

The Pennsylvania Radiological Society

A Chapter of the American College of Radiology

Executive Director

Robert P. Powell
101 West Broad Street, Suite 614
Hazleton, PA 18201
Phone: 570.501.9665
Fax: 570.450.0863
E-Mail: rpowell@ptd.net

www.paradsoc.org

User Name: members
Password: Members06

Editor

Thomas S. Chang, M.D., FACR
Weinstein Imaging Associates
5850 Center Avenue
Pittsburgh, PA 15206
Phone: 412.441.1161
Fax: 412.441.9880
E-Mail: tscjiv@verizon.net

Remember, the **Bulletin** is available on the Internet at the following home page: <http://www.paradsoc.org/>

PRESIDENT'S MESSAGE

Irving Ehrlich, MD, FACR
J.M. Winston Radiology Associates
Reading, PA

Well, my year is almost up. It's the end of August and Tom Chang has issued his reminder to prepare another article for the PRS *Bulletin*. This will be my last as president and his last as editor. It's always nice to go out in style with a great person like Tom. We all owe him a round of applause for the great job that he's done. He's instituted changes in the *Bulletin*, as well as in the website, which have enhanced both.



Of course, he's not the only one who has set his goals on change. I might argue that, at this point he has been successful, while the other person that I have in mind is still trying. Ted Kennedy died last week and the journalists are having a heyday trying to convince everyone including Congress that the changes that both he and the other president desire should now be done in his memory and his name. Whether that happens or not is yet to be seen. We're all familiar, I hope, with the arguments, the possible solutions, the points available for compromise and the implied catastrophes if something isn't done now, not later, soon, before the end of the year, immediately, etc.

The collection of antagonists has grown from the expected (doctors, lawyers, hospitals, insurance companies, drug manufacturers, Indian Chiefs) to the unexpected Indians (not

American or Asian). I find it interesting that some previous enemies are now pseudo-friends on the issues of how to change the system, just as long as they come out with less pain than the others involved in the issues. Just today, I heard both a Democratic and Republic Senator say that malpractice reform might be a consideration as a way to control the cost of health care. What's the world coming to? True, it's relatively small potatoes compared to drug costs and over-utilization issues, but they actually said it and they were both lawyers.

And as to the person who campaigned on change (not Tom), how's he doing? I don't know. His job approval rating has declined to below Bill Clinton's after eight months in office. However, his personal approval rating is still high. I find that interesting because it only verifies (to me) my belief that the American political system is based on personalities rather than abilities. His friends, the journalists, have begun to question why his main thrust of change, i.e. reform of the health care system, hasn't been more definitively defined by the people who most want to enact change. Of course, the last time someone actually detailed a plan, it failed to be enacted and probably did more harm than good while it was being debated. But, it's still early in the process. We radiologists still don't know how badly we'll be treated under the "plan" whatever it might be. I'm pretty sure that it will be fairly bad.

On another subject, the bill in the Pennsylvania legislature that would require direct reporting of imaging results to patients is alive and well. Our lobbyists are actively involved in trying to explain some of the irrationality in the bill to those politicians who are supporting it. We can only hope that they succeed, because, if they don't, the result will not only be an unreimbursed expense to our practices but also a significant increase in time commitment to those of us who are already at the limits of available time.

Speaking of time, mine is almost up. I just want to thank everyone for this opportunity to be your president and, of course, to thank everyone who made it relatively easy. That would be your Executive Committee, your full Board of Directors, all those committee chairpersons and members who do the work of the society, and of course our Executive Director, Bob Powell, and his assistant, Phyllis.

Don't forget to come to our annual meeting in Philadelphia on Halloween. You can come in costume if you like. One of my associates has already berated me for intruding on the holiday so I'll just have to allow a less formal look than penguin suits at the Saturday night dinner. I also promise not to use my teleprompter software if I have to make a speech.

EDITOR'S COLUMN

Thomas S. Chang, MD, FACR
Weinstein Imaging Associates
Pittsburgh, PA

Politics As Usual

Here in Pennsylvania, there's been a lot of political news recently, encompassing state, national, and international issues. But unfortunately, just because there's news doesn't mean things are getting done.

We in Pittsburgh just finished hosting the G20 Summit, where leaders from the 20 largest economies discussed the recent international financial crisis. They agreed upon some guidelines regarding the banking industry, but as with all such agreements, it's hit or miss whether individual countries eventually decide to implement them into laws and regulations. Only time will tell. The city of Pittsburgh braced itself for large protests and violence, but thankfully not much happened.

On the national scene, health care reform captured the headlines all summer, except for Michael Jackson's death and the fascinating story of the murdered model identified by the serial number on her breast implants. It seems that whenever certain reforms were proposed, the opposition immediately pounced on them and not much got done. The way I see it, as Democrats have gotten more liberal and Republicans more conservative (a by-product of our primary system), Congress has become so polarized that it's become very difficult to pass legislation, especially in the filibuster-prone Senate. I don't know about you, but I would love to see a resurgence of moderates on both sides of the aisle. Only time will tell whether health care reform legislation will emerge from Congress and what it will look like.

At the state level, Pennsylvania became the last state to agree on a budget. How embarrassing. Again, we're dealing with two parties that are magnetic opposites, naturally repelling each other and finding little common ground. As Elaine Lewis discusses in her article in this issue, the bad news for us is that

both sides did find a small sliver of common ground regarding the doctors in our state. They agreed to raid the account that has been paying our Mcare premiums to help pay for the budgetary shortfall. The PA Medical Society is taking legal action to block this raid. Please support them in this effort.

At all levels of governments, it's politics as usual. Each year brings more gridlock, more bickering, and more finger-pointing. Is it any wonder that politicians get such low approval numbers from the public?

Even the ACR meetings in Washington have had their share of heated debates and arguments on some contentious issues. I'm happy to report that our Society has been a breath of fresh air, by comparison. Our Executive Committee and Board of Directors function smoothly and make decisions without much disagreement. Then again, our interests and goals are all similar, which makes it much easier to agree on just about everything (except maybe whether the incoming president or outgoing president should be the one to decide on the location of our Annual Meeting).

Annual Meeting

Bob Pyatt, once again, did a fantastic job putting together a great line-up of speakers for our upcoming Annual Meeting in Philadelphia. I look forward to hearing those talks and seeing everyone again from around the state. See you all there!

Time to Move On

This is my last issue as Editor. I thank those of you who took precious time out of your busy lives to contribute articles. The *Bulletin* would be nothing without these generous authors.

Six years ago, Mary Scanlon graciously handed over the reins of the *Bulletin* to me and now it's time for me to do the same. I leave the Editorship in the capable hands of Anne Dunne, a long-time member of the Society and Board of Directors. She works at the Geisinger Health System, where she serves as Radiology residency program director and section head of both Ultrasound and Mammography. If anyone has ideas for improving the *Bulletin*, please pass them along to her. I'm sure she would appreciate the opportunity to give the *Bulletin* her own look and style.

As I mentioned in the last issue, Bob Pyatt suggested that we have a Personal Profiles section in the newsletter. This would be a section where one board member or officer would be profiled, along with his/her photo. Interesting information could include why that person chose medicine and/or radiology, why s/he became involved in our Society and organized medicine, how the Society and the ACR benefit his/her practice, why s/he stayed in Pennsylvania when so many of our colleagues were leaving the state, what s/he likes best and least about radiology in general or radiology in Pennsylvania, etc. The potential topics are endless. If you would like to write a profile about any board member or officer (past or present), even yourself, please email your submission to Anne at adunne@geisinger.edu.

PA LEGISLATIVE UPDATE

Elaine Lewis, MD
West Reading Radiology Associates
Reading, PA

In the state legislature, the budget has been the primary focus for the past few months. A tentative agreement has been reached, which will have a negative impact on PA physicians. The agreement calls for the entire \$722 million in the Health Care Provider Retention Account (the account which was to be used to help pay malpractice premiums) to be used as a one-time revenue source to balance the budget. As of mid-September, the lawsuit against the state concerning the lack of transfer of the funds from the HCPRA to Mcare is still in the courts. The Pennsylvania Medical Society (PMS) is hopeful for a ruling in the near future. In the meantime, the PMS and the Hospital and Healthsystem Association of Pennsylvania (HAP) have filed a preliminary injunction to prevent the state's use of the HCPRA funds prior to a final ruling.

Other state bills have been relatively idle during the budget debate. House Bill 1358, Patient Test Result Information, remains in the House Health and Human Services Committee.

Concerning Self-Referral, House Bill 1405, the PMS is considering promoting an alternative requiring physicians and other health care practitioners to disclose any financial interest in referral facilities. The preliminary proposal has an in-office exemption loop-hole, similar to Federal Stark legislation. The final proposal will be written after considering the comments made at the Specialty Leadership Cabinet, which met on September 15. The Pennsylvania Radiological Society has voiced its support for self-referral legislation related to high-cost imaging modalities during a meeting of representatives of the PRS with the Executive Director of the House Insurance Committee. The PRS has been asked to testify at a public hearing on this bill.

On the federal side, the Senate Finance Committee has released its 223-page plan for health care reform. The negotiations will now begin on combining all of the proposals into a final bill.

At the Pennsylvania Medical Society meeting held on September 15, a lecture and discussion session were held on the National Perspective on Health System Reform, moderated by Paul H. Keckley, Ph.D., Executive Director of the Deloitte Center for Health Solutions. I would like to share four points from Dr. Keckley's presentation:

1. Effective and efficient coordination of care to optimize outcomes at the lowest cost should be the goal.
2. The primary care versus specialty issue must be addressed.
3. The public posture of medicine must be about more than SGR (Sustainable Growth Rate) and liability reform.
4. Professionalism in medicine must be redefined in the context of value gaps in the system.

Dr. Keckley writes a summary of each week's events in health care reform, which is available at www.deloitte.com/centerforhealthsolutions.

2009 ANNUAL MEETING PROGRAM

Robert S. Pyatt, Jr., MD, FACR
Chair, Committee on Continuing Education
Chambersburg Hospital

- 8:00 a.m. ***“Hot Topics facing Radiologists and Radiation Oncologists Across the Nation”***
Terrell Frey, MD, FACR
Vice President-Elect, ACR
- 8:30 a.m. ***“Coding and Compliance: How Do You Think You Fare?”***
Richard Duszak, MD, FACR
Vice Chair, ACR Commission on Economics
- 9:15 a.m. ***“The Status of Healthcare Reform and Issues Affecting Radiology/ Radiation Oncology”***
Ted Burnes, Director, RADPAC
- 10:00 a.m. ***“ACR National Quality Data Registries: GRID, NRDR, NMD, NOPR, and more – the Key to our Future”***
Laura Coombs, Director, Data Registries, ACR
- 10:30 a.m. ***“Breast-Specific Gamma Imaging/Molecular Breast Imaging”***
Lillian Stern, MD, Clinical Assistant Professor,
Jefferson Medical College
- 11:15 a.m. ***“Patient Safety and Radiology Errors in Pennsylvania”***
John Clarke, MD, Clinical Director,
Pennsylvania Patient Safety Authority
- 12:00 p.m. ***“Tips for Negotiating and Renegotiating Your Radiologist Exclusive Contract”***
Todd A Rodriguez, Attorney, Fox Rothschild LLP
- 1:00 p.m. ***“Case Studies in Alleged Fraud and Abuse: Don't Try This at Home”***
Richard Duszak, MD, FACR
Vice Chair, ACR Commission on Economics
- 1:45 p.m. ***“The Radiology Report of the Future”
(Based on the 2008 JACR article)***
Curt Langlotz, MD, Associate Professor and Vice
Chair, Department of Radiology
University of Pennsylvania
- 2:45 p.m. ***“Future Shocks to the Practice of Radiology”***
Frank Lexa, MD, MBA, FACR
Clinical Professor of Radiology
University of Pennsylvania Health System
- 3:30 p.m. ***“Top Issues Facing Radiology Residents in Pittsburgh, Philadelphia, and Central Pennsylvania”***
Eric Faerber MD, FACR, Professor, Departments
of Pediatrics and Radiology
Drexel University College of Medicine
- 7:00 p.m. Honoring - ***John W. Breckenridge, MD, FACR***
Honored Lecturer:
David C. Levin, MD, FACR
“Radiology's Future – We Have Met the Enemy
and HE IS?”

RADPAC AND ACRA

Ted Burnes, Director, RADPAC and
Political Education, ACR

RESIDENT AND FELLOW SECTION

Jason N. Itri, MD, PhD
Radiology Resident, University of Pennsylvania

What the ACRA & RADPAC are doing to stop all the changes going on in the healthcare proposals that would adversely affect radiology?

RADPAC

So far in 2009, RADPAC has contributed \$600,500 to federal candidates and has attended more than 310 fundraising events in Washington, D.C.

In July, RADPAC attended more than 50 fundraising events and contributed more than \$70,000 to Members of Congress even though Congress was only in session for 19 days for the month.

Also in July, RADPAC hosted 6 fundraising events: 3 for Members of Congress on the House Energy & Commerce Committee and 2 with Members of Congress on the House Ways & Means Committee (both of these committees have jurisdiction over the House healthcare bill).

In August, RADPAC coordinated 7 facility visits by Members of Congress to radiology practices and hosted 3 radiology-specific fundraising events for Members of Congress throughout the country.

Why are the fundraising events (and the facility visits) so important? They're important because that's the only time that groups such as ours has an opportunity to educate Members of Congress on issues affecting radiology. Members of Congress miss votes on bills, they miss Committee hearings, they miss meetings with their constituents when they visit the Washington, D.C. office, but Members of Congress very rarely miss fundraising events!

ACRA

This article highlights how the ACRA (combination of lobbying expenses and PAC contributions) is one of the biggest spenders in trying to get access to Members of Congress to educate them on how their proposals will impact radiology and the patients that radiologists serve. Notice, we're the only specialty physician group listed.

http://www.msnbc.msn.com/id/32014652/ns/politics-white_house/from/ET
<http://www.msnbc.msn.com/id/32014652/ns/politics-white_house/from/ET>

How You Can Help

Go to www.radpac.org to learn more about RADPAC's efforts and to contribute.

Tort Reform Missing:

\$100 Billion Dollar Reward If Found

There has been considerable debate about President Obama's proposed health care reform bill, HR 3200, entitled "America's Affordable Health Choices Act of 2009." According to the official White House website, President Obama is "committed to working with congress to pass comprehensive health reform... in order to control rising health care costs" because "rapidly escalating health care costs are crushing family, business, and government budgets" [1]. I doubt that there are many physicians in this country who do not believe that our health care system is in need of a significant and comprehensive overhaul. President Obama's goal to reduce long-term growth of health care costs for business and government is one of the most important features of this particular piece of legislation, but the health care bill overlooks a critical component of comprehensive and cost-conscious health care reform.

The word "tort" is not mentioned once in the 1017-page document, though "reform" can be found 37 times. For anyone not familiar with the term "tort reform," it refers to proposed changes in the civil justice system that would reduce tort litigation or damages. Tort is a system for compensating wrongs and harm done by one party to another person, which includes medical malpractice. The financial impact of medical malpractice significantly contributes to the staggering amount of money this country spends on health care each year. In 2004, PricewaterhouseCoopers concluded that approximately 10% of the costs of medical services are attributable to the cost of litigation – 2% related to the direct costs of lawsuits and 5-9% related to the practice of "defensive medicine." Additionally, they state that reasonable caps on non-economic damages such as pain and suffering have been shown to improve patient access to affordable care and reduce costs associated with the practice of defensive medicine.

Health care spending in the United States is approximately \$2.4 trillion per year, 10% of which is \$240 billion – roughly 38% of the \$635 billion needed to fund HR 3200 over the next 10 years.

In other words, tort reform with caps on non-economic damages instituted at the national level could reduce health care spending by more than \$100 billion per year *and* improve patient access to affordable health care. The idea that tort reform could result in significant financial savings for the American health care system is supported by multiple large-scale studies assessing the impact of state-level tort reforms enacted in the 1980s. The Congressional Budget Office concluded that a number of these studies had found that state-level tort reforms decreased the number of lawsuits filed, lowered the value of insurance claims and damage awards, and increased insurers' profitability as measured by payouts

relative to premiums in the short run [2]. In a more recent unrelated study released by the Pacific Research Institute, it was estimated that excessive wasteful tort costs topped \$589 billion annually, which is equivalent to a \$7,848 annual tax for the average American family of four.

Tort reform ... could reduce health care spending by more than \$100 billion per year and improve patient access to affordable health care.

Most physicians are well aware of how the absence of meaningful tort reform can affect the practice of medicine. The skyrocketing cost of malpractice premiums in the field of obstetrics over the last decade has forced many obstetricians to stop practicing obstetrics, refuse to care for high-risk pregnancies, or leave the state [3]. Several insurance carriers no longer provide liability insurance for obstetricians, and hospitals have closed their obstetrics wards due to significant debts incurred from malpractice insurance [4]. The end result is that many women have inadequate access to obstetrical care and may have to travel several hundred miles to obtain specialty care. Avoiding tort reform in the proposed reform bill conflicts with several of President Obama's "guiding principles," including assurance of quality health coverage for all Americans, improved patient safety and quality of life, and guaranteed choice of doctors [1].

As a specific example, recent Democratic presidential hopeful John Edwards' legal fame began in 1985 when he established himself as one of North Carolina's most feared plaintiff's lawyers. Over a 12-year period, he won more than \$60 million (some estimates are as high as \$175 million) in judgments as a trial lawyer suing doctors, hospitals, and insurance companies over infant cerebral palsy cases allegedly caused by mishandled deliveries [5]. Interestingly, in 1989, the Institute of Medicine issued a report entitled *Medical Professional Liability and the Delivery of Obstetrical Care*, which built a substantial case that many obstetricians were being wrongly sued [6]. Two years later, in a book entitled "Galileo's Revenge: Junk Science In The Courtroom," Peter Huber detailed how lawyers exploited science illiteracy by using paid "expert" witnesses to press unsubstantiated claims in cases charging obstetricians with causing cerebral palsy.

Several members of Congress have echoed the need for tort reform to be included in any health care bill. House GOP minority leader, Rep. John Boehner (R-Ohio), recently stated that the nation must enact medical malpractice reform as a first step in fixing the cost of and access to health care. Sen. Mike Enzi (R-Wyo) declared that "... if Congress is serious about reducing the cost of health care we need to look at some type of malpractice reform." In fact, it was President Obama *himself* who said, "Anyone who denies there is a crisis in medical malpractice is probably a trial lawyer" during his Illinois State Senate race in 1996. So why is it that tort reform is not included in President Obama's comprehensive health care reform bill?

Howard Dean, the former Democratic National Committee chairman, was recently quoted as saying, "Here's why tort reform is not in the bill... When you go to pass a really enormous bill like that, the more stuff you put in it the more enemies you make. Right? And the reason that tort reform is not in the bill is because the people who wrote it did not want to take on the trial lawyers in addition to everyone else they were taking on. That is the plain and simple truth" [7]. In other words, the President of the United States and the United States government did not address the obvious crisis in medical malpractice because they were afraid of trial lawyers. Many believe there's more to the story.

According to Federal Election Commission data regarding campaign donations from the legal industry to presidential candidates, President Obama received \$43 million in campaign donations from lawyers and law firms, almost 50% of all dollars from the legal industry. President Obama received almost three times more than Hillary Clinton, the next highest candidate on the lawyers' bankroll. Two-thirds of all legal industry dollars went to Democrats Obama and Clinton last year, highlighting a well-known fact that trial lawyers' associations representing plaintiffs' lawyers are major contributors to Democrats. The relationship between Democrats and the legal industry is particularly concerning when considering that our president and the majority of votes in the Senate come from the Democratic party, making it possible to pass unilaterally any health care reform bill into law. Sen. Lamar Alexander (R-Tenn), Chairman of the Senate Republican Conference, described this potential partisan act as similar to going to war without Congressional approval.

The following excerpt was taken from the official White House website: "... the health care reform process will be different in [President Obama's] Administration – an open, inclusive, and transparent process where all ideas are encouraged and all parties work together to find a solution to the health care crisis." I think that the events surrounding health care reform and HR 3200 have demonstrated that our current presidential administration is not interested in working together with all parties to pass comprehensive health reform that controls rising health care costs. I am in no way trying to argue that tort reform is the answer to all of our health care-related spending problems. But it is a *significant* issue that can't be ignored or avoided if this country is going to embrace true health care reform.

References

1. http://www.whitehouse.gov/issues/health_care/
2. <http://www.cbo.gov/doc.cfm?index=5549&type=0&sequence=1>
3. Hale, R.W., *Legal issues impacting women's access to care in the United States-the malpractice insurance crisis*. Int J Gynaecol Obstet, 2006. **94**(3): p. 382-5.
4. <http://www.nysun.com/new-york/hospital-obstetrics-ward-will-close-amid/82971/>
5. <http://www.nytimes.com/2004/01/31/politics/campaign/31EDWA.html?pagewanted=print&position=>
6. Rostow, V.P., M. Osterweis, and R.J. Bulger, *Medical professional liability and the delivery of obstetrical care*. N Engl J Med, 1989. **321**(15): p. 1057-60.
7. <http://www.cbn.com/cbnnews/politics/2009/August/GOP-Tort-Reform-Key-to-Health-Care-Reform/>