

# CalDerm<sup>®</sup> Update

The Voice of California Dermatology

California Society of Dermatology & Dermatologic Surgery

NEWS FOR CALIFORNIA DERMATOLOGISTS

SPRING 2008

## 2008 Legislative & Regulatory Report

By John Caldwell, CalDerm Government Relations Director

### California Medical Board Hearing

**S**B 1423 (Figueroa) of 2006 directed the California Medical Board to review the issue of the safety of lasers in elective cosmetic procedures and, among other things, draft regulations relating to the appropriate level of physician supervision. After numerous hearings on the issue – which included testimony by CalDerm – the Board voted on February 1, 2008 not to proceed with the regulations.

The Board's thinking was reflected in the pre-meeting staff recommendation. Specifically, the Executive Summary stated: "Following consideration from testimony at the three forums and analysis of the laws and regulations that relate to cosmetic procedures and the delegation of procedures to allied health pro-

fessionals, staff is not recommending regulatory action at this time." Later, it was explained that enforcement was the issue: "It appears there may be no further laws or regulations; however there is a need for more resources for enforcement to proactively address the issues."

On February 1, 2008 the Medical Board voted unanimously to approve the staff recommendations on the

*CalDerm will consistently support regulations and legislation aimed at protecting the patient.*

Figueroa bill -- no new regulations but steps to be taken to increase enforcement. Dr. Janet Salmonson and Dr. Mary Lynn Moran both spoke passionately about the fact that the Board is not adequately enforcing the law today.

Once the Board's decision to not promulgate regulations became apparent, the American Society for Dermatologic Surgery (ASDS) approached CalDerm and asked us to join with them in submitting a petition to the Board asking that the Board adopt regulations – specifically the petition proposed a standard of "direct supervision." CalDerm agreed to sign on. ASDS since has introduced legislation – AB 2398 (Nakanishi) – that is a vehicle to deal with the same issue. We admit that getting the Board to change their minds and go forward with regulations will not be easy, nor will overcoming the strong opposition – inside and outside the House of Medicine – to enacting a legislative solution to this problem. However, CalDerm will consistently support regulations and legislation aimed at protecting the patient.

### 2008 Legislation That Impacts Dermatology

The death of Donda West, the mother of entertainer Kanye West, has led to at least two bills:

SB 1454 (Ridley-Thomas) has numerous parts. One part of the bill requires standardized procedures in case of serious complications from cosmetic surgery. The language is presently very vague. CalDerm is already working with the author's office to make sure that the requirement is narrowed to situations involving general anesthesia. The bill also contains advertising proposals by the California Society of Plastic Surgeons and vague language to encourage increased enforcement by the Medical Board of violations of the ban on the corporate practice of medicine in clinics using lasers.

AB 2968 (Carter). This bill comes from the family of Donda West. Yolanda Anderson is her aunt and a constituent of bill's author Wilma Amina Carter. In addition, Anderson's husband works at Wilma Amina Carter High School. According to staff, the idea of the bill (not reflected in the language in the bill), is to require an examination and clearance prior to cosmetic surgery by a doctor other than the doctor performing the procedure. The staff added further that this requirement would only apply in cases of anesthesia. If the author amends the bill in the manner described, CalDerm will work to clarify that the requirement for the examination and clearance applies only in the case of procedures involving general anesthesia.

### Reusable Adipose Cannula

According to Assembly Member Fiona Ma (D-San Francisco), former

*Report continued on page 3*

### SAVE THE DATE!

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## President's Message



*Craig A. Kraffert, M.D.*

Spring is here and Melanoma Monday is just around the corner. For the eighth consecutive year, CalDerm is hosting Skin Cancer Awareness Day at the State Capitol in Sacramento. Several CalDerm Members have volunteered to staff CalDerm's Annual Capitol Skin Cancer Screening Clinic on Monday May 5th. The screening is popular and prominent legislators attend each year. CalDerm's Skin Cancer Screening Clinic provides a valuable service for State Officials. In addition, the physical presence of CalDerm Members volunteering at the Capitol year after year augments awareness of CalDerm in the political arena.

Spring is also the time when the yearly crop of legislative bills grows and develops. 2008 is no exception. Over 750 bills were introduced last month and at least seven of them have potential implications for the practice of dermatology in California. With the assistance of John Caldwell and the team at Public Policy Advocates, CalDerm is monitoring these bills and keeping our 'eye on the ball' to help ensure that Dermatology's interests are represented and defended. This representation is one of the key activities funded by membership in CalDerm and CalDerm PAC.

Thanks to both the generosity of CalDerm's membership and supporters as well as the CalDerm Board's financial stewardship, CalDerm's fiscal condition is solid. A solid financial position is important for our membership because it enables CalDerm to withstand inevitable 'storms.' Past experience at CalDerm has repeatedly shown that potentially damaging proposed legislation and regulatory action can arise out of nowhere. California's continually unsettled political environment requires

financial reserves to ensure proper representation and influence during unforeseeable and unavoidable 'challenging times' for Dermatology.

CalDerm Members have recently expressed concern and frustration over failure of the California Medical Board to take action against 'medi-spas' intentionally violating the Medical Practice Act. The infractions are commonplace and include lack of physician supervision and illegal corporate practice of medicine. CalDerm is working with the American Society for Dermatologic Surgery (ASDS) to persuade the Medical Board to clarify the definition of physician supervision for cosmetic medical procedures. Our good friend John Valencia is leading up this effort in his role on behalf of ASDS and CalDerm is in full support. The plan consists of both a regulatory petition to the Medical Board and a back-up legislative bill (AB 2398 - Nakanishi). Although this effort may not yield clarity on supervision requirements for cosmetic procedures, CalDerm is optimistic that the effort will help compel the Medical Board to enforce existing law and reign in egregious illegal medi-spa behavior that places patients at risk.

CalDerm's Annual Meeting is set for the weekend of September 12 -14, 2008 at the beautiful Fess Parker's Resort in Santa Barbara. Again this year the academic program promises to be first-rate and Santa Barbara has consistently been our most popular location. Please join us for a fun and interesting time. In 2009 CalDerm's meeting will move to the Torrey Pines Hilton for the weekend September 11 - 13, 2009.

Remember to mark your calendar on September 12 - 14 for CalDerm's Annual Meeting in Santa Barbara. See you there!

A handwritten signature in gold ink that reads "Craig A. Kraffert M.D.".

Craig A. Kraffert M.D.  
CalDerm President

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*Report continued from cover*

State Senator Steve Peace had a relative who had problems with liposuction. No other details have been provided. So the author is carrying AB 2841 for Peace. It would mandate that patients be told prior to the procedure that the adipose cannula has been used previously. CalDerm is strongly opposed to this bill.

#### **Other 2008 Legislation of Interest:**

AB 2734 (Krekorian). Sponsored by the Los Angeles City Attorney. Requires a public communication by a licensed physician and surgeon (as well as other medical professionals) to include a valid license number, contact information for the appropriate licensing agency and a notice to contact the agency for further licensing details. CalDerm is strongly opposed.

SB 1406 (Correa). A major optometry scope expansion. The bill basically allows an optometrist to diagnose, treat and manage any disorder or dysfunction of the visual system independently. And it grants optometry full usage of all pharmaceutical agents as well as allowing optometrists to perform any minor surgical procedure that does not require general anesthesia. CalDerm is strongly opposed.

SB 1640 (Ashburn). Deletes the ban on the corporate practice of medicine and instead authorizes corporations and artificial legal entities to have professional rights, privileges and powers. CalDerm is strongly opposed.

#### **Skin Cancer Awareness Day at the State Capitol**

For the last eight years CalDerm physician volunteers have participated in a free skin cancer screening clinic held each May (designated as skin can-

cer awareness month) at the State Capitol. This year the clinic will be held on May 5, 2008. While the clinic is open to the general public, the majority of participants are legislators and their staff that work in the Capitol as well as staff from various state agencies. The benefits are two-fold: CalDerm raises awareness of prevention and early detection of skin cancer among California's policy-makers and uses this opportunity for CalDerm leadership to visit legislators and discuss pending bills or issues of concern.

#### **Leadership Change in the State Legislature**

In early February, the voters rejected Proposition 93 which would have extended the terms of all legislators. The result was that the leadership in three of the four legislative caucuses was termed out at the end of this year. In short order the new leaders were chosen: Senator Darrell Steinberg (D-Sacramento) was elected to replace Senate President pro tem Don Perata (D-Oakland), Assembly Member Karen Bass (D-Los Angeles) was chosen to succeed Assembly Speaker Fabian Nunez and Senator Dave Cogdill (R-Modesto) was voted to take the place of Senate Republican Leader Dick Ackerman (R-Fullerton). The replacements will not take office until later this year. But when Bass and Steinberg take their new posts, expect some new committee chairs and possibly some committee shake-ups. And when it comes time to negotiate the budget, there will be a lot of new faces around the table.

#### **California's Budget Mess**

The latest estimates are that next year's budget will have an \$8 billion deficit – and that is expected to grow. In the past few years, the state's boom-

ing real estate economy generated enough revenue – combined with some creative accounting – to avoid the day of reckoning. But as you are aware, the state's tax base has taken a big hit – in lower property tax revenues and lower capital gains revenue. And the one-time accounting gimmicks have almost all been used up. So fixing the problem won't be easy.

The only way out of the mess is major budget cuts (including education) or significant revenue increases. The Democratic leadership did agree to cut MediCal rates by 10 percent (over the objections of the California Medical Association). But the Democrats have since made it clear there will be no more major cuts, especially to education. Meanwhile the Republicans are just as adamantly opposed to tax increases and without GOP support no tax increase can pass (a 2/3 vote is required and the Democrats are short of 2/3 in each house). When Pete Wilson was Governor and he faced a similar situation, and he was able to come up with a package of budget cuts and tax increases. As part of the package, he managed to get enough Republicans to vote to increase the taxes. That won't happen this year. The Republicans in the Legislature say they won't vote for any tax increase even if the Governor asks for their support.

The result will be a long summer as the Legislature will miss the June 15 deadline. How will it end up? A fellow lobbyist who specializes in budget issues says he has always been able to figure out what the end deal will look like. This year, he can't see one.

*John Caldwell is a partner with Public Policy Advocates, LLC in Sacramento and CalDerm Government Relations Director.*

## **CalDerm Provides CME for Local Dermatology Groups**

CalDerm has forged a partnership with several local dermatology societies in California to provide AMA PRA Category 1 Credit to local area CME activities. In response to the discovery that the American Academy of Dermatology (AAD) sponsored program, AAD Category 1, is not recognized in California, CalDerm has extended its accreditation to local dermatology societies and academic institutions offering dermatology programs

in California. The CME Joint Sponsor program, approved by the Institute for Medical Quality, a division of the California Medical Association, has been initiated in 2008 with three organizations: the Tri-County Dermatology Society, the San Diego Society for Dermatologic Surgery and the San Diego Dermatologic Society. Several other local societies have expressed interest in the program as well. Alexander Miller, M.D., Chair of the

CalDerm CME Joint Sponsors committee states, "With so many options for continuing medical education, this partnership allows Dermatologists to receive credit without having to expend time and resources traveling, and offers an incentive to participate in local networking opportunities." For more information on CalDerm accredited meetings your area, please contact Karmi Ferguson at (916) 498-1712 or email to [membership@calderm.org](mailto:membership@calderm.org).

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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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## **CalDerm Appoints New Government Relations Director**



*John Caldwell*

CalDerm leadership is pleased to announce the appointment of John Caldwell of Public Policy Advocates, LLC in Sacramento as its new Government Relations Director. John began his long career in state government back in 1981 as a staff member for a state legislator in a district office. He then went on to serve as a consultant to several committees, including Housing, Local Government, and Consumer Protection & Government Efficiency.

In 1991, John ventured outside of the State Capitol to work as a senior lobbyist for one of the state's leading insur-

ance associations. John quickly became one of the industry's foremost experts and returned to the Capitol in 1995 to serve as the Chief Consultant to the Assembly Insurance Committee. Since that time, John has been successfully winning battles on behalf of his clients. Specifically, John has worked on issues, many among the most controversial in California politics. These include privacy, insurance, tax and fee issues, lending issues and managed care.

During the 11 years he spent working inside the state Capitol, John developed a complete knowledge of the legislative process. This knowledge and experience has helped him develop close relationships with lawmakers, legislative staff, and public policy experts.

"John Caldwell and the team at Public Policy Advocates bring a fresh approach to representing of Dermatology in Sacramento," states CalDerm President, Craig Kraffert, M.D. "John's unique background which includes positions with various legislative departments gives CalDerm an edge in maneuvering through the vast networks of state government."