



# CANS

# NEWSLETTER

California Association of Neurological Surgeons

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## President's Message: Celebration!

*Moustapha Abou-Samra, M.D., F.I.C.S., F.A.C.S.*

**T**his month was very busy for us in Ventura. Our daughter Leyla Jane married Michael Jackson Winningham, from Houston, here. Actually, the beautiful ceremony took place at the Solimar Beach house of our friends Gus and Mary Iwasiuk, and the reception and dinner were held at our home.

It was a beautiful ceremony and wedding celebration! And the details-mostly attended to by the bride and her mother-were many, but worth all the preparations.

My favorite detail was surprising the groom and everyone else by bringing the bride up the stairs from the beach-as if she were a mermaid-from behind the groom and the wedding party facing the entire congregation, rather than walking her down the rose petals covered isle. The groom was delighted to see her and reassured that she did not change her mind when she did not appear from the rear of the isle as and when expected!

I wish each of you many happy moments like the ones we experienced on July 19.

Now, I'd like to turn my attention to our upcoming annual meeting, January 16-18, 2009 at the beautiful Quail Lodge in Carmel. Please watch your e-mail and regular mail for details. It is going to be a memorable meeting that will address all matter of change as it affects our profession.

To start, the format is changed from one to two days. We will have a morning session on Saturday allowing you to play in the afternoon, before convening for a fantastic reception and dinner at the world renowned Monterey Bay Aquarium; you'd want to bring the entire family. <http://www.mbayaq.org>.

On Sunday, another working morning session will be followed by an organized visit to the National Steinbeck Center in nearby Salinas. <http://www.steinbeckhouse.com/history.htm> and <http://www.steinbeck.org/MainFrame.html>.

We are fortunate to have an amazing line up of speakers who will tackle the issue of change from all angles. Allow me to mention five distinguished gentlemen:

- **Ulrich Batzdorf**, our past president, and this year's recipient of the prestigious Pevehouse Award, will discuss an issue very dear to his heart and one to which he dedicated his entire career: neurosurgical education.
- **Ron Galloway**, A very entertaining and illuminating documentary film director who will describe Wal-Mart's Plan to "solve health care in America!"
- **Richard Rush**, President of California State University Channel Islands, the youngest campus of the California State University system, will share his views about the higher educational system and how we should prepare our future generation of students to a life in highly demanding technical fields, while maintaining their human values.
- **Terry Sanders**, an Academy Award winning documentary film maker who will screen his movie "Fighting for Life" about the Armed Forces University and the amazing effort of our young doctors and surgeons.
- **Thom Steinbeck**, John's son and an accomplished author who grew up in the Salinas Valley will discuss his perspective of change in this part of California in particular and in America in general.

Additional speakers include: Rocco Armonda, Jim Bean, Deborah Henry, John Kusske, Praveen Mummaneni, Marc Vanefsky and Richard Wohns. Each will tell us their own perspective about change; they are listed alphabetically.

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We will have two morning sessions with a far reaching discussion about change will take place. Of course your participation during Q&A periods is not only encouraged but expected!

When I said play in the afternoon, I was not only thinking of Golf - the Quail Lodge has a fantastic course - but also of so many other activities to which this beautiful area of the central coast of California lends itself; I am certain that you'd want to come a day or two early and stay a day late taking advantage of the Martin Luther King Holiday on Monday, January 19: you and your family will have a wonderful and unforgettable experience. Did I mention that the rates we secured are ridiculously low: \$ 160/night?

Remember the next U.S. President will be inaugurated on January 20, a major change in our Nation!

Hope to see everyone in Carmel! ❖



### **ATTN: Exhibitors**

Rather than a full-day meeting and exhibits on Saturday as we have done in the past, we are planning two half-day morning sessions to allow free afternoons for golf at the resort or sightseeing. As always, your company name and product will be showcased in our program booklet. You are welcome to attend all the social functions, including the Saturday evening banquet at the Monterey Bay Aquarium. Your participation is very much appreciated especially in light of the fact that our meeting is a small one in comparison to the national meetings. We like to think of our event as an intimate one where your company representatives can visit with current neurosurgical clients as well as form new relationships.

Please contact [janinetash@sbcglobal.net](mailto:janinetash@sbcglobal.net) to receive the exhibit registration material.

## **This Battery Could Stop Your Car(eer)**

*Randall W. Smith, M.D., Editor*

**T**here is a case in litigation in California against a neurosurgeon who operated on the wrong mid-thoracic disc. Part of the pleadings by the plaintiff's attorney is to include a charge of battery against the neurosurgeon based upon the premise that there was "inappropriate touching" of the patient because no consent for operating on the incorrect disc had been obtained. The trial court found that a charge of battery could not be pursued because there was no intent by the surgeon to operate on the wrong disc. The plaintiff's attorney then filed an appeal and the appellate court reversed the trial court indicating that battery was possible even without intent based upon that court's previous opinion that "... where a doctor obtains consent of the patient to perform one type of treatment and subsequently performs a substantially different treatment for which consent was not obtained, there is a clear case of battery." The case is now back for trial on the tort of battery and who knows what the jury might decide.

The CMA has filed an appeal of the appellate court's decision with the California Supreme Court citing numerous legal reasons among which is that intent must be part of any battery action. What the CMA appeal didn't address, and which may be of no interest to the courts, is that if a charge of battery is sustained against a physician, this would likely to be reported to the Medical Board of California whose actions could jeopardize one's medical license. Further, any award by the convicting jury would not be subject to the MICRA limits and your malpractice insurer could refuse to pay for the award as falling outside your coverage which is mostly for medical negligence. Although a sustained battery charge by a patient is a civil proceeding and thus not a felony, there is nothing to prevent the District Attorney from filing a separate criminal charge which upon conviction would be a felony and subject to potential jail time and license loss.

All in all, battery is somewhere we docs don't want to go and it is hoped that the courts come to their senses. If not, then the next judge with a thoracic HNP might not find any treatment takers or have to have two surgeries, one to place a metallic marker at the likely level, then multiple films to confirm level, then the definitive procedure. And even that will not reduce wrong level surgery to zero. Perfection cannot be legislated and is something we neurosurgeons will never achieve no matter what the courts think. ❖

## NEUROSURGEON WANTED

Board Certified/Eligible Neurosurgeon needed to join busy neurosurgical practice and trauma center in **Northern California**. FT or PT position will be considered for qualified individual. Competitive salary, bonus and benefits. Please fax or email resume to: 916/773-8702 or [laura@snamg.com](mailto:laura@snamg.com), [www.snamg.com](http://www.snamg.com). ❖

## Neurosurgical Position

*Any CANS member who is looking for a new associate/partner/PA/NP or who is looking for a position (all California neurosurgery residents are CANS members and get this newsletter) is free to submit a 150 word summary of a position available or of one's qualifications for a one time posting in this newsletter. Submit your text to me by E-mail ([rws-avopro@sbcglobal.net](mailto:rws-avopro@sbcglobal.net)) or fax (858 683-2022). ❖*

## More News from the Editor

### Internet Defamation II

**W**e previously reported in the June newsletter that Medical Justice Inc. was to roll out a plan to protect a doc from Internet defamation by disgruntled patients. Patients, when first seen, are asked to sign a contract of mutual privacy. The patient and the doctor agree to maintain reasonable confidences. For the patient, they are foreclosed from postings on the web about the doctor's care without the doctor's permission. Medical Justice regularly notifies the assorted physician rating sites to proactively warn that its members have agreements in place foreclosing posting on their site. If an anonymous posting appears on a ratings site, the next step involves sending a template of the privacy contract to the site. An accompanying letter explains that the poster represents he is your patient. Like all patients, this patient signed an agreement to maintain confidentiality. If the ratings site does not remove the posting, the site may be at risk for tortious interference with your contract.

Medical Justice's anti-defamation product will include licensing use of the template for the mutual privacy contract, proactive regular notification to physician rating sites to honor the pre-existing contracts, and monitoring the numerous rating sites to confirm compliance with the agreements. This service is available free of charge with full Medical Justice membership (for neurosurgeons that cost varies between \$1,250 and \$1,990 a year). The anti-defamation program is available alone for \$500 the first year; \$350 estimated renewal.

The Medical Justice's site is [www.medicaljustice.com](http://www.medicaljustice.com). ❖

### P4P Plus

**T**he Feds are running a demonstration project in which large physician groups get extra payments for not only reporting quality measures (as is done in the nationwide P4P project that any doc can pursue and about which the AANS/CNS Washington Committee has a jaundiced view) but actually demonstrating improvement in adherence to some pretty well accepted guidelines. Ten large groups participated and received a total of 16.7 million dollars for their successful completion of the project. One of the groups reported that they actually were paid more than it cost to lay in additional help to get the project completed. No proof yet that any patient actually got truly improved as well but some evidence surfaced that with strict adherence to the guidelines, some patient costs were actually less which is supposed to be the flip side of the perfect guideline adherence coin. Let's see, the same ten groups got 2.9 million from also participating in the regular P4P project. A few million here, a few million there, maybe docs can make some real money saluting. ❖

## Resolutions to be considered at the Council of State Neurosurgical Societies meeting in September:

**Workforce Network-Locum Tenens:** The goal is to set up a free national list of neurosurgeons available for locum tenens work that an interested doc could use to obtain coverage without the use of expensive locum tenens agencies.

**Joint Neurosurgical Research Committee:** The goal is to create a committee to establish sources of research funding that does not include device and drug manufacturers.

**Competency in Neurocritical Care.** The goal is to have the AANS/CNS/ABNS create a white paper stating the neurosurgical training includes providing critical care and Board eligible or certified neurosurgeons should be automatically privileged to provide such care without additional training as required by some institutions.

**Educational Campaign on Neurosurgical Spinal Surgery Expertise.** The goal is to have the AANS and the CNS consider implementing an educational campaign to inform the public about the special expertise and training that make neurosurgeons uniquely qualified to perform spinal surgery.

**The Need for More Vigorous Public Relations Activities From Organized Neurosurgery.** The goal is to encourage our parent organizations (AANS and CNS) to initiate a sustained campaign of substantially increased public relations activities regarding neurosurgeons and their unique qualifications.

**Program Development of State Neurosurgical Society Meetings.** The goal is to have the CSNS develop a CD based program that explains key issues to help guide the production of a successful state neurosurgical society meeting.

**Medicare and the Profession of Neurosurgery.** The goal is to have the CSNS/AANS/CNS advise all neurosurgeons that the Medicare program creates risks to our patients that are intolerable and they should leave Medicare until such time as Medicare addresses the problems of practice interference and unfunded and mandated compliance requirements and that the CSNS/AANS/CNS assist all neurosurgeons in creating practice structures and systems that will enable them to continue to provide services to Medicare beneficiaries outside the Medicare system.

Any CANS member who wishes to provide input regarding any of the above resolutions should contact our President and head of the CANS CSNS delegation, Moose Abou-Samra at [MAbousamra@aol.com](mailto:MAbousamra@aol.com). ❖

**ATTN Vendors:** CANS is now accepting newsletter ads. Please contact the executive office for complete price list and details.

Questions or comments can be sent to the editor, Randall W. Smith, M.D., at [rws-avopro@sbcglobal.net](mailto:rws-avopro@sbcglobal.net) or to the CANS office at [janinetash@sbcglobal.net](mailto:janinetash@sbcglobal.net). Past issues of the monthly newsletter are available on the CANS website at [www.cans1.org](http://www.cans1.org).

*The newsletter is a mix of fact, rumor and opinion. The facts are hopefully clearly stated. The rest is open to interpretation. The opinion is mine. R.S. The assistance of Janine Tash and Moustapha Abou-Samra, M.D. in the preparation of this newsletter is acknowledged and appreciated. If you do not wish to receive this newsletter in the future, please E-mail or fax Janine Tash [janinetash@sbcglobal.net](mailto:janinetash@sbcglobal.net), (916-457-8202) with the word "unsubscribe" in the subject line.*

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