Texas Orthopaedic Association
Board of Directors Meeting
May 13, 2004
Stones Crossing Room, Four Seasons Hotel, Austin, TX

TOA President Maureen Finnegan, MD called the meeting to order. In attendance were Drs. Richard McKay, Jack Henry, Allen Meril, Steve Norwood, John Early, David Teuscher, Archie Whittemore, Andrew Kant, Timothy Beck, Paul Pace, Patrick Palmer, William Schreiber, John Gill, Kevin Coupe, Charles Kennedy, and Charles Mitchell. Also attending were TOA staff Donna Parker and John Pike, as well as TOA Legislative Advocate Mignon McGarry.

Dr. Finnegan asked for approval of the minutes from the January 2004 Board of Directors Meeting included in the packets. A motion was made for approval, and Dr. McKay seconded it. The approval was unanimous.

Dr. Finnegan opened by announcing that through the hard work and creativity of TOA staff and leadership, the Texas Orthopaedic Association was awarded the State Society of the Year Award in Washington at the NOLC banquet. Through an executive decision, TOA gave the $1000 award check back to Stu Weinstein (MD) of AAOS to go to the national Doctors for Medical Liability Reform. Dr. Finnegan added that it was important that the TOA repay at least the $75,000 grant that it was awarded last year, and we have done that, but with less than 100 members contributing. Dr. Teuscher said that we need to get 100% participation from the Board first, then move to a grass roots effort to get the membership on board. Dr. Norwood suggested that this drive should be mentioned repeatedly throughout the meeting. Dr. Kant pointed out that 1. a lot of the TOA Membership thinks that "Texas is protected, we no longer need to worry about what Washington, DC does"; and 2.this is an election year, and a lot the TOA membership is being hit for contributions by a lot of candidates. Dr. Kant went on to say that it is the Board's job to educate the membership.

Dr. Teuscher pointed out that Texas passed out medical liability reform due in large part to the $75,000 grant that TOA received from the AAOS at a critical time. Colleagues are fighting liability reform in other states and we need to assist them. TOA will not get 100% participation, but we need to go from 7% participation, to 17% or 27%. Dr. Teuscher suggested that doctor to doctor requests in the doctors' lounge of the hospital will be the most effective. Dr. Kant agreed that that would be the only way that it will work. Dr. Teuscher suggested stating that $1000 is the suggested amount, but any contribution would be appreciated. Dr. Finnegan said that with the anger surrounding the $1000 request from AAOS, TOA should not even mention that amount.

Dr. Norwood said that TOA should put together 5 bullet points explaining why liability reform is still an issue in Texas, such as: 1. a lot of the liability insurance carriers are national carriers and higher rates in other states spill over and affects Texas rates; 2. doctors are trans-locating from other states to Texas adding competition and fewer patients; etc.

Dr. Teuscher suggested that TOA should show our membership how contributing only 1% of their gross salary per year, divided among various causes and candidates, can make a big impact and is the least that they should be doing to give back to the cause. Contributions to the Medical Liability Reform Fund can be made with corporate check, but may not be fully deductible.

Dr. Finnegan asked Dr. Kant to work with Dr. Norwood to come up with a list of why our membership should still contribute to medical liability reform.

Dr. Teuscher said that TOA should give it two weeks to get 100% of the Board on board, and then he would start making personal phone calls. Dr. McKay said that he would try to get 100% participation in Amarillo at some level. Dr. Finnegan asked staff to get a list divided regionally to the Board members so that they can start making calls to the orthopaedic surgeons in their areas. Dr. Henry agreed that a personal phone call would be the most effective. Dr. Finnegan asked if anyone on the Board objected to making these calls, and hearing none, suggested that that is what would be done.

Dr. Finnegan suggested that the TOA create a Past Presidents Council to be used as an ad hoc advisory committee. Dr. Henry made the motion, and Dr. Teuscher seconded it. The idea passed unanimously. Dr. Finnegan said that the first project for the Past Presidents Council was to review the committee structure of the TOA and make suggested changes to the TOA Board and she asked Dr. Kant to chair that committee project.

Dr. Finnegan also suggested that the committees make efficient use of conference calling. Dr. Norwood added that TOA should attach agendas and any other supporting documents with conference call notifications to participants, so that they will be prepared when the call commences. Dr. Finnegan asked Dr. Whittemore (incoming President) if he approved of the Past Presidents Council reviewing the committee structure, and he replied "Yes".

Dr. Finnegan said that the state societies had been asked by the AAOS's Bone & Joint Decade Committee to try to get our state legislatures to make a proclamation of observance of the National Bone & Joint Awareness Week. Mignon McGarry said that she would work through the Governor's office to get that proclamation.

Dr. Finnegan asked the TOA staff to look in to providing an HSA plan available to the members as a benefit at Dr. Palmer's suggestion.

Dr. Finnegan said that at the last meeting, the Board established two ad hoc committees, one for ancillary services, and the other to look at the long term finances of the Association. To date, not much has been done by these committees. Dr. Finnegan asked Dr. Pace to write a newsletter article on ancillary services and to chair the Ancillary Services Ad Hoc Committee. He agreed to. Dr. Whittemore said that he would get with Dr. Borer to work on the Financial Ad Hoc Committee.

Donna Parker reported that TOA is planning to review the basic systems at the office. TOA is partnering with sponsors and will hold regional "face offs". TOA is going to focus on proving more CME hours due to the new certification requirements (240 hours over 6 years). TOA is hoping that corporate sponsorships will add a great deal of money to our budget and help TOA deal with issues. Dr. Norwood added that the new AdvoMed rules have made it obvious that one of the few places that companies can contribute is to organizations like the TOA that are offering education related programs. Dr. Finnegan added that as much as the surgeons hate the new certification requirements, it opens a golden opportunity for organizations like the TOA to provide the CME hours and generate revenue.

Dr. Whittemore started the Treasurer's Report by saying that the Podiatry suit is still ongoing and draining money and resources. TOA is continuing to work to build up the reserve. Dr. Finnegan asked if the Ad Hoc Financial Committee could come up with recommendations for the Board on what to do with the reserve fund by the next BOD meeting in August. Dr. Whittemore replied "Yes". Dr. Kant said that TOA received a great reception when speaking with exhibitors at the

AAOS in San Francisco. Donna Parker added that TOA needs to fully understand the new AdvoMed rules, even before the reps do to take advantage of the changes.

Dr. McKay gave the Membership Report, asking the Board to review the list of new member candidates. Staff noted that TOA received a letter from the membership asking that the Board refuse membership to one of the candidates. The Board requested that staff do additional research into the candidate, and perhaps contact AAOS and get additional legal council. The Board approved all of the other candidates, and left Dr. Mark Henry's application pending.

Mignon McGarry started the Legislative Report saying that there are a lot of things happening, especially for an interim period. The biggest issue currently is how to bring in new revenue to fund schools and lower property taxes. The House floated a payroll tax that would hit some doctors hard, and now the Senate has proposed a franchise tax which would tax pretty much everyone 2.5% – 3.5%. Currently, only 1 in 5 businesses pay a franchise tax. Sole proprietors, partnerships and basically everyone will be taxed. About half of the Senate wants this, and Mignon McGarry is talking to their staff to see if some consideration can be given for physician charity care such as Medicaid, etc. The special session is scheduled to end on Wednesday, May 19 at midnight, and if something doesn't get passed, it will be up to Governor Perry to decide whether and when to call another special session. Dr. Teuscher added that this is an income tax on doctors and will cost a lot more than any savings on property tax cuts. Mignon McGarry asked the Board to contact any legislator that they know, and to let them know that they are firmly against the franchise tax.

Mignon McGarry went on to say that with this tax issue, it has been hard to get the legislatures attention on any other issue such as the Sunset Commission's review of Podiatry and Workers Comp. The Sunset Commission will not be making any decisions at their meeting next week, but it will set the framework for how things will go.

Dr. Early said that the Podiatry case is mired in muck. TOA has had some success in educating the Sunset Commission on the fact that podiatrists are not MD's and their training is significantly less than that of medical doctors, and that they are operating outside of the bounds of what physicians are held to. Since their Board (TSPBME) rejected the Attorney Generals decision, they have decided to keep the rule in place, allowing podiatrists to forge ahead and do as they wish.

Dr. Teuscher said that the TMA ad hoc Committee on Sunset Review met today and the Sunset Commission have a scathing report of the Podiatry Board and the Chiropractic Board. There has been no disciplinary action for unprofessional behavior by these boards, while the TSBME is taking positive steps towards sanctioning bad doctors. The Sunset Commission made no organizational change recommendations. Dr. Teuscher thinks that they will wait to see what the TSBME does. They may come back and recommend a Texas Board of Medicine, with a board structure including MD's, DO's, and Public Members. Already, the TSBME has an advisory sub board of Physician Assistants, and one of acupuncturists. They are starting to understand that there are cut outs within the field of medicine, including Podiatry and Chiropractic, and they will do anything outside of what MD's and DO's already do. The inclination is to put them all under the disciplinary function of the TSBME with advisory sub boards. That way, they can make scope rulings without having to go to the courts or legislature.

Dr. Beck asked if the issue of the podiatrists practices in New Boston was being investigated and brought to the attention of the Sunset Commission. Mignon McGarry said that they are weaving all of the elements into the testimony.

Dr. Norwood began his Workers' Compensation Committee Report by saying that "networks" are all the rage. The Sunset Commission stepped on the TWCC hard. Networks are a point that TOA/TMA may be ready to give. The TMA Workers Comp Task Force's starting point with regards to networks is that they need to be heavily regulated to protect patients and physicians (some comparisons to the Oregon model have been brought up). Another point is the idea of employer directed healthcare for injured workers. TOA is strongly pushing the point that no matter what the TWCC does to improve the administrative hassles, they still need to get the fees up from 125% of Medicare if they want to get the orthopaedic surgeons back in to the system.

Dr. Meril said that he is not sure how the idea of networks worked its way into the discussion, but he feels that somehow putting the TWCC under the scrutiny of the TDI so that some of the rules, such as prompt pay, can be enforced would be a step forward.

Dr. Norwood continued, stating that the TWCC passed a fee guideline for ASC's at 213% of Medicare, but in doing so, they also tied the fees to Medicare rules that do not allow payments for many things such as plates and screws, etc. This will drive as many as 5% - 30% of the cases out of the ASC's and back into the hospitals where these items will be reimbursed.

Dr. Norwood also stated that he has moved his entire practice to be a non-subscriber, and is interested in moving the market in that direction.

Dr. Kennedy reported that the TWCC is moving to an evidence based decision making process. He suggested that the Board should go on line to review these guidelines, with a comment period from May 11 – May 25, Dr. Finnegan asked staff to prepare a one page handout on this for the members attending the meeting.

Dr. Norwood explained that TMA's Task Force's stand is that they want Treatment Guidelines that are nationally recognized and have been through the clearing house. Dr. Kennedy said that he Official Disability Guidelines (ODG) is the only evidence based national guidelines, and it has been adopted in Ohio. The ODG was developed by a Texas based company which has recently moved its headquarters to Colorado. Dr. Kennedy is the medical editor for the ODG. Dr. Norwood asked Dr. Kennedy to talk to TMA staff at his convenience to give them some more insight and background about these guidelines.

Dr. Kennedy went on to say that he has been working with Scott McAnally in Corpus Christi to set up a model with the Physician and Orthopaedic Associates (Dr. Kennedy's former practice). They are trying to actually test out the efficiency of the guidelines, with a much more detailed back therapy program, focused on early return to work.

Mignon McGarry reported on Trauma Funding, stating that trauma funding is all about who gets the money. TOA is trying to make sure that the Level III hospitals have a plan in place to pay doctors. Dr. Coupe added that the word on the street (possibly started by the THA) is that the doctors are trying to kill the deal.

Dr. Finnegan was asked by the TMA to talk to Dr. Rapp who is the chair of the Governor's Emergency/Trauma committee, and Dr. Rapp reported that he felt bad about how the negotiations went. Nationally, the American College of Surgeons says that Level III hospitals have to have an orthopaedic surgeon available within 15 minutes or less. Texas ignored this when they wrote the rules, but Dr. Rapp is pushing to have this national rule adopted. The whole argument is down to one word: "should" or "shall". Since "should" is not a legal term, the lawyers are arguing as to

whether the language should read: "Hospitals ('shall' or 'may') have a plan in place to reimburse their doctors". TOA is pushing for "shall" to make it stronger language.

Dr. Teuscher brought up the proposed self-referral ban at the national level which will expand upon what they already have with the moratorium on specialty hospitals. The hospitals are trying to do this in Texas, so that doctors can't operate at any surgical center or specialty hospital that they own. This will be a huge issue with the TOA membership since most of our doctors have some interest in these types of facilities. It is going to be brought up in the 2005 Legislative Session. Dr. Finnegan asked Dr. Pace to work with Dr. Teuscher on a legislative plan for this issue.

Dr. Palmer began his Professional Liability Committee report by stating that the TOA needs to hitch our wagon to the DMLR and have a grass roots effort to get all of our members to give something. There is good information available at the DMLR web site www.protectpatientsnow.org. There are many states that are trying to follow the Texas lead in passing liability reform.

Dr. Norwood said that most doctors in Texas have not seen a rate reduction yet, which the Board understands, but TOA needs to be diligent in pressing for reductions as time goes on. Insurance Commissioner Montemayor is doing a fairly good job, and some legislators are considering mandatory 25% reduction. Dr. Teuscher said that TOA and its members also need to be wary of some of the new carriers coming into the state that are risk retention groups, which may not have financial stability in the long term. Dr. Norwood added that TMLT is very interested in writing orthopaedic surgeons again. Dr. Norwood's rates went down by almost 25% when his group switched to TMLT. Donna Parker said that TMLT wants a TOA endorsement and TOA is negotiating for up to a 6% discount for our members who complete the Bayer Communication Course.

Dr. Kennedy said that there is nothing new to report on the Physical Therapy front.

Dr. Schreiber asked if TOA could create a position on the Board for the President of T-Bones. Dr. Mitchell agreed that that would be an excellent idea. Dr. Norwood also agreed that he likes the idea of bringing them closer to the TOA at our meetings. Dr. Schreiber made the motion to add the T-Bones President as an Ex-Officio Advisory Member of the TOA Board. The motion was seconded by Dr. Teuscher and passed without opposition, pending approval of the Bylaws Committee.

Dr. Schreiber reported on the Patient Safety Committee. His practice had Steve Harden, the co-founder of Crew Training International, come to speak to them and found him to have an excellent program. The program stems from military flight training, and was originally developed for Federal Express. They are modifying it to medical practices, and Dr. Schreiber suggested that the TOA should invite them to give their two hour presentation at one of our meetings.

Dr. Finnegan asked Dr. Merril and Dr. Pace to look into providing CME Courses for the web. They responded that they have asked Donna Parker for some direction on this effort.

Dr. Mitchell said that TOA has all of the technical elements in place to develop a Key Contact network, but we have not assigned "captains" in each district to reach out to the representatives. TOA now has the new Congressional Zips in the system.

Dr. Finnegan stated that Drs. Rathgen, Carmichael, and Kent were not able to attend the meeting due to the storms in the area, and TOA will consider using a teleconferencing system at our future Board of Directors meetings for those who can't physically attend the meetings.

Dr. Norwood gave the Board of Councilors' Report. He said that while in Washington, the Texas Councilors were able to meet with both of our Senators, Kay Bailey Hutcheson and John Cornyn. Most of Congress had left town due to an early adjournment of the House. Many met with Congressional staff, and some met with Congressman Sessions. There was a fascinating session about ambulatory surgical centers and surgery hospitals. It was so interesting, Dr. Norwood suggested that the TOA should consider replicating it at one of TOA's meetings.

Dr. Norwood congratulated the TOA for bringing home the award for the large State Society of the Year from AAOS. He went on to say that the TOA is revered by the other states. Dr. Finnegan added that a great deal of that is due to the creativity of the TOA staff.

Dr. Whittemore stated that he was not able to attend the February TMA Delegate meeting, but that they are dealing with a lot of the same issues that we are including medical liability, Workers' Comp, Medicaid, CHIP, etc. He would be attending that meeting being held on Friday, May 14.

Dr. Teuscher said that TMA was going to make a recommendation from the House of Delegates to move their meetings form Thursday, Friday and Saturday, to Friday, Saturday, and Sunday. Other specialties meet now on Saturday, and will move their meetings to Sunday. Dr. Kant said that the vast majority of the TOA membership has nothing to do with the TMA meeting and suggested that the TOA should consider moving the TOA meeting away from the TMA meeting. Dr. McKay said that that would require two trips for those doctors that wish to attend parts of both meetings. Dr. Teuscher suggested having TOA staff meet with the TMA and prepare a report for the Board with dates, locations, and the pros and cons of meeting with the TMA.

Donna Parker gave the Nominating Committee Report for Dr. Corley. Dr. Whittemore is to be the new President; Dr. Norwood is the President Elect; Dr. Teuscher is the Second President Elect; Dr. Drake Borer is the new Secretary/Treasurer; and Dr. Henry was re-elected to a second term on the AAOS Board of Councilors. Dr. Michael Kent is the Resident Representative to the TOA Board.

Dr. Finnegan closed the meeting by saying that this has been a great year. The TOA Leadership functions very well as a Board. Dr. Finnegan went on to say that it has been an absolute pleasure to serve as the President of Texas Orthopaedic Association.

Applause, adjournment.

Texas Orthopaedic Association
Board of Directors Meeting
January 10, 2004
Southwest Airlines Conference Center, Dallas, TX

TOA President Maureen Finnegan, MD called the meeting to order. In attendance were Drs. Archie Whittemore, Jack Henry, Kevin Coupe, Andrew Kant, Michael Dean, John Early, Steve Norwood, Allen Meril, Paul Pace, Richard McKay, John Gill, David Teuscher, and Charles Mitchell. Also attending were TOA staff Donna Parker, John Pike, and Jeseka Wallace, as well as TOA Legislative Advocate Mignon McGarry.

Dr. Finnegan asked for approval of the minutes from the August 2003 Board of Directors Meeting included in the packets. Dr. Henry made the motion for approval, and Dr. McKay seconded it. The approval was unanimous.

Dr. Finnegan suggested that TOA may have a generational problem in that the younger orthopaedic surgeons are very concerned with the time commitment required to become involved in the Association. They want time specific, topic specific issues to address and solve. Dr. Finnegan suggested that the Board consider this with regards to redoing our committees. Specifically doing away with about half of the committees, perhaps converting some of them to tasks forces, and narrowing it down to committees that TOA actually has manpower for, and that actually serve some function.

Donna Parker reported that it had been a very interesting year, starting with Dr. Andy Kant's Presidency where TOA increased the corporate sponsorship. She also pointed out the updates to the TOA web site, including adding the "Resource Team" where members and staff can get brief questions answered from a variety of experts. TOA may add Gateway Computers to our resource group. She said she hoped to keep building the team and to add a "Frequently Asked Questions"section. Donna also pointed out the added the video streaming, which are called "Info Streaming". So far most of the Residence Course and other meeting presentations are available on line. A Residence Course CD will be produced to make them available to other states' orthopaedic residency programs to use. A CD will be given to all those who attend the course in state. Dr. Finnegan suggested that they not send it out to our neighboring states, and perhaps expand our "live" program to include them. Donna pointed out that the Ethics Hour is on the site. Donna added that TOA expects to generate a great deal of revenue from our corporate partners that want to stream product/procedure videos on our site. Donna asked the Board to let TOA know if they are consultants for any of these companies or have a particularly good relationship with a company.

Donna also said that TOA will be adding CME presentations to the site, which has great potential in that area. Dr. Finnegan asked if there is a way to track the traffic on the site, and Donna replied that reports are obtained from the web master on a monthly basis. Dr. Finnegan suggested that this data be used in our promotion of the streaming. Donna also mentioned the e-mail signature at the bottom of all of TOA's outgoing e-mails that highlight features on the web site. She asked the members to contact TOA for their log in and password. It will also contain a hyperlink to the site. Dr. Finnegan suggested that the CME for the Ethics hour be advertised to the members. Donna asked for any other suggestions for expanding the streaming.

Dr. McKay asked what percent of members have emails, and John Pike responded that approximately 70% have them, but that 10-15% of these are "bad".

Donna pointed out that there is a "Public" portion, a "Sponsor" portion, and a "Members Only" portion of our web site. A table set up at the Annual Meeting where the web site can be demoed to the members (and sponsors as well). Dr. McKay suggested that a 10 minute demo at the annual meeting can be part of the program.

Donna pointed out another new feature of the web site, the Career Placement page. TOA expects that when this is fully up and running, it too can be a significant source of revenue. TOA would charge only a fraction of what the professional "head hunter" firms charge to hook physicians and professional staff up to clinics looking for personnel.

Donna introduced Jeseka Wallace, TOA's new Membership Director to the Board.

Donna continued discussing the web upgrades and the improved legislative advocacy page, which will have the new Congressional districts in addition to the state legislators. TOA needs a little better information to post regarding the interim issues as they come up.

Donna reported that there is an instructional disk in production that outlines that steps that Texas and specifically TOA took to help pass medical liability reform in the last legislative session. The remainder of the $75,000 AAOS grant money was used to produce the disk, and AAOS will make it available to the other states that are working towards reform. The disk will contain the various bills' introductory text as well as the final version, examples of promotional materials that were produced and distributed. The disk will also feature talks by Mike Hull, counsel for Texas Alliance for Patient Access, Mignon McGarry, TOA Legislative Advocate, and Dr. David Teuscher.

Dr. Finnegan brought up the fact that several of the Texas Board of Councilors had not yet contributed in to the AAOS Liability Reform Fund as requested, and she has assigned the task of urging them to do so to someone else. They are hoping for 100% involvement from the Board of Councilors, and hopefully that will spread throughout the rest of the states. If $1000 is more than they are comfortable in giving, any amount will be welcome. They are targeting $1 million dollars by the end of the quarter. Dr. Norwood pointed out corporate checks could be used.

Dr. Gill said that the national campaign for tort reform will likely focus on one or two Senate races. Eleven votes are needed in the Senate, and the thought is that if one falls, the others will sit up and take notice for the next go round.

Archie Whittemore, MD, TOA Secretary Treasurer, gave the TOA budget report. Dr. Whittemore said that at the end of 2002 TOA was $2600 in the red. For 2003, TOA is able to put money into reserve. For 2004, projections indicate a substantial amount being returned to reserve.

Dr. McKay asked how the dues increased from $108,000 to $190,000. Donna replied that the "Just Bill 'Em" campaign has brought in 238 new members, and that accounts for the increase. That brings the membership to over 1400, with only about 200 more physicians in the state that could be recruited. Dr. Whittemore pointed out the increased revenue from sponsorship, and the savings seen through the use of emails for communication.

Dr. Finnegan asked if the reserve fund needs a financial plan. Dr. Finnegan asked for volunteers to lead a project team to prepare a financial plan. She hoped to start with Drake Borer, MD (who has agreed to take over as Secretary Treasurer when Dr. Whittemore becomes president). Dr.

Finnegan asked Drs. Early, Pace and Meril to assist with this project, and they all agreed to do so. Dr. Finnegan asked if they could put together some preliminary suggestions by the May meeting.

Richard McKay, MD, TOA Membership Director delivered the membership report. Dr. McKay said previous discussions brought up reducing the first two years dues to 50% of regular dues for physicians just starting out in practice (either directly from Residency Programs or returning to Texas from a Fellowship). It was agreed that TOA could bring in enough people that it would be revenue neutral in the long run. Dr. McKay also suggested Residents receive bills showing that their $350 dues have been waved, with a message telling them about their 50% discount upon completing Residency or Fellowship.

Dr. Kant suggested that a letter be sent to all PGY 5 Residents welcoming them to the TOA, and letting them know that their dues for the first two years following residency or fellowship will be reduced by 50%. They are automatically made Associate Members. Dr. Pace suggested that we contact the Resident Directors or Coordinators to make sure their new addresses are obtained.

A motion was made to send out dues statements to the Residents showing that they are being comped the $350 dues, and to reduce the dues by 50% to all members for the first two years following their Graduate Medical Education (including Residency and Fellowship). The Board passed the motion.

Dr. Finnegan suggested that both personal and school emails should be obtained. Also, she suggested that the Resident Coordinators almost always know what the PGY 5's forwarding addresses will be.

Dr. David Teuscher, TOA Legislative Committee Chair began the Legislative Committee Chair report by talking about the TMA's Ad Hoc Committee on Workers' Comp that met the previous day. Drs. Teuscher, Norwood, Gill and Malone attended that meeting along with John Pike. Drs. Callewart and Meril are also participating in this Committee. Workers' Comp is going to be the number one issue mainly due to it being such a large economic matter. It was agreed that TOA has an opportunity to redesign the entire system and the legislature is looking for our input.

Dr. Teuscher went on to say that there will be a very busy campaign season, and there is a need to support those candidates that supported medicine on tort reform. He also stated that physicians would have to defend the tort reform legislation that passed last year for many years to come.

The Sunset Review Process can be reviewed at www.sunset.state.tx.us. Other agencies besides TWCC that are up for sunset review include the TSBME, the Texas State Board of Chiropractic Examiners, and Texas State Board of Podiatric Medical Examiners.

In Workers' Comp, TAB is pushing for networks or employer directed healthcare, and it is necessary to try to get the fees back up to so doctors will be drawn back into the system.

Dr. Norwood suggested that a chart be added to the next newsletter showing the year-to-date contributions to the AAOS Liability fund to try to draw more attention and interest in it.

Dr. Teuscher attended the AMA meeting, where the Texas delegation submitted a resolution which passed the House of Delegates.

Mignon McGarry, TOA Legislative Advocate followed up pointing out the Senate races coming up very soon. She mentioned several changes in chair persons of committees important to

medicine. She predicted that in April of 2004 there will likely be a long, 3-4 month, special session on School Finance.

Mignon said that she is thrilled with the involvement from the TOA leadership and everything that has been accomplished through that involvement. She wants to be careful not to burn anyone out too fast by asking them to do too much.

Dr. Finnegan asked if a position paper could be put together on Comp by May. Mignon suggested that it could be done even sooner. Dr. Gill added that having spoken with John Hoskins at the Sunset Commission, and Bonnie Bruce from Rep. Solomon's office, that the TOA position needed to be sent to them by April, and that the Sunset Commission was going to have its recommendations by May. It will go out for public comment, and by September or October, the bill will be written and ready to go. Dr. Teuscher suggested that Mignon put a key contact list together to develop a specific message. Dr. McKay agreed that a pro-active plan of what needs to be done to correct the system should be sought. It was agreed that working with TMA would be a good idea as long as they stay on point. Dr. Teuscher said that TOA is working with TMA, but the Association will be ready to move on it's own if needed. Dr. Gill said that TMA has the staff, and Dr. Teuscher mentioned that TOA has 5 of the 15 members on the TMA Ad Hoc Committee. Dr. Finnegan suggested that we should try to arrange a conference call a little later and get more people involved.

Dr. John Early, TOA Podiatry Issues Committee Chair said the podiatry issue was frustrating. There was a mediation meeting in early September which he had thought settled the lawsuit. Then the lawyers got into it, and the language changed, and he learned there is no longer an agreement. Dr. Early felt they should be held to what was agreed to during the mediation or the lawsuit would be continued. Susan Hendrick was trying to get a response from the TSBPME as to whether they will go back to the language of the original agreement, and they have scheduled a Board Meeting to discuss it. That TSBPME Board Meeting will be covered, but it is likely they will continue to stall. It was agreed, if they don't act at this Board meeting, it will be important to set the court date.

Dr. Kant went on to suggest that since the TSPBME is coming up for Sunset Review, physicians should take the position that all of the other medical sciences should come under the Texas State Board of Medical Examiners, with sub-boards for Podiatry. Dr. Teuscher agreed and asked if anyone on the Board had a problem with that being a stated position of TOA. He asked to relay this information to the TMA's TSBME Committee.

It was agreed that TOA should request additional funding from TMA to pay for the increasing expenses of this lawsuit.

Stephen Norwood, MD, TOA Workers' Compensation Committee Chair began his report by saying that the new Medical Fee Guideline (MFG) has come and gone, after some delay in the courts that we helped to bring about. Dr. Norwood and John Pike met with the new Commissioner Mike Hachtman out of Houston, and with Sen. Kyle Janek's legal aide, Patricia Becker, in a preliminary discussion for the Sunset Commissions Review. As predicted, although TAB said that there would be no crisis; areas of the state are being underserved. Dr. Norwood referred to the WC Survey graph in the Board packets, and pointed out that although a majority of the membership has signed up to be on the ADL, almost 2/3 are restricting who they see in WC in one way or another. The bottom line is that they are not willing to accept high hassle for low pay.

Dr. Finnegan asked why the Non-Subscriber system apparently works so well. Dr. Norwood said that it is not really a system at all, but a bunch of businesses that choose to go bare as far as their liability to injured workers' lawsuits, in exchange for having control over providing health and disability care for their employees at a lower cost. Dr. Kant added that in Texas, the legal environment makes it very difficult for an employee to successfully sue an employer in that gross negligence must be proven. Dr. McKay added that there are some non-subscribers who are not so responsible.

Dr. Norwood went on to say that our members can search out the responsible non-subscribers and negotiate a simple one page contract for treating their injured workers. Dr. Kant added that there is virtually no food store chain in Texas that subscribes to the TWCC.

Donna Parker said that Scott McAnally, the former Executive Director of the former Research and Oversight Council (ROC), has been trying to search out physicians who are willing to provide services to the non-subscribers, perhaps through networks. TOA is not doing this as an organization, but is trying to keep the dialogue open for more options when treating the injured worker.

Dr. Teuscher said that when he, Dr. Gill, Dr. Norwood, Dr. Malone and John Pike met with the TMA Task Force on WC, Bonnie Bruce of Rep. Bert Solomon's office said that everything is on the table as far as workers' comp goes. (Rep. Solomon is the Chair of the Sunset Commission, and Sen. Jane Nelson is the Vice-Chair.)

Dr. Norwood said that the TWCC is currently trying to pass Ambulatory Surgery Center Fee Guidelines, possibly at 230% of Medicare which is low commercial (213.5% eventually passed). TOA chose not to comment on the proposed fees, feeling that if it passes, it will show the inequity of the system with physician fees at 125% of Medicare. He suggested that this information, if taken to the legislature, may bolster our case.

Dr. Norwood expressed his frustration at the system, and the lack of attention that the commissioners apparently pay to public input. Dr. McKay agreed, and says that he has experienced the same indifference when testifying before legislative committees.

Dr. Teuscher commented that Mike Hachtman would likely become the new Chair of the Commission. The structure of the Commission protects the Executive Director, Dick Reynolds, from the control of the governor. The Commissioners are appointed by the governor, but they elect the ED. The TWCC may go to a strong Executive Director structure, without commissioners, and the ED will answer directly to the Governor. Another possibility is that the Commission will go to a 2-2-2 make up, with 2 employer, 2 employee, and 2 physician commissioners.

Kevin Coupe, MD, TOA Trauma Committee Chair asked the Board to look over the TOA Trauma Call Survey in their packets and pointed out that it shows that some trauma physicians are being compensated and some are not. The survey gives us real data to bring to the legislature. Houston, in particular, has a real problem of physicians not being compensated for trauma call, while the hospitals are receiving funding.

Mignon said that the rules are coming up for public comment, and asked the Board to review the material in the packet of information that she provided. She said that TOA was instrumental in structuring the Trauma Funding Bill, but the hospitals carry a bigger stick in the game. This clearly showed in the legislation, in that it didn't specify how the money would be distributed

between the hospitals and the physicians. The hospitals will receive 96% of the funds, and the legislature wants the hospitals to be fair in how they pay the doctors. Mignon didn't feel that anyone in the legislature was willing to jump in and sort all of this out.

There is a public hearing scheduled for January 23 & 24 in Austin, and nothing is final. Several Board members related stories from various parts of the state regarding the lack of reimbursement for trauma care and the consequences of such policies.

Dr. Kant pointed out that the non-profit hospitals are getting millions in extra public money through tax breaks in addition to this 96% of this Trauma Funding Legislation. Dr. Coupe said that we need to determine how much money is likely to be in this fund and who controls the RAC. Dr. Finnegan suggested that perhaps TOA could request, through open records laws, information that would send a message to the legislature. Dr. Teuscher said that he doesn't have a problem with the hospitals getting 96%, as long as the physicians get their fair share of it. He added that we should try to negotiate that hospitals should be required to have a written policy regarding reimbursing the trauma physicians. Dr. Teuscher went on to say that we should push for an agreement that has a minimum floor of a third of the funds. Dr. Coupe agreed that that would be a good number. Mignon McGarry said that she would put the two points in a draft letter to be signed and delivered to the legislature.

Dr. Teuscher said that he has spoken to the governor several times about developing a statewide trauma network. The governor understands what that means but it will take us a dozen years to get there. This is the first stage in the process and Dr. Teuscher felt that the reimbursement needed to be set right from the beginning.

The Board went on to discuss specific modifications to the text of the proposed bill, trying to add in "physician" where appropriate. Donna Parker said that in conference calls with TMA and the hospitals, the hospitals repeatedly stated that they already have compensation agreements with their doctors. "We have the mechanism in place," they would contend.

Mignon asked if someone would be available to come down to testify and Dr. Finnegan said that she would come. Dr. Coupe would be available for the May 23-24 meeting.

Dr. Charles Mitchell reported that he and John Pike had worked out how to match a doctor with any given legislator. They will work on identifying key people on that list so they can be called on for specific issues. It was felt there was a need to identify 2 or more doctors in each district to establish these relationships.

Dr. Finnegan said that we need to send a message out to specific members and tell them that they are "assigned" to this particular legislator and ask them to go by and talk to them about specific issues and then report their feedback to the TOA. Dr. Teuscher suggested that we send out a letter now saying "These are your races, are you involved in any of these?" Dr. Teuscher offered to work with Dr. Mitchell on this project. Dr. Gill suggested that we use a "Just Bill 'Em" approach to suggest that the membership set aside $1000 to contribute to candidates. Perhaps TOA should suggest $150 to State House members, $200 to State Senator, and $250 to their Congressman. Leave the balance to contribute to the candidates of their choice. When they try to contact their representative latter, they will be on the list and be able to get through. Dr. Gill offered to write a "The Board Recommends..." letter. Dr. Teuscher suggested $1000 or 1% of their gross income might even be appropriate and let them know that they should "Run or get off of their wallet."

During the lunch break, the Board viewed one of several video segments from WFAA in Dallas reporting on Workers' Comp in Texas. The Board discussed how the reports could perhaps be used in other parts of the state. Dr. Finnegan suggested sending out an email to membership with a link to the WFAA reports, with the suggestion that they contact their local stations to encourage similar reports.

Dr. Allen Meril gave a report about the three ongoing lawsuits with Patient Advocates of Texas/AFL-CIO v. TWCC/TAB. The first had to do with trying to declare the 1996 Fee Guideline unconstitutional, and they won the ruling in appeals court that had to do with the insurance carriers being able to audit physicians. They're not allowed to down code your submitted bills for provided services. Dr. Meril sees this as a huge victory. It is now before the Texas Supreme Court, but they have not ruled yet. The other two cases are in the Third Court of Appeals. One case is about the new MFG at 125% of Medicare.

Dr. Teuscher said that if Dr. Meril wins, there will be a huge amount of follow up cases, and the carriers would be forced to pay interest in addition to the unpaid amount that they owe. Dr. Meril added that this is why the carriers are so concerned about the case.

Dr. Paul Pace had no report on the Subspecialty Committee.

Dr. Stephen Norwood reported for the Board of Councilors. The BOC Annual Meeting at the Barton Creek Country Club in Austin focused on the national tort reform. Coming on the heels of the Texas win, TOA received a lot of attention.

The BOC also spent a lot of time on local political fundraising. Also discussed was patient safety. Another issue was the communication of bad news to families after bad outcomes. And finally, there was a very good segment regarding dealing with physician stress, with loss of autonomy being a leading cause of stress among older doctors.

Dr. Archie Whittemore attended the Specialties Society Meeting in September, where they discussed medical liability reform and scope of practice issues with a focus on expert witnesses. Anesthesiologists have a system of peer review of expert witnesses and they suggested that other specialties do the same. Dr. McKay said that the Council on Health Policy was meeting in Chicago and the expert witness program is one of the lead issues. Dr. Finnegan said that some of the guidelines that TMA includes: 1. you have to be consistent in your testimony; 2. the testimony must be your own; 3. if your testimony is not mainstream, you have to say that it is not mainstream; and 4. you cannot accept contingency fees for your testimony, it has to be a flat rate fee that is consistent.

Dr. Finnegan said that there is a spot opening on the TMA EMS/Trauma Committee. Donna Parker said that the list of TMA Committee openings is in the Board packet. Dr. Finnegan said that she would like the Board to see which open slots were appropriate for the TOA membership to fill. Dr. McKay said that he thought that the Childhood/Adolescent Health Committee could use an orthopaedist.

Dr. Finnegan said that she would like to expand the core involvement in the TOA from the 30 or so in the Leadership, to about 200 members who actively participate. Dr. Finnegan would like to utilize more conference calls before decisions are made. In Mississippi, they divide the state into regions, and within those regions they determine areas of interest for their members. TOA could then call upon members with specific interest in an area to work on issues. Dr. Norwood said that as a chair of a committee, he would rather have a group of 7 to 9 committed members rather than

20-30 who have general interest. Dr. Teuscher suggested that committee chairs should actively recruit active committee members. He went on to suggest utilizing the experience of the Past Presidents. Dr. Finnegan suggested putting together a Past Presidents Council which could act as consultants to the committees.

Dr. Finnegan said that she would go through the committees and consolidate them. She suggested making the committee chair a 3 year position, renewable for a second 3 year term. She also suggested that the committee members should have two year terms, renewable twice for a total of six years.

Dr. Pace suggested that TOA add an Orthopaedic Ancillary Services Committee.

Donna Parker mentioned the need to run any proposed changes in the committee structure by Dr. Temple to see if any bylaws changes would be necessary.

Dr. Finnegan said that TOA should determine at each January Board of Directors Meeting who is going to the NOLC in the Spring, and determine at the April/May Board of Directors Meeting who is going to the AAOS State Societies Meeting in the Fall. Donna said that TOA usually send no fewer that four members to NOLC in addition to our Councilors. TOA paid for the President Elect and the Resident Representative to the Board to attend last year. Dr. Finnegan said that it was as good idea to automatically send the Resident Representative to the Board every year. Dr. McKay said that he felt that it is money well spent to send members to NOLC. Dr. Finnegan agreed, and said that TOA should pay for it the first time, and then let the doctors pay their own way on subsequent visits. Dr. Teuscher and Dr. Kant said that they were going. Dr. Finnegan asked Drs. Pace, Mitchell, Meril, and Coupe. Dr. Craig Callewert and Dr. John Early were recommended to attend.

Dr. Finnegan asked that TOA should plan early notification to the membership when elections are coming up, and let them know who has been favorable to medicine. Dr. Kant suggested that Mignon should provide TOA with the lists and timing for this purpose.

Dr. Gill was asked to speak about national fundraising. The Board agreed to provide Dr. Gill with the TOA Membership list for solicitation purposes. They also agreed that the TOA would offer the same if someone wants to do a similar solicitation on behalf of whoever ends up as the democratic nominee for president. Dr. Finnegan said that TOA doesn't want to become partisan, and shouldn't endorse the candidates specifically.

Dr. Gill asked to comment on the Workers' Comp issue. He asked the Board to look over the questions posed by the Sunset Commission and to provide any and all ideas and comments to himself and the others on the TMA Task Force on WC. The Commission has indicated that everything is on the table and all ideas will be considered. He suggested that the suggestions be given to all six of our members on the task force. (Norwood, Gill, Teuscher, Malone, Meril, Callewart).

Dr. Teuscher added that the State is looking at Workers' Comp from an economic development angle, and that should be kept in mind when submitting suggestions for the system. There was some discussion of posting the questions on the TOA web site, possibly in the WC chat room area of the site.

Donna Parker asked the Board to consider an idea proposed by Scott McAnally regarding setting up an electronic billing "switch" similar to one that a group of independent pharmacists have set

up and been using very successfully for a few years not. Such a switch would enable the participants to collect and analyze data from submitted claims as well as the payments made by the insurance carriers. This information could then be used to help participating physicians negotiate contracts with the carriers and to provide to the legislature when discussing issues from prompt pay to Workers' Comp. Eventually the services could be expanded to include services such as discounted credit card processing, group purchasing, etc. Donna assured the Board that all of the HIPPA compliancy issues had been addressed, and client specific information is stripped from the gathered data. She said that TOA is trying to find out if there is enough interest from our membership to set up a pilot program.

Dr. Norwood said that there is a Medicaid pharmacy issue coming up that orthopaedic surgeons should consider commenting on in that it could limit their options for prescribing (particularly in regards to pain medications such as Cox II inhibitors).

Dr. Norwood also said that when he met with the representative from Sen. Kyle Janek a few months ago regarding WC, Patricia Becker indicated that the legislature can now compel insurance carriers to provide information that had been previously not available and held as "proprietary" by the carriers. He asked the Board to suggest a list of items that could be sent to Sen. Janek's office. Among the suggestions were: How much did the carriers collect in premiums, and how much did they pay out? How much was paid out to the various provider types, such as orthopaedic surgeons, chiropractors, podiatrists, etc.? How many MRI's were ordered and by whom? What percent of claims were paid as filed, and what percentage were paid at more or at less that filed (down coded)?

With no more topics to be discussed, Dr. Finnegan adjourned the meeting.

Texas Orthopaedic Association
Board of Directors Meeting

August 9, 2003
Crystal Room, Driskill Hotel, Austin, TX

TOA President, Dr. Maureen Finnegan called the meeting to order. In attendance were Drs. Early, Kant, Teuscher, Kennedy, Norwood, Meril, McKay, Temple, Henry, Leahy, Palmer, and Whittemore. Also in attendance were Donna Parker, John Pike, and Mignon McGarry. Drs. Gill, Corley, and Pace joined the meeting in progress.

Dr. Finnegan asked for approval of the minutes from the last meeting that had been sent out to the Board Members. Dr. Kant asked that the minutes be approved as written; Dr. Henry seconded the motion. The minutes were approved unanimously.

Dr. Finnegan gave the President's report, beginning with a brief NOLC Meeting report, saying that all of the Board of Councilors will need to attend, and that up to four more members could be signed up. Dr. Finnegan suggested this would be a good way to get some of our younger members involved. She suggested that this be worked out by our next Board Meeting. Dr. Kant gave a brief rundown of the typical schedule of NOLC for those present who haven't attended this meeting.

Dr. Finnegan said the Texas Dermatological Society asked TOA to join them in opposing the scope of practice position that would allow the use of lasers by non-physicians. The Board agreed to join them in their opposition to this expansion of scope to include non-physicians.

The TOA Board also agreed to support a letter sent by a number of other groups asking that the 15 days that insurance carriers have to review claims be decreased to a lower number of days.

The Mid American Orthopaedic Association is meeting at the La Cantera Resort in San Antonio in 2004, and all TOA Members are invited to attend (at member rates), and they are looking for input for events. The TOA Meeting is May 13-15 in Austin at the Four Seasons. Donna Parker said that she would post the information about the Mid-American Orthopaedic Association's meeting on our web site at Dr. Kant's suggestion. Dr. Finnegan asked Dr. Palmer to be TOA's lead contact person to work with the MAOA and he agreed.

Dr. Finnegan addressed the problem that the FCC has come up with a ruling that as of August 28th, 2003, you cannot fax anyone without a written consent to do so. The attending Board Members signed permission forms provided by TOA staff to allow us to continue to communicate efficiently.

Dr. Finnegan asked for suggestions to encourage more members to use the web site. Dr. Teuscher suggested that we include a link to the site on all emails that go out to the membership. He went on to suggest that we send out an email that asks the members if they would like to unsubscribe to the mailing list, click here (ad a link that would automatically remove them from our list). Also we should have them indicate their preferred means of communication. Dr. Finnegan agreed that the hyperlink on emails was a good idea, and instructed staff to begin using that when possible.

Dr. Finnegan asked if anyone had an idea on how to engage the Residents to view the web site. Dr. Norwood felt a Resident page that deals with issues of interest to them such as job opportunities, job issues, fellowship programs, etc., should help. It was also suggested that we add a search by specialty and city to the site so that members can use the site for referral purposes. Dr. Finnegan asked that the membership be contacted to let them know about the legislative advocacy and the payment by credit card features of the site and use that opportunity to ask them to update their contact information. This way they could give us their email address and specialty. Staff was instructed to work on a letter that lets the membership know what is new on the web site, and which asks for updated information on appropriate subspecialties. With that letter we can include a contact permission form.

Dr. Temple asked if the TMA sends out weekly or monthly newsletter, and if so, perhaps we can "advertise" our web page in the TMA newsletter so that non-orthopaedic physicians can have a resource for finding a referral doctor. Dr. Finnegan agreed this should be done after the update our membership information.

Dr. Finnegan suggested that perhaps during the (legislative) session, TOA may want to expand the office hours by having the staff stagger their work shifts to accommodate physicians. It was pointed out that staff was always available when given even short notice. Donna Mignon and John agreed they would continue to be available whenever needed. Dr. Finnegan asked the Board to give the TOA office, as well as Mignon, advanced notice if needed after regular working hours. The staff said they would be happy to be available during the session to TOA members working on the legislative agenda.

Dr. Finnegan asked Dr. John Gill to report on the Blue Cross/Blue Shield meeting. Dr. Gill said that Dr. Bruce Malone was at the meeting. Dr. Dee Whittlesey of Blue Cross/Blue Shield had asked to put this meeting together to get input from several physicians as to issues/problems that they were having with BCBS. This was an effort to open an ongoing dialogue to address the problems that orthopaedic surgeons are having with BCBS. Dr. Gill went on to say that they are hoping to have quarterly meetings to address specific problems such as bundling or unbundling certain specific codes, etc.

Dr. Finnegan finished her report with announcing that a couple of committee chairs needed replacements. Dr. Hunnicutt, TOA's Public Relations Committee Chair had asked to step down and Dr. Kant agreed to accept that Chair. Dr. Teuscher moved to name Dr. Kant to the PR Chair. The motion was seconded and approved. Dr. Finnegan then asked the Board to consider a new "Patient Safety/Communications Committee." Dr. William Schreiber agreed to Chair this ad hoc committee until a Bylaws amendment made it a standing committee. This would align TOA with the AAOS's move to shift the focus on malpractice from individuals to system errors. There was some discussion regarding realigning several committees, and perhaps consolidating some. Dr. Finnegan suggested that Dr. Norwood, Dr. Whittemore and she would get together before the January Board of Directors Meeting and look at the entire committee structure to offer more recommendations.

Dr. Whittemore reported as the President Elect that the 2005 Annual Meeting will be held at the Omni Mandelay in Las Colinas on May 12-14. Dr. Rockwood has agreed to make the meeting and will be the 2005 guest speaker. Dr. Seade has agreed to be Dr. Whittemore's program Chair.

Dr. Whittemore went on to give the Secretary/Treasurer's report. He asked the Board to review the report in the packet, and said that he would be happy to address any questions. Dr. Kant suggested that a new Secretary Treasurer be considered since Dr. Whittemore will be President

next year. Dr. Finnegan will ask Dr. Drake if he would like to be the Secretary/Treasurer, and if he says "no", she will ask Dr. Seade if he would add that to his duties as the Program Chair.

Dr. McKay gave the Membership Committee report, and clarified the fact that the list in the packet of applicants to the TOA was for review and discussion only at this time. They will not be voted on for induction until November. Several on the list as Associates were known by the Board to be Board Certified, and it was suggested that the TOA staff contact the AAOS for verification on the "Associate Members".

Dr. Temple had no report for the Bylaws Committee, but it was acknowledged that he would have work to do to make sure the committee reorganization was in compliance with the bylaws.

Dr. Teuscher began his Legislative Committee by discussing the "Yes on 21" campaign for the Proposition 12. Dr. Finnegan suggested that we include in the blast fax that the members begin with getting their families, neighbors and friends to vote. Dr. Henry suggested that the Residents be encouraged to vote.

Donna said that the new TOA "Yes on 12" posters are being mailed out this week to all of our members along with the TMA materials. Dr. Palmer suggested hand delivering the posters to as many hospitals as possible.

Dr. Teuscher reported that AAOS has launched a nationwide liability reform initiative that is extremely important. AAOS is taking a top down approach, meaning that everyone in any leadership position at AAOS is being asked to contribute to this. The money goes to a special American Association of Orthopaedic Surgeons fund. Dr. Teuscher suggested asking the rank and file know that all of the volunteer leadership and their peers should be fully committed to this effort to raise money for this fund. This critical program had already helped the TOA with a $75,000 contribution to efforts to pass effective tort reform in Texas. A sum of $1000 will be requested from every member. Dr. Finnegan added that by the end of November, she would like to be able to say that every member of the TOA Board had contributed to this effort so that our members can be approached for their contributions. It was agreed that Texas should strive to give back more to the AAOS than they received in grant money on this issue.

Dr. Teuscher also wanted to add that TOA has contributed $35,000 to "Yes on 12", TMA and TAPA to help pass the constitutional amendment. Donna reported that an additional $12,000 of the grant money has been spent to date. Dr. Teuscher suggested that the Board give discretion to the staff to order more posters as needed so that no time is wasted in the approval process since there is only five weeks until the election.

Dr. Teuscher stressed the importance of Texas passing Proposition 12 not only for the physicians in the state, but to set a precedent and a road map for other states to follow, adding momentum to the national level. It was mentioned that the two Texas Senators are firmly behind national reform.

Dr. Finnegan asked the Board to agree that we have currently contributed $35,000 to the "Yes on 12" effort, and will spend another approximately $30,000 of the remaining funds, leaving approximately $10,000 to be placed on hold until reaching the "wall at the Alamo". What to do with the remaining funds will be determined after the dust has settled from the election. Dr. Temple moved that the Board proceed as outlined, and Dr. Henry seconded the motion. The Board voted unanimously to pass the motion.

Dr. Teuscher added that there is one more issue on the radar screen and that is that a franchise tax on professional services (including physician services) will likely be discussed in a special session next Spring on school finance. This is an issue that should be strongly opposed by medicine.

Mignon McGarry reported that the podiatry hearing is set for August 19, and it would be nice to have 2-3 physicians to be there on that Tuesday at 2:00. Dr. Kant suggested that office staff attend as well.

Mignon went on to say the Rep. Burt Soloman from the Carrollton area was going to be the Chairman of the Sunset Commission. The Speaker has appointees on the Commission as does the Lt. Governor. Since there is so much up for Sunset, Mignon would like to see TOA get involved with anyone on the Sunset Commission to inform them about the issues important to orthopaedic surgeons.

Dr. Early reported on the Podiatry Committee activities, reiterating the importance of having physicians in attendance at the hearing. He indicated that he hoped that the hearing would settle the case, but that the judge may require a mediation process first. Dr. Kant added that this litigation has already cost a great deal, and the costs keep mounting.

Dr. Finnegan asked for a report on Workers' Comp...which drew a big laugh from the Board. Dr. Norwood said that he wasn't sure that he should stay on as the Chair of the Workers' Compensation Committee if he no longer treats work comp patients. Dr. Finnegan asked him to stay on at least long enough to work with the Sunset Commission on this issue. Mignon said that Mike (Cushman) was going to be contacting everyone in medicine that would be interested in the next three weeks or so, with the intent to put together a strategy session.

Dr. Meril reported that his 1996 lawsuit regarding the '96 Medical Fee Guidelines has made it all the way to the Texas Supreme Court, and that the arguments will be heard in Austin at the Four Seasons Hotel on September 11. Patient Advocates of Texas (Meril) maintains that the '96 MFG violates the Boll Weevil statute, in that having the insurance carriers being placed in charge of carrying on billing audits is like "having the fox guard the hen house".

Additionally, in the challenge to the 125% of Medicare rule, Judge Dietz ruled against us, but PAT thinks that he ruled incorrectly. This ruling may have violated HB 2600 and other portions of the labor code. This case will go to the 3rd Court of Appeals and Dr. Meril said he is optimistic.

Dr. Meril also said that TMA/PAT pointed out to Judge Dietz in the trial that under Medicare, there is a whole group of providers that will not be compensated for their service. PAT is considering asking for a new trial based on the fact that they concealed this information.

Dr. Norwood said that in the seminars that TWCC is holding around the state they are preaching "AMAT" (All Medicare-all the time). There was further discussion among the Board as to which providers are not normally covered under Medicare.

Dr. Patrick Palmer reported on the Professional Liability Committee saying that much had already been covered regarding the Yes on 12 initiative. Dr. Palmer asked the Board to officially acknowledge the contributions that Dr. Teuscher and Dr. Gill have made towards this effort. The Board all thanked Dr. Teuscher and Dr. Gill.

Dr. Palmer discussed the 10-year Statute of Repose, and his concerned that that could turn into a statute of discovery. Dr. Teuscher indicated that the 10-year limit is an improvement over the previous situation that left the time period open ended. Dr. McKay concurred that it is a good thing.

Dr. Andy Kant had no report for the Public Relations Committee, being newly named as Chair of this committee.

Dr. Kelly Carmichael reporting on the Resident Issues Committee said that he has been given the issue of keeping track of Residents when they leave and go on to Fellowships a good deal of thought, and feels that the best option is to work through the resident secretaries. He asked if any of the Board had any other suggestions. Dr. Finnegan brought up the creation of a "Resident Page" on our web site. Donna Parker agreed that it would be a good idea to add one. Dr. Finnegan suggested that perhaps we could bring in the Resident Chiefs the night before the Resident Program for a dinner and discussion.

Dr. Jack Henry made a formal introduction of Dr. Michael Leahy of Scott & White, this year's Resident Representative to the Board. The Board welcomed him.

Dr. Steven Norwood gave the Board of Councilors Report. One of the focuses at the NOLC was to visit legislators in district. Dr. Finnegan added that with an election cycle coming up, these in-district visits could be important. The upcoming Board of Councilors meeting in October in Austin will include the topics: how to raise money in your house; patient safety - how to give bad news and how to do the pre-op and post-op briefing; how to handle the stress of our profession.

Dr. Archie Whittemore has nothing new to report from the Inter-Specialty Society Delegate to the TMA.

Dr. Finnegan announced the information about the Leadership Dinner, and thanked the Board for Coming.

Dr. Finnegan adjourned the meeting.