



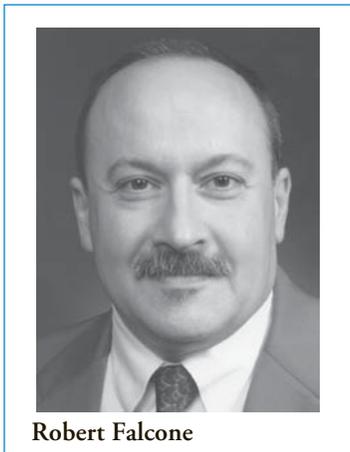
Fall 2002 American College of Surgeons
Newsletter

OHIO CHAPTER

President's Message

by Robert Falcone, MD, FACS, President

Endorsement of Ohio Supreme Court Candidates



Robert Falcone

On November 5, Ohio voters will be asked to select two candidates to the Ohio Supreme Court. The outcome of the two Court seats will most certainly affect the course of civil justice and tort reform in Ohio for years to come. I encourage OCACS members to join the efforts of organized medicine in lending your assistance to support the reelection of Justice Evelyn Stratton and the election of Lt. Governor Maureen O'Connor to the Ohio Supreme Court. For the following reasons, the OCACS Council voted to endorse the election of candidates Stratton and O'Connor.

The current Ohio Supreme Court has issued numerous decisions egregious to the practice of medicine.

Most significantly, the current court ruled to invalidate a package of tort reforms passed by the Ohio General Assembly which was designed to rein in the costs and abuses associated with medical malpractice suits. The current court majority of four liberal justices have shown little regard for the work of our elected state legislators. Instead, the majority has responded more favorably to the special interests of personal injury lawyers. In so doing, our society has seen doctors' insurance premiums rise, thereby decreasing patient access across the state of Ohio. Doctors now find themselves seeking early retirement, even moving out of the state to avoid these increasing medical liability premiums, causing Ohio patients further suffering throughout the state.

Justice Stratton frequently finds herself in the three-member minority against judicial activism. She was one of the three dissenting votes when the majority overturned the comprehensive tort reform legislation that became effective in January 1997 (HB 350). She has consistently opposed creating new civil actions against physicians. We need more justices like Evelyn Stratton on the Court, and we should support her wholeheartedly in her campaign for reelection.

Lt. Governor O'Connor is running for an open seat being vacated by a justice who has consistently voted with the four-vote activist majority. Electing O'Connor could change the philosophical leaning of the court for the better. O'Connor's election will restore balance to the court by creating a new majority that will serve the best interests of all Ohioans.

The election of the two court seats this November offers a unique opportunity to change the current pro trial attorney bias on the Ohio Supreme Court. These two individuals have a tough race ahead of them, as trial attorneys would love to continue the liberal composition of the court. The election is only weeks away, but the consequences may be lasting for years to come.

This special issue of the *Ohio Chapter Newsletter* focuses on the issues important to practicing surgeons in regard to the upcoming November elections. Please take the opportunity between now and November 5 to share this information with your patients so that they, too, may be aware of the significance of this election as it affects patient care.

OUCH! Ohio Chapter Surveys Members on Professional Liability Issues

by Mike Walker, MD, FACS, Health Policy and Advocacy Committee Chair

Introduction

The threat of medical malpractice is part of the life of every physician, especially surgeons in the United States. Malpractice insurance is considered part of the cost of the “business” of medicine and surgery. The medical malpractice insurance market cycles like all business. In the past, when the cost of medical malpractice insurance escalated, physicians and surgeons either formed their own insurance companies, worked harder to pay the premiums, or attempted to implement tort reform. Some states, such as California and Indiana, have implemented tort reform, but the vast majority of states have not. Even physician-owned insurance companies have not been able to control the increasing cost of malpractice awards. In a time of decreasing reimbursement, all physicians are working harder to just maintain the status quo. The significant increase in malpractice at this time has found the medical community with very few options.

The escalating cost of jury-based awards, along with the generalized negative effect of September 11 on the insurance industry, has resulted in many companies not only significantly increasing medical malpractice premiums, but also dropping medical malpractice insurance as a losing venture. The result is that many physicians are scrambling to find malpractice coverage, resulting in a medical malpractice crisis in the neighboring states of West Virginia and Pennsylvania and an extreme tightening of the malpractice market in Ohio. To assess the impact on Ohio Chapter members, the Health Policy and Advocacy Committee surveyed the Ohio Chapter membership prior to the annual chapter meeting in May.

Materials and Methods

Two other ACS chapters—New Jersey and Kentucky—had already developed a survey instrument on the same malpractice issues. The Executive Committee of the Ohio Chapter reviewed both surveys for use in Ohio. The survey selected for distribution about two weeks prior to the annual meeting was a modification of the ACS New Jersey Chapter’s survey. It was distributed to approximately 1,000 Fellows and Associate Fellows. The one-page form contained several questions about the effects of medical malpractice insurance on the individual surgeon. On short notice, 214 replies (a 21.4% return) were received—the best response to a mailing in the chapter’s recent history. The answers were codified and entered into a database for further analysis.

The demographics of the respondents were as follows: General surgeons, accounted for 72% of the respondents, ophthalmologists, 1.9%, and plastic surgeons, 7.0%, with other specialties varying between 1.9% and 7.0%. The majority of the respondents (57.9%) had group coverage (57.9%), while 38.7% had solo coverage. Amazingly, 3.2% of the respondents did not know what kind of coverage they had! The majority (56%) had 1M/3M coverage, with a large minority (33.6%) having 2M/6M limits. The median premium of all the respondents who filled in a figure was \$38,000. Another 15.4% of the respondents did not state any value.

In response to the survey, the overwhelming majority (90.6%) stated that they were being affected by the increase in malpractice premiums, with 85.5% of the respondents listing increases in their

malpractice rates. Only 9.8% of respondents said malpractice premiums increased less than 10%; 47% increased between 10% and 40%; and 43.1% of the respondents’ premiums increased more than 40%. A small minority (6.5%) of the respondents was denied coverage. Malpractice premiums did appear to have some significant effects on practice behavior, with 45.8% of respondents considering early retirement, and 29% considering relocation. In general, the majority of respondents are not laying off staff (82.2%) or dropping procedures (85%). Other ways to counteract changes in premium have resulted in 37.3% of respondents changing carriers, and a surprising 26% of respondents downgrading coverage. This issue seems to have electrified the Ohio Chapter members, with 62.6% of the respondents willing to devote efforts to assist in legislative changes.

Discussion

The Ohio Chapter has had a long-standing interest in professional liability issues. Surveys have been conducted in 1969, 1974, and 1981. The 1981 survey was published in the *Bulletin of the American College of Surgeons*.¹ In contrast to the 1981 survey where the return was 40% and consisted of only 41% of general surgeons, approximately three-quarters of our recent respondents were general surgeons, and we considered our return of 20% to be excellent. Whereas in the past, only 21% had group coverage, of the recent respondents, the majority (58%) had group coverage. Reminiscent of a different time, according to the previous survey, only approximately 25% of surgeons paid more than \$10,000, and only 1% paid more than \$25,000. The median premium of recent respondents was \$38,000. In the 1981 survey, a small minority of surgeons (8.1%) was having difficulty obtaining malpractice insurance, but they were finding insurers. In the current survey, 6.5% of our respondents were denied coverage. In the 1981 survey, only 27% of the respondents had premium increases of greater than 100% in a five-year period. Compare that figure with those of our recent respondents, where 90% had increases of greater than 10% in the last year, and 40% had increases of greater than 40% in the

last year. Our survey did not examine the number of lawsuits filed or attitudes to malpractice as did the previous surveys. Unfortunately, in today's environment, that is also a fact of medical practice.

Our survey was a modification of the New Jersey Chapter survey, and we were able to compare our results with theirs, thanks to the chapter sharing their preliminary results.² Only 47% of their respondents were general surgeons, and among them, 69% noticed increases in their premiums of more than 10%, but only 17% reported increases of greater than 40%. Of the Ohio Chapter respondents, 43% had greater than 40% increase in premium. Our median premium and the mean from the general surgeons in New Jersey were similar at \$38,000 and \$36,000, respectively. In order to lower overhead costs, the New Jersey general surgeons were laying off staff similarly to Ohio surgeons; namely, 24% and 18%, respectively. While 37% of Ohio Surgeons were changing malpractice carriers, 43% of New Jersey surgeons were doing so. No mention of early retirement or changing practice sites was made in the New Jersey survey.

The impact of the sharp increase in professional liability premiums may be significant in a state such as Ohio, where there is a large rural population that has a difficult time attracting young surgeons. Almost 50% of the respondents are considering early retirement, but this may come disproportionately from smaller and older rural practices. This is a problem that is going to eventually affect the access to medical and surgical care of the citizens of the state of Ohio. Apparently, the only resort at this time, as opposed to other times, is to push our legislators for tort reform, before this issue becomes a crisis for access to quality medical care.

References

1. Miller SF: Ohio professional liability survey 1981. Bull Am Coll Surg 67: 6-8, March 1982.
2. Hobson RW: Personal communication, June 2002.

The Making of a New Bill for Ohio: SB 281 Similar to California's Medical Injury Compensation Reform Act

Civil lawsuit damages cost every Ohioan \$636 a year, according to a report U.S. Senator George Voinovich (R-Ohio) unveiled August 14 at a news conference at the Ohio Statehouse. The report that he commissioned, *Lawsuit Abuse and Ohio*, was compiled by the American Tort Reform Association. Voinovich has cosponsored four tort reform bills that are pending. He was governor of Ohio in 1999 when the Ohio Supreme Court struck down as unconstitutional a tort reform bill that he signed into law three years before.

Voinovich spoke in support of SB 281, which is similar to California's Medical Injury Compensation Reform Act. Senator David Goodman (R-Bexley) introduced that tort-reform bill in mid-June, calling for a cap in pain and suffering compensation of \$300,000 per person. The bill does not, however, limit awards covering medical and rehabilitation cost or lost earnings.

During an appearance with Senator Goodman at St. Vincent Charity Hospital in Cleveland on July 30, Governor Bob Taft pledged his "strong support" for legislation aimed at reigning in the skyrocketing medical liability costs that are forcing some Ohio doctors to reduce services or stop practicing medicine. Senator Goodman's bill addresses one of the primary causes of higher malpractice insurance premiums—the rising cost of investigating, defending, and settling medical malpractice claims.

The key provisions of SB 281 include:

- a. **Limits on Noneconomic Damages:** Noneconomic damages in a claim against a health care provider for medical negligence would be limited to \$300,000. Economic damages, such as lost earnings, medical care, and rehabilitation costs, would not be limited.

- b. **Evidence of Collateral Source Payments:**

A defendant in a medical liability action would be able to introduce evidence of collateral source payments (such as from personal health insurance) as they relate to damages sought by the client. If a defendant introduces such evidence, the claimant may also introduce evidence of the cost of the premiums for such personal insurance.

- c. **Limits on Attorney Contingency Fees:**

In an action against a health care provider for professional negligence, an attorney's contingency fee would be limited to 35 percent of the first \$100,000 recovered; 25 percent of the next \$500,000; and 15 percent of any amount exceeding \$600,000.

- d. **Advance Notice of a Claim:**

To further the public policy of resolving meritorious claims outside of the court system, MICRA would require a 90-day notice of an intention to bring a suit for alleged professional negligence. If the notice were given within 90 days of the expiration of the statute of limitations, the statute would be extended 90 days from the date of the notice.

- e. **Statute of Limitations:**

A claim for medical negligence would have to be brought within one year from the discovery of an injury and its negligent cause or within three years from injury.

- f. **Periodic Payments of Future Damages:**

A health care professional could elect to pay a claimant's future economic damages, if more than \$50,000, in periodic amounts, thus avoiding a claimant's wasting of an award prior to actual need.

- g. **Binding Arbitration of Disputes:**

Patients and their health care providers could agree that any future dispute can be resolved through binding arbitration.

SB 281 was introduced into the Senate Insurance Commerce and Labor Committee the first week of September. Chairman Scott Nein has stated that it would not get reheard until after the November election.

Facts about the Candidates for Election to the Ohio Supreme Court

Maureen O'Connor

Maureen O'Connor has more than a decade of judicial experience as a Common Pleas Court Judge, a Probate Court magistrate, and as Summit County prosecutor. As Ohio's current Lt. Governor and director of the Ohio Department of Public Safety, O'Connor is responsible for Ohio's Homeland Security efforts. A 1980 graduate of the Cleveland Marshall College of Law, O'Connor has seen the law from almost every possible angle for more than two decades.

As Lt. Governor, O'Connor serves as Governor Bob Taft's chief policy advisor on criminal justice issues. She is actively involved with the Ohio National Guard and Ohio First Responders. Following the September 2001 terrorist attacks,

Lt. Governor O'Connor led a delegation to "ground zero" in lower Manhattan to visit Ohio's Task Force One, our urban search and rescue team. In 1998 after Hurricane Mitch hit, she traveled to Nicaragua with the Ohio National Guard to provide aid and resources. As director of public safety, O'Connor oversees a staff of 3,900, with an operating budget of more than \$800 million. She has worked effectively with the Ohio legislature to pass laws that benefit Ohioans, such as HB 138, which created a statewide trauma system.

Evelyn Lundberg Stratton

Evelyn Stratton currently serves as justice, Supreme Court of Ohio—an appointment she has held since March 1996. In 1996, in her first statewide election, she won in 86 of Ohio's 88 counties. Prior to that, Stratton served as Franklin County Common Pleas Court judge for seven years.

Stratton earned her law degree from The Ohio State University College of Law in 1978, and she began her legal career in the courtrooms of central Ohio, where she gained valuable experience as a trial lawyer. Her courtroom successes ultimately led to her election as the first female judge in Franklin County Common Pleas Court.

Justice Stratton has also devoted equal energy to many other professional and community activities in the fields of adoption, the prevention of blindness, court security, judicial education, improving criminal justice, and mental health initiatives.

Tort Reform in Ohio: Round One

by Margaret Dunn, MD, FACS, Ohio Governor

In January 1997, the last effort at tort reform in Ohio became effective: HB 350. At that time, HB 350 was the most comprehensive tort law reform measure that had ever been passed, placing limits on noneconomic and wrongful death damages, and at the same time, raising the standards of proof for claims. There was substantial concern among opponents of tort reform that HB 350 would serve as template legislation for many other state legislatures.

Ten months later, the Ohio Academy of Trial Lawyers joined with the Ohio AFL-CIO to bring action in the Ohio Supreme Court to directly challenge the constitutionality of HB 350. The case was unusual in that there was no tort victim seeking redress, nor any allegation of wrongdoing. The Ohio Supreme Court's decision, *State ex rel. Ohio Academy of Trial Lawyers v. Sheward*, was handed down on August 16, 1999.

Sheward was remarkable for both its rancor and its strong endorsement of the litigants preemptively challenging new legislation, before any decisions in the lower courts. The vote was 4-3, with Justices Douglas, Pfeifer, Resnick, and Sweeney in the majority. Justice Resnick wrote the majority opinion, finding HB 350 unconstitutional *in toto*, in that HB 350 violated the doctrine of separation of powers by usurping judicial authority, as well as the single-subject rule of the Ohio Constitution. Resnick characterized the General Assembly's passage of HB 350 as "choos(ing) to usurp this court's constitutional authority."

The dissenting justices, Moyer, Stratton, and Cook, would have granted the motions to dismiss. In his dissent, Chief Justice Moyer asked, in respect to considering this preemptive challenge to HB 350, "Does the majority have so little confidence in the courts of this state to make correct decisions that it must pluck important issues from them in order to ensure correctness?"

For proponents of tort reform, *Sheward*, rather than protecting the doctrine of separation of powers, seems to invite challenge of legislative authority through the courts. In its "zeal to invalidate all aspects of the comprehensive tort reform legislation," the majority of justices (Douglas, Pfeifer, Resnick, and Sweeney) opened the door to ongoing challenges of future legislative efforts to address this critical issue.

Being an Ohio Chapter Surgeon Is a Costly Venture

While many groups are quick to point to surgeons' charges and exclaim "too high," few are rallying to present the flip side: a surgeon's expenses. So we decided to do it.

We did a little digging, tracked down some numbers, and found a willing participant, who we will call Dr. Smith, who agreed to show us even more numbers. Dr. Smith is a general surgeon with 20+ years' experience, now in a five-person group practice (we'll call it Typical Town Surgical Partners, or TTSP). We chose Dr. Smith because his billings and income represent the mean of the five. However, the practice itself is well above the national average in its productivity, according to the Medical Group Management Association (MGMA). This group of five, *by MGMA standards*, has the productivity of *eight* physicians.

In 2001, Dr. Smith charged his patients an average of \$131,531 a month for a total of \$1,578,372. Naturally, that whole amount didn't come in; in fact, a whopping \$957,959 was written off.

Still, Dr. Smith brought in \$624,515 (insurance reimbursements are involved, so receipts/income and adjustments/write-offs don't total exactly). But he has expenses....

\$624,515	Income
-9,127	Employer's FICA
-162	Unemployment taxes, workers' comp
-12,857	Life insurance
-27,380	Malpractice insurance*
-4,586	Disability insurance
-26,250	Retirement plan
-10,200	Automobile
-10,976	Professional development, dues, meetings, subscriptions
-3,323	Telephone
-2,494	Office insurance/overhead
-214	Health, dental, and medical insurance
-482	Meals, incidentals
\$516,464	Dr. Smith's total now, but TTSP doesn't run by itself—Dr. Smith has to pay his share of those costs.
-120,239	Staff salaries, contract labor
-8,327	Employer's FICA for office staff
-808	Unemployment taxes, workers' comp
-1,032	Life insurance
-1,913	Disability insurance
-7,608	Retirement plan
-2,094	Medical insurance
-7,370	Professional development, courses, dues, relations, meetings
-8,696	Transcription costs
-7,315	Profit-sharing contribution
-1,017	Health, dental, and medical insurance; uniform allowance
\$350,045	Dr. Smith's total now. Staff has been compensated, but Dr. Smith still has administrative costs and other expenses to cover. Again, he pays his share as a TTSP partner.

-4,506	Drugs, medical supplies
-28,311	Rent
-5,660	Maintenance, repairs
-3,021	Telephone
-2,011	Equipment lease, insurance-office overhead
-3,664	Depreciation: furniture, fixtures, medical equipment, computer, lease improvements
-2,372	Billing and interest expenses
-6,805	Accounting expense
-5,068	Legal, advertising costs
-12,688	Office expenses, supplies, bank charges, subscriptions
-157	County, franchise taxes
-1,360	Laundry, towel service
-1,204	Meals, entertainment, auto expenses
-1,303	Administrative malpractice insurance

\$271,915 Dr. Smith's total at this point.

Now he needs to re-invest part of this total into TTSP and pay his personal income tax. For his earnings, Dr. Smith has worked five days a week from 6:30 am to about 6:00 pm, plus numerous weekends, holidays, and on-call shifts. Often, the weekend days were 12 to 14 hours long on both days. A typical week's average would be close to 80 hours. Of his allotted six weeks of vacation time, Dr. Smith was able to squeeze in two.

Fortunately for Dr. Smith, he is an experienced, respected surgeon—and he's past the point of repaying a mountain of educational debt. While we have used him to represent a typical scenario, we realize "typical" is a broad and hard-to-pinpoint term when it comes to the surgical profession. Obviously, your own numbers will vary from these, but we hope you have gained perspective.

One final note. The numbers of dollars are a necessary reality with *any* business. Dr. Smith doesn't get overly concerned with the numbers, but he does care deeply about his patients. He is compassionate and dedicated, and so, he is a typical surgeon after all.

*Dr. Smith's malpractice insurance increased 32% for the calendar year. The fiscal year shown includes 7 months at a lower rate and 5 months at the higher rate Dr. Smith is now paying.

Medical Liability Reform Efforts Gathering Momentum Elsewhere

by Jon Sutton, State Affairs Associate, American College of Surgeons

The physician rally for tort reform at the Ohio Statehouse in Columbus on September 4 highlighted an issue that continues to plague surgeons in a number of states—the inability to secure affordable and accessible medical liability insurance. While a number of state legislatures attempted to tackle this problem, many came up deadlocked over the issue. A few states, however, made significant inroads at creating a more stable liability environment.

In Nevada, the Insurance Commissioner and Governor Kenny Guinn (R) were present at several public hearings where they were barraged by personal stories from many surgeons who are altering their practices to reduce liability risk. The hearings highlighted that surgeons are limiting the number of complex procedures being performed, retiring earlier than planned, and closing their practices to reestablish roots in other parts of the country where strong liability reforms have already been enacted. In an effort to reverse these trends, Governor Guinn created the nonprofit Medical Liability Association of Nevada to provide physicians with another liability insurance option outside of the voluntary insurance market.

With an eye on major reform of the medical liability system in Nevada, the governor called the legislature into special session, and both branches of government were successful at enacting the following reforms: (1) a \$350,000 cap on noneconomic damages, except in cases of

gross malpractice or in which the jury finds there is clear and convincing evidence that the award should exceed the cap because of exceptional circumstances; (2) implementation of strong expert witness standards; (3) reform of joint and several liability for noneconomic damages; and (4) a \$50,000 civil damage cap for physicians in all trauma centers and emergency rooms providing traumatic injury care demanding immediate medical attention. In addition, the governor and legislature decided that all medical facilities will now be required to report sentinel events to the state repository for health care quality assurance, with the protection that such information will not be admissible as evidence in any administrative or legal proceeding.

In Pennsylvania, physicians were successful at securing passage of more incremental reforms, such as modification of the collateral source rule, reforming joint and several liability, periodic payment for future damages for medical and related expenses, and establishment of an absolute seven-year time limit within the state's current statute of limitations. This legislative package enacted over the summer also created a Patient Safety Authority, which is charged with collecting and analyzing data on serious events and incidents and recommending solutions to medical errors.

Physicians in New York and Texas drew attention to the professional liability crisis in their respective states by participating in a “day of awareness.” In New York, more than 1,000 physicians met in 22 locations

to advocate for tort reform, and more than 600 south Texas physicians took the day off and rallied at county courthouses and met with local legislators. The governors of both states have stated their support for tort reform, including caps on noneconomic damages of \$250,000. In Florida, more than 700 physicians converged on the Palm Beach County Courthouse to protest their skyrocketing professional liability premiums, and a physician rally in Trenton, New Jersey, drew more than 3,000 participants. These rallies are part of a growing trend by physicians to draw legislator and public attention to the medical liability crisis.

At press time, the Mississippi State Legislature was scheduled to go into special session on September 5. Governor Ronnie Musgrove (D) called for the special session after a joint legislative committee worked unsuccessfully throughout the summer to develop a consensus tort reform package. During the special session, the house and senate will debate their respective recommendations on tort reform, as well as those developed by Governor Musgrove. On August 29, the College sent a state legislative alert to all Mississippi surgeons and residents urging them to contact their state legislators and voice their support for a slate of strong medical liability reforms.

As election day draws closer in Ohio and other states, surgeons will be watching the results closely, hoping that the members in their respective legislatures will be more supportive of definitive action on tort reform in 2003.

Ohio Chapter Considers Forming a Political Action Committee (OCACS PAC)

Why create an OCACS PAC?

The Ohio Chapter of the American College of Surgeons has recently undertaken aggressive efforts to increase its role in shaping state and federal public policy. The heightened role in advocacy is designed to advance the economic and social causes of Ohio surgeons and their patients. An important tool for advancing our advocacy agenda is the financial support, offered by OCACS PAC, to political candidates who share the views and ideals of our association.

OCACS PAC would be a voluntary financial collaboration of Ohio surgeons who amass modest individual contributions into a powerful political action fund.

What Is a PAC?

Ohio law allows individuals and associations, through the formation of political action committees, to make contributions to political candidates. State law prohibits corporate contributions to election committees or political action committees. An association of individuals wishing to collectively solicit and disburse political funds is required to form a political action committee with the Ohio Secretary of State. OCACS PAC would be the political action committee formed by the Ohio Chapter, American College of Surgeons.

Why Should You Join a PAC Created by the OCACS?

The OCACS PAC would create an opportunity for members to combine minimal resources and make a maximum impact by assisting state candidates who support physician issues and health care policies. By investing in an OCACS PAC, we can work to elect candidates to office who will endeavor to create a political environment that allows us to advance the common public agenda of surgeons and their patients in Ohio.

Who Would the OCACS PAC Support?

OCACS would support state legislative candidates in the Ohio House of Representatives, the Ohio Senate, and statewide office holders who meet the following criteria:

1. Are likely to take favorable positions on issues that will have a positive impact on surgeons' ability to practice medicine, third-party reimbursement, medical malpractice, and health insurance regulation;
2. Serve in leadership positions or on a legislative committee with jurisdiction over policy issues that affect OCACS members' interests; and/or
3. Represent districts where OCACS has a large group of members practicing.

Please consider the impact that an Ohio Chapter PAC would have in supporting the cause of medicine in public policy. Ohio Chapter members are dedicated and united in our efforts to positively shape the laws and rules for the betterment of our practices, thereby protecting the health and well being of our patients. Look for future information to come your way regarding the formation of an Ohio Chapter PAC.

"This democracy respects involvement and rewards it, and disdains aloofness and punishes it. If you stay away from this system, you get hurt by the system. If you go into the system and use it well, you will be rewarded by it."

—Former New York Governor Mario Cuomo

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Ohio Alliance for Civil Justice 2002 Ohio Supreme Court Education Initiative

The Ohio Alliance for Civil Justice (Alliance) was founded in the mid 1980s to stop lawsuit abuse and promote a common sense civil justice system in Ohio. The Alliance is comprised of representatives of more than 200 Ohio trade and professional associations, small and large businesses, medical groups, farmers, nonprofit organizations, and local government associations (the Ohio Chapter is a member of the Alliance).

The Alliance is a nonprofit 501(c)(6) corporation, which is permitted to communicate political information to its members under Ohio law. Ohio election law permits nonprofit corporations to use corporate money and resources to

communicate to its members information in support of or in opposition to political candidates.

In 2002, the Alliance is again undertaking a substantial grassroots effort intended to educate trade and professional associations which become Alliance members about the upcoming Ohio Supreme Court elections. Ohio's highest court has accumulated an extremely antibusiness record over the last several years, with repeated adverse 4-3 decisions. The rulings have negatively impacted important areas, such as tort reform, workers' compensation reform, education funding, and insurance coverage. With the court's liberal majority's impact on Ohio's business

environment being so great, this year's judicial races continue to be important to all Alliance members.

Two Ohio Supreme Court seats are up for election in November. Judge Janet Burnside is challenging incumbent Justice Evelyn Lundberg Stratton. Justice Stratton continually finds herself in the three-person minority in the relevant cases. In the second race, Ohio Lt. Governor Maureen O'Connor is running against Judge Tim Black for the seat being vacated by Justice Andrew Douglas. Douglas is repeatedly found in the four-person activist majority. Thus, this year's elections will determine the philosophical makeup of the majority on the Ohio Supreme Court.