

# Washington State Orthopaedic Association Newsletter

August 2009

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## **Supplier Sponsorships**

As an ongoing effort to offer our members value added benefits, the WSOA is in the process of creating an online directory of medical suppliers. We will also be offering sponsorship opportunities in our monthly newsletter. Each monthly sponsor will receive article space to draw attention to their goods or services. Please feel free to pass this information on to suppliers you think might have an interest in this opportunity. For information contact Darla White at 206-956-3642 or email at [ddw@wsma.org](mailto:ddw@wsma.org)

## **OIG Approves ASC Joint Venture Between Hospital and Surgeons**

The Office of Inspector General (OIG) of the Department of Health and Human Services issued an advisory opinion sanctioning a joint venture arrangement between a group of orthopedic surgeons and a hospital to form an ambulatory surgery center (ASC). The requestors of the opinion sought the OIGs input on whether the proposed arrangement would violate the anti-kickback statute, which prohibits giving or receiving any remuneration in exchange for the referral of patients to receive items or services reimbursable under any federal health care program.

The agency has developed a number of safe harbors for arrangements that could technically violate the prohibition but that contain enough safeguards that they are unlikely to result in fraud or abuse. The proposed arrangement does not meet the relevant safe harbor for ASC joint ventures between hospitals and physicians for three reasons: 1) the hospital would be in a position to make referrals to the ASC and the surgeon investors; 2) the physicians would not hold their interests in the ASC directly but through a limited liability company; and 3) the hospital and the surgeons could potentially receive different returns on their investments. The OIG analyzed the arrangement and the safeguards the parties had built into their agreement. It determined that the risk of abuse would be low, and it would therefore not impose sanctions on the parties involved.

As with all advisory opinions, the analysis in this case is limited to the requestors of the opinion and cannot be relied upon by other parties.

[Read the advisory opinion.](#)

## **Diagnostic Imaging**

**Self-referral amendment doesn't make the cut in House reform bill**  
*August 3, 2009*

A version of the healthcare reform bill passed by a U.S. House of Representatives committee last week does not include a provision that would ban physician in-office self-referral. Imaging advocates say the committee's failure to incorporate the provision into the bill will make it harder to get an anti-self-referral rule passed along with the rest of the healthcare reform plan.

## **WSOA Leadership**

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**WSOA Board Meeting Minutes**  
[June 2009](#)  
[May 2009](#)  
[April 2009](#)  
[March 2009](#)  
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**Residents**

Did you know your WSOA membership is complimentary?  
[Join today!](#)  
You'll receive complimentary registration to all WSOA CME/Annual meetings.  
Call our office for more information 206-956-3642

**Past WSOA Newsletters**  
[June 2009](#)  
[April 2009](#)  
[February 2009](#)

**Update Your Contact Information**

The WSOA feels it is critical to be able to keep its members up to date on important issues affecting your practice and patient care. Please be sure your contact information is current with our office. You may email contact information updates to Darla White, WSOA Association Executive at [ddw@WSMA.org](mailto:ddw@WSMA.org).

**WSOA Offices**

The anti-self-referral legislation was originally introduced as a standalone bill on June 19 by Rep. Jackie Speier (D-CA) as HR 2962, or the Integrity in Medicare Advanced Diagnostic Imaging Act of 2009. It would close a loophole in the Stark law that bans physician referral to entities in which they have a financial interest. Current law allows physicians to self-refer patients for imaging studies if the scanners are located within their own offices.

In July, Rep. Anthony Weiner (D-NY) and Rep. Bruce Braley (D-IA), members of the House Energy and Commerce Committee, said that they would offer Speier's bill as an amendment to the healthcare reform package being debated in their committee.

But last Friday, when the Energy and Commerce Committee passed a draft of its bill, the final version of the legislation did not include the amendment, according to Cynthia Moran, assistant executive director for government relations at the American College of Radiology (ACR) in Reston, VA. Energy and Commerce has lagged behind the two other committees -- the Ways and Means and Education and Labor Committees -- which have already approved their versions of what has been dubbed the Tri-Committee reform bill.

Even though it did push a bill through, the Energy and Commerce Committee hasn't completed its action, Moran said: it recessed with some 66 amendments outstanding, which the committee will have to take up when it returns. And, in fact, the recess won't be much of a recess at all for each of the House committee chairs and their staff. "[The bill] is still being massaged over the recess with the three authorizing chairmen [of each committee] and their staffs reviewing the various amendments agreed to in the last few days of mark-up in Energy and Commerce," Moran said. "It remains very unclear if there will be another opportunity for the amendment to be considered."

When the House returns from its recess, it will face a daunting task, according to Timothy Trysla, executive director of the Access to Medical Imaging Coalition (AMIC) in Washington, DC.

"When the House gets back, it will begin the process of cobbling together all three of the committees' bills," Trysla said. Once the House produces a bill that incorporates the versions from all three committees, it's doubtful that there will be a chance to amend it on the floor, Moran said.

As for other proposals that would affect radiology, Energy and Commerce did not revise imaging policies proposed by the House's Ways and Means Committee, Moran said. As that version of the bill stands, the equipment utilization rate for advanced imaging will increase from 50% to 75%, and the discount for imaging consecutive body parts will increase to 50% from the current 25% discount.

### **WSOA-BFOA Legal Defense Fund**

**Thank you to all who have so generously donated to the cause!  
Please make your contribution today!**

Ten percent of your contribution will go towards a newly created WSOA Advocacy Fund to help with future advocacy and defense funds efforts. Send your check or credit card information to *WSOA-BFOA Legal Defense Fund, c/o WSMA, 2033 Sixth Ave., Suite 1100, Seattle WA 98121*. Or call the WSOA office at 206-956-3642.

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## AAOS News

Call for volunteers: Ethics, Exhibits Committees August 25 is the last day to submit your application for one member opening on the Ethics Committee. The Ethics committee is responsible for the ethics initiatives of the Academy and Association, and reports directly to the AAOS Board of Directors. Applicants for this position should have a demonstrated interest in issues related to medical ethics and professionalism.

August 28 is the last day to apply for one of two member openings on the Exhibits Committee. The Exhibits Committee helps plan and organize the Academy's technical and scientific exhibits for the Annual Meeting. Applicants for this position should have an interest in planning educational programs, including technical and scientific exhibits and/or posters.

Openings also exist on a number of other committees, subcommittees, councils, and advisory boards. Visit the Committee Appointment Program Web site regularly to view new openings and find one that interests you.

[Learn more and submit your application](#)

## Save the Date!

### WSOA Annual Meeting

Nov. 13 & 14

Marriott Waterfront Seattle

Complimentary registration for ALL MEMBERS!

Please RSVP by calling 206-956-3642

To make room reservations at the Marriot please call 1-800-228-9290 or 206-443-5000.

Be sure to ask for the WSOA special room rate of just \$139/night.

## In Memoriam

Dr. Robert W. Kunkle passed away on August 9th, 2009. He was respected and admired as a surgeon, loved as a husband and family member, and cherished as a kind and compassionate friend. May the love, care, wisdom and generosity that defined his life be an inspiration to the many lives he touched. He will be remembered for his integrity and warmth, his memory everlasting in our hearts. He will be loved, honored, and missed by all.

A celebration of his life will be held on Saturday, August 22nd from 3-6pm at his home on Fox Island. Please contact Michelle Atkins at [mnmatkins02@msn.com](mailto:mnmatkins02@msn.com) for further information. In lieu of flowers, contributions may be made in his name to a memorial fund at Columbia Bank.

Please forward information regarding the passing of any WSOA members to Darla White at [ddw@wsma.org](mailto:ddw@wsma.org) so that we may share the information with your fellow colleagues.

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