# The OAR Advocate

Ohio Association of Rheumatology

December 2009

A Newsletter for Rheumatologists in the State of Ohio


## About *The OAR Advocate*

Welcome to *The OAR Advocate*, the publication of the Ohio Association of Rheumatology (OAR). Published semiannually, its aims are: (1) to inform our members of news, events and trends in Ohio and nationally relevant to the practice of rheumatology; (2) to opine on issues that impact the practice of rheumatology; and, (3) to entertain our membership. In broadly defining our goals, we do not have a predetermined concept of what *The OAR Advocate* should be; rather, we seek your input and want it to be your publication. In that spirit, as editor I invite you to contribute articles, opinion pieces, stories about your practice, or even brief, informative cases. Please see the May 2009 *OAR Advocate* on our website for details about how to submit your contributions.

Gary M. Kammer, M.D., editor

## www.ohiorheumatology.org offers a new resource for online communication to OAR members

by Rob Haladay, M. D.

Members can now easily stay informed, find solutions, and share ideas online. Go to **www.ohiorheumatology.org**, where you'll learn about advancing patient and physician advocacy, negotiations with insurers, upcoming relevant changes in Medicare, and other HOT topics.

Currently, there are links to our newsletters and content from last year's Annual OAR Meeting (Summer 2009). On the front page of www.ohiorheumatology.org, you will find a running tally of active issues ongoing at OAR. These include success stories of OAR's influence and issues yet to be tackled.

Soon, members will have a password sent to them via email. Then simply login to our "members only" section to read monthly OAR minutes and other content. In the future, this section will host a new President's Blog and members' opinions and discussions of active issues on a Bulletin Board-like discussion forum.

The OAR and our new website serve as a home base for Ohio rheumatologists who want to remain in the know. Check out the website to find out when and where the next OAR meeting will be. Get info on teleconferencing into these monthly meetings from any corner of Ohio. We hope to see you there.

**Rob Haladay, M. D. is vice-president of OAR, chair of the OAR website committee, and a practicing rheumatologist in Sandusky, Ohio.**

*SAVE the DATE*

## OAR Annual Meeting

September 24 and 25, 2010

Cherry Valley Lodge
Newark, Ohio

www.cherryvalleylodge.com

# The Importance of Political Advocacy

By Edward B. Herzig M.D., F.A.C.P., F.A.C.R.

It has become increasingly important for physicians to be involved in political advocacy as individuals and as a group. As individuals we have little power to effect change in our reimbursements or in the funding of research that is so important for our profession. Much is decided at the Statehouse or Congress and not at the local level. However, those people who decide these issues are your local State or Congressional Representative or Senator. Some current concerns are in reimbursements (SGR), funding for fellowships and research, and payment for DXA scans. Locally we are concerned about arbitrary decisions by insurance carriers.

**Reimbursements**

Back in the golden, olden days of medicine, physicians would be paid by the patient directly. It could be in cash or trade. That was a much simpler time. Physicians had few effective treatments and medicine was much less complex. Malpractice suits were rare. With the advent of Medicare and private insurance the landscape changed. There was a third party involved in the physician-patient relationship. Payment was for the "usual, customary and reasonable "charges. Physicians' incomes grew rapidly. The cost of delivering healthcare also rose faster than the cost of living. These third parties began trying to restrain costs and the current system evolved. No longer do most physicians have control of their charges or reimbursements. A few have opted out by not participating and some have started boutique practices and charge fees for patients to join their practices. (For many years physicians were not allowed to even discuss their fees with each other under the threat of a restraint of trade action.) In order to control costs, the sustainable growth rate (SGR) was built into Medicare law. The formula demanded a reduction in physician fees (to reach 20% in 2010). This was a flawed formula. Through political advocacy we have staved this off year after year. There is a new bill in the House (HR 3961) to reverse the SGR. Please ask your Representatives and Senators to support this bill.

**Arthritis Prevention and Control Act 2009**

This act passed the House last year, but died as the Senate session ended. This provides for loan forgiveness for Pediatric Rheumatology Fellowships to encourage more to enter the subspecialty. In the current Senate Healthcare legislation, Sen. Sherrod Brown (D-OH) has introduced an amendment for loan repayment for many Pediatric specialties. However the Arthritis act is still alive. Your support is crucial.

**Annual Advocacy**

The ACR invites physicians, allied health professionals and patients for an annual fly-in in Washington to directly appeal to your congressmen and senators. There is training provided as well as interesting speakers. You can join us through the ACR website. Several of us have gone and really enjoyed the experience.

**Local Issues**

The OAR is very active in helping with local issues, including denial of claims etc. As Dr. Mandel points out nearby, your membership is important. You can also get involved locally by getting to know your representatives at the Federal and local level. They really want to hear from you. Being passive means that the third parties will do unto you whatever they can to maintain their profits.
You are important and can make a difference. Please get involved.

**Edward Herzig, M.D., F.A.C.P., F.A.C.R. is a Board member of OAR and a practicing rheumatologist in Fairfield, Ohio.**

## Who we are . . .

**Gary M. Kammer, M. D.** (Willoughby, Ohio), president;

**Robert Haladay, M. D.** (Sandusky, Ohio), vice-president;

**Terrence Foley, M. D.** (Willoughby, Ohio), secretary-treasurer.

OAR Board members are:
**Ed Herzig, M. D.** (Fairfield, Ohio) and **William Treuhaft, M. D.** (Toledo, Ohio).

**Meetings**

We hold regular meetings, usually monthly, that can be easily accessed from your office or home by teleconferencing. We announce these meetings one month in advance in our meeting minutes that are posted on our website, and we remind you with an e-mail announcing the agenda. Lasting about an hour, these meetings discuss works in progress and introduce new business. We welcome your input, so please plan to join the meetings. The teleconference phone number is 1-888-557-8511; pass code is 8455129.

# Bipartisanship Will Make Health Care Reform Work

By Gary M. Kammer, M. D.

I have closely observed the ebbs and flows of the health care reform debate since 1993 when First Lady Hillary Rodham Clinton's task force first unveiled its reform plan. For me, that was a transformational period-- the proverbial wake-up call. Although President Bill Clinton had vigorously campaigned on behalf of health care reform in 1992, I neither recognized nor understood that his goal was to provide universal health care for Americans. As such, I was overwhelmed by the outcome of the task force's effort: the Health Security Act of 1993(1).

This Act proposed a government-directed mandate for employer-sponsored health insurance for all employees utilizing a tightly regulated Health Maintenance Organization (HMO) model. Opposing forces led by a coalition of conservative and moderate Republicans, Libertarians, health insurance-sponsored organizations and individual activists vociferously argued that such an arcane bureaucracy would be intolerably burdensome to people, ultimately resulting in patients losing their freedom to select their doctors and dismemberment of the doctor-patient relationship. Also forcefully articulating their stringent opposition to this Act was the prestigious conservative Heritage Foundation (2). Crafting an articulate and focused response, the Foundation asserted that imposition of tightly regulated budgets and premium caps were unworkable and that artificial constructs such as a National Health Board and various government-regulated regional alliances, advisory boards and the like, presumably operating in tandem with the Departments of Health and Human Services and Labor, might gravely hinder the quality of the practice of medicine. Ultimately, after protracted criticism, litigation, and advertizing critical of the plan leading to a failed compromise proposal in 1994, health care legislation died ignominiously.

Despite past warnings from Mrs. Clinton, Congress seems hell-bent to repeat the same historical errors again—in spades. In a July 13, 2005 *New York Times* article alluding to her experience with the 1990's version of health care reform, Mrs. Clinton mused: "I learned some valuable lessons about the legislative process, the importance of bipartisan cooperation and the wisdom of taking small steps to get a big job done."(3) Now there, in a single sentient sentence, the former First Lady nailed the essence of a political process that would successfully germinate a fair and balanced health care reform act reflecting the everyday needs of all Americans. Just imagine, the leadership of both houses of Congress urging rank and file Senators and Representatives to cogently study the myriad issues (e.g., health insurance overhaul, tort reform, ready access to health care for all Americans), develop consensus across the aisle, and bring forth legislation aimed at fixing each of the problems. (It could even be done incrementally over years, so that President Barack Obama could soon claim victory over the quandary called health care reform.) Instead, day after day we forlornly witness a feckless two-ring circus featuring the liberal Democrats vs. moderate Democrats in a show of bravado we all love to hate. Their shared goal, of course: government takeover of health care. And, the Republicans: Where are they? Last I heard, Senators Tom Coburn and Richard Burr along with Reps. Paul Ryan and Devin Nunes announced their intent to introduce their Patients' Choice Act, but never filed the bill. No matter, though, for as Michael Cannon, Director of Health Policy Studies at the Cato Institute has opined: "The core elements of this plan…make it the same type of plan Democrats are offering….pretty much exactly what I'd expect a Blue Dog Democrat to propose."(4).

So, if the Republicans are simply offering Democrat lite overhaul concepts, what to do? John Goodman, CEO of the non-partisan Dallas National Center for Policy Analysis (NCPA) and author of an informative health care blog, has proposed a ten-point health plan that "…make[s] the changes needed to create access to low-cost, high-quality health care."(5) I have nicknamed his plan the Ten Commandments of health care reform. Beginning with Free the Doctor, Goodman identifies the problem: "…doctors receive no financial reward for talking to patients…teaching patients…or helping them…." His solution: Let Doctors Be Doctors and Let Hospitals Be Hospitals. His second commandment: Free the Patient. Here, Goodman identifies three fundamental limitations: First, "Patients suffer when payments to doctors and hospitals are based on outmoded formulas." Second, patients have difficulty accessing medical care, especially primary care. Third, patients have an "…inability to communicate by telephone or e-mail" with their physicians. The solution: Patient Power. His sixth commandment is: Free the Insurer. Goodman believes that health "…insurance companies are also trapped in a dysfunctional system…[because] they operate under regulations that encourage them to avoid the sick and attract the healthy." The solution: A Market For The Care of Sick People. What we infer from Goodman's Ten Commandments are three basic tenets: Democrats and Republicans must come together for the "good and welfare" of the country; agree to codify Goodman's fundamental principles in any health care reform legislation; and, incrementally put in place reforms that make sense in all spheres: fiscal policy, medical care, patient access to care, and health insurance. Overhauling how medical care works must inure to all Americans, not just segments of the population.

In a December 2, 2009 OpEd entitled "ObamaCare at Any Cost", *The Wall Street Journal* opined: "The political tragedy is that there are plenty of reform alternatives that really would

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# What Is the CSRO?

By David R. Mandel, M.D.

We are often asked: "What is the CSRO? How is OAR associated with CSRO?" CSRO is the Coalition for State Rheumatology Societies. CSRO was founded in 2003 with a primary mission of reaching out to the U. S. rheumatology community to effect changes by way of advocacy as a means to promote improved patient care.

The CSRO has brought about 25 state rheumatology societies within its network, including OAR. Headed by a small group of hard-working physician members and professionals, CSRO has evolved an effective advocacy program, one goal of which is to educate Members of Congress on medical practice, medical malpractice, and reimbursement issues in order to enhance patient health and access to care. Of course, we anticipate the outcome will be effective health care legislation that impacts positively on patient care and our practice of rheumatology. To expedite this process, CSRO recently hired Hart and Associates, a Washington lobby organization, to work on behalf of CSRO and its affiliated societies. In effect, CSRO works as your conduit to Congress and represents you, the practicing rheumatologist. Learn more about CSRO by going online to www.csro.info/.

In its six years, CSRO has worked tirelessly to accomplish several small and large victories. Some of these have involved educating many third party payers and legislators about the unique role of the rheumatologist as a specialist and the valued care that we render. Others have taken place in the halls of Congress where we have developed effective relationships with Congressman and Senators and their legislative aides to accomplish the goal mentioned above.

To say the least, effecting changes on any particular issue that we may be involved with is like a marathon with many unpredictable turns and twists. One does not easily accomplish a piece of legislation like SGR and DXA reform in a calendar year. We must be constantly engaged in the process. To add clout to our society, CSRO has joined the Alliance of Specialty Medicine (www.specialtydocs.org). This organization is composed of thousands of physicians in many diverse specialties and has developed a strong presence to enhance our collective voice in Congress.

How do CSRO and OAR interact with the American College of Rheumatology (ACR)? In essence, OAR as an affiliate of CSRO collaborates with ACR to bring our shared purposes of high quality rheumatology care, improved access to rheumatologists, and lower costs. This objective is carried out by the Affiliate Society Council, a subcommittee of the ACR Committee on Rheumatologic Care (CORC). The Affiliate Society Council was recently developed to enhance communications between the ACR and state rheumatology societies as well as to work on practice advocacy plans. Importantly, working through the Affiliate Society Council, ACR has now made a firm commitment to respond to issues affecting its member rheumatologists by its willingness to partner with CSRO.

In addition to its responsibility to affiliate state societies, CSRO has also developed an organization of rheumatology practice managers called NORM. NORM, the National Organization of Rheumatology Managers, lists seven specific goals on its website, including education and mentoring of its members in their roles as rheumatology practice managers. This past September more than 100 rheumatology practices were present at their fifth national meeting in Myrtle Beach, SC to be educated on management practices and to network.

In February 2010, CSRO will hold its fifth two day course for rheumatology fellows on starting and operating a rheumatology practice. More than 250 fellows have attended these programs, which have been highly informative and practical for our younger colleagues just entering practice. We have heard that the responses and feedback have been highly favorable.

It is an understatement to declare that these are particularly stressful times. We physicians are at risk of becoming indifferent, cynical, passive or, worse, resigned to fate. I strongly believe it is imperative to be involved. Personally, I have found that taking an active role in state and national political events does make a difference. I also take the time in my practice to educate patients about the current issues, and to ask our patients to participate in office-initiated letter writing projects to our state senators and representatives as well as to our Congressional members. Drs. Foley, Kammer and I have met together and independently with state representatives, Senator Brown and Representative LaTourette to educate them about pressing legislative initiatives, such as DXA reimbursement. Only through action do we make a difference and can we impact and shape the outcome of health care legislation. I encourage you to join OAR, if you are not already a member, and to join with us in making a difference. Together, we can prevail and provide life-changing benefits for our patients.

**David R. Mandel, M. D. is president-emeritus of OAR, a Board member, and practicing rheumatologist in suburban Cleveland, Ohio.**

# About Ohio's Medicare Part B Carrier Advisory Committee

By Kevin Schlessel, M. D.

The Ohio & West Virginia Medicare Part B Carrier Advisory Committee meets three times a year at Palmetto GBA in Columbus, Ohio. The committee is composed of representatives from various medical specialties from Ohio and West Virginia. The purpose of the committee is to improve communication between the Medicare carrier and physicians. At the present time the meeting is headed by Dr. Robert Kamps, Medical Director or Palmetto GBA.

In 1992 the National Advisory Committee on Medicare-Physicians Relationships instructed HCFA (now known as CMS) to establish guidelines for a physician-carrier committee meeting within each state. To do this, HCFA formed a committee chaired by Dr. Nancy Gary to identify procedures that unnecessarily increased paperwork, impaired carrier-physician communication and increased the costs of practice. Two important suggestions from this committee were implemented. They were:
1. Establish more consistency across carriers by reducing the variability.
2. Improve communication between the physicians and Medicare carriers, by requiring that each carrier have an advisory committee of physicians representing the service area.
Based on this committee's recommendations, HCFA sent out a memorandum in May 1992 requiring all carriers to organize and hold their first Carrier Advisory Committee (CAC) meeting between October 1, 1992 and December 31, 1992. These meetings were to be held three to four times per year with not more than four months between meetings. Carriers were to solicit from each of their state medical associations and specialty societies a representative to attend these meetings.

A typical meeting includes the following:
1. Approval of previous meeting's minutes
2. Various topics of interest to physicians (e.g. RAC update)
3. Local Coverage Determinations (LCD's)
4. Medicare Part B updates
5. Member issues

One of the most important items presented during the meetings involve the Local Coverage Determinations (LCD's). LCD's are contractor-developed coverage policies, pertaining to services or items not addressed in National Coverage Determinations (NCDs) or program manuals. The Benefit Improvement Protection Act (BIPA) created LCD's that consist only of reasonable and necessary information, contain coding and utilization guidelines as well as descriptive passages.

LCDs are developed for various reasons, some of which are:
1. To define the appropriate use of new technologies
2. To address services with an abuse history or potential
3. High volume, high dollar services

LCDs are subject to the Carrier Advisory Committee (CAC) and public comment period processes. They can be readily revised as new data becomes available and is supplied to the Contractor Medical Director. All LCDs, both current and those under development, from all contractors in the country are located on the CMS Website at: http://www.cms.hhs.gov/center/coverage.asp

Finally, an update on the status of Ohio's Medicare Administrative Contractor (MAC), currently Palmetto GBA. Ohio is now in jurisdiction J-15 along with Kentucky. In January 2009, Highmark Medicare Services, Inc was awarded the MAC contract for our region. However, this award has been appealed. A new J-15 MAC contract was re-bid in September 2009, and to this date CMS has not released any information. Once CMS makes the award, bidders have the right to protest. Assuming the award is not protested, the transition can take from 5-9 months. If the award is protested, several additional weeks or months could pass before the transition finally starts. CMS has stated their goal is to complete the transition to MACs by September 2011. In the interim Palmetto GBA continues to function as Ohio's Medicare contractor.

**Kevin Schlessel, M.D. is a practicing rheumatologist in Columbus, Ohio and a representative to the Ohio and West Virginia Medicare Part B Carrier Advisory Committee.**

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reduce the cost of insurance….But Democrats don't care because their bill isn't really about "lowering costs". It's about putting Washington in charge of health insurance, at any cost." Goodman's Health Plan makes sense. It is pro-physician, pro-patient, and pro-autarky. OAR should take up the call, and support Goodman's values.

(1) H.R. 3600, Health Security Act (1993-11-20).
(2) Moffit, R. "A Guide to the Clinton Health Plan", Heritage Foundation (1993-11-19).
(3) Hernandez, R .and Healy, P.D. "The Evolution of Hillary Clinton", New York Times, 13 July 2005. Accessed at www.nytimes.com/2005/07/13/nyregion/13hillary.ready.html?_r=1&sq=Hillary Clinton
(4) www.cato-at-liberty.org/2009/05/21/the-coburn-burr-ryan-nunes-mandate-price-control-bill/
(5) www.ncpa.org/pdfs/health_plan112007.pdf

**Gary M. Kammer, M.D. is the current president of OAR, editor of *OAR Advocate*, and a practicing rheumatologist in suburban Cleveland, Ohio.**

## How OAR Works

We accomplish our mission by developing and implementing achievable goals. In 2003, OAR recognized that the administration of office-based therapies by all specialists was being targeted for reform by Congress in a bill entitled HR 1622 Quality Cancer Care Preservation Act. This bill contained language regarding reimbursement policies for the use of biological agents. In response to this Act and the recognition that burdensome future regulations would follow, OAR authored a pivotal position paper recommending, among several items, the renaming of the bill to include non-oncologists who administer biologic agents as well as recommendations on reimbursements. OAR stated: "The administration of biologics, as well as the follow-up and maintenance care, is complicated in a variety of conditions such as Rheumatoid Arthritis and Crohn's disease. There should be equal, fair, and comprehensive reimbursement at a higher level for patients receiving biologic therapy for all specialties that use biologics."

In addition to position papers, we frequently correspond with our elected officials in the Ohio legislature and in Congress. Shortly after the Ohio Revised Code Title LVII Chapter 5751 Commercial Activity Tax (CAT) was implemented in 2005, OAR learned that this bill provides an exclusion for the gross receipts attributable to the administration of infusible chemo-therapeutic, biologic and therapeutic agents and supporting drugs for patients with cancer. OAR recognized that this law carved out an unfair exclusion for oncologists while including all other physicians who administer biologic agents in their offices, including rheumatologists. In an effort to level the playing field, former OAR president David R. Mandel, M. D. (Chardon, OH) wrote to tax commissioner William Wilkins in February 2006 advising him of this inequity in the law and asking for redress. Dr. Mandel wrote: "The Ohio Association of Rheumatology believes it is imperative that the Ohio Department of Taxation amend the CAT Law immediately to correct this inequity. Specifically, we recommend that the Ohio Revised Code 5751.01 (S) (2) (v) be amended to drop the last two words "with cancer" from this paragraph. This would allow the exclusion of gross receipts to extend to any physician who administers chemotherapeutic, bio-logics or therapeutic medications in his office." Although this thorny issue has not yet been resolved by the Legislature, OAR continues to meet with Ohio legislators and to communicate our concern.

These are among many examples of the work OAR continues to pursue on behalf of Ohio rheumatologists.

## OAR Mission

From its inception in 2003, OAR has been a non-profit, 501 C3 organization composed of rheumatologists dedicated to the advancement of quality arthritis and musculoskeletal health care for all persons in the State of Ohio.

**Our mission is to:**

- Advocate and protect patient access to all appropriate treatments for rheumatic diseases,
- Establish and maintain clinical guidelines defining appropriate treatment of arthritis and rheumatic diseases,
- Nurture the interest and development of medical students and trainees in the field of rheumatology,
- Augment and support other organizations involved in arthritis care in order to enhance the quality of rheumatology services for all patients.

## OAR Membership Form

Those interested in OAR membership, please complete the form below and return with your $50 annual membership fee.

Name: ____________________

Title: ____________________ MD/DO: ____________________

Address: ____________________

City/State: ____________________

Zip: ____________________ Phone: ____________________

Email: ____________________

Return your OAR membership form to:

Ohio Association of Rheumatology
36100 Euclid Avenue #170
Willoughby, OH 44094

If you have any questions regarding the Ohio Association of Rheumatology, please contact Gary Kammer, M.D. at gmkammer@hotmail.com or Michelle Pohl at michelle.pohl@lhs.net.