

The

OAR

Ohio Association of Rheumatology

Advocate

May 2009

A Newsletter for Rheumatologists in the State of Ohio

An Overview of OAR

By Gary M. Kammer, M. D.

Welcome to **The OAR Advocate**, the updated publication of the Ohio Association of Rheumatology (OAR). For our colleagues who may not be familiar with OAR, this review will introduce you to our organization and mission. For our colleagues who are OAR members or who are familiar with OAR, this overview will update you about our current goals and accomplishments.

OAR Mission:

From its inception in 2003, OAR has been a non-profit, 501 C3 organization composed of rheumatologists dedicated to the advancement of quality arthritis and musculoskeletal health care for all persons in the State of Ohio.

Our mission is to:

- Advocate and protect patient access to all appropriate treatments for rheumatic diseases,
- Establish and maintain clinical guidelines defining appropriate treatment of arthritis and rheumatic diseases,
- Nurture the interest and development of medical students and trainees in the field of rheumatology,
- Augment and support other organizations involved in arthritis care in order to enhance the quality of rheumatology services for all patients.

The OAR Advocate

The OAR Advocate will initially be published and disseminated to Ohio rheumatologists semi-annually. Our goal is to become a quarterly publication.

This newsletter will include articles solicited from OAR members on any subject relating to rheumatology practice. We expect to interpret this practice broadly. In addition, we will accept thoughtful opinion pieces from all Ohio rheumatologists, whom we hope will join our erstwhile organization and contribute to the growth of OAR.

One promise we will make now: Our articles will be thoughtful, newsworthy, pithy, and even controversial. We want you, our readers, to enjoy this publication-- to be entertained as well as educated. We will also publish responses in the form of letters if such

are submitted. All submissions should include the author's full name, degree, practice name, address, phone number, and e-mail. We reserve the right to verify the submission by an e-mail or telephone call. Submissions should be forwarded to Gary M. Kammer, M.D. a gmkkammer@hotmail.com.

We invite you to submit an article to The OAR Advocate. Please drop me a note at the above e-mail in advance advising me of the topic. Consider, for example, writing about particular aspects of your practice; what you enjoy about the practice of rheumatology; or, problems, issues or concerns that beset your practice.

In this issue, David Mandel, M. D. (Chardon, OH) and Terry Foley, M.D. (Willoughby, OH) have contributed informative, if not edgy articles you will find entertaining and thoughtful.

How OAR Works

We accomplish our mission by developing and implementing achievable goals. In 2003, OAR recognized that the administration of office-based therapies by all specialists was being targeted for reform by Congress in a bill entitled HR 1622 Quality Cancer Care Preservation Act. This bill contained language regarding reimbursement policies for the use of biological agents. In response to this Act and the recognition that burdensome future regulations would follow, OAR authored a pivotal position paper recommending, among several items, the renaming of the bill to include non-oncologists

who administer biologic agents as well as recommendations on reimbursements. OAR stated: "The administration of biologics, as well as the follow-up and maintenance care, is complicated in a variety of conditions such as Rheumatoid Arthritis and Crohn's disease. There should be equal, fair, and comprehensive reimbursement at a higher level for patients receiving biologic therapy for all specialties that use biologics."

In addition to position papers, we frequently correspond with our elected officials in the Ohio legislature and in Congress. Shortly after the Ohio Revised Code Title LVII Chapter 5751 Commercial

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How OAR Works continued

Activity Tax (CAT) was implemented in 2005, OAR learned that this bill provides an exclusion for the gross receipts attributable to the administration of infusible chemotherapeutic, biologic and therapeutic agents and supporting drugs for patients with cancer. OAR recognized that this law carved out an unfair exclusion for oncologists while including all other physicians who administer biologic agents in their offices, including rheumatologists. In an effort to level the playing field, former OAR president David R. Mandel, M. D. (Chardon, OH) wrote to tax commissioner William Wilkins in February 2006 advising him of this inequity in the law and asking for redress. Dr. Mandel wrote: "The Ohio Association of Rheumatology believes it is imperative that the Ohio Department of Taxation amend the CAT Law immediately to correct this inequity. Specifically, we recommend that the Ohio Revised Code 5751.01 (S) (2) (v) be amended to drop the last two words "with cancer" from this paragraph. This would allow the exclusion of gross receipts to extend to any physician who administers chemotherapeutic, bio-logics or therapeutic medications in his office." Although this thorny issue has not yet been resolved by the Legislature, OAR continues to meet with Ohio legislators and to communicate our concern.

These are among many examples of the work OAR continues to pursue on behalf of Ohio rheumatologists.

Who we are . . .

Recently, OAR held election of new officers. The following OAR members were elected:

Gary M. Kammer, M. D.

(Willoughby, OH), president;

Robert Haladay, M. D. (Sandusky, OH), vice-president;

Terrence Foley, M. D. (Willoughby, OH), secretary-treasurer.

OAR Board members are:

Ed Herzig, M. D. (Fairfield, OH) and

William Treuhaft, M. D. (Toledo, OH).

OAR Membership Form

Those interested in OAR membership, please complete the form below and return with your \$50.00 annual membership fee.

Name: _____

Title: _____ (MD/DO) _____

Address: _____

City/State: _____

Zip: _____ Phone: _____

Email: _____

Return your OAR membership form to:

OAR/Ohio Association of Rheumatology
36100 Euclid Avenue #170
Willoughby, Ohio 44094

If you have any questions regarding the Ohio Association of Rheumatology, please contact: Gary Kammer, M.D. or Michelle Pohl at mekpohl@yahoo.com or michelle.pohl@lhs.net.

Thank you for your interest in our State association.

Meetings

We hold regular meetings, often monthly, that can be easily accessed from your office or home by teleconferencing. We announce these meetings in advance by e-mail with an agenda to encourage you to join us. Lasting about an hour, these meetings are typically packed with items that are being introduced as new business or are works in progress.

New Executive Secretary

We have recently hired a new Executive Secretary, whose job is to

communicate with members about all OAR business. We are delighted to welcome Michelle Pohl to her new position with OAR, and look forward to her association with us over the years. As you cannot help but notice in your written or verbal communications with Michelle, she is energetic, outgoing, resourceful and helpful in all that she does. She is a "can do" person who will brighten your day and make your communications with us facile. She can be reached by e-mail at michelle.pohl@lhs.net or mekpohl@yahoo.com.

OAR Goals

By Gary M. Kammer, M. D.

When I was asked to become OAR president, it was already apparent from my tenure as vice-president that OAR has much to do. Quite frankly, with the many issues facing physicians today at the state and national levels, there is more to do than any small group can handle. What, then, should OAR do now?

OAR exists to represent and advocate for Ohio rheumatologists and our patients. Yet, without a membership, there is no rationale for OAR to exist. Unfortunately, our paid membership has remained essentially flat over the past few years at about 20. Considering there are about 200 rheumatologists practicing in Ohio, in reality OAR does not represent you, our colleagues.

Although we have not yet performed a formal study to assess opinions of Ohio rheumatologists about OAR, informal discussions with our

colleagues have revealed some insights.

First, some colleagues are unfamiliar with the mission and goals of OAR.

Second, other colleagues mistakenly believe that the mission of the American College of Rheumatology (ACR) overlaps with OAR. Although ACR's Committee on Rheumatologic Care (CORC) deals with diverse issues of practicing rheumatologists, neither CORC nor other ACR committees address the breadth of concerns specific to Ohio that impact our daily practice of rheumatology. This limitation harkens back to the old adage that "all politics are local". By contrast, OAR focuses its attention and efforts solely on Ohio rheumatology.

Lastly, we have heard that some colleagues employed by large medical centers or other entities believe that OAR represents only the interests of private rheumatologists. Surprisingly, some even believe their employment in such centers makes them "immune"

from the whipsaw prevailing winds of impending health care reform with its epicenter in Washington. This, they figure, makes OAR an anachronism.

My advice, colleagues: Step back and take a harder look-see. Health care reform will be the "perfect storm" that will envelop all practicing physicians independent of their income sources.

Just as there has been no place to hide from this devastating recession and its consequent economic chaos, there will be no place to hide from a health care reform tsunami. This is not hyperbole. Although OAR cannot prevent this tsunami, OAR can be at the table with its colleagues in the Coalition of State Rheumatologic Organizations, ACR and other specialty organizations nationwide to work toward goals that enhance the quality of and access to medical care for our patients and preservation of the independence of the practice of medicine based on time-honored values and the Hippocratic Oath. Come join us!

FACTA-Fair for Physicians?

By Terry Foley, M. D.

The Federal Trade Commission (FTC) has enacted FACTA, the Fair and Accurate Credit Transaction Act, and medical practices will be affected by this legislation. Effective January 1, 2008, and starting May 1, 2009, FACTA will require medical practices to develop and implement written "Identity Theft Prevention Program" to detect, prevent and mitigate identity theft in connection with financial accounts. All creditor companies are required to comply with these regulations, known as "Red Flag Rules", including physician practices, and are subject to fines, penalties and lawsuits if any patient financial data is stolen.

Why are physician practices subject to these regulations? By rule, any financial institution or creditor must comply. A creditor is any person or entity who regularly extends, renews or continues credit. Given the increasing tendency of health insurance products to impose more

of the financial liability for payment on the patient, such as health savings accounts, many physicians are extending credit on patient accounts and therefore are subject to FACTA. In other words, physician practices are acting like banks and as a result they must adhere to privacy laws imposed on the banking system to prevent identity theft.

These regulations were to be enforced starting November 1, 2008, but there was strong push back from the medical community. The Director of Federal Affairs of the AMA, Ms. Margaret Garikes, wrote the FTC in complaint. She argued that medical care providers are not "creditors" by the strict definition of law. Indeed, one may assert that any business that bills for services after the service is performed has extended some form of credit. Ms. Garikes also argued that these regulations are redundant because medical providers must already adhere to HIPAA regulations.

The FTC responded to the AMA's complaint, stating that the language of the Rule dictates that health care professionals are subject to

these regulations because they regularly "defer" payment for goods and services. They also argued that the Rule specifically covers financial identity theft separate from medical identity theft, and that the implementation of these regulations will only help to reduce the incidence of medical identity theft in conjunction with HIPAA and with only minimal burden on the medical practice. As a result of this dialog, the FTC upheld the regulation of healthcare practices but delayed enforcement of the "Red Flag Rules" until May 1, 2009.

So what is required by FACTA? The Red Flag Rule requires practices to have written policies and procedures to Identify covered accounts; Detect suspicious behavior (flags); Respond to those flags to mitigate identity theft; and, regularly review the effectiveness of the program and Update policies as required, reducing the likelihood of identity theft. Practices can find additional information at the FTC's web site www.ftc.gov, and search FACTA.

The Best of Times, The Worst of Times

By David R. Mandel, M. D.

"It was the best of times, it was the worst of times." Since Charles Dickens first penned these words in the introduction of **A Tale of Two Cities** in 1859, many have chosen to use them metaphorically to describe what often has been an ominous and foreboding series of events that have occurred in their society or personal lives.

We, too, are living in a most unique time: facing very difficult economic, military and day-to-day challenges. However, we also happen to be fortunate to have many exciting opportunities occurring in science and technology. This current decade of what has been called The Bone and Joint Decade is quickly coming to a very hectic finish next year, and we have witnessed many new research discoveries and therapies that have benefited the lives of our patients with arthritis and osteoporosis.

I am writing to you about a most difficult situation that began the first week of this year for our patients who are covered by Anthem Insurance and its Senior Advantage products and we as rheumatologists who care for these patients. We have heard from many of you throughout the state regarding the change in Anthem's reimbursement plan tier for drugs. Their new 20%

deductible policy that patients have to face is unaffordable for most, and the consequences have been that many of our patients no longer can afford the benefits of biologic therapy as well as infusion drugs for osteoporosis.

OAR has been actively in contact with Anthem Senior Management, Senators Sherrod Brown and George Voinovich, as well as Mr. Jeff Smith, the legal representative of the Ohio State Medical Association.

OAR has also been working with the ACR through our ongoing Affiliate Society Council. We have sent out letters to you, our nearly 200 Ohio colleagues, by both email and letter asking you to sign a letter of support. This letter is directed to our 18 congressman and two state senators. This grass roots effort will have an impact to inform our representatives so they may know first-hand about the serious consequences of this unfair practice by Anthem. Thus far, we have only heard from a few. As a consequence of a similar action which took place in Mississippi (see ACR web site; www.rheumatology.org), our colleagues were able to reduce the co-pays that the local Blue Cross carrier was imposing on residents in Mississippi so that their out-of-pocket costs would not exceed more than \$200 per month. We, too,

have an opportunity to effect change, but we need your voice and support in this matter! For those of you who have not signed on to our letter, please go to the OAR web site (www.oarheum.com) . You can download the letter there. Please sign and fax it to me at 440-449-7137 at your earliest convenience.

This year will bring many challenges to the practice of medicine and rheumatology. Some of these include an active debate on biologic follow-on drugs and their approval process. Representative Shelley Berkely (Nev) is reintroducing the Fracture and Prevention Bill to reinstate the reimbursement of DEXA back to the 2006 fee schedule. There will certainly be more discussions on Health Care reform with the the proposed commissioner, Governor Kathy Sibelius, and a lively debate on how to fix SGR reimbursement program.

These are the 'Best of Times' and they demand that we all step forward to become engaged and get involved.

We in OAR welcome and need your support and look forward to your involvement throughout the year.



SAVE THE DATE:

**August 28 and 29, 2009
Annual OAR Meeting
at the Blackwell Center
in Columbus, Ohio.**

Annual OAR Meeting details to follow.