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2008**

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## **President's Message** *Marilyn M. Robertson, M.D., - ACN President*

As the President of your state organization, I wish to thank all of you for your continued support of the Association of California Neurologists. ACN is the only voice representing Neurologists in California. ACN speaks for our needs on proposed legislations and regulations in Sacramento. We speak on behalf of California neurologists to carriers, patient organizations, public health, and others. Neurologists need to stick together and speak through our one organized voice in California, the ACN. A special welcome to ACN's new members and the 2008 Board of Directors & Consultants.

ACN's 2008 Annual Meeting was held during the 41<sup>st</sup> UCSF Recent Advances in San Francisco. The noon hour CME activity was "Enhancing

Acute Stroke Care in California: The Statewide Initiative and Implications for Neurologists" presented by Dr. David Tong. This CME activity defined the increased risk to stroke patients in rural areas of California listing three updated protocols proposed by the California Stroke Systems Work Group. The majority attending felt this CME program provided information to improve patient care. A short business meeting followed Dr. Tong's presentation. ACN hopes to continue having future Annual Meetings during the UCSF Recent Advances Conference held in early February.

To keep ACN viable, we need your support and participation. Please feel free to contact the Executive Office to express concerns and any issues that affect neurology.

## Respiratory Care Board of California Actions Prompt Citations

*Harold R. Smith, M.D., FAAN – ACN Vice President*

*"employing unlicensed personnel (PSG techs) to conduct polysomnograms, nCPAP titration and/or nocturnal O2 administration"*

In Fall and Winter of 2007 the Respiratory Care Board of California (RCB) drafted a legislative proposal to require sleep technologists to obtain a license through their organization to practice certain services in sleep disorder evaluation and treatment center settings. Additionally, the RCB in cooperation with the California Department of Health Care Services issued citations which could include fines to a hospital in Salinas for "employing unlicensed personnel (PSG techs) to conduct polysomnograms, nCPAP titration and/or nocturnal O2 administration" based on the 1983 California Respiratory Care Act. This Act prohibits "non-licensed practitioners" from performing procedures that "maintain the natural airway". This RCB interpretation suggests that sleep techs—including those who are Registered PSG techs

through their national Board certification—are practicing without a license when conducting CPAP titration or O2 titration. More citations were planned. The American Academy of Sleep Medicine responded and requested a coordinated response. We at the ACN have been working with the AASM in the ongoing efforts to date. Potential scenarios of exclusive respiratory tech control of all PSG performance, and subsequent scenarios of only licensed tech performances of EEG, EP and other neurodiagnostics through prohibitively costly licensing boards are considerations that we wish to avoid. Though the proposed legislation wishes to enact PSG related controls, similar legislation either piggybacked or separately proposed could result in all techs potentially having costly or limiting licensing boards. We shall keep you updated on this situation as it evolves.

## AANPA's Coding templates

Members of the AANPA's Coding Subcommittee of the Medical Economics and Management Committee (MEM) have developed a series of templates to assist members in appropriate coding for E/M services. The current templates cover levels 3–5 for established and new patient/consultations.

The templates are available on AAN.COM at [http://www.aan.com/news/?event=read&article\\_id=4797](http://www.aan.com/news/?event=read&article_id=4797).

Please contact Katie Kuechenmeister ([kkuechenmeister@aan.com](mailto:kkuechenmeister@aan.com)) with any questions you have regarding this initiative.

## Association of California Neurologists, American Academy of Neurology & American Society of Neuroimaging: *Working together at the vanguard of Neuroimaging advocacy an update.* William Preston, M.D., FAAN – ACN Director South

*The Association of California Neurologists (ACN) should be an active participant, along with our national organizations, to protect neurologists' imaging options within our state.*

With the recent addition of Neuroimaging to the United Council of Neurologic Subspecialties (UCNS), and the increased practical and educational activity dealing with MRI/CT within the AAN and the American Society of Neuroimaging (ASN), the entire concept of neurologist Neuroimaging is now undergoing a promising examination and emphasis. Central to this new momentum is the goal of utilizing Neuroimaging in our practices to provide quality neurological diagnosis and care for our patients.

However, just as the need for neurologists' participation in imaging becomes increasingly critical, for appropriate patient care and future viability of our specialty, barriers proliferate. The strident allegation that neurologists' practice of self-referral constitutes over utilization of medical resources resonates from competing, non-clinical specialties. As the perfect storm of increased health care costs, limited budgetary constraints and third-party payer scrutiny of resource allocation plays out on today's political landscape, neurology is rapidly getting left behind.

While most of the Neuroimaging activity for neurologists currently pertains to east coast and Midwest venues, both

academic and practitioner, more west coast (and particularly California) interest has recently been evident in both legislative and educational matters. California proposals SB 736 and AB 2805, both of which would have limited access of non-radiologists to imaging technology, were defeated through vigorous opposition by organized neurology and cardiology. Increased neurology resident interest in Neuroimaging in our state's training programs has led to renewed curricular focus on MRI/CT, with particular emphasis on clinical correlation.

The Association of California Neurologists (ACN) should be an active participant, along with our national organizations, to protect neurologists' imaging options within our state. One has only to look at previous and impending Sacramento legislation to be aware of potential restraints of (and incursions into) neurology scope of practice: particularly in the fields of Neuroimaging, EMG, and sleep medicine, but also with respect to jurisdiction of physical therapy and counseling.

Neurological advocacy, at both the resident training and practitioner levels, and political promotion of our practice domain prerogatives, start at the top: as Neuroimaging is increasingly supported by the ACN, ASN and AAN leadership as a crucial part of the neurologist's scope of practice, with increased educational offerings and political representation, a golden opportunity for our specialty and our patients will be realized.

## Beware of "research studies" surveys!

*Michael Kitchesll, M.D., Box 3014, Ames, Iowa*

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*"Are we going to warn our colleagues not to fall for more of these "surveys" too?"*

Dear PALF friends & Fellow Neurologists,

I am inundated by offers for "market research" and "surveys" who want to pay for my time to respond to their questions, so I presume most neurologists get the same emails and faxes daily, offering \$100-250 for our opinions. I want to caution neurologists that the web is wide and the web is deep, so that our words June come back one day to haunt us or our friends.

I was recently involved as an expert witness in a malpractice defense case of a neurologist whose patient had MS, and the plaintiff (patient) had an attorney who hired two physicians from out of state to testify against the neurologist.

So was it a coincidence before the deposition that a nationwide "research" firm wanted to interview me for \$200 about my opinions in regards to MS? This research firm, Schlesinger Associates is a worldwide company, specializing in healthcare research and trial/jury case presentation research. It appears they offer data to attorneys from a database of over 70,000 physicians (e.g. 144 neurologists from Chicago and 125 from NYC) they have contacted about various health issues. Just like pharmaceutical

firms who know every prescription we write (unless we purposely block them), many businesses know a lot about every physician in this country. There are a number of other companies or "research firms" who solicit our opinions and keep them in their databases.

The next time we receive an offer from a "survey" to sell our Neurologic opinions, we need to think about the consequences. Though the "research" is not necessarily to be used against our colleagues, I'm sure this large database could be used for many purposes.

Incidentally, the jury verdict for the case I testified for defense of the neurologist returned a defense verdict (i.e. no award) after less than 1 hour. But that didn't diminish the three years of anguish that the neurologist went through. Here in Iowa we are pushing for a certificate of merit. In Iowa the statistics show 94% of malpractice cases are settled in favor of the physician, yet the frivolous suits just keep on coming.

Are we going to warn our colleagues not to fall for more of these "surveys" too?

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## Advocacy

- **DMHC Balance Billing** - The Department of Managed Health Care recently proposed its fourth proposal in three years. This new regulations defines “unfair billing patterns” to include the practice of balance billing patients when their HMOs fail to pay fairly for emergency services provided to their enrollees. Balance billing by hospitals and hospital-based physicians including on-call specialists would be considered unfair and therefore illegal billing practice. The new proposal does not provide an interim payment in the event of a billing dispute and does not mention a dispute resolution process. **ACN opposes DMHC’s latest proposal.** A letter of opposition was sent to DMHC during the recent comment period.
- **SB1394 (Lowenthal) – Lapses of Consciousness** – This current bill is being sponsored by the Epilepsy Foundation. ACN took the position to support SB1394 with the recommendation that it be amended to contain (a.) language specifically protecting physicians who make decisions not to report their patients, (b.) clarification concerning which professionals are responsible for filing specified forms (c.) more complete details concerning the nature of these forms, and (d.) which conditions are considered reportable and non-reportable. **ACN’s recommendations were not considered; therefore, ACN currently opposes this bill.**
- **SB1504 (Mark Ridley-Thomas) – Patient Protection Act - ACN supports SB 1504** which requires when a pharmacist makes any substitution when filling a prescription for an anti-epileptic that a written consent from a patient, patient’s parent, legal guardian or spouse be obtained before dispensing the medication. A pharmacist must also notify the patient’s physician when a substitution is made.
- **SB1125 (Denham) – Polysomnographic Technologist Act & SB1526 (Perata) – polysomnographic technologists: sleep and wake disorders** - ACN supports colleagues from the American Society of Electroneurodiagnostic Technologists and the American Academy of Sleep Medicine and California Sleep Society’s concerns with SB1125 and SB1526.

*Please see Dr. Harold Smith’s newsletter article. (pg 2)*

## MRI GADOLINIUM CONTRAST ADVISORY

*Douglas R Bourgon, M.D.*

*Health Diagnostics  
(HD)- Bay Area MRI  
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Francisco & San Rafael;  
3T MRI Menlo Atherton;  
San Francisco  
Advanced Medical  
Imaging; 3T MRI Daly  
City (Coming Summer  
2008)*

[www.healthdiagnostics.com](http://www.healthdiagnostics.com)

There is an emerging association linking the administration of intravenous MRI Gadolinium contrast and the development of Nephrogenic Systemic Fibrosis (NSF). The exact mechanism of action is still a subject of investigation, however, there is compelling evidence that patients with severe renal failure, who are unable to clear Gadolinium from their systems, are at risk for the development of NSF. The prolonged gadolinium within their system deposits within the tissues resulting in a systemic fibrotic response – NSF. While the relative risk is very low even within this subpopulation, approximately 5% of NSF patients will have a progressive and fatal fulminant course. All patients at increased risk of renal insufficiency should be screened prior to IV Gadolinium administration. Alternative imaging and risk-benefit analysis should be carefully weighed for patients with severe renal dysfunction and those on dialysis.

## Neurologist Needed

**Neurologist needed - Consultant opportunity:** Children's Services (CCS) paneled Neurologist helpful. For more information contact: Chrystina Crocitto at [ccrocitto@vmrc.net](mailto:ccrocitto@vmrc.net) or phone (209) 598-0489. Visit our Website at: [www.vmrc.net](http://www.vmrc.net)

**1/2 day per month/\$1,000 per session.** Valley Mountain Regional Center (VMRC), Stockton, CA. Conduct neurology evaluations, diagnosis, assessments, medication review and recommendations; no direct patient care involved. California

## Looking ahead

**2009 ACN Annual Meeting** - February 12, 2009 – noon – 2:00 p.m. during the 42<sup>nd</sup> UCSF Recent Advances In Neurology at the Nikko Hotel, San Francisco, for more information, please call Peggy Pearce, 916 457.2236, [peggypearce2@sbcglobal.net](mailto:peggypearce2@sbcglobal.net)

**2009 Cal Neuro Alliance Conference** will be on Monday, April 27 and Tuesday, April 28 at the Sheraton Grand Hotel in Sacramento. The 2009 conference will mark the 10<sup>th</sup> consecutive year this meeting has been held. Please consider participating. Physician and patient participation is what makes this conference so successful. For more information, please contact Peggy Pearce, 916 457.2236, [peggypearce2@sbcglobal.net](mailto:peggypearce2@sbcglobal.net).

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**We are on the Web!**

**See us at**

<http://acn.aan.com>

## ACN's Mission...

- ❖ To stimulate and foster improvements in all aspects of the health care of patients with disorders of the nervous system.
- ❖ To encourage the association of professional neurologists and advancement of the practice of neurology in California.
- ❖ To promote continuing education and advancement in scientific and clinical techniques and methods of neurological medicine.

## What does ACN do for you ?

- ❖ **ACN represents you in:**
  - Medicare Contract Advisory Committee
  - CMA & the House of Delegates
  - Industrial Medical Council
  - Access to Specialty Care Coalition
  - American Academy of Neurology
  - California NeuroAlliance
  - Blue Shield Medical Policy Committee
- ❖ **ACN addresses major issues:**
  - Mandatory Physician Reporting
  - Workers' Compensation
  - Scope of Practice (*EMG & the PT*)
  - Punitive Pain Control Legislation
  - Chloral Hydrate & Sleep Studies
- ❖ **ACN presents annual meeting:**
  - Scientific Sessions (*CME*)
  - Socio-Economic Sessions

## ACN

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