Taking Care of Business—

Disaster Planning, Sample HIPAA Business Associate Agreement, DEA Registration Q&A, Contracting with Medicare Advantage Organizations

PAGES 8–18

DON'T MISS IT— FIND OUT HOW YOU CAN IMPACT OHIO CANCER REPORTING

PAGE 14

Journal

OF THE
OHIO FOOT AND ANKLE MEDICAL ASSOCIATION

VOLUME 55 | NUMBER 4 | FALL 2013

INSIDE THIS ISSUE

A WORD OF THANKS

Success: Past and Future

by Marc S. Greenberg, DPM

HOW DO YOU MEASURE SUCCESS? It's a relative term that will depend on the circumstances to define it and may depend on who is the judge, like beauty in the eye of the beholder.

Every President of the OPMA, and now Ohio Foot and Ankle Medical Association, wants to be successful. It's the most intimidating part of the job – knowing the major issues facing our profession, our state, our members – and wanting so badly to make progress or successfully resolve all of them in one term.

Your House of Delegates entrusted me with this task; however, one year goes by quickly. Fortunately, the teamwork from the members, the Board of Trustees and the OHFAMA staff was exceptional; and it makes it easier to get things done, as well as transition from one President to the next without missing a beat.

In a recent past success, key members of the Board of Trustees met with the State Medical Board where we had constructive discussions on improving two-way communications with them. We met our new State Medical Board Executive Director, Aaron Haslam, JD, and forged a new, positive relationship.

Further strengthening our position was the new appointment of Bruce Saferin, DPM to the vacant podiatrist seat on the State Medical Board. We all wish Dr. Saferin well in his new appointment. We are proud to have him represent our profession.

In future successes, November 15th and 16th OHFAMA will host our annual House of Delegates. Academy delegates will elect key Executive Committee officers and APMA delegates to represent us. These leaders will carry on the OHFAMA mission into 2014 and will build upon the work done during my term. Our delegates will step up and new leaders will be born. Others, possibly representing their Academies for the first time as delegates, will watch and learn and hopefully take a similar step in the years to come.

This is my last OHFAMA *Journal* as your President, so I would like to conclude with a "Thank You" to the membership for allowing me the privilege to represent you this year. I am proud of what we have accomplished together this year.

HISTORY IN THE MAKING

Celebrating 98 YEARS

Join 98 Years of OHFAMA Leadership History

Leadership in one of the largest and most prestigious podiatric medical associations in the United States affords you the opportunity to contribute in the planning process to move OHIO forward. We invite you to develop skills that will benefit you professionally and find personally rewarding. As a member of the OHFAMA leadership team, you will collaborate and exchange ideas with innovators in the profession. Consider a position on the OHFAMA's 2013 ballot.

Bylaws - ARTICLE VIII - OFFICERS

Section A – Officers
The officers of this association shall be a President, 1st Vice President, 2nd Vice President, Secretary/Treasurer, and Immediate Past President.

Section B – Election/Qualification
The offices of President, 1st Vice President, 2nd Vice President, and Secretary/Treasurer shall be filled by election at each annual House of Delegates meeting. The Immedi-

ate Past President shall serve by virtue of holding the office of President immediately preceding the election of a new President as set forth above.

Section C – Term of Office
Each officer shall assume office at the close of the annual House of Delegates meeting and shall hold office for one year, or until his/her successor is elected or qualified.

Job descriptions for all officer terms are posted at www.opma.org. The Second Vice President's position is filled by election at each annual HOD.

Second Vice President:

1. The 2nd Vice President shall exercise all the powers and discharge all the duties of the President and/or the 1st Vice President, in the absence and/or disability of both the President and 1st Vice President and perform such other duties as may be assigned to him/her by the Board of Trustees or the President.
2. He/she shall assist the President in the management of the association and keep himself/herself informed on all the functions of the office and policies of the association.
3. In the event of the resignation, death or removal of the 1st Vice President, the 2nd Vice President shall fill the unexpired term of the 1st Vice President. In the event of the resignation, death or removal of the President and 1st Vice President, the 2nd Vice President shall fill the unexpired term of the President
4. He/she shall be available for the Ohio Annual Scientific Seminar to assist the facilitation of the meeting on site.
5. He/she shall serve as a member of the Executive Committee and attend scheduled meetings of the Executive Committee as well as the Board of Trustees.
6. Shall evaluate, approve or reject, within 7 days, all CME programming remitted to OPMA for podiatric credit in OH. Notification should be given to OHFAMA staff so that the remitting organization can be notified of status.
7. Participate in leadership orientation.

Board of Trustees Member (elected at the Academy Level)
Vacancies are: Central (1); Eastern (1); Northeastern (2); Southern (1) and Midwest (1):

1. He/she shall assist the President in the management of the Association and keep himself/herself informed on all the functions of the academy that he/she represents as well as all the policies of the Association.
2. He/she shall be available for the Ohio Annual Scientific Seminar to assist the facilitation of the meeting on site.
3. He/she shall serve as a member of the Board of Trustees and attend regular and special scheduled meetings of the Board of Trustees.
4. He/she shall participate in leadership orientation.
5. He/she shall represent the Association as assigned and attend the academy meetings with regularity, reporting on the actions of the BOT meetings.

All current officer positions may be opposed and voted upon by ballot at the House of Delegates unless declared elected by unanimous consent. Candidates must be in good standing and may run from the floor or remit their names for the 2014 ballot. Nominations for the ballot or floor must have prior consent if not self-nominated. Balloting will occur at the OHFAMA HOD on November 16 at the Airport Marriott Hotel.

2014 Position vacancies: APMA Delegates (3); APMA Alternate Delegate (1).

Bylaws – ARTICLE XIII - APMA DELEGATES

Section A – Delegates/Alternate Delegate - American Podiatric Medical Association

1. At the Annual House of Delegates Meeting, the House shall elect, from among the members in good standing of this association, Delegates to a three (3) year term to represent the Ohio Podiatric Medical Association at any regular or special meeting of the House of Delegates of the American Podiatric Medical Association. Any unexpired terms as APMA Delegate shall be filled by election at this time. Until the OHFAMA membership reaches 601, the President shall automatically, provided he is not an elected delegate, serve as the First Alternate Delegate. When the OHFAMA membership reaches 601, the President shall automatically serve a one-year term as the seventh Delegate. At each annual meeting, this Association shall elect a second Alternate Delegate for a one (1) year term.
2. Each Delegate/ Alternate delegate shall be provided with proper credentials on a form furnished to the State Secretary and properly signed by the President and the Secretary/Treasurer, and carrying the seal of the Association, which each Delegate and Alternate will be required to file with the Credentials Committee of the American Podiatric Medical Association when registering at the convention.

Section B – Delegation Procedures

1. The Delegates/Alternates Delegate shall conduct sufficient caucuses before and during the APMA House of Delegates to make informed decisions on behalf of the membership. At least one of these caucuses shall be conducted to include the participation of elected Delegates and Alternates, the Executive Committee and Executive Director. This joint caucus shall be scheduled near or during the time of the Association's summer Board of Trustees meeting as appropriate.
2. The delegation shall make its operational procedures known to the OPMA Board of Trustees not later than its summer meeting each year.
3. The Executive Director is considered a non-voting ex-officio member of the Ohio delegation to the APMA House of Delegates.

Section C – Removal of Delegate/ Alternate Delegate

1. Any Delegate/Alternate delegate to the House of Delegates of the American Podiatric Medical Association (APMA) may be removed for cause at any time, upon recommendation of the Board of Trustees by the affirmative vote of three-fourths (3/4) of the members of the Board of Trustees.
2. APMA Delegates/Alternate Delegates shall attend Board of Trustees meetings of the Ohio Foot and Ankle Medical Association. Absence from more than 50 percent of the OPMA Board of Trustees meetings shall constitute cause for removal. Absences shall be considered excused if approved by the President.
3. The APMA Delegation may conduct deliberative meetings by electronic methods including teleconference, audio-conference, and/or Internet-based communication/information transmittal systems. The rules for meetings held via electronic methods shall conform to the policy established by the Executive Committee and Board of Trustees.

FROM THE EXECUTIVE DIRECTOR

Oh, The Games People Play

by Jimelle Rumberg, PhD, CAE

Rah, Rah Ree, Kick em in the Knee!

As kids we learned many rhymes and games, especially those of us who jumped rope. Do you remember these? Step on a crack (you break your mother's back); John and Suzie sitting in a tree K-I-S-S-I-N G; and Rah, Rah Ree, Kick em in the Knee, Rah, Rah Rass, Kick em in the...other Knee (or other anatomical rhyming body part)? Some days we feel like we're dodging cracks, up a tree or kicking through the daily obstacles. Here's only a smattering recent OHFAMA rope jumping:

Dodging Cracks...

Recently, we upheld our scope of practice on hand issues, which clarified laser use on fungal fingernails and scars. This involved two months of meetings with the State Medical Board, assistance from our academic members Dr. Vince Hetherington and Dr. Ron Bodman in podiatric curriculum on hand and Derm, and the AACPM. Podiatric physicians have enjoyed hand scope for well over 30 years. It's only logical to define specifics in scope of practice when new technology utilization makes "shades of gray" questions appear. Just how far can you go within the intent of the statute?

Yes, laser treatment of fungal nails has been new approach of treatment for several years, so it was only a matter of time before a question arose about toenails vs. fingernails. Now that this matter has been defined, determined and successfully validated, can a DPM treat scarring on the hand as well? What about scaring as a result of systemic conditions? If you remove a wart and it leaves a scar, can you laser treat that resulting scar with further laser treatment to remove the end result scarring?

Please see our Web site www.opma.org Home Page under Consumer Information, DPM Scope of Practice and read the detailed rulings from the State Medical Board. It's a must-read for all who use lasers in their practice protocols.

Up a Tree...

Medicare Advantage plans have recently had many practices up a tree over quartile measures of practice resulting in contract terminations in provider panels by geographic area. Some members were up a tree and simply couldn't find their signed contracts to even contest the decisions to appeal their notification of termination of services as a network provider. Thankfully, some recent materials have been made available (with some in this issue) on APMA Web site that could help you in your appeal process or negotiation process as a provider.

Bottom line, you need to be aware of what you sign, where you keep your signed contracts, and be willing to complain to CMS Region 5 if Medicare Advantage plans are pulling a fast one on you or your patients with letters, contract modifications in less than 30 days or other rights that you have as the provider. Some of these contracts leave no room for bargaining or appeal, so before you sign on that dotted line, you need to realize that you, as the provider, are the first line of defense with these plans.

You must be willing to protest to Region 5 over the reimbursement disparity, your contract termination, letters being sent to your patients without your knowledge and more. As the provider, you are the only one that can complain and know that OHFAMA is ready and willing to share contact phone numbers for your immediate action.

We encourage you to ask your patients to complain as the policy holder if you have become out of network recently or if they are dissatisfied with treatment services menu of care—after all, they are the policy holder and should be able to complain about their premium dollars and direct care network. Please understand that podiatry was not the only profession to receive these termination letters. My counterparts in the osteopathic and optometry communities reported that the same termination letters are being mailed to their members, so we were not singled-out or alone in this downsizing of network providers.

Take note that CMS requires that MA organizations include in their contracts certain specified provisions, such as a requirement to retain records for 10 years and the obligation to hold beneficiaries harmless for amounts that are the obligation of the MA plan. These provisions are non-negotiable to the extent as required by law.

Rah, Rah Rass...Kick Them in the Other Knee

Organized podiatry in Ohio is robust and growing. We are busy planning the House of Delegates – which is our association's annual business meeting. It will be held in November (15 and 16) at the Columbus Airport Marriott.

APMA guests attending will be APMA president, Dr. Matt Garoufalis; APMA Board of Trustee member – Ohio liaison, Dr. Jeff DeSantis; and APMA executive director, Dr. Glenn Gastwirth.

We have tipped the 600 member mark, our largest membership count in our 98-year history. We are legislatively engaged, regulatory visible and making our members successful via information and representation. In 2012, we rebranded our association to the Ohio Foot and Ankle Medical Association to better reflect public recognition of foot and ankle physicians and surgeons in Ohio.

We are actively looking toward our centennial year in 2015, as we have proactively addressed Vision 2015 with a strong message to the legislators, public and patients via our rebranding efforts. We are the OHIO Foot and Ankle Medical Association and proud to serve YOU!

See you at the November HOD in Columbus!

TOUCHING THE LIVES OF SO MANY

Angelo F. Petrolla, DPM: A Legacy of Life and Love of OHFAMA

ANGELO F. PETROLLA, DPM

On Sunday, September 29, the Ohio Foot and Ankle Medical Association lost a long-standing Officer, APMA Delegate and Past President Dr. Angelo F. Petrolla of Poland, Ohio, who passed away at the Cleveland Clinic from complications of cancer.

He was passionate about podiatry, and he was a dedicated physician and surgeon. A 1976 graduate from the Ohio College of Podiatric Medicine, he completed his residency in Youngstown. He was a member of the Eastern Academy of the Ohio Podiatric Medical Association. Dr. Petrolla served as President of the Ohio Podiatric Medical Association in 2000. He was the current Secretary/ Treasurer of the Ohio Foot and Ankle Medical Association, and of the OPPAC; and he was also serving as a Delegate to the APMA House of Delegates. A devoted husband and father, he is immediately survived by his wife Heather Petrolla, DPM; his son Justin Petrolla, M.D., of Pennsylvania; his daughter Amber Petrolla, M.D., of Texas; and two grandchildren.

A gifted musician, artist, and collector of antique Christmas memorabilia, antique toys, trains and restorer of Corvettes, Angelo Petrolla was one in a million. He participated annually in the Good Fellows charitable car shows with his award winning restored Corvettes and was an avid movie buff. He was also a huge fan of The Ohio State University.

Visitation was held at the Higgins-Reardon Funeral Home, 2726 Center Road in Poland, Ohio from 4–8 p.m. Mass of Christian Burial was held on Thursday, October 3, at St. Paul's the Apostle Catholic Church, 10143 Main Street in New Middletown, Ohio.

EVENTS YOU'LL WANT TO ATTEND

Calendar

2013

October 26-27
Super Saver Seminar
Airport Marriott I Cleveland

November 7-8
GXMO Didactic Course
OHFAMA Office I Columbus

November 9
GXMO Clinical Course
OHFAMA Office I Columbus

November 15 – November 16
OHFAMA House of Delegates
Airport Marriott I Columbus

2014

January 16-18
14th Annual NWOAPM Scientific Seminar
Kalahari I Sandusky

March 7 - 9
No Nonsense Seminar
Holiday Inn I Independence

March 13-14
GXMO Didactic Course
OPMA Office I Columbus

March 15
GXMO Clinical Course
OPMA Office I Columbus

March 22
Sports Injury Clinic
Bridgewater Conference Center I Columbus

June 5-7
The Annual Foot & Ankle Scientific Seminar
Hilton at Easton I Columbus

MAKING THE ROUNDS IN OHIO

Meet the 2013 OHFAMA HOD Reference Chair

Thomas B. Arnold, DPM

OHFAMA is pleased to announce the 2013 HOD Reference Chair, Thomas B. Arnold D.P.M. Dr. Arnold is a member of the Mid-East Academy.

Dr. Arnold specializes in podiatric surgery, and he practices at the Stark County Foot & Ankle Clinic, 4503 Fulton Dr. NW, Canton, Ohio.

In 2002, Dr. Arnold was graduated from the Ohio College of Podiatric Medicine in Cleveland, Ohio. Following graduation, he began post-graduate studies at the Cleveland Clinic Foundation, St. Mary Medical/Illiana Surgical Centers, Indiana. Dr. Arnold has board certification through the American Board of Podiatric Surgery. Additionally, Dr. Thomas is on staff in the Department of Surgery at Mercy Medical. Dr. Arnold is also affiliated with Affinity Medical Center and Aultman Hospital.

Welcome and congratulations on your new position, Dr. Arnold!

Dennis Morris, DPM

OHFAMA Member is Big Ten Football and Basketball Official

Yes, they are the referees, and for one longtime football and basketball official, Dr. Denny Morris, it has been a labor of love that started in his formative years. While the 1975 Elida graduate will tell you he didn't excel in sports growing up, that may have been exactly the reason for his interest in officiating.

"I did play baseball in school, but otherwise, I really wasn't a great athlete, but I think because of that, I turned my interest to refereeing as a way to be involved in something I really liked."

During Morris' college years at Bowling Green, in addition to laying the groundwork for what is now a successful career as a podiatrist, Morris also began receiving more opportunities to officiate. While Morris has no immediate plans to retire from either sport, he's also realistic that he's a lot closer to the finish than the starting line. "Listen, I know I'm sort of in the twilight of this, but I certainly hope I have a few more years in me, especially with Big Ten football, which I love. A lot of that will depend on my health, though," Morris said. "I don't want to reach a point where the games become too fast and I'm more of a burden to my crew than an asset. However it goes, I feel really blessed to have had a great run."

| Source: John Grindrod, The Lima News [8/12/13] |

Ohio Podiatrist Appointed to State Medical Board

Bruce R. Saferin, DPM, of Toledo, has been appointed to the Ohio State Medical Board, effective September 10, 2013, by Ohio Governor John Kasich. His term will run through December 27, 2017. Dr. Saferin is past President of the Ohio Podiatric Medical Association, he is a past board of trustee member for the American Podiatric Medical Association and well as OPMA and is a member of the Northwest Academy of OPMA.

Bruce R. Saferin, DPM

| Source: OH Governor's Office [9/10/13] via Davida Griffin |

Fellowship Program Granted Full Recognized Status by ACFAS

The Foot & Ankle Specialists of Ohio Reconstructive Surgery and Deformity Correction Fellowship in Mentor, Ohio was named an ACFAS Recognized Fellowship by the ACFAS Fellowship Committee. In its inaugural year under direction of Stephen J. Frania, DPM, FACFAS, the fellowship received conditional status by the Fellowship Committee. After the fellowship's annual review, the committee upgraded the program to an ACFAS Recognized Fellowship.

| Source: ThisWeek@acfas.org |

PART TWO

In a disaster scenario . . .

- act quickly to document any loss or damage to property.
- review policies to ensure duties are understood in the event of a loss
- systematically document damage with photographs.
- consider designating team of employees to oversee the insurance recovery effort and one member to communicate with the insurance adjuster.
- contact medical malpractice carriers for possible deferral or forgiveness of insurance premiums.
- look into hiring a records retrieval specialist or restoration service to recover damaged records.
- notify insurers regarding lost or damaged records.
- engage a licensed, certified industrial hygienist (CIH) to determine the source and extent of water damage.
- consult an attorney if faced with an uncooperative landlord.

Disaster Planning II

Andrew Feldman, General Counsel, NYSPMA

(Part I available online at www.opma.org in the July issue.)

Responding After an Emergency

After a fire, natural disaster, or other emergency, practitioners must act quickly to document any loss or damage to property or records and to work with insurance companies to recover on claims. Practitioners must also determine whether it is practical to remediate the damaged space or whether other facilities must be secured.

Insurance Claims

Podiatric physicians should review their policies to ensure that they understand their duties in the event of a loss. Most policies have a timeline for loss reporting, often requiring notice within sixty (60) days. Specific policies may have different requirements. Insurers may require authorization for the removal or alteration of damaged property. Many policies also require prior approval of scope of work for impacted properties as well as for consultants or contractors.

If a natural disaster has had a widespread impact on an area, an insurance adjuster may not be able to reach an office for weeks. The company will likely give permission for equipment to be salvaged before an adjuster arrives, in order to minimize damage. Nothing should be moved, however, until damage is appropriately documented through photographs.

As soon as entry into the property is authorized, property damage should be assessed using the floor plan and office inventory prepared in the emergency plan. After necessary authorization is obtained from carriers, action should be taken to protect equipment, valuables, critical paper records, and library materials. All efforts and expenses associated with mitigating losses, protecting undamaged property, and excess operating costs should be documented. Take photographs in a systematic fashion, beginning from the front door. Photographs should show multiple angles of the same room. All items should be photographed to document damage to them.

A practice should consider designating a team of employees to oversee the insurance recovery effort. A single member of the team should be appointed to communicate with the insurance adjuster.

A podiatric physician should inform the insurance agent or broker of all efforts to mitigate loss, and seek to have an adjuster assigned to the claim as quickly as possible. Adjusters should be kept informed of all efforts. All communication with brokers and adjusters should be documented.

Carriers typically have two resources for claims investigation: (1) an insurance adjuster employed by the carrier and (2) an adjusting company, which is an outside con-

tractor. While these outside contractors may claim to be "independent adjustors" they actually work for the insurance companies.

In situations where there is a significant loss, an insured may wish to retain a public adjustor. Adjustors' rates are paid by whoever retains them, and may be calculated at an hourly rate or a percentage of what is recovered by the insurance company. A public adjustor can help navigate the claims process and ensure a more prompt recovery.

Practitioners should also contact medical malpractice carriers for possible deferral or forgiveness of insurance premiums.

Records

Generally, practitioners are not subject to a charge of professional misconduct for records that are lost or damaged due to a disaster, provided that they have taken reasonable steps to maintain them safely. Podiatric physicians should take the following actions to help protect from liability in the event that records are lost or damaged.

As soon as possible, practitioners should identify and make a list of any records which have been completely destroyed. The date and circumstances of the loss should be recorded, as should the location of the records. As many records as possible should be maintained, even those which are partially destroyed or illegible. Steps should be taken to protect records from further damage. If damage is extensive, a records retrieval specialist or restoration service may be consulted. Podiatric physicians should provide such services with information on confidentiality requirements for these records, and should obtain the service's agreement to abide by such requirements. Practitioners should also take steps to recover information stored on damaged computers. Professional services can be enlisted to determine whether any recovery is possible. Use of these services should be documented.

Health care insurers should be put on notice of lost or damaged records, even if notice is not required by contract. The insurer may have requirements related to lost or damaged records. Depending on the circumstances, practitioners may wish to put clients on notice as well.

Carefully monitor any announcements on this topic generated by applicable government agencies, such as the State Medical Board of OH, Bureau of Workers Comp, the Ohio State Health Department, CMS/ CGS and ODJFS.

It is likely that providers will be faced with requests for patient records months or even years after a natural disaster. When faced with such a request, a practitioner should provide a detailed explanation of the patient's records, identifying the specific records that were lost, the approximate date of the loss, and the reason for the loss.

Licensees may also be faced with the loss of their licenses or registrations. An application to replace a lost or destroyed license parchment can be obtained by contacting the State Medical Board of Ohio. (*Editor's Note:* Contact the DEA should you need to replace your DEA certificate)

Licensees who have lost completion certificates due to natural disasters should make reasonable efforts to replace lost documents. Licensees who are unable to complete required continuing education requirements because of natural disasters should contact the medical board in writing citing the reason regarding your lack of continuing education credit and request an extension.

Damage to Facilities

As early as possible, a decision should be made regarding whether and when premises can be restored. Factors to consider include whether portions of the premises are usable, the extent of damage to equipment and furnishings, and whether there are any health or safety concerns associated with the premises.

Podiatric physicians who lease office space may be responsible for payment of rent, even if the space is unusable. In commercial leases, the right of "quiet enjoyment" of the premises does not apply. Typically, the protections for commercial tenants are limited to what is contained in the lease. A tenant who is faced with an unusable commercial space should immediately notify the landlord of the defects in the property and demand that the issues be remedied. Unfortunately, a commercial tenant typically cannot terminate a lease if the property issues are not remedied. In the event that a practitioner is faced with an uncooperative landlord, he or she should consult an attorney.

Particular concerns must be addressed in the aftermath of flooding, with respect to remediating water damage, preventing the growth of mold, and addressing potential bacterial contamination of water. Practitioners should act quickly to stop any ongoing water intrusion and to evaluate the source and extent of water damage and accompanying mold or mildew.

Podiatric physicians should avoid hiring a contractor simply to perform remediation work. It is more prudent to engage a licensed, certified industrial hygienist (CIH) to determine the source and extent of water damage and the appropriate measures to prevent or remediate the growth of mold and bacteria. The CIH can then monitor the contractor's performance and confirm that all water damage has been appropriately remediated.

Podiatric physicians should be careful when considering whether indoor air sampling is necessary or appropriate. Sampling methods for mold are not standardized and often yield highly variable results. There are no regulatory standards against which to compare air sampling results for health or environmental assessments. The most effective way to confirm whether mold has been remediated successfully is through an assessment by a qualified CIH.

(*Editor's Note:* The content was modified to reflect agencies/entities within Ohio)

MAPPING THE FUTURE OF PODIATRY

NY14

PODIATRIC CLINICAL CONFERENCE & EXHIBITION

JANUARY 24–26, 2014
NEW YORK MARRIOTT MARQUIS

INVITED FACULTY

Bradley W. Bakotic, DPM, DO
Alan Banks, DPM
Tzvi Bar-David, DPM
Philip Basile, DPM
Dominic Catanese, DPM
Timothy W. Deyer, MD
Michael S. Downey, DPM
Gavin Duke, MD
Elisabeth C. Elsinger, DPM
Robert Fridman, DPM
Harry Goldsmith, DPM
Jordan Grossman, DPM
Christopher F. Hyer, DPM
Allen M. Jacobs, DPM
Paul Kesselman, DPM
Bryan Markinson, DPM
Steven Rossidis, RDMS
Lawrence A. Santi, DPM
Mark Schilansky, DPM
Harold D. Schoenhaus, DPM
Jack M. Schuberth, DPM
David A. Yeager, DPM
…and more!

FEATURING STIMULATING EDUCATIONAL LECTURE TRACKS

Diagnosis and Management of Common Pediatric Lower Extremity Disorders; Evaluation and Treatment of Complications Associated with Bunion Surgery; Evaluation and Management of Soft Tissue Injuries of the Ankle Joint; Evaluation and Management of Posterior Heel Pathology; Improving the Results of Forefoot Surgery; APMA Regional Lecture Series….and more!

HANDS-ON WORKSHOPS

Osteotomies and Fixation of the First and Lesser Metatarsals; Plantar Plate Repair; Complex Bunion Surgery; Musculoskeletal Ultrasound for Diagnosis and Procedural Guidance; Reconstructive Rearfoot Surgery; Sports Medicine...and more!

JOIN COLLEAGUES FROM ALL OVER THE COUNTRY AND AROUND THE WORLD IN THE GREATEST CITY OF ALL—NEW YORK

For Registration Information, go to www.nyspma.org

PICA Treated Fairly

2014 Grand Marshall Sponsor

Contracting with Medicare Advantage Organizations: Issues and Terms to Consider

by Kelli Back, Esquire
Law Offices of Mark S. Joffe

While conventional wisdom has been that many Medicare Advantage (MA) organizations would leave their markets due to payment cuts under the Affordable Care Act, this has not happened. In fact, MA plan enrollment has continued to grow at the rate of around one million enrollees a year over the past 5 years. In May 2013, 14.7 million beneficiaries enrolled under 674 Medicare managed care contracts across the country, a penetration rate of about 28.5 percent of Medicare beneficiaries.

Consequently, it is important that physicians who wish to serve Medicare beneficiaries understand their contracting options with regard to MA organizations, and understand the provisions that are likely to be in an MA contract.

Open network MA plans are an increasingly popular option for Medicare beneficiaries and employers providing retiree coverage through MA plans. Open network MA plans cover services furnished by non-contracting providers and include HMOs with a point-of-service option, local and regional PPOs and private fee-for-service plans. Therefore, physicians wanting to serve MA enrollees may not need to contract with an MA organization. They may be able to see the enrollees as non-contracted providers.

Further, there may be a few advantages to remaining non-contracted. For example, Medicare law requires that MA organizations pay non-contracted providers the same amount that they would have received under original Medicare for furnishing covered service to their members. Thus, for these providers, the plans must follow the coding policies – including recognition of modifiers – of original Medicare. Medicare law also requires that MA organizations pay clean claims submitted by non-contract providers in 30 days or pay interest. In contrast, Medicare law addresses neither the manner in which MA organizations must pay contracting providers for furnishing covered services nor the amount they must pay. Payment arrangements are considered a private contractual matter between the provider and the MA organization. MA organizations are free to adopt their own coding and editing policies consistent with the payment terms set forth in their contracts with providers.

With regard to appeals, Medicare law provides non-contract providers with a prescribed appeals process that includes review by external, independent review entities of adverse appeal decisions. The applicable procedures vary depending on whether the issue being appealed is a pre-service denial, a payment denial or payment dispute (where only the payment amount is at issue). The time lines for filing an appeal and for the MA organization to make a decision are prescribed by law. Medicare law and policy does not prescribe, or even require, an appeal process for contracting providers who have had claims for payment denied. Such appeals are a matter of contract negotiations or the health plan's policies and procedures.

Notwithstanding, lower member cost sharing, potential member steerage or simply not being in an area where MA organizations are offering open network plans may lead a physician to contract with a Medicare Advantage organization. Physicians should look for a few key provisions in such contracts. They should also be aware that most state law is preempted as it applies to MA organizations, so, for example, state law prompt payment requirements or limitations on re-coupments will not apply.

The first item to look at is the amount payable. As with any health plan contract, if the reimbursement level is not adequate, or can't be negotiated to an adequate level, there is no reason to enter the agreement. Another payment term to look for is whether the contract obligates the MA organization to pay like Medicare or allows it to adopt its own coding and edit policies that are different from Medicare's.

Another important issue is whether the contract sets forth an appeal right and adequate appeal process. While there is Medicare law specifying a process for contracting providers to request appeals of pre-service denials, as previously mentioned, the post-service appeal policy is entirely a matter of plan policy and contract negotiations. Physicians should ensure the plan has a meaningful process, even if this means requesting the policies and procedures regarding denials. The process should clearly define the amount of time the physician has to appeal and set forth a time frame in which the plan will respond to the appeal.

The first item to look at is the amount payable. As with any health plan contract, if the reimbursement level is not adequate, or can't be negotiated to an adequate level, there is no reason to enter the agreement.

A significant issue that physicians have had with MA organizations is medical record requests and audits. Frequently these requests are as a result of the MA organization's desire to capture all diagnostic data to ensure the MA organization is properly paid under Medicare's risk adjustment policy. Physicians should determine whether they will be reimbursed for some or all of the medical records they provide and whether the contract or plan policies contain any reasonable guidelines or limitations regarding the amount of records that may be requested and the time frame the provider has for producing the records. They should also determine whether the plan reserves the right to do on-premises medical record reviews and audits.

Finally, note that CMS requires that MA organizations include in their contracts certain specified provisions, such as a requirement to retain records for 10 years and an obligation to hold beneficiaries harmless for amounts that are the obligation of the MA plan. These provisions are non-negotiable to the extent they are required by law.

**Certain PFFS plans, known as "network" PFFS plans, are not obligated to pay what Medicare would have paid, but may choose to do so.*

CLASSIFIEDS

Associate Wanted

Associate wanted for growing, full-time office in Dayton, Ohio. Full medical and surgical scope of practice available. Email cover letter, CV, and references to tripperdpm@yahoo.com

Northwest Ohio Practice for Sale

Forty-four years of established practice, now 3 days a week. Limited surgery with general podiatry. Will sell with building. Established neighborhood, good location and good referrals. For more information please email: doctorz@glasscity.net

Office Space Available

Beautiful (1800 sq foot) fully equipped modern podiatry office located in busy new medical office park at 150 Taylor Station Rd (Columbus area). Digital X-ray system/EMR/computers in all treatment rooms. For further information please contact (614) 866-3338 or email Jonesfeet1@gmail.com.

Associate Wanted Immediately

Practice in New Boston, Ohio. Call for details on being the only doctor operating the practice. Earning capabilities of over $110k while earning up to 35% equity ownership by meeting agreed-upon contracted terms. You will not find a better opportunity anywhere. Call (610) 518-7411 for more information.

To list your ad here, please contact Luci Ridolfo at OHFAMA. E-mail lridofo@opma.org or by calling 614.457.6269 or by fax at 614.457.3375.

OHIO
FOOT AND ANKLE
MEDICAL ASSOCIATION

The OHFAMA Journal is published 4 times per year. The advertising deadline is mid-month preceding publication. Portions may be used with permission of the publisher.

PRESIDENT: Marc Greenberg, DPM
PUBLISHED BY:
Jimelle Rumberg, Ph.D., CAE, Executive Director
ADVERTISING:
Luci Ridolfo, Director of Education and Membership

CONTACT INFORMATION:
1960 Bethel Rd., Ste. 140 | Columbus, Ohio 43220
Phone: 614.457.6269 | Fax: 614.457.3375
Web page: http://www.opma.org
Email jrumberg@opma.org; jmclean@opma.org; lridolfo@opma.org

EDITORIAL DISCLAIMER
The OHFAMA Journal is provided to Association members and Industry Affiliates of the profession as a part of our communications to inform/ update our members on podiatric issues and events. The contents of OHFAMA Journal are intended for general information purposes only and should not be read as specific legal, financial, or business advice regarding specific issues or factual events. We urge you to consult your legal, financial, and professional advisors with any specific questions you may have.

Disclaimer Statement
The information published herein has been prepared for educational and informational purposes only. This information is not intended as legal, podiatry or practice management advice or an opinion on same. Circumstances change from day-to-day and one situation may differ from the next; the authors and publisher cannot assume responsibility for any actions taken based on the information contained herein. This information is not a substitute for expert advice specific to your situation. More specifically, legal or regulatory advice must be tailored to the specific circumstances of each case, and laws are constantly changing. Nothing provided herein should be used as a substitute for the advice of competent counsel. Federal law requires that the authors and publisher let you know that nothing published herein is intended or written to be used, and cannot be used for the purpose of avoiding any penalties under the law. The publication of the information herein is not intended to create, and receipt does not constitute a professional or contractual relationship between the author and the publisher and you. While the publisher tries to provide accurate and helpful information, they do not make any claims, promises or guarantees about the accuracy, completeness, helpfulness or adequacy of the information contained herein. No warranties are made for the information published to be accurate and no other warranties express or implied are made. The information here is presented "as is."

Cancer Reporting

by Lynn Giljahn, OCISS Registry Manager, lynn.giljahn@odh.ohio.gov, 614-644-1844

The Ohio Cancer Incidence Surveillance System (OCISS) at the Ohio Department of Health collects and analyzes cancer incidence data on all Ohio residents. OCISS data are widely used by public health professionals, medical researchers and others to determine the burden of cancer in Ohio's communities; to develop, implement and promote cancer prevention and control activities; and to support cancer-related research.

Each physician, dentist, hospital, or person providing diagnostic or treatment services is required by law (Ohio Revised Code 3701.262) to report all newly diagnosed and/or treated cancers to OCISS.

A reportable case is defined as any primary malignant neoplasm, with the exception of basal and squamous cell carcinoma of the skin and carcinoma in situ of the cervix. Benign and borderline intracranial and central nervous system tumors are also reportable.

Cases are to be reported within six months of diagnosis. Data to be reported include patient demographics and information on cancer diagnosis, treatment, and staging. OCISS encourages providers to report monthly.

OCISS recently developed a new abbreviated format for physician reporting of cancer cases. Reporting is done online through a secure Web interface.

Cancer reporting through electronic health record systems is a menu item for Stage 2 Meaningful Use. (The American Recovery and Reinvestment Act of 2009 provided funding to states, including Ohio, to promote the use of health information technology to improve the health of all citizens. A core component is to provide enhanced reimbursement to providers and hospitals for the "Meaningful Use" of electronic health records.) OCISS is gearing up to be able to accept cancer reports in the standard for Meaningful Use.

It is important for OCISS data to be complete. Unfortunately, not all cancer cases get reported to OCISS, especially cases that are diagnosed and treated outside the hospital setting.

Last year, OCISS conducted a survey of Ohio physician specialties likely to diagnose and/or treat cancer to determine their understanding of OCISS reporting requirements. About a third indicated that they reported their cases to OCISS, another third indicated that a hospital reported their cases, and a small percent indicated that a pathology lab reported their cases. The remaining 30 percent indicated that they did not report their cancer cases to OCISS and no one was reporting on their behalf.

It is important to note that, although all hospitals in Ohio send reports to OCISS on cancer cases diagnosed and/or treated in their facility, hospitals do not typically report cases diagnosed and/or treated solely in a physician's office unless there is a specific agreement in place for them to do so.

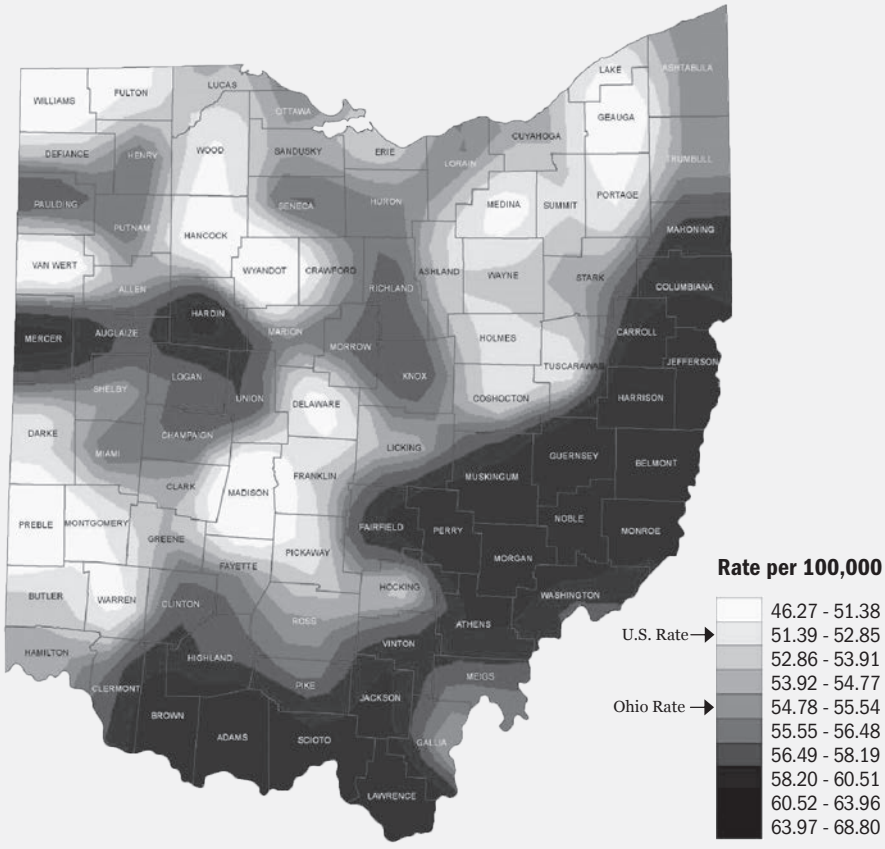
A major goal for OCISS is to increase physician reporting of cancer cases that are diagnosed and treated outside the hospital setting. Please contact OCISS at OCISS@odh.ohio.gov or 614-752-2689 to learn more about cancer reporting or visit the OCISS website at http://www.healthyohioprogram.org/cancer/ocisshs/ci_surv1.aspx. The website also provides information on how to access OCISS data for cancer-related research.

| Reprinted from YOUR REPORT, the Medical Board's newsletter, August 2013 |

Colon and Rectum

Average Annual Invasive Cancer Incidence Rates per 100,000 Adjusted for Age and Rates in Neighboring Ohio Counties, 1996-2006

Maps and methods were created by: Jesse J. Plascak, M.P.H., The Ohio State University Geographic Patterns of Cancer Incidence in Ohio: 1996-2006. Ohio Cancer Incidence Surveillance System, Ohio Department of Health and The Ohio State University, Columbus, Ohio, January 2010.



DEA REGISTRATION

Q *What does a practitioner/physician need to obtain before he/she can complete an application for a DEA registration?*

A Issuance of a DEA registration to prescribe controlled substances is predicated on successfully completing all of the requirements imposed by the state in which the practitioner will conduct business and obtaining a state license. If the practitioner fails to obtain the required state license or has the license revoked or rescinded, then the DEA cannot issue the requested registration. If an existing DEA registrant loses his/her state privileges, then the DEA must also rescind or revoke the federal authority to prescribe controlled substances.

Q *Are there any limits placed on a practitioner's/physician's registration?*

A The DEA Form 224 – New Application for Retail Pharmacy, Hospital/Clinic, Practitioner, Teaching Institution, or Mid–Level Practitioner has a space to list the Drug Schedules of controlled substances that the practitioner wishes to handle. The practitioner must be authorized by the state to handle those drugs for which he/she is applying for DEA authorization and accordingly will ONLY be authorized to handle those drugs that are checked on the application form.

Q *What is the processing time for a new or renewal application?*

A New Applications (DEA Form 224) are processed within 4 to 6 weeks. Renewal Applications (DEA Form 224a) are processed within approximately 4 weeks.

Q *How often are DEA registrations renewed?*

A Practitioner registrations must be renewed every three years.

Q *Are separate DEA registrations required for separate locations?*

A Separate registration is required for each principal place of business or professional practice where controlled substances are stored, administered, or dispensed by a person.

If a practitioner will only be prescribing from another location(s) situated within the same state, then an additional registration is not necessary.

Q *What happens if a practitioner/ physician relocates his/her business?*

A A practitioner who moves to a new physical location must request a modification of registration. A modification is handled in the same manner as a new application and must be approved by DEA. A modification of registration can be requested online at www.deadiversion.usdoj.gov or by writing to the local DEA Registration Program Specialist responsible for the area in which the new office is located.

If the change of address involves a change in the state, the proper state issued license and, if applicable, state controlled substances registration must be obtained prior to the request to DEA for an address change. If the modification is approved, DEA will issue a new certificate of registration. The registrant should maintain the new certificate with the old certificate until expiration.

Information obtained from the DEA website: http://www.deadiversion.usdoj.gov/

| Reprinted from YOUR REPORT, the Medical Board's newsletter, August 2013 |

DUTY TO REPORT

State Medical Board of Ohio

Mandatory Reporting Requirements

A licensee who believes another licensee has violated a statute or rule regulated by the Medical Board has a duty to report the information to the Medical Board. A "reason to believe" or "a belief" does not require absolute certainty or complete unquestioning acceptance, but only an opinion that a violation has occurred based upon firsthand knowledge or reliable information. Any report provided to the Medical Board is confidential under by Section 4731.22(F)(5),Ohio Revised Code, http://codes.ohio.gov/orc/4731.22.

Exceptions to the mandatory reporting requirement are made for members of peer review committees, approved treatment providers, members of hospital or medical staff impaired practitioners committees, and other impairment-related situations.

There are three ways to file reports with the Board. You may use the online complaint form available on the Medical Board's website: http://www.med.ohio.gov/consumer-complaint-form-online.htm Please provide detailed information regarding the concerns to help the Board further review the allegations.

Additionally, you may request a complaint form by calling 1-800-554-7717 and providing your name and mailing address in the voice-mail message. Or you may send a written report to the Board at this address:

State Medical Board of Ohio
Attention: COMPLAINT TRIAGE
30 E. Broad St. 3rd Floor
Columbus, OH 43215-6127

Here's the link to the mandatory reporting rule:
Rule 4713-15-01, Ohio Administrative Code
http://codes.ohio.gov/oac/4731-15-01

| Reprinted from YOUR REPORT, the Medical Board's newsletter, August 2013 |

HIPAA: New Realities of Business Associates

Is a patient considered a business associate under HIPAA? No, a patient is a **Covered Entity,** *not* a **Business Associate.** Likewise, retail pharmacies are *not* Business Associates since they deal directly with your patient. You don't need a Business Associate Agreement (BAA) with a pharmacy, including compounding pharmacies. They are providers to your patients as well. But you will need a BAA for your practice when dealing with companies, for example, such as for Wound Vac Companies.

Confused yet? The Ohio Foot and Ankle Medical Association is providing you with this sample Business Associate Agreement provision that will be helpful, so please copy this information and keep it on file for future reference/office manual.

SAMPLE BUSINESS ASSOCIATE AGREEMENT PROVISIONS

Introduction

A "business associate" is a person or entity, other than a member of the workforce of a covered entity, who performs functions or activities on behalf of, or provides certain services to, a covered entity that involve access by the business associate to protected health information. A "business associate" also is a subcontractor that creates, receives, maintains, or transmits protected health information on behalf of another business associate. The HIPAA Rules generally require that covered entities and business associates enter into contracts with their business associates to ensure that the business associates will appropriately safeguard protected health information. The business associate contract also serves to clarify and limit, as appropriate, the permissible uses and disclosures of protected health information by the business associate, based on the relationship between the parties and the activities or services being performed by the business associate. A business associate may use or disclose protected health information only as permitted or required by its business associate contract or as required by law. A business associate is directly liable under the HIPAA Rules and subject to civil and, in some cases, criminal penalties for making uses and disclosures of protected health information that are not authorized by its contract or required by law. A business associate also is directly liable and subject to civil penalties for failing to safeguard electronic protected health information in accordance with the HIPAA Security Rule.

A written contract between a covered entity and a business associate must:

- establish the permitted and required uses and disclosures of protected health information by the business associate;
- provide that the business associate will not use or further disclose the information other than as permitted or required by the contract or as required by law;
- require the business associate to implement appropriate safeguards to prevent unauthorized use or disclosure of the information, including implementing requirements of the HIPAA Security Rule with regard to electronic protected health information;
- require the business associate to report to the covered entity any use or disclosure of the information not provided for by its contract, including incidents that constitute breaches of unsecured protected health information;
- require the business associate to disclose protected health information as specified in its contract to satisfy a covered entity's obligation with respect to individuals' requests for copies of their protected health information, as well as make available protected health information for amendments (and incorporate any amendments, if required) and accountings;
- to the extent the business associate is to carry out a covered entity's obligation under the Privacy Rule, require the business associate to comply with the requirements applicable to the obligation;
- require the business associate to make available to HHS its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by the business associate on behalf of, the covered entity for purposes of HHS determining the covered entity's compliance with the HIPAA Privacy Rule;
- at termination of the contract, if feasible, require the business associate to return or destroy all protected health information received from, or created or received by the business associate on behalf of, the covered entity;
- require the business associate to ensure that any subcontractors it may engage on its behalf that will have access to protected health information agree to the same restrictions and conditions that apply to the business associate with respect to such information; and
- authorize termination of the contract by the covered entity if the business associate violates a material term of the contract. Contracts between business associates and business associates that are subcontractors are subject to these same requirements.

This document includes sample business associate agreement provisions to help covered entities and business associates more easily comply with the business associate contract requirements. While these sample provisions are written for the purposes of the contract between a covered entity and its business associate, the language may be adapted for purposes of the contract between a business associate and subcontractor.

This is only sample language and use of these sample provisions is not required for compliance with the HIPAA Rules. The language may be changed to more accurately reflect business arrangements between a covered entity and business associate or business associate and subcontractor. Additionally, these or similar provisions may be incorporated into an agreement for the provision of services between a covered entity and business associate or business associate and subcontractor, or they may be incorporated into a separate business associate agreement. These provisions address only concepts and requirements set forth in the HIPAA Privacy, Security, Breach Notification, and Enforcement Rules, and

alone may not be sufficient to result in a binding contract under State law. They do not include many formalities and substantive provisions that may be required or typically included in a valid contract. Reliance on this sample may not be sufficient for compliance with State law, and does not replace consultation with a lawyer or negotiations between the parties to the contract.

Sample Business Associate Agreement Provisions

Words or phrases contained in brackets are intended as either optional language or as instructions to the users of these sample provisions.

Definitions

Catch-all definition: The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

Specific definitions: Business Associate

"Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean [Insert Name of Business Associate].

Covered Entity

"Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean [Insert Name of Covered Entity].

HIPAA Rules

"HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

Obligations and Activities of Business Associate

Business Associate agrees to:

(a) Not use or disclose protected health information other than as permitted or required by the Agreement or as required by law;

(b) Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of protected health information other than as provided for by the Agreement;

(c) Report to covered entity any use or disclosure of protected health information not provided for by the Agreement of which it becomes aware, including breaches of unsecured protected health information as required at 45 CFR 164.410, and any security incident of which it becomes aware;

(d) Report to covered entity any use or disclosure in item (c) above within 5 business days of the discovery of the incident;

(e) Business associate will be responsible for reasonable costs associated with breach notifications to individuals, the HHS Office for Civil Rights (OCR), and potentially the media;

(f) In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the business associate agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information;

(g) Make available protected health information in a designated record set to the [Choose either "covered entity" or "individual or the individual's designee"] as necessary to satisfy covered entity's obligations under 45 CFR 164.524;

(h) Respond to a request for access that the business associate receives directly from the individual in a time and manner a consistent with the current regulations, and notify covered entity of such request and response.

(i) Make any amendment(s) to protected health information in a designated record set as directed or agreed to by the covered entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy covered entity's obligations under 45 CFR 164.526;

(k) Respond to a request for amendment that the business associate receives directly from the individual in a time and manner a consistent with the current regulations, and notify covered entity of such request and response.

(l) Maintain and make available the information required to provide an accounting of disclosures to the [Choose either "covered entity" or "individual"] as necessary to satisfy covered entity's obligations under 45 CFR 164.528;

(m) Respond to a request for an accounting of disclosures that the business associate receives directly from the individual in a time and manner a consistent with the current regulations, and notify covered entity of such request and response.

(n) To the extent the business associate is to carry out one or more of covered entity's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the covered entity in the performance of such obligation(s); and

(o) Make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

Permitted Uses and Disclosures by Business Associate

(a) Business associate may only use or disclose protected health information as specified in the contracts and service agreements in place between the business associate and the covered entity as necessary to perform the services set forth in Service Agreements and/or contracts.

(b) Business associate may use or disclose protected health information as required by law.

(c) Business associate agrees to make uses and disclosures and requests for protected health information consistent with covered entity's minimum necessary policies and procedures.

(d) Business associate may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by covered entity [if the Agreement permits the business associate to use or disclose protected health information for its own management and administration and legal responsibilities or for data aggregation services as set forth in optional provisions (e), (f), or (g) below, then

add ", except for the specific uses and disclosures set forth below."]

(e) Business associate may use protected health information for the proper management and administration of the business associate or to carry out the legal responsibilities of the business associate.

(f) Business associate may disclose protected health information for the proper management and administration of business associate or to carry out the legal responsibilities of the business associate, provided the disclosures are required by law, or business associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies business associate of any instances of which it is aware in which the confidentiality of the information has been breached.

(g) Business associate may provide data aggregation services relating to health care operations of the covered entity.

Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions

(a) Covered entity shall notify business associate of any limitation(s) in the notice of privacy practices of covered entity under 45 CFR 164.520, to the extent that such limitation may affect business associate's use or disclosure of protected health information.

(b) Covered entity shall notify business associate of any changes in, or revocation of, the permission by an individual to use or disclose his or her protected health information, to the extent that such changes may affect business associate's use or disclosure of protected health information.

(c) Covered entity shall notify business associate of any restriction on the use or disclosure of protected health information that covered entity has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect business associate's use or disclosure of protected health information.

Permissible Requests by Covered Entity

Covered entity shall not request business associate to use or disclose protected health information in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by covered entity. [Include an exception if the business associate will use or disclose protected health information for, and the agreement includes provisions for, data aggregation or management and administration and legal responsibilities of the business associate.]

Term and Termination

(a) Term. The Term of this Agreement shall be effective as of [Insert effective date], and shall terminate on [Insert termination date or event] or on the date covered entity terminates for cause as authorized in paragraph (b) of this Section, whichever is sooner.

(b) Termination for Cause. Business associate authorizes termination of this Agreement by covered entity, if covered entity determines business associate has violated a material term of the Agreement and business associate has not cured the breach or ended the violation within the time specified by covered entity

(c) Obligations of Business Associate Upon Termination. Upon termination of this Agreement for any reason, business associate shall return to covered entity or, if agreed to by covered entity, destroy all protected health information received from covered entity, or created, maintained, or received by business associate on behalf of covered entity, that the business associate still maintains in any form. Business associate shall retain no copies of the protected health information.

(d) If the return or destruction of all protected health information is not possible, Upon termination of this Agreement for any reason, business associate, with respect to protected health information received from covered entity, or created, maintained, or received by business associate on behalf of covered entity, shall:

- Retain only that protected health information which is necessary for business associate to continue its proper management and administration or to carry out its legal responsibilities;
- Return to covered entity or, if agreed to by covered entity, destroy the remaining protected health information that the business associate still maintains in any form;
- Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of the protected health information, other than as provided for in this Section, for as long as business associate retains the protected health information;
- Not use or disclose the protected health information retained by business associate other than for the purposes for which such protected health information was retained and subject to the same conditions set out at paragraphs (e) and (f) above under "Permitted Uses and Disclosures By Business Associate which applied prior to termination; and
- Return to covered entity or, if agreed to by covered entity, destroy]the protected health information retained by business associate when it is no longer needed by business associate for its proper management and administration or to carry out its legal responsibilities.

(e) Survival. The obligations of business associate under this Section shall survive the termination of this Agreement.

Interpretation

Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Rules.

Disclaimer: This article is for informational purposes only and does not constitute legal advice. Podiatrists seeking legal advice should consult with an attorney duly licensed in Ohio.

SECRETS OF SUCCESS

Attendance Plus Punctuality

The reality is employees that make a habit of arriving at work late, or not at all, with zero consequence, dump their duties and responsibilities on those more conscientious, "on-time" staff members.

by Lynn Homisak, SOS Healthcare Management Solutions, LLC

Lynn says: "If you can't be on time...be early!" Exactly what is your attendance and punctuality policy? What's that you say? You don't *have* one? Perhaps now is the time to re-think that position.

Tardiness is defined as being late without prior authorization from management. While employee tardiness is unacceptable across the board with my clients, I find myself time and time again responding to this complaint, "How do I handle the repeated abuse of being late and absenteeism?" Their issue revolves more around employees cheating the system; however, the reality is employees that make a habit of arriving at work late, or not at all, with zero consequence, dump their duties and responsibilities on those more conscientious, "on-time" staff members. Like any unwritten or unmanaged policy, when this is allowed to happen repeatedly, it leads to task inequality and followed most times by resentment. Before you know it, rebellion in the form of inefficiency, lack of productivity, feelings of favoritism and conflict are likely to surface in significant, uncontrollable proportions. Start times and work schedules must absolutely and clearly be defined to avoid abuse of any kind.

Here is a start-up policy that can be edited to fit your practice philosophies:

Regular attendance and promptness are essential elements in the success and performance of our practice in an effort to provide quality patient care. All employees should know their personal working hours and are expected to arrive and be prepared to begin work at their scheduled start time unless a request is made and approved in advance. As a team member, it is critical that you understand you are required to be in the right place at the right time. We expect to pay you well for the time you work; and, likewise, we expect you to work the time for which you are paid. Keep in mind that it is just as important to return from breaks and lunch promptly as it is to arrive on time in the morning.

If employees are required to manually fill out a time card/sheet: It is the daily responsibility of each employee to accurately record all time worked on the card provided and turn it into the office manager at the end of (some period of time).

If employees are also required to use a time clock, add: Under NO circumstance is your time card to be handled by another coworker. Manipulation of your time, whether via equipment settings or manipulation of this document will *not* be tolerated and shall be cause for termination.

If no written records are kept: Currently, individual attendance records are not required. If this policy is abused we will implement strict office-wide attendance rules.

A continued pattern of absenteeism and tardiness leaves us without a full and operating team. This unfairly transfers the workload onto other staff, disrupting work schedules and creating a breakdown in work accomplishment and motivation. Therefore, if for any reason you cannot report to work on time, telephone as far in advance of your starting time as possible. State why you will be late and when you expect to arrive. In the event that you are unable to report to work at all, due to illness or personal situation, we require immediate notice, so we can arrange for your replacement.

Understand that frequent or unexcused absenteeism/lateness is unacceptable. It will be addressed and can result in disciplinary action and/or termination. Without prior approval, personal doctor, dental and/or lab appointments should be made before or after your work hours , or during lunch. Two or more consecutive days (without proper approval or notification) is considered job abandonment. In this case, you will be considered as having resigned your employ and will be removed from our payroll system.

(Doctor/Manager name) may require written documentation for the purpose of explaining the reason for any prolonged periods of absenteeism or tardiness.

OHIO
FOOT AND ANKLE
MEDICAL ASSOCIATION

Ohio Foot and Ankle Medical Association
1960 Bethel Road, Suite 140
Columbus, OH 43220-1815

PRSRT STD
U.S. Postage
PAID
Columbus OH
Permit #2609

CHANGE SERVICE REQUESTED