- like co morbidities, chronic illnesses, compliance, factitious disease, and the economic effects of an illness and surgery. There are a host of other variables from genetics to psychosocial dynamics- there are circadian disruptions and unpredictable pharmaceutical reactivity- that all add further depth to the surgeon's *Great Unknown*.

Will subordinate assistants perform in a lackluster fashion as indirect aggression against the "tyranny" of the surgeon? Case to case, the surgeon's familiarity with the pathology and the technique, the team's ability to communicate and the overall anxiety level of the room profoundly affect outcomes. The surgeon's health status and age-related dexterity are also some of the multitude of potential and real variables over which the surgeon has limited control.

Does the surgeon's fear of litigation or his litigation history compromise his ability to confront multiple risk factors at surgery? If his experiences have been especially adverse, will they provoke more defensive tactics or even excessive surgical conservatism? Does the surgeon obsess about his vulnerability as "captain of the ship"? Knowing that malpractice suits are traditionally regarded as symbols of mistakes, surgeons fear that high profile litigation will frighten away referral sources. Litigation symbolism is so stressful that it has created a culture of concealment, where errors, maloccurences, near misses, and poor results are not openly discussed. The surgeon is forced to labor under the general expectation that every outcome must be good.

By default medical malpractice suits have become a peer review mechanism. Endorsed by many plaintiffs' attorneys, the mechanism has been used to uphold the attorney as the guardian of medical standards. Peer review becomes associated with scolding and shame, and poor outcomes are not resolved in an open analytical way. Surgeons who conceal poor results find that carrying that guilt is emotionally exhausting. As litigation costs raise overhead, defensive medical conservatism reduces time for QA as well as the possibility of a comprehensive solution.

Proposal: Young surgeons need to be taught that fallibility is human. Residents need to hear from more senior practitioners that disappointment, including poor outcomes, is ubiquitous in the lifetime of one's practice. Where poor outcomes are possible, experienced surgeons need to step in to help the associate rethink his options or to discuss the "mistake" as soon after the fact as possible. A young surgeon working under a productivity formula for reimbursement may try to tackle problems that are over their head rather than call a colleague more familiar with handling that specific challenge. Done for any reason, that behavior must be unacceptable. Attendings need to model honesty as they retell incidents and to remember there is no place for shame-based education.

Associates need to articulate their concern for regular, timely and non-personalized feedback as a prerequisite to joining or staying in a practice. Medical liability carriers should reward practices that have efficient feedback mechanisms with lower premiums. Assuming that all maloccurences are the surgeon's responsibility is neither true nor good science. The surgeon must be provided with safe havens for discussion and resolution of alleged mistakes- and must be allowed to continue life and practice even in the "not-knowing" state. Help from peer counselors, physician advocates, society colleagues, family members, and attorneys can reduce the surgeon's predisposition toward rumination and anger.

Surgeons who refrain from training staff (theirs or the hospital's) fail to own a crucial role in quality control. The staff share or do not share the intensity of commitment to focused surgical care and become the symbols of the surgeon's frustration. Change of shift can mean the exodus of experienced staff and the intrusion of inexperienced staff in the middle of a case. *(cont. on p. 6)*

The Backbone is a publication of the **Connecticut Orthopedic Society.** *Comments and suggestions should be directed to:* **Susan Schaffman,** *Executive Director*
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Connecticut Orthopedic Foundation

Please Support Your Profession

Dear Colleague,

As a member of the Connecticut Orthopedic Society, your involvement and support of the Society has been instrumental in our ability to fund key education, training and research initiatives in Connecticut for future orthopedic surgeons and the practice of medicine.

The Society, through the Connecticut Orthopedic Foundation, Inc., continues its commitment to the training and education of orthopedic surgeons and to this end has donated $20,000.00 over the past few years to both the Yale and University of Connecticut School of Medicine Orthopedic residency programs. To ensure that the Foundation continues with its mission, we are asking members to make a contribution to the Connecticut Orthopedic Foundation. Your tax-deductible gift will help make a difference and will allow us to continue the tradition that began since the organization's inception.

Your support is vital to the future training of the next generations of orthopedic surgeons. To contribute, simply fill out the form below and mail to the Society/Foundation Office.

With Appreciation,

Robert A. Green, M.D. - President

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

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

Enclosed is my contribution, made payable to the "Connecticut Orthopedic Foundation, Inc." Please send to the Connecticut Orthopedic Foundation, 26 Riggs Avenue, West Hartford, CT 06107. *Your cancelled check is your receipt.*

Name_____

Home Address_____

City_____**Zip**_____

Phone_____ **Email**_____

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