

CalDerm[®] Update

The Voice of California Dermatology

California Society of Dermatology & Dermatologic Surgery

NEWS FOR CALIFORNIA DERMATOLOGISTS

FALL 2008

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CalDerm Legislative & Regulatory Wrap-up for 2008

By John Caldwell, CalDerm Government Relations Director
Public Policy Advocates, Sacramento

A Very Busy Year Ends Well

2008 was a very busy legislative year for CalDerm. We saw a significant number of bills that would have had a detrimental impact on many dermatologists in California. In fact, had it not been for CalDerm, some of these bills might have become law.

Let's start our review of 2008 by looking at some of the bad legislation CalDerm fought. Then we will look at some of the other legislative highlights of the year including the bills that were prompted by the death of the mother of entertainer Kanye West.

Three Bad Ideas that CalDerm Helped Prevent from Becoming Law

Some of the ideas we dealt with were so bad that they fall into the category of: "You can't make this up."

I) As introduced, AB 2734 (Krekorian) required that all physician advertisements include a physician's Medical Board license number, as well as the Medical Board's phone number and web site. The definition of "advertisement" was so broad that it would have required the license number (and Medical Board information) on virtually any communication that contained the physician's name – including billing statements, business cards and even ads for charitable events that simply listed a physician's name.

CalDerm was an early opponent of the bill and in response to our criticisms the author's staff amended the bill. But even as amended it was still unreasonable.

For example, the newer version specified that business cards, not just advertisements, would be subject to the disclosure requirements. And the bill was very specific as to the appearance and placement of the license number. For example, the license number had to be preceded by the phrase "California Medical Board License Number." And the CMB/license number combination would have to be "in close proximity" to the physician's name and it had to be the same font size as the physician's name!!!

These requirements would have resulted in each dermatologist having to consult with an attorney every time they sent out a piece of paper with their name on it.

When the bill came to the Assembly Floor, CalDerm, working with others including the Dental Association and the Chiropractic Association lobbied much of the Assembly membership on the bill. The result was a lopsided vote against it. In the Assembly, it takes 41 votes for a bill to pass. AB 2734 got just 16 votes.

II) As introduced, AB 2841 (Ma), required physicians to provide an outrageous "disclosure" to prospective liposuction patients. The disclosure, which the patient would have to sign, would have stated that that the reusable cannula to be used in the procedure had "been used on other patients." Physicians know there is nothing wrong with reusable surgical instruments, but the average patient would undoubtedly react negatively to

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President's Message



Jerome Potozkin, M.D.

We are living in an age of uncertainty and anxiety. A peek at the fluctuations in the Stock Market over the past two months have been scarier than the Medusa Rollercoaster at Six Flags. Many of us have seen our nest eggs shrivel to the point where it seems all we have left is the nest. We are concerned about what will happen to the health care system or our taxes with a new president. Whether or not you continue to invest in the stock market is up to you. However, investing in your specialty is sure to pay off in the long run.

You can invest in the specialty of Dermatology in many ways. The board members of CalDerm work tirelessly on your behalf. Our efforts are focused upon monitoring the legislative process. We look at hundreds of bills and analyze them for their potential impact upon dermatology. Our goals are to preserve your earning power,

free you from unnecessary regulation, and lobbying on behalf of our patients. The old adage "no news is good news" certainly applies to the process. We had a successful year as you did not hear of any new laws that would adversely impact your practice. However, as we begin a new legislative year we can count on new challenges in Sacramento

You may be wondering how you can help your own cause. There are many opportunities to get involved. I am excited that several dermatologists who were at the annual meeting in Santa Barbara have stepped up to participate in CalDerm's committees. Even if you are not on the board you may serve on a committee. I urge each of you to renew your membership as CalDerm is the only organization with the sole purpose of helping the California Dermatologist. We are working hard for you. At this time we need you to help us. Help us by letting us know what you need from us to better help you. Help us by spreading the good word about CalDerm and getting your colleagues to become dues paying members. We look forward to a great and challenging year.



Jerome Potozkin, M.D.
CalDerm President

CalDerm Awarded with the ASDS President's Award

CalDerm has been selected to receive the 2008 President's Award by the American Society for Dermatologic Surgery for significant contributions to the specialty of dermatology. The recognition is in appreciation to CalDerm for its efforts to create a partnership with ASDS/A to strengthen and amplify the policymaking voice on behalf of dermatologic surgery and its patients. CalDerm and ASDS/A worked hand-in-hand this year in California to influence public policy measures as they relate to patient safety for cosmetic medical procedures which use energy-based devices.



*ASDS President, Darrell Rigel, M.D. presents
CalDerm President, Jerome Potozkin, M.D.
with the ASDS President's Award.*

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such a statement. Worse, the mandated disclosure would have to include the “number of patients for which the reusable adipose cannula” had been used — meaning that dermatologists would have to track the use of each cannula. Finally, the mandatory disclosure would have included a statement that “an alternative to reusable adipose cannulas may be available for the adipose medical procedure in the form of disposable adipose cannulas.”

The “disclosure” was clearly designed to 1) raise illegitimate doubts about reusable medical instruments and 2) drive prospective patients to demand the disposable product. Not surprisingly, the manufacturer of disposable cannulas hired a high-powered lobbying firm to push the bill through. But CalDerm, working with others including the California Society of Plastic Surgeons, lobbied the members of the Assembly Business and Professions Committee and after two hearings, the author effectively dropped the bill because she simply did not have the votes.

III) In the final days of the legislative session the Schwarzenegger Administration started shopping for an author for a surgical clinic licensure bill. As a practical matter, if this passed any physician-owned clinic that is now accredited by one of the three major accrediting bodies would instead have to be licensed by the California Department of Public Health (DPH). Among other things, the proposal would have enacted costly hospital-like building standards including the requirement that the clinic owner “provide the department with evidence of satisfactory completion of the structural and building requirements set forth” in the state building code.

When the proposal was released in mid June, the Administration made it clear that their intent was to place this language in a bill that was near passage so we had to move quickly. CalDerm’s Legislative Committee immediately reviewed the draft proposal and concluded that this proposal, if enacted, would be a bureaucratic nightmare for many dermatologists. For example, any physician who uses conscious sedation would be subject to

the burdensome regulations that were designed for hospitals and larger surgical clinics. The Administration said the proposal was in response to the Capen decision which seemed to limit the DPH’s ability to regulate some surgical centers. But in our view, that problem could be solved without such drastic measures.

With that analysis in hand, we approached the legislative committees that would have to approve such a proposal. Our goal was to prevent the language from being placed into any bill that was still alive and moving. This was simply too big a subject to tackle in the final days of the session. Working with others, including the California Society of Plastic Surgeons, we were successful; the Administration eventually abandoned the effort. However, they made it clear that the issue will be back in 2009.

Two Events Generate Legislation

In addition to the three bills described above, we were very busy on other fronts. What made it such a busy year? Two unconnected events: First, the death of Kanye West’s mother while undergoing cosmetic surgery in Southern California. And second, the refusal of the California Medical Board to issue regulations on Med-Spas.

The Death of Donda West

On November 10, 2007 Donda West, the mother of famous rap star Kanye West, died less than 24 hours after undergoing a 5 1/2 hour operation which involved significant liposuction, a partial reduction of her right breast and implants on both breasts. Her tragic death led to two bills.

AB 2968 (Carter) was brought to the author by the family of Donda West. Initially the intent of the bill was to require, prior to cosmetic surgery, an examination and clearance by a physician not performing the procedure. CalDerm and others spoke with the author’s office about the impracticality of the requirement and eventually they clarified that the physician performing the procedure could also perform the examination. CalDerm did not oppose the bill from that point forward. The bill passed both houses, but was vetoed by the Governor.

SB 1454 (Ridley-Thomas) was the

vehicle for the Chairman of the Senate Business and Professions Committee. It was a massive bill with many proposals including significant new requirements for the three accrediting agencies.

On the plus side, the bill required the California Medical Board to establish as one of its priorities the investigation of unlicensed activity or corporate practice of medicine violations in clinics or other settings using laser or intense pulse light devices. On the negative side, it required that all physicians had to wear a name tag that included their name and license status. This latter provision was sponsored by the California Society of Plastic Surgeons.

CalDerm worked with the author, trying to get the name tag requirement deleted while supporting the other provisions. But the provision that increased enforcement priorities for the Medical Board would have been very costly to the state at a time when the state faced a huge deficit. As a result of those fiscal concerns, SB 1454 was killed in the Assembly Appropriations committee.

Medical Board Actions on Med-Spas

In 2006 CalDerm sponsored SB 1423 (Figueroa) which was passed and signed into law. It directed the Medical Board of California and the Board of Registered Nursing to review the issue of the safety of lasers in elective cosmetic procedures and to come up with regulations by January of 2009 on, among other things: “The appropriate level of physician supervision needed.”

After numerous hearings, the Board voted on February 1 of this year NOT to promulgate any regulations as required by the law. CalDerm and the American Society for Dermatologic Surgery (ASDS) appealed that decision but the Medical Board has so far refused to reverse their position.

ASDS, with strong support from CalDerm, then tried to deal with the issue through legislation. As introduced, AB 2398 (Nakanishi), required “direct supervision “by physicians in the case of cosmetic procedures using lasers. But that language met with significant opposition from the California Society of Plastic Surgeons. The Plastics agreed to a compromise but

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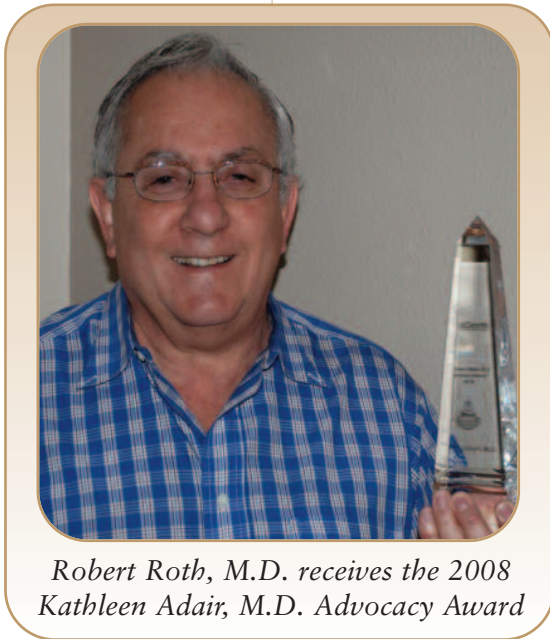
Reflections: CalDerm 2008 Annual Meeting

By Alexander Miller, M.D., Annual Meeting Chair

The 2008 Annual Meeting, which was held from September 12 through 14, was a great success in all ways desired. The venue, Fess Parker's DoubleTree Resort in Santa Barbara, was spacious and welcoming. The program and the evening activities were enthusiastically well attended. The locale: Santa Barbara. Beautiful!

The goal of our Annual Meeting is to provide an ample and varied educational program in a resort-type location that is appealing to both the professionals attending and to their families. We succeeded in attracting an excellent faculty and a great turnout of attendees and exhibitors.

CalDerm strives to provide an educational session that encompasses topics of relevance to everyone's dermatology practice. To this end, sessions covering medical, pediatric, surgical, cosmetic dermatology, dermatopathology and coding, collecting and professional liability were presented. The intent is that the meeting has "something for everyone." The "everyone" seems to agree, as we generated a record number of registrants with over 200 physicians and filled the lecture hall. The professional exhibit area, which featured 61 exhibitors, was an added instructional bonus. Our full schedule of educational activities occupied Friday afternoon, all day Saturday and Sunday morning. This left time for a Welcoming Reception on Friday evening and a CalDerm PAC reception on Saturday. Each of the receptions had extra bonuses. The Friday reception was held in the exhibit hall, where both the professional attendees and the exhibitors could partake of the treats and could interact in a relaxed setting.



Robert Roth, M.D. receives the 2008 Kathleen Adair, M.D. Advocacy Award

The Saturday reception featured food, live music, and a tasting of wines from 11 Santa Barbara appellation wineries. The highlight of the reception was the awarding of the Kathleen Adair, M.D. Advocacy Award to Robert Roth, M.D. Dr. Roth is an active dermatologist who was a CalDerm Board member and past President. He effectively

lobbied for the preservation of our practice of dermatology as we know it. The efforts of energetic volunteers like Dr. Roth help all of us in dermatology, yet are not overtly known to most practicing dermatologists. It was a delight to have Dr. Roth recognized for his work.

Saturday morning featured the annual CalDerm Residents Forum. Each year gets more competitive and this year the Forum played host to case presentations from Stanford, the Naval Medical Center in San Diego, UC Los Angeles, UC Irvine and the University of Southern California. Of the nine presentations, three were selected and ranked one through three which constitute the annual CalDerm President's Award. These award winners were Vanessa London, M.D. of USC in first place, Carolyn Lee, M.D. of Stanford in second place and Benjamin Nichols, M.D. of USC in third place. Each received a text book from Elsevier Mosby/Saunders publishing company.

Thank you to all who attended the meeting. The CME program evaluations, written and verbal comments, are invaluable in giving future program planners guidance. Your input is seriously considered and incorporated into the planning of the following year's program.

Next year's Annual Meeting will be held September 11- 13, 2009 at the Hilton La Jolla Torrey Pines. It is a stunningly beautiful location that promises another great educational experience. We encourage you to partake!

CONGRATULATIONS TO THE 2008 CALDERM ANNUAL MEETING PROGRAM COMMITTEE FOR ORGANIZING A SUCCESSFUL EVENT!

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Annual Meeting Needs Assessment

Each year we ask for input from California dermatologists on how CalDerm can develop an accredited education program that meets your needs. Please find inserted into this newsletter the CalDerm Annual Meeting Needs Assessment survey. If you have not already done so, please complete this brief survey and fax back to CalDerm at (916) 244-0330. Your opinion(s) on content, delivery styles and location are greatly appreciated and help CalDerm offer accredited education that is most appealing to you and your practice.

2009 CalDerm Membership Dues Campaign Underway

Collection for 2009 CalDerm membership dues is underway. You will be receiving your letter in the mail within days and we ask that you please show support of your profession in California by becoming a dues paying member of CalDerm. Many CalDerm volunteers work on your behalf to protect your business and healthcare practice interests here in California.

CalDerm volunteers serve on committees that analyze important legislative and regulatory issues, develop the annual meeting program that brings accredited continuing medical education to you here in California, and pool expertise to lend fellow members advice and guidance. CalDerm volunteers also represent California derma-

tologists on a number of advisory committees at both the state and national levels.

CalDerm is the only organization that exclusively represents California dermatologists before the California State Legislature and state regulatory agencies, and works to ensure that California dermatologists are collectively represented on issues that impact you each day. Please see the cover story of this newsletter for a summary of how CalDerm represented you in the 2008 legislative session. CalDerm has also worked with several local dermatology societies in California to bring CME opportunities a little closer to home by introducing a new CME Joint Sponsor program for your local and regional meetings. And each year,

CalDerm hosts Skin Cancer Awareness Day at the state capitol where volunteer members offer a free skin screening clinic for Legislators, their staff, the staff of many key healthcare agencies and the public. Last May, CalDerm volunteers screened nearly 250 people – a record for this event which is growing in popularity every year.

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CalDerm would like to thank the following members who contributed to the CalDerm PAC (political action committee) during the 2008 year. Visit the CalDerm web site at www.calderm.org to make your contribution.

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**NEWS FOR CALIFORNIA
DERMATOLOGISTS**

**California Society of
Dermatology & Dermatologic
Surgery**

**980 Ninth Street, PMB #1600
Sacramento, CA 95814**

**(916) 498-1712 Phone
(916) 244-0330 Fax**

**membership@calderm.org
Email**

**www.calderm.org
Web Site**

**Karmi Ferguson, MBA
Executive Director**

**John Caldwell
Public Policy Advocates,
Government Relations
Director**



This issue of CalDerm Update is underwritten by a grant from Allergan. On behalf of the California Society of Dermatology & Dermatologic Surgery, we wish to thank Allergan for this support and in helping to inform readers of issues that protect the business interests of all dermatologists in California.

CalDerm has become the new identifying acronym for the California Society of Dermatology & Dermatology Surgery, replacing "CDS." In effort to establish a more easily identifiable brand and organizational consistency, CalDerm is now a registered trademark and will represent the Society on all forms of communication.

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unfortunately, that compromise brought on the strong opposition of the California Association of Nurses.

Eventually the decision was made to abandon the issue of supervision. Instead, the bill was re-written to take on the bad actors. Specifically, the bill increased penalties for so-call "rent-a-docs" – physicians who allow their names and licenses to be used as a cover for Medi-Spas that are run by non-physicians in violation of California law.

Despite strong opposition from the Med-Spas, AB 2398 made it through the Assembly and all the Senate committees. But in the final days of session, the bill was held hostage by the

Senate leadership. CalDerm and ASDS were told that AB 2398 would not be let off the Senate floor unless SB 1454 (Ridley Thomas), described above, was freed from the Assembly Appropriations Committee. On the last day of session, SB 1454 was finally freed, but by then the Senate had adjourned and AB 2398 was dead for the year.

As noted, we could see the resurrection of some of the aforementioned issues in the 2009 session. CalDerm, the voice of California dermatology, will be there every step of the way. Please do your part to support your profession by becoming a dues paying member of CalDerm.