

AMCNO Scores a Victory with Ohio Supreme Court Decision

By Bret C. Perry, Esq.

The Academy of Medicine of Cleveland and Northern Ohio (AMCNO) is pleased to announce that on December 9, 2011, the Supreme Court of Ohio reversed a decision by the Tenth District Court of Appeals which had held that expert testimony was not required in order to maintain an action for lack of informed consent when such claims are brought in the context of a medical malpractice lawsuit. On behalf of AMCNO, Bret C. Perry and Jennifer Becker, with the firm of Bonezzi Switzer Murphy Polito & Hupp, Co., LPA, authored an *amicus brief* (friend of the Court) urging that the Supreme Court of Ohio reverse the decision of the Tenth District Court of Appeals. In *White v. Leimbach*, 2011-Ohio-6238, the Supreme Court of Ohio confirmed that the tort of lack of informed consent constitutes a medical claim and that a plaintiff must produce expert medical testimony establishing: 1) the material risks or dangers inherent in a procedure, and 2) that an undisclosed risk or danger actually materialized and proximately caused injury.

This case arose from a medical malpractice suit filed where the plaintiff alleged that the doctor performed a second discectomy back surgery without adequately disclosing that there was a higher risk of negative results from a follow-up discectomy than from his first operation, and therefore, failed to obtain the plaintiff's informed consent before performing the second surgery. The trial court directed a verdict in the doctor's favor, finding that the plaintiff failed to present expert testimony concerning whether the material risks and dangers of the second surgery actually materialized and proximately caused injury.

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HHS Secretary Sebelius Highlights Regional and State EHR Progress

AMCNO representatives were pleased to attend a panel discussion held at Cuyahoga Community College where U.S. Secretary of Health and Human Services (HHS) Kathleen Sebelius announced that HHS plans to make it simpler to adopt health IT allowing doctors and hospitals to adopt health IT this year, without meeting the new standards until 2014. Dr. Farzad Mostashari, the National Coordinator for Health Information Technology also participated in the event and expanded on this point by noting that HHS has extended the compliance date for Stage 2 meaningful use for those hospitals, physicians and other eligible professionals that qualify as Stage 1 meaningful users in 2011 to 2014. Under the current requirements, eligible doctors and hospitals that begin participating in the Medicare electronic health records incentive programs this year would have to meet new standards for the program in 2013. If they did not participate in the program until 2012, they could wait to meet these new standards until 2014 and still be eligible for the same incentive payment.

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Secretary Sebelius responds to a question during the panel discussion.

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AMCNO Scores a Victory with Ohio Supreme Court Decision *(Continued from page 1)*

On review, the Tenth District Court of Appeals vacated the directed verdict and remanded the case for further proceedings in the trial court. In reversing the decision of the trial court, the Tenth District Court of Appeals undermined long-standing Ohio law finding that a claim for lack of "informed consent" constituted nothing more than a common-law claim for battery. In doing so, the Tenth District Court of Appeals effectively established that physicians in Ohio could now be sued for battery in failing to provide adequate informed consent. This decision, if left undisturbed, would have undoubtedly resulted in an increase in the number of lawsuits filed against physicians which otherwise would lack the necessary and essential prerequisite requirement of expert medical review. Likewise, these claims were subject to the tort-reform protections such as monetary caps on non-economic damages. The Tenth District's decision potentially had the effect of subjecting physicians to increased exposure in that claims for "battery" arguably fall outside the tort-reform protections now afforded defendants in actions alleging medical malpractice.

The *amicus brief* filed on behalf of the Academy of Medicine of Cleveland & Northern Ohio urged reversal of the decision of the Tenth District Court of Appeals and sought a declaration that claims alleging lack of "informed consent" constituted "medical claims" requiring plaintiffs to produce competent expert medical testimony establishing what a reasonable medical practitioner would have disclosed to his patient about the risks incident to a proposed treatment in order to establish a *prima facie* claim. In urging reversal, the AMCNO sought to ensure that physicians and medical providers throughout Ohio are guaranteed the tort-reform protections afforded by way of legislative enactment

In reaching its decision, Justice O'Donnell, writing for the majority, confirmed that the tort of lack of informed consent constituted a medical claim, and as such, it requires medical expert testimony. "In general, when a medical claim questions the professional skill and judgment of a physician, expert testimony is required to prove the relevant

standard of conduct." The decision in this case is significant in that if the decision of the Tenth District Court of Appeals was left undisturbed, plaintiffs would have been permitted to evade expert testimony requirements by framing straightforward medical malpractice claims as 'lack of informed consent' claims and permitting prosecution without the benefit of an expert report. Most importantly, if left undisturbed, the Tenth District's decision would have subjected physicians to increased exposure in that claims for "battery" would arguably fall outside the tort-reform protections now afforded defendants in actions alleging medical malpractice, and malpractice insurance coverage denial. ■

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AMCNO PARTNERSHIPS

HHS Secretary Sebelius Highlights Regional and State EHR Progress

(Continued from page 1)

Secretary Sebelius was in Cleveland to highlight the successful local, state and regional partnerships aimed at transforming the healthcare delivery system through the use of electronic health records. She noted that electronic health records and health IT adoption is a building block for health transformation. She indicated that more than 100,000 primary care physicians have signed up for the program representing over one-third of the primary care physicians in the country. She cited a recent Centers for Disease Control and Prevention (CDC) survey which found 52 percent of office-based physicians in the U.S. now intend to take advantage of the incentive payments available for doctors and hospitals through the Medicare and Medicaid EHR Incentive Programs. The CDC data also show the percentage of physicians who have adopted basic electronic health records in their practice has doubled from 17 to 34 percent between 2008 and 2011 (with the percent of primary care doctors using this technology nearly doubling from 20 to 39 percent).

Secretary Sebelius applauded the success of Tri-C's health IT training program noting that health IT can be a major job creator for years to come. She also commented that through the training that has been done at Tri-C and other community colleges nationwide over 5,700 professionals have successfully completed their training in health information technology.

During the event, Tri-C representatives provided insight on how graduates have been utilizing their health IT training at institutions across the Northern Ohio community. Students are working with RECs, community health centers, and health care associations to support adoption and implementation of EHRs and convey the benefits of meaningful use of health IT to improve patient care. Tri-C is working with Healthbridge and the Ohio Health Information Partnership to garner their assistance in placing graduates in positions around the state. Tri-C is also interested in working with physician organizations like the AMCNO and other health care institutions to place graduates out in the community.



Dr. Farzad Mostashari (right) spends a moment at the Tri-C event with the Director of the Ohio Department of Health Dr. Ted Wymyslo (left) and AMCNO past president Dr. Ronald Savrin.

Also on hand were representatives from three Northern Ohio health care institutions including MetroHealth, University Hospitals and the Cleveland Clinic Foundation. These representatives provided input on how their medical staff and institutions are utilizing electronic health records in order to transform how health care is delivered in Northern Ohio and provides patients with the opportunity to become engaged in their health care and monitor their health status.

Dr. Mostashari stated that the framework put together by the ONC for meaningful use will develop into a new way to treat patients. It will be important to make information available to every physician so that they know where they stand against the meaningful use objectives and also to provide them with the ability to redesign patient care. He thanked the event participants and the health care community across Ohio for their hard work and perseverance in signing up physicians to participate in the program and for assisting them in their use of EHRs and achieving meaningful use. ■

For more information on the 2011 CDC survey data referenced above, see <http://www.cdc.gov/nchs/surveys.htm>

For more information about the HHS Recovery Act health IT programs, see http://www.hhs.gov/recovery/announcements/by_topic.html#hit



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AMCNO Joins the County Health Alliance

In October, AMCNO physician leadership participated in a kick-off meeting facilitated by County Executive Ed FitzGerald where he outlined his idea for a County Health Alliance — an initiative to address health improvement through regional collaboration, innovation and accountability. He announced that he is convening a group of community leaders to work toward setting up benchmarks to achieve health and wellness for the residents of the county. The county would like to achieve this goal through public and community partnerships.

Mr. FitzGerald then held a media event in November to announce the start-up of the County Health Alliance. This event was held at the City Club of Cleveland and was well attended by the entities in the community that have agreed to work with and support the alliance — including health care institutions, community organizations, and the AMCNO. Mr. FitzGerald noted that the attendees represented a coalition from the government, business, health care, non-profit, academic and philanthropic sectors. He stated that the formation of the alliance was an opportunity to develop and implement a robust organizational and public policy agenda that prevents and reduces the burden of chronic diseases such as heart disease, cancer, stroke, diabetes and obesity. He asked for a call to collective action to roll out in two components. The first

component would be a pilot project with the intent to engage at least 10 municipalities, build community teams, secure institutional volunteers, provide toolkits and enact a policy agenda. The second component would be to develop a community health dashboard which would identify and benchmark core measures, using an evidence-based framework with the ability to monitor progress with the intent to improve the County health rankings.

Also participating in the event was Mr. Ronald Sims, the Former Deputy Secretary of the U.S. Department of Housing and Urban Development and the former County Executive of King County in Seattle, Washington. Mr. Sims offered insight into the innovative models he implemented during his tenure as County Executive to address health and wellness issues for the citizens of King County. His comments were echoed during the media event noting that this type of initiative can work if everyone in the community works together toward a common goal. He applauded Mr. FitzGerald and the entities supporting this initiative to alter care outcomes for the region stating that this is a local issue and it has to be addressed by the entire community in order to get these health indicators to change. He also noted that it will be important to review county demographic data by zip code since where a person lived was a determining factor in their health status and there is a need to change



AMCNO President Dr. Lawrence Kent (left) poses with Mr. FitzGerald and AMCNO Immediate Past President Dr. Laura David at the kick-off event.

the culture of health. Mr. FitzGerald also stated that the health insurance model that has been implemented for county employees, which includes incentives for healthy behavior, will be offered to other communities. In addition, Dr. Anthony Stallion, a physician from the Cleveland Clinic and an AMCNO member, provided comments supporting the start-up of the initiative. The AMCNO board of directors has appointed representatives to the County Health Alliance Advisory Committee and we will continue to provide updates on this program to our members. ■

MedWorks Brings Health Care to Rural Geauga County

Determined to bring quality health care to communities in need, MedWorks, in collaboration with DDC Clinic, hosted a free medical clinic Saturday, October 29th at the DDC Clinic in Middlefield Ohio. On this crisp fall Saturday in the heart of Amish country, MedWorks doctors provided 275 medical services to over 140 individuals. As with all MedWorks clinics, there was no cost for any services provided and patients were seen free of charge regardless of income or insurance status. This was MedWorks' tenth free health care clinic and the first located in Geauga County.

Over 90 medical and lay volunteers including more than 50 members of the medical community delivered care to patients throughout the day. Among the several medical specialties represented were cardiology, ENT specialists, internal

medicine, OB/GYN, podiatry, rheumatology, and others representing several area hospitals and private practices. The AMCNO immediate past president, Dr. Laura David led the women's health group who saw twenty-one women and identified the clinic's most emergent patients. The AMCNO is a supporter of MedWorks and Dr. David has volunteered her time at every clinic since MedWorks inception.

The array of services offered at this clinic included EKGs, HIV testing, lab work ups, flu shots, free prescriptions, and mental health assessments. Many patients received multiple services with doctors making referrals, right on the spot, to other physicians at the clinic. Every individual who came to the MedWorks Clinic spent time with a social worker who provided counseling and information about follow-up services.

Unique to this MedWorks Clinic, ninety percent of those seen on the day were from the Amish community. This presented an opportunity for MedWorks doctors to reach a population highly in need of medical services in Northeast Ohio. DDC clinic's staff and Amish board members along with other Amish partners provided input on specific cultural issues related to this community. MedWorks doctors, lay volunteers and members of the DDC Clinic Board of Directors are eager to return to serve the needs of this rural, Amish community.

Editor's note: The AMCNO is pleased to be a supporter of the MedWorks program and we thank all of our members who volunteered for this clinic. ■

AMCNO Participates in Northeast Ohio Meta-Leadership Summit

Earlier this year, the Academy of Medicine of Cleveland & Northern Ohio (AMCNO) was pleased to participate in the Meta-Leadership Summit for Preparedness — a unique national initiative to better prepare business, government and non-profit leaders to work effectively together during a public health or safety crisis. The intent of the summit was to focus on cross-sector collaboration and participants had the opportunity to connect with other Northeast Ohio leaders who manage critical information and resources in an emergency.

In order to continue the momentum started at the Preparedness Summit representatives from across the community, including the AMCNO, became part of a planning team for a Post-Summit activity session. This session occurred in early December and included leaders from business, government and nonprofit sectors. A panel discussion included representatives from business, fire departments, police and law enforcement, and the local chapter of the American Red

Cross. The objectives of this follow up session were to expand networks of cross-sector contacts, increase understanding on how each sector may be engaged in an emergency and developing a process for sharing information and resources between business, government and non-profits during an emergency. Leaders from business, emergency services and others plan to continue their work on this initiative in the community. ■



A panel of regional representatives was on hand to provide comments at the session (l to r – Michael Janko, Goodyear Tire & Rubber Company, William Shaw, Solon Fire Dept., Ed Egut, Brecksville Fire Dept., Clayton Harrison, Tri-C Police Dept., Ken Werstak, FBI, and Michelene Holland, American Red Cross of Greater Cleveland.

AMCNO Hosts “Vote and Vaccinate” Program on Election Day

The Academy of Medicine of Cleveland and Northern Ohio (AMCNO) hosted its twelfth annual “Vote and Vaccinate” program on Election Day, November 8, 2011. A press release regarding the event was submitted to the media on October, 31, 2011, and the event received coverage from several media outlets.



Parma Hospital Nurse Rosemary Kundrat administering flu vaccine at Parma South Presbyterian Church on Election Day.

The intent of this annual program is to provide individuals with an opportunity to receive seasonal flu and pneumonia immunizations at various polling sites throughout Cuyahoga County on Election Day. Vote and Vaccinate is a parallel program to the voting process and is not connected in any way with the Board of Elections.

The AMCNO was pleased to have participation again this year from our program sponsors: Cleveland Department of Health, Parma Community General Hospital and Saint Vincent Medical Center. The AMCNO expresses its sincere gratitude to site staff who participated in this worthwhile

program at Marion Sterling School, North Royalton United Methodist Church, Parma Heights Baptist Church, Parma South Presbyterian Church, Pilgrim Congregational United Church of Christ and Ridgewood United Methodist Church.

The AMCNO plans to host this community event again in 2012. If your group or hospital is interested in participating with the AMCNO as a co-sponsor or host a site, please contact the AMCNO offices at 216.520.1000. ■

AMCNO Speakers Bureau Event Offers Key Information to Seniors

AMCNO Member Dr. Gerard Isenberg of University Hospitals, participated in an AMCNO Speakers Bureau engagement at The Mandel Jewish Community Center on the topic of Prevention and New Technology in Digestive Health for Seniors. Dr. Isenberg discussed various conditions associated with digestive health and new technology used to assist in diagnosis and treatment. The audience also learned about the importance of maintaining a healthy lifestyle. The AMCNO would like to thank Dr. Isenberg for committing his time and for his participation in the AMCNO Speakers Bureau. The AMCNO receives numerous requests for Speakers from organizations in our area. If you are an AMCNO member and are interested in participating in AMCNO's Speakers Bureau, please contact the office at 216-520-1000 for more information.

AMCNO Legislative Update

Statehouse Update

During the last half of 2011, legislators on both sides of the aisle continued to debate legislative referendums and the drawing of Congressional districts. In the end, the legislature did send a bill to the Governor for his signature that included a slightly revised redistricting map, a single March 6th primary date, and the establishment of a legislative task force on redistricting.

In the spring of 2012, the Kasich administration intends on introducing a capital appropriations bill that will in some ways be similar to last year's state operating budget HB 153. The bill promises to be another policy laden vehicle and may include some budget corrections or readjustments. The Kasich administration has stated that it will continue its policy of fiscal constraint in regards to the budget even though state tax revenues have been performing higher than projections.

One issue that continues to elicit strong debate in Columbus is the implementation for the Accountable Care Act (ACA). In November, Ohio voters passed Issue 3 which blocks the ACA requirement that individuals purchase health care coverage. By passing Issue 3, Ohio voters have placed language into the Ohio Constitution as follows:

- No law or rule shall compel, directly or indirectly, any person, employer, or health care provider to participate in a health care system.
- No law or rule shall prohibit the purchase or sale of health care or health insurance.
- No law or rule shall impose a penalty or fine for the sale or purchase of health care or health insurance.

The language does have limitations, in that it will not impact laws or rules in effect as of March 19, 2010. In addition, it will not impact which services a health care provider or hospital is required to perform or provide; terms and conditions of government employment; or any laws calculated to deter fraud or punish wrongdoing in the health care industry.

The ACA also mandates the creation of a health insurance exchange, however, in Ohio the Kasich administration has not revealed any plans for the creation of an exchange or for the implementation of one. Consumer advocates and others have asked Lt. Gov.

Mary Taylor, who is also the Director of the Ohio Department of Insurance, to act and start work on a state insurance exchange, but the insurance director has stated in news releases and in other venues that she opposes the federal law and would like to see it repealed and replaced with something that works better for individuals and businesses.

To date, 13 other states have already enacted legislation to establish such exchanges, and Ohio has until June 30, 2012, to get a bill signed to be eligible for implementation funding.

Democrats and other advocates who would like to see the health care exchange move forward have been asking Taylor to appear before the Health and Aging Committee in the Ohio House to explain her position on the issue but to date Taylor has not accepted the invitation. It is possible that the Kasich administration may be waiting until after the U.S. Supreme Court renders its decision on the federal law, which will also impact other parts of the bill and the programs it has created.

AMCNO Legislative Lunches A Huge Success

On Friday October 28th and again on Friday November 18th, the AMCNO hosted legislative lunches at the Sisters of Charity Health System facility and the University Suburban Health Center respectively. Both events were well attended and included representatives from the AMCNO, physician leadership from hospitals and physician groups and legislators. In attendance for the Sisters of Charity event were Senators Tom Patton (R-Strongsville), District 24, and Mike Skindell (D-Lakewood), District 23 and Representative Mike Foley (D-Cleveland), District 14. Legislators in attendance for the USHC event were Senator Shirley Smith (D-Cleveland), District 21, and Representatives Marlene Anielski (R-Walton Hills), District 17, Nickie Antonio (D-Lakewood), District 13, Armond Budish (D-Shaker Heights), District 8, and Kenny Yuko (D-Richmond Heights), District 7.

Attendees at both meetings received a detailed overview of the AMCNO legislative agenda and our viewpoint on health care-related legislation under review by the Ohio legislature. Of note were bills moving through the legislature dealing with changes in scope of practice for nurses, physician assistants and certified nurse anesthetists. The AMCNO is very involved in the debate on these issues in an effort to assure that physician supervision remains intact and that the bills do not change scope of practice in a manner that could impact quality of care or patient safety. The AMCNO is also tracking



Legislators attending the luncheon at the University Suburban Health Center line up with AMCNO representatives following the event – left to right State Representative Marlene Anielski, Dr. John Bastulli, Dr. Lawrence Kent, State Representative Kenny Yuko, State Senator Shirley Smith, State Representative Nickie Antonio, State Representative and Minority Leader Armond Budish, and Dr. Laura David.

LEGISLATIVE ACTIVITIES

legislation dealing with youth injuries — a bill that has the AMCNO working to assure that qualified individuals make the decision to allow a young athlete to return to play after suffering a head injury. The AMCNO is also in strong support of legislation that would cut down on the red tape physicians must deal with when working with health insurance companies. If enacted, this legislation would prevent insurance companies from changing the terms of a contract with a physician after it has been signed and would also reduce the time insurance companies must pay physicians from 30 to 15 days.

There was also a brief review of two pieces of legislation that have been spearheaded by the AMCNO. The first is sponsored by Senator Tom Patton and would deal with the issue of physician ranking by insurance companies providing for a more fair and reasonable process. The second piece of legislation has just been drafted and the AMCNO is currently working with Rep. Slaby on this legislation (see *item on HIPAA legislation later in this article*).

Senator Patton briefly addressed the physician ranking legislation and then discussed the state budget in relation to Medicaid reimbursement and the need to expand the health home concept. Senator Skindell stated that historically he supports legislation that would make changes in relation to the activities of health insurance companies. With regard to the hospital franchise fee, Senator Skindell noted that the goal behind that was to try and pull down additional Medicaid dollars — but he does have concerns with the redistribution of those dollars noting that he wants to assure that these dollars are allocated to those facilities that provide care to the poor.

Rep. Yuko is following the legislation dealing with scope of practice issues and indicated that legislators have to evaluate these matters carefully since these issues have a different impact dependent upon whether a practice is in a large system in an urban area or in a rural setting. Senator Smith outlined the different activities she has worked on noting that she has a special interest in health disparity matters. Both Representatives Anielski and Antonio remarked upon their specific interests with Rep. Anielski expressing an interest in preventative care.

Physicians at both meetings expressed concern that allied health care providers in the state are pushing to prescribe Schedule II drugs in light of the recent pain management issues that

have occurred in the state. There was concern among several of the physicians that allowing other practitioners to prescribe these drugs could lead to further drug overdose and abuse problems. The AMCNO representatives noted that organizations like the AMCNO will work to assure that emphasis is placed upon allowing this type of prescribing only in collaboration with a physician or under a supervising physician arrangement. Several legislators attending the meeting agreed with this approach.

Several physicians expressed their frustration with the changes in Medicaid structure and reimbursement, particularly in the mental health arena. Physicians informed the legislators that they should remember that each time they are considering unfunded mandates they should learn more about how these changes will impact the practice of medicine prior to implementation. After hearing these concerns several of the legislators stressed that they are not medically trained and it is imperative that physicians become engaged in the legislative process and come down to testify on issues of importance to them. Physicians have the expertise and knowledge on how these changes will impact their practice and they have to become involved in the process. The physicians at the event were encouraged to work through the AMCNO to set up meetings with their legislators as well.

Scope of Practice Legislation Continues to Move Forward

HB 284 is bipartisan legislation that would expand physician assistant duties in Ohio. This bill has had three hearings in the House Health and Aging Committee to date. Supporters and sponsors of the bill believe that HB 284 will increase the ability of a supervising physician to fully utilize a physician assistant to serve patients in a timely and responsive manner without sacrificing any of the quality controls or safeguards in current law.

SB 83 would expand prescriptive authority for advanced practice nurses. The bill has been modified to restrict the number of places and situations where and when nurses can prescribe. At the hearing in December, three amendments were added to the bill. One amendment expands the scope of practice for advanced practice nurses to “look-alikes” of federally-qualified health centers while another allows them to practice in facilities or clinics owned or controlled, in whole or in part, by a hospital or by an entity that owns or controls, in whole or in part, one or more



Mr. Edward Taber, (right) chairman of the AMCNO Medical Legal Liaison Committee met with State Representative Slaby to provide input on a bill to address HIPAA issues.

hospitals. The third amendment adds a disciplinary section providing for a Board of Nursing suspension or revocation of a license for “self-administering” or otherwise taking into the body any drug that is a Schedule I controlled substance. The AMCNO will continue to monitor the debate on both of these bills in 2012.

AMCNO Spearheads Introduction of Civil Immunity Legislation

Representative Lynn Slaby has agreed to sponsor legislation supported by the AMCNO which would amend sections of current law that provide immunity from violation of a patient’s privacy rights. This broadening of the law will include physicians who report a patient’s potential inability or incapacity to operate a motor vehicle.

Under current law, a physician cannot call an employer or authorities without violating HIPAA laws in Ohio if they believe that a patient is unable to safely operate a vehicle due to a medical treatment or condition. This legislation will broaden the circumstances in which a physician can make a contact and alert appropriate parties in the event that a patient poses an immediate threat to their own life or to others. Rep. Slaby has sent out a co-sponsor request and the AMCNO hopes to see this legislation introduced in the near future.

The AMCNO monitors all health care-related legislation under review at the state legislature. For more information on legislative matters members may contact the AMCNO offices at 216-520-1000. ■

Legislator Spotlight



State Representative
Lynn Slaby

State Representative Lynn Slaby is currently serving his first term in the Ohio House of Representatives and serves on three standing committees:

Representative Slaby serves as chairman of the Criminal Justice Committee and is a member of Judiciary &

Ethics and Finance & Appropriations. He represents the 41st District, which includes parts of Summit County.

Representative Slaby received his Juris Doctorate Degree from the University of Akron, as well as his Bachelor of Science Degree in Business Administration from the University of Akron. He recently retired from the Ninth District Court of Appeals. Before his appointment and election there, he served 14 years as the Summit County Prosecuting Attorney. Prior to that, he served as Assistant Law Director and Prosecutor for the cities of Akron and Cuyahoga Falls. He has been a guest lecturer at both the University of Akron

Business College and the School of Law, as well as a presenter at the Ohio State Bar Association and the Akron Bar Association. In addition, he is the past president of both the National District Attorneys Association and the Ohio Prosecuting Attorneys Association. He was also elected Distinguished Alumni of the University of Akron School of Law.

Presently, Representative Slaby serves on the board of trustees for the Cleveland Christian Home for Children, West Side Ministries, Community Care Network and High Street Christian Church, serving as chairman of the latter two organizations. He has also served on various boards and foundations, including the Alumni Board of the University of Akron School of Law, Business College Alumni Board of the University of Akron, the Cuyahoga Falls High School Alumni Foundation, the Ohio Judicial Conference and the Ohio Judicial College.

During his career, Representative Slaby has been awarded the Ohio Forensic Leadership Award by the Ohio Department of Mental Health for his dedication and progressive efforts to study the insanity defense. Other awards include Outstanding Prosecutor of the

year, Resolution of Honor Award, Leadership Award from the Ohio Prosecuting Attorney Association, and the President's Award from the National District Attorneys Association.

Representative Slaby's memberships include the Akron Bar Association, Ohio Bar Association, American Bar Association, Cuyahoga Falls Masonic Lodge, Akron Tadmor Shrine, Akron Consistory, and Past Master Counselor DeMolay.

He and his wife, former State Representative Marilyn Slaby, have three children and four grandchildren.

Recently he co-sponsored House Bill 93 which created a definition for a pain management clinic – legislation which was strongly supported by the AMCNO. Rep. Slaby is also sponsoring legislation spearheaded by the AMCNO which would amend sections of current law that provide immunity from violation of a patient's privacy rights. Rep. Slaby is currently looking for co-sponsors for this legislation (see article on previous page). The AMCNO thanks Rep. Slaby for agreeing to sponsor the bill. ■

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Any Tribute Plan projections shown here are not intended to be a forecast of future events or a guarantee of future balance amounts. For a more complete description of the Tribute Plan, see our Frequently Asked Questions at www.thedoctors.com/tributefaq.

Accountable Care Organizations (ACO): What Providers Need to Know

On October 20, 2011, CMS finalized new rules under the ACA to help doctors, hospitals and other healthcare providers better coordinate care for Medicare patients through ACOs. ACOs create incentives for health care providers to work together to treat an individual patient across care settings, including doctor's offices, hospitals, and long-term care facilities. The Medicare Shared Savings Program (MSSP) will reward ACOs that lower their growth in health care costs while meeting performance standards on quality of care and putting patients first. Provider participation in an ACO is purely voluntary. In developing this final rule, CMS worked closely with agencies across the federal government to ensure a coordinated and aligned inter- and intra-agency effort to facilitate implementation of the Shared Savings Program. CMS encourages all interested providers and suppliers to review this final rule and consider participating in the Shared Savings Program.

Under the final rule, the ACO refers to a group of providers and suppliers of services (e.g., hospitals, physicians, and others involved in patient care) that will work together to coordinate care for the Medicare fee-for-service patients they serve. The goal of an ACO is to deliver seamless, high-quality care for Medicare beneficiaries, instead of the fragmented care that often results from a fee-for-service payment system in which different providers receive different, disconnected payments. The ACO will be a patient-centered organization where the patient and providers are partners in care decisions.

The Affordable Care Act specifies that an ACO may include the following types of groups of providers and suppliers of Medicare-covered services: ACO professionals (i.e., practitioners meeting the statutory definition) in group practice arrangements; networks of individual practices of ACO professional; partnerships or joint practices of ACO professionals; hospitals employing ACO professionals; or other Medicare providers and suppliers as determined by the Secretary.

To participate in the Shared Savings Program, providers must come together to become a Medicare Accountable Care Organization (ACO) and the ACO must apply to CMS. An existing ACO will not be automatically

accepted into the Shared Savings Program. To be accepted, the ACOs must meet all eligibility and program requirements, must serve at least 5,000 Medicare fee-for-service patients, and agree to participate in the program for at least three years. Medicare providers who participate in an ACO in the Shared Savings Program will continue to receive payment under Medicare fee-for-service rules. Under the final rule, Medicare will continue to pay individual providers and suppliers for specific items and services as it currently does under the Medicare fee-for-service payment systems. CMS will also develop a benchmark for each ACO to assess whether it qualifies to receive shared savings or if it can be potentially be held accountable for losses. The benchmark is an estimate of what the total Medicare fee-for-service Parts A and B expenditures for ACO beneficiaries would otherwise have been in the absence of the ACO, even if all of those services were not provided in the ACO. The benchmark will take into account beneficiary characteristics and other factors that may affect the need for health care services. This benchmark will be updated for each performance year within the agreement period.

CMS is implementing both a one-sided model (shared savings, but not losses, for the entire term of the first agreement) and a two-sided model (sharing both savings and losses for the entire term of the agreement), allowing the ACO to opt for either model for their first agreement period. CMS believes this approach will provide an entry point for organizations with less experience with risk models to gain experience with population management before transitioning to a shared losses model. It also provides an opportunity for more experienced ACOs that are ready to share in losses to enter a sharing arrangement that provides a greater share of savings, but with the responsibility of repaying Medicare a portion of any losses.

CMS is encouraging providers to participate in the Shared Savings Program by setting the quality performance standard to reporting only for the first performance year of the ACO's agreement period and providing a longer phase in to performance over the second and third performance years. This means that ACOs will be eligible for the maximum sharing rate (60 percent of the two-sided model and

50 percent for the one-sided model) if the ACO generates sufficient savings and successfully reports the required quality measures.

After the first year, the ACO must not only report but also perform well on selected quality measures. This flexibility will allow newly formed ACOs a grace period as they start up their operations and learn to work together to better coordinate patient care and improve quality.

CMS will measure quality of care using nationally recognized measures in four key domains: patient experience, care coordination/patient safety, preventive health, and at-risk population. These measures are aligned with the measures in other CMS programs such as the Electronic Health Records and the Physician Quality Reporting System. Eligible professionals in an ACO that successfully reports the quality measures required under the Shared Savings Program in any year of the program will be deemed eligible for the PQRS bonus, regardless of whether the ACO qualifies to share in savings.

Providers and suppliers who are already participating in another shared savings program or demonstration under fee-for-service Medicare, such as the Independence at Home Medical Practice pilot program, will not be eligible to participate in a Shared Savings Program ACO.

If a group of providers and suppliers are already a self-contained financially and clinically integrated entity that has a board of directors or other governing body, the organization need not form a separate governing body or create a new legal entity to participate in the Shared Savings Program. The existing organization, however, must be recognized under applicable State or tribal law, be capable of receiving and distributing shared savings and repaying shared losses, and meet the other ACO functions identified in the statutes. ■

Source: U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

AMCNO EDUCATION OPPORTUNITIES

CONTINUING EDUCATION FROM TRI-C

Take advantage of discounted classes for AMCNO Members and their staff. Contact Linda Hale at 216-520-1000 for exclusive AMCNO member course numbers to register and obtain a discounted price.



Date/Time	Course Title	Discount Fee	CEU	Location
01/18/12 - 02/20/12 9 am – 12 pm (M-W)	Fundamentals of Billing Reimbursement \$375	\$338	CEU 3	UTC
01/30/12 - 02/23/12 6 pm – 9 pm (M-W)	Medical Terminology \$350	\$315	CEU 3.9	Westshore
02/06/12 - 03/19/12 6 pm – 9 pm (Mon)	Hospital/Facility Billing and Reimbursement \$249	\$229	TBD	CCE
02/07/12 12:30 pm - 5 pm	ICD-10 Preparation Review of A&P \$135	\$115	CEU 4.5	CCE
02/28/12 - 04/10/12 6 pm – 9 pm (T-TH)	Medical Terminology \$350	\$315	CEU 3.9	CCE
03/03/12 - 04/28/12 9 am – 1 pm (Sat)	AAPC Accelerated Professional Medical Coding Curriculum \$950	\$902	CEU 3.6	CCE
04/11/12 8:30 am – 11:30 am	Compliance 101 for Coders \$155	\$135	CEU 3.5	CCE

Course Locations: **Corporate College East** 4400 Richmond Rd, Warrensville Hts, OH 44128 • **Unified Technologies Center** Rd 2415 Woodland Ave, Cleveland, OH 44115 • **Westshore Campus** 31001 Clemens Rd., Westlake OH 44145

GILMOUR ACADEMY

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Get an edge in science by doing real science.

For a decade, Gilmour's Catalyst program has immersed Upper School students in research initiatives at universities, hospitals and corporate R&D settings. They learn innovative research techniques as they sharpen critical thinking skills. While gaining authentic experience in the "how" of science, students are also inspired to uncover the "why."

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Co-ed Montessori Preschool Program, Lower School & Middle/Upper School
A Catholic, independent school sponsored by
the Congregation of Holy Cross, Notre Dame, Indiana



Open House – Sunday, November 20 11:00 a.m. RSVP at admissions@gilmour.org or call 440.473.8050 gilmour.org

CliniSync Provides Update to the AMCNO Board

In November, the AMCNO board of directors welcomed representatives from Clinisync, the statewide health information exchange as well as a representative from Medicity a national vendor with experience in HIE in other states. Medicity is creating the CliniSync infrastructure which will be technologically secure among authorized healthcare users who sign agreements with the Ohio Health Information Partnership.

Mr. Jay Hughes from Medicity informed the AMCNO board that the company has worked with over 150 electronic medical records vendors across the country and they also have solutions for paper-based practices. They have remotely hosted services shared across many communities and they have streamlined the access and exchange of data with NHIN participants, consumer health networks and payor networks. They also provide a scalable secure messaging system — known as iNexx — which provides a secure peer to peer communication and the ability to collaborate around the care of the patient.

The platform is to be offered free of charge and physicians can download it to manage care and collaborate electronically. Once iNexx is deployed, and as practices invite other providers to join their collaboration — network communication can be achieved. If competing platforms want to talk to one another iNexx will allow them to do that — even if a physician does not have a certified EHR. The iNexx application is a platform to manage care collaboration electronically and allow competing platforms to communicate with one another and provide peer to peer communication. Once a referral takes place a notification will be sent if the physician



Mr. Jay Hughes from Medicity (left) responds to a question at the AMCNO board meeting — also pictured is Mr. Doug Green from CliniSync.

accepted the patient, and when the patient is scheduled for an appointment.

The iNexx platform itself is provided to any physician who wants to participate — the only cost that may be incurred will be due to any integration that may occur between a physician and their EMR, and that would be an issue for discussion between a physician and their vendor.

The AMCNO board also received additional background and brochures about Clinisync's services. (see page 12 for more information on the brochures offered on the CliniSync web site). ■

Congress Approves Two Month Pay Patch

At press time, the AMCNO had just learned that physicians got a brief reprieve from a 27 percent Medicare pay cut when the U.S. House of Representatives reached agreement with the Senate on a two-month extension of policies that were to expire on Jan. 1. The U.S. Senate voted to extend current Medicare payment rates for two months. After first refusing to approve the two-month extension the House reached an agreement with the Senate to extend the payment rates, as well as the 2 percentage point Social Security tax cut and to extend unemployment benefits. A House-Senate conference committee will convene in January to work on a longer-term

agreement. The AMCNO will continue to press for changes to the SGR payment formula as the debate continues. In the interim, the Centers for Medicare & Medicaid Services (CMS) has extended the annual Medicare participation enrollment period through Feb. 14. The previous deadline was Dec. 31. The effective date for any participation status change during the extension, however, remains Jan. 1, and will be enforced for the entire year. According to CMS, contractors will accept and process any participation elections or withdrawals made during the extended enrollment period that are post-marked on or before Feb. 14. ■

What is iNexx?

iNexx is connectivity and collaboration. iNexx is flexibility to choose and run the specific technology you need in your practice.

1. First, iNexx connects your practice with the providers in the community you do business with most so that you can easily communicate and coordinate care. This is the health information exchange (HIE) function of iNexx.

By simply downloading and installing the free technology, you can send and manage referrals with anyone else in your iNexx network. And you are kept up-to-date about the care being offered by other providers in your network to your mutual patients. You define and control who you collaborate with using iNexx by simply inviting providers you do business with to join your iNexx network.

2. Second, you can choose and download specific applications to run on iNexx that meet your workflow needs. If you don't have an EMR in your practice, you can choose the apps you need to automate your workflow one step at a time at the pace that works best for you. If you have an EMR, you can choose apps that supplement or fill technology gaps in your current technology.

The **free iNexx** offering comes with a set of apps to get you started, including:

- Patient Core
- Referrals
- Inbox
- Virtual Care Team Reconciliation (VCTR)

Source: Medicity web site

www.medicity.com

To learn more about the CliniSync Health Information Exchange Services for Physician Practices go to www.clinisync.org ■

AMCNO Encourages Physicians to Consider Utilizing Ohio's EHR Learning and Action Network

At no cost, physicians can be part of a learning network that allows you to work with others who are going through similar experiences with the same goals as you. Our organization is working alongside KePro to support Ohio's EHR Learning and Action Network. What will this network give you?

- Assistance with successful submission of data for quality improvement incentive programs including EHR Meaningful Use and Physicians Quality Reporting System (PQRS).
- The ability to partner with and connect to other organizations and individuals with similar goals.
- Identification of best practices, including EHR implementation strategies and quality improvement initiatives.
- Access to aggregate local, regional and national data for benchmarking, as well as

resources developed by the Quality Improvement Organization network.

- Access to information and tools from the Prevention National Coordinating Center via the Quality Improvement Organization network.

Designed specifically for providers, the network includes IT experts, vendors, community organizations and patient representatives. This collaborative is part of a national initiative by the Centers for Medicare & Medicaid

Services (CMS) and is coordinated by the Quality Improvement Organizations in each state and territory. In Ohio, the founders include the Academy of Medicine of Cleveland & Northern Ohio, HealthBridge, Ohio Academy of Family Physicians, Ohio Department of Health, Ohio Department of Job & Family Services, Ohio Health Information Partnership and the Ohio Hospital Association. The network's mission is to provide an environment for shared learning, and in association with the Regional Extension Centers, to assist providers in achieving meaningful use of health information technology.

To join Ohio's EHR Learning and Action Network, please visit www.ohiokepro.com and click on **Ohio's EHR Learning & Action Network.** ■

CliniSync Provides HIE Physician and Hospital Brochures

CliniSync, the statewide health information exchange, has created several tri-fold brochures that now are on our website so interested healthcare professionals can download them. These include:

- **Overview of HIE Services for Physicians:** This overview introduces physicians to CliniSync and describes the suites of services offered, including a CliniSync Direct Suite and a more integrated CliniSync Community Health Suite.
- **Direct Suite:** This suite of services is for physicians and other healthcare providers

who are predominately paper-based and may not have an EHR system. The Direct Suite is an application that is installed on a local PC in the physician's office and connects with the CliniSync network.

Once installed and configured, the Direct Suite offers these modules: Referral Management, Direct Messaging, Inbox and Straight-to-EHR.

- **Community Health Suite:** This more integrated suite does everything above, but it also allows you to search for available information on a patient. The modules include: Straight-to-EHR,

Community to-EHR- Delivery and Practice-to-CliniSync Publishing.

- **Hospital Suite:** These services include project management, assessment of the existing system, custom-developed interfaces, rigorous testing and a community roll-out of electronic results to the physician community, including interfacing.

To view the brochures, go to www.clinisync.org, select the Outreach Tab at the top right and drop down to Fact Sheets. ■

CliniSync Signs Agreements with Northern Ohio Hospitals

Leaders from the Community Health Collaborative, LLC (CHC), and the Ohio Health Information Partnership (The Partnership) have signed an agreement to participate in CliniSync, Ohio's statewide health information exchange created by The Partnership. The hospitals participating in the CHC (Southwest General, Parma Community General Hospital, and EMH Healthcare) are the first collaboration of independent hospitals to join the CliniSync health information exchange from Northeast Ohio. Hospitals that are part of the Sisters of Charity Health System also

signed an agreement to join the health information exchange as well as a consortium of hospitals in west central Ohio in the Lima area. The CliniSync health information exchange ultimately will connect hospitals, health systems, physicians and other health care professionals involved in patient care. With patients' permission, the exchange will allow participating organizations to access records through a secure network in real time. Ohio received \$14.8 million from the U.S. Department of Health and Human Services through the Office of the National

Coordinator of Health Information Technology to create the infrastructure for a statewide exchange.

Editor's Note: The AMCNO is pleased to be working with the Ohio Health Information Partnership (the Partnership) as part of various committees and the Learning and Action Network. The AMCNO is also part of the Case Regional Extension Center Governance Committee and we provide services tracking physician milestones for the Case REC as a part of this initiative. ■

ICD-10 Preparation - Five Things to Do Right Now

By Annie Boynton, BS, RHIT, CPC, CCS, CPC-H, CCS-P, CPC-P, CPC-I, CPhT, Director 5010/ICD-10 Communications, Adoption & Training UnitedHealth Group

As we move into 2012, the mandated implementation date of October 1, 2013 moves closer so if you haven't done so already, the time to begin ICD-10 readiness is now.

On January 15, 2009, the Department of Health and Human Services (DHHS) issued a final rule stipulating that all HIPAA covered entities must transition from 4010 to the 5010 version of the electronic transactions standards effective January 1, 2012,* and that the current ICD-9 code set will be replaced by ICD-10 effective October 1, 2013. Even though there has been nearly five years to prepare for the ICD-10 mandated transition, the majority of the industry has yet to begin work on their ICD-10 implementation strategy.

Be clear about the significant scope of ICD-10 and the significant impact this code set transition will have on physician practices and the business of healthcare. ICD-10 implementation will be a critical milestone in our ability as a nation to achieve true administrative simplification, value-based purchasing and increase the sophistication of healthcare data collection systems world-wide.

It is imperative that ICD-10 becomes a top priority project for physician practices across the country to ensure business as usual on October 1, 2013 and beyond.

To initiate this critical work, physician practices of any size can, and should begin immediately with the following five things to ensure operational readiness and continued financial stability within these mandated change environments.

Five Things to Ensure ICD-10 compliance by October 1, 2013

1. Seek HIPAA 5010 Electronic Transactions Standards Compliance

Compliance of the HIPAA 5010 electronic transactions standards federal mandate is a critical, initial step toward ICD-10 compliance. If you are not 5010 compliant, the implementation

of ICD-10 poses significant risk to your practice. The 5010 mandate states that effective January 1, 2012,* all types of claims and claim-related transactions must be 5010 compliant and that payers will not be allowed to accept 4010 transactions dated on or after that date.

To ensure 5010 compliance, physician practices need to immediately allocate appropriate resources to ensure readiness. According to a 2011 Medical Group Management Association (MGMA) study, the average cost for 5010 implementation is roughly \$16,000 per physician, per practice. The 5010 and ICD-10 relationship is linked as 5010 sets the stage electronically for ICD-10 by lengthening the diagnostic field loop from five characters to seven alpha-numeric characters. It also adds a version indicator to enable transactions to accommodate either ICD-9 or ICD-10 codes, which will be of paramount importance when submitting claims during the dual-use period immediately following the ICD-10 implementation mandate on October 1, 2013.

For practices still processing paper transactions, this is a perfect opportunity to receive free government funding toward the purchase of an Electronic Medical Record (EMR) system that meets Meaningful Use guidelines. Funding is currently available for health information technology upgrades from the 2009 American Recovery and Reinvestment Act (ARRA). Interested practices should take immediate action to qualify for the full EMR purchase incentives as available funding will diminish annually beginning 2012.

The investment of human and financial resources to ensure 5010 compliance by January 1, 2012*, will help practices achieve administrative simplification and serve as the

groundwork for future federal regulations. If compliance is delayed practices can expect electronic business to be seriously challenged..

2. Know your ICD-9 World

Many physicians, unfortunately, do not grasp the extent to which their practices rely on ICD-9 data today. Physicians should be well versed in the business, clinical and financial aspects of the physician practice and be aware of the critical role that coding plays to support the revenue stream. In the ICD-10 world, this will become even more critical. Physicians know their business and have direct knowledge of benchmarks such as productivity rates across their practice, especially since productivity is directly linked to revenue.

The industry has been warning physicians for the past few years that revenue is almost certainly going to be impacted for **at least 3-6 months** after the ICD-10 cutover. It is imperative to establish a solid financial baseline now, to ensure that physicians and practices will be able to recognize, understand and prepare for the significant impact to revenue in 2013 and beyond.

Data analysis, productivity analysis, and financial analysis of a practice's ICD-9 world is perhaps the most important thing that a practice can do to prepare for the ICD-10 transition. This work will enable modeling, trending and forecasting for ICD-10, which will likely prove to be the deciding factor in whether a practice succeeds or fails post ICD-10.

3. Talk to Your Vendors and Payers

Vendors and payers are on the cutting (and bleeding) edge of ICD-10 implementation. Understanding how the changes will impact practice vendors is an absolute critical step in successfully achieving ICD-10 compliance. This dialogue should begin now with 5010 and evolve into a lengthier discussion regarding ICD-10 implementation and its impact on the vendor/payer as well as any possible downstream impacts that could be problematic for the practice.

There are a few key questions that practices should ask vendors and payers as they begin ICD-10 outreach.

(Continued on page 14)

* The CMS has announced it will hold off until March 31, 2012, on enforcing its rule requiring hospitals, physician practices, health plans and claims clearinghouses to switch to using the ASC X12 Version 5010 standards for the electronic transmission of healthcare claims and other administrative communications. The Jan. 1 compliance deadline for Version 5010 will not be changed according to CMS. **To view more information on this issue go to:** <http://www.cms.gov/ICD10/Downloads/CMSStatement5010EnforcementDiscretion111711.pdf>

ICD-10 Preparation - Five Things to Do Right Now *(Continued from page 13)*

Vendor-Specific Questions:

- Will your organization be compliant with ICD-10 by the October 1, 2013 mandate?
- Who are the ICD-10 contact people and what is their contact information?
- Will there be any additional fees charged as a result of the ICD-10 upgrade?
- When will we be able to test ICD-10 transactions?
- Will there be any additional training needed as a result of the ICD-10 upgrade?

Payer-Specific Questions:

- Will your organization be compliant with ICD-10 by the October 1, 2013 mandate?
- Who are the ICD-10 contact people and what is their contact information?
- What is their ICD-10 implementation approach? (Will they use GEMs files, proprietary crosswalks, or a hybrid approach?)
- What (if any) are the contractual impacts to the practice as a result ICD-10?
- When will medical policies/payment policies specific to ICD-10 be available for review?
- Are they offering any type of no-cost training assistance to the provider/facility community?

ICD-10 is offering the vendor and payer community a unique opportunity to advocate for their clients and physician members in ways the industry has never seen before. Many payers are developing free training materials and other types of assistance for practices. How will you know if your payers are doing these things if you don't ask? Developing a rapport with vendors and payers today will secure further collaboration as the implementation deadline approaches.

4. Assess Documentation Pitfalls

Success of ICD-10 implementation at the

facility level will be largely dependent upon increased documentation detail by physicians. Granularity and specificity, detail and terms synonymous with ICD-10 implementation in the provider and facility community, must be fully addressed. If providers do not increase detail in documentation habits, it could be virtually impossible for coders to adequately select the correct ICD-10 code.

Revenue will most certainly be negatively impacted if documentation does not become more detailed. The specificity within the ICD-10 code set is much greater than in ICD-9. The following scenario, coded in both ICD-9 and ICD-10, clearly demonstrates the level of specificity in the ICD-10 code set.

Patient is seen today for a subsequent encounter of a non-union of an open fracture of the right distal radius with intra-articulate extension and a minimal opening with minimal damaged tissue.

In ICD-9 this would be coded as:
813.52 Other Open Fracture of Distal End of Radius (Alone)

In ICD-10 this is coded as:
S52.571M – Other intra-articular fracture of lower end of right radius, subsequent encounter for open fracture type I or type II with non-union

As the example indicates, ICD-10 codes contain much more detail and will require much more detail in order for coders to select the most appropriate codes. While unspecified codes still exist within ICD-10, it is much more difficult to use unspecified codes, because of the detail found within the ICD-10 code set. Documentation will be critical to maintaining practice revenue in 2013 and beyond.

Begin an analysis of documentation habits now, rather than later. Physician who are currently being chased down to correct or modify documentation can expect this to become a much more significant issue when ICD-10 goes live. Practices can lessen the impact by conducting thorough documentation analysis today to avoid future financial pain.

5. Plan Financial Solutions

Because many practices will struggle to find at least three to six months of revenue to sustain them over the ICD-10 implementation date, it is critical to develop an ICD-10 financial transition plan as far in advance as possible. Be aware that impact to people, business processes and technology will be costly. The bottom line recommendation is to begin setting aside funds today, or establish a contingency plan such as asking for a business loan or business line of credit and *begin making inquiries now*. Do not wait until late 2012 or early 2013 and expect banks to hand out a loan or a line of credit, as it will likely not happen at that point.

Due diligence now, involving a thorough analysis of ICD-9 business, and being prepared with tools and/or business processes to analyze cash flow, will help physicians and administrators better understand 2013 fiscal needs. Be aware that banks tend to be more forthcoming with loans requested in a proactive manner. It will take significant financial analysis and planning in order to secure funds from banks, particularly in light of the recent banking industry challenges. Waiting until late 2012 or 2013 to begin financial planning is tantamount to an act of desperation.

October 1, 2013, is fast approaching. ICD-10 is perhaps the largest healthcare initiative we have ever seen in the United States. Begin these 5 steps today to set the foundation for successful ICD-10 compliance. ■

THINKING ABOUT RETIRING IN 2012?

If you are considering retiring from your practice we need to hear from you. Why? Your benefits!

As a retired member you will continue to receive many of the benefits of membership, including dues-exempt membership at a "retired" status, access to staff, eligibility for AMCNO 50 year award, and you will continue to receive email updates—keeping you informed on AMCNO activities.

Here are some helpful hints:

- We can provide you with contact information that will be beneficial to you

whether you are selling or closing a medical practice.

- Assist you with advertising in the *Northern Ohio Physician*
- It would also be very helpful for the AMCNO to know where your patient records are. We get many phone calls from patients trying to locate their medical records from a retired physician and can handle these inquiries for you.

Here are the options for retired membership:

- Your AMCNO dues must be current.
- If you retire before May 1, 2012, you pay no 2012 dues. You will have "retired" status.

- If you retire after May 1, 2012, you will need to pay your 2012 dues, and then you will be dues-exempt in 2012.

For more information about closing a practice contact Linda Hale in the Membership Department at 216-520-1000 ext. 101.

NOT QUITE RETIRED BUT CUTTING BACK ON HOURS:

AMCNO offers part-time membership to physicians 66+ years of age working less than 20 hours per week and less than 40 hours per week. Contact membership at (216) 520-1000 for information.

The Centers for Medicare and Medicaid Services (CMS) Announces Demonstration Programs to Curb Improper Payments — Ohio Included in Recovery Audit Prepayment Review Demonstration

At the recent AMCNO Third Party Payor Puzzle Seminar, representatives from CGI informed the group that beginning on January 1, 2012, CMS will conduct demonstration projects that will strengthen Medicare by aiming at eliminating fraud, waste, and abuse.

The Recovery Audit Prepayment Review demonstration will allow Medicare Recovery Auditors (RACs) to review claims before they are paid to ensure that the provider complied with all Medicare payment rules. The RACs will conduct prepayment reviews on certain types of claims that historically result in high rates of improper payments. These reviews will focus on seven states with high populations of fraud- and error-prone providers (FL, CA, MI, TX, NY, LA, IL) and four states with high claims volumes of short inpatient hospital stays (PA, Ohio, NC, MO) for a total of 11 states. This demonstration will also help lower the error rate by preventing improper payments rather than the traditional “pay and chase” methods of looking for improper payments after they have been made.

Part A to Part B Rebilling: Another initiative will allow hospitals to rebill for 90 percent of the Part B payment when a Medicare contractor denies a Part A inpatient short stay claim as not reasonable and necessary due to the hospital billing for the wrong setting. Currently, when outpatient services are billed as inpatient services, the entire claim is denied in full.

This demonstration will be limited to a representative sample of 380 hospitals nationwide that volunteer to be part of the program. This demonstration will allow hospitals to resubmit claims for 90 percent of the allowable Part B payment when a Medicare Administrative Contractor, Recovery Auditor, or the Comprehensive Error Rate Testing Contractor finds that a Medicare patient met the requirements for Part B services but did not meet the requirements for a Part A inpatient stay. In addition, this demonstration is expected to lower the appeals rate which will protect the trust fund and reduce hospital burden. Beneficiaries will be held harmless with respect to changes in hospital coinsurance liability.

Provider Enrollment Revalidation Extended by Two Years

The Centers for Medicare and Medicaid Services (CMS) has announced that the requirement that providers revalidate their Medicare enrollment under provisions of the Accountable Care Act (ACA) has been extended through June 2015. The original revalidation effort was scheduled to be completed by March 2013. The Centers for Medicare & Medicaid Services (CMS) has reevaluated the revalidation requirement in the Affordable Care Act, and believe it affords the flexibility to extend the revalidation period for another 2 years. This will allow for a smoother process for provider and contractors. Revalidation notices will now be sent through March of 2015. IMPORTANT: This does not affect those providers who have already received a revalidation notice. If you have received a revalidation notice from your contractor, respond to the request by

completing the application either through internet-based PECOS or completing the appropriate 855 application form.

For more information go to: <http://www.cgsmedicare.com/ohb/pubs/news/2011/1111/cope16898.html>

Ohio State Medical Board Adopts Standards and Procedures for Review of OARRS

At its meeting on November 9, 2011, the State Medical Board of Ohio adopted Rule 4731-11-11, Standards and Procedures for Review of Ohio Automated Rx Reporting System (OARRS). The rule went into effect on November 30, 2011. **Follow this link to a document on the Medical Board's website that includes Frequently Asked Questions (FAQs) about 4731-11-11 and a copy of the rule:** <http://med.ohio.gov/pdf/rules/4731-11-11%20FAQs.pdf>. ■

SAVE THE DATE

The Academy of Medicine of Cleveland and Northern Ohio (AMCNO) invites you to attend our 2012 Annual Meeting

Friday, April 27, 2012

Ritz-Carlton Cleveland, 1515 West Third Street
6 p.m. Reception • 7 p.m. Dinner
Black Tie Optional

Invitations will be sent out in early March – hope to see you there!!

DR. YESH NAVALGUND / OWNER
DNA ADVANCED PAIN TREATMENT CENTER
CHRONIC PAIN MANAGEMENT
PITTSBURGH, PA
SINCE 2006 21 EMPLOYEES

NO SMALL ACHIEVEMENT: LEARNING THE BUSINESS OF MEDICINE

CHALLENGE: When Dr. Navalgund came out of medical school, he had all the right medical training. But when he decided to open his own practice, he needed something new — an education in the business side of medicine.

SOLUTION: Dr. Navalgund had the Cash Flow Conversation with his PNC Healthcare Business Banker, who put his industry knowledge to work. Together, they tailored a set of solutions to strengthen his cash flow: loans for real estate and equipment along with a line of credit to grow his practice, plus remote deposit to help speed up receivables.

ACHIEVEMENT: DNA Advanced Pain Treatment Center now has four private practices and a growing list of patients. And Dr. Navalgund has a place to turn for all his banking needs, allowing him to focus on what he does best.

WATCH DR. NAVALGUND'S FULL STORY at pnc.com/cfo and see how *The PNC Advantage for Healthcare Professionals* can help solve your practice's challenges, too. Or call one of these PNC Healthcare Business Bankers to start your own Cash Flow Conversation today:

DEBORAH SHEPHERD 216-257-4024
JEFF SLADE 419-259-7062

PNC | CFO
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ACCELERATE RECEIVABLES
IMPROVE PAYMENT PRACTICES
INVEST EXCESS CASH
LEVERAGE ONLINE TECHNOLOGY
ENSURE ACCESS TO CREDIT

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AMCNO ACTIVITIES

The Business of Medicine

The Academy of Medicine of Cleveland & Northern Ohio (AMCNO) presented our annual seminar, *Preparing for the Business Aspects of Practicing Medicine* on October 26th at the AMCNO offices. **Dr. Lawrence Kent**, AMCNO President and moderator for the evening welcomed residents and spouses from several area hospitals to learn about employment contracts, liability coverage, asset management, estate planning, starting a practice, and tax concerns from a lineup of expert guest speakers. The agenda's content and speakers targeted specific issues that young physicians will face entering today's healthcare marketplace. The seminar was presented by the AMCNO and sponsored by The William E. Lower Fund and The Academy of Medicine Education Foundation (AMEF). Also in attendance representing the AMCNO were **Drs. Victor Bello, Gerard Isenberg** and **Ronald Savrin**.

The AMCNO and AMEF would like to thank the presenters: Richard Cause and Cindy Kula from Walthall, Drake & Wallace LLP, Phil Moshier from Sagemark Consulting, James Spallino Jr., from Squire, Sanders & Dempsey and Elizabeth Sullivan from McDonald Hopkins who were on hand to share their expertise.

James Spallino introduced attendees to estate planning basics and what everyone should have on file such as a will and a general power of attorney. A young family should have a trust, a living will and a durable power of attorney for health care. Tax basics, portability and the definition of a revocable trust were topics of great interest.

Phil Moshier reminded the audience of the financial challenges medical professionals face including medical malpractice, asset preservation, liability exposure, tax brackets and estate taxation, and why financial planning is so important.

Elizabeth Sullivan provided the hot points of employment contracts, reminding the audience that before joining a practice, physicians should conduct a non-economic and economic appraisal of the prospective group to include the group's culture, nature and strength of leadership, retirement details, reputation and location. Physicians should also review the financial condition, compensation and benefits for different physician levels, retirement, practice patient population, hospital relationships, legislative/payor initiatives or malpractice/regulatory compliance matters. She cautioned that if a physician buys in, make certain to include buy-out options. Take the time to and consider and discuss the contract terms, and don't be afraid to ask the employer for reasonable changes and consider using legal counsel.

Richard Cause and Cindy Kula used examples to illustrate the many factors to consider when getting started in a medical practice such as tax and non-tax issues of sole proprietorship or



AMCNO physician leadership spend some time with presenters from Walthall, Drake and Wallace LLP, at the resident seminar (l to r - Ms. Cynthia Kula, Dr. Victor Bello, Mr. Richard Cause and Dr. Lawrence Kent).



Ms. Elizabeth Sullivan from McDonald Hopkins LLC provides information to the residents on how to negotiate a contract.

partnership (general and limited). They also provided insight on developing a business plan, cash flow, software purchase, accounting records and methods.

The AMCNO offers this FREE seminar for residents every year. For more information, please contact Linda Hale at the AMCNO offices. ■



Save the Date

Sunday, February 12, 2012
5 - 7 p.m.

The Academy of Medicine Cleveland & Northern Ohio Membership Committee cordially invites physician members, residents, medical students and spouses to attend our 2012 wine tasting experience. This is the perfect opportunity for you to mingle with your colleagues.

- Hors d'oeuvres
- A fine selection of wines
- Dialog with La Cave's wine expert

Cost:
\$30 per member/spouse
\$15 residents & medical students

LA CAVE DU VIN
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Cleveland Heights

RSVP by 2/10/2012 to Linda Hale
Phone (216) 520-1000 Ext. 101 Fax (216) 520-0999
Mail 6100 Oak Tree Blvd., #440
Independence OH 44131

Another Successful 'Solving the Third Party Payor Puzzle' Seminar hosted by the AMCNO

The Academy of Medicine of Cleveland and Northern Ohio (AMCNO) hosted its twenty seventh annual 'Solving the Third Party Payor Puzzle' seminar on Wednesday, November 16, 2011, where insurance company presenters included Medical Mutual of Ohio, Anthem Blue Cross and Blue Shield, Medicare (CGS LLC), Ohio Department of Job and Family Services, United Healthcare and Cigna Healthcare of Ohio.

Presenters from Medical Mutual of Ohio, Diana Irvin and Tracy Clark, kicked things off by discussing their network identification cards noting that claims must be submitted as directed by the covered person's ID card. They continued to discuss the public portion of medmutual.com, prior approval and investigation services, appeals for medical necessity denials and provider action request forms (PAR). There was also discussion of electronic claims filing, coding correctly and ePortal functions and features.

Anthem Blue Cross and Blue Shield presenters, Tammy Deak, Kristine Singer and Scott Snyder, addressed the topics of provider relations updates, radiology services updates, e-business solutions and member benefit maximization and transparency. The Anthem web site was a main topic of discussion and the speakers noted that the site provides a wide range of smart tools and resources not only for the public, but practice managers and physicians as well. They also discussed their Health Information Network, Availity, which will provide a secure, web-based network to optimize the flow of business and clinical transactions among health care stakeholders.

Vanessa Williams from CGS LLC represented Medicare and provided updates on the 2012 final rules and the Medicare physician fee schedules (MPFS), and discussed Medicare Part B secondary payer deductible issues. CMS has also revised the CMS-855 applications and provider enrollment revalidation procedures. Changes were mentioned regarding the 2011 Electronic Prescribing (eRx) Incentive Program followed by discussion of signature requirements and tips. Ms. Williams informed the group that beginning on January 1, 2012, CMS will conduct demonstration projects that will strengthen Medicare by aiming at eliminating fraud, waste and abuse. *The Recovery Audit Prepayment Review* demonstration will allow Medicare Recovery Auditors (RACs) to review claims before they are paid to ensure that the provider complied with all Medicare payment rules. And last but not least, the presenter steered audience members to CGS's website which provides a number of resources to assist them.

A first-time presenter at the AMCNO was Mr. Dwayne Knowles, from the Ohio Department of Job and Family Services (ODJFS) who spoke on the Medicaid update for 2011. Topics of discussion included the Affordable Care Act (ACA), Medicaid Provider Incentive Program (MPIP), and the Medicaid Information Technology Systems Implementation (MITS), which went live on August 2, 2011.

UnitedHealthcare representatives, Terrilyn Blodgett, Dr. Joseph C. Eshelman and Lisa A. Dragon, presented an informative presentation on protocols



Physician practice managers from across the region attended the AMCNO seminar.



Mr. Dwayne Knowles from the Ohio Department of Job and Family Services emphasizes a point at the seminar

and related administrative processes on UnitedHealthcare Navigate, which is a new portfolio of products that emphasizes the role of the primary care physician. They also discussed what you need to know about UHC HIPAA 5010 and ICD-10 and concluded by directing audience members to visit unitedhealthcareonline.com for more information.

Elizabeth Stipe and Sonja Magnani of Cigna Healthcare concluded the seminar by introducing their new brand which includes a new look for their name, a new logo and ID cards. It was mentioned they will be integrating Cigna and GWH-Cigna contracts by January 1, 2012 and will be transitioning to one secure website for both networks within the next few months. They mentioned that their Cost of Care Estimator is now available to patients through a secure website, which is an extension of their efforts to offer transparency to customers and help them better understand what they can expect to pay out of pocket. The topics that completed Cigna's presentation covered online remittance reports, electronic claims submissions, HIPAA 5010 updates and MedSolutions, Inc.

The AMCNO would like to express our sincere thanks to all the presenters and plan to offer the seminar again in 2012. ■

The Academy of Medicine of Cleveland & Northern Ohio Healthlines Program

For more than 40 years, the Academy's *Healthlines* radio program has provided valuable medical information and the insight of our member physicians to listeners. *Healthlines* host, **Anthony Bacevice, M.D.**, has been conducting interviews for many years on various topics, which are aired on WCLV 104.9FM at 5:45 p.m. every other Monday, Wednesday and Friday and is brought to the community by the Academy of Medicine Education Foundation (AMEF). Listed below are the participating physicians, along with their respective topics that aired in 2011. To listen to an MP3 recording of a taped subject that interests you, click on the Healthlines link at www.amcnoma.org.

Thank you to the following interviewees who appeared on *Healthlines* in 2011:

Marjan Attaran, M.D.
Linda Bradley, M.D.
Leah Chernin, M.D.
Lynn Chrismer, M.D.
Mehrun Elyaderani, M.D.
Vaishali Flask, M.D.
Donald Ford, M.D.
Anthony Furlan, M.D.
Timothy Gilligan, M.D.
Linda Gross, M.D.
Michael Konstan, M.D.
Ossama Lashin, M.D.
Christopher McHenry, M.D.
Molly McVoy, M.D.
Shaye Moskowitz, M.D.
Steven Nissen, M.D.
Aphrodite Papadakis, M.D.
Frank Papay, M.D.
Beri Ridgeway, M.D.
Paul Saluan, M.D.
Kevin Stephans, M.D.
Julierut Tantibhedhyangkul, M.D.
R. Thomas Temes, M.D.
Matthew Wayne, M.D.
Michael Wojtanowski, M.D.
Dawn Zacharias, M.D.

We are currently seeking physician participation for 2012. If you are an AMCNO member and are interested in appearing on the program for, please contact the AMCNO offices at (216) 520-1000 for more information.

AMCNO Medical Legal Work Group Reviewing Alternative Dispute Resolution Concepts

The AMCNO continues to explore alternative dispute resolution concepts that could be utilized to handle medical liability cases. Over the last several years, we have met with the late former Chief Justice Thomas Moyer, Chief Justice Maureen O'Connor, administrative law judges and representatives of the bar association on the issue of special medical courts and specially trained judges for medical liability cases.

When meeting with Chief Justice O'Connor the AMCNO was pleased to learn that she supported the concept of setting up a work group to explore opportunities to streamline professional liability tort actions. Per her request the AMCNO reached out to the Cleveland Metropolitan Bar Association, the major hospital systems in our area and the plaintiff's bar to obtain names of individuals that would be willing to participate in a work group to discuss several innovative programs around the country to determine if Cuyahoga County could benefit from a similar application.

The AMCNO convened the first meeting of the work group which is made up of plaintiff and defense attorneys, some in private practice and others from area hospitals, as well as AMCNO physician representatives and the Chief Justice. The work group received detailed background on a program operating in New York which was started as a judge-directed negotiation program working with one large hospital chain in the New York City area. The program was directed to expediting the adjudication and early resolution of medical liability cases – in an effort to reduce administration/litigation costs. The judge that spearheaded the concept is a medically-trained judge. The program works as follows: any medical liability case filed in the New York City area against an institution or doctor at the hospital network is automatically assigned to the specially trained judge to handle all pretrial activities. The judge schedules an early pretrial and takes a hard look at the case with counsel, discussing all the facts very early on, rather than just setting further dates at the first pretrial. There is a push for an early settlement in many cases, or for dismissal in

weak cases, and the judge limits the discovery in most cases to just the key depositions. The judge's program has been able to substantially shorten litigation time and reportedly saves the hospital network an estimated \$50 million dollars per year.

The Chief Justice thanked the AMCNO for convening the group and for providing her with the opportunity to become familiar with the program in New York. She stated that she is on record as supporting any initiative that would expedite the delivery of justice — however, there can be challenges when changes are contemplated. The group discussed how medical malpractice cases are dealt with overall in Cuyahoga County noting that at times cases can get delayed. Several members of the work group voiced support for the idea of specially trained judges for medical liability cases.

Others agreed that mediation utilized in a case at an early stage can be a useful tool in resolving medical liability cases. One suggestion was to consider the use of a group of expert mediators with the notion that the judiciary would be alerted that mediation would be utilized early on in a case as opposed to final pre-trial.

The group agreed that more than likely this cannot be a one size fits all concept since the issue is complex. However, there are several



The AMCNO was pleased to host the inaugural meeting of a work group convened to address alternative resolution concepts for medical liability claims – pictured left to right are: Dr. Laura David, AMCNO immediate past president, Dr. John Bastulli, AMCNO past president and Vice President of Legislative Affairs, Mr. Justin Madden, Esq., Mr. Michael Wise, Esq., Member of the AMCNO Medical Legal Liaison Committee, The Honorable Chief Justice Maureen O'Connor of the Ohio Supreme Court, Mr. William Meadows, Esq., Member of the AMCNO Medical Legal Liaison Committee, Mr. Paul Grieco, Esq., The Honorable Tim McMonagle, Mr. Edward Taber, Esq., Chairman of the AMCNO Medical Legal Liaison Committee, Mr. Matthew Donnelly, Esq., from the Cleveland Clinic Foundation, and Mr. Michael Monteleone, Esq.

concepts that will be discussed by the work group in the future such as early intervention in liability cases, the use of mediators in the court, or the use of a retired judge to act as a gatekeeper or mediator with the knowledge that the case could be assigned to another judge. The group also intends to continue the discussion about specialized dockets directed only to medical liability cases or some other screening process before filing a case. The work group members were asked to provide examples of other models or best practices that have worked in other parts of the country that could be explored or tailored for consideration. The AMCNO will continue to participate in these discussions and provide updates to our members. ■

AMCNO Lawyer Referral Brochure Now Available to AMCNO Members and Staff

If you are in need of legal counsel in a specific area of expertise this brochure could be of assistance to you. When legal questions or issues arise, the AMCNO believes it is important for its members to obtain sound advice from legal counsel who are knowledgeable in relevant areas of the law and who have a commitment to the effective representation of physicians and their practice groups. This brochure is the product of our effort to identify such attorneys. We encourage our members to make use of these lawyers (or other practitioners similarly qualified) whenever they encounter significant legal issues. If you would like a FREE copy of the AMCNO Lawyer Referral Brochure, please contact the AMCNO staff at (216) 520-1000, ext. 101.



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