



CANS

NEWSLETTER

California Association of Neurological Surgeons

Volume 35 Number 12

December 2008

President's Message:

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

Doctors and other health care providers should not be forced to choose between good professional standing and violating their conscience," Michael O. Leavitt, the Secretary of Health and Human Services, said in a statement that ushered the Bush Administration rule which was issued on Thursday December 18, 2008. The rule provides new protections for health care providers who oppose abortion and other medical procedures on religious or moral grounds. It is very likely that President-Elect Obama will overturn this rule, given his previous announcements about the subject.

To be sure, this is a political issue and you may feel strongly about it one way or another; to me, physicians' independence and freedom are my only interest.

Freedom to practice medicine and surgery the way each of us feel is appropriate is one of our most valuable privileges, a privilege that justifies the sacrifices we give and the acceptance of increasingly drastic cuts in our reimbursement. Freedom and Independence in this context should be absolute!

But, does such a freedom exist anymore?

I found out recently that at my hospital, the nurses offer my patients, after elective surgery, the flu vaccine. And if the patients accept, they are given such a vaccine without my orders and regardless of the fact that they may have a real medical contraindication to receiving it. I am told that this is "State Law," and that there is nothing I can do about it. Contrast this to the call that I still receive at 2 AM asking for permission to give a patient an Aspirin, or because said patient wants to take his regularly scheduled medications according to his schedule and not that of the hospital! How can we have "Freedom" if we are so trivialized?

No, there is no more "Independence" and there is no more "Freedom." We have been thoroughly corporatized and we are at the mercy of an increasingly invasive and malignant bureaucracy that has been robbed of common sense!

The standing of physicians has fallen drastically, even in their own hospitals, where CEOs are frequently compensated at a much higher rate than they are, and where there are layers and layers of "reviewers whose professed job is to prevent doctors from making mistakes." What's worst, according to a study from Johns Hopkins and published in the Journal of Medicine, one in four patients feel that their physicians sometimes expose them to unnecessary risk; and if you go to your neighborhood Barnes and Noble, you will find many books that constitute a new genre: "what doctors won't tell you!"

It is no surprise that physicians are now reviewed on Angie's list much like plumbers and roofers. I invite you to read Dr. Pauline Chen's article in the New York Times, Thursday December 19, 2008, where she explores the subject of patients trust: that is whether or not patients trust their physicians too much!

Dr. Chen was so intrigued by Angie's list and the concept of reviewing doctors alongside other service providers that she bought a subscription to the popular "list." She found that doctors are usually given high marks if they were "warm, concerned and focused," but there was very little interest expressed in their qualifications! She goes on to remark that to reviewers on Angie's list: "One surgeon, it appeared, could operate much like another; pediatricians and internists could diagnose and manage with similar abilities; and obstetricians could deliver babies regardless of



*CANS wishes all
its readers a healthy
and happy New Year.*

Inside this issue:

Neurosurgeons out of the box – page 2

Be Compassionate – page 3

Heating Discs no longer allowed - page 3

Balance Billing: Part 2 - page 3

Federal eRx Program - page 4

How about calling it what it is - page 4

Annual Meeting - page 4

Letter to Editor - page 5

shape, size, or form. All doctors, whatever their grades, seemed to possess similar and interchangeable skills that they could then apply to you.”

It is no surprise, therefore, that the average patient devotes an hour or less to researching his or her surgery or surgeon, according to a national survey conducted by the American College of Surgeons!

“Freedom” and “Independence” are nice concepts, indeed, and our patients assume that we are independent. But do they really understand the consequences of having a physician who is neither independent nor free, as their own?

I will leave you with this thought: if nothing else is important, fighting to regain our “Freedom and Independence” is an objective that we should all cherish.

I hope that my ranting over the last year did not irritate all of you. It’s been an honor and a privilege to serve as your president for 2008; CANS is a wonderful organization and deserves the strong support of each neurosurgeon in California.

I hope to see you all in Carmel.

Please accept my personal wishes for a Holiday Season full of Joy and a New Year of happiness, health, success and ... HOPE.

Merry Christmas! ❖

Neurosurgeons out of the Box

Randall W. Smith, M.D Editor

Nearly all neurosurgeons shoot for a fairly confined life the walls of which keep us out of politics, at least out of serving in a political position. Sure we at times try to influence the politicians we know but mostly limit our non-clinical endeavors to maybe running a group practice, serving as department chairs in the hospital or chief of staff. Academicians choose more interactions with universities and national organizations but still come from the neurosurgical base they know and in which they are comfortable. These are things we know and that we do well.

Then there are the very few who go beyond the walls to take a shot at positions where brain surgery is anything but a pre-requisite. Take for instance our CANS historian John Kusske. John has done yeoman work for neurosurgery related to federal regulations impacting emergency practice particularly in the area of the EMTALA rules. He has also rather silently served on the Board of Directors of the Institute for Medical Quality (IMQ), a CMA subsidiary that performs a number of tasks most notably the Consolidated Accreditation and Licensure Survey Program (CALs) that occurs along with the JCAHO inspection all hospitals periodically undergo. It also runs an Ambulatory Program which accredits a wide range of entities including ambulatory surgery centers and a Peer Review Consultation Program which upon request supplies non-local experts to help with peer review. Dr. Kusske has just been appointed chairman of the IMQ Board and will now get to field a lot of non-neurosurgical ground balls. Having a neurosurgeon in this role can never hurt our brotherhood. In the big world, it often comes down to who you know, not what we as brain surgeons know.

Speaking of who you know, Chicago neurosurgeon Gail Rosseau, an early supporter of President-elect Barack Obama, is being considered for the position of U.S. Surgeon General. Gail is a sensible, effective and pleasant woman currently chief of surgery at the Neurologic and Orthopedic Institute of Chicago and an assistant professor of neurosurgery at Rush University Medical Center. She has a daughter, 14, son, 12 and her husband is an orthopedic surgeon (which we forgive). She has been active in AANS committees and has been published on topics related to neurosurgery and women's health issues, evaluating ways to boost the number of women in medicine and address the looming doctor shortage in a variety of medical fields. Neurosurgery is her second career, having been a registered nurse before stepping into the doc arena. Although there are plenty of women in medical school, Gail could be a potent example of how to pursue a demanding specialty while still being mother and wife.

The post of U.S. Surgeon General is often seen as an administration's bully pulpit when it comes to health issues although the post does oversee the United States Public Health Service doctor corps, a cadre of 6,000 which is in dire need of replenishment. The Surgeon General also represents the Department of Health and Human Services on the governing bodies of non-Federal health organizations, including the Board of Regents of the Uniformed Services University of the Health Sciences, the National Library of Medicine, the Armed Forces Institute of Pathology, the Association of Military Surgeons of the United States, and the American Medical Association.

One must admire Dr. Rosseau if she is offered and takes the job which could spell the end to her neurosurgical career unless during a 4 to 8 year sojourn in DC she can somehow not totally give up her day job. We wish her well. ❖

More News from the Editor

Be Compassionate—but within your scope of practice

The California Supreme Court has ruled that the Good Samaritan law, which protects us from liability for any care we might deliver in an emergency situation, is only protective if we are delivering emergency medical care. Any other acts in an emergency situation are not covered. This means if you help extract an injured person from a wrecked car or from under a fallen tree limb and in the process worsen their injuries, you are fair game for the plaintiff's bar. As you might imagine, the case that led to this ruling was one of a person yanking (note the verb used) a co-worker from a wrecked car and increasing the person's injuries, namely a resulting paraplegia. One supposes that if the car were burning and the injured party was about to burn to death that "yanking" would be OK but you never can under estimate the JDs. So let the EMS responders extract and confine yourself to safe activities like airway management, splinting and stemming hemorrhage. Better yet, stay home. ❖

Heating a disc no longer allowed by Feds

The Centers for Medicare and Medicaid Services (CMS) has made a recent determination that Thermal Intradiscal Procedures (TIPS) performed on or after September 29, 2008 are not reasonable and necessary for the treatment of low back pain in patients covered by Medicare and they won't pay for them. TIPS are noted to stand for Intradiscal electrothermal therapy (IDET); Intradiscal thermal annuloplasty (IDTA); Percutaneous intradiscal radiofrequency thermocoagulation (PIRFT); Radiofrequency annuloplasty (RA); Intradiscal biacuplasty (IDB); Percutaneous (or plasma) disc decompression (PDD) or ablation or Targeted disc decompression (TDD). This National Coverage Determination does not apply to percutaneous disc decompression or nucleoplasty procedures that do not utilize a radiofrequency energy source or electrothermal energy (such as the disc decompressor procedure or laser procedure). The CPT codes disallowed are 22526, 22527, 0062T and 0063T. ❖

Balance billing—part 2

In our newsletter issue of October we reported that the California Department of Managed Health Care (DMHC) has outlawed balance billing of ED patients by docs who do not have a contract with the patient's medical insurance carrier. It turns out the prohibition is only for ED work you do for patients who are enrollees in Knox-Keene plans, that is, commercial HMOs, and many Blue Cross and Blue Shield PPOs. It does not apply to insurance products including PPOs regulated by the Department of Insurance (DOI). It is often difficult to determine what a patient's coverage really is and your billing department should check with the patient's insurance company to find out if they are Knox-Keene plan. For those of you who are CMA members, their Web site (www.cmanet.org) has an extensive balance billing toolkit that can be downloaded. ❖

OSTEOVATION[®]
Bone Void Filler

- *Fast setting in warm wet surgical environment*
- *Resistant to "washout"¹*
- *Osteoconductive; facilitate bone growth*
- *Does not irritate the dura*
- *Isothermic; does not release heat*
- *Available in Injectable & Impactable formulas*

Storage Temp: between 59°F - 86°F (15°C - 30°C)
Working Temp: between 66°F - 70°F (19°C - 21°C)

¹<http://www.osteomed.com/Clinical/OsteoBiologics.html>

OSTEOMED
A TRADITION OF QUALITY AND INNOVATION
CUSTOMER SERVICE: 800-456-7779

The Federal eRx program—the devil is in the details

As we noted last month, a new carrot/stick maneuver by Medicare to get you to electronically prescribe medications will kick off in January. The cost to implement an eRx system could be substantial and you only qualify for the 2% bonus if at least 10% of your Medicare billings involve an episode where you do prescribe a medication. Since most of us have sizeable surgical charges compared to E&M charges and any meds you prescribe in the global surgical fee time window don't qualify and since most of our consults don't result in writing a script, we may have difficulty meeting the 10% rule. Still, if you are interested, the AMA has a useful site to help you jump through the hoops-- <http://www.ama-assn.org/ama/pub/category/18255.html>. ❖

How about calling it what it is

In our April 2008 issue we lamented a proposal by Senate Finance Committee Chairman Max Baucus to tie any increase in Medicare payments to primary care providers (which he favors) to corresponding cuts in medical specialty care. The Alliance of Specialty Medicine (ASM), which includes the AANS and CNS, did us one better by publishing their concerns. ASM said:

Any health care reform plan should improve quality and access to the entire spectrum of medical services, including specialists, for all Americans. That is the health care system Americans want and that is the health care system they deserve. Trying to improve Americans' access to primary care by simultaneously restricting their access to specialty care is not in the best interest of patients.

All physicians, not just those who practice primary care, have received minimal Medicare payment updates for years that have not even kept pace with inflation. In addition, specialty physicians have had significant cuts in their reimbursement since the inception of the Medicare Physician Fee Schedule in 1992. Imposing further cuts for specialty care will have very real and serious unintended consequences for patients, limiting their access to medical specialists and their treatment options.

We urge Chairman Baucus to work with medical specialists as well as primary care providers to improve access to all components of medical care for all Medicare beneficiaries.

ASM's position is laudable and couched in the politically correct warning about how these income redistribution maneuvers will affect access to care for seniors. ASM didn't point out that robbery is supposed to be illegal. ❖



January 16-18, 2009, Carmel, CA

Please note that Quail Lodge is still accepting reservations at the contracted room rate of \$160 until December 31. This means that you can still register for the meeting which promises to be relevant and timely addressing many aspects of change that affect the profession of neurosurgery.

In addition to the socioeconomic program, other notable speakers will include Dr. Ulrich Batzdorf who will be receiving CANS highest honor, the Pevehouse Distinguished Service Award, at the Monterey Bay Aquarium banquet; Terry Sanders, the Academy Award winning documentary filmmaker, who will present his movie "Fighting for Life" about American military doctors in Iraq; and Thom Steinbeck who will be Saturday's luncheon speaker.

Registration forms can be downloaded from the CANS website – www.can1.org – or you can contact Janine Tash at the CANS office 916 457-2267 or janinetash@sbcglobal.net.

Letter to the Editor

John T. Bonner, M.D.

I very much enjoyed our CANS President's enthusiastic review last newsletter of our national election and enthusiasm for the upcoming administration, but I have a less sanguine view and opinion. We did elect (or at least most voted for, myself excepted) what most recognize as the most liberal member of the U.S. Senate (one who as a U.S. Senator and also Illinois legislator voted less often, such as present or did not vote at all so as to not establish a voting record that could be criticized or one that could be suggested as socialist). The votes he rarely did make were those supporting pro-choice and abortion, including partial-birth abortion, and this will be commented on later.

It is reported that President-elect Obama will ask us to make sacrifices for our health care system, but I fear that these sacrifices will not be beneficial for our profession or our patients (I hope to be surprised otherwise). Our President-elect states he would like a universal medical care system, to cover our total population. To accomplish this, I am concerned that our profession of medicine could be turned into a utility based on medical care being a right other than an individual responsibility. I do not disagree with government and private charitable programs to act as safety nets for those most vulnerable who cannot afford medical care for legitimate reasons, but if medical care is a right, why not food and housing which are more pressing and daily needs for individuals? Do we agree with free groceries from the supermarket or just moving into a new real estate development without financial responsibility? If medicine became a utility, we physicians would most likely have to be satisfied with Medicaid (Medi-Cal) and Medicare (or less) reimbursement levels, levels which many of us currently find too low to accept.

Interestingly, President-elect Obama selected Tom Daschle, former U.S. Senator and Senate Majority Leader from South Dakota, to be Secretary of Health and Human Services in the Obama cabinet (not only because he professes interest in revising the US medical care system, but also because he is an abortion supporter, including partial birth abortion -- a position with which he is in agreement with President-elect Obama). In his book, "Critical: What We Can Do About the Health Care Crisis," Mr. Daschle appears to favor a single-payer strategy, to establish a Federal Health Board, an independent entity like the Federal Reserve. This sounds like additional bureaucracy to me. Many are concerned that such a plan would impose additional responsibilities on physicians, such as mandatory care to all, while providing inadequate reimbursement. Mr. Daschle and President-elect Obama both desire to cut Medicare payments to HMOs and private insurance plans (which serve nearly one-fourth of all Medicare beneficiaries) that also would most likely result in less professional care reimbursement. Apparently, Mr. Daschle is quite critical of the current U.S. healthcare system, as he has said that "We have to break the myth that this is the best health care system in the world." Perhaps he would prefer to have his health care elsewhere.

In addition to possibly instituting a universal healthcare system, President-elect Obama has been a consistent supporter of legislation favorable to abortion and its funding, including partial birth abortion. I would like to think that physicians would be pro-life (in the interests of full disclosure I am a medical consultant to the Central Valley Right to Life organization and a practicing Roman Catholic), but the policies of the CMA, AMA and ACOG do not indicate this. What disturbs me, as a pro-life physician, is that President-elect Obama has been described as the most committed abortion rights candidate from a major party in 35 years. I believe that we should be protective of the most vulnerable among us, especially the unborn, and these next four years could be a challenging time for the pro-life movement.

It would appear that we will indeed witness 'change,' but I suspect that the change will not be that which we physicians like or find medically-productive. ❖

QUOTE OF THE MONTH

Always be yourself because the people that matter don't mind, and the ones that mind don't matter.

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) or fax (858 683-2022). ❖

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 or to the CANS office at janinetash@sbcglobal.net. Past issues of the monthly newsletter are available on the CANS website at 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, (916-457-8202) with the word "unsubscribe" in the subject line.

California Association of Neurological Surgeons, Inc.

5380 Elvas Avenue, Suite 216

Sacramento, CA 95819

Tel: 916 457-2267

Fax: 916 457-8202

www.cans1.org

Editorial Committee:

Editor: Randall W. Smith, M.D.

President: Moustapha Abou-Samra, M.D.

Editorial Assistant: Janine M. Tash