



District II/NYS

Update

A publication of the American College of Obstetricians and Gynecologists, District II

From the Chair

Richard N. Waldman, MD, FACOG

Risk Management Strategies in Shoulder Dystocia

On behalf of its 4,000 members, ACOG NY has been working for more than twenty years on various initiatives, particularly legislative solutions, to address the issue of obstetric liability and the adverse impact it has on access to quality women's healthcare. Unfortunately, despite the plethora of statistics and documentation regarding the growing crisis in obstetrics and gynecology, lawmakers have failed to provide meaningful relief through substantive legal reforms. Therefore, District II has embarked on a new, alternative initiative that is designed to increase patient safety, reduce adverse outcomes and limit medical liability exposure for NYS obstetric providers.

The first phase of this initiative is centered on clinical and risk management strategies in shoulder dystocia (SD) cases. While certainly not addressing the largest area of risk exposure for ob-gyns, namely neurologically impaired infants, exploration of levels of risk exposure illustrated that risk associated with SD was substantial and would prove to be a good model on which to base future risk management education. For example, between 1985 and 2004, Erb's Palsy cases represented 9% of the liability payouts on behalf of ob-gyns by New York's largest medical liability insurance carrier.¹ The average payout was approximately \$444,000. This is second only to payouts for cases involving neurologically impaired infants, which comprised 58% of the payouts with average payments of \$615,000.²

A SD advisory board was created to assist in developing and critically evaluating the project. Expert ob-gyn members were selected from New York and across the US. Additionally, members from other professions were selected to provide broad input. The project will advance under the direction of Wayne Cohen, MD, FACOG and Richard Berkowitz, MD, FACOG. Components of the initiative include identification of specific areas of SD risk through ACOG review of closed claims from the state's largest liability insurer; development of education and training designed to address clinical and medical-legal risk; and identification and evaluation of emerging technologies as a strategy to reduce adverse outcomes and limit liability.

¹ Medical Liability Mutual Insurance Company (MLMIC)

² Id.

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What We've Done For You Lately

Each day the District II office fields many, many questions and requests. Below are some examples that you might find informative.

- Provided referral and contact information to ob-gyn requesting information on the process of professional medical conduct investigation.
- Supplied recommendations for selecting a district meeting planner.
- Responded to a request from an infertility practice regarding guidelines and criteria used in selecting practices to be participating providers in the NYS Infertility Demonstration Program.
- Met with state health and insurance officials as well as health insurance plans to remedy current obstacles in the use of IUDs including reimbursement issues.
- Met with NYS Office of Professional Medical Conduct to enhance relationship and communication between organizations, explained ACOG's grievance process for Fellows and discussed legislation to include provision of false expert witness testimony as professional misconduct.
- Participated in NYS Board of Midwifery meeting where the agenda focused on efforts to allow for a more independent practice environment for licensed midwives.
- Forwarded information to an ob-gyn for a health forum he was attending with US Senator Hillary Clinton.
- Assisted an ob/gyn practice in Florida with the development of a maternal mortality review program and hemorrhage protocol.
- Provided copies of sample practice agreements between midwife and ob-gyn.

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ACOG NY Introduces Junior Fellow Advisors



Dr. Hoskins

Iffath Abbasi Hoskins, MD, FACOG has accepted the position of Junior Fellow advisor for 2006. Dr. Hoskins is chair and residency director for the Department of Ob/Gyn, Lutheran Medical Center, Brooklyn, New York. “The most important issues facing Junior Fellows today are medical liability and malpractice costs. The lack of tort reform is absolutely their main problem,” said Dr. Hoskins. Junior Fellows may reach Dr. Hoskins at 718-630-6375 or ihoskins@lmcmc.com.



Dr. Brodman

Michael Brodman, MD, FACOG has accepted the position of Junior Fellow co-advisor for 2006. Dr. Brodman is associate professor and chairman of Obstetrics, Gynecology and Reproductive Science for the Mt. Sinai School of Medicine, New York, New York. Junior Fellows may reach Dr. Brodman at 212-241-4332.

Practice Management Tips

Practice Management Update for Obstetrician-Gynecologists – Register Today!

As rapid changes in the healthcare market make it increasingly difficult to run successful and lucrative medical practices, ob/gyns need state-of-the-art practice management skills, current information and practical solutions. To that end, District II is offering two, 4-hour ob/gyn practice management courses on **Friday, April 28, 2006, 8:00am-12:00pm (Manhattan)** and **Monday, May 22, 2006, 8:00am-12:00pm (Syracuse)**. Ob-gyns and their office staff will have an opportunity to learn about the emerging trends in medical practice management. This comprehensive ½ day program will provide invaluable information on:

- the alternative patient health insurance plans and the impact such plans will have on a practice’s bottom line;
- the nuts and bolts of how to be in compliance with HIPAA’s National Provider Identifier requirements;
- how your practice should be benefiting from the class action lawsuit settlements with managed care companies;
- how to ensure you are compensated for the quality care you provide through pay for performance programs.

For more information and to register, visit www.acogny.org.

Ob/Gyn Coding & Billing Workshop March 31, 2006 (Rochester, NY)

ACOG NY is once again offering *Successful Strategies for Ob/Gyn Coding, Billing & Documentation*. This full day

comprehensive and practical seminar is designed to improve your practice’s efficiency and effectiveness while optimizing reimbursement. It will be offered on Friday, March 31, 2006 (8:00am-4:00pm). For more information and to register, visit www.acogny.org.

Preoperative Use of Erythropoietin – Expanded Coverage Sought

ACOG NY, through its NYS Medicare Carrier Advisory Committee (CAC) representative, Giuseppe DelPriore, MD, FACOG, continues to advocate for an expansion of the indications of coverage for the preoperative use of erythropoietin (EPO, DPO or any SES [synthetic erythropoietin substitute]) to include women’s health issues. Currently, the indications only include orthopedic diagnoses. No final determination has yet been made. ACOG will keep Fellows apprised of the progress. For more information, contact info@ny.acog.org.

Reimbursement for Smoking Interventions

ACOG strongly supports physician reimbursement for tobacco cessation counseling and is making recommendations to the Centers for Medicare and Medicaid Services (CMS) as Medicare has begun to include smoking cessation counseling as a benefit. It is expected that Medicare policy will be influential on state Medicaid programs and commercial insurers. To assist ob-gyns in receiving reimbursement for smoking interventions, ACOG has included a detailed outline on how to properly code for the provision of certain services in *ACOG’s Special Issues in Women’s Health* (ACOG 2005, p. 162). The document is available at www.acog.org under “Publications.”

What We’ve Done For You Lately

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- Forwarded referral information to ob-gyn looking for medical malpractice defense attorney in her locality.
- Responded to requests for sources to locate ob/gyn quality indicators to be used as benchmarks for quality improvement activities.
- Facilitated request for a Fellow’s membership status.
- Responded to request from hospital association for ACOG ethics publications regarding patient autonomy and pregnancy.
- Assisted Fellow who is preparing an appeal from a local coverage determination by Medicare regarding preoperative use of erythropoietin.
- Obtained information for a Fellow on the criteria required for grant funding under the NYS Infertility Demonstration Program. ACOG learned that grant criteria used by the state may be obsolete and began working with the state Department of Health to revise such criteria.

The MLMIC Peer Review Advantage

By David White & Gary P. Andelora

MLMIC is a company which was originally formed by physicians for physicians. Since its inception in 1975, the Company has strived to be sensitive to the needs of its physician insureds. Accordingly, the company has a peer review mechanism in place, by which policyholders have an opportunity to appear before a panel of their peers in order to describe particulars related to their professional practice and the patient care associated with claims brought against them. This type of peer review forum has been an inherent part of MLMIC since its inception in 1975 and is unique to New York State physicians.

MLMIC's peer review process begins in its Underwriting Department. The underwriters analyze the claims experience of all the company's policyholders and categorizes their claims by frequency (number of cases) and severity (the value or cost of those cases), while taking into consideration the location of an insured's practice and specialty classification. This information is then used as the basis for developing a claims summary for policyholders whose claims records indicate a need for further review. MLMIC's Claims Department then gathers the information necessary to thoroughly review the nature and extent of an insured's claims activity.

Once the claims summaries have been compiled, they are reviewed by the Physician Underwriting Committee for possible action on the future status of a policyholder's coverage. This Committee is comprised of physicians who are experienced in assessing aspects of exposure and methods of medical practice. Committee members review the pertinent information compiled by the Claims and Underwriting Departments, and the Physician Underwriting Committee makes a recommendation with respect to the future status of an insured's policy. The recommendations may be: (1) no action taken (policyholder's coverage would remain at manual/standard rates); (2) request that an interview be conducted with the insured to make a determination for possible action; (3) the imposition of a surcharge; or (4) non-renewal of the insured's policy. If the Physician Underwriting Committee recommends non-renewal or surcharge, the policyholder in question is provided an opportunity to attend a meeting of his/her peers to discuss any cases brought against him/her that have been reported to MLMIC within the past 10 years. Policyholders who avail themselves of this opportunity will be scheduled for an interview with a group of physicians who are either members of the Claims Committee of MLMIC (the Claims Committee), or, for insureds who are members of the Medical Society of the State of New York, with the Professional Medical Liability Insurance and Defense Board (the Defense Board). The respective committees will have at

least one physician of the same specialty as the insured being interviewed. Both of these committees, like the Physician Underwriting Committee, are comprised of physicians knowledgeable in assessing the various aspects of exposure and methods of medical practice. They are also experienced in analyzing risk as presented by an insured.

The peer review interview is an informative and non-adversarial forum in which to discuss the underlying factors leading to a policyholder's loss experience. During the interview, the committee generally reviews and discusses both open and closed cases involving the insured, as well as other topics, such as the content of medical charts, office records and x-rays, the diagnosis and treatment provided by the insured, and relevant office protocols. Because of the non-adversarial nature of these discussions, it has long been the position of both reviewing committees that attorneys may not attend the insured's interview.

Following the interview, the committee members will discuss the original recommendation of the Physician Underwriting Committee and then will either uphold the original recommendation or recommend a new course of action to be taken regarding the policyholder's future insurance status. The decision made by the Claims Committee or Defense Board can go in either direction, that is, the recommendation can be a more severe or less severe course of action than originally recommended by the Physician Underwriting Committee. The policyholder is subsequently informed in writing of the Committee's final decision.

The Peer Review process available to MLMIC policyholders is unique to New York State physicians. MLMIC is the only insurer that provides an insured the opportunity to discuss, via peer review, the basis for their claim activity and the details of why an insured would have incurred unusual claim activity.

Questions and comments can be directed to the Company at 1-800- ASK-MLMIC.

**District II is considering hosting
educational courses on
various physician business models.**

**If you would be interested in attending
such courses, email District II at
info@ny.acog.org.**

Awards and Recognition



In recognition of the 25-year tenure as Chairman of the Department of Obstetrics & Gynecology and Women's Health, the Dean of Albert Einstein College of Medicine has announced the establishment of the **Irwin R. Merkatz, MD Leadership**

Dr. Merkatz Endowment for the Advancement of Women's Health. The fund is in honor of Dr. Merkatz' long, illustrious and continuing tenure as Chairman of the Department. The goal of the endowment is to create one or more endowed chairs and to raise funds to support important research in women's and perinatal health. The gala dinner celebrating this event will take place on November 9, 2006.

For additional information, please contact the District II office at info@ny.acog.org.



2006 Health and Human Rights Leadership Awards Dinner

Each year, Doctors of the World-USA honors individuals and groups for their promotion of health and human rights around the world and

Dr. Rosenfield for their efforts toward ensuring a peaceful and healthy future for all people.

This year Doctors of the World-USA will honor **Allan Rosenfield, MD, FACOG**, dean of the Mailman School of Public Health at Columbia University and a leader in global health. A consummate educator, clinician and advocate, Dr. Rosenfield is a pioneer in the fight against HIV/AIDS, a champion of women's rights around the world, and a passionate believer in the link between health and human rights in policy and in practice.

Wednesday, May 10, 2006 — 6:30PM, New York City
Table Price Starting at \$10,000
Individual Ticket Price Starting at \$500

Doctors of the World-USA ("DOW") is an international health and human rights organization founded in 1990 by a group of volunteer physicians including the late Dr. Jonathan Mann. Working within a network of 12 Doctors of the World/Médecins du Monde delegations, and in collaboration with local partners, DOW projects build long term solutions addressing crises including AIDS and TB, orphans and neglected children, women's health, and assisting survivors of gross human rights abuses such as torture and trafficking. In addition to the US, DOW has worked in over 30 countries and today is active on four continents in places where health is diminished or endangered by violations of human rights and civil liberties. For additional information, please contact Abby Miller, development manager, at 212-226-9890, ext. 224 or Abby.Miller@dowusa.org.

ACOG District II/NY 2006 Calendar of Events

- March**
- 6 **Media Training** (*by invitation*)
Albany, NY (6:00pm - 10:00pm)
 - 7 **Lobby Day** - Albany, NY
 - 12-14 **Congressional Leadership Conference** - Washington, DC
 - 13 **Section 4 (Long Island) Meeting**
Westbury Manor, Westbury, NY
(6:00pm - 9:00pm)
 - 31 **Successful Strategies for Ob/Gyn Coding, Billing and Documentation**
The Lodge at Woodcliff
Fairport (Rochester), NY
(8:00am - 4:00pm)
- April**
- 11 **Section 10 (Rochester) Meeting**
Rochester Academy of Medicine
Rochester, NY (6:00pm)
 - 24-25 **Women's Health Expo** - Albany, NY
 - 26 **Section 9 (Albany) Meeting**
Century House Inn, Albany, NY
(6:00pm - 9:00pm)
 - 28 **Practice Management Update for the Obstetrician-Gynecologist**
New York Athletic Club, New York, NY
- May**
- 6-10 **Annual Clinical Meeting**
Washington, DC
 - 7 **Advisory Council Meeting**
(*by invitation*) Washington, DC
 - 17 **Section 3 (Queens) Meeting**
Location TBA (6:00pm - 9:00pm)
 - 18 **Section 5 (Syracuse/Utica) Meeting**
Location & Time TBA
 - 22 **Practice Management Update for the Obstetrician-Gynecologist**
Genesee Grande Hotel, Syracuse, NY
- July**
- 20-21 **Annual Upstate Meeting 2006**
Canandaigua Inn on the Lake
Canandaigua, NY
- October**
- 26 **Advisory Council Dinner Meeting**
(*by invitation*) Grand Hyatt, NY, NY
(6:00pm - 10:00pm)
 - 27-29 **Annual District II Meeting**
Grand Hyatt, NY, NY

For more information, please contact the District II office at info@ny.acog.org or 518-436-3461.