

Committee's report was sent to the Connecticut Congressional delegation and the Department of HEW (Tr. 8301-07; RCX 68, p. 30, 102A-D, 103A-M).

The committee on third-party payments has been concerned with patients' insurance coverage and has served as a liaison for policy/philosophy interchange between CSMS and third-party payers in Connecticut. At one time, this committee worked on a relative value guide (Tr. 8307-08; CX 411-414, 418A-B, 425A-B, 426A-B, 451A-F; RCX 68, pp. 30-31. *See also* F.60, p. 83; 63, pp. 85-86).

The judicial committee is concerned with philosophical considerations such as involuntary sterilization, health care of the elderly and informed consent. It is also authorized to serve as an appellate body for members who feel aggrieved by a disciplinary action taken by a county association. Although the judicial committee is empowered by the CSMS bylaws to initiate disciplinary proceedings, the committee has not exercised original jurisdiction in at least the last 30 years (Tr. 8310-12; RCX 68, p. 31, RCX 146, p. X).

The editorial committee of *Connecticut Medicine* is responsible for supervising the publication of the CSMS monthly journal (Tr. 8321; RCX 68, pp. 31-33).

The committee on legislation is concerned with legislation related to health and medical care. In recent years, the committee has been concerned with the potential malpractice crisis, peer review, health education in the schools, immunity for persons providing Good Samaritan services, the ability of minors to secure treatment for venereal disease, reforming the State's abortion law, developing a definition of death, organ transplants and the use of extraordinary technology to prolong life. Members of the committee may, upon occasion, testify at hearings of the State legislature (Tr. 8323-26; RCX 68, p. 33). [75]

The committee on public relations is concerned with developing information on health care and health tips for CSMS to provide to the media and the public, and also with publicity for CSMS activities (Tr. 8329-31; RCX 68, pp. 33-34).

The committee on accident prevention and emergency medical services was formed to aid in the development and implementation of emergency medical services in Connecticut. The committee has been concerned with sports medicine, rape victims, standards for public vehicle operators and, along with the CSMS committee on legislation, the support of legislation which would provide emergency medical services (Tr. 8331-32; RCX 68, p. 34).

The cancer coordinating committee has coordinated activities in the fields of cancer treatment, research and education throughout

Connecticut, has worked with the committee on legislation to support legislation to maintain a cancer tumor registry, developed a booklet on follow-up cancer treatment and has emphasized physician education regarding cancer treatment (Tr. 8332-35; RCX 68, p. 35, RCX 97).

The committee on drug abuse education is concerned with educating the public with respect to drug and alcohol abuse and the treatment of alcoholic patients. Recently, it has been particularly concerned with the "sick physician" who is abusing drugs or alcohol (Tr. 8336; RCX 68, pp. 35-36).

The committee on maternal morbidity and mortality is interested in the management of obstetrical delivery in terms of the appropriateness of treatment and lowering the incidence of risk in maternal and newborn care. This committee drafted a statement setting forth professional guidelines for performing abortions when, after the United States Supreme Court decision, the Connecticut legislature failed to set guidelines (Tr. 8336-38; RCX 68, p. 36, RCX 117A-B).

The committee on medical aspects of sports focuses on injury prevention in high school sports, has published "The Team Physician" and publishes the *SportsMed* periodical (Tr. 8338-39; RCX 68, p. 36).

The committee on mental health, formed to promote the care and welfare of persons with mental health problems, works in areas that include mental health legislation, the "sick physician" problem and the evaluation of mental health programs (Tr. 8340; RCX 68, pp. 36-37). [76]

The committee on organ and tissue transfers is responsible for developing guidelines for implementing organ and tissue transfers and blood transfusions. It has worked with the committee on legislation in legislative matters relating to the definition of death and the propriety of organ and tissue transfers (Tr. 8340-41; RCX 68, p. 37).

The committee to study perinatal morbidity and mortality is concerned with the pre- and post-natal welfare of the newborn, and has sponsored symposia on care of the newborn (Tr. 8341-42; RCX 68, p. 37, RCX 80).

The committee on public health is interested in matters of public health such as immunization, venereal disease, rural health needs, health education in schools and nutrition. It has sponsored symposia and meetings on these and other public health matters, and has worked closely with State and municipal officials on matters of public health (Tr. 8342-43; RCX 68, pp. 37-39).

The committee on continuing medical care, formerly known as the

committee on aging, is concerned with the welfare of patients in extended care facilities, the transfer of medical data, the coordination of care of the elderly and legislation dealing with long term care (Tr. 8344; RCX 68, p. 39).

The areas of interest of the committee on statewide medical planning include containment of health care costs, uncovering Medicare fraud, national health insurance legislation, other health planning legislation and work on the Connecticut Ambulatory Care Study (Tr. 8345-47; RCX 68, pp. 39-40).

CSMS sponsors continuing medical education ("CME") programs. These programs are available to all physicians, regardless of membership in CSMS, and to members of other health-related professions. There is generally no fee for attending CSMS sponsored CME programs; occasionally, there may be minor registration fees, applicable to all persons attending the programs. Examples of CME programs which CSMS has sponsored are the sixth biennial perinatal seminar program (topics included fetal placental health, obstetrical anesthesia, blood gases and newborn intensive care) and the second conference on planning CME in community hospitals (program topics included planning and evaluating CME programs) (Tr. 8286; RCX 80, 82). [77]

CSMS has developed a series of seminars to study the input of the physician in health care costs and the establishment of hospital committees to work with hospital administrators toward minimizing physician related hospital costs. The CSMS sponsored seminars are given free of charge and are open to members and nonmembers of CSMS as well as the general public. These seminars have been concerned with the impact on health care costs of the use of antibiotics, respiratory therapy and the pathology laboratory (Tr. 8346-47).

B. Publications

56. CSMS publishes *Connecticut Medicine*, the journal of the Connecticut State Medical Society, on a monthly basis. The journal has been in publication since 1936. It has a physician editor as well as a CSMS committee which functions as an editorial board (Tr. 8321-23; CX 1352Q; RCX 129. See also F. 71, p. 91). *Connecticut Medicine* is available to CSMS members and nonmembers who wish to subscribe, as well as through public libraries. The subscription rate is \$7.50/year for CSMS members and \$15.00/year for nonmembers. Approximately 150 to 200 nonmembers subscribe to *Connecticut Medicine*. The members' subscription costs are allocated out of the \$100 membership dues of CSMS (Tr. 8240, 8254-55). *Connecticut*

Medicine generally contains articles of educational value in clinical medicine; philosophical issues in medicine; comments of the Dean of the University of Connecticut; articles of general intellectual interest (for example, by the Connecticut Society for the Humanities); comments of CSMS officers, employees, or representatives; the proceedings of the CSMS House of Delegates; notices of scientific symposia; letters to the editor; and a physician placement service. Many of the authors of these articles are not members of CSMS (Tr. 8322-23; CX 1352A-Z85; RCX 129). The physician placement service includes listings of physicians wishing to locate in Connecticut and entities wishing to list opportunities for practice. The service is available without charge to all physicians, regardless of membership in CSMS, and to Connecticut municipalities and governmental agencies seeking physicians (Tr. 8238-40; RCX 129). *Connecticut Medicine's* costs of publication exceed the revenues obtained from advertising, subscriptions and reprints. In 1975, CSMS lost about \$44,000 in publishing and maintaining *Connecticut Medicine* as the Society's journal (Tr. 8369; RCX 68, pp. 14, 16-17).

CSMS publishes *Connecticut SportsMed*, which is distributed by CSMS free of charge several times annually to team physicians, coaches, trainers and others interested in contact sports in Connecticut. *SportsMed* is primarily intended for consideration and use by people dealing with sports in the middle and secondary schools. The April 1976 [78] issue of *Connecticut SportsMed* (Vol. 3, No. 1) included articles on lateral flexion injury to the neck; cauliflower ear; athletic training; physical examinations; and, injury reporting (Tr. 8330; RCX 94).

C. Public and Governmental Interface

57. The CSMS staff writes and issues press releases to the news media on subjects such as food choking, high blood pressure, health care of the elderly, psoriasis, poisonous plants, yard and gardening accidents, hypertension and weight control (Tr. 8248-50; RCX 84, 86, 89A-B, 90, 91A-B, 92A-B, 127A-C, 128).

CSMS offers pamphlets on health related matters to the public free of charge. CSMS has distributed pamphlets relating to the Heimlich maneuver of rescuing victims of food choking, high blood pressure (in English and Spanish editions), a form regarding the use of extraordinary life supports, the identification of drug abusers, first aid chart and weight control (Tr. 8250-52; RCX 83, 85, 87, 88, 111, 125, 147).

CSMS has developed informational pamphlets and materials for use by physicians and others. Examples include "The Team Physi-

cian: A Brochure for Team Physicians, Coaches & Trainers" and "Follow-up of Cancer". These booklets have been distributed by CSMS free of charge to physicians (CSMS members and nonmembers) and other interested persons (Tr. 8333-34, 8338-39; RCX 93, 97).

CSMS receives telephone requests from members of the public seeking information about locating a physician. The CSMS staff refers to a national specialist directory which CSMS purchases each year; CSMS selects three names of specialists at random from the directory, and provides the telephone caller with the names and biographical information published in the directory. CSMS does not distinguish between members and nonmembers of CSMS in determining what physicians' names to provide to telephone callers seeking information (Tr. 8247-48).

CSMS sends designated representatives and advisors to governmental and quasi-governmental bodies concerned with health care. CSMS sends representatives and delegates to the following groups: committee on allied medical services (considering the interrelationship of care rendered by physicians and nurses); committee on hospitals; committee on cooperation with the medical schools of Connecticut (resulting in educational programs cosponsored by CSMS); liaison committee with the Connecticut Pharmaceutical Association; liaison committee with the State Department of Social Services; Connecticut Health Association; Connecticut Nutrition Council; Connecticut Advisory Council on School Health; Connecticut Advisory Committee on Food [79] and Drugs; Council of New England State Medical Societies; State hospital, pharmaceutical, dental, and nurses' associations; and several state medical associations. CSMS has two designated representatives on the Connecticut PSRO Council, which is the state-wide board responsible for the federally mandated PSRO function in Connecticut (Tr. 8347, 8349-51, 8353-54; CX 1352T, U; RCX 68, pp. 40-44).

CSMS, under a contract with the Health Services and Mental Health Administration of the Department of HEW, sponsored a Connecticut Ambulatory Care Study that began in 1972. The purpose of the study was to develop a statistical analysis and to compare the quality of care rendered in various types of medical provider settings. A final report was filed with the Department of HEW (Tr. 8351-52; RCX 68, p. 18).

CSMS contributed approximately \$25,000 to the formation of the Connecticut Medical Institute, which was organized to establish four federally mandated PSRO's in Connecticut (Tr. 8353).

CSMS annually provides an \$8,000 grant to the medical schools in Connecticut, to be used as a revolving loan fund for needy students.

The funds are disbursed at the discretion of the deans of Connecticut's medical schools (Yale and University of Connecticut)(Tr. 8350, 8361; RCX 68, p. 15).

In December 1971, CSMS instituted an antitrust action against the Connecticut Medical Service, Inc. (Blue Shield) seeking to enjoin that organization from requiring physicians to participate in all contractual benefit plans in order to participate in any one plan. The CSMS motion for temporary injunction was denied in December 1971, and CSMS withdrew the action in its entirety in January 1972. CSMS expended \$4,249 in legal fees in connection with the suit (CX 417A-L, 2430A-J; RCX 154, 155A-C. *See also* F. 64, pp. 86-87).

CSMS has communicated with governmental officials and legislators concerning issues of health care and health care regulation in order to express its opinions regarding the delivery of health care in the State of Connecticut, including: establishing a State poison information center; State Health Department authority to regulate fishing in contaminated areas; protecting members of peer review panels; strengthening the powers of public health inspectors regarding unsanitary restaurants; fees for State Health laboratory work; licensing of clinical laboratories; reexamination of motor vehicle operators; health education in public schools; disclosure of information regarding [80] patients in mental health facilities; radiation level limits for health treatment; the practice of chiropractors; professional liability (malpractice) and the establishment of a commission to study that issue; the establishment of a separate commission on physician disability; maintenance of a State license registration fee; the practice of nursing; insurance coverage for mental or nervous conditions; disclosure of information received from the State Department of Health by the Commission on Hospitals and Health Care; defining the types of surgical practices performed by podiatrists; ear piercing; generic drug prescription; drug interchange and equivalency; procedures for the State Welfare Department payment for provider services; child abuse; motor vehicle operation; prenatal testing of pregnant women; school sports; sale of BB guns; fluoridation of water; abortion; human experimentation; optometrists' recommendation of physicians; health insurance for ambulatory care; restructuring of Medical Examining Board; and other matters referred to above in the discussion of committees (Tr. 8323-29; CX 192, 368A-F, 429, 1236A-D, 1252A-B, 1253, 1256A-B, 1257, 1263A-D, 1264, 1749; RCX 5, 10A-B, 142, 143, 144, 145. *See also* F. 64, p. 86; 66-67, pp. 88-89).

CSMS has retained a lobbyist to provide legislative counseling and representation in connection with health and medical care legisla-

tion proposed at sessions of the Connecticut General Assembly. The function of the lobbyist is to inform CSMS of health related bills, advise CSMS as to proposed positions with respect to pending legislation and facilitate contact with legislators so that CSMS can properly represent its positions to the legislators. In 1975, CSMS expended \$8,731 for legal and legislative counseling, which includes the cost to CSMS of retaining a lobbyist; in 1974, the expenditure for legal and legislative counseling was \$7,641 (Tr. 8360-61; CX 1255A-B; RCX 68, p. 15).

On occasion, CSMS may communicate with federal officials. In 1974, CSMS sent a mailgram to a Connecticut Congressman regarding proposed federal legislation to extend the Economic Stabilization Act (CX 1268).

D. Connecticut Medical Political Action Committee

58. The Connecticut Medical Political Action Committee ("COMPAC") is a political action committee which is registered with the Federal Election Commission. COMPAC was formed [81] on a voluntary basis by a group of Connecticut physicians in 1961 or 1962. At about that time, the CSMS House of Delegates passed a resolution which encouraged a voluntary group of physicians to form a political action committee. COMPAC's 1972 registration form filed with the United States House of Representatives listed CSMS as an "organizer" of COMPAC (CX 500A-C, 1214A-C, 2599A. *See also* F. 67, p. 89). Membership in COMPAC is voluntary. In 1975, COMPAC had a total membership of 297. COMPAC's membership in other years has been as many as 320-340 members. COMPAC is governed by the COMPAC Board of Directors (CX 458A-C, 1214B-C, 1712, 1714A-H, 1715A-H; RCX 68, p. 27).

CSMS did not contribute or grant money to COMPAC during the five-year period 1973-78, but did make financial grants to COMPAC in its early years. COMPAC administrative and clerical matters are routinely performed by COMPAC officers and do not involve CSMS (Tr. 8258-60; CX 1211, 2599D).

CSMS provides COMPAC with office space and use of a telephone line to make local telephone calls at the CSMS office free of charge. CSMS staff employees, from time to time, provide administrative or clerical services to COMPAC in connection with the processing of dues statements or the sending out of occasional pieces of mail. CSMS charges COMPAC for all postage, long distance and toll telephone charges, office supplies, printing charges and other expenses which might be incurred by, or billed to, CSMS and which are attributable to COMPAC. CSMS maintains a ledger sheet for

recording expenditures chargeable to COMPAC, and on the basis of the ledger sheet bills COMPAC for such expenditures (Tr. 8240-41, 8243; CX 2599D; RCX 123A-C).

CSMS processes dues statements on behalf of COMPAC. CSMS dues envelopes for 1975, 1976 and 1977, sent to CSMS members and prospective members in seven Connecticut counties (all but Hartford), contained a separate line entry for "Voluntary COMPAC-AMPAC Membership. . . \$25.00." CSMS charges COMPAC for the administrative costs of processing dues, in the amount of one percent of political action committee dues processed. In 1975, approximately \$7,595 in political action committee dues was administratively processed by CSMS and forwarded to COMPAC; in 1976, approximately \$7,295 was so forwarded (CX 1714A-H, 1715A-H, 2599C-D).

In 1974-75, 1975-76 and 1976-77, none of the COMPAC officers were officers of CSMS (CX 1352 O, 2105B, 2599B; RCX 68, p. 5). There were common officers of CSMS and COMPAC prior to these years (Tr. 8387-89; CX 1214C, 2109B). [82]

On one occasion, during the years 1975-76, and on one occasion in 1974, CSMS published an issue of a newsletter, entitled "Political Roundup," which provided information submitted to CSMS by Connecticut candidates for the United States Senate and House of Representatives; the front page of each of these two newsletters included a "message" from the COMPAC Chairman (CX 1206A-I, 1711, 2599C).

E. Insurance Programs

59. CSMS has endorsed several health and accident insurance programs. CSMS endorsement permits insurance agencies to market the programs to CSMS members. Brochures on the health and accident insurance programs are included in the CSMS membership information file which is provided to new members. CSMS expends no funds to promote these programs. Participation by CSMS members in endorsed programs is voluntary. Insurance policies written in connection with the programs are written on behalf of the individual CSMS member choosing the plan and not in the name of CSMS (Tr. 8992-94; CX 203, 205A-D, 207A-C, 208, 210A-D, 216A-C, 221, 314A-E, 316, 317, 1748; RCX 148B, F-K).

Since 1971, CSMS has endorsed a professional liability insurance program which is administered and underwritten by the Aetna Life and Casualty Company. A brochure on the Aetna program is presently included in the CSMS membership information file which is provided to new members (Tr. 8294; RCX 2B, 148N). A physician must be a CSMS member in order to participate in the CSMS

endorsed program. Participation is voluntary and subject to Aetna's determination of insurability. Policies written in connection with the professional liability program are issued by Aetna to individuals, not to CSMS on their behalf. Approximately 85 percent of the CSMS membership obtain professional liability insurance through the Aetna program (Tr. 8295, 8297, 8300; RCX 3A-E. *See also* F. 70, p. 90 *infra*).

The loss control and education programs, which were undertaken in conjunction with the professional liability program, have included sponsorship of hospital-based educational seminars which are open to physicians regardless of whether they are CSMS members, and regardless of whether they are insured under the Aetna program (Tr. 8297).

Nonmembers of CSMS, and members of CSMS who choose not to participate in the above-described Aetna program, can purchase individual professional liability insurance policies from Aetna, but at a higher rate. Other insurance [83] companies sell group professional liability insurance policies in Connecticut, but only to members of certain medical specialty societies (Tr. 8377-79, 8778).

F. Relative Value Guides

60. A relative value guide lists relative values of various medical/surgical services. A "conversion factor" is a unit value which may be used to convert relative values to dollar values for particular services (Tr. 8308-09; CX 1175D, Z-83 (pp. 3, 111). *See also* F. 55, p. 74; 63, pp. 85-86). CSMS adopted a Relative Value Scale, in 1965, as an attempt to define the relative importance of medical/surgical procedures in terms of time, experience, challenge and responsibility of the procedure. In 1971, CSMS adopted a Relative Value Guide which superseded the 1965 Relative Value Scale (Tr. 8309-19; CX 201D, 1175A-Z98; RCX 152A-F, 153A-B). At one time, CSMS distributed the relative value guide to new members. In 1975, the CSMS House of Delegates voted to make the 1971 relative value guide available to CSMS members upon request and at a charge, and the CSMS Council voted that the current usefulness of relative value guides be evaluated (CX 221, 1180). CSMS discontinued all distribution of the relative value guide in August 1977 (Tr. 8410; RCX 68, p. 19).

G. Income and Expenditures

61. In 1975, CSMS received gross income of \$353,196 (less journal income). This amount included \$305,442 annual dues payments from

members, less \$539 in administrative charges paid to a county association for processing CSMS dues payments in that county; \$35,155 special assessment of the CSMS membership to cover the funds granted by CSMS to the establishment of the Connecticut Medical Institute to implement federally mandated PSRO legislation; \$18,095 interest and dividends on CSMS reserves; \$5,800 rental income to CSMS from renting a portion of the CSMS building; \$1,763 received from the AMA as compensation for administrative costs of processing AMA dues payments; less \$13,487 loss on sale of securities; and \$967 miscellaneous (Tr. 8356-57; RCX 68, p. 14).

In 1975, CSMS made expenditures of \$242,229 (RCX 68, p. 14). Expenditures of \$4,488 were used in the publication of CSMS Newsletters from the Executive Director's Office to CSMS members (RCX 68, p. 15); \$10,386 represents the cost of sending CSMS delegates and officers to the AMA [84] conventions twice a year; \$8,731 represents legal fees and the cost of retaining a legislative lobbyist; an \$8,000 contribution to a financial aid fund for medical students was made; and, \$2,886 was paid to a consultant to study the CSMS endorsed professional liability program (Tr. 8358-62; RCX 68, p. 15).

In 1975, CSMS expended \$9,059 from a contingency fund, including expenditures for publishing *SportsMed*, a cancer handbook, a grant to the CSMS Women's Auxiliary, a study of acupuncture, mailing a continuing medical education calendar to members, emergency medical cards, sending representatives to medical conferences, etc.; \$737 represented an expenditure for a "special mailing—third party payments"; \$323 represented the cost of a liaison dinner with the Connecticut Hospital Association at which malpractice legislation was discussed; and, \$250 represented the cost of sending CSMS representatives to a meeting with members of Congress to discuss national legislation proposals (Tr. 8362-66; RCX 68, p. 16).

In 1975, CSMS expended \$7,257 in committee allotments which represented the costs of holding meetings, notifying members of meetings, secretarial work, and refreshments; \$2,315 of this amount was expended for the committee on legislation. The net expense of running the CSMS annual and semi-annual meetings in 1975 was \$9,091 (Tr. 8366-69; RCX 68, p. 16).

In 1975, CSMS received \$56,715 in income from the publication of *Connecticut Medicine*, primarily from advertising revenues (\$42,160), subscriptions (\$2,996) and reprints (\$11,203); the expenses incurred in publishing *Connecticut Medicine* were \$100,625, for a net loss to CSMS of \$43,910 (Tr. 8369-70; RCX 68, pp. 16-17).

As of December 31, 1975, CSMS had general fund reserves of

\$359,697, building fund reserves of \$152,442, depreciation fund reserves of \$61,942 and other special fund reserves of \$5,365 (RCX 68, p. 14).

VI. ACTIVITIES OF CSMS WHICH HAVE PECUNIARY BENEFIT FOR ITS MEMBERS

A. Background

62. CSMS acts on behalf of the medical profession of Connecticut, representing its professional interests and its professional responsibilities to the public, in a way [85] that it would be impossible for individual physicians to act on their own behalf (CX 192B). CSMS protects the physician in private practice whom CSMS believes should be the keystone of the Connecticut health care system (CX 892A-B). One of CSMS's long-standing "Guiding Principles and Policies" is that physicians should always have the right to charge their usual, customary and reasonable fees (CX 204B-C, 2435A-B; RCX 103I).

A key benefit of membership in CSMS is that it makes the individual physician eligible to join the AMA (CX 1105U, 221, 1748; RCX 148Q, p. 1), which in turn entitles the physician to receive the various benefits of AMA membership (See F. 23-49, pp. 38-59). Over half of CSMS's members are also AMA members (CX 1385A; Tr. 8244-45).

CSMS's adoption, dissemination and enforcement of its ethical principles restrains competition among Connecticut physicians, insulates CSMS's members from competition and contributes to their economic benefit.

B. Relative Value Guide

63. CSMS has published, distributed, and urged the use of the CSMS *Relative Value Guide* (CX 1175. See also F. 55, p. 74; 60, p. 83). The CSMS *Relative Value Guide*, a detailed coding of relative values for various medical procedures, is used by physicians in setting their fees, by medical society committees in fee related deliberations and by third-party payers in physician reimbursement decisions (CX 1175D, 204C, D, 2412B, 1181). CSMS has advised each CSMS member to use the *Relative Value Guide* to set his fees in conjunction with conversion factors (CX 1175Z85, 1171). It has suggested consultation with colleagues to determine dollar conversion factors so physicians' fees will "accommodate" with those usually charged by comparably qualified doctors in the community (CX 1171).

The first edition of the CSMS *Relative Value Guide* was adopted in

1965, and was based on AMA's publication, *Current Procedural Terminology*, and the California Medical Association's relative value scale (CX 1175D). After lengthy preparation by various CSMS committees, a new edition of the *Relative Value Guide* was published in CSMS's *Connecticut Medicine* in 1971 (CX 1175D, 381). Following its publication, CSMS regularly distributed copies of the 1971 *Relative Value Guide* to all new members (CX 1748, 221, 1171). In 1972, CSMS strongly recommended use of the CSMS *Relative Value Guide* by all third-party payers in Connecticut (CX 2434); the *Relative Value Guide* has since been used by the Connecticut Health Insurance Council to determine usual, customary and reasonable fees around the state (CX 1181A). [86]

In November 1975, the CSMS House of Delegates voted to continue distribution of the *Relative Value Guide* to members requesting copies and to print additional copies as needed (RCX 129, p. 68; CX 1180). Thereafter, continued distribution of the *Relative Value Guide* remained CSMS policy until August 1977 (Tr. 8410; RCX 68, p. 19).

C. Third-Party Payers

64. CSMS promotes its members' economic interests in dealings with third-party payers by opposing policies of government agencies and medical insurance carriers that compensate physicians at rates below their "usual" fees (CX 417K, 418A, 422A-B, 451A, B, E, F, 450, 204B-C, 2430, 2435A-B; RCX 103I). CSMS's official policy is that government medical care programs should pay physicians on the usual and customary fee basis, and should not make "reduced or substandard payments" to physicians (CX 2435A). CSMS attempts to eliminate administrative policies that offer "reduced or substandard" reimbursement (CX 2435B) and to oppose state government "economizing" on physicians' fees in the Medicaid program (CX 420A). CSMS representatives have sought increases in Medicaid payment schedules (RCX 68, p. 42, 103I), and warned the insurance carrier administering the program that "reasonable" must not be defined as "cheap" in the company's fee reimbursements to Connecticut physicians (CX 422B). Through its representatives on the Medical Advisory Committee to the Connecticut Welfare Commissioner, CSMS has also pressed on behalf of its members for prompt payment of claims owed to them for medical services rendered to Medicaid patients (CX 431A, 432A).

CSMS actively opposed the "Century Contract" adopted by Connecticut Medical Service, the Connecticut Blue Shield Plan, under which the maximum payments the Blue Shield Plan made to physicians were lower than the levels of usual and customary

charges then being received by CSMS member physicians and, therefore, deemed unacceptably low by CSMS (CX 420A, 417, 418, 2430). Acting in behalf of and representing its members, CSMS joined in a lawsuit in 1972 challenging the Blue Shield contract—after the contract had been approved by the state insurance commissioner—in an effort to protect CSMS members from suffering “substantial competitive disadvantage,” undergoing loss or damage to their businesses and being deprived of their ability to determine the level of compensation for their services (CX 2430B, D, E). In the year the suit was filed, CSMS [87] allotted \$4,249 to “Legal Fee—special litigation” and \$1,009 to “Third Party Payments” committee activities, a total of \$5,258; it allotted only \$5,289 to all the rest of its committees (RCX 155C).

CSMS has opposed health insurance company cost containment measures involving determinations that certain physicians’ charges are not usual, customary and reasonable if the insurer does not clear its procedures with CSMS (CX 450; 451A, B, E, F). CSMS strenuously objected when the Aetna Life and Casualty Company adopted a policy of paying physicians’ fees up to the prevailing fee levels that Aetna had determined and, then offering assistance to policyholders who wished to contest any additional charges by their physician (CX 450, 451A–F). The CSMS Council voted down a resolution reminding physicians to “discuss their fees with patients *before* rendering services” so as to avoid disagreements with patients over fees that exceed the patients’ health insurance coverage limits (CX 451F) (emphasis in original). The Council specifically endorsed an AMA resolution calling on insurance carriers to consult with “duly constituted representatives of organized medicine” before determining usual, customary and reasonable fees, and calling on the insurers to utilize physician-controlled peer review mechanisms to resolve differences with physicians regarding fees (CX 450, 451A–F). CSMS supports such medical society peer review committees, in part because they protect the physicians (CX 204B), and provide a forum consisting exclusively of physicians (RCX 129, pp. 34, 68) where physicians can press claims that insurers’ reimbursements have been inadequate (CX 411–14).

D. Foundations for Medical Care

65. The CSMS Council voted that foundations for medical care are more acceptable to it than HMOs, partly because of CSMS’s concern for protecting the physician in private practice (CX 892A). The Council has urged the CSMS component medical societies to consider forming foundations for medical care on a county-by-county

basis, each foundation to serve as the negotiating agent for contracting physicians in all matters having to do with third-party payments to physicians (CX 892A-B, 2414C). CSMS has issued a \$4,999 interest-free loan to the New Haven County Foundation for Medical Care to be repaid "when feasible" (RCX 68, p. 17).

Foundations "owned, controlled and administered by organized medicine" and incorporating fee-for-service medicine as a basic principle are one means available to [88] medical societies to protect the interests of practicing physicians (CX 388A, B, E, F). They provide physicians with a "common front in meeting the socioeconomic pressures facing the practice of medicine," such as presented by HMOs, where fees are not necessarily controlled by doctors (CX 2412E, F).

E. Efforts to Influence Governmental Action

66. CSMS seeks to exert influence on the course of legislative proposals of interest to physicians (CX 1255A). The CSMS Committee on Legislation lobbies primarily at the state government level, and also lobbies in cooperation with the AMA at the federal level (CX 192A, 1255A). In 1971, 1974 and 1975, CSMS's allotment to state and national legislation committee activities was over twice as large as its budgetary allotment for any other committee (RCX 155C, 68, p. 16).

CSMS opposed price controls on physicians' fees (CX 192, 1268). CSMS's Executive Director declared, in 1974, that by contacting Connecticut's two Senators and six representatives, and obtaining their support, CSMS was instrumental in terminating Phase 4 price controls on physicians' charges (CX 192A).

CSMS pressed for repeal of the Connecticut law requiring physicians to pay an annual registration fee of \$150 (CX 1236D, 1256A-B, 430, 1257), announcing that its primary concern with the statutory registration process for Connecticut physicians was the amount of the annual fee physicians had to pay (CX 1256A). Consistent with its announced concern about legislation which it believes would place one modality of medical practice at a competitive disadvantage with respect to others (RCX 5A), CSMS has opposed legislation that would waive the registration fee requirement for non-fee-for-service, salaried physicians (CX 1256A).

CSMS has also lobbied for adoption of malpractice insurance legislation (RCX 68, pp. 29-30; CX 1749A, E) to forestall continued premium increases in physicians' liability insurance costs (CX 1252A, 1749A). A number of CSMS's legislative proposals, in 1974 and 1976, were specifically designed to make it more difficult for

plaintiffs to prevail in malpractice litigation and to reduce the size of malpractice liability awards against physicians (CX 1262, 1263; Tr. 8324).

In 1974 and 1975, CSMS lobbied for increases in and faster payment of physicians' claims under the Medicaid program in Connecticut (CX 431A, 432, 1236C; RCX 68, p. 42, 103I; Tr. 8396-97). CSMS has also opposed the charging of [89] fees by the State Health Laboratory, questioning whether the state government should compete with the private sector (CX 1264), and has opposed legislation expanding the scope of practice of podiatrists (CX 1236C) and chiropractors (CX 192A).

F. Connecticut Medical Political Action Committee

67. CSMS organized COMPAC to support CSMS's legislative activities by contributing money to candidates for public office (CX 500A-C, 458A, 1214A. *See also* F. 58, pp. 80-82). COMPAC's activities are designed to "stem the tide" of governmental actions adversely affecting Connecticut physicians, such as price controls on physicians' fees, increased physician license registration fees, liability awards against physicians and national health insurance (CX 454). COMPAC serves as the "political arm" and "tool" of the medical profession in Connecticut (CX 223, 1711, 1206A), seeking to protect and enhance the private practice of medicine in concert with the American Medical Political Action Committee ("AMPAC") (CX 1214A-B).

CSMS made financial grants to COMPAC in its early years (Tr. 8258-60; CX 1211), and COMPAC officials have attended CSMS Committee on Legislation meetings (CX 458A). Various physicians have served simultaneously as officers of COMPAC and as officials of CSMS (Tr. 8387-89). For example, in 1971, the physician who chaired both the CSMS Public Affairs Division and National Legislation Committee was also the chairman of the COMPAC board (CX 1214C, 2109B). CSMS's president, president-elect, vice president, treasurer, the chairmen of the CSMS judicial, public relations and third-party payments committees and three other CSMS officials all were on the COMPAC board that year (CX 1214C, 2109B). Promoting membership in COMPAC has been one of the two main goals of the CSMS public affairs committee (CX 1258B). CSMS endorses COMPAC and acts as its collection agency, soliciting contributions to COMPAC and AMPAC in the annual dues statements sent to CSMS members (CX 1214C, 1714, 1715, 312). CSMS provides office space and local telephone service to COMPAC at no charge and receives reimbursement from COMPAC for other administrative services CSMS pro-

vides for COMPAC (CX 2599C, D). The two organizations are in close liaison (CX 1206A), and work together (CX 1214C). COMPAC reports to the CSMS Council twice a year (Tr. 8383-84) and files reports with the CSMS House of Delegates (RCX 129, p. 68; CX 458B). [90]

G. Membership Services

68. CSMS provides a physicians' placement service (CX 1285B; Tr. 8238-39). This program benefits CSMS members who are interested in making a geographical change in their practice and those members who are seeking professional associates (CX 192A). Placement assistance to out-of-state doctors seeking opportunities within Connecticut enhances the potential for increased membership in CSMS and has considerable public relations value (CX 1285C).

CSMS offers a variety of other services to its members. These include scientific assemblies held twice a year (CX 213B, 991I) and estate planning and settlement advice (CX 355; RCX 129, p. 71).

H. Public Relations

69. The CSMS public relations program is designed to "maintain constructive and dignified relationships" with the public and other groups in the health care field (CX 213B). It includes efforts to "enlighten and direct" the public on issues relating to HMOs, foundations for medical care and PSROs (RCX 5C, 148Q, p. 3).

I. Insurance Programs

70. CSMS sponsors a variety of group insurance programs available exclusively to its members, the most significant being the Professional Liability Insurance Program (RCX 2D, 68, p. 29; CX 192B, 206F. *See also* F. 59, pp. 82-83). This program, underwritten by the Aetna Life and Casualty Company, is designed to assist CSMS members caught in the "expensive bind" of rising malpractice costs (CX 367U, 1235, 1328). The program is available only to CSMS members (Tr. 8299; CX 1328, 309, 317), and is the only group malpractice insurance available in Connecticut with the exception of policies available to members of certain medical specialty societies (Tr. 8378-79, 1722-23; CX 1328). A Connecticut physician who is ineligible for a group policy can obtain malpractice insurance only by purchasing a nongroup, individual policy from Aetna at a higher rate than that charged to CSMS members under the sponsored program (Tr. 8778). Approximately 85 percent of CSMS's members subscribed to the program, and CSMS intervenes with Aetna on behalf of CSMS members who protest initial determinations by

Aetna refusing coverage of them (Tr. 8295, 8297, 8300; CX 428; RCX 2D, 148N, 3A-E). [91]

Other group insurance plans sponsored and endorsed by CSMS and available only to its members (CX 314, 317), include a life insurance program at substantial savings (CX 207B; RCX 148H), office disability insurance to provide "continuing income in the event of disability" (CX 210B; RCX 148K), office overhead insurance to "save money" (CX 314C; RCX 148J), health and accident insurance (CX 216, 213B; RCX 148F), in-hospital indemnity insurance (RCX 148B) and major medical insurance (CX 205, 213B; RCX 148G, I), all offered at lower rates than would be available in individual policies (RCX 148B, F).

J. Publications

71. CSMS publishes *Connecticut Medicine* and distributes it as a benefit of membership (RCX 146, p. 9, 129Z, p. 76. See also F. 56, p. 77). The journal contains scientific articles, articles on socioeconomic, legal, governmental and ethical issues (RCX 68, p. 32), and articles of economic interest to Connecticut physicians on PSRO's, governmental health systems agencies, malpractice insurance, the Connecticut Commission on Hospitals and Health Care (RCX 68, p. 32), financial entitlements of physicians who have contractual arrangements with hospitals (RCX 129, p. 27) and estate planning (RCX 129, p. 71). *Connecticut Medicine* includes a section of physicians' placement listings (RCX 129, pp. 73-74). The articles on medical subjects in the magazine are not only of scientific value, but also provide practical, economic benefits to improve physicians' efficiency, productivity and skill (RCX 129, pp. 13-14).

CSMS has utilized *Connecticut Medicine* to keep its members informed on such economic issues as compulsory insurance, prepaid medical insurance, group practice, licensure of foreign medical graduates, proposed legislation on social security for physicians, professional liability insurance, corporate practice of medicine, use of the CSMS *Relative Value Guide* and CSMS official policy statements on physicians reimbursement and payment mechanisms (RCX 129, pp. 41-50, 68; CX 2412, 204).

K. Source of Funds

72. CSMS's total income in 1975 was \$409,911, of which \$340,058 (83.0 percent) was derived from membership dues and assessments, and \$56,715 (13.8 percent) was derived from *Connecticut Medicine* (RCX 68, p. 18). A very small portion, if any, of CSMS's income comes

from contributions and grants from disinterested parties (RCX 68, p. 18). [92]

L. Federal Income Tax Status of CSMS

73. CSMS is exempt from federal income taxation under Section 501(c)(6) of the Internal Revenue Code (CX 1393. *See also* F. 50, pp. 60-61).

VII. ACTIVITIES OF NEW HAVEN COUNTY MEDICAL ASSOCIATION

A. Committees and Programs

74. The NHCMA bylaws establish the following standing committees: Board of Censors and committee on third-party payments, which together comprise the peer review committee; credentials and orientation; medical ethics and department; legislation; program; nominating; and policy and procedure. In addition, NHCMA has committees on public relations, bylaws revision, insurance, finance and liaison to the Woman's Auxiliary (Tr. 8436, 8441-47; CX 995E-M; RNHX 139, pp. 7-15).

The Board of Censors is the committee which initially investigates and hears matters of complaint made regarding the conduct of an NHCMA member, including any allegation of misrepresentation, deception, unethical practice or provision of inadequate care. This committee serves an "ombudsman" function in receiving and responding to inquiries and complaints made by members of the public (Tr. 8462-63, 8475-76).

The third-party payments committee is concerned with matters relating to insurance plans and other plans of third-party entities. This committee meets with the Board of Censors to comprise the peer review committee, which reviews all fee related complaints and inquiries made to NHCMA by the public and third-party payers (Tr. 8442; RNHX 139, pp. 10, 15).

The committee on credentials and orientation is responsible for reviewing and ensuring the authenticity of statements made on applications for membership in NHCMA, and also conducts an orientation program for new members (Tr. 8442-43; RNHX 139, pp. 11-12).

The committee on medical ethics and department is concerned with claims of malpractice (Tr. 8443; RNHX 139, p. 12). [93]

The committee on public relations has two functions: to improve internal relations within NHCMA and between NHCMA and others; and to educate the public with regard to health care matters. This

committee is also responsible for the publication of *Issues and Insight* (Tr. 8443, 8524).

The committee on legislation is responsible for keeping abreast of legislative matters relating to health care (Tr. 8443; RNHX 139, pp. 12-13).

The program committee is responsible for planning the arrangements, dinner and speaker for the NHCMA annual and semi-annual meetings (Tr. 8443-44; RNHX 139, p. 13).

The nominating committee meets once a year to nominate a slate of officers to be voted upon at the NHCMA annual meeting (Tr. 8445; RNHX 139, pp. 13-15).

The committee on policy and procedure, composed of present and past officers, is concerned with long range planning and recommendations of future policy for NHCMA (Tr. 8445; RNHX 139, p. 15).

The insurance committee has responsibility with respect to the endorsement of health and accident insurance programs (Tr. 8446).

The finance committee supervises the formulation of the NHCMA budget and ensures that the budget is adhered to (Tr. 8447).

NHCMA formed a liaison committee with the Yale University Medical School in order to develop mutual cooperation between academic and practicing physicians (Tr. 8454; CX 995J).

B. Income and Expenses

75. In 1975, NHCMA received gross income of \$107,239. This amount included \$95,845 annual dues payments from members; \$1,268 from tickets to the NHCMA annual and semi-annual meeting; \$2,816 interest on NHCMA reserves; \$975 received from insurance companies for reviewing third-party payments questions (\$25 per case reviewed); \$1,598 revenue from advertising placed in the NHCMA publication, *Issues and Insight*; \$4,011 reimbursement [94] from the New Haven County Foundation for Medical Care, Inc. for consultant's administrative services; \$726 reimbursement from the Professional Standards Review Organization for administrative services and office equipment.

In 1975, NHCMA had expenditures of \$95,027 (Tr. 8513-17; RNHX 138C). NHCMA expended \$54,186 as Executive Office expenses, including salaries, pensions, health insurance and payroll taxes (Tr. 8517-18; RNHX 138C). NHCMA expended \$12,952 to hold meetings of NHCMA (annual and semi-annual) and its committees. This amount included \$9,077 to hold its annual and semi-annual meetings; \$2,261 to hold Board of Governors meetings, Executive Committee meetings and special meetings; \$524 to hold meetings of the NHCMA standing committees; \$353 to hold meetings of the Board of

Censors; and \$737 in secretarial, postage and printing costs of the credentials and orientation committee to consider membership applications and prepare certificates of membership (Tr. 8518-20, 8525; RNHX 138C). NHCMA expended \$9,900 to retain an outside public relations consultant, and an additional \$766 for expenses incurred by the consultant (Tr. 8520-24; RNHX 138C). NHCMA expended \$3,454 in direct costs of publishing and distributing *Issues and Insight*, and expended \$200 as an honorarium to its physician editor. The duties of the public relations consultant included aiding in the production and publication of *Issues and Insight*. NHCMA expended \$788 in direct costs of publishing and distributing the NHCMA President's Newsletter to members. The duties of the public relations consultant also included aiding in the production and publication of the newsletter (Tr. 8524-25; RNHX 138C). NHCMA expended \$997 to cover the Clerk's office equipment, cost of travel to meetings elsewhere in Connecticut, etc. and a \$400 honorarium to the NHCMA President. NHCMA expended \$340 as a miscellaneous reserve or "emergency" fund and \$319 as a donation to the NHCMA Woman's Auxiliary to help defray the costs of holding the Auxiliary's annual scholarship dance (Tr. 8525-26, 8529; RNHX 138C). NHCMA expended \$9,627 in maintaining its office, including the cost of rent, utilities, janitorial services, telephone and answering service, insurance, office equipment and supplies, printing and postage. NHCMA expended \$600 for auditor's services and \$120 for legal services (Tr. 8526-30; RNHX 138C). NHCMA expended \$372 for the Executive Secretary's attendance at an AMA leadership conference in Chicago on current topical issues such as medical care for jail populations and the control of "the sick doctor" (Tr. 8527-28; RNHX 138C). NHCMA had a net excess for the year of \$12,212 (RNHX 138C). [95]

C. Public and Governmental Interface

76. NHCMA has sent representatives and advisors to several community-oriented health organizations such as the New Haven Alcohol Council, the Cancer Society and the American Heart Association. NHCMA sends a representative to the Health Systems Agency which is a federally mandated health-planning organization designed to determine and make recommendations concerning the adequacy of presently available medical care. NHCMA sent a representative to the South Central Connecticut Comprehensive Health Planning, Inc., which was the predecessor of the Health Systems Agency (Tr. 8452-57; CX 995I). In 1971, the NHCMA Executive Committee met with chiefs of staff of hospitals in New

Haven County to discuss topics of mutual interest (CX 447A-E). In 1972-73, NHCMA had an *ad hoc* committee on staff appointments at Yale-New Haven Hospital. This committee met with a committee of the New Haven city medical association to discuss three physicians' efforts to obtain staff privileges at Yale-New Haven Hospital (CX 442, 443, 445, 446A-C). In 1975, representatives of NHCMA met on two occasions with representatives of the New Haven County Bar Association in exploratory meetings aimed toward improving relationships between the two organizations (CX 995M). NHCMA does not have a physician placement service, but has endorsed plans covering major medical, hospitalization and disability insurance (CX 339, 1280, 1281, 323A-F, 324A-F, 327A-F, 328A-B, 329A-B; Tr. 8446-47).

D. Publications

77. NHCMA publishes a quarterly periodical, *Issues and Insight*, which is a 10-12 page publication designed to keep the NHCMA membership and others informed as to current issues of interest regarding health care and physicians in New Haven County. *Issues and Insight* has a physician editor and is published in conjunction with the NHCMA public relations committee (Tr. 8457-58, 8524; CX 995H,J). *Issues and Insight* is available free of charge to members of NHCMA, and also to nonmembers upon request. The costs of publishing and maintaining *Issues and Insight* as an NHCMA publication exceed the revenues obtained from advertising, resulting in a loss to NHCMA of approximately \$2,000 in 1975 (Tr. 8524-25; RNHX 138C).

E. COMPAC

78. COMPAC is a voluntary political action committee registered with the Federal Election Commission (see F. 58, pp. 80-82; 607, p. 89). COMPAC is not a committee of NHCMA [96] and NHCMA granted no money, funds or property to COMPAC in 1975 and 1976, and provided no administrative services to COMPAC (Tr. 8574; CX 500A, 2599A, D). NHCMA members are not required to join COMPAC. As of the end of 1974, 94 members of NHCMA chose to belong to COMPAC. As of April 1975, 74 members of NHCMA had chosen to do so (CX 312, 996B, 1214B, 1712, 2599A). On occasion, a COMPAC member may make a brief oral statement to NHCMA or its Board of Governors regarding the purpose of COMPAC and the importance of participating in the electoral process. The phrase, "Join COMPAC," was printed on the back side of one NHCMA

