

The State of Our Union in 2012 --

Old Traditions, New Horizons (Life Begins at Forty)

Good morning, Brothers and Sisters of UAPD and AFSCME and honored guests. Welcome to San Francisco, the birthplace of our union in 1972. *Life Begins at Forty* was the title of a book written by psychologist William Pitman, about all the possibilities of middle age. But the deeper meaning of the phrase was supplied by the 19th century philosopher Arthur Schopenhauer. He wrote:

" The first forty years of life give us the *text*...the next thirty supply the *commentary*."

And that seems to be the case for the Union of American Physicians and Dentists. Four decades have passed since Surgeon Sanford Marcus sat at his kitchen table with wife Hannah, stuffing and addressing thousands of envelopes, inviting surgeons, internists and others in the Bay Area to do the unthinkable -- to form a labor union for doctors. A true visionary, Dr Marcus wanted doctors to fight together against the hospitals, administrators and bureaucracies that were already beginning to erode doctors' decision making power. As the preamble of our charter so eloquently states, "...to enable doctors to give of themselves, unhindered by extraneous forces..." UAPD's founder, Dr. Marcus, is gone. But we are deeply honored to have in our presence Dr. Marcus's wife, Hannah and their children, Richard, Susan and Carol. Mrs. Marcus, If not for your husband's insight, courage and determination we would not be part of this wonderful organization, this family that he created to better the lives of physicians and dentists. So, in essence, all of us at UAPD are your children as well.

Now that we have lived our first forty years of UAPD life, it is time to examine that text which Schopenhauer alluded to. I strongly suggest you read former ED Gary Robinson's excellent History of the UAPD. Copies are available from staff. We have learned much from our own history and initial growing pains, the triumphs of staring down a malpractice crisis together, of organizing and servicing a state bargaining unit and winning collective bargaining rights, of President Bob Weinmann helping to grow a private practice sector and IPA, and then organizing and bargaining for county doctors throughout California. Of helping our members through countless disciplinary and legal minefields. Writing and shepherding legislation. But this text of our 40 year history also includes disappointments which provide learning opportunities. The attempts by Governors Wilson and Terminator Schwarzenegger to destroy ours and other unions, the temporary decertification of our largest county unit in Los Angeles over the issue of benefits, audacious acts of a Federal Receiver bent on satisfying the public's thirst for firing "bad" doctors, the steady usurpation of medical decisions by administrators in both the public and private sector. Doctors across the country are questioning their identity as decision makers as they morph into assembly line workers who follow electronic algorithms. We went into Medicine to use our knowledge and creativity to help *patients*, not bureaucracies and insurance companies. The task now at hand for us at UAPD is to strengthen our successful traditions while nimbly setting our compass towards the changing horizons of Medicine. Our voyages will provide the

commentary for the next 30 years of UAPD's life. Let's now specifically examine how our old traditions can help us navigate towards these new goals.

First, an issue that affects not only UAPD and other unions, but our entire US economy--the outsourcing and **contracting out of our jobs**. In years past traditional union strategies to restrict contracting out have included legal and political solutions. But lawsuits are costly, protracted and often fail. Ask Drs. Wartena and Hernandez from Atascadero State Hospital. Two years ago UAPD lost its contracting out case against then DMH, even though we thought we proved convincingly that the State was discriminating against employees and wasting vast sums on contracting Psychiatrists. We did win a court victory earlier this year which correctly adjudged our Ventura County doctors as employees, not contractors. But this decision has been appealed by the County Then there are the *political* solutions. But as we all know politics can be a dicey business. Bills like Cal AB 884(Baca) which restricted contractors from state service and UAPD's own AB 1655 (Dickinson) "The Public Employee Bill of Rights" attempted to give job priorities to employees, but didn't make it to the Governor's desk. These pieces of legislation certainly sound pretty reasonable to us committed working folks. But there are powerful opposing forces both in and out of Government. For example, the California DPA and County HR Departments continue to insist on flexibility in hiring expensive contractors, even though their practices surely have contributed to California's chronic budget deficits. Then there are the effective lobbying efforts and political contributions by the contracting agencies themselves that stymie anti contractor legislation. In a hearing I testified in last year it was estimated that the State holds over 13,000 contracts worth several billion dollars. So that leaves the **traditional negotiation strategy** to minimize contracting out. Up to now UAPD has negotiated on-call priorities over contractors and additional appointments for its State members. I am happy to report that our LAC labor management committee just retooled an old idea. Led by UAPD SoCal Director John Murillo and Reps Lux Irvin, Jake Baxter, and Chris Ige, BU 325 members Drs. Janice and Lee Nelson, Rex Cheng, Ron Zodkevitch, Ron Shepperson, Michael Medici, Nassim Moradi and Orlando Pile, successfully negotiated a first--the creation of an **in house registry** for our own UAPD members. Congratulations to you all and please stand up to be recognized. This registry will give our UAPD members and others the opportunity to claim extra work slots that have been traditionally allotted to contractors, starting at 135% of their employee base salaries. This innovative negotiation represents a win-win for our union and LA county. More money saved by the county. Extra work for our docs and incentive for contractors to become employees and ultimately new UAPD members. The Union hiring hall concept is becoming a reality. And this registry idea is spreading elsewhere. To BU 324, the dentists and psychiatrists of Los Angeles County. who just made a similar registry part of their contract. And to the State of California. As part of this year's pension reform negotiation, Our state bargaining team, led by Sr. Rep Zegory Williams, ED Al Groh, SEPA President Dr. Ron Lewis and myself has created a Contracting Out Committee, known as CoCo. After several meetings with the State we are on the verge of creating a pool of Permanent Intermittent employed docs and dentists. Instead of contractors, This pool will take on the extra work created by the vacancies and attrition created by retirement and employee leave. The other long term goals of the CoCo include the establishment of term limits for contractors, real-time data base which identifies contracted positions and the monies expended on them, redirection of state salary savings towards recruitment and retention of civil service employees.

Our union negotiators have also spotted another new fruitful horizon--the needs of our employers to improve their **electronic health records(EHR) systems**. Now I know EHR can be a source of great frustration to us. One of the charges of the Affordable Care Act (ACA) is the orderly rollout of "meaningful use" of EHR by doctors. In that regard the Federal HITECH Act of 2009 allotted billions of dollars of incentive monies to eligible providers. Some cash strapped Counties, in order to obtain waivers of these monies from our members are willing to negotiate all sorts of perks. Sr. Rep Patricia Hernandez and Rep Jeff Duritz skillfully obtained an annual leave cash out , CME increases and partial rollback of pension contributions for our **Santa Clara County doctors**. We leveraged AFSCME's relationships with the County supervisors to make this happen . Many thanks to the Santa Clara County doctors in this room who voluntarily waived their EHR benefits over to the County for the sake of a better contract.--Drs. Emily Wong, Antonio Velasco, Anthony Cozzolini. This same two pronged political-negotiation approach worked in LA County as well, where each of our 900 plus docs will receive a \$1500 cash payout for their EHR waivers.

One of the other old traditional styles of UAPD is to try to **strike a balance in our personal relationships with the bureaucracies** which employ our doctors. How many bureaucrats does it take to change a light bulb? The right amount of stubborn resolve equally mixed with charm, humor and grace goes a long way towards successful resolution of problems. In regards to the massive State of California bureaucracies, this is no small feat. We are lucky to have UAPD staffs in LA, Sacramento, and Oakland that are up to the task. They work together particularly well in coaxing concessions out of the State, even *after* the ink is dry on our MOUs. Take the recent layoffs of dentists and psychiatrists from CDCR and DSH. After the first wave of layoffs were announced last year Zegory Williams and our SoCal staff worked tirelessly with our dentists to comb out vacant positions that seemed mysteriously unknown to the DPA. Many thanks to the dozens of dentist who met me in Fresno to develop a strategy--Lisa Dunshee, Mike Landers, Melissa Primus, Eric Razavi, among many others . You helped do the detective work needed to save dozens of dental jobs. UAPD's skillful and tactful collaboration with the State resulted in new methods of tracking positions within CDCR. This same dynamic occurred again when DSH psychiatrists' layoff position were announced. The initial 25 stated layoff positions were whittled down ultimately to only 5 with the help of Drs. Farooqui, Patel, and Murthy. UAPD has always been committed to mitigate any layoffs of our members. Now we are creating new placement options -- State PI pools, County Registries, even private practice placements.

Another tradition of our union has been to engage AFSCME, sister unions and the media to fight for a just cause. Such was the case with our **Safety Coalition for DSH**. Two years ago Psych Tech Donna Gross was brutally murdered by a forensic patient in an unmonitored courtyard at Napa State hospital. Led by Reps Jeff Duritz ,Sue Wilson, Steve Cook, David Trujillo and others UAPD quickly helped organize a coalition of unions called *Safety Now* which demanded increased protection from patient assaults that have plagued DSH workers for years. The need for increased police, alarms and other safety measures was clear and well documented by our members, the coalition, and national media. Prominent state legislators attended rallies. And our doctors spoke out. I remember the hours picketing Metro and Napa State hospitals and listening to Drs. Dardashti and Fishman make an impassioned case for a safer workplace. The State, crying poor as usual, moved at glacial speed to study the problem. Finally, against

our advice, DSH distributed only lanyard (necklace) alarms to each employee. Predictably, a choking incident occurred shortly thereafter and now employees have an option of a belt alarm. As I mentioned to a reporter last year DSH employees have the most dangerous job in the state. With the exodus of the Court Monitor from DSH this year the horizon that UAPD should follow involves increasing its influence in DSH policy and protocols. Finding a DSH director with a medical background is one goal UAPD is actively pursuing, as is strengthening medical staff bylaws throughout DSH hospitals. Much of the groundwork has been done by Drs. Khan and Farooqui. One of our UAPD attorney bylaw experts will soon be revising and consolidating the bylaws of all DSH facilities to make them more uniform.

As I mentioned previously **meritorious lawsuits** have also been a long time tradition of our union--the filing of unfair labor practices, prevailing wage suits and injunctions have often achieved settlement even before the first opposing motion was filed. Of course being an interested party in UAPD suits and an attorney could get me into trouble with the Court. So UAPD usually relies on the expertise of Labor attorneys Larry Rosenzweig and Andy Kahn. We've relied on their wise counsel for decades. Who says that you can't swim alongside attorneys? Employers need to realize that UAPD is serious about defending its members. And UAPD is dogged and relentless. We took 6 years to achieve victory in the LA County discrimination case, and we are in our fourth year in the Ventura County suit about recognition of our members as public employees. One legislative tack we have been pursuing is clarifying in government code the criteria for determining public employee status. As for our history of helping defend individual doctor's due process rights, we created a Legal Consultation fund which has recently doubled its benefit. And we have a decade by decade track record of landmark cases. Under President Weinmann's leadership we helped defend doctors against Medical Board accusations in the 80s, Dr Sinaiko's alternative treatments in the 90s. More recently, UAPD defended Dr. Mileikowsky's right to a fair hearing by his peers this past decade. This year we are signing an amicus brief in support of our member Dr Vishvendra Rao's epic eight year lawsuit concerning his rights of free speech. Hospitals historically have tried to crush whistleblowing physicians through sham peer review. Please stand up, Dr Rao, to be recognized for your bravery. With the advent of ACOs and reduced hospital reimbursements, we are seeing a more subtle conciliatory approach. Hospitals are now trying to partner and ally with their docs against the "mean and greedy" insurance companies. Lawsuits filed against these companies for illegal business practices may represent an opportunity for UAPD to form strategic alliances. Last month we met with leadership from both LA County Medical Association and the CMA. We are helping LACMA in a discrimination and false advertising suit against Aetna. Joint activities with other doctor organizations like CMA and ALCM can only increase our strength and numbers.

In **organizing new doctor groups** UAPD has the distinctive advantage of being able to offer our unique collective bargaining skills. With assistance from AFSCME's chief organizer Mike Sukal our own lead organizer Jake Baxter has developed both an internal (fair share members) and external (California and beyond) plan to grow our membership which he will share with you. As our ED Al Groh once told me, "an organization must grow or die." Fair share members must realize that our union and their welfare depend on strength in numbers. I want to thank all the stewards and those of you who take the time to explain to your nonmember colleagues the wisdom and benefit of full UAPD membership. For only a few dollars a month more fair share members can achieve a voice and vote in the daily matters of our union.

In the past three years we have made headway in organizing a new bargaining unit in Kern County and two nonprofit clinics, including PAs and FNPs, in the San Fernando valley and Santa Barbara. These nonprofits are ubiquitous across California and represent attractive organizing targets. Likewise for the 160 UC Student Health system doctors across the state. With the help of our sister union UC Local 3299 and President Kathryn Lybarger we are already reaching out to these docs. Other health provider groups in California and beyond have contacted us regarding organizing mixed units of provider. Your Board will consider, on a case by case basis, of extending ancillary memberships to other related health professionals including ,FNPs, PAs, medical residents and others. We would relish the opportunity to establish a trust or health exchange that could attract union doctors to care for other union's patients. We have discussed with this with AFSCME and UDW leaders. Nationally we are hopeful to move UAPD into neighboring Arizona with a BU of a hundred docs in Tucson and more in Phoenix. The many inquiries we receive are thoroughly investigated . As the ACA drives hospitals and doctors together into shaky alliances unions will undoubtedly be needed in the near term to defend salaried doctors' rights . Hospitalists and other small salaried groups seem fair game to join our union. Let someone in Oakland know of any opportunity to organize you may become aware of.

_UAPD is in its third decade of its **affiliation with 1.5 million member AFSCME International**, our parent union. You'll meet some of their leadership in a few minutes. We have worked hand in hand with our California AFSCME lobbyist Willie Pelote for years. Mr. Pelote is not only effective and famous in Sacramento. He is *infamous*. He consistently ranks as one of the most influential political figures in the state. Al Groh, Doug Chiappetta and myself have spent many hours with Willie strategizing on legislation, bills, propositions and what's best for our union. He'll tell you all about later this morning. Regarding relevant **UAPD legislation** since we last met, we are happy about AB 1191 (Allen) signed into law last year. It allows our DSH psychiatrist to more efficiently medicate unstable admissions. Also AB 1655 "The Public Employee Bill of Rights" which I was proud to author. Although stalled in committee this year it will reemerge with a new form and title this session. For the next legislative term we hope to have two UAPD members in the State Assembly--Incumbent Richard Pan, a Pediatrician and Jennifer Ong, a private practice optometrist . Another UAPD member, Dr. Ami Bera, is running for US Congress. UAPD lobbyist Doug Chiappetta is readying several other bills for the upcoming session. Most involve medical issues, such as the establishment of a real time pharmacy data base for drug seekers. We would like to expand UAPD's horizons to other important areas as well, including dental care, telehealth, medical staff governance, etc. Do you have your own idea for legislation? By all means develop it with us. Some of you have asked me why we need to contribute extra money for PACs-political action contributions. The answer is simple. Look what happened in Wisconsin under Governor Scott Walker. Unions like ours are under assault all over the country. Public budgets are shrinking and pensions are losing their luster. We want to keep the public employee sector of our union healthy. We must push for increased government revenues by supporting measures like Prop 30 and fight against the silencing of our voice by measures like Prop 32. If increased revenues are not realized state budget cuts will automatically trigger. With the reduction of new pensions next year we will have to come up with creative ways to recruit and retain new State and County doctors. Speaking of the new Pension reform law UAPD will continue to decipher its ramifications in order to help our members make logical decisions.

As I mentioned earlier doctors in our **State sector** have endured a particularly tumultuous year. Along with the other public unions we prudently rolled over our MOU until next July. The 5% raise our members received in January has been neutralized by pension reform. With reduced line staff our **CDCR doctors**, primaries and psychiatrists all continue yeoman work in difficult physical environments, often without lunch breaks. A shout out to Drs. Chern, Lewis, Mollah, Romero, Ma, Javate, Ola, Mack and Tusel and others that are here. I want to especially praise our dentists who have held the line despite increasing patient ratios and paperwork. Kudos to Drs. Repasky, Kapoor, Hong, Brooks, Chau, Crowley, Hoag, Garcia, and Chanez ,among others. Many issues, including on call and time keeping have been discussed in our quarterly meetings with Federal Receiver Kelso. We appreciate our members who bring ideas to these meetings , including Dr. Georgia Thomatos. The Receiver has been relatively forthcoming with UAPD regarding his plans as he turns the prison system back to state control. As you know, he has overseen great consolidations and changes in CDCR's departments, from the reduction of parole doctors, like Paul Malarik, to the closure of the Chino facility to the opening of the Stockton long term care facility next summer. The good news is that he has promised to staff this new 1700 bed facility with UAPD rank and file docs. The Professional Peer Evaluation Committee(PPEC) established with UAPD and the Receivership, has evolved into a more balanced process thanks to the efforts of our doctor committee members Ron Lewis and Gabe Borges. When the State resumes control of CDCR expect our union to present a local peer review paradigm that is fairer and more relevant. One of our union's finest hours came two years ago when we beat back the attempt of *Nuphysicia* Corporation to assert control of prison health care utilizing telemedicine. As this technology evolves UAPD will try to restrict it appropriately--for specialists who are unavailable in remote areas. Our hardworking stewards and Reps continue to file and win work related grievances in an organized and timely manner. But it is ultimately incumbent upon *you* to ask for relief if you feel there has been a contract violation with adverse effects. I can't say enough about our courageous and hardworking stewards and I would like to recognize all of you here who are, or have ever served as stewards. Please stand up! How many of you have been stewards for 5 yrs? 10 yrs? More? Thank you so much for your service. In the new **Department of State Hospitals, DSH** (formerly DMH) the exodus of the Court Monitor was a greatly anticipated event. The State quickly resumed control and eliminated many of the timewasting and tedious programs he instituted like the mall hours and *WARRMs* reports. Many Thanks to Drs. Farooqui, Jetton and others who have worked with DSH to try make it more accountable and doctor respectful . And we certainly have not forgotten the internists and other non-psychiatrists who work at DSH. They have lagged behind salary wise to their counterparts in CDCR and must be awarded parity. That also applies to our docs whose salaries lag because they have lifetime boards. Our chief state negotiator Zeg Williams and I will make these issues are a priority in next spring's contract negotiations.

The story for our 250 Medical Consultants in DSS, DHS and Public Health reflects what is going on all over the newly computerized government-- outsourcing and time consuming evaluation of mountains of electronic evidence. The State has tried to use rank and file as DHS managers without appropriate pay, but members like Marcia Ehinger and Ralph DiLibero are blowing the whistle. Our public health docs Ken Seiff, John Haight and Michael Bennett should also be recognized. For the 168 Dept of Social Service MCs who evaluate 350,00 social security disability evaluations cases annually via EMAC ,UAPD has been enforcing our MOU workload section to forestall the State's assembly line mentality. For the

sake of the claimants who apply for benefits, medical decision making must remain in the hands of our doctors, not production conscious administrators. MCs Dan Lucila, Robert Lee, Keith Quint and Sandra Clancy should all be commended. Although the MC bonus plan remains in suspension since last year. UAPD's legal team won a big court victory this summer. Using Plaintiffs Drs. Herb Hurwitz and George Norbec we proved that bonus plan money is *not* OT work, but rather special compensation which is pensionable. The worried CALPERS Board remanded the case back to the ALJ for "further evidence." We will not stop fighting for this just issue and we will prevail.

Other State Departments are having similar issues regarding production and computers. The doctors at Sonoma County **Developmental Services(DDS)**, including Pitir Conroy, successfully lobbied for new software. Lanterman Hospital, where Dr. Stiner works, remains on the "extinction watch" and its census may be transferred to Fairview. But Fairview Hospital docs like De Bui and Le Hung stand ready to meet this challenge. Our **Yountville VA doctors**, led by SEPA President elect Orlando Chavez, put up a valiant fight to save Holderman Hospital, but the political cards were stacked heavily against them. They continue to provide important services to nearly 1000 elderly Vets who live there. Our **CSU doctors** here today, Drs. Ewald, Smith, Nakamura and Thomas, are doing well with little attrition and a decent relationship with administration and their student patients. We can only cross our fingers that there will be no further trigger cuts to CSU and student fee hikes .

The biggest growth in our union in the past three years has been in the **County and Clinic sector**. Contracts are being finalized in new units in NE valley, Kern County and Santa Barbara where Dr Mark Kofler is active. Besides the successful negotiations in the LA County units, UAPD did well in other counties it represents. In San Francisco, primary doctors' salaries had actually dropped *below* the FNPs'. But the SF arbitrator fashioned a fair agreement which guarantees that our members salaries will now be at least 10% over these nurses'. Thanks to our BU members like Deb Brown and Roger Wu for getting the job done. Administrators' attempts to utilize productivity criteria in order to maximize their bottom lines are now a regular subject of bargaining. In this respect ACMC and Alameda County garnered excellent contracts under the leadership of Drs Milt Lorig, Jackie Bolds, Bruce Fitzgerald and Sweta Shah. In Santa Cruz Dr Teverbaugh, Young, Loughlin and Natu worked hard to come up with a good agreement. And across the other UAPD counties of San Mateo, Solano and San Joaquin we are fighting to hold wages and benefits high despite shrinking county coffers.

Our **private practice sector** is changing. It includes salaried hospital and clinic based doctors as well as our small group private practice and IPA members. Longtime members Wenner, Schwartz, Say and Wadiwala are the backbone of this group. Across the country doctors are being assimilated as employees of clinics and hospitals. We hope to take advantage of our affiliations with other state and national organizations to gain membership. We are getting requests for help on our UAPD website from salaried doctors who are being pushed by administrators to generate RVUs much like attorneys are pushed for billable hours. But doctors have a duty to first listen closely to their patients, take their time and correctly diagnose their problems. From Michigan to Hawaii to Arizona doctors are telling us they are blue, not white collar workers. Since its inception at the last Triennial our **Retiree sector** has grown. We value the new ideas, wisdom and loyalty of members like Drs. Sutton, Bedford, Hague and Howard.

UAPD is first and foremost a *service* union. Besides grievances, support and advice on disciplinary matters, we are increasing our CME programs for our members, increasing our Legal Consult fund and developing new perks, like supplemental Long Term Disability Policies. Our Communications Director Sue Wilson is always coming up with new ideas to improve our media outreach and website. She, along with the staff at all three offices should be congratulated for creating wonderful programs, like this Triennial.

So what about the next 30 yrs of UAPD life, now that we've turned 40? As the SF Giants demonstrated in their world series victory: hard work ,creativity and camaraderie make good things happen. During my next three year term as President I would like to see **membership increase** in all sectors . Besides wielding more power higher union membership could result in lower dues for you. And I will be encouraging **increased participation** from our current members--in meetings, stewardship and bargaining unit participation. More committees and taskforces will be made available to you. I was pleased to note this past UAPD Board election saw more members running for office than ever before. This is a healthy sign that you are interested in the affairs of our organization. You are the lifeblood of the union. Our leadership and staff will strive for **more transparency**. Town hall teleconferences and surveys will be improved and more frequent. As our technology advances we hope to have video meetings for those who are in remote locations who can't attend regular meetings. And regular meetings with all of you to share your ideas and concerns are an absolute must. I will try to personally visit each workplace at least once during this next term. **Outreach to the outside community** is something that UAPD and AFSCME must do if we are to continue to grow and be respected. For example, Dr Ron Lewis and myself have both volunteered with the *Flying Doctors* to help underserved areas in California. Volunteering is a worthwhile experience which I recommend it to every doctor.

Our union's first forty years have provided an exciting text. It is time for us to learn from it and provide a creative commentary that will make ourselves and our communities better. I remember my high school yearbook quote "A man's reach must exceed his grasp." So should it be for our wonderful organization UAPD as we set our course across near and far-flung horizons--to organize and help doctors help others ..and perform their professions with dignity and joy. Long live UAPD!