MARCH/APRIL 2009

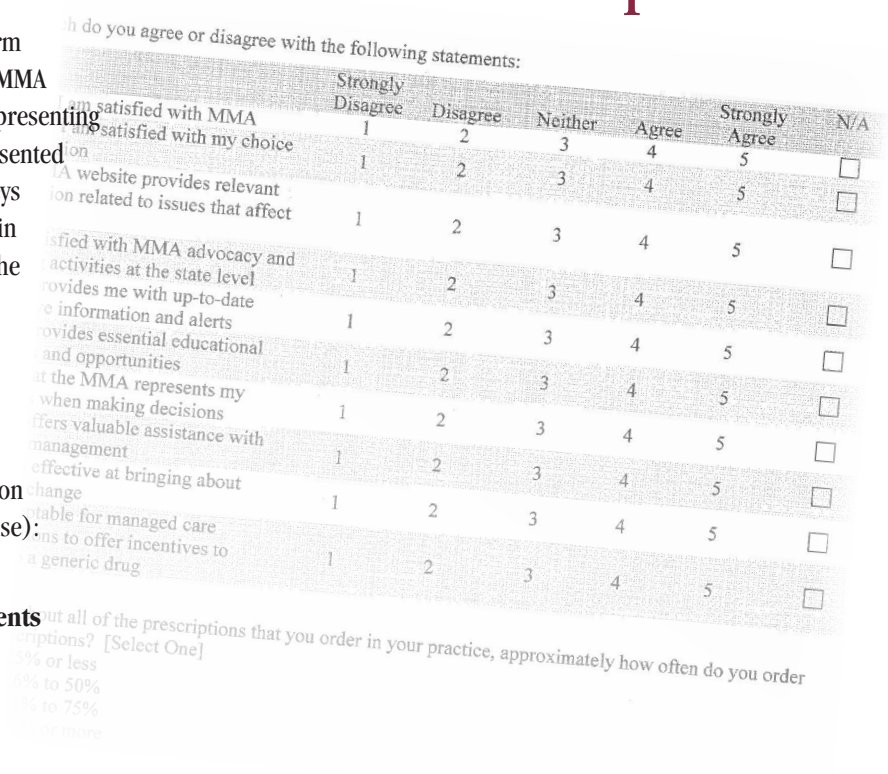
Maine medicine

MAINE MEDICAL ASSOCIATION

IN THIS ISSUE

Membership Opinion Survey Results Reveal Some Surprises

Throughout November and December, 2008, the survey research firm Enetrix, now part of the Gallup organization, conducted a survey of all MMA active members. Many thanks to the 605 members who responded, representing a participation rate of greater than 34%. This excellent response represented the best response in any of the seven state societies where similar surveys have been conducted by Enetrix. Of the respondents, about 20% were in solo practice, 35% in groups of between two and five physicians, with the remainder in larger groups. Primary Care physicians represented 38% of respondents. About half of the respondents were employed and the other half in private practice or employed in a private group. For the most part, the opinions expressed by employed physicians did not differ from those expressed by those practicing privately.



When asked to identify the issue that currently has the most impact on day to day practice, members cited most frequently (in order of response):

Health Plan policies
Inadequate or no insurance coverage for patients
Medicare reimbursement
MaineCare reimbursement
Healthcare workforce shortages

Of significance, medical liability was noted by only 7.7% of respondents, although the issue still resonated with obstetricians and specialty surgeons. Employed physicians expressed frustration with trying to balance work and family responsibilities.

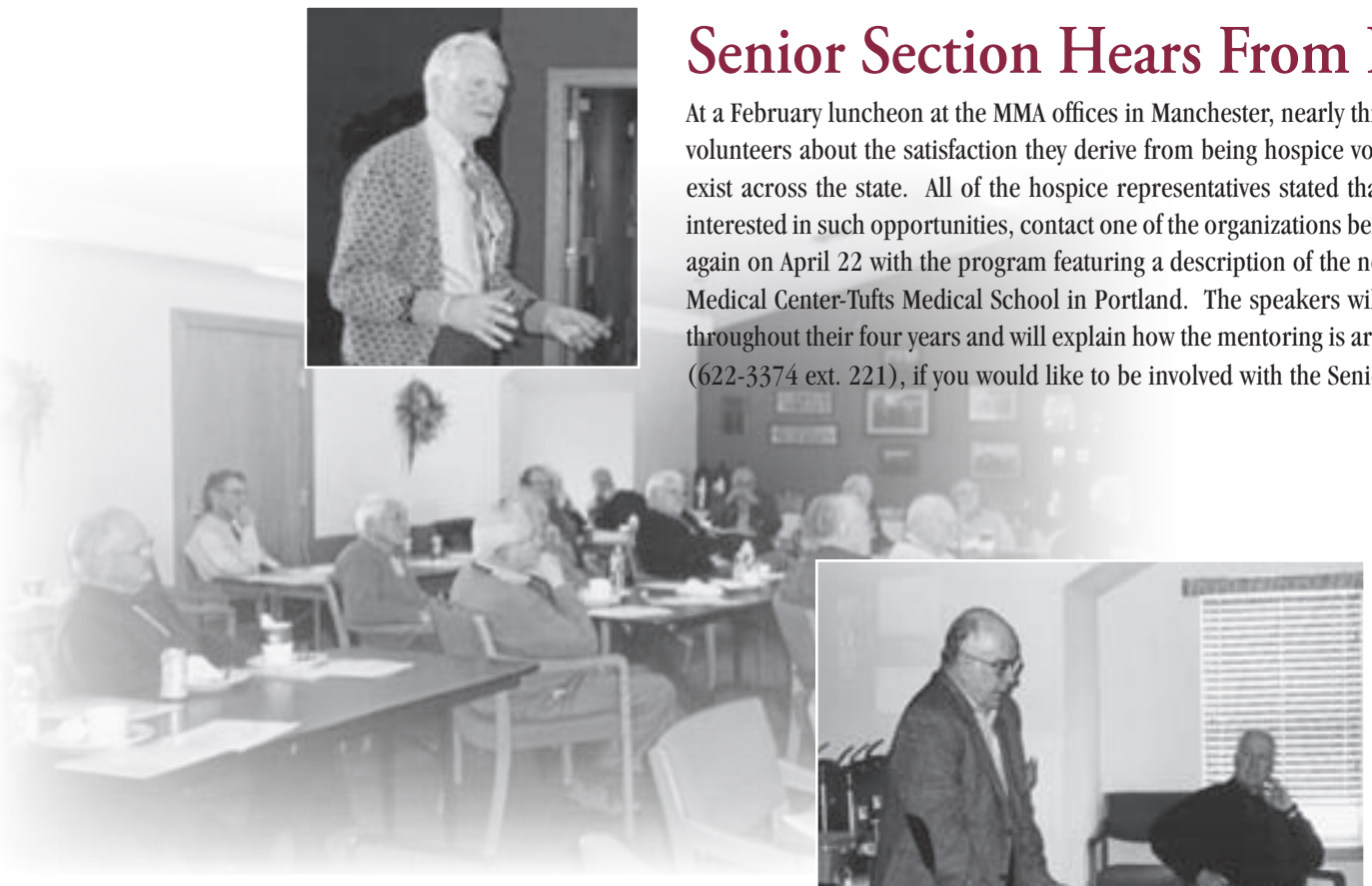
When asked to select the three issues they believed were of the greatest concern to the future of medicine and patient care, the choice was a runaway, with nearly 60% of respondents citing expanding access to care for the uninsured. This was the issue identified by virtually all members, regardless of specialty. Other issues mentioned frequently were unhealthy lifestyles, physician shortages, and quality of care. Similarly, when asked to identify what issues MMA should focus on in 2009, 79% of respondents cited the need to work to reform the healthcare system in Maine and nationally. Addressing the workforce shortage also ranked high with a 57.5% response.

The 21st question elicited a response likely to attract some media attention. When asked the question, *When considering the topic of health care reform would you prefer to make improvements to the current public/private system or a single-payer system such as a "Medicare for all approach,"* members expressed a preference for a single-payer system 52.3% versus 47.7%.

Nearly 85% found value in their MMA membership. We hope you were one of those respondents. If not, we will try hard to win you over.

Copies of the complete survey and responses, broken down by specialty, years of practice, size of practice, employment/private practice, and gender are available from the MMA office and on the MMA website at www.mainemed.com in the members only section. Thanks again to all of you who took the time to respond.

Senior Section Hears From Hospice Volunteers



At a February luncheon at the MMA offices in Manchester, nearly thirty members of the MMA Senior Section heard from hospice volunteers about the satisfaction they derive from being hospice volunteers. Some training is involved, but many opportunities exist across the state. All of the hospice representatives stated that physicians make excellent hospice volunteers. If you are interested in such opportunities, contact one of the organizations below or a hospice organization in your area. The Section meets again on April 22 with the program featuring a description of the new medical school in Maine to start this fall 2009, the Maine Medical Center-Tufts Medical School in Portland. The speakers will offer opportunities for mentoring these incoming students throughout their four years and will explain how the mentoring is arranged and the training for mentors. Call Lisa Martin at MMA (622-3374 ext. 221), if you would like to be involved with the Senior Section and have not been receiving invitations.

Androscoggin Home Care & Hospice
Roger Austin, MD., Medical Director
207-777-7740

Hospice of Mid Coast Maine
Betsy Elder, Executive Director
207-729-3602

Hospice of Southern Maine
Bonnie Cloukey, Community Relations Liaison
207-289-3659

Top to bottom, Roger Condit, M.D. speaks of his experiences as a hospice volunteer; members of the Senior Section hear about opportunities to become hospice volunteers; and Will Eastman, M.D. introduces Dr. Condit.

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AMA Provides Summary of H.R. 1, the American Recovery & Reinvestment Act of 2009

The AMA has posted a summary of the stimulus conference agreement signed by President Obama in Denver on February 17, 2009. At the end of the summary are links to 3 other documents summarizing provisions of the comparative effectiveness research, health information technology, and privacy provisions of the American Recovery & Reinvestment Act of 2009. You can find the summary here: http://www.ama-assn.org/ama/pub/legislation-advocacy/current-topics-advocacy/hr1-stimulus-summary.shtm.

Stephanie Lash, M.D., President, MMA

President's Corner

Your Relationship with Drug and Device Manufacturers

What is OK today? Twenty years ago, when I was in training, the culture around the relationship between physicians and pharmaceutical and mechanical device sales people was relatively permissive. There was little oversight, and few standards were widely accepted. I don't recall ever having a conversation with an attending about potential conflict of interest or other concerns related to this relationship. Today, however, there is quite a bit of oversight, whether it is in the form of standards from a particular institution or organization, or ethical guidelines from organized medicine, or, more recently, from the government. While some individuals take an all, or in this case nothing approach, most physicians favor a more nuanced response. The Massachusetts Department of Public Health has recently undertaken rule making to try to define what is acceptable, following enactment of a state law mandating more scrutiny. These regulations are likely to represent where we are, in a general sense on this issue. The Massachusetts regulations have been reasonably well received, with the president of the Mass Medical Society saying they are, "something we can live with." While Maine has not undertaken such a formal process, it is instructive to review these regulations, as this seems to be where the consensus lies on these relationships. And, they suggest reasonable limits for what is acceptable today. I can be reached at 947-0558 or stephanielash@roadrunner.com

Summary of the Proposed Gift Regulations in Massachusetts

Who Would be Affected?

- Those who prescribe drugs.
- Those licensed to provide health care.
- Partnerships or corporations comprised of the above.

What Would Be Prohibited?

General:

- Grants, scholarships, subsidies, consulting contracts or education items in exchange for prescribing or disbursing prescriptions or medical devices.
- Entertainment or recreational items of any value.
- Cash payments or equivalent, except as compensation for bona fide services.
- Complimentary items such as pens, coffee mugs, etc.
- Meals as part of an entertainment or recreational event.
- Meals offered without an informational presentation by a pharmaceutical or medical device marketer.
- Meals outside of a caregiver's office, hospital, academic medical center, or specialized training facility.
- Meals provided to a caregiver's spouse or other guest.

CME Conference and Meeting Prohibitions:

- Financial support (travel, lodging, personal expenses) for non-faculty physicians.
- Direct payment of meals.
- Sponsorship of CME, not compliant with accepted ACCME standards for commercial support.

What is Permissable?

- Modest meals with informational sessions in clinical training settings.
- Sponsorship of meals at professional meetings.
- Reasonable compensation for a genuine research project or clinical trial.
- Reimbursement of reasonable costs for medical device training with a written agreement to buy the device.
- CME, conference, or meeting scholarships for residents and interns.
- Conference faculty compensation and reasonable expenses.
- Provision of peer-reviewed journals or other academic, scientific, or clinical information.

Disclosure Requirements:

- Pharmaceutical and medical device manufacturers must report any "fee, payment, subsidy, or other economic benefit worth at least $50 to any physician or other covered person or corporation in connection with sales and marketing activities."

Note: It is not clear whether the $50 limit is for one transaction or cumulatively during the reporting period.

Enforcement:

- Violators are subject to fines of up to $5,000 per transaction, occurrence, or event. Fines and reporting are the responsibility of the industry, not the physician.

Source: Massachusetts Department of Public Health

Note: The preceding list is not all-inclusive, and the regulations are not final. Items listed as "permissible" should not be construed as legal advice.

MMA/BOLIM Chronic Pain Project Continues

By Noel J. Genova, MA, PA-C

The MMA/BOLIM Chronic Pain Project has completed its first year, with consideration for continued funding after June 30, 2009, when the current contract expires. Project Director Noel Genova has visited 8 practices, with about 50 participating clinicians, and many other key staff of the practices, including RNs, MAs, and office managers. Evaluations of the in-office CME component of the visits have been very good to excellent. Overall evaluations—which are returned to Gordon Smith and are completely confidential—reflect the great value of the visits to participating practices.

A related CME home study remains available on MMA's website. This offering will be updated, and made more user-friendly, if funding for the Project continues.

To learn more about the Project, contact Gordon Smith, or Noel Genova, PA-C, at NoelPAC@aol.com, or 671-9076 (cell).

Upcoming at MMA

APRIL 3	9:00am – Noon	*First Fridays* CME: HIPAA Update
APRIL 8	8:00am – Noon	Maine Chapter, Medical Group Management Association
	6:00pm – 8:30pm	Payor Liaison Committee
APRIL 10	7:30am – 9:30am	Annual Corporate Affiliate Breakfast at Portland Country Club
	8:00am - 12:30pm	E&M Chart Auditing Class
APRIL 15	2:00pm – 5:00pm	MMA Executive Committee
	5:00pm – 7:00pm	MMA Operations Committee Meets with MOA Executive Committee
APRIL 16	6:00pm – 9:00pm	MAPP Executive Committee Meeting
APRIL 17	8:00am - 12:30pm	E&M Chart Auditing Class
APRIL 21	5:00pm – 9:00pm	American Academy of Pediatrics, Maine Chapter
APRIL 22	11:30am – 2:00pm	MMA Senior Section
APRIL 24	8:00am- 12:30pm	E&M Chart Auditing Class
APRIL 28	Noon – 1:00pm	Staff "Lunch & Learn"
MAY 1	8:00am – 12:30pm	E&M Chart Auditing Class
	9:00am – Noon	*First Fridays* CME: Electronic Medical Records
MAY 6	12:00pm – 2:00pm	Aligning Forces for Quality, Executive Leadership Team
	2:00pm – 5:00pm	Quality Counts
MAY 7	4:00pm – 6:00pm	Committee on Physician Quality
MAY 8	8:00am- 12:30pm	E&M Chart Auditing Class
MAY 11	5:30pm – 8:30pm	Medical Professional Health Committee
MAY 20	9:00am - 1:00pm	Patient Centered Medical Home
	4:00pm – 6:00pm	Public Health Committee
MAY 21	9:30am - Noon	Home Care Alliance
MAY 26	Noon- 1:00pm	Staff "Lunch & Learn"
JUNE 3	2:00pm – 5:00pm	Executive Committee
JUNE 4	4:00pm – 6:00pm	Committee on Physician Quality
JUNE 16	8:30am- 3:30pm	APIC, Pine Tree Chapter
JUNE 17	9:00am – 1:00pm	Patient Centered Medical Home
	6:00pm – 8:30pm	Payor Liaison Committee
JUNE 18	8:30am - 11:30am	Pathways to Excellence Physician Steering Committee
	6:00pm – 9:00pm	Maine Association of Psychiatric Physicians, Executive Committee
JUNE 22	11:00am – 5:00pm	Annual MMA Benefit Golf Tournament at Augusta Country Club

Upcoming Specialty Society Meetings

APRIL 17, 2009 — Hilton Garden Inn – Freeport, ME

Maine Association of Psychiatric Physicians 2009 Annual Psychiatric Update
Differential Diagnosis of Mood Swings & Irritability & Forensic & Psychiatry
7:30am – 5:30pm
Maine Association of Psychiatric Physicians 2009 Annual Spring General Membership Meeting
The One Minute (Medication) Manager
5:30pm – 9:00pm
MMA Contact: Warene Eldridge 207-622-7743 or weldridge@mainemed.com

MAY 1, 2009 — Harraseeket Inn – Freeport, ME

Maine Society of Eye Physicians and Surgeons Spring Meeting
MMA Contact: Shirley Goggin 207-445-2260 or sgoggin@mainemed.com

MAY 2-3, 2009 — Jordan Grand Hotel at Sunday River – Bethel, ME

Alternative and Complementary Pediatric Medicine Summit
Spring Conference of the American Academy of Pediatrics, Maine Chapter
Contact: Aubrie Entwood 207-782-0856 or agridleyentwood@aap.net
www.maineaap.org/conferences.htm

MAY 29-31, 2009 — Harborside Hotel & Marina - Bar Harbor, ME

Maine Chapter of American College of Surgeons 2009 Annual Scientific Meeting
Contact: Joel LaFleur, MD, FACS 207-593-5723

JUNE 6, 2009 — Hilton Garden Inn – Freeport, ME

Maine Gastroenterology Society – Gastroenterology Update
MMA Contact: Gail Begin 207-622-3374 ext: 210 or gbegin@mainemed.com

JUNE 25, 2009 — Lobster Bake on Cabbage Island

Maine Chapter, American College of Emergency Physicians
Contact: Anna Bragdon 207-441-5989 or maineacep@roadrunner.com

OCTOBER 2, 2009 — Harborside Hotel & Marina - Bar Harbor, ME

Maine Society of Eye Physicians and Surgeons Fall Business Meeting
10:30am – 12:00pm *(To be held in conjunction with the 8th Annual Downeast Ophthalmology Symposium)*
MMA Contact: Shirley Goggin 207-445-2260 or sgoggin@mainemed.com

OCTOBER 2-4, 2009 — Harborside Hotel & Marina - Bar Harbor, ME

8th Annual Downeast Ophthalmology Symposium
(Presented by the Maine Society of Eye Physicians and Surgeons)
MMA Contact: Shirley Goggin 207-445-2260 or sgoggin@mainemed.com

OCTOBER 16-18, 2009 — Jordan Grand Hotel at Sunday River – Bethel, ME

Maine Chapter of the American College of Physicians Annual Scientific Meeting
MMA Contact: Warene Eldridge 207-622-3374 ext: 227 or weldridge@mainemed.com

Notes from the EVP


Gordon Smith, MMA EVP

I hope Spring finds you all well and that the active winter weather is behind us. This is a very active time for MMA with state and federal legislative activities front and center. It will be very interesting to see if President Obama can successfully reform the health care system, a goal which has alluded so many others. I wish him well and will be watching with great interest and MMA will be an active participant where possible.

On the front page of this issue of *Maine Medicine,* you will find an article on the comprehensive membership survey conducted in November-December, 2008. I can't thank you enough if you were one of the over 600 active members who took the time to complete the survey. With a response rate of 34.6%, MMA members exceeded the response rate of the other seven state societies who have done similar surveys conducted by the Enetrix firm, now part of the Gallup organization.

I will not repeat what is in the front page article, but I do want to provide some perspective of what we have learned from this survey. Not surprisingly, MMA members are very unselfish in expressing their interests, leading with increasing coverage for the uninsured. Members are also very satisfied with their choice of profession, and believe that MMA is effective in representing their interests. Your MMA Executive Committee, 28 members strong, has spent a lot of time reviewing the responses and examined whether in the face of the responses, MMA is spending our time doing the things that make a difference to our members. Have we correctly determined the priorities?

In reviewing the results, we believe that the issues you determined to be important, such as health system reform and the uninsured, MaineCare, Medicare and the workforce shortage, are the Association's priority issues. It is nice to know. And for those of you among the 84% who indicated that they found value in their MMA membership, I thank you. And if you were part of the 16%, we will worker harder and smarter to win you over. Have a great Spring! If I can be of assistance or if you would like to share with me an idea or concern, please call me at 622-3374 ext: 212 or email me at gsmith@mainemed.com.

Invite a Physician to Join MMA

Encourage your colleagues to become an MMA member and take advantage of the benefits of membership.

Contact Lisa in the MMA Membership Department at 622-3374 ext: 221 or email lmartin@mainemed.com.

Thanks to 2009 Sustaining Members

Thank you to the following practices who have shown their support for the MMA's long-term growth by renewing at an additional sustaining membership level.

InterMed

Coastal Women's Healthcare

Thank You

Updated Sentinel Event Statistics

The Joint Commission's sentinel event statistics have been updated on the Web site, **www.jointcommission.org**. Since the sentinel event database was implemented in January 1995 through December 31, 2008, The Joint Commission has received 5,632 reports of sentinel events. A total of 5,765 patients were affected by these events, with 3,977, or 69 percent, resulting in patient death. The 10 most frequently reported sentinel events are:

Wrong-site surgery	741
Suicide	698
Operative/post-operative complication	631
Medication error	492
Delay in treatment	442
Patient fall	341
Assault, rape or homicide	218
Unintended retention of foreign body*	212
Patient death or injury in restraints	189
Perinatal death or loss of function	175

*=Added to reviewable events in June 2005; data represents events reviewed since that time.

The Joint Commission to Include Patient Satisfaction Data on Quality Check™

People seeking information about how patients perceive the care they received at a particular hospital can now find this information on The Joint Commission's Quality Check™ Web site, www.qualitycheck.org. The Hospital Consumer Assessment of Health Providers and Systems (HCAHPS) data from the Centers for Medicare & Medicaid Services' (CMS) Hospital Compare Web site is posted on Quality Check™ beginning in February. This information will be updated quarterly. HCAHPS information comes from patient ratings of communication with doctors, communication with nurses, responsiveness of hospital staff, cleanliness and quietness of the hospital, pain management, communication about medications, and discharge information. HCAHPS data is only available for hospitals that are eligible for and choose to participate in the HCAHPS program. In addition to information about patient satisfaction, Quality Check also includes data from CMS on 30-day mortality rates for heart attack, heart failure and pneumonia. Thousands of people use Quality Check each month to find information about the more than 15,000 accredited health care organizations that have earned The Joint Commission "Gold Seal of Approval." Quality Check provides details about an organization's accreditation status, efforts to prevent medical mistakes by complying with National Patient Safety Goals, and comparison information about how hospitals comply with National Quality Improvement Goals such as giving heart attack patients aspirin within a specified timeframe.

Gina Hobert, Director

Coding Updates *by Gina Hobert, BS,CPC, CPC-H, CMOM, Director, The Coding Center*

Maine Medical Association Tel: 888-889-6597 Fax: 207-512-1043 ghobert@thecodingcenter.org

Recently, I had the pleasure of speaking with the lead provider auditor at Anthem Blue Cross Blue Shield headquarters regarding their (E/M) Program that was launched in Maine a little over a year ago. *The goal of this program is to provide physicians with education in regards to their practice billing patterns and the proper documents required for high level office visits in the promotion of cost-effective, quality care.*

Anthem conducts a yearly analysis of paid claims data in order to identify billing practices that are statistically different from their normative data. One area that has been focused in on is the percentage of intensive Evaluation and Management Codes (E/M) at the top two levels for new patients (99204, 99205), established patients (99214, 99215), and outpatient consultations (99214, 99215).

There are two different tiers that a provider could fall under to be considered an outlier compared to their peer group. The first tier is for providers that have been identified as billing 90% or higher for E/M codes at the top two levels in one or more of the E/M categories listed above. The second tier is for providers that have been identified as billing their claims between 80% and 89.99% of the time at the top two levels.

In Tier 1 the provider(s) are asked to review their billing practices in accordance with the guidelines of the E/M section of the CPT Coding Book and the CMS 1995-1997 E/M Documentation Guidelines. In addition, Anthem is offering to review five clinical notes of its members and provide educational feedback regarding their findings with no monetary consequences.

Responding to and submitting five clinical notes are certainly optional and a decision that I would recommend you consider. In addition to the review that Anthem is offering, they will provide you with detailed information in a form of an education letter that includes underlined and/or highlighted areas where they feel the provider could improve their documentation reporting and accuracy.

In Tier II the provider(s) have been identified as being in the top 10 percentile and billing their claims between 80% and 89.99% of the time at the top two levels. In this letter, Anthem asks the provider(s) to review the CMS/AMA Documentation Guidelines and perform a self audit. Anthem also provides contact information within this letter should you have any questions regarding their suggestion.

A Tier II letter is simply a non-threatening notification that your billing patterns are higher than the standard deviation when compared to all network physicians in your specialty within the State of Maine.

Data is reviewed on an annual basis of each provider peer group. As a result, future phases of this program may result in audits of E/M services rendered with respect to appropriate coding. After having the opportunity to talk with Anthem directly and better understanding the purpose of this program, it would be my recommendation that if you receive one of these two letters, you take advantage of the service and information Anthem is willing to provide.

Anthem supports the Department of Health and Human Services Office of Inspector General (OIG) proposal that all physician offices have a billing compliance plan. Part of that plan includes ongoing education in the area of E/M coding and Consultations. The OIG recommends a basic internal audit of 10 to 20 cases per provider on an ongoing basis determined by your practice. Depending on the results of your basic audit, you may determine an expanded review is necessary.

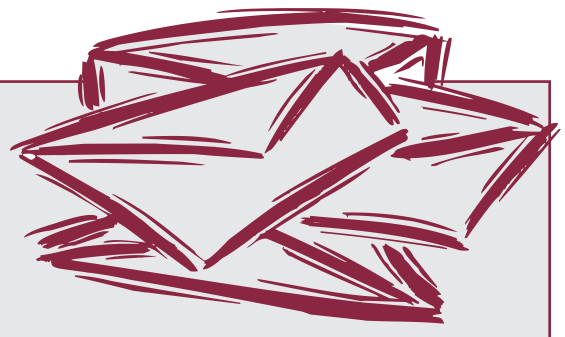
The program in which Anthem has put into place, in a sense, is a way of helping you identify those areas that need improvement. Whether it is a recommendation for a self audit or submitting five clinical notes, the purpose is to teach providers proper documentation to support the medical necessity of service based on the documented chief complaint, signs and/or symptoms.

The Coding Center (TCC) provides chart auditing services to physicians and midlevel providers and/or on-site education to both physicians and office staff of all specialties.

If you have questions about the information in this article or other coding questions, or wish to discuss the possibility of a chart audit in your practice, feel free to contact me at 888-889-6597.

Medical Mutual Insurance Company of Maine Risk Management Practice Tip:

Billing and Collection Practices Impact the Physician/Patient Relationship



Supporting the physician-patient relationship involves addressing the financial portion of patient care. Educating and informing patients of your expectations and their responsibilities sustains a harmonious relationship and sets the tone for prompt payment.

Office Practice Systems facilitate the exchange of relevant financial information. Be sure to:

- Ask patients to verify self-pay or their insurance coverage related to co-payments, deductibles, exclusions, and rules regarding physician services or self-referrals.
- Confirm or update the patient's current address and telephone numbers at each visit.
- Provide billing policy information in a practice brochure and in a conspicuous venue in the office.
- Clarify whether you accept credit card payment, insurance assignment or expect payment at the time of service.
- Inform patients whether you offer assistance in completing insurance forms.
- Notify the appropriate billing staff when a special billing arrangement is made by a physician.

Utilize strategies to enhance accounts receivable:

- Set specific due dates in your billing statements.
- Mail statements to arrive several days before the end of the month as many patients pay their bills on the first of the month.
- Include a brief note with the billing statement in which an outstanding balance is highlighted making patients aware their account is receiving personal attention.
- Print "return service requested" on the front of envelopes. The postal service will return the envelope with a forwarding address or with the reason the mail was undeliverable.
- Enclose a courteous letter with a past due billing statement asking the patient to cooperate in resolving an outstanding balance.

In-house collections:

Telephone calls are an effective way to increase accounts receivable. Assign a pleasant, tactful staff member who can confidently communicate a payment demand.

- Avoid leaving a message that violates confidentiality by disclosing that the call is regarding a debt.
- Ask a patient for payment in full before you offer a payment schedule.
- Have the patient confirm his/her commitment to resolving an outstanding balance.
- Follow up with a considerate letter reiterating the promise to pay and the agreed upon terms.
- Remind debtors of broken promises within two days of the time a payment should have been received.

Collection options that warrant consideration:

- Initiation of a small claims court action.
- Reporting the account to a credit bureau.
- Retaining an attorney for collection purposes.
- Acquiring the services of a professional collections agency.

Collections Agency:

Interview a collections agency prior to entering into a business agreement.

- Consult with your attorney to review the service contract.
- Investigate references.
- Check with the Maine Better Business Bureau or the Maine Medical Association regarding any complaints.
- Review and approve forms and letters used by the agency. The tone and format of these communications are interpreted by a patient as coming directly from the physician.

Liability claims are sometimes in response to collections activity. The physician must be kept informed of ongoing collections efforts. The physician's written approval must be sought before the agency files a lawsuit against a patient or former patient.

Medical Mutual's "Practice Tips" are offered as reference information only and are not intended to establish practice standards or serve as legal advice. MMIC recommends you obtain a legal opinion from a qualified attorney for any specific application to your practice.

Kellie Miller, Director of Public Health Policy, MMA

Public Health Spotlight

We dedicate this issue of the Public Health Spotlight to National Public Health Week, April 6-12, 2009. www.nphw.org

America – Our Nation

Although we spend more on health care than any other nation, our nation is falling behind in many important measures of what it means to be healthy. In light of our failing health system, National Public Health Week (NPHW) 2009 raises awareness nationally and locally of public health's critical role in **restoring and ensuring** a healthy America.

Did you know…

- Approximately half of the 2 million deaths in the United States each year could be prevented.[1]
- Nearly 13 percent of Americans live in poverty. [2]
- U.S. life expectancy has reached a record high of 78.1 years, but still ranks just 46th among the world's industrialized nations. [3]
- More than two-thirds of American adults are overweight or obese and approximately 9 million children over 6 are considered obese.[4]
- America is one of the top 10 countries that have the most people living with HIV/AIDS.[5]
- The U.S. infant mortality rate is higher than those in most developed countries.[6]
- Health disparities persist in America with minority populations having nearly eight times the death rate for key health conditions, such as diabetes, than that of non-minority populations.[7]
- About 19 million Americans are infected with an STD each year and almost half of them are people ages 15 to 24.[8]

Building the Foundation for a Healthy America
National Public Health Week
April 6-12, 2009 • www.nphw.org

And the list goes on. Despite the dramatic progress achieved through a century of public health advancements — the elimination of polio, fluoridation of drinking water and seatbelt laws — our nation's health falls far short of its potential. **Our progress has stalled, and we have reached a point where we must examine our health system and the foundation upon which it stands.**

We have the potential to greatly improve our population's health in the future. By recommitting ourselves to support our nation's public health system, we can build on the successes of the past and establish the solid foundation needed for a healthy nation. To this end, National Public Health Week (NPHW) 2009 will serve as the launch of the American Public Health Association's (APHA) new campaign – **Building the Foundation for a Healthy America.**

If you are interested in becoming involved in the MMA's Public Health Committee's efforts, contact, Kellie Miller, Director of Public Health Policy at kmiller@mainemed.com or 207-622-3374. The committee, chaired by Charles Danielson, MD, a practicing pediatrician in Waterville, is actively involved in inviting guest speakers on controversial and not so controversial subjects in the public health arena, is involved in refining organized medicine's public health policy efforts in the legislative and regulatory arenas, as well as assisting in bridging efforts to create stronger public health interventions at the community and clinical levels.

The Public Health Committee Meetings Dates for 2009 are: (meeting time is 4-6pm)
May 20, 2009
August 19, 2009
October 21, 2009
December 16, 2009

For more information, go to www.mainemed.com and click on public health policy.

Also the Maine Public Health Association's (MPHA) goal during this week is to raise awareness of the many ways public health touches our daily life all around us through embarking on a campaign to 'tag' examples of public health in our communities. To achieve their goal they have chosen to implement a campaign titled *This is Public Health*, designed by the American Schools of Public Health, to let people know that public health affects them on a daily basis and that we are only as healthy as the world we live in. If you are interested in more information and/or would like to order free stickers to place around your community, visit their website at www.thisispublichealth.org. This is their effort to highlight public health in action in our communities.

Please join the MPHA, legislators, and other public health professionals on April 9th at 1:00 pm at the State House Welcome Center for the NPHW press event where the top five favorite *This is Public Health* photos will be displayed.

For more information visit the following links:

Maine Public Health Association www.mainepublichealth.org/tiph
National Public Health Week www.nphw.org
This is Public Health www.thisispublichealth.org

1 Health Resource and Services Administration. Bureau of Health Professions. Key Public Health Facts.

2 U.S. Census Bureau, Housing and Household Economic Statistics Division. Poverty: 2007 Highlights.

3 Central Intelligence Agency World Fact book 2008.

4 National Center for Health Statistics, Obesity Among Adults in the United States — No Change Since 2003–2004.

5 Central Intelligence Agency World Fact book 2008.

6 National Center for Health Statistics. Recent Trends in Infant Mortality in the United States. Data brief, no 9: 2008.

7 American Public Health Association. Eliminating Health Disparities: Support Programs to Close the Gap. Washington, DC: 2008.

8 Centers for Disease Control and Prevention. Trends in reportable sexually transmitted Diseases in the United States, 2006: National Surveillance Data for Chlamydia, Gonorrhea, and Syphilis. Atlanta,GA: 2007.

Short Online Program Offers CME Credit

The AMA's online continuing medical education (CME) initiative, Educating Physicians on Controversies and Challenges in Health, has added a new program. The five-to-10 minute video, Motivating Patients to Change Behavior, provides patient-centered, goal-oriented counseling and interviewing strategies. The program also identifies how motivational interviewing differs from traditional patient-physician interactions.

Other modules in the series include:

- Patient Sexual Health History: What You Need to Know to Help
- Connecting Patients to Community Resources
- Preparing Your Practice to Address Family Violence
- Use of Complementary and Alternative Treatment by Patients
- Self Management Strategies for Vulnerable Populations
- Universal HIV Screening and Reducing HIV Disparities
- Binge Drinking

Each educational activity offers AMA PRA Category 1 Credit for CME. Find the programs at www.ama-assn.org/go/epoch.

Peter Wilk, M.D. Recognized at PSR Dinner

On January 30, MMA representatives and well over a hundred other guests recognized the outgoing President of the Maine Chapter of Physicians for Social Responsibility (PSR), Peter Wilk, M.D. Dr. Wilk left Maine shortly after the dinner to begin his new position as Executive Director of the national PSR organization. Dr. Wilk had been an active participant in the Maine Chapter since joining the organization back in 1981. The tiny PSR chapter he joined at that time is now a sustainable organization with a full-time professional staff and more than two hundred contributing members. A lot of that growth was due to the vision and commitment of Dr. Wilk.

From left, Gordon Smith, MMA EVP, Jo Linder, M.D., MMA Executive Committee Chair, and Dr. Wilk.

Dr. Wilk served as President of PSR/Maine from 1983 to 1994 and from 1998 to 2008. Beyond Maine, Dr. Wilk has served on the national board of directors of Physicians for Social Responsibility for many years and was President in 1995 and 2000. He has also been highly involved in International Physicians for the Prevention of Nuclear War, acting as Co-Vice President for North America from 1996 to 2000 and Speaker of the International Council from 2004 to 2008. Dr. Wilk has practiced psychiatry in Maine since 1981.

Newly elected Congresswoman Chellie Pingree gave the keynote address and was introduced by Lani Graham, M.D., Co-President of PSR/Maine. The Harry Bliss Award was present to Dr Wilk by Daniel Oppenheim, M.D., friend and the other Co-President of PSR/Maine.

At the conclusion of the evening, MMA Executive Vice President Gordon Smith and MMA Executive Committee Chair Jo Linder, M.D. presented Dr. Wilk with an Honorary Life-Time Membership in the Association, in recognition of his years of leadership in PSR/Maine. We wish him all the best in his new position directing the national organization.

EHR Users – CCHIT Needs Your Help!

The Certification Commission for Healthcare Information Technology (CCHIT) is seeking to compile a catalog of case histories of physicians who have implemented EHRs. President Obama is focused on speeding the adoption of health IT, and as interest in EHRs escalates, CCHIT wants to provide specific examples of how EHR usage improves both patient care and practice management.

CCHIT is looking to hear from practices large and small, in both urban and rural geographies, who have made tangible improvements to their practice by adopting EHRs. Since implementing EHRs have you:

- Contained or reduced costs?
- Provided better patient care?
- Kept more complete records?
- Increased revenue for your practice?
- Made safer and more informed decisions regarding the diagnosis, clinical treatment and ongoing health management of patients?

If you use EHRs and feel they have improved your patient care and/or practice, CCHIT wants to hear from you. Please contact John Morrissey, Communications Manager, CCHIT at jmorrissey@cchit.org.

Following review and editing, the case study will be returned for final approval by the practice. A contact email and phone number for the profiled practice must be included with submission.

Northern New England Poison Center

In Maine, New Hampshire and Vermont, the Northern New England Poison Center provides immediate treatment advice for poison emergencies. They also provide information about poisons and poison prevention, twenty-four hours a day, seven days a week.

POISON Help™
1-800-222-1222

Volunteers Sought to Serve as Physician of the Day at State House

The 124th Maine Legislature convened for its First Regular Session in December 2008. As has been the custom for several years, the Maine Medical Association and the Maine Osteopathic Association will provide a physician each day to provide emergency medical assistance should the need arise. Physicians are needed in all specialties. If you are able to give a few hours between now and mid-June (usually in the morning), please contact Maureen Elwell at 622-3374, ext. 219 or via e-mail to melwell@mainemed.com.

"Being the Doctor of the Day at the Legislature is not only enjoyable; it is a great opportunity to meet our lawmakers. It is not unusual for a lawmaker, even one who is not in your district, to seek out the doctor and ask an opinion about a particular bill. The physician has great visibility and can have an impact on measures that are important to the profession."

Adele Carroll, D.O., York County

Thank you for Serving as Physician of the Day

We would like to thank the following physicians who have served as physician of the day at the legislature so far this session.

Peter Amann, MD
AJ Candelore, DO
Judith Chamberlain, MD
Karyn Diamond, MD
Jonathan Fanburg, MD
Harold Friedman, MD
Timothy Goltz, MD
Jo Linder, MD
Tom Marshall, MD
David McDermott, MD
Barbara Moss, DO
Janis Petzel, MD
Victoria Rogers, MD
David Simmons, MD
Dustin Sulak, DO
James VanKirk, MD

Andrew MacLean, Esq.

Legislative Update

124th Maine Legislature's First Regular Session is in "Full Swing" at Midpoint

During their first two and a half months of work, legislators have enacted a supplemental budget (L.D. 45), have referred almost 1000 bills to committees of jurisdiction, and have immersed themselves in public hearings and work sessions on Governor Baldacci's final biennial budget proposal (L.D. 353) for SFY 2010-2011, the two years beginning July 1, 2009. The first session is expected to adjourn by June 17, 2009.

The 186 members of Maine's 124th Legislature have settled into the routine of their first session. Committees have organized and are scheduling public hearings and work sessions on the bills printed and referred so far. The day-to-day work of the session goes on in the context of the global recession and budget deficits at all levels of government in Maine, the distribution of federal stimulus money, and concerns about energy policy and tax reform.

The two physicians in the legislature, Senator Lisa Marrache, M.D. (D-Kennebec), a family physician from Waterville, and Representative Linda Sanborn, M.D. (D-Gorham), recently retired from a family practice, have been involved in the major health policy debates of the session since both serve on the Joint Standing Committee on Health & Human Services and Senator Marrache serves in leadership. Both physician legislators have been at the center of negotiations about Governor Baldacci's proposals to cut Medicaid reimbursement to critical access hospitals (CAHs) and to hospital-based physicians (HBPs). The MMA worked with the Maine Hospital Association in opposition to the cuts in the supplemental budget. The legislature rejected the cut to critical access hospitals, but adopted a compromise on the other matter by moving some money now going to hospital-based physicians through a federal program called "provider-based" reimbursement to the MaineCare fee schedule. The anticipated result of this action is that both physicians in private practice and those who are hospital-based will be paid according to a MaineCare fee schedule that reimburses practitioners for medical services at approximately 70% of Medicare rates, up from the current payment rates of approximately 57% of Medicare rates.

The Appropriations & Financial Affairs Committee began public hearings on the Governor's SFY 2010-2011 biennial budget, L.D. 353, in early February and concluded them in early March. The MMA and the MHA again opposed substantial cuts to critical access hospitals ($12 million in state and federal funds across the biennium) and to hospital-based physicians ($40 million in state and federal funds across the biennium) in these hearings. As this issue of *Maine Medicine* goes to press, the HHS Committee has formed a subcommittee to study the hospital reimbursement cuts and to make a recommendation to the full committee as it prepares its report and recommendations to the Appropriations Committee. The MMA supports the supplemental budget compromise on the HBP cut to pay both the HBPs and those paid according to the MaineCare fee schedule at 70% of Medicare rates. The legislature likely will try to enact the biennial budget by the end of March.

In addition to advocacy in state budget matters, the MMA has been involved in or expects to be involved in the legislative debate about a wide variety of health policy matters, including:

- Minors' rights to confidential health care services: L.D. 251, *An Act to Protect the Safety of Maine Children by Requiring the Express Consent of a Legal Guardian to Dispense Prescription Medication to a Minor* and L.D. 802, *An Act to Require Reporting on Medical Services or Treatment Provided to Minors without Parental Consent* (MMA opposes both and anticipates more on this subject)

- Obesity/healthy weight initiatives: L.D. 136, *An Act to Require the Provision of Unstructured Recess Time for Elementary School Students*, L.D. 161, *An Act to Amend the Special Education, School Health and School Nutrition Laws Regarding Scoliosis Screening, the School Lunch Program, Transitional Services, Gifted and Talented Programs and the Maine Mentoring Partnership Grant Program*, L.D. 319, *An Act to Track the Prevalence of Childhood Obesity in Maine*, and L.D. 610, *An Act to Add 10 Days to the School Year and to Require Daily Physical Exercise for All School Children*, and a menu labeling bill sponsored by Speaker Pingree that has not yet been printed. (MMA supports all)

- Motorcycle helmets: L.D. 437, *An Act to Require a Person Under 18 Years of Age to Wear a Helmet While on a Motorcycle* and L.D. 453, *An Act to Require Motorcyclists to Wear Helmets* (MMA supports both)

- Scope of practice issues: L.D. 683, *An Act to Promote Cost-Effective and Broad-based Vision Care for Maine Citizens by Clarifying the Scope of Prescription Authority by an Optometrist* and a bill, yet to be printed, to authorize pharmacists to administer certain immunizations (MMA is negotiating with other parties on both bills)

On Tuesday, March 10, 2009, Governor Baldacci delivered his State of the State address to a joint session of the Maine legislature. The Governor addressed key health care issues in Maine during the speech, including MaineCare settlement payments with our hospitals, promotion of primary care services, and improving access to medical education in Maine. You can read the text of the Governor's speech on the web at: http://www.maine.gov/tools/whatsnew/index.php?topic=Portal+News&id=69160&v=article-2008.

Please mark your calendar to join the MMA, the Maine Osteopathic Association, and medical specialty organizations for *Physicians' Day at the Legislature* on Thursday, May 21, 2009. Also, the MMA always is looking for volunteers to participate in the *Doctor of the Day Program* at the Maine State House. Please contact Maureen Elwell, Legislative Assistant, at melwell@mainemed.com to sign up.

During the legislative session, the MMA staff provides links to bills for review and comment, updates on the legislature's work, and calls-to-action through our weekly electronic newsletter, *Maine Medicine Weekly Update*. The MMA also holds weekly conference calls of the Legislative Committee on Thursdays at 8:30 p.m. To find more information about the MMA's advocacy activities, visit the Legislative & Regulatory Advocacy section of the MMA web site, www.mainemed.com. You will find more information about the Maine Legislature, including bill text and status, session and committee schedules, committee assignments, legislator contact information, audio coverage of legislative work, and newly enacted laws on the web at: http://janus.state.me.us/legis/.

The MMA welcomes your participation in our legislative advocacy activities. For more information, please contact Andrew MacLean, Deputy Executive Vice President, at amaclean@mainemed.com.

Sign Up to Be a Doctor of the Day at the Maine State Legislature

Call Maureen Elwell at 622-3374 ext: 219 for details

MMA Begins Contract with Maine DHHS to Provide Academic Detailing Services to Maine Clinicians

By Noel J. Genova, MA, PA-C

MMA has signed a contract with Maine DHHS for academic detailing/educational outreach services, which are pre-funded by a charge to pharmaceutical companies doing business with MaineCare. The program is a result of the Clinical Trials Law, passed in 2007. The Program, yet to be named, is directed by MMA's Public Health staffer, Kellie Miller. Two academic detailers, Erika Pierce of St. Albans, and Noel Genova, of Portland, both clinical Physician Assistants currently practicing in Maine, have been contracted and trained to do the actual outreach visits to Maine clinicians.

What is Academic Detailing?

Physicians are hungry for unbiased, independent, evidence-based information on clinical issues of importance to their patients. In addition to desiring the best outcome for their patients, all are increasingly aware that clinician decision-making comes at a monetary cost to individual patients, their families, their communities, and to the State. Academic detailing is a method for educating physicians in an unbiased manner regarding current evidence, and gaps in the available evidence.

It is neither policing, which is appropriate to situations in which there is no uncertainty (such as impairment), nor selling, which strives to convince physicians that there is little uncertainty (so the seller's product or message should be used without considering other approaches). While the program may reduce costs for medical care and prescriptions, it is not mainly a cost-savings measure, but a method for improving overall clinical care of patients. Academic detailing utilizes the personal relationship between the detailer and the physician to pass along information which is of interest and importance to physicians in their daily practices of medicine.

Although Academic Detailing has been used widely in Australia, UK, France, and the Netherlands for many years, the approach is relatively new in the US. Pennsylvania, South Carolina, and Vermont all currently have programs, in addition to programs in 5 Canadian Provinces. All use different models for development of the actual content of the materials used by the detailers, but use the same approach of individual visits to physicians. This allows the detailer to customize the presentation to the individual's needs, during the visit. Visits may be as short as 7 or 8 minutes, or as long as 45 minutes, depending on the physician's needs and desires.

Where Does the Program Stand in Maine?

A small committee, composed of staff at MMA, DHHS, and Goold Health Services (GHS) have met with the detailers. A meeting of an advisory committee, with physician participation, is planned for late April. The actual first clinical areas to be addressed have yet to be decided, but may be Type II diabetes, with attention to new recommendations for earlier start on insulin for affected patients, or anti-platelet therapy, with attention to appropriate use of aspirin and other agents. Finalization of materials will take several months, and the detailers hope to be fully "upskilled" on the clinical topics, and available for physician visits, by late summer or fall.

Examples of materials used in academic detailing may be found at www.Rxfacts.org, (this program is connected to the Independent Drug Information Service, or IDIS, at Harvard Medical School), or http://www.ohsu.edu/drugeffectiveness/, (the Drug Effectiveness Review Project, or DERP, of Oregon Health Sciences University's Evidence-Based Practice Center).

Physicians or PAs interested in participating in the Project should contact Kellie Miller at 622-3374 ext. 229, or Gordon Smith, at 622-3374 ext 212.

Identity Theft "Red Flag" Rule Update: FTC Responds to AMA - Red Flag Rule Applies to Health Care Providers

Brett D. Witham, Verrill Dana, LLP, Health Law Group and Health Technology Group (bwitham@verrilldana.com)

The Federal Trade Commission ("FTC") identity theft rule ("Red Flag Rule" or "Rule") requires "creditors" to develop written identity theft prevention programs. As we reported in the last edition of the newsletter, the FTC announced it would delay enforcement of the Red Flag Rule until May 1, 2009. We also reported that the American Medical Association ("AMA") requested clarification from the FTC about the interpretation of the term "creditor." The AMA took the position that medical providers should not be covered by the Red Flag Rule because they are not "creditors." The AMA also expressed concern about the administrative cost of compliance, particularly since medical providers must also comply with HIPAA.

On February 4, 2009, the FTC responded to the AMA, concluding that medical providers "are covered by the Rule when they regularly defer payment for goods or services." Accordingly, medical providers should conduct and document a risk assessment, and prepare and implement a written identity theft prevention program before May 1, 2009.

There is some good news. Along with a legal analysis of its position, the FTC provided compliance guidance to medical providers. The FTC reiterated earlier guidance that written programs may be structured "commensurate" with the risk. Higher risk entities "would tend to have more elaborate programs, while low risk entities could have streamlined and less complex programs." For example, "a small medical practice with a well known, limited patient base might have a lower risk of identity theft, and thus might adopt a more limited Program than a clinic in a large metropolitan setting that sees a high volume of patients." The FTC offered the following guidance to medical practices that present a lower risk of identity theft:

> For most physicians in a low risk environment, an appropriate program might consist of checking a photo identification at the time services are sought and having appropriate procedures in place in the event the office is notified - say by a consumer or law enforcement - that the consumer's identity has been misused. Such procedures might include not trying to collect the debt from the true consumer or not reporting it on the consumer's credit report, as well as ensuring that any medical information about the identity thief is maintained separately from information about the consumer.

The bottom line is that small to medium-sized practices will not be expected to have the same level of program complexity that a larger practice will be expected to have, and certain aspects of the program may require nothing more than identifying and documenting existing practices.

It is unclear how the FTC will enforce the Red Flag Rule. HIPAA enforcement has generally been passive in nature, with the Office of Civil Rights responding to complaints rather than conducting audits. With a new presidential administration and recent changes in the scope of HIPAA, HIPAA enforcement efforts may increase and FTC Red Flag Rule enforcement may follow suit. Regardless, in light of the upcoming May 1, 2009 enforcement deadline, medical providers would be well-advised to take steps to ensure their identity theft programs are in place before the enforcement date.

Get the Message: Physicians Must Provide Medical Interpreters When Needed

Your patients who require interpreters and/or auxiliary services such as written materials or assistive listening devices, either because of limited English proficiency (LEP) or hearing impairment, are entitled to certain rights under federal and state laws.

Physicians must ensure effective health care communication and compliance with these laws.

Non-compliance could be costly

Last fall, one New Jersey physician discovered his responsibility too late when a disability discrimination suit against him resulted in a $400,000 settlement to a deaf patient for whom the physician did not provide interpreter services. The physician was sued under the federal Americans with Disabilities Act (ADA), which applies to recipients of federal funding, including hospitals and physicians whose patients are covered by Medicare and Medicaid.

Exemptions for sign language interpretation

As of Jan. 1, 2009, federal and state laws mandate that when use of a sign language interpreter is indicated to ensure effective communication, that interpreter must be licensed.

A number of ambiguities exist within these laws (the ADA does not clearly define "effective communication") and certain exemptions may apply. For instance, an exemption may apply in a medical emergency when a licensed interpreter is not immediately available. When you are confused about whether the law applies, take advantage of your Maine Medical Association membership and call Andy MacLean, Esq. or Gordon Smith, Esq. for advice at 622-3374.

Interpreter guidelines and resources

- For guidance on meeting ADA requirements, visit www.ada.gov/business.htm for onscreen and print versions of "Communicating with People Who are Deaf or Hard of Hearing in Hospital Settings." An information line is also available: 800-514-0301 (voice) or 800-514-0383 (TTY).
- The U.S. Department of Health and Human Services' Office of Civil Rights web site provides resources and guidelines for serving LEP patients at www.hhs.gov/ocr/civilrights/resources/specialtopics/lep/index.html.

You have a legal requirement to provide interpretive and/or auxiliary services for your patients. Work closely with your patient to determine their preferences for these services – effective communication is the foundation for a healthy physician-patient relationship.

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Looking for E-Prescribing Info?

These online publications from the American Medical Association (AMA) and the Centers for Medicare and Medicaid Services (CMS) are a good place to start.

1. A Clinician's Guide to Electronic Prescribing (AMA) **www.ama-assn.org/ama1/pub/upload/mm/472/electronic-e-prescribing.pdf**
2. Medicare's Practical Guide to the E-Prescribing Incentive Program (CMS) **www.cms.hhs.gov/partnerships/downloads/11399.pdf**

Physicians may earn a 2-percent bonus on all 2009 Part B charges if they successfully meet Medicare's electronic prescribing reporting requirements.

Popularity of Retail Health Clinics May Be Slowing

The number of retail clinics may be increasing, but a new study reveals few are taking advantage of them.

Research released by the Commonwealth Fund revealed that in 2007, only 2.3 percent of American families had ever used a retail clinic, and most were uninsured and under age 34.

It is too soon to determine the impact the current economy will have on retail health clinics, but the study noted use may increase as health care costs and the number of uninsured continues to rise.

"While overall use of retail clinics remains modest, families with unmet medical needs to tend to use the clinics more than the rest of the population," explained Ha T. Tu, M.P.A., a study researcher.

The study also found:

- Nearly half of those surveyed used retail clinics for diagnoses and treatment of a new illness or symptom, and almost as many said their visits included prescription renewals.
- Almost two in three people said the clinic's convenient hours with no appointment was a major factor in choosing it over another source of care.
- Nearly half of all users cited the low cost of a clinic.

The national study was conducted between April 2007 and January 2008 using telephone interviews. Approximately 18,000 people in 9,400 families were surveyed. The response rate was 43 percent. Find the study at **www.commonwealthfund.org/index.htm**.

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