

chicago medicine

CHICAGO MEDICAL SOCIETY
THE MEDICAL SOCIETY
OF COOK COUNTY

Newsletter, June 2003, Vol. 106, No. 6

CMS HOSTS LANDMARK RALLY



Photo courtesy: Richard B. Ressler, MD

Physicians as activists: They came in droves to downtown Chicago to march against soaring malpractice insurance rates. The CMS-sponsored event was supported by ISMS, AMA, and the Metropolitan Chicago Healthcare Council.

Wake up Chicago, you're health care is in crisis!

TO THE CHANTS OF "WE WANT HEALTH," more than 4,000 physicians, patients and professional medical staff marched on Daley Plaza last month in a dramatic display of unity. Their message: Some patients are in deep trouble and more will be as the liability crisis worsens.

Waving placards with slogans such as "Who will deliver your baby?" and "U.S. senate ac-

(Continued on page 2)



“Medical liability reform is not a partisan issue!” says Neil E. Winston, MD, president-elect, CMS. (Dr. Winston assumed the presidency on June 7).

(Continued from page 1)

tion now,” the message to the public and lawmakers couldn’t have been more direct: Unless legislators enact meaningful liability reform quickly, physicians will be driven from practice and patients will lose all access to care.

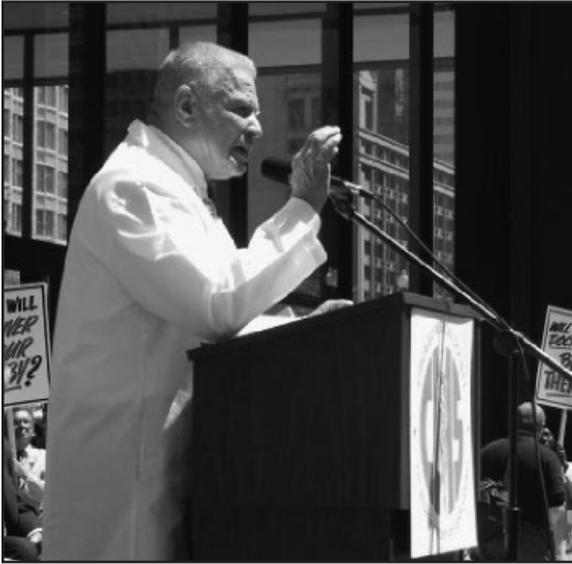
To illustrate this point, doctors like ob-gyn Gina Wehrmann told how she soon will be unable to afford to stay in business. Others, like vascular surgeon Craig Adams, explained that he had been driven out of Illinois to practice in Oklahoma, which has tort reform and lower malpractice premiums. In a fiery speech, Maurice Sholas, MD, a Chicago resident, angrily said that he and his mother did not make sacrifices for him to become a physician only to be forced out of a job. He put the Illinois congressional delegation on notice that they should “look him in

the eye,” because he has many years ahead and he’s “coming after them.”

The rally was sponsored by the Chicago Medical Society and strongly supported by the Illinois State Medical Society, American Medical Association, Metropolitan Chicago Healthcare Council, and more than 55 hospitals and other health-care groups.

Also addressing the crowd were:

- CMS President Richard A. Geline, MD, who made the simple but urgent point that the tort system is “out of control.” He drew everyone’s eyes to the color-coded AMA map showing the 18 states, including Illinois, which are in crisis. Fifty three percent of the population lives in those states, he warned.
- AMA Chair-elect William G. Plested III, MD, urged rallygoers to contact their legislators in support of Senate bill S. 607, which puts a cap on non-



AMA Chair-elect William G. Plested III, MD, called medical liability reform an ongoing war, but a war we are going to win.



WGN-TV reporter Robert Jordan interviews CMS President Richard A. Geline, MD, for Channel 9.



ISMS President William E. Kobler, MD, challenged listeners to "imagine a world without doctors."



Edward Murnane, a leading proponent of tort and judicial reform in Illinois, talked about the work being carried out by the Illinois Civil Justice League.

economic damages. Referring to successful California-style reform, he declared, "We know how to stop the hemorrhaging—it's called MICRA—and it works."

● ISMS President William E. Kobler, MD, told the crowd that Illinois had never seen rates as astronomical as those today. "Insurance premiums are skyrocketing. Insurance premiums are becoming unaffordable. Insurance premiums are even becoming unavailable to many doctors. We need lawsuit reform and we need it now," he said.

- Neil E. Winston, MD, CMS president-elect, who read supportive letters from J. Dennis Hastert, speaker of the U.S. House, Mark Kirk, congressman from the 10th district, and Peter Fitzgerald, Illinois senator.
- Ed Murnane, president of the Illinois Civil Justice League, a coalition of business and professional organizations working toward fairness in the civil justice system.

Just before the rally begins, CMS staffer Ted Kanellakes goes over logistics with employees from CMS, ISMS and the AMA.



AMA Executive Vice President and CEO Michael D. Maves, MD, brought his group's support.

CMS Executive Director James R. Tarrant with CMS legal counsel Paula Cozzi Goedert, who attended the rally to show her support for medical liability reform.

States feeling the pain

ACCORDING TO A NEWLY RELEASED STUDY of more than 1,000 hospitals in the 18 AMA-designated medical liability crisis states:

- 53.1 percent of hospitals say it's more difficult to recruit physicians.
- 48.3 percent report a significant impact on hospital finances and operations.

- 45.0 percent say there has been a loss of physicians and/or reduced coverage in emergency departments.
- 34.7 percent report a negative impact on their ability to provide services.
- 18.6 percent note a significant impact on access to care in the community.

Source: American Medical News, May 26, 2003



Photo: Scott Warner, CMS

Listening from the stage are (from left): Peter E. Eupierre, MD, CMS secretary; Neil E. Winston, MD, president-elect; James R. Tarrant, executive director; William G. Plested III, MD, AMA chair-elect; William E. Kobler, MD, ISMS president; Craig Adams, MD, Maurice Sholas, MD, Gina Wehrmann, MD, James Skogsborgh, CEO, Advocate Health Care System; and Ed Murnane, president, Illinois Civil Justice League.

Wanted: Federal action now

"WE WOULD LIKE NOTHING MORE THAN FOR Illinois state lawmakers to pass proven reforms, but we've been down that road before," said ISMS President William E. Kobler, MD.

Three times, Illinois has enacted medical liability reform into law. Each time the Illinois Supreme Court has ruled them unconstitutional—a prime factor why the CMS and ISMS are pressing so strongly for federal action based on the comprehensive reforms that have protected California's patients and physicians for more than 25 years.

In March 2003, the HEALTH Act, federal legislation based on California's reforms, passed the U.S. House

of Representatives. The U.S. Senate is expected to consider similar legislation in the coming months.

The reforms contained in the HEALTH Act include:

- Ensuring patients receive 100 percent compensation for their economic losses, including medical expenses, rehabilitation costs and lost wages, if harmed by a physician's negligence.
- Maximizing the amount of money juries award for patients—not trial lawyers.
- Placing a \$250,000 limit on non-economic damages, and also allowing states the flexibility to establish different caps.

Find us online at CMS Internet address www.cmsdocs.org

NEWS FOR CHICAGO PHYSICIANS

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Let's keep the momentum going!

WE THANK THE THOUSANDS OF PHYSICIANS, nurses, and medical office staff who made the time to rally for liability reform at Daley Plaza on May 13. The event was a huge success. We sent a strong message to the public, the media, and our politicians.

Now many physicians are asking what do we do for an encore. Have another rally? Prepare a powerful response to the trial lawyers' newspaper ads?

One thing is certain—It's time to get the public involved. Patients need to understand that medical liability reform is not about the cost of being a physician; it's about what the crisis costs the patient. Members of the public must be educated and aware of the access issues, and encouraged to contact their legislators.

And more physicians, including those on medical school faculties, must help us in sending a unified message. It's easy for them to do so—all they have to do is join CMS, ISMS, and AMA.

All of us must turn up the heat on Senator Durbin. The same day as the rally, he unveiled a plan to allow doctors and hospitals to claim a tax credit in 2003 and 2004 for a percentage of the malpractice premiums they pay. The tax credit for physicians in high-risk specialties could be as much as 20 percent of their total premium; doctors in lower-risk specialties would be eligible for a tax credit equal to 10 percent of their total malpractice premium. While we are glad that Senator Durbin finally acknowledged this crisis, we think his solution is merely a diversionary tactic. The real remedy is liability reform. We can't allow our elected leaders to ignore the 70 percent of Americans who believe we need caps on non-economic damages.

Write Senator Durbin a personal note on your letterhead stating that you want his support for Senate bill S. 607, the Senate version of federal tort reform legislation. Ask what will it take—people dying, unable to find the medical care they need at the nearest hospital—before he is roused to action.

● *Senator Richard Durbin-332 Dirksen Senate Office Building, Washington, DC, 20510, phone (312) 353-4952; (202) 224-2152; fax (202) 228-0400*

● *Senator Peter Fitzgerald-555 Dirksen Senate Office Building, Washington, DC, 20510, phone (312) 886-3506; (202) 224-2854; fax (202) 228-1372*

In unity there is strength --

**HELP SIGN UP
A MEMBER →**

Recently, the AMA announced that Illinois is one of 18 states now in a full-blown medical liability crisis.

We need the support of every physician to strengthen the voice of organized medicine.

When organized medicine loses its members, the voice of the medical profession is weakened, affecting the way you practice medicine. We need stronger representation of physicians
NOW MORE THAN EVER.

Please sign up a member, using the two-sided membership form on the next page.

The Chicago Medical Society represents 17,000 physicians in Cook County, the only organization that can fight for your rights.

Should you have any questions about membership, please call us at (312) 329-7331, or visit our web site at www.cmsdocs.org.

In the media

Newspaper ads wage war of words

ISMS fires back

IN CASE YOU MISSED IT, ON THE day of the rally and just before, the *Chicago Tribune* and *Chicago Sun-Times*, as well as other newspapers across the state, ran full-page ads paid for by the Coalition for Consumer Rights and U.S. Action. These controversial ads showed a child in a wheelchair accompanied by messages urging readers to "Say no to pickpockets, say yes to insurance reform." The ad went on to state there was no lawsuit crisis and blamed a greedy, mismanaged ISMIE Mutual for causing the doctors' "strike."

Two weeks later, ISMS and ISMIE Mutual fired back with a full-page response to the misinformation being disseminated by the Coalition and the trial lawyers who support it. Saying "It's time to tell the truth," the message listed and refuted each and every allegation being leveled at liability reform and the insurance carriers that seek caps on non-economic damage awards. The response from ISMS and ISMIE described the 1975 California reform model that has resulted in a 167 percent rise in malpractice insurance premiums, compared to the 505 percent increase nationwide. (See the ISMS/ISMIE ad on page 13.)

NEWS COVERAGE

- *Time Magazine* devoted its June 9 cover story to the soaring cost of malpractice insurance. The 12-page article mentions the state of Illinois and the thousands of physicians who rallied here in May.
- The *Chicago Sun-Times* ran a photo and story up front about the CMS rally. In addition, an editorial addressed the caps opponents' position that enormous premiums paid by doctors are a function of insurance company greed and investment losses: "That argument is contradicted by their



M. LeRoy Sprang, MD, an ob-gyn from Skokie, and past president of both CMS and ISMS, talks with the news media.

own figures that show correlation between insurance payouts and premiums. In California, where caps were enacted in 1975, malpractice premiums have been contained."

- A *Daily Herald* news story reported that "the average payment to plaintiffs is going up—way up. From 1997 to 2002, the average jury award in Illinois for non-economic damages increased 132 percent. And the number of open cases has climbed

from 4,000 in 1999 to 4,800 in 2002.” An editorial went on to state: “We don’t doubt that astronomical “pain and suffering” awards that some juries have made without justification are instrumental in driving up malpractice premiums.”

- The *Lerner Community Newspapers* ran coverage of the rally and photos on the front pages of the *Booster* and *Skyline* publications.

- TV and radio captured the event, with coverage beginning in the early afternoon on local stations such as WGN and CLTV.

- The *Chicago Tribune* ran a photo and caption about the rally in the Business Section.

Did the *Chicago Tribune* give short shrift to Illinois doctors? Some physicians clearly think so. Here’s what one CMS member wrote to that paper.

Unpublished letter to the editor

“I WAS SHOCKED AND ANGERED TO NOTE the almost complete lack of any coverage in the *Chicago Tribune* of our physicians’ rally in Daley Plaza yesterday.

A few thousand Illinois doctors like me cancelled clinics and surgery to rally and protest a true crisis in health care in our state. The Illinois tort system is pushing us to the wall, with 35 percent plus malpractice insurance rate hikes looming this July. This is on top of recent big increases. Decreasing HMO and insurance payments, on top of \$90,000 yearly insurance premiums mean many ob-gyns will be forced out of practice in our state, or quit! A working mother ob-gyn could never afford \$90,000 in malpractice insurance to work part-time in Illinois. This ISN’T NEWSWORTHY to you! NOTHING in the first section. NOTHING in the Metro section. A picture of two old guys playing tennis in a club in the forest preserve deserves a big article on the first page [of Metro] however! Oh, there is a picture and small caption on page 3 of the Business Section about our rally! Where in the world are your priorities?

When one of the best vascular surgeons at our hospital is looking for a job out of state, when an ob-gyn at our hospital is thinking of going back to nursing (her prior career), when a neurosurgeon in our area has moved to Kansas (due to \$250,000 medical malpractice insurance), when one of the most caring and skilled young general surgeons (never ever sued) at our hospital is thinking of moving to Indiana to find a more rational climate to practice, SOMETHING IS DREADFULLY



Photos: Scott Warner, CMS

The sign on the right answers the question posed in the controversial newspaper ad asking, “Who is Trying to Pick Sally’s Pocket?”

WRONG. And YOUR PAPER DOESN’T CARE! Patients are going to be harmed by all this and you pretend it’s no big deal. When someone’s kid is injured, and they can’t find a neurosurgeon to fix him in the middle of the night, then people will rightfully scream bloody murder. Why does it have to come to that?

Wait a minute, you didn’t ignore the situation! For three straight days, you did run a full-page ad (of a crippled kid) funded (in some guise) by the trial lawyers. Money talks, and of course an emotional and propagandistic ad can be bought, but doctors’ and patients’ true issues don’t count with you.

Indiana, Wisconsin, California even, all have rational systems to deal with accusations of medical malpractice, and fairly compensate true victims of malpractice. Here, the trial lawyers reign supreme in all three branches of our state government, quashing any attempt at reform of an out-of-control tort system. There’s a better way to do things, not that your readers can find this out! A national tort reform bill is stalled in the U.S. Senate, getting only a passing mention in the Tribune.

If your newspaper is my way of getting news in the morning, it seems you are politically rationing my news. I’ve got to wonder: what else are you keeping from me that I should be learning about?

Steven J. Smith, MD
LaGrange Memorial Hospital



Physicians and staff from Saint Francis Hospital in Evanston are shown en route to the Rally downtown.

Photo: Courtesy St. Francis Hospital, Evanston

A phalanx of white coats crosses the intersection at Clark and Washington Streets en route to the Rally.



Physicians were unified in their demand for tort reform.

Photos: Scott Warner, CMS



Craig Adams, MD, vascular surgeon, told how high insurance rates forced him to leave the Chicago area to practice in Tulsa, Oklahoma -- and commute back to his wife and children who remained here.



Gina Wehrmann, MD, an ob-gyn from Evanston, says malpractice rates will soon force her to close her doors to patients.



Above: Maurice Sholas, MD, a Chicago resident, said he and his mother did not make sacrifices for him to become a physician only to be forced out of practice.



Left: Peter Delneky, MD, a Chicago ob-gyn, said his income is not enough to support his family.

Photos courtesy: Richard B. Ressman, MD



The Chicago Medical Society
in conjunction with
The Chicago Department of Public Health
presents

Bioterrorism Preparedness Training for Physicians: A Focus on Smallpox

A vital & free CME course for all health care professionals

Who should attend?

All Chicago-area health care professionals are encouraged to attend this important seminar. This program will place strong emphasis on recognition of and response to smallpox and vaccinia, and provide resources on other bioterrorist agents. The tools gained through this lecture would be vital for community health care workers in the event of a bioterrorist emergency.

If a patient walked into your office with symptoms of smallpox, would you recognize them? Would you know how to respond?

What is the Bioterrorism Preparedness Program?

The Chicago Medical Society, in conjunction with the Chicago Department of Public Health, has initiated this program, which aims to train as many as 3,000 Chicago-area health care professionals in bioterrorism preparedness over the coming months. This one hour CME activity is being offered to physicians and healthcare professionals **at no cost**.

**Now scheduling summer
dates across Cook County!!
Call 312-329-7324 for
more information.**

For information on scheduling this vital, FREE CME activity at your facility, contact Dan Pashman, Bioterrorism Project Coordinator at the Chicago Medical Society, at 312-329-7324.

Learning Objectives

At the conclusion of this learning activity, participants should be able to:

- ⇒ Identify a potential bioterrorist attack, especially as it relates to smallpox.
- ⇒ Respond quickly and effectively to such an event (prophylaxis, outbreak control, reporting to local health department).
- ⇒ Understand in greater depth the smallpox vaccine, its complications, and the contraindications to receiving vaccine, as well as vaccinia.
- ⇒ Be aware of ongoing federal and CDPH smallpox immunization plans.
- ⇒ Implement the concept of syndromic surveillance as an early warning system for a possible bioterrorist event.

The Chicago Medical Society designates this education activity for a maximum of 1.0 category 1 credit toward the AMA Physician's Recognition Award. Each physician should claim only those credits that s/he actually spent in the activity.

This activity has been planned and implemented in accordance with the Essential Areas and Policies of the Accreditation Council for Continuing Medical Education (ACCME) through the joint sponsorship of the Chicago Department of Public Health and The Chicago Medical Society. The Chicago Medical Society is accredited by the ACCME to provide continuing medical education for physicians.



"Thousands of physicians rallied in Chicago last month to protest skyrocketing medical-malpractice liability premiums. In Joliet last year three neurosurgeons stopped performing brain surgery. Head-trauma patients now need to be flown by helicopter to a center 45 miles away."

Time magazine, June 9, 2003
Photo courtesy: Illinois State Medical Society

