



RHODE ISLAND MEDICAL NEWS

NEWSLETTER OF THE RHODE ISLAND MEDICAL SOCIETY

JULY/AUGUST 2003

FROM THE PRESIDENT

- 3 *You Got to Know When to Hold, Know When to Fold*

LIABILITY NEWS

- 1 *Liability Update: The issue of timeliness in Rhode Island Civil Process*

MEDICAL SOCIETY NEWS

- 2 *National Ask Day*
5 *Briefly Noted*
5 *Tar Wars*
7 *Bike Safety Program*
12 *Report of the Maternal Health Committee*
13 *RIMS Resident Liaison receives recognition*
14 *RIMS' Annual Meeting*

AMA DELEGATION

- 9 *Notes of a Convention Watcher*

GOVERNMENT

As this newsletter is being put to bed, the Rhode Island General Assembly appears to be entering the final days on the 2003 session. A report on the session will be included in the next newsletter.

Liability Update: The issue of timeliness in Rhode Island Civil Process

RIMS has been supporting a legislative package designed to speed up the RI process, which is among the nation's slowest. But the courts themselves are not the whole problem.

Rhode Island is singled out for special comment in the most recent annual report of the National Practitioner Data Bank, and not in a welcome way.

(As every physician and dentist knows, the NPDB is the federal government's central repository for practitioner-specific data on liability payments and adverse professional review actions. These data are made available upon request to eligible entities for purposes of licensure and credentialing. Aggregated data are also made available to the public in various ways, including an annual report published by the Department Health and Human Services.)

The good news is that the NPDB's 2001 annual report in no way reflects negatively upon the medical community here. However, the report does suggest that Rhode Island might do well to address a matter of common interest to both parties in medical professional liability disputes,

namely the timeliness with which such cases are resolved.

Among the many measures tracked and compiled annually by the NPDB are "payment delays" in medical professional liability suits. The NPDB has determined over the years that substantial differences persist among the various states with regard to the length of time that elapses between an incident and a liability settlement or award arising from it. From the time the NPDB began operating in 1995 through the end of 2001, the mean delay between incident and payment for all the states was 4.81 years. This number has been gradually coming down since 1995. For payments made in 2001, the mean delay was 4.63 years.

"On average," the NPDB reports, "during 2001, payments were made most quickly in Minnesota (3.17 years) and Arkansas (3.16 years). Payments were slowest in Rhode Island (6.44 years)." The NPDB's cumulative data

tends to confirm that the Rhode Island process is consistently among the two or three longest in the nation.

The silver lining in Rhode Island's status as an apparent outlier in this regard is the opportunity for positive change. If other states tend to resolve liability issues faster, then maybe Rhode Island should look for ways to shorten its process. A more expeditious process would presumably reduce the emotional as well as the monetary cost of injury and litigation. Prejudgment interest and other costs that vary directly with the duration of the litigation process contribute to the expense of liability insurance coverage, and that expense is a critical problem for the health care system and for hospitals, nursing homes, doctors and many others. If some of that cost pressure would be relieved by speeding justice to injured parties, the result would seem to be the proverbial win-win. *(continued on page 6)*



**RI MEDICAL SOCIETY
EXECUTIVE COMMITTEE**

PRESIDENT

David B. Ettensohn, MD

PRESIDENT-ELECT

Tilak K. Verma, MD, MBA

VICE PRESIDENT

Fredric V. Christian, MD

SECRETARY

Diane R. Siedlecki, MD

TREASURER

Peter A. Hollmann, MD

IMMEDIATE PAST PRESIDENT

Yul D. Ejnes, MD, FACP

AMA DELEGATES

Peter Hollmann, MD

Michael Migliori, MD, FACS

COUNCILORS AT LARGE

Nicholas Tsiongas, MD

Elaine B. Fain, MD

RIMS WEBSITE

www.RImed.org

RHODE ISLAND MEDICAL NEWS

is the newsletter of the
Rhode Island Medical Society
235 Promenade Street, Ste 500
Providence RI 02908

Tel: 401-331-3207

Fax: 401-751-8050

Email: RIMS@RImed.org

SUBSCRIPTION INFORMATION

A one year subscription to
Rhode Island Medical News
costs \$50. The publication is
free to members.

EDITOR

Newell E. Warde, PhD

The Rhode Island Medical Society, the eighth oldest state medical association in the country, was founded in 1812 to promote the art and science of medicine. In cooperation with the Brown University School of Medicine, Quality Partners Rhode Island, Inc., and the Rhode Island Department of Health, the Society also publishes a monthly magazine, *Medicine and Health Rhode Island*.

Rhode Island physicians, politicians join to promote gun safety on "National ASK Day"

For the third year in a row, parents and community leaders in Rhode Island and across the United States gathered together on June 21, 2003, for one common purpose: the support of gun safety in their cities and towns, for the sake of their children.

US Congressman Patrick J. Kennedy and Providence Mayor David Cicilline joined the Rhode Island Medical Society and the RI chapters of the American Academy of Pediatrics, the American Academy of Family Physicians and the American College of Emergency Physicians for the third annual "National ASK Day" (Asking Saves Kids). Participants declared their commitment to "ask" whether or not guns are present and accessible in places where their children play. To commemorate the average of eight Rhode Island children who die each year as the result of gunfire, eight trees were planted in the park at India Point Park in Providence. Rhode Island is the second safest state in the nation

when it comes to gun-related deaths.

"Gun violence is one of the most devastating, and most preventable, dangers facing our children," said former RIMS president Dr. Michael Migliori. "As a physician, I see firsthand the tragedies caused by the lack of awareness and responsibility about guns in the home. The ASK campaign is a crucial first step to keeping our children and our communities safe."

The ASK campaign stresses to parents that questioning a neighbor about the presence of guns in their home should not be considered rude or unnecessary, but instead a simple, crucial step that can be taken towards preventing accidents and, ultimately, the loss of young lives.

We need to protect our children with the same vigor that the gun lobby protects its interests, and I am glad to participate," said Congressman Patrick J. Kennedy (D-RI). ❖



Dr. Michael Migliori is joined by US Congressman Patrick J. Kennedy, Providence Mayor David Cicilline and neighborhood children at India Point Park in Providence.



You Got to Know When to Hold, Know When to Fold

The Medical Liability Mess — Confessions of an Expert Witness

BY DAVID B. ETTENSOHN, MD

*"You haven't been the same
Since you had your little
crash.*

*You might feel better if
They gave you some cash.
The more I think about it,
Old Billy was right.
Kill all the lawyers,
Kill them tonight"*

RIMS date T-12 years

I'm sunning myself on a beach in St. Thomas. A pair of teenage girls behind me are playing their boom-box a bit too loud. ...*"Jeremiah was a bullfrog,, bom bom bom, was a good friend of mine, bom bom bom..."* I know I'm going to be hearing that song for the rest of the day. I'm trying to concentrate. I am here on a business vacation. One of those federally sanctioned tax-deductible pleasure/business trips. I am here to learn how to be a good expert witness. I sit in front of a videotape presentation given by a prominent attorney skilled in the honing of expert witnesses for the defense.

I am here because I had been contacted 3 years earlier about my willingness to serve as an expert in a case involving my specialty. I had reviewed the case in detail — no question the doc on trial was innocent of the charge against him. It was equally clear that he and his colleagues had missed the true cause of the patient's demise when she was admitted for her terminal hospital-

ization. Not an issue, said the defense attorney — only one guy on trial, one incident to consider, statute of limitations.

More sunscreen- especially to the head. I reflect on what I learned that day. Dress neatly, not too expensive, sports coat preferred over a suit (the latter is reserved for the attorneys), address the jury — find a sympathetic juror — talk to him/her. I start to doze in the tropical sun only to be awakened " *I never understood a single word he said... but I helped him drink his wine... and he always had some mighty fine wine.*"

RIMS date T-10 years

I am sworn in. I am dressed neatly. Blue sport coat, khaki slacks, the national pulmonologist's uniform. The case has finally come to trial — close to the Rhode Island average of 6 years from time of incident. The plaintiff's attorney is holding a huge, blown-up picture of the patient's pharmacy record — apparently bigger is better in these types of situations — he points out repeated medication calls but none that address the patient's true problem, which has only been presumed after death, autopsy having been refused by the family.

My attorney takes the cross. We work over the script we

agreed to through multiple meetings. I take the lead and detail the data that leads me to conclude that the patient died of a condition totally unrelated to the claim of the plaintiff. Equally unproven without an autopsy. Reasonable doubt. I catch the eye of an overweight gent in the back row of the jury box. After a while he is nodding in sync with my testimony. The jury is out and back within 30 minutes. The doctor is innocent. Evidently the heavy-set gent was a nurse, who swayed the jury quickly. I am pleased but realize that in the hospital several other doctors had missed the very evident signs of what had actually killed the patient — although it was incurable anyway, if I am right.

RIMS date T-8 years

A nondescript gent enters my office. He asks to see me — official business. The usual staunch defense of my office staff becomes suddenly porous as he serves me with a malpractice suit. My first. It seems that the family of an elderly gent I had taken care of for 3 months in the ICU following urgent surgery has taken issue with his medical care. Despite getting him through ATN, ARDS, and off of the ventilator only to have him die 2 days short of his 90th birthday in his sleep, all of his treating physicians are tar-

geted for suit by the family.

I meet with my attorney. I suggest a local expert who quickly reviews the data and concurs that the care exceeded the standard of care. I ask whether my children's college accounts could be attached. What is fair game? Do I have enough coverage? No mind. After my deposition — the suit is dropped. The plaintiff's attorneys smell no blood here. I breathe a sigh of relief.

RIMS date T-7 years

My reputation as an expert witness has grown. In the interim I have successfully helped defend a doctor whose patient died of a pulmonary embolism; everything was done well. As occurs with PE frequently, the suddenness of the death had caught the family unawares. I also testified for a major university in a complicated case that PE had caused the demise of the patient — not the doctor or the hospital staff. PE consumes much of my time. I myself learn always to think about PE and defend against it. I have learned a lot about record keeping. I do not repeat the errors of my colleagues. I institute electronic medical records, and I dictate in front of the patients. I record every phone conversation. My malpractice rates go up even as I work to minimize my risk.

(continued on page 4)

President's Message continued

RIMS date T-5 years

I have been contacted by a plaintiff's attorney. He would like me to be a witness against a doctor. It is in a small town in a different state. At first I am inclined to say no. But then as I think about it, I can give a balanced perspective — maybe even encourage the plaintiff to drop the case. As I review the medical record, I am struck by the fact that the treating physician totally ignored the patient, the nurses' calls, the lab results. At trial he is arrogant, indignant and, as I know, very guilty. My testimony is convincing. The jury is out for a few hours. They find the doctor innocent.

I am pulled aside by a juror as I get ready to travel back to Rhode Island. "Doctor," she says, "we all agreed that Dr. X was guilty." "Then why was he acquitted?" I asked. "Because" she said, "he is the only doctor we have in this town. We couldn't possibly find him guilty. We may not be able to find another doctor." Sad. True.

RIMS date T+6 months

I am in the office of the Presiding Justice of the Rhode Island Superior Court, the Honorable Joseph Rodgers. I am accompanied by Newell Warde and Jeffrey Chase-Lubitz. I'm being taken to the woodshed by Judge Rodgers. It seems he has taken issue with the RIMS' published "Open Letter," in which we call for change in the state's system for adjudicating medical liability claims, a system we have called "slow and waste-

ful" compared with other states, based on data published by the U.S. Department of Health and Human Services.

Judge Rodgers has pointed out in a letter to me that Rhode Island's 6-year average delay from incident to resolution does not reflect upon the courts so much as upon the process leading up to trial and various other factors over which the judiciary has no control. The explanation is complex, but the judge has complete control of his facts and statistics. I am impressed.

The judges and the courts are doing their jobs. Some delays are caused by the attorneys and the games they play - both sides, different agendas. High stakes, millions to be won or lost - not unlike Foxwoods. A few weeks ago, RIMS received the results of a scientific public opinion survey in which a not surprising result is revealed: Low-income Rhode Islanders feel the medical liability system is fine. A similar demographic heavily supports the Lottery. It occurs to me that there is consistency here. Medical malpractice cases are like the Lottery. Results may be more attributable to luck than skill.

I think back to a year or two ago when a patient on whom I was to perform bronchoscopy called to cancel because he had to take his granddaughter to school. We rescheduled for the next week. He died the night that he was supposed to have had his bronchoscopy. What jury would have been convinced of my innocence if I had done the procedure that day? Luck.

This is not meant to demean the many excellent and skilled attorneys who defend doc-

tors. Fact is, much of what contributes to what is perceived as "malpractice" is circumstance, and much of the way it is defended is happenstance. Is there a better way? Of course there is. But it really has to do with process and systems. The current process heavily favors trial bar attorneys. While they fail to win most of what they prosecute, all they need is one "hit," and millions can flow into the coffers. Again, much like the lottery, they wait for the big one. They know that while they prosecute high tech cases, juries frequently cannot comprehend much of what they are asked to consider. In my role as an expert witness, I have struggled to explain the complexities of arterial blood gasses to "peers" who understand death but not physiology. Bias against the doctor who makes decisions based on physiology in order to stave off death. It is the rare jury that can comprehend these concepts.

RIMS date now

RIMS supports legislation for reform of civil process. It is a good package. It is reasonable, hard to argue with — we steer clear of controversial "caps" that could sink the whole package in a state like Rhode Island. We argue for reasonable, not usurious, interest rates, timely disclosure of expert witnesses, timely trials. The trial bar is left with no "lightening rod" with which to polarize the legislature. They resort to deception, and if I may, frank prevarication. RIMS and the insurance industry have manufactured

the "crisis," there are plenty of doctors, they make plenty of money, — just listen to what Blue Cross has to say. Even Judge Rogers has had to "discipline" RIMS.

But they have not spoken with Judge Rodgers, as we have. We speak apples — they speak oranges. Mostly they speak out of both sides of their mouths. They will not easily relinquish the saprophytic hold they have on countless millions of dollars that were marked for health care but will end up in attorneys' pockets instead.

A legislature of trial bar attorneys and their allies must decide for the public good or for the perceived good of their peers. Truly a Solomonic decision. Each of the legislators knows that they too, must live in the system of medical care that they serve to shape. With healthcare in RI in true crisis (despite trial bar claims to the contrary), they can help strengthen the system, or live with the decay that they helped sow. Time to show their cards

Got to know when to hold. Know when to fold.

The lyrics at the beginning of the article are from the Eagles' song "Get over it." If only we could. ❖

■ The Rhode Island Radiological Society

has new officers. They are Timothy Murphy, MD, President, succeeding Dr. Jeffrey Brody; Steven Weisblatt, MD, Vice President; Mark S. Ridlen, MD, Secretary; Jay R. Duxin, MD, Treasurer. Dr. Ridlin will also represent RIRS on the Rhode Island Medical Society Council.

■ The Rhode Island Psychiatric Society

has new officers. They are Louis J. Marino, MD, President, succeeding Dr. Barry Wall; Paul Lieberman, MD, President-Elect; and Dawn Picotte, MD, Secretary-Treasurer.

■ The Rhode Island Medical Women's Association

has new officers. They are Barbara Roberts, MD, President, succeeding Dr. Marlene Cutitar; Laurie Reeder, MD, Vice President; Bonnie Reibman, MD, Secretary; and Pamela Harrop, MD, Treasurer.

■ RIMS Annual Charity Golf Classic September 22, 2003 Pawtucket Country Club

Proceeds benefit the RIMS Foundation. The Foundation has been instrumental in establishing RIMS Gun Safety education program and RIMS annual event of providing free bike helmets to RIte Care kids.

■ RIMS Council elects expanded leadership team for 2003/2004

At its regular June meeting, the RIMS Council received a report from the Nominating Committee and elected the

leadership team that will take office on September 19, 2003. That team includes Tilak K. Verma, MD, MBA, as President of the Society, succeeding Dr. David Etensohn. Fredric V. Christian, MD, will become President-Elect. R. Scott Hanson, MD, MPH, will become Vice President. Dr. Peter A. Hollmann and Dr. Diane Siedlecki were re-elected Treasurer and Secretary, respectively. All RIMS officers are elected annually.

At the June meeting, the Council also amended the Society's Bylaws to provide for two additional Councilors-at-Large, making a total of four. Dr. K. Nicholas Tsiongas and Dr. Elaine B. Fain were re-elected to serve another one-year term as Councilors-at-Large. The two new Councilor seats will be filled by Edward J. Marcaccio, Jr, MD, and Charles F. Pattavina, MD. Councilors-at-Large serve on both the Council and on the Executive Committee of the Council.

■ AMA Resolution

RIMS AMA Delegate Michael E. Migliori, MD, authored the following resolution that was passed at the AMA's annual meeting. RIMS has shared this new AMA policy with Governor Carcieri and the press in light of plans announced by the Narragansett Indian Tribe to begin selling tax free tobacco products:

RESOLVED, That our American Medical Association encourage Native American nations to stop selling tax-free tobacco products because of the profound public health implications of the sale of tax-free tobacco products.

Tar Wars 2003

The tenth annual Tar Wars Poster Contest was held Saturday, May 3, 2003 at Apex-at-Home in Pawtucket. This year 49 posters were submitted from schools throughout Rhode Island.

The posters were judged by: The Honorable Charles Fogarty, Lieutenant Governor, State of Rhode Island; Senator Thomas J. Izzo; Former Chair, Senate Committee on Health, Education and Welfare; Laurie Johnson, Anchor/Reporter, WPRO Radio; and The Honorable James Doyle, Mayor, City of Pawtucket.

The winning poster was designed by Eldon Lopes, who

attends Fallon Elementary School in Pawtucket. He and his family will attend the national poster contest in Washington, DC, July 13-14, 2003. Second place went to Monica Ardon of Providence.

Tars Wars Rhode Island is a project of the Rhode Island Medical Society, the Rhode Island Academy of Family Physicians, the Rhode Island Academy of Pediatrics and the RI Chapter of the American College of Cardiology with support from the Rhode Island Medical Society Foundation. Arthur A. Frazzano, MD, is Chair of Tar Wars Rhode Island. ❖



Eldon Lopes, who attends Fallon Elementary School in Pawtucket, with his winning poster.

Liability Update continued

Crafting solutions

Accordingly, RIMS supports a package of legislative measures that would expedite the litigation process. They would also bring Rhode Island law closer to the national mainstream in several areas.

While the trial bar may feel threatened by prospects of change in the status quo, it has so far been unable to discredit the proposals with arguments that are in any way germane to the legislation. The awkwardness of their position was on display in an editorial that appeared in the *Rhode Island Lawyers Weekly* of May 12.

While appearing to comment on the Rhode Island scene (and conceding that 2002 was a banner year for record-setting jury verdicts in Rhode Island), the editorial takes issue with tort reform proposals that have been in discussion on the federal level, not in the Rhode Island General Assembly.

It is hard to argue, for example, that the scales of justice are not seriously out of balance in the area of prejudgment interest. In an economic environment where 30-year home mortgages are readily available at rates below 5.5% and any new investment grade bond paying over 4.25% is hailed as an answer to investor's dreams, prejudgment interest frozen by law at 12% is indefensible. It tends to reward unproductive foot-dragging on the plaintiff's side, like last-minute disclosure of the plaintiff's expert testimony ("trial by ambush"), which forces the defense to seek continuances that would be unnecessary if disclosure were more timely.

Of course, not until the plaintiff lays the cards on the table does any kind of settlement or award become possible. Regarded in this rational light, the incentives and opportunities for delay in the Rhode Island system are perverse, because they actually work to everyone's disadvantage. The legislative measures RIMS has supported this year (embodied in Senate bill S0399 and House bill H5782) seek to address these and other peculiarities of Rhode Island law and to bring Rhode Island's system of civil process closer to the mainstream of what other states do.

Insights from the bench

In raising public awareness of these aspects of Rhode Island law and civil process, RIMS caught the attention of the state judiciary, most notably including the Chief Justice of the Supreme Court, the Honorable Frank J. Williams, and the Presiding Justice of the Superior Court, the Honorable Joseph F. Rodgers, Jr. Members of the judiciary are understandably protective of the public perception of the courts and take seriously their responsibility to maintain public confidence in the judicial process. They want physicians and the public to understand that most of the six-year delay cited by the NPDB occurs before a case ever gets onto the court calendar and is attributable to factors that have little or nothing to do with the judiciary. The state statute of limitations, the late discovery rule, delayed disclosure of experts and prejudgment interest fixed by state law at 12% — things that are addressed by the proposed legis-

lation— are examples of factors that prolong the process but are in no way amenable to judicial control. Moreover, there is no denying that both plaintiff and defense counsel can contribute unnecessarily to delays, as can the behavior and demands of plaintiffs and defendants, as well as of the liability insurance companies that stand behind defendants.

Both Chief Justice Williams and Presiding Justice Rodgers, in personal letters addressed to Dr. Ettensohn, took RIMS to task for failing, (particularly in the Society's early public pronouncements regarding Rhode Island's 6-plus year "payment delay"), to draw a clear distinction between the workings of the judiciary *per se* and the larger legal structure of civil justice created ultimately by the Rhode Island legislature. (In an unfortunate sidelight, Justice Rodgers' letter to Dr. Ettensohn somehow found its way into the hands of the well-known Providence plaintiff attorney Max Wistow, who read selected parts of it in a Senate hearing on May 8 in an effort to bolster his contention that proposed reforms of the civil process system are unnecessary.)

A visit with the Presiding Justice

On April 18, RIMS President David Ettensohn, MD, paid a visit to Presiding Justice Joseph Rodgers in his chambers at the Licht Judicial Complex on Benefit Street in Providence. RIMS Executive Director Newell Warde and RIMS corporate legal counsel Jeffrey F. Chase-Lubitz accompanied him.

Dr. Ettensohn outlined in

broad terms for Judge Rodgers the problems and pressures that currently plague the health care system in Rhode Island and discussed some of the consequences of these conditions. Dr. Ettensohn emphasized that these circumstances are the context and motivation for RIMS' recent activities, and that RIMS intended no "attack" on the judiciary. Dr. Ettensohn conceded that some of RIMS' statements may have appeared to implicate the courts unfairly as being at the center of certain problems. In fact, it is the General Assembly that has the greatest opportunity to bring about the kinds of reforms that RIMS is advocating.

Justice Rodgers listened well and demonstrated complete command of the details of his court. He was well prepared for his meeting with RIMS. He emphasized the courts' huge workload and the careful efficiency with which the courts keep up with that workload. He asserted that no backlog of scheduled cases exists and that any case assigned for trial can be adjudicated in 15 months or less.

The role of insurers and the defense bar workforce

Above all, Justice Rodgers laid chief responsibility for delays of medical professional liability cases that may occur once a case reaches the courts squarely at the feet of liability insurers themselves, charging that the insurance companies cause delays by excessively limiting the stable of defense attorneys they use.

To drive home this point, Justice Rodgers distributed a current docket of assigned

cases with the names of all the attorneys involved. He directed Dr. Ettensohn's attention to the medical liability cases and to the recurring names of two defense attorneys in particular who were involved in virtually every medical liability case. Justice Rodgers expressed wonderment that the liability insurers are so critical of Rhode Island's statutory prejudgment interest rate of 12% but are apparently willing to pay that rate for additional months until their over-

booked defense attorneys have an opening to schedule another trial.

Justice Rodgers noted that under the American system of jurisprudence, every defendant has a right to counsel; however, no one has a constitutionally guaranteed right to a particular attorney.

With regard to timely disclosure of experts (an issue for which RIMS is advocating a legislative solution), Justice Rodgers noted that a "ten-day rule" has been enforced by the Rhode Island Superior Court

itself since the mid-1990s. Under this rule, the identity of experts and the content of their testimony must be disclosed no later than 10 days before the trial date. Justice Rodgers indicated that he intended to meet with plaintiff and defense attorneys within the next three months to review the 10-day rule and consider possibilities for amending it.

He also described the Court's annual December "Settlement Week," during which many cases, including

some medical professional liability cases, are disposed of efficiently through an opportunity for alternative dispute resolution.

Justice Rodgers indicated willingness to share further data and to arrange for some of the Associate Justices who preside over medical professional liability cases to meet with RIMS for the purpose of reviewing the numbers and workings of the system in further detail. ❖

Rhode Island Medical Society hands out its 4,000th bike helmet at Pawtucket Health Fair

This is the seventh year of the Medical Society's participation in the bike safety program, which has been a collaboration with the RI chapters of the Academy of Family Physicians, Academy of Pediatrics and American College of Emergency Physicians.

"Doctors see far too many cases where people, especially children, are injured on a bike because they weren't wearing a helmet," said Newell E. Warde, PhD, executive director of the Rhode Island Medical Society. "The fact is, helmets work. They help prevent serious injury and even save lives, and I want to thank all the doctors who once again made this effort possible by freely giving of their time and resources," Warde added.

More than 82,000 children across the country, between the ages of five



RIMS member AnneGene Giustozzi, MD, with one of this year's helmet recipients.

and eight, were injured while riding a bicycle in 2001, according to the National Center for Injury Prevention and Control - ranking fourth among the top 10 leading causes of nonfatal, accidental injuries in that age group.

"It's our goal to help keep kids safe, and prevent some of those injuries from happening here in Rhode Island," Warde said. ❖

AMA continued

cation. Students will be required to pass a practical examination. Seems reasonable at first blush, but the exam is not given at the school, and students will sustain costs of one to two thousand dollars in travel and registration (on top of their average \$105,000 debt) to take this test. There will not be time for retakes prior to internship, so failure will result in hospitals being short of house staff. It is estimated that approximately one in ten will fail, based upon pilot testing. This is considered a done deal by the licensure boards. While we agree the skills are relevant, the testing methodology/system seems inadequate. Certainly Brown students engage in such exams as a routine part of their education already. Since resolution of the concerns seems to be not forthcoming after a year plus of negotiation, the AMA will consider tactical changes. We also heard of schools making retroactive midyear tuition increases (can you believe it?) and measures that might be taken to prevent this.

Medicare, Medicaid, and the uninsured

The AMA continues to support tax credits as a way to increase the ranks of the insured. Space does not allow a thorough discussion, but the plan is well thought out, does not preclude employer-based coverage and considers the tax credit size needed and advance payment required to expand coverage among the working poor. The Council on Medical Service advised looking to reform Medicaid with this approach, as it appears Medicaid will be severely eroded by state fiscal

woes. Additionally the Council recommended considering making long-term care a state benefit, but family care (e.g., RItE Care) a federally funded program in order to guarantee greater stability. As you may be aware, roughly one quarter of Medicaid recipients are nursing home residents, yet they consume 75% of the budget. The three-quarters who are low-income account for the remaining 25% of expenditures. An interesting report addressed balancing rate affordability for chronically ill, high-cost persons with that for the young well. Coverage is important for those who need it most, but cross-subsidization causes many well to forgo coverage because of price. A national subsidy for the high-risk pools is proposed, as state-by-state insurance regulation seems to have given us our current inadequate results, despite the best intentions. The AMA opposes Association Health Plans (employer insurance cooperatives) that are exempt from regulations regarding insolvency, prompt payment and patient protection. Finally, with fears that the Medicare fix may not gain permanency, there were resolutions regarding reinstating balance billing in Medicare as a way to sustain access.

Legislation and regulation

Legislative recommendations addressed concerns we have raised at past AMA meetings about DEA intrusion into appropriate pain management. Legislative relief regarding payment for interpreters was proposed. There was discussion about potential options for emergency action if the HIPAA Administrative

Simplification standards cannot be met by the October 2003 deadline. Electronic transmission is supposed to have already been tested with new HIPAA compliant systems at this point. This has not occurred everywhere, and the fear is that if people resort to paper submission the system will collapse. If paper submission is not allowed, a cash flow crisis will develop. Predictions of doom are premature, but concern is there, and the AMA, RIMS and specialty societies are monitoring events. The good news is that everyone — the government, payers and physicians, has an interest in success.

Health systems

These issues included introducing CPT codes for structured online evaluation and management services for established patients, and issues concerning prescription drug “benefits” at the VA. We learned that the VA has no authority to provide medications to those who are not patients in the VA system. Enrollment in the system is causing pharmaceutical costs to wipe out the VA budget. The VA recognizes this. We also recognize duplication of care, testing and the great potential for miscommunication to result in patient harm. While an ACP delegate who is a VA physician astutely remarked that most physicians would not allow a patient to have two doctors of the same specialty treating the same condition, the suggestion that we non-VA physicians tell our patients to choose between us and their drugs does not seem the solution. Apparently it will take legislation, though a cooperative approach will help

in the short term.

The inauguration of Donald Palmisano MD, JD, a general and vascular surgeon from New Orleans, as the 158th AMA President was a memorable event. With a smile of realism he reminded us of the great achievements for freedom that the soldiers of WWII were able to accomplish in the 11 months between D-Day and Victory in Europe. He said he had a year, one month longer. But we all need to be his army (and let’s have fewer casualties please). He urged us to confront the threats of a fatally flawed Medicare payment system, a “shame and blame” physician error mentality and a “jackpot justice” liability system that drives premiums up and physicians out of practice. He repeated the advice his policeman father gave him in encouraging him to follow his dream to be a physician: do your homework, have courage, don’t give up.

Let us all take that to heart. ❖

Report of the RIMS Maternal Health Committee

BY J. DOUGLAS NISBET, II, MD, CHAIR

What follows below is excerpted from the full report submitted by Dr. Nisbet to the RIMS Council regarding a regular meeting of the Committee held April 5, 2003, at Kent County Hospital.

Rhode Island has the oldest continually functioning state-wide Maternal Health Committee in the nation, originally established in 1931. Committee members are charged to identify pregnancy-related deaths (PRD) and calculate maternal mortality ratio (MMR) as a quality indicator. Opportunities for improvement in the care of Rhode Island women are discussed and information disseminated to physicians representing each hospital providing obstetrical care in the state. Records are obtained under the Confidentiality of Health Care Information Act of Rhode Island. All data is collected via the Medical Examiners Office, Department of Health, Vital Statistics, and voluntary reporting.

Summary report from 09/29/2001 meeting was disseminated and reviewed. Rhode Island maternal mortality ratio from 1991 – 2000 had been calculated at 4.9 per 100,000 and compares favorably to national and regional data. Maternal mortality ratio in Rhode Island is calculated over a running 10 year total in order to achieve statistical significance. Rhode Island has met the national Healthy Woman 2010 goal of MMR <5 per 100,000 for the past 12 years. Opportunities for improvement in the care of Rhode Island women were reviewed by the committee. In order to increase dissemination of educational materi-

als the committee agreed unanimously to forward summary data and recommendations to risk management departments of every hospital in Rhode Island. Protecting the peer review process by using abstractual cases in order to provide educational material at the RI Section ACOG meeting in August 2003 was discussed and accepted.

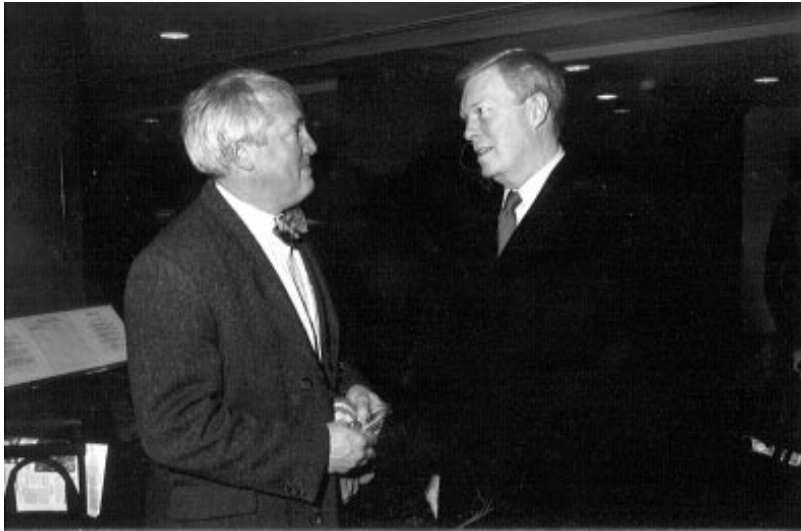
Terminology for collection of pregnancy-associated deaths (PAD) was changed in 2000 to include all maternal deaths of pregnant women within 1 year of delivery. This data will be collected, in addition to our current sources, after review of death certificate statistics. It is currently known that 98% of pregnancy related deaths occur during pregnancy or within 42 days post partum as have previously been collected until the year 2000. To include data up to one year after delivery would increase the rate of non-pregnancy related deaths

by 2 to 3 fold by including accidental and incidental causes of death not related to pregnancy. Therefore, on our current review past and current data collection of maternal deaths in Rhode Island incorporates approximately 99% of all pregnancy-related deaths and therefore maternal mortality ratio determination remains a valuable quality indicator.

Committee previously had reviewed [a case] with determination of pregnancy-related death in 2001. Three additional cases of post-partum maternal deaths were reviewed for 2002. On unanimous decision by the committee after full evaluation and presentation 2 deaths were deemed non-pregnancy-related and 1 death deemed pregnancy-related death. Two additional maternal mortalities were reviewed from 2003 and both deemed to be pregnancy-related. ❖

10-YEAR DATA 1993-2002

Number of Deliveries	136,754		
Number of Pregnancy-related deaths	6		
No. of Non-pregnancy-related deaths	6		
Maternal Mortality ratio	4.4:100,000		
Comparison MMR (per 100,000)	RI	MA	US
	4.4	5.8	7.5



RIMS Executive Director, Newell Warde talks with former US House of Representatives' Speaker, Richard Gephardt. Speaker Gephardt is a candidate for the 2004 Democratic nomination for President of the United States, he was in RI to discuss his plans for health care reform.



RIMS Resident Liaison receives recognition from the AMA

AMA Foundation recognizes RIMS Resident Liaison AnnGene A. Giustozzi, MD, at its inaugural Excellence In Medicine Awards ceremony in Washington, DC, as one of this year's recipients of the AMA Foundation Leadership Award.

This annual award recognizes 25 medical students, 25 residents and fellows, and 25 young physicians from around the country who have demonstrated outstanding leadership skills in non-clinical and community service activities.

Dr. Giustozzi is a second-year resident in Family Medicine at Memorial Hospital of Rhode Island. She is the resident representative to the Rhode Island Medical Society and the Rhode Island Academy of Family Physicians. Dr. Giustozzi is working with RIMS to establish a resident and fellow section to help address the needs of resident physicians in Rhode Island and to promote health policy and resident advocacy issues. ❖

OK, Blue Cross, where *do* our health care dollars go?

87% ? patient care

10% ? benefit admin.

3% ? reserves

- \$73 million to drive Harvard Pilgrim and Tufts from the Rhode Island market
- \$5 million for "Project Blue Print" (2000/01) and the SHAPE "study" (2001/02)
- Millions more for a SHAPE II "study" (2003-?)
- \$500,000 for the "87%-10%-3%" advertising campaign
- Millions in administrative burdens shifted to doctors
- \$637,000 in personal loans to an officer of Blue Cross

Which pea goes under which shell?

 Sponsored by the Rhode Island Medical Society, doctors and other health care professionals working to save the quality of medical care in Rhode Island.