

EMBRACING THE FUTURE

Council approves landmark bylaws change

*Revitalized CMS to be more responsive,
politically effective*

THE CMS COUNCIL RECENTLY APPROVED a new set of bylaws that will continue the Society's rapid transformation into a 21st century grassroots advocacy organization.

Under a two-year plan that will kick off this spring, the 13 Branches will be streamlined into eight districts (plus student and resident sections), and realigned according to Cook County zip code areas, instead of geographic areas, as they currently are. Each district will elect its own leader, a district trustee who will serve on an expanded CMS Board of Trustees. The district trustee will in turn appoint a district nominating committee to recommend councilors, alternate councilors, and delegates to ISMS, and an advisory committee to make recommendations for district activities and educational events.

More accessible to members

This enlarged Board of Trustees will ensure a broad, diverse representational body more accessible to rank and file members. District leaders will also be educated to

work within the political arena. Meetings will increasingly host local legislators and be held in hospitals, where CMS can strengthen its relationships with administrators and attract non-member physicians.

Branch presidents are already reviewing material that outlines the transition schedule and process. District nominating committees will be making their nominations April 1; ballots will be mailed by April 5. District elections will be completed by May 1. The Council will certify elections at the June Council meeting; installation will take place at the CMS Annual Dinner on June 7; new trustees will join the Board in July.

You will be notified

All members will receive a letter identifying their district, which will be based on their primary office address. Physicians will have an opportunity to change their district preference at that time. Some districts will include two or more branches, like North Shore/Northwest and Aux Plaines/Douglas Park/Hines/Loyola. Two or more zip codes may be combined. The number of councilors and alternate councilors will not change; the same councilors who now serve in Branches will soon represent the newly consolidated districts. Whenever possible, districts will have similar numbers of members.

Council meetings will also be consolidated in the 2004-2005 year; the committee structure has already undergone reorganization, now reconfigured to 11, down from 27.

New programs are in the works. They include bringing CMS to the membership, mentorship programs to connect generations of physicians and physicians-to-be, changing

Continued on page 2

LIABILITY REFORM

Bush visits infamous "judicial hellhole"

PRESIDENT BUSH LAUNCHED HIS CAMPAIGN for medical liability reform in Madison County, Ill., the nation's most notorious jurisdiction for runaway lawsuits.

In addressing a crowd of nearly 1,500, Mr. Bush said that Congress should establish "a hard cap of \$250,000" on the amount that patients can recover for non-economic damages.

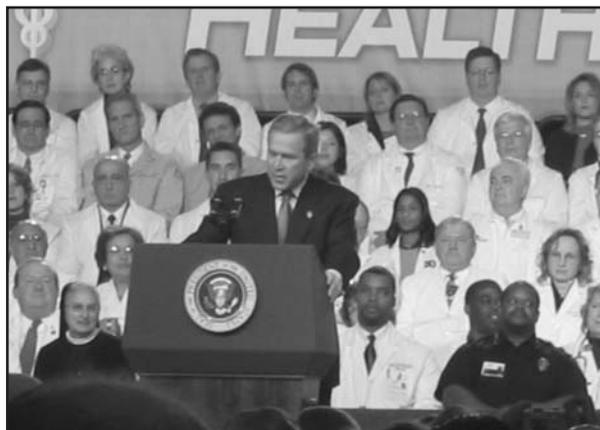
"Jury awards in medical liability cases have skyrocketed in recent years....it's expensive to fight a lawsuit, even if it doesn't have any merit. And because the system is so unpredictable, there is a constant risk of being hit by a massive jury award. So doctors end up paying tens of thousands, or even hundreds of thousands of dollars to settle claims out of court, even when they know they have done nothing wrong."

The president's remarks also targeted excessive class-action litigation and asbestos-related lawsuits in the county.

Flanked by dozens of physicians wearing their white coats (among them CMS members Drs. Michael D. Maves, EVP of the AMA, Raj B. Lal, and William G. Troyer, Jr.). Mr. Bush's campaign-style rally was welcomed within the medical and business communities. CMS Past President and current ISMS President Kenneth J. Printen, MD, summarized the mood: "Doctors are hopeful that the President's leadership will spur much needed legal reform to repair the litigation system and keep doctors in Illinois. Illinois cannot afford a 'three-peat' of its unflattering designation."

The American Tort Reform Association labeled Madison County a "judicial hellhole."

The U.S. House has repeatedly passed bills to limit damages in medical liability cases, but the measures have failed in the Senate. Since gaining seats in the November elections, Senate Republicans are now more hopeful. Republican leaders of both the Senate and House have aligned with Mr.



James Tarrant, CMS

One hundred physicians, nurses and administrators flank President Bush on stage during his talk on the liability crisis on Jan. 5 in Madison County, Ill.

Bush and promise to expedite legislation this year. Senate Majority Leader Bill Frist (R-Tenn.) has said a bill limiting class-action lawsuits will reach the Senate floor by February.

President Bush's plans for tort reform include setting federal caps on pain and suffering awards, restricting large-scale class-action lawsuits that have multiple plaintiffs in several states, and legislation to resolve long-standing suits over asbestos contamination.

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EMBRACING THE FUTURE

continued from first page

the way the Society communicates (i.e., e-mails for quick news), collaborating with other organizations, and using members as key contacts to promote membership.

This master plan for CMS' revitalization builds on the strides of the last two years: change in tax status to a professional advocacy organization,

two rallies, legislative meetings and interviews, and letters to the media. The Long-Range Planning Committee worked with the Board of Trustees and Branch Presidents to develop the plan. CMS members gave valuable input during open meetings hosted by the Bylaws and Long-Range Planning Committees.

Trial attorneys lose malpractice insurer

ATLA MUTUAL, THE TRIAL ATTORNEY liability insurer, is the latest casualty in the ongoing professional litigation crisis, according to a recent news release from ISMS.

In reporting that the insurer, founded by the Association of Trial Attorneys of America, has "admitted financial failure and has irrevocably consented to liquidation of its assets with a finding of insolvency," the statement suggests ATLA Mutual is perhaps the victim of the trial lawyers' zeal to restrain premium increases.

"These are the very people offering supposed 'solutions to the physician liability crisis and they don't even exhibit the know-how to keep their own profession's insurance company afloat," said ISMS President Kenneth J. Printen, MD. "If offering liability insurance is such a simple business, why then couldn't they make their own company work? Look at the financial reporting documents and you'll see that over the last five years, ATLA Mutual failed to generate any positive income above expenses."

What could ATLA Mutual have done to run a more successful insurance company? "Trial attorneys must recognize the fragile balance that allows the remaining medical liability insurance carriers to stay in Illinois," said CMS President Peter E. Eupierre, MD. "These companies must set premiums to exceed expenses, otherwise, they too, will face insolvency. Trial attorney liability insurance carriers are regulated by the same laws lawyers claim are "gouging" physicians. They are lucky because they

are not faced with frivolous lawsuits and runaway jury awards, as the medical liability insurers are. But even without astronomical payouts, companies like ATLA Mutual couldn't stay in business."

Attention: Springfield delegates Let CMS make all the arrangements

AS A SPECIAL SERVICE TO OUR CMS delegation, the Society will make hotel reservations for delegates and alternates to the ISMS House of Delegates. The meeting is scheduled for April 14-16 at the Crowne Plaza Hotel in Springfield. *Simply call (312) 670-2550 and ask for Cathy Faedtke; say that you are a member of the Third District Delegation, and have your credit card handy.* Note: All delegates and alternates are strongly urged to attend. Please let us know if you are unable to come so we can appoint a representative in your place.

ISMS resolutions deadlines

RESOLUTIONS FOR THE ISMS HOUSE OF Delegates must be received (not postmarked) at ISMS by the end of business (4:45 p.m.) on Tuesday, March 15, 2005. Any resolution received after the deadline will be considered as a late resolution, and will thus be reviewed by the Committee on Rules and Order of Business.

Submit resolutions by mail, e-mail, or fax: ISMS, 20 N. Michigan Ave., Suite 700, Chicago, IL 60602. Fax: (312) 782-2023; e-mail: www.hod@isms.org.

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NEWS FOR CHICAGO PHYSICIANS

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medicine

Newsletter, January 2005, Vol. 108, No. 1

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Chicago Medicine (ISSN 0009-3637) is published monthly with one additional issue published each winter, spring, summer and fall for \$20 per year for members; \$30 per year for nonmembers, by the Chicago Medical Society, 515 N. Dearborn St. Chicago, Ill. 60610. Periodicals postage paid at Chicago, Ill. Postmaster: Send address changes to *Chicago Medicine*, 515 N. Dearborn St., Chicago, IL 60610. Telephone: (312) 670-2550. Copyright 2005, *Chicago Medicine*. All rights reserved.

Illinois legislative recap: 2004 in review

AS ILLINOIS HEADS INTO A FRESH LEGISLATIVE season, it's time to look back at some of the previous year's challenges and triumphs. In so doing, we thank ISMS for its vigilance--and hard work at the state level representing physicians and patients throughout Illinois. Here are highlights of 2004.

ISMS SUPPORTED-LEGISLATION

● *Medical Liability and Litigation Crisis*

Included House and Senate ISMS bills and packages sponsored by both Republicans and Democrats. The legislation included provisions that would strengthen the affidavit of merit and expert witness requirements, inform juries of the tax consequences of awards, offer immunity for work at emergency rooms and free medical clinics, protect physicians' personal assets, improve the Health Care Arbitration Act, and allow physicians to say "I'm Sorry" without it being held against them as an admission of liability. Other provisions addressed physician discipline and insurance regulation. Although these bills failed to reach the House Floor for a vote, the ISMS initiatives were the only ones given significant and positive consideration.

Throughout the 2004 session, ISMS actively supported several proposals to cap non-economic damage awards, including a constitutional amendment to achieve this goal; none, however, were adopted.

Medical litigation reform will continue to be ISMS' top legislative priority in 2005.

● *Health Care Worker Self-Referrals*

Would clarify Illinois law that details when licensed health care workers, including a physician, may refer patients to entities in which they have a financial interest. This law is similar to the federal self-referral provisions with a few exceptions. The purpose of this proposal, which replaces current language with the federal language, would be to simplify the law and encourage compliance. *The bill failed to advance.*

● *Medical Staff Access to Credentialing Files*

Would require that any medical staff member subject to a credentialing or membership proceeding or hearing be given a complete copy of the credentialing file. Some hospitals have deprived physicians of copies of the complete credentialing file used to make an adverse credentialing decision. *The bill failed to advance.*

● *Durable Power of Attorney*

Would clarify current law to clearly state that the power of attorney for health care is durable, which means that it is effective after the patient loses capacity to make decisions and can be relied upon by health care providers until revoked by the patient or automatically by an event identified in the Power of Attorney. Often patients and physicians have questions because the actual form does not state it is durable. *The bill failed to advance.*

● *Physician Reporting of Terrorists*

Amends language that physicians who provide emergency medical treatment to persons they believe have committed terrorist acts, report those persons to a law enforcement agency. The reporting mandate requires physicians to disclose confidential patient information and to break physician-patient privilege, which opens physicians up to civil liability and disciplinary action. If they do not report, physicians may be charged with hindering the prosecution of a terrorist, which is a Class X felony. The bill is modeled after other mandatory reporting laws to give good faith immunity to physicians who report a suspected terrorist pursuant to the law. *The bill was passed out of the House Criminal Law Committee unanimously, but was not heard on the House Floor.*

PROPOSALS OPPOSED BY ISMS

● *Reducing Physician Reimbursements as provided under the Illinois Workers' Compensation Act*

Would drastically reduce the reimbursement rates for physicians by limiting the fee schedule to only 90% of the 80th percentile of current charges as defined by national employer and insurer databases, and ban balance billing. *H.B. 805 stalled in the Senate Executive Committee.*

● *Medical Reporting and Physician Profiling*

Would create the Medical Error Reporting Law, requiring health care facilities to develop and implement patient safety plans. The Illinois Department of Public Health would be required to collect and maintain profiles of information concerning all physicians and podiatrists licensed in Illinois for the purpose of creating public profiles. *H.B. 5084 and 5093 failed to advance.*

● *Patient Safety Act*

Would require hospitals to implement a written

staffing plan for nursing services, and restrict hospitals' authority to require nurses to work overtime. *H.B. 4245 was defeated in committee.*

● **Health Care Billing Data**

Would require all ambulatory surgical treatment centers to report patient claims for payment from public and private payors to the Illinois Department of Public Health (IDPH). *H.B. 4953 would have required IDPH to make some, if not all, of this information public. H.B. 4953 failed on the House floor.*

● **Emergency Contraception**

Would drastically change pharmacists' scope of practice by allowing them to dispense emergency contraception without a physician's prescription. *H.B. 6577 did not pass out of the House.*

● **Medical Corporations**

Would require officers, directors, and shareholders of medical corporations to be licensed under the Medical Practice Act, the Physician Assistant Practice Act, etc.; or, if an officer, director or shareholder is an advanced practice nurse, the Nursing and Advanced Practice Nursing Act. ISMS opposed this bill because it would violate the corporate practice of medicine doctrine. *H.B. 5099 failed to advance.*

● **Pharmaceutical Gifts**

Would require the reporting of any gift or benefit given to a physician in order to promote or market a pharmaceutical product. *H.B. 4233 failed to advance.*

● **Medical Discipline Information to Law Enforcement Officers**

Would have allowed the Illinois Department of Professional Regulation to disclose information and documents on physician discipline to a federal, state, or local law enforcement agency upon subpoena. *ISMS opposed the bill as drafted; it failed to advance.*

**ALLIED HEALTH LEGISLATIVE PROPOSALS
OPPOSED AND DEFEATED BY ISMS**

● **Licensure of Midwives**

Would allow lay midwives to become state certified, allowing lay midwives to deliver care provided by advanced practice nurses who have the proper education, training, and skill level to care for mothers and newborns. *H.B. 3933 did not advance.*

● **Supervision of Physician Assistants**

Would allow physicians to supervise more than two physician assistants. *H.B. 4386 failed to advance.*

● **Athletic Trainers**

Would expand the scope of practice for athletic trainers by allowing them to treat on a referral, instead of under the direction of a physician. *H.B. 6687 failed to advance.*

● **Laboratory Technicians**

Would require state regulation of clinical laboratory practitioners, medical technologists, and laboratory technicians, through licensure with the Illinois Department of Professional Regulation. *H.B. 4864 failed to get called for a vote in the House.*

● **Insurance Reimbursement for Marriage and Family Therapists**

Would allow licensed marriage and family therapists to bill insurance companies for their services. *H.B. 4788 failed to advance.*

Source: Illinois State Medical Society Department of Governmental Affairs. Reprinted with permission.

Client benefit from CMS agency

THE CMS INSURANCE AGENCY IS A SPONSOR of the Chicago Medical Society's **Midwest Clinical Conference Series**. As a value-added benefit, clients of the CMS Insurance Agency can register free for the March 23-24 Conference at the Palmer House Hilton Hotel.

For Conference information, please see the following page.

National Advocacy Conference

ONLINE REGISTRATION IS AVAILABLE FOR the AMA's 2005 National Advocacy Conference (NAC) on March 14-16 at the Renaissance Mayflower Hotel in Washington, D.C.

This annual conference gathers physicians, health care professionals and political leaders from around the country to examine issues such as Medicare's Sustainable Growth Rate, medical liability reform and Medicaid. Participants will train on how to lobby legislators on these issues before meeting with lawmakers and their staffs. Political strategists James Carville and Mary Matlin--as well as lawmakers and representatives of the Bush Administration--are among the presenters.

On March 13-14, just before the NAC, is the AMA Presidents' Forum, exclusively for specialty, state and county medical society presidents, presidents-elect and executive vice presidents. Participants will explore current issues and trends that affect leading a physicians' organization. They'll also prepare for leadership roles and network with counterparts from around the country.

For more details or to register, go to: www.ama-assn.org/go/nac

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Please send us your address by e-mailing: askcmsdocs.org or by faxing: (312) 670-3646.

What are your colleagues up to? (Let us know, please!)

DO YOU KNOW A COLLEAGUE WHO HAS AN interesting hobby, or who has done something interesting that we would all like to find out about? Or do you have a tale to tell about your own "off-duty" activities? *Chicago Medicine* is looking for CMS members with stories to share. Past articles featured a dermatologist who wrote a novel about a physician who was a faith healer; a 60-year-old surgeon who enrolled at Harvard, moved into a student dorm, and earned a master's degree from the Kennedy School of Government; a University-of-Chicago-trained internist and medical ethicist who enrolled in cooking school, apprenticed at Frontera Grill and wrote a best-selling cookbook on healthful eating.

Let us hear from you. Please contact Scott Warner, co-editor, (312) 670-2550, ext. 336; swarner@cmsdocs.org

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