

California Society of Pathologists
2017 Annual Report to the Membership

Submitted by

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President

Prepared for
Members of the
California Society of Pathologists

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CALIFORNIA SOCIETY OF PATHOLOGISTS

2017 ANNUAL REPORT TO THE MEMBERSHIP

Welcome to our colleagues from California, across the U.S. and abroad to our 70th Annual Meeting in San Francisco. Thanks to the hard work of the Education Committee led by Dr. Balaram Puligandla, I know you will enjoy an outstanding educational program.

We appreciate the support of our members and will continue to explore ways to better serve the pathology community and benefit the patients that you serve. Please feel free to approach any member of the Board of Directors with comments and suggestions; we want to hear from you!

I. LEGISLATIVE AND REGULATORY ACTIVITIES

The CSP continues its legislative advocacy. Following is a highlight of some of the issues that were monitored this year. Also, the Legislative section of the CSP website, www.calpath.org, provides access to CSP's entire legislative bill tracking activity throughout the year.

Assembly Bill 72 – Out-of-Network/Balance Billing Prohibition

Out-of-network billing legislation, Assembly Bill 72, effect took for any services performed on or after July 1, 2017. While it applies to policies renewed or issued on or after that date, if a provider is out-of-network, it does set the rate of reimbursement by the plan. The interim payment amount for an out-of-network physician is now the **greater** of 125 percent of Medicare or the average contracted rate of the plan. The law does contain an Independent Dispute Resolution Process (IDRP) whereby a physician/group could appeal for a higher level of payment above the interim payment amount. Both the Department of Managed Health Care and the Department of Insurance will be establishing IDRPs, which either a physician or plan could use with participation being mandatory and binding on the parties. The specifics of the IDRP process are now just being announced. The IDRP will include a cost for use, allows providers to bundle claims, and the decision can be appealed to a Court.

AB 72 does not apply to:

- Medi-Cal
- Medicare or Medicare Advantage Plans
- ERISA plans
- Out of State Health Plans

AB 72 contains a mandatory assignment of benefits, meaning that the out-of-network payment goes to the physician and not the patient. Out-of-network providers can only bill the patient for applicable co-insurance and deductibles and must refund any overpayment. The plan will inform the provider of those amounts when the interim payment is provided. Current California law on plan requirements for timely processing of claims also apply to out-of-network claims. The bill includes some provisions to address the network adequacy requirements for plans that we believe contribute in large part to the out-of-network billing issue. Plans will begin to report average contracted rates as well as the incidence or volume of out-of-network billing in hospital settings. We encourage members to contact the CSP with any issues or problems they encounter.

The CSP is participating in stakeholder discussions with both the Department of Managed Health Care (DMHC) and the Department of Insurance on the collection of average contracted rate information from health plans and insurers. We have emphasized the nuances of modifiers used in pathology billing such as Professional, Technical, and Global.

CSP-Supported Legislation to Help Clinical Labs Signed into Law

This year, the CSP supported two bills that were signed by the Governor and take effect on January 1, 2018. AB 658 (Waldron) will eliminate clinical lab licensing fees for a two-year period from 2018-2019. Several State Auditor reports have highlighted the shortcomings of Lab Field Services in overseeing the licensing of clinical labs. They had a number of recommendations and also criticized the overcharging of labs with the accumulation of a \$22 million reserve. We assume LFS will publish a notice on the fee waiver.

The other bill, AB 659 (Ridley-Thomas), will change the current requirements for clinical labs to submit payment data to DHCS for purposes of Medi-Cal rate development. Current law requires many clinical labs to report payment data from private payers on an annual basis. AB 659 will change that submission requirement to once every three years, beginning in 2019, and would also specify that the adjusted rates would be implemented on July 1, 2020 and July 1 of every three years thereafter. The bill signed by the Governor would change the current process which is unduly burdensome, has low participation, and often results in retroactive adjustment to lab rates.

Governor Brown Signs CSP-Supported Legislation to Fix Workers' Comp Issue for Physicians

SB 189 (Bradford) is the CSP-supported bill to fix a provision in law passed last year that made many pathologist owners in groups employees, thus subject to mandatory workers' compensation coverage, unless they had at least a 15 percent ownership interest in the group. SB 189 would exempt from that ownership threshold if:

- The individual is an owner of a professional corporation
- Is a practitioner rendering professional services
- He or she executes a waiver indicating they are insured under a health plan
- It remains effective until a notice of withdrawal is filed

SB 189 has a delayed effective date until July 1, 2018, meaning that if you are an owner of a pathology group with less than a 15% ownership, you could still be subject to inclusion on the workers' compensation policy as an employee until July 1, 2018.

AB 2325 Update – Cancer Registry Reporting

At the October 7 meeting of the CAP House of Delegates, the California Delegation brought forward its concerns regarding AB 2325 (Bonilla), which was signed by the governor in 2016, which modifies the existing cancer reporting law requiring pathologists to report cancer diagnosis electronically in a standardized format acceptable to the Cancer Registry, effective January 1, 2019.

The CSP has been an active participant in the California Data Modernization Consortium which is made up of all the major stakeholders in the cancer registry process including the major hospital systems, local registries, EHR vendors and other clinicians. It is clear that the current reporting system is neither timely nor useful in data collection. It has been our goal to emphasize the predominant role of the pathologist in cancer diagnosis.

The requirement does not take effect until January 1, 2019 and the CSP continues to work on the reporting specifics and will be providing additional information and tools for pathologists. The plan allows a pathologist to submit a synoptic report using the eCancer checklist elements or simply electronically submit a copy of their current report. Our efforts will be to make available numerous reporting options, securing funding for necessary software, and seeking compensation for pathologists for any reporting obligations. We continue to fine tune the reporting obligations having obtained agreement that a written report will be a valid submission format, data

elements will be limited to those required in CAP checklists, and actively seeking to delete the law's theoretical penalties for failure to report. The penalty has never been enforced.

CSP-Opposed Bill Requiring Students Taking Clinical Hours to Become Employees Now a Two-Year Bill

AB 387 (Thurmond) would require that students in training to become allied health care practitioners, while obtaining clinical hours for their certificates, to be deemed employees of the clinical site and be paid at least minimum wage.

The bill is sponsored by SEIU and UHW to address what they claim to be a hardship for students who are not paid as employees while they complete their clinical training hours. This would apply to, for example, a CLS or MLT who needs to obtain clinical hours for their certificate or licensure.

We believe this would jeopardize the availability of slots at these clinical training sites at many hospitals based upon these new costs and benefits by classifying these students as employees. In addition, many accrediting organizations for allied health practitioners specifically prohibit the hospital or clinical site from employing these individuals in order to maintain their control over the teaching program.

AB 387 passed out of the Assembly Labor and Employment Committee in April on a party-line vote. The CSP worked with a broad coalition of organizations to oppose AB 387, including hospitals, community colleges, and state universities, as well as the organizations representing PTs and OTs.

AB 387 reached the Assembly floor, but was never taken up for a vote. It is now a two-year bill, and cannot be heard again until 2018.

Legislation Mandating Annual Antimicrobial-resistant Reporting Stalls

This year, legislation was introduced that would require physicians to record antibiotic-resistant infections on death certificates if they played a role in the death. Specifically, SB 43 (Hill) would require hospitals to submit annual antibiograms to the California Department of Public Health (CDPH) after July 1, 2019. The bill would also require CDPH, beginning January 2019, to develop a format for the antibiogram report and to develop a method of estimation of the number of deaths caused by antimicrobial resistant infections, and to publish a report that includes information on the occurrence of antimicrobial-resistant infections (by type, incidence, and facility type) as well as the estimated number of deaths that result from them.

The CSP sought and obtained amendments to remove the reporting on death certificates, eliminate a reporting obligation on any lab that did not perform this type of testing, and clarify the reporting obligation in the hospital setting where testing could be done in a hospital lab or freestanding lab.

Despite the bill receiving unanimous support in the State Senate, it was not taken up for a vote by the Assembly or an Assembly committee. There are ongoing concerns for CDPH on the costs of this program and their ability to meet the timelines for implementation. It can be taken up in 2018.

II. MEDI-CAL AND MEDICARE PROGRAMS

State Budget Provisions for Medi-Cal Supplemental Payments

On June 27, Governor Brown signed the 2017-18 state budget that included language specifying the use of the revenue from Proposition 56, which added an additional \$2 tax on packs of cigarettes, dedicating a large portion of those funds to increasing reimbursement rates for physician and dentists.

The new tax revenues should provide about \$1 billion in new Medi-Cal funds. Though the initiative clearly stated that these funds could not be used to "supplant" existing Medi-Cal spending, the Governor surprised most observers by taking those funds and backfilling other Medi-Cal expenses and providing no increases in Medi-Cal rates. The claim was that the restriction on use only applied to existing Medi-Cal expenses, and those dollars could be used for other purposes in this and future budget years.

The final amounts of \$325M for doctors, \$140M for dentists, and \$55M for family planning services was much less than what both the Assembly and Senate had recommended. It is conditioned upon federal approval, and does allow for larger amounts in the fiscal year 2018-19 if state finances are stable. The physician community had pushed for across the board supplemental payments for all categories of physician services based upon current Medi-Cal caseload and any increases in caseload.

The DHCS released their proposal for use of the funds and they chose to only apply increases to a very limited set of codes that reflect new and established office/outpatient visits and new patient visits that include psychiatric evaluations. There are no other increases to other physician services or supplemental payments. These adjustments will be applied to both Fee-for-Service and Medi-Cal Managed Care.

It is very disappointing but consistent with the Administration's desire to only increase rates where access is an issue. Even these limited increases must be approved by CMS, and likely will not occur until later this year, and if approved, be retroactive to July 1, 2017. We will continue to push for subsequent adjustment to be applied more broadly and include pathology services.

III. EDUCATIONAL PROGRAMS

California Seminars in Pathology

Once again, Education Committee Chairperson Balaram Puligandla, MD and the members of the Committee have created an extraordinary program, California Seminars in Pathology. The Committee's hard work has continued the Society's tradition of providing a premier scientific meeting for pathologists.

IV. MEMBERSHIP

The financial resources provided by members' dues drive the activities and services of the CSP. The CSP, like most medical associations, is struggling with sagging membership numbers. The CSP cannot survive if only a small number of pathologists in a group belong on behalf of the entire group. We encourage senior members of practice groups to discuss joining the CSP with junior members. If you are not currently a member, or have colleagues in your group who do not belong, we would encourage you to join and participate in the Society's services.

Practice Management Members

The Practice Management Committee has continued to confer on Medicare and Medi-Cal claims processing issues.

The CSP has begun to develop some additional webinar programs to provide information to practice managers and pathologists. We hope to continue to expand those offerings.

The CSP continues its efforts to build a database of individual pathology practice managers. If you would like to have your group manager become involved as an Associate Member, simply call the CSP office or go the CSP website at www.calpath.org. The membership information is available on the website under the membership section.

V. NOMINATING COMMITTEE REPORT

The Nominating Committee of the California Society of Pathologists nominates the following members to serve as Officers and Directors of the Board for 2018-2019. The election will take place at the Annual Business Meeting, Friday, December 1, 2017.

Officers

President	James Carry, MD
Vice President	Derek Marsee, MD, PhD
Secretary-Treasurer	Kristie White, MD

Board of Directors (Three-year terms)

Emily Ann Green, MD

Wayne Garrett, DO

VI. FINANCIAL REPORT

Our accountant audited our year-end financial statement for the fiscal year ending December 31, 2017. CSP had revenue of \$356,870 with expenses of \$362,482 for a net loss of \$5,612. A copy of the year-end report can be obtained from the CSP Central Office.

VII. CONCLUSION

It has been an honor and privilege to serve as President, and I thank you all for your support.

The CSP is an organization that continues to achieve its goal of enhancing the specialty of Pathology. This success is due to the collective efforts of an active and extremely capable Board of Directors and staff.

Join me in thanking each of the members of the CSP Board of Directors:

Officers

Vice President	Derek Marsee, MD, PhD
Secretary Treasurer	Derek Marsee, MD, PhD
Past President	Timothy Hammill, MD

Board of Directors

Ryanne Brown, MD	Michelle Don, MD
Wayne Garret, DO	Emily Ann Green, MD

James Harris, MD
David B. Kaminsky, MD, FIAC
Luke Perkocha, MD, MBA, FCAP
Gerald Weiss, MD

Melvin Hoshiko, MD
Brent Larson, MD
Balaram Puligandla, MD

Respectfully submitted,

James B. Carry, MD
President