

Annual Meeting of the CMA House of Delegates

By Michele E. Raney, M.D., CMA Trustee

On October 3-6, 2008, the 137th Annual Meeting of the California Medical Association House of Delegates was held in Sacramento. In the Specialty Delegation, the CSA was represented by Michele Raney, M.D. (Trustee); Peter Sybert, M.D.; Narendra Trivedi, M.D.; and Jeffrey Uppington, M.D. Michael Champeau, M.D., and Mark Singleton, M.D., also participated in Specialty Delegation deliberations. Other CSA members on the Board of Trustees were Virgil Airola, M.D. (Fresno-Madera); Lee Snook, M.D. (Solo and Small Group Practice Forum); and Benjamin Shwachman, M.D. (Los Angeles). Thelma Korpman, M.D. (also a member of the CALPAC Board); James Merson, M.D.; Rebecca Patchin, M.D.; R. Lawrence Sullivan, Jr., M.D.; Hugh Vincent, M.D.; James Willis, M.D.; and Paul Yost, M.D., extended CSA's reach in other delegations and sections; Paul Yost, M.D., also served in formulating policy on the Quality, Ethics, and Legal Issues Reference Committee. Rounding out the roster of CSA participants at CMA were CMA past-presidents Robert Hertzka, M.D., and Marie Kuffner, M.D.

Items of highest priority to the House of Delegates were medical practice issues related to payment for non-contracted services (balance billing), economic profiling, and pay-for-performance programs. Similarly important were issues with the federally funded programs and Medicare, including program viability, funding, claims and payments, critical problems associated with the transition to the new Medicare Part B contractor, Palmetto, and widespread reports of physicians' Medicare Part B payments being six to eight months in arrears. CMA devoted attention to quality, ethical, public health, and safety matters as well.

The balance billing and payment for non-contracted services issue took center stage with CMA's ongoing legislative, legal, and regulatory activities. CMA remains committed to protecting patients and providers from the consequences of inappropriate claims payment practices. CMA supports that payments be predicated on reasonable, usual, and customary physician charges; that non-contracted physicians are to be fully compensated for the fair value of their services; fair, fast, and cost-effective resolution of claims payment disputes; and that the individual needs and circumstances of each specialty and practice venue be met. CMA will take all appropriate action to block retaliation by the health insurance industry and to eliminate PPO insurance contract clauses that either prohibit or penalize physicians from referring patients to non-contracted physicians or facilities. CMA will continue working

CMA House of Delegates (cont'd)

with the specialty societies in order to ensure that the house of medicine has a united front in developing and supporting appropriate solutions to the fair payment/balance billing issue. (CMA Vice-President for Governmental Affairs Dustin Corcoran was particularly complimentary of the cooperation, leadership, and expertise of CSA lobbyists, Messrs. Bill and Bill Barnaby).

The CMA reaffirmed its support for allowing physicians to bill Medicare recipients their usual fee and to developing a long-term financing plan for Medicare which would include overturning the “budget neutral” funding provisions. CMA supported holding Medicare Advantage programs to no less than an 85 percent medical loss ratio coupled with fair physician contracts and payments at the Medicare Fee Schedule or greater. The HOD reaffirmed existing policy that CMA should support federal legislation that would remove limiting charges for physician services under Medicare and preempt state laws that limit such charges. The CMA will continue trying to delink private payers’ fee schedules from Medicare reimbursement rates, provide physicians with tools that will enable appropriate rate negotiations with private payers, and educate policy makers, government, and private payers about why Medicare payments are inadequate to cover a physician’s costs in providing care to patients.

CMA has committed itself to strengthening a medical staff’s right to self-governance and ensure that the medical staff as a whole is responsible for the patient care, patient safety, and the quality of care delivered in the hospital. The recommended expansion of voting rights to physicians with courtesy staff privileges, as outlined in revised model medical staff bylaws, will play a role in linking quality measures to non-hospital-based primary care practices.

In order to remain an active participant in all discussions regarding physician profiling, performance incentives, CMA (with AMA) has articulated policy principles on economic profiling and pay-for-performance. The CMA actively opposes efforts by third-party payers to rank, profile, or otherwise score physicians for cost containment purposes that are inconsistent with AMA’s existing policies. These policies (see the CSA Web Site) include active involvement of practicing physicians in the development of any profiling policy; valid data collection and profiling methodologies; appropriate case-mix, specialty, and service contact comparisons; safeguards against unauthorized physician profile disclosure; due process protections with timely appeal and practice correction opportunities prior to any derogatory public disclosure; independent oversight of physician profiling programs; and disclosure to patients about the limitations of economic profiling.

The CMA recognizes that the health care system needs significant reform, and that the size and scope of the problems facing the health care system in

CMA House of Delegates (cont'd)

California are unlikely to be solved at once, but can be fixed only with a long-term vision and a comprehensive approach led by the physicians of California. CMA's statement of guiding principles for health reform (see the CSA Web Site) articulates overarching principles and encompasses reform of government-sponsored health programs, managed care reform, funding and tax reform, the health care workforce, maintenance of high-quality care with preservation of MICRA, and secure health information technology.

Following recommendations proposed by the Organized Medical Staff Section, model medical staff bylaws amendments pertaining to fair peer review were approved, stating that "members of the judicial review committee shall disclose in writing ... those personal, professional, or financial affiliations or relationships of which they are reasonably aware, including contractual, employment or other relationships with the hospital which could foreseeably result in a conflict of interest with their activities or responsibilities on behalf of the Judicial Review Committee." This was accepted in lieu of language that would have excluded most hospital-based physicians and any physician receiving any kind of financial remuneration from the hospital, including stipends or exclusive contracts, from participating on a judicial review committee.

Scope of practice issues also received attention. The CMA reaffirmed policy that nurse practitioners, certified nurse midwives, and nurse anesthetists may practice only under physician supervision, and CMA will request the Department of Consumer Affairs and the Board of Registered Nursing to improve enforcement of physician extender ratios and scope of practice limits for nurse practitioners and nurse anesthetists. The CMA reaffirmed its support that health care professionals in a clinical setting must clearly and accurately identify their qualifications and degrees attained to patients and other health care professionals; furthermore, CMA will advocate that the Department of Consumer Affairs and the Department of Health Services improve enforcement of laws prohibiting unlicensed individuals from misrepresenting themselves as physicians. In other areas, CMA will take appropriate action to clarify state law that the podiatric scope of practice does not include the performance of a full history and physical, and CMA will develop model policy for rapid response teams (RRTs), with focus on the safety of non-physician teams and the potential for RRTs to expand non-physician scope of practice. Finally, CMA reaffirmed that the quality of medical care should not be compromised by allowing non-physicians to expand their scope of practice in order to improve access to care.

During this 2008 Annual Meeting of the CMA House of Delegates, Dev Gnanadev, M.D., a general and vascular surgeon from San Bernardino, Calif., was installed as President of the California Medical Association. J. Brennan

CMA House of Delegates (cont'd)

Cassidy, M.D., of Newport Beach, Calif., was elected president-elect, and James Hinsdale, M.D., was elected chair of the Board of Trustees. Other CMA officers elected were James T. Hay, M.D., and Luther Cobb, M.D., as Speaker and Vice-Speaker of the House of Delegates, and Paul Phinney, M.D., Vice-Chair of the Board of Trustees; after completing his successful term as President, Richard Frankenstein, M.D., stepped down to assume the role of Immediate Past-President.

A few final comments: Although never stated in the format of a resolution, two additional concepts were reinforced. Effective members must start fighting **for** each other, and membership powers the engine of advocacy. CSA and CMA can exert influence only to the extent that membership represents a credible and critical constituency; the size of that constituency determines if the organization is merely amusing and easily ignored or a formidable force perilously disregarded. Non-members will become increasingly aware of the limitations and restrictions on those who fail to join professional societies, as well as the collective harm caused by such indifference. Lest the medical profession isolate itself as some ineffective, interesting-yet-peculiar historical footnote, it is vitally important that all actively practicing anesthesiologists in California join the CSA, and all CSA members, regardless of type of practice, become members in the CMA.

Call for Submission of Resolutions to the House of Delegates

Any CSA member may submit a resolution to the House of Delegates (your elected representatives) on any issue that you deem important. The deliberations pursuant to these resolutions influence the course of action of the CSA during the ensuing year. For assistance in formulating a resolution, you are welcome to contact Johnathan L. Pregler, M.D., Speaker of the House of Delegates.

The House of Delegates will meet on Saturday, May 16, as part of the CSA Annual Meeting at the Hyatt Regency Monterey Resort & Spa, Monterey, California. A reference committee meets prior to the House of Delegates to hear testimony on all matters to be considered by the House. For more information, contact the CSA office 650-345-3020, 800-345-3691, fax 650-345-3269.

The deadline for submissions is March 15, 2009.