

# CAS-ACS News



A Quarterly Update from the Candidate and Associate Society of the American College of Surgeons



## Spring 2004

*EDITOR: Juan C. Paramo, MD, Chair Communications Committee, CAS-ACS*

### Notes from the CAS-ACS Chair

CAS is moving and growing at an unprecedented pace this year. We are focusing on an exciting Spring Meeting in Boston that will feature a Resident Surgical Jeopardy and Spectacular Case Presentations. In addition, our Officers will meet with leadership of the College and invited guests to formulate a CAS Strategic Plan. The purpose of the strategic planning session will be to organize a "road map" for the future of the CAS for the next three to five years. We will explore everything from education to leadership development. We will present this plan for discussion to the CAS Council of Representatives during the ACS Clinical Congress this fall.

Last quarter, a number of CAS members wrote to us and asked how they could become a part of our leadership group and the Council of Representatives. We encourage ALL of you to come to our meeting this fall on Sunday, October 10, in New Orleans, where you will find the answers to those and other questions.

In addition, this year's symposium will focus on the concept of "Residents as Employees or Students." We hope to explore important and challenging issues during what will be a very interactive meeting. Some of the issues we plan to address include: Why don't residents have an investment benefit during the "decade" of training? If some individuals were so concerned about resident safety prior to the work hour changes, why didn't the hospitals provide van pools to get residents home safely after their call day? Is it OK to sue a resident who just happened to be on call the night the patient received the wrong medication?

I think you will find our sessions at the Spring Meeting in Boston and at the Clinical Congress in New Orleans to be exciting and thought provoking. The leadership of the CAS-ACS look forward to seeing you at our meetings.

Jeffrey S. Upperman, MD  
Chair, CAS-ACS

Children's Hospital of Pittsburgh  
Department of Pediatric Surgery  
Pittsburgh, PA

**Spring Meeting Is Just around the Corner  
Join Us in Boston, April 24-27 REGISTER NOW!**

The CAS-ACS is pleased to endorse educational programs for residents and Associate Fellows that will take place during the upcoming Spring Meeting, to be held April 24-27 at the Marriot Copley Place in Boston. In a continuing effort to support resident participation, the Spring Meeting program will feature two resident-specific sessions on Tuesday, April 27.

The first session--*Spectacular Cases from Residents*--will be moderated by Fredrick Schild, MD, and Juan C. Paramo, MD, and will present extraordinary surgical cases to a group of experts. This interactive program will encourage audience participation and promises to be a wonderful learning experience. This session will take place on Tuesday from 8 to 11:30 am.

The second program, *Surgical Jeopardy*, will be moderated by Mark W. Bowyer, MD. Teams from selected residency programs will participate in a surgical version of the famous TV show. This session will be presented from 1 to 5 pm.

Again, we would like to invite all Candidates and Associates to attend these and other exciting sessions during this year's Spring Meeting in Boston. This is certain to be a valuable experience that will offer high-quality educational and networking opportunities. Registration is available online on the College's Web site at <http://www.facs.org/2004springmeeting/index.html>.

Juan C. Paramo, MD  
Chair, Communications Committee  
CAS-ACS  
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**What You Should Know about Restrictive Covenants**

*Did you know?* That restrictive covenants (non-compete clauses) are a common part of a contract between a physician and his or her employer. A non-compete clause "restricts the right of a physician to practice medicine for a specified period of time or in a specified area upon termination of an employment, partnership or corporate agreement".\* When faced with a restrictive covenant, many doctors entering practice for the first time make the mistake of ignoring the clause in a contract proposal or assuming that it is illegal or

unenforceable. This preventable error may lead to considerable heartache and financial hardship.

The American Medical Association states that non-compete clauses "restrict competition, disrupt continuity of care, and potentially deprive the public of medical services"\*. The AMA Council on Ethical and Judicial Affairs notes that "restrictive covenants are unethical if they are excessive in geographic scope or duration in the circumstances presented, or if they fail to make reasonable accommodation of patients' choice of physician"\*. Nevertheless, non-compete clauses are legal in most areas of the United States. Because the laws regarding restrictive covenants vary from state to state, it is important to review a contract with a lawyer who is familiar with the local laws prior to signing an employment agreement.

Before you decide to fight your non-compete clause in court, consider the following information. In general, litigation regarding restrictive covenants may have three outcomes: (1) The non-compete clause may be upheld (you lose). (2) The physician may be allowed to practice in the restricted area after compensating the surgical practice for loss of patients (you win an expensive, time-consuming partial victory). (3) The restrictive covenant may not be enforced, usually because of a critical shortage of physicians in the area with resulting harm to patients (you win an expensive, time-consuming victory). Lawsuits are risky and best avoided.

If your potential employer insists on the need for a restrictive covenant, a better approach is to negotiate a contract that is agreeable to both parties. Points of negotiation include the length of the non-compete clause (generally not longer than one to two years), the geographic scope of the restricted area (ranging from a few blocks in an urban area to tens of miles in a sparsely populated rural region) and indications for institution of the non-complete clause (such as voluntary versus involuntary termination of a contract).

And again--before signing on the dotted line--don't forget to review your contract with a lawyer who is familiar with the laws in your area.

\* <http://www.ama-assn.org/ama/pub/category/8519.html> (accessed on March 3, 2004).

Gregory Cherr, MD  
Chair, Issues Committee  
CAS-ACS  
Department of Surgery  
Erie County Medical Center  
Buffalo, NY

### **Update: Revising the CAS-ACS Bylaws**

As the participation of Candidates and Associate Fellows in the

activities of the College has grown and changed, so have the functions of the CAS-ACS. Because of this changing role, a subcommittee of the Executive Committee has been appointed to update our Bylaws to better reflect the current needs and practices of our society.

Some of the revisions to the Bylaws are necessary because of changes in the governance of the CAS-ACS. For example, the Executive Committee does not meet during the College's annual Spring Meeting, even though provision for such a meeting is included in our original Bylaws. Another change acknowledges that only one CAS-ACS member sits on each Advisory Council, rather than the two members that are mandated in the present Bylaws. Other updates reflect omissions in the original Bylaws. As an example, the Bylaws do not contain a description of the duties of the Officers of the CAS-ACS nor of the specific functions of its standing committees.

The most difficult challenge we face is addressing the mechanism to ensure appointment of CAS-ACS members to our Council of Representatives--and then having these Representatives attend the fall meeting of the College. Previously, three members were to have been chosen from each state or province to attend the Council of Representative meeting: one from general surgery and two from surgical subspecialties. Unfortunately, not all Program Directors nominated a resident to be considered for appointment to the Council of Representatives, and many regional ACS chapters also did not participate in this critical function. An even greater challenge is obtaining funding for each member of the Council to attend the Clinical Congress in October. The subcommittee that is working on revising our Bylaws is actively exploring other mechanisms for choosing and funding attendees so that they can attend the Council of Representatives meeting.

Gregory Cherr, MD  
Michael Sutherland, MD  
Cecilia Boardman, MD  
Willie Underwood, MD  
CAS-ACS Task Force on Revision of the Bylaws

### **About CAS-ACS**

The Candidate and Associate Society of the American College of Surgeons (CAS-ACS) is an organization within the American College of Surgeons that was formed to benefit young and future surgeons through involvement in the College's activities. Membership in the CAS-ACS is automatic when you become a member of the Candidate Group or an Associate Fellow of the American College of Surgeons. Candidate Group membership is open to all surgical residents enrolled in an accredited graduate educational program, surgical research, or fellowship program. Associate Fellow membership is open to young surgeons who are currently engaged in a second surgical residency, a research or a fellowship program, a surgical specialty practice, and are

within five years of graduation from formal surgical residency training. Currently, over 2,700 Associate Fellows and 4,400 Candidate Group members are part of the CAS-ACS.

**Benefits of becoming a CAS-ACS member:**

- free *Journal of the American College of Surgeons* subscription
- free *Bulletin of the American College of Surgeons* subscription
- free Clinical Congress and Spring Meeting registration and access to CME credit
- reduced pricing for selected postgraduate courses at the Clinical Congress
- information on clinical and research fellowship opportunities
- free access to the College's job and resume databank
- electronic newsletter and Web site
- educational materials to meet requirements for board certification
- opportunities to serve on various College committees
- opportunities for local chapter affiliation
- access to ACS-sponsored insurance programs (life, health, disability)
- a voice in advocacy and policy-making issues concerning residents and young surgeons

**Join today!**

Adam J. Ball, MD  
Chair  
Membership Committee  
CAS-ACS  
Miami, FL

**Be Sure to Visit These Important Areas of the ACS Web site:**

CAS-ACS Homepage: <http://www.facs.org/cas-acs/index.html>

How to Join CAS-ACS: <http://www.facs.org/cas-acs/membership/membership.html>

Job Bank:  
[http://www.healthcareers.com/site\\_templates/ACS/index.asp?aff=ACS&SPLD=ACS](http://www.healthcareers.com/site_templates/ACS/index.asp?aff=ACS&SPLD=ACS)

ACS Homepage: <http://www.facs.org>

ACS Spring Meeting:  
<http://www.facs.org/2004springmeeting/index.html>

**Your Feedback Is Important to Us**

We are interested in making sure that the content of *CAS-ACS News* meets the interests and responds to the needs of surgical residents and newly practicing surgeons across the country. Your feedback and ideas are important to us. Please send your comments about this newsletter and your ideas for articles to the Editor at [cas-](mailto:cas-)

[news@facs.org](mailto:news@facs.org).

### **Communications Committee, CAS-ACS**

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