

New Jersey Academy of Otolaryngology-Head & Neck Surgery  
New Jersey Academy of Facial Plastic Surgeons

March 2013

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**NJ Academy of Otolaryngology-Head & Neck Surgery/NJ  
Academy of Facial Plastic Surgeons**

presents

**30th Annual Symposium**

*5.5 AMA PRA Category 1 Credits*

**April 10, 2013**

**7:30 am- 3:30 pm**

**PNC Bank Arts Center**

**Holmdel, NJ**

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**Endoscopic Surgery for Frontal Sinus Disease: A Graduated Approach**

Jean Anderson Eloy, MD, FACS

**Allergy and the Otolaryngologist, A Beginner's Approach**

Diego Saporta, MD

**Sialoendoscopy and Minimally Invasive Approaches to the Salivary Glands**

Michael Turner, DDS, MD, FACS

**Legal Update**

Denise L. Sanders, Kern Augustine Conroy & Shoppmann, PC

**Sleep Medicine Pearls for the Otolaryngologist**

Gabriel Wong, MD

**Radio Frequency Treatment for Facial Skin Laxity**

Paul Carniol, MD

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**EXCLUSIVE NJAO-HNS/NJAFPS MEMBER BENEFIT!**

## **WB Mason teams up with NJAO-HNS/NJAFPS for office savings!**

Through the NJAO-HNS/NJAFPS Buying Group your practice can save 10% or more with W.B. Mason on general office products, janitorial/break room supplies, coffee, print/promotional material, Water coolers and filtration systems when we compare recent\* invoices from your current Supplier. W.B. Mason is not offering an additional 10% on product categories that you are currently purchasing through WB and the discount only applies to new opportunities within your organization. To receive the discount please contact your W.B. Mason Sales Representative and let them know you have a relationship with the NJAO-HNS/NJAFPS Buying Group and reference this email to start receiving the benefits.

**From the Statehouse**

**Advocacy and Management Group**

### **NEW JERSEY TO EXPAND MEDICAID UNDER ACA**

On Tuesday, February 26, Governor Christie announced his budget for fiscal year 2014. The budget highlighted various line items, including school aide, Sandy recovery, and no tax increases. The Governor also finally addressed the big question on everyone's mind... participation in Medicaid expansion.

The Governor has announced that New Jersey will participate in the Medicaid expansion program under the Affordable Care Act. Christie is one of only eight Republican governors to participate in this expansion. While clearly stating that he remains opposed to the Affordable Care Act, he has stated that refusing the federal funding would not be in the best interest of the state: "...refusing these federal dollars does not mean that they won't be spent. It just means that they will be used to expand health care access in New York, Connecticut, Ohio or somewhere else." Under the program, Medicaid will cover an additional 104,000 New Jerseyans. The federal government will cover 100% of the state's cost for coverage expansion from 2014 to 2016, gradually decreasing to 90% in 2020 and thereafter. New Jersey is estimated to save approximately \$227 million in fiscal year 2014 alone.

The Governor's address also highlighted hospital funding. Hospitals will be provided with \$966 in fiscal year 2014. Yet in order to maximize federal matching funds, New Jersey alter previous distribution methods and will now reimburse hospitals based on "the level and quality of care they provide to patients."

The Governor also announced a \$47 million increase for family care throughout the state. The budget increases funding for newborn screening by \$1.6 million and provides a total of \$50 million to support Federally Qualified Health Centers, an all time high. A total of \$12 million has been allotted for cancer outreach, screening and follow up services.

For complete text from the Governor's address, please visit:

[http://www.nj.com/politics/index.ssf/2013/02/chris\\_christies\\_2013\\_budget\\_fu.html](http://www.nj.com/politics/index.ssf/2013/02/chris_christies_2013_budget_fu.html)

### **GOVERNOR OPTS FOR FEDERAL EXCHANGE FOR NJ**

This month the Governor has announced that New Jersey will opt for the federally administered Health Exchange for 2014, instead of the state run program which was considered by the legislature in Fall 2012. The Governor's office made numerous steps in order to comply with the federally mandated Affordable Care Act.

This includes the selection of an Essential Health Benefits Benchmark plan, which the State announced in December 2012. New Jersey has also implemented NJ Protect, a federally subsidized health insurance program for individuals with pre-existing health conditions. NJ Protect enrolled its first policyholders in August of 2010 and now serves 1,400 New Jerseyans with serious illnesses such as cancer and heart disease by

providing them access to affordable insurance and care.

The state is also in its final stages of modernizing the Medicaid and social service eligibility information systems, which will work with the federal exchange, through the Consolidated Assistance Support System (CASS). CASS will allow one-stop shopping for New Jerseyans who qualify for the state's most-used social service programs. New Jersey will continue to offer "Basic and Essential" coverage, which is utilized by approximately two-thirds of the 145,000 New Jerseyans covered by individual insurance in New Jersey. Under the Comprehensive Medicaid Waiver, New Jersey will move forward in an attempt to decrease the cost of care, improve quality and delivery through integrated, managed care, and offer premium payment assistance for needy families. This is being accomplished without affecting eligibility, imposing co-pays, or cutting optional services.

### **COMMISSIONER O'DOWD PROVIDES DHS UPDATE**

Earlier this month, AMG attended a forum through the New Jersey Business & Industry Association (NJBIA) featuring guest speaker Commissioner Mary O'Dowd of the Department of Health and Human Services. The Commissioner reviewed the Department's top priorities for 2013 and highlighted achievements from 2012.

Flu vaccination remains a top concern for the Department, which has stressed the importance of vaccinations within the office setting. In 2012, the Department of Health worked with many small and large businesses to facilitate on-site vaccinations as well as provide information to staff on the importance of the flu vaccine.

New in 2013 is the Delivery System Reform Incentive Payment Program, which will require hospitals to select one project (i.e. chronic disease) that is unique to that specific hospital. The state will reimburse the hospitals based on the outcomes of their project, as results from the project will be completely tied to state funding.

This year, the Department will continue to explore C-Port-E, or Cardiovascular Patient Outcomes Research Team Elective. C-Port-E looks to compare angioplasty outcomes at hospitals with and without on-site cardiac surgery teams. There will be various hearings throughout the year to assess this study and its related findings in New Jersey.

Pilot programs in Trenton, Newark and Camden were administered in 2012 to assess care outside of the Emergency Department. These pilot programs have focused on collaboration of hospitals within the three major cities in an attempt to keep Emergency Department admissions down. Collaborated efforts have greatly decreased ED admissions and the Department of Health will work in 2013 to collect additional results before expanding this program to other areas of the state.

Commissioner O'Dowd outlined *Healthy NJs 2020 Goals*. *Healthy NJ* is a product of research and development from the University of Medicine and Dentistry of New Jersey (UMDNJ) which strives to provide health care information that will bring awareness to NJ based policy makers, physicians and patients. In 2020, *Healthy NJ* strives to: 1) provide greater access to primary care for all New Jerseyans, produce greater birth outcomes, improve childhood immunizations, decrease heart disease, and decrease obesity.

### **IMPORTANT news from the single-room front.....**

**As part of its continued assault on single-room, surgical practices, the State Board of Medical Examiners has signaled through an ongoing enforcement action that it expects ALL physicians performing services in the surgical practice's operating room to be fully credentialed by a NJ hospital or have successfully gained privileges through the Board's alternative privileges process. Members should take care to make sure that physician first assistants and anesthesiologists are so credentialed. As for physician extenders, it appears that the Board will be taking a similar position. The Board's investigators are inspecting "surgical practices," and physicians they believe to be in violation will be called to appear before the Board on a disciplinary inquiry.**

## **New Jersey Physician Advisory:** **Be Warned Over the Use of Illegally Imported Prescription Drugs**

The US Food and Drug Administration is cracking down on physicians who are buying illegally imported drugs and selling them in the United States.

Illegal prescription drug importation occurs when foreign pharmacies, traders or suppliers ship pharmaceuticals not intended for sale in the United States (and which may or may not have been approved for use in foreign countries) into the United States for use by American consumers. The importation and counterfeiting of prescription drugs is a growing problem. In 2000, FDA opened 6 counterfeit drug investigations; in 2004, FDA opened 58.

In December 2012, the FDA issued letters to over 350 medical practices that they may have received unapproved medications from a foreign supplier that may be counterfeit, contaminated, improperly stored and transported, ineffective and/or unsafe.<sup>1</sup>

FDA warned these medical practices to stop purchasing and administering drugs received from foreign or unlicensed suppliers because they were placing patients at risk and violating federal law. FDA also posted a list of all of the doctors that received the letter.<sup>2</sup>

Some physicians see importation as a cost-saving alternative because some prescription drugs are sold at lower prices in foreign countries due to artificial price controls in those other countries and because the foreign and unlicensed importers do not comply with FDA regulations. These healthcare practitioners can undercut competitors selling legitimate drugs. More importantly, the patients who visit these practitioners usually do not realize they are being treated with illegally-imported drugs, nor do they understand the risks associated with such treatment.

Indeed, the importation of prescription drugs not only is illegal; it also poses significant health risks to consumers. Imported drugs are often counterfeit, do not contain the same active ingredients, and do not contain the same important instructions and warnings as their U.S. counterparts and/or may be compromised in some way (e.g., due to inadequate storage or shipping).

For more information, you can read this recent **Wall Street Journal** article:

<http://online.wsj.com/article/SB10001424127887324731304578193990868029934.html>.

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<sup>1</sup> <http://www.fda.gov/Drugs/DrugSafety/DrugIntegrityandSupplyChainSecurity/ucm330610.htm>

<sup>2</sup> <http://www.fda.gov/downloads/Drugs/DrugSafety/DrugIntegrityandSupplyChainSecurity/UCM335979.pdf>

If you believe you have been sold, or solicited to purchase, illegally imported drugs, you can report this suspected criminal activity to FDA's Office of Criminal Investigations (OCI) by calling 1-800-551-3989 or visiting the OCI website: <http://www.fda.gov/ICECI/criminalInvestigations/default.htm>

**Sunshine Law Finalized:** The Centers for Medicare & Medicaid Services (CMS) has issued the final rule to implement what is known as the "Sunshine Law." The Sunshine Law requires manufacturers of drugs, devices, and biological or medical supplies covered under federal health care programs ("applicable manufacturers") to report annually to CMS certain payments, gifts and other transfers of value made to physicians and teaching hospitals during the previous calendar year. Applicable manufacturers and group purchasing organizations (GPOs) also are required to report information regarding ownership or investment interests in such entities held by physicians or their immediate family members. CMS is required to publish the reported data on a public website. Financial ties between manufacturers and physicians do not signify an inappropriate relationship, but the stated intent of the Sunshine Law is to provide transparency of payments and financial interests, thereby increasing accountability and reducing the potential for conflicts of interest. Data collection by manufacturers and GPOs begins August 1, 2013, and the first (partial year) report is due by March 31, 2014, with publication by September 30, 2014. Physicians are permitted, but not required, to register with CMS, but should do so to ensure that they receive communications about the process to review--and dispute, if necessary--reports submitted by manufacturers and GPOs about payments or ownership interests attributed to them. To review the types of payments and financial interests to be reported, and information about the review and challenge process, view the rule at: <http://www.gpo.gov/fdsys/pkg/FR-2013-02-08/pdf/2013-02572.pdf>. Physicians should be reminded, as well, that the New Jersey State Board of Medical Examiners carefully reviews responses to questions posed on the biennial license renewal questionnaire regarding a physician's relationship with pharmaceutical and medical device manufacturers.

**Physician-Pharmacist Drug Therapy Collaboration Rule Adopted:** The NJ State Board of Medical Examiners and the NJ Board of Pharmacy have jointly adopted a new rule that establishes standards of practice for physicians and pharmacists who wish to enter into collaborative practice agreements for the management of patients' drug related therapies. The Pharmacy Practice Act authorizes the Boards to jointly promulgate rules that allow physicians and pharmacists in the State to enter into written agreements for the cooperative management of a patient's drug, biological, and device-related health care needs. The Boards were forced to re-propose the rule following numerous concerns expressed about the type of training required of pharmacists for collaborative practice. The final rule addresses the training issue, but some concerns remain about the collaboration arrangements. Read the commentary, and the final rule, at: <http://www.state.nj.us/oag/ca/adoption/PharmAdo02042013.pdf>.

### **New Jersey Regulatory Activity:**

**Dept of Health:** Surgical Practice Registration Renewal application notices have been issued and renewal applications are due to the Department by the end of March.

**State Board of Medical Examiners** - Adopts a new rule governing the prohibitions and special limitations on prescribing, administering, or dispensing anabolic steroids and human growth hormone or its similar analogs. See the new rule at: [www.drllaw.com](http://www.drllaw.com).

**Dept of Banking & Insurance** - Adopts amendments to its third-party billing services rule to include automobile insurers within the definition of "benefits payor" thereby ensuring that all entities acting as third-party billers understand that they are required to be registered with the Department as third party billing services. See the adoption with comments at: <http://www.state.nj.us/dobi/adopt.htm>. The Department recently took enforcement action against a company that acted as a third-party billing service for a provider group in New Jersey when it was not certified as a third-party billing service. See:

[http://www.state.nj.us/dobi/division\\_insurance/insfines.htm](http://www.state.nj.us/dobi/division_insurance/insfines.htm).

**Audiology and Speech-Language Pathology Advisory Committee** - Proposes to require applicants for licensure to complete an on-line jurisprudence orientation and to require current licensees to complete this orientation as a prerequisite for license renewal for the 2015 renewal period. See the proposal at: [http://www.state.nj.us/lps/ca/proposal/audiopro\\_021913.htm](http://www.state.nj.us/lps/ca/proposal/audiopro_021913.htm). In a separate proposal, the Committee proposes changes to continuing education requirements for licensed audiologists and speech-language pathologists. See: [http://www.state.nj.us/lps/ca/proposal/audiopro2\\_021913.htm](http://www.state.nj.us/lps/ca/proposal/audiopro2_021913.htm).

**Board of Pharmacy** - Proposes rule amendments to clarify the duties of pharmacy interns, pharmacy externs, pharmacy technicians, pharmacy technician applicants, and unlicensed and unregistered pharmacy personnel. See the rule at: [www.drlaw.com](http://www.drlaw.com).

**Division of Medical Assistance** - Proposes an amendment to the explanatory language regarding third-party liability, in order to clarify existing responsibilities and requirements and add examples of third parties that are liable in any manner for payment of any part of the cost of medical assistance payable by the Medicaid or NJ FamilyCare program. See: <http://www.state.nj.us/humanservices/providers/ruleprop/>.

**Board of Nursing** - Proposes repeal of an existing rule perceived as prohibiting hospitals and other healthcare entities from employing registered professional nurses or licensed practical nurses in non-nursing jobs. See the rule at: [www.drlaw.com](http://www.drlaw.com).

For more information on the above items, contact Kern Augustine Conroy & Schoppmann at 1-800-445-0954.