Editor's Notes

The "Governator" Navigates Troubled Waters

By Stephen Jackson, M.D., Editor

As a follow-up to my tome on the nursing profession and nurse-patient ratios that appeared in the January-March issue of this *Bulletin*, I am pleased to report that the state—read that as our "Governator"—has eased certain aspects of the further implementation of the nurse-staffing ratio law until 2008.

Citing concerns about hospital closings and delays in critical patient care, the state Department of Health Services, pursuant to Governor Arnold Schwarzenegger's order, announced that it will grant California hospitals a three-year reprieve from meeting the stricter nurse staffing rules that were to take effect on January 1, 2005. In 2004, hospitals were required to meet a ratio of six patients per nurse on the general medical wards, and then to intensify this staffing ratio to five-to-one on January 1, 2005.

This executive decision was made in light of the fact that in the 10 months since California implemented the nation's first law dictating nurse-patient ratios, eleven hospitals, purportedly because of the new law, have closed or eliminated staff-intensive departments such as emergency rooms and psychiatric wards. In the face of a severe nationwide nursing shortage, compliance with the staffing law has been challenging and costly. Indeed, California hospitals have, at times, had to turn away ambulances, leave beds empty while patients wait for care, and cut back on support staff (nurses' aides and other healthcare workers) in order to divert funds to nurse salaries.

Here in San Jose, the 81-year-old grand dame of our hospitals, San Jose Medical Center, closed its doors on December 9. Located in the center of the city, and with a proud history of serving the poor and underserved as well as the well-to-do, this privately owned hospital had the busiest of the three trauma centers in Santa Clara County. In fact, it was the predominant recipient of trauma from the three surrounding and largely rural counties. The unanticipated suddenness of this closure was prompted by a deepening river of red ink caused by inadequate reimbursement and onerous unfunded state mandates such as earthquake retrofitting and nurse-patient ratios.

Not surprisingly, hospital administrators praised our "Governator's" relaxation of enforcement. Likewise, as expected, the labor unions (in particular, the California Nurses Association—beware of the misnomer: it is a union, not a professional organization) and consumer groups responsible for passing the law that was signed in 1999 by then Governor Gray Davis (remember him?) launched a campaign to lambast the "Governator's" administration as being "all wet" and caving

in to hospital interests. The law, they claimed, was primarily intended to protect patients and improve working conditions for nurses in hospitals.

Speaking at a recent annual women's conference with over 10,000 attendees in Long Beach, the "Governator" was heckled by protesting nurses. He responded, "Pay no attention to those voices. They are special interests. Special interests don't like me in Sacramento. I'm always kicking their butt." In this, our *Bulletin*'s "Year of Water," that response certainly would qualify as raining on their parade.

The nurse-patient ratio law, when interpreted strictly (as was the demand of the nursing union), unreasonably mandated that hospitals have no leeway to adjust staffing ratios to patient care acuity needs (such as the generally lesser acuity that occurs at night, and the greater demands for nursing care in the daytime). Spitefully, so it seems, the unions granted hospitals no compliance "wiggle room," even during nurses' bathroom and eating breaks. In addition, the new rules will relieve enforcement of staffing ratios in emergency rooms, allowing hospitals to temporarily break the four-patients-per-nurse rule when necessary to respond to a rush of ambulance patients.

This welcome temporary relief notwithstanding, we physicians, as well as the state Department of Health Services, must remain vigilant in assuring that hospitals do not abuse this relaxation of mandated ratios.

Finally, I urge you to pay attention to three particularly important reports: Earl Strum's summary of the American Board of Anesthesiology's recertification process; Kent Garman's overview of anesthesia reimbursement and the question of changing our current system to one that is **not** a time-based one; and Patricia Dailey's commentary on the latest fallout of the burgeoning epidemic of physician-health insurer conflicts. This latter column addresses how egregiously abusive, amoral, for- profit health insurance conglomerates have, in some hospitals, goaded their newly identified "axis of evil" partners–hospital boards and administrators–to become more aggressive in deploying economic credentialing for denigrating the rights of medical staff physicians, who, in turn, supposedly are protected by their medical staff bylaws. Dr. Dailey offers us a timely primer on how to go about educating hospital administrators and boards, surgeons, legislators and regulators, and the media on how factual-based discourse can help disputing parties to arrive at a reasonable level of reimbursement for anesthesia services.