



Vascular Society of New Jersey  
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## Monthly Report

February 2010

From the President

Joseph P. Costabile, MD

Dear Colleagues,

The recent tragedy in Haiti certainly should make us all pause and realize the fragility of life and how everything can drastically change in a matter of moments at the whim of nature. As usual medical personnel were the first to jump right in and offer humanitarian care. It is what we do and why we became doctors and the caretakers of people's health.

It is also the reason why everyone takes advantage of the physician community. The government, insurance companies, the lawyers all know that no matter how arduous they make life for the medical profession, we will steel ourselves, complain, and then continue to take care of the patients. It is our strongest attribute and our Achilles heel. If Medicare goes through with the proposed twenty one percent cuts in payment to physicians in March, what will we do? Will we stop taking care of the elderly because the federal government cannot balance the books and rescind the SGR. My guess is no, because we became doctors to help and cure the infirmed. It is our gift and curse which may ultimately be the destruction of our profession. Keep fighting the good fight and keep contacting your Legislators.

Give what you can to the charities supporting the efforts in Haiti. Don't forget the spring meeting March 3rd. I hope you can all take some time to attend.

Joe Costabile...

## Register Now!

Vascular Society of New Jersey

### 32nd Annual Scientific Meeting

### March 3, 2010

Nanina's In The Park, Belleville

download form at  
[www.vascularsocietynj.org](http://www.vascularsocietynj.org)

**From the Statehouse**

**Beverly J. Lynch**

The 214<sup>th</sup> legislative session has recently convened (January 12) and we have sworn in a new Governor (January 19). We are awaiting appointments to key administrative offices. As we go to print, Tom Considine, formerly of MetLife, has been named Commissioner of the Department of Banking and Insurance, and Dr. Poonam Alaigh to serve as Commissioner of Health and Senior Services.

Dr. Alaigh is the Executive Director at Horizon Blue Cross Blue Shield of New Jersey where she is responsible for the major clinical areas that ensure the delivery of healthcare. Prior to joining Horizon BCBSNJ, Dr. Alaigh served as National Medical Director for GlaxoSmithKline and was working with health plans on a number of national issues, including better use of health care technology, the reduction of disparities in health care and healthcare access to the under and uninsured population. Dr. Alaigh continues her clinical work at the New Jersey Veterans Administration at Lyons, providing direct patient care and is an Assistant Professor in the Department of Family Practice at UMDNJ / Robert Wood Johnson University Medical School. Dr. Alaigh has had publications in the field of vascular disease and population health. She is a board certified internist with a specialty in vascular diseases and is certified as a Diplomate in Internal Medicine and licensed to practice in New York and New Jersey. She graduated from the University of Delhi, New Delhi, India and received her MD and her Masters in Health Care Policy and Management at State University of New York at Stony Brook, NY.

The "lame duck" session was frenetic and several bills that were important to the physician community were acted upon. As expected, we were playing "offense" and "defense" during this lame duck session. Of utmost importance to the physician community, the "**wrongful death**" legislation was not considered by either house. Thanks to the many physicians who answered our "call to action" and worked to support our opposition to this onerous measure.

**Medical Liability Rate Oversight** (A-4245) Put forward by the NJ Department of Banking and Insurance, this legislation would create more predictability in New Jersey's volatile medical malpractice liability insurance industry and ease pressures on high-risk health care. The bill, which was signed by the Governor on January 16, will require the Department of Banking and Insurance (DOBI) to annually designate a flexible "rate band" for medical malpractice liability insurance rate increases. Under the law, DOBI will specify a range of rate change - either an increase or decrease between five and fifteen percent - in regards to medical malpractice liability insurance rates. Any rate, supplementary rate information, or change or policy amendment filed by an insurer or rating organization which proposes a rate change exceeding the designated flexible rate band would be subject to DOBI approval.

**Electronic Prescription Transmittal** (A-4229) This new law (signed on January 17, 2010) authorizes the use by prescribers of electronic health record (EHR) programs to print New Jersey Prescription Blanks for transmission to a pharmacist. Specifically, the law provides that a practitioner or health care facility licensed in New Jersey may utilize an EHR program to imprint the practitioner's name and license number or the unique provider number assigned to a health care facility on a blank New

Jersey Prescription Blank for transmission to a pharmacist, provided that:

- the EHR program will imprint on the blank form all such identifying information about the prescriber as is required by regulation of the Director of the Division of Consumer Affairs (DCA) in the Department of Law and Public Safety; and
- the blank form is obtained from a vendor approved by DCA, bears an identifiable logo or symbol approved by DCA, and bears a preprinted serial number as specified by DCA.

The law takes effect on the 180th day after enactment, but authorizes the Director of DCA to take anticipatory administrative action in advance as necessary for its implementation.

### **Scope of Chiropractic Practice (A-2029)**

**Despite years of opposition and lobbying, the bill which would expand the scope of practice of chiropractic medicine under the law beyond adjusting the articulations of the spinal column to include an individual's extremities, was signed into law by Governor Corzine on January 18.** It passed in the Senate by a vote of 23-11 and in the Assembly 64-4-8. The new law states:

- A licensed chiropractor shall have the right in the examination of patients to use the neurocalometer, X-ray, and other necessary instruments solely for the purpose of diagnosis or analysis. No licensed chiropractor shall perform endoscopy, or prescribe, administer, or dispense drugs or medicines for any purpose whatsoever, or perform surgery as requires cutting by instruments or laser excepting adjustment of the articulations of the spinal column or extremities.
- Use methods of treatment including chiropractic practice methods, physical medicine modalities, rehabilitation, splinting or bracing consistent with the practice of chiropractic, nutrition and first aid and may order such diagnostic or analytical tests, including diagnostic imaging, bioanalytical laboratory tests, and may perform such other diagnostic and analytical diagnostic tests including reagent strip tests, X-ray, computer-aided neuromuscular testing, and nerve conduction studies, and may interpret evoked potentials.
- Sign or certify temporary or permanent impairments and other certifications consistent with a chiropractic practice such as pre-employment screenings.
- After just 45 hours of coursework on human nutrition, provide dietary or nutritional counseling, such as the direction, administration, dispensing and sale of nutritional supplements, including, but not limited to, all food concentrates, food extracts, vitamins, minerals, herbs, enzymes, amino acids, homeopathic remedies and other dietary supplements, including, but not limited to, tissue or cell salts, glandular extracts, nutraceuticals, botanicals and other nutritional supplements.
- Should a chiropractor, at any time during the examination has reasonable cause to believe symptoms or conditions are present that require diagnosis, analysis, treatment, or methods beyond the scope of chiropractic, refer an individual to a practitioner licensed to medicine.

### **Physical Therapy Legislation**

Another measure, which has been around for years, **was defeated** in the late hours of the last voting session. This bill was put forward by a small group of "independent physical therapists," over the objections of the American PT Association. The physician community had asked for several amendments to this measure, including deleting the term "physical therapy physician." The bill would, among other provisions, have changed the reimbursement rate for physical therapists to mirror the PIP fee schedule. It is unusual for a bill to be defeated - usually if the sponsor doesn't have the votes, the bill will be "pulled down" from the board.

For information on these or any legislative measures, please contact me at [BLYNCH@BLYNCHASSOCIATES.COM](mailto:BLYNCH@BLYNCHASSOCIATES.COM) or 609-392-7553.

## Legal Report

Mark E. Manigan, Esq.

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### **Bill Requiring Managed Care Plans to Pay Health Care Claims Based on Assignment of Benefits Passed Into Law**

On January 16, 2010, a bill which requires managed care plans to pay health care claims based on assignment of benefits was signed into law by Acting Governor Stephen M. Sweeney (the "Law"). The Law applies to insurance carriers that offer managed care plans with both in-network and out-of-network benefits. As originally introduced, the Law would require that, in instances where a covered insured assigns his or her rights to benefits to an out-of-network provider, the insurance carrier must remit payment for reimbursement directly to the out-of-network provider. However, prior to its passage by the Assembly, the Law was amended to provide that the payment must be in the form of a check payable to the provider or a check payable to the provider and the covered person as joint payees, with a signature line for each of the payees. This amendment undermines to some extent the impact of the Law.

The Law does provide however, that any payment made only to the covered insured, rather than the health care provider or both parties, will be considered unpaid, and unless the payment is remitted to the health care provider within the statutory time frames for payment of claims, the payment will be considered overdue and will be subject to the statutory charge of interest.

The requirements of the Law will become effective on the 365th day next following the enactment date, i.e., January 17, 2011, and will apply to any health benefit plan in which the carrier has reserved the right to change the premium and which is in effect on or after the effective date.

### **New Jersey Compassionate Use Medical Marijuana Act Passed Into Law**

On January 18, 2010, Governor Jon S. Corzine signed the Compassionate Use Medical Marijuana Act (the "Act") into law. Passage of the Act into law makes New Jersey the fourteenth state to allow the use of marijuana by individuals suffering from a "Debilitating Medical Condition." The Act will become effective on August 1, 2010, the first day of the sixth month following the enactment date.

The Act defines a "Debilitating Medical Condition" as:

- (1) one of the following conditions, if resistant to conventional medical therapy: seizure disorder, including epilepsy, intractable skeletal muscular spasticity, or glaucoma;
- (2) one of the following conditions, if severe or chronic pain, severe nausea or vomiting, cachexia, or wasting syndrome results from the condition or treatment thereof: positive status for human immunodeficiency virus, acquired immune deficiency syndrome, or cancer;
- (3) amyotrophic lateral sclerosis, multiple sclerosis, terminal cancer, muscular dystrophy, or

**inflammatory bowel disease, including Crohn's disease;**

- (4) terminal illness, if the physician has determined a prognosis of less than twelve months of life; or**
- (5) any other medical condition or its treatment that is approved by the Department of Health and Senior Services ("DHSS") by regulation.**

**The Act authorizes the establishment of "alternative treatment centers" which would be authorized to perform necessary activities to provide qualifying patients with marijuana and related paraphernalia ("Centers"). DHSS will accept applications to operate the Centers and will be required to ensure that there are at least two each in the northern, central and southern regions of the State. The first two Centers in each region must be nonprofit entities. Subsequent Centers may be nonprofit or for-profit entities.**

**The Centers will be authorized to dispense up to two ounces of marijuana to a "qualified" patient or caregiver in a thirty-day period. If the physician's written instructions do not state an amount, the Center may dispense two ounces at one time. A physician may issue multiple written instructions authorizing the patient to receive up to a ninety-day supply in total.**

**Patients who suffer from a Debilitating Medical Condition must also obtain a "registry identification card" from DHSS which will identify the patient as someone who is permitted to use marijuana for medical purposes.**

#### **Christie Transition Reports Released**

**The Department of Health and Senior Services and Department of Banking and Insurance transition committees recently issued reports, which provide an overview of each existing department and its programs, and recommend certain positions and policies for the incoming administration. Brach Eichler will be distributing a more in-depth analysis of these reports in the near future.**

**If you would like additional information on these reports, please contact Mark Manigan, Esq. at 973-228-5700.**

#### **Bill Requiring Uniform Billing and Quality Data Reporting by ASCs Passed Into Law**

**On January 18, 2010, a bill which will require uniform billing and quality data reporting by ambulatory care facilities licensed to provide surgical services ("ASCs"), was signed into law (the "Law") by Governor Jon S. Corzine.**

**The Law will establish the following uniform billing form requirements and reporting requirements for State licensed ASCs:**

- ASCs must use a common billing form designated by the Commissioner of the New Jersey Department of Health and Senior Services ("DHSS").**
- ASCs must report: (1) process quality indicators of infection control as selected by the Commissioner of DHSS in consultation with the Quality Improvement Advisory Committee ("QIAC") of DHSS; and (2) thirty days after the adoption of regulations by DHSS, data on infection rates, and the number of patients served by payment source as selected by the Commissioner and QIAC. The information reported must not include identifying information about patients.**

**Under the Law, the Commissioner will be required to:**

- Make public the physician identification numbers reported pursuant to this Law to the extent that doing so complies with the federal Health Insurance Portability and Accountability Act of 1996 ("HIPAA").**

- Promptly advise an ASC if the Commissioner determines that a change in practices or policies is necessary to improve performance in the prevention of infection at the facility and to increase quality of care provided at the facility.
- Make available to the public on the DHSS website, information reported in a format to enable comparison among ASCs.
- In consultation with the QIAC, by regulation, (1) establish standard methods for identifying and reporting facility-associated infections; (2) identify major site categories for which infections shall be reported; and (3) specify the methodology for presenting the data to the public, including procedures to adjust for differences in case mix and severity of infections among the facilities.

Before its passage into law, amendments to the bill deleted the language in former sections two and three of the bill concerning the reporting of financial and patient data by ASCs. In addition, the requirements of the Law will now go into effect on the first day of the next month following the date of enactment, (rather than six or eighteen months in the prior versions of the bill).

## Attention: Vascular Surgeons Call for Scientific Abstracts

*The 32nd Annual Scientific Meeting of the Vascular Society of New Jersey will be held on  
Wednesday, March 3, 2010  
at Nanina's In The Park, Belleville, NJ.*

*Winning presentation will receive*

**3<sup>rd</sup> Annual Robert W. Hobson, II, MD Award**

*Engraved plaque and \$500*

### **WE HAVE ROOM FOR TWO MORE- PLEASE SEND ASAP**

There will be two types of presentations again this year:

- (1) **Paper Session:** All types of submissions - clinical, research or basic science -- are encouraged. Participation by residents and fellows with member sponsorship are encouraged.

(Note - Papers remain eligible for submission to the Eastern Vascular Society or other major scientific meetings.)

- (2) **Case Presentation:** Members are requested to submit interesting and educational cases for audience participation and discussion. Case material with pertinent laboratory and radiological data should be submitted by the above deadline.

**Submissions should be sent by email to the society offices at: [Imyers@blynchassociates.com](mailto:Imyers@blynchassociates.com)**

Presenters will be responsible to provide the society with their presentation in advance of the meeting, to minimize audiovisual delays.

Registration materials will be forwarded in February outlining the entire program. For more information or if you have questions, please contact VSNJ at (609) 392-7553.

*Mark your calendar for March 3  
and  
Submit your Paper/Case Presentation Today!*

*Todd R. Vogel, MD  
Program Chairman*