

North Coast Physician

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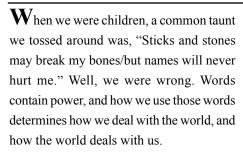
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Sticks & Stones

STEPHEN KAMELGARN, MD



Thirty years ago, or so, when we got demoted as doctors and re-labeled as "Healthcare Providers," and patients morphed into "healthcare consumers," or (more odiously) "clients," the entire nature of the physician-patient interaction was forever changed. What previously had been a human one-on-one interaction, which may have even contained a spiritual dimension, turned into a simple business transaction.

The process was complete when medicine was transformed into "The Health Care System," and ultimately the greed merchants came up with "Managed Care," which should have woken up both doctors and patients. Managed Care can only be defined as the denial of medical treatment by a doctor to a patient so that someone else can save money. The internal memos in the insurance industry confirm that by referring to patients as "loss leaders" and "expenses." When we parse the words we actually see what we get and what we've become.

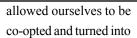
We talk about "the Art and Science" of medicine, yet in the name of efficiency, cost containment, "productivity," or what have you, the art has been sacrificed. History taking has been taken over by pre-packaged, check box forms, or para-professional people, and the teaching and advising has been sub-contracted out to more "clinical specialists."

From time immemorial, the interaction with a patient has been a ritual, whether it was a Bronze Age shaman waving a rattle above a patient's head, or a 21st Century physician placing a stethoscope on a patient's chest while asking about his/her smoking habits. And it is this ritual that is part of the healing process. Multiple studies have shown that patients derive more satisfaction from their visit and do better when the doctor actually lays hands on them. Obtaining a history and talking with the patient is part of this same ritual.

It is in the taking of the history, and in the advising and treating that we practice our art form. How we, as artists, shape and mold the interview is paramount in our interactions with patients. For us to perform our art, we need time: time to establish relationships, time to tease out the seemingly petty details, time to bargain with patients to help them arrive to their unique path to health. As physicians practicing an ancient art form, the time commitment doesn't change. Human beings are the same today as they were a hundred years ago, when we became a scientific profession, and it takes the same amount of time today as it did back then to take a good history and build a constructive interaction with a patient.

But since we've become Healthcare providers, and patients have become clients we lost the time that's so important in our profession—just because patients are merely consuming commodities and a patient visit is predicated on 10-15 minute throughput, irrespective of what's actually going on. That's not time. That's an assembly line service, which leaves neither doctor nor patient satisfied. They say that, "The Devil is in the details," and by eliminating those details, we lose out on so many opportunities to improve and impact on patients' health.

By being downgraded by the powers that be into Healthcare Providers we've



automatons with fancy degrees and huge educational debt. We've allowed the experts and insurers to tie our hands into knots, and take away our artistry.

Our entire palette has been taken away, and all we're left with are shades of gray. The color, the nuance that used to characterize the doctor-patient interaction has been washed clean to a monotone, monotonous flat gray. A gray that is emblematic of cybernetic, mindless 'droids—representatives of a soulless gray technocratic robotic society and its moneyed interests.

If we wish to reclaim our rightful place as compleat healers, and use all the colors on our palette, we then need to reclaim the time we need to give us and our patients the necessary space to develop the relationships that will allow us to once again use the art as well as the science.

While changing our language won't totally turn things around, it's a start. We need to correct those well-meaning people who refer to patients as clients, and we need refuse to deal with the insurers and bureaucrats who refer to us as Healthcare Providers. Until we can change the definitions under which we operate—again to reclaim the title "physician" and "doctor"--- until we can control the terms we use in the debate, we'll never be able to elevate the Art to the level of the Science.

NOTES:

Weismann, Gerald "Baumol's Curse" in Galileo's Gout: Science in an age of Endarkenment Bellevue Literary Press 2007 p. 71

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A Year of Challenges, Victories

CMA's 2013 LEGISLATIVE WRAP UP - PART II

By Juan Carlos Torres, CMA VP of Government Relations

CMA OPPOSED LEGISLATION

SB 117 (Hueso): Integrative Cancer Treatment

This bill would prohibit a physician and surgeon, including an osteopathic physician and surgeon, from recommending, prescribing or providing integrative cancer treatment, as defined, to cancer patients unless certain requirements are met. The bill would specify that a failure of a physician and surgeon to comply with these requirements constitutes unprofessional conduct and cause for discipline by the individual's licensing entity. The bill would require the State Department of Public Health to investigate violations of these provisions.

Status: Author pulled bill from Senate Business and Professions Committee.

SB 266 (Lieu): Health Care Coverage: Out-of-Network Coverage

This bill would prohibit a health facility or a provider group from holding itself out as being within a plan network or a provider network unless all of the individual providers providing services at the facility or with the provider group are within their network, or the provider group acknowledges to the patient in writing or verbally that individual providers within the provider group may be outside the patient's plan network or provider network and the provider group recommends that the patient contact his or her health care service plan or health insurer for information about providers who are within the patient's plan network or provider network. Those provisions would not apply to emergency services and care.

Status: Held in Senate Appropriations Committee.

SB 312 (Knight): Absences: Confidential Medical Services: Parent or Guardian Consent

This bill would require the governing board of a school district to notify pupils in grades 9 to 12 and their parents or guardians, that school authorities may excuse a pupil from the school for confidential medical services who is 16 years of age or older without parental or guardian consent.

Status: Failed in Senate Education Committee.

SB 430 (Wright): Pupil Health: Vision Examination: Binocular Function

This bill would, before first enrollment in a California school district of a pupil at a California elementary school, and at least every third year thereafter until the pupil has completed the 8th grade, require the pupil's vision to be examined by an optometrist or ophthalmologist and require the examination to also include a test for binocular function and refraction and eye health evaluations. The binocular function examination does not need to take effect until the pupil has reached the third grade and would require the parent or guardian of the pupil to provide results of the examination to the school district.

Status: Pulled by author in Assembly Health Committee.

SB 491 (Hernandez): Nurse Practitioners

This bill gives nurse practitioners independent practice. Under this bill, nurse practitioners will no longer need to work pursuant to standardized protocols and procedures or any supervising physician and would basically give them a plenary license to practice medicine. Status: Held in Assembly Appropriations Committee.

SB 492 (Hernandez): Optometric Corporations

This bill allows optometrist to practice ophthalmology. Specifically, allows optometrists to (1) treat and diagnose any disease, condition or disorder of the visual system, the human eye adjacent and related structures, (2) prescribe and administer drugs including controlled substances, (3) perform surgical procedures with local or topical anesthetic, (4) order laboratory and diagnostic tests, (5) administer immunizations, (6) diagnose and initiate treatment for any condition with ocular manifestations.

Status: Pulled by author in Assembly Business and Professions Committee.

AB 591 (Fox): Hospital Emergency Room: Geriatric Physician

This bill would require each general acute care hospital with an emergency department to have, at all times, a geriatric physician serving on an "on-call" basis to that department.

Status: Pulled by author.

AB 975 (Wieckowski): Health Facilities Community Benefits

This bill would declare the necessity of establishing uniform standards for reporting the amount of charity care and community benefits a facility provides to ensure that private nonprofit hospitals and nonprofit multispecialty clinics actually meet the social obligations for which they receive favorable tax treatment.

Status: Failed on Assembly Floor.

ACA 5 (Grove): Abortion: parental notification

This measure, which would be known as the Parental Notification, Child and Teen Safety, Stop Predators Act, would prohibit a physician and surgeon from performing an abortion on an unemancipated minor, as defined, unless the physician and surgeon or his or her agent has delivered written notice to the parent of the unemancipated minor, or until a waiver of that notice has been received from the parent or issued by a court pursuant to a prescribed process.

Status: Re-referred to Assembly Health and Assembly Judiciary Committees.

OTHER BILLS OF INTEREST

SB 20 (Hernandez): Health Care: Workforce Training (Support)

This bill would transfer all available funds left over in the Department of Managed Health Care's Managed Care Administrative Fines and Penalties Fund to the Steve Thompson Physician Corps Loan Repayment Program (STLRP), upon dissolution of the Major Risk Medical Insurance Program.

Status: Held in Assembly Appropriations Committee.

SB 62 (Price): Coroners: Reporting Requirements: Prescription Drug Use (Neutral)

This bill would expand those provisions to require a coroner to make a report when he or she receives information that indicates a death may be the result of prescription drug use and to require the coroner to additionally file the report with the Medical Board of California.

Status: Vetoed by the Governor.

SB 47 (Yee): Firearms: Assault Weapons (Support)

This bill seeks to reestablish the original intent of the assault weapon ban by slowing down the process of easily reloading a firearm. For several years, gun makers have manufactured assault weapon with a magazine locking device called the "bullet button," which requires a tool, which may include a tip of a bullet, a magnet, or a glove, to disengage the magazine yet allow for the easy reloading. Since a tool is used to disengage the ammunition feeding device, the firearm's magazine is not classified as "detachable" and the firearm in question is legal.

Status: Held in Assembly Appropriations Committee.

SB 138 (Hernandez): Confidentiality of Medical Information (Watch)

The bill would define additional terms in connection with maintaining the confidentiality of this information, including an "authorization for insurance communications," which an insured individual may submit for the purpose of specifying disclosable medical information and insurance transactions and permissible recipients.

Status: Signed by the Governor.

SB 304 (Lieu): Healing Arts: Boards (Neutral)

The bill is the sunset extension bill for the Medical Board of California. Significant issues raised by CMA (expert witness, 820 evaluations) were addressed in CMA's favor. While the proposed transfer to the Department of Justice was rejected, the bill does transfer investigations to the Division of Investigators at the Department of Consumer Affairs.

Status: Signed by the Governor.

"Wrap Up", continued Pg 21

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"Wrap Up", Continued From Pg 13

SB 352 (Pavley): Medical Assistants: Supervision (Support)

This bill would prohibit nurse practitioners, certified nurse-midwives or physician assistants from authorizing a medical assistant to perform any clinical laboratory test or examination for which the medical assistant is not authorized.

Status: Signed by the Governor

SB 439 (Steinberg): Medical Marijuana (Watch)

This bill codifies the Attorney General's "Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use" and specifies that medical cannabis dispensaries that adhere to the guidelines will not be subject to prosecution for marijuana possession or commerce.

Status: Pulled by author in Assembly Health Committee.

SB 493 (Hernandez): Pharmacy Practice (Neutral)

This bill, as introduced, would have expanded the scope of practice for pharmacists to include administering drugs and biological products that have been ordered by a prescriber and expanded other functions pharmacists are authorized to perform. These functions include, among other things, the furnishing of specified drugs including prescription smoking-cessation drugs; ordering and interpreting tests for the purpose of monitoring and managing the efficacy and toxicity of drug therapies; and to independently initiate and administer routine vaccinations. The introduced version of the bill also specified additional functions that may be performed by an advanced practice pharmacist, including performing physical assessments and certain other functions. The author has accepted numerous amendments offered by CMA, which have the potential to improve access to vaccines for children and access to nicotine based smoking cessation products for adults seeking to end their addiction to tobacco products. The bill requires that all prescriptions be administered under a protocol with a physician. This will help improve the communication and coordination between the patient, their physician and their pharmacists.

Status: Signed by the Governor.

SB 494 (Monning): Health Care Providers: California Health Benefit Exchange (Support)

This bill is sponsored by the Physician Assistants and seeks to amend statue to include physician assistants as primary care providers and to increase the number of enrollees assigned to physician assistants in Medi-Cal managed care plans. The bill maintains that physician assistants must operate under the supervision of a physician.

Status: Signed by the Governor.

SB 495 (Yee): Postsecondary Education Employees: Physicians (Support)

This bill would require the California State University (CSU) to increase the compensation of physicians employed at student health centers on campuses to be is comparable to the compensation earned at the University of California (UC). The bill would request the UC to increase the compensation of physicians employed at student health centers on campuses of the UC if the compensation of physicians employed at a student health center on a different campus of the UC is increased.

Status: Held at the Assembly Desk.

SB 598 (Hill): Biosimilars (Support)

This bill would allow a pharmacist to substitute an interchangeable biosimilar medication when filling a prescription for a biologic medication. SB 598 mirrors California's patient protections for generic pill substitution and adds a provision that requires a pharmacist to enter information about the substitution into the patient record system or notify the physician within five days after a substitution is made.

Status: Vetoed by the Governor.

SB 615 (Galgiani): Public Works: Prevailing Wages: California Health Facilities Financing Authority Act (Neutral)

While the bill was moved out of the Assembly Appropriations Committee, the provisions of interest to CMA were removed. As a result, we are no longer co-sponsoring this legislation.

Status: Vetoed by the Governor.

SB 670 (Steinberg): Physicians and Surgeons: Drug Prescribing Privileges: Investigation (Support, after significant amendments)

CMA was able to secure amendments that deleted the provisions that would have expanded the Medical Board of California's authority to limit a physician's prescribing authority with a lower standard of evidence. With the deletion of these provisions, the bill simply made clarifying improvements to the medical board authority.

Status: Signed by the Governor.

SB 809 (Desaulnier): Controlled Substances: Reporting (Support)

This bill would provide ongoing funding for the CURES database

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"Wrap Up". Continued From Pa 13

by requiring the Medical Board of California and other health professionals' licensing boards to charge licensees who are authorized to prescribe or dispense controlled substances a fee of \$6 annually. The bill also makes changes to the CURES authorizing statute to clarify that the database is a clinical tool and to simplify prescribers' and dispensers' enrollment into the database.

Status: Signed by the Governor.

SBX1 1 (Hernandez): Medi-Cal: Eligibility (Support)

This bill implements the expansion of federal Medicaid coverage in California (Medicaid is known as Medi-Cal in California) to low-income adults with incomes between 0 and 138 percent of the federal poverty level, establishes the Medi-Cal benefit package for this expansion population, and requires the existing Medi-Cal program to cover the essential health benefits contained in the Patient Protection and Affordable Care Act (ACA). This bill implements a number of the Medicaid ACA provisions to simplify the eligibility, enrollment and renewal processes for Medi-Cal.

Status: Signed by the Governor.

SBX1 2 (Hernandez): Health Care Coverage (Support if Amended)

This bill applies the individual insurance market reforms of the Affordable Care Act to health care service plans (health plans) regulated by the Department of Managed Health Care and updates the small group market laws for health plans to be consistent with final federal regulations.

Status: Signed by the Governor.

SBX1 3 (Hernandez): Health Care Coverage: Bridge Plan (Watch)

Requires Covered California (the state's health benefit exchange) to establish a "bridge" plan product by contracting with Medi-Cal managed care plans for individuals losing Medi-Cal coverage (for example, because of an increase in income), the parents of Medi-Cal or Healthy Families Program children, and individuals with incomes below 200 percent of the federal poverty level. Limits enrollment in bridge plan products only to eligible individuals.

Status: Signed by the Governor.

AB 154 (Atkins): Abortion (Support)

This bill would make it a public offense for a person to perform an abortion if the person does not have a valid license to practice as a physician and surgeon, except that it would not be a public offense for a person to perform an abortion by medication or aspiration techniques in the first trimester of pregnancy if he or she holds a license or certificate authorizing him or her to perform the functions

necessary for an abortion by medication or aspiration techniques. With the provisions for training in the bill and the amendments that clarify physician supervision, AB 154 addresses patient safety while expanding access for these services.

Status: Signed by the Governor.

AB 209 (Pan): Medi-Cal: Managed Care: Quality and Accessibility (Support)

This bill creates the Medi-Cal Managed Care Health Care Quality and Transparency Act of 2013. The goal of the measure is to require the Department of Health Care Services to develop and implement a plan to monitor, evaluate and improve the quality and accessibility of health care and dental services provided through Medi-Cal managed care. This is meant to emulate the open government approach of the Managed Risk Medical Insurance Board/MRMIB's operation of the Healthy Families program, which was eliminated in 2012 and all enrolled children were moved into Medi-Cal.

Status: Ordered to inactive file at the request of the author.

AB 361 (Mitchell): Medi-Cal: Health Homes for Medi-Cal Enrollees and Section 1115 Waiver Demonstration Populations with Chronic and Complex Conditions (Support If Amended)

Current federal law authorizes a state, subject to federal approval of a state plan amendment, to offer health home services to eligible individuals with chronic conditions. This bill would authorize the Department of Health Care Services, to create a health home program for enrollees with chronic conditions as authorized under federal law.

Status: Signed by the Governor.

AB 446 (Mitchell): HIV Testing (Support)

After amendments taken in Senate Health Committee, this bill eliminates the requirement for written documentation of informed consent prior to administering an HIV test in non-clinical settings. Additionally, the bill requires timely delivery of the test results along with other pertinent information, tailored to whether the results are positive or negative, by the medical care provider or the person who administers the test to the patient. The bill no longer requires that every blood draw in emergency departments, public health clinics, or urgent care centers be tested for HIV. Instead, the bill now only requires primary care clinics to offer patients having a blood draw an HIV test. Lastly, the bill allows for the online posting of HIV antibody test results if the results are posted on a secure internet website, which can be accessed

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only with the use of personal identification number provided the patient at the time of testing.

Status: Signed by the Governor.

AB 459 (Mitchell): Public Contracts: Healthy and Sustainable Food (Support)

This bill would clarify and strengthen the state's existing nutrition guidelines for food and beverages sold in vending machines on state properties. It would also increase incrementally the percentage of foods sold in vending machines that meet the nutrition guidelines from the current 35 percent to 100 percent by January 1, 2017.

Status: Held in Assembly Appropriations Committee.

AB 860 (Perea): Medical School Scholarships (Support)

This bill, upon appropriation by the Legislature, would transfer \$600,000 in penalty monies levied by the Department of Managed Health Care to fund the Steven M. Thompson Scholarship Program. CMA sponsored AB 589 (Perea) in 2011, which created the scholarship program, but due to state budget constraints, the bill only allowed for private donations to fund the program.

Status: Held in Assembly Appropriations Committee.

AB 880 (Gomez): Medi-Cal Program Costs (Support)

This bill would require large employers of 500 or more employees to pay an "employer responsibility penalty" for each covered employee enrolled in Medi-Cal. The funding generated by the penalty could be appropriated by the Legislature for a variety of different purposes: to increase Medi-Cal provider rates, to provide a supplemental Medi-Cal payment for providers in medically underserved areas, to fund residency programs, to provide payment for the nonfederal share of Medi-Cal, to increase provider reimbursement rates, and to provide reimbursement to county hospitals, community clinics, and other safety net providers. Although the ACA requires employers pay a penalty for employees enrolled in state exchanges (a penalty based on the employers entire workforce, not just the number of individuals enrolled in the exchange), there is no such provision for employers who reduce their employees hours or wages to make them Medi-Cal eligible. Given the current beleaguered state of the Medi-Cal system, coupled with the strains that are expected as a result of the Medi-Cal expansion in 2014, the system will not be able to handle the influx of new lives resulting from large employers cutting employee wages. AB 880 incorporates portions of another CMA-sponsored bill, AB 1176 (Bocanegra), which was held in the Assembly Appropriations Committee earlier this year.

Status: Assembly Inactive File – vote failed.

AB 1139 (Lowenthal): Prescriptions: Biosimilar Products DECEMBED 2013

(Watch)

This bill would authorize a pharmacist filling a prescription order for a biological product subject to the Federal Food, Drug, and Cosmetic Act to select a biosimilar product, provided that product is deemed by the federal Food and Drug Administration to be interchangeable with the prescribed product.

Status: Assembly Business and Professions Committee hearing postponed.

AB 1263 (Pérez): Medi-Cal: CommuniCAL (Watch)

This bill would require the Department of Health Care Services, to establish the Medi-Cal Patient-Centered Communication program (CommuniCal), to be administered by a 3rd-party administrator, to, commencing July 1, 2014, provide and reimburse for medical interpretation services to Medi-Cal beneficiaries who are limited English proficient.

Status: Vetoed by the Governor.

AB 1308 (Bonilla): Midwifery (Watch)

This bill would require the Medical Board of California to, by July 1, 2015, revise and adopt regulations defining the appropriate standard of care and level of supervision required for the practice of midwifery and indentifying complications necessitating referral to a physician.

Status: Signed by the Governor.

ABX1 1 (Pérez): Medi-Cal: Eligibility (Support)

This bill enacts statutory changes necessary to implement the coverage expansion, eligibility, simplified enrollment and retention provisions of the Patient Protection and Affordable Care Act of 2010 as amended by the Health Care and Education Reconciliation Act of 2010 related to the Medicaid Program (Medi-Cal in California) and the California Children's Health Insurance Program.

Status: Signed by the Governor.

ABX1 2 (Pan): Health Care Coverage (Support if Amended)

Reforms California's individual market in accordance with the Affordable Care Act and applies its provisions to insurers regulated by the California Department of Insurance in the individual market; requires guaranteed issue of individual market health insurance policies; prohibits the use of preexisting condition exclusions; establishes open and special enrollment periods consistent with the California health benefit exchange (Covered California); prohibits conditioning issuance or offering based on specified rating factors; prohibits specified marketing and solicitation practices consistent with small group requirements; requires guaranteed renewability of plans; and permits rating factors based on age, geographic region and family size only.

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Status: Signed by the Governor. §

DECEMBER 2013

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