Welcome to *Council Comments*, your connection to the actions of the South Dakota State Medical Association's Council of Physicians. This issue covers the quarterly meeting held Nov. 8 at ClubHouse Suites in Pierre.

Roll Call

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Tony L. Berg, MD
Tad B. Jacobs, DO

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Stephan D. Schroeder, MD
District 7
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David W. Bean, MD
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Physical & Rehab Medicine
Jem J. Hof, MD
Resident Physician Section
Jessica M. McIlrath, MD
Senior Section
Michael W. Pekas, MD

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District 6
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District 7
James R. Reynolds, MD
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Stephen G. Eckrich, MD
Kevin Weiland, MD
American College of Physicians
Thomas M. Braithwaite, MD
SSOM
Keith A. Hansen, MD

Update on Implementation of Medicaid Health Homes

South Dakota Department of Social Services (DSS) Secretary Kim Malsam-Rysdon spoke to the Council about the implementation of Medicaid Health Homes. Ms. Malsam-Rysdon reported that Medicaid eligibles have leveled off due to an increase in per-capita income. The State estimates that within two to three years, South Dakota will be at a 50-50 federal-state match rate.

As a result of the Medicaid solutions workgroup, the DSS followed up on a recommendation to establish Health Homes, which are geared toward managing enrollees with chronic conditions. A planning group that participated in a process to develop a State Plan Amendment for Health Homes began in the fall of 2013; an implementation work group has been assigned to the program.

Currently, about 6,000 individuals are enrolled in Health Homes, and Ms. Malsam-Rysdon said that number is expected to increase. There are 711 sites with over 600 providers. As the program becomes established, the DSS will collect and study enrollee health outcomes data to develop a shared savings model.

Last, Ms. Malsam-Rysdon advised that there are areas in the state that do not have an adequate number of providers, and so the DSS continues to look for physicians interested in participating in the program.

President's Report

SDSMA President Daniel J. Heinemann, MD, reported on two meetings held Nov. 7 – the first meeting being a joint meeting with SDSMA and the South Dakota Association of Healthcare Organizations (SDAHO), and the second meeting being a meeting of the SDSMA Executive Committee.

At the joint SDSMA/SDAHO meeting, Medicaid expansion, health homes, South Dakota's health insurance exchange, the Quality Collaborative's funding of the SDSMA Center for Physician Resources in the amount of $170,000, physician participation in health plan networks/the South Dakota Patient Choice initiative, the Office of the Inspector General report on proposed cuts to Critical Access Hospitals, workplace violence, truth in advertising, the state risk pool, electronic medical records and physician on-call requirements were discussed.

At the SDSMA Executive Committee meeting, the Committee reviewed SDSMA's investments; at the end of September, the SDSMA had $1.4 million in long-term investments for a YTD performance of 11.72 percent and a one-year performance of 12.83 percent – both above industry performance benchmarks. The Committee changed the SDSMA's investment allocation policy to 70 percent in equity and 30 percent in fixed income and cash/cash equivalents with an allocation range of 10 percent. In addition, the Council reviewed the September financials, year-end projections and the 2014 budget, and approved a deposit of $971,363 into the pension plan on behalf of DAKOTACARE, the South Dakota Foundation for Medical Care (SDFMC) and SDSMA (more about the SDSMA's financials can be found in the CEO's Report below).

The Executive Committee also discussed several advocacy issues including recent visits with state agencies, the South Dakota Board of Medical and Osteopathic Examiner's (SDBMOE) declaratory ruling on immunizations and their administrative rules to streamline the licensure process by allowing reciprocity, and administrative approval of waiver requests related to examination timeframes.

The SDSMA Center for Physician Resources has hosted three live events and three webinars on financial services. A fourth live event is scheduled for 7 p.m. Thursday, Jan. 16, 2014 at CJ Callaway's in Sioux Falls and a webinar is scheduled for Tuesday, Jan. 21. More than 100 physicians and their spouses have attended the live events, including younger physicians who have had no previous involvement with the SDSMA. These physicians have connected and found Center events to be a beneficial resource. The Center has also published 13 articles and three white papers, as well as 35 legal briefs. The Center is being supported by a grant from The Physicians Foundation; to continue program delivery, a revenue source will need to be identified.

Last, Dr. Heinemann reported that he has attended seven district meetings as part of his Presidential District Visits. Five more remain – Mitchell on Dec. 11, Rosebud on Jan. 14, Northwest (Mobridge) and Pierre on Jan. 15, and Sioux Falls on Jan. 20.

The Council approved the report.

CEO's Report

SDSMA CEO Barb Smith provided the financial report.

Comparing total assets for 2013 to 2012, the SDSMA has seen a growth in cash of $114,000 and a $503,000 increase in long-term investments due to an additional investment of $350,000, as well as $153,000 of unrealized gains. Since December 2012, investments have increased $495,000. Deferred compensation investments decreased from 2012 due to the sale of two shares and revaluing of DAKOTACARE stock. Receivables were lower compared to 2012 due to a lower income tax receivable and an amount due from DAKOTACARE in 2012 that has been paid. Total assets are $6.6 million, or approximately 438,000 over September 2012.

Under current liabilities, the accounts payable and accrued expenses decreased by $16,000 due to less general accounts payable at the end of September compared to one year ago.

The overall equity in the SDSMA has grown by $555,000 from one year ago due to income exceeding expenses and gains in investments.

After the financial report, Ms. Smith gave an overview of 2013 SDSMA accomplishments, which includes SDSMA Center for Physician Resources health and wellness and practice management programming, legislative leadership, the publication of the special issue, *The Story of Immunization*, a new membership application and new dues invoice. The new dues invoice allows for easier and earlier opportunities to contribute to the SDSMA Foundation and SDSMA PAC.

The SDSMA's 2014 goals include the following:

- To lead in establishing access to the highest quality patient care for all South Dakotans;
- To be recognized as a credible and valuable professional resource for physicians;
- To support members' personal growth and well-being; and
- To be an indispensable resource for the growth and development of its members.

The Council approved the report.

Election of Nominating Committee Members

Council members voted for one physician from each district who currently serves as a Councilor, Alternate Councilor or President to serve as Nominating Committee representatives. Three at-large Nominating Committee members were selected from the remainder of the SDSMA membership.

The Nominating Committee prepares the election ballot for SDSMA officers and other Executive Committee members for the term beginning in June 2014. The Committee will meet in the spring to prepare a ballot.

Those elected to serve on the Nominating Committee are currently in the process of being confirmed and will be announced at a later date in *eNews*.

Governance Task Force

Dr. Heinemann told the Council that he would like to appoint a governance task force to look at the current governance and bylaws of the SDSMA as it relates to changes that may be required due to the SDSMA Class C shareholder status relative to DAKOTCARE. In addition, this task force will review the SDSMA Council structure and meeting format. Upon conclusion of their review, the task force will report back to the Council on their research and recommendations. SDSMA legal counsel will also be asked to be involved with this process.

The Council voted in support of the creation of the task force.

Dr. Heinemann asked Council members to contact him directly if they are interested in serving on the task force, or if they know of a physician member who may be interested. He would like the makeup of the task force to include physicians statewide if possible. Dr. Heinemann appointed Christopher Dietrich, MD, to chair the task force.

Uranium Mining

As a result of new information coming forward on the issue of uranium mining, Powertech's project manager, Mark Hollenbeck, and consultant, Randy Brich, spoke on the issue. Powertech plans to develop an in situ uranium mining operation in Custer and Fall River counties in the southern part of the Black Hills in southwestern South Dakota and is working to obtain a water rights permit.

The Powertech representatives told the Council that native groundwater is used for all in situ operations. Water is extracted and is charged with oxygen and carbon dioxide and is reinjected in adjacent wells. The water will be recirculated over and over through the ore until all the uranium is extracted.

According to Powertech, the water at the mine site has a naturally high mineral content that makes it unsuitable for human, livestock or agricultural use, and they stated that this water is not suitable now nor will it be useable in the future as a source of water. Powertech asked the Council to reverse its opposition or to remain neutral on the issue.

In follow up to Powertech's presentation, Donald H. Kelley, MD, spoke to the Council and gave his reasons for opposing the proposed mining. The reasons Dr. Kelley gave include:

- In the case of in-situ-leach mining, the real possibility of underground water-supply contamination with radionuclides and other heavy metals exists, and the record from previous projects of this sort has shown frequent unanticipated consequences due to leaks and excursions of mining fluids;
- Any increase in human radiation exposure above background levels is believed to be associated with a linearly increased risk of adverse health consequences, including increased incidence of cancer, birth defects and other disease; and
- Considering the projected future scarcity of uncontaminated fresh water in the semi-arid region of the Black Hills area, the loss of large volumes of water in such mining operations is not in the best interest of the public. Access to fresh, uncontaminated drinking water is a key pillar of public health.

Dr. Kelley asked the Council to keep its opposition stance.

Committee on Legislation Report

Tad Jacobs, DO, gave the Committee on Legislation report.

The Committee met on Nov. 7. Items were presented to the Council for approval.

Dr. Jacobs reported that the Committee has concern regarding the proposal to cut funding to Critical Access Hospitals (CAH) and to decertify all CAHs currently designated as a "necessary provider." Therefore, the Committee asked the Council to instruct the Executive Committee to draft a resolution in support of the CAH program and to submit the resolution to the North Central Medical Conference for consideration.

In addition, with respect to clarification in truth-in-advertising and the use of the term "doctor," the Committee recommended the SDSMA hold on pursuit of legislation at this time, while the Committee researches other options to promote the profession of medicine to the general public.

The Committee asked the Council to support the findings of the Physician Network Participation Workgroup with respect to the creation of protections for physicians as it relates to health plan participation and the credentialing process. The findings of the Physician Network Participation Workgroup are described on page 5.

The Committee on Legislation report was approved.

John Oliphant, MD, talked about an Indiana State Medical Association resolution which calls for improvements to the Affordable Care Act, including replacing the individual mandate with a refundable tax credit to purchase individual health insurance, repealing the employer mandate, and allowing health insurance to be sold across state lines. The resolution also calls for a delay of at least a year in implementation of the ACA. The resolution was not added to the Committee on Legislation report. Mary Carpenter, MD, SDSMA delegate to the AMA, told the Council that she and Herb Saloum, MD, SDSMA alternate delegate to the AMA, would follow the resolution at the AMA Interim Meeting and report on the outcome of the resolution.

Committee on Medical Education Report

Tim M. Ridgway, MD, gave the Committee on Medical Education report.

The Committee met on Oct. 17. Meeting minutes were presented to the Council for review.

Dr. Ridgway reported that the Committee supports the changes proposed by the Avera CME Accreditation Program.

The Council approved the report.

Committee on Medical Practice Report

Benjamin C. Aaker, MD, gave the Committee on Medical Practice report.

The Committee met on Thursday, Oct. 17. Dr. Aaker provided items for Council action.

In follow-up to the September meeting of the Council, the Committee on Medical Practice further reviewed the petition presented by Dr. Kelley and the opposition to uranium mining adopted by the Council on Sept. 20 to develop an official position statement opposing uranium mining.

Second, the Committee seeks the approval of the Council to further research delays in provider/physician credentialing with the intent developing possible options to include a request for administrative rule or legislation. Delays in the credentialing of physicians have become a problem for providers to the extent that a small physician practice in Rapid City lost a pediatrician they were recruiting as they could not afford to wait six months for a simple change of location request.

Upon review by the Council, the position statement opposing uranium mining failed on a 19-12 vote, and the Council did not approve the Committee's report. The Council then voted to reconsider its opposition to uranium mining adopted on Sept. 20; however, a quorum was no longer present, and so the discussion ended with no change in the SDSMA's position.

Physician Network Participation Workgroup Report

E. Paul Amundson, MD, reported on the efforts of the Physician Network Participation Workgroup and provided its final report for Council action. The workgroup last met on Oct. 28.

The Workgroup proposed the Council review and adopt the following AMA Policy H-285.984, Any Willing Provider Provisions and Laws, which reads:

Our AMA:

- acknowledges that health care plans or networks may develop and use criteria to determine the number, geographic distribution, and specialties of physicians needed;
- will advocate strongly that managed care organizations and third party payers be required to disclose to physicians applying to the plan the selection criteria used to select, retain, or exclude a physician from a managed care plan, including the criteria used to determine the number, geographic distribution, and specialties of physicians needed;
- will advocate strongly that those health care plans or networks that use criteria to determine the number, geographic distribution, and specialties of physicians needed be required to report to the public, on a regular basis, the impact that the use of such criteria has on the quality, access, cost, and choice of health care services provided to patients enrolled in such plans or networks;

- will advocate in those cases in which economic issues may be used for consideration of sanction or dismissal, the physician participating in the plan should have the right to receive profile information and education, in a due process manner, before action of any kind is taken;
- opposes any federal effort to preempt state "any willing provider" laws.

Members of the workgroup advised the Council they support the South Dakota Patient Choice 2014 ballot initiative in theory, but encouraged the Council to obtain further information about the provisions of the measure and its ability to accomplish the intended goal(s) as proposed by the authors. (The Council voted to support the South Dakota Patient Choice 2014 ballot initiative – read more on page 6).

The members of the Workgroup also asked the Council to review and support the following physician protections:

Credentialing and paneling standards – This protection aims to prevent hospitals from granting privileges or medical staff membership, and managed care organizations from selecting physicians to participate in their networks, based on factors unrelated to the quality of care the physicians provide to their patients (i.e. economic credentialing). Having said protection would reduce the ability of insurers and hospital systems in South Dakota to create closed systems, where only hospital-credentialed physicians are paneled by the associated insurer, and vice versa. In other words, to live and practice in a region of South Dakota would not require paneling by a specific insurer and/or credentialing or employment by a specific hospital system. For example, under the protection, a hospital could not deny or restrict staff membership or clinical privileges to a physician because the physician: is not employed by hospital; refuses to contract exclusively with the hospital; refuses to make referrals exclusively to the hospital; provides services at another hospital; has an ownership interest in, or occupies a leadership position at another hospital; or is not contractually affiliated with a specific managed care organization. Similarly, the protection would prevent managed care organizations from conditioning a physician's ability to participate in their networks because the physician is not a member of the medical staff of, or does not have clinical privileges at, or is not affiliated with, a specific hospital. Montana and Idaho have recently enacted legislation that prohibits the use of economic credentialing for these purposes.

Physician due process protection – This protection aims to provide physicians with a due process to dispute terminations or denials of clinical privileges or membership on a hospital's medical staff or in a managed care organization's networks. The fair process would include a full, fair, objective, and independent, in-person hearing and a subsequent appeals process. This protection is a logical companion to the Credentialing and Paneling Standards protection described above, providing recourse for physicians who feel that their hospital privileges or network participation has been inappropriately denied or terminated. It is likely that this legislation will also deter hospitals and insurers from taking such damaging action initially. Other states have enacted fair process legislation, including Maine and Texas.

Dr. Amundson asked the Council for the Committee on Legislation to draft legislation to incorporate the protections into South Dakota codified law.

The Workgroup's report was approved.

Any Willing Provider Initiated Measure/South Dakota Patient Choice Initiative

Stephen Eckrich, MD, a representative of the 2014 statewide ballot campaign called South Dakota Patient Choice, presented information to the Council about the campaign and asked for the Council's support for the Patient Choice campaign.

If passed, the patient choice law (also known as Any Willing Provider legislation) would allow physicians into closed networks if the doctor agrees to the terms of the insurance.

The Council voted to support the initiated measure.

AMA Report

Mary S. Carpenter, MD, SDSMA delegate to the American Medical Association (AMA), gave the AMA report.

The AMA's advocacy initiatives include preventing and improving outcomes for cardiovascular disease and type 2 diabetes and addressing physician challenges such as payment and delivery systems.

The AMA's online Practice Management Center offers a number of tools and resources to help physicians take charge of the business side of practicing medicine.

Dr. Carpenter asked members of the Council to consider joining the AMA; currently there are 943 SDSMA members who have joined the AMA – up from 141 SDSMA members in 2012. If membership reaches 1,000 SDSMA members in the AMA, another voting seat is given to the SDSMA. Contact Laura at lolson@sdsma.org for information about joining the AMA.

Medical Student Report

Chapter President Jeremy Pepin gave the medical student report.

Mr. Pepin talked about Lunch & Learn events and Policy & a Pint events; topics include health care economics and health care policy issues.

Each month medical student volunteers gather at the Vermillion Food Pantry to take vitals and blood sugars of those who do not have access to health care. In addition, the students hold a blood drive twice per year.

Seven students are attending the AMA Interim Meeting. They plan to attend an advocacy workshop and will meet with South Dakota's Congressional delegation.

SDSMA PAC Report

A written SDSMA PAC report was submitted to the Council. The SDSMA PAC Board met on Oct. 15.

SDSMA PAC has received approximately $21,325 in membership dues for the 2013 membership year and realized $2,200 in expenses. As of Aug. 31, 2013, SDSMA PAC had a bank balance of approximately $100,000.

During the October meeting, SDSMA PAC's Board of Directors reviewed and approved the 2014 work plan. In addition to annual functions, SDSMA PAC's board will work on the following for 2014:

- Filling SDSMA PAC Board vacancies;
- Hosting a SDSMA PAC event in conjunction with the SDSMA Annual Meeting;
- Hosting a gubernatorial forum; and
- Developing a fundraising committee and fundraising efforts.

The SDSMA PAC Board has allocated $2,000 per political party to support events by request – this is to be an annual expenditure.

Upon request of support, the SDSMA PAC Board has given $1,000 to the U.S. Senate primary campaign of Annette Bosworth, MD.

SDSMA Alliance Report

The SDSMA Alliance submitted a written report to the Council.

The focus of the Alliance through January 2014 will be on health projects, legislation and membership. Projects are in place and committee chairs and members are energized to ensure the success for each project.

On Oct. 9, the Alliance districts promoted SAVE TODAY (Stop America's Violence Everywhere). The AMA Alliance created SAVE TODAY in1995 to combat the growing problem of violence. SAVE TODAY is observed on the second Wednesday of October and serves as a day of action and opportunity when medical families across the country work to reduce violence in their community. Several Districts handed out *You Don't Have To Be Bullied* books at local schools. Other Districts held blanket drives for shelters in their communities.

Each year the SDSMA Alliance Health Projects committee implements a new health project for the Alliance Districts. The committee will soon be announcing this year's project, and it will be announced in a future *South Dakota Medicine* article.

In February, the Alliance Legislation Committee is planning a day at the capitol with the medical students. The Committee will be sponsoring a health promotion project (to be announced) along with an ice cream social.

A major emphasis this year will be on recruitment with retention in hopes of increasing membership this year. The Membership Committee this year will consist of two teams – one for retention and the other on membership recording.

In December, the Ninth District Alliance members will be hosting a fundraiser for the Adopt a Family project. In January, a Pink at the Rink fundraiser for breast cancer is planned. The Seventh District Medical Alliance will host its annual holiday fundraiser with all proceeds going for a type 1 diabetes project.

The Third District Alliance is raising funds for sweat suits for the Brookings Health System Energy Department. The Fifth District Alliance will be giving a nursing scholarship to a student in the nursing program at Dakota Wesleyan in Huron.

Upcoming Council Meetings

March 28, 2014
Ramkota Hotel, Sioux Falls

Annual Meeting, May 30-31, 2014
Ramkota Hotel, Rapid City

September 19, 2014
Highland Convention Center, Mitchell