

President's Page

Hurricane Season in California

By Mark A. Singleton, M.D., CSA President



One of the things for which I've gained a new appreciation in the first couple of months as your CSA president is how rapidly the issues and challenges that affect our practice of anesthesiology can appear and develop. This is especially true of these first few weeks of August when Governor Schwarzenegger's office and the Department of Managed Health Care made the surprise announcement that they would immediately impose "emergency" regulations to prohibit out-of-network physicians from billing patients enrolled in HMO plans for emergency services fees not paid by the HMO. Those proscriptions also would apply to Blue Shield PPO and some Blue Cross PPO plans! As we all know, the fundamental right of physicians to bill patients for services rendered is the primary (and generally the only) leverage we have in negotiating contracts with the large health insurers and their IPA middlemen. The regulations being sought by the Schwarzenegger administration would allow the insurers to pay us whatever they desire, and our only recourse would be to appeal to their company Review Department, or to the DMHC, which historically has been unresponsive to our complaints of noncompliance by the health plans it is obligated to regulate. The CMA and CSA legal and governmental affairs experts have been "all over this like a SWAT team" since the first moments of the original announcements, and as this assault on physicians' rights continues through public hearings, meetings, negotiations, and probable court challenges, you can be certain that this battle is THE foremost activity of both organizations representing YOU. This is the time when there can be no doubt about the importance of the California Medical Association in our alliance with other physicians to help us protect the professional practices of CSA members. If you're not a member of CMA, please join now and help us fight to protect your medical practice from governmental regulations and corporate parasitism.

The "emergency" Executive Order was almost immediately withdrawn because, despite election year grandstanding by the Governor about protecting "the patient," no plausible case can be made that demonstrates an imminent threat to the welfare of the public or justifies a breach of the due process by which such regulations are required to be instituted. Nonetheless, the directive to DMHC to proceed through proper administrative rules with this executive directive is clear and rests on two provisions. The most potentially harmful is

the proposal to modify the "Gould criteria," a set of well-recognized considerations, established in 1992 by court ruling, that provide justification for physicians' reasonable and customary fees. DMHC would like to add an additional criterion that would introduce the possibility of fee schedules like Medicare, and discounted rates accepted under contracts, as indicators of appropriate physician charges. This nonsensical reasoning is dangerous and must be denounced. The other proposal is the coupling of a prohibition on billing patients for charges not paid by the health plan with a yet-to-be-tested, dispute-resolution mechanism that would settle whether or not the physician's charge—or the health plan's payment—was the correct amount. CSA has worked with many other specialty societies and the CMA over the past year to develop such a dispute-resolution mechanism that would help guarantee fair payment for physician services while curbing any truly "unfair" billing practices by those who would try to take advantage of the situation. The DMHC's model is far more favorable to the insurers. Indeed, it is increasingly clear that the DMHC is interested in protecting the health plans it is supposed to regulate rather than the public or their physicians.

I know that by the time this gets to print and ends up in your mailbox, there will be more to report on this issue, and much more that will have happened. CMA, CSA and numerous other specialty societies have developed a detailed strategy to fight this dangerous intrusion into our practices, and this struggle will go on for some time. Because of the inherent delay between rapidly developing news on issues like this one and the final production of a high-quality publication such as the *CSA Bulletin*, we are keeping CSA members up to date on various items of importance by frequent issues of *Gasline*, our e-mail newsletter. If CSA has your e-mail address, you will be "in the loop" by receiving these updates electronically, which include the latest from Sacramento, Washington and perhaps your own community. If you have not given CSA your e-mail address and want to receive the *Gasline*, contact the executive office by mail or e-mail to csa@csahq.org, or go online to www.csahq.org and update your member profile.

CSA Bulletin Cover for Volume 55, No. 3 Yosemite Road

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