

AMCNO Partners with CGS Administrators, LLC to Offer Education Opportunity for Physicians

Recently the AMCNO partnered with CGS Administrators, LLC, to provide an outstanding educational opportunity for Northern Ohio physicians. The program was also offered in Columbus, Ohio and Louisville, Kentucky and in addition to the AMCNO, the program was also supported by the Greater Louisville Medical Society, the Louisville Chapter Kentucky Medical Group Management Association, the Ohio Podiatric Medical Association, the Ohio Hospital Association, the Ohio State Medical Association, the Professional Healthcare Institute of America and the University of Louisville Hospital.

This informative session entitled “*The Medicare Landscape and the Physician’s Perspective*” was presented by Dr. Earl Berman, Chief Medical Officer Part B, Dr. Michael Montijo, Chief Medical Officer Part A, and Jim

Szarzynski, Director of Medical Review. The objectives for the session were to identify key data sources for errors in Medicare claims and documentation, review topics and issues under increased scrutiny by Medicare contractors,



Dr. Montijo addresses the physician audience at the CGS session held in Cleveland, Ohio.

define the role of physicians in responding to challenges regarding documentation and payment errors and to provide physicians with current and future
(Continued on page 3)

AMCNO Physician Leadership Meets with New Ohio Supreme Court Justice Judith French

AMCNO physician leadership had the privilege to meet with Justice Judith L. French, of the Ohio Supreme Court (OSC). Justice Judith L. French became the 155th justice of the Ohio Supreme Court on January 1, 2013. She was appointed by Gov. John R. Kasich on December 20, 2012.

Prior to her appointment, Justice French served at the Tenth District Court of Appeals, which hears appeals from Franklin County courts and state administrative agencies. She was elected to the appellate court in November 2004 and served until her appointment. Prior to becoming a judge, Justice French served as chief legal counsel to Governor Taft. Dedicated to public service, Justice French also served as an assistant attorney general and then chief counsel in the office of Attorney General Betty Montgomery from 1997 to 2002. While there, she argued twice in the United States Supreme

Court. Most recently, she argued on behalf of the State in the Cleveland school vouchers case. Justice French began her state service in 1993 as deputy director for legal affairs at the Ohio Environmental Protection Agency. She was also an associate counsel at Steelcase Inc. in Grand Rapids, Michigan, and an associate at the Columbus law firm of Porter, Wright, Morris & Arthur, where she practiced environmental law. Justice French will be up for re-election to the OSC in 2014 along with Justice Sharon Kennedy.

(Continued on page 4)



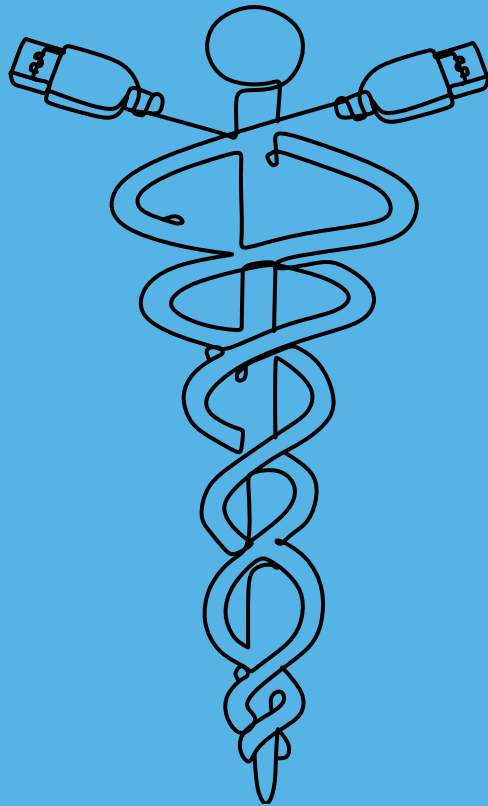
Justice French spends a moment with AMCNO physician representatives (l to r) – Dr. John Bastulli, AMCNO Past President and VP of Legislative Affairs, Justice French, Dr. James Sechler, AMCNO Past President, and Dr. George Topalsky, AMCNO President.

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AMCNO PHYSICIAN OUTREACH

AMCNO Partners with CGS Administrators, LLC. to Offer Education Opportunity for Physicians *(Continued from page 1)*

areas of focus with respect to Medicare claims, documentation and payment.

Dr. Montijo led off the discussion noting that Ohio has more than 1.1 million Medicare beneficiaries with allowed charges of over \$111 million. He noted that in the near future Medicare plans to continue to utilize new payment methodologies, documentation, as well as process of care and team care as a condition for payment. He stressed that documentation is critical and if not done correctly will impact payment, cause further data analysis by contractors and further scrutiny by recovery auditors and Medicare administrators.

Dr. Berman stressed the importance of demonstrating medical necessity in the patient record including why a patient is seen, what is being done for the patient and the importance of performing an assessment and providing a treatment plan. He also noted that signatures continue to be a problem area in all provider types, and that there are a significant number of signature errors. Dr. Berman reminded the physicians in the audience that every service provided to a Medicare beneficiary requires a signature — and a stamped signature is not acceptable.



Dr. Earl Berman outlines issues related to Medicare Part B for the physician audience.

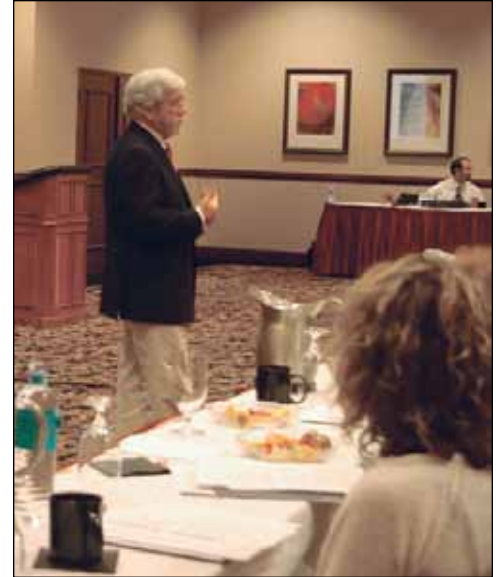
Dr. Montijo discussed hospitalization challenges and payment issues related to elective admissions, one-day stays, outpatient procedures, and skilled nursing facility qualifying stays, reminding the physician audience that they are ultimately responsible for all coding and signing off on patient

information. He also noted that an order for observation status must include the rationale, and an order simply documented as “admit” will be treated as an inpatient admission. With regard to home health benefits for Medicare patients, he noted that in order for payment to be made a physician must certify that a patient is confined to his/her home and meet certain requirements.

With regard to coding, the presenters outlined that the physician is in control of the coding and a coder cannot do anything that is not clearly documented without querying the physician. The role of the coder is to select CPT/HCPCS codes and modifiers and ICD-9 codes based on the physician’s documentation and with the physician’s input — and medical necessity is the overarching criterion. The physician’s key role with regard to documentation is timeliness, and the presenters strongly encourage all health care providers to enter information into the patient’s medical record at the time the services are provided to the patient; that is, contemporaneously. In all cases, regardless of whether the documentation is maintained or submitted in paper or electronic form, any medical records that contain amendments, corrections or addenda must: clearly and permanently identify any amendment, correction or delayed entry as such; indicate the date and author of the amendment, and not delete, but instead, identify all original content.

Mr. Jim Szarzynski wrapped up the evening with a presentation on medical review issues. He noted that medical reviewers determine whether a service is a covered benefit, reasonable and necessary and accurately coded. He assured the audience that the purpose of medical review is not meant to be a means to deny claims or conduct fraud investigations. Their current area of focus is highest level of office visits and one day stays. In the near future their focus will be cross-claim review, elective surgeries, skilled nursing facility admissions, statistical sampling with overpayment estimation, and predictive modeling. He stressed the importance of physicians and their staff staying informed on the Medicare review process and to be proactive and correct a problem if it is brought to their attention.

The AMCNO wishes to thank CGS and the presenters for partnering with us and the other medical organizations to provide this



Dr. Montijo provides his comments on Part A Medicare issues.

informative session for physicians. The AMCNO plans to work with CGS in the future to partner on other similar sessions. We will provide information to our members when the future sessions are scheduled. ■

NORTHERN OHIO PHYSICIAN

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AMCNO ACTIVITIES

AMCNO Physician Leadership Meets with New Ohio Supreme Court Justice Judith French

(Continued from page 1)

During her meeting with AMCNO physicians, Justice French noted that her judicial philosophy is one of restraint and she believes in not legislating from the bench. The AMCNO representatives provided her with information about the projects that the AMCNO has done with attorneys in the Northern Ohio area such as our medical/legal seminars, amicus briefs we have filed with the Ohio Supreme Court on tort reform related issues, and our alternative dispute resolution (ADR) work group. The AMCNO representatives outlined the ADR concept and indicated that we hope to continue to pursue a pilot project in Cuyahoga County that will offer a streamlined review for medical malpractice cases. Justice French also expressed an interest in participating in the AMCNO mini-internship program in the future.

Justice French outlined her role as a public member of the judiciary committee as part of the Ohio Constitutional Modernization Commission. The Ohio Constitutional

Modernization Commission is charged with:

- Studying the Constitution of Ohio;
- Promoting an exchange of experiences and suggestions respecting desired changes in the Constitution;
- Considering the problems pertaining to the amendment of the Constitution; and
- Making recommendations from time to time to the general assembly for the amendment of the Constitution.

The Ohio Constitutional Modernization Commission shall complete its work on or before July 1, 2021, and shall cease to exist at that time. The terms of all members shall expire July 1, 2021.

Justice French also noted that Ohio Supreme Court Chief Justice Maureen O'Connor will be addressing the Commission's judiciary committee in the near future. The Chief Justice will be presenting information on her initiative for strengthening judicial elections. Information on this initiative may be obtained at www.ohiocourts2013.org

This initiative is geared toward reviewing 8 specific questions: should Ohio change the law

so judicial races are no longer listed at the end of the ballot? Should all judicial elections be held in odd-numbered years? Should Ohio centralize & expand its civic education programming and institute a judicial voter guide? Should Ohio eliminate party affiliation on the ballot in judicial primaries? Should Ohio join the other states that have a formal, non-partisan system for recommending nominees to the governor to fill judicial vacancies? Should appointments to the Ohio Supreme Court require the advice and consent of the Ohio Senate? Should Ohio increase the basic qualifications for serving as a judge? And finally, should Ohio increase the length of judges' terms?

The AMCNO has signed up to receive information and background on the work of the commission and, if any issues arise that would be of interest to our members, we will provide that information in our publications.

Justice French plans to continue to travel around the state to meet with associations, law firms and other organizations, and she expressed an interest in continuing to meet with the AMCNO in the future. ■

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AMCNO LEGISLATIVE ACTIVITIES

Federal Update

SGR Repeal Legislation Under Review — AMCNO Members Urged to Contact Congress Now

Draft legislation to repeal Medicare's sustainable growth rate (SGR) formula is moving forward in the U.S. House of Representatives. The current bill under review repeals the SGR and replaces it with annual updates of 0.5%. Beginning in 2019, physicians would be able to report data under a new Quality Update Incentive Program (QUIP) and earn up to an additional 1% update. Those who score poorly on quality measures could face a net cut of 0.5%. The bill would require medical professionals to play a key role in designing the quality metrics and also creates an avenue for physicians to design and participate in Alternative Payment Models (APMs) under which they would be exempted from the QUIP requirements.

Congress is now in its five-week summer recess, and it is expected that the U.S. House Ways and Means Committee and the U.S. Senate Finance Committee will produce their own versions of the legislation after the recess, also with the aims of repealing the SGR formula, enhancing quality, and making available new models of care delivery and payment. The recess provides an opportunity for physicians to contact their lawmakers and build momentum toward repeal of the SGR formula. The AMCNO has written to Northern Ohio Congressional leaders urging their support of legislation to repeal the SGR and encourages our members to contact their Congressional representatives as well to urge them to finally act to repeal the SGR payment formula.

AMCNO Participates in Physician Round Table Discussion with U.S. Representative Jim Renacci

The AMCNO president and executive staff were pleased to be invited to participate in a Physician Round Table discussion with U.S. Representative Jim Renacci regarding the legislation under review in Congress to repeal the Sustainable Growth Rates (SGR) system. This event was hosted by University Hospitals and was well attended by physicians representing different institutions and private practices from across Northern Ohio. Rep. Renacci was introduced to the group by Dr. Michael Nochmovitz, President, University Hospitals Physician Services.



Dr. Michael Nochmovitz introduces U.S. Rep. Jim Renacci at the physician roundtable event held at University Hospitals.

Rep. Renacci was elected to the United States House of Representatives in November of 2010 and is serving his second term representing the 16th district of Ohio, and currently he serves on the House Ways and Means Committee — the committee that is reviewing the SGR issue at this time. Mr. Renacci has experience in the health care field having worked as a Certified Public Accountant with a firm specializing in their health care accounting practice. He also founded LTC Management Services, a company that owned, operated and managed nursing facilities throughout Ohio.

Rep. Renacci was on hand to discuss the legislative framework produced by the House Ways and Means and Energy and Commerce Committees to repeal the Sustainable Growth Rate (SGR) system and replace it with a fair and stable payment system. These two committees have spent over two years working on this issue to replace this flawed system with one that awards quality over quantity. He noted that he was going around the state to talk to health care professionals in order to get a sense of where the system should go with regard to payment issues and quality reform.

Physicians in the audience provided their thoughts and comments to Rep. Renacci noting that an important part of the evolution of measurement is to pick the right quality measure and base it on outcomes rather than process in a risk adjusted way using the appropriate metrics. In addition, current measures are directed toward the process in primary care, and these do not always translate well to subspecialty care. Subspecialty societies have worked on quality measures for some time and many of these measures have

been endorsed by national groups. In addition, physicians are already doing some process measures but there is not always an easy mechanism in place to extract and report this information without adding additional burden to the physician's practice and suggestions were made that a uniform electronic medical record standard with clear direction from the government on how this would be implemented would be helpful. If patient information were readily available across systems it would help with patient care and cut down on costs and duplicative testing.

Additional comments were made that since it does look as if there may be repeal of the SGR in the near future, there is a definite need to determine how this is going to be funded going forward, and as this debate continues, it will be important to remember that anything that impacts physicians also impacts hospitals. And while it will be important to work with the specialty societies and review the measures with clinical experts, there are different segments in the practice of medicine, so there has to be some flexibility in these models.

Additional comments included the importance of keeping fee for service payment in order to give physicians time to transition while continuing to reward those physicians that have already moved to the new models. Overall, the physicians in the audience all agreed that the SGR has to be repealed and is not sustainable, and that as the debate continues in Congress, it will be important to garner physician input. Rep. Renacci asked that participants contact his office with any additional suggestions or comments.



Dr. Bruce Cameron, AMCNO board member, (left) and Dr. George Topalsky, AMCNO President (right) spend a moment with U.S. Rep. Jim Renacci following the physician roundtable discussion.

Around the Statehouse

AMCNO Issues Policy Statement on Abortion

The AMCNO physician leadership met recently and discussed the final budget bill signed by Governor Kasich. The final budget bill included a provision that requires abortion providers to perform ultrasounds on women seeking abortions to detect a fetal heartbeat and inform the mother of the statistical probability the fetus would survive if carried to full-term. A physician who does not adhere to these steps could be charged with a felony. The provision also blocks hospitals with arranging transfer agreements with abortion clinics — requiring the state's 12 abortion clinics to have transfer agreements with hospitals before sending a pregnant woman seeking an abortion to a hospital as an emergency. The new law also bans state-funded public hospitals from entering such agreements.

Historically, the AMCNO has not taken a position on social issues such as abortion, however, the physician leadership of the AMCNO did agree that the AMCNO should be opposed to civil and criminal penalties against physicians and oppose any legislation that would interfere with the patient/physician relationship. Based upon their discussion, the AMCNO physician leadership developed the following policy statement:

AMCNO policy statement on abortion:

The Academy of Medicine of Cleveland & Northern Ohio (AMCNO) does not oppose or support legislation dealing with the legality of abortion, and we believe that this is an issue for our members to support or oppose based upon their own personal viewpoint.

However, the AMCNO opposes any legislative initiative that could potentially interfere with the patient-physician relationship or criminalize a medical procedure that is within the accepted standards of appropriate medical care.

Constitutional Modernization Commission Reviews Redistricting and Judicial Reform

Over the summer months, the Constitutional Modernization Commission, (CMC) a panel charged with recommending changes to the constitution, provided input on their vision for redistricting. Rep. Vernon Sykes (D-Akron), who co-chairs the CMC

with Speaker Batchelder, has drafted a constitutional amendment that would require unanimous approval of a five-member panel to adopt new congressional and legislative maps.

Under the plan, the leaders of the four legislative caucuses would each appoint a member, and they would also have to agree on a fifth non-partisan commissioner. If the commission is unable to reach consensus on a final map, the winner of a public mapmaking competition would become the default plan. It still remains to be seen whether or not a redistricting plan would get the two-thirds vote of CMC members required to approve a recommendation to the General Assembly. The committee will review Rep. Sykes's plan and work with the Legislative Service Commission to determine how to proceed.

The Commission also heard from Ohio Supreme Court Chief Justice Maureen O'Connor who urged the CMC to endorse a number of proposed judicial reforms before the group issues its final report. Justice O'Connor reiterated to the commission the main points of her judicial reform package. The eight-point plan includes holding non-partisan judicial primaries, moving elections for judges to odd-numbered years, requiring Senate approval of Supreme Court nominees, and lengthening judges' terms in office. Justice O'Connor said more than two-thirds of judicial offices in Ohio that were on the ballot in 2012 only had one candidate. She also noted that more than 50% of judges currently serving were appointed by the governor to fill bench seats that opened up because of retirement, resignation, or death. (For more information on this issue see page 4).

Ohio House Forms Prescription Drug Addiction Study Committee

Rep. Robert Sprague (R-Findlay) has been named chairman of the Prescription Drug Addiction and Healthcare Reform Study Committee that is expected to meet from mid-August through mid-September. The panel will be investigating Ohio's prescription drug epidemic. The committee expects to take public testimony in Cuyahoga, Hardin, Jackson, and Lucas counties. Rep. Sprague is supportive of having state fund prevention efforts related to opiate and prescription drug abuse. Rep. Sprague was successful in having two addiction-related amendments

included in the final Ohio budget — one amendment appropriates \$40 million over the biennium for addiction treatment and \$60 million for mental health services. The second amendment is a pilot project to provide medication-assisted treatment for opiate addiction. It will be administered through the specialty dockets of the Ohio Supreme Court and through the Department of Mental Health. Accidental drug overdoses have been the leading cause of accidental death in Ohio since 2007 and two thirds of those involved a prescription opioid. The number of prescriptions for pain pills continues to rise as does the number of families struggling with addiction to the medicines. More than 800 million doses of prescription opioids were prescribed for 11.5 million adults and children last year. The committee plans to evaluate whether or not it is possible to reduce the amount of prescription opioids as well as focus on the treatment for addiction.

The AMCNO along with other statewide organizations has been an active participant in the Governor's Cabinet Opioid Action Team (GCOAT). This group continues to meet to provide information on clinical guidelines for the utilization of medication therapy management for an extended timeframe for high-dose chronic pain patients. An educational campaign on this initiative is set to launch in the coming months. The AMCNO will also closely follow the discussion of the above mentioned Prescription Addiction Study Committee.

Medicaid Reform Discussions Continue in the Legislature

As previously reported by the AMCNO, Governor Kasich's budget proposal (which was supported by the AMCNO) to extend coverage for the entitlement up to 138% of the federal poverty level, failed to gain enough support in the legislature to be included in the final version of the state spending plan. Instead, House Republicans stripped the language from the budget bill and indicated that they planned to work on separate legislation. The Senate also kept the proposal out of the budget bill and is addressing it in a separate measure.

Over the summer months, discussions have continued on the topic of Medicaid reform. For starters, the Academy of Medicine of Cleveland & Northern Ohio (AMCNO) joined NEO-MEC and other statewide

(Continued on page 8)

AMCNO LEGISLATIVE ACTIVITIES



Governor Kasich addresses the crowd at the Medicaid rally held at the Ohio Statehouse.

organizations at a healthcare rally where Governor Kasich continued to advocate for Medicaid expansion in Ohio. Governor Kasich urged supporters not to give up, and to continue to lobby their legislators in support of Medicaid expansion. The Governor noted he plans to be persistent and keep working on this issue with the legislature, and do everything possible to move this issue forward. Also presenting at the rally were Horizons, Inc. Executive Director Donna Merrill, Cuyahoga County Court of Common Pleas Judge David Matia, Cincinnati USA Regional Chamber of Commerce Vice President of Government Affairs Matt Davis, Hancock County Sheriff Michael Heldman, Military Veterans Education Foundation President Robert Thurman, American Legion Post 315 Commander Frank Miller Jr., and Southeast Recovery and Mental health Care Services employee Durrie Allen.

Medicaid Update – Ohio House

Rep. Ron Amstutz has indicated that he hopes to move a package of reform bills by early October. The House Finance & Appropriations Committee chairman has indicated that the wide-ranging series of legislation would reach beyond the issue of health-care coverage to address other issues, such as opiate addiction. Rep. Amstutz's goal is to see something happen in the legislature by October 1st, to coincide with the same day that enrollment in the health care insurance exchange is set to begin under the Affordable Care Act.

Medicaid Update – Ohio Senate

At a recent meeting attended by the AMCNO, Senate President Keith Fabert

(R-Celina) stated that while hearings continue in the Senate on Medicaid-overhaul legislation, there will not be movement on any bill that doesn't address cost concerns associated with Medicaid expansion. He also noted that Senator Dave Burke (R-Marysville) continues to hold hearings on this issue, and that he anticipates discussion on this issue to continue into September. He also noted that it will be important to figure out how this can be done in a cost effective manner.

The Senate Finance Medicaid Subcommittee referenced by President Faber has met over the summer and at its first meeting held in August in Columbus, representatives from the Health Policy Institute of Ohio and the Ohio State University provided an analysis which showed that Ohio could spend less on Medicaid over the long term by expanding eligibility than it would if it takes no action on the program. The report shows that without Medicaid expansion, total



A large crowd was on hand at the Medicaid Rally held at the Ohio Statehouse.

program spending will reach \$43.4 billion in FY2025 if the rate of growth remains at 7.2%. If the rate of growth, however, was capped at 3.5% or 4% through various policy and program changes, total Medicaid spending in FY2025 would reach \$37.2 billion or \$39.5 billion, respectively. In terms of state share, Ohio's total obligation without expansion is projected to reach \$17.4 billion in FY2025 if the current rate of growth continues. Under expansion, with a capped 4% rate growth, the state share would hit \$14.2 billion in the fiscal year, assuming federal match rates remain intact.

The analysis looked at ways that the state could move Ohioans from Medicaid coverage to private insurance, as well as providing strategies that could be used to enhance Medicaid stability over time. Some of the suggestions provided included implementing cost-sharing for individuals above 100% the federal poverty level to the fullest extent allowable; using multi-payer models that mesh community health and prevention; establishing goals for alternative payment utilization, and establishing a health improvement incentive fund. Following the testimony, Chairman Burke, who had asked for the analysis, noted that the findings should be considered by lawmakers.

The second meeting of the Subcommittee was held in Cleveland at MetroHealth where the committee heard testimony on several initiatives underway at MetroHealth including the MetroHealth patient-centered medical home model for primary care and MetroHealth Care Plus. MetroHealth Care Plus was started when the State of Ohio in collaboration with the MetroHealth System received approval from federal officials in February, 2013 to launch an 1115 Medicaid waiver demonstration project. MH Care Plus was the first in Ohio to provide healthcare coverage to the uninsured members of the community and provides a medical home and covered benefits for up to 30,000 uninsured residents of Cuyahoga County. The program is designed to provide high quality services so that patients can maintain their health, while reducing healthcare spending. The program provides coverage to uninsured adults who have family income at or below 133 percent of the Federal Poverty Line (FPL), meet U.S. citizenship or legal immigrant requirements, reside in Cuyahoga County, and are not otherwise eligible for healthcare coverage.

Some of the goals of MH Care Plus are to increase the number of Cuyahoga County residents who will receive benefits from a regular source, invest resources to further develop and expand medical home models and care coordination, improve the health status and quality of care for residents, and study the behavior of a segment of Ohio's uninsured as they obtain health benefits. The committee learned that MH Care Plus is already achieving savings and showing results with over 24,000 people enrolled with access to services that were previously unavailable. In addition, spending is significantly under the budget cap and

AMCNO LEGISLATIVE ACTIVITIES

MetroHealth's cost of uncompensated care is significantly reduced with initial reports showing improved health outcomes leading to improved chances for employment and financial stability. The committee members asked several questions including whether or not there had been a reduction in emergency room visits, or if MH Care Plus was tracking how this program has impacted patients and their ability to return to work. In response, MH representatives indicated that the patients that are part of this new program and the patient centered medical home model have reduced their visits to the ER and in addition MH will be tracking the impact on employment as part

which includes the state of Ohio. Patients can now open a personal account at the Healthcare.gov website, in order to begin the process to purchase coverage effective Jan. 1, 2014. In addition, the Ohio Department of Insurance has released rates for individual health plans that will be sold in the Ohio marketplace. The average 2014 monthly premium rate will be \$332.58, which is 41 percent higher than 2013 rates. However, the ODI data does not include federal premium subsidies, which the Congressional Budget Office says will be available to 80-90 percent of patients using the marketplace. States were required to submit insurance rates to the Department of Health and Human Services by July 31,

with the premiums to be approved by the federal government prior to the opening of the marketplaces in the fall of 2013. For additional information go to www.healthcare.gov.

State Medical Board of Ohio Releases FY13 Annual Report

Due in part to the efforts of the Academy of Medicine of Cleveland & Northern Ohio (AMCNO), the State Medical Board of Ohio (SMBO) now provides an annual report that will be disseminated to the public and to healthcare providers throughout Ohio via their website. To review a copy of the most recent SMBO annual report go to the SMBO website at www.med.ohio.gov ■



Members of the Senate Finance Medicaid Subcommittee listen to comments at the committee hearing held at MetroHealth.

of their evaluation of the program. The subcommittee has one more meeting scheduled with CareSource in Dayton, Ohio. The subcommittee plans to utilize the information gleaned during these hearings to determine the next steps regarding Medicaid reform.

The AMCNO continues to follow developments at the Statehouse related to Medicaid reform. The AMCNO will continue to keep our members apprised of these activities as the discussions continue at the Ohio legislature.

Ohio Department of Insurance Provides Information on Rates for Plans — Health Insurance Marketplace Now Available

The Health Insurance Marketplace, made available to consumers under the federal Affordable Care Act is now open for business for consumers living in states that are part of the federal insurance exchange,

Latest AMCNO Lawyer Referral Brochure Now Available Online

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 representing physicians and their practice groups. We encourage our members to make use of these lawyers (or other practitioners similarly qualified) whenever they encounter significant legal issues. The AMCNO does not endorse any one law firm over another — this information is provided to our members as a service only. Members are free to choose an attorney from this brochure or from other sources. To view the AMCNO Lawyer Referral Brochure go to our website at www.amcno.org and click on Practice Resources.

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AFFORDABLE CARE ACT UPDATE

By David A. Valent, Esq. and Amanda M. Gatti, Esq., of Reminger Co., L.P.A.

Provided herein is a summary of some recent developments regarding the implementation of the Affordable Care Act ("ACA").

Medicaid Expansion

It is still uncertain whether Ohio will join the twenty-three states and the District of Columbia in opting to expand Medicaid enrollment. With no strict deadline looming, Ohio is among five other states — Michigan, Indiana, New Hampshire, Pennsylvania and Tennessee — remaining "undecided" on whether to expand Medicaid eligibility up to 133 percent of the federal poverty guidelines, or approximately \$30,000 for a family of four. Approximately 275,000 low-income Ohioans will be eligible for Medicaid coverage, if the expansion is approved.

Gov. Kasich continues to urge the Ohio General Assembly to approve the expansion in order to be ready by January 1, 2014, so that Ohio may receive federal funds under the Affordable Care Act. These funds will pay for 100 percent of the cost of expansion through 2016. In 2017, the funding will begin to decline until it reaches 90 percent by 2020. However, Gov. Kasich is still met with resistance from fellow Republicans, as they see the expansion as costly, ineffective and unnecessary. His opponents are also skeptical of the government's ability to maintain its share of Medicaid spending.

Recently, Gov. Kasich vetoed a budget provision that would have prevented the Medicaid expansion. He remains adamant that the expansion will be inevitable, and continues to press his colleagues to make a decision by fall, when states are permitted to opt-in on a quarterly basis. Some project a change in politics might occur, after midterm elections, allowing Kasich to push through the expansion at that time.

ACA Exchanges

Although Gov. Kasich may be a proponent for the Medicaid expansion, he remains skeptical of other aspects of the ACA. The Kasich administration continues to take a "hands off" approach to implementing the new online marketplaces, or exchanges. The exchanges will allow those who live at or above the poverty line, who do not receive health insurance coverage through their employers or a public program, to purchase federally subsidized health insurance through online marketplaces in each state. Open enrollment is slated to begin October 1, 2013, and coverage purchased

through the exchanges will be effective January 1, 2014.

Many physicians are likely curious as to how to educate their patients on the options to obtain coverage through the exchanges. As of yet, Ohio has no plans to market or advertise the exchanges, leaving some of the burden on physicians to explain to an estimated 1.5 million uninsured Ohioans what options might be available for insurance coverage. The simplest advice you can give your patients is to have them visit: www.healthcare.gov, which is the federal government sponsored website with answers to most questions. Many health insurers are also providing education on the subject.

Also with respect to the health exchanges, Ohio insurance regulators recently released rates for health insurance to be sold through the online market places. Although Ohio rejected a state-run exchange, the Ohio Insurance Department nevertheless reviewed health plans insurers are expecting to sell on the federal exchange. According to a press release submitted by the Ohio Department of Insurance, fourteen insurance companies submitted proposed rates for 214 different plans. The premiums that were submitted ranged from \$282.51 to \$577.40 per month.

The average premium per month for individuals is expected to be \$332.58, compared to the previous state average premium of \$236.00. Some argue this rise in cost is evidence of how the ACA will hurt the Ohio economy — and how the ACA does not in fact lower the costs of health care. However, proponents of the ACA highlight that the average premium rate in 2013 is based in part on the inclusion of minimum coverage policies, which would not qualify as being acceptable under the ACA. As such, proponents of the ACA would argue we cannot compare last year's premium averages to next year's averages, wherein the coverage provided next year will meet higher standards.

The averages for next year's premiums, under the exchange, are also affected by the wide range of plans available. The ACA sets forth different coverage levels: bronze,

silver, gold and platinum — all of which are acceptable. It is anticipated that most individuals will purchase bronze and silver plans, because they cost less, creating a lower average premium projection for those plans that are likely to be the most popular.

Penalties and Reporting Requirements

On July 2, 2013, the Obama Administration announced a delay in the penalties and reporting requirements of the Employer Shared Responsibilities provisions of the ACA, until 2015. The decision to delay these requirements was in response to concerns with the complexity of the proposed Shared Responsibility regulations, in light of impending deadlines. The regulations had required businesses with more than fifty "full-time" employees to provide insurance to their workers or pay a penalty — starting in January 2014. That deadline is now delayed by one year.

Importantly, this delay does not change the individual mandate requiring individuals to purchase insurance by January 1, 2014. Accordingly, even though employees may not be covered by their employer plans, those employees still need to find insurance coverage.

Also on the subject of the employer mandate, on August 2, 2013, U.S. Representative Dan Lipinski introduced "The Forty Hours Is Full Time Act of 2013" (H.R. 2988) designed to take away the unintended incentive, created in the ACA, for employers to cut the hours of employees to circumvent reporting requirements. The proposed Bill serves to change the definition of "full-time employment" from thirty to forty hours per week, when applying the employer mandate. The hope is that employees do not lose hours of work and/or opportunities to work — by seeing their weekly hours fall to 29 hours per week — which under current law would help an employer avoid the expense of providing insurance to its employees.

The 80/20 Rule

Under the ACA, health insurance companies are required to disclose how much of the patient's premium dollar was actually spent on health care, and how much they spent on administration, such as salaries and marketing. Under the ACA, if the insurance company spends less than 80 percent on medical care, it must rebate the excess to consumers. In other words, companies are not permitted to keep more than 20 percent of insurance premiums for business costs/profit.

AFFORDABLE CARE ACT UPDATE

The ACA rebates will provide partial premium repayment for an estimated 8.5 to 12.8 million Americans this summer — according to the U.S. Health and Human Services Department. The refund will result in approximately \$1.1 billion in funds being returned to consumers. The average American family is expected to receive around \$100 in insurance premium dollars

returned. Many of your patients have likely already received their rebate.

For further information regarding the ACA and/or issues that may be specific to your practice, please do not hesitate to contact David A. Valent, Esq. or Amanda M. Gatti, Esq., at Reminger Co., L.P.A.: dvalent@reminger.com; agatti@reminger.com. ■

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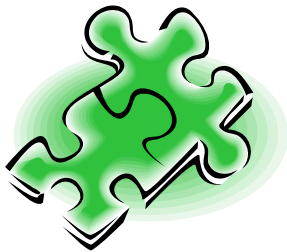
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Wednesday, November 13, 2013



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Seminar: 8:00 a.m. – 4:00 p.m.

**WHERE: AMCNO Executive Offices
Park Center Plaza I**

6100 Oak Tree Blvd – Lower Level Meeting Room
Independence, Ohio 44131

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Reforming Tort Reform: What's Going On With Ohio's Affidavit Of Merit Rule?

By Ed Taber, Esq., Tucker Ellis LLP

Many states have instituted so-called "affidavit of merit" or "certificate of merit" provisions into their laws as a tort reform measure to screen out frivolous medical malpractice lawsuits. The theory behind such measures is to prevent medical malpractice lawsuits from being filed, unless and until a qualified physician has actually reviewed the case and deemed the claim to have some threshold level of merit.

In Ohio, the current affidavit of merit requirement has roots dating back to 2004, when the Ohio General Assembly formally asked the Ohio Supreme Court to amend the Ohio Rules of Civil Procedure to include such a provision. See House Bill 215, 125th Ohio General Assembly, effective September 13, 2004. This was not the first time an affidavit of merit provision had been considered in Ohio. And, technically, the legislature's request in House Bill 215 had no binding authority on the Ohio Supreme Court.

Ultimately, through a separate Ohio Supreme Court rulemaking process, the affidavit of merit requirement did become a part of the Ohio Rules of Civil Procedure, effective July 1, 2005, as Civil Rule 10(D)(2) ("the Rule"). The Rule was then amended effective July 1, 2007 to further clarify the criteria trial courts should use to evaluate whether an extension of time to produce an affidavit of merit is warranted.

The first part of the current Rule generally provides that the first document filed to initiate a medical malpractice lawsuit, i.e., the "Complaint," must be accompanied by an affidavit from a qualified expert describing:

- a) that the expert has reviewed all pertinent medical records reasonably available;
- b) the expert's familiarity with the applicable standard of care;
- c) the alleged breach of the standard of care; and
- d) that the breach caused injury to the patient.

The second part of this Rule allows a plaintiff to file a motion to extend the time to produce the affidavit of merit, usually limited to 90 days, "for good cause shown." In this scenario, the malpractice case is filed without an affidavit of merit, and the affidavit is then produced (theoretically) during the early stages of the case. The Rule provides five criteria for trial courts to consider when evaluating whether "good cause" for an extension exists, such as whether the information necessary to draft the affidavit is "in the possession or control of a defendant or third party."

The third part of the Rule provides that if an existing affidavit of merit is deemed defective by the Court as to a particular defendant, the Court "shall" give plaintiff an additional 60 days to correct the deficiency.

After the Rule became effective on July 1, 2005, Ohio trial and appellate courts interpreted the Rule in differing and inconsistent ways. These varying interpretations ultimately led to the Ohio Supreme Court's 2008 decision clarifying the appropriate application of the Rule, in *Fletcher v. University Hosps. of Cleveland*, 120 Ohio St.3d 167, 2008-Ohio-5379.

Despite the 2007 amendment to the Rule, and the *Fletcher* decision in 2008, the turmoil over enforcement of the Rule has continued. In particular, the issue of extensions granted under the second part of the Rule has continued to be a contentious issue in Ohio trial and appellate courts. Litigants have frequently disputed whether a particular extension is warranted in cases where medical malpractice lawsuits are filed without any affidavit of merit, or perhaps with a potentially defective affidavit of merit. This ongoing debate has now led to two related, pending initiatives to further "reform the tort reform."

The first initiative is pending with the Ohio Supreme Court and its Rules Commission ("Commission"). At the suggestion of the Commission, the Ohio Supreme Court proposed formal changes to the Rule in 2012, and requested input from stakeholders by October of 2012. AMCNO was one of several stakeholders who expressed support for the proposed changes, to encourage more rigorous and consistent enforcement of the Rule, and to ensure that expert affidants were truly qualified to render the opinions being expressed in the affidants. These amendments initially were planned to take effect on July 1, 2013. (Ohio Supreme Court changes to the Civil Rules only take effect once per year, on July 1.)

However, the Ohio Supreme Court determined that further input was required,

after a two-part proposal for reforming the Rule and simultaneously amending a related statute through legislative action emerged from a task force of Ohio State Bar Association. The current proposed changes to the Rule (the same amendments that were considered for July 1, 2013 adoption) could take effect, at the soonest, on July 1, 2014. It is expected that further discussion and public comment will occur on these proposed changes over the next 14 months, through the Ohio Supreme Court's established rulemaking process.

The second initiative is not a formal amendment to the Rule at all, but a related initiative in a separate forum – a bill pending in the Ohio General Assembly, House Bill 103, introduced March 13, 2013 ("HB 103"). Tying together an amendment to the Rule with HB 103 was the proposal from the Ohio State Bar Association task force. In theory, HB 103 seeks to supplement the Rule through a separate "filtering" mechanism, to reduce the number of peripheral medical providers who are often named as defendants in medical malpractice lawsuits, then subsequently dismissed.

The idea behind HB 103 was not specifically to reduce the number of medical malpractice lawsuits overall, but rather to reduce the number of defendants named in those same suits. HB 103 is currently pending before the Judiciary Committee of the Ohio House of Representatives.

Although the original impetus behind HB 103 seemed appropriate, the most recent text of the Bill was wrought with compromises that could undermine its intended purpose. For example, various groups proposed amendments that would substantially extend the time to file malpractice suits (a.k.a. the "statute of limitations") as a *quid pro quo* for the "filtering" provisions in the Bill. As always with legislative amendments, the devil is in the details, and it is yet to be seen whether HB 103 will emerge as an effective tort reform tool or not.

For the time being, the Rule remains somewhat useful for its original purpose, but limited by inconsistent enforcement by trial courts, and the intertwined problem of large numbers of peripheral medical providers being named in individual malpractice lawsuits. Therefore, the debate to improve the Rule will continue in 2014. ■

AMCNO EDUCATIONAL OFFERINGS

AMCNO Continues to Offer Information Through our Partnership with the Agency for Healthcare Research and Quality (AHRQ)

The Academy of Medicine of Cleveland & Northern Ohio and the Agency for Healthcare Research and Quality (AHRQ) are pleased to work together to share AHRQ's patient-centered outcomes research, also known as comparative effectiveness research, with you and your patients. AHRQ is a Federal agency of the U.S. Department of Health and Human Services charged with improving the quality, safety, efficiency, and effectiveness of health care for all Americans. The Academy of Medicine of Cleveland & Northern Ohio is an ideal partner to help disseminate this research, which is designed to inform health care decisions by providing unbiased comparisons of drugs, medical devices, tests, surgeries, or delivery methods for various health conditions.

AHRQ conducts and translates patient-centered outcomes research into a number of valuable patient and professional materials. These evidence-based tools include plain language consumer and clinician research summaries, continuing medical education/continuing education (CME/CE) activities, faculty slide sets, web conferences, audio podcasts, and more. All of these tools are designed to encourage and support shared decision making between clinicians and patients, with a goal of better care and increased patient satisfaction.

As the Academy of Medicine of Cleveland & Northern Ohio focuses on medical care grounded in evidence-based research, this partnership with AHRQ ensures timely access to these valuable free resources and connects all of us with national efforts to improve health care outcomes. As part of the partnership, AHRQ links to the consumer and clinician research summaries and CE modules are available on our website, along with a link to the AHRQ website, www.effectivehealthcare.ahrq.gov, where you can learn more about AHRQ's Effective Health Care Program.

The AMCNO through our partnership with AHRQ is pleased to offer new information to our members. **Explore, compare, prepare** — is a new consumer information initiative and the purpose of the initiative is to encourage people living with health conditions and their caregivers to explore treatment options for their conditions, compare the benefits and risks of each, and prepare to discuss them with their health care providers. The initiative also provides outreach materials for the health care professional community to encourage the use of EHC Program clinician tools and resources as well as patient education materials.

As a partner in the AHRQ's EHC Program, the AMCNO connects patients and caregivers to

information they can use to improve their health and health care experiences. All the resource materials described are free. The new items

available to our members through the AHRQ EHC program are now available on our website at www.amcno.org/educationandevents.

Consumer:

www.ahrq.gov/patients-consumers/treatmentoptions/

Clinician:

www.ahrq.gov/professionals/bottomline/ ■

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The recent introduction of the Affordable Care Act and changes to billing and coding practices has substantially impacted physicians, providers, health care workers and the public alike. The 2013 Statewide Immunization Conference focuses on effective strategies to improve the systems for immunizing adults, teens and children.

Topics Include: Immunization Update, Billing and Coding, Impact of Health Care Reform on Vaccine Payment and Delivery, New Recommendations in Storage and Handling, Vaccination of Pregnant Women and more.

We invite you and your colleagues to join us in discussion and learning so that we can collectively make a difference to our community.

Who should attend? Physicians, nurses, nurse practitioners, office staff and public health professionals.

Date: October 18, 2013

Venue: 100th Bomb Group Restaurant, 20920 Brookpark Road, Cleveland, Ohio 44135

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Cost: \$75.00 (non physician) \$85.00 (physician)

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Expanding the scope of its mission to encompass all of Ohio, the Consortium for Healthy & Immunized Communities Inc. established immunizeohio.org as the masthead for promoting statewide immunization education.

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Note: This event is supported by the Academy of Medicine of Cleveland & Northern Ohio (AMCNO) and our Foundation — the Academy of Medicine Education Foundation (AMEF).

TriC Classes for AMCNO Members and Staff – 2013 Cuyahoga Community College Center for Health Industry Solutions

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Date	Time	Title/Location
9/21/13	9 am – 3 pm	ICD-9-CM Fundamentals and More – Saturday (UTC)
9/23/13	6 – 9 pm	Fundamentals of Billing Reimbursement – Mon & Wed (UTC)
9/28/13	9 am – 3 pm	Overview of ICD-10-CM and ICD-10-PCS – Saturday (UTC)
10/7/13	6 – 8 pm	Hospital/Facility Billing Reimbursement – Mon & Wed (UTC)
10/19/13	9 am – 3 pm	CPT Coding Fundamentals and More – Saturday (UTC)
11/1/13	9 am – 12 pm	Medical Front Office Fundamentals – Mon, Wed & Fri (UTC)
11/2/13	9 am – 3 pm	Overview of ICD-10-CM and ICD-10-PCS – Saturday (UTC)
11/6/13	6 – 9 pm	Patient Access Specialist Fundamentals – Mon & Wed (UTC)
11/7/13	6 – 9 pm	Medical Front Office Fundamentals – Thursday (UTC)
11/7/13	8:30 pm	Hospital/Facility Billing Reimbursement – Thursday (UTC)

Course Locations:

Corporate College East 4400 Richmond Rd, Warrensville Hts, OH 44128

Corporate College West 25425 Center Ridge, Westlake, OH 44145

Unified Technologies Center Rd 2415 Woodland Ave, Cleveland, OH 44115

Ohio Department of Health to Focus on Key Health Care Issues

The Academy of Medicine of Cleveland & Northern Ohio (AMCNO) was on hand at the Ohio Department of Health (ODH) Town Hall meeting held at Cuyahoga Community College in Cleveland when Dr. Ted Wymyslo, Director of Health at ODH, discussed the integration of public health and clinical medicine, and the improvement of health outcomes for Ohioans. Now that the Ohio budget process has been completed, Dr. Wymyslo noted that he is traveling around the state to conduct these presentations in order to provide information to groups on what the ODH plans to focus on going forward.

Dr. Wymyslo noted that the ODH developed the Statewide Health Improvement Plan (SHIP) with input from various stakeholders (including the AMCNO), and ODH has taken that information and developed priorities and some cross-cutting strategies for the future. The four strategies they plan to focus on are expanding the patient centered medical home (PCMH), curbing tobacco use, reducing obesity, and decreasing infant mortality. ODH plans to achieve this by strengthening relationships with external stakeholders, and by enriching the work climate at ODH. He noted that everyone is doing more with less these days, but ODH is committed to getting to a point where there is optimal health for all Ohioans.

He commented that Ohio ranks 38th in the United States for infant mortality, and Ohio has increased our infant mortality rates by 3% since 2000, whereas infant mortality has decreased overall in the United States by 11% during the same time period, and this is a critical issue that must be addressed. The new Ohio budget supports reducing low birth rate deliveries, reducing sleep related deaths, and preventing birth defects. The ODH is planning targeted education for parents about sleep related deaths, providing newborn screenings for critical congenital heart disease, and working with organizations and other institutions to reduce inequities in birth outcomes.

Obesity prevention is another key focus for ODH going forward. Currently 33% of Ohio adults are overweight and 30% are considered obese. There is also a large percent of children in Ohio who are obese or overweight. Since obesity ties to many chronic diseases, it is an important medical

issue to address as soon as possible. If Ohio does not act now on obesity, it will double by 2030, and more people will have diabetes, cancer, and cardiovascular diseases as a result. He noted that, if we can decrease BMI by just 5% by 2030, we can prevent some of these issues and save money. Some of the things ODH is doing to address this issue is to build strong, healthy communities, focus on prevention — particularly in children, and work on chronic disease management, tobacco reduction, and linking patients to a primary care physician.



Dr. Ted Wymyslo outlines the Ohio Department of Health initiatives at a Town Hall meeting held at Tri-C.

Dr. Wymyslo informed the audience that Ohio ranks 7th highest in the United States for adult smoking rates, and we are the 5th highest for youth smoking. There are also alarming statistics about tobacco related cancers and chronic diseases, and reduction in workplace productivity. If there is a way to address these issues it is to get to the single agent causing many of these

problems — tobacco. ODH priorities in this area include helping people quit, protecting people from secondhand smoke, and to keep funding the Quit Line while increasing awareness of cessation services. ODH will also be providing resources to health care providers. ODH also plans to focus on programs geared toward youth — in an effort to increase tobacco free schools, revive Stand groups — which are led by students, and develop activities to reach at risk youth.

In an effort to address total health and tie together clinical medicine and public health, it will be important to ensure every Ohioan has an established relationship with a personal health care provider in a system focused on making health decisions that promote wellness and achieve high value. Dr. Wymyslo discussed the elements needed for a patient centered medical home, noting that this model provides high quality care that is safe with enhanced access and whole person orientation. He also stated that electronic medical records are a key component of the PCMH with the ability to exchange data and conduct follow-up care. This also leads to a reduction in duplication of services and medical errors while allowing for quality monitoring in a registry and the use of patient portals.

Dr. Wymyslo fielded several questions from the audience including a query about the statutory regulations for electronic cigarettes. Dr. Wymyslo noted that there is not a lot of research out there yet about the long-term impact from the use of E-cigarettes, and this is not covered under Ohio's Smokefree Workplace Act at this time. This issue is being reviewed on the national level, and states will be looking at whether or not they should be covered under the Act in the future. ■

Editor's note: *The AMCNO worked with ODH on the Statewide Health Improvement Plan and we plan to continue to work with ODH on these initiatives in the future.*

AMCNO Past President, Dr. James Taylor Presents at Senior Citizen Resources of Cleveland Center

Dr. James Taylor, past president of the AMCNO and a dermatologist from Cleveland Clinic's Dermatology/Plastic Surgery Institute, recently provided an enlightening presentation to a group of senior citizens about the diagnosis, treatment and prevention of skin cancer.

Dr. Taylor illustrated and described sobering skin cancer facts, including those that indicate more than half of all new cancers are skin cancers noting that more than 3.5 million new cases will be diagnosed in the U.S. this year. He noted that one in five persons will develop skin cancer. 80% will be basal cell carcinoma, 15% squamous cell carcinoma, and 5% melanoma. However, the good news is that both basal and squamous cell carcinomas have over a 95% cure rate if detected and treated early.

He informed the audience that skin cancer encompasses a variety of cancers, including melanoma and nonmelanoma varieties. Eighty percent of nonmelanoma cancers are basal cell carcinomas, and risk factors are associated with a person's coloring, cumulative sun exposure, profession, and previous skin damage and/or inflammatory conditions. Increased risk is associated with exposure to radiation and certain chemicals.

He provided the group with an overview of the different types of skin cancer noting that squamous cell carcinoma is the second most common skin cancer, and comprises 20% of cutaneous malignancies. There are around 700,000 cases a year in the U.S. and 95% show up on the head or neck. He noted nonmelanoma skin cancer treatments are determined by age, number, size and location of cancers, and whether they are primary or recurrent. Malignant melanoma is the seventh most common and fastest-increasing cancer in the U.S., comprising 5% of all skin cancers and 75% of skin cancer deaths.

He noted that affected body sites differ in males, females, Caucasians, African American and Asian patients. Individuals who've experienced blistering sunburns in adolescence double their risk of developing this cancer later in life. He provided the group with the "ABCDE"'s of Melanoma:

Asymmetry, **B**orders that are irregular, **C**olor



Dr. James Taylor participates in the AMCNO Speakers Bureau and provides information to a group of seniors on the topic of skin cancer.

variation with a mole, **D**iameter greater than 6mm, and **E**levation. In closing he offered references and where to obtain more information about this issue. ■

Editor's note: The AMCNO offers a Speakers' Bureau to the community. Physician members who are interested in presenting to a group in the future may contact the AMCNO offices at (216) 520-1000, and ask for the communications department.

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AMCNO MEMBERSHIP RECRUITMENT

The Academy of Medicine of Cleveland & Northern Ohio (AMCNO) and the Academy of Medicine Education Foundation (AMEF) Meet and Greet First-Year Medical Students

The Academy of Medicine of Cleveland & Northern Ohio (AMCNO) and the Academy of Medicine Education Foundation (AMEF) were pleased to co-host the Case Western Reserve University Society Dean Mixer for first-year medical students.



Medical students in attendance at the event listen to comments from the AMCNO president.



Dr. George Topalsky, AMCNO President delivers some brief remarks about the AMCNO at the medical student event.

The event was held at the Cleveland Botanical Garden and attending the event representing the AMCNO and AMEF were Drs. Topalsky, Seitz, Kent, Isenberg, Coviello and Sechler. The AMCNO physician leadership mingled with the students and the society deans, and provided information and answered questions about the activities of the AMCNO and AMEF. The AMCNO president, Dr. George Topalsky, provided brief comments to the group, and encouraged the first-year medical students to become involved in the AMCNO. He explained that the AMCNO is a group of dedicated physicians who are working to improve quality of care, while providing education and community outreach in our community. He also mentioned the advocacy activities of the AMCNO, and noted that students should consider getting involved because

the association and affiliation with doctors in practice can clearly help them to focus on what their career has to offer and how to move toward their goals.

During the event, the students asked AMCNO physician representatives about the activities of the AMCNO and AMEF; and were pleased to learn that they could participate as medical students. Many expressed interest in the Affordable Care Act (ACA) and the impact it will have on the region, from both a patient's as well as physician perspective. Several had questions about their career and specialty choices, while others expressed an interest in volunteering and outreach activities. AMCNO staff was on hand to provide membership information and we are pleased to welcome over 100 new medical student members. ■

AMCNO Resident Recruitment a Success

It has been a busy summer both for new graduates beginning their residencies and The Academy of Medicine of Cleveland & Northern Ohio (AMCNO) in one facet of its membership efforts by welcoming new residents into Northeast Ohio's professional medical society. In all, more than 350 new physicians joined the AMCNO as resident members this summer from the following institutions: Cleveland Clinic Foundation, Fairview Hospital, MetroHealth Medical Center, University Hospitals, St. John Hospital and St. Vincent Charity Medical Center. AMCNO membership entitles these new physicians to many benefits including receiving updates on all manner of health care related news as well as legislative and regulatory updates under review by the Ohio General Assembly and the United States Congress, legislative representation at the Statehouse by the AMCNO lobbyist, seminars, publications and opportunities to serve on AMCNO committees and more.

Welcome to all new resident members!

Do you know of a resident interested in free AMCNO membership? Direct them to apply online at www.amcno.org and click on BECOME A MEMBER.



Residents sign up for AMCNO membership at the Cleveland Clinic resident orientation.

OIG advisory opinion Laboratory services and federal kickback statute

By Jane Pine Wood, Esq., McDonald Hopkins, LLC

In a recent opinion (Opinion 13-03) from the Office of Inspector General (OIG) of the Department of Health and Human Services, the OIG expressed concerns regarding a laboratory services arrangement and the federal Medicare and Medicaid kickback statute.

A laboratory requested the advisory opinion from the OIG about a prospective plan. Under the proposed arrangement, the laboratory's owners would form a management company. The management company would be in the business of assisting physician groups in setting up their own laboratories. The management company would lease (or arrange for the leasing of) laboratory suites to each physician group, as well as laboratory personnel and equipment necessary to operate the laboratory. The management company would also enter into a management agreement with each physician group to manage the laboratory on behalf of the group.

Importantly, the laboratories owned by the physician groups would not perform any testing covered by government payors, such as the Medicare and Medicaid programs. Rather, the physician-owners of the laboratories would refer their government laboratory work to other laboratories. The laboratory requesting the opinion explained that it might receive referrals from the physician groups, but the physician groups would not be required to refer any laboratory testing to the laboratory.

In its request for the advisory opinion, the laboratory represented that the lease agreement and management agreement with each practice would comply with an applicable safe harbor under the Medicare and Medicaid anti-kickback law. Each lease agreement and management agreement would recite fixed, fair market value compensation to be paid to the management company for the leased items, personnel and services.

In its opinion, the OIG explained that it is a crime under the federal kickback statute to knowingly

and willfully offer, pay, solicit, or receive anything of value for referring services that are reimbursed by a federal health program. This statute carries with it up to a \$25,000 fine and up to five years in prison. Furthermore, violation of the statute carries additional civil monetary penalties. The OIG stated that although the laboratory services provided in each physician group's own laboratory did not present a kickback issue because no government testing would be involved, the potential for physicians to order government services through the management company's affiliated laboratory was of concern. The OIG reasoned that a physician may feel obligated to use the management company's affiliated laboratory for its government testing referrals. Although the requestor of the opinion represented that all lease agreements and management agreements would reflect fair market value pricing, the OIG remained concerned that in order to enter into a desirable business arrangement with the management company, a physician group might be more willing to refer its government testing to the affiliated laboratory.

It is important to note the OIG highlighted its concerns about any arrangements that appear to avoid anti-kickback laws by excluding services that are covered by federally-funded programs. The OIG explained that an arrangement does not escape scrutiny under the anti-kickback law simply because it excludes the government work.

For more information, please contact:

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U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) ANNOUNCES NAVIGATOR GRANTS

HHS has awarded over \$3 million to five Ohio organizations to assist people in purchasing health care on the health insurance marketplace. One of the grants was awarded to the Ohio Association of Foodbanks and its consortium of social service agencies. This association will receive \$1.9 million in federal funds to provide in-person assistance to consumers in Ohio. Under the guidance of the Ohio Association of Foodbanks, the consortium will work together to raise awareness about the new Health Insurance Marketplace by coordinating grassroots outreach, traditional media and health care enrollment services. Starting October 1st, Navigator programs made possible by this grant will begin enrolling uninsured Ohioans into the health care coverage option that works best for them. The consortium of agencies included in the Ohio Association of Foodbanks grant are: Access Mahoning Valley, Asian Services in Action, Inc., Carmella Rose Health Foundation, **Cuyahoga Health Access Partnership**, Community Action Committee of Pike County, Disability Rights Ohio, Health Care Access Now, Heart of Ohio Family Health Center, Hospital Council of Northwest Ohio, Ohio Association of Free Clinics, Ohio Department of Health, United Way of Greater Cleveland 2-1-1, The Community Action Program Corporation of Washington-Morgan Counties, and the Western Reserve Area Agency on Aging.

***Editor's note:** The Cuyahoga Health Access Partnership (CHAP) is a collaboration of hospitals, Federally Qualified Health Clinics, Free Clinics, local government, payers and professional associations dedicated to providing a system of health access for the uninsured population in Cuyahoga County. The Academy of Medicine of Cleveland & Northern Ohio (AMCNO) is a partner in CHAP and we are pleased to learn that CHAP will be part of this important project.*



Aaron E. Haslam, J.D.,
Executive Director

Aaron E. Haslam, J.D., the new Executive Director State Medical Board of Ohio

Aaron E. Haslam has been named Executive Director of the State Medical Board of Ohio. He began this position on July 1, 2013. As Director, Mr. Haslam oversees the day-to-day operations of the agency responsible for the licensing and regulation of over 66,000 licensees including physicians, physician assistants, anesthesiologist assistants, acupuncturists, oriental medicine practitioners, radiologist assistants, massage therapists, and cosmetic therapists. The Medical Board has 77 staff members and an annual \$9M budget.

Mr. Haslam previously worked with Attorney General Mike DeWine as a Senior Assistant Attorney General and Chief of the Attorney General's Prescription Drug Abuse Initiative since February 2011. He also served as Coordinator for Special Prosecutions — Prescription Drug Unit. Mr. Haslam is formerly the Adams County Prosecuting Attorney.

Mr. Haslam received a Bachelor of Science degree in Psychology from Wright State University. He received his law degree from Cleveland-Marshall College of Law, Cleveland State University. He is admitted to practice law in Ohio and the United States District Courts of Ohio. ■

2013 AMEF GOLF OUTING

Amidst a sunny and serene backdrop at the Canterbury Country Club, golfers teed off at the Academy of Medicine Foundation's (AMEF's) tenth annual *Marissa Rose Biddlestone Memorial Golf Outing*.

On August 5th, twenty eager foursomes tested their expertise in a shotgun tournament that raised a total of \$30,000 for AMEF (established for charitable, education and scientific purposes). These monies will be utilized for medical student scholarships, annual CME seminars and the *Healthlines* program.

The day went smoothly as golfers dropped off their bags, registered, practiced their shots and enjoyed a leisurely lunch. The shotgun start went off at precisely 1 PM, and the game was on! Results were as follows:

1st Place Team: Kent Krafft, Dennis Forchione, Jeff Stanley & Jason Forchione

2nd Place Team: Paul Biddlestone, Greg Balogh, Kevin Lynch, & Steve Lacey

3rd Place Team: Tim Cahill, Pete Titas, Dave Dearth & Dave Quiring

Skill prizes were also awarded:

Closest to the hole: Dick Rye, Kevin Geraci, Hoyt Murray, & Jason Forchione

Longest drive: Jim Brown on #9 and Jim Brown on #18

Longest putt holed: Don Miksch



Cocktails were enjoyed as everyone relaxed after some challenging holes. Then came dinner, awards, a great speech by Dr. George Topalskiy and a fun prize raffle.

A special **thank you** goes to Classic Auto Group: Gold Sponsor Jim Brown; Dr. Victor Bello, M.D., for sponsoring the Hole-in-One contest, and all the event, hole and hole-in-one sponsors who helped make the day successful.



Thank you to 2013 Event Sponsors:

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Thank you to All 2013 Hole-In-One Sponsors:

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- Dr. George Topalsky



Prepare now and SAVE THE DATE!

We'll see you next year on August 4, 2014 at Shaker Heights Country Club for the 2014 AMEF Golf Outing!

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