CMA Annual Meeting

By Michele E. Raney, M.D.
CSA Delegate to CMA

On October 26-30, the California Medical Association held its 135th Annual Meeting in Sacramento, Calif. This assembly marked the 150th anniversary of the founding of the Medical Society of the State of California (later renamed the CMA in 1932). It was fitting that it be held in the state capital, where the small group of physicians who survived the devastating cholera epidemic of 1850 (an epidemic with a mortality rate for physicians not to be surpassed until the Ebola outbreak in Africa in 1995) resolved to form an organization "to develop, in the highest possible degree, the scientific truths embodied in the profession" and "to study the state's growing health problems and what to do about that everlasting parasite of medicine, quackery."

At this meeting, the California Society of Anesthesiologists was represented from within the Specialty Delegation by Ken Pauker, M.D., Michele E. Raney, M.D., Mark Singleton, M.D., Peter Sybert, M.D., and Narendra Trivedi, M.D.

CSA members figured prominently in other delegations as well—Doctors Edgar Canada (Medium Group Practice Forum), Lee Snook (Solo and Small Group Practice Forum), Thelma Korpman (District II-Riverside-San Bernardino Counties; delegation chair), Rebecca Patchin (District II), Jim Merson (District II), Benjamin Shwachman (District IV-Los Angeles County), James Futrell, Jr. (District IV), Jeffrey Glaser (District IV), Jack Moore (District IV), Virgil Airola (District VI-Fresno-Madera Counties), Lynn Rosenstock (District VII-Santa Clara County), Richard O'Leary (District VII), Hugh Vincent (District VIII-San Francisco County), and James Willis (District XI-Placer-Nevada Counties).

CSA members also participated on the Board of Trustees: Doctors Edgar Canada, Benjamin Shwachman, and Lee Snook. Dr. Thelma Korpman served on the CALPAC Board and was elected its secretary. Stephen Jackson, M.D., and Cynthia Anderson, M.D., provided expertise as members of the Council on Scientific and Clinical Affairs.

Awards

Rebecca Patchin, M.D., received the most prestigious award granted by the California Medical Association, **"The Gary F. Krieger, M.D., Speaker's Recognition Award."** This award is based solely on merit, and there is neither custom nor requirement for it to be granted annually. In honoring Dr. Patchin, the speaker chronicled her years of extraordinary service on behalf of California—and America's—physicians.

Every year, the Solo and Small Group Practice Forum publicly honors a member of that dwindling species. This year, **Benjamin Shwachman, M.D.,** received the Forum's distinctive recognition, **"The Golden Dinosaur Award."**

As retiring Trustees, **Edgar Canada, M.D.,** and **Ben Shwachman, M.D.,** were recognized for their years of service on the Board. In particular, Dr. Shwachman's insistence on compliance with the CMA bylaws and diligence regarding their clarity, especially in regard to representation, was acknowledged.

Robert E. Hertzka, M.D., CMA Immediate Past President, was honored with the **"Young at Heart Award"** from the Young Physicians Section of the CMA for his unwavering commitment to CMA's young physicians, residents and medical student members.

Officers and Elections

Anmol S. Mahol, M.D., assumed leadership as the 139th CMA President. At the conclusion of the House of Delegates, Richard Frankenstein, M.D., relinquished his masterful hold as Speaker to become President-Elect, and James Hay, M.D., the Vice-Speaker, succeeded him as Speaker. Luther Cobb, M.D., a general and vascular surgeon from Arcata, was elected Vice-Speaker.

Virgil Airola, M.D., and Michele E. Raney, M.D., were newly elected to the Board of Trustees. Dr. Airola was selected to represent geographic District VI, and Dr. Raney will represent the Specialty Delegation.

Executive Director

Senator Joseph Dunn, who is retiring from the California State Senate, was selected as the new Executive Director of the California Medical Association, to replace Jack Lewin, M.D., who was with CMA for 11 years and is going to Washington, D.C., to become the Executive Director for the American College of Cardiology. In recognition of his efforts on behalf of the CMA, Dr. Lewin was awarded the title of "Honorary Past President."

Proceedings of the House of Delegates

Twenty-seven reports and 151 resolutions were submitted by CMA members, delegates, delegations, task forces and committees and constituted the business of the 135th Annual Meeting. Each item was subjected to detailed analysis by CMA staff and extensive discussion in each of the constituent delegations and reference committees prior to being accepted, amended, referred, or rejected by the House of Delegates, thereby establishing the policies and priorities that guide the CMA.

Highlighted Issues

The proceedings were dominated by a handful of issues. One key problem revolved around the actions of CAPG (California Association of Physician Groups) to portray itself as "the voice of organized medicine in California." Members of the HOD expressed their outrage at CAPG's 1) flagrant misrepresentation of its constituency; 2) tactics to render the negotiating and contracting rights of California physicians irrelevant; and 3) attempt to prohibit California physicians from being paid for their services. CMA firmly established the policy to challenge any organization that falsely claims to represent California physicians, and to formulate appropriate responses to inaccuracies portrayed by other organizations regarding their representation of physicians, both in California and nationally.

Another item related to ballot initiatives. There was substantial debate about the tobacco tax initiative (Proposition 86). Although the Board of Trustees had already indicated a position, the meeting adjourned without the HOD giving the proposition unanimous support. Although intended to provide funding for critical emergency services and to address the public health problems created by smoking, Prop. 86 contained many clauses contrary to the public's—and the profession's—best interests. Ultimately, Proposition 86 was defeated at the polls.

The HOD acknowledged that between sessions of the HOD and meetings of the Council on Legislation, the BOT might be asked to determine CMA's position on ballot initiatives. Consequently, policy was established that in order for there to be sufficient input regarding complex issues behind ballot initiatives, the BOT shall not take a position in less than 31 days after the ballot initiative item is first presented and that members of the HOD shall be given at least two weeks notice of an upcoming BOT vote to allow for sufficient, broad-based comment.

Also related to the CAPG issue, there was discussion about the payment for noncontracted professional services (or the misnamed "balance billing") issue.

In response, the HOD first endorsed the CSA resolution authored by Dr. Pauker, stating that in lieu of using the words "balance billing," the term "payment for noncontracted services" shall be used, and CMA shall alert the membership to avoid adopting such industry terminology in that it attempts to devalue physicians' services and has the effect of framing discussions to the detriment of physicians. Only clear and objective language should be used in discussing physician payment.

It was determined also that CMA will vigorously oppose the regulations, as proposed by the Department of Managed Health Care in August 2006, that intend to prohibit such billing and payments. The HOD voted to take all action necessary, including legal and legislative activity, to oppose any and all efforts to prohibit physicians from billing for services rendered. CMA, in conjunction with specialty societies and other physician organizations, will launch a media and public relations campaign in defense of patients' rights and the rights of employers who contract on behalf of their employees, to pursue all legal avenues to ensure that their insurance contract is honored in its entirety, and in defense of physicians' ability to fairly bill and be paid for services rendered. It remains CMA's policy to support the requirement that health plans pay a noncontracting physician his or her usual, customary and reasonable charges *in full,* in accordance with the current Gould criteria for emergency or on-call services, within the statutory time frame, and, if the amount is in dispute, payments to be *up front*—until the amount in dispute is resolved. CMA supports testing a pilot dispute resolution mechanism, and the BOT will continue to study and consider alternative approaches that physicians can use to resolve noncontracted emergency and on-call payment disputes. CMA will take all appropriate steps to enable physicians, plans and medical groups to contract under fair and reasonable terms.

Other Items of Interest

Medical Practice Issues

- CMA will continue to seek revision of the Medicare Geographic Practice Cost Indices localities (GPCIs) with counties having significantly higher practice costs being adjusted appropriately and all counties being held harmless from payment reductions. CMA will continue to advocate that current reimbursement to California from the Centers for Medicare and Medicaid Services is inadequate to provide access to quality medical care for the Medicare and Medicaid (Medi-Cal) beneficiaries in the state, and CMA will set forth a distinctive plan to communicate to Congress the need for Medicare SGR and payment reform.

- CMA will continue to pursue repeal of the requirement to use security prescriptions for Schedule II-V drugs in addition to monitoring the statistical and scientific evidence for such requirements.
- In addition to other reports the CMA already provides, such as the annual report on the Knox-Keene plans, CMA will publish an annual report describing medical economic environmental factors affecting the practice of medicine in California.
- CMA will continue its advocacy for changes in onerous or ridiculous Title 22 regulations and work with the Department of Health Services to achieve general and specific Title 22 revisions, bringing it up-to-date and making it more workable.
- CMA will continue to oppose any policies, regulations or legislation that requires physicians to collect and report data regarding a patient's legal resident status, or that would criminalize any care given to undocumented patients.

Federal Health Programs and Health System Reform

Working with the AMA and other state medical societies, CMA will develop an aggressive national campaign to reform the Medicare program. Such reform action will include a comprehensive physician payment reform package, long-term financing solutions, and modification and/or removal of cumbersome regulations.

CMA will ask the California Department of Managed Health Care and the Department of Insurance to study the distribution of the health insurance premium dollar to nonhealth care providers, including brokers, and CMA will work to ensure wide distribution of the report to the membership and media.

Insurance and Physician Reimbursement

CMA will take all appropriate steps to require the DMHC and the DOI to mandate and verify that all health plans inform enrollees of limitations imposed on coverage, including emergency care; specifically state the limits of the health plan's financial obligation to pay for such care; and specifically state that the patient is personally responsible for noncovered services.

CMA adopted definitions of "usual, customary, and reasonable." "Usual" means that fee usually charged, for a given service, by an individual physician to his or her private patient (i.e., his or her own usual fee). "Customary" is when a fee is within the range of usual fees charged currently by physicians of similar training and experience, for the same service, within the same specific and

limited geographical area. "Reasonable" is when a fee meets the above two criteria and is justifiable, considering the special circumstances of the particular case in question, without regard to payments that have been discounted under governmental or private plans.

With respect to PPO network leasing ("Silent PPOs"), CMA will continue to seek legislative relief to eliminate the unfair practices of the PPOs and will pursue litigation to correct the unfair practices by entities engaged in physician network leasing.

CMA will take all measures up to and including legislation, to assure that by January 1, 2008, annual renewal of all third-party-payer contracts be enacted, and unless a contract is signed by the physician on a yearly basis, it is null and void.

Ethics, Quality and Legal Issues

- CMA reaffirmed its opposition to the legalization of physician-assisted suicide.
- It is CMA policy to extend palliative care to terminally ill children without requiring them to forgo curative or life-extending treatment.
- CMA will continue to advocate for the implementation of secure electronic advance-care directives, although execution of an advanced-care directive cannot be required for enrollment into a federally funded health insurance program.
- The BOT will continue to study collective bargaining.

Health Professions and Facilities

- CMA will sponsor legislation to extend whistleblower protections to physicians who submit a complaint or report to hospital, government agency, or private or governmental accreditation agency, or initiate or cooperate with a government or private accreditation agency investigation or proceeding regarding a quality issue in a health care facility.
- CMA will sponsor legislation amending California law to ensure the selection of an unbiased peer review hearing officer.
- CMA will support legislation requiring that physicians performing utilization review for patients in California be licensed in California, and have the training, competence, and experience current and comparable to that of the treating physician in treating the medical condition for which the review is being performed.

- CMA will support legislation that prohibits the use of descriptors that falsely indicate, or otherwise mislead, patients into believing that a non-physician practitioner is trained in an ABMS-recognized specialty or a specialty board recognized by the Medical Board of California or the Osteopathic Medical Board of California.
- The House of Delegates voted its support for the establishment of new medical schools in both the Inland Empire and the Central Valley to legislators and the Regents of the University of California.

Science and Public Health

- CMA will support legislation deleting the mandate that physicians use the State-specified document (the "Paul Gann Act" form) that is now outdated to inform patients about transfusion-related risks.
- CMA supports the 2006 CDC recommendation for routine, "opt-out" HIV screening, and reaffirmed its commitment to support legislation making HIV testing similar to other medical testing in this state.
- The chair of each department of each medical school in California shall be a consultant to the Council on Scientific and Clinical Affairs.

CSA's Extended Presence on Councils and Committees

In addition to the delegates and trustees already mentioned, several CSA members were appointed to CMA standing councils and committees. These include Stephen Jackson, M.D., to the Council on Ethical Affairs; Rebecca Patchin, M.D., to the Council on Legislation; Virgil Airola, M.D., to the Committee on Medical Services; Edgar Canada, M.D., and Lee Snook, M.D., to the Committee on Quality Care; Robert Hertzka, M.D., and Lee Snook, M.D., to the Committee on the Medical Board of California; and Patricia Dailey, M.D., James Futrell, M.D., and Lorna Yamaguchi, M.D., to the Committee on Professional Liability.