ASA Board of Directors 2006 Annual Meeting

By R. Lawrence Sullivan, Jr., M.D., ASA Director for California

The Annual Meeting of the ASA Board of Directors convened at the Westin O'Hare Hotel near Chicago from August 19-20, 2006. There are 65 voting and 10 nonvoting members of the Board. Voting members include 10 ASA officers and 55 directors representing each of the 50 state components, the District of Columbia, Puerto Rico, the Resident Component, the Academic Component, and the Uniformed Services component. Nonvoting members of the Board are two officers (the Speaker and Vice Speaker), six section chairs, the Chair to the AMA Delegation, and the Editor in Chief of *Anesthesiology*. Because issues and reports are first fully vetted before the four Board Review Committees ("reference committee" format) on Saturday, the Board functions quite efficiently during its formal session on Sunday despite its increased size from a few years ago.

Representing CSA and anesthesiologists in California were CSA President Mark Singleton, M.D., ASA Alternate Director Linda Mason, M.D., CSA Vice Speaker Johnathan Pregler, M.D., Chair of CSA's Legislative and Practice Affairs Division, Kenneth Pauker, M.D., former CSA President Steven Goldfien, M.D. (Chair of the ASA Committee on Anesthesiologist Assistants Education and Practice), former CSA President Norman Levin, M.D. (Chair of the ASA Committee on Bylaws), CSA's CEO Barbara Baldwin, and yours truly. Making a brief appearance on Saturday afternoon were CSA's own Rebecca Patchin, M.D., who recently was elected as Secretary of the AMA Board of Trustees, and Joseph Annis, M.D., an ASA member from Austin, Texas, who was also recently elected to the AMA Board of Trustees.

Board Reports

Fifty-eight reports and resolutions from various ASA officers, sections chairs and committee chairs were considered.

Credentialing Guidelines for Sedation by Non-Anesthesiologists (614-1)

In 2004, the CSA House of Delegates sponsored a resolution to the ASA which called for the development of "credentialing guidelines specifying the qualifications of individuals who are granted privileges to administer *anesthetic* drugs

to establish a level of moderate or deep sedation." In 2005, after exhaustive testimony and debate at the reference committee regarding moderate vs. deep sedation, the ASA House of Delegates approved a document—which was crafted by the ad hoc Committee on Sedation Credentialing Guidelines—titled "Credentialing Guidelines for Practitioners Who are Not Anesthesia Professionals to Administer Anesthetic Drugs to Establish a Level of Moderate Sedation." The House was reluctant to include "deep sedation" in such guidelines, as many felt that deep sedation was the purview of anesthesia-trained personnel.

Because the "deep sedation" issue remained unresolved, and because the new guidelines for moderate sedation from 2005 had significant inconsistencies with the previously adopted "Practice Guidelines for Sedation and Analgesia by Non-Anesthesiologists," an ad hoc committee, chaired by Jeffrey Gross, M.D., of Connecticut, was reappointed to resolve the problem. The committee restructured and reworded the existing document on moderate sedation, distinguishing the qualifications of "Non-anesthesiologist Sedation Practitioners" (physicians, dentists, and podiatrists) from those of "Supervised Sedation Professionals" (registered nurse, physician assistant). However, the document was gutted of any reference to the use of "anesthetic drugs" for sedation and replaced with the term "sedative and analgesic drugs," thus ignoring the original intent of the CSA resolution. This revision of the moderate sedation guidelines was then approved by the Board.

The committee also offered a similar-yet-separate document addressing privileges to administer "deep sedation." The use of deep sedation techniques, often using "anesthetic drugs," is becoming common in many practice settings across the U.S., and many anesthesia departments are being asked to provide guidance to their medical staffs on privileging criteria. Despite that fact, the Board, in a close vote, disapproved the deep sedation document and instead opted to approve the following statement:

> Because of the significant risk that patients who receive deep sedation may inadvertently enter a state of general anesthesia, privileges to administer deep sedation should be granted only to practitioners who are qualified to administer general anesthesia or to appropriately supervised anesthesia professionals.

The saga will continue at the Annual Meeting in October.

Physician Participation in Executions (606-1)

At the Interim Meeting of the Board in March of this year, your director, in response to concerns expressed by many ASA members from the Western Caucus, introduced a resolution which stated:

RESOLVED, that the ASA declare its opposition to physician participation in legally authorized executions either by direct action or by performing ancillary functions; and be it further

RESOLVED, that the ASA Committee on Ethics be directed to develop amendments to the ASA's Guidelines for the Ethical Practice of Anesthesiology that would specify that it is unethical behavior for an ASA member to participate in a legally authorized execution; and be it further

RESOLVED, that the ASA Committee on Ethics report its recommendations to the ASA House of Delegates at the 2006 Annual Meeting.

Much to the amazement of many, this subject generated much controversy, some from those who still offer pharmacologic advice to prison and court officials in states where capital punishment remains legal. ASA's current public pronouncements on the subject rely on House action in 2001, which supports AMA's position regarding physician nonparticipation in executions. Following referral to the ASA Committee on Ethics in March, that committee proposed a "statement" on the issue, strongly discouraging members from participating in executions and emphasizing the potential harm to the specialty by such an association. The Board approved the following amended (change of title) statement which, if approved by the House, will appear on the ASA Web Site:

Statement on Physician Nonparticipation in Legally Authorized Executions

1) Execution by lethal injection has resulted in the incorrect association of capital punishment with the practice of medicine, particularly anesthesiology.

2) Although lethal injection mimics certain technical aspects of the practice of anesthesia, *capital punishment in any form is not the practice of medicine.*

3) Because of ancient and modern principles of medical ethics, legal execution should not necessitate participation by an anesthesiologist or any other physician.

4) ASA continues to agree with the position of the American Medical Association on physician involvement in capital punishment. ASA strongly discourages participation by anesthesiologists in executions.

Payment for Anesthesia Services for Endoscopy (410-3)

In the past few months, the ASA has become aware of an increasing rate of denial of coverage for anesthesia services for gastrointestinal endoscopy, except for medical necessity, by major health plans such as Aetna and Blue Cross. This issue is not new to California, where the CSA has discussed in detail and rejected the suggestion that health plans define "medical necessity." Even more troubling is the suggestion by one payer that they would compensate anesthesiologists for such services using the "conscious sedation" codes (CPT 99141, 99142), a dramatic reduction in payments, setting a dangerous precedent that could be applied to other anesthesia services for which "monitored anesthesia care" is often provided. In ASA President Orin (Fred) Guidry's Progress Report, he presented a position statement approved by the Administrative Council on behalf of the ASA:

The Medical Necessity of Anesthesiology Services
American Society of Anesthesiologists' Position Statement
Approved by the Administrative Council, June 4, 2006

There is no circumstance when it is considered acceptable for a person to experience emotional or psychological duress or untreated pain amenable to safe intervention while under a physician's care.

Anesthesiology is a discipline within the practice of medicine that involves the safeguarding and medical management of patients who are rendered unconscious and/or insensible to pain and emotional distress during surgical, obstetrical and other medical procedures.

The decision as to the medical necessity of anesthesiology services for a particular patient is a medical judgment that must consider all patient factors, procedure requirements, potential risks and benefits, requirements or preferences of the physician performing the surgery/procedure, and competencies of the involved practitioners.

Anesthesia Awareness Registry (610-2)

Over the past few years, there has been considerable public and professional discussion about the subject of awareness under anesthesia. Much of the interest has been generated by companies that market devices which purportedly reduce the risk of awareness. In order to provide informed and objective advice to its members and to other healthcare entities, the 2005 ASA House of Delegates approved the ASA Practice Advisory for Intra-operative Awareness and Brain Function Monitoring. At this meeting of the Board, the Committee on Professional Liability, chaired by Karen Domino, M.D., M.P.H., from the

University of Washington (home of the ASA's Closed Claims Project), recommended the creation of an Anesthesia Awareness Registry. It is the intent of the committee to collect more reliable and objective data on the subject, including related factors such as the nature of recall, anesthesia techniques, associated medical conditions, medications, intraoperative monitoring, hemodynamic stability, and other significant events. Entry to the database can be initiated by patients or their anesthesiologists, using informed consent to permit access to medical records in compliance with HIPAA regulations. The Registry Web Site will be: www.AwareDB.org. It is the hope of the committee that collection of such data over time will provide insight into awareness risk factors and support to patients.

Miscellaneous Issues

- **President's Council on Executive Office Oversight (400-5):** The Board approved the creation of a permanent committee to advise the President on issues regarding the management and operations of the Executive Offices of the Society (including the Washington office). Members of the Council will be the president, president-elect, immediate past president, first vice president, treasurer, three past presidents, and the chair of the Board Committee on Administrative Affairs.
- **Conflict of Interest Form (400-7):** With some reluctance, the Board approved a new disclosure statement and renamed it the "Potential Conflict of Interest Disclosure Statement." At the March Board meeting, many directors expressed their concern regarding the intrusive nature of this document which must be completed by officers, directors, committee members, and other representatives of the Society. ASA's Director of Governmental Affairs and General Counsel, Ronald Szabat, J.D., LL.M., provided clarifications of relevant "material financial interests" for which disclosure would need to be provided.
- **Resident Physician Membership on HOD Reference Committees (Res. 800-3):** This resolution proposed to have one resident serve on each of the four ASA House of Delegates Reference Committees. Presently, the residents have one director and four delegate members to the House. There was not overwhelming support for this suggestion, and thus it was referred to a committee of the President's choice. It is your director's feeling that providing testimony to reference committees is a much more valuable learning experience for the residents.
- **2007 ASA Budget (430-4):** After several years of *deficit* budgets, ASA Treasurer Roger Moore, M.D., presented, and the Board approved, a *balanced* budget for the 2007 fiscal (calendar) year. Projected income

of $25,035,625 less projected expenses of $24,747,900 will, it is hoped, result in a net gain of $287,725.

- **Editor in Chief of *Anesthesiology* (750-2):** After 18 years on the Editorial Board of *Anesthesiology*, the last 10 as Editor in Chief, Michael Todd, M.D., has passed the baton to James C. Eisenach, M.D.
- **ASA Workgroup on Simulation Education (738-1):** In a report from the Committee on Outreach Education chaired by former CSA President Daniel J. Cole, M.D., it was recommended that a new standing Committee on Simulation Education be established. In a recent ASA membership survey, 82 percent of 1,400 respondents expressed their interest in simulation education. With the creation of this new committee, ASA will attempt to coordinate simulation programs and to establish standards for program approval, curriculum development, guidelines for instructor competency, and management of performance anxiety. Kudos were offered to Michael Olympio, M.D., of Wake Forest University for spearheading this effort.
- **AMA Scope of Practice Partnership (526-5):** In 2005, the AMA established its Scope of Practice Partnership to address the continuing efforts by nonphysician providers to expand their scope of practice in various locales across the country. ASA is one of six specialty members on the steering committee, which hopes to coordinate information gathering and legislative, legal, and regulatory efforts with various state medical and specialty societies. In response, the non-physician practitioners have established their own initiative called "Coalition for Patients' Rights" (CPR) led by AANA, psychologists, chiropractors, nurse practitioners, etc.

Afternoon Session

The Candidates' Forum included presentations by the two individuals seeking the office of assistant treasurer, Jan Ehrenwerth, M.D., director from Connecticut, and James Grant, M.D., director from Michigan. Other elected offices remain uncontested.

Mr. Szabat reviewed current issues on the federal scene. There are three bills that would restore full funding for academic anesthesia programs caring for Medicare beneficiaries. HR 5246 (Shaw-Fla.; Sessions-Texas), a Republican sponsored bill, and HR 5348 (Stark-Calif.), the Democratic version, are the House bills and S. 2990 (Vitter-La.) is the Senate version. To date there are nearly 100 cosponsors of the House bills and sixteen co-sponsors of the Senate bill. In addition, HR 5955 (Akin-Mo.; Cuellar-Texas) is a bipartisan bill which would extend to anesthesiologists the "rural pass-through" provision for

Medicare Part A funding of anesthesia providers in underserved, low-volume rural settings. Currently, this provision curiously only applies to CRNAs. HR 5688 (Sullivan-Okla.), the Healthcare Truth and Transparency Act of 2006, would make it unlawful for a nonphysician (e.g., nurses with doctoral degrees, chiropractors) to present himself or herself as a physician.

On the state scene, Lisa Percy, M.D., ASA's Manager for State Legislative and Regulatory Issues, reported that, in 2006, there have been no states that have opted out of the Medicare requirement for physician supervision of nurse anesthetists. To date, 14 states have taken the opt-out approach. There have been attempts in some states (Calif., La., N.Y.) to expand scope of practice for nurse anesthetists through rogue nursing board regulations, resulting in numerous court actions. Anesthesiologist Assistants are licensed in 10 jurisdictions (Ala., Fla., Ga., Ky., Mo., N.M., Ohio, S.C., Vt., and D.C.), and there is "delegatory authority" for AAs granted in six states (Colo., Mich., N.H., Texas, Wis., and Wyo.).

Committee Appointments

Active and resident members who are interested in becoming more involved in the CSA and would like to start by serving on a committee need to contact Virgil Airola, M.D., President-Elect, at airolav@comcast.net or the CSA office at (800) 345-3691 or csa@csahq.org by February 1, 2007, indicating interest in the following divisions and committees:

Divisions

Educational Programs
Legislative and Practice Affairs

Standing Committees

Committee on Bylaws
Committee on Finance and Administration
Committee on Peer Review
Committee on Public and Professional Communications

Special Committees

Committee on Physicians Health and Well Being