CANS NEWSLETTER

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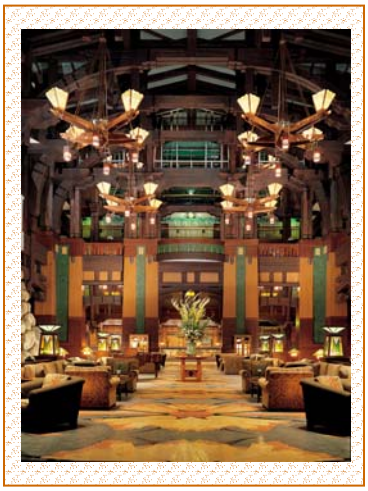
President's Message
HEALTH CARE REFORM 2010 CHAOS OR PROGRESS
Cans Annual Meeting January 15, 16, 17 2010

William L. Caton III, M.D.



As 2010 approaches, many questions remain as to what form the new Health Care Legislation is going to take. There are many current bills in discussion in the House and in the Senate. No one is certain which legislation will prevail. Indeed, the current Senate Legislation has over 500 amendments tagged onto it ranging from funding for walking paths to jungle gyms.

Our upcoming annual meeting at ***Disney's Grand Californian Hotel*® & Spa** shall center around Healthcare Reform and this new legislation. An excellent program has been arranged in an effort to gain further insight into this dynamic legislative process and its impact on California Neurosurgery.

We shall have a series of speakers who will share their insight as to the state of the medical reform as of January 2010.

Among the many distinguished guests will be former Congressman **Tom Campbell**, the current gubernatorial candidate in California. Mr. Campbell is currently on the faculty at the Chapman College. He is the former dean of the Business School at University of California at Berkeley and served many years as a Congressman representing the Bay Area.

Mr. Campbell has significant expertise in Health Care Legislation. He has been a firm proponent of physician rights, including authoring several bills in an attempt to allow physicians to participate in collective bargaining.

Also speaking will be **Representative Adam Schiff**. Congressman Schiff is a Blue Dog Democrat who has been very active in the Democratic Party in legislation including Health Care. He shall speak on the state of the Health Care Reform Package offered up by the Democratic Party and will discuss its impact upon us.

Another guest will be **Jack Lewin, M.D**. Dr. Lewin is the former Medical Director of State of Hawaii, former Executive Director of the California Medical Association, and currently the Executive Director of the American College of Cardiology. Dr. Lewin has been very active in the health care planning in the Obama Administration and has been a frequent visitor to the White House. He will share his views about the new health care legislation and reorganization of Medicare.

Speaking on the economics of the governmental change and its impact upon the free markets and credit crises in the United States will be **James Rothenberg**. Mr. Rothenberg is the Chief Executive Officer of the Capital Resources and Management Group, one of the largest privately held equity firms in the world. He also serves as the treasurer of Harvard. He will share his insights as to the role of the changing economic and credit crisis in relationship to health care and its future.

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Representing our national organization, **Troy Tippett, M.D**., president of the American Association of Neurological Surgery, shall give us an update on the AANS' input to the Health Care Legislation. Dr. Tippett shall discuss with us his activities and that of the board of the AANS in our behalf.

A series of panel discussions is also planned including several of our California neurosurgeons discussing the pros and cons of the health care legislation as of January 2010. Certainly this legislation remains a moving target!

Another panel has been organized to discuss the impact of the new legislation on hospitals, managed care, physician contracting. This panel shall try to give some insights to the audience as to the answers of the dilemmas facing the neurosurgeon in this changing arena of health care reforms.

On January 17, 2010, a **QME course** is planned to update the current hours necessary to maintain the QME certification.

I look forward to the members of CANS and spouses joining us on the Martin Luther King holiday weekend of January 16, 2010 and January 17, 2010 and I look forward to seeing you all to participate in this timely discussion of the major changes within the Health Care System. ❖

Room reservations ($209 per night) as well as discounted tickets to Disneyland® *Resort* can now be made by accessing **https://resweb.passkey.com/go/CANS**.

Defensive Medicine Won't Go Away

Randall W. Smith, M.D., Editor

One of the debating points in the Healthcare Reform scenarios is the absence of real tort reform in any of the bills being considered by Congress. One of oft-quoted benefits of med mal reform is to curtail "defensive medicine" estimated to cost up to $60 billion per year. Most ideas of tort reform hold California's MICRA up as the Holy Grail toward which to strive. The construction of that argument must presume that we in California don't have to practice defensive medicine or do very little of it because of MICRA's protection. That presumption is flawed as any good psychologist could tell you.

Getting sued for medical malpractice is an intensely personal issue as anyone who has ever been sued (and that is nearly all neurosurgeons unless they be very young or very lucky) can quickly tell you. The patient's attorney characterizes the neurosurgeon being sued as the second coming of Jack the Ripper, the requirements for the neurosurgeon to defend include hours of prep work, soul searching, depositions and court time that are at the very minimum distracting from one's main job which is to worry about the sick. Being accused of being a bad person cuts to the quick. One only has to go through this gauntlet once to never want to go there again.

Those who champion med mal reform as stopping defensive medicine must feel that an ED doc in Los Angeles won't order a head CT on a 19 year old football player who sustained a good whack on the helmet with no loss of consciousness, brief confusion, a now normal neuro exam and a headache whereas that player would surely get one in Miami. No way.

I would submit that we in California practice just as much defensive medicine as those in states without any tort restraints. We do it because no one who has ever been in the med mal briar patch ever wants to go there again no matter how many briars are there. No matter what pain and suffering limits are imposed, even if they were abolished, we would still act defensively. We are all smart enough to know that avoiding being attacked is the surest way not to lose a fight.

Don't get me wrong. National med mal reform would be good for docs and the nearly $10 billion med mal industry (jury awards, settlements and administrative costs). It would lower insurance premiums for many and reduce the number of cases filed against us. It would improve our bottom line, drive fewer of us into early retirement, reduce attorney's incomes and stress on the court system. Those are all plusses, mostly for us, but would never play well on the national stage. That stage prefers big ideas that can't be proven to be helpful but sound like they make sense with big money at stake even if the big money savings are an illusion. ❖

NEUROSURGEON WANTED

Well established and respected Northern California Neurosurgical practice is seeking a new associate to take over retiring surgeon's practice in Sacramento. Candidate will have ample opportunity to grow an already robust referral-only practice. Candidates must be interested in both intracranial as well as spinal procedures. BC/BE (Board Certified or Board Eligible) applicants may send resume to: **cgriswold.capneursurgeons.com**. ❖

Tidbits from the Editor

Randall W. Smith, M.D.

CANS offers help for Medicare Intermediary Problems.

As our readers must know, the Medicare Intermediary for California is Palmetto GBA and our man who interacts with them on a regular basis is CANS consultant Philip Lippe. Dr. Lippe reports that Palmetto and their medical director Dr. Arthur Lurvey are reasonable folks who are committed to solving any problems we providers might encounter when dealing with Medicare. An October 13th meeting between the Palmetto staff and advisory docs like Dr. Lippe has been set aside to iron out problems docs might have encountered in dealing with them. Dr. Lippe has previously requested input from CANS members about problems they may have experienced and received essentially no complaints. He encourages any CANS member who has had a hassle with Palmetto about anything that was not reasonably solved to contact him (pmlippe@att.net) ASAP so he can represent your concerns at the October meeting. Another route for problems encountered during the next year is to utilize Palmetto's Ombudsperson program by contacting Melissa Robinson (Melissa J. Robinson@PalmettoGBA.com) who will assign one of their four ombudspersons to work with you. ❖

CANS Board Meeting.

The CANS Board of Directors held its autumn meeting on September 26th in Oakland. It was well attended by 18 of the 21 Board members plus a guest, Dr. Paul Kalanithi, a third year resident from Stanford who is one of the 13 elected resident fellows in the Council of State Neurosurgical Societies. Items of interest:

1. On Sunday morning of the CANS annual meeting weekend in January 2010 at the ***Disney's Grand Californian Hotel*® & Spa**, a three hour Work Comp QME program will be offered for about $125. Those who need more of the bi-annual 12 QME CME hours of credit can choose to buy a home study program for an additional 3, 6 or 9 hours.

2. The all-day program on Saturday at the annual meeting will address the state of national medical reform. Obviously, by January we could or could not have a reform bill signed by the prez so the topics have to be a bit fluid but the tentative speakers will be able to address whatever breed of

cat we have then (see the President's Message in this issue for more speaker detail). Part of the afternoon session will include a panel discussion on contracting and the corporate practice of medicine.

3. CANS is fiscally stable and membership numbers are stagnant.

4. John Kusske, CANS Historian, reports nearly all the historical documents of the Association are now in digital form. As is usual in these situations, the questions now arise as to what to do with the digital files created by scanning all historical documents as well as what to do with the paper files from which the digital files were created. As is further usual in these cases, the Board has decided to keep the CDs with the digital info at CANS headquarters, Dr. Kusske has been instructed to bury a copy of the CD's in his backyard and all the paper is to be maintained since paper will last forever and electronics can't be trusted. And thus we progress.

5. The Board took the following actions on the seven resolutions (none from CA) to be considered for adoption at the CSNS meeting in New Orleans in October:

RESOLUTION I – Neurosurgeons as Spine Care Specialists. This resolution wants the AANS/CNS to embark on an educational campaign aimed at referring physicians, work comp carriers and the public that neurosurgeons are spine docs. The Board decided to not support this resolution as it was essentially the same as resolution V adopted in September of 2008.

RESOLUTION II - Mandatory Advanced Directives For Medicare Participants. This resolution wants to make it mandatory to complete an advanced directive upon enrolling in Medicare. The Board thought, considering how lack of an advance directive frequently complicates our care of the neurologically unrecoverable, that this resolution should be supported.

RESOLUTION III - CSNS Speaker's Bureau. This resolution would create a posse of CSNS Executive Committee members willing to travel to individual state neurosurgical society meetings to extol the virtues of the CSNS and help the societies to disseminate and discuss socioeconomic information. CANS Board approved.

RESOLUTION IV- Transparency to Health Care Cost. This resolution would create a pilot program to have some hospitals supply a detailed breakdown of their costs/charges in providing their aspect of the care of our hospitalized patients in order to allow us docs to identify costly items we could do without and be able to share in any demonstrated future cost reductions. The Board chose not to support because of the potential for such a program to lead to economic credentialing.

RESOLUTION V - The Abuse of Neurosurgical Resources by Emergency Rooms and Acute Care Facilities. This resolution is aimed at creating consultative guidelines to combat what is perceived as abuse by ED's of neurosurgical consultants as part of the ED docs practice of defensive medicine. The CANS Board felt there was too much variability in the ED/consultant interaction for a national guideline, as a "one size fits all" solution, to effectively and fairly deal with the issue and chose not to support the resolution.

RESOLUTION VI - Exploring the Need for Disclosures of Neurosurgeon-Owned Hospitals. This resolution reflects the author's suspicion that doc owned specialty hospitals lead to abuse and we should try to indentify the scope of the abuse. The CANS Board felt we neurosurgeons don't need to help out Congressman Stark create more rules that would obviate a legitimate doc economic endeavor and chose not to support the resolution.

RESOLUTION VII - Simplified Conflict of Interest Reporting in Organized Neurosurgery. This resolution would create a universal conflict of interest disclosure form that once completed by the doc could be used to satisfy the many requirements for completion of various such disclosure forms by speakers at the annual AANS and CNS meetings as well as those organizations' publications. CANS Board supported.

Any CANS member who wishes to be heard regarding these resolutions should contact CANS President Bill Caton (wlciiimd@aol.com) who will head the CA delegation to the CSNS. Additional members of the delegation include Drs. Wade, Ott, Henry, Abou-Samra, Minassian and Vanefsky. CANS is authorized for an additional delegate and is looking for a volunteer willing to go to New Orleans two days early to attend the CSNS meeting on October 23-24. ❖

Docs as Distributors: Why didn't I think of that?

The USA Today, in their September 23rd edition, listed the annual median incomes from various medical specialties, source not identified. Neurosurgery was listed at $581 thousand only to be exceeded by orthopedic spine surgeons at $611 thousand. This just goes to show that our orthopod colleagues have figured it out not the least aspect of which has got to be the machination (not necessarily limited to orthopods) of forming a local distributorship corporation for medical devices, buying spine hardware from various but usually mostly from one collusive company at a volume discount for x dollars per screw or plate or whatever and then selling that hardware as it is used by the distributor's principal in surgery to the hospital or insurance company for x + y and pocketing the y. It's like selling drugs in the office which is perfectly legal but chump change compared to spine hardware. We can feel the Feds circling but by the time Congressman Stark figures this out, there will be a lot of entrepreneurial surgeons kicking back in Monaco. ❖

Hot News:
Practicing medicine is tiring and stressful.

In the September 23/30 edition of JAMA, a study of resident fatigue and stress found that residents who were tired and anxious committed more errors even with the mandated 80 hour work week. The corollary must be that the absence of fatigue and stress is better for the doc and the patient. All we need to do is always practice medicine well rested and carefree. Now we can't all be radiologists reading elective CT scans at home on the computer and clicking "urgent" on all interpretations that have an abnormality so that any onus is passed to the referring doc. For the great huge majority of us, medicine is inherently tiring and stressful. It is the nature of the animal. We all need to back away if we are too tired or too stressed, cancel office hours or elective surgery and go home to sleep and mellow out. A resident should behave the same way if pushed too close to the limit. But we can't just back off if our patients require care for a severe urgent/emergent incident at an inconvenient hour. What experience tells us is that we get paid to not make mistakes even if we are less than fresh and happy and we basically don't make those mistakes. Maybe that is what separates docs that frequently have to urgently/emergently intervene from those that really don't. Maybe that's one reason why we neurosurgeons make the big bucks. And one reason why residents are not quite grown-ups. ❖

THOUGHT OF THE MONTH: The current Healthcare Reform thrash is like being harassed by a pesky fly while you are sitting out on the veranda. You shoo it away but it keeps coming back. Going inside stops the fly. No such luck with the debate.

Neurosurgical Position

Any CANS member who is looking for a new associate/partner/PA/NP or who is looking for a position (all California neurosurgery residents are CANS members and get this newsletter) is free to submit a 150 word summary of a position available or of one's qualifications for a one time posting in this newsletter. Submit your text to me by E-mail (rws-avopro@sbcglobal.net) or fax (858 683-2022). ❖

Questions or comments can be sent to the editor, Randall W. Smith, M.D., at rws-avopro@sbcglobal.net or to the CANS office at janinetash@sbcglobal.net. Past issues of the monthly newsletter are available on the CANS website at www.cans1.org.

The newsletter is a mix of fact, rumor and opinion. The facts are hopefully clearly stated. The rest is open to interpretation. The opinion is mine. R.S. The assistance of Janine Tash and Dr. Bill Caton in the preparation of this newsletter is acknowledged and appreciated. If you do not wish to receive this newsletter in the future, please E-mail or fax Janine Tash janinetash@sbcglobal.net, (916-457-8202) *with the word "unsubscribe" in the subject line.*

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