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President's Message

Government intervention at all levels of our practice is at the forefront of discussions I have with my friends and colleagues these days. Will federal health system reform truly serve the uninsured or will it become the nose of the camel in the tent of medicine (or is it the head)? Can states truly manage their own insurance exchanges without increasing the tax burden of their citizenry? Will the incentives called for by the Physicians Quality Reporting Initiative (PQRI) for quality measure reporting or the American Reinvestment and Recovery Act (ARRA) for the use of EHR technology remain 'carrots' or quickly turn into 'sticks' penalizing non-conformity. One cannot answer these questions with any sense of certainty during these turbu-

lent times. The one thing I can invoke is the observation that together we will prevail. For this reason, I ask for you to remain within the fold of the



David E. Bank, MD
Society President

NYSSDDS. Thank all of you who already have paid your membership dues. And to those who have not, please think about the value we pro-

vide: connectivity to the issues of the day, whether on the federal level through the American Academy of Dermatology or on the state level through the NYSSDDS; representation within the House of Medicine through regular meetings and involvement in the Committee structure and House of Delegates of the Medical Society of the State of New York and through regular meetings with other medical specialty societies; interaction with state public health leaders on issues of importance to our dermatologic community. Please take this opportunity to become a member in your Society today! And reach out to a dermatologic colleague and ask her or him to join. It is their Society too!

David E. Bank

Daniel M. Siegel, MD—2011 President Elect of the AAD

Society member Daniel M. Siegel, M.D., of Smithtown, New York has been elected the 2011 President-Elect of the American Academy of Dermatology. Dr. Siegel currently is in private practice and is a professor at the State University of New York Downstate Medical Center. He has represented dermatology as the AAD representative to the AMA Practice Expense Advisory Committee from 1998 to 2004 and since 2003 has served as a representative to the AMA Specialty Society Relative Value Scale Update Committee or RUC, which determines the values of CPT codes. He previously served on the AAD Board of Directors from 2006 until this year and is a frequent lecturer at annual meetings of the Academy on topics including technology in dermatology practices and coding and documentation. Dr. Siegel recently lectured at the annual meeting of the NYSSDDS on electronic health information technology. We congratulate Dr. Siegel and wish him all the best as he assumes this challenging new position.

Report From Albany

Restylane © and Radiesse © Advisory Opinion From NYS Tax and Finance- Please Be Advised

Late last Fall, an advisory opinion was issued by the Office of Counsel at the NYS Department of Tax and Finance in which it was determined that dermal fillers (“injectable implants”) are supplies used in the performance of medical surgery procedures and are thus subject to sales tax when purchased for use by persons performing medical services for compensation. Specifically mentioned as included within the ambit of this Advisory Opinion (N0. S081231B) are the products Radiesse© (calcium hydroxylapatite suspended in a sodium carboxymethylaluclose gel carrier) and Restylane© (a hyaluronic acid gel). It has come to the attention of Elizabeth Dears Kent, Executive Director for the NYSSDDS, that at least two practice audits have been performed in an upstate community and that the auditors did demand payment of the sales tax for purchases made by the physicians involved retroactively for three years. The NYSSDDS is quite disappointed by this narrowly crafted determination. Ms Dears Kent and the Medical Society of the State of New York continue to explore all legal remedies and will seek additional information from the Department of Tax and Finance, including information relative to the retroactive application of this Opinion. Please check with the manufacturers or distributors with whom you do business to assure that their current processes comport with this Advisory Opinion. Ms. Dears-Kent has become aware of at least one distributor which, beginning in January 2010, is applying sales tax on its sales of these dermal filler products. The NYSSDDS will continue to express its strenuous opposition to the imposition of sales tax on procedures, services or products intended for the cure, treatment or prevention of illness or disease.

State Budget Negotiations Continue Without Much Agreement: Advocacy is urged to oppose imposition of proposed HCRA surcharge on certain office-based surgical procedures.

The State Legislature and the Governor remain unable to reach an agreement regarding how to close an over \$9 billion Budget gap for the 2010-11 fiscal year that began April 1. Earlier this year, Governor Paterson proposed gap-closing measures in the health care arena totaling \$1.9B, of which nearly \$1B in reductions are proposed to hospitals, nursing home and long term care providers and a total of \$890.2M in dedicated taxes and assessments. Additionally, he proposed to require insurance companies to obtain prior approval of health premium increases and to meet increased medical loss ratios (increased from 75% and 80% to 85%). Savings are expected to result by reducing the number of consumers with access to employer-based coverage that enroll in public health insurance programs. In addition the proposed budget would impose on health insurers (see below) a 9.63% surcharge on physician services provided in physician offices or urgent care facilities which are billed as surgery or radiology services in accordance with the CPT, fourth edition. Additionally, the proposed budget would reduce premiums for Medicaid Managed Care and Family Health Plus plans by 1.7%. Since the Legislature missed the April 1st deadline, short-term Budget extenders have been passed each week to keep the State operating pending the adoption of a final Budget. In late April, Governor Paterson proposed an additional \$620 million of cuts and revenue generation measures as well as a proposal to furlough state workers one day per week to supplement his previously submitted Budget and 30-day amendments.

Oppose Proposed HCRA Surcharge – Dermatologists are urged to contact their legislators to oppose the imposition of a 9.63% HCRA surcharge on office-based surgical and radiological procedures that health plans currently must pay on similar procedures performed in a hospital. It was proposed in the Governor’s Budget and included in the Assembly’s one-House Budget proposal. The Senate did not include this proposal in its Budget resolution. While the proposed tax is imposed on health insurance companies, not physicians, many specialty medical societies and MSSNY have conveyed their opposition because health insurers may seek to pass this cost onto physicians and patients. You are urged to contact your legislators in opposition to this proposal by using a communication mechanism provided by MSSNY. Just click here:

http://capwiz.com/mssny/issues/alert/?alertid=14833751&type=ST&show_alert=1

Report On Washington

Sustainable Growth Rate: Compromise in the Works

Congressional lawmakers later this month will begin discussing new proposals to delay a scheduled 21% cut in Medicare physician reimbursements and consider new ways to permanently fix the current payment formula. In April, Congress approved legislation (HR 4213) which delayed the scheduled payment cuts until May 31. Several options are under consideration including everything from a permanent fix to a five-year or shorter delay with higher payment rates for certain physicians. The Congressional Budget Office last week released new estimates on the cost impact of adjusting the Medicare payment rates formula. According to CBO, delaying the 21% payment cut for five years and raising certain physician's fees would cost \$88.5 billion. A 10-year freeze on the rate cuts would cost \$275.8 billion over the period, according to CBO.

Food and Drug Administration Hears Testimony on Risk to Public from use of Tanning Beds- Legislation Poised for Consideration in New York State

The General and Plastic Surgery Devices Panel of the FDA/CDRH Medical Devices Advisory Committee met on Thursday, March 25, 2010 to review and discuss recent information, including recent literature regarding the possible risks to the general public from intentional exposure to ultraviolet radiation (UV) from use of tanning lamps. The hearing concluded with a majority of the panel expressing support for some sort of age restriction, accompanied by a change in the classification of such devices and a more proactive process of user education whereby the tanning bed user would be required to read and accept a series of warnings about the risks of indoor tanning before the tanning bed would activate. This consensus view will now go through the FDA's rulemaking process.

In New York, efforts are now underway to tighten age restrictions for who can use tanning beds. Currently, minors between the ages of 14 and 18 may, with parental consent, access tanning beds. Legislation (S.3461, Johnson, C/A. 9110, Weisenberg) has been introduced to prohibit use of tanning beds by anyone under the age of 18. The NYSDDS is working together with the Medical Society to the State of New York and the American Cancer Society to obtain movement on this legislation this year. It is expected to be tough going, however, until the FDA rulemaking is issued.

How Sun Smart Are New Yorkers?

The American Academy of Dermatology (AAD) recently has identified the cities that take sun protection seriously and those that fail to make the grade despite repeated health warnings.

The "Suntelligence: How Sun Smart is Your City?" online survey polled more than 7,000 adults in 26 U.S. metropolitan cities to determine their knowledge, attitudes and behaviors, toward tanning, sun protection and skin cancer detection. These cities were then ranked based on their answers to several question in each category. The cities of Hartford, Connecticut, Salt Lake City, Utah and Denver, Colorado ranked No. 1, 2 and 3, respectively. Cleveland, Ohio, Chicago, Illinois and Pittsburgh, Pennsylvania fell to the bottom of the sun-smart spectrum with rankings of 24, 25 and 26, respectively. The New York, Northern New Jersey and Long Island MSA recipients ranked 19th. The AAD leadership is hopeful that the results of this survey will draw attention to the public's need to change its attitudes toward tanning, which is the first step in changing behavior. In the AAD press release, William James, MD, AAD President stated the "Our data show that most people are concerned about skin cancer, but they still need to modify their attitudes, behavior and knowledge to reduce their risk."

The "Suntelligence" survey was conducted for the Academy by RH Research of Chicago from January 12 to January 31, 2010. A total of 7,116 respondents completed the online survey; more than 200 completes were conducted in each of the 26 selected MSAs (metropolitan statistical area) and an additional 1,123 completes were conducted in the U.S. outside of the MSAs. The survey's margin of error was ± 1.2 percent for national data and ± 6.9 percent for results stratified by MSA.

Monday, May 3, is Melanoma Monday® and the official launch of Melanoma/Skin Cancer Detection and Prevention Month®. Visit www.melanomamonday.org to take the Academy's "Suntelligence" survey.

**NYS Society of Dermatology &
Dermatologic Surgery**

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Leah McCormack, MD 2010 President of the Medical Society of the State of New York

Society member Leah McCormack, MD, of Forest Hills, New York has been installed as the 2010 President of the Medical Society of the State of New York. Dr. McCormack has been involved in organized medicine since first being encouraged to join the Medical Society of the County of Queens. Ten years later, she was elected president and has been a trustee since 2000. She has been a MSSNY officer for the past five years but moved up quickly after serving on MSSNY's policy-setting council for six years. She has also diligently served on numerous committees including those for budget and finance, membership benefits and healthcare delivery/Medicaid, as well as on the board of MSSNY's Empire State Medical, Scientific and Educational Foundation. She has worked for New York physicians' and patients' interests nationally by being part of the NY delegation to the AMA since 2005.

NYSSDDS Board Meeting and Annual Meeting of the NYSSDDS scheduled for June 1st

The next meeting of the NYSSDDS Board of Directors and Annual membership meeting has been scheduled for June 1st. The Board of Directors will meet from 4:00-5:30PM in room 558 at the New York Academy of Medicine located at 1216 Fifth Avenue, New York City. The Annual membership meeting will be held in conjunction with the Academy's Annual Residents Night and will begin at 5:45. Registration and Reception will begin at 5:30 and will run through 7PM. From 6-7PM, attendees will hear a presentation on the potential impact of the recently health system reform legislation.