

**NYS Society of Dermatology &
Dermatologic Surgery**

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Patient Safety Hero Awards – Call For Recommendations

The ASDSA Patient Safety Hero Awards are announced annually at the ASDS/ASDSA Annual Meeting each year. The ASDSA Patient Safety Hero Awards promote patient safety through the recognition of leaders who have taken an active role in the promotion and protection of patient safety for cosmetic medical procedures. Patient Safety Heroes are nominated by ASDSA members and are announced at the ASDS Annual Meeting in October. Please contact the NYSSDDS at lizdk@nycap.rr.com to make a recommendation for the name of an individual whether physician, legislator or regulator who can be nominated by the NYSSDDS for this distinctive awards. Last year, New York's nominee Senator Joseph Griffo received a patient hero award for sponsoring the Healthcare Professional Transparency (TIA) bill. For more information concerning the ASDS Patient Safety Awards please go to their website at <http://asdsa.asds.net/outreach/awards/>.

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S U M M E R 2 0 1 4

From the President

As I write to you our fiscal year will soon end. New dues bills will be arriving at your doorstep within the next week or so. I know that membership dollars are limited. I would like to provide an overview of our past year and demonstrate the value of membership in the NYS Society of Dermatology and Dermatologic Surgery.

As you know, this year we had several legislative issues on which we expended much energy. The Truth in Advertising legislation (S.5394, Griffo/ A.7889, Stirpe) advanced as far as the Senate floor but was stalled by the intercession of the American Board of Physicians and Surgeons who weighed in against the bill in its current form because they believed that it was anti-competitive. The Session Update below examines this issue further. Suffice it to say that we have very strong sponsors who are willing to get a revised bill passed early next year. We will work with them to do so.

Working closely with the Medical Society and other specialty medical societies, we were able to prevent the enactment of bills which would have allowed podiatrists to provide treatment for cutaneous wounds on the leg and certain dentists to per-

form a wide range of medical surgical procedures involving the hard or soft tissues of the oral maxillofacial area. Also, working as part of organized medicine we successfully



**Robert Walther, MD
Society President**

defeated a bill which would have changed the statute of limitations from 2 ½ years from the occurrence of the alleged malpractice to 2 ½ years from the date the patient discovered the injury. If this bill had not been stopped, physician malpractice premiums would have been increased by as much as 15%. Lastly, we succeeded stopping a bill which had already passed the Senate which would have required all physicians to take a three hour course every two years on palliative and end of life care. Imagine the time away that you would have needed to expend away from your prac-

tice to comply with this mandate.

We held our first Lobby Day in coordination with MSSNY's lobby day. We had nine dermatologists and one resident walk the legislative halls in Albany meeting with Senator Kemp Hannon and Assemblyman Richard Gottfried, the chairs of the Senate Assembly Health Committees respectively and with our TIA bill sponsor in the Senate, Senator Joseph Griffo.

We need to re-invigorate our membership by inviting our residents to become new members of the NYSSDDS. We need to inform our colleagues and friends about the work we are doing in Albany and invite them to join this organization. No other statewide organization focuses its advocacy on issues which affect the dermatological community. The value proposition has been established. It is time to grow our membership and to take pride in what this organization can do to advance dermatologic practice in New York State.

**Robert Walther, MD
President**

Report From Albany

The Senate and the Assembly have concluded the 2014 Legislative Session and are not expected back before the end of the year. Below are some highlights of matters which would impact upon dermatology and the patients your treat.

Healthcare Professional Transparency (Truth in Advertising) bill stalls; revisions needed for 2015

Enactment of the Healthcare Professional Transparency (Truth in Advertising) bill A legislative priority of the NYSSDDS. The bill (S.5493, Griffo/A.7889, Stirpe) which would ensure the appropriate identification of all health care professionals in their one on one interactions with patients and in their advertisements to the public was reported to the Senate Floor where it stalled.

Importantly, this bill would require that advertisements for services to be provided by health care practitioners identify the type of professional license and board certification (if applicable) held by the health care professional. In addition, this measure would require all advertisements to be free from any and all deceptive or misleading information.

Ambiguous provider nomenclature, related advertisements and marketing, and the myriad of individuals one encounters in each point of service exacerbate patient uncertainty. Further, patient autonomy and decision-making are jeopardized by uncertainty and misunderstanding in the health care patient-provider relationship.

Additionally, this measure would require health care practitioners to wear an identification name tag during patient encounters that includes the type of license held by the practitioner. The bill would also require the health care practitioner to display a document in his or her office that clearly identifies the type of license that the practitioner holds.

The American Board of Physicians and Surgeons weighed in against the provision of the bill which required physicians if they were ABMS or AOA board certified to state their credentials on their advertisements. Physicians who received board certification from the ABPS would not have been able to state those credentials on their ads. The ABPS successfully argued that this provision was anti-competitive to physicians who successfully achieve board certification from the ABPS.

The sponsors of the bill are very interested in making appropriate amendment to the bill so that it can be addressed very early in the 2015 legislative session.

The NYSSDDS will continue to working closely with MSSNY and many state specialty societies including the NYS Society of Anesthesiology (NYSSA), the American College of Physicians (ACP), and several national societies including the ASDS, AADA and ASPS to draft amendments which will enable it to be enacted in 2015.

Podiatry Scope of Practice Expansion Defeated

Legislation (S. 4835, Libous/A. 7108, Pretlow) which would allow podiatrists to diagnose, treat, operate, or prescribe for cutaneous conditions of the ankle to the level of the distal tibial tuberosity was defeated. This authorization would have extended to all care related to any wound on the leg including cancer, trauma wounds, plastic surgery procedures, ulcers (diabetic or otherwise) and potentially other types of wounds. The NYSSDDS opposed this bill in the interest of patient safety.

Dental Scope of Practice Expansion Defeated

Legislation (S. 1918, Libous/ A. 5632, Morelle) which would permit oral and maxillofacial dentists to perform a wide range of medical surgical procedures involving the hard or soft tissues of the oral maxillofacial area was also defeated. This measure would have allowed “any oral and maxillofacial surgeon as certified by the department,” to perform additional surgical procedure involving hard or soft tissues of the oral and maxillofacial area “provided he or she has been certified by the American Board of Oral and Maxillofacial Surgeons and granted privileges for such procedures by a general hospital”. The “additional surgical procedures” which the oral and maxillofacial surgeons could perform under this proposal would include but not be limited to rhinoplasty (nose jobs), blepharoplasty (eyelid surgery), rhytidectomy (face lift), submental liposuction, otoplasty (ear surgery), dermabrasion, and other procedures of the head and neck. This bill represents yet another in a long line of measures designed to allow non-physicians to practice medicine and perform complex medical procedures.

Date of Discovery Statute of Limitations Defeated

In the wee hours of the evening on the closing day of the legislative session, legislation (S.7130, Libous/A.1056-A, Weinstein) was defeated which would have changed the current statute of limitations for medical malpractice cases, which is 2 ½ years from the date of the injury, to 2 ½ years from the date that the patient discovered the injury. The state’s leading medical liability insurance company informed MSSNY that a Milliman actuarial study of similar legislation indicated that it would cause medical liability premiums to be increased by nearly 15%, perhaps even greater.

Legislative CME Mandate on Palliative and End of Life Care Defeated

In light of the fact that the I-STOP program was put in place a year ago and is working to reduce the incidence of diversion (by 75%) and prescribing of hydrocodone (by 20%) and in view of the fact that CME mandates have not been demonstrated to be efficacious in changing physician practice, legislation which would have required every physician to take a three hour course every two years on palliative and end of life care was defeated in the NYS Assembly.

Medicare Update: June 2014

Dr. Marc Glashofer, the NYSSDDS’ representative to the Medicare Carrier Advisory Committee, has provided the following updates.

- ICD 10 implementation has been postponed until October 2015.
- Penalties for not utilizing Electronic Health Records (EHR) in 2014 will take effect in 2015, with a 1% reduction in Medicare payments.
- The Open Payments Program, also referred to as the Sunshine Act, is a national disclosure program that is intended to promote transparency by publishing the financial relationships between the medical industry and healthcare providers on a publicly-accessible website. Under the Open Payments Program, medical device and pharmaceutical companies reported to CMS all payments or benefits worth more than \$10 that they provided to physicians in 2013. CMS will publish their data on September 30, 2014. The information will be available to physicians at least 60 days prior in order to give one a chance to verify or dispute any reported amounts.
- Sequestration is still in place with a 2% reduction on all Medicare payments.

FDA Requires Black Box Label for Indoor Tanning Devices

On May 29, the U.S. Food and Drug Administration (FDA) issued a requirement that indoor tanning devices must now carry a black box warning. In response to requests from the dermatology community, patients and other health advocates, the warning label must explicitly state that these tanning devices must not be used by people under age 18. The FDA's warning label requirement stops short of establishing a nationwide ban against indoor tanning by teens. In New York, Legislation was passed two years ago to prohibit use of indoor tanning devices by anyone under the age of seventeen. Data show that 13 percent of all high school students - and 32 percent of all teen girls - have used an indoor tanning device. Warning labels that strongly and clearly state the risks of indoor tanning, such as those now required by the FDA, are a strong weapon in the fight against skin cancer.