

# chicago CHICAGO MEDICAL SOCIETY THE MEDICAL SOCIETY OF COOK COUNTY **medicine**

Newsletter, March 2005, Vol. 108, No. 4



Dr. Malkin as he appeared on the Illinois Channel during his visit to the U.S. Congress on March 16.

## WASHINGTON REPORT

### ***CMS docs climb Capitol Hill***

CMS PRESIDENT-ELECT STEVEN M. Malkin, MD, was among the army of doctors who climbed Capitol Hill to visit their legislators during the AMA National Advocacy Conference (more coverage on page 2). He was accompanied by CMS Executive Director James R. Tarrant. Together, they shared

with nearly a dozen congressional staffers CMS' concerns about medical liability reform, Medicare reimbursement, and access to care. The Illinois Channel, a C-SPAN-type station serving Illinois, followed Dr. Malkin through the halls of Congress, interviewing him about these issues, and videotaping him as he spoke with representatives like Daniel Lipinski. The taped segment ran on CAN-TV Channel 21. To view a video of the interview, go to the Illinois Channel Newsletter at [www.Illinoischannel.org](http://www.Illinoischannel.org) and click on the Digital Library. Dr. Malkin and Mr. Tarrant also visited the offices of Mark Kirk, Barack Obama, Rahm Emanuel, Jesse Jackson, Jr., Richard Durbin, Bobby Rush, Jan Schakowsky, Luis Gutierrez, and Danny Davis.

*Capitol coverage continues on next page.*

## SHARPENING SKILLS

### ***NAC trains physicians to have impact on legislators***

MEDICARE'S FATALLY FLAWED SUSTAINABLE growth rate formula and the ailing medical liability system were the key focus of the AMA's 2005 National Advocacy Conference in Washington, DC. And more than 600 physicians from around the country gathered there to explore these issues in-depth and to sharpen the advocacy skills they'll need to promote change.

Before participants headed to Capitol Hill for meetings with their members of Congress, teams of AMA leaders and staff experts briefed doctors on the latest legislative developments and provided specific guidance on ways to maximize their impact on legislators.

Bringing conference physicians up to date was a broad array of speakers from both houses of Congress,

the Administration and respected public policy institutions. Participants heard from U.S. Senate Majority Leader Bill Frist, MD, (R-Tenn.), Michael O. Leavitt, secretary of the Department of Health and Human Services, and Mark McClellan, MD, administrator of the Centers for Medicare and Medicaid Services.

Doctors deepened their understanding through breakout sessions on the Sustainable Growth Rate (SGR): What You Need to Know and What You Can Do to Help, Medical Liability Reform: Advancing Federal Legislation, Medicaid: Prospects and Impact of Proposed Reforms. General Sessions included Our Nation's Health Care and Empowering Our Patients: Providing Coverage for an Increasing Uninsured Population.

## ADVOCATING IN CONGRESS

### ***Walking the halls of Washington***

**By Steven M. Malkin, MD,**  
*CMS President-elect*

WHILE YOU WERE CARING FOR PATIENTS, Jim Tarrant, CMS executive director, and I were walking the halls of Washington, DC, calling on the offices of every member of the U.S. Congress elected from Cook County. Our purpose was to share the Chicago Medical Society membership's concerns over the crisis in medicine today.

We met with Congressional members and their staff to discuss issues impacting patient care, including 1) access; 2) Medicare reimbursement (SGR); 3) meaningful tort reform; and 4) the uninsured. It was interesting to hear their candid insight regarding the uphill battle we face to resolve these issues.

We were encouraged to learn that some Democratic members recognize the need for comprehensive medical liability reform that would include caps on non-economic damages. The Chicago Medical Society looks forward to continuing the dialogue with members of Congress as they address solutions to these critical health care issues.

We also expressed our concern that Medicare reimbursement reductions will further jeopardize patients' access to health care in our community.

From our visits it became apparent that Congressional consensus is building toward forging a meaningful solution to protect our quality health care system. Yet it is unfortunate that some members of our U. S. Congress still allow the health of Americans to become a partisan issue.

That's why it is important that all CMS members take 10 minutes to handwrite a letter to both U.S. senators, to their individual representative in Congress and to their senator and representative in the Illinois General Assembly.

On both the state and national level, our elected representatives need to hear from as many physicians and patients as possible. Find your representatives' names and addresses on the CMS Web site, [www.cmsdocs.org](http://www.cmsdocs.org) and click on the Legislative Call to Action Center under Advocacy.

#### ***State coverage in April***

Learn what direction CMS policy is taking at the state level. Check the upcoming April issue of *Chicago Medicine* for highlights of the ISMS 2005 House of Delegates Annual Meeting, April 15-16, in Springfield.

## A serious blow to health care access

THE CHICAGO TRIBUNE RAN A BLISTERING editorial with the headline "Dr. Jones Buries the Patient," in reference to action taken by Illinois Senate President Emil Jones to bury SB 150, the ISMS-backed medical litigation reform, in the Senate Executive Committee, a panel which he firmly controls. The bill had been in the Judiciary Committee, which was poised to vote on the legislation. The bill would have created a \$250,000 cap on non-economic damages in medical liability cases in addition to other comprehensive reforms. The *Tribune* reports it had a good chance of winning approval because some Downstate Democrats on the committee were ready to vote for it.

Here is a list of members of the Senate Executive Committee. *We urge you to call them immediately and demand that SB 150 gets a fair hearing.*

Ira Silverstein (D-Evanston)  
John Cullerton (D-Chicago)  
James DeLeo (D-Chicago)  
Miguel del Valle (D-Chicago)  
Emil Jones, Jr. (D-Chicago)  
George Shadid (D-Pekin)  
Louis Viverito (D-Burbank)  
Peter Roskam (R-Wheaton)  
Brad Burzynski (R-Sycamore)  
Ed Petka (R-Plainfield)  
Todd Sieben (R-Geneseo)  
Frank Watson (R-Greenville)

Legislators' addresses and phone numbers are available on the CMS and ISMS Web sites; go to [www.cmsdocs.org](http://www.cmsdocs.org) or [www.isms.org](http://www.isms.org)

Find us online at CMS Internet address [www.cmsdocs.org](http://www.cmsdocs.org)

### NEWS FOR CHICAGO PHYSICIANS

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THE MEDICAL SOCIETY  
OF COOK COUNTY  
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### CHICAGO MEDICAL SOCIETY

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## LETTERS

### **Doctors set the record straight on crisis "myths"**

CRAIN'S CHICAGO BUSINESS RAN LETTERS from Steven M. Malkin, MD, CMS President-elect, and Harold L. Jensen, MD, Chairman, ISMIE Mutual. They wrote the following responses to earlier articles that challenged the existence of a medical liability crisis:

#### **Case for tort reform**

Crain's Feb. 28 article "Looking for a Winner," describes the care taken by plaintiffs' attorney Robert Clifford in screening his liability cases to select "winners." He chose three out of the 20 cases, but what happened to the other 17? How many of these are accepted by other lawyers and end up in courts as "frivolous."

The coverage in the Feb. 28 Focus: Law was slanted against tort reform. The fact that 35 medical liability companies have stopped offering policies in Illinois and physicians are moving to states where tort reform has been enacted should tell the story. We wonder when businesses will stop looking at Chicago as a headquarters location due to concerns that employ-

ees will not have access to health care.

**Steven M. Malkin, MD**

#### **Overlooking key facts in med-mal insurance**

As even a casual observer of medical liability insurance would realize, comparing one year's worth of premiums to paid claims is totally disingenuous ("Doc Insurer's Payouts Dip," March 14). Medical liability has a long "tail," meaning there is a lag of several years between premium collection and ultimate claim payment. Further, Crain's "analysis" of ISMIE Mutual Insurance Co.'s 2004 financial results fails to account for the \$71 million ISMIE has paid out over the last year in defense costs, much of it to dispose of lawsuits without merit. Nor was there any mention of ISMIE's basic operating costs--taxes, brokers' commissions and the like.

A proper analysis of ISMIE's financial performance would have compared our net premiums earned, \$247.8 million, to net losses and loss adjustment expenses incurred, \$248.5 million.

**Harold L. Jensen, MD**



CMS President Peter Eupierre, MD, described CMS' grassroots advocacy and the startup of the CMS Insurance Agency during the MCC luncheon March 23.



MCC Conference Committee Chair Saroja Bharati, MD, with CMS Trustee Edgar Borda, MD, at the Conference Luncheon in the Empire Room of the Palmer House Hilton.

Scott Warner

### **MCC Clinical Conference Series kicks off for 2005**

With the relicensure cycle coming to an end on July 31, physicians who attended the CMS Midwest Clinical Conference Series program on March 23 and 24 were able to earn up to 12 CME credits in the dozen courses offered. Topics included conscious sedation, electronic medicine, disaster medicine and bioterrorism medicine. For information about upcoming MCC programs for 2005, please call (312) 670-2550.

### ***New UIC medical dean keynotes March 8 meeting***

CMS WELCOMED JOSEPH A. FLAHERTY, MD, dean of the UIC College of Medicine and former head of psychiatry, as guest speaker at the March Council meeting. Introducing him was Chairman of the Council Shastri Swaminathan, MD, a former intern under Dr. Flaherty. Dr. Flaherty later became Dr. Swaminathan's mentor.



**Dr. Flaherty**

Dr. Flaherty expressed optimism that CMS and UIC could find common areas of concern, particularly since both are under attack from the medical liability crisis. Dr. Flaherty said that malpractice suits cost the University 18% of its gross revenue. He said that UIC must partner with other organizations to be successful and asked CMS to support UIC's efforts to expand state funding.

The College is home to the world's largest MRI and the country's largest medical school. It's also one of the largest providers of physicians to the Chicago area and has the largest enrollment of minority students. Since its founding in 1882, the College has had a long history of name changes.

Today UIC plays a leading role in transplant immunology; it offers programs in women's health and specializes in diseases of urban areas.

#### **A note on the new governance structure**

Under a resolution approved by the Council, the number of At-Large Board of Trustee members will increase by one for the period beginning June 2005 through June 2006. This will allow the five elected trustees with terms ending in 2006 or 2007 to complete their terms. Beginning in June, trustees shall include officers of the Society, four at-large elected members, and representatives from each of the eight districts plus student and resident sections. The total number shall be no less than 20 but not exceed 22. Under the outgoing bylaws, CMS has 13 trustees, which include six officers and seven elected.

#### **From branches to districts**

Leadership has held talks with the Branch leaders on topics such as membership retention and recruitment, Branch finances, and implementing the District structure. All Board of Trustee and Branch officers have now received materials outlining the bylaws changes, District maps, and lists of Councilors and Alternates according to the new and old configurations.

The revised bylaws are also available via the Internet and through the mail upon request. They should be implemented by the end of June.

#### **Membership matters**

The CMS membership totals are at 95%, the level budgeted for 2005. CMS Board of Trustees and Councilors are being asked to contact the 292 physicians who are still unpaid and encourage them to renew. Members who recruit members will be recognized at the next Council meeting.

#### **CMS docs to serve on CIMRO**

CMS has appointed Drs. Kenneth J. Printen and Peter E. Eupierre to continue as members of the Central Illinois Medical Review Organization (CIMRO) Board. The organization does not have a contract in Illinois, but will be bidding in the state again soon. It is also reorganizing its structure.

#### **Organ donation**

CMS will use its publications and Web site to encourage membership to educate family, friends and patients on the need for organ donation.

#### **Nominations for CMS offices**

The Nominating Committee presented the 2005-2006 slate of candidates for CMS offices:

##### ***CMS Offices***

*President-elect*, Shastri Swaminathan, MD

*Secretary*, Saroja Bharati, MD

*Chairman of the Council*, William A. McDade, MD

*Vice-chairman of the Council*, Joan E. Cummings, MD

*Councilors-at-Large*, Bapu Arekapudi, MD, Boone

Brackett, MD, Brian Farrell, MD, Earl E. Fredrick,

## COUNCIL HIGHLIGHTS *(continued)*

Jr., MD, Armand Littman, MD, William J. Marshall, Jr., MD, Arthur R. Peterson, MD, Nunilo Rubio, MD.

*Alternate Councilors-at-Large*, Rafael Campanini, MD, Terrence Lerner, MD, Aldo F. Pedroso, MD, Gerald E. Silverstein, MD, Anna Szpindor, MD, William G. Troyer, Jr., MD, Michael Wasserman, MD.

*Judicial Panel*, Edmund R. Donoghue, MD. (The Committee placed in nomination the name of John F. Schneider, MD, to fill the unexpired term of Janis Orłowski, MD.)

### **Illinois State Medical Society**

*President*, Peter E. Eupierre, MD

*Speaker of the House*, Charles Drucek III, MD

*Trustees*, John F. Schneider, MD, William A. McDade, MD, M. LeRoy Sprang, MD, Neil E. Winston, MD.

### **American Medical Association**

*Delegates*, Alfred J. Clementi, MD, Joan E. Cummings, MD, Sandra F. Olson, MD, M. LeRoy Sprang, MD, James P. Ahstrom, Jr., MD.

*Alternate Delegates*, Charles Drucek III, MD, Peter E. Eupierre, MD, Steven M. Malkin, MD, Neil E. Winston, MD

### **Summary of resolutions adopted**

#### *School Sports and Medical Economic Liability*

Directs CMS to support the importance of sports programs while acknowledging the increased risk to students who live in communities affected by the shortage of specialized medical services; and to request ISMS to study the problem and make recommendations for action.

### **ISMS update**

Richard A. Geline, MD, chairman of the ISMS Board, updated the Council on recent ISMS advocacy efforts. He described the press conferences and introduction of legislation asking for caps, asset protection, strengthened affidavit of merit, and increased qualifications for expert witnesses. He said that trial attorneys are trying to divide ISMS and ISMIE.

In other remarks, Dr. Geline touched on Workers' Compensation reform, noting that ISMS is aggressively fighting on behalf of members for fair reimbursement of workers' compensation services.

### **CMS representation at AMA**

CMS President and Third District Caucus Chairman Peter E. Eupierre, MD, updated the Council on his discussions with the Downstate Caucus to extend the longstanding agreements between both Caucuses. These agreements, which govern the rotation of ISMS positions, also enhance the sharing of ISMS elected officer positions and the allocation of the AMA Delegation.

*(Since the Council meeting Dr. Eupierre reported that both Caucuses have reached an agreement to maintain the present balance for one more year. He wrote to the Downstate Caucus Chairman that the Third District felt, "Our action is to allow ISMS to carry on the necessary business of the Society that is expected by the membership." He further stated, "The Third District has not wavered from our belief that we are one united ISMS that can work together against the common threat to the practice of medicine.")*

*The next meeting of the Council will be Tuesday, May 3, 2005, at 7:00 p.m.*

**Save the date**

**March 14-19, 2006**

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