



CANS newsletter

California Association of Neurological Surgeons

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PRESIDENT'S MESSAGE

Austin R. T. Colohan, M.D.

2012 may turn out to be a pivotal year for healthcare in America. Presidential elections may determine whether Obamacare will continue to be the law of the land (non-withstanding judicial deliberations as to the constitutionality of the whole process) The *California Association of Neurological Surgeons* represents you at many levels in these challenging socio- economic times in our state and our nation. The annual meeting this month highlighted many of the areas of concern. What will accountable care organizations (ACOs) look like? Is there a future for solo practice neurosurgeons or will we all become hospital employees (via a foundation model)? What effect will Medicare cuts and SGR have on our livelihoods?

CANS needs you to become involved and educated in these matters. We can provide a forum for discussion but it is up to you to participate. Encourage other neurosurgeons in your community to join our organization.

The next annual meeting in January 2013 will be held on the **Queen Mary**, anchored at Long Beach since 1967. It is a 300 bed hotel. There will be CME and a Sunday presentation by residents from all the academic programs in California.

Please join me this year in making CANS a stronger voice for all of us. ❖



CANS Annual Meeting Program

Randall W. Smith, M.D., Editor

The annual meeting commenced on January 14th lead off by **Edward Ellison, M.D.**, Executive Medical Director of the Southern California Permanente Medical Group (within which CANS President Marc Vanefsky functions as Neurosurgical Director) in which he laid out the demographics we can expect from the Affordable Care Act (ACA) otherwise known as Obamacare. He noted that eligibility for Medicaid coverage will now extend to those making \$30,000 or less and estimates are that of the 34 million Americans who will be brought into the coverage fold by ACA, one half will be in Medicaid (the funding for which in California is so abysmal that a majority of docs won't accept such patients). He further stated that those making up to 90K a year will get some subsidy to buy insurance on the Insurance Exchanges that the ACA makes mandatory and those making over 90K are on their own in paying for what they mandatorily have to buy on the Exchanges. He speculated that since the ACA mandates that insurance on the Exchanges for the elderly cannot be more than 3x the price of the cheapest policy sold to a healthy 20-something year old, that will result in an increase in the price of the cheapest policies, further encouraging healthy young people to ignore the mandate for which they only get dinged \$100 per year at least to start with. Finally, he stated that Kaiser is as yet unsure about forming a monster Accountable Care Organization (ACO) predominantly because they cover so few on Medicare.

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The second speaker was **Frank Gamma**, JD, a principal in Kessenick Gamma & Free, a San Francisco law firm that specializes in forming legal physician affiliations. He saw no future for the totally independent solo practitioner. He outlined potential affiliations one can pursue to improve income noting that the least involved is a joint venture among solo practitioners in a single building to, for instance, install an MRI and share in the profit from it. A management service organization created by a group of solos is the next step where the MSO employs all the solos' personnel, contracts for group rates on billing, transcription services, consumables and malpractice insurance—all designed to decrease overhead but not necessarily increase gross receivables. The next step would be a group of independent neurosurgeons forming a neurosurgery specialty Independent Practice Association making it legal to negotiate as a group with a larger risk sharing IPA for neurosurgical services, negotiate rates with various hospitals for on-call coverage, can arrange for members of the Association to agree that one member does all of one kind of service such a DBS cases, can join ACOs and can negotiate with a foundation to provide neurosurgical services so as to avoid having the foundation buy a neurosurgeon. Such a specialty IPA must still act as a messenger model and Association members do not have to join in any contract they don't want to. The most involved affiliation is for a number (usual minimum: 10) of solo neurosurgeons to form a completely integrated group with one billing number and an internal structure for sharing overhead and income. He noted that such groups can legally create imaging centers, treatment centers, device distributorships and other ventures and that the most effective such groups derive over half their income from sources other than delivering patient care. Creating such an integrated group involves significant up front costs but some banks are very interested in funding these groups.

Herb K. Schultz was the next speaker, he being the Region IX (CA, AZ, NV, HI) Director for the U.S. Department of Health and Human Services. He has access to and answers to the Secretary of HHS and his job is to facilitate the implementation of HHS programs in the region. He noted that California has 7 million uninsured, 4 million of which will get coverage via the ACA, the other 3 million being undocumented aliens. He pointed out that businesses with fewer than 50 employees will be exempted from ACA penalties for not providing healthcare insurance. He lauded the Pre-existing Insurance Plan now available to Californians which can be accessed if one is without medical insurance for 6 months and whose doctor declares that you have or have had a pre-existing condition. He encouraged those interested to contact him at Herb.Schultz@hhs.gov.

The final morning speaker was **Peter Carmel**, M.D., pediatric neurosurgeon from New Jersey and currently the President of the AMA—and the first neurosurgeon to ever be AMA President. He lamented how the Medicaid ranks will swell with the ACA and that doctors are subsidizing Medicaid in all but about 10 states.

AMA Grassroots Hotline

CANS was honored to have keynote speaker **Peter Carmel, M.D.**, pediatric neurosurgeon from New Jersey, on the program. Dr. Carmel is the first neurosurgeon to ever serve as President of the AMA.

He spoke on the need for grassroots organization to repeal the SGR. The AMA has a hotline at **800-833-6354** that will connect you directly to your congress or senate representative's office. It takes about a minute of your time to leave a message. The more messages, the more we are heard. This writer (Dr. Deborah Henry) was pleasantly surprised at how easy it was to do.

He noted that the Medicare ranks will swell as the baby-boomers come on board and that already a majority of docs don't accept new Medicare patients because of the marginal payment rate. Expanding on the anticipated increase in Medicaid and Medicare patients, he mentioned the present doc shortage and how it will get worse, particularly because of the cap on Medicare funded residencies imposed in 1997 and not raised since. It was his opinion that ACOs will probably improve quality to some extent but not result in any substantial cost savings and those savings that might be realized will be due to keeping patients out of hospital. He reiterated the AMA position favoring private contracting with the Medicare patient without requiring the physician to opt out of Medicare and expressed some hope this concept might move forward in DC this year. Finally, he addressed the impending cuts in Medicare payments due to the SGR formula and how that could be ended and better doc reimbursement paid for by using funds from a section of the defense budget set aside for Overseas Combat Operations which shouldn't be needed with Iraq over and Afghanistan winding down. He strongly encouraged

all docs to call the **AMA Grassroots Hotline (1-800-833-6354)**, which will put the caller in touch with appropriate Congressmen, and request an end to the SGR and an increase cap on Medicare funded residencies.

The afternoon program included a talk by **William Guertin**, the Executive VP of the Alameda-Contra Costa Medical Association in which he reviewed the history of the California MICRA legislation and how it continues to be monitored for attacks by the lawyers and is supported by a very extensive group through Californians Allied for Patient Protection of which CANS is a member. The list of supporting groups can be viewed at www.micra.org. **John Kusske**, M.D., former CANS President and long time member of or consultant to the AANS/CNS Washington Committee reviewed the activities of that group and how it continues to be heard on Capitol Hill out of proportion to the size of the neurosurgical community in large part because of Katie Orrico, its long time Executive Director. He noted that the Committee was particularly successful when allying itself with other specialty organizations which tend to have larger numbers and bigger lobbying budgets. He further noted that the Neurosurgical Political Action Committee met its fundraising goal of nearly half a million dollars for the last election cycle. As usual, around 15% of neurosurgeons contribute to the PAC with 85% apparently convinced that someone else will look out for their interests. The meeting concluded with a rapid fire presentation by **Daniel J. Hunt**, the healthcare research analyst at Allianz Global Investors as to where one might consider investing to take advantage of what the ACA and an aging population will cause to happen. He appeared to favor the organic & natural foods industry, fitness clubs and weight loss program operators, specialty testing lab operators and water treatment organizations. ❖

Board of Directors Meeting

Randall W. Smith, M.D., Editor

The CANS Board of Directors met on Friday January 13th at the Grand Californian Hotel in Anaheim. In attendance were Drs. Vanefsky, Colohan, Robbins, Page, Kissel, Ott, Blumenfeld, Henry, Holly, Minassian, Rhoten, Rosario, Mummaneni, Abou-Samra, Caton, Prolo, Lippe, Rich, Wade, Smith, Christopher Duma and Executive Secretary Tash.

The Board proffered membership to **Brian R. Gantwerker, M.D.** practicing in Northridge. Total membership was reported as stable at 400 members though if there is not a near miraculous response from the 24 active members who have yet to pay their 2011 dues, that number will drop a bit.

Annual meeting attendance is expected to reach around 56 which will include about 9 residents subsidized by CANS as necessary. There will be 18 exhibitors. It was noted that the **Matthews Group at Morgan Stanley Smith Barney** was kind enough to host the pre-banquet cocktail hour.

President-elect Colohan reported that the ad hoc committee on CME has determined that it will cost about \$2200 to provide Category I CME credits for the 2013 meeting if we use the AANS. It was voted to proceed.

CANS Secretary Kimberly Page announced the election results for 2012 officers and directors which resulted in Ted Kaczmar becoming President-elect, Mike Robbins 1st VP and Kimberly Page 2nd VP. Treasurer Phil Kissel remains in place for another year and Frank Hsu was elected as a new southern director replacing Deborah Henry who was elected Secretary. Dr. Colohan announced the committee appointments for 2012 as well as the generally greybeard consultant corps among which is this writer.

Treasurer Kissel indicated CANS was financially sound and could afford our annual \$500 contribution to CAPP (the MICRA protection group) which was authorized.

After considerable discussion, a previous policy to hold the odd numbered year's meetings at the Grand Californian Hotel at Disneyland and the even numbered year's meetings in the northern part of the state at a location determined by the current President, was rescinded. In its place, a policy to have each meeting held at a venue of the current President's choice subject to Board approval was adopted. The policy included encouragement to alternate northern and southern locations but did not mandate that. Dr. Colohan then recommended that the 2013 meeting be held on the Queen Mary in Long Beach and that was approved by the Board. He further indicated an interest in having a session on the Sunday morning following next year's

Saturday socio-economic program which would be devoted to scientific presentations by one resident from each training program in the state.

Dr. Christopher Duma brought up the issue of a neurosurgical group in his community that signed a ridiculously lowball capitulated contract with the Monarch insurance company thus excluded him among others from access to their insured patients. After some discussion, it was felt that CANS could not help on the issue and that there was no accounting for some neurosurgeons' lack of business acumen.

Director Blumenfeld brought up the issue that the Board of Directors of one of the hospitals he uses had a consultant recommend that the biannual staff reappointment process establish volume minimums for certain procedures and such was instituted. He expressed concern that such volume minimums could exclude some neurosurgeons from maintaining privileges to do infrequent procedures that are infrequent because of the infrequent occurrence of some of the diseases with which we deal. A comment noted that followed to an extreme, there would only be 20 neurosurgeons privileged to clip aneurysms in California and only at academic centers thusly requiring the transfer of every SAH and the inability of community hospitals to provide a needed service to their local folk. It was further noted that the ABNS does not require minimums for Board certification or in the MOC process. It was felt that volume minimums should be discouraged if not potentially challenged by the CMA as interfering with medical care by non-docs. Dr. Blumenfeld was encouraged to submit a resolution regarding this issue to the CSNS. ❖

CANS BOARD of DIRECTORS 2012

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Letter to the Editor

Kenneth Ott, MD, FACS, San Diego

The basics of health care spending form the essence of discussion in the surgeons' lounge and among our other colleagues. Here are some interesting data from a recent WSJ article (rounded off):

1. Total US health care spending for 2010 was 2.6 trillion dollars / GDP was 14.8 trillion:
 - a. \$8,000 per person
 - b. 18% of the GDP
2. Fed, state and local governments already fund almost 1/2 of health care costs.
3. The growth of health care spending has greatly reduced over the past 30 years:

| | | | | |
|------|------|------|------|------|
| 1981 | 1990 | 2002 | 2009 | 2010 |
| 16% | 12% | 9% | 3.8% | 3.9% |

4. The growth of Medicare spending was 5% and growth for private insurance 2.4% in 2010.
5. Inflation rate for 2010 was 1.6%

What do we make of these statistics? Firstly there is nothing like a recession to limit the growth of health care spending. I doubt if the Obama administration will take credit for the recession so they can "own" the reduction of growth.

Over the past 30 years there has been a dramatic reduction in growth of healthcare. So this is not a recent, post- recession phenomenon. In the past few years several changes have contributed to reduction in growth. Many have lost their employer funded insurance: employer coverage fell from over 70% of the population to about 60% now. The number of the uninsured in America has risen from 13% to over 16%. Individual insurance costs have more than doubled in the past decade. In our post- recession period, higher premium costs, co-pay and deductions greatly contribute to less inflation of healthcare expenditures.

The free enterprise system of providing health care insurance is more effective in limiting growth. Increases in spending in 2010 for privately insured individuals were less than 1/2 of the increase for Medicare patients. Private insurers are making the patient part of the solution, not the problem. By increasing the cost of insurance, more individuals and companies who pay their insurance are opting for higher co-payments and deductible expenses. This produces less utilization. Medicare patients are still part of the problem. As the population ages each year, there will more Medicare recipients. This baby-boomer is one of them! The implementation of Obama Care in 2014 will add more the Medicare rolls. Medicare patients and their healthcare providers must become part of the solution.

Insurers are also limiting care. Our clinic was just notified that Blue Cross of California will be reviewing most of our proposed spinal procedures before authorizing surgery. How long will the federal government pay \$50,000 for proton beam radiation for prostatic carcinoma, when there has been no demonstrated advantage over Cyberknife radiosurgery or IMRT techniques at \$25,000? How long will they pay the \$25,000 for that matter?

Advances of healthcare spending must be controlled. A combination of free market pressures from Medicare and private-pay patients with direct exposure to these costs, and cost effective use of our resources will be the tools of the future. ❖

A Farmer's Thought for the Month

Life is simpler when you plow around the stump.

Tidbits from the Editors

Don't Let a Concussion Knock You Out

The governor has signed AB25 that requires a player who sustains a concussion to be removed from the sport contest and not be returned to play until cleared by somebody designated to make such judgments. The bill was authored by Assemblywoman Mary Hayashi, she of the "my benign brain tumor made me do it" explanation for walking out of a department store with over \$2000 in unpaid for merchandise. Prior to now, docs doing pro bono work as a team physician were only exposed to civil liability (malpractice suits) when they made decisions about whom to pull from a game and when to allow them back on the field. This newsletter has expressed concern that without a clear adoption by a sports league/team/school of what constitutes a concussion and what the criteria are that need to be satisfied before return to play, a well meaning doc was just inviting the plaintiffs' bar to declare open season on him/her. Now with AB25, the risk goes up a notch since failure to follow its ill defined mandates can be pursued as a criminal issue. Though one suspects that few neurosurgeons act as team docs, with this new law, one can anticipate fewer docs being willing to act as pro bono team physicians, so a dinged player will be pulled from a game by a coach/trainer and then sent to your office for "clearance" to resume practicing/playing. Without clear guidelines officially adopted by the league/team/school as to what criteria have to be satisfied before returning to play, the doc is just gambling that whatever internal guidelines he/she might feel are relevant would be defensible. Should anything subsequently go wrong, now in addition to the plaintiffs' bar we will have the California Attorney General in the hunt. As we have counseled before—be careful out there. ❖

The Gravy Train Don't Stop in Work Comp Anymore

The California legislature enacted and the Governor signed AB 378, effective 1 January 2012, that expands the existing state law prohibiting physician self-referral in the context of workers' compensation patients. The law was primarily intended to limit the charges for compounded drugs but also prohibits physicians treating California workers' compensation patients from owning an interest in a company (apparently including the physician's office) that supplies not only drugs (including over-the-counter meds provided and charged for by the physician), medical foods and durable medical equipment but also implantable medical devices to their patients. This development will be of interest to physicians, hospitals, ambulatory surgical centers, and medical device manufacturers and distributors, since it effectively reverses existing California law and outlaws physician-owned companies in the California workers' compensation arena.

Specifically, Section 139.3(a) of the California Labor Code, as amended by AB 378, provides as follows: *Notwithstanding any other law, to the extent those services are paid pursuant to [the workers' compensation program], it is unlawful for a physician to refer a person for ... pharmacy goods, whether for treatment or medical-legal purposes, if the physician or his or her immediate family has a financial interest with the person or in the entity that receives the referral.*

Though there are a few exceptions to the new rule, none would seem to apply to the device distributorships that have been formed over the past few years by single or small groups of surgeons. Violations of the new law would be misdemeanors with fines of up to \$5,000 per incident and review by the Medical Board of California for unprofessional behavior. ❖

California Neurology Society 2012 Annual Meeting

March 2-4, Marriott Anaheim

"Neuro-Disaster Management/Neuro-Terrorism" (11 CME Credits)

For more information: http://www.aan.com/news/?event=read&article_id=10265

Transitions in Neurosurgery

John T. Bonner, M.D., F.A.C.S., Associate Editor

California State Senator Mark Leno -- either out of concern that Obamacare may not be implemented or else too impatient to wait to see what the national program may turn out to be -- has introduced SB 810, the California Universal Health Care Act. The intent of this bill is to establish a universal health care system to cover every California resident with comprehensive benefits for life. It is supposed to be similar to Medicare (also with inadequate fees?), and is alleged by Senator Leno not to increase health care spending; but, if enacted, I doubt this would be the case. Recent fiscal analysis of a bill similar to the one introduced by Senator Leno indicated that the state expenditure would be excessive. Also, since California would be the only state with universal health care, residents of other states may migrate to obtain coverage, additionally increasing state expenditures. I believe that a single-payer universal health program would result in significant physician fee reduction and significant patient care restrictions (rationing of care?).

It is interesting to note that this bill, or one very similar to it, was considered in 2010; but that bill did not pass committee review. The universal health care bill introduced in 2008 was vetoed by previous Governor Schwarzenegger. However, Governor Brown is likely to favor a universal health care program -- a single payer scheme.

The future of SB 810 is unclear. On January 26, 2012, SB 810 failed on the Senate Floor by only two votes. It is scheduled for reconsideration during this session. I think it is likely to pass the Senate and then move to the Assembly for debate.

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We are all aware that the economy has been difficult for many, including retirees. Many retirees who rely on company benefits have had the proverbially 'rug pulled out from beneath them' when those companies file for bankruptcy -- resulting in unexpected healthcare devastation. This is because many such companies obtain permission from the bankruptcy court to bill retirees for previously covered benefits or even eliminate such coverage. A government sponsored Health Coverage Tax Credit, administered by the IRS, will help some retirees, but not all. Unfortunately, even one's best laid plans can be destroyed, without being personally responsible for the loss. ❖

Brain Waves

Deborah Henry, M.D., Associate Editor

I am a fourth quarter football (or basketball) junkie. I ignore the first three quarters and turn on the television to watch the last one. It has been the year of the field goal. The first Alabama and LSU game and several of the bowl games were decided by field goals. Last weekend, the Ravens field goal kicker missed the 32-yarder to tie the game and then the following game, the Giants kicker sailed the pigskin through the uprights as time expired to win thereby marking a season's accumulation of field goal mishaps and miracles.

I often thought if I played football, I would be the field goal kicker. It's not much different from neurosurgery. The kicker is the one with all the pressure for a short period of time. Everything else is preparation. Getting the football centered on the field is like positioning the patient. The better the position, the easier the case or kick. But there are some things that happen for the field goal kicker that have virtually disappeared from the operating room. The kicker is allowed time and space to get mentally prepared. Off on the corner of the sideline, he has his net and ball and solitude. The players, the camera crew, the fans, and the coaches leave him to concentrate on the objective at hand.

Neurosurgery reminds me of the field goal kicker too because our job is different from the rest of the team. No one else can play our position. We are the ones who are called when the game is on the line. We hope for a good snap, good position and yardage within our reach. Sometimes we are asked to do the impossible. But by pushing ourselves to the limit, those 50 yarders are becoming more routine. But we know at anytime, a ball can sail wide of the goal post, even with a common 32-yarder. Enjoy watching the super bowl Sunday. I won't be surprised if it is decided by a field goal. ❖

Thank you to the companies that participated in the 2012 Annual Meeting:



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SNAPSHOTS!

CANS members know how to have a Great time!



Incoming president, Dr. Austin Colohan & outgoing president, Dr. Marc Vanefsky



Dr. Rich, Meredith, Smith & Kusske trying to lure new young members!



A new generation! Drs. Gill, Yanni, Mathews, Gonda & Owen.



Dr. Page and Dr. Waters enjoying the dinner!



Mingling at the break



Dr. Henry & Dr. Page

CANS would like to thank the following residents who attended the recent CANS meeting: **Justin Spooler, MD**, Loma Linda; **Azeem Oladunjoye, MD**, UCD; **David Gonda, MD**, UCSD; **J. Dawn Waters, MD**, UCSD; and from UCI, **Dr. Marlon Mathews, Amandip Gill, Alexa Reeves, Catherine Christie and Christopher Owen.**

Meetings of Interest for the next 12 months:

Southern Neurosurgical Society: Annual Meeting, March 28-31, 2012, Amelia Island, FL
CANS Spring Board Meeting – Los Angeles, date to be determined
CSNS Meeting, April 13-14, 2012, Miami, FL
AANS: Annual Meeting, April 14-18, 2012, Miami, FL
Neurosurgical Society of America: Annual Meeting, June 10-13, 2012, Park City, Utah
Rocky Mountain NS Society: Annual Meeting, June, 2012, Maui, HI
New England Neurosurgical Society: Annual Meeting, June, 2012, TBA
Western Neurosurgical Society: Annual Meeting, September 7-10, 2012, Colorado Springs, CO
CANS Fall Board Meeting – Oakland, date to be determined
CSNS Meeting: October 5-6, 2012, Chicago, IL
Congress of Neurological Surgeons: Annual Meeting, October 6-10, 2012, Chicago, IL
North American Spine Society: Annual Meeting, October 24-27, 2012, Dallas, TX
Cervical Spine Research Society: Annual Meeting, December 6-8, 2012, Chicago, IL
CANS: Annual Meeting, January 18-20, 2013, Queen Mary Hotel, Long Beach, CA

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 two month posting in this newsletter. Submit your text to the CANS office by E-mail (janinetash@sbcglobal.net) or fax (916-457-8202)—Ed. ❖

- To place a newsletter ad, contact the executive office for complete price list and details.
- 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 newsletter issues are available on the CANS website at www.cans1.org.
- If you do not wish to receive this newsletter in the future, please E-mail, phone or fax Janine Tash (janinetash@sbcglobal.net, 916-457-2267, 916-457-8202) with the word "unsubscribe" in the subject line.

The assistance of Janine Tash and Dr. Austin Colohan in the preparation of this newsletter is acknowledged and appreciated.

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John Bonner, M.D., Associate Editor

Deborah Henry, M.D., Associate Editor