

Buckeye Osteopathic Physician

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The Ohio Osteopathic Association
Spring 2013



2013

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Transformation
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preview

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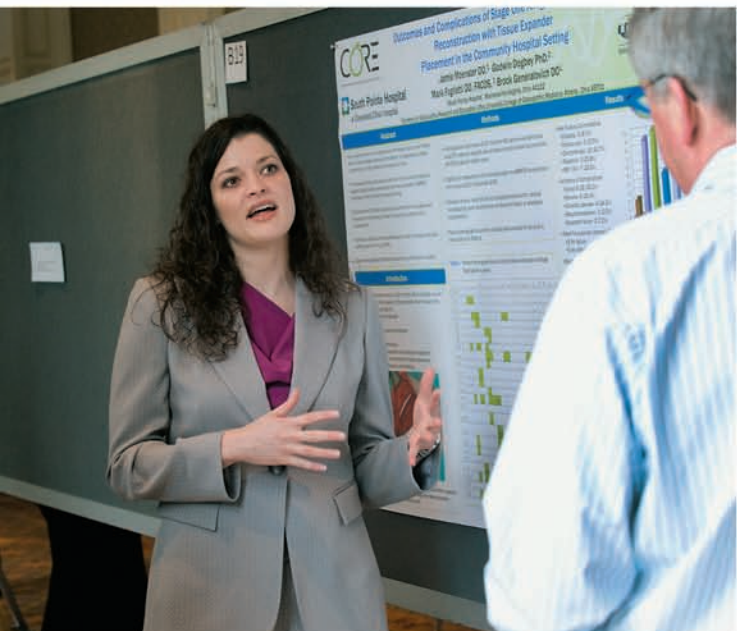
*Leading the
Transformation
of Primary Care:*

2013

OHIO OSTEOPATHIC SYMPOSIUM PREVIEW

FEATURING A HOST OF
EXPERTS, WORKSHOPS,
SEMINARS, AWARDS
AND NETWORKING
OPPORTUNITIES, THIS
YEAR'S SYMPOSIUM
LOOKS TO OUTSHINE ITS
PREDECESSORS

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us
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For three very successful years, the Ohio Osteopathic Symposium, a collaboration between the Ohio Osteopathic Association and Ohio University Heritage College of Osteopathic Medicine, has brought together hundreds of physicians. This year, the event spans five days and offers an incredible opportunity for networking and continuing education, featuring a physician to astronauts, two state Cabinet leaders, and a salute to veterans.

By Christina Ipavec

This year's Symposium will take place May 15-19 at the Hilton Columbus at Easton. The hotel will be the site of stimulating medical seminars, awards presentations, luncheons and more. Each year's Symposium has surpassed the previous event in offerings, and 2013 will be no exception.

"This year the Symposium will be the best ever," said OOA President John F. Ramey, DO, as he listed several new facets to the event. "We're starting off

on Wednesday night with a three-hour workshop. We're setting aside time for students and residents to network with the docs. We expect the poster contest to be the biggest yet. And we will honor veterans and their families with lectures that cover their unique health needs."

The Symposium is an opportunity for osteopathic physicians from around the state to come together and share knowledge with their peers, exhibitors, guests and speakers. National guests, including Ray E. Stowers, DO, president of the American

Osteopathic Association, will also be in attendance. But the Symposium's primary goal is to provide continuing medical education (CME) for DOs. The lectures and workshops will help physicians stay current on new techniques and information. The Symposium offers 32.5 hours of AOA Category 1-A credits in addition to specialty credit in select disciplines.

OU-HCOM Director of Alumni Affairs Laurie Lach, who is helping to coordinate the event, said compared to other CME programs, the Ohio



PHOTOS BY JOHN SATTLER

Symposium price-per-credit hour is among the lowest. "At the end of the day, the biggest benefit is you can earn more than 30 credit hours during a weekend," she said.

This year's theme *Leading the Transformation of Primary Care* was chosen because it is central to the mission of OOA and OU-HCOM. And as OOA Vice President Paul Scheatzle, DO, said, there's no better time than the present to convey this idea.

"It's a good time to be a DO. We've always had the focus on primary care and now society has rediscovered how beneficial a primary care-based health care system is. In this era of cost control, expanded coverage of health care and new legislation, primary care physicians are going to be critical to directing that care," he said.

Scheatzle serves as program co-chair for the Symposium, an event he said is important for the OOA and all Ohio DOs. He said that OOA is the "home"

for the state's osteopathic family and the four-and-a-half day conference addressing some of medicine's most important issues reinforces that.

He noted the lectures and topics are a result of reaching out to colleagues to find out their needs. The program planning committee selected this year's topics, as well as notable speakers who will be presenting. "We searched for DOs who are considered experts in their areas," said Scheatzle. "And because it's a collaboration, we also tried to incorporate OU-HCOM graduates as much as possible."

Affiliated organizations, including the Ohio Osteopathic Foundation, Advocates for the OOA, and Ohio ACOFP, will conduct business meetings throughout the conference. The OOA House of Delegates will hold policy sessions and committee meetings over two days. A one-day leadership program will be held specifically for residents.

The Careers in Medicine reception invites students and physicians to meet and network. "We're collaborating with OU-HCOM Office of Student Affairs to bring students to the Symposium for this special event," Scheatzle said. "Since mentoring is so important to our profession and there will be hundreds of physicians in Columbus for the Symposium, it's a natural match."

Also new this year is an Honors Reception to recognize award winners. Combined, about 10 awards will be given out by OOA, OU-HCOM and Ohio ACOFP, which will present the Family Physician of the Year Award. Separately, the JO Watson, DO, Memorial Lecture Award, a prestigious, long-standing honor, will be presented on Thursday morning. Jack Brose, DO, has been selected to deliver the lecture. Thanks to the generous support of the Osteopathic Heritage Foundations, the award carries an honorarium as well as a \$5,000 charitable contribution in the recipient's name to an osteopathic-supportive endowment, college, university or foundation of the lecturer's choice.

A research poster contest will be held Saturday. This year, the Third Annual Regional Osteopathic Exhibition & Competition expects to be so big that it will take up an entire ballroom, rather than the hotel corridors it once occupied. This is great opportunity to meet with other physicians, browse the presentations and learn about new discoveries and research by medical students and residents.

Several Osteopathic Manipulative Medicine (OMM) workshops are planned, one of which will be a two-hour presentation on Basic Sciences/Anatomy and Manual Medicine, led by Stevan A. Walkowski, DO, and Audrone Biknecivius, PhD. In addition, an OMM table will be available throughout the Symposium.

Keynote Focus on Holistic Leadership

A highlight of this year's Symposium will be keynote speaker JD Polk, DO, principal deputy assistant secretary and deputy chief medical officer of Homeland Security, Office of Health Affairs. Polk grew up in Ohio, where he served as an attending physician at MetroHealth Medical Center, a Level 1 Trauma Center, and chief of Metro Life Flight in Cleveland, before rising to

CONTINUED ON PAGE 6

chief of medical operations at NASA. He currently resides in Washington, DC, where he carries out work everyday advising government officials on health threats, disaster response, and how health care as a whole is provided to the national population, among other responsibilities.

Polk will deliver a speech on the topic of “holistic leadership,” a vision of medical care that focuses on the entire patient.

“Their mind, their body, their spirit—all the things that go into their health and well-being—is part of a uniquely osteopathic mentality and philosophy we teach our DO students,” he said. “It’s about evaluating issues in a 360-degree way.” It is because of this philosophy that there is a multitude of primary care practitioners in the field of osteopathic medicine.

Veterans Medicine and PTSD

Lectures on Friday will be dedicated to Veterans Medicine, a subject frequently at the forefront of today’s medical interests since so many veterans have returned from combat overseas and may suffer from Post-Traumatic Stress Disorder. But PTSD, as Friday’s presenters will explain, affects civilians, too. The day will kick off with a continental breakfast and color guard presentation in honor of veterans, and will be followed by a fanfare of presenters conducting educational segments, seminars and presentations dealing with health issues critical to veterans and their doctors.

Ronald C. Moomaw, DO, will discuss principles of diagnosis and treatment of post-traumatic stress disorder and how it impacts peoples’ lives. Moomaw is currently a flight surgeon and psychiatrist with NASA at the Johnson Space Center, where he works with astronauts by psychologically preparing them before all phases of a mission including

return to Earth. His research includes understanding how to help people cope with the stress of flying to Mars in coming years. Moomaw’s connections to Ohio include setting up emergency services for Franklin County.

“Post-traumatic stress disorder is huge,” said Moomaw, who will discuss how PTSD affects the brain. About 80 percent of the national prison population has the disorder, and 30 percent of the population has encountered abuse before reaching age 18. Moomaw’s work has included a multistep approach to treating individuals suffering from PTSD.

“I take an insight-oriented approach with patients, getting them to understand where the injury came from, understanding how it impacts their lives, when this is happening in their lives and then being able to change it.

“My goal is to achieve awareness,” he continued, stating that PTSD is a factor in many illnesses and sometimes even physicians have difficulty diagnosing it when masked by embellishing information or other irate behaviors used as coping mechanisms.

Todd R. Fredricks, DO, of Athens, will take the stage to discuss traumatic brain surgery cognitive assessments and rehabilitation and considerations for primary care. His presentation will help introduce primary care physicians to military culture, current ideas about TBI screening and treatment options, as well as an overview of PTSD.

“The average American physician does not have much opportunity to actually get to know veterans, and so the concern becomes familiarity of civilian physicians with issues like TBI and PTSD in patients that have military service,” said Fredricks. “More than 1 million Americans have served in the war on terrorism.” The goal is for the civilian practitioner to understand the implications of trauma in veterans in order to best help them heal.

“Veterans are all around us, but may hesitate to discuss their experiences with a nation that can be seen as indifferent towards veterans due to a lack of understanding of what happens during conflicts,” Fredricks said. “TBI affects more than just veterans, even those with sports injuries such as concussions. The US military has become a leader in this research and care.

“My presentation will help identify specific areas in which we can educate civilian physicians to better understand

veteran issues, as well as transmit lessons learned in life-saving techniques during combat to benefit the nation as a whole,” he said.

Mobile Integrated Health Care Practice

OU-HCOM graduate Eric H. Beck, DO, medical director at EMS System for the City of Chicago, will give a presentation on Mobile Integrated Health Care Practice (MIHP), a novel delivery health care model that links existing mobile health infrastructure and personnel, communications and information technology infrastructure and other resources in ways not previously available to the public. Beck has a background in emergency medical services.

“We can optimize patients’ experiences,” maintained Beck, who questions the current way the triage system works and suggests instead that care has the potential to be directed by a multidisciplinary team of providers and merely overseen by a physician.

“This infrastructure already exists in every community,” said Beck. “It’s not new; it’s another way of linking existing people and infrastructures together.”

Tools for Diabetes Management

A significant portion of Saturday’s program will be devoted to diabetes education. Diabetes continues to be an epidemic in the state of Ohio, affecting up to 12 percent in some areas such as southeastern Ohio, so it’s naturally an important topic for physicians to stay current.

Presenting *The Nuts and Bolts of Diabetes*, a two-hour-long seminar, will be Jay H. Shubrook, Jr., DO, along with Frank Schwartz, MD, Jeremiah Nelson, MD, Aili Guo, MD and Amber Healey.

Shubrook also will hold a workshop on diabetes numeracy—a form of literacy dealing with numbers—with Sharon Reynolds, as well as a *Bench to Bedside* segment with Darlene Berryman, PhD, and John Kopchick, PhD. Shubrook’s goal is to provide physicians with practical tools that they can use right away in their practices, such as information on hypoglycemia, insulin management and new medications. Physicians should come away from the session knowing how to screen someone for diabetes numeracy, even having an inter-algorithm they can use in their everyday practices.

MORE INFO

Get the complete schedule and register online at www.oanet.org/CME



A highlight of this year's Symposium will be a segment dedicated to Veterans Medicine, a subject frequently at the forefront of today's medical interests since so many veterans have returned from combat overseas and may suffer from Post-Traumatic Stress Disorder.

Cabinet Leaders on the Agenda

A three-hour block of lectures about Addiction Medicine will close the Symposium on Sunday morning. The program will be led by Orman Hall, director of the Ohio Department of Alcohol and Drug Addiction Services, and includes an *Addiction 101* session as well as a panel discussion on medication assisted treatment.

Hall, who was appointed to his position by Gov. John Kasich in January 2011, has more than 20 years of experience in the management, planning, monitoring and evaluation of public mental health and substance abuse services, and is widely regarded for his work around opiate addiction and prescription drug abuse. Prior to joining ODADAS, Hall served as executive director of a county ADAMH Board and chair of a county opiate task force.

"Ohio has experienced a 1,000-percent increase in opiate painkiller doses prescribed in the past 12 years," Hall said. "We've seen some signs of success in the work that's been

done over the past couple of years, but to reduce opiate addiction and overdose deaths we have to change prescribing patterns and expand medication-assisted therapy for the recovery of Ohioans."

Another Cabinet-level official will present at the Symposium on Saturday morning. Ohio Department of Health Director Theodore E. Wymyslo, MD, will discuss current health initiatives in the state.

The State of the Profession

OU-HCOM Dean Kenneth H. Johnson, DO, is the lunchtime speaker on Thursday. He will present the *Osteopathic Vision Address*. Johnson, an engaging speaker, was appointed to his position in August. Since then, he has been working on the College's regional extension campuses in central Ohio and Cleveland, leading medical education, research and community service initiatives, and expanding partnerships and collaborations.

"The transformational changes we're working on today build on a decade of dramatic transition and expansion for our college," he said.

At Saturday's luncheon, Robert L. Hunter, DO, of Dayton, will be installed as OOA president. Hunter, a dedicated leader in the profession, is a past president of Ohio ACOFP and Dayton District Academy of Osteopathic Medicine. He has served on the OOA Board of Trustees for several years and is co-chair of the Ohio Osteopathic Political Action Committee. He is also a graduate of the AOA Health Policy Fellowship Program, served as the profession's representative on several state and national panels, and chaired the State of Ohio's Medicaid Pharmacy & Therapeutic Committee.

Hunter, who was program chair of the 2012 Symposium, said he looks forward to this year's convention. "The Symposium is a wonderful time for the entire osteopathic family to come together to engage and network with students, and reconnect with peers," he said.

Program Chair Scheatzle agreed, adding: "My hope is for Symposium attendees to walk away feeling they not only earned the credit hours, but they learned things they will be able to implement right away."



Solo and Small Group Practices Have New Help in Staying Autonomous and Competitive

OOA Practice Solutions Program provides holistic benchmarking, integrated business solutions

It's unlikely that famed children's author Dr. Seuss had osteopathic physicians in mind when he said: "Sometimes the questions are complicated and the answers are simple." Yet that's exactly the intent behind the OOA's new Practice Solutions Program. It's a straightforward, business-based solution to today's complex practice environment.

By Jan O'Daniel

"Being a physician has never been more demanding and challenging than it is today," said OOA Executive Director Jon F. Wills. "To survive, you have to be able to maximize the productivity of your staff, capitalize on the billings of your practice, control your costs and protect your practice from every inevitability."

And that's not easy—especially for solo and small group practice members juggling the demands of delivering quality patient care with ever-changing regulatory requirements. Remaining independent really is harder than ever.

That's why, after listening to the input of OOA members and examining the practice landscape, the OOA came up with this inventive new program.

Far more than a compilation of preferred providers, the Practice Solutions Program is a holistic approach to helping OOA members improve the safety, quality and efficiency of their practices. Featuring OOA's team of legal, insurance, health information technology, and practice management experts, the program provides affordable business solutions to help solo and small group practices increase

patient satisfaction, reduce risks and improve the bottom line.

"Essentially the Practice Solutions Program provides a safe place for OOA members to come for good, solid advice," said Wesley B. Gipe, of Agil IT, OOA's information technology partner.

"This is not a pay-to-play or revenue-sharing arrangement," said Gipe. "It's truly based on real collaboration through an integrated platform. Our job as partners is to identify areas of opportunity for OOA members."

While not every practice will need the services offered by the Practice Solutions Program, those who do will benefit with better integration of necessary quality improvements, coupled with maximizing their reimbursement opportunities, all without hiring staff or needing to become business, technical, insurance or legal experts themselves.

The Practice Solutions Program lets osteopathic physicians do what they do best—focus on patient care.

Joseph M. Pannitto, of the OOA Insurance Agency, said: "With this program, we've tried to surround the practice on all sides: containing costs, implementing and running electronic systems, and capturing receivables as effectively as possible. We help those practices that want to stay independent run better, safer and more cost efficiently."

The Practice Solutions Program partners look at different levels of a practice, from identity theft to privacy to billing allegations to professional liability to office and equipment coverage.

"Each partner organization tackles small practice issues from a unique standpoint," said Eric A. Jones, JD, of the Jones Law Group, OOA's legal partner. "For example, I represent physicians in every legal area except medical malpractice, including compliance, credentials and legal questions relating to staffing or billing. I also help practices recover on accounts

+ MEET THE PARTNERS



Wesley B. Gipe, Agil IT

Gipe offers over a decade of experience in health care information technology, driving business results through an integrated approach encompassing people, process and technology. The scope of his experience has spanned many aspects of ambulatory health care administration including assisting with the evaluation of infrastructure for EHR readiness, platform selection, clinical and operational workflow optimization, and challenges associated with mergers, new practice formation and new facility planning.



Eric A. Jones, Jones Law Group

Jones Law Group was founded by Eric A. Jones who has extensive experience in all facets of health care. Prior to founding the Jones Law Group, LLC, Eric served as an executive of a managed care company where he was responsible for provider contracting and credentialing; vice president at an Ohio hospital where he was responsible for physician and patient relations; and assistant chief of the Bureau of Managed Care for ODJFS where his responsibilities included expanding Medicaid managed care statewide.



Joseph M. Pannitto, OOA Insurance Agency

Pannitto started his career helping Ohio health care professionals in 1995 with The Premium Group, Inc., the managing agency for the OOA Insurance Agency. The Premium Group has been endorsed by the Ohio Osteopathic Association since 1996 for professional liability insurance. The OOA Insurance Agency is a wholly owned subsidiary of OOA and OOA members who use the services are helping to support their state association and local district academies

receivable and generate a lot more cash for the operation."

It's the expertise of each partner combined with the synergy of the partnership that makes the Practice Solutions Program work, Jones said. When one area of the business becomes more efficient and cost-effective, it can free up cash flow for another area, often

providing a greater return.

"Practices know they need to make some changes," Gipe said. "A move to electronic health records, for example, has many implications including changes to insurance and legal requirements as well as to how things work on the collections side. Everything

CONTINUED ON PAGE 10

“ This is not a pay-to-play or revenue-sharing arrangement. It's truly based on real collaboration through an integrated platform. Our job as partners is to identify areas of opportunity for OOA members. ”

– **Wesley B. Gipe**
Founder, Agil IT



+ TIME FOR A CHECK-UP?

The Practice Solutions Program partners recommend an annual benchmarking, at a minimum. Here are other circumstances that may warrant a review:

- A major business change
- Negotiating the sale of a practice to a hospital
- Adding physician(s) to the practice
- Selling the practice to a junior partner

ties back to reform and we need to sync business processes accordingly.”

Understanding what changes need to be made (and how to make them) is what the Practice Solutions Program is all about. And it begins with an analysis of the overall business model, operations and workflow processes. Working together, each of the partners makes suggestions to the practice on how to increase revenue or decrease costs. Because each partner stays in close communication with the other, the findings in one area often lead to bigger wins for another.

Better still, said Pannitto, is that

physicians do not have to involve themselves in the minutia or, worse, become paralyzed by all that needs done to remain competitive.

“So much is thrown at OOA member practices these days that it can seem like the best thing is to do nothing,” he said. “Sometimes physicians can feel like they’re on an island because they get very little training in the business aspect of their practices.”

The Practice Solutions Program helps independent practices make the move from a volume- to quality-based practice model. It’s really about identifying the areas of opportunity

specific to an individual practice.

“This Program is a good opportunity for OOA members to benchmark their practice,” Jones said. “Either one or all of the partners will look at what you’re doing. And, if you’re doing everything well, you’ll get feedback letting you know you’re making good decisions.”

Of course, if there are areas for improvement, the Program partners will create a plan for helping practices contain costs and protect themselves.

“We have brought together a very competent and enthusiastic team that wants to work holistically and help our members,” Wills said, “whether that’s continuing the process of adopting electronic health records, helping them understand the medical home concept, or keeping up with the requirements necessary to maximize reimbursement. We now have a team to go in and systematically help a practice identify risk, improve flow and make it more patient oriented so they can maximize reimbursement while providing top quality care.”

To schedule a complimentary, no-obligation intake assessment or to learn more about the Practice Solutions Program, contact the OOA Central Office at 614-299-2107 or 800-234-4848.

“ So much is thrown at member practices these days that it can seem like the best thing is to do nothing. Sometimes physicians can feel like they’re on an island because they get very little training in the business aspect of their practices.

– **Joseph M. Pannitto**
Vice President, OOA Insurance Agency ”



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Court Watch

OOA keeps close watch on state's court challenges

Since 2005, the OOA has joined with the Ohio Hospital Association and Ohio State Medical Association to file “friend of the court” briefs supporting the state’s current tort reform statute in the Ohio Supreme Court. The OOA also partners with the Ohio Alliance for Civil Justice to continue reforming the state’s civil justice system and preserve objective, reasoned and impartial interpretations of Ohio law.

The Ohio Supreme Court has had a flurry of activity involving medical malpractice issues in recent years, and the docket has no shortage of pressing cases that will be decided in the near future. At the top of the list is a recent decision in *Ruther v. Kaiser*, which became a major victory for the medical community’s efforts to preserve tort reform.

Decided in December 2012, *Ruther* upheld Ohio’s “statute of repose,” maintaining the four-year time limit for a patient to file a medical malpractice case. According to the Ohio Revised Code, the time period starts to run

when either the injury or a foreign object is discovered or when the doctor/patient relationship for the condition in question ends, whichever comes later. The only exception is in cases involving minors or others of “unsound mind.”

“I watched the oral argument for this case last spring, and it originally looked like a train wreck for us,” said Richard L. Sites, general counsel and senior director of Health Policy for the Ohio Hospital Association. “Plaintiff argued, with support from some justices, that no medical malpractice statute of repose is constitutional, so I

expected a 4-3 decision in favor of the plaintiff; but in the end, the court voted 6-1 to uphold its constitutionality—I was pleasantly surprised.”

Sites, a member of the Board of the Ohio Alliance for Civil Justice, has been watching court cases for the Ohio Hospital Association since Ohio’s new tort reform and civil justice laws went into effect a decade ago. In 2005, he invited the OOA to join the hospitals and Ohio State Medical Association in tracking medical malpractice cases and, when appropriate, making joint *amici curiae* appearances at the Ohio Supreme Court level.



OOA Executive Director Jon F. Wills said the OOA Board of Trustees saw the invitation from the Ohio Hospital Association as an opportunity to ensure that key provisions of SB 281, SB 120, SB 179, and SB 215 were not weakened by trial attorneys or activist court judges. The “Court Watch Partnership” allows the three associations to support physicians and hospitals by arguing that current statutes should be upheld or ruled constitutional.

“If the Ohio Supreme Court had not upheld the current statute of repose in *Ruther v. Kaiser*, physicians could have been sued 10, 20, or even 30 years after an alleged incident occurred,” Wills said. “This uncertainty would have caused chaos in the insurance community and taken us back to another crisis of unaffordable insurance premiums.”

According to Wills, Ohio has had a stable professional liability

insurance climate since 2003, when Ohio legislators passed the first comprehensive medical malpractice tort reform since 1976. By implementing a new series of restrictions, caps and clarifications, the Ohio General Assembly was able to restore predictability and reverse skyrocketing insurance premiums that were driving Ohio’s physicians into early retirement.

Wills said state lawmakers were so concerned about court challenges that they even put language in SB 281 to clarify why they were enacting new medical tort laws. One section of the bill actually described the professional liability insurance crisis that existed at the time, as well as the intent of lawmakers drafting the bill. The section also cited case law upholding specific language. They even asked the courts to uphold the legislature’s intent when making future rulings about the constitutionality of the law.

Beyond *Ruther v. Kaiser*, other hot-ticket cases still to be decided include *Johnson v. Smith* and *Moretz v. Muakkassa*. The first case addresses what is known as the “I’m sorry” clause, while *Moretz* challenges whether a jury can hear information concerning reimbursement actually received versus billed charges before they are reduced by significant insurance write-offs.

In February, the Supreme Court heard argument in *Johnson v. Smith*, and a ruling is expected later this year. The core issue in this case is to determine whether an expression of regret by a physician to a patient can be used to help establish malpractice, a key provision prohibited by SB 120.

Moretz v. Muakkassa, also pending, involves a recurring issue related to billed charges versus what patients pay for medical services (or reimbursed charges). This issue was first challenged

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KEY PROVISIONS OF OHIO'S TORT REFORM LAWS

SB 281

- **Fee and Cost Shifting** – Permits defendant to obtain court costs and attorneys' fees if no reasonable good faith basis existed for plaintiff's claim. (RC 2323.42)
- **Damage Caps** – Limits non-economic loss to \$350,000/plaintiff or \$500,000/occurrence unless permanent loss/substantial physical deformity, then \$500,000/plaintiff or \$1 million/occurrence. (RC 2323.43)
- **Periodic Payments** – Regulates future damages awards exceeding \$50,000, utilizing periodic payment plans. (RC 2323.55)
- **Collateral Source** – Allows defendant to introduce evidence of some collateral benefits. (RC 2323.41)
- **Arbitration Agreements** – Provides that arbitration agreements entered into prior to care is binding. (RC 2711.22, 2711.23)
- **Statute of Repose** – Bars actions filed more than four years after the incident giving rise to the claim except for minors, persons of unsound mind, or others who could not have discovered injury (for example, due to an undiscovered foreign body). (RC 2305.113)

SB 120

- **Percentage Share of Fault** – A) If defendant is liable for more than 50 percent of tortious conduct, then defendant is jointly and severally liable for all compensatory damages representing economic loss. B) If defendant is liable for less than 50 percent of tortious conduct, then defendant is only liable for its proportionate share of compensatory damages representing economic loss. (RC 2307.22)
- **Non-economic Damages** – Defendants are only liable for their proportionate share of damages, regardless of their degree of fault. (RC 2307.22)

- **Set Offs** – Allows for full set-off even without a finding that a defendant is liable in tort. (RC 2307.28)
- **Empty Chairs** – Allows jury to apportion fault to non-parties. (RC 2307.23, 2315.33-.36)

SB 179

- **Credentialing** – Creates rebuttable presumption that accredited health care entity is not negligent in its credentialing. (RC 2305.251)
- **Immunity** – Grants immunity to peer review committee members. (RC 2305.251)
- **Reports** – Expands incident report confidentiality. (RC 2305.253)
- **Peer Review** – Expands peer review confidentiality (RC 2305.252); restates and strengthens prior provisions that proceedings and records within scope of the peer review committee are confidential and cannot be used in certain civil actions, and codifies some case law.

HB 215

- **Expressions of Sympathy** – Prohibits the use of defendant's statements of sympathy as evidence. (RC 2317.43)
- **Experts** – Tightens qualifications for expert witnesses. (RC 2743.43)
- **Early Dismissal** – Provides for the use of affidavits of noninvolvement to dismiss suit. (RC 2323.45)
- **Reporting** – Regulates the collection and disclosure of medical claim data from insurers. (RC 3929.302)
- **Expert Certificate** – Requires plaintiff to include a certificate of expert review as to each defendant when filing medical claims.

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in another case—*Robinson v. Bates*—nearly six years ago. In that case the Supreme Court sided with the associations to allow juries to receive this information. But, after losing in court, plaintiff attorneys turned to the legislature last session to try to erase the decision through HB 361.

“Fortunately the attempt to pass HB 361 failed, too,” said Wills, “but now, the trial lawyers are back in court raising the same issue in *Moretz v. Muakkassa*. One thing is certain, they don't seem to take ‘no’ for an answer.”

Wills said important principles that have been supported in other “Court Watch” actions include keeping caps on non-economic damages, requiring affidavits of merit, having a narrow interpretation of the loss of chance doctrine, limiting emotional distress, and using John Doe as a placeholder when naming parties in a medical claim. Wills added the cases involving Ohio's statute of repose and the loss of chance doctrine were so important nationally that the American Osteopathic Association, American Hospital Association, and American Medical Association all joined in those amicus briefs as well.

“The Supreme Court has ruled on the side of tort and civil reform in almost all of these cases,” said Anne Marie Sferra, a partner with the Columbus law firm Bricker & Eckler, who has crafted all of the amicus briefs on behalf of the three associations. “We will continue to watch for legal challenges to laws important to the medical community.”

Amicus Briefs Filed under Court Watch

The OOA, OHA and OSMA have filed 12 amicus briefs since 2005 in an effort to preserve tort and civil justice reform measures. They are (in chronological order by date of the Supreme Court decision):

Robinson v. Bates (2006)

Principle involved: Billed Charges Versus Actual Payment Consideration.

Associations argued that juries needed the information to avoid overcompensation.

Decision: Favorable.

“ The Supreme Court has ruled on the side of tort and civil reform in almost all of these cases. We will continue to watch for legal challenges to laws important to the medical community.

– Anne Marie Sferra, JD
Partner, Bricker & Eckler ”

Arbino v. Johnson & Johnson (2007)

Principle involved: Constitutionality of Caps on Non-Economic Damages for Non-Medical Claims.

Although this case did not involve medical claims, the associations argued that they support caps for non-economic damages generally and in medical cases specifically because they are necessary to ensure the availability of medical services.

Decision: Caps on non-economic damages, such as pain and suffering, were ruled constitutional.

Manley v. Marsico (2007)

Principle involved: Affidavit of Merit.

Associations argued a motion to dismiss should be final for failure to comply with the Civil Rule 10(D) that requires an affidavit of merit be included with the Complaint.

Decision: Unfavorable. The Court held that a dismissal for failure to comply with the Affidavit of Merit rule is without prejudice to refile the Complaint.

Fletcher v. University Hospitals of Cleveland (2008)

Principle involved: Affidavit of Merit.

Associations argued that the proper remedy for failure to attach the required Affidavit of Merit was dismissal pursuant to a motion to dismiss. In contrast, the plaintiff argued that a motion for a more definite statement was the proper recourse, which would allow repeated attempts to correct the deficiency.

Decision: Favorable.

Schelling v. Humphrey (2009)

Principle involved: Negligent Credentialing.

The OHA and the Ohio Osteopathic Hospital Association argued that a plaintiff should not be able to pursue a negligent credentialing claim against a hospital in the absence of a prior finding that the medical negligence of the physician at issue caused harm to the plaintiff.

Decision: Favorable.

Erwin v. Bryan (2010)

Principle involved: Using “John Doe” as a Placeholder for a Defendant.

Associations argued that when the identity of a particular health care provider is known before the expiration of the statute of limitations, the plaintiff should not be permitted to utilize Civil Rule 15(D) to extend the applicable statute of limitations by naming a “John Doe” defendant and later substituting the previously known health care provider as a named defendant.

Decision: Favorable.

Jacques v. Manton (2010)

Principle involved: Billed Charges Versus Actual Payment Consideration.

Associations argued the Ohio Supreme Court’s decision in *Robinson v. Bates* applies equally to cases decided after the effective date of the new collateral benefits statute.

Decision: Favorable.

Loudin v. Radiology & Imaging Services, Inc. (2011)

Principle involved: Emotional Distress.

The Associations challenged a decision that created a new independent tort claim for “negligent infliction of emotional distress,” even when the plaintiff was unable to prove actual physical injury or other harm arising from her medical malpractice claim. The Associations argued that allowing such an independent claim would result in an end-run around established limitations for medical negligence claims.

Decision: Emotional distress stemming directly from a physical injury is not a basis for an independent cause of action.

Geesaman v. St. Rita’s (2010)

Principle involved: Loss of Chance Doctrine.

Associations argued against expansion of the loss of chance doctrine to persons who had more than a fifty percent chance of survival prior to the physician’s alleged negligence. Under this circumstance, a plaintiff is

required to prove liability under the traditional “but for” proximate cause standard. To date, the loss of chance doctrine in Ohio has applied only to wrongful death cases, and that appears to be the prevailing view in other states as well.

Decision: Appeal dismissed by the Court as improvidently allowed. The doctrine was not expanded, but the patient was allowed another trial, a setback for the physician involved.

Ruther v. Kaiser (2012)

Principle involved: Constitutionality of the Four-Year Statute of Repose for Medical Claims.

Associations argued that failure to uphold the constitutionality of Ohio’s current statute would impose never-ending uncertainty upon Ohio’s physicians and hospitals.

Decision: The statute was held to be constitutional as applied.

Johnson v. Smith (Pending)

Principle involved: Expressions of Sympathy.

Associations argued that the statute, which excludes a physician’s statements expressing sympathy or apology to patients and patients’ family members from being used as evidence, is applicable in this case even though the statute became effective after the patient’s medical procedure. The reason for this is that the express language of the statute requires it to be applied, because this case was filed after the statute became effective. The Associations urged the Court to reinstate the trial court’s decision, which excluded the physician’s statement of sympathy from evidence because Dr. Smith’s statement reasonably could be construed as made to console his patient.

Moretz v. Muakkassa (Pending)

Principle involved: Billed Charges Versus Actual Payment Consideration.

Associations argued the decisions in previous cases allow this information to be considered. ¶



Students from Ohio University Heritage College of Osteopathic Medicine prepare to board a charter bus for Washington, DC, March 13, 2013. They traveled to the nation's capital to participate in "DO Day on the Hill" the following morning. DO Day is the profession's largest advocacy event.

Day on the Hill: Ohioans Advocate in DC

More than 1,000 DOs, osteopathic medical students, and others—including a large delegation from Ohio—gathered in Washington, DC, March 14, 2013, for DO Day on Capitol Hill, the largest osteopathic advocacy event of the year. Participants met with Congressional representatives and senators to discuss issues important to physicians and patients.

The American Osteopathic Association (AOA) organized the annual event.

Almost 90 Ohioans participated, 55 of them students from Ohio University Heritage College of Osteopathic Medicine (OU-HCOM). The Ohio delegation also included students from Lake Erie College of Osteopathic Medicine; Lincoln Memorial University-DeBusk College of Osteopathic Medicine; Philadelphia College of Osteopathic Medicine; West Virginia College of Osteopathic Medicine; and University of Pikeville Kentucky College of Osteopathic Medicine.

OOA President John F. Ramey, DO, of Sandusky, said the event was very

successful and provided visibility for the osteopathic profession. "It was a prime opportunity to educate our members of Congress and their staff about osteopathic medicine and communicate our positions on critical health policy issues," he said. "And the students did a great job. They are wonderful ambassadors for our profession."

As president of the Student Osteopathic Medical Association at OU-HCOM, Matt Robinson, DO, OMS II, coordinated student participation. He said the advocacy day is a valuable experience.

"Participating in DO Day gives me time to set aside studying and look at some of the political issues facing medical education and the health care profession," he said. "My hope is that the passion I have for osteopathic medicine will be apparent to our representatives, and that they will be encouraged to seek reform on our behalf."

George Thomas, DO, a past president of the AOA, said having the profession out in full force demonstrates the community is dedicated to protecting and preserving the cornerstones of

osteopathic medicine. "It's so important for members of the profession to be here for DO Day," he said. "The more physicians and students we have participate, the more Capitol Hill will understand osteopathic medicine and welcome our positions on important health policy issues."

Collectively, attendees represented 42 states and had more than 365 visits with House and Senate offices to discuss the AOA's top advocacy priorities, including a permanent fix to the Medicare physician payment system, medical malpractice liability reform, and increasing graduate medical education training capacity.

During the briefing session that kicked off the morning, US Rep. Allison Schwartz (D-PA) announced the introduction of legislation to establish 15,000 new GME positions.

The OOA provided round-trip bus transportation, Athens-to-Washington, DC, for the students. To prepare for the event, OOA Health Policy Chair Peter A. Bell, DO, held a briefing several months ago with students in Athens.

Ohio Profession Holds its First Internet CME

The free webinar hosted by the OOA last year was a resounding success by every measure, despite a few attendees' technological hiccups.

Alternatives to Opioid Use: Pain Management and Safe Prescribing was presented live, November 28, 2012, by Cleanne Cass, DO, of Dayton. She covered proper prescribing of pain medications, alternative therapies, CDC guidelines, Ohio law, OARRS, and the new ED guidelines for prescribing in emergency departments and physician offices. According to a post-webinar evaluation, 85 percent of attendees thought the presentation excellent or very good.

Cass was located in Athens at Ohio University Heritage College of Osteopathic Medicine to film the live, interactive broadcast. OU-HCOM was a cosponsor of the CME event and provided the technology and IT support.

The internet program, worth 1.5 Category 1-A credits, was made possible by a grant from the AOA Council on Continuing Medical Education with support from OU-HCOM. The AOA awarded \$5,000 grants to seven accredited CME sponsors to develop and pilot the online CME program.

OOA Nominates Juhasz for AOA Position

The OOA has nominated Robert S. Juhasz, DO, of Cleveland, as a candidate for 2013-2014 president-elect of the American Osteopathic Association.

Juhasz, a past president of the OOA, has been an AOA trustee since 2005 and a member of Ohio's delegation to the AOA House of Delegates for 20 years.

OOA President John F. Ramey, DO, noted Juhasz has served the osteopathic profession with distinction at the local, state and national levels for 30 years. "His vision, dedication, enthusiasm, and hard work clearly demonstrate his ability to lead," Ramey said. "Not only that, he has a strong knowledge of policy issues—an essential quality

for leadership in our rapidly changing health care environment."

A nomination letter and brochure highlighting Juhasz's accomplishments were sent to all physicians who serve in the AOA House of Delegates. The election will be held in July.

New Membership Brochure Highlights Services

When paying dues for 2013-2014, OOA members will notice some new items in their confirmation mailing. A 16-page, color brochure detailing all of the OOA's programs and benefits—along with a little bit of history—will be sent to all members.

The brochure is organized using the OOA strategic planning goals centered on GREAT, which stands for governance, research, education, advocacy, and teamwork.

OOA President John F. Ramey, DO, said the booklet is a valuable resource for members, including osteopathic medical students and residents.

"If you have any question about what the OOA offers, this pamphlet will answer it," he said. "It clearly outlines the benefits of membership and how joining the OOA is an investment in your profession."

The new membership materials also include an "Ohio Osteopathic Association Member" decal, suitable to display on an office door or checkout window. The traditional membership card, complete with individual AOA number, is also included.

In addition, a new membership application to complement the brochure is in the works. That marketing piece, designed specifically for peer-to-peer recruiting, will be finalized in time for the Ohio Osteopathic Symposium in May.

To pay your dues, use secure online processing at www.oonet.org.

Student Trustee Testifies in Ohio Legislature

OU-HCOM Student Government President Simon R. Fraser, OMS II, who serves on the OOA Board of Trustees,

testified in support of HB 143 before the Ohio Senate Health, Human Services and Aging Committee, November 28, 2012. The bill won final approval in December and was signed into law by Gov. John Kasich.

The new law expands mandated education activities in youth sports to better inform players, parents and coaches about the seriousness of concussions and head injuries. It also specifically requires clearance by a health provider serving as a team physician to return a player to competition. Individuals serving as team physician must be supervised by, collaborate, consult, or refer to a MD or DO as required by their scope of practice.

Fraser formerly played professional football with the Cleveland Browns and Atlanta Falcons. His testimony provided first-hand experience.

OOA Executive Director Jon F. Wills had been following the legislation and made arrangement for Fraser to testify.

Profession Supports Strong Tobacco Oversight

The OOA joined the American Heart, Lung and Cancer organizations, Ohio Academy of Family Physicians, and approximately 25 other groups to send a letter to Ohio's Congressional delegation urging them not to cosponsor legislation that would exempt cigars from oversight by the Food and Drug Administration.

The organizations previously supported the Family Smoking Prevention and Tobacco Control Act, which went into effect in 2009. That legislation gave the FDA authority to regulate tobacco products and to include warning labels concerning public safety. Legislation first proposed last year would prevent FDA from implementing even basic public health protections such as warning labels, ingredient listings, and restricting youth purchasing for cigars.

The National Cancer Institute found that cigar smoking causes cancer of the oral cavity, larynx, esophagus and lung. According to the 2011 *Youth Risk Behavior Survey*, nearly 18 percent of high school boys currently smoke some type of cigar. ¶



A gala reception, held November 26, 2012, in Cleveland, celebrated OU-HCOM's planned extension campus in affiliation with Cleveland Clinic. Many of the osteopathic profession's local, state, and national leaders attended. Pictured here (l-r) are AOA Executive Director John B. Crosby, JD; OOA Executive Director Jon F. Wills; OOA President John F. Ramey, DO; AOA Trustee Robert S. Juhasz, DO; AOA President Ray E. Stowers, DO; Ohio University President Roderick J. McDavis, PhD; OU-HCOM Dean Kenneth H. Johnson, DO; and Cleveland Clinic CEO Toby Cosgrove, MD.

Profession Celebrates OU-HCOM's Planned Extension Campus at Cleveland Clinic

A gala reception last fall at Cleveland Clinic's Sydell and Arnold Miller Family Pavilion Rooftop welcomed the dean of Ohio University Heritage College of Osteopathic Medicine (OU-HCOM), Kenneth H. Johnson, DO, and celebrated the college's planned extension campus in affiliation with Cleveland Clinic, scheduled to open summer 2015.

More than 150 medical professionals, OOA leaders, health system leaders, business leaders, civic leaders and higher education professionals attended the event, highlighting the significant impact that the expanded partnership will have for health care in northeast Ohio as well as the future of medical education.

OU-HCOM and Cleveland Clinic have been longtime partners in osteopathic medical education. Cleveland Clinic South Pointe Hospital, then called Brentwood Hospital, was one of the original hospitals where OU-HCOM students received clinical training when the college convened classes in 1976, and it was the first osteopathic hospital in Ohio approved for training residents in family medicine.

"The opportunity we have is to create a medical education experience that puts us five, ten, 15 years in the future," said Johnson. "We're looking for people who have significant leadership skills who are dedicated to primary care. As we transform

medical education we can also transform the way that we take care of people. I want us to lead in a way that other people want to come along."

Pending accreditation, the campus will open with an initial class of 32 medical students in July 2015. The students will spend all four years of medical school at the northeastern Ohio campus.

Toby Cosgrove, MD, president and CEO of Cleveland Clinic said: "This partnership reflects a national trend toward greater integration among health care organizations and together we have found an innovative way to work together to improve medical education and patient care for all."

OHIO DOs IN THE NEWS

Deaths in the Family

OOA Life Member **Robert E. Butz, DO**, died February 17, 2013. He was 80 years old.

Butz had a successful 44-year career at Grandview Medical Center in Dayton, where he served as chair of the Urology Department for 12 years and chair of the Utilization Review Committee for six years.

He achieved fellow status in urological surgery from the American College of Osteopathic Surgeons and was part of the clinical faculty for Ohio University Heritage College of Osteopathic Medicine.

Butz was born and raised in Allentown, Pennsylvania, and graduated from Philadelphia College of Osteopathic Medicine in 1958.

In addition to his wife Char and family, he is survived by his loyal walking buddy, Boomer.

Contributions can be made in his honor to the Grandview Foundation, 405 Grand Avenue, Dayton 45405-9906, or Alzheimer's Association, Miami Valley Chapter, 3797 Summit Glen Drive, G100, Dayton 45449. Online condolences may be sent to www.tobiasfuneralhome.com.

Gregory W. Carpenter, DO, of the Cincinnati area, died February 26, 2013, from melanoma. He was 63 years old.

Carpenter practiced Internal Medicine in Mason for more than 22 years, though his path to medicine was different than most. He entered Ohio University Heritage College of Osteopathic Medicine in his early 30s after first working at a General Motors factory in Dayton. Later, he was a pharmaceutical representative and then earned his undergraduate degree in biology and chemistry.

His family called him an "old school doctor" who, complete with black bag, did hospital rounds, then nursing home rounds, then saw his own patients.

An avid motorcyclist, he rode the same Harley for three decades. He also enjoyed boating vacations.

Carpenter was a US Army veteran.

He is survived by his wife and two daughters.

Memorials may be made to Society for Melanoma Research,

Attn: SMR Administrator, c/o Site Solutions Worldwide, PO Box 215, Burnt Hills, NY 12027 or online at www.societymelanomaresearch.org or American Heart Association. To send condolences, visit www.muellerfunerals.com.

OOA Life Member **Speros A. Gabriel, DO**, of Kettering died February 20, 2013. He was 84.

Born in Chicago, Gabriel graduated from Wright Junior College and Roosevelt University, both in Chicago, and received his doctorate from Des Moines College of Osteopathic Medicine and Surgery. He completed his internship and surgical residency at Grandview Hospital in Dayton, where he worked as a general surgeon for 42 years.

He was a member of Annunciation Greek Orthodox Church and Christ United Methodist Church.

Gabriel was an avid sports fan, and especially enjoyed Ohio State football.

His survivors include a loving circle of friends and family, including son Andrew H. Gabriel, DO, and wife of 59 years, Phyllis.

Contributions may be made to the Phyllis Lyn Gabriel Memorial Scholarship Fund, c/o Christ United Methodist Church, 3440 Shroyer Road, Kettering 45429. To send condolences to the family, go to www.routsong.com.

Lori Gill Grennan, DO, of Columbus, died January 21, 2013, after a 40-month battle with inflammatory breast cancer. She was 36 years old.

Grennan will be remembered as a loving wife, mother, daughter, sister, friend and dedicated physician. She will also be remembered for her fundraising efforts to combat IBC, raising more than \$100,000. Her story propelled the work of the IBC Network Foundation and the money she raised directly funded pivotal research. Grennan's projects included a silent auction and "Hunt for Hope," a scavenger hunt in Central Ohio. The Hunt was featured on several local news programs.

Until her diagnosis, she practiced at Family Medicine at Darby Creek. She was a graduate of Ohio University Heritage College of Osteopathic Medicine and trained at Doctors Hospital in Columbus.

Grennan is survived by her

husband Kevin; son Liam (7); daughter Nora (4); parents; and siblings.

Contributions may be made in her memory to IBC Network Foundation – Ohio at www.theibcnetwork.org/donate or The IBC Network Foundation, PO Box 908, Friendswood, Texas 77546.

John M. Kata, DO, 69, of Mentor, died January 24, 2013.

A practicing physician for more than 40 years, Kata was a trusted doctor and a beloved husband, father, grandfather, son and brother.

He was a graduate of Cathedral Latin High School, Loyola University of Chicago, and Chicago College of Osteopathic Medicine. Kata practiced Internal Medicine.

His survivors include his wife, Jane; six children; and seven grandchildren.

Memorial contributions may be made to St. Jude's Children Research Hospital, 262 Danny Thomas Place, Memphis 38105.

Edward J. Kauffman, DO, 71, formerly of Columbus, died December 15, 2012, after a long illness.

Following his graduation from the College of Osteopathic Medicine and Surgery in Des Moines, Iowa, Kauffman served two years in the US Navy. He and his wife Bobbie then moved to Columbus, where he began practicing medicine. He was one of the founding physicians of Sedalia Medical Center, where he practiced family medicine for 40 years. During that time, Kauffman served as chief of staff at Doctors Hospital North.

He retired from practice in 2001 when he was diagnosed and treated for malignant pheochromocytoma.

In addition to his wife of 50 years, he is survived by three sons.

Memorial donations are requested to the Pheo Para Alliance, PO Box 504, Arlington, PA 22216; the Arthur James Cancer Center at The Ohio State University; or the charity of your choice.

William C. Rankin, Jr., DO, of Marietta, died November 6, 2012, at Marietta Memorial Hospital. He was 83 years old.

Rankin, a life member of the OOA, took great pride in his medical career

CONTINUED ON PAGE 20

and practiced for 52 years at his office in Devola. He and his father, also a physician, worked together until the late 1960s.

Rankin received his BA in education from Marietta College and graduated from the Des Moines School of Osteopathy. He served his residency at Selby Hospital and was former chief of staff there. He specialized in cranial work.

Dedicated to his patients and to his community, he served as longtime team physician for the Marietta High School basketball and football teams. He was a member of the First Presbyterian Church and served as elder there for many years.

He enjoyed boating, working on his antique trucks, golfing, camping, hunting, traveling and spending time with his grandchildren. He was also a Civil War enthusiast and a big Ohio State fan.

His wife of 62 years, Barbara; two children; and three grandchildren survive him.

Memorial donations may be made to First Presbyterian Church or to Marietta

Community Foundation (earmarked for East Muskingum Civic Association), PO Box 77, Marietta 45750.

Michael A. Stockton, DO, of Columbus, died November 7, 2012, after a battle with cancer. He was 61 years old.

Before retiring due to illness, he was assistant medical director at Southeast Mental Health, a position he was deeply committed to because of his strong belief that every person deserves honor and respect. Stockton also served as the organization's mobile van psychiatrist for the outreach program to the homeless. In 2005, his team was cited by the US Department of Health and Human Services for exemplary work.

Stockton, who was board certified in Psychiatry and Neurology and certified in detox acupuncture, received his BA degree with distinction from the University of California, Berkley and medical degree from Kirksville College of Osteopathic Medicine. He also graduated from Karl Menninger School of Psychiatry.

He is survived by his wife, Cheri; four children; and four grandchildren.

Memorial contributions may be made to Kobacker House, 800 McConnell Drive, Columbus 43214.

OOA Life Member **Thomas K. Swope, DO**, of Portsmouth, died August 30, 2012. He was 79 years old.

Swope opened his practice in Portsmouth, his hometown, in 1959 and practiced there until his semi-retirement in 2005. He was also a part-time physician at Scioto Cancer Center and the Adams County Cancer Center.

He graduated from Kirksville College of Osteopathic Medicine and served his internship at Grandview Hospital in Dayton.

Active in his community, Swope was a member of Cornerstone United Methodist Church and its adult choir and hand bell choir; the St. Anne/St. Andrews Visitation Team; Aurora Lodge #48; Valley of Cincinnati Scottish Rite; and the Portsmouth Symphony Orchestra. He served on the board of the Scioto County Habitat for Humanity, which named its West Portsmouth project in his honor.

He is survived by his wife, Esther.

Memorial donations may be made to Scioto County Habitat for Humanity, PO Box 2023, Portsmouth 45662, or to Cornerstone United Methodist Church, 808 Offnere Street, Portsmouth 45662.

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