MOVING INDIANA FORWARD

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INDIANA PODIATRIC MEDICAL ASSOCIATION

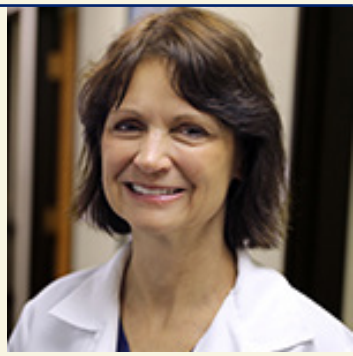
Forward

ISSUE FOUR | WINTER 2022

IN THIS ISSUE

PRESIDENT'S MESSAGE

SANDRA RAYNOR, DPM | IPMA PRESIDENT



As my term of office nears its end, I would like to thank the members of the IPMA for entrusting the IPMA to my leadership. We have been very fortunate to have such great leadership that represents the diversity of our profession. With this diversity I am confident that IPMA can continue to represent the interests of physicians in all practice settings.

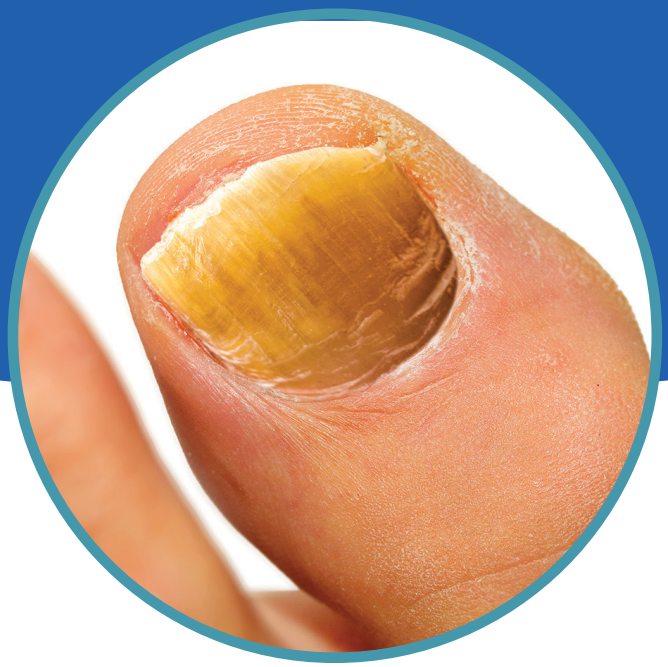
I would encourage members to consider participating in the IPMA or find other ways to give back to our profession. We have a lot of work to do as a profession at the state and federal level to ensure the success of our specialty. Activate participation in the IPMA and APMA is always important, but members should consider being a mentor to young people to support student recruitment efforts.

It was great seeing everyone at the Annual Convention this past October. I enjoyed reconnecting with friends and colleagues while getting great educational content. Thank you to Dr. Patrick DeHeer for putting together such a great program. While the event has evolved over the years, I believe that a strong convention remains key to the success of the IPMA and is still a great way to connect with other Indiana members in a meaningful way. I hope that all who attend bring someone new in 2023 and encourage those who did not attend to do so next year.

Although my term as President is coming to an end I will continue to serve as APMAPAC's Indiana Coordinator. I continue to believe we must give back to political action to protect our profession in the future. Legislative and regulatory challenges remain a constant threat and having money available to support legislators who support podiatry is critical.

If you have any questions or concerns, please contact the association so we can continue to serve our membership in the best way possible.

Your Patients Benefit from a Comprehensive Diagnosis



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SCAN ME

BUILDING TRUST AND A CIRCLE OF SAFETY AT WORK

BY TINA DEL BUONO, PMAC
DIRECTOR TOP PRACTICES VIRTUAL PRACTICE MANAGEMENT INSTITUTE

The topic of "building trust" with our work team is one that we should touch on often so that everyone knows the importance of building trust between each person on the team. Trust is built over time but from the first day an employee starts work, they should know the practice's focus on the issue and importance of creating a circle of safety at work with our team.

You cannot truly have a successful work team if there is a lack of trust between members. Part of building trust within the team is having a bond that information shared is safe amongst the members of the team. People on the team needed to know that they are valued, cared for, belong, have a purpose, and feel secure. This can only begin from the top and work down through the team.

Talk together about what trust means to each person on the team and how they think it can be built stronger within the team. How does a physician business owner and their management team do this? Here are a few ways.

Open yourselves up, let your fellow teammates know who you are, and I do not mean telling personal details. Make sure that you let the team know that you are one of them and no different, you may just have a different position like each of them do. Lead by example, if you make a mistake let it be known and what you did to fix it. Let them know that when they make mistakes they will not be punished; it will be a learning experience for everyone. Arrive early and be there to greet your team members as they arrive. They are watching you and will follow if you treat them with kindness and respect.

Treat your staff like they are key parts of the organization because they are. Where would you be without them? Let them know how valuable they are and what they do that makes the organization successful.

People will respond when they are treated with respect and shown that they are valued. Take the time to get to know each other personally, taking some time to share life experiences with one another. As the employer or manager, tell them how you came to do what you do in the organization and what your favorite hobbies and dreams are. Doing things like this shows we are all just humans trying to work together, not one of us is better than another, we are just different working for the same purpose when we are together.

Tina has been a practice manager for 25 years. She lectures nationally on Practical Practice Management, specializing in Complete Practice Efficiencies, Team Building, Staffing Issues, Manager Training and Practice Building Protocols. Tina is the author of a National Indie Award Winning Book, "Truth from the Trenches" The Complete Guide to Creating A High-Performing, Inspired Medical Team. She has also written over 400 articles on practice management and has developed, GPS –Global Practice Systems, to create the road map to get your practice from where it is now to where you want it to be, in small practical, achievable steps. She is the office manager for her husband John Hollander, DPM in Santa Rosa Ca.

APMA CORNER

APMA MEETING WITH CMS ON CHANGES TO NEUROMUSCULAR ULTRASOUND CODES

On December 6, APMA's Relative Value-Based Update Committee (RUC) team joined with representatives of other societies in a meeting with CMS to discuss unilateral changes to Neuromuscular (NM) Ultrasound (US) codes CPT® 78881-3. Many podiatric physicians do use CPT 76881-2. In the 2023 Medicare Physician Fee Schedule (MPFS) *Federal Register* Addendum B RVU attachment, CMS removed the Technical Component (TC)/26 rows for reimbursement for the three codes. No specific language was present in the proposed or final rules to address this revision. Based on previous discussions, CMS believes that these procedures are performed solely by the physician and removed the TC/PC modifier option because the codes may no longer be billed separately by a technician. The group seeks to understand the basis of CMS' decision.

APMA EXPRESSES SIGNIFICANT CONCERNS IN RESPONSE TO ADVANCED EOB RFI

On November 15, APMA submitted comments to HHS, the Department of Labor, and Treasury (collectively, the Departments), and the Office of Personnel Management (OPM), in response to its Request for Information (RFI): "Advanced Explanation of Benefits (AEOB) and Good Faith Estimate (GFE) for Covered Individuals." This RFI is a continuation of the Departments' and OPM's efforts to implement the No Surprises Act. Previously the main focus of operationalization related to uninsured or self-pay individuals.

APMA has significant concerns about the burden these proposals will have on providers if they are implemented without careful thought and input from providers about practical flow and management in their offices. APMA focused its comments on the following recommendations, among others:

- that the Departments and OPM not require an AEOB for insured patients who have not yet been evaluated by the providers;
- that an interoperable data exchange standard is needed, and agencies are urged to align requirements for AEOB and GFE data exchange with previous interoperability and patient access regulations finalized by the Office of National Coordinator for Health Information Technology (ONC) and CMS in 2020; and
- that providers are not required to coordinate and include secondary and tertiary payers' benefits and costs for insured patients' GFEs.
-

To read the comment letter in full, visit www.apma.org/CommentLetters. View all of APMA's resources related to the No Surprises Act at www.apma.org/SurpriseBilling. If you have questions or concerns, contact the APMA Health Policy and Practice department at healthpolicy.hpp@apma.org.

APMA WORKING TO CONTEST NEW SURGICAL TREATMENT OF NAILS POLICIES

Two of the seven Part B Medicare Administrative

Contractors (MAC) have issued policies that state a repeat **CPT 11730** for the same toe in less than 32 weeks, and a repeat **CPT 11750** for the same toe (ever), will only be considered for payment on redetermination if the medical record supports that the repeat procedure was medically reasonable and necessary, with examples provided of opposite border or a new significant pathology on the same border recently treated.

APMA is aware this policy has also been implemented in other MAC jurisdictions, and that it seems to be impacting the entire country. APMA feels this policy is unreasonable and burdensome. APMA has already discussed this concern with two of the Part B MACs and is planning discussions with CMS about it. Stay tuned to APMA Weekly Focus for updates.

SUPPORT STUDENTS WITH A DONATION TO APMA SCHOLARSHIP FUND

CLICK HERE TO MAKE A DONATION

APMAPAC UPDATE

SANDRA RAYNOR, DPM
APMAPAC COORDINATOR

This strength in advocacy can only be accomplished by a strong APMAPAC. I am asking that IPMA members support our advocacy efforts with a meaningful PAC contribution. The 2022 APMAPAC campaign has is nearly over and a big thanks to those who have already made their yearly contribution. Thank you to all the members who have contributed as of November 15, 2022:

DIAMOND LEVEL ($2,500-$4,999)
Dr. Patrick DeHeer
Dr. Zahid Ladha
Dr. Sandra Raynor

PLATINUM LEVEL ($1,000-$2,499)
Executive Director Matt Solak

GOLD LEVEL SUPPORTERS ($500-$999)
Dr. Angie Glynn
Dr. Miranda Goodale
Dr. Nathan Graves
Dr. Ken Krueger

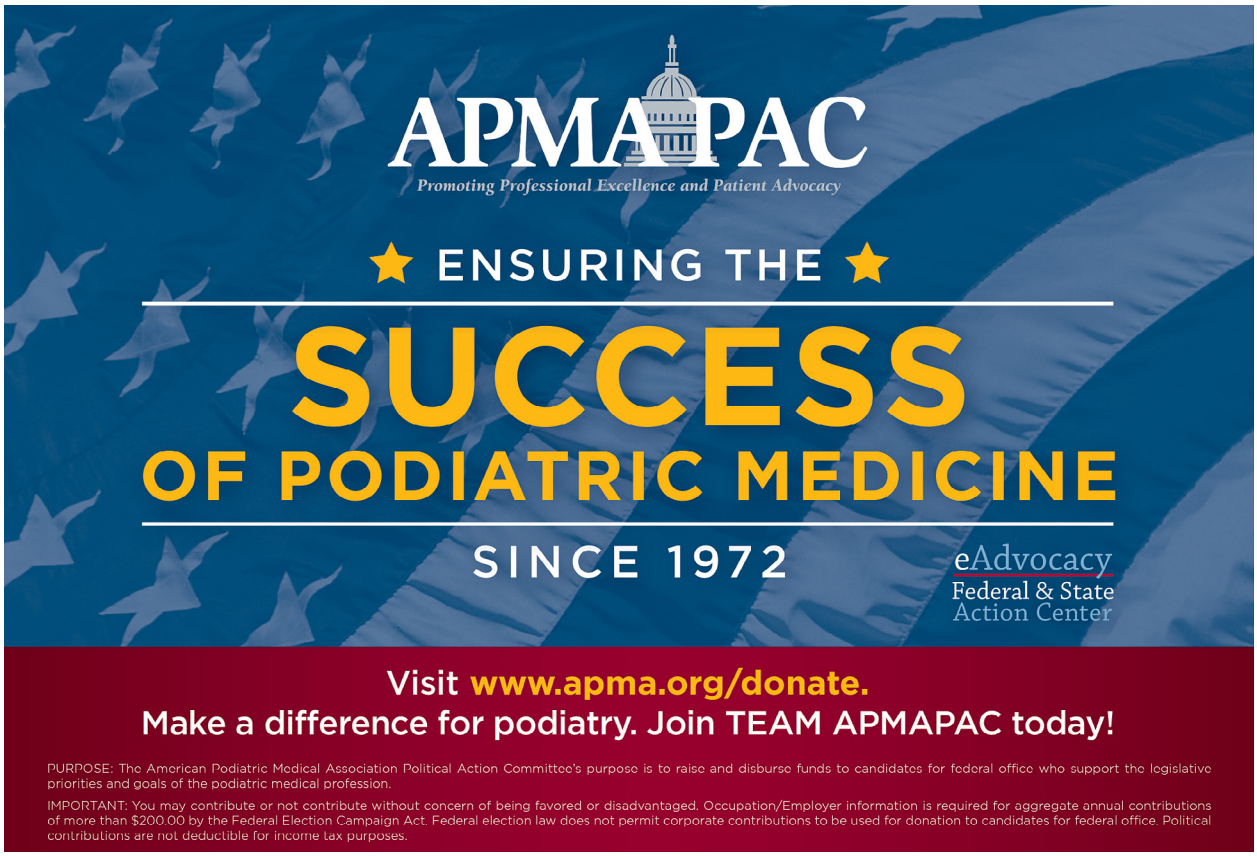
SILVER LEVEL ($300-$499)
Dr. Michael Carroll
Dr. Cathy Coker
Dr. Brian Damitz
Dr. Mark Lazar
Dr. Patricia Moore
Dr. Kathleen Neuhoff
Dr. Chase Stuart
Dr. Wendy Winckelbach
Dr. Walt Warren

BRONZE LEVEL ($150-$299)
Dr. Michael Carroll
Dr. Gage Caudell
Dr. Pratap Gohil
Dr. Tracy Lee
Dr. Scott Neville
Dr. David Sullivan
Dr. Tracy Warner

PATRIOT LEVEL (LESS THAN $150)
Dr. Wendy Goldstein
Dr. Sarah Standish

PURPOSE: The American Podiatric Medical Association Political Action Committee's purpose is to raise and disburse funds to candidates for Federal office that support the legislative priorities and goals of the podiatric medical profession.

IMPORTANT: All amounts are simply suggested amounts. You may contribute or not contribute without concern of being favored or disadvantaged. Occupation/Employer information is required for aggregate annual contributions of more than $200.00 by the Federal Election Campaign Act. Federal election law does not permit corporate contributions to be used for donation to candidates for federal office. Political contributions are not deductible for income tax purposes.



FOOT SUPPORT UPDATE

DR. KENNETH KRUEGER
CHAIR, FOOT SUPPORT PAC

The Foot Support PAC is a nonprofit, bipartisan fundraising committee through which podiatrists support state candidates who support podiatric medicine's issues before the Indiana General Assembly.

The Foot Support PAC's role is to support candidates seeking office in the Indiana State Senate or Indiana House of Representatives. The only other legal means for such support is through contributions made directly to a candidate by an individual.

Thank you to all who have contributed in 2022. If you have not done so, please consider making a PAC contribution by clicking here.

PLATINUM LEVEL SUPPORTERS ($1,000-$2,499)
Dr. Patrick DeHeer
Dr. Zahid Ladha
Dr. Sandra Raynor

GOLD LEVEL SUPPORTERS ($500-$999)
Dr. Gage Caudell
Dr. Angie Glynn
Dr. Nathan Graves
Dr. Kenneth Krueger
Executive Director Matt Solak

SILVER LEVEL SUPPORTERS ($300-$499)
Dr. Douglas Blacklidge
Dr. Michael Carroll
Dr. Cathy Coker
Dr. Kathleen Neuhoff
Dr. Richard Stanley
Dr. Jenna Vaught
Dr. J. Tyler Vestile
Dr. Walter Warren
Dr. Wendy Winckelbach

BRONZE LEVEL SUPPORTERS ($150-$299)
Dr. Pratap Gohil
Dr. Jeff Leibovitz
Dr. William Oliver
Alyson Raynor
Dr. Tracey Warner

PATRIOT LEVEL SUPPORTERS (LESS THAN $150)
Dr. Kent Burress

IPMA 2022 ANNUAL CONVENTION REVIEW

Thank you to all the members who attended the IPMA 97th Annual Fall Convention and Membership Meeting at the Marriott North in Indianapolis. Highlights of this year's convention include:

- Educational seminars and leading podiatric presenters that provided over 22 CME hours for doctor attendees.
- Annual Meeting presentations and reports on current IPMA activity and vision for the future. IPMA members can receive electronic copies of the 97th Annual Report by emailing the IPMA office at inpma@indianapodiatric.org or calling 888-330-5589.
- Election of IPMA Board of Trustees and Officers. Board and Officers elected for 2023 are:
  - President - Cathy Coker, DPM
  - President-Elect - Kathleen Neuhoff-Toepp, DPM
  - First Vice President - Nathan Graves, DPM
  - Second Vice President – Michael Carroll, DPM
  - Secretary-Treasurer - Zahid Lahda, DPM
  - Immediate Past President – Sandra Raynor, DPM
  - North Trustee – Gage Caudell, DPM
  - Central Trustee – Sarah Standish, DPM
  - South Trustee – Matt Lining, DPM

2022 IPMA DR. T. H. CLARKE ACHIEVEMENT AWARD

During the Annual Business Meeting Dr. Wendy Winckelbach was presented with the Dr. T. H. Clarke Achievement Award. This is IPMA's highest award and is bestowed upon the member who has demonstrated not only contributions to the profession but also service on behalf of the podiatric welfare of the public and service to the community at large.

Dr. Winckelbach received her Doctorate in Podiatric Medicine from Scholl College of Chicago, Illinois in 2001. While a student, Dr. Winckelbach was awarded an Albert Schweitzer Fellowship in 1998. After receiving her DPM she completed a Post Graduate Surgical Residency at St. Mary's Medical Center in Hobart, Indiana. She is board certified in foot surgery.

Dr. Winckelbach is proud to be a third-generation podiatrist and having the opportunity to practice with her father for over a decade before Dr. J K. Winckelbach retired.

She has long been active in the IPMA serving as a President in 2018. She continues her IPMA service as a CAC Representative and Indiana's Delegate to the Midwest Podiatry Conference.

SAVE THE DATE FOR THE IPMA 2023 ANNUAL CONVENTION

Mark your calendar now for next year's Annual Convention, October 5-8, 2023. Next year's convention will again be held at the Marriott North in Indianapolis. We appreciate the doctors, vendors and speakers that attended this year, and look forward to seeing you next year.

WHEN THINGS GO WRONG, WHO DO YOU BLAME?

PETER WISHNIE, DPM
FAMILY FOOT AND ANKLE SPECIALISTS

Things will tend to go wrong, no matter how great your business is. Now, the question is, does the same thing happen repeatedly, or is it a rare occurrence? The great thing about mistakes, or situations that aren't ideal, is that it is truly a time to implement systems that prevent the problem from happening again.

In essence, it is a good thing when bad things happen. However, only if you pay attention to it and act on it. Now, when things don't go the way you want them to, what do you do? Do you ignore it, blame someone, or take action.

The first thing you should do when things go wrong is to take a deep breath. Realize everything is fixable. Your business is not like surgery. In your office, if something is handled improperly if something is cut, it can be mended. After you take a deep breath, then figure out the solution. If it is not imperative to handle right at that moment, then make an immediate time to sit down and come up with a solution.

A better idea is to involve your team. Getting everyone involved empowers your staff. Ask them for their opinion? If a staff member says, "We have a problem," you need to reply by saying, "We don't have problems, we only have solutions. What is the solution?" Your team should only come to you with a problem only if they have a solution. This gets them to think and it prevents them from being lazy and just relying on you.

Now, if a staff person keeps repeating the same mistake, then it could be you have the wrong person working for you or it could be that you are expecting way too much from one person. In times where it is hard to find good people, like now, you will see businesses taking advantage of that one good person they have. "Hey, let's give it to Mikey. Mikey can do everything." Pretty soon Mikey gets overwhelmed, mistakes happen, and either Mikey quits or you let him go.

The lesson here is that the office is either understaffed, or you have the right number of people but the problem is the rest of the office is not trained or qualified to do their jobs. When mistakes happen, take some time to observe the office. You want to see how many things that person must do. There is no such thing as multi-tasking. What you have are Go-Stop-Go processes, where the staff person has to decide to stop one task and then move onto a new task, and then stop that job and resume the other job. Constantly stopping and going slows down the process and allows for mistakes. Imagine you doing a bunion surgery and in the middle of doing the bunion you stop and start operating on a hammertoe. When resuming the bunion operation, you must reorient yourself and see where you left off. This will slow you down for sure.

YOUR TEAM SHOULD ONLY COME TO YOU WITH A PROBLEM ONLY IF THEY HAVE A SOLUTION. THIS GETS THEM TO THINK AND IT PREVENTS THEM FROM BEING LAZY AND JUST RELYING ON YOU.

Sometimes instead of adding staff to the business, you just need to add technology. Does your EMR do everything you need it to and are you using all the vital features that can help you be more efficient? For example, are you using the patient portal to its fullest capabilities? Can it remind patients of their appointments, and can it provide all the key performance indicators that inform you if the practice is on target to meeting its goals? Other technical aspects to look at is the speed of your computers. Are your computers slow and outdated? It will cost you more money by using outdated technology then to replace it.

In summary, when things go wrong, don't initially find fault with a staff member. Take the time to observe the situation. Speak to the employee and ask them how things can improve. If the staff person is just sitting around and not doing anything when there are things that can be done, then you probably don't have a true go-getter. A caveat to this, is the person just might be shy and afraid to make mistakes. Therefore, it is best to sit down with every staff person and get to know them. Explain to them your expectations and give them a list of their daily activities.

Then look to see if you are understaffed and look at improving your technology in your business. Remember, keep things simple and give your staff the tools to grow and be successful.

Dr. Peter Wishnie is the founder of Family Foot and Ankle Specialists in New Jersey. He is the author of "The Podiatry Practice Business Solution"*. He is also the Director of Physician Programs and Practice Management Consultant for Top Practices Virtual Practice Management institute. You can find out more about Top Practices Management Programs at www.TopPractices.com .*

ONLINE LIMITED PODIATRIC RADIOGRAPHY EDUCATIONAL PROGRAM

The Indiana State Department of Health (ISDH) requires all podiatric medical assistants who take x-rays to be licensed as a limited podiatric radiographer.

The IPMA wants to remind the membership of its new limited podiatric radiography program that meets the ISDH requirements and is designed to instruct the podiatry assistant in the safe and effective use of x-rays in the podiatric practice.

Content includes:

- History of the x-ray
- Risks and safety measures associated with radiography
- Image production and film development
- Principles of CT Scan, MRI, and Bone Scan
- Anatomy of the foot and ankle
- Positioning and x-ray machine placement

PROGRAM STRUCTURE

The program consists of four online content modules, each with a final exam, one attestation module, a student manual, and an x-ray log. A Certifying Physician must guide the applicant in the clinical portion of the program and the completion of the x-ray log. The podiatry assistant must document competency by demonstrating the proper performance of 60 x-ray views in the podiatrist's office.

At the successful conclusion of the program, the applicant will have the proficiency and skill necessary to obtain the limited podiatric radiography license and will receive a Certificate of Completion. The Certificate, the completed Application for Proficiency Certification for Limited Radiographer and signed x-ray log should be sent to the IPMA.

To learn more about this program or to register, click here.

PRIVATE EQUITY INVESTMENT IN MEDICAL PRACTICES SERIES

BUYING OR SELLING A MEDICAL PRACTICE STEP 1: THE NONDISCLOSURE AGREEMENT

BY THOMAS N. HUTCHINSON AND BRIAN M. HEATON

The first step in most medical practice or health facility sale discussions (including those with private equity) is the negotiation and execution of a Non-Disclosure Agreement, also commonly referred to as an NDA or Confidentiality Agreement. An NDA is one of the more "boilerplate" documents in any transaction, but it should be carefully considered, as it can sometimes omit important concepts or overreach in its scope.

An NDA controls how the parties will treat the information they obtain from each other, more typically information the practice will provide to others. A broker or private equity buyer is not likely sharing much, if any, sensitive information, so the NDA may practically only cover the information coming from the practice even if it is designed to be mutual and apply to both parties. Confidential information is likely to include payor contracts, employee information such as wages (including physician compensation arrangements), pending litigation, compliance concerns, 3 to 5 years of historical financial statements, etc.

Each of the following should be considered with respect to an NDA:

1. **Parties** – Be sure to have the full legal name of each party, not just their commonly used names.
2. **Scope** – Describe the particular project with precision. Because the NDA will only allow use of confidential information for the stated purpose, the NDA should be narrow enough in scope not to cover arrangements outside the currently contemplated arrangement. Also consider whether oral information should be included, and whether the agreement needs to "look back" and cover information previously provided before the NDA was executed.
3. **Exceptions** – Standard exceptions to confidentiality include: (a) information that is publicly available (as long as it is through no fault of the receiving party); (b) information that is learned from another party who had no obligation to keep it confidential; (c) information developed independently; and (d) information otherwise already known.
4. **Accuracy** – There should be no promise or obligation that the provided information is 100% perfect. Reasonable best efforts to provide accurate information should be sufficient for an NDA. More stringent accuracy requirements will come later if the parties move forward with a sale agreement.
5. **Term** – How long is the NDA effective? When it ends, how long is the information protected? The practice or facility may want the confidentiality obligation to be indefinite. The broker or prospective buyer will want the restriction to end within no more than 2 years and more likely 12 months. Any trade secrets that are disclosed should be protected indefinitely.
6. **Ownership** – The NDA should state that party providing the information retains ownership of the information and that the receiving party does not receive a license or other rights to use the information.
7. **Standard of Care** – The NDA should provide that the party receiving the information will treat it with at least the same level of care as they treat their own confidential information, and no less than a commercially reasonable level of care.
8. **Representatives** – The receiving party will likely want the ability to share your confidential information with third party representatives like affiliates and third party advisors. Because you will likely not have a separate agreement with each of these third parties, it is important for the other party to the NDA to agree to be responsible for the acts of its representatives.
9. **Exclusivity** – Although not a required term and often instead included in a letter of intent or term sheet, the other side may demand an exclusivity provision, which restricts you from sharing information and considering a transaction with other suitors. This obligation can last many months after the NDA signed. This ensures the buyer has a chance to make an offer and that you are not shopping it simultaneously to multiple parties. Be careful, because even casual conversations can be considered a breach and you may even be required to report if you are contacted by another potential suitor. This is one of the most important contract terms to consider, as it can tie you up with a bad broker or buyer.
10. **Non-Solicitation** – Because producing the information will often involve extensive contact with your administrative team, you should also consider a "no hire" provision, which prohibits the other side from hiring your current employees and anyone who has worked for you in prior 6 months.
11. **Stamps** – Try and avoid requirements that you mark something "confidential" for it to qualify for confidential treatment. Such a "stamp," watermark, or label often gets inadvertently omitted. Instead, the default should be that anything you provide is deemed confidential.

12. **Data Room** – Consider using (or having your attorney use) an electronic "data room." This is simply a more secure version of a "Drop Box." This allows you to specifically track what information was provided and at what time. This is especially important when the NDA ends and you want to make sure you know what was provided. Any "boilerplate" confidentiality provisions used by these data rooms should not reduce or eliminate the protections you receive under the negotiated NDA.
13. **Remedy** – What happens if there is a breach? Consider including money damages and the right to go to court and demand a third party stop using the information, known as an injunction.

NDA should take no more than an hour to review. Negotiation depends on the parties, but another few hours is usually sufficient, with the total process take a day or two to complete. It is important to review every document you receive and consider negotiating its provisions, even if it is from a "friendly" party like your broker. Once it is signed, it is too late. Spend a little time up front to get it right.

For any questions about an NDA generally or your specific NDA or transaction, contact Thomas N. Hutchinson, Brian M. Heaton, or your usual Krieg DeVault attorney.

Disclaimer. The contents of this article should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult with counsel concerning your situation and specific legal questions you may have.

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22ND ANNUAL JOINT NATIONAL PODIATRIC CAC-PIAC REPRESENTATIVES MEETING

BY WENDY WINCKELBACH, DPM, CAC REPRESENTATIVE

I recently attended the 22nd Annual Joint National Podiatric Carrier Advisory Committee (CAC)-Private Insurance Advisory Committee (PIAC) Representatives' Meeting on behalf of our association. This year the meeting was held on November 11, 2022, in Arlington, Virginia and featured experts and leaders on both private and public insurance issues, as well as opportunities to hear from our colleagues around the country and discuss new and ongoing trends and challenges that might impact our members.

To start the day, APMA Board of Trustee and RUC Liaison Brooke Bisbee, DPM, provided an APMA strategic and priority update to attendees. Cindy Moon, MPP, MPH, vice president at Hart Health Strategies and APMA Health Policy and Practice then reviewed the finalized 2023 Medicare Physician Fee Schedule. She discussed the overall payment impacts, noting that the estimated impact on podiatrists for 2023 not including scheduled payment reductions is -1 percent. When coupled with other proposed reductions, the overall impact could approach 10 percent, and Ben Wallner, APMA Director of Legislative Advocacy, later told members how to act to prevent this. Also reviewed were changes to telehealth with the coming end of the public health emergency and advocacy efforts by APMA, especially as related to skin substitutes and the ongoing CAC/LCD/LCA engagement concerns.

Jeffrey Lehrman, DPM, next provided updates on participating successfully in the 2023 Merit-Incentive Payment System (MIPS). He highlighted the unlikelihood of CMS offering another automatic exception for COVID-19 for 2023 reporting and therefore clinicians required to report needed to be ready to participate. APMA staff is working to create an updated MIPS resource page for 2023, but webinars are already scheduled and can be found at www.apma.org/MIPSWebinars. Dr. Lehrman also discussed updates to evaluation and management (E/M) coding which will take effect on January 1, 2023. CMS has finalized the

changes for other care settings that were previously rolled out January 1, 2021, for office and outpatient settings, including nursing facilities, home or residential, emergency departments, hospital inpatient and observation care, and consultations. Members can view the updated infographic and changes at www.apma.org/EM.

The morning session wrapped up with APMA private insurance consultant Kelli Back, Esq., who updated attendees on ongoing issues for Medicare Advantage and commercial plans. She noted the following key highlights:

- The Provider Non-Discrimination clause (Section 2706) continues to be held to a good faith compliance standard
- Rollout of the No Surprises Act policies has been slow and confusing, especially as related to good faith estimate requirements for uninsured patients. Currently, HHS is using enforcement discretion of the requirements related to convening providers until January 1, 2023.
- Medicare Advantage continues to be problematic for providers with onerous record requests and frequent denials. APMA and other medical specialty societies are still working on this issue, most recently with Aetna.

Ms. Back also reviewed tools and processes for determining how to address payer denials and audits. Members should keep in mind the line of business (private versus public payer), contract status (i.e., if they're a contracted provider), the basis of the denial (coverage or inappropriately coded), and whether or not the payer follows the same coding guidelines (some payers do not recognize modifiers).

During the lunch hour, attendees heard a 2022 midterm election and legislative advocacy update from Mr. Wallner, who urged attendees to take action to prevent the MPFS cuts at apma.quorum.us/take_action/. In addition, Ed Prikaszczikow, DPM conducted the CAC Chair elections and Theresa Hughes, DPM was elected to be CAC Chair for another year. Dr. Prikaszczikow also announced the following awards to two standout CAC and PIAC representatives:

- **2022 Distinguished CAC Representative Service Award**. Franklin Kase, DPM, was recognized for his decades-long service as California's PIAC representative. He has been pivotal in significant advocacy victories, including an extended battle with Anthem over the denial of E/M claims with modifier 25.
- **2022 CAC & PIAC Representative of the Year award**. Mark Block, DPM, has long represented Florida and the profession as a whole, and has a record of accomplishment as an exemplary representative who has cultivated a productive, mutually beneficial relationship with his Carrier Medical Director. Dr. Block has also served in numerous leadership positions at APMA and FPMA over the years.

Finally, as in years past, attendees spent time discussing regional concerns in both the public and private insurance spheres. This year's meeting took a fresh approach, using a facilitator with a more focused set of issues for the CAC and PIAC breakout sessions. Attendees broke out into pre-assigned small groups, defining the issues, and then identifying what successful resolution of the issue would be from their perspective. Following the breakout sessions, the larger group reconnected for some open discussion and ranking of the issues to help determine the most appropriate use of APMA's focus and resources. The most important issue discussed and identified in the CAC breakout session was the ongoing MAC denials of 11730 and 11750, and modifier 76/77, while the ongoing at-risk foot care denials, particularly those related to Aetna, were identified as the most important issue during the PIAC discussion. This year also featured a breakout session discussing skills and resources that are important to the success of an effective CAC and/or PIAC representative APMA staff will be using the notes from these discussions to guide its efforts and priorities for the next year, and create additional resources for CAC and PIAC representatives, especially those who are newer to the role.

More information on the meeting and the CAC and PIAC process is available at www.apma.org/CACPIAC2022.

UPDATES FROM YOUR REGION 5 LIAISON

BY DAVID B. ALPER, DPM
APMA BOARD OF TRUSTEES

First and foremost is a quick summary of the report presented by our President, Dr. Laura Pickard, at the Public Session of the Board of Trustee meeting in Bethesda, MD on October 29:

"Dr. Pickard announced that APMA has a new vision and mission. The staff and board have collectively worked to finalize a strategic plan with four primary pillars: excellence in education, leading advocate, innovative research, and empowered community. She reported on the activities of the Committee on Physician Parity, focusing on the work of the two appointed workgroups, education and testing, identified under this committee. The Student Engagement Committee and the Diversity, Equity, and Inclusion Committees have recently met. The Research Workgroup has also been very busy. A new Student recruitment Task Force has recently been formed representing numerous stakeholder groups. Dr. Pickard attended the virtual State Advocacy Forum, the Young Physicians' Institute, which launched the Emerging Leaders Program, and the Region Eight meeting. APMA's Online Learning Center is growing rapidly and is well received. She also touched on APMA's recent collaborations with the Society for Vascular Surgery and the Society for Interventional Radiology."

Also from our meeting was a discussion about creating an "Official Observer Position in the House of Delegates. This idea came from the Affiliate Review Task Force, as away to have observers from other organizations, podiatric and other medical, attend our proceedings. This will be passed to the Bylaws and Rules Committee for writing of a proposition that will be considered at the Hose in 2023.

And now to my famous bullets:

- A Webinar focused on Suicide Awareness and prevention was created and posted on our website as part of National Physician Suicide Awareness Day (9/17). It still resides there as a tab.
- APMA collaborated with the American Heart Association for a podcast on Exercise and Foot Care for PAD, and alive webinar on Optimizing Treatment Strategies and Outcomes in PAD Patients
- The Online Learning Center held a CECH Webinar on the Role of the Podiatrist in Geriatric Falls Prevention, as well as for Coding and Clinical Education. An excellent source of online CME credits (20!)
- The Health Policy Committee submitted comments to CMS regarding the CY 2023 Medicare Physician Fee Schedule. Materials are also being written for Evaluation and Management (E/M) Code changes in 2023. Invaluable!
- The Student Recruitment department is currently working with existing students to develop content for a campaign on social media. The new Student Recruitment workgroup has also held their first meeting, chaired by Trustee Dr. Patrick DeHeer.
- The inaugural Emerging Leaders Program occurred at the Young Physician Institute program in Chicago on 9/30, with over 35 YPs attending – where are future leaders (and liaisons!) will be coming from!
- Finally – and something to be very proud of – APMA handed out $428,000 in scholarships to 218 students through the Education Foundation. PICA also awarded a 'full-ride" ($45K) scholarship anda wards to 8 runners-up.

As you can see, always a lot going on in many different directions and arenas. It continues to be the best part of a Trustees job to act as the messenger for the states.

David B. Alper, DPM is a member of the APMA Board of Trustees. Among his duties on the APMA Board of Directors, Dr. Alper serves as the Region 5 Liaison which includes Indiana. Dr. Alper practices in Burlington, MA.

RECORD RETENTION RECOMMENDATIONS

It is that time of year when many of us are overwhelmed with papers! Financial statements, insurance documents, job applications, bank statements and more. While many of us are making a conscious effort to reduce printed papers and store documents electronically, most have been unable to completely escape. It is always helpful to have a record retention policy that specifically addresses the type of documents your practice handles.

In the absence of such a policy, this guide should help you sort through most types of common documents.

Tax Records	Retention Period
IRS adjustments	Permanently
Payroll tax returns	7 years
Property basis records	Permanently
Sales & use tax returns	Permanently
Tax return & cancelled checks for tax payments	Permanently

Employee Benefit Plan	Retention Period
Actuarial reports	Permanently
Allocation & compliance testing	7 years
Brokerage/trustee statements	7 years
Financial statements	Permanently
General ledger & journal	Permanently
Information returns (Form 5500)	Permanently
IRS/Dept. of Labor Correspondence	Permanently
Participant communications related to distribution, termination & beneficiaries	7 years
Plan and trust agreements	Permanently

Insurance Records	Retention Period
Accident reports & settled claims	6 years after settlement
Fire inspection & safety reports	7 years
Insurance policies (current)	Permanently
Insurance policies (expired)	7 years

Accounting Records	Retention Period
Auditors' report, annual financial statements	Permanently
Bank statements & deposit slips	7 years
Cancelled checks:	
Fixed assets	Permanently
Taxes (payroll related)	7 years
Taxes (income)	Permanently
Payroll	7 years
General	7 years
Cash disbursements	Permanently
Cash receipts journal	Permanently
Chart of accounts	Permanently
Deeds, mortgages, bills of sale	Permanently
Electronic payment records	7 years
Employee expense reports	7 years
Fixed asset records	Permanently
Freight bills, bills of lading	7 years
General journal	Permanently
General ledger	Permanently
Inventory lists & tags	7 years
Invoices (customer) & credit memos	7 years
Patent/trademark & related documents	Permanently
Payroll journal	7 years
Production & sales reports	7 years
Purchases	7 years
Purchase journal	Permanently
Purchase orders	7 years
Sales or work orders	7 years
Subsidiary ledgers (A/R, A/P, equipment)	7 years
Time cards, daily time reports	7 years
Training manuals	Permanently
Trial balance – year end	Permanently

WHEN A PATIENT FILES A COMPLAINT

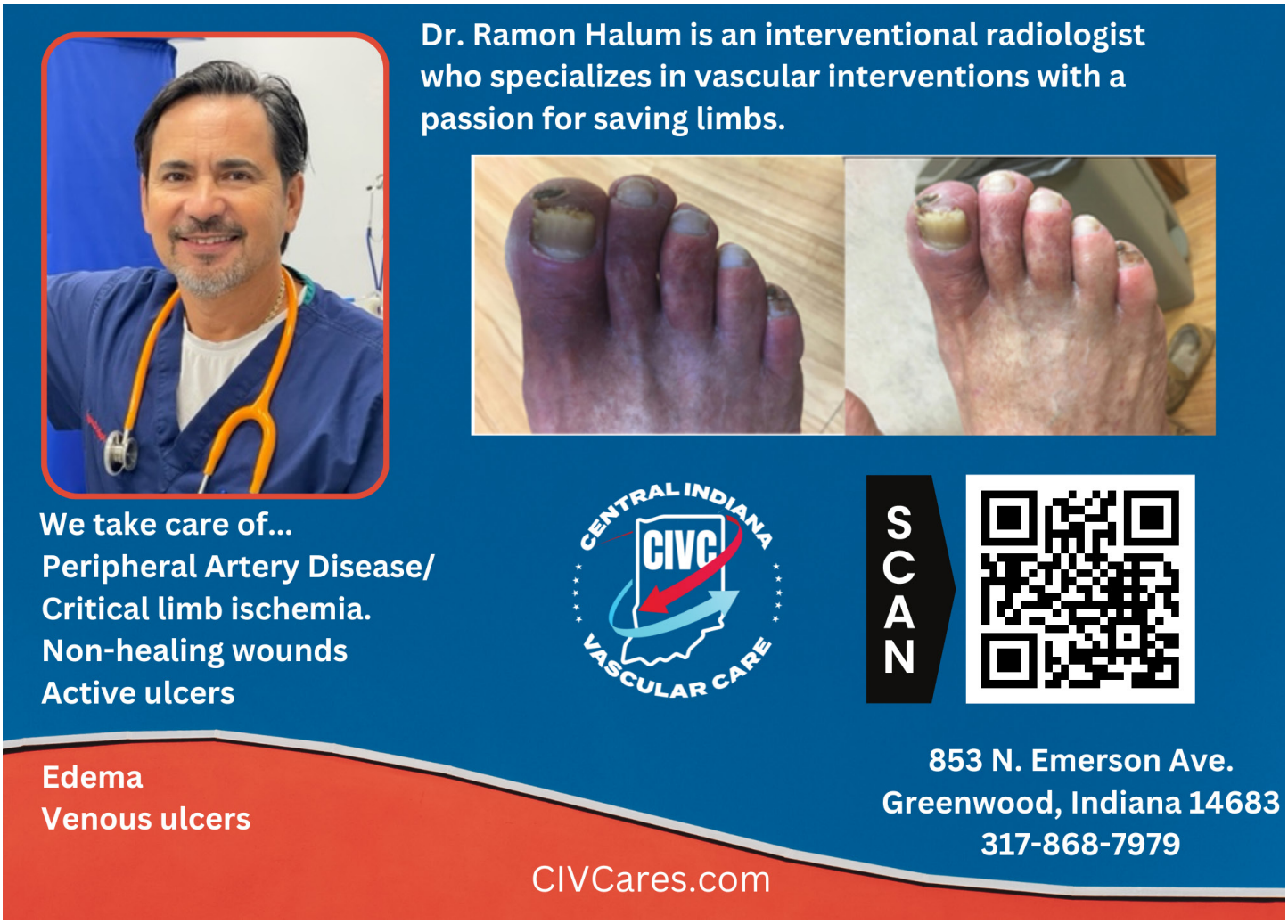
BY TAHLIA BRODY, CHP
VP OF CUSTOMER SERVICE TLD SYSTEMS

In 2019, the OCR launched the Right of Access of Initiative "to support individuals' right to timely access their health records at a reasonable cost under the HIPAA Privacy rule." Since this initiative has been passed, there have been 27 investigations and settlements. OCR continues to commit to enforcing HIPAA and will continue to fine entities that are found to be in violation. If you are not familiar with the Right of Access Rule, it's time to get familiar with it. Learn more here.

One recent investigation against Jacob & Associates originated from a patient's complaints. Patients now have the resources to hold their providers accountable to ensuring that their rights under HIPAA are being met. This patient requested access to her patient records annually from 2013-2018. She was initially given an incomplete copy of her records and then in 2019 was finally given a fully copy of her records at a flat fee that was not cost-based. Furthermore, Jacob & Associates was penalized for not having a designated privacy officer and an insufficient Notice of Privacy Practices.

It is time to recognize that mistakes made years ago can still be audited and cost your office tens of thousands of dollars (in this case $28,000). To emphasize it again, this investigation was triggered by a patient's complaint. Under HIPAA, your office should have a privacy officer. It does not matter if you are a large healthcare organization or a solo-practitioner, there must be a designated Privacy Officer and all staff must know who that is. It is ideal for the Privacy Officer to be well-spoken so that they can respond to patients' inquiries or concerns. Your office needs a HIPAA Privacy Manual that details how the office is maintaining patient records according to their rights under the Privacy Rule. The Privacy Manual should also include the Notice of Privacy Practices. Your Notice of Privacy Practices needs to be provided to each patient upon request and on your office's website.

Contact TLD Systems at (631) 403 6687 or info@tldsystems.com to help you identify a Privacy Officer. TLD also offers provider trainings, support to help you avoid patients triggering an audit, documents and resources that include an up to date Privacy Manual and NOPP.



CMS PUBLISHES 2023 MPFS FINAL RULE

CMS released the CY 2023 Medicare Physician Fee Schedule (MPFS) Final Rule on November 1. APMA is currently reviewing the rule and will provide full analysis as necessary. CMS also released the CY 2023 Medicare Hospital Outpatient Prospective Payment System (OPPS) Final Rule. CMS finalized its plan to reduce the CY 2023 conversion factor from $34.61 to $33.06, or a decrease of 4.5 percent. This conversion factor reflects the statutorily required update of 0% for CY 2023, expiration of the temporary 3% supplemental increase in PFS payments for CY 2022 provided by the Protecting Medicare and American Farmers From Sequester Cuts Act, and the statutorily required budget neutrality adjustment to account for changes in payment rates. APMA is working with its partners in Congress and other medical specialty societies to push for Congressional intervention and APMA urges DPMs to use APMA eAdvocacy to appeal to members of Congress to delay or cancel further cuts to Medicare reimbursement.

CMS elected to modify its planned overhaul of Cellular and/or Tissue-based Products Services for now. CMS had been proposing an overhaul of the nomenclature, coding, and payment of cellular and/or tissue-based products (CTP), also referred to as skin substitute products, effective January 1, 2024. Instead, CMS will conduct a Town Hall in early CY 2023 with interested parties to address stakeholder concerns as well as discuss potential approaches to the methodology for payment of skin substitute products under the PFS.

Additionally, the rule finalized several proposals of note:

- Finalized a number of policies related to Medicare telehealth services, including making several services that are temporarily available as telehealth services for the PHE available at least through CY 2023 in order to allow additional time for the collection of data that may support their inclusion as permanent additions to the Medicare Telehealth Services List; finalized proposal to extend the duration of time that services are temporarily included on the telehealth services list during the PHE for at least a period of 151 days following the end of the PHE, in alignment with the Consolidated Appropriations Act, 2022 (CAA, 2022).
- Finalized and adopted most of the AMA CPT changes in coding and documentation for Other E/M visits (which include hospital inpatient, hospital observation, emergency department, nursing facility, home or residence services, and cognitive impairment assessment) effective January 1, 2023.
- Finalized a 2023 MIPS performance year threshold of 75 points. APMA encourages members to prepare for a possible scenario in which no COVID-related MIPS exceptions exist for the 2023 performance year.

CMS WILL CONDUCT A TOWN HALL IN EARLY CY 2023 WITH INTERESTED PARTIES TO ADDRESS STAKEHOLDER CONCERNS AS WELL AS DISCUSS POTENTIAL APPROACHES TO THE METHODOLOGY FOR PAYMENT OF SKIN SUBSTITUTE PRODUCTS UNDER THE PFS.

For APMA's previous comments on the proposed rule visit www.apma.org/comments. For additional questions, contact APMA's Health Policy and Practice Department at healthpolicy.hpp@apma.org.

MIDWEST PODIATRY CONFERENCE

March 9-12, 2023

Hyatt Regency Chicago
Chicago, Illinois

UPCOMING EVENTS

Midwest Podiatry Conference
March 9-12, 2023
Hyatt Regency Chicago
Chicago, Illinois

IPMA Annual Convention
October 5-8, 2023
Marriott Indianapolis North
Indianapolis, Indiana

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