Ohio Medicine

2020—ISSUE 1

Ohio State Medical Association

OHIO PHYSICIANS UP TO COVID-19 CHALLENGES

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Dr. Hubbell Reflects On SUCCESSFUL YEAR As President

It is hard to believe that my year as President of our OSMA is over!
Thank you for the privilege of serving as leader of our great association.

It was an exciting year with our Healthier Ohio 2020 and Beyond initiative and identifying the issues of diabetic patient care, smoking cessation, prior authorization, and access to care as our areas of focus. Our committee has met several times and we are discussing legislative and other approaches to remove some of the barriers to care to make diabetic care easier for patients, physicians and pharmacists.

Your governing council established a new 3-year strategic plan to improve and stabilize our OSMA. Our budget is balanced and we have a rainy day fund. The Young Physician Section is up and running with representation on the governing council. We have a new marketing plan to help spread the word about all of the good things that we do.

Our government relations team has worked with the Ohio Legislature and our Congressional Delegation to monitor any legislation that affects the practice of medicine and patient care in Ohio. We have been able to stop some bad ideas and promote some good ones.

Please spread the word to your colleagues to join us! Together we are stronger!

Susan L. Hubbell MD, MS
Immediate Past President
OSMA

NEW CHALLENGES for A New President

First, let me say that it is an honor to serve as your next president of the OSMA. Following the upcoming U.S. presidential election there may be significant changes affecting the entire healthcare industry. The OSMA has structured itself to be nimble and as anticipatory as possible in our approach to these potential changes.

I plan to continue promoting and supporting our successful initiatives including Healthier Ohio 2020 and Beyond and Physician Well-Being. I hope to expand our Healthier Ohio initiative to address issues related to obesity in Ohio with healthcare providers, hospitals, healthcare systems and other interested stakeholders within the state.

We will continue with our advocacy and legislative efforts as outlined in our 2020-2023 strategic plan. There will be an emphasis on sustainability of the OSMA through new and innovative marketing of the OSMA.

We will also increase our grass roots efforts utilizing the newly created Young Physician Section, social media, targeting specific audiences and continuing with regional forums.

Although these are somewhat uncertain times, I believe that there is an exciting and successful future for the OSMA.

Anthony J. Armstrong, MD, MPH

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Why Your Patients Might Want to Pay Cash For Their Prescriptions

When picking up a medication from the pharmacy, some patients may fare better reaching straight for their wallet rather than their insurance card. In 2019, 40 percent of people with private insurance were on high deductible health plans, and 75 percent of these never hit their deductible within the plan year. Because of this, many patients may want to consider paying cash for their prescriptions. Providers can play a key role in helping patients find the best payment option at the point of prescription selection within their EHR.

Help patients feel more empowered to look beyond benefit information

Smarter, more mobile technology has put the power of consumerism in people's hands. Prescriptions are becoming no different. While going through insurance can feel like the default method for accessing medications, it is not the only method. Providers and pharmacists can help patients understand their options and help avoid sticker shock at the pharmacy. In some cases—say a patient likely to hit their deductible—their insurance benefit is a good option.

In many other cases, paying cash is worth evaluating—and it certainly doesn't hurt to look. In a study by the University of Southern California Schaeffer Center for Health Policy & Economics, researchers found nearly one quarter of patients were overpaying for their prescriptions by going through their insurance instead of paying cash.

How providers can help patients access cash options

Through integrated prescription decision support solutions providers have accurate visibility into prescription benefit information—including cash pricing—and help improve discussions about the out-of-pocket drug cost. This can open the door to a conversation around the patient's financial needs when making prescription decisions. If the patient decides cash is the best option, there are additional resources to help patients reduce their health care costs.

- Pharmacy price comparison: The same medication can vary in price, even cash price, depending on the dispensing location. Pointing this out may help override pharmacy loyalty in favor of a better prescription price. While some patients may already shop around, there are solutions available through websites and apps that can automate this process, speeding time to therapy.
- Drug manufacturer cash price programs: Particularly for patients on brand-name medications, manufacturer cash price programs keep prescription costs steady, so patients know what they'll pay every time. This helps patients stay adherent to medication and solidifies the brand relationship for the drug manufacturer, often past loss-of-exclusivity time limits.
- Pharmacy discount cards: Many pharmacies and pharmacy chains offer discount cards to receive medications at lower costs than health plans can offer. Patients can check with their preferred pharmacy or search online for partner programs that include their preferred pharmacy.

Patients are starting to use patient-facing prescription decision support tools to become proactive about their care plan. Providers should be prepared to answer medication access questions from their patients and understand how to compare insights and discuss their options.

Audrey Carson
Healthcare Writer
CoverMyMeds

covermymeds®

TIME FOR YOUR ORGANIZATION'S ANNUAL HR CHECKUP

Now that 2020 is underway, it is essential that you make sure your organization is in compliance with Ohio and federal regulatory updates. By keeping your organization in compliance with recent changes to the law, you establish a "healthy" workplace. Although you may have to spend some time and resources to put these measures in place, that time will be well spent in avoiding unnecessary future litigation.

The following provides a brief overview of some of these changes. You will find additional resources, updates and clarification on these at **wellslawllc.com/resources** or by contacting our office at Wells Law LLC (614) 702-7473.

1. Post the Most Recent Version of Required Workplace Posters

It is vital to ensure that you are posting the most recent posters dealing with topics such as employment services, questions regarding wage requirements, job safety requirements and employee rights under Ohio and federal workplace laws. These posters must be placed in unobstructed view at your workplace so that employees have clear access to information relevant to their employment.

2. Changes to the Minimum wage in Ohio

Effective January 1, 2020, the minimum wage in Ohio increased to $8.70 per hour for non-tipped employees and $4.35 per hour for tipped employees. These rates apply to businesses with annual gross receipts of more than $319,000 per year. For employees at smaller companies with annual gross receipts of less than $319,000 per year and for 14- and 15-year-olds, the state wage is tied to the federal minimum wage of $7.25, which requires an act of Congress and the president's signature to change.

3. New W-4 IRS Income Tax Withholding Form

The new W-4 IRS income tax withholding form became effective on January 1, 2020. Existing employees can be encouraged, not required, to complete a new W-4 for 2020. Employers will still be able to use 2019 W-4s but, as a result, payroll systems will need to simultaneously maintain 2019 and 2020 withholding systems and calculations.

4. New I-9 Form

As of January 31, 2020, employers should begin using the newest version of the I-9 form used to verify employment eligibility. The new version is dated 10/21/2019. Employers may continue using the prior version of the form (Rev. 07/17/2017 N) until April 30, 2020. After that date, you can only use the new form with the 10/21/2019 version date. You can find the edition date at the bottom of the page on the form and instructions. The new version clarified who can act as an authorized representative on behalf of an employer, provided clarification on acceptable documents and updated the process for requesting paper I-9 forms. And a friendly reminder—I-9 forms should be kept separate from the personnel files of employees.

5. Wage and Hour Law Changes for 2020

Employers should be mindful of the most recent changes to the Fair Labor Standards Act (FLSA) which raised the **salary threshold** for exempting employees from receiving overtime pay, changed the calculation of the "**regular rate**" for overtime purposes for the first time in 50 years, and revised the regulations on joint employer status. It is essential for employers to review these changes to ensure they are paying overtime appropriately and if joint employment applies to their business.

6. Review and Update your Employee Handbook

It is essential that employers have current, updated handbooks that reflect all the changes made by the state and federal legislatures in 2019. Specifically, employers should review policies on confidentiality of investigations, use of company email, breastfeeding breaks, medical marijuana, the use of social media, leaves of absence, training pay, the driving of company vehicles, dress code regulations and disability accommodations. Because some of these laws may be difficult to construe, it is highly advised that employers seek legal counsel to make sure that they are in complete compliance.

Disclaimer: The information provided above is for educational purposes only and is not intended to be legal advice. Consult a knowledgeable employment attorney for advice regarding your individual situation.

Wells Law, LLC is here to assist you in the development of cost-efficient, compliant policies and procedures for your professional practice or business. Contact us to learn more about the services we can provide for you and your organization.

Mindi L. Wells, Esq.
Attorney at Law
Wells Law, LLC

Wells Law

OSMA's 2020 Advocacy AGENDA

The 2020 legislative session is underway at the Ohio Statehouse and many of the members of the 133rd General Assembly are busy preparing for the November 2020 elections. The Ohio Legislature is also deliberating on many significant topics that impact the practice of medicine and health care in our state, and the Ohio State Medical Association (OSMA) is hard at work on an advocacy agenda for Ohio physicians and their patients.

In 2020, the OSMA has picked up right where we left off in 2019 on several key issues. The OSMA is meeting with legislators and other interested parties, providing key insights from the physician perspective and advocating for the best outcomes for physicians and their patients as legislative proceedings on the following issues and more continue in the months ahead.

Out-of-Network Billing, aka, Surprise Billing

The OSMA is working with legislators on several proposed solutions to surprise billing—that is, billing from an out-of-network provider at an in-network facility. While we agree it is important to relieve patients of the burden of surprise medical bills, we believe it is essential that an effective surprise billing solution be crafted in a way that does not have a negative ripple effect on the contracting process between physicians and insurers.

To that end, the OSMA is supporting Senate Bill 198 as the most comprehensive, efficient, and physician-friendly solution. SB 198 is modeled after statute already in place in a handful of other states in the country. This legislation addresses the issue of surprise billing with a balanced, evidence-based, and proven approach to reconciling differences between physician charges and plan payments, while at the same time protecting patients.

A true market-based solution is not a system in which plans set the rates, but one which protects patients while providing a fair means to settle any payment dispute and encouraging providers and plans to reach a settlement. SB 198 accomplishes this by setting up an Independent Dispute Resolution (IDR) arbitration process as a means to settle payment disputes.

The other proposal, House Bill 388, raises significant concerns that the framework of the bill could hinder Ohio physicians' ability to contract appropriate and fair rates with insurers. We're working to educate legislators about this issue and encourage appropriate changes to HB 388.

Mental Health Parity

Several years of work with a coalition seeking to bring mental health insurance coverage parity to Ohio have culminated in the introduction of House Bill 443/Senate Bill 254. A recent report assigns 32 states, including Ohio, a failing grade for ensuring equal access to mental health and addiction treatment for their citizens, even though federal law requires that health insurers provide coverage for the treatment of mental health and addiction equal to the coverage for physical illnesses and conditions.

The OSMA is working to support a robust state statute as proposed in HB 443/SB 254 to give regulators a strong tool for enforcement of parity. These companion bills would codify key recommendations from the Recovery Ohio Council for improving mental health treatment and recovery support for Ohioans with substance use disorder.

Scope of Practice

Going into 2020, the OSMA continues to advocate for a physician-led, team-based approach to care and is working on several ongoing scope-of-practice issues:

- **Independent, Unsupervised Practice—Advanced Practice Registered Nurses (APRNs)**

  House Bill 177 is an independent practice bill that would allow Ohio APRNs to practice without a collaborating physician or podiatrist. The most recent version of the bill adds a stipulation that in order to gain independent practice authority, an APRN must complete 2,000 hours of "clinical practice." The term "clinical practice" is not clearly defined in the bill, which does state however that these

hours are to be completed under a standard care arrangement with a licensed health care practitioner.

This means that under this legislation, for roughly the equivalent of one year, an APRN would be required to be in a standard care arrangement, but that does not have to be with a physician. It could be with another APRN, and again, is only for a period of about one year. Along with other physician groups, we continue to advocate against this proposal, reinforcing the positive impact of the current physician-led collaborative model and stressing patient safety concerns.

- **Prescriptive Authority—Psychologists**

  House Bill 323 would allow certain psychologists in Ohio to prescribe medications for the treatment of mental illness and/or substance use disorder. The OSMA and the Ohio Psychiatric Physicians Association (OPPA) continue to focus on this issue out of serious concerns about patient safety.

- **Expanded scope of practice—Certified Registered Nurse Anesthetists (CRNAs)**

  The OSMA's work with legislators has led to a solution included in House Bill 224 that ensures patient safety and sensibly fits into the care model utilized by anesthesia care teams. OSMA and the Ohio Society of Anesthesiologists (OSA) together have taken a neutral position on the latest version of this legislation, as it maintains the current team-based care model and supervisory relationship between CRNAs and physicians. We believe the bill has appropriate safety guardrails that alleviate previous patient safety concerns and do not dismantle the physician-led, team-based model of care. The physician remains at the head of the care team, overseeing critical patient treatment decisions.

Medical Price Transparency

The OSMA expects the Ohio legislature will continue to deliberate over price transparency, which would allow Ohio patients to anticipate costs and make more informed decisions about their care. We are supporting legislation on hospital-based price transparency for scheduled health care services, which has passed in the Senate and must now proceed through the House.

Medicaid

Ohio currently contracts with five companies to manage the approximately 3 million lives covered by the Medicaid program in Ohio. The OSMA submitted feedback we received from our members to the Ohio Department of Medicaid in response to a request for comments on the Medicaid managed care system as part of the upcoming rebid process. Our letter focused on key issues, including:

1. The need for increased transparency and plan accountability;
2. Reforms to the grievances and appeals processes;
3. Bolstered provider support; and,
4. More streamlined and efficient patient care coordination and management.

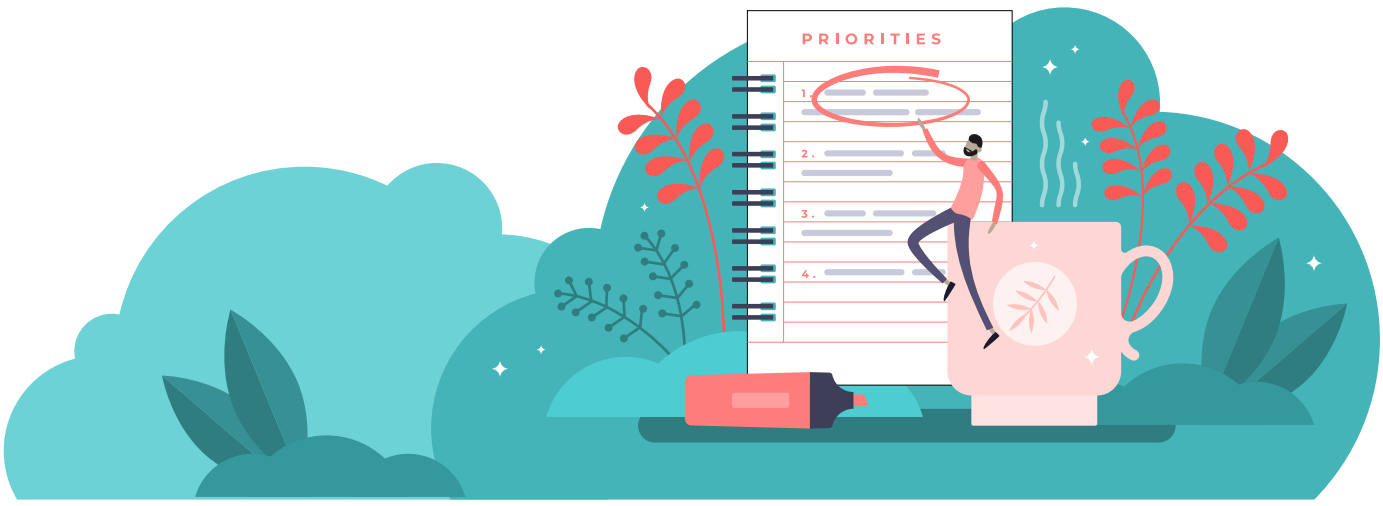
The Ohio Department of Medicaid announced two major policy changes for 2020. Medicaid will move to a Uniform Drug List (UDL) across all of its managed care plans. Establishing a unified preferred drug list for Ohio's Medicaid population has potential for assisting doctors in delivering high quality medical care by making necessary medications more accessible to patients. As the process moves towards implementation in 2020, we will be working with physicians from all specialties to closely review the initial formulary to ensure it addresses the variety of challenges faced by treating Medicaid patients.

In addition to the UDL, the Ohio Department of Medicaid is also making significant changes to its Episodes of Care reporting programming. The Department will be eliminating a number of episodes that have been designed in the last several years, and focusing its payment reform efforts on a more-narrowly defined list impacting a smaller number of specialties.

We will continue to monitor the rebid process and any overall changes the state administration might seek to make to the Medicaid program.

Tanning Ban for Minors

The OSMA is joining the Ohio Dermatological Association in support of a measure that would prohibit individuals under age 18 from using tanning beds. Twenty-two (22) states now prohibit minors under 18 from using these dangerous devices. If enacted, the legislation would protect the youth in our state from exposure to harmful ultraviolet radiation that drastically increases the chance of developing skin cancer, particularly when exposure occurs before adulthood.



Don't Let COVID-19 Stall Your Clinic's Cash Flow

As Telehealth increases, need to collect online copays is critical

Amidst the National COVID-19 virus outbreak, businesses need to continue their day-to-day operations. Medical offices, clinics and hospitals are being stretched to their capacity and beyond. With most, if not all, healthcare providers searching for ways for commerce to continue flowing while also tending to the needs of their patients. Regardless of the type of business, maintaining operations during this time is crucial. Right now, most medical offices are working with limited office staff as they practice mandatory quarantines.

The practice of Social Distancing has been embraced as a key government strategy to help minimize the spread of the COVID-19 virus. With "Social Distancing" and "Mandatory Quarantines" in effect, it makes it entirely difficult to collect payments. There are fewer office visits. Telehealth is increasing out of necessity. There is fewer staff on site to process payments.

Best Card has developed an online "Make A Payment" solution to help our healthcare merchant partners with a method to ensure commerce remains intact. The ability for our clinics to focus on the needs of their patients is invaluable. Our online gateway is the foundation to guarantee clinics continue to positively cash flow. Additionally, the system is robust enough to minimize account receivables and create efficiencies while clinics find themselves operating with a modest staff.

The Best Card online payment-gateway has many positive features and benefits for both clinics and patients. The advantage for the clinic is obvious, a streamlined, online payment system designed to protect cash flow. The patient is able to meet their financial obligation by simply going to the clinic's website and paying their bill from the comfort of their own home, 24/7. A co-pay can be made prior to a doctor's scheduled telehealth call.

In a time of crisis, administrations and managers try to explore alternatives or best practices to make them more effective and relevant. Time is of the essence to consider non-conventional methods to secure patient payments. Our payment gateway is a great alternative solution for the economic and social viability for the business considering the situation we are all facing at this point in time.

We can all do our part to help slow the COVID-19 virus down by practicing social distancing and self-quarantine. Likewise, sound business decisions to protect business continuity, cash flow, and the financial welfare of the patients, are critical. Installing our online payment gateway is fast, simple and easy to set up. Call or email us today (866-249-1237 or **info@bestcardpayments.com** to ensure your business remains ready to serve patients who want to meet their financial obligation as we continue to adapt to the new normal.

Student Loan Refinancing for Physicians

How to Know What's Right for You

You set up your payments. You created your budget. And now you're making it work as best you can. If you have student loan debt, you understand the financial pressure it puts on your life as well as your daily decisions.

It's important to know that you aren't powerless. There are ways medical professionals can more easily pay off their student loans—you've likely heard about them in the news or on the job. Now the question is, which option is right for you?

In this article, we'll look at the money-saving options available to physicians and how to know which one works for your unique situation.

Ways for Physicians to Eliminate Student Loans

There are two commonly-used paths for physicians to eliminate student loans: Public Student Loan Forgiveness (PSLF) and repaying with as little interest as you can afford.

PSLF is a government program that forgives the remaining balance of your federal Direct Loans if you meet certain criteria. To qualify, you must work full-time for an eligible employer while making monthly payments. Eligible employers include government organizations at any level and not-for-profit organizations that are tax-exempt under Section 501(c)(3) of the Internal Revenue Code. After making 120 qualifying payments on your federal student loans, you may be eligible for forgiveness.

However, if you aren't planning to work in the public sector for an eligible employer, the quickest way to repay your student loans is to refinance and repay.

When you refinance your student loans, you essentially trade in your old loans with high interest rates and get one new loan with a lower interest rate. Depending on the terms you choose, you can decrease your monthly payment, decrease the time it takes to get out of student loan debt, or both.

When Physicians Should Refinance

Whether or not you should refinance mostly comes down to the type and amount of loans you have. Once you understand how much of your loans are federal or private, it's likely an easy decision.

Federal Student Loans

If you've ruled out PSLF, then refinancing your federal student loans could lower your rate and save you money on interest. If you have a high balance of federal student loans and are pursuing public student loan forgiveness, then you should not consider refinancing. In this case, PSLF will likely cost less. You should only refinance federal student loans if you know for certain you will not pursue Public Service Loan Forgiveness.

Private Student Loans

If you have private student loans, there is no reason to delay refinancing, especially because private student loans are notorious for having high rates. Interest grows daily, so the sooner you refinance to a lower rate, the sooner you start saving money.

By refinancing, it's possible to get a new interest rate under 4% APR—which often cuts a private student loan's original interest rate in half. However, the interest rate that you qualify for will depend on a few influencing factors.

What Are the Requirements for Refinancing?

There are some basic requirements that everyone must meet in order to be eligible for student loan refinancing. Namely, you need good credit and a debt-to-income ratio of 50% or lower.

Debt-to-income ratio is the ratio of your monthly debt payments compared to your monthly income. In other words, your debt payments should be half (or less) of your monthly income. This includes any kind of debt, such as a mortgage or rent, credit cards, and yes, student loans.

If you are currently in a residency or fellowship program, you may be thinking refinancing is out of your reach. The good news is that there are special refinancing options for residents and fellows. These programs allow you to lock in a low rate and pay as little as $100 a month during training. After you complete your training and any grace period and your salary increases, you'll be responsible for a full monthly payment based on the new rate.

Refinancing Can Save You Money

Refinancing your student loans to a lower interest rate can potentially save you hundreds a month and even thousands of dollars in the long run. Plus, if you put those interest savings toward the principal, you can free yourself of your student loans exponentially quicker.

Remember: if you are pursuing PSLF, refinancing won't be the best option for you. For everyone else, refinancing can result in significant cost savings and should be considered by anyone not currently working toward PSLF.

splash financial

MEET THE

Young Physician Section Executive Committee

The Ohio State Medical Association's Young Physician Section (YPS) was established in 2019 to help engage and support doctors new to the profession. YPS is open to OSMA members under age 40 or within the first eight years of practice.

Under YPS Councilor Dr. Alisha Reiss, the YPS recently held elections for the YPS Executive Committee. The winners were:

Dr. John Corker Will serve as the inaugural OSMA YPS Chair. Dr. Corker graduated the Wright State University Boonshoft School of Medicine and completed his Emergency Medicine training at UT Southwestern Medical Center—Parkland Memorial Hospital in Dallas. He practices both community and academic medicine in Southwest Ohio and North Texas. He enjoys extra-clinical interests in health policy, medical journalism, anything involving sports and spending as much time as possible with his wife, Lisa and dog, Tui.

Dr. Andrew "Rudy" Rudawsky Will serve as YPS Delegate. Dr. Rudawsky attended the College of Wooster and earned his medical degree from the University of Toledo - College of Medicine. He completed residency training at Akron City Hospital. He now practices Emergency Medicine at the Cleveland Clinic, where he serves as the Assistant Medical Director for the Cleveland Clinic Lutheran Hospital and Lakewood Family Health Center Emergency Departments. He enjoys health policy, technology, and spending time with his wife, Skye and son, Owen.

Dr. Scott Morris Will serve as an at-large member. Dr. Morris graduated from Lake Erie College of Osteopathic Medicine in Erie, PA, and completed his Family Medicine training at Riverside Methodist Hospital in Columbus. Since 2017, Dr. Morris has practiced community medicine at Worthington Family Physicians—Central Ohio Primary Care. He enjoys spending as much time as possible being outside with his wife and two young sons. He enjoys staying active with both road and trail running.

Dr. Anne Worth Will serve as an at-large member. Dr. Worth graduated from Ohio University's Heritage College of Osteopathic Medicine and trained in Columbus at Riverside Methodist Hospital in Family Medicine. She currently practices in Grove City and lives in Clintonville, Ohio where she enjoys playing tennis, writing, and playing the ukulele and guitar with her folk band. She hopes to promote issues of social justice, health care access, and racial and gender equity in medicine through working with the OSMA YPS.

More information about the YPS is available at **www.osmayps.org**.

TakeChargeOhio
Manage Pain.
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Ohio Pain Management Toolkit

Get support with implementing the Ohio rules for prescribing opioids in the primary care setting.

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Ohio Department of Health

COVID-19

Historic Breakthrough in Telemedicine

During the past few weeks, health care attorneys have received an unprecedented number of questions from health care providers regarding telemedicine in response to the coronavirus pandemic. Until recently, health care attorneys were not able to provide much comforting assurance to their clients. Medicare previously only reimbursed providers for certain telemedicine services in rural areas at certain locations or for certain brief "virtual check-ins." But now, the telemedicine landscape has become dramatically different.

Medicare and Related Federal Guidance

On March 17, 2020, President Trump announced that "Medicare patients can now visit any doctor by phone or video conference at no additional cost, including with commonly used services like FaceTime and Skype—a historic breakthrough. This has not been done before…"[1] This announcement follows the prior announcement that the federal government would authorize $500 million in new spending for the expansion of telemedicine.[2]

Medicare covers a population that is 65 years or older and others who qualify because of a disability—a population that is especially susceptible to the coronavirus. These recent telehealth developments are a meaningful step forward in protecting individuals across the country from the coronavirus and ensuring increased access to healthcare.

Two of the most helpful summaries of the new flexibility to provide telehealth services to Medicare beneficiaries is set forth in a Medicare Telemedicine Health Care Provider Fact Sheet, published March 17, 2020 by the Centers for Medicare and Medicaid Services (CMS) and the related Medicare Telehealth Frequently Asked Questions (FAQs) issued the same day.[3] CMS has also issued a specific telehealth resource focused on long-term care nursing homes.[4]

The Fact Sheet clarifies that there are three types of virtual services physicians and other professionals can provide to Medicare beneficiaries: Medicare telehealth visits, virtual check-ins and e-visits. It goes on to summarize the requirements for billing each type of service and a chart comparing them. Medicare will pay the same amount for telehealth services as it would if the services were furnished in person. CMS has clarified that physicians and certain non-physician practitioners such as nurse practitioners, physician assistants and certified nurse midwives may provide telehealth services. Other practitioners, such as certified nurse anesthetists,

1 https://www.whitehouse.gov/briefings-statements/remarks-president-trump-vice-president-pence-members-coronavirus-task-force-press-briefing-4/.
2 https://thehill.com/policy/healthcare/486182-trump-signs-83b-coronavirus-package.
3 https://www.cms.gov/newsroom/fact-sheets/medicare-telemedicine-health-care-provider-fact-sheet; https://edit.cms.gov/files/document/medicare-telehealth-frequently-asked-questions-faqs-31720.pdf.
4 https://www.cms.gov/files/document/covid-19-nursing-home-telehealth-toolkit.pdf.

licensed clinical social workers, clinical psychologists and registered dietitians or nutrition professionals may also furnish services under certain circumstances. Providers who engage in telemedicine are encouraged to take the time to read the guidance referenced in this paragraph to fully understand the billing and other parameters, which go beyond the scope of this article.

The U.S. Department of Health and Human Services (DHHS) Office of Inspector General (OIG) also issued a Policy Statement to provide increased flexibility for healthcare providers to reduce or waive beneficiary cost-sharing for telehealth visits paid for by federal health care programs and related guidance.[5] The guidance states that "[o]rdinarily, if physicians or practitioners routinely reduce or waive costs owed by Federal health care program beneficiaries, including cost sharing amounts such as coinsurance and deductibles, they would potentially implicate the Federal anti-kickback statute, the civil monetary penalty and exclusion laws related to kickbacks, and the civil monetary penalty law prohibition on inducements to beneficiaries…. OIG will not enforce these statutes if providers choose to reduce or waive cost-sharing for telehealth visits during the COVID-19 public health emergency."

Further, the DHHS Office of Civil Rights (OCR) announced that it would refrain from enforcing certain aspects of HIPAA to encourage the use of telemedicine for seniors. The OCR Notice states: "OCR will exercise its enforcement discretion and will not impose penalties for noncompliance with the regulatory requirements under the HIPAA Rules against covered health care providers in connection with the good faith provision of telehealth during the COVID-19 nationwide public health emergency."[6] The Notice goes on to identify those applications that may be used without risk that OCR may seek a penalty for noncompliance (e.g., Apple FaceTime, Facebook Messenger video chat, Google Hangouts video or Skype) and those that should not be used in the provision of telehealth by covered health care providers (e.g., Facebook Live, TikTok or similar applications that are public facing). During February 2020, OCR also issued a helpful bulletin regarding HIPAA requirements for sharing patient information during the pandemic.[7]

State Law Considerations

Providers should remember that the CMS guidance announced on March 17, 2020 applies only with respect to services payable by Medicare. The federal government has also encouraged states to expand the use of telehealth in their Medicaid programs for low-income individuals. It is hoped that commercial third-party payers will follow suit. Because the new CMS guidance only applies with respect to Medicare, providers must review the requirements of their state Medicaid programs and commercial third-party payers when applicable. Providers who have opted-out of Medicare and operate on a cash basis have the greatest flexibility with respect to telemedicine.

If providers engage in telemedicine, they must ensure that their program is consistent with applicable state laws, including licensure and prescribing requirements. In particular, note that when providing telemedicine services, providers generally must comply not only with the state law in which the provider is located but also the state law where the patient is located. Accordingly, providing telemedicine services to a patient in another state may require telemedicine providers to comply with a regulatory regime with which they are not familiar. States are currently in the process of substantially increasing flexibility in this area to respond to the pandemic and providers should stay abreast of current developments regarding state licensure requirements.

The State of Ohio has issued long-standing guidance with respect to telemedicine.[8] However, on March 19, the Ohio Department of Health issued Executive Order 2020-01D, which suspends enforcement of certain State Medical Board of Ohio restrictions on telemedicine.[9] The Ohio Departments of Mental Health and Addiction Services and Medicaid have also adopted emergency rules to expand access to telemedicine services.[10]

Additional Resources

It's important that providers obtain strong health care compliance and legal guidance before proceeding with a new telemedicine program to ensure that all applicable state and federal requirements are satisfied. There are several layers of applicable legal requirements. Health care attorneys are available to assist providers in identifying these compliance requirements and structuring a telemedicine program to withstand regulatory scrutiny.

From a practical perspective, the American Medical Association (AMA) has also developed an excellent quick guide to telemedicine in practice.[11] The guide includes invaluable and practical advice with respect to professional liability coverage, coding and payment, practice implementation and other helpful resources. The Ohio State Medical Association (OSMA) also has an excellent telemedicine resource page, including a link to a free webinar focusing on consent and security issues as well as documentation and coding considerations.[12] Professional liability insurance carriers such as The Doctors Company have resources available to address frequently asked questions with respect to telemedicine malpractice liability.[13] Providers offering telemedicine services during the coronavirus pandemic are strongly encouraged to take a few moments to review these and similar materials.

Kate Hickner
Partner
Kohrman, Jackson & Krantz LLP

5 https://oig.hhs.gov/fraud/docs/alertsandbulletins/2020/policy-telehealth-2020.pdf; https://oig.hhs.gov/fraud/docs/alertsandbulletins/2020/factsheet-telehealth-2020.pdf.
6 https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html.
7 https://www.hhs.gov/sites/default/files/february-2020-hipaa-and-novel-coronavirus.pdf.
8 https://med.ohio.gov/DNN/PDF-FOLDERS/Prescriber-Resources-Page/Telemedicine/Telemedicine-Position-Statement.pdf; https://med.ohio.gov/Portals/0/DNN/PDF-FOLDERS/PRESCRIBER-RESOURCES-PAGE/4731-11-09%20FAQs.pdf.
9 https://coronavirus.ohio.gov/wps/portal/gov/covid-19/home/public-health-orders/executive-2020-05d%2Btelehealth.
10 https://osma.org/aws/OSMA/asset_manager/get_file/434288?ver=401.
11 https://www.ama-assn.org/practice-management/digital/ama-quick-guide-telemedicine-practice.
12 https://osma.org/aws/OSMA/pt/sp/telehealth.
13 https://www.thedoctors.com/articles/covid-19-faqs/.

OSMA Resolutions and Elections After COVID-19

Because of the COVID-19 pandemic, the Ohio State Medical Association (OSMA) was forced to cancel its 2020 Annual Meeting originally scheduled for March 20–22 in Columbus.

Though the OSMA House of Delegates was unable to meet, the OSMA Council met virtually on Saturday, March 21 to determine how to handle business matters, including resolutions and elections.

The Council adopted the two corporate emergency regulations: one governing OSMA elections and the other governing consideration of resolutions. These regulations are also posted on the OSMA's Annual Meeting webpage at **www.OSMA.org**.

RESOLUTIONS

Resolutions will be handled by two resolutions committees in much the same way as they would have been considered at the HOD meeting. The difference is that we will handle testimony/comment on some type of electronic platform. The committees will review all comments and create a consent calendar.

Any delegate may request that a resolution be extracted provided that the delegate provide the rationale for extraction and suggested amendments or action. All extractions will be automatically referred to Council for disposition. The remaining consent calendar will be sent to all delegates for electronic approval/rejection. We are working on the specifics of this process as well as the timeline and will send information once we have the details.

If you have any questions about the information we have provided at this time please contact Beth Hisem at **bhisem@osma.org** or (614) 527-6733.

OSMA ELECTIONS

The following were declared elected by acclamation.

President-Elect

Lisa Egbert, MD—Dayton

Secretary-Treasurer

Andrew Thomas, MD—Columbus

Delegate to the AMA (Term: Jan. 1, 2021–Dec. 31, 2022)

- Robyn Chatman, MD—Cincinnati
- Brett Coldiron, MD—Cincinnati
- Richard Ellison, MD—Akron
- Deepak Kumar, MD—Dayton
- William Sternfeld, MD—Toledo

Alternate Delegate to the AMA (Term: Jan. 1, 2021—Dec. 31, 2022)

- John Corker, MD—Dayton
- Colette Willins, MD—Avon

**All other Ohio Delegation elections will be deferred to the 2021 OSMA Annual meeting.*

OTHER ELECTION RESULTS

District Councilors elected by the District

- District 1—Elizabeth Muennich, MD—Mason
- District 3—Mark Fox, MD—Findlay
- District 5—Mary LaPlante, MD—Garfield Heights
- District 7—Eric Drobny, MD—Columbus

**Because Dr. Lisa Egbert was chosen President-Elect, an election will be held to fill the District 2 Councilor position.*

At-Large Councilors elected by statewide electronic ballot

- Charles Emerman, MD—Cleveland (District 5)
- Christopher Paprzycki, MD—Cincinnati (District 1)
- Shannon Trotter, DO—Springfield (District 2)

CIRCLE THE WAGONS

New OSMA President Urges Unity in Uncertain Time

It is not an understatement to say that Dr. Anthony Armstrong has taken the reigns as President of the Ohio State Medical Association (OSMA) during an unparalleled situation in healthcare in Ohio as the world combats the COVID-19 pandemic.

"This unprecedented event will undoubtedly change the landscape of health care forever," said Dr. Armstrong, a Toledo OB-GYN.

Even the way Dr. Armstrong was sworn-in to office on March 21 was a clear sign that our lives had changed. Dr. Armstrong stood in his home office with his wife at his side as he took his oath of office virtually with his OSMA Council colleagues spread across the state watching from their home computers.

The coronavirus had forced the OSMA to cancel its annual meeting and coronation of a new leader. On March 12, as COVID-19, also known as the coronavirus, began to spread across the United States, Ohio Gov. Mike DeWine issued an executive order banning "mass gatherings" in Ohio which signaled the eventual cancellation of the OSMA meeting.

What has emerged is thousands of positive tests for the virus, hundreds of deaths, and a healthcare system stretched to its limits.

"My heart goes out to everyone on the front lines of this pandemic, whom are fearlessly and tirelessly performing herculean tasks," said Armstrong. "No one would have ever fathomed just several months ago that we would currently be in the midst of a worldwide pandemic."

Armstrong was voted president-elect in 2019 and had a year to think about his goals once he became president. But the pandemic has forced him to rethink his leadership role.

"Over the course of my presidency, as a result of the COVID-19 pandemic, the goals and initiatives of the OSMA will refocus, but will remain within our current strategic plan," he said.

Dr. Armstrong praises the work of Immediate Past President Susan Hubbell, MD and is eager to continue to lead the OSMA into the future. With new developments emerging daily in the battle against the coronavirus, many of the OSMA's primary advocacy issues remain relevant even as the physician community is presented with additional challenges.

"Our forward thinking has allowed us to remain a nimble organization and we'll continue our efforts on deregulation, surprise billing, medical price transparency, prior authorization, telehealth and our emphasis on physician well-being initiatives," Dr. Armstrong says.

As he takes over the presidency, Dr. Armstrong seems to deeply understand how professional organizations like the OSMA have an important role in supporting physicians during what will likely be one of the biggest challenges of their careers.

Over the course of the past several weeks, Ohio has addressed the spread of COVID-19 in our communities. DeWine, the Ohio Department of Health, and other state officials have set in motion a series of sweeping changes and orders to try to best position our state to deal with the threat the pandemic poses, both epidemiologically and economically. These efforts to address the crisis have resulted in disruptions to the daily lives of everyone in the state, and major changes to our health care system.

The OSMA has worked quickly to adapt to the rapidly-evolving situation, and remains steadfast in its advocacy for physicians at a time when such advocacy is perhaps even more crucial. With the health care system in Ohio and across the country in flux due to issues related to COVID-19, physicians and practices are experiencing new and unfamiliar obstacles, as well as incredible uncertainty.

The challenge ahead will have a lasting financial impact on our health care institutions, Dr. Armstrong acknowledges, and although it may be most immediately felt by the independent solo practitioners and group practices, hospitals, medical schools, and residency programs disrupted by the ongoing public health emergency will feel the strain as well.

He also recognizes how the crisis may exacerbate the issue of physician burnout in both the short and long-term, saying "we may not yet completely comprehend the potential depth and magnitude this could have on our profession."

Sharing the memory of how he first learned the value of organized medicine, during his internship in Georgia when he successfully marched for tort reform with many of his colleagues, Dr. Armstrong expresses confidence that the OSMA is ready to do its part to support physicians and patients here in Ohio.

"For decades, organized medicine in Ohio has tirelessly fought for physicians, patients and our communities," he says. It's an apt reminder, he believes, that even in the face of unfamiliar and daunting circumstances, there is immense strength in unity.

Kelsey Hardin
Research & Content Writer
OSMA

DR. ANTHONY ARMSTRONG
OSMA President

FAST FACTS

1. His wife, Myung, is an RN from Seoul, South Korea.
2. He practiced OB/GYN with his father for nearly 14 years!
3. He and his wife are avid scuba divers.
4. He and his father were both sport car racers.
5. He enjoys playing golf and tennis.

Beauty Procedure Compliance Challenging Physicians

Popular beauty services with the little-known medical name are beginning to pose huge questions for Ohio regulators and challenging physicians to remain compliant.

Medispa services cover everything from Botox injections and microdermabrasion to micro-needling and dermal fillers. But who can and cannot perform these services is placing some physicians in precarious positions with regulators just as a scope of practice battle is emerging over the procedures.

Medispa procedures are frequently promoted in medical offices and advertised in glossy fashion magazines and has led some physicians to mistakenly tap unlicensed staffers to perform the procedures. It's an easy mistake to make considering the confusing patchwork of Ohio laws that at times paint clear boundaries and other times offer a murky mess in regards to the qualifications needed to perform the duties.

Take this common scenario: A physician decides he wants to offer medispa services and, anticipating it will boost traffic to his medical office, decides he will need to hire additional staff to help meet client demand. After attending seminars offered by manufacturers of the services, he is told that he can delegate the procedures to ancillary or unlicensed staffers. However, that may not be the best advice.

Here is an outline of guidance the Ohio State Medical Association (OSMA) has received from regulatory boards:

Microblading

The OSMA is aware that many physicians who offer medispa services employ estheticians. The Ohio cosmetology board recently posted on its Facebook page that Microblading is considered permanent makeup and, as such, is regulated by the health department and requires the same credentials as tattooing. An esthetician may not perform this service as an esthetician or a cosmetologist. It would need to be separated from the cosmetology services.

Micro-needling and Cool-Sculpting

An Ohio rule (OAC 4713-8-04) prohibits estheticians from performing the following procedures:

- Estheticians shall not provide services using any device that produces or amplifies electromagnetic radiation at wavelengths equal to or greater than one hundred eighty nanometers.
- Estheticians shall not provide services that ablate, damage, or alter any living cells. This includes, but is not limited to, cryosculpting/cool-sculpting, removal of skin tags, moles, or angiomas, micro-needling, and plasma/fibroblast skin tightening.

Nurses performing micro-needling/cool-sculpting/other cosmetic procedures

The Nurse Practice Act and related rules do not prohibit an LPN or RN, when engaging in the practice of nursing, from performing micro-needling or cool-sculpting if they do so pursuant to a specific current order from an authorized provider. As always, they would be required to meet the standards of care.

For example, Rules 4723-4-03(D) (RN) and 47234-04(D) (LPN), OAC, say that an RN or an LPN may provide care which is beyond basic preparation for RN or LPN practice provided the nurse:

- obtains education that emanates from a recognized body of knowledge;
- demonstrates knowledge, skills, and abilities to perform the nursing care;
- maintains documentation satisfactory to the board of these educational and competency requirements.

The nurse must have a specific current order from an individual who is authorized to practice in Ohio who is acting within the course of the individual's professional practice, and the nursing care to be provided as ordered must not involve a function or procedure that is prohibited by any other law or rule.

Note that the LPN scope of practice is dependent upon direction from an authorized provider or an RN (in addition to the required order discussed above). Standards of practice in Chapter 4723-4, OAC, require that when a RN provides direction to the LPN, the RN must first assess the condition of the client who needs nursing care, including, but not limited to:

- the stability of the client;
- the type of nursing care the client requires;
- the complexity and frequency of the nursing care needed;
- the training, skill, and ability of the licensed practical nurse who will be performing the specific function or procedure, to perform the specific function or procedure;
- and, the availability and accessibility of resources necessary to safely perform the specific function or procedure.

The RN directing the LPN must determine the appropriateness of directing the LPN to provide the care based upon those factors.

Advanced practice registered nurses (APRN) do not require 'supervision' to engage in practice but are required to have entered into a standard care arrangement (SCA) with at least one collaborating physician prior to engaging in practice as an APRN.

An APRN may engage in practice that is consistent with their scope (meaning it is consistent with their national certification as an APRN, is included in the statement of services in the SCA they entered into with their collaborating physician; and can be performed consistent with standards of safe patient care. This last requirement would go to the knowledge, skills, and abilities of the APRN, the environment in which the APRN is practicing, etc.

The Nurse Practice Act and related administrative rules are available at www.nursing.ohio.gov.

State Medical Board of Ohio Rules

Delegation Rule

When taking into consideration what types of procedures and tasks may be delegated by a physician to a non-licensed and licensed medical professional, one must consult OAC 4731-23, the chapter of Ohio rules that outline what you can and cannot do when delegating. Keep in mind that these rules do not specifically address the different tasks and procedures that you may be questioning.

The rules state that: "A physician shall not delegate a task to an unlicensed person if the task is beyond that person's competence." You, the physician, are tasked with determining whether or not the procedure you wish to delegate is a "task" or a "procedure" and you are to determine whether you are comfortable delegating.

Yes, this is one of those gray situations where it might be wise to consult with your legal counsel if you have any doubt as to whether or not the task or procedure is delegable. Ultimately, your medical license will be on the line if there is a negative outcome.

Light Based Medical Devices/Lasers

When questioning whether or not you can delegate the use of a light based medical device, you need to consult chapter 4731-18 of the Ohio Administrative Code. Ohio rules basically prohibit the delegation of light based medical devices unless the device is being used for hair removal. There are numerous light based medical devices being used for a variety of procedures beyond hair removal and, similar to the delegation rules, it would be wise to consult your legal counsel before investing in this type of technology if you plan on delegating any procedures.

Conclusion

The OSMA is aware that medispa technology and procedures are rapidly advancing, and that the boards that regulate the practice of medicine cannot keep up with these advances. The OSMA has been in recent discussions with the State Medical Board of Ohio and we have discussed the need for clarification regarding medispa practice. If you have questions about medispa, please contact Jennifer Hayhurst, the OSMA's Director of Regulatory Affairs, at jhayhurst@osma.org.

Jennifer Hayhurst
Director, Regulatory Affairs
OSMA

Photo courtesy of WVXU.org

COVID-19 Posing Huge Challenges But Ohio Physicians Up To the Task

Other than a lighter patient load than usual, Dr. Ashley Faulx's shift at the Cleveland Veterans Affairs Medical Center on the fourth Monday of March was fairly routine. A Cleveland gastroenterologist, she consulted with a half-dozen patients, performed a handful of endoscopic procedures, and then went home.

The following day, however, was anything but routine. Dr. Faulx, already feeling the effects of a slight head cold, moved through the morning feeling increasingly sluggish. Her cold was getting worse, she thought. By afternoon a high fever and myalgia had set in and she immediately began to think something more troubling was ailing her.

"Coronavirus. I remember that coming to my mind," Dr. Faulx recalled, referring to the virus also known as COVID-19 that has spread globally. She was able to get tested that day and 12-hours later the results were in: Positive.

"Right away, the anxiety sets in. That's been the worse part of this," she said, noting that her symptoms did not require hospitalization but forced her to quarantine at home away from her husband and 19-year-old son. "I wore a regular surgical mask. I stood six-feet away. I did everything I thought I was supposed to do seeing my patients. It's hard to know how I got it. Really, impossible to know. And that's the scariest part of this."

The COVID-19 pandemic has thrust healthcare workers, especially physicians, onto the frontlines of a battle against a stealth enemy that has indiscriminately claimed victims young and old. With no cure and little known about how the contagious virus is spread, COVID-19 has soared to over 1 million cases worldwide, including more than 50,000 deaths.

Ohio has not been spared. As of early April, the state had more than 3,000 confirmed cases and 1-in-every-5 of those were healthcare professionals, like Dr. Faulx. Ohio has also seen over 100 fatalities due to the coronavirus, including a pediatric nurse in Toledo and radiology director in Columbus.

As the virus spreads, state leaders offer updates that grow more dire by the day as scientific epidemiology mapping predicts COVID-19 will almost certainly claim more casualties this spring. Nowhere is the concern higher than among physicians who at turns feel hopeless at slowing down a germ they do not yet fully understand but feel it their obligation to do all they can for patients.

"As physicians we see a lot but what's different with this is the trepidation," said Dr. Alan Gora, an emergency room doctor and president of Emergency Services, Inc. in Columbus. "It's that unknown. Are we going to be a Seattle? Are we going to be a New York? Are we going to be a California? Or, are we going to be relatively unscathed by comparison. It's the anxiety that's the worse."

The pandemic has led to unprecedented changes in Ohio which have drastically changed every aspect of life with schools closed, restaurants and bars prohibited from hosting customers, barber shops and salons shuttered, playgrounds off-limits, malls darkened, and grocery stores out of essential staples such as toilet paper and household cleaning supplies.

With changes fluid, the Ohio State Medical Association (OSMA) created a new webpage on its website (**OSMA.org**) to share information and resources and has offered daily email updates to Ohio physicians.

"We knew in early March when the World Health Organization declared COVID-19 a pandemic that physicians were going to be called to action like no other time in our generation and that changes were coming that would impact the delivery of medical care," said OSMA president Dr. Anthony Armstrong. "Our role has been to make sure that physicians have a voice with state decision makers and to establish the OSMA as a source of credible information for Ohio doctors."

The order most directly impacting healthcare came on March 17 when Ohio Department of Health director Dr. Amy Acton suspended all non-urgent medical procedures and surgeries to help preserve personal protection equipment (PPE). With nearly a quarter of COVID-19 carriers being asymptomatic it has been difficult to corral the virus.

While most physicians do not question the intent of Dr. Acton's order—a desire to preserve medical resources that could be needed should Ohio see an outbreak in COVID-19 cases—the indirect impact has resulted in devastating financial turmoil for many medical practices across the state. Some practices have closed. Others have laid off or furloughed staff. And many are forced to send patients elsewhere.

Dr. Gora's group of 40 emergency medicine physicians work essentially as contract workers at hospitals across Central Ohio. Their workload was down 27-percent the last week of March, and likely to continue to decline.

"A 27-percent cut in our bottom-line, and maybe more, is a financial challenge. We're still gainfully employed, we still have jobs to go to, we are going to be able to provide for our families so that pales in comparison to others who are being laid off," he said. "But we're a small business essentially and as is the case with any small business, consistent losses month over month will require substantial changes in the way we run our business."

Dr. Joseph Coney, an ophthalmologist at Retina Associates, Inc. in Cleveland said his practice was forced to close several of its satellite locations across Northeast Ohio which triggered staff lay-offs, in part, because patients are cancelling appointments due to the pandemic. Another unexpected consequence, he says, is the psychological wear COVID-19 is having on physicians who struggle with the triple burden of caring for patients, worrying for their employees, and protecting their own families.

"Each day I praise my staff for their dedication and commitment in caring for our patients during this unprecedented period and I try to reassure them of their future, even though I am uncertain about tomorrow," said Dr. Coney. "They are my family. It's depressing when you lay-off your most cherished staffers who have been there for you so many years helping you keep your doors open to care for patients."

"So, you're dealing with the morale of your patients. You have the morale of your staff. And then you have the morale of your family," he said. "Every one of us is worried about bringing this virus home and giving it to our loved ones. It's hard. Because you are in a position where everyone looks to you for encouragement but sometimes you can't be so encouraging."

Still, despite the troubles posed by this pandemic, Dr. Coney and other physicians say they are doing exactly what they want to be doing in a time of crisis.

"I signed up for this. I signed up to be a physician. To make good money taking care of my patients. And I signed up for when stuff like this hits the fan, I've got to step up," said Dr. Andrew Bokor, a Columbus private practice Obstetrics/Gynecology physician and OB/GYN hospital department chair. "I liken it to a cop who starts his shift each day knowing he could be shot. It's not likely to happen, but there is a high chance it could. Or the firefighter who runs into the burning building. This is our job."

Dr. Bokor, who says he feels particularly at risk handling high-risk pregnancies that can expose physicians to bodily fluids, credits Dr. Acton and Gov. Mike DeWine for taking the early steps of encouraging social distancing. He says many medical practices heeded the early warnings and began making adjustments that are helping to keep the doors open.

"At my private practice we're looking at telemedicine, we're calling in prescriptions rather than having patients come in the office," Bokor said. "We're not skimping on care but if a visit normally would occur in four weeks, we're pushing it out to six weeks. We have people taking temperatures before you get in the door. And there's no waiting in the waiting room, you come in and go straight to the exam room."

Dr. Faulx has recovered. Her symptoms remained relatively mild. Her husband, a cardiologist, and son, home from college, have not contracted the virus. Dr. Faulx hopes to return to work later in April. But she'll never forget the experience of finding herself as a patient when what she wanted most to do was be a doctor.

"It is definitely a different perspective and really makes you have a new appreciation for what we do as physicians," she said, "especially those truly on the frontlines when you can take all the precautions necessary and still get it and not know how you got it."

Reginald Fields
Editor
Ohio Medicine

COVID-19 TIMELINE

March 9 First three people in Ohio test positive for COVID-19	**March 15** ODH orders restaurants and bars closed—takeout and delivery allowed	**March 22** ODH issues Stay-at-Home order
March 11 World Health Organization declares COVID-19 a pandemic	**March 17** [1]ODH amends order prohibiting gatherings [2]ODH prohibits non-essential medical surgeries and procedures	**March 25** ODH closes child care centers
March 12 Ohio Department of Health (ODH) prohibits gatherings	**March 19** State regulators relax rules to allow telehealth	**April 1** ODH orders new COVID-19 testing procedures
March 14 [1]Ohio Governor declares State-of-Emergency [2]ODH orders K–12 schools closed	**March 21** ODH closes adult care facilities	**April 2** ODH extends Stay-at-Home order

OSMA President Joins Governor, Health Director Urging Safety During Pandemic

As concerns rise that COVID-19 is impacting and killing minorities at disproportionately higher rates compared to other groups, Ohio State Medical Association (OSMA) president Dr. Anthony Armstrong encouraged state and federal leaders to begin tracking coronavirus infection rates according to race and ethnicity.

Dr. Armstrong was invited on April 9 to join Ohio Gov. Mike DeWine and Health Director Dr. Amy Acton for the governor's daily, statewide televised coronavirus update. He and Dr. Acton discussed the virus' impact on minority communities.

"If this virus is truly spreading disproportionately among minority communities across the country then it is likely true here in Ohio, as well," Dr. Armstrong said. "We need better data to improve our understanding for how the virus spreads. This in turn will help us develop more effective strategies to mitigate the spread of coronavirus while we continue to develop effective ways to treat this disease for those who are already sick or will become sick."

Milwaukee, Chicago, Detroit, New York and New Orleans are among the large American cities that have reported exceedingly high COVID-19 casualty rates among African-Americans. Dr. Acton and Gov. DeWine continued to prepare state healthcare workers for a potential wider virus outbreak in Ohio, in particular in the state's large urban areas which have huge minority populations.

What doctors know is that the virus has a far more devastating impact on individuals with other underlying public health ailments. African-Americans, in particular, tend to have higher rates of diabetes, asthma, and high-blood pressure which might explain higher COVID-19 rates.

Dr. Armstrong encouraged minorities to seek the care of a physician and to adhere to state orders and guidelines aimed at reducing the spread of the virus.

"Without a vaccine or known cure, our most effective strategy is win the war against the spread of the virus which buys healthcare professionals and medical scientists more time to work on effective treatments and cures," Armstrong said.

"I implore all Ohioans—regardless of your race or ethnicity—to adhere to the stay-at-home and social distancing orders," he said. "And if you are traveling to Ohio from outside our state, please be courteous and self-quarantine for at least 14-days before interacting with others."

OSMA MEMBER NEWSMAKERS

Jeffrey E. Janis, MD, FACS | The Ohio State University

Named Editor-in-Chief of PRS Global Open. Jeffrey Janis, MD, clinical professor of plastic surgery at The Ohio State University (OSU) College of Medicine, was named by the American Society of Plastic Surgeons as Editor-in-Chief of PRS Global Open. Janis is just the second editor-in-chief for the journal which debuted in 2013. Dr. Janis was selected after a search of more than a year, and takes the helm in January 2021. Dr. Jeffrey Janis, a graduate of Case Western Reserve University School of Medicine in Cleveland, is a member of the OSMA Physician Wellness Committee.

Joel L. Mayerson, MD | The Ohio State University

Elected President—Musculoskeletal Tumor Society. Dr. Joel Mayerson, a clinical professor of orthopedics at The Ohio State University (OSU) College of Medicine, was elected president of the Musculoskeletal Tumor Society. Mayerson graduated summa cum laude from the University of Toledo and received his medical degree from Johns Hopkins University College of Medicine. After his residency training at the Cleveland Clinic Foundation, he completed a fellowship in adult and pediatric orthopaedic oncology at University of Washington Medical Center. He now serves as the Director of the Orthopaedic Surgery Residency Program at OSU and has earned several Excellence in Teaching awards. Dr. Mayerson is the first OSU orthopedic surgeon elected president of a major national orthopedic specialty organization in 20 years.

Brian J. Santin, MD, FACS, FSVS, RPVI | Clinton Memorial Hospital (CMH)

Named Chief Medical Officer (CMO) of Clinton Memorial Hospital in Wilmington, Ohio. Dr. Brian Santin, of Ohio Vein & Vascular, has served on the Medical Executive Committee and as Director of Vascular Services for CMH for the past 6 years. Dr. Santin has been involved in leadership positions within the Ohio State Medical Association (OSMA), currently serving his third term as an At-Large Councilor, Medical Marijuana Physician Advisor to the OSMA, past Chair of Audit & Appropriations Committee, and Board of Trustees Vice-President of the OSMA Health Benefits Plan.

DIRECT PRIMARY CARE

What You Should Know

Direct Primary Care, often known as DPC, is a growing trend in Ohio which now has some legislative protections. DPC, a system that allows for patient billing and payments for medical services without involving insurance companies was included in last summer's state operating budget and is now being put to greater use around the state.

What is direct primary care?

The direct primary care (DPC) model is an alternative to traditional fee-for-service (FFS) insurance billing, through which physicians may charge patients a monthly, quarterly, or annual fee that covers all or most primary care services for that given period of time, including clinical or laboratory services, care coordination, consultations, and comprehensive care management.

DPC is a growing trend in Ohio and nationwide. DPC physicians often tout the model as an alternative means to providing care that lets physicians spend more time with patients, allows for a more simplified revenue configuration, and decreases practice overhead and administrative burden.

Many direct primary care patients also have a high deductible health plan in order to be prepared if they encounter a sudden major health expense, or need additional medical testing, procedures, or medications. Patients may also use a health savings account (HSA) toward other health expenses.

DPC primary care and concierge care are not one and the same. DPC practices do not accept insurance or participate in government programs, instead operating solely on patient fees. Membership contracts for concierge care cover an in-depth physical exam and screenings. Concierge practices may continue accepting insurance plans and government programs, and continue to bill patient insurance companies for covered services in addition to membership fees.

What passed in the budget bill last year?

During the budget deliberations which took place in the spring and summer of 2019, the Ohio House inserted language into their version of the bill (HB 166) which specified that direct primary care agreements that meet certain criteria are not considered insurance. These provisions passed in the final budget that was signed by the governor.

This important move guards DPC practices against potential future regulatory action by the Ohio Department of Insurance on the basis of DPC agreements being considered an "insurance product."

The new statute lays out a list of criteria that an agreement to provide direct primary care must meet in order to not constitute health insurance.

The agreement must:

- Be in writing, be between a patient or the patient's legal representative and a health care provider, and be related to services to be provided in exchange for the payment of a fee paid on a periodic basis;
- Allow either party in the agreement (as specified in the agreement itself) to terminate the agreement through written notification;
- Permit termination to take effect immediately or up to 60 days after the other party receives the written notification;
- Not impose a termination penalty or termination fee;
- Describe the health care services to be provided under the agreement and the basis upon which the periodic fee is to be paid;
- Specify the periodic fee required and any additional fees that may be charged and authorize those fees to be paid by a third party;
- Prohibit the provider from charging or receiving any fee other than the fees specifically prescribed in the agreement for the services prescribed in the agreement; and,
- Clearly and prominently state that the agreement is not health insurance and does not meet any individual health insurance mandate that may be required under federal law.

CEO'S CLOSING POINT

One Day Better

As I am writing this edition of the Closing Point we are in the middle of a global pandemic that has upended our healthcare system and society in ways none of us thought possible. Some of you are confronting major challenges on the front line of treating this deadly virus. Most of you have seen your patient volumes decrease by 50–90%, have had to lay off staff and are trying to figure out how you can remain viable.

In slightly less than a month everything has changed.

A month ago I planned on writing about a successful Ohio State Medical Association (OSMA) Annual Meeting and the focus we were devoting to organizational, professional and public health. And that will be our focus moving forward just not in the way we imagined.

Like most of you in mid-March the OSMA had to quickly change the way we operated. By the end of business on March 16 the OSMA offices became completely virtual with every staff member connected to each other and ready to assist our members.

That day we instructed our staff that from this point forward until further notice all of our energy would be devoted to advocating for all physicians across the state as decisions were being made by the governor and his team, quickly relaying information to physicians and their staffs and assisting and educating practices about staying safe and viable in the weeks and months ahead. We have tried our best to do so.

Starting on March 16 we have provided almost daily email updates with information vital to Ohio physicians and their patients. We have created up-to-date information hubs on our website for the latest news regarding COVID-19, telehealth and business support.

Additionally, we have created complementary educational resources like our telehealth how to webinar that has been downloaded by more than 600 physicians. Our leadership and staff realized every day matters to you, your practice and your patients and hope the resources we have provided have helped you make informed decisions quickly.

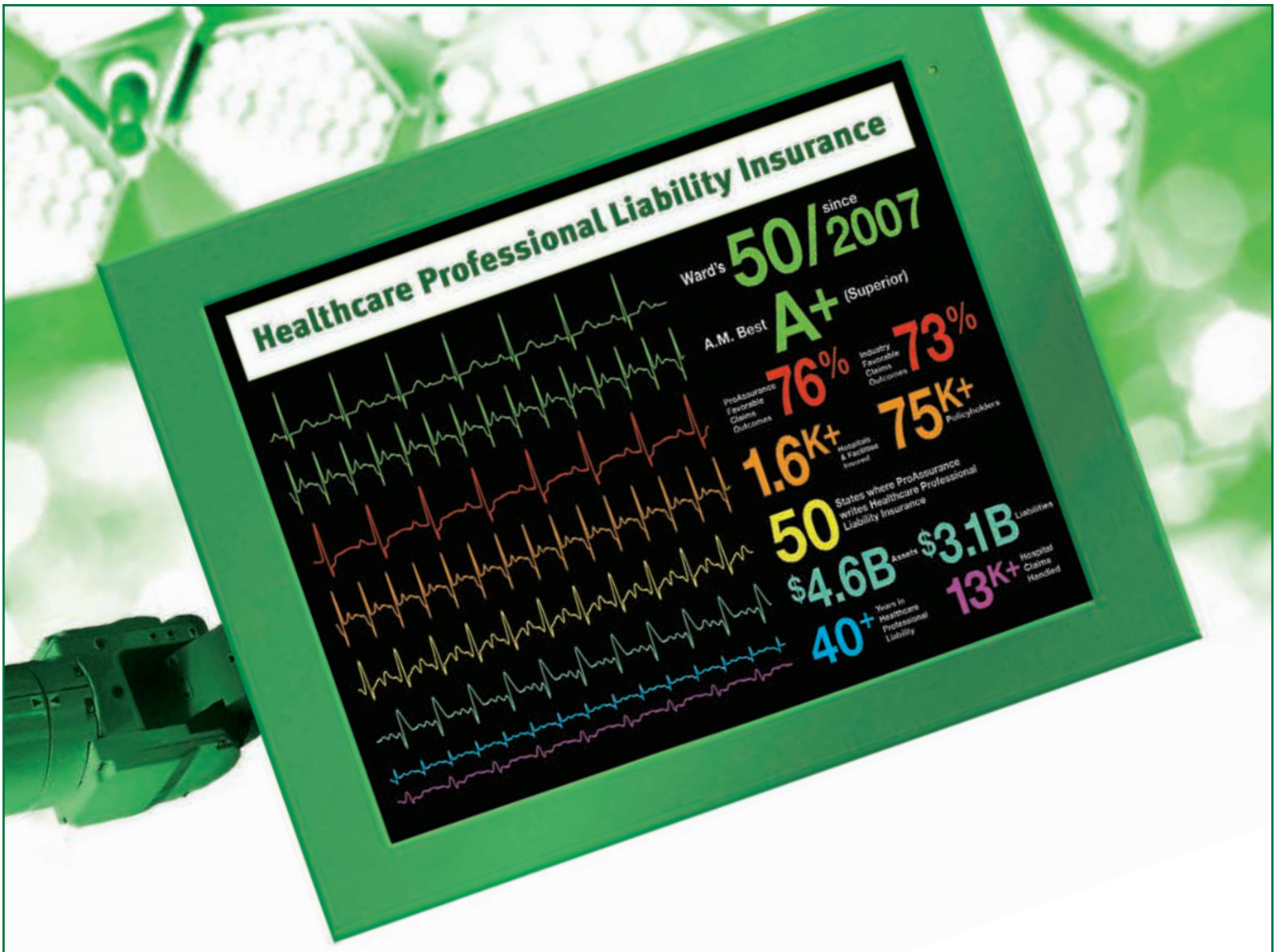
When will the disruption caused by this pandemic end? Nobody knows. The healthcare system will feel it in the weeks, months and years ahead. Know that during this period of time, we will continue to be focused on your health, the health of your practice and your patients. Every day we will keep advocating for you and ensuring you have access to the latest information in an actionable format.

A good friend of mine who trains elite level athletes has a saying each time someone comes to his gym—One Day Better. While it doesn't seem so now and might not a month or two from now—I have told my family and staff here at the OSMA—all we can do is focus on what is in front of us and try our best to get one day better.

In these trying times, I hope you, your families and your co-workers stay safe and stay well.

Todd Baker

CEO
Ohio State Medical Association



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