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AMC/NOMA Meets with ODI Leadership Regarding Medical Liability

AMC/NOMA Board of Directors **Richard Ludgin, MD, JD**, and **James Lane, MD**, along with Executive Vice President/Chief Executive Officer Elayne R. Biddlestone, met with Ohio Department of Insurance (ODI) Director Ann Womer Benjamin on November 10 regarding the impact of medical malpractice issues on North-eastern Ohio physicians.

Director Womer Benjamin noted that the topic of the next Ohio Medical Malpractice Commission meeting is to bring in speakers from states that have employed certain measures such as medical review panels, caps on attorney contingency fees, patient compensation funds, etc., to try to alleviate the medical liability crisis. Representatives from Indiana, Wisconsin, New Mexico and Louisiana have been contacted to present information on

the reforms in their respective states at future meetings. At the last commission meeting, the Ohio State Medical Board presented details on their Quality Improvement Program (QIP), which is designed to address quality of care complaints that do not warrant intervention by formal disciplinary action.



Dr. James Lane, president AMC/NOMA takes a moment to chat with Ann Womer Benjamin, Director of the Ohio Department of Insurance after meeting with AMC/NOMA leadership to discuss medical liability.

(Continued on page 4)

AMC/NOMA meets with Senators to discuss arbitration legislation

A key component of the AMC/NOMA legislative agenda for 2003/2004 concerns mandatory arbitration. The recently enacted medical liability reform legislation (SB 281) included arbitration language that can be utilized in the State of Ohio. Ohio Revised Code § 2711.21-24 authorizes health care providers to enter into an agreement to resolve future medical malpractice claims through binding arbitration. Based on that arbitration language, the AMC/NOMA developed a model arbitration form. However, the arbitration language in SB 281 does not go far enough. Therefore, the AMC/NOMA supports a proposal to change the law to substitute ORC § 2711.22-24 with language similar to what is contained in



Senator Robert Spada, Senator Ron Amstutz, Dr. John A. Bastulli and Senator Kevin Coughlin meet to discuss legislation of interest to AMC/NOMA members.

the California arbitration statute that enables the patient to agree to arbitration up front. If the patient agrees, the agreement is irrevocable and binds the patient to arbitration in case of a dispute.

At the beginning of December, the AMC/NOMA lobbyists, staff and legislative chairman met with Senators Coughlin, Spada and Amstutz to discuss the change in Ohio law with regard to the arbitration process. The AMC/NOMA hopes to introduce arbitration legislation in 2004 that mirrors the law in California. ■

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THE CLEVELAND PHYSICIAN
(ISSN# 1084-0982) is published bi-
monthly by the Academy of Medicine
Cleveland/Northern Ohio Medical
Association (AMC/NOMA), 6000
Rockside Woods Blvd., Suite 150,
Cleveland, Ohio 44131. Periodicals
postage paid at Cleveland, Ohio.
POSTMASTER: Send address changes to
CLEVELAND PHYSICIAN, 6000
Rockside Woods Blvd., Suite 150,
Cleveland, Ohio 44131. Editorial
Offices: AMC/NOMA, 6000 Rockside
Woods Blvd., Suite 150, Cleveland,
Ohio 44131, phone (216) 520-1000.
\$36 per year. Circulation: 1300.

Opinions expressed by authors are
their own, and not necessarily those
of the *Cleveland Physician* or The
Academy of Medicine of Cleveland/
Northern Ohio Medical Association.
Cleveland Physician reserves the
right to edit all contributions for
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ADVERTISING

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AMC/NOMA Hosts Seminar On “Preparing for the Business Aspects of Practicing Medicine”

AMC/NOMA hosted a free seminar on November 19, 2003, for residents and young physicians on the business aspects of practicing medicine. This is one of a series of seminars AMC/NOMA provides for all residents.

Attendees heard presentations on: Estate Planning for Young Physicians presented by John Shelley, Esq., Squire, Sanders & Dempsey; Benefits Available to Physicians presented by Phil Moshier, Esq., Sagemark Consulting; Starting a Practice presented by Richard Cause, Esq., Walthall, Drake & Wallace; Business Opportunities for New Physicians presented by Richard S. Cooper, Esq., McDonald Hopkins Co., L.P.A.; and Disability Programs Available presented by Douglas James, LUTCF, Berwanger Overmyer Associates.

Residents and new physicians attended from



A large audience of residents and young physicians attended to hear seminar presenters Paul McCormack, Dick Cause, John Shelley and Phil Moshier on various topics.


the following hospitals: Huron, Fairview, Cleveland Clinic, Rainbow Babies & Children's, University and St. Vincent.

For more information contact Linda Hale at AMC/NOMA (216) 520-1000. ■

ODI Prepares Memo for AMC/NOMA on Medical Liability Products

At a recent meeting with the Director of the Ohio Department of Insurance (ODI), AMC/NOMA physician leadership noted that ODI provides pamphlets and brochures to the public regarding various insurance products, but that there was not one available for physicians regarding the different medical liability products. As a result, ODI has prepared this memorandum and the AMC/NOMA has been asked to assist in its distribution.

If you have any questions, contact the ODI or go to the Ohio Department of Insurance Web site at <http://www.ohioinsurance.gov> or AMC/NOMA at (216) 520-1000 or Web site www.amcnoma.org. ■



Bob Taft, Governor
Ann Womer Benjamin, Director

2100 Stella Court, Columbus, OH 43215-1967
(614) 644-2658 www.ohioinsurance.gov

MEMORANDUM

To: Ohio Medical Providers

From: Ann Womer Benjamin,
Director of the Ohio Department of Insurance

Date: November 14, 2003


Re: Medical Malpractice Coverage Offered by Captive Insurers

This memorandum is to advise medical providers purchasing coverage from "captive" insurance companies of the authority of the Ohio Department of Insurance with respect to captive insurers and the Department's concerns regarding provider reliance on the captive market for malpractice coverage. While the Department appreciates the current hardship faced by medical providers from rising medical malpractice rates, the Department is concerned that many of you are not fully aware of the risk involved in purchasing coverage from a captive insurer.

The use of a captive insurer is a way in which companies or individuals may self-insure certain risks. Companies and individuals that form or join captives rely on their own resources to pay claims, rather than on licensed insurance companies to pay claims. Captive insurers may be formed by associations, such as trade or industry groups, to self-insure the risks of their members. Captives may be organized "offshore," i.e. in another country, making them remote and less likely to be accountable to Ohio insureds and claimants.

Captive insurers generally are not subject to Ohio law or regulated by the Department. Consequently, many of the protections that apply to state regulated insurance coverage do not apply to coverage sold by captive insurers. As a result, the Department suggests that you consider the following before purchasing insurance from a captive insurer:

1. **Captives may not be regulated by the Department.** Therefore, medical providers who purchase coverage from a captive may not be protected by some of the laws that apply to state regulated coverage, such as guaranty fund protection, rate review, and financial solvency standards.



Accredited by the National Association of Insurance Commissioners (NAIC)
Consumer Hotline: 1-800-686-1526 Fraud Hotline: 1-800-686-1527 OSHHP Hotline: 1-800-686-1578

Memo Re: Medical Malpractice Coverage Offered by Captive Insurers
November 14, 2003
Page 2 of 2

2. **Captives are not subject to the solvency requirements of Ohio law.** Most Ohio insurers that provide medical malpractice coverage are required to have a minimum capital and surplus of \$5 million or more and must comply with Risk Based Capital solvency standards, which are intended to ensure that an insurer's assets are sufficient to pay future claims. Captives, however, may be thinly capitalized. One or more bad years of claims experience could render the captive insolvent, meaning that claims against you will not be paid by the captive. Coverage lost due to the insolvency of a captive could place your personal assets at risk.
3. **Captives are not covered by the Ohio Insurance Guaranty Association ("OIGA").** If a captive becomes insolvent, no guaranty fund protection applies and your personal assets are placed at risk. Typically, guaranty fund protection applies to medical malpractice coverage offered by Ohio licensed insurance companies.
4. **Hospitals may not accept coverage.** In credentialing physicians, some hospitals may not accept medical malpractice coverage provided by a captive since customary financial solvency standards may be lacking. A medical provider should check with his or her hospital before purchasing such coverage.
5. **Risk Retention Group Captives.** Some captives are established as Risk Retention Groups (RRGs), and have some minimal reporting requirements under Ohio law. If a captive is not established as an RRG, generally no Ohio reporting requirements exist.

Although certain types of captives may provide more affordable coverage, the Department again cautions that captive insurers may be a risky coverage option. This memorandum is intended to highlight issues you should consider as you evaluate insurance options and recognizes that some captives may be well organized and adequately capitalized.

AWB/da.

House Panel Gives ODI Power to Form Medical Liability Company

Legislation intended to establish “a safety net for Ohio health care providers and their patients” by authorizing a state-created medical malpractice insurance company in the event private insurers fail cleared a House panel in December without opposition. The House Insurance Committee, acting at the request of Director Ann Womer Benjamin of the Department of Insurance, recommended a measure on which the full House is expected to vote January.

HB 282 will authorize the director to establish a Medical Liability Underwriting Association (MLUA) if liability coverage becomes unavailable in the state. The legislation would capture \$12 million from a now-defunct 1975 Joint Underwriting Association (JUA) to help finance the new company or for other initiatives related to medical malpractice insurance problems.

Director Womer Benjamin said three of the five major medical malpractice insurers in Ohio have had some financial problems in the last six months, and two in the last month alone. She is concerned that aside from the question of affordability — the topic that has driven debate for more than a year — availability of policies also could become an issue.

In her proposal to the House Insurance Committee Womer Benjamin presented a twofold request. She asked that the legislature grant her the authority to create a Medical Liability Underwriting Association (MLUA) allowing the Director to respond quickly to any change in the marketplace to help Ohio physicians, hospitals and other health care providers obtain medical malpractice coverage and to transfer \$12 million from the now-defunct Ohio Joint Underwriting Authority to help fund a new joint underwriting authority.

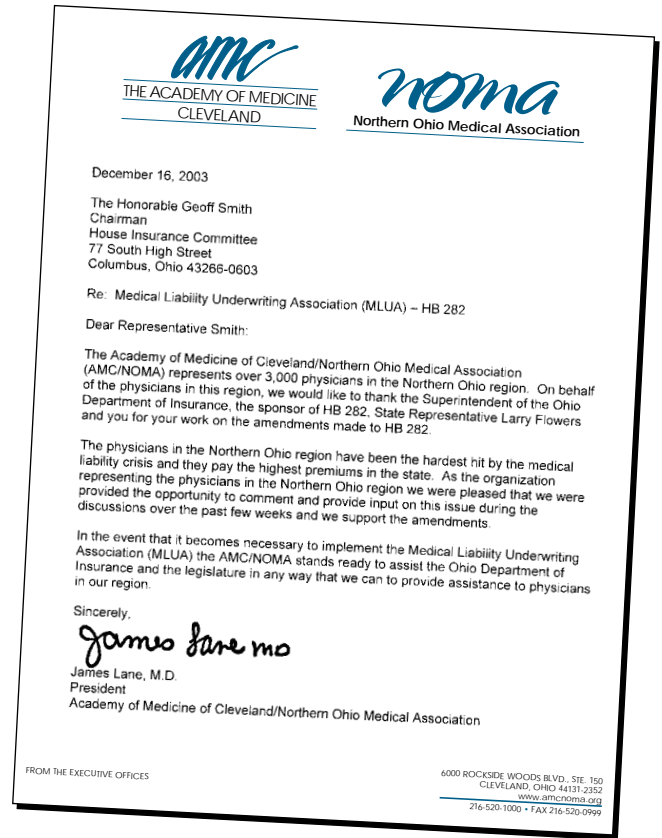
HB 282 was voted out of the House Insurance Committee. Language authorizing the MLUA and transferring \$12 million from JUA was incorporated into it. Additional amendments included:

- The Superintendent of the Ohio Department of Insurance should be able to reestablish the MLUA by rule and can only amend the plan of operation through the rule-making process.
- The MLUA applicants will only be physicians (MDs and DOs) and hospitals.

- The trigger for the MLUA will be: a substantial number of applicants for such class or classes of medical malpractice insurance have not been placed with insurers authorized to write medical malpractice insurance in Ohio and are insurable risks and availability of health care is threatened for any group of individuals in Ohio.
 - To issue or renew coverage, the MLUA will require that the applicants have been declined for insurance by two insurers authorized to write medical malpractice insurance in Ohio.
 - The terms of office for MLUA board members will be three years and the terms will initially be staggered so not all members are up at once.
 - Do not consider the balance in the Stabilization Reserve Fund when considering setting rates. Each policyholder of the MLUA is to pay to the MLUA annually a stabilization reserve fund charge to be determined.
 - Recreate the Medical and Hospital Advisory Committees.
- HB 282 goes to the House floor in January.

Director Womer Benjamin said that under the substitute bill, the insurance industry would not be liable for assessments or contributions and, as a result, the company would not be a joint underwriting association but a medical liability underwriting association financed with “actuarially sound” premiums from physicians and hospitals that buy coverage

The substitute bill would create a stabilization reserve fund in the event premiums were insufficient to generate the revenue needed to operate. Money for the fund would come from additional assessments on the doctors and hospitals that held MLUA policies. “The potential



assesses in this stabilization fund are limited to those who are policyholders,” the director said.

In the event a reassessment did not generate enough money, Ms. Womer Benjamin said options theoretically could include asking the General Assembly to extend the fee to other individuals, or liquidating the company. “If it is run the way it should be run, the premiums charged should be sufficient.”

The committee accepted the substitute bill without opposition. Approved on a 15–1 vote was an amendment specifying that the General Assembly could use the \$12 million for related medical malpractice purposes in addition to the proposed underwriting company, such as recommendations from the study commission. ■

AMC/NOMA Meets with ODI Leadership Regarding Medical Liability *(Continued from page 1)*

Legislators, such as Representative W. Scott Oelslager (R-Canton), have tried to obtain certain data to see if lawsuits are increasing and verdicts are going up. However, he has not been able to find a data source for this premise, since data is not collected or monitored to address the med-mal issue.

The Director talked about the last Medical Malpractice Commission meeting where they had a variety of speakers on the issue of medical errors. At that meeting, she asked the state medical board and others if there was any group out there that is promoting a protocol for handling medical errors and she did not get a good answer to the question.

The AMC/NOMA representatives noted that the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) requires review on high-risk issues (root cause analysis) and encourages critical event policies. JCAHO has a regulation that patients be advised of unintended outcomes. This regulation became effective

in 2001. Any hospital that provides care to Medicare/Medicaid patients has to have a policy on disclosure.

The Director indicated that ODI is doing a market conduct examination regarding the underwriting and rating of policies. The department has asked for a "data call" for information on lawsuits. She further acknowledged that it would be difficult to compel law firms to present information on cases they turned down as well as the ones they took, but that type of issue would be helped if we had medical review panels. Information collection was mandated in Senate Bill 281, however, the data from the clerks of courts is all collected differently and it has been difficult to obtain.

Director Womer Benjamin has met with the CEOs of the five companies offering medical malpractice insurance in Ohio. All of them indicated that they are committed to the Ohio market and willing to cooperate with ODI.

Questions about rate changes and what the future might hold were raised. AMC/NOMA representatives mentioned that physicians are not notified of rate changes in a timely fashion and that they

should not have to "count on their brokers" for revised information. Womer Benjamin stated that companies will have to file 60 days in advance for a rate change and added she is trying to address the issue of advance notice requirement without legislative action.

Womer Benjamin was asked about the AMC/NOMA request regarding the preparation of brochures for physicians advising them about the differences in Risk Retention Groups (RRGs), Captives etc., and what oversight ODI had over these entities. Director Womer Benjamin stated that ODI is in the process of completing that now and the information will outline the differences in these products. The Director welcomed the AMC/NOMA's assistance in disseminating this information.

Womer Benjamin was also appreciative of AMC/NOMA's recent medical liability survey data, particularly details related to the services physicians indicated they had to eliminate or would curtail in the future if medical liability rates didn't improve. This type information will help as the debate continues. ■

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Medical Liability Rates Continue to Rise in 2004

Until the litigation climate becomes less severe, your cost of medical liability to income ratio will continue to deteriorate through 2004.

by David A. Martin, President, The Premium Group, Inc.

About two years ago, I ran a series of advertisements in the *Cleveland Physician* warning physicians of the coming extremely difficult medical malpractice markets. If anything I am shocked that things are even worse than I forecasted.

What do the medical liability markets hold for 2004? More difficulty.

Let's recap 2003 for starters:

- First Professional Insurance Company and the Professionals Advocate insurance company pulled out of the Ohio market;
- GE Medical Protective, OHIC, The Doctors' Company and AP Capital (four of the five major carriers offering medical liability coverage in Ohio) all experienced "downgrades" in their financial stability ratings. Some insurers suffered more than one downgrade during the year. Two carriers fell into A.M. Best's "B" range.
- All carriers took significant rate increases in a bid to stabilize themselves financially. Some took as many as three separate rate increases during the year.
- Tort reform came to Ohio. Hopefully, the Ohio Supreme Court will uphold it.
- Underwriting guidelines at most carriers became stricter.

New Year's Eve celebrations for physicians will have nothing to do with insurance, plaintiff lawyers, or socially liberal courts that are paying more and more for the average malpractice claim.

What's next in 2004? For the record, rate increases are due in January from GE Medical Protective, The Doctors Company and OHIC (for facilities, not physicians) ranging between 7% and 50%. The only carriers among the top five not increasing rates at the time of this writing are ProAssurance and AP Capital. I expect all carriers to take rate increases at some time during 2004.

Rates will be increasing until the carriers are able to catch up to the court's trends in awarding more and more money to plaintiffs for each victorious lawsuit. If insurers do not raise rates, they stand to continue their downward spiral into financial ruin, as many have already experienced: PIE, MIIX, MMI, and PHICO among many others (including St. Paul leaving the market in 2002 due to suffering nearly \$1 billion in losses against \$570 million in premiums in 2001).

Until the litigation climate becomes less severe, your cost of medical liability to income ratio will continue to deteriorate through 2004.

For more information contact Elayne Biddlestone at (216) 520-1000 or David Martin at (440) 542-5020.

Editors note: In December 2003, Medical Protective Company told the Med-

ical Malpractice Commission they expect to write between \$700 million and \$800 million in 2004 and they intend to maintain rate adequacy. Strick guidelines in Northeast Ohio will result in the company's limiting the acceptance of new physicians and not accepting individual applicants unless they are part of an existing group in Northeast Ohio. ■

A summary of key Ohio market changes in Medical Professional Liability Insurance*

Carriers currently providing coverage in Ohio

- GE Medical Protective Company (100+ years)
- OHIC Insurance Company (25+ years)
- The Doctors Company (9+ years)
- ProAssurance Group Inc. (9+ years)
- AP Capital (formerly KMIC) (9+ years)

A.M. Best rating changes of significance

- FPIC "A-" Excellent to "B++" Very Good effective October 23, 2002
- GE Medical Protective "A+" Superior to "A" Excellent effective June 26, 2003
- OHIC Insurance Company "B++" Very Good to "B" Fair effective June 12, 2003
- The Doctors' Company "A" Excellent to "A-" Excellent effective June 24, 2003
- A.P. Capital "A-" Excellent to "B++u" Very Good effective November 7, 2003

A summary of Ohio market rate changes in Medical Professional Liability Insurance 2003*

| Carrier | Month | Average Rate Change |
|-------------------------|--------------|------------------------|
| A.P. Capital | January 2003 | Average 39% increase |
| | July 2003 | Average 8% increase |
| | August 2003 | Average 23% increase |
| The Doctors' Company | January 2003 | Average 17.5% increase |
| | June 2003 | Average 24% increase |
| OHIC Insurance Company | July 2003 | Average 17% increase |
| ProAssurance Group Inc. | May 2003 | Average 17.8% increase |

*All carriers changed territory and specialty classifications in addition to changing rates. Many physicians experienced much larger increase in premiums due to these factors.

The Premium Group Inc. Undiscounted Rate Comparison*

| | Mature - Claims Made in Cuyahoga County | | 1M/3M limits | |
|---|---|-----------------|------------------------------|-------------------------|
| | Ophthalmology (Surgical) | General Surgery | Orthopedic Surgery (W/Spine) | Obstetrics & Gynecology |
| A.P. Capital** | \$31,334 | \$130,813 | \$115,603 | \$152,109 |
| The Doctors' Company (All above effective 1/1/04) | \$27,467 | \$ 98,441 | \$ 75,026 | \$111,324 |
| GE Medical Protective Co. (All above effective 1/1/04) | \$28,377 | \$117,212 | \$117,212 | \$151,988 |
| OHIC Insurance Co. | \$26,278 | \$ 63,505 | \$ 63,505 | \$ 89,783 |
| ProAssurance Group Inc. | \$30,917 | \$ 84,058 | \$ 95,865 | \$119,482 |

*Rates shown are filed with the Ohio Department of Insurance through January 1, 2004 and do not reflect any discounting or changes that may have taken place.

**A.P. Capital - The Premium Group, Inc. does not represent nor have any access to this carrier.

The above information was provided by The Premium Group Inc.

The Academy of Medicine of Cleveland/Northern Ohio Medical Association and The Cleveland Academy of Osteopathic Medicine to Co-sponsor "Saving Northern Ohio Medicine and Protecting Patients" Seminar

March 26, 2004

Cleveland Hilton South, 6200 Quarry Lane, Independence, OH 44131

The medical liability problem is multifaceted and this seminar is meant to provide physicians and the public with information on providing for politically practical, legal and ethical solutions to the liability crisis and improve the future of the practice of medicine for physicians and the patients they serve. The seminar, co-sponsored by the Academy of Medicine of Cleveland/Northern Ohio Medical Association (AMC/NOMA) and the Cleveland Academy of Osteopathic Medicine (CAOM), will be open to everyone interested in health care — physicians, medical office staff, hospital executives and staff.

Planned presenters:

- **James Lane, MD, President, AMC/NOMA** and **George Thomas, D.O., Past President of CAOM and President-Elect of the American Osteopathic Association** — Opening Remarks — "Effect of medical liability crisis on the practice of medicine in Northern Ohio."
- **John A. Bastulli, MD, Vice President of Legislative Affairs, AMC/NOMA** — "Update on local/statewide legislative efforts on medical liability."
- **Ms. Carolyn Towner, Towner Policy Group, Columbus, Ohio and AMC/**

NOMA Lobbyist — "How to get your legislative message across to the right people."

- **Mr. Tom Dilling, Executive Director of the State Medical Board of Ohio** — "Physician Discipline in Ohio now and in the future"
- **Ann Womer Benjamin, JD, Director of the Ohio Department of Insurance**, "Ohio Department of Insurance initiatives relative to medical liability insurance and physicians in Ohio."
- ***TBA** — a presenter from the medical liability insurance industry — proposed topic — "Overview of the current medical liability insurance market and trends for the future."
- **Jeff Pariser, JD, Executive Director of The Common Good** — "Elements of a system of medical justice."
- **William Seitz, Jr., MD, President-Elect, AMC/NOMA** — "The effects of professional liability insurance on physician distribution and access to care."
- **Gerald Hickson, MD, Associate Dean for Clinical Affairs, Director, Vanderbilt Center for Patient and Professional Advocacy** — "Why patients sue."
- **Michelle Mello, PhD, JD, Assistant Professor, Health Policy and Law, Department of Health Policy and Law, Department of Health Policy**

and Management, Harvard School of Public Health — "Patient safety and the medical liability system."

- **The Honorable George V. Voinovich, United States Senator** — "Federal medical liability reform initiatives and regulatory issues."
- **J. Richard Ludgin, MD, JD, AMC/NOMA board of directors, Conference Wrap-up** — "What can be done to affect change to benefit physicians and our patients?"

CME accreditation will be available. Participants will learn the factors contributing to medical errors and their effect on patient safety issues. Participants will learn why patients choose to file lawsuits and how to reduce the risk of being sued. Participants will also learn about legislative and regulatory initiatives that affect the practice of medicine and how to work toward legislative reform. The seminar will provide a better understanding of the overall professional liability environment as well as how to rebalance healthcare liability to protect patients without compromising the health system's viability.

For more information or to sign up for the seminar contact: Linda Hale at AMC/NOMA (216) 520-1000. ■

AMC/NOMA Prepares for 2004 Supreme Court Races

The AMC/NOMA's Political Action Committee (NOMPAC) will be very active in the upcoming Ohio Supreme Court election campaign. Once again, we face the challenge to ensure that the justices on our Supreme Court interpret the law and do not legislate from the bench. NOMPAC believes that in order to make certain that this occurs, we need to keep Chief Justice Thomas Moyer and Justice Terrence O'Donnell on the court and elect Appellate Court Judge Judith Ann Lanzinger. These individuals are dedicated to further establish and preserve

the principles of judicial fairness.

Late last month, the Ohio Republican Party announced its endorsed slate of Thomas Moyer for Chief Justice and Judith Lanzinger, Terrence O'Donnell and Paul Pfeifer for Associate Justices. Moyer and Pfeifer are seeking re-election, O'Donnell was appointed to complete the term of former Justice Deborah Cook and Lanzinger is the newcomer of the four, who will run in the open seat. The open seat resulted from Justice Francis Sweeney being constitutionally barred from running for re-election due to his age.

Funding limits for the Ohio Supreme Court have been revised for the 2004 campaign. Funding limits for Chief Justice and Justices, effective 2004 races, are:

- From an Individual \$2,500
- From an Organization \$5,500

Meetings are being planned that will take place over the next few months.

For more information contact Elayne Biddlestone at (216) 520-1000. ■

AMC/NOMA Partners with Ohio KePRO, The Ohio Hospital Association and Others on WebM&M Site

AMC/NOMA will co-sponsor the statewide introduction of the Agency for Healthcare Research and Quality's (AHRQ's) WebM&M Web site — an online journal and forum on patient safety and health care quality. This site features expert analysis of medical errors reported anonymously by readers, interactive learning modules on patient safety and forums for online discussion. The primary target audience of WebM&M is physicians and Continuing Medical Education (CME) credit is available for participation.

The Web address is
www.webmm.ahrq.gov

The WebM&M site seeks to better prepare physicians to take a proactive role in changing our health care system.

The first step in changing the health care system is to recognize that health care errors are systems issues. The morbidity and mortality cases highlighted on the WebM&M site each month will help

physicians recognize that most errors are not the result of sloppy, poorly informed or malicious physicians, but rather functions of overly complicated processes of care with an inadequate focus on error proofing. The WebM&M site features a case-based approach that emphasizes changes such as teamwork training, checklists, and computerization of medical records and prescriptions, which can be made in health care systems.

Each month, five cases are published in various specialties including internal medicine, surgery/anesthesia, obstetrics/gynecology, pediatrics, psychiatry, radiology, and emergency medicine. Physicians submit cases to the WebM&M site anonymously. The most interesting cases are posted on the site, accompanied by short, evidence-based commentaries by the nation's top experts in patient safety. One case each month is expanded into an interactive learning module called the "Spotlight Case." Physicians can earn free Category 1 CME credits by successfully completing ques-

tions related to the Spotlight Case.

The WebM&M site launch is being co-sponsored by Ohio KePRO, AMC/NOMA, the Ohio Hospital Association, State of Ohio Medical Board, the Ohio Department of Health, the Ohio Patient Safety Discussion Forum, the Ohio Patient Safety Institute, the Ohio Osteopathic Association, and the Cincinnati Medical Association.

More information on WebM&M will be provided in upcoming publications from the AMC/NOMA. ■

AMC/NOMA Board Warns OAFP on Rate Increases for Teaching Physicians

AMC/NOMA Board of Directors recently alerted the Ohio Academy of Family Physicians (OAFP) that some malpractice insurance providers might be telling clients that teaching will cause an increase in premiums.

This issue became a topic of concern for a Cleveland-area family physician who was faced with a broker telling him that his teaching could adversely affect his premiums. The AMC/NOMA responded to the insurance provider with four key arguments:

- There is a difference between outpatient ambulatory teaching, which most family physicians provide, and supervising students/residents at hospitals or on surgical rotations.
- There is also a difference between teaching residents and teaching students.
- There are no cases on record of malpractice claims made against physicians due to providing outpatient ambulatory teaching.
- Physicians who provide teaching at their practice often receive higher satisfaction ratings from patients, because the perception is that there is a higher quality of care.

As a result of these arguments, the insurance carrier decided that outpatient ambulatory teaching would not increase a physician's malpractice costs.

For more information, contact the AMC/NOMA at (216) 520-1000. ■



CASE

SCHOOL OF MEDICINE

DEPARTMENT OF UROLOGY

2ND ANNUAL UROLOGY CONFERENCE

*Prostate Health, Sexual Health and Urinary Incontinence
Management for your Practice*

February 28 – 29, 2004 The Forum Conference Center
One Cleveland Center, 1375 East 9th Street, Cleveland, OH 44114

WHO SHOULD ATTEND This conference is designed for cardiologists, family practitioners, oncologists, urologists, psychiatrists, psychologists, internal medicine practitioners, nurse practitioners and physician assistants.

FOR MORE INFORMATION Contact the Office of Continuing Medical Education, Case Western Reserve University School of Medicine by phone at (216) 368-2408 or (800) 274-8263, fax (216) 368-0535 or <http://cme.cwru.edu>

To register with a credit card, call (216) 368-2408 or (800) 274-8263 or fax this form to (216) 368-0535. You may also register and pay at a secure site on the Web: <http://cme.cwru.edu>

Summary Judgment Complaint Filed Against OSMB Regarding AAs

The AMC/NOMA has actively supported the supervised practice of anesthesiologist assistants (AAs) and has worked with both AAs and physicians in Northeast Ohio to assure that AAs are licensed and brought under the jurisdiction of the Ohio State Medical Board (OSMB).

Recently, a motion for summary judgment (Case No. 03 CVH 06 6392) has been filed with the Franklin County Court of Common Pleas regarding the role of AAs. According to the motion,

“The outcome of this action will affect the delivery of health care, because the (OSMB) misinterpreted the intent of the General Assembly when it attempted to change the statutorily authorized practice of anesthesiologist assistants (AAs) by adopting a rule prohibiting AAs from performing certain procedures that they have performed safely for over thirty (30) years to the public’s benefit. The outcome of this action will affect the delivery of health care because, given the shortage of anesthesiologists in this area,

the rule further reduces resources, thus decreasing patient access to prompt medical care when anesthesia is needed. If this Court does not invalidate the State Medical Board’s conflicting regulations, the Board’s regulatory action will alter, and in some cases eliminate, the use of AA’s throughout the state.”

The AMC/NOMA will continue to follow the case and report on any decisions rendered. ■

Congress Passes Medicare Bill and Meets AMC/NOMA Objective

On Nov. 25, Congress passed the Medicare prescription drug bill. Blocking a 4.5 percent cut in physician payment was one of many AMC/NOMA objectives that was accomplished with passage of the Medicare prescription drug bill. The legislation also increases payments for physicians in rural and underserved areas, gives physicians due process protections for Medicare carrier audits and preserves the current physician coding system.

Physician leaders and lobbyists worked closely with the House and Senate Republican leadership and Bush Administration officials to help generate winning margins on some difficult votes en route to final passage. Another critical factor was the intense response from physicians including members of AMC/NOMA. Capitol Hill was inundated with tens of thousands of physician phone calls, faxes and e-mails responding to the Call to Action.

This bill will avert a Medicare patient access meltdown.

Key provisions include:

- **Physician update:** Replacing a 4.5 percent cut with a 1.5 percent increase represents a 6 percent favorable swing in the Medicare conversion factor. Additional cuts in 2005 will also be prevented.
- **Prescription drug benefit:** Prescription drug benefit is consistent

with AMA principles and targets financial assistance to neediest patients.

- **Regulatory relief provisions:** Due process protections for Medicare carrier audits include deferring any financial penalties until physician appeal rights are exhausted, no penalties when a physician relies on guidance from Medicare officials, an opportunity to correct errors before repayment demands are made and limits on extrapolation or small-scale audits to generate large overpayment demands.
- **Physicians in rural and underserved areas:** Geographic payment disparities would be reduced with a \$1 billion increase in the work component to the fee schedule; an additional \$700 million in incentives to maintain and enhance the physician supply in rural and underserved areas.
- **Medical savings accounts:** Increased tax benefits are provided to patients of all ages who enroll in medical savings accounts (now known as Health Savings Accounts)
- **Electronic prescribing:** Voluntary instead of mandatory
- **CPT coding:** Physicians can continue to use their current coding system, preventing a move from some 7,000 codes to 170,000 used in ICD 10. ■

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AMC/NOMA Board of Directors Meeting



Susan Stanfield, CEO of Marsh USA, makes a presentation to AMC/NOMA Board of Directors at their November meeting.

At the November Board of Directors meeting, the AMC/NOMA board heard a detailed presentation on the OHA New Medical Malpractice Insurance Company. Ms. Susan Stanfield, of Marsh Associates provided the presentation to the board of directors. Among the points presented by Ms. Stanfield were the benefits of the OHA Company, which would include:

- Ownership by Ohio hospitals
- Focus on assisting Ohio hospitals and physicians
- New capital and capacity to the Ohio liability insurance market
- Promotion of stability and predictability of insurance rates
- Ability to ensure physicians and hospitals are available to care for patients

The OHA Company will be for-profit and stock will be issued by a new holding company, OHA Holdings, Inc., and the new insurance company will be a wholly owned.

At the time of the presentation Ms. Stanfield was vice president and health care practice leader of the new company and on Dec. 16 assumed the position of CEO.

In December the Ohio Department of Insurance Director Ann Womer Benjamin licensed OHA Insurance Solutions (OHAIS), Inc. to begin selling medical liability coverage statewide to a limited number of physicians starting January 1, 2004, and to hospitals starting in March.

For more information visit www.ohanet.org/med-mal/ or contact *Elayne Biddlestone* at (216) 520-1000. ■

State House Legislative Report

By Carolyn Towner and Kristy Smith

Timothy DeGeeter Replaces State Representative Dean DePiero

Timothy J. DeGeeter, an attorney, has been appointed to fill the unexpired term of State Representative Dean DePiero. In November, DePiero, who is a former leader of the House Democratic Caucus, won his race to become Mayor of Parma. DeGeeter was sworn in on December 2, 2003, when DePiero resigned from his House seat. DeGeeter is an attorney and has served on Parma City Council since December 1998.

Senate Bill 80 – Tort Reform

According to Chair of the House Judiciary Committee, State Representative Scott Oelslager (R-Canton), tort filings in Ohio have not changed significantly over the last 12 years. Representative Oelslager had asked Chief Justice Thomas Moyer for the information during the hearings of Senate Bill 80, the omnibus tort reform legislation. Advocates for Senate Bill 80 have cited an increased volume of tort filings and want the state to act to protect business owners who are frequent targets of these lawsuits. Opponents contend there is no crisis. Representative Oelslager asked ODI Director Ann Womer Benjamin for statistics, but she was unable to provide any.

Representative Oelslager said, “The information provided by the Court exemplifies that from 1990 to 2002 tort case filings have undergone minimal changes. The numbers go both up and down, but have mostly remained in the same range. The cases settled or dismissed prior to trial have gone up from 1990 to 1999, however this trend changed and the number of cases settled or dismissed began decreasing in 2000. The two years filings were the highest include 1997 and 2002. Perhaps there was more activity during these years because it was right before the Ohio General Assembly passed tort reform legislation. Attorneys had to rush to the courthouse to get their cases filed before the legislation became effective or else they would potentially risk committing malpractice.”

Medical Review Panels Legislation

House Bill 215, sponsored by State Representative Jean Schmidt (R-Loveland), requires medical claims against health-care providers to be reviewed by a medical review panel prior to the claim

proceeding in court. This legislation has been undergoing hearings in the House Insurance Committee. At the hearing on December 9, 2003, William Weisenberg with the Ohio State Bar Association said that meetings are underway between defense and plaintiff’s attorneys through the Ohio State Bar Association to explore whether a more expeditious process can be developed to process medical malpractice liability claims.

Medical Malpractice Commission Meeting

On December 17, the Medical Malpractice Commission met at the ODI. Representatives from Medical Protection Company gave an update on their company. They said they are looking to slow down growth of the company but are not shutting down in Northeast Ohio as had been rumored. They also said they intend to maintain rate adequacy. Citing the problem of insurers not being able to project potential losses (jury awards), they said if the Ohio General Assembly capped damages that would slow growth of future rate increases.

Representatives from state Departments of Insurance in Wisconsin, New Mexico and Indiana each spoke to the group on how their states have handled the medical liability problem.

All have a Patient Compensation Fund (PCF) and caps in place that they felt help avoid a medical malpractice crisis.

Wisconsin’s PCF is mandatory and provides medical malpractice insurance above primary limits established by law. The fund provides unlimited coverage, but there is a cap on noneconomic and wrongful death. A 13-member Board of Governors monitors the fund.

New Mexico has a voluntary PCF with caps applying only to participants. The state also has a Medical Review Commission that is credited with a significant reduction in cases filed.

The PCF in Indiana is funded by surcharges on medical malpractice premiums by participating healthcare providers. Indiana Department of Insurance administers the PCF. Participation in the fund is optional; however, if a provider elects not to participate, then it does not benefit from the caps. Indiana also has a medical review panel composed of one attorney and three health

(Continued on page 10)

State House Legislative Report (Continued from page 9)

care providers. The state also has a statute of limitations of two years except for a minor of less than six years. The Indiana representative cautioned the Commission to be sure to actuarially set the surcharge from the beginning and to specifically define who can bring claims and the cap applicable to the claims.

Immunity Bill Passes Ohio House and Ohio Senate

Senate Bill 86, sponsored by Senator Steve Stivers (R-Columbus), extends immunity from liability for services provided by volunteer health care professionals and workers to more health care facilities and to nonprofit referring organizations; and increases the maximum allowable income of individuals who may be served by volunteers having immunity from liability. This bill passed the Ohio Senate in June 2003 and was reported out of the House Civil & Commercial Law Committee on November 5, 2003. Prior to being reported out of the committee, the bill was amended to instruct the Ohio Department of Insurance to study the bill under the auspices of their current study on medical malpractice insurance; to include language pertaining to advanced practice nurses; and to require that before uninsured patients are treated by a physician, they must sign a waiver which explicitly states that they are losing their right to sue. The bill passed the Ohio House of Representatives on December 10, 2003 and an amendment was made to remove the amendment pertaining to advanced practice nurses. The bill will go to the Governor for signing.

Physicians Assistants Introduce Legislation to Allow for Prescribing

Senate Bill 147 is the physician assistant legislation that has been introduced by State Senator Lynn Wachtmann (R-Napoleon). The bill requires the physician assistant to practice with the supervision, control and direction of a physician and to have a supervision agreement approved by the State Medical Board. The supervising physician is prohibited from authorizing the physician assistant to perform: services not within the physician's normal course of practice and expertise; and services inconsistent with the approved supervisory plan for the supervising physician, the policies of the health care facility in which the physician and physician assis-

tant practice, or both the plan and the policies.

The bill will allow the physician assistant to have physician-delegated prescription authority. Two pharmacist members are to be appointed to the Physician Assistant Policy Committee for the development of a formulary and the formulary is to list drugs and therapeutic devices by class and specific generic nomenclature that may not be included in the physician-delegated prescription authority. The formulary established is required to include all schedule II controlled substances as a class of drugs that may not be authorized for physician assistants to prescribe.

The physician assistant is required to participate in a provisional prescription prescribing period with such period not exceeding 1,800 hours, except when the supervising physician requires the physician assistant to participate in an extended provisional period. To be eligible to participate in the provisional period, the physician assistant is required to meet certain educational requirements. In addition, other specific requirements must be met regarding pharmacological instruction and clinical training. The supervisory physician may also place certain conditions on the physician-delegated prescription authority.

The bill provides that effective January 1, 2008, the physician assistant applicants are required to hold certain educational requirements through a school or program accredited by the Accreditation Review Commission on Education for the physician assistant or a predecessor or successor organization recognized by the State Medical Board. The bill grandfathered in those physician assistants certified by Ohio or another jurisdiction prior to January 1, 2008 and such physician assistants do not need to have a master's degree for renewal of their certificate.

House and Senate Pass Ohio's Best Rx Program

House Bill 311, sponsored by State Representative John Hagan, establishes the Ohio's Best Rx Program under which eligible individuals who enroll in the Program may purchase drugs at discounted prices that are derived from rebates provided by drug manufacturers or the average prices otherwise established by the health benefit plans offered by the five state retirement systems and the state health benefit plan offered to state employees through the Ohio Med Preferred Provider Organization or a successor selected by the state. The Ohio

General Assembly appropriated \$10 million from the general revenue fund for start-up costs. The bill passed the Ohio House on December 9, 2003 by a vote of 91-1 and passed the Ohio Senate on December 10, 2003 by a vote of 32-1.

Bill Introduced to Require All Tort Actions to be Reported On

State Representative John Willamowski (R-Lima) has introduced legislation to require the clerk of a court of common pleas in Ohio to send to the Ohio Department of Insurance and the Ohio Supreme Court an annual report containing information relating to all tort actions. Currently, certain information relating to civil actions upon a medical claim, dental claim, optometric claim and chiropractic claim are required to be filed with each court of common pleas. This legislation would make this section of law apply to the filings of all tort actions; would remove specific reference to the filing of information on civil actions upon a medical claim, dental claim, optometric claim and chiropractic claim; and require the information to be reported to the Ohio Supreme Court, as well as the Ohio Department of Insurance. The bill has been referred to the House Civil and Commercial Law Committee.

House Bill 348 would also create the Commission on Responsible Legal Reform, consisting of thirteen members. The President of the Ohio Senate would appoint four of the members; the Speaker of the Ohio House would appoint four of the members; the minority leader of the Ohio Senate would appoint two members; the minority leader of the Ohio House would appoint two members; and the Superintendent of the Ohio Department of Insurance or the Superintendent's designee would be the thirteenth member of the Commission. Representation on the Commission would be by the Ohio Chamber of Commerce, the Ohio Manufacturer's Association, the National Federation of Independent Businesses-Ohio, the Senate Majority Caucus, the Ohio Academy of Trial Lawyers, the Ohio State Bar Association, the American Association of Retired Persons-Ohio, the House Majority Caucus, the Ohio Common Pleas Judges Association, the Senate Minority Caucus, the Ohio AFL-CIO, and the House Minority Caucus.

For more information contact Elayne R. Biddlestone at (216) 520-1000. ■

Mediation Offers New Way to Resolve Disputes

By David A. Bitonte, DO, MBA, FAOCA, Medical Director

Quality Improvement Organizations (QIOs) such as Ohio KePRO have been performing case review since the inception of the Medicare Beneficiary Protection program in 1985. Since that time, case review has consisted only of medical record review. Beginning in September 2003, under guidelines established by the Centers for Medicare & Medicaid Services (CMS), Ohio KePRO offers a new component to the complaint process — mediation.

CMS believes, based on a successful pilot project with QIOs, that mediation is a viable option to resolution beneficiary health care complaints.

What is Mediation?

Mediation is a form of conflict resolution that brings two or more parties together to discuss their issues with the assistance of one or more impartial third parties (the mediators). It is a process that often results in increased satisfaction to the participants. It is not binding arbitration. Under the new mediation process, all cases will go through a preliminary review by Ohio KePRO's physician reviewers before referral for possible mediation. The mediator will be a trained impartial professional and not a member of Ohio KePRO's staff. A typical session may take between one and four hours. There will be no fee charged to either party — complainant or provider.

Cases that are appropriate for mediation do not involve any significant quality of care concerns. An example of an appropriate case for mediation is the following:

The beneficiary claims that he or she was given a wrong medication. The medical record indicates that the medication was correct, but the instructions given were not clear or understood by the beneficiary.

The above case relates more to a misunderstanding involving communication rather than a true quality of care issue.

Cases that will continue through Ohio KePRO's usual medical chart review will be those involving significant quality of care issues that may be categorized as gross and flagrant, concerns that may qualify for a pattern under the substantial violation definition, and those in litigation.

Reduce Malpractice Claims

Resolving disputes by mediation may reduce the risk of a medical malpractice claim, which is expensive and time-consuming. Direct dialogue with the beneficiary may result in a greater chance of resolving a dispute amicably. The patient-physician/provider relationship may benefit as well. About 80% of Medicare beneficiary complaints are related to misunderstandings, lack of communication, or the patient's perception of treatment. Many times, simply knowing that a provider is listening to his or her point of view assuages a complainant's concerns. This in itself lessens the chance that a complaint will escalate into a malpractice suit.

Strictly Confidential

Federal law protects the confidentiality of mediation sessions. Nothing said can be used in other legal proceedings. Any notes taken during the mediation are destroyed at the end of the session. Mediation sessions are not recorded. Participation is completely voluntary and all parties must agree to participate. Any party can withdraw from the process at any time.

The mediator impartially facilitates the discussion. This provides a safe, neutral environment while assisting each party in communication with each other and reaching an agreement. The mediator does not make any decisions or dictate the outcome of the mediation. A co-mediator, who has a healthcare background, may assist the mediator. It is CMS's preference that mediation sessions be conducted face-to-face at a time and location mutually convenient to all parties. However, under certain circumstances, telephone mediation is an option.

During the mediation session, each party is given an opportunity to present his or her views and respond to one another. Again, the mediator facilitates conversation with the goal of reaching a mutually agreed upon resolution to the dispute. Once a resolution is agreed upon, the parties sign a written agreement. This concludes the mediation session. If the parties cannot agree, or if either wishes to withdraw from the mediation session, the case is referred to the medical record review process. Ohio KePRO will follow up to and monitor the

terms agreed upon by the parties. If a system or process change is to be made by the physician/provider, Ohio KePRO will follow the usual practice for Quality Improvement Plan monitoring.

In summary, mediation can reduce the risk of malpractice claims, offer an opportunity to improve quality of care, improve avenues of communication leading to increased satisfaction among beneficiaries, physicians and providers, as well as provide an opportunity for all parties to determine the resolution of a complaint.

AMC/NOMA response to the new CMS/Ohio KePRO mediation process

The Executive Committee sent the following response to Dr. Bitonte in response to the Ohio KePRO questionnaire regarding the mediation process.

While the AMC/NOMA applauded the efforts of OHIO KePRO to implement this mediation process in Ohio, we are of the opinion that:

- The process is too time-consuming for physicians.
- Physicians should be appropriately compensated for the time they spend in a mediation process.
- Is any of the information disseminated before, during or after a mediation, subject to release to attorneys for a malpractice request?
- Any information sent out to physicians and beneficiaries should clearly indicate that the mediation process is confidential and covered under peer review status.
- It should be the responsibility for Ohio KePRO to check with the medical liability companies in Ohio regarding their stance on whether or not physicians are covered if they are in mediation. This information should be included in materials provided to physicians.
- Ohio KePRO should check with new medical liability carriers as they come into the market and provide the information to physicians undergoing mediation on the carrier's stance during this process.

CMS/Ohio KePRO answers to AMC/NOMA concerns

AMC/NOMA received the following from CMS/KePRO in answer to AMC/ (Continued on page 12)

Mediation Offers New Way to Resolve Disputes

(Continued from page 11)

NOMA concerns expressed to Dr. Bitonte.

Regarding:

- Compensation – CMS requires all QIO's to offer mediation as an alternative to resolve issues between beneficiaries and providers. There is no cost to either party and the independent mediator is paid by Ohio KePRO. If a party does not wish to participate for any reason, they are not required to participate. It is strictly voluntary. The case would then revert to the regular medical chart peer review panel. While there is no payment offered to either party for participating, a pilot study by CMS indicated as a result of these mediations, both parties gained a greater sense of satisfaction for resolving their differences. The direct dialogue also improved their relationship and may lead to a reduced risk of malpractice claims.
- Confidentiality – As protected by laws, the mediation process is strictly confidential. Nothing said can be used against anyone in other legal proceedings. Any notes taken during the mediation are destroyed at the end of the mediation session. Mediation sessions are not recorded. Lawyers may subpoena records, but OIO's do not have to comply.
- Insurance Coverage – Generally all five liability carriers indicate that physicians are covered, but it depends on what their individually policy states. If this is a frequent occurrence, then carriers suggest it should be written into the policy for coverage. Peer review and mediation is protected by law and is confidential. If a physician wishes his lawyer at the mediation session it is allowable, as long as both parties agree. This does raise the bar to a legal level, however, and the desire is to resolve the issue amicably without litigation. It is preferable to allow both parties to dialogue with their lawyers present.

For more information contact: *Elayne Biddlestone at AMC/NOMA at (216) 520-1000.* ■

AMC/NOMA – A New Frontier in Brazil?

By Victor M. Bello, MD

It was a Friday, early in the fall, this year; the leaves were beginning to turn into multiple arrays of colors that so much please the eye. I was in the middle of a busy afternoon at the office and as usual behind my schedule. My receptionist told me that I had a call from Brazil.

As I have some interest in Brazil, I took the call immediately and started my greetings in Portuguese assuming it was my usual contact in Brazil on the other side. I was surprised to hear the response in good English. The caller explained he was a Brazilian doctor visiting friends in the US, here in Cleveland. He had called AMC/NOMA where he was provided my name as somebody to contact. I realized this conversation was likely to stretch out and put me further behind in my schedule. I suggested we meet for lunch the next day which was Saturday.

I went to medical school in Brazil, in Bahia and this colleague was from Brasilia, nonetheless I was very much interested to hear how the practice of medicine in Brazil was exercised, well, at least in Brasilia.

The next day when I went to pick him up for lunch I never made it out of the house of his very charming hosts. There, sipping Brazilian “cafezinho” — coffee Brazilian style, stronger than Espresso — he explained to me that he was returning to Brazil, the next day and was interested in exchanging ideas on organized medicine. He told me he had worked or “trained” in Cleveland some 35 years prior. He was surprised to learn that two of our “giant” hospitals like St. Luke's and Mount Sinai had closed and that the AMC/NOMA had stood up along with others against such closures. I do not know where he got that information, but his interest was sharpened by the fact that two weeks before he had been elected president of the Academy of Medicine of Brasilia.

I responded by explaining that the mission of the AMC/NOMA is to be the support of all its physician members irrespective of their affiliation, institutional or private; academic or private practice; irrespective of gender or size of group. I also informed him that this tradition of support was born about 180 years ago, and by being strong advocates for its



Victor M. Bello, MD

physicians, the public benefit was a natural byproduct.

“The Academy of Medicine of Brasilia is only 14 years old,” he said. “...I believe we can learn a lot from AMC/NOMA.” We discussed the current structure of the Brazilian Organized Medicine Landscape. Few major cities there actually have an Academy. They usually have the Regional Council of Medicine, a state organism akin to our State Board. Naturally there is the “Associacao Medica Brasileira”, the national organization. Interestingly, there is no state organization, other than the one cited above.

I suggested that organizing the local Academy required a careful design of the goals of the organization and it should be incorporated into an appropriate legal entity, with a constitution and bylaws. At this point, he seemed very interested in establishing a relationship with our academy to exchange ideas. I suggested the concept of a sister organization, much like some cities have. I communicated to him that our constitutions and bylaws are a matter of public record and can be viewed on our Web site. We concluded that we should embark on exploring the sisterhood concept, with an active exchange of ideas.

As anything in our venerable 180 year Academy of Medicine is done by consensus, I will continue to explore these avenues of exchange and when the concept has matured into something feasible, desirable, I will make a proposal to the board.

Stay tuned, AMC/NOMA might have found a new frontier.

Dr. Victor Bello has been an active member of the AMC/NOMA since 1984. He has served as a past president, vice president and member of numerous committees. Currently, Dr. Bello serves on the Legislative Committee and AMC/NOMA's board of directors. ■

St. Vincent Charity Hospital Grand Rounds, November 19



Dr. John Bastulli and Dr. Robert Rzewnicki catch up on medical liability issues during a break at St. Vincent Charity Hospital Grand Rounds.



Members of St. Vincent Charity Hospital medical staff listen as Dr. John Bastulli spoke to them on state and federal medical liability at Grand Rounds.

MetroHealth Med Center Medical Staff Meeting — 11-25-2003



Dr. Michael Prokopius, president of MetroHealth Medical Staff and Dr. James Lane, AMC/NOMA president caught up on AMC/NOMA physician advocacy issues at a recent MetroHealth Medical Staff meeting.



Dr. William Seitz takes time to visit with Dr. David Perse, Chief of Staff at Lutheran Hospital after Dr. Seitz's presentation on AMC/NOMA membership at the joint staff meeting of Lutheran and Fairview Hospitals.

2004 Mini-Internship Dates Announced

The 2004 Mini-Internship Program is scheduled for February 16, 17 and 18, 2004. In the past, "interns" have included elected officials, news media, health care coalitions, law, clergy, education and consumer advocate groups.

Interns will spend a half-day with each of their assigned physicians, and they will accompany physicians on daily rounds and office visits, attend surgery and/or observe emergency care. On Sunday, February 15, 2004 physician participants will meet for a brief orientation at 4 p.m. The interns will join the meeting at 4:30 p.m. Both meetings will be held at the AMC/NOMA administrative offices on Rockside Woods Boulevard in Independence.

During the internship, an intern will shadow the physician for part of the day. At the end of the program, physicians will join the interns at a debriefing dinner on Wednesday, February 18th at 6:30 p.m. at the AMC/NOMA offices. To ensure that this will be a genuine, two-way communication effort, physicians are encouraged to attend and contribute to the discussions at both the orientation as well as the debriefing.

Participation in the Mini-Internship Program requires a firm commitment for the scheduled time period from AMC/NOMA member physicians. For more information, please call Linda Hale at the AMC/NOMA, 520-1000, ext. 309. ■

AMC/NOMA "Solving the Third Party Payor Puzzle" 2003 Seminar

The annual AMC/NOMA "Solving the Third Party Payor Puzzle" Seminar was held on November 12, 2003.

Speakers for the event included: Vanessa Williams, Provider Education Administrator, Plametto GBA; Dottie Christie, Professional Relations Representative, Ohio Department of Job and Family Services; Diane Irvin, Professional Contracting Representative, Medical Mutual of Ohio; Cheryl Donahue, Provider Relations Representative, Anthem Blue Cross and Blue Shield; and from United Healthcare: Amy Forney, Online Presentation Analyst; John Laverdiere, Delegated Account Manager and Alissa Oshikawa, Network Account Manager.

Ms. Williams highlighted the Palmetto GBA Medicare Web site (www.PalmettoGBA.com) and explained the information that can be accessed through it. She emphasized the lowest amount of

response time is by using the Web site.

Ms. Irvin of Medical Mutual presented current topics and an update of the Professional Provider Manual available at www.medicalmutual.com. Ms. Irvin added that many of the services currently offered by MMO are being transferred to WebMD Envoy to ensure HIPAA compliance.

Ms. Donahue from the Provider Relations Department of Anthem Blue Cross/Blue Shield discussed Good News Updates that include open access Products Network. www.anthem.com

Ms. Christie, from Ohio Department of Job and Family Services (ODJFS) stated that the ODJFS no longer uses paper, all information is now available online at www.odjfs.state.oh.us/forms/index.asp

Ms. Fortney, United Healthcare Online Presentation Analyst presented their Online Service now available to physi-

cians and health care professionals. Their Web site is www.unitedhealthcare.com.

For more information contact Linda Hale at AMC/NOMA (216) 520-1000. ■



A large audience attended the seminar to hear representatives from third party payor companies update them on current topics and changes.

Dr. Bastulli Appears on WERE 1300-AM Radio Talk Show

Due to the positive feedback from his previous appearance, AMC/NOMA Legislative Committee Chairman and Past President **Dr. John A. Bastulli** made a follow-up radio show appearance on the "Healthcare Cost Crisis Show" on October 28 with Alan Thompson on WERE 1300-AM.

Dr. Bastulli spoke on the subjects of medical liability and tort reform legislation as well as both state and federal drug bill legislation. ■



Dr. John A. Bastulli joins Alan Thompson and Ed "Flash" Ferenc for a follow-up appearance on WERE's "Healthcare Cost Crisis" radio program.

AMC/NOMA Participates in Medical Hall of Fame Induction

The Seventh Annual Cleveland Medical Hall of Fame dinner was held on November 5 at Windows on the River banquet facility in Cleveland's Flats. Several faculty members from the Case Western Reserve University School of Medicine and a noted heart surgeon from the Cleveland Clinic Foundation were honored.

Among the 2003 inductees were AMC/NOMA members **James O'Malley, MD**, retired surgeon from Lakewood Hospital and Case faculty, and **Helmut Schreiber, MD, FACS**, on the Case faculty at MetroHealth Medical Center. AMC/NOMA 2003-2004 Board of Directors President Dr. James Lane presented the charter member award.

Case Western Reserve University School of Medicine sponsored the program that is presented by *Cleveland Magazine* to honor Cleveland's distinguished medical community. Event proceeds support scholarships for Case medical students. ■



Dr. Richard Frattianne, past president of AMC/NOMA and AMC/NOMA 2003-2004 Board of Directors president Dr. James Lane attended the Medical Hall of Fame dinner where Dr. Lane presented the charter member award.

Dr. John Bastulli Guest Speaker at Cleveland Rotary Club

On December 4, 2003, **Dr. John A. Bastulli** presented to the Rotary Club of Cleveland on the topic of the medical liability crisis. Dr. Bastulli's presentation included the Academy of Medicine of Cleveland/Northern Ohio Medical Association's legislative agenda as well as background information on how the medical liability crisis is affecting patient care in Northeastern Ohio. His speech included statistics from two recent AMC/NOMA surveys — data that clearly showed that patient's access to care would be impacted if insurance rates continue to rise in 2004.

The presentation was well received, and in fact, it appeared as most of the audience was in total agreement with the position of the AMC/NOMA with regard to the severe problems being faced by physicians and patients due to the liability crisis. Several questions were asked of Dr. Bastulli — one specifically about the importance of the upcoming Ohio Supreme Court race in 2004. In response to the question, Dr. Bastulli provided the audience with an overview of what had transpired in Ohio historically with regard to tort reform legislation, specifically that then Governor Voinovich



Dr. John Bastulli spoke at the Cleveland Rotary Club meeting outlining some AMC/NOMA positions including tort reform legislation and the upcoming Ohio Supreme Court race.

signed into law extensive tort reforms only to have them overturned by the Ohio Supreme Court. Dr. Bastulli further explained the current tort reform law in place in Ohio and then provided the audience with information regarding the upcoming Ohio Supreme Court race.

One Rotary member commented that the presentation by the AMC/NOMA was right on target. She worked in a company in human resources and had to provide information and background to

employees on their health insurance rates. She stated that it is clearly evident that the medical liability crisis is adding to the overall cost of health care in the community and that the patient population has to begin to understand this issue and do something about it. The AMC/NOMA staff has provided the Rotary with statistics and background information on this issue. In addition, Dr. Bastulli has been asked to speak at other venues on the medical liability crisis as a result of the Rotary presentation. ■



Cleveland Rotary Club members listen intently as guest speaker, Dr. John A. Bastulli, talks about how medical liability crisis affects patient care.

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Like the brain, there are two intelligent sides to referring your patients to Lakewood Hospital.

The only 3-D imaging equipment of its kind in the Midwest is at Lakewood Hospital. It's an angiography technology so advanced, Cleveland Clinic's world class cerebrovascular and endovascular neurosurgeons and neuroradiologists come here to perform many complex procedures. And it's located in a convenient community setting your patients can feel comfortable with.

For more information on the Cleveland Clinic Endovascular Neurosurgery Center at Lakewood Hospital, call (866) 253-5633 toll free.



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