



The Ohio Orthopaedic Society

Winter Issue

December 2008

Officers

Raymond S. Duffett, M.D.
President—Youngstown

Anthony D. Frogameni, M.D.
President-Elect—Toledo

James T. Lehner, M.D.
Past President—Dayton

Mark A. Snyder, M.D.
Secretary-Treasurer—Cincinnati

John K. Sontich, M.D.
Secretary-Treasurer Elect - Cleveland

Members-At-Large

Jaren D. Bombach, M.D.
Columbus

Jonathan Feibel, M.D.
Columbus

Councilors to AAOS

John R. Kean, M.D., *Columbus*

Michael C. Albert, M.D., *Dayton*

Mark C. Leeson, M.D., *Akron*

Membership Chairman

James T. Lehner, M.D.
Dayton

Ronald G. Hess, D.O.
Cincinnati

Resident's Program

Co-Chairmen

Scott D. Weiner, M.D.
Akron

H. Brent Bamberger, D.O.
Dayton

Historian

Warren G. Harding, M.D.
Cincinnati

Executive Director

Stephen C. Landerman

A Message from the President

This newsletter is being sent to all orthopaedic surgeons in Ohio—both members and non-members of the Ohio Orthopaedic Society. If you are currently a member, thank you for helping to make the OOS one of the finest orthopaedic societies in the country. If you are not a member please read the enclosed memo on page 4 from James Lehner, M.D. and Ronald Hess, D.O. and join the society today to help our organization become even stronger as we face the many challenges ahead.

If you are not sure if you are a member simply log on to our website at ohioorthosociety.org click on "Find an Orthopaedist" and click on your home county. All members of the OOS from your county will appear on the screen. If you wish to become a member simply click on "OOS Membership Application" and follow the directions.

I look forward to hearing from you.

Sincerely,
Raymond S. Duffett, M.D.

BWC Approves Fee Schedule

Most orthopedic procedures to increase from 140% of Medicare to 200% of Medicare

The majority of Ohio medical providers who treat injured workers can expect to see their first fee increases since 2004. The Ohio Bureau of Workers' Compensation (BWC) Board of Directors at their monthly meeting approved a new medical provider fee schedule. The decision came following a review of BWC's benefit plan and corresponding fee schedule for medical procedures, services and supplies. The adjustments to the schedule help ensure competitive provider payments and maintain injured worker and employer access to care, according to BWC.

"A solid benefit plan with fair and competitive fees is essential to maintaining an excellent network of medical providers to deliver high-quality medical care for Ohio's injured workers," said BWC Chief of Medical Services Bob Coury.

"This new fee schedule will make it more attractive for orthopaedic surgeons to continue to take workers compensation cases" said Raymond Duffett, current OOS President. "It should also encourage docs who have left the system to take another look at providing care for injured workers".

Article continued on page 5

Does Tort Reform Work?

The Ohio Experience Reveals “Yes”

By Tim Maglione, Esq., Senior Director of Government Relations for the Ohio State Medical Association

The spring of 2002 was not a happy one for many of Ohio’s physicians. Skyrocketing professional liability insurance was unaffordable, sometimes even unobtainable, especially for those in high-risk specialties like obstetrics, neurosurgery and orthopedics. Many physicians were considering retiring early, moving or eliminating high-risk procedures. The American Medical Association had placed Ohio on a list of states considered “in crisis.”

The culmination of all of these events led to the Ohio State Medical Association (OSMA) to take action at the state government level to reform Ohio’s tort system, so that physicians could stay in the practice and continue caring for Ohioans. In June 2002, SB 281 was introduced featuring a package of reforms that, among other things, limited non-economic damages awarded in medical liability lawsuits.

Déjà vu All Over Again?

Like many states, Ohio had seen tort reform passed by the state legislature, only to have the laws overturned by the state supreme court.

This time, however, a major effort was made by the OSMA, Ohio physicians and other interest groups to change the philosophical make-up of the Ohio Supreme Court. This was accomplished by supporting candidates that held a “judicial restraint” judicial philosophy. Prior to 2002, the Ohio Supreme Court was considered an “activist” court, one that “legislated from the bench.” At that time, four of the seven justices fit that label.

Today, six years and 3 election cycles later, the Court is considered to have a 6 to 1 “judicial restraint” majority, one that defers public policy matters to the legislative branch. With this new philosophical majority and with a new law that addressed prior Court decision reasoning, the chances are much better that the law will be upheld if challenged.

Where Are We Now?

SB 281 was signed into law in 2003 and took effect in April of that year. Since then, the total number of medical liability suits has declined, insurance rates have stabilized and the liability insurance market is more robust.

Case Filings and Indemnity Payments are Down

In 2005, the first year data was collected by the Ohio Department of Insurance regarding medical liability claims, a total of 5,051 medical liability claims were closed, with only 21% (1,046) of those claims resulting in a payment to the claimant. One year later, there were 4,004 claims closed, with only 794 of those claims resulting in a payment to the claimant.

In other words, there was ***a 20% reduction in overall claims from 2005 to 2006 and a 24% reduction in claims resulting in a payment.***

Additionally, the 2005 data revealed that claims subject to the new tort reform law had indemnity payments nearly \$100,000 *less* than claims not subject to the new law.

Medical Liability Insurance Rates Coming Down

Starting in 2001, physicians started experiencing significant rate increases in medical liability insurance premiums – a 22 percent increase in 2001, 30 percent in 2002 and 2003, and 20 percent in 2004.

OOS Joins National Healthcare Career Network

In an effort to add additional benefits to membership in the OOS the Executive Committee is pleased to announce our inclusion in the NHCN. The Society has joined with over 100 top healthcare associations and professional organizations across the country to provide an easy-to-use resource for online employment opportunities in the healthcare industry.

By using this new link on the OOS website orthopaedic offices in Ohio can post job vacancies and search for qualified candidates based on specific job criteria. Job seekers can view opportunities on a nationwide scale and gain valuable access to health care industry positions currently available.

This online employment resource will help offices streamline their hiring process by providing targeted access to the best professionals in the healthcare field.

To learn more about the NHCN log onto the OOS Website at: ohioorthosociety.org and simply click on the link "New Career Center".

Tort Reform *(continued from page 2)*

However, since the tort reform proposals have had time to work, rate increases were moderated in 2005 (6.7%) and actually **declined** by 1.7% in 2006 and 10.9% in 2007. The 2007 rate reduction translates to an average savings of at least \$1,000 per Ohio physician.

Competitive Medical Liability Marketplace

In 2000, Ohio had nearly 30 medical liability carriers providing professional liability insurance for physicians. At the height of the liability crisis in 2003, the state was left with only 5 carriers, 3 of which were showing increasing financial difficulty. Today, however, Ohio has tripled the number of medical liability carriers since 2003 and now has 15 companies competing for business in a more robust and predictable medical liability marketplace.

Holding Trial Lawyers Accountable

In addition to enacting a number of tort reforms in Ohio, the Ohio State Medical Association (OSMA) also created a Frivolous Lawsuit Committee to fight back against trial attorneys who file frivolous claims. The committee, made up of physicians and lawyers, reviews possible cases of alleged frivolous conduct by a plaintiff's lawyer. Then, if warranted, the committee will assist defense counsel with seeking sanctions against that lawyer for filing the frivolous claim.

In three separate cases, the court sanctioned trial attorneys and the physician defendants were awarded recovery of defense costs totaling more than \$35,000. Most importantly, these cases have provided a legal precedent in Ohio for holding trial attorneys legally and financially responsible if they file a frivolous lawsuit.

So, Does Tort Reform Work?

The medical liability changes that have occurred in Ohio since 2003 have had positive effects - the medical liability insurance market has stabilized, insurance rates have declined, court case filings are down and physicians no longer have to worry that a liability insurance crisis will drive them out of practice.

And to the critics of tort reform? All of the changes in Ohio still permit those with legitimate liability claims to have access to the courts and access to reasonable and fair compensation.

Ohio General Election Update

For the first time in over 12 years, the Ohio House of Representatives will be controlled by the Democratic Party in 2009. After having controlled the House since 1995, the Republicans lost their majority of 53 to 46 when the House flipped to a 53 Democratic Majority and 46 Republican Minority. The Ohio Senate Republicans retained control of the Senate and no seats changed party control, so the Republicans will hold 21 seats and the Democrats will hold 12.

The leadership of the House and Senate for 2009-2010 (128th General Assembly):

Ohio House of Representatives (*53 Democrats and 46 Republicans*)

House Democrat Leadership

Rep. Armond Budish (Beachwood) – Speaker of the House
Rep. Matt Szollosi (Toledo) – Speaker Pro Tempore
Rep. Jennifer Garrison (Marietta) – Majority Floor Leader
Rep. Tracy Maxwell Heard (Columbus) – Assistant Majority Floor Leader
Rep. Jay Goyal (Mansfield) – Majority Whip
Rep. Allan Sayre (Dover) – Assistant Majority Whip

House Republican Leadership

Rep. Bill Batchelder (Medina) – Minority Leader
Rep. Louis Blessing (Cincinnati) – Assistant Minority Leader
Rep. John Adams (Sidney) – Minority Whip
Rep-Elect Kris Jordan (Delaware) – Assistant Minority Whip

Ohio Senate (*21 Republicans and 12 Democrats*)

Senate Republican Leadership

Sen. Bill Harris (Ashland) – Senate President
Sen. Tom Niehaus (New Richmond) – President Pro Tempore
Sen. Keith Faber (Celina) – Majority Floor Leader
Sen. Mark Wagoner (Toledo) – Majority Whip

Senate Democrat Leadership

Sen. Capri Cafaro (Hubbard) – Minority Leader
Sen. Shirley Smith (Cleveland) – Assistant Minority Leader
Sen. Ray Miller (Columbus) – Minority Whip
Sen. Jason Wilson (Columbiana) – Assistant Minority Whip

With the state of the economy, a Democratic Governor and an Ohio General Assembly split, next year's biennial budget process is sure to be unpredictable. Ohio's current budget deficit is \$640 million for Fiscal Year 2009 and the state is already predicting a deficit of \$7.3 billion in Fiscal Years 2010 and 2011. (*The state's 2009 fiscal year runs from July 1, 2008 through June 30, 2009*). If every state agency cut their operating budget by 10%, the state's shortfall would still be \$4.7 billion.

BWC (*continued from page 1*)

BWC reimburses approximately 70,000 providers for services rendered to Ohio's injured workers. This includes office visits, hospital care, medical equipment and procedures. The fee schedule sets rates reimbursed to medical providers for their services. Providers will experience an increase in reimbursement rates for approximately 85 percent of services and products rendered. Certain providers will also receive an increase for mileage reimbursement from 31 cents to 51 cents per mile.

"Our network of medical professionals serve as a foundation for Ohio's workers' comp system, providing hands-on care to ensure injured workers return to work as quickly as possible," said BWC Administrator Marsha Ryan. "We will regularly review performance measures and examine methodologies in practice to ensure our fee schedule is an asset in keeping the best possible network of dependable medical providers."

In recommending improvements to the medical provider fee schedule, BWC requested input from certified providers, stakeholders and interested parties. Staff also studies industry best practices, rates of inflation and fee benchmarking against those other states. BWC also used the Federal Center for Medicare and Medicaid Services methodology for professional reimbursements. The fee schedule adjustments now go through the Ohio rule-making process. BWC expects changes will take effect February 1st.

For additional information contact: www.bwc.state.oh.us

Mark Your Calendar for the 2009 OOS Annual Meeting

May 7-8, 2009



Hyatt on Capitol Square
75 East State Street, Columbus, Ohio 43215

The 2009 Ohio Orthopaedic Society Annual Meeting will be held at Columbus, Ohio at the Hyatt on Capitol Square on May 7th and 8th.

Meeting materials will be available in January on the Ohio Orthopaedic Society website at:

www.ohioorthosociety.org

Hyatt on Capitol Square
75 East State Street
Columbus, Ohio