



Council State Section Meeting
Sunday, Oct. 13, 2019
1:15 - 2:05 pm
Westin St. Francis
San Francisco, CA
Grand Ballroom

Section Leader & Council Chair:
Deputy Section Leader:

Lynn K. Gordon, MD, PhD
Thomas A. Graul, MD

I. Welcome and Review of Agenda

- Dr. Gordon welcomed attendees and expressed appreciation for the robust discussions taking place. She welcomed the 2019 Deputy Section Leader, and next year's Vice-Chair, Dr. Thomas A. Graul. Dr. Gordon encouraged attendees to take advantage of the open seating to engage and interact with others. Dr. Gordon encouraged questions be sent to her, Dr. Sarwat Salim, Gail Schmidt or Liz Sharpe.
- Dr. Gordon thanked and introduced the session moderator, Kurt F. Heitman, MD, Secretary for State Affairs, AAO.

II. State Society Best Practices

A. Patient Advocacy Illuminates in Illinois

Sohail J. Hasan, MD – President and Past Councilor, Illinois Society of Eye Physicians and Surgeons

- In 2016 the Sunset bill for Optometric Practice came up for renewal
- Optometrists amended the bills to greatly increase the scope of practice for optometrists in Illinois
- Act HB 6166/SB 2899
 - Sought to remove prohibition of surgery
 - Allow Injections of pharmaceutical agents, SC/Subconjunctival/IM and IV fluorescein
 - No educational standards suggested - not even a weekend course
- ISEPS stuck to their guns: only Surgery by Surgeons!
- ISEPS successfully obtained a compromise of creating the Collaborative Optometric/Ophthalmological Task Force in order to come to a consensus
 - Only representatives of the Optometric board were lobbyists, and they played hardball
 - Met once a month and after 13 months, never reached an agreement
- The bill went back into the court of the sponsors
 - Sponsor of SB 2899 suggested passing the new optometry laws through 'rule'
 - The Illinois Department of Financial and Professional Regulation (IDFPR) attempted to pass "Advanced Optometric Procedures" through the rule making process
 - This would require approval of members of Joint Committee on Administrative Rules (JCAR)
 - Twelve members of legislature, this committee could have accepted, amended or rejected the rules
- To combat this, ISEPS initiated the Patients as Advocates for Safe Surgery Program
- Goal was to put pressure on JCAR members from their own everyday

constituents

- Identified ISEPS members that were constituents in the same area of each of the JCAR members
- Gave them 3 letters to present to their patients and family members (really anyone related who is a constituent) to sign
- Over 300 letters were received and delivered to the legislators, most of whom were JCAR members. Letters focused on:
 - I'm a constituent
 - Optometrists didn't go to medical school
 - This is a danger to your constituents
- ISEPS lobbied some members of the JCAR more than others
- Senator Don Harman (co-chair of the JCAR) became a strong ally
- Representative Keith Wheeler (Jr. member of the JCAR) followed suit
- In the end, both rules were rejected and the bills died
- ISEPS stopped scalpel and eyelid surgery and injections by optometrists
- Another patient victory!
- Of interesting note: The sponsor of the bill, Senator Pamela Althoff later retired, and ISEPS hired her as a lobbyist. This was a huge success!

B. Health Plan Relations: Successful Negotiation in California

Troy R. Elander, MD – Councilor, California Academy of Eye Physicians and Surgeons

- Rising cost of repackaged Avastin for intravitreal injection and how the California Academy of Eye Physicians and Surgeons (CAEPS) was able to negotiate for a more favorable outcome for their members
- Background:
 - Per syringe prices rising as Outsourcing Facilities (compounders) attempted to meet higher safety standards - transition to Norm-Ject Syringes from insulin syringes because of potential for contamination from silicone oil.
 - Lower yield of syringes per vial of Avastin (22 vs 55) because of greater “dead space” in Norm-Ject syringes- this accounted for most of a ***\$25 increased cost per syringe.***
- Before initiating the negotiations, CAEPS did their homework
 - Medicare Administrative Contractors (MACs) - in this case Noridian - require hard evidence of a problem.
 - Typically prefer invoices; however, invoices here are for “batches” of syringes, ***not for individual patients*** in many cases, so we need to be able to “explain” the circumstances clearly.
 - WPS - another MAC in Wisconsin - addressed issue by having providers submit invoices with each claim, which was unworkable, and they backed down based on pressure, largely from AAO.
- Lesson learned: Have “friends in high places”
 - CAEPS is fortunate to have long established relationships with Noridian Medical Directors (some of whom were with Palmetto and NGS previously) over 15 years or more.
 - Credibility gained through finding ways the society can assist the MAC with policies (e.g. Local Coverage Determinations). If you know they are writing policy you can offer your assistance
 - Be a resource for your MAC
- Understand the Issue - and use it to your advantage
 - This is the tricky part! While invoices showed a calculable ***“absolute” increase*** in price of \$25 per syringe, it was realized that Noridian had been “pegging” the cost of a syringe to the ASP of Avastin (for cancer

- use), which had been going up at about 6% per year – *far higher than the cost of inflation*.
- However, the cost of the DRUG itself was only part of what the payment was intended to cover. “Intangible” part of the cost was also increased by 6% per year- making the amount Noridian had been paying probably higher than it should have been.
 - Gave an “excuse” to propose a more *modest* increase rather than the *full* \$25, which we anticipated would be resisted by Medical Directors.
 - Pricing specifics
 - Five years ago, reimbursed \$65 for a syringe of Avastin
 - Drug cost rose 6% per year over five years- \$65 increased to \$81
 - Drug is only 30% of price- intangibles should have gone up only 1-2%
 - The overall price Noridian paid went up too fast
 - When negotiating, it’s good to have friends in “other” high places
 - AAO also maintains relationships nationally with MACs
 - David Glasser, MD, Secretary for Federal Affairs
 - Michael Repka, MD, MBA, Medical Director for Governmental Affairs
 - Cherie McNett, Health Policy Director, AAO Washington Office
 - Have access to information (other states) that may strengthen arguments.
 - Coordination with these resources can “back up” local efforts and improve our chances for success, but what each party is willing to say needs to be agreed upon and understood ahead of time.
 - What was the outcome?
 - Noridian agreed to a \$13 increase – less than “asked for \$25,” but still “reasonable.” Noridian now pays \$94 per syringe up from \$81. “Contractor priced” items, such as these syringes, are set subject to unique rules that limit what can be considered additional “costs.” *Therefore, an exact “dollar for dollar” change cannot reasonably be expected.*
 - Calculated invoice price per syringe now ranges from *\$45-\$60*, meaning the payment includes *\$34-48* for what could be called “intangibles” (storage, record-keeping, etc.), items Medicare might not normally cover directly. So, a \$13 increase here – recognizing what providers were seeing as an actual invoice increase in the “real world” – is still a “win.”
 - Give credit where credit is due
 - Recognize contributions and cooperation of MAC Medical Directors in society publications. “Share” your articles with them for their internal use.
 - Do the same at Carrier Advisory Committee and other meetings where local CMS representatives might be present. The Medical Directors might benefit from praise.
 - CAEPS chief executive officer Craig Kliger MD, responsible for these negotiations
 - In summary
 - Know the people in the negotiations
 - Know your facts
 - Don’t get greedy
 - Be willing to compromise
 - Favorable outcome

Sara E. Stoneburner, MD – Councilor, North Carolina Society of Eye Physicians and Surgeons

- In North Carolina, we took up advocating for Certificate of Need (CON) reform. Though this is something the North Carolina Society of Eye Physicians (NCSEPS) worked on for a long time, the society was not getting any traction
- However, after the success of HB36, the NCSEPS now has relationships with legislators. They know them and they seek their opinion. NCEPS lobbyists now have an open door to the legislators who now trust them and know they stand for the patients
- NCSEPS also continues to partner with others in the house of medicine. Over 20 societies fought with NCSEPS during the battle to win HB36 and they keep up those relationships.
- The NCSEPS is effective as a society because they are bigger, stronger, more vibrant and therefore more effective. This is done through team meetings, membership, educational meetings and advocacy efforts.
- How did NCSEPS do this?
 - They talked a lot! During patient safety battles they held calls every week for a very long time
 - They shared ideas, made plans and together they solved problems. With many heads put together they created energy and effectiveness.
 - Closed every call with a collective “crush it!”
 - In addition to speaking together, they talked to colleagues across the state
 - They attended local gatherings of ophthalmologists
 - By imbedding themselves across the state it kept up awareness of what we are doing and that NCSEPS is there for their profession and their patients
- Stronger membership:
 - Prior to 2011, membership “was going off a cliff”
 - Through different efforts, statewide membership went from the 40th percentile to 70+% of state ophthalmologists being members of NCSEPS.
- How did they achieve this increase in membership?
 - First, they called every non-member and encouraged them to join
 - Secondly, had universities join as a group membership. Practice administrators can easily renew the membership for their whole practice
 - HB36 really galvanized the membership – they saw that we’re in this together
- Significant impact in meetings
 - Thanks to rock star, Leon Herndon, NCSEPS has put together world-class programs, speakers and meetings. This has driven up attendance in the last 3 of the 4 meetings, with attendance reaching over 100, double of that in the past
 - For the first time this year, NCSEPS sold out their exhibition space
 - By dividing work and sharing the load, NCSEPS has created strong meetings, built relationships and had fun. All of this together makes NCSEPS stronger, with a stronger voice
- White coat days and a new secret sauce
 - White coat days are still very important, but NCSEPS is moving on to greater frontiers
 - The new ‘secret sauce’ in political advocacy is fundraising
 - Most NCSEPS members had never been to a fundraiser, let alone hosted one
 - Now have hosted 10 fundraisers and were also substantial add-ons to

- two other fundraisers
 - Great way to meet your legislators, build relationships and to advocate for excellence in eye care for our patients
 - What's easier than writing a check and attending a party?!
- Back to the beginning
 - NCSEPS is trying to work with others in the house of medicine to create a stronger voice
 - Protecting sight through teamwork and political advocacy can be done.
 - If NCSEPS can do it, you can do it!

D. Doubling Down in Kentucky's Governor Race

Frank R. Burns, MD, FACS – President, Kentucky Academy of Eye Physicians and Surgeons

- Dr. Burns shared a story about how the Kentucky Academy of Eye Physicians and Surgeons (KAEPS) is interacting in the current Governor's race.
- Background: The Kentucky Governor's race is between the incumbent republican governor, Matt Bevin and the democratic challenger and current Attorney General, Andy Beshear. Andy Beshear is the son of the former governor, Steve Beshear, who was the governor prior to Matt Bevin. Incidentally, Steve Beshear signed a bill in 2011 giving optometrists legal right to perform laser and scalpel surgery in Kentucky. Governor Bevin and Steve Beshear have been at odds over the past four years, particularly about pension reform and Medicaid expansion. Steve Beshear has taken the Bevin administration to court several times with a mix of successes and failures. Because of this, the governor's race has been a very hotly contested race and television ads are becoming increasingly negative.
- How did the KAEPS get involved in the governor's race? Dr. Burns was approached late last fall by the Beshear campaign to potentially have a fundraiser for his primary campaign. When Dr. Burns agreed to have the fundraiser in November, Governor Bevin had yet to announce if he would be seeking re-election, which he did shortly after. A complicating factor occurred in January of this year when Governor Bevin announced a change in his running mate for his bid to be re-elected. The current lieutenant governor was not selected to be Bevin's running mate. Instead, he selected State Senator and doctor, Ralph Alvarado. Dr. Alvarado is an internist who has been in the state legislature since 2014 and has been a staunch supporter of patients' and physicians' legislative issues.
- KAEPS has worked closely with Senator Alvarado on several pieces of legislation that have passed since he was in office, has supported him with personal and PAC donations, and has supported fundraisers for him. Senator Alvarado was not pleased when he found out KAEPS was supporting the fundraiser for Mr. Beshear. Dr. Burns explained they were not aware at the time of agreement that Senator Alvarado would be Governor Bevin's running mate, and that the support was strategic in regard to the optometrists' large financial support of Mr. Beshear.
- Dr. Burns realized they would have to develop a new strategy for the general election. Following the primary election, word got out that the optometrists were planning to contribute \$50,000 to each campaign between individual and PAC contributions. Thus, the KAEPS board held a conference call with their executive director and lobbyist group to discuss their strategy. As Kentucky has a governor's race on odd years, and there are few other political races, there were extra PAC funds available to be used. The decision was made to use a combination of individual and PAC funds to give both candidates substantial donations in order to offset what the optometrists were planning (and knowing the funds would not go unnoticed by either

side). They were able to present checks totaling over \$14,000 to the Bevin campaign and over \$12,000 to the Beshear campaign. Several physician members were able to meet personally with Senator Alvarado and discuss issues important to patients and physicians in Kentucky. They met with Mr. Beshear at his campaign headquarters, again having time to discuss important issues.

- In closing, regardless of which candidate wins the election, KAEPS feels they have gained a seat at the table with both candidates, and that they were fortunate they were able to organize their membership in a short timeframe to work together in this worthwhile endeavor.
- Dr. Burns thanked KAEPS executive director, Liz Roach, and their lobbyists, Commonwealth Alliances, for their input and efforts to help KAEPS develop a strategy in the governor's race.

E. Grassroots Advocacy in Virginia: Surprise Billing

Alan L. Wagner, MD, FACS - Councilor, Virginia Society of Eye Physicians and Surgeons

- Surprise medical billing: patients receiving bills from out-of-network providers, despite receiving care in an in-network hospital.
- Multiple media reports of this problem, and even state legislators had personal experiences with surprise billing.
- This caught the attention of Delegate Kathy Byron (R-Lynchburg), Virginia General Assembly's Health Insurance Reform Commission (HIRC) Chair and HIRC members. She wanted legislation passed to either ban or heavily restrict surprise bills.
- Goal of the proposed legislation:
 - Completely remove the patient from the billing process
 - Insurance companies pay providers directly
 - Patients only responsible for deductibles and co-insurance
- 2019 General Assembly Session proposed legislation addressed two categories: elective and emergency procedures
- Two major bills addressed emergency services:
 - SB 1763, Sturtevant (R-Midlothian)
 - HB 1714, Ware* (R-Powhatan)

*Ware also carried legislation requiring advanced notice for out-of-network, non-emergent care

 - Prohibit surprise bills from the emergency department visit:
 - If a patient receives out-of-network care, they aren't required to pay the difference in their bill
 - Doctors are paid a reasonable, regional commercial average for services
 - Health plans can't surprise bill a patient for emergency services just because it turned out to be a non-emergent issue (this is just too common of an issue)

How to win this:

- Build a consortium: Physicians, hospitals and patients all in agreement. Support from every scope of the practice community and patient advocacy groups. Only the Health Plans were alone in their opposition
- Strategy was to run this like a campaign with many in-person and virtual meetings, with lobbyists using their relationships with legislators, but staying focused on the positions they shared in common. There was no room for old problems or baggage.
- Successful in getting physicians and patients to testify.
- PR efforts: Op-Ed pieces, news interviews, quiet hand holding and continuous pressure on the legislators. Not just one white coat day, instead there was a

daily push for meetings, calls, letters, emails, etc.

What happened?

- Senate bill passed unanimously.
- House bill derailed via the creation of doubt regarding the fiscal impact on the smaller town hospitals.
- In all: a physician-led coalition defeated the health plan's proposed legislation to force physicians to accept the plans in-network rate
- Budget language required a balance billing workgroup, but it was originally non-inclusive and limited in scope. That had to be changed first.
- Fortunately, Gov. Ralph Northam, MD, offered physician-friendly amendments, and these were passed by the General Assembly. This was the advantage of having a years-long relationship with the Governor.
- Though the vote may go your way, you have to watch what happens after. The State Corporate Commission (SCC) and Bureau of Insurance developed surprise billing regulations for hospital-based elective, non-emergent procedures - this was overreaching and not part of the original legislative intent. The proposed regulations would make hospitals responsible for a surprise bill if advance notice is not given to the patient. But this gives no responsibility to insurers, the one group who has the best information regarding a provider's in/out-of-network status. This was not acceptable.
- The Medical Society of Virginia and the Virginia Hospital and Healthcare Association (who usually don't get along well together) opposed and stopped these regulations.
- By this time, some of the groups that worked well together started to splinter off. The Virginia Poverty Law Center and Attorney General said they liked some of the SCC regulations, such as add-ons for the smaller communities/hospitals at risk. It took more than nine months to reach a consensus within the House of Medicine and among supportive stakeholders (patients, physicians and hospitals.) There was a lot of discussion, negotiation and compromise.
- The House of Medicine had to decide whether to present a bill that strongly favored doctors, or to present one that involved compromises for all parties. They gained support of patient advocacy groups by offering the most protection for patients. Legislators appreciated their consistent efforts to reach a compromise-and this ended up providing them more leverage in the process. They were able to get the legislators to go their way!
- Key strategies and takeaways
 - Early awareness- **friends tell friends**
 - Build the **biggest team possible**
 - **Communicate** goals and results regularly and frequently
 - Gained support of patient advocacy groups by offering the most protection for **patients**
 - Legislators valued consistent efforts to reach a **compromise**, providing leverage
 - Action **post session** as critical as before and during session!
 - Relationships are important: Before - During - There is never an after! After is the beginning of the next chapter!

F. Indiana Gives Back to Veterans

Yara Catoira-Boyle, MD - President, Indiana Academy of Ophthalmology

- The American Legion is the largest patriotic, non-political organization of war time Veterans devoted to mutual helpfulness. They were founded in 1919, have over 3 million members, more than 13,000 posts, and their national headquarters are in Indianapolis.
- They also offer support programs for family, youth and for their community. Services are provided to their members for career, health, education, VA

claims/appeals, benefit and employment opportunities.

- The Centennial celebration started with the 100th 2018 Convention in Minneapolis and continued with the 101st 2019 Convention in Indianapolis.
- The annual convention is a forum for member discussion, presentation of suggestions and solutions, and voting on advocacy issues related to Veterans. It also offers many healthcare services to their members.
- The American Academy of Ophthalmology has partnered with the American Legion and supported the annual convention for over a decade with a glaucoma screening booth. Over 2,800 screenings have been performed, and many Veterans have come to count on it as their annual eye check-up. The AAO partners closely with the state ophthalmology society executive director to bring in equipment and coordinate volunteers for the screening. It is a priority for the AAO to provide this important service at the American Legion's convention.
- In 2012, the AAO Secretariat for State Affairs commended the efforts of the Indiana Academy of Ophthalmology (IAO) in providing the screening. IAO members screened about 200 individuals and found cases of detached retina and new glaucoma.
- In August of this year the AAO and the IAO partnered again to provide glaucoma screenings to over 100 Veterans. Some of the pathology encountered included: recent retinal vascular event, glaucoma suspects, ischemic optic neuropathy, dry macular degeneration, papilledema and pseudotumor cerebri. This required the coordination of volunteers who took time out of their holiday weekend, and of work duties, to attend and donate their expertise. Seven Ophthalmologists and 12 Residents volunteered their time. The IAO's Executive Director, Kim Williams, was thanked for her work in coordinating the care team and equipment needs.
- Dr. Catoira-Boyle stated that It is well known that the American Legion supports the AAO stand on Surgery by Surgeons inside VA Health care across the nation.
- There is full collaboration between the VA, the community, and university partners. With the Veteran Mission Act, more and more veterans are sent to the community, and the IAO does see a large number of veterans. With 25 ophthalmologists in Indianapolis and seven more around the state, they perform a lot of surgeries for veterans.
- Indianapolis VA part of VISN 10- in 2019 FY
 - VISN 10 served 504K unique veterans with 6,8 million encounters
 - Indianapolis VA served 62K unique veterans with 732K encounters
 - Eye clinic served 15K unique veterans with 29K encounters
 - Community care: 4,459 referrals across the state
 - Eye surgeries (glaucoma, cataract, strabismus and oculoplastics) at the VA: 1,348
- Dr. Catoira-Boyle reiterated Dr. Wagner's comments about the importance of "friends helping friends" and hopes to continue this important partnership.
- Dr. Heitman advised that the 2020 convention will be in Kentucky, and the 2021 convention will be in Arizona so the Academy looks forward to partnering with KAEPS and the Arizona Ophthalmological Society.

III. Closing Remarks and Adjournment

- Dr. Gordon provided details for the upcoming Council Regional Meetings and the Closing Session. She also reminded attendees that it's important to not use just the printed book provided at the meeting, but to download the full agenda book provided via email about a week before the meeting. It contains a linkable table of contents for ease in viewing the areas of interest, especially the agenda topics for each meeting. Look for the agenda book for the Mid-Year Forum 2020 about a week before that meeting.

- The meeting convened at 2:05p.m.