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THE ACADEMY OF MEDICINE OF CLEVELAND & NORTHERN OHIO
formerly known as AMC/NOMA

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Healthlines Reaffirms Commitment to Public Health, Adds New Voice to Program

In keeping with our recent theme in the two previous issues of the magazine, which included a brief history of the Academy of Medicine of Cleveland & Northern Ohio (AMCNO), this excerpt provides our members an overview of our award-winning *Healthlines* radio program.

The AMCNO sponsorship and hosting of a radio program dates back to the 1950s. The AMCNO first entered the world of radio in 1958, when then Executive Vice President, **Dr. Robert Lang,** initiated the "Doctor Speaks" radio program, presenting physicians in a discussion format of medical topics of importance to the general public. This innovative program was the first of its kind in the country. The program was of a longer venue than our current *Healthlines* program, with detailed interviews conducted by Dr. Lang. The program had a decade-long run on WGAR from 1958 to 1967.

Then, according to Academy Board of Directors minutes from December 1967, a motion was made to discontinue the current time slot format because popular radio tastes tended more toward shorter segments. Thus the current *Healthlines* radio program format began. The AMCNO board approved the Public Relations Committee recommendation to have the radio program consist of numerous one-minute or shorter "health tip" spots which aired on WGAR and reached 1,100,000 persons in northeastern Ohio on 18 different radio stations. The *Healthlines* program in the 1960s was also broadcast to Cleveland schools over WBOE-FM. Dr. Lang continued hosting the program he'd conceived until his retirement in 1983. Other hosts have included **Dr. Robert J. White,** and Hugh Danaceau. Currently, both **Drs. Ronald A. Savrin** and **Anthony E. Bacevice** host the program on an alternating basis (refer to page 2).

The Academy of Medicine Education Foundation or AMEF as it is known, is the financial sponsor of *Healthlines*. While AMEF's

(Continued on page 2)

Two Insurance Department Statewide Reports Released – Outlook Still Somber in Northeastern Ohio

The Academy of Medicine of Cleveland & Northern Ohio (AMCNO) Continues to Advocate for Mandatory Alternative Dispute Resolution (ADR) in our Region

In a recent press release disseminated to all local media outlets, The Academy of Medicine of Cleveland & Northern Ohio offered a pointed response to two separate reports released by the Ohio Department of Insurance (ODI) — one concerning closed claims data and the other providing detailed medical liability rates (by specialty) from all 88 counties in Ohio.

The Good News
The good news is that tort reform works. Based upon the Ohio Department of Insurance (ODI) Closed Claims Data report indemnity payment and loss costs are lower since SB 281 became effective. The report also shows that since the inception of SB 281, which included a cap on noneconomic damages, overall payments are trending downward — with the average payments to claimants down from $270,000 to $170,000 and the average allocated loss adjustment expense down from $25,000 to $9,000 per claim.

(Continued on page 5)

INSIDE THIS ISSUE

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EXCERPT FROM THE EXECUTIVE

Healthlines Reaffirms Commitment to Public Health, Adds New Voice to Program *(Continued from page 1)*

mission is to enhance healthcare through education of the medical profession and the community, the purpose of AMEF is to add a charitable component to the AMCNO and partner with them in implementing new initiatives for both physicians and the patient population through charitable, educational and scientific efforts. AMEF and the physician members of the AMCNO reaffirm their commitment to the Northern Ohio community through their participation in the *Healthlines* radio program.

As a member of the AMCNO, you are welcome to participate in our award-winning radio program *Healthlines,* broadcast on WCLV, 104.9 FM every other week. Guest appearances offer physician members a prime radio spot where they can communicate important and up-to-date medical topics with the general public. Three segments, approximately three minutes each, are taped in one 30-minute session at the WCLV studios located in Warrensville Heights. The segments use a question-and-answer format with a topic selected by the physician. Telephone interviews with the host may also be arranged.

Segments are broadcast on Monday, Wednesday and Friday of a scheduled week at 5:45 p.m. Tapings for the program occur on weekdays at a time convenient for the interviewee and last approximately one half-hour. The program is also available as an audio stream on www.amcnoma.org after the program has aired on WCLV.

Scheduling a *Healthlines* show is just a phone call away. Our members may contact the Academy of Medicine of Cleveland & Northern Ohio at [(216) 520-1000] and ask for our communications department to let us know if you would like to be a guest on *Healthlines*. Staff works hard to assure that programs are recorded well in advance of the broadcast date and we strive to arrange a recording time that meets your scheduling needs. Staff may also ask for a copy of your bio or if that is not available, your curriculum vitae to use as introductory information on the program. Physicians may be asked by staff to provide questions and answers on your topic for the host of the program. In addition, once the program has been recorded, you will be advised of the scheduled broadcast dates so that you may inform your patients and your colleagues. You will also receive a certificate of appreciation for appearing on the program, which includes the topic of your program, and the date it aired on the radio.

Healthlines is an excellent way for our members to provide information to the general public on timely, medically-related topics. It also provides you, our members, with the opportunity to get your name out in the community — truly a member benefit. For more information on the *Healthlines* program please contact the AMCNO at (216) 520-1000. ■

Healthlines 2006

Listed below are the featured physicians and their respective topics that aired in 2006. To listen to an MP3 recording of a taped subject that interests you, click on the *Healthlines* link at www.amcnoma.org.

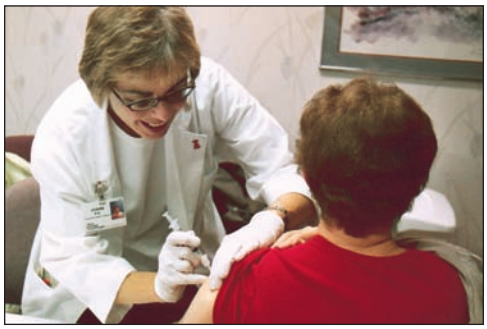
Rafi Avitsian, MD	What to Expect from Your Anesthesia Team
Dennis Landis, MD	Ischemic Stroke
Thomas Stellato, MD	Gastric Bypass Surgery
Bruce Cameron, MD	Colorectal Cancer Awareness Month
Daniel Cudnik, MD	Trivializing Plastic Surgeries
Arthur Varner, MD	AMC/NOMA Pollen Line~Allergy Season
James Stoller, MD	COPD Treatment options
Christine Zirafi, MD	Women's Cardiovascular Health
Karen Davenport	Cover the Uninsured Week
Mirfee Ungier, MD	Cataract Implants
James Stoller, MD	COPD
Paul Saluan, MD	Youth Sports Injuries
Anthony Bacevice, MD	Prenatal Health Issues
Mark Schickendantz, MD	Upper Extremity Joint Replacement
James Campbell, MD	Geriatric Assessments
Henry Bloom, MD	Childhood Obesity
Jerry Shuck, MD	Parathyroid Disease
Peter Dillard, MD	Home Visits
Michael LoPresti, MD	Nonsurgical Arthritis Treatments
Paul Janicki, MD	Telemedicine/NEORHIO
Derek Raghavan, MD	Secondhand Smoke/Workplace Safety
Thomas Steinemann, MD	Cosmetic Contact Lens Update
Matthew Hawkins, MD	Alternative Medicine Options
Bram Kaufman, MD	Reoperative Plastic Surgery

***Anthony Bacevice, MD,** poses in front of a photo of himself (circa 1965) in the hall at the WCLV studios where he once worked as a program engineer.*

Recommended by the Communications Committee and approved by the Board of Directors at their last meeting, **Anthony Bacevice, MD,** will serve as an additional/dual host to the longstanding *Healthlines* radio program in concert with current host and AMCNO Past-President **Ronald Savrin, MD**. In fact, Dr. Bacevice's introductory program aired last month, (photo at studio) along with an explanation to the public of the many recent changes taking place at the Academy, such as our new name, logo, location and magazine design (Access the show via MP3 at www.amcnoma.org). With his prior experience in broadcasting and chairmanship of the AMCNO's Communications and Community Relations Committee, Dr. Bacevice is a great supplement to the popular show. He is a board-certified OB/GYN and Chairman of the Western Region OB/GYN Departments for the Cleveland Clinic Foundation.

Annual "Vote and Vaccinate" Program Promotes Wellness

The Academy of Medicine of Cleveland & Northern Ohio hosted its seventh annual "Vote & Vaccinate" program on Election Day, Nov. 7, 2006 in neighborhoods where influenza and pneumonia vaccination rates among senior citizens are reportedly low.



Joanne Young, RN, of Parma Hospital spends time giving vaccines during the Academy's Vote & Vaccinate program at various NE Ohio polling locations.

The successful program provides the public with an opportunity to receive flu and/or pneumonia shots at area polling sites. It is a parallel program to voting and not connected in any way with the Board of Elections. The goal is to offer seniors these vaccinations conveniently at locations where they vote on Election Day. Proud sponsors of the annual program include the AMCNO, the Cleveland Dept. of Health, Parma Community General Hospital and Ohio KePRO. Our sincere appreciation to all the locations' staff and allied health professionals who helped make this worthwhile even possible, including those at Royal Redeemer Lutheran Church, Ridgewood United Methodist Church, Parma Hts. Baptist Church, Pilgrim Congregational United Church of Christ, and Open Door Baptist Church. For more information on this or the many other public health outreach initiatives the AMCNO is involved with, contact (216) 520-1000 ext. 102. ■

Tom Hoagat, RN, of the Cleveland Department of Health administers flu vaccine on Election Day 2006 to a local senior citizen.

Academy of Medicine Education Foundation Funds Make High School Vaccination Program Possible

Through the generous support of the Academy of Medicine Education Foundation, a successful *"Vaccinate Before You Graduate"* program was held at Bedford High School at the end of 2006, providing free vaccinations to graduating seniors.

In conjunction with the Cuyahoga County Board of Health, AMEF's financial support enabled more than 86 students or about one-third of the senior class, to receive protective and preventative vaccines conveniently during a routine school day. Rosemary Driessen, the school's resident nurse, said the program was especially poignant as many students who are uninsured or underinsured would not have received the inoculations without AMEF's contribution.

"You can't know how appreciative we are of your support," she said. "This is the fifth year of the program here, but it's never been on such a huge scale." The program made hepatitis B, tetanus/diphtheria, chickenpox, pertussis and meningitis vaccines available at no charge.

In a consent letter sent home to parents, Driessen encouraged parental permission for the program, calling the opportunity "protection you should think about." Specifically, the meningitis vaccine, which is recommended strongly by the Centers for Disease Control and Prevention and the American College Health Association for young adults entering college. Driessen added that feedback from parents was very positive as well, with many expressing concern over recent reports of meningococcal disease affecting young adults, and their gratitude for the vaccines made available for such. In years past, parents were assessed from $85 to $102 per Menactra dose and administrative fees for the other medicines enlisted above.

"We did not have to charge the students and their families, which really made it possible for more families to decide to participate," said Cindy Modie, RN, CCBH's Program Manager for Vaccine Services. "AMEF made the 'Vaccinate Before Your Graduate' a huge success for Bedford High School and these students."

Editor's Note: AMEF is committed to advancing public health outreach initiatives such as the vaccination program described above. To make a charitable contribution to the AMEF, call (216) 520-1000 ext. 101. ■

NORTHERN OHIO PHYSICIAN

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An Analysis of Medical Liability Insurance in Northeast Ohio

Rudy LaKosh, Senior VP / COO, The Premium Group, Inc.

This update on the state of Medical Professional Liability Insurance in Ohio arrives on the heels of the "Ohio Department of Insurance Medical Liability Data Closed Claim Report for 2005." The news release from the ODI on November 14, 2006 is a good short read for those who are interested. This is accessible on the ODI Web site at www.ohioinsurance.gov. The full report is also interesting as it details the information in a regional format and gives specific information by specialty. This report, dictated by House Bill 215, takes some of the mystery out of the numbers that the individual medical liability carriers have been providing to us in the past.

The ODI report reiterates the information that the medical liability carriers have been telling us regarding their experience in Northeast Ohio. Half of the claims reported in the entire state and half of the claims with paid indemnity were reported in Northeast Ohio. And the average paid indemnity in Northeast Ohio is about 13% higher than the next closest region of the state. For the rest of the detail please review the report on the ODI Web site.

"Half of the claims reported in the entire state and half of the claims with paid indemnity were reported in Northeast Ohio."

An update on the status of the medical liability market in Northeast Ohio begins with a quick historic review of where we have come from. Ohio has been and still is identified nationally as a "Crises State." This is appropriate as you look carefully at the medical liability rates that we are currently being charged. The increases of 20, 30 and even 40% that we were charged with in the past few years have not gone away. Currently, we are at a level that is most easily identified as a plateau. The statewide decrease in medical liability premiums of 1.7% that has been recognized by the ODI is a small indication of our current premium level.

This plateau and the resulting medical liability activities will bode well for physicians in Northeast Ohio throughout 2007. We will see rate competition as the carriers re-file rates. For example, Medical Protective's January 2007 filing has reclassified 4 counties surrounding the Cuyahoga county area (Wayne, Summit, Stark, Erie) as well as Clark county near Dayton. This reclassification will result in decreased premiums for some specialties in these counties of up to 26%. This decrease will make this carrier competitive in these counties and is an example of the market that is developing.

This plateau and resulting activity by the carriers is being precipitated by the fact that the carriers are now indicating that they are reaching profitability. We have seen combined ratios in excess of 150% (reflects a loss by the carrier of 50% of every dollar in premiums collected) over the last couple of years. We have seen combined ratios through 2005 in the mid 90% range. The projection is that the combined ratio through 2006 will be below 90% across the medical liability insurance industry. Immediate examples are: OHIC 2006 year to date is 86.1%, APCapital 2006 year to date is 88.8% and ProAssurance 2006 year to date is 94.7%. These combined ratios indicate that the carriers are becoming profitable. This profitability, along with the availability of re-insurance, and the significant amount of capital that the carriers have available, benefits the insured and the physician population in general. The wide availability of coverage and the premiums quoted reflect this new position.

We will see new carriers enter the market. We have recently seen the entry of an RRG by the name of Oceanus. This RRG sees the opportunity to write coverage at a rate that has the potential to be profitable. These new entries into the Ohio market will have stiff competition from the admitted carriers as well as other insurance companies who have been established in Ohio over the last couple of years.

We will see RRGs and captives now in the second, third or fourth year of their life/growth cycle who are facing the payout of claims for the first time in their histories and are facing the reality of the typical cycle of medical liability claims. These captives will carefully measure the premium offers that they make to current and potential clients. Many RRGs and captives need growth to assure their ongoing success. With active competition from the regular admitted carriers in Ohio, these entities will continue to find it challenging to maintain, much less increase, their share of the premiums available.

As we finish the 2006 calendar year, we see claims frequency down but still significantly higher awards. Examples of high awards are startling. Within our state, we are watching the disposition of a $17.8 million award in Columbus. In the State of Florida, we are watching a jury and court award of $216 million. Florida, like Ohio, has enacted tort reform in the last couple of years. Both of these awards are on claims that were in place prior to the tort reforms.

A quick recap of carriers in Ohio indicate that we have a very stable selection. AM Best ratings are currently; The Doctors Company A-, ProAssurance A-, Medical Protective A+, APCapital B++, and we will see OHIC at an A- rating when its acquisition by The Doctors Company is finalized early in 2007.

This recent announcement of the acquisition of OHIC by The Doctors Company is a complex issue to analyze. These are two solid companies who have been in Ohio for many years and who have been able competitors in the specialties and counties that they targeted. The acquisition will make OHIC a wholly owned subsidiary of the largest physician-owned medical professional liability insurance company in the United States. The anticipation is that each entity will continue to excel in the specialties in which they are established. The impact that this merger will have on the marketplace will play out in late 2007 and into 2008 as The Doctors Company

has put off a new rate filing until June 2007. This filing will coincide with OHIC's normal filing schedule.

Briefly, we predict a 2007 that mirrors 2006. The medical liability premium rates will hold steady with minor changes such as those experienced in 2006. Some examples of these minor changes are: MedPro's rate filing for January 2007 which represents a 5% reduction (significantly impacted by reclassifying the five counties), APCapital in their filing of November 2006 reduced rates 3.6% and increased their basic coverage to $1million/$4million from $1million/$3million.

Finally, we need to prevent losing sight of the bigger picture. Even though premiums have stalled on a plateau, the reality is that premiums are high. The severity of claims continues. We need to continue to support tort reform by paying attention to elections and lobbying opportunities. Our tort reform bill, SB 281 is still going to be tested at the State Supreme Court level. The comfort level that we are currently feeling can be shattered in one stroke of the pen.

Rudy LaKosh is the Senior VP/COO of The Premium Group, Inc. a partner with AMCNO. The Premium Group, Inc. provides only Medical Professional Liability insurance in a multistate area primarily to Physicians and Physician groups. ■

Constitution and Bylaw Amendments

In accordance with The Academy of Medicine of Cleveland & Northern Ohio's bylaws, the following change to the Constitution and Bylaws of the organization is published to the membership.

Upon motion duly seconded, the AMCNO board of directors approved changes to the Constitution and Bylaws to reflect the new name "The Academy of Medicine of Cleveland & Northern Ohio (AMCNO)."

Two Insurance Department Statewide Reports Released – Outlook Still Somber in Northeastern Ohio *(Continued from page 1)*

The Bad News

The bad news is that based upon a statewide comparison more than half the claims, (2,561) were filed in Northeast Ohio. In fact, one-half of the costs for both indemnity and expenses are generated from claims in Northeastern Ohio. The report shows physicians in Northeastern Ohio paying the highest average indemnity — about $303,000 per claimant. In addition, physicians in Northeastern Ohio are still paying the highest rates in the state — in some instances as much as two times higher than other physicians in the same specialties across Ohio. This data was confirmed in the November 1, 2006 medical malpractice comparison report released by the ODI.

More Work to Be Done

The ODI closed claim report clearly showed that while most medical malpractice claims are closed with no payments to claimants, almost ALL claims generated expenses for investigation and defense. The ODI report also showed that nearly five percent of the claims were adjudicated through some form of alternative dispute resolution (ADR) process. The AMCNO is a committed advocate for the use of alternative dispute resolution versus the traditional tort reform system.

Physicians in *our* region continue to lose ground in the struggle to pay medical liability rates. We continue to hear from *our* members that medical liability is still their number one expense and their number one practice issue. ADR works in other venues in the United States, and the AMCNO believes that there is no reason it should not be tried in the medical liability arena. For a copy of these reports contact the AMCNO or go to the ODI Web site at www.ohioinsurance.gov and look under the medical malpractice link.

Editor's Note: The AMCNO has had a good working relationship with Ms. Ann Womer Benjamin the current Director of the Department of Insurance. She has been very receptive to meeting with representatives of the AMCNO and she and her staff have provided information upon request. The AMCNO thanks the director for all of her assistance over the past few years. A new director will begin in 2007 under the new Governor (see next column). The AMCNO will set up a meeting with the new Director early in 2007.

Other News from Around the State

Strickland names Department of Insurance and Department of Job and Family Services Directors

Governor-elect Ted Strickland selected two local government officials to lead key cabinet-level agencies, appointing Helen Jones-Kelley of Montgomery County as director of Job & Family Services and Mary Jo Hudson of Columbus as Director of Insurance.

Ms. Jones-Kelley, an attorney, was named director of the Montgomery County Job & Family Services Department this year after serving as executive director of the county's Children's Services department since 1995.

Ms. Hudson, a lawyer with Bailey Cavalieri, worked at the Insurance Department from 1989 through 1996. While at the agency, she served as a deputy liquidator, liquidation counsel and special services attorney. A member of council since 2004, she holds degrees from Miami University and the University of Cincinnati College of Law.

Both appointments are subject to confirmation by the Ohio Senate.

The Ohio Department of Health Posts Draft Smoking Ban Rules

The Department of Health is seeking comment on draft rules designed to implement the statewide smoking ban that voters approved Nov. 7.

The proposed rules, which are based on the voter-initiated statute, prohibit smoking in most public places, and enumerate certain exemptions, including private residences where an individual is employed on an intermittent basis and tobacco shops. The draft rules also describe required "No Smoking" signs and detail where and how they should be posted.

Five proposed penalties for businesses that violate the rules begin with a warning letter and increase to a $2,500 fine for the fifth violation. The fines should double if the department finds a violation intentional, according to the proposed rules. Individuals that violate proposed smoking ban rules would first receive a warning letter, and a $100 fine for each subsequent violation. A copy of the rules may be obtained at the ODH Web site at www.odh.ohio.gov/alerts/ohiosmokingban.aspx. ■

LEGISLATIVE UPDATE

By Michael Wise, AMCNO Lobbyist

As this corner has predicted since the spring of this year, the November elections here in Ohio were truly historical. Ohio voters left the Republican Party, electing Democrats to positions of power in a state where politics has long been controlled by the GOP.

Just two years ago, President Bush was reelected while winning Ohio. At that time, Republicans controlled every statewide office in Ohio except for one seat on the Ohio Supreme Court. In addition, Republicans had overwhelming majorities in the Ohio House and Ohio Senate. However, on November 7, ethics and the economy conspired together to bring the Democrats back into power.

- Democrats won the governor's seat and the secretary of state's office for the first time since 1990.
- Sherrod Brown became Ohio's first Democratic U.S. senator since John Glenn retired in 1998.
- Ohio Democrats gained a U.S. House seat (Bob Ney) that had been held by the GOP.
- Republicans maintained a majority in the Ohio Legislature, but the margin of that majority was reduced, particularly in the House of Representatives.
- Democrats won the Ohio attorney general's office and treasurer's office both for the first time since 1994.

Republicans did hold the auditor's office as State Representative Mary Taylor was elected. Further, we were very fortunate in that SB 88 author Senator Coughlin won a very close race for his reelection (more on SB 88 below). Finally, Republicans also picked up the lone Democrat seat on the Ohio Supreme Court, as former State Senator Bob Cupp was successful in his first attempt at Ohio's highest court.

Locally, former marine Josh Mandel won his first election to the Ohio House. He will be replacing Jim Trakas. Many local physicians have met Representative Mandel and the AMCNO is excited about his leadership abilities. **Elayne Biddlestone** and **Dr. John Bastulli** had dinner with Josh recently and we are hopeful that we will have another friend in Columbus.

President Paul C. Janicki, MD, *was happy to disseminate voter information at an area polling location Nov. 7, 2006. The Northern Ohio Medical Political Action Committee (NOMPAC) prepared educational materials on Common Pleas and Ohio Supreme Court race contenders for Cuyahoga County residents.*

On the lower court, AMCNO was involved for the first time in Cuyahoga County Common Pleas races. After undertaking a complete review of the races, AMCNO decided to focus on the campaign of Judges Joan Synenberg and Dick Ambrose. Joan and Dick were considered underdogs but they both worked incredibly hard. AMCNO through our PAC contributed with a joint fundraiser and the dissemination of campaign literature. The result was victories for both Dick and Joan. Needless to say, AMCNO plans to be even more involved in the 2008 judicial races.

I would be remiss if I did not mention Issue 5, the statewide ban on smoking. AMCNO worked hard for Issue 5. That effort included an education campaign to distinguish Issue 5 from Issue 4, which was supported by the tobacco lobby and was a watered down version of a ban. The campaign was successful and voters were able to make the informed decision to support the broader ban contained in Issue 5.

Ohio politics is about to change, particularly with Democrat Ted Strickland in the Governor's office and with both the U.S. House and Senate now controlled by Democrats. Republicans do still control the state Legislature, they have more members in Ohio's U.S. congressional delegation, they control the Ohio Supreme Court and one of two U.S. senators is a Republican.

The election of Democrats Ted Strickland and Jennifer Brunner (secretary of state) could also affect the dynamics of an important body known as the Apportionment Board that draws up the boundaries for the state's legislative districts. The five-member board includes the governor and the secretary of state — and Democrats are positioned to have a majority. Though the four-year terms of the newly elected statewide officeholders expire at the end of 2010, conventional thinking holds that the incumbents will have the advantage for reelection — which would put them in office when the Apportionment Board next meets in 2011.

"In the next General Assembly, there will be either gridlock or much compromise. "

Political life will also change for Ohio's medical community. The last 12 years has seen a legislative process that clearly sympathizes with tort reform advocates and the insurance community. At the same time, significant process was not made on addressing the large number of uninsured in Ohio and there has been constant pressure to reduce Medicaid expenditures.

LEGISLATIVE UPDATE

In the next General Assembly, there will be either gridlock or much compromise. Indications now are that Governor-elect Strickland will enjoy a honeymoon period with the General Assembly that will result in movement of priority legislation. The challenge will be whether that spirit can be maintained as 2008 presidential politics take center stage in late 2007.

Particularly of concern for the AMCNO will be the attitude toward Alternative Dispute Resolution generally and our legislation, SB 88, specifically. As I discussed last issue, AMCNO staff and myself had met over the summer with Senator Coughlin and the Chair of the House Judiciary Committee Representative (John Williamowski). Chairman Williamowski had agreed to work with us on changes to SB 88.

Our work over the last few months continued to focus on Statute of Limitations issues, the overall timing of the mandatory arbitration process, and the makeup of the arbitration panel.

Ohio provides for a one-year Statute of Limitations for Medical Malpractice claims. Both the plaintiff's bar and the defense bar have strong opinions about SB 88 and its effect on this one-year Statute of Limitations. SB 88 provides for mandatory arbitration BEFORE the filing of a lawsuit. The plaintiff's bar wants to insure that a plaintiff does not lose the constitutionally protected right to file a lawsuit in court in the event that the arbitration concludes after the expiration of the statute of limitations. The solution that materialized through the input of Representative Williamowski was that in lieu of a tolling provision, SB 88 should contain a modification of the Statute of Limitations to provide a limited time period for a plaintiff to file a suit if the arbitration decision is rejected.

As far as the timing of the arbitration, SB 88 will balance the needs of both plaintiff and defendant to insure that cases are thoroughly and efficiently managed. One way that this will be accomplished will be providing two separate frameworks, one for typical cases and another for complex cases. The intended result is a process that balances the right of a plaintiff to reach a jury while promoting a fair, efficient, and economical legal process.

Finally, SB 88 will be amended to insure that the arbitrators are of the highest caliber and that a clear mechanism exists to resolve disputes over the selection of those arbitrators.

AMCNO received word from Chairman Williamowski in late November that there would not be time for hearings this Session in the House. At the same time, Senator Coughlin let us know that our Bill will be a priority Bill for him next Session and that we can expect an early introduction with a low Bill number in the Senate. Our hope is to move this legislation quickly through the Senate and have ample time in the House for hearings and a floor vote. Chairman Williamowski will not be returning. He was elected to the Bench. AMCNO will work closely with the new Chairman once that individual is identified.

The Legislature and the Courts have been busy since the November elections. In Columbus, Bills regarding specialty hospitals and hospital immunity have been introduced and will likely be vigorously pursued after the first of the year. In the Courts, The Ohio Supreme Court has taken up the affidavit of merit issue and the caps on noneconomic damages outside of the medical malpractice area. The caps case could have ramifications for the caps on noneconomic damages in medical cases.

Next issue, I will provide a complete wrap-up of the Supreme Court rulings on the caps and affidavit issues. By then, we will also know the priority health care Bills of the next General Assembly.

Finally, AMCNO also has a comprehensive tracking system of all health care related legislation in the General Assembly. If you are interested in receiving a copy of this document, please contact Elayne Biddlestone at (216) 520-1000.

Editor's Note: With all of the changes noted in government and the legislature, obviously committees and chairmanships will completely change in the coming months. AMCNO members may expect to receive a 2007 legislative directory prepared by the AMCNO and our lobbyists in the next issue of the magazine. ■

Judge Joan Synenberg and Dick Ambrose with Academy leadership ***Paul C. Janicki, MD,*** *and* ***James Taylor, MD,*** *during a political function held in support of both candidates prior to Election Day 2006.*

NEONI Tracks Shortages — Demand Continues to Escalate

By Lisa Anderson, VP Member Services, The Center for Health Affairs

News of the national nursing shortage began garnering attention across the country when in 2002, Johnson & Johnson launched an advertising campaign aimed at attracting more people to the field. Since that time, the Northeast Ohio Nursing Initiative (NEONI) has been monitoring the shortage in this region. According to recently released studies, efforts to attract people to the field are working, but the worst of the shortage has yet to be felt.

In 2002 and again in 2006, NEONI released studies on the nursing workforce to assess the current workforce supply. Currently, hospitals in Northeast Ohio employ more than 15,000 nurses. Also last year, a study on allied health professionals was released. In total, the study focused on 12 allied health positions: physical therapists and physical therapist assistants; occupational therapists and occupational therapist assistants; pharmacists; medical technologists; cytotechnologists; medical laboratory technicians; radiologic technologists; respiratory therapists; and physician assistants. According to the study, approximately 6,200 allied health professionals are employed in these 12 fields by Northeast Ohio hospitals.

While the nursing shortage has received more attention, shortages of allied health professionals are actually more acute, with hospitals reporting higher vacancy rates for allied health than for nursing. The overall nurse vacancy rate is 6.9 percent, while 8.9 percent of allied health positions are vacant.

Vacancy rates are slightly higher for registered nurses, at 7.1 percent, than for licensed practical nurses, 5.5 percent, or advanced practice nurses, 6 percent. Among the allied health professions, those with the highest vacancy rates are physical therapists, at 19 percent; pharmacists, at 14 percent; and physical therapy assistants, at 13 percent.

When compared to NEONI's 2002 nursing workforce report, nursing vacancy rates have declined. At that time, hospitals reported 13 percent vacancy rates for RNs and 20 percent for LPNs. The most recent APN vacancy rates are slightly higher than the 4 percent rates reported in the last survey.

While the nursing shortage has begun to improve, predictions are that we are still facing a looming crisis. It is anticipated that in the next five years, almost 4,000 more nurses than are currently employed will be needed in Northeast Ohio hospitals alone. This represents a 35 percent increase in the number of full-time equivalent nursing positions. On a national scale, experts are predicting that by 2020, the country will have 1 million fewer nurses than are needed.

"While the nursing shortage has received more attention, shortages of allied health professionals are actually more acute"

National and local efforts to draw more people into the field of nursing seem to be having an effect, but bottlenecks in the education process are preventing nursing schools from being able to accommodate the increased demand. A study released by NEONI at the end of 2004, *Measuring Student Capacity and Faculty Resources in Northeast Ohio Schools of Nursing,* found that the region's schools of nursing are overflowing. In the 2002-2003 academic year, more than 550 qualified students were turned away from area nursing schools because the programs were at capacity.

The country is about to face the largest-ever retirement of nurses in the next 15 to 20 years. The average age of nurses working in Northeast Ohio hospitals is 43. It is critical that efforts to recruit new individuals into the field of nursing, and to expand the capacity of our schools to accommodate them continue. A new crop of younger nurses will be needed to meet the demand for health-care services as the baby boom generation moves into the age demographic that requires the greatest level of healthcare.

The picture for allied health is not much different. While the shortage of allied health professionals is more acute than for nurses, recognition of allied health professional shortages is just beginning to be understood. Many allied health positions require a high level of education, which takes several years to complete, suggesting an urgent need to recruit individuals into these fields before shortages worsen. As the population ages and new technologies that require the expertise of a trained professional become available, the demand for services provided by allied health professionals is unlikely to abate.

The Northeast Ohio Nursing Initiative is a program of The Center for Health Affairs, Northeast Ohio's hospital trade association. NEONI is a collaborative of more than 50 organizations, including hospitals, long-term care organizations, schools of nursing, and individuals with an interest in nursing, that work to create a strong professional nursing workforce in the region. ■

CLASSIFIEDS

New Ohio State Medical Board Rules Concerning Sexual Misconduct

by John T. Mulligan

The Ohio State Medial Board has promulgated new rules (Ohio Administrative Code Sections 4731-26-01 and 4731-26-02) prohibiting sexual misconduct involving a patient. These rules apply to persons holding a certificate to practice medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a certificate of registration as an anesthesiologist assistant. In this article such a person will be referred to as a "licensee."

The new rules prohibit what is defined as "sexual misconduct" by a licensee with a patient, a patient's "key third party," or a patient's "chaperone."

A "patient" means a person to whom the licensee has provided services. An individual's status as a patient is not limited to the period of time that the individual is actually receiving care, but includes any time up to the point at which the licensee-patient relationship has been terminated. Note that the Medical Board recently promulgated a rule delineating the manner in which a patient-physician relationship can be terminated (published analysis of which appeared in the Nov/Dec issue of this magazine).

A "key third party" means an individual closely involved in the patient's medical decision making. This can include the person's spouse or partner, parents, child, sibling, guardian, or some other person. An individual's status as a "key third party" ceases upon termination of the underlying licensee-patient relationship or upon termination of the individual's "relationship with the patient." Presumably, the term "relationship" refers to the involvement of the third party in the patient's care and not a "blood" type relationship, but this is not clear.

The rule does not further define what level of involvement the person must have with the patient in order to be deemed to be a "key third party" beyond using the phrase "closely involved." However, it would seem that a "key third party" would not be limited to someone who held a health care power of attorney for the individual. By its terms, the rule does not restrict the definition of a "key third party" to an individual whom the licensee knew or should have known was closely involved in the patient's medical decision making and care.

A "chaperone" means a third person who, with the patient's consent, "is present during a medical examination." The fact that an individual may have provided transportation to the patient would not appear to be enough to make the person a "chaperone" unless the person were also present during the examination. However, such a person might still be a "key third party" because of his/her involvement in the patient's medical care and decision making, even if they were not present during the examination. The rule does not indicate at what point a person may be considered to have ceased being a chaperone for a particular patient.

The rules define "sexual misconduct" as behavior that exploits the licensee-patient relationship in a sexual way, whether verbal or physical, and may include the expression of thoughts, feelings, or gestures that are sexual or that reasonably may be construed by a patient as sexual. Specifically, sexual misconduct includes the following:

(1) Sexual impropriety by the licensee, such as behaviors, gestures, or expressions that are seductive, sexually suggestive, disrespectful of patient privacy, or sexually demeaning to a patient, including but not limited to, the following:
   (a) Neglecting to employ disrobing or draping practices respecting the person's privacy;
   (b) Subjecting a patient to an intimate examination in the presence of a third party, other than a chaperon, without the patient's consent or in the event such consent has been withdrawn;
   (c) Making comments that are not clinically relevant about or to the patient, including but not limited to making sexual comments about a patient's body or underclothing, making sexualized or sexually demeaning comments to a patient, criticizing the patient's sexual orientation, or making comments about potential sexual performance;
   (d) Soliciting a date or romantic relationship;
   (e) Initiation by the licensee of conversation regarding the sexual problems, preferences, or fantasies of the licensee;
   (f) Requesting details of sexual history or sexual likes or dislikes when not clinically indicated for the type of examination or consultation; and
   (g) Failing to offer the patient the opportunity to have a third person or chaperone in the examining room during an intimate examination and/or failing to provide a third person or chaperone in the examining room during an intimate examination upon the request of the patient. Note that apparently this offer must be made even if the licensee and the patient are of the same gender.

(2) Sexual contact by a licensee, including but not limited to, the following:
   (a) Touching a breast or any body part that has sexual connotation for the licensee or patient, for any purpose other than appropriate examination or treatment, or where the patient has refused or has withdrawn consent; and
   (b) Examining or touching of the patient's genitals without the use of gloves.

(3) Sexual conduct between a licensee and patient whether or not initiated by, consented to, or participated in by a patient, and any conduct with a patient that is sexual or may be reasonably interpreted as sexual. The rule provides a number of explicit examples of prohibited acts.

(4) Conduct described in paragraphs (1)(a), (1)(b), (1)(g), and (2)(b) above does not constitute sexual misconduct when all of the following criteria are met:
   (a) The conduct occurred during the rendering of medical care in an emergency setting;
   (b) The care rendered was medically necessary; and
   (c) Both of the following conditions are met:
      (i) The patient was unconscious or otherwise unable to consent to treatment; and
      (ii) The patient's medical condition required immediate action and the licensee could not comply with the provisions of (1)(a), (1)(b),

(1)(g), or (2)(b) as applicable, due to circumstances not within the licensee's control.

One of the problems with this new rule is that in various places where examples of sexual misconduct are provided, the language in the rule uses the phrase "but not limited to." This means that there could be types of sexual misconduct not listed. "Soliciting a date" would not typically be thought of as a form of sexual misconduct. Nonetheless, soliciting a date from a patient, from a key third party of a patient, or from a chaperone, would constitute sexual misconduct and would subject the licensee to disciplinary action by the State Medical Board.

The rule creates no exception for relationships between a licensee and a patient which may have preceded the effective date of the rules. Thus, if you are a licensee who has a dating or romantic relationship with a patient, chaperone, or a key third party, and you desire to continue that relationship, you should terminate the underlying licensee-patient relationship.

Note, that in order to terminate that relationship, a physician must follow the provisions outlined in a new rule of the Ohio State Medical Board found in Administrative Code Section 4731-27-01. However under Rule 4731-26-02(B)(1), conduct which occurs within ninety (90) days after the licensee-patient relationship was terminated would be deemed to be sexual misconduct.

As a practical matter, many instances of future disciplinary action taken under this new rule will be the result of what the licensee may have thought constituted "harmless banter," "kidding around," or the like. Licensees need to be made aware that comments or actions that could be construed as falling within the definition of sexual misconduct can be the subject of disciplinary action under this new rule. "Dirty jokes" or sexual innuendo, will likely generate complaints under this new rule. While these sorts of comments or actions were never appropriate in a licensee-patient relationship, now they are more than inappropriate and can subject the licensee to disciplinary action by the State Medical Board.

For a copy of the rules, go to www.med.ohio.gov or contact the AMCNO at (216) 520-1000.

Mr. Mulligan of McDonald Hopkins, Co., LPA focuses on representation of professional practices and general businesses. ■

AMCNO Offered Comments, Shared Concerns During Rules Process

In a series of letters and timely responses prepared in cooperation with Mr. John Mulligan of McDonald Hopkins, Co., LPA; The Academy of Medicine of Cleveland & Northern Ohio's leadership has closely followed development of these rules, including submitting written comments in early 2006 when they were first proposed. Numerous letters to OSMB Executive staff and attorneys on behalf of the membership raised concerns and was even purported to been given consideration by the Board of physician issues. The AMCNO thoughtfully scrutinized the language of the proposed sexual misconduct rule, parsing out terms and specifics in detailed questions sent to the OSMB. The state board responded on a point-for-point basis regarding our many concerns with this rule, including why the need for such was even perceived to exist. We were informed that because Ohio is one of a handful of states that did not have language in the medical practice act of regulations specifically prohibiting sexual misconduct between a physician and a patient and that their current procedures for handling complaints was "problematic for several reasons." The rules, according to the OSMB, "will put licensees and the public on notice as to what behavior may lead to disciplinary action under a uniform standard."

This is the second in a series of articles on OSMB rules and their impact on physicians and their practice in the state (See Nov/Dec *Northern Ohio Physician* for summary of terminating the physician/patient relationship by legal healthcare expert John Mulligan). The AMCNO has and will continue to monitor actions by the state board and report to our membership as appropriate. For more information on these or the Academy's efforts regarding the rules, contact Elayne Biddlestone at (216) 520-1000.

Rules of the Ohio State Medical Board may be read in full at www.ohio.med.gov under "New Rules." ■

Look for the first of our two-part "Legal Issues" series entitled,
"Forming Physician Joint Ventures which Satisfy Federal Antitrust Law,"
in the March/April issue of *Northern Ohio Physician.*

Annual Meeting 2007

Friday, April 27

Ritz-Carlton Cleveland

6 pm Reception

7 pm Dinner

Black tie optional

Induction of the 107th President

James S. Taylor, MD

50 Year Awardees -
Annual Meeting Honorees -

AMEF Scholarship Presentations

The Academy of Medicine of Cleveland & Northern Ohio Membership Committee cordially invites

physician members, residents, medical students and spouses to attend our 2007 wine tasting event. This is the perfect opportunity for you to mingle with your colleagues.

- Hors D'oeuvres
- A fine selection of wines
- Dialogue with a local wine connoisseur

LA CAVE DU VIN
2785 Euclid Heights Blvd.
Cleveland Heights, OH

Sunday, February 18, 2007
5:00 to 7:00 PM

COST:
$30 per members/spouses
$15 residents & medical students

RSVP by 02/12/07 to Linda Hale
PHONE (216) 520-1000
FAX (216) 520-0999
MAIL 6100 Oak Tree Blvd., #440
Independence, OH 44131

ATTENTION Academy Members:

Have you paid your 2007 Dues?

Support for The Academy of Medicine of Cleveland & Northern Ohio benefits all the physicians in our region. Our focus is steadfast on the issues that matter to you, your patients, and effect the way you practice medicine in Northern Ohio. Call the AMCNO's Membership Coordinator and renew your commitment to organized medicine today!

The Academy of Medicine of Cleveland & Northern Ohio Welcomes 2007 Group Members

The Cleveland Clinic Foundation
University Suburban Health Center
UHHS Department of Obstetrics & Gynecology
MetroHealth Department of Surgery

Group membership opportunities are available at your hospital and provide all the benefits of the AMCNO at discounted rates. Call Linda Hale to inquire further at (216) 520-1000 ext. 101.

*At the 2006 Annual Meeting of the Association of Indian Physicians of Northern Ohio, AMCNO President **Paul Janicki, MD,** was honored to serve as the evening's keynote speaker and present an award to **Vasu Pandrangi, MD,** the AIPNO Physician of the Year. Dr. Janicki addressed those gathered on recent AMCNO initiatives, legislative advocacy and many other benefits of AMCNO membership.*

Third Party Payor Seminar Provides Worthwhile Updates

On Nov. 15, more than 50 practice managers, physician office staffers and others attended the Academy of Medicine of Cleveland & Northern Ohio's annual "Solving the Third Party Payor Puzzle" seminar which provided reams of valuable information to attendees. Presenters from PalmettoGBA, Anthem, Medical Mutual of Ohio and the state department of Job & Family Services informed those gathered of the many changes in claims submission policy, and protocols for provider offices in dealing with payors from private and governmental agencies. Questions abounded throughout the day, as presenters and guests exchanged troubleshooting tips, helpful advice and an exhaustive list of technical and educational resources to better manage AP/AR in the physician office setting.

Seminar attendees during a break in the day's agenda of speakers.

Editor's Note: In response to significant questions and discussion arising from this year's seminar, The Academy of Medicine of Cleveland & Northern Ohio investigated further into the issue of locating another physicians' NPI or the ability of verifying an NPI when needed for billing purposes. At the current time, representatives from the Region V CMS office informed the AMCNO that help is on the way…if on an undetermined timetable. According to the spokesperson:

"Currently there is no available list of providers' NPI numbers or way to look up and verify an NPI number. The process of making this information available is what is known as "data dissemination" and is a policy matter that must be determined by CMS. We hope to publish information about data dissemination in the near future. When this is released, it will be in the Federal Register and will almost certainly be widely and quickly distributed among the provider community. The data dissemination policy will also be posted at https://nppes.cms.hhs.gov/NPPES when it is available."

Audrea Moten, Bureau of Health Plan Ombudsman for the ODJFS, discusses the logistics of a Medicaid Managed Care Plan rollout in Northeast Ohio.

The AMCNO will continue to track development of such a data repository on behalf of our members and provide timely updates as they are released. ■

Look for the Winter Edition of AMCNO's quarterly newsletter for the physician office — ***Practice Management Matters*** in your mail soon. With timely updates on Medicare, third party payor issues and tips to make the billing process smoother, its designed with you in mind — the practice manager, administrator, associate staff, billers and coders — all key personnel in the physician's office. The AMCNO ardently supports your work and recognizes the importance of a shared knowledge between our physician members and their staffs, allowing for an expanded base of input that helps us help you confront the rapid changes affecting the practice of medicine and office management today.

The Center for Health Industry Solutions of Cuyahoga Community College Offers Discounted Classes for AMCNO Members & their Staff

Interested parties will need an exclusive AMCNO course number to register and obtain the discount. For course numbers, call Linda Hale of at (216) 520-1000, ext. 101, or e-mail lhale@amcnoma.org. For course information visit www.corporatecollege.com Classes are offered at Corporate College East or West (CCE) (CCW) and the Unified Technology Center (UTC).

The AMCNO can provide you information on topics from balance billing to managed care to terminating the physician/patient relationship. Our Practice Management Department catalogs newsletters, brochures and booklets we make available to our physician members and their staffs covering topics from Medicare reimbursements to effective tips for staffing the medical office. Whatever your question or concern, the Practice Management Department is available to address or investigate any issue left unresolved. We support our members in being strong advocates for all patients and promoting the practice of the highest quality of medicine.

If you have questions, concerns or a specific issue you would like the AMCNO Practice Management Department to review, please contact Kristine Snider, Practice Mgmt. Coordinator, at (216) 520-1000 ext. 103 or email ksnider@amcnoma.org.

Interim Meeting Highlights of the AMA

Delegates adopt dozens of recommendations to improve care, practice of medicine

- The AMA adopted recommendations from the Board of Trustees Report 18, which examines the actions of individual pharmacists and pharmacy chains when dispensing medication. The recommendations state that when a pharmacist or pharmacy chain refers a patient to an alternative dispensing source, the prescription should be returned to the patient and the prescribing physician should be notified of the referral.
- After much debate on ethical considerations of the use of placebos in clinical practice, the AMA adopted a recommendation emphasizing that physicians maintain patients' trust by avoiding even the appearance of a deception, and by properly informing patients before using a placebo, and that physician do not need to identify the placebo or secure explicit consent immediately before using one.
- The AMA voted that all meetings and conferences organized or sponsored by the association be held in a town, city, county or state that has enacted comprehensive legislation requiring smoke-free work sites and public places (including restaurants and bars) unless intended or existing contracts or circumstances justify an exception to this policy. The AMA will also encourage state and local medical societies, national specialty societies and other health organizations to adopt similar policy.
- The AMA voted to review the appropriate scope of required health insurance benefits for such benefits to qualify for purposes of tax credit or other federal subsidy. The AMA will also review the financing of health care and/or insurance coverage for those with chronic illness or who are experiencing catastrophic health expenses. The AMA will also conduct new tax credit simulations on varying components of its proposal to expand health insurance coverage and choice.
- The AMA voted to work with medical associations, employer coalitions, physician billing services and other appropriate groups to evaluate on an annual basis and recommend standards for "payer measures" for the insurance industry and government payers to be publicly reported for consumers that may included information about several measures.
- The AMA resolved to urge the Food and Drug Administration (FDA) to conduct surveys for purity and dosage accuracy of all compounded "bioidentical hormone" formulations; require mandatory reporting by drug manufacturers, including compounding pharmacies, of adverse events related to the use of the compounded "bioidentical hormone" preparations; and create a registry of adverse events related to the use of such. The AMA further resolved to request that the FDA require the inclusion of uniform packet information such as warnings and precautions, in packaging of compounded bioidentical hormone products. In addition, the AMA will urge the FDA to prohibit the use of the term "bioidentical hormones" unless the preparation has been approved by the FDA.
- The AMA adopted recommendations that any physician payer, clearinghouse, vendor or other entity that collects and uses or warehouses electronic medical records and claims data adhere to a series of principles. Among those principles are that electronic medical records data remain accessible to authorized users for the purposes of treatment, public health, patient safety, quality improvement and research, and that anyone seeking to access and use individually identifiable clinical data obtain physician or patient permission to do so. The AMA also will continue to monitor the economic implication of the secondary sale and use of nonidentifiable, aggregate data.
- The AMA approved policy on aspects of abusive practices by insurers, including opposing the development of tiered, narrow or restructured networks inappropriately driven by economic criteria. The AMA also voted to study and educate physicians on the practice of network repricing and silent rental networks. In addition, the AMA resolved to explore the feasibility of participating in legal action designed to address arbitrary and abusive economic profiling of physicians.
- The AMA referred for a decision the resolution to organize programs that would educate the public about the looming access-to-care crisis that will result from inadequate Medicare physician rated and projected steep cuts in Medicare payments. The AMA endorsed current policy to petition CMS to improve the accuracy of the Geographic Payment Cost Indices through the use of the accurate practice costs and timely data.
- The AMA voted to refer a resolution to oppose any congressional action that would institute a pay-for-performance program and a resolution to reject pay-for-performance as economic credentialing. Both will considered at the 2007 annual meeting. ■

Advocacy Efforts Result in Halt to Medicare Payment Cuts

President Bush on Dec. 20 signed into law a tax, trade and health care bill (HR 6111) that included provisions to reverse a 5.1% reduction in Medicare physician reimbursements scheduled for 2007. The law maintains the current level of Medicare physician reimbursements in 2007 and provides a 1.5% increase in reimbursements to physicians who agree to report data on certain quality-of-care measures. Following months of correspondence and action on this by physicians, their patients (including all those sent from the AMCNO's "Action Alert" legislative Web page), and the advocacy efforts of organized medicine Congress passed the legislation by a 367-45 vote in the House and a 79-9 vote in the Senate. It was reported that nearly 1 million patients and physicians contacted Congress to urge them to take action on this issue.

The legislation also initiates a physician quality reporting program to begin in July 2007. While the claims adjustment process likely will take several weeks, physicians do not have to resubmit claims. In addition, CMS will reopen the 45-day period in which physicians may change their 2006 Medicare participation status. Changes will be retroactive to Jan. 1, and claims will be adjusted to reflect the change in status.

Other highlights of the bill:

- Extends the floor on the work component of the physician geographic practice costs indices (GPCI) through December 31, 2007. The provision, originally established as part of the Medicare Modernization Act (MMA), requires the Secretary of HHS to increase the value of any work geographic index that is below 1.00 to 1.00 for physician services.
- Establishes a bonus payment of 1.5 percent, beginning in July 2007, for physicians who report quality data voluntarily through the Centers for Medicare and Medicaid Services (CMS) Physician Voluntary Reporting Program (PVRP).
- Requires the Secretary of Health and Human Services to establish a "medical home" demonstration project.
- Requires CMS to reimburse physicians for administering vaccines that are covered under Medicare Part D. Physicians will be reimbursed for their services through Medicare Part B in 2007 and Medicare Part D in 2008 and beyond.
- Provides a one-year extension of the exceptions process established under the Deficit Reduction Act to allow patients to apply for additional therapy services if their treatments exceed the annual allowable limit on therapy services.
- Reduces the limit on Medicaid provider taxes from 6 percent to 5.5 percent for years 2008-2011.
- Requires an OIG study and report on the prevalence of, and payment for, "never events" in the Medicare program. Never events are defined as medical services that the medical community feel should never occur and result in death or serious disability of the patient.

AMCNO Diligently Informs Public, Patients on Physician Reimbursement Issue

Unfortunately, until a permanent fix to the flawed Medicare physician reimbursement formula, or Sustainable Growth Rate (SGR) is implemented, the need for political advocacy each year remains to forestall annually scheduled cuts in payments. Much of 2006 was no different in this regard than the last several years, wherein The Academy of Medicine of Cleveland & Northern Ohio keeps its focus on the matter until resolved.

A statement to the press was released in June that highlighted the reality of an access-to-care crisis for our region's patients, especially those who are elderly or disabled.

"Physicians simply cannot continue to absorb additional Medicare cuts at 5% per year through 2015, which could quite realistically hasten retirements among the 35% of physicians who are now 55 or older and will certainly exacerbate physician shortages predicated to occur when the baby boomers enter Medicare in the coming years," the statement read.

Even as late as Dec. 19, President **Paul Janicki, MD,** wrote a response to the news in a letter to the *Plain Dealer's* editor: "Reimbursements have not kept pace with the rising cost of providing care. Data from the Government Accounting Office (GAO) shows that between 1990 and 2006 the cost of operating a practice rose 40% while Medicare payments increased only 19%."

The AMCNO in 2007 will continue to work toward a real solution to the issue, and keep our membership apprised of news and developments as they happen — paying specific attention to the performance measures proposed and instituted in July 2007 by the Centers for Medicare and Medicaid Services. Look for continuing coverage in future issues of *Northern Ohio Physician.* ■

Ohio Supreme Court Rules on Two Cases Regarding Physicians

The Supreme Court of Ohio ruled Dec. 21 that, in personal injury cases, a jury considering the reasonable value of a plaintiff's medical treatment may hear evidence of *both* the amount originally billed by a medical care provider for treatment, *and* a lesser amount accepted by the care provider from an insurance company as full payment for the billed services. In its decision, the Court affirmed a ruling by the 1st District Court of Appeals, but disagreed with the portion of its holding that evidence of a "write-off" granted by a health care provider to a plaintiff's insurer was inadmissible at trial under the "collateral source rule." Under the rule, jurors in a personal injury case are not informed about any recovery made by the plaintiff from sources other than the person who caused a plaintiff's injury or loss (the tortfeasor), so that the tortfeasor does not benefit from the plaintiff's own efforts by having his liability to the plaintiff reduced by any amount the plaintiff was able to recover from another source (such as the plaintiff's own insurance). Justice Lanzinger noted that, after the injury and complaint, the General Assembly enacted a specific statute, R.C. 2315.20, that allows defendants in personal injury cases to introduce evidence at trial of "any amount payable as a benefit to the plaintiff" as a result of his or her injury.

And earlier that same week the Court ruled in a 6-1 decision that a physician who is employed as an instructor at a state university medical school at the time he performs a medical procedure on a private patient is acting within the scope of his public employment. The Court determined that in these circumstances the physician is immune from personal liability for negligence when the physician is engaged in teaching one or more medical students or hospital residents. It provides immunity for all state employees as long as they are acting within the scope of their employment when the injury occurs.

22nd Annual Mini-Internship Program A True Success

The Academy of Medicine of Cleveland & Northern Ohio was pleased to facilitate the 22nd Annual Mini-Internship Program Oct. 30 through Nov. 1, with both physicians and intern participants relating the many benefits of the two-day shadowing event. From office visits to surgery, trauma care to hospital rounds, interns experience a "Day in the Life" of local physicians, an unparalleled look at the practice of medicine in today's healthcare arena. In fact, during the traditional debriefing dinner that follows the internship phase of the program, Chairman **William Seitz, Jr., MD,** informed those gathered that the AMCNO Mini-Internship, well into its second decade, was the longest-continuously running program of its kind in the country — a stunning achievement for our organization, to be sure.

*Anthem's Shannon Miller discusses highlights of her experience with **Harry Hoyen, MD,** one of the physicians she shadowed.*

"I would have stayed for the whole week, instead of only two days, if they'd let me."

SHANNON MILLER, ANTHEM BLUE CROSS

***Dr. Diane Butler** and Larry Turbow review portions of the program during the debriefing dinner meeting.*

"How much confidence the patients had in their doctor! I have a very different idea of what goes on in the workday of a physician."

LARRY TURBOW,
PRESIDENT CLEVELAND BAR ASSN.

*Michael Luczak (center) with the physicians he spent time with during the two-day event, **Victor Bello, MD; Paul Janicki, MD; Diane Butler, MD,** and **William Seitz, Jr., MD.***

"This experience, I know, is going to stay with me for the rest of my life."

MICHAEL LUCZAK,
WHK PROGRAM DIRECTOR

*Participating 2006 Mini-Internship physicians and interns, (from left, standing) **Drs. Seitz, Elyaderani, Pandrangi, Karns, Lane, Van Keuls, Janicki, Butler, Taylor, Steinemann, Hoyen, Kaufman** and **Bello** (from left, seated) Richard Waldron, the Rev. Dr. Otis Moss, Allisyn Leppla, Shannon Miller, Larry Turbow and Michael Luczak.*

The AMCNO expresses its sincerest appreciation to both the doctors and community members who committed their time and effort to make this very special program a true success year after year! For more information on Mini-Internship opportunities, contact Linda Hale at (216) 520-1000 ext. 101.

2006 Physician Participants

William Seitz, Jr., MD, *Chairman*
Victor Bello, MD
Diane Butler, MD
Mehrun Elyaderani, MD
Matthew Hawkins, MD
Harry Hoyen, MD
Paul Janicki, MD
Dan Karns, MD
Bram Kaufman, MD
James Lane, MD
Jon Meine, MD
Howard Nearman, MD
Vasu Pandrangi, MD
Robert Rogoff, MD
Thomas Steinemann, MD
James Taylor, MD
Nancy Van Keuls, MD

2006 Program Interns

Michael Luczak, Program Director, WHK 1420

The Rev. Dr. Otis Moss, Pastor, Olivet Institutional Baptist Church

Shannon Miller, Network Education Rep, Anthem Blue Cross & Blue Shield

Larry Turbow, President, Cuyahoga County Bar Association

Richard Waldron, Director of Institution & Ancillary Contracting, Medical Mutual of Ohio

Allisyn Leppla, Disease Team, Cuyahoga County Board of Health

AMCNO ANNUAL SEMINAR

Tracking Trends

IMPACTING
THE PRACTICE OF MEDICINE

Friday, March 9, 2007

Embassy Suites • Independence, Ohio • 9:00 a.m. – 4:00 p.m.

Jointly sponsored by:

amcno
THE ACADEMY OF MEDICINE OF CLEVELAND & NORTHERN OHIO

AMEF

St. Vincent Charity Hospital
The Sisters of Charity of St. Augustine Health System
UniversityHospitals HealthSystem

Program Format

9:00 a.m. – 9:05 a.m.
Opening Remarks
Paul C. Janicki, MD
President, Academy of Medicine of Cleveland & Northern Ohio (AMCNO)

9:05 a.m. – 10:05 a.m.
Consumer-driven Health Care: The Changing Role of the Patient and the Impact on Physicians
Devon M. Herrick, Ph.D.
Senior Fellow, National Center for Policy Analysis

10:05 a.m. – 11:05 a.m.
The Institute of Medicine (IOM) Report on Pay-for-Performance in Medicare: Overview and Current Status.
Alan R. Nelson, MD, MACP
Special Advisor to the CEO of the American College of Physicians and member of the IOM study committee.

11:05 a.m. – 11:15 a.m.
Break

11:15 a.m. – 12:15 p.m.
Centers for Medicare and Medicaid Services (CMS) Quality Programs and Initiatives Related to HIT and P4P.
Susan M. Nedza, MD, MBA, FACEP (Invited)
Chief Medical Officer, Region V of the Centers for Medicare and Medicaid Services

12:15 p.m. – 1:00 p.m.
LUNCH
Update on the Status of the Northeastern Ohio Regional Health Information Organization (NEORHIO) and State Initiatives
Brian F. Keaton, MD
Attending Physician/EM Informatics Director Summa Health System; President, American College of Emergency Physicians and physician leader of the NEORHIO.

1:00 p.m. – 2:00 p.m.
Bridges to Excellence – A Successful Employer Initiative – the P4P market – Where We are Today and Where We Expect to be Tomorrow.
Edison Machado, MD
National Accounts Manager for Bridges to Excellence (BTE), a national program focused on rewarding physicians for better quality care.

2:00 p.m. – 3:00 p.m.
Electronic Health Record Certification – Helping Physicians Adopt Health Information Technology (HIT)
Alisa Ray
Executive Director of the Certification Commission for Healthcare Information Technology (CCHIT).

3:00 p.m. – 3:15 p.m.
Break

3:15 p.m – 4:00 p.m.
Privacy and Legal Issues, Update on Federal Laws, and Regulations Impacting HIT
Amy Leopard
Walter and Haverfield, LLP
Alan Parker
Reminger and Reminger Co., LPA

4:00 p.m.
Wrap-Up and Adjourn
Paul C. Janicki, MD
AMCNO President

ALL PRESENTERS WILL BE AFFORDED TIME TO ANSWER QUESTIONS.

Call (216) 520-1000 for more information or to register by phone or visit our Web Site at www.amcnoma.org.

AT THE END OF THIS CONFERENCE ATTENDEES SHOULD BE ABLE TO:

1. Assess why practice-based electronic health records are essential to quality measurement, quality improvement, and related to programs such as pay-for-performance.
2. Assess how public data resulting from a consumer-driven model will affect their practice.
3. Explain the certification processes and assess EHR technology adoption for their own practice.
4. Assess why information technology is a key enabler of quality improvement.
5. Cite federal regulatory initiatives and legal issues relative to privacy and the adoption of Health IT.

This activity has been planned and implemented in accordance with the Essential Areas and Policies of the Ohio State Medical Association (OSMA) through the joint sponsorship of St. Vincent Charity Hospital and The Academy of Medicine Cleveland & Northern Ohio, and the Academy of Medicine Education Foundation. St. Vincent Charity Hospital is accredited by the Ohio State Medical Association (OSMA) to provide continuing medical education for physicians.

St. Vincent Charity Hospital designates this educational activity for a maximum of *6.5 AMA PRA Category 1 Credits™*. Physicians should only claim credit commensurate with the extent of their participation in the activity.

REGISTRATION FORM

March 9, 2007
9:00 a.m. – 4:00 p.m.
Embassy Suites
5800 Rockside Woods Blvd.
Independence, Ohio 44131

Name _____

Address _____

City _____

State _____ Zip _____

Phone _____

Fax _____

FEES:
$25.00 – Residents/Medical Students
$50.00 – AMCNO Members
$75.00 – Nonmember Physicians and other Attendees

Return this form with your check made payable to the AMCNO and mail to: AMCNO, 6100 Oak Tree Blvd. Ste. 440, Independence, Ohio 44131.

You may also fax back this form with a credit card payment. Fill in information below and fax to (216) 520-0999.

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