



NEW JERSEY STATE SOCIETY OF ANESTHESIOLOGISTS

The NJSSA Pulse

FEBRUARY 2014



From The President—February 2014

This is my final message “From The President,” as the passing of the baton to the next elected president will coincide with our Annual Meeting next month at the New Brunswick Hyatt.

It has been my honor and privilege to hold this position for the past two years, and I am grateful to the Executive Committee (EC) members for their encouragement, and to the entire membership for its support and generosity.

Two years ago, I set out to reorganize and strengthen our society. My two major objectives were to promote advocacy on behalf of our specialty, and to improve communication among all stakeholders. We have created the position of Executive Director (ED), and at the end of a selection process, retained Ms. Beverly (Bev) Lynch and her firm as our first ED. To date, they have proven to be very effective in supporting and promoting our goals. Bev, who is also our lobbyist, relocated her office in Trenton to right across from the Statehouse, reflecting on our future advocacy intentions. Members of our newly formed Advocacy Task Force have been in constant communication with state legislators and other specialty physicians via MSNJ, promoting physician-related healthcare issues on your behalf in NJ.

Our increased communication efforts led to the introduction of the monthly publication of the “NJSSA PULSE,” the revamped NJSSA website, and the initiation of the “On The Road” program. These tools allowed you and me to meet and greet each other either online or in person, and have played an important role in expanding our membership. We have added two new roles in expanding our membership. We have added two new members to the EC from under-represented areas: Nina Radcliff, MD, from Atlantic County and Praveen Gollapudi, MD, from Burlington County. I trust that they will both be assets to our committee.

It has been a long time since NJSSA’s by-laws were revised to echo our current practice. This year Patricia Browne, MD, a member of the ASA Board of Directors, took it upon herself to head a small committee, which did just that. At the NJSSA Annual Meeting on March 15th you will have the opportunity to approve these by-laws.

Many of these initiatives and activities were made possible due to our stable financial status, which is constantly monitored by your fiscally responsible EC and Treasurer, John Azzariti, MD.

Finally, my sincere gratitude goes out to my fellow officers for all their efforts over the last two years; Drs. John Azzariti, Peter Goldzweig, Christina Chin, Patricia Browne, Aryeh Shander and Rex Ponnudurai. I couldn't have done the job without them. I would also like to thank our legal counsel, Mr. John Fanburg, for his sound advice.

Mordechai Bermann
NJSSA - President

FROM THE STATEHOUSE ADVOCACY & MANAGEMENT GROUP BEVERLY LYNCH



2014-2105 Legislative Session

Governor Christie's inauguration for his second term took place on January 21, 2014. The 216th New Jersey Legislature was sworn into office on January 14, 2014. Assemblyman Vincent Prieto (D-32) became Assembly Speaker, joining veteran members of leadership—Senate President Sweeney (D-3), Senate Majority Leader Weinberg (D-37), and Assembly Majority Leader Greenwald (D-7).

Assemblyman Gary Schaer (D-36) will replace newly appointed Speaker Prieto as Chairman of the Budget Committee. The Assembly Financial Institutions and Insurance Committee will also receive a new Chairman, Assemblyman Craig Coughlin (D-19). Senator Vitale (D-19) and Assemblyman Conaway (D-7) will continue to chair the Senate and Assembly Health Committees, respectively.

New Jersey Democrats retained control of both the Senate and the Assembly. Eight freshman Assembly members joined the legislature, with no significant reorganization in the Senate.

All legislation that was not signed into law during the 2012-2013 legislative session will need to be reintroduced. NJSSA is currently tracking 74 newly introduced bills, and that number is likely to grow significantly over the upcoming months.

Governor Christie presents State of the State

On January 14, Governor Christie presented his State of the State address in Trenton. He opened the annual address by apologizing for the George Washington Bridge scandal and promising to cooperate in the investigation. During this year's address, the Governor focused on lengthening the school year and school day for New Jersey's students, pension reform, bail reform, drug treatment services and the sharing of services among local governments. The Governor briefly discussed tax reform and confirmed that he does not intend to increase taxes in 2014. The Governor promised to discuss tax reform more thoroughly during his upcoming budget announcement.

2012-2013 Wrap Up

Loan Redemption for Physicians... At the close of the 2012-2013 session, Governor Christie vetoed legislation that would have provided for redemption of qualifying loan expenses for physicians in specialties that are projected to experience a significant shortage, as long as the physician works in

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New Jersey for four years in a designated underserved area. The legislation was focused on primary care doctors, including family medicine, pediatrics, internal medicine and obstetrics and gynecology. The legislation would forgive loans up to \$200,000 over four years to physicians who work in, or near, areas with high percentages of low income residents. Under current law, physicians can receive up to \$120,000 over four years, compared to the \$200,000 proposed under this bill. Physicians who hire loan redemption medical school students were also incentivized through this legislation, as they would have been exempt from paying state income tax on all of the income the practice receives from New Jersey Family Care, the state's Medicaid program for low-income residents.

The legislation was based on recommendations by New Jersey Council of Teaching Hospitals which reported that state loan forgiveness is one of the top factors that medical residents look for in determining a practice. The medical community has already started talks with key legislators on revisiting this legislation in the 2014-2015 session. We will continue to update you as this legislation progresses.

Scope of Practice... Numerous bills were introduced during the 2012-2013 session that advocated for the broadening scope of the allied professions. Physicians Assistants were trying to broaden their scope through legislation that would permit each physician to develop the PA's scope of practice independently and eliminate the need to sign off on charts within a specified number of days. Advanced Practice Nurses were working to broaden their scope through legislation that would allow APNs to practice independently without a collaborative agreement with a supervising physician. APNs cite physician shortages and cost savings. Legislative efforts to reform the scope of these allied professionals were unsuccessful. We anticipate a continued effort by these groups during the 2014-2015 session.

LEGAL REPORT

JOHN FANBURG, ESQ.

PARTNER, BRACH EICHLER LLC



FEDERAL UPDATE

OIG Seeking Input on Developing Future Safe Harbor and Kickback Alerts

The U.S. Department of Health & Human Services Office of Inspector General (OIG) recently issued a Federal Register notice soliciting future proposals and recommendations for developing new or modifying existing safe harbor provisions for the federal Anti-Kickback Statute. The OIG also



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solicited proposals for new Special Fraud Alerts. In 2013, the topics examined by the OIG included free or reduced cost CME programs for health care providers, rewards programs for patient compliance, discounts on Medicare Part A-covered services offered by independent providers to skilled nursing facilities, complimentary patient transportation services, compensation to individuals in clinical trials and the provision of services related to clinical trials at no cost. Additionally, the OIG considered modifications to electronic health records, investments in group practices, investments in ambulatory surgical centers, obstetrical malpractice insurance subsidies, hospital recruitment payments to practitioners, space rental and employee compensation.

The OIG will consider several factors in its evaluation of new or modified safe harbor provisions and special fraud alerts. Notably, the OIG will examine the extent to which a proposal would affect an increase or decrease in access to health care services, quality of health care services, patient freedom of choice among health care providers, competition among health care providers, cost to federal health care programs and potential ability of health care facilities to provide services in medically underserved areas and whether there is any potential financial benefit to health care providers that may be taken into account in their decisions whether to order or arrange for a referral of health care services to a particular provider.

Comments must be submitted to the OIG by February 25, 2014.

IRS Releases Two Notices on Section 501(r) Requirements for Tax-Exempt Hospitals

The Internal Revenue Service (IRS) recently released two Notices relating to Section 501(r) of the Internal Revenue Code. Implemented as part of the Affordable Care Act, Section 501(r) provides that, in order for a hospital to be treated as a Section 501(c)(3) tax-exempt organization, it must: (1) establish written financial assistance and emergency medical care policies; (2) limit amounts charged to individuals eligible for financial assistance; (3) endeavor to determine whether an individual is eligible for financial assistance before engaging in extraordinary collection procedures; and (4) conduct a community health needs assessment. The IRS published proposed rules in June 2012 and June 2013 implementing these Section 501(r) requirements.

Notice 2014-2 confirms that tax-exempt hospital organizations may rely on the proposed rules published in June 2012 and June 2013, pending the publication of final rules or other applicable guidance. There is currently no indication as to when the rules will be finalized.

Notice 2014-3 contains a proposed revenue procedure that allows a hospital to correct and disclose its Section 501(r) failures. Provided they are not willful or grossly negligent, the failures will be excused and the hospital will retain its Section 501(c)(3) tax-exempt status. Comments to this proposal are due by March 14, 2014..

OSHA Launches New Educational Website to Protect Hospital Workers and Enhance Patient Safety

The U.S. Department of Labor, Occupational Safety & Health Administration (OSHA) recently launched <http://www.osha.gov/hospitals>, a new educational web resource designed to protect

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hospital workers and enhance patient safety. The new website contains extensive materials to: (1) help hospitals prevent worker injuries; (2) assess workplace safety needs; (3) enhance safe patient handling programs; and (4) implement safety and health management systems. Fact books, self-assessments and best practice guides are some examples of materials that can be found on the website.

According to the OSHA website, in 2011 U.S. hospitals recorded 253,700 work-related injuries and illnesses, a rate of 6.8 work-related injuries and illnesses for every 100 full-time employees. This is almost twice the rate for private industry as a whole. Some of the injury causes are from lifting and moving patients, workplace violence, slips and falls, exposure to chemicals and hazardous drugs, exposures to infectious diseases and needle sticks. In 2012, hospitals had a \$2 billion expense from workers' compensation losses. In the OSHA press release, Dr. David Michaels, Assistant Secretary of Labor for Occupational Safety and Health, stated that "these new materials can help prevent hospital worker injuries and improve patient safety, while reducing costs. At the heart of these materials are the lessons from high-performing hospitals that have implemented best practices to reduce workplace injuries while also improving patient safety."

The website contains tools and resources to assist hospitals in implementing proactive safety and health management systems in order to reduce the most common workplace hazards and injuries. By reducing hazards and injuries, OSHA hopes that hospital productivity will increase, patient safety and care will be enhanced and hospital costs will be reduced.

CMS Proposes New Emergency Preparedness Requirements for Participating Providers

The Centers for Medicare & Medicaid Services (CMS) recently published a proposed rule that would require 17 Medicare provider and supplier types to establish an emergency preparedness program. The providers affected by this rule proposal, include but are not limited to, hospitals, nursing homes, home health agencies and ambulatory surgery centers.

The proposed rule contains four elements of the emergency preparedness program that providers will have to satisfy, including the following:

- An emergency plan based upon a risk assessment conducted by the provider using an "all-hazards" approach, which focuses on capacities and capabilities that are critical to preparedness for a full spectrum of disasters or emergencies;



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this approach is specific to the location of the provider/supplier considering the particular types of hazards which may most likely occur in its area

- Development of policies and procedures based upon the emergency plan and risk assessment
- Development of a communication plan to coordinate patient care within the facility, across health care providers, and with state and local public health departments and emergency systems in order to protect patient health and safety in the event of a disaster
- Development and maintenance of training and testing programs to ensure that staff demonstrates knowledge of emergency procedures through initial and annual training sessions, drills and exercises to test the emergency plan.

Comments are due by February 25, 2014.

STATE UPDATE

NJ Bills May Affect Health Care Providers

S2779 was signed into law on January 13, 2014 as P.L.2013, c.178. The law amends New Jersey's self-referral prohibition to allow for the referral of patients for lithotripsy services notwithstanding the referring physician's ownership in the facility performing the lithotripsy.

A1545 was signed into law on January 13, 2014 as P.L.2013, c.182. The law creates a streamlined reciprocity process for medical and other licenses.

A3586 was signed into law on January 13, 2014 as P.L.2013, c.185. The law removes the statutory authority of the Department of Health and the State Board of Medical Examiners over medical standards governing declarations of death upon the basis of neurological criteria. A declaration of death would be made by a licensed physician professionally qualified and in accordance with nationally recognized sources of practice guidelines.

S3027 was signed into law on January 13, 2014 as P.L.2013, c.223. The law establishes a Statewide trauma care system plan, which will include all health care facilities in the State providing care to injured patients in the State, to the extent that their resources and capabilities allow.

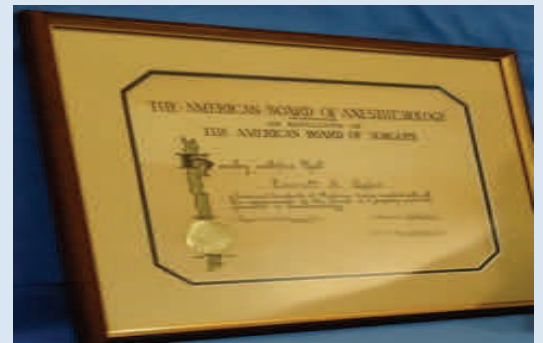
Department of Health and Human Services OFFICE OF INSPECTOR GENERAL

In January, DHS released a report, "Local Coverage Determinations Create Inconsistency in Medicare Coverage." The study examines the variation in coverage of Part B items and services as a result of local coverage determinations and assessed CMS's efforts to evaluate these local coverage determinations for national coverage as required by the MMA. For more information, visit www.NJSSAHQ.com or click [here](#).

Honoring Don Tyler, MD

On December 28, 2013, Don Tyler, a pediatric anesthesiologist from Children's Hospital retired. Although not a member of the NJSSA, Don grew up in Haddonfield, NJ. After working at Seattle Children's Hospital, he returned to Haddonfield while working at the Children's Hospital of Philadelphia (CHOP).

What is most interesting is his family history in anesthesiology dating back to his grandfather Everett A. Tyler. In December, Don donated to the WLM the Loving Cup given to his grandfather in 1936. I have included pictures of the cup and its inscription as well as his Board



Certificate. Note the certificate was part of the Surgery Board. Don also has since found a picture of his grandfather in an anesthesia setting (he is standing to the far left). Don's father was a pediatrician and hence the combination culminated in Don - a pediatric anesthesiologist.

Don will remain active on the current endeavor - Wake Up Safe.

I have a picture of Don delivering his last anesthetic. I am hoping some day that it will sit side by side at the Wood Library Museum with his grandfather's picture.



Patricia M. Browne, MD
NJSSA Board of Directors, New Jersey

Everett A Tyler MD Loving Cup



TO EVERETT A TYLER MD
ANESTHETIST

AS A TOKEN OF HEARTFELT
APPRECIATION AND RECOGNITION
OF SPLENDID AND MERITORIOUS ACHIEVEMENTS
IN THE RESEARCH, PRACTICE, TEACHING
AND ORGANIZATION OF THE SPECIALTY OF ANESTHESIA
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