

CELEBRATING 154 YEARS!

Stark County Medical Society *News*

Harvest 2020

President's Message

Jason Bertram, M.D.



Jason Bertram, M.D.

I would like to start off by giving continued thanks to all of the members of the community that have supported us as your Medical Society throughout this challenging year. The well wishes, shows of support and extreme gratitude have certainly brightened the path for everyone in the Stark County Medical Society as we have worked to support the health of the local community. We would also like to thank our many partners for continuing to support our members despite the difficult times.

As we push in to autumn I wanted to take a moment to touch on some of the highlights of the Society for our members and friends to ensure that you are taking full advantage of what the Society has to offer. For over 100 years we have supported community wellness and physician advocacy both at the local and state levels. In these uncertain times with physicians being threatened by bureaucracy,

loss of control, and increasing regulation it is important for us to stick together and speak with one clear voice.

We also continue our mission of giving back to the community and look forward to our next fundraising event: our Society Golf Scramble to benefit Community Harvest taking place later in September. In the spirit of giving, our partnership with the Stark County Medical Society Auxiliary is growing stronger every year as well. Comprised of spouses of local physicians, the Auxiliary is one of the most energetic and dynamic charities in the region and they continue to innovate with fun and exciting events to raise money for local causes. Impressively, they were able to award 10 scholarships to medical students during this challenging year. On a personal note, I can't wait to see what ideas they come up with next.

Our All-Members meeting will be taking place in October. To keep up to date with all of the goings on be sure to keep tabs on our website <https://starkmedical.org/>.

Our Society is ultimately defined by our members and I would like to reach out to all friends and members for ideas and feedback. We continue to grow our footprint in the community and always welcome opportunities to sustain our growth. We will be sending out a more formal survey later in the year but feel free to exercise any opportunity to get in touch. We are easily reached via phone 330.492.3333 or email starkmedical@ameritech.net and look forward to hearing from you.

Stay safe and we look forward to seeing you at future events!

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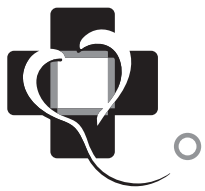
We have access to the politicians and the state medical association. Together, we have a voice that will be heard!

Contact us at
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or call 330-492-3333. We look forward to hearing from you!



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COVID 19 AND RETURN TO WORK CONSIDERATIONS

As more and more people are returning to work, working with your employees and patients can be challenging. From Employee apprehension regarding the return to work and patient exposure and testing the stress seems consuming.

Here is a quick checklist of things to keep top of mind in the coming months:

REMAIN VIGILANT WITH LEGAL COMPLIANCE:

- Occupational Safety and Health Act (OSHA)
- Americans with Disability Act (ADA)
- National Labor Relations Act (NLRA)
- Equal Employment Opportunity Commission (EEOC – Enforces Anti-Discrimination Laws)
- Families First Coronavirus Response (FFCR – if you did not opt out)

EMPLOYER BEST PRACTICES DO'S AND DON'TS:

DO:

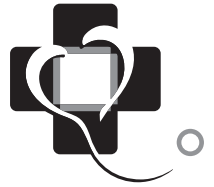
- Involve Senior Management and Legal Counsel in policy and procedure development and decision making.
- Have policies in place and make certain that all employees understand the policies and expectations.
- Listen and be Understanding.
- **COMMUNICATE** with Employees.
- Be as Creative and Flexible as possible.
- Be **CONSISTENT**.
- **DOCUMENT** Safety Efforts, Accommodations, and Qualifying Reasons for any leave.

DON'T:

- Ignore the Government's Guidelines and Recommendations even if they are not the law.
- Be Intimidated.

Communication with employees and patients, consistency in how you apply the policies and procedures, and documenting your application of your policies and procedures are the cornerstones of mitigating issues down the road.

Karen Nist,
Benefits Consultant
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330.645.6338
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OHIO COVID IMMUNITY

Scott P. Sandrock

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OHIO HAS ADOPTED A STATUTE TO PROVIDE IMMUNITY FROM COVID CLAIMS IN CERTAIN CIRCUMSTANCES.

Amended House Bill 606 was signed by the Governor on September 14, 2020 but goes into effect March 9, 2021. The statute essentially covers two specific circumstances. First, it substantially abolishes the potential for a claim by a person who contracts COVID subject to some special limitations. Second, the Act provides immunity for healthcare providers who could not provide care due to temporary governmental orders or declined to provide care under the circumstances. The devil of course is in the details.

ABOLISHING COVID CLAIMS.

The statute specifically provides that a person cannot file a civil lawsuit “for damages, for injury, death or loss to person or property” against any person if that claim is based in-whole or in-part on the exposure, transmission or contraction of a COVID-type condition. The same section also provides that the claim could be asserted if the damage or condition was caused by “reckless misconduct or intentional misconduct or willful or wanton misconduct.”

The statute goes on to provide that any government order, recommendation or guideline does not create nor is to be presumed as the “duty of care.” In the COVID-world, the State, for example, issued a series of protocols for steps to take to reopen businesses and the like. The statute in essence says that the failure to follow those protocols does not itself mean that a duty of care was violated or that a party is liable simply because they failed to follow the protocol.

The statute provides that in the event the immunity section should for some reason be determined not to actually provide immunity such as a court declaring the statute invalid, the section prohibits the filing of class actions for COVID-related claims. This in essence would preclude an assertion that all persons who went to a specific restaurant, for example, could file claims as a group as opposed to each of them having to file independent claims.

While the immunity in this section is helpful, we do anticipate cases will be filed asserting that the damage was the result of

“recklessness conduct” which will be heavily fact-based but requires more than simple neglect or failure to act. Imagine a circumstance where a person knows that they have COVID and they may have deliberately coughed on another person intending to cause that person harm. The statute is generally a positive step to protect employers and businesses.

HEALTHCARE PROVIDER IMMUNITY.

At the start of the pandemic, certain medical procedures or treatments were postponed and declared “non-essential.” Absent



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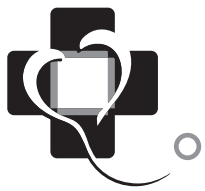
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Education is Insufficient to Prevent Adverse Drug Events

From the Desk of Carl J. Foster, M.D.

Physicians have some 10,000 medications in their armamentarium to prescribe for their patients. About 1/3 of American adults are prescribed 5 or more medications. The goal of any drug therapy is to deliver the right drug in the right dose at the right time via the right route to the right patient. The drug delivery pathway begins with the physician ordering the medication after which the pharmacist transcribes that order and dispenses the medication. The medication is then administered by a provider or self-administered by the patient. A misstep anywhere along this pathway is termed a medication error. An adverse drug event occurs when a patient suffers harm from a medication error.

Adverse drug events are a significant and preventable problem which have detrimental effects on both healthcare costs and patient outcomes. They account for about 700,000 ER visits and 100,000 hospital admissions annually. 5% of Hospitalized patients are involved in medication errors and ambulatory patients might suffer a higher percentage.

Education is a prerequisite to any improvement strategy aimed at preventing medication errors. It provides the necessary knowledge and develops the necessary skills to accomplish the desired therapeutic goals. This is especially true when a knowledge deficit is associated with increased risk of error. But education alone is an inadequate improvement strategy. It must be part of a comprehensive plan that includes "...effective system-focused strategies such as forcing functions, barriers and fail-safes", and computerization.¹ These improvement strategies have been shown to have the greatest impact on patient safety and the ability to sustain improvements because they make it hard for providers to make errors and easier to take correct actions.

Education suffers from a distinct reliance on vigilance and recall. Distractions and inattentiveness during the educational

session might impair proper encoding of the information in the participants' memory. Individual variation in the preferred pace of learning, preferred methods of learning, and learning skills make the design of optimal education processes problematic. Unless reinforced by frequent use new skills fade over time. Transitory mental states such as forgetfulness, preoccupation, and distractibility, which make providers prone to errors, are not lessened by education.

What is needed are safety system strategies that "design out" hazards through automation. For example, Computerized Physician Order Entry (CPOE) systems that force functions that prevent dosing errors, search requirements that avoid look-alike drug names in drop-down menus or just-in-time cues and prompts to check for issues such as drug allergies, contraindications, and possibly harmful drug-drug interactions.

So, the most comprehensive quality and safety interventions to avoid medication errors are multi-tiered programs of varying degrees of effectiveness. Low leverage strategies include educational programs, rules, and policies. Medium leverage strategies include protocols and standards, redundancies, warnings, alerts, reminders, and checklists. High leverage strategies include computerization and automation, barriers and fail-safes and forcing functions that prevent mistakes.

Finally, there is no "silver bullet" to respond to the quality and safety issues surrounding the problem of medication errors. What is required is a multi-layered stratagem including education along with many other risk-reduction strategies that improve the reliability of medication administration.

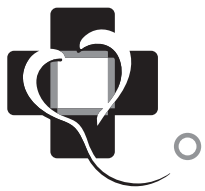
1. *Acute Care ISMP Medication Safety Alert! June 4, 2020, Vol. 25, Issue 11*

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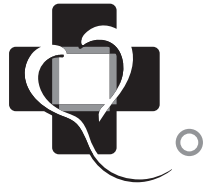
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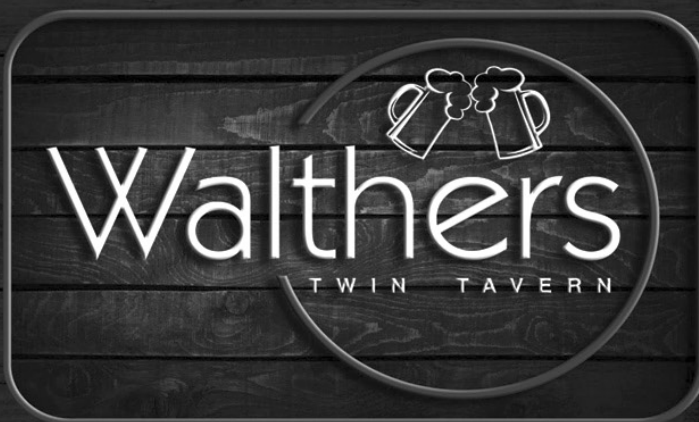
MIMOSAS
11AM-2PM ASK ABOUT DETAILS

SUNDAY

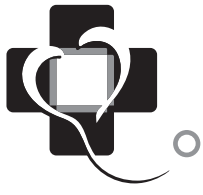
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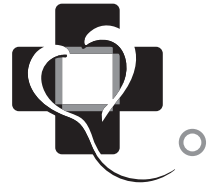
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SCMSA NEWS

Attention all SCMS members: If your spouse or domestic partner is not already a member of the SCMSA, please sign them up! The group was established as an extension to the SCMS. Our main function is to create fellowship amongst physician's families. We also raise money for our charitable fund, which gives scholarships and also does outreach in the Stark community. The dues are only \$25.00 per year and \$20.00 for the spouse or domestic partner of a resident.

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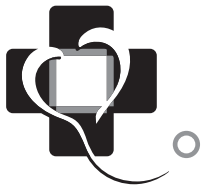
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OHIO COVID IMMUNITY *continued*

the pandemic, many of these procedures would have routinely occurred and perhaps earlier surgical or medical intervention may have detected conditions or have brought treatment options into play earlier for the patient.

Questions arose as to whether or not healthcare providers may be liable to patients for that failure to act earlier or whether disciplinary actions could be asserted that the physician failed to act in the best interest of the patient.

The statute provides that a healthcare provider who makes a healthcare decision or withholds healthcare during the time of an emergency is not subject to disciplinary action nor are they liable to any person or government agency for a civil action for injury, death or loss. This immunity applies in circumstances both as to the decision to provide healthcare or withdraw provision of healthcare. The statute further states that a healthcare provider is not liable in the instance of an inability of that provider to treat, diagnose or test a person or to perform an elective procedure due to an executive or directors order under the public health emergency. To add further clarity, the statute provides that the statute does not create any new cause of action or a substantive legal right that did not exist prior to the statute being created.

As noted in the section regarding general liability, this health provider immunity does not apply if there is a decision that constituted a “reckless disregard for the consequences” or “intentional misconduct” again that would require a fairly high set of facts to hit that level.

EFFECTIVE DATES.

The statute provides that the effective date of the statute begins March 9, 2020 which is the date of the Governor’s original Executive Order declaring the emergency due to COVID-19 and runs through September 30, 2021.

While the statute provides immunity from claims and disciplinary actions, we still recommend that employers and healthcare providers continue to review periodic updates of recommended protocols that are issued by the State of Ohio, CDC and others, and where possible, adapt your office procedures to comply with those guidances with the goal of hopefully reducing the risks to employees and the public.

If you would like a copy of the statute or have any questions concerning these matters, please contact Scott Sandrock at 330-253-4367, spsandrock@bmdllc.com.



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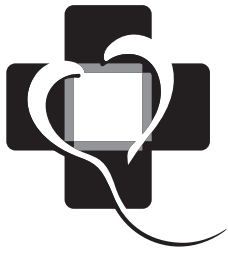
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