

AMEF Sponsors Ohio Infant Mortality Summit

The Academy of Medicine of Education Foundation (AMEF) was a proud sponsor of the 2016 Infant Mortality Summit that took place Dec. 5-6 at the Huntington Convention Center of Cleveland. The event was hosted by the Ohio Collaborative to Prevent Infant Mortality and the Ohio Department of Health (ODH), and this year's theme was "Aiming for Equity."

Ohio's infant mortality rate (IMR) is higher than most states and the nation as a whole. The 2014 overall IMR was 6.8. In Cleveland, it was 5.3 among whites, 14.3 among African-Americans, and 6.2 among Hispanics. Ohio is working toward achieving the Healthy People 2020 objective of an IMR of 6.0 per 1,000 live births in every racial and ethnic group, and this Summit provided information and action steps

for communities to work toward that goal.

On Monday, Dec. 5, registration, exhibits and posters opened for this free event, and breakout sessions were held in the afternoon. **City Council President Kevin Kelly** provided brief remarks in the general session about the First Year Cleveland initiative, which will focus on ensuring that more babies make it to their



Cleveland City Council President Kevin Kelly provides brief remarks about the First Year Cleveland initiative.

first birthday. "2017 has to be the year of no excuses," Kelly said. "We have to make an impact. We have to clean off our desks and focus on this issue as a top priority."

(Continued on page 2)

Doc Opera is a Huge Success — AMEF and AMCNO Sponsor the Event

Now in its 32nd year, Doc Opera is a collaborative fundraiser and musical production organized by the students and faculty. This annual variety show is written, directed, and performed entirely by medical students at the Case Western Reserve University School of Medicine and Cleveland Clinic Lerner College of Medicine.

In keeping with Case's commitment to give back to the community, the show's primary mission is to raise funds to provide quality healthcare and related services to individuals and families in our community regardless of their ability to pay through their beneficiaries: The Free Medical Clinic of Greater Cleveland ("The Free Clinic") and the CWRU Student-Run Free Clinic (SRFC). It also provides a venue for creative expression and inter-professionalism among the medical and health professional students of Cleveland. Drawing talent from multiple health graduate programs, all

components of Doc Opera are written, directed, and performed by students and faculty to create a memorable night of skits, musical performances, and dances about medicine and healthcare. The title of the event this year was "Star Wards" and included music from the Star Wars movies, with skits and props to fit the occasion.

Doc Opera is a non-profit organization that relies on area businesses to help defray the costs of production and to contribute to the donations made to the program's beneficiaries.



CWRU School of Medicine Dean Dr. Pamela Davis stands at the ready with Danny Williams, JD, Executive Director of The Free Clinic.

This year the Academy of Medicine Education Foundation (AMEF) and the Academy of Medicine of Cleveland & Northern Ohio (AMCNO) were pleased to sponsor the Doc Opera event. ■

INSIDE THIS ISSUE

AMCNO Scores a Victory with OSC Decision	Page 7
Advocacy Update	Page 9
Community Activities	Page 15

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AMCNO

PUBLIC HEALTH INITIATIVES

AMEF Sponsors Ohio Infant Mortality Summit *(Continued from page 1)*

Welcoming remarks were then delivered by **Dr. Arthur James**, from the Department of Obstetrics/Gynecology, The Ohio State University. In his address, Dr. James said, "Every baby is our responsibility, and we have to do more," adding that it has to be done for everyone, considering data shows that improvements are being made for white babies, but not African-American babies. He said that he was encouraged by the participation at this year's event—1,500 registrants—that people in Ohio care about this issue and are committed to changing the way things have been done in the past.

The remainder of the afternoon's program featured one family's personal story, a panel discussion on Cleveland's grassroots effort, and a presentation from **Dr. Deena Chisolm** on health disparity research. Dr. Chisolm is an associate professor of Pediatrics and Public



Dr. Arthur James, co-chair of the event, talks about aiming for equity during his opening remarks.

Health at The Ohio State University, and the Director of the Nationwide Children's Hospital Center for Population Health and Equity Research.

"We need to start in the right place," she said. "It's not about the 'numbers,' it's about babies, and helping children grow into other years of life."

Dr. Chisolm said that equality and equity are two different things—everyone's needs are not the same. How we look at things and how we do things has to change to help close the gap of inequality, she stated.

On Tuesday, Dec. 6, Cuyahoga County Executive Armond Budish welcomed the attendees, and co-chairs **Lisa Holloway** from the March of Dimes Ohio Chapter and Dr. James provided opening remarks.

Additional speakers featured throughout the program included **Dr. Mary Applegate**, Medical Director of Ohio Medicaid, and **Dr. Mary DiOrio**, Medical Director of the ODH, who discussed "State Partnerships to Reduce Infant Mortality." **Kenneth Braswell**, Founder and Executive Director of Fathers Incorporated, discussed bringing fathers into the healthy baby conversation as well, as they are part of the solution but don't always feel welcomed.

Numerous breakout sessions were held throughout the day. AMCNO staff attended a session on how partnerships are making a difference in other Ohio cities. The executive directors from each initiative—Cradle Cincinnati, Celebrate One (in Columbus) and First Year



Cuyahoga County Executive Armond Budish welcomes the attendees.

Cleveland—discussed their efforts and successes.

Cradle Cincinnati has seen a 13% reduction in IMR, including a 30% decrease in sleep-related deaths. The program focuses on directing the community to resources they can use, and promoting the message of the "3 S's:" Spacing, Smoking, and Sleep. Celebrate One is structured differently than the other two cities' initiatives—using an executive committee to oversee the program. They focus on Healthy Women, Babies and Neighborhoods, and have several programs in each category to focus on those goals. First Year Cleveland is a relatively new initiative but will be taking direction from these two other programs to establish a strong base.

The event closed with a presentation from **Paul Schmitz**, Senior Advisor, Collective Impact Forum, on "Building a Collective Impact Culture" and a call to action from **Magda Peck**, Founder/Principal of the MP3 Health Group, which is dedicated to social innovation and systems change for healthy and just communities. ■

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AMEF Sponsors Immunize Ohio Event

The Academy of Medicine Education Foundation (AMEF) was pleased to be a sponsor of the 2016 Immunize Ohio statewide immunization conference held in November at the Galaxy Banquet Center in Wadsworth.

The purpose of this year's conference, "The Future of Vaccines," was to dispel misinformation through candid discussion on the validity and safety of current vaccines and address vaccination's spectrum of benefits, while focusing on the advancement of adjuvant technology and its improvements toward public health.

The guest speakers for the event were: **Dr. Blaise Congeni**, Director for the Division of Infectious Diseases at Akron Children's Hospital; **Dr. Leonard Friedland** from GlaxoSmithKline, and **Dr. Raymond Strikas** from the Centers for Disease Control and Prevention (CDC). They were introduced by **Cindy Modie**, Director of Immunize Ohio, who also welcomed the 200 attendees at the start of the program.

Dr. Congeni's talk focused on the changes in vaccinations schedules for HPV, meningitis, and pertussis, as well as vaccination hesitancy and refusal.

He stressed that the anti-vaccine movement is harmful to public health. "The risk of disease far outweighs the risk of vaccine," he said. "Vaccines are effective, they are safe, and they need to be recommended." He added that in the last 100 years, the life span of Americans has doubled, largely because of vaccines.

Current recommendations for HPV vaccination for females and males is at age 11 or 12 years, and can begin as early as age 9. Females are to receive HVP2, HPV4, or HPV9; males are to receive HPV4 or HPV9. The CDC and Advisory Committee on Immunization Practices (ACIP) recently changed the previous three-dose recommendation to two doses at least 6 months apart. However, teens and young adults who start the series at ages 15 through 26 will continue to need three doses of the vaccine to protect against cancer-causing HPV infection.

Meningococcus B immunization is recommended for those aged 10 to 25 years, and the majority of the ACIP committee agreed that ages 16 to 18 is the preferred age range so that the protection will last into the highest risk period.



Healthcare professionals gather to learn about the latest information concerning immunizations.

Instead of making the vaccine routine for young adults, however, Dr. Congeni said, it has been deemed a "category B recommendation," meaning physicians and patients will decide on an individual basis whether to use it.

He also discussed adolescent and adult pertussis vaccination. Routine immunization with Tdap for all pregnant women is highly recommended. And if it's not administered during pregnancy, a dose should be given immediately postpartum. By doing so, it could prevent all infant deaths that occur from this disease.

Dr. Friedland discussed adjuvants during his presentation and how they are included in the complex biological mixtures that make up vaccines. The discovery of adjuvants occurred in the 1920s, and by the 1930s, they were used in vaccinations. Since then, billions of doses have been administered safely and effectively, he said.

Dr. Friedland also described how adjuvants can assist with the current challenges for vaccines: challenging populations (those with impaired immune systems), need for booster vaccinations, recombinant antigens, pathogens, and need for antigen sparing.

He also mentioned that we've only recently begun to understand how the immune system is activated—three scientists received a Nobel Peace Prize in 2011 for discovering innate and adaptive immunity, explanations as to how the

human body responds to bacteria and other microorganisms.

He also discussed the safety considerations for the development of vaccines with novel adjuvants, assessing the risks versus benefits through each stage. He referred to the current climate for vaccinations as the "Golden Age," because new adjuvants have been and are being discovered, something that hasn't been done in the last 75 years.

The final presenter, Dr. Strikas, discussed vaccine storage and handling, vaccine administration, and new recommendations from the CDC and ACIP.

He advised attendees to visit the CDC website at www.cdc.gov to obtain the latest Vaccine Storage and Handling Toolkit. He stressed that vaccines must be properly stored from manufacturer all the way to administration. Training is essential in the healthcare realm. A Standard Operating Procedure should be developed, followed, and updated annually, Dr. Strikas said, and it should be kept near the storage unit. If stored vaccines have been exposed to temperatures outside of the recommended ranges, do not use them.

He also discussed the best practices and resources for vaccine administration errors, safe injection practices, and infection control.

To learn more about Immunize Ohio, visit their website: www.immunizeohio.org. ■

2017 Medical/Legal Summit

March 24-25, 2017

This summit is designed to bring together doctors, lawyers, health care professionals and others who work in allied professions for education, lively discussion and opportunities to socialize and network.

Co-sponsored by the Cleveland Metropolitan Bar Association (CMBA), Academy of Medicine Education Foundation, and The Academy of Medicine of Cleveland & Northern Ohio (AMCNO).

Co-Chairs: **Robert E. Hobbs, MD**, *AMCNO President*; **Marlene Franklin, Esq.**, *Associate General Counsel, MetroHealth Medical Center*

Summit Details

Location: CMBA Conference Center
1375 East 9th Street, Floor 2, Cleveland, Ohio 44114

Medical/Legal Summit – Friday Session – March 24
(CLE 1.5, CME 1.5, *UH CRME 1.5)

4:15 p.m. **Welcome & Introductions - Richard D. Manoloff, Esq., CMBA President; Robert E. Hobbs, MD, AMCNO President; Marlene Franklin, Esq., Associate General Counsel, MetroHealth Medical Center**

4:30 p.m. **Keynote Presentation: "The Future of the Affordable Care Act and Medicare Payment Reform"**

Gail Wilensky, PhD, is an economist and senior fellow at Project HOPE, an international health foundation. She directed the Medicare and Medicaid programs from 1990 to 1992 and served in the White House as a senior health and welfare adviser to President George W. Bush. From 1997 to 2001, she



chaired the Medicare Payment Advisory Commission, and previously chaired one of its predecessor commissions, the Physician Payment Review Commission. Dr. Wilensky is an elected member of the Institute of Medicine and has served two terms on its governing council. She received a bachelor's degree in psychology and a PhD in economics at the University of Michigan and has received several honorary degrees.

Keynote to be followed by a networking reception

Saturday Session – March 25
(CLE 4.0, CME 4.0, *UH CRME 4.0)

7:00 a.m. **Registration & Breakfast**

8:00 a.m. **Welcome & Introductions**

8:15 a.m. **MACRA - Plenary Session**

Overview

The Patient Protection and Affordable Care Act of 2010 (ACA) created the National Quality Strategy (NQS) and included the redesign of Medicare's fee-for-service (FFS) payment structure. As set out in the new Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) legislation signed into law in April 2015, physicians will now submit quality measures through the Merit-based Incentive Program System (MIPS). MACRA replaces the Medicare Sustainable Growth Rate (SGR) and puts into place two types of quality payment programs. The panelists in this session will delve into the new payment systems to be implemented under MACRA.

Speakers

Cathy Costello, JD, Director, ClinSyncPLUS Consulting, Ohio Health Information Partnership; **Howard Pitlik, MD, MPH, FACS**, Health Services Advisory Group (HSAG) Vice President for Medical Affairs & Chief Medical Officer; **Robert Forno MD, MPH, MBA**; Chief Medical Officer at the Centers for Medicare & Medicaid Services - *Invited*

9:15 a.m. **Addressing the Opioid Crisis in Ohio - Plenary Session**

Overview

This session will discuss the impact of the opioid epidemic in Ohio, and the unprecedented strain on all of our resources. The panel will discuss the extent of the problem in terms of the current statistics and provide insight into the physiology of addiction. They will also discuss what is being done to combat the problem from both the medical and legal perspectives.

Speakers

Nicole Labor, DO, Addiction Specialist, SUMMA Health Systems; **Carole S. Rendone**, Office of the United States Attorney General, Northern District of Ohio; **Hugh Shannon, Administrator**, Cuyahoga County Medical Examiner

10:15 a.m. **Break**

10:30 a.m. **Lawsuits: How to Survive, How to Avoid: A Medical Legal Perspective - Plenary Session**

Overview

The historic challenges roiling the healthcare profession affect practitioners and patients alike. High expectations abound for patient safety, satisfaction, and quality outcomes. When results are less than satisfactory, claims and lawsuits often follow. The legal profession has also seen challenges in the form of Tort Reform legislation that has had a material impact on the type of claims that can be pursued. When medical malpractice lawsuits are filed, emotions run high for all participants, and "surviving" the litigation process can be arduous.

This panel seeks to address all aspects of the medical-legal process, by offering perspective from a practicing physician, who has been active in the medical-legal reform movement; a litigation consultant, who works with witnesses and defendants to prepare them for unique demands of the litigation process; and a trial judge, who has presided over nearly a hundred medical malpractice trials, and will share observations that she has made, and that jurors have shared, about the intricate courtroom drama of profound loss, medical care and professionalism.

Speakers

John Bastulli, MD, St. Vincent Charity Medical Center; **The Honorable Nancy R. McDonnell**, Cuyahoga County Court of Common Pleas; **Linda S. Crawford, JD**, Linda Crawford and Associates New York City, NY

11:30 a.m. **Break**

* The AMCNO has obtained approval from University Hospitals (UH) for 5.5 hours of Clinical Risk Management Education (CRME) credit for those physicians participating in the UH Sponsored Physician Program.

Summit details continued:

11:45 a.m. Breakout Session - Choose one

(1) Medical Marijuana Overview

Ohio became the 25th state to legalize medical marijuana when H.B. 523 was signed into law by Governor Kasich on June 6, 2016. Although this law became effective September 8, 2016, the Medical Marijuana Advisory Committee, State Medical Board, State Board of Pharmacy and Ohio Department of Commerce currently are currently crafting specific provisions mandated by the law at time of publication. The medical marijuana program will become fully operational on September 8, 2018. On that date, certified physicians will be able to recommend medical marijuana for 26 approved conditions.

This panel will provide an overview of what's ahead for medical marijuana in Ohio. It will review evidence for marijuana as a medicine and explain the rules and regulations for physicians, patients, caregivers, employers, municipalities, cultivators, processors, testing laboratories, and dispensaries.

Speakers

Cassandra L. Manna, Esq., Roetzel & Andress, LPA; Jason Jerry, MD,

Cleveland Clinic; **Jerry Mitchell, MD**, Medical Marijuana Advisory Panel

(2) Legal Issues in the Care of the "Vulnerable Patient" Overview

Physicians often encounter patients who are "vulnerable" for a variety of reasons (e.g., psychiatric illness, aging and cognitive decline, intellect limitations). These people are sometimes prone to poor decision-making that puts them at risk. Although we observe these patients making poor decisions, struggling with life events and often neglecting medical care, in the medical setting we often do not have the time, resources, or knowledge to address these issues.

The purpose of this panel is to outline basic concepts of capacity and competency, legal and practical definitions of abuse and neglect, etc., prior to discussing general approaches to these common situations. We will provide information on local resources available when faced with such situations in the medical setting.

Speakers

Cynthia Norwood, Executive Director, The Arc of Greater Cleveland; **Chuck Corea**, In-House Attorney, Cuyahoga County Board of Developmental Disabilities; **Ewald J. Horwath, MD**, Department of Mental Health, The MetroHealth System

Registration

Summit Only

- \$75 CMBA Members, AMCNO Members & other Health Care Providers
- \$125 Non-Members
- \$15 Law & Medical Students (limited seats)

Health Law Update & Summit (for more information

visit the CMBA website- www.clemetrobar.org)

- \$125 CMBA Members, AMCNO Members & other Health Care Providers
- \$175 Non-Members
- \$15 Law & Medical Students (limited seats available)

Please select one breakout session:

Breakout Session: Medical Marijuana **OR** Legal Issues in the Care of the "Vulnerable" Patient

TOTAL \$ _____

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Signature _____

Add \$15 to registration fee the day of the program. Registration must be pre-paid by cash, check or credit card to qualify for the advance registration price.

ATTORNEY REGISTRATIONS: Please make checks payable to Cleveland Metropolitan Bar Association. Mail to P.O. Box 931891, Cleveland, Ohio 44193, or fax your reservation form to (216) 696-2129 (all fax reservations must include a credit card number, expiration date, and signature). **CANCELLATIONS** must be received in writing three business days prior to the program.

Refunds will be charged a \$15 administrative fee. Substitutions or transfers to other programs are permitted with 24 hours written notice. (Transfer is to a single program and the funds may be transferred only once!) Persons needing special arrangements to attend this program are asked to contact the CMBA at (216) 696-2404, (fax 696-2129) at least one week prior to the program.

PHYSICIAN AND HEALTH CARE PROVIDER REGISTRATIONS: Phone/fax or mail to: AMCNO, 6100 Oak Tree Blvd., Ste. 440, Independence, OH 44131, Phone: (216) 520-1000 FAX: (216) 520-0999. Physicians and other healthcare providers may also pay the AMCNO online at www.amcno.org. Make checks payable to the AMCNO.

This activity was 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 Medical Center and The Academy of Medicine of Cleveland & Northern Ohio (AMCNO). St. Vincent Charity Medical Center is accredited by the Ohio State Medical Association (OSMA) to provide continuing medical education for physicians. The St. Vincent Charity Medical Center designates this live activity for a maximum of 5.5 AMA PRA Category 1 CreditsTM. Physicians should claim only the credit commensurate with the extent of their participation in the activity.

* The AMCNO has obtained approval from University Hospitals (UH) for 5.5 hours of Clinical Risk Management Education (CRME) credit for those physicians participating in the UH Sponsored Physician Program. Please note: 1.5 credits are available for 3/24/17 (Friday) and 4 CRME credits are available for 3/25/2017 (Saturday).

Professional Practice Gap: The U.S. healthcare delivery system has significantly transformed over the last decade and changed the culture of medicine. In addition to the The Patient Protection and Affordable Care Act (PPACA), and other forces are already reshaping medical practice. They include the management of patients on chronic opioid therapy, Medicare Access and CHIP Re-authorization Act of 2015 (MACRA).

This program will give participants a medical-legal overview of changes in the health care delivery systems, their impact on the practice of medicine, and various strategies to meet these challenges.

Global Desired Learning Outcomes: At the completion of the session, participants should be able to: Increased knowledge of current rules and regulations and how they impact the practice of medicine; Increased knowledge of the risks and legal ramifications of medical lawsuits; Increased knowledge of the legal and medical ramifications of treating patients with behavioral issues: Recognize the issues related to medical marijuana

The Constitutionality of Caps on Noneconomic Damages Survives Supreme Court Scrutiny

By Susan M. Audey, Esq., Tucker Ellis, LLP

A deeply divided Supreme Court effectively upheld the caps on noneconomic damages in a splintered decision released on December 14, 2016—*Simpkins v. Grace Brethren Church of Delaware, Ohio*, Slip Opinion No. 2016-Ohio-8118. Justice French, joined fully by Justice Kennedy and in judgment only by Justice Lanzinger, affirmed the decision of Fifth District Court of Appeals, which rejected the constitutional challenges made by plaintiffs Jessica Simpkins and her father, and upheld the caps on noneconomic damages.

By way of background, Jessica Simpkins was a minor when she was sexually assaulted by a youth pastor previously employed by Grace Brethren Church. Simpkins and her father sued the Church, among others, and sought economic damages—more or less objective damages for pecuniary harm, including past and future medical expenses, lost earnings, etc. They also sought noneconomic damages—subjective damages for nonpecuniary harm, including pain and suffering, loss of consortium, and other intangible loss. A jury eventually awarded \$3,651,378.85 in damages, of which \$3.5 million consisted of noneconomic damages. The trial court subsequently reduced the \$3.5 million awarded in noneconomic damages to \$350,000, per tort reform legislation that

became effective in 2005—Am.Sub.S.B. 80, which is codified by statute at R.C. 2315.18.

Simpkins argued on appeal to the Fifth District that the cap on noneconomic damages was unconstitutional as applied to victims of sexual abuse or, alternatively, that each act of sexual abuse was a separate “occurrence” as that term is used in the statute so that her damages award would be increased. The appellate court disagreed and relied on the Supreme Court’s 2008 decision in *Arbino v. Johnson & Johnson* to find that Simpkins’s constitutional challenges were meritless. It also rejected her “occurrence” argument.

The Ohio Supreme Court (OSC) accepted discretionary review and affirmed. Plaintiffs were supported by amicus—or “friend of the

court”—briefs for both Simpkins and the Church. Because the caps on noneconomic damages under R.C. 2315.18 are similar to the caps on noneconomic damages for medical-malpractice claims, Tucker Ellis was pleased to prepare an amicus brief for the Ohio Supreme Court on behalf of the Academy of Medicine of Cleveland & Northern Ohio (AMCNO), urging that the caps on noneconomic damages be upheld under *Arbino*. The AMCNO was not alone in this argument. The Ohio Alliance for Civil Justice and the Ohio Association for Civil Trial Attorneys also filed an amicus brief supporting the caps on noneconomic damages.

Although the Supreme Court was divided—two justices would have dismissed the appeal as “improperly allowed” (Chief Justice O’Connor and Justice O’Donnell) while two justices dissented (Justices Pfeifer and O’Neill)—in the end, the Fifth District’s decision was affirmed, *Arbino* applied and upheld as argued by the AMCNO in its amicus brief, and the caps on noneconomic damages survived yet another constitutional challenge—for now. Continued vigilance, however, is needed and the AMCNO is here to keep abreast of these changes, keep you informed, and advocate on your behalf. ■

MEMBER RECOGNITION

Ohio Heroin and Opioid Task Force Receives Award

The U.S. Attorney for the Northern District of Ohio Heroin and Opioid Task Force was honored with the Attorney General’s Award, the highest honor given by the Justice Department, at the Attorney General’s Award Ceremony on Nov. 10 in Washington, DC.

The Task Force received the award for Outstanding Contributions to Community Partnerships for Public Safety. This award recognizes outstanding achievement in the development and support of community partnerships designed to address public safety within a community.

The Task Force was established in 2013 to address the region’s expanding epidemic. The group brings together a diverse group of stakeholders, and focuses on solutions from four perspectives: law enforcement; education and prevention; healthcare policy; and treatment. The Academy of Medicine of Cleveland & Northern Ohio (AMCNO) is proud to be a member of the important Task Force.

Successes to which members of the group have contributed include: working to make Narcan more readily available; presentations to tens of thousands of parents, students and other members of the community at hundreds of town hall meetings and schools; increased training for doctors and other medical professionals about the dangers of opioids;

the creation of a heroin-involved death investigation team that treats overdoses as crime scenes; and working to increase the availability of drug treatment, among others.

This comprehensive approach has served as a model and is being replicated by several U.S. Attorney’s Offices around the country.

Additional members of the Task Force include: Cleveland Clinic, the Cuyahoga County Sheriff’s Department, MetroHealth Medical Center, Cuyahoga County Common Pleas Court, the Cuyahoga County Prosecutor’s Office, the Ohio Attorney General, Orca House, WKYC Channel 3, the Cleveland Division of Police, the DEA, the FBI, the Ohio State Medical Board, the Ohio State Pharmacy Board, the Cuyahoga County Board of Health, the Cuyahoga County Medical Examiner, University Hospitals, the ADAMHS Board and others.

While scores of people have made significant contributions to this effort, the number of people who were individually honored was capped at 15. The following people received the award:

- Philip Angelo, Cuyahoga County Sheriff’s Department
- Vincent Caraffi, Cuyahoga County Board of Health
- Todd DeKatch, Supervisory Special Agent, Federal Bureau of Investigation
- Dr. Thomas Gilson and Hugh Shannon, Cuyahoga County Medical Examiner’s Office
- Gary Gingell, Commander, Cleveland Division of Police
- Dr. Jason Jerry, Cleveland Clinic*
- Aaron Marks, member of the recovery community
- Keith Martin, Resident Agent in Charge, Drug Enforcement Administration
- Honorable Judge David Matia and Honorable Judge Joan Synenberg, Cuyahoga County Court of Common Pleas
- Dr. Joan Papp, MetroHealth Medical Center*
- Joseph M. Pinjuh, Craig A. Tame, and Mike Tobin, U.S. Attorney’s Office

*The AMCNO congratulates all the awardees, including our members Dr. Joan Papp and Dr. Jason Jerry, on receiving this prestigious award. ■

AMCNO Scores a Victory with Ohio Supreme Court Decision

The Academy of Medicine of Cleveland and Northern Ohio (AMCNO) is pleased to announce that on October 25, 2016, the Supreme Court of Ohio reversed a decision by the Eighth District Court of Appeals which had held that once a cause of action vests, or once a plaintiff becomes aware of his or her potential cause of action, the statute of repose is no longer relevant to a determination of the timeliness of a complaint. On behalf of AMCNO, Bret C. Perry and Jason A. Paskan, Esq. 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 Eighth District Court of Appeals.

In *Antoon v. Cleveland Clinic Foundation*, 2015-Ohio-421, the Supreme Court of Ohio upheld state law—R.C. 2305.113(C)—that requires medical malpractice lawsuits to be filed within four years of the act or omission alleged to have caused the injury. In a 5-1 decision authored by Chief Justice Maureen O'Connor, the Chief Justice wrote, “If a lawsuit bringing a medical, dental, optometric, or chiropractic claim is not commenced within four years after the occurrence of the act or omission constituting the basis for the claim, then any action on that claim is barred.”

R.C. 2305.113(C) was enacted to protect physicians and other medical practitioners from stale lawsuits, expressly precluding lawsuits from being commenced more than four (4) years after the alleged act of negligence. The purpose of the statute of repose was to provide medical providers certainty with respect to the time within which a claim can be brought and after which they may be free from litigation.

This case arose when the Eighth District Court of Appeals reviewed the matter of *Antoon v. Cleveland Clinic Foundation*, 8th App. No. 101373, 2015-Ohio-421, and threatened this legislation by drastically curtailing the application and impact of the statute of repose in a manner fundamentally inconsistent with the express language of R.C. 2305.113(C).

In *Antoon*, Plaintiff filed his medical malpractice action on November 13, 2013. Plaintiff alleged multiple causes of action arising from medical care provided on January 8, 2008. Based on the nearly six-year time lapse between the date of the alleged medical negligence and the filing of the lawsuit, Defendants moved to dismiss the alleged claims based on the failure to file the action

within the four years required by Ohio's statute of repose and the failure to comply with Ohio's one-year malpractice statute of limitations. The trial court granted Defendants' Motion finding that the claims were time-barred by Ohio's four-year statute of repose pursuant to R.C. 2305.113(C).

On appeal to the Eighth District Court of Appeals, the trial court's dismissal was reversed, finding that once a cause of action vests, or once a plaintiff becomes aware of his or her potential cause of action, the statute of repose is no longer relevant to a determination of the timeliness of a complaint. The Eighth District concluded that the statute of repose has no application whenever a claim or cause of action vests within the four-year period provided by R.C. 2305.113(C). In so holding, the Eighth District's ruling cast a shadow of uncertainty regarding the application of R.C. 2305.113(C).

The *Amicus* brief on behalf of AMCNO encouraged the Ohio Supreme Court to find that R.C. 2305.113(C) applies to any cause of action when the occurrence of the act or omission constituting the alleged medical malpractice takes place more than four years prior to the filing of the lawsuit, regardless of whether a cause of action has vested.

The AMCNO contended that Ohio's statute of repose was adopted for the purpose of providing certainty to physicians, as well as other medical practitioners, by procedurally barring the filing and/or litigation of stale lawsuits after four years from the date of the alleged medical malpractice. The AMCNO also argued that the statute of repose serves the critical public policy purpose of prohibiting the litigating of medical malpractice actions after such time because documents are no longer retained and memories are no longer fresh.

The statute of repose is critically important to physicians, hospitals, and other medical practitioners across Ohio because it was intended to place a hard and fast expiration date on a potential cause of action. ■

(*The AMCNO Medical Legal Liaison Committee tracks cases for the AMCNO Board of Directors that come before the Ohio Supreme Court and could impact or change the law in Ohio concerning our physician members. This case, as well as the Simpkins case on page 6 and the Burnham case on page 8, resulted from deliberation of the AMCNO Medical Legal Liaison Committee.*)

NORTHERN OHIO PHYSICIAN

THE ACADEMY OF MEDICINE OF CLEVELAND & NORTHERN OHIO

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Ohio Supreme Court Decision Impacts Discovery Issues in Medical Malpractice Cases

By Martin T. Galvin, Reminger Co., LPA

In *Burnham v. Cleveland Clinic Foundation*, Case No. 2015-1127, the Ohio Supreme Court recently issued a decision that will make it easier to file immediate (aka, "interlocutory") appeals from trial court decisions requiring production of privileged information during discovery. Reminger was honored to prepare and file *Amicus* briefs in *Burnham* at both the jurisdictional and merit levels of the Supreme Court process, on behalf of AMCNO.

This issue often arises in the context of medical malpractice plaintiff attorneys demanding to see records of hospital quality assurance committees, or other peer review materials. Another context is when plaintiff attorneys request information to identify roommates, or information concerning other patients at the same facility who had a similar procedure performed, or were treated by the same physician. Although these materials are all privileged under the law, and thus should not need to be produced, some trial courts in the past have ordered them produced nonetheless. The remedy for this situation (prior to April 2014) was always to take an immediate appeal to the appropriate court of appeals, per Ohio Revised Code 2505.02.

In 2014, the Supreme Court made it much more difficult to take such an immediate appeal, in the decision of *Smith v. Chen*. In *Chen*, the Supreme Court said that in order to take such an immediate appeal, the appealing party needed to demonstrate that he would not have a "meaningful remedy" if he waited until after trial to file an appeal. It was widely believed that many appellate districts were taking a very narrow view of this standard. As a result, a large number of appeals from decisions requiring the production of privileged information were dismissed soon after they were filed, without a decision on whether they were privileged.

The *Chen* decision created a very confusing situation. The twelve Ohio district courts of appeals had no guidance as to what constituted a "meaningful remedy." More fundamentally, once a privileged document is ordered disclosed, it can never be retrieved. The damage is done forever. As they say, once a bell is rung, it can never be unrung. Simply, the application of the *Chen* decision by the lower courts proved inconsistent.

The *Burnham* decision does not go quite as far as we had hoped. Nevertheless, most adverse discovery orders in the medical malpractice context should once again be immediately appealable, if they involve quality assurance or peer review materials. This is so because the Court said that matters involving constitutional protections, statutory protections, or attorney/client protection are always final and appealable. The decision is definitely a major step in the right direction.

The quality assurance privilege was created by a statute, and thus fits squarely into the category of immediately appealable matters under the new *Burnham* standard. The majority opinion did state that other matters, such as attorney work product privilege disputes, are only appealable at the discretion of the court of appeals.

The concurring opinion would have gone further and simply reinstated the status quo prior to *Smith v. Chen*. Under the concurring decision, all trial court orders requiring production of privileged information would be subject to an interlocutory appeal as a matter of right. This approach would have offered the benefit of superior predictability, which is always important in litigation.

Generally, we are pleased with the opinion of the Ohio Supreme Court, as we believe that it will enhance our ability to effectively defend physicians and hospitals in medical malpractice actions. We hope and believe that *Amicus* briefing on behalf of AMCNO helped produce the decision rectifying this area of the law. The *Burnham* decision will also ensure that quality assurance and peer review committees can continue to operate in private, without concern that confidential reviews will be disclosed during subsequent lawsuits.

As a side note, although the *Burnham* decision actually involved a slip and fall lawsuit, not medical malpractice, the discovery issues implicated are unquestionably directly relevant to malpractice litigation.

If you have any questions concerning this issue, please feel free to contact the AMCNO or the author of this article. ■

(**Editor's Note:** Mr. Galvin was the recipient of the AMCNO 2016 Presidential Citation Award.)

Have you renewed your AMCNO membership for 2017?

Medical legal cases are just one example of how the activities of the AMCNO impact your practice. Make sure your voice is heard—now is the time to renew your commitment to organized medicine that makes a real difference in your practice and our region.

The 2017 dues billings were recently mailed, which you can use to renew your membership. You can also join online at www.amcno.org, or contact AMCNO staff member Abby Bell at (216) 520-1000, ext. 101, or email her at abell@amcno.org.

ADVOCACY UPDATE

Legislative and Administration Update

As usual the lame duck session of the General Assembly was fast and furious, with late-night caucuses and last-minute amendments placed into legislation. At press time, several bills that the AMCNO supported or took a neutral stance were headed to Governor John Kasich for his signature. Here is a brief synopsis of those bills:

HB 216 – APRNs

After many interested party meetings and over nine bill drafts, the AMCNO took a neutral position on this legislation. The final substitute bill deleted some requirements in the Standard Care Arrangement, including a procedure for a review of referrals and care outcomes for a sample of patients as well as changes when Schedule II prescribing did not occur at a specific site—with the requirements changed to allow a physician to prescribe the initial Schedule II instead of the collaborating physician. The substitute bill also allows an APRN to prescribe for a 72-hour period rather than 24 hours. Overall, the bill preserves the collaborative model of care which the AMCNO and all of the medical associations involved in this debate believe is in the best interest of patients' healthcare needs. This bill provides updates to the APRN practice yet maintains the physician as the leader of the healthcare team—a key issue the AMCNO continues to support. For a complete analysis of HB 216 visit our website at www.amcno.org and go to the Advocacy tab.

SB 319 – Drug Regulations

This bill, sponsored by Sen. John Eklund, targets prescription drug abuse through reforms in several areas—stronger Board of Pharmacy oversight of pharmacy technicians, licensing of exempted dangerous drug handlers, licensing Suboxone clinics, expanding availability of Naloxone, reallocating some financial resources, promoting new methadone clinics and revising opiate prescribing practices.

Among other things, the bill specifies that not more than a 90-day supply of opioid analgesics may be dispensed or sold and that a prescription cannot be filled if more than 14 days have elapsed since it was issued or, if the prescription specifies the earliest date on which it may be filled and other conditions are

satisfied, 14 days since that date. In addition, the bill requires certain health insurers and the Medicaid program to apply prior authorization requirements or utilization review measures as conditions of providing coverage for opioid analgesics prescribed for the treatment of chronic pain, except in specific circumstances. The bill also expands the circumstances under which a licensing board may suspend a license, certificate, or evidence of registration without a hearing for actions related to controlled substances and extends this authority to actions related to other dangerous drugs. The bill also addresses access and administration of Naloxone, drug court programs, drug treatment for pregnant women, pharmacy and drug laws, and community addiction and mental health services. For a complete analysis of SB 319 visit the AMCNO website at www.amcno.org.

SB 332 – Infant Mortality

This bill was developed from a report of an ad hoc infant mortality commission that released its report in March 2016. Infant mortality is considered a severe health crisis in the state, with the Ohio Department of Health reporting recently that there were 1,005 infant deaths in 2015, up from 955 in 2014, for a rate increase from 6.8 per 1,000 live births to 7.2. Ohio ranks near the bottom of all 50 states, and the racial disparity in the rate of deaths is of major concern, since it is almost three times as high for black infants compared to whites. (See article on page 1 for more on the subject of infant mortality.)

Some of the key points included in the bill are data collection and sharing of perinatal services and vital statistics data, infant mortality scorecards and quarterly data, and Medicaid performance reports. In addition, the bill enhances current interventions such as the prohibition on the use of crib bumper pads and mesh crib liners/sales; Safe Sleep education; tobacco cessation; birth spacing and prematurity intervention; and restructuring health systems for improved outcomes. Issues related to social determinants of health for pregnant and at-risk women are also addressed in the legislation. Visit the AMCNO website for a complete analysis of the bill.

The 132nd General Assembly will convene in January with the budget bill getting the most

attention in the first six months—through June 2017. The AMCNO will provide our members with information as needed on the budget discussion along with any background on new bills that are introduced in the legislature.

Gov. John Kasich Announces New Department of Medicaid Director

Barbara Sears replaces John McCarthy as the director of the Department of Medicaid, Gov. John Kasich announced in November.

Sears, who is a vocal proponent of Medicaid expansion in the state, has been the assistant director of the Governor's Office of Health Transformation since July 1, after she resigned from the Ohio House, where she had served as the majority floor leader and as chair of the Insurance Committee and Joint Medicaid Oversight Committee. Sears took over the new position in December.

McCarthy had served as the state's Medicaid director since the beginning of the Kasich Administration. He led the department's creation as an independent cabinet agency and oversaw the expansion, according to the governor's office. Gov. Kasich said that he was "grateful" for John's leadership and that thanks to him, "our most vulnerable Ohioans are better served and the program now rests on strong financial footing."

AMCNO Meets with Board of Pharmacy and State Medical Board of Ohio to Discuss OARRS Compliance Issue

The AMCNO and other medical association representatives met with staff from the Ohio Board of Pharmacy (BOP) and the State Medical Board of Ohio (SMBO) to discuss the Ohio Automated Rx Reporting System (OARRS) compliance letters that have been sent to physicians over the past few months. The AMCNO had expressed concern to the SMBO that physicians who believe they are in compliance or are exempt from checking OARRS are receiving these letters.

BOP staff provided an overview of how the OARRS data is reviewed and what information is provided to the SMBO. The SMBO then utilized the data to determine which physicians would receive an OARRS

(Continued on page 10)

ADVOCACY UPDATE

Legislative and Administration Update (Continued from page 9)

compliance letter. Based on the BOP data received by the SMBO, the first letter was sent to a large number of physicians across the state. This resulted in thousands of physicians contacting the SMBO to update their OARRS information or make other corrections that brought them into full compliance with the state rules. The SMBO noted, however, that the vast majority of physicians being contacted are not suspected of egregious errors but of occasional missed patient checks or incorrect registry information needing to be updated.

The AMCNO and the other medical associations present at the meeting urged the SMBO to work with the associations to improve their messaging to physicians. The SMBO said it is committed to assuring its licensees understand OARRS and added that it would continue to work with the BOP to provide clearer data that will help provide physicians with more definitive information as

to why they might be receiving the letters and how they can go about improving their compliance.

The SMBO is continuing to send letters to physicians based on the OARRS data; however, at this time, these letters are being sent to a specific list of physicians who have failed to check OARRS between 20 and 50 times, or more than 50 times during a one-month period. The BOP staff also indicated that they are exploring the option of providing a list of patients, with key identifiers removed, to the physicians who receive these letters so that they can see where there may be non-compliance issues. In the interim, if you need to update information for OARRS or you believe that you received a letter in error due to one of the exemptions for OARRS, please email the board at oarrsinfo@med.ohio.gov.

During the meeting, the AMCNO agreed with the SMBO and the BOP that fully integrating OARRS data into electronic health records (EHRs) and the state's pharmacy dispensing

system would be a huge step toward helping to assure that opioids are more appropriately prescribed. The BOP indicated that this integration process is underway and physicians can check to see whether their EHR provider has integrated with OARRS or where the process stands by visiting this link: <https://www.ohiopmp.gov/Portal/IntegrationStatus.aspx>.

The SMBO indicated that its letters will continue on a monthly basis but may become less frequent in the future. The AMCNO and the other medical associations present at the meeting offered to work with the SMBO and the BOP to help physicians achieve fuller compliance with state prescribing rules and guidelines and asked that the SMBO work with the associations in the future on these issues as well. In addition, the associations offered to send letters to our members in conjunction with the BOP and SMBO, supporting their efforts to achieve integration of OARRS into EHRs across the state, since we believe that this would help streamline the process. ■

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AMCNO President Dr. Robert Hobbs was invited to present to cardiology fellows at the Cleveland Clinic concerning advocacy. He discussed tort reform, the Medicare Access and CHIP Reauthorization Act (MACRA), and legislation in Ohio supported by the AMCNO.

The Hazy Rollout of Ohio's Medical Marijuana Control Program

By Jeff McCourt¹ and Dan O'Brien², Benesch, Friedlander, Coplan & Aronoff LLP

When Ohio House Bill 523 (HB 523) became effective in September, Ohio joined the company of 25 other states, the District of Columbia, and several U.S. territories that have legalized cannabis use for medicinal purposes. Modeled after highly restrictive regimes adopted by state legislatures in Illinois, Maryland, and New York, the Medical Marijuana Control Program (MMCP) envisioned by HB 523 has the potential to be one of the most complex and heavily regulated medical cannabis programs in the country. Yet, once fully implemented, Ohio is also expected to have one of the five largest medical marijuana programs in the country, generating up to \$800 million in annual sales by 2020.

The ultimate functionality of the MMCP—both in terms of the opportunity for seriously ill patients to access the medicine, and the opportunity for market participants to create a sustainable program to serve those patients—will largely be determined by the extensive rulemaking process to be carried out by the Department of Commerce, the state Board of Pharmacy, and the State Medical Board of Ohio. It is slated to be completed by Sept. 8, 2017.

On Sept. 24, the SMBO dealt a significant blow to patients hoping to avail themselves of the so-called “affirmative defense” protections of HB 523. The affirmative-defense provision was added by the legislature to allow patients to use cannabis for qualifying medical conditions prior to the opening of dispensaries in 2018. In its carefully worded guidance, the Medical Board instructed physicians that they cannot issue a “state of Ohio-approved written recommendation” to use medical cannabis until the Medical Board adopts rules for doing so, which could take up to a year. In the meantime, physicians who receive requests from patients for medical cannabis were encouraged to “consult with their private legal counsel and/or employer for interpretation of the legislation.”

In response to the Medical Board’s guidance, representatives from the Ohio State Medical Association (OSMA) reiterated the association’s previous stance that doctors should not recommend cannabis until the Medical Board adopts its formal rules. The OSMA’s interpretation of the Medical Board’s guidance, in turn, quickly drew widespread news coverage. One of the lead state legislators behind HB 523, Senator Dave Burke (R-Marysville), responded in interviews that “willing physicians are in the free and clear” to recommend cannabis during the affirmative-defense period, and representatives

from the Medical Board added that the Medical Board would “review a medical marijuana-related complaint as they would any other... [and] would consider whether someone violated state law, including the immunity provision.”

The affirmative-defense provision and the varying interpretations of it by key actors have created quite a hairball for Ohio doctors and patients to untangle with their lawyers. The uncertainty around this provision, and the implications of that uncertainty for the physician recommendation process under the MMCP once fully implemented, has also caused concern among patients and prospective market participants as to how effectively the MMCP will be implemented.

In an effort to facilitate discourse among the legal and medical professions regarding the affirmative-defense provision (and by no means to provide legal advice to anyone), the remainder of this article covers some of the relevant considerations that doctors and their employers may want to evaluate with counsel in order to minimize risks when recommending cannabis to patients during the affirmative-defense period. While the recommendation and use of medical cannabis does pose at least some theoretical legal risk to all parties involved in the process, it is reasonably clear that Ohio physicians willing to face those risks do currently have the ability to recommend cannabis to patients with qualifying medical conditions.

A bit of background on the affirmative-defense provision of HB 523 is helpful for understanding the Medical Board’s reluctance to provide guidance on the topic. Recognizing that it would take up to two years to fully implement the MMCP, and hearing incredibly heart-wrenching and compelling testimony

from seriously ill constituents in urgent need of access to legal sources of cannabis, the legislature attempted to create an alternative path for qualifying patients to obtain cannabis prior to the opening of dispensaries in Ohio. According to Section 6(B) of HB 523, if a patient is arrested and charged with possession or use of cannabis in Ohio and can establish that she or he (1) received a written recommendation from a licensed physician and (2) possessed and used cannabis only in the forms and by the methods permitted under HB 523 (namely, did not smoke it), the patient should be acquitted of the charges.

The most significant obstacle to a patient’s ability to establish the affirmative defense is the requirement to obtain a written recommendation from a physician licensed in Ohio. For the written recommendation to qualify under the affirmative defense, the physician must certify *all* of the five following criteria:

- (1) that a “bona fide physician-patient relationship”³ exists between the physician and patient;
- (2) that the patient has been diagnosed with a “qualifying medical condition”,⁴
- (3) that the physician or physician delegate has requested from the Ohio Automated Rx Reporting System (OARRS) a report of information related to the patient that covers at least the twelve months immediately preceding the date of the report;
- (4) that the physician has informed the patient or the patient’s parent or guardian of the risks and benefits of medical marijuana as it pertains to the patient’s qualifying medical condition and medical history; and
- (5) that the physician has informed the patient or the patient’s parent or guardian that it is the physician’s opinion that the benefits of medical marijuana outweigh its risks.

For doctors who are knowledgeable of the pharmacology of cannabis and they are comfortable making the risk/benefit determination set out above, recommending

(Continued on page 12)

MEDICAL MARIJUANA UPDATE

The Hazy Rollout of Ohio's Medical Marijuana Control Program

(Continued from page 11)

medical cannabis to patients during the affirmative-defense period should not present significant risk of legal or professional liability. HB 523 and federal case law provides for broad protections of doctors against criminal, civil and professional liability for recommending medical cannabis to qualifying patients in compliance with state law.

Most relevant to Ohio doctors considering recommending cannabis under HB 523, O.R.C. Section 4731.30(H) provides that:

"a physician is immune from civil liability, is not subject to professional disciplinary action by the state medical board or state board of pharmacy, and is not subject to criminal prosecution for any of the following actions: (1) Advising a patient, patient representative, or caregiver about the benefits and risks of medical marijuana to treat a qualifying medical condition; (2) Recommending that a patient use medical marijuana to treat or alleviate the condition; (3) Monitoring a patient's treatment with medical marijuana."

This provision is broad and unqualified in its scope, and serves to insulate physicians from criminal, civil and professional liability for recommending cannabis during the affirmative-defense period and thereafter. Not only does it allow doctors to recommend cannabis without fear of losing their medical license or facing criminal penalties in Ohio, including during the affirmative-defense period, but it could also protect them from potential civil malpractice liability to their patients or others. Even with the broad immunity provided to physicians under HB 523, it would be wise for doctors to check with their malpractice insurance carrier to confirm that they are covered for claims that may arise related to recommending medical cannabis to patients. Of course, doctors who are not self-employed should also check with their employer regarding relevant policies and restrictions on their ability to recommend cannabis to patients.

As cannabis remains a federally illegal "Schedule I" controlled substance under the Controlled Substances Act (CSA), the other major concern that many doctors cite with recommending cannabis is the risk that the U.S. Drug Enforcement Administration (DEA) will revoke the doctor's DEA registration to prescribe other controlled substances. HB 523 follows most other states by relying on "recommendations" for medical cannabis instead of "prescriptions." This distinction is derived from the seminal *Conant v. Walters* decision, where the Ninth Circuit Court of Appeals found that the act of merely recommending medical cannabis constituted physician-patient speech that is protected under the First Amendment to the U.S. Constitution.

The mere act of discussing the risks and benefits of cannabis and recommending cannabis for qualifying medical conditions under HB 523 should not be grounds in itself for revoking a DEA registration. If a physician were to prescribe cannabis (meaning providing an order that cannabis be dispensed to the patient) or directly dispense cannabis to the patient, however, those acts could be viewed as aiding and abetting the patient's violation of the CSA and subject the physician to loss of his or her DEA registration (among other penalties).

As a result of the broad liability protections provided to physicians under HB 523 and First Amendment protections for the act of recommending cannabis to patients, it is unlikely that doctors would face much practical risk for recommending cannabis to patients in a manner that satisfies the affirmative-defense provisions. ■

***Disclaimer:** The above analysis is provided for general informational and educational purposes only. This article does not provide legal advice or create an attorney-client relationship. Perhaps most importantly, please remember that the use, possession, distribution and sale of marijuana remains a crime under federal law and (except as specifically permitted by HB 523) the laws of Ohio. This publication does not, and should not in any way be construed to, assist anyone in violating applicable law.*

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3. See O.R.C. Section 4731.30(C)(1)(b).

4. See O.R.C. Section 3796.01(A)(6).

(Editor's Note: The State of Ohio Board of Pharmacy and the State Medical Board of Ohio are asking for public input on the proposed medical marijuana dispensary and physician rules. To view the proposed rules, including instructions on how to provide comments, visit www.medicalmarijuana.ohio.gov/rules.)

AMCNO Disappointed with the Department of Veterans Affairs' New APRN Policy

The Department of Veterans Affairs (VA) has issued a final rule allowing most advanced practice nurses (APRNs) within the VA to practice independently of a physician's clinical oversight, regardless of individual state law.

Medical associations from around the country, including the AMCNO, sent letters and provided comments opposing the proposed rule (the AMCNO communications are available on our website), emphasizing that coordinated, physician-led, patient-centered, team-based care is the best approach to improving quality care for our country's veterans. Although the VA refined some parts of the proposed rule that we agree with, such as excluding nurse anesthetists from it and clarifying that only individuals with credentials in radiology can perform radiology studies, we were disappointed to learn of the new policy. The final rule is available at www.federalregister.gov.

AMCNO Speed Networking Event Allows Medical Students to Learn More about a Variety of Specialties

Second-year Case Western Reserve University School of Medicine medical students recently had the chance to sit down with several AMCNO physician members to discuss the practice of medicine and a variety of specialties.

The event, known as PALS (Physicians Are Linked with Students), is held in a speed networking format, where students and physicians have a limited time to talk before they have to switch and move to a different table. This year, it took place Nov. 10 in the Biomedical Research Building café at the medical school. AMCNO President Dr. Robert Hobbs welcomed the attendees and presented opening remarks.

The physicians in attendance represented different areas of expertise: anesthesiology, rheumatology, orthopedic surgery, vascular surgery, cardiology, family medicine, gynecology, preventive medicine, physical medicine and rehabilitation, gastroenterology, and allergy/immunology.

Based on feedback from the physicians, the students asked excellent questions, such as:

- How did you decide between surgery and internal medicine?
- Are you able to build vertical relationships with patients?
- Are there research opportunities in your field?
- What do you like about your job?
- What is your work environment like?
- What is the future of your specialty?
- How do you maintain a work/life balance?

When a student asked Past President Dr. Matthew Levy about having long-term relationships with patients, Dr. Levy said that he has seen a lot of patients throughout his 20-year career, and has even taken care of four generations in one family. He stressed that regardless of the career path a student chooses, it's about forming relationships with patients to be able to provide the best care; it's a gratifying part of the job.

Dr. Hobbs invited a cardiology fellow, Dr. Venu Menon, to attend the event with him, and they both talked to students about the field and their experiences within it. During one student discussion, they talked about having the option to choose either the clinical/procedural or research side. They mentioned that the clinical side is very fast-paced, because it typically is a life or death situation. Both physicians also agreed on the importance of students finding mentors and building a network of good people.

Following the event, the students provided positive feedback, saying that it was good to hear from a variety of physicians in one location at one time, the physicians were approachable, and it was great to have many of their questions answered.



AMCNO President Dr. Robert Hobbs and Dr. Venu Menon discuss the field of cardiology.

The AMCNO would like to thank everyone who participated in this event as well as the medical school for their work and for providing the venue.

This type of interaction allowed the students to gain a better understanding of the different fields and the practice of medicine in general directly from our physician members. The physicians indicated that they enjoyed the event, too, because they enjoy giving back and reaching out to the next generation of physicians.

If you are an AMCNO member and would be interested in participating in next year's event, contact the AMCNO offices at (216) 520-1000. ■

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AMCNO Hosts Annual Seminar on the Business Aspects of Practicing Medicine

The Academy of Medicine of Cleveland & Northern Ohio (AMCNO) presented the annual seminar, "Understanding the Legal and Financial Aspects of Practicing Medicine," in October at the Cleveland Museum of Natural History.

AMCNO President Dr. Robert Hobbs welcomed residents from several area hospitals, members and nonmembers and their spouses 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).

The AMCNO and AMEF would like to thank the presenters who shared their expertise during the event: Cindy Kula and Dean Lisowski from Walther LLP; Jeremy DiTullio from Sagemark Consulting; Ellen Meehan from Squire Patton Boggs LLP; and Isabelle Bibet-Kalinyak from McDonald Hopkins LLC.

The speakers provided insight on tax and non-tax issues of sole proprietorship or partnership, and introduced attendees to estate planning basics and what everyone should have on file, such as a general Power of Attorney and a Living Will. Attendees also learned that a young family with children 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 also topics of interest.

Attendees heard about key points of employment contracts—they were reminded that they must do their due diligence and to always conduct a non-economic appraisal of a practice. The speakers also advised asking questions when reviewing an employment contract, such as whether the physicians are geographically diversified or whether the practice is keeping pace with service delivery equipment and modalities.



Dean Lisowski discusses business and tax aspects of a medical practice.



Jeremy DiTullio talks about the benefits available to physicians.

They also stressed the importance of negotiating a contract with the person who is authorized to discuss it. Attendees were encouraged to take the time to consider and discuss contract terms, and to not be afraid to ask the employer for reasonable changes; using legal counsel should always be considered too. Also, close attention should be paid to malpractice coverage as well as the noncompetition and confidentiality clauses.

Presenters covered the financial challenges that medical professionals face, including medical malpractice, asset preservation, liability exposure, tax brackets and estate taxation, noting that these are the reasons that financial planning is so important.



Attendees learn more about estate planning for physicians from Ellen Meehan.

Following the event, the participants were encouraged to complete evaluation forms. The majority of the attendees rated the speakers as "excellent," and many individuals stated that their concerns regarding the practice of medicine were covered during the seminar. The presenters provided positive feedback as well, saying that they thought that the event went well, it was well-attended and that participants asked great questions. It is important to note that the presenters do not pressure attendees to utilize their services—these presentations are meant to be informative and of use to the attendees who are ending their training and moving into the practice of medicine, or for physicians who are already practicing medicine but may need additional financial information.

The AMCNO would like to thank the presenters for providing this wealth of knowledge to our attendees (during the World Series), and we look forward to having them return for next year's event. We would also like to thank the Cleveland Museum of Natural History for once again providing the wonderful venue for our seminar as well as allowing attendees to visit the museum afterward.

The AMCNO offers this seminar for residents for FREE every year. For more information, visit our website: www.amcno.org. ■

COMMUNITY ACTIVITIES

Community Professionals Shadow AMCNO Members during Annual Mini-Internship Program

Three Cleveland-area professionals had the unique opportunity to shadow physician members during our annual Mini-Internship Program that took place Oct. 17-19: **Lydia Coutré**, a healthcare and nonprofits reporter for *Crain's Cleveland Business*; **Martha Hostetter**, founder of Pear Tree Communications; and **Dave Valent**, associate counsel at the Cleveland Clinic.

The purpose of the event is to give community leaders a broad sense of the complexities involved with health care and the practice of medicine, which they can share with their colleagues and the general public that they serve.

An Orientation Dinner, led by program facilitator Dr. William Seitz and held a day before the program began, allowed the participants (or "interns") to meet the physicians they would be paired with during the event and receive Health Insurance Portability and Accountability Act (HIPAA) training.

Throughout the next two days, each intern spent each day with two physicians and was exposed to several different aspects of medical

care—from orthopedic surgery and patient visits to medical school preceptorship. All of the participants reconvened at the AMCNO offices on the last day for a Debrief Dinner, where they shared their experiences.

Valent said that he appreciated the physicians volunteering their time for the program, and that he has always been impressed by what physicians do, but he is even more so now after this experience.

Hostetter shared that she thought the program was "amazing."

Coutré said it was great to see the day-to-day work that the physicians do. Overall, she said she found the experience to be extremely valuable.

(Continued on page 16)



Dave Valent meets some of the physicians he will be working with during the two-day program: (l-r) Dr. Daniel Sullivan, Dr. William Seitz, and Dr. Mehrun Elyaderani.



Lydia Coutré meets two of the physicians, Dr. Gerard Boyle (left) and Dr. Matthew Levy (right), she will be shadowing during the program.



Physicians who attended the Orientation Dinner pose with the three interns. (Standing l-r: Dr. Gerard Boyle, Dr. Tom Abelson, Dr. Daniel Sullivan, Dr. Matthew Levy, Dr. Carlos Higuera-Rueda, Dr. William Seitz, and Dr. Mehrun Elyaderani. Seated l-r: Dave Valent, Martha Hostetter, and Lydia Coutré.)



Martha Hostetter stands with program facilitator Dr. William Seitz (center) and other physicians she will be shadowing, Dr. Tom Abelson (far left) and Dr. Carlos Higuera-Rueda (right).

COMMUNITY ACTIVITIES

AMCNO 2016 Vote & Vaccinate Program

The Academy of Medicine of Cleveland & Northern Ohio (AMCNO) hosted its 15th annual "Vote and Vaccinate" program on Election Day, Nov. 8, 2016.



A registered voter receives a flu shot at a Vote & Vaccinate location on Election Day.

The intent of this annual program is to provide individuals with an opportunity to receive seasonal flu shots at various polling sites throughout Cuyahoga County, making it easier for people to get vaccinated before the flu season kicks into high gear. The AMCNO's Vote and Vaccinate Program runs parallel to the voting process and is not connected in any way with the Board of Elections.

This year, the AMCNO was pleased to have participation from St. Vincent Medical Center in this valuable program. The AMCNO would like to express its sincere gratitude to site staff who participated in this worthwhile program at Marion Sterling School in Cleveland. Many members of the local community participated in the Vote and Vaccinate program this year and were able to get vaccinated against seasonal flu at the site.

The AMCNO plans to host this community event again in 2017. If your group or hospital is interested in participating with the AMCNO as a co-sponsor or would like to host a site, please contact the AMCNO office at (216) 520-1000. ■

Community Professionals Shadow AMCNO Members during Annual Mini-Internship Program (Continued from page 15)

The physicians shared their comments about the event as well.

"At the root of it, we're all teachers, sharing our knowledge," said Immediate Past President Dr. Matthew Levy. Dr. Gerard Boyle agreed, adding, "We enjoy sharing what we do, and I do have fun at work."

Dr. Seitz said, "We are really lucky people, we get to do amazing things. At the end of the day, we go home happy, knowing that we made a difference in people's lives." He also asked that the interns and participating physicians share their experiences with others and encourage them to take part in this program. He also invited the physicians to come back for next year's event.

If you are an AMCNO member and would be interested in taking part in the 2017 Mini-Internship Program, contact the AMCNO offices at (216) 520-1000. To learn more about the program, visit our website at www.amcno.org. ■



The physicians and interns gather at the Debrief Dinner to discuss their experiences with the program.



Each intern received a participation certificate from AMCNO President Dr. Robert Hobbs.

Save the Date

The Academy of Medicine Cleveland & Northern Ohio (AMCNO) Membership Committee cordially invites physician members, residents, medical students and spouses to attend our 2017 wine tasting experience. This is the perfect opportunity for you to mingle with your colleagues.

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

LA CAVE DU VIN

2785 Euclid Heights Blvd. • Cleveland Heights

Sunday, February 12, 2017 • 5 – 7 p.m.

Cost:

\$45 per member/spouse

\$25 residents & medical students

RSVP by 2/7/2017 abell@amcno.org

Phone: (216) 520-1000 Ext. 101

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