



Volume 1 • Issue 4 • Fall 2010

No Bones About It

Healthcare Debate:

Here we go again

President Greg Krivchenia, M.D.

The SGR is set to kick in on December 1. What this means to physicians across the state is a 23.5% reduction in Medicare payments. In addition, beginning in January, we will take another cut of almost 6%. This no doubt could have a major impact on access for Medicare patients in West Virginia. With the dramatic changes in representation in Congress commencing in January, it may be very difficult to again temporarily reverse this ongoing "mistake." When the SGR was enacted in 1997, everyone knew that the formula determining physician reimbursement was flawed. Since 2005, the leadership of the WVOS has been talking to our elected representatives in Congress to take the "Nestea Plunge" and to right a wrong. Every year, we get

the same message that they sympathetic to this injustice. Still nothing.

It seems that the bureaucrats (SLURPERS) have taken over the medical decision making process in healthcare.

The SLURPERS think that dating and time orders within 48 hours is more important than the actual care of the patient. Another proposal of the SLURPERS of CMS is to require hospitals and surgicenters that they monitor all implants including nonabsorbable sutures for one year. Today, physicians and hospital personnel are spending more time BUFFING the charts to appease the SLURPERS than taking care of patients. Our mantra is this:

Put the patient first. Now it is becoming much more difficult.

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Drivers Get AAOS Message

Charleston
area drivers
get the AAOS
message.

Drivers in the Charleston area have been exposed to the "don't drive and text" message prompted by the American Academy of Orthopaedic Surgeons (AAOS) this summer and fall.

Billboards like the one depicted below were placed in the Charleston market during late summer and early fall of this year. Kanawha Valley Advertising Company placed 30 billboards in and around Charleston at no charge to the AAOS.

If you would like to have posters, postcards and some great easel backs for your office--all free---please contact the WVOS office at wvos@frontier.com.

These have really been a huge hit--many doctors place the easel back in their offices.

Driving while texting is a growing problem, with victims often seen in emergency rooms and trauma centers. Many state and local government agencies and private corporations are banning texting while driving by employees. Even Oprah Winfrey is encouraging viewers to sign a non-texting pledge. Studies are showing how dangerous and even deadly texting while driving can be to drivers and passengers. These are the victims you see in the emergency room.

Encourage your patients to stop texting while driving.

If you would like complete information on the program, visit www.aaos.org/donttext.

GET THE MESSAGE.
TEXTING WHILE DRIVING IS A DEADLY DISTRACTION.
ota.org/donttext aaos.org/donttext.

Test Your Stress Knowledge

Test your knowledge about stress and burnout:

1. In a recent study 40% of surgeons reported being burned out. True/False
2. The most common physical symptoms of stress are chest pains, gastrointestinal distress, and headaches. True/False
3. In a recent study 30% of surgeons screened positive for symptoms of depression. True/False
4. Irritability, anger, apathy and sleep disturbances are secondary symptoms of stress and burnout. True/False
5. Recognizing the symptoms of stress and burnout is the first step in managing it. True/False

There is no doubt that stress and burnout take a toll on personal life and work satisfaction.

A growing body of literature links practice dissatisfaction, work life stress, burnout and fatigue with behaviors that are known to adversely affect staff relationships and performance efficiency, which can seriously compromise patient safety and quality of care, increase the occurrence of adverse events and/or medical errors, and increase the likelihood of litigation.

With the growing shortage of physicians, we need to look at physicians as being a precious resource and work with them in an effort to reduce stress,

improve overall satisfaction and help them adjust to the changing environment.

Visit the AAOS Practice Management Center (www.aaos.org/pracman) (member login required) for the full article and other resources.

Links show you how to:

- Calculate your Stress Scale
- The Impact of Stress and Burnout on Physician Satisfaction and Behaviors
- Steps to consider for helping physicians deal with stress
- Physical and psychological symptoms of stress
- Internal and external barriers that may influence physician behavior

There is no doubt that stress and burnout take a toll on personal life and work satisfaction.

Haitian Contribution Recognized

**"Your
generous
support
is greatly
appreciated."**

- CRUDEM Foundation

In our last newsletter, you were asked by your colleagues Ali Oliashirazi and Bill Sale to help alleviate the suffering in Haiti following a major earthquake. You came through with amazing results! Members of the West Virginia Orthopaedic Society (WVOS) contributed \$2,875 of the \$5,000 donated by WVOS to the hospital.

As you know, the WVOS board approved \$5,000 to help purchase the Surgical Implant Generation Network (SIGN) femoral/tibial nail system to be placed in Hospital Sacra Cour in Milot, Haiti, a Haitian hospital that is frequently visited by Drs. Sale, Sibley and other WVOS members.

In a letter of thanks from CRUDEM Foundation President Peter J. Kelly, M.D., he said, "On behalf of the Board of Directors, the many people involved with The CRUDEM Foundation, and most importantly, the patients we are serving in Haiti, we express our sincere gratitude for your recent donation to purchase a nail intramedullary system by SIGN to help meet the needs of Hopital Sacre Coeur in Milot in the wake of Haiti's tragic earthquake.

"Within the first week following the earthquake, the hospital received

approximately 250 severely injured patients from Port au Prince and more continue to arrive. We are receiving the most severely injured through the US Navy and US Coast Guard helicopters because we have the greatest capacity and expertise to treat them. There are now three schools in the community that have been turned into hospital wards and triage. With the support of our volunteers and added space, we have grown from a 73-bed to a 420+-bed hospital in less than a week but our quality of care has not been compromised.

"Your generous support is greatly appreciated. As our need and services have expanded, so have our need for resources. We are doing all we can for as many as we can.

"It is utterly heartbreaking to watch the images and read the news about Haiti that still show such disastrous conditions but through our collective efforts, we are making a big difference in the lives of so many of the Haitian people and keeping hope alive.

"Please pray for the efforts of all involved. We could not do this without the support of all of you.

"Thank you again for your kind generosity."

Protecting Patient Information

According to the U.S. Department of Justice statistics, identity theft is currently surpassing drug trafficking as America's No. 1 crime.

Theft of sensitive data knows no bounds. Blue Cross/Blue Shield, Harvard University, Kraft Foods and Northwestern University Faculty Foundation are four examples of organizations that have experienced a data breach of sensitive consumer or patient data.

In a 2010 Health Information Management Systems Society (HIMSS) study, 66 percent of respondents indicated that the source of the breach was unauthorized access to information by an individual employed by the organization at the time of the breach.

This was most closely followed by the wrongful access of paperbased patient information (32 percent). Eleven percent of respondents noted that data was compromised when a laptop, handheld device or computer hard drive was lost or stolen.

The message – anyone can be a victim. But the good news is that there are ways to protect yourself and your patient's data.

First assess your risk by asking yourself the following questions:

- Do you or your staff take home laptops to catch up on patient paperwork outside of clinic hours?
- Do you ensure that your staff members are able to gain access only to the patient information they need to do their jobs?
- Do you know where your patient information resides within your network, PCs, portable devices, and backup storage?
- How secure is your practice's office building when you are not in it? How can you cover your bases?
- If you have an EMR, don't revert back to paper charts; they are just as vulnerable to theft.
- When you electronically transmit patient data (claims processing) to a third party, make sure that transmission is encrypted on both ends.
- Physically secure all of your practice's hardware when closing your clinic at the end of each day.
- Learn about security measures provided at your building.
- Consider purchasing new hardware that goes beyond password protection.

**How do you
protect your
practice's
confidential
patient
information
from theft or
breach?**

HIPPA Privacy & Security Upated

The HITECH
Act also
amended
HIPPA in
several major
ways.

Here are recent changes to the Privacy and Security Rules and Action items for providers.

Changes to HIPPA Privacy Rule

Minimum Necessary Rule. Under the HITECH Act, there is a presumption that the minimum necessary protected health information (PHI) that may be disclosed must exclude certain identifiers, such as name, addresses, and 13 other identifiers specified in the Rule. A provider will always be safe in disclosing information that excludes these identifiers. If a provider discloses more, he or she will have to justify doing so--primarily by referring to specific release language signed by the patient.

Disclosure Accounting. HITECH changes logging and accounting rules for health care providers who use an EHR. For such providers, there will no longer be exemptions from logging and accounting. Accordingly, most disclosures of PHI will have to be logged and accounted for.

If a provider acquires EHR after January 1, 2009, the new rules will apply to disclosures of PHI made after January 1, 2014. These rules will also apply to disclosures by business associates,

which is a significant new burden. (Effective 1/1/14, for EHR acquired as of 1/1/09; Effective 1/1/11 for EHR acquired after 1/1/09.)

Restriction Requests.

HITECH increases a patient's right to request restrictions on disclosure of his or her PHI. Providers must agree to patients' requests to restrict disclosure of PHI to an insurance company if the patient paid cash for the service. (Effective 2/17/10)

Prohibition of sale of records. HITECH adds a new provision prohibiting providers from receiving payment in exchange for disclosing PHI to third parties, unless the patient signs a release specifically stating that such may occur. An important exception to this rule applies to the sale or merger of medical practices. (Effective 8/18/10)

Patient access to EHR. HITECH adds a new provision requiring providers, if they maintain PHI in electronic form, to provide that PHI to the patient in electronic form if the patient so requests. (Effective 2/17/09)

Changes to HIPPA Security Rule

The following changes took effect on 8/17/09.

Technical safeguards.

The Department of Health

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and Human Services (DHHS) will be required, each year, to publish guidance on the "most effective and appropriate technical safeguards for use in carrying out the HIPAA security safeguards." Although health care providers will not be required to follow these published guidelines, they will have to document their reasons for not doing so. In essence, the published guidelines create a safe harbor if they are followed, but do not necessarily create liability if they are not followed.

Notification to patients of breach of privacy. The HITECH Act creates a new requirement for providers to notify patients if the provider discovers a "breach" (i.e., unsecured disclosure) of protected health information (PHI). Written notification to patients must be provided by first class mail. If the breach affects 10 or more patients whose contact information is not known to the provider, notification must be on the provider's Web site or in major print or broadcast media. If the breach involves more than 500 patients, notification must also be made to prominent news outlets in that state.

The above notifications must all be made within 60 calendar days after

discovery. The notice must also contain the following information:

1. A brief description of when and how the breach happened;
2. The steps the patients should take to protect themselves from harm; and
3. A description of what the provider is doing to investigate the breach, mitigate its effect and prevent it from reoccurring.

Providers must also give written notice to DHHS of all breaches, and must keep a log of all breaches, which must be submitted annually to DHHS.

Business associates of providers must be required, through business associate agreements, to notify the provider of breaches of unsecured PHI. The provider, in turn, must then follow the rules discussed above in notifying the patient.

Action Items for Providers

1. Prepare written policies for notification of your patients in the event of a breach of patient privacy.
2. Update your policy on patient requests to restrict disclosures of PHI.
3. Update your policy on patient access

HIPPA Rules Continued on pg 8

Changes to
HIPPA security
rules have
impact until
2014.

News of note:

**Our
condolences
to the family
of Luis Loimil,
who passed
away in
September.**

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- to electronic health information.
4. Update your business associate policy and amend business associate agreements; get the new agreements signed by all business associates.
 5. Update your policy on the "minimum necessary" standards for disclosure of PHI.
 6. Prepare policy on the restriction against the sale of PHI. (8/18/10)
 7. Update your policy on logging and accounting for disclosures of electronic PHI. (See dates above)

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Diane Silver MD, a dermatologist from California, recently sent a letter to her patients expressing her concerns about the upcoming changes in healthcare.

In essence, the over 2000-page healthcare bill has significant and draconian changes to the way we practice medicine. The SLURPERS (section 1311) will be establishing clinical protocols that we physicians must follow. This will not save money. Due to the new healthcare law, my healthy daughter's insurance premiums went up about 22% this past year.

The time for involvement by the individual doctors is now!!! We must engage the government on these unneeded, expensive, unproven, and unfunded rules and regulations that will bring harm to our patients. We have a choice; be at the table protecting our patients or on the menu being ordered by SLURPERS.

"WE ARE WHAT WE REPEATEDLY DO, EXCELLENCE THEREFORE IS NOT AN ACT, BUT A HABIT."
-Aristotle

NOTE: SLURPERS and BUFFING came from Shem's book "The House of God." Also, if anyone wishes a copy of Dr. Silver's letter to her patients, please email me at k2bones@yahoo.com and I will forward it on.

**Mark your
calendar for the**

**2011
MidWinter
Meeting**

**March 19, 2011
Marriott Town
Center Hotel
Charleston, WV**