



Vascular Society of New Jersey
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Monthly Report

March 2009

Only One Day Left to Register!

31st Annual Scientific Meeting

Wednesday, March 4, 2009

Nanina's in the Park

Belleville, NJ

"The Future of Vascular Disease Management"

Speakers include:

Bruce J. Brener, MD

Herbert Dardik, MD

Paul Haser, MD

Steven M. Hertz, MD, FACS

Clifford M. Sales, MD, MBA

Download registration form www.vascularsocietynj.org

From the President

Gary A. Drascher, MD, RVT, FACS

Whenever you are asked if you can do a job, tell 'em, 'Certainly I can!' Then get busy and find out how to do it.

Theodore Roosevelt (1858 - 1919)

This past year has gone by swiftly. I have enjoyed serving as president and am grateful for that privilege.

I hope you will be able to attend our spring meeting on Wednesday, March 4. Our program committee has done a great job putting together an exciting selection of presentations.

Election Time

We're just one year into our two-year legislative session, and already looking forward to the November ballot - when all 80 members of the Assembly, and the Governor (and new this year, a Lieutenant Governor) will be considered.

We are joining with other physician groups in hosting several fundraisers for key legislative leadership. The first one - for Assemblyman Joe Cryan - will be held on Tuesday, March 24, 6 pm, at Forsgate Country Club, right off exit 8A. Join your physician colleagues for a "meet and greet" with Assemblyman Cryan. Tickets are just \$250/physician. For information, please contact me at blynch@blynchassociates.com or 609-392-7553.

Medical Marijuana

On February 23, 2009, the New Jersey Senate narrowly voted to approve S-119, legislation that would establish the "New Jersey Compassionate Use Medical Marijuana Act." According to the proponents of the measure, medical research suggests that marijuana may alleviate pain or other symptoms associated with certain debilitating medical conditions. Federal law, however, prohibits the use of marijuana. Ninety-nine percent of marijuana-related arrests in the country are made under state law rather than under federal law. Changing state law would therefore provide legal protection to the vast majority of seriously ill people who use marijuana medically. Thirteen other states permit the use of marijuana for medical purposes, and with this bill, New Jersey would join the effort to protect patients using marijuana to alleviate suffering from arrest, prosecution, and other legal sanctions, as well as provide protection to their physicians, caregivers, alternative treatment centers authorized to produce marijuana for medical purposes, and persons who simply are in the vicinity of permitted medical use of marijuana.

Several New Jersey physician organizations have come out in opposition to the bill. The bill now moves to the Assembly for consideration.

Legal Report

Mark E. Manigan, Esq.

Update Regarding the Garcia Decision, Senate Bill S787 and Assembly Bill A1933

On December 15, 2008, the New Jersey State Senate voted 37 - 1 to pass the amended Senate Bill S787, Senator Richard J. Codey's bill revising the 1991 Codey Law (the "Bill"). On that same day, the New Jersey State Assembly voted to amend its version of the Bill, A1933, to conform with the Senate Bill. On February 5, 2009, the New Jersey State Assembly voted 68 - 4 to pass its version of the Bill. The Bill now awaits Governor Jon Corzine's signature for its passage into law.

The Bill would modify the Codey Law in a number of significant ways by (1)

officially creating an exception from New Jersey's ban on self-referrals for referrals to ambulatory surgery centers ("ASCs"); (2) deeming all pre-effective date referrals to ASCs compliant with the Codey Law; and (3) permitting corporate ownership of licensed ASCs to continue.

In addition, the amended Bill would prohibit DHSS from issuing any new ambulatory surgery facility licenses unless one of the following scenarios apply: (1) a change of ownership; (2) the relocation of an ASC within 20 miles or to a "Health Enterprise Zone" (provided there was no expansion in the ASC's scope of services); (3) entities that have filed architectural plans within six months of the effective date of the Bill when enacted; (4) entities that are owned in whole or in part by a New Jersey hospital; or (5) entities that are owned in whole by a medical school.

The Bill also would increase regulatory oversight of ASCs and surgical practices (single operating room surgical facilities) by requiring, within one year of the effective date, (1) all unlicensed surgical practices to become "registered" with the New Jersey Department of Health and Senior Services ("DHSS") and (2) all registered surgical practices and licensed ASCs to become accredited by an "accrediting body recognized by Medicare" (currently, The Joint Commission, the Accreditation Association for Ambulatory Healthcare, and the American Association for the Accreditation of Ambulatory Surgery Facilities).

The conditions of registration include a requirement that surgical practices report annually on certain information such as the number of patients served by payment source and the number of physicians, physician assistants and advance practice nurses providing professional services at the surgical practice. Further, only existing unlicensed surgical practices, as well as those that: (1) change ownership; (2) have construction plans filed before the six month anniversary of the effective date of the enactment of the Bill; or (3) relocate within 20 miles or to a "Health Enterprise Zone" (provided there was no expansion in the surgical practice's scope of services) will qualify for registration. Registered surgical practices will not be subject to the ambulatory care facility assessment (currently 2.95% on gross receipts and capped at \$200,000 per year) that is assessed on licensed ASCs.

Finally, the Bill would abolish the current Codey Law exceptions for lithotripsy and radiation oncology; thus, physicians will be prohibited from referring patients to lithotripsy or radiation oncology entities in which they hold a financial interest, unless the interest was held within one year following the effective date of the Bill.

NJSBME: Malpractice Insurance Not Required for Retired Physicians

In a previous legal report item, we informed you that, during the public session of a recent meeting, the New Jersey State Board of Medical Examiners (NJSBME), indicated to attendees that it would be corresponding with its licensees regarding malpractice coverage for retired licensees. Since we reported this, we have learned that the NJSBME has corresponded with licensees and in a letter from NJSBME Executive Director William Roeder, the NJSBME states: "[l]icensees who maintain an active, reduced fee license who do not maintain an office or practice out of a hospital or clinic, but who occasionally provides medical services to friends or family members, would not be mandated to secure malpractice coverage for such a limited practice."

Senate Bill Prohibits Charging In Cases of Medical Errors

A recent New Jersey Senate Bill 2471 (the "Bill") was proposed, which, if enacted, would prohibit hospitals and physicians from charging for costs which result from medical errors. Introduced in the Senate and referred to the Senate Health, Human Services and Senior Citizens Committee ("Senate Committee") on January 13, 2009, the Bill was reported from the Senate Committee as a substitute for a second reading on January 26, 2009.

The Bill proposes to require the Department of Health and Senior Services to include in the annual New Jersey Hospital Performance Report hospital-specific data concerning patient safety indicators including, but not limited to: foreign body left during procedure; iatrogenic pneumothorax, postoperative hip fracture; postoperative hemorrhage or hematoma; postoperative deep vein thrombosis or pulmonary embolism; postoperative sepsis; postoperative wound dehiscence; accidental puncture or laceration; transfusion reaction; birth trauma; obstetric trauma - vaginal delivery with instrument; obstetric trauma - vaginal delivery without instrument; air embolism; and surgery on the wrong side, wrong body part, wrong person or wrong surgery.

The Bill would prohibit a hospital from seeking payment from a patient or third party payor for costs associated with a hospital acquired condition, subject to Medicare's hospital acquired condition payment provisions, as established by the Centers for Medicare and Medicaid Services. Despite the prohibition against seeking payment, the hospital would be required to file claim information that reflects all services provided.

The Bill would further prohibit a physician, who acknowledged responsibility for causing a hospital acquired condition for which a hospital is prohibited from seeking payment, from charging or seeking payment from a patient or third party payor for costs associated with the condition.

We will closely monitor this legislation and keep you apprised of any pertinent developments.

Important! Receive money for new hires and capital investments

Check out the Invest NJ program

New Jersey Economic Development Authority - Financing Programs - InvestNJ Business Grant Program

IF YOU ARE: A business in operation for at least two years that employs at least 5 full-time employees

YOU CAN APPLY FOR:

*A grant for the creation of new jobs

AND/OR

*A grant for capital investment

IN THE AMOUNT OF:

Job Creation

*A \$3,000 grant per each new full-time job created

o Up to \$500,000 per applicant

*Capital Investment

A grant of 7% for a qualified capital investment

o Up to \$1 million per applicant

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