



# CANS

# NEWSLETTER

California Association of Neurological Surgeons

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## President's Message

*William L. Caton III, M.D.*

Congress remains mired in their debate as to how to proceed with the Health Insurance reform process, which is becoming more and more chaotic.

Although some initial legislation has been passed, the measures to change the healthcare system remain very much up in the air. Although this debate has been dragging on now for almost a year, it appears that nothing finite will be accomplished until February at the earliest. The Senate-House conferences will continue to politicize healthcare insurance reform.

Ironically, in view of this inaction by Congress, the Federal Government has just decided not to make any Medicare payments for the first two weeks of January. This will involve withholding payments to physicians and hospitals throughout the United States. It is certainly unknown whether this delay of two weeks of payments in January will extend further. I learned of this proposal two days ago from a physician involved in dealing with the highest officials at Medicare.



Ironically, we have seen a situation where politics in particular wins out over reason. Senator Ben Nelson obviously struck a deal with the Senate leaders. This has resulted in the state of Nebraska saving approximately \$10 million a year by forcing the Federal Government to assume the entire cost of expanding the Medicaid program to 133% above the poverty level in the state. On the Senate floor, the GOP Senate has argued that this has violated the Congressional tax and spending powers on Article 1 of the constitution, which requires that tax monies must be used for "general welfare."

The GOP legal experts agree with this line of reasoning while Democratic party attorneys respond that Congress is free to send tax money wherever it wants and that Nelson's move was simply good politics.

Also in the current Senate Bill is the so called manager's amendment added last week. This provision will create a multi-state private health insurance plan operated by the Office of Personnel Management, which

oversees the plans for Federal employees. The goal is that this plan will provide consumers with another insurance option, especially in states where the competition is limited. This is being done to try to keep premiums from rising.

Another measure in this bill would limit the amount that insurance companies can spend on activities other than paying claims, such as marketing and salaries. A third provision also prevents insurance companies from capping the amount of medical benefits for a life long policy.

While all these significant discussions are going on, there are further problems looming on the horizon.

Independent of all the changes in this legislation is the CMS. It runs on its own rules. We are familiar with its bureaucracy and its vagrancies.

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At this time the CMS has decreed that the office-based cardiologists in the United States are going to have a 38% reduction in their fees in 2010. This decree is unrelated to the current legislative process. It is mandated by the practice expense overhead provisions in the current operating rules of the CMS. For an unknown reason, the cardiologists polled in this past year reported a significant decline in office-based expenses. Medicare payments will be adjusted downward and office based cardiologists will have a significant loss of earnings. This will result in many cardiologists switching from private practice to become hospital based employees throughout the United States. Ironically the cost per hospital based cardiologists is dramatically increased due to facility fees. In the cardiology imaging realm, the hospital based costs are approximately 300% of the office cost for the same study. Ultimately, there will be no savings whatsoever by decreasing private practice cardiology cost, but rather significant increase in Federal Government expenditure on hospital based cardiology. Cardiologists will still be employed and there will a major increase in costs for Medicare.

Ironically, the cardiologists are still at the bargaining table in Washington along with the AMA while many other major groups have dropped out.

Another serious problem within the Senate Bill is the provision that prohibits any legal action by citizens or organizations against Medicare. The IMac Committee jurisdiction is unchallengeable in the current legislation. The politically appointed commission's decisions will be final and complete. Their decrees will not be subject to any legal challenges at all.

As we move ahead into 2010, I suspect there will be many new surprises coming out from this legislation. It is certainly a good goal to have 30 million more Americans insured. At the same time, I wonder what has happened to the healthcare coverage for illegal aliens. Both parties in the legislative groups have put everyone on notice that there will be no coverage for illegal aliens' healthcare costs. If indeed that is the case, the cost will fall upon the State, the County, the hospitals, and the physicians caring for them. It seems in a state like California to have no alternatives for reimbursement for care for illegal aliens is unconscionable.

Hopefully, during 2010, we will see some answers from the legislative branch of our government in dealing thoughtfully with these problems rather than politicizing them completely.

I remind you that we will have many discussions about these problems at the annual CANS meeting at Disneyland. I invite you all to attend this meeting. ❖



## MEETING ANNOUNCEMENT

The **San Francisco Neurological Society (SFNS)** will be having its 62nd Annual Meeting at the **Sonoma Lodge** on February 26th - 28th. Dr Kern Guppy is the current President of the Society, a neurosurgeon and a member of CANS.

The agenda has a large number of neurosurgeons giving lectures including Dr. Fredric Meyer from Mayo Clinic, Dr. Gary Steinberg from Stanford, Dr. Michael McDermott, Dr. Praveen Mummaneni and Dr Phillip Weinstein from UCSF and many more. Sonoma is a great place to bring the family, enjoy great wine, see old friends and learn new advances in Neurosurgery. SFNS website is [www.sfneurological.org](http://www.sfneurological.org). ❖

## Fusion Hardware Costs in Work Comp Sights

Randall W. Smith, M.D., Editor

In last month's newsletter we noted that the California Division of Workers' Compensation (DWC) plans to make regulatory changes to further squeeze costs from the California workers' compensation system. Since a previous CANS survey indicated that about 75% of our members do care for injured patients, keeping abreast of the DWC's plans would seem pertinent for this newsletter to follow. In that light we note that the Division of Workers' Compensation has scheduled a January public hearing to give stakeholders a chance to weigh in on plans to eliminate certain charges for hardware in spinal surgery.

Currently, hospitals and surgical centers are paid at about 120% of costs for a procedure and in addition they get to pass through to the Comp carrier 100% of their cost in providing surgical implants (such as plates, rods and screws) plus being allowed to add a \$250 handling fee. This reimbursement scheme, which has got to be the best deal the hospitals get these days, was put in place to prevent doctors from avoiding workers' compensation patients and to ensure injured workers received needed treatment.

Now most surgeons wouldn't be affected by any changes since our surgical fees are paid at the WC rate, which also has to be the best deal around for nearly all of us, but CANS members who are owners of a surgical center or who buy implantable hardware at a discount from device makers and then sell it at a nice markup to the hospital would almost certainly see the elimination of the pass-through as a reduction in income.

The DWC has to walk a fine line here since a complete elimination of the pass-through, meaning that the facility

fee for a procedure must include the cost of implantables, could result in hospitals and surgical centers declining to accept Work Comp patients which would cause a major uproar. Expect a tiered reduction of some sort which will not totally queer the deal for facilities but will cut the up until now largesse.

As might be anticipated, the device makers, the California Ambulatory Surgery Association and the California Orthopaedic Association have come out with cautionary comments invoking the potential risk to Comp patients' access as a cause for concern, not mentioning the threat to income which is always the elephant in the room that is never talked about.

The DWC will hold a Jan. 19 hearing from 1:00 p.m. to 4:00 p.m. in Room 11 at the Elihu M. Harris State Office Building, 1515 Clay St., Oakland. The division seeks comments, suggestions and opinions regarding the spinal implant pass-through issue and asks those interested in attending to RSVP to Maureen Gray at [mgray@dir.ca.gov](mailto:mgray@dir.ca.gov) or (510) 286-0676.

Should CANS attend the meeting and speak out against any major changes that would affect patient access (avoiding any talk about the elephant)? Probably only if we hear from enough of our members who feel like the orthopods do that we docs have an ox in the game that could be gored. Contact our executive secretary Janine Tash ([janinetash@sbcglobal.net](mailto:janinetash@sbcglobal.net), 916-457-8202) with your thoughts. ❖

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## Report of the Executive Secretary/ANNUAL MEETING

Space is still available for the Annual Meeting. NOTE: hotel room deadline is January 4, 2010; this means that you have until **midnight (January 3, 2010)** to make your reservations on line (\$209 per night + \$12 resort fee) at <https://resweb.passkey.com/go/CANS>. Discount tickets to Disneyland@Resort can also be purchased via this same link. Ticket store closes at 9:00 p.m. January 11 so please purchase tickets before that date.

Program schedule of events is as follows: January 15-16, 2010, Grand Californian Hotel, Anaheim, CA  
(See last page for [MEETING REGISTRATION FORM](#))

### FRIDAY

**Welcoming Reception (Light refreshments/no-host bar), Wisteria Room 6:30 p.m.**

### SATURDAY

**Sequoia Ballroom**

7:30-8:15

*Continental Breakfast/Visit Exhibits*

8:15-8:30

**CANS Business Meeting**, William L. Caton III, M.D., CANS President

### Health Care Reform 2010: Chaos or Progress?

8:30-9:10

**Chaos or Reform: Hollywood on the Potomac**

Jack Lewin, M.D., CEO, American College of Cardiology

9:10-9:50

**Economic/Credit Crises and their Impact on Health Care**

James F. Rothenberg, Chairman & Principal Executive Officer of Capital Research & Management Co.

**9:50-10:20**

*break/visit exhibits*

10:20-11:00

**Neurosurgery and Health Care Reform**

Troy Tippet, M.D., President, American Association of Neurological Surgeons

11:00-11:40

**Health Care Reform, Legislation and Physician Bargaining**

Tom Campbell, Republican Candidate for Governor of California

**12:00- 1:00**

**Luncheon - Universities and the Recession: Making the Best of the Worst of Times.**

Dr. Jean-Lou Chameau, President of the California Institute of Technology (Caltech)

1:00-1:40

**Current Congressional Legislation on Health Care Reform and Its Impact on California Citizens and their Doctors**

Congressman Adam B. Schiff—California's 29th Congressional District

1:40-2:30

**PANEL DISCUSSION**

Barton Wald, M.D., Kenneth Ott, M.D., William L. Caton III, M.D.

Stephen A. Ralph, CEO, Huntington Memorial Hospital

2:30-2:40

*break/visit exhibits*

2:40-3:30

**PANEL DISCUSSION - continued**

**SATURDAY EVENING 7:00 p.m. Banquet and Award Presentation to Donald Becker, M.D.**

### SUNDAY

**3-hour QME Seminar presented by Livingstone-Lopez Consulting**

This course fulfills 3 of the 6-hour annual requirement for continuing education for current QMEs. There will be presentations by two attorneys: Jeffrey Adelson, in private practice, and David Kizer from the State Compensation Insurance Fund. Dana Livingstone Lopez has coordinated numerous work comp courses for CANS in the past and is pleased to also offer a home-study option for the remaining 3, 6 or 9 credits you may need.

## Letter to the Editor

**Dear Editor:**

I recently attended the Annual Meeting of the **North American Spine Society**, held in San Francisco, November 10-14, 2009. I have been a member of NASS for a long time but had not attended their meetings regularly.

This year I attended for two main reasons: to support the President, **Dr. Charlie Branch, Jr.**, Chairman of the Neurosurgery program at Wake Forest University, a good friend and one of our own, and to witness the rapidly increasing clout of this Society.

Indeed Dr. Branch did a fantastic job organizing and presiding over the scientific and social program. It was great to see physicians from a wide spectrum of spine care interacting and exchanging ideas and information. It was also refreshing to see every issue addressed from the surgical and non surgical perspective, but also to see the emphasis on basic scientific and clinical research. Additionally, NASS advocacy program appears as strong and organized as anything I know.

I plan to attend the NASS meeting with regularity from now on.

I particularly enjoyed the lecture given by **David McCullough**, the Presidential Guest Speaker. Mr. McCullough, who is known as a “master of narrative history”, is twice winner of the National Book Award and of the Pulitzer Prize. He is also a recipient of The Presidential Medal of Freedom, our nation’s highest civilian Award. His acclaimed books include “1776” and “John Adams.”

Mr. McCullough discussed Franklin, Adams and various other Founding Fathers. He said that what they all have in common is “Spine,” as in having courage, and standing up for what they believe at any ... cost.

Some, today, particularly in California, would use the particularly politically incorrect expression: “having cajones” as an alternative. In fact it wasn’t long ago that Madeleine Albright used this expression while serving as our Ambassador to the United Nations.

While most believe, that we, as neurosurgeons, have the appropriate dose of “cajones,” I am afraid that we have lost our “Spine.”

At the recent CANS board meeting in Oakland we discussed the various resolutions that were to be discussed at the CSNS meeting, the following week. To be sure, there was some controversy about Resolution II. However the board supported the resolution: it would require Medicare recipients to sign an advanced directive before their enrollment in Medicare is activated. No one, of course, will tell such enrollees what kind of directive to choose, and how aggressively do they want to be treated.

At the CSNS meeting, I spoke personally, and on behalf of CANS, in favor of the resolution. However, it failed miserably.

Speaker after speaker used the most commonly expressed reasons for opposing the resolution: this is the wrong political climate and we should not allow Neurosurgery’s name to become intimately associated with the “perception” that we are in favor of withholding care of any kind, lest we are “perceived” as being in favor of the hated “Death Squads.” Yes, “Death Squads” analogy was used more than once.

Where is our “Spine”? Where is our back bone?

We all know that having an advanced directive is the right thing to do. We all know that futile end of life care is draining our health care dollars. And more seriously, we all know that futile end of life care is often given against the wishes of patients and family members because such wishes were never expressed or clearly articulated in advance.

The good news in all this: CANS seem to possess not only the “cajones” but also the “Spine.” This makes me proud! ❖

***Moustapha Abou-Samra, Past CANS President***

## **TIDBITS from the EDITOR**

### **Help for your office in dealing with Medicare**

If your office is wondering how to find the latest and greatest Medicare resources by subject, the **REVISED Guided Pathways** (November 2009) booklets incorporate existing Medicare Learning Network (MLN) products and other resources into well organized sections that can help Medicare Fee-for-Service (FFS) providers and suppliers find information to understand and navigate the Medicare Program. These booklets guide learners to Medicare program resources, FFS policies and requirements. You can access the **REVISED Guided Pathways** (November 2009) booklets at [http://www.cms.hhs.gov/MLNEdWebGuide/30\\_Guided\\_Pathways.asp](http://www.cms.hhs.gov/MLNEdWebGuide/30_Guided_Pathways.asp) on the Medicare Learning Network. ❖

### **When a felony isn't a felony**

We are all worn out with the Healthcare Reform going on in DC but I was struck with one issue that seemed like a felony, at least it would be a felony if any of us Indians tried it. As Dr. Caton in this month's presidential message noted, in order to get the 60 votes the Senate needed to end debate and go on to pass their reform bill, they allowed Sen. Ben Nelson from Nebraska to insert special provisions in the bill that give Nebraska extra support for its Medicaid program that no other state enjoys. That was his price for his vote which was the 60<sup>th</sup>. Where I come from, that is called extortion and is no less dishonorable than the Governor of Illinois allegedly trying to sell President Obama's Illinois US Senate seat. One hopes that there is some legal or constitutional challenge to the Nelson holdup but it may be that the Nebraska hookerism is just "politics," a word that justifies any despicable behavior. ❖

### **Docs with addiction problems on their own**

The California Dept. of Consumer Affairs in November announced strict new standards to make it more difficult for physicians and other health professionals who abuse alcohol and drugs to keep their licenses. The standards call for doctors and other health professionals who were put on probation by state licensing boards to get tested 104 times a year for the first year and at least 50 times a year thereafter, for an unspecified duration. A positive drug test will mean an immediate month's suspension from work and a change in license status to "inactive," which will be disclosed publicly. Failing a drug test could mean a suspended or revoked license.

This aggressive approach follows the cancellation of the Medical Board of California's diversion program in 2008. The program, which allowed physicians with substance-abuse problems to get help and be monitored in a confidential setting, ceased operation on June 30, 2008 after an audit of the program by Julianne D'Angelo Fellmeth, administrative director of the University of San Diego School of Law's Center for Public Interest Law, concluded the program had proven useless. She found that the program did not adequately and consistently monitor substance-abusing doctors, was chronically understaffed from the day it was created, and the medical board itself was not properly overseeing the administration of this program. It is the state's opinion their first priority is protecting patients and that they are not in the business of rehabilitation.

Of course, even a good program badly staffed and poorly overseen can be expected to fail. As it now stands, any doc detected as having a drug or alcohol abuse problem is placed on public probation by the MBC with the required frequent testing, leaving the doc to figure out how to really deal with the problem. Addiction psychiatry specialist Peter A. Mansky, MD, said pursuing an enforcement-only approach is "very dangerous to public safety, because if you don't have a program that doctors feel comfortable coming into, and coming into anonymously, they'll stay underground and likely do some patient harm."

In June, the California State Assembly passed a bill, supported by the CMA, to create a voluntary physician health program that would give doctors an avenue to get help with substance-abuse problems without that information being disclosed to the medical board. The bill is currently before the Senate Appropriations Committee. If the bill fails, it would seem that the CMA might do its members well, particularly the 122 docs currently being monitored by the state, by creating a good program for the doc to enroll in and pay for to assist him/her through the probational period. ❖

### THOUGHT OF THE MONTH:

This year is one we might all want to forget. Trouble is, forgetting it lessens the opportunity to learn and there was sure a lot to learn. We should have learned that war doesn't seem to be a good problem solver, that nice old men can really be nice (Buffett) or not (Madoff), that the term "secure future" is an oxymoron and that being a good doc will take extra vigilance in the years to come. ❖

### 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). ❖*

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).

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*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 Dr. Bill Caton 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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### Editorial Committee:

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# CANS ANNUAL MEETING 2010 REGISTRATION FORM

©Disney's Grand Californian Hotel® & Spa, Anaheim, CA, January 15-17, 2010

Name (please print) \_\_\_\_\_

Neurosurgeon \_\_\_ other (please specify) \_\_\_\_\_ Telephone \_\_\_\_\_

Address \_\_\_\_\_ Fax \_\_\_\_\_

City, State, Zip \_\_\_\_\_ E-mail \_\_\_\_\_

## 1. Saturday Meeting Registration January 16

(includes opening reception on Friday for everyone and lunch for registrants on Saturday)

CANS Members \$ 300

Senior Members \$250

Non-Members \$ 350

Residents no charge

lunches

\* Please indicate if you will attend luncheon (there is a \$50 lunch fee for guests, spouses and residents)

## 2. Saturday Banquet, January 16 Cocktails 7:00 pm; Dinner 7:30 pm (includes salad, wine, dessert)

Per Person \$125  Name \_\_\_\_\_ Filet \_\_\_ Salmon \_\_\_ Veg \_\_\_

Guest \$125  Name \_\_\_\_\_ Filet \_\_\_ Salmon \_\_\_ Veg \_\_\_

Child (3-9) \$ 35  Name (s) \_\_\_\_\_

\$35

dinners

(child's plate is chicken tenderloins)

## 3. Sunday QME Course January 17 9:00- noon (includes continental breakfast)

This course fulfills 3 of the 6-hour annual requirement for QME continuing education for current QMEs. This class also offers a home study option for the remaining 3, 6 or 9 credits you may need. Contact Dana Livingstone-Lopez directly for this option (760 944-6769 or dana@teachqme.com).

Per Person \$125

### TOTAL AMOUNT DUE

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**Rooms:** Log on to <https://resweb.passkey.com/go/CANS> or call ©Disney's Grand Californian Hotel® & Spa (714 520-5005) M-F 8-5 before **January 4, 2010** to ensure a room at the group rate of \$209.00.

Please check here when you have made your hotel reservations.

**Return registration form to CANS, 5380 Elvas Ave., #216, Sacramento, CA 95819 or fax to 916 457-8202.**

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