



## Vascular Society of New Jersey

# Monthly Report- February 2011

From the President

Theresa Impeduglia, MD

Dear Colleagues,

One purpose of this society is to provide education for disease treatment and prevention. An approach being investigated is how the VSNJ may host screening programs throughout each region in the state. Industry support is currently being requested to aid in the funding of these activities. VSNJ members will be in the referral listing and have the opportunity to participate.

This opportunity is in its nascent stage of development and may be a promising avenue for members to be involved in stroke and aneurysm screening. It is also an opportunity for industry to apply their resources to overcome the financial dilemma of screening studies which are usually denied by insurance. So far this has been received favorably by industry.

By the March meeting I will have more information regarding the logistics, including possible agencies for orchestrating and advertising the screenings, host sites, costs involved and personnel recruitment. The decision to pursue these VSNJ-hosted screening events will be decided upon by you-- the members. In addition to representation in the political and professional realms, I hope to this offers another way that the Society can better serve its members.

An excellent program had been planned for our Spring meeting and I look forward to seeing another great attendance.

### **REGISTER NOW**

*33rd Annual Scientific Meeting of the Vascular Society of New Jersey*

*Wednesday, March 9, 2011*

*at Nanina's In The Park, Belleville, NJ*

### **Presentations Include:**

**Carotid Disease**

Brajesh K. Lal, MD

**Duplex Guided Office Procedures: Feasibility and Economic Impact**

Anil Hingorani, MD

**Juxtarenal Aneurysms : The Evidence and Myths**

Jose L. Trani, MD

**SFA Interventions: Are the Costs Worth the Mediocre Results?**

Darren B. Schneider, MD

**Medicaid ACO Demonstration Project on the Horizon**

On January 20, 2011, the Senate Health and Human Services Committee approved legislation for a 3-year demonstration project for a Medicaid Accountable Care Organization (ACO). The legislation has been referred to the Senate Budget and Appropriations Committee for review.

If the bill is enacted into law, not-for-profit organizations could seek State approval to participate as a Medicaid ACO in the pilot project if they have the support of local area hospitals, 75% of its primary care, and at least 4 behavioral health care providers. The organization must serve a geographic area that encompasses at least 5,000 Medicaid recipients. The bill would also permit Medicaid managed care organizations to participate in the demonstration project as well.

Providers and suppliers who are members of the ACO would continue to receive reimbursement under current Medicaid payment methodologies. However, they could receive from the ACO gainsharing or cost savings payments under a gainsharing plan. Any such gainsharing plan must be tied to improving healthcare outcomes and quality of care, expanding access to primary and behavioral health services, and creating financial efficiencies in order to be approved by the State.

The demonstration project would provide insight into whether vertically integrated healthcare models such as ACOs will create better quality of care and financial efficiencies. Providers and suppliers need to become familiar with ACOs and other delivery models that will become prevalent in the new healthcare reform environment.

**CMS Expands Healthcare Provider Directory by Launching Physician Compare Website**

The Centers for Medicare and Medicaid Services (CMS) recently launched the first phase of its Physician Compare website ([www.medicare.gov/find-a-doctor](http://www.medicare.gov/find-a-doctor)), an enhanced directory tool which expands and updates the CMS Healthcare Provider Directory. The new website, mandated by the Patient Protection and Affordable Care Act of 2010, provides Medicare beneficiaries and other consumers with information about health care providers enrolled in the Medicare program.

The site contains information about a wide range of health care providers, including physicians, osteopaths, optometrists, podiatrists, chiropractors, nurse practitioners, clinical psychologists, registered dietitians, physical therapists, physician assistants, and occupational therapists.

Provider-specific information available on the site is still limited, however, to contact information, the professional's medical specialty, where the professional completed his or her degree, residency and/or other clinical training, whether the professional speaks a foreign language, the professional's gender, and whether the professional's practice reported certain data to CMS through the voluntary Physician Quality Reporting System (PQRS), used by CMS to reward health care providers for reporting data on quality measures related to services furnished to Medicare beneficiaries.

The second phase of the site is planned for later in the year and will indicate whether professionals chose to participate in a voluntary effort with CMS to encourage doctors to prescribe medicines electronically, rather than through traditional paper-based prescription methods. In future years, CMS plans to expand the site to also provide information about the quality of care Medicare beneficiaries receive from health care providers.

## **Proposed Rules re: Safe Patient Handling Act & Violence Prevention in Health Care Facilities Act**

On January 3, 2011, the New Jersey Department of Health and Senior Services (DHSS) issued proposed rules pertaining to the "Safe Patient Handling Act" and the "Violence Prevention in Health Care Facilities Act", two laws that were passed in January 2008. DHSS is accepting comments on the proposed rules until March 4, 2011.

The Safe Patient Act applies to hospitals and nursing homes licensed in New Jersey and requires those facilities to develop policies and procedures to encourage the use of assistive patient handling technology for nurses, orderlies, and other health care workers to use when handling, moving and assisting patients in order to decrease the number of job-related musculoskeletal injuries suffered by those health care workers. The proposed rules relating to the Safe Patient Act include the requirements that the facilities establish a safe patient handling program, establish a safe patient handling committees responsible for all aspects of each facility's safe patient handling program, establish safe patient handling policies, conduct needs assessment for each department in a facility to identify safe patient handling equipment, and formulate an implementation plan.

The Violence Prevention Act also applies to hospitals and nursing homes licensed in New Jersey and requires those facilities to develop policies to reduce the incidence of violence against health care workers. The proposed rules relating to the Violence Prevention Act include the requirements that the facility establish a violence prevention program for the purpose of protecting health care workers which must include the establishment of a violence prevention committee, development of a violence prevention plan, conducting violence risk assessments for the facility, and the implementation of methods to reduce identified risks, such as ensuring proper lighting indoors and in parking lots, and the installation of such items as alarm systems, closed circuit TVs and panic alarms, as deemed necessary, and conducting violence prevention training for all of the facility's health care workers.

## **Penalties Raised for Assault on Healthcare Professionals**

On Tuesday, January 4, 2011 New Jersey Governor Chris Christie signed into law legislation (A-2309/S-911) that upgrades the offense of assaulting a nurse, or other healthcare professional, to aggravated assault. Pursuant to the previous law, assaults against individuals in certain "high risk" professions such as law enforcement and teaching constituted aggravated assault. Physical violence against a nurse, or other healthcare professional, only amounted to a simple assault.

Now the offense for any individual who assaults a nurse, or other healthcare professional, while said professional is clearly identifiable, and engaged in the duties of providing direct patient care has been upgraded from a simple assault to aggravated assault. Such an assault is fourth degree crime, but in the event a nurse or healthcare professional suffers bodily injury as a result of the assault, same will be classified as a third degree crime.

A third degree crime is punishable by a term of imprisonment of three to five years, a fine up to \$15,000, or both. A fourth degree crime is punishable by a term of imprisonment for not more than 18 months, a fine up to \$10,000, or both. Simple assault is classified as a disorderly persons offense, which carries a penalty of up to six months in prison, a fine of up to \$1,000, or both.

## **Draft Medicinal Marijuana Rules Re-Proposed**

After a compromise was reached between Governor Chris Christie and Assemblyman and Deputy

Majority Leader Reed Gusciora, the New Jersey Department of Health and Senior Services (DOH) re-proposed draft rules outlining the registration and application process for patients, primary caregivers, physicians, cultivators and dispensaries to participate in New Jersey's Medicinal Marijuana Program.

Unlike the previous version of the draft rules, the re-proposed draft rules permit each of the six (6) licensed alternative treatment centers (ATCs) to cultivate, package, label, dispense, and/or sell medicinal marijuana to qualifying patients or primary caregivers who are registered with the DOH. Home deliveries, however, are prohibited and ATCs will not be permitted to establish satellite locations. The cap on the potency of the medical marijuana remains unchanged.

The 60-day comment period for the re-proposed draft rules will only begin on February 22, 2011, when the DOH expects to officially publish the rules. In the meantime, New Jersey State Senator Nicholas P. Scutari, one of the sponsors of the New Jersey Compassionate Use Medical Marijuana Act, has indicated his opposition with this version of the rules and may seek to either reach a compromise on the rules or repeal them altogether.

## **From the Statehouse**

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### **GOVERNOR CHRISTIE DELIVERS STATE OF THE STATE ADDRESS**

On January 11th, Governor Chris Christie delivered his first State of the State address to a joint session of the State Legislature. The Governor outlined his administration's agenda for 2011, making a strong appeal to the Legislature to focus specifically on financial restraint, public pensions and education reform.

"One year ago, at my inauguration, I invited the Senate President and the Speaker to engage in a symbolic handshake of cooperation - a commitment to worry less about who is getting credit and more about doing something worth getting credit for," said Governor Christie. "Today, I want to thank them both for using this last year of action to help begin to restore the public's faith in bi-partisan government."

To read a full transcript of the governor's address, please go to: <http://www.state.nj.us/governor/news/news/552010/20110111d.html>

### **NEW JERSEY FY2011 BUDGET DEFICIT IS \$10.5 BILLION**

New Jersey Governor Chris Christie may propose cutting Medicaid spending and employee benefits to help close a \$10.5 billion budget deficit, even as he considers contributing \$512 million to the state's underfunded pension.

Governor Christie recently joined 28 other Republican governors asking President [Barack Obama](#) and congressional leaders last week for permission to reduce Medicaid outlays below federally prescribed levels. One of the other ways Governor Christie will seek FY 2011 savings is during contract talks with state workers' unions later this year. A no-layoff agreement instituted by his predecessor, Democrat [Jon Corzine](#) expired January 1, 2011.

In September, Christie [proposed](#) undoing a 9 percent pension increase enacted in 2001, raising the [retirement age](#) and freezing cost-of-living raises for retirees. The Governor is likely to push the Democratic-led Legislature to pass a measure requiring require employees to contribute 8.5 percent of salaries toward pensions, up from 5.5 percent now.

On the bright side, the state collected 3.8 percent more revenue in the first five months of the fiscal year than projected as income taxes ran almost 13 percent above estimates, according to State Treasurer Andrew Sidamon-Eristoff.

During his first year in office Christie enacted a 2 percent cap on the growth of New Jersey's property taxes, which

at an average of \$7,281 are the highest in the U.S. He also placed a threshold on school superintendents' pay and limited at 2 percent raises given to police and firefighters by arbitrators when contract negotiations break down.

The Governor will also push a proposal to make it easier for school districts to fire their worst teachers and base pay on student performance. Governor Christie also will pressure the lawmakers to approve the remaining items in his "toolkit" of measures designed to help schools and municipalities stay within the new cap, which took effect this year.

### **Asset Protection Updates: Retirement Plans**

In some of the previous month's articles we have discussed asset protection strategies for your primary residence, vacation home, and 529 plans. This month we will discuss your retirement plans. Qualified retirement plans are protected from creditors under federal law. The Employee Retirement Income Security Act (ERISA) covers 401k plans, Profit Sharing Plans, Defined Benefit plans, 412i plans, Cash Balance, and Money Purchase plans. Assuming that your plan is set up and funded properly, ERISA affords you the strongest creditor protection without giving up ownership or control of your assets. The protection is so strong that I call it O. J. Simpson proof. As a result of numerous litigations and lawsuits, O.J. had to surrender most of his assets. However, the courts, no matter how hard they tried, could not touch his NFL pension.

Unfortunately, IRAs (as well as Simple IRAs and SEPs) are not protected by ERISA. IRAs do receive some protection at the state level. For NJ residents you would only receive asset protection in the event of a bankruptcy. In other words, in the event of a lawsuit, you would need to file for bankruptcy to receive protection under NJ law. In most cases, bankruptcy is probably not your best option. To make matters worse, the Bankruptcy Protection Act makes it more difficult to qualify for bankruptcy protection. To better protect your IRAs I typically recommend that you roll them into your qualified retirement plan. Once the rollover is complete those assets would then also receive "O.J. Simpson proof" protection under ERISA.

If you have any questions please feel free to contact me at (877)972-7900 or [dvargo@varbeco.com](mailto:dvargo@varbeco.com).

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