CELEBRATING 155 YEARS!

Stark County Medical Society News

Winter 2021

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INSIDE THIS ISSUE:

President's Message

Stacey Hollaway, M.D.

Stacey Hollaway, M.D.

First off – I would like to thank Dr. Jason Bertram and the rest of the leadership team for your outstanding service in difficult times. I look forward to working alongside of you as we move forward. Looking back at the past year – one of the things that stands out to me is the dating app commercial depicting the devil meeting the young woman named "2020". We all know the chaos that ensued.

It certainly was a hell of a year.

The cost of COVID can be measured in many ways. Beyond the hospitalizations and deaths directly attributed to COVID – the pandemic has caused a surge in mental health issues. These include depression, drug and alcohol abuse and suicide and span all age groups. A recent Canton Repository article (dated 11/29/2020) outlined the rise in the overall Stark County death rate. Coroner Dr. Anthony Bertin was quoted as saying "I see a lot more cardiac deaths. I think people with symptoms are delaying getting evaluated." The same article noted that 44% of accidental deaths in Stark County had been due to drug overdoses. Suicide made up 13% of coroner cases.

I recently got some sage advice from one of my elderly patients, Miss Betty. She cautioned me to "remember to take the time to call someone. Write a note, send a letter or a card. Because during this whole pandemic – more and more people are isolated and have no one". Their families can't visit. They probably lack computer skills and don't use social media to stay connected. They may not have anyone looking or checking in on them. The visit to a doctor's office may be the highlight of their social calendar – because it may be the only human interaction they have. As the physicians who know these individuals – we need to take action so that they do not become another statistic.

All too often -- we get caught up in the mundane. Trying to keep up with changes in CPT coding, recertifications, MOC, we can sometimes fail to see what is right in front of us. We need to get back to our roots and values. In this climate – we as physicians cannot miss the big picture. Patient care is key. The entire office staff and support personnel need to be onboard with the same philosophy of care, compassion and empathy.

So, take Miss Betty's advice.
Call someone. Send a card

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

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

Opinions expressed by the authors are their own, and not necessarily those of the Stark County Medical Society, Trustees or individual members. SCMS News reserves the right to edit all contributions for clarity and length, as well as to reject any material submitted.

Ohio Supreme Court Clarifies Medical Statute of Limitations

Scott P. Sandrock • Brennan, Manna & Diamond, LLC

The Ohio Supreme Court issued a decision in late December that clarifies and finalizes the Ohio law regarding the period of time in which patients can assert claims for medical malpractice. The Court was examining the interplay between three different statutes being the statute of limitations, the statute of repose, and the savings statute.

Most practitioners are familiar with the statute of limitations. The statute of limitations is a specific statute that limits the time period in which a lawsuit can be filed which starts when the injury occurred or is discovered. In essence, it provides a limited period of time in which a claim can be filed and if not filed in that period, denies the Claimant a chance to even assert a claim as if an event had occurred. In Ohio, the statute of limitations for a medical malpractice action is a one year period which begins at the later of the termination of the patient-physician relationship or the patient discovers or should have discovered that an injury had occurred.

The second statute is the statute of repose. Unlike the statute of limitations, which limits the time period in which to assert the claim, the statute of repose is focused on when the physician is relieved of any potential exposure for any conduct that arose prior to the cutoff date. In Ohio, the statute of repose for medical claims is four years. In other words, the claim must be filed within four years after the occurrence or omission of conduct which the Plaintiff claims was wrongful has actually occurred. The difference between the two is the statute of repose is a hard cutoff of claims as opposed to the statute of limitations which is triggered by discovery of the mistake.

The third statute is what is known as the savings statute. Under the savings statute, if a party timely files a claim for example, but that same lawsuit is later dismissed by the Plaintiff other than on the merits, the savings statute permits that Plaintiff refiling the lawsuit within one year effectively treating the renewed lawsuit as having been filed within the initial year even if the date of the refiling is after the end of the one year or four years.

The issue before the Supreme Court was whether or not a party who had filed a claim within the four year statute of repose, could dismiss and refile the action within a year after the end of the four years effectively making it a fifth year asserting the savings statute would apply.

After carefully reviewing the history of prior court decisions and more importantly reviewing other provisions in Ohio law, the Ohio Supreme Court concluded that the statutes are clear that if a claim is not commenced and pursued within the four year statute of repose the claim is barred. The Court specifically found that the savings statute would not apply and a Plaintiff could not file, dismiss and refile the claim. The Court also noted however that even within that interpretation there still remains two specific exemptions that may extend the time for filing. The first exception is if the injured party was a minor where the time periods begin when the minor turns 18, or second, if the patient should happen to be of "unsound mind" as the statute defines which would make that patient not able legally to make a determination for themselves if a claim existed or should have existed.

The Court pointed out that the reason for the statute of repose was to give medical providers certainty with respect to the time in which a claim can be brought against them and a time after which they would be free from the fear of litigation. Based upon that underlying purpose, the Court concluded that the savings statute does not give the Plaintiff an additional year to refile a case. The Supreme Court further noted that there were other provisions in Ohio law where the state legislature had in fact been clear that the savings statute would be available to a party for the refiling of a claim. For example, other statutory provisions dealing with product liability claims specifically authorized the invocation of the savings statute whereas the claims for medical malpractice do not. The Court concluded that the savings statute does not extend for another year the time period in which a claim can be filed thereby putting a cap at a maximum of four years. The Court goes on to note that even though arguments had been asserted that public policy should permit an extension, the Court concluded that that is a matter to be addressed specifically by the legislature and that the Court itself would not create a new rule or rewrite the law period.

If you have any questions or would like to receive a copy of the Court's Decision, please contact me at Scott P. Sandrock, spsandrock@bmdllc.com, (330) 253-4367.

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.

Name: _____

Spouse's Name: _____

Spouse's Specialty: _____

Address: _____

City: _____

State: _____ Zip: _____

Phone: _____

Email: _____

Make check payable to:
Stark County Medical Society Auxiliary

Mail check to: **SCMSA**
4942 Higbee Ave, NW Suite L, Canton, Ohio 44718

THE SOCIETY IS LOOKING FOR MEMBERS INTERESTED IN FUNDRAISING, DECORATING AND MEMBER RECRUITMENT.

Contact Kevin at 330.492.3333 if you are interested in helping strengthen the society.

LOOK TO CMS FOR GUIDANCE ON PROLONGED CARE CODE 99417

The Current Procedural Terminology (CPT) Manual for 2021 bring much need relief to the strict documentation requirements needed for 1995/1997 levels of service. This year's guidelines offer the option of choosing (documenting) your office visit (and other out-patient visits) level on either time spent or Complexity of Medical Decision Making. It is felt these guidelines are more indicative of the acuity of the patient's condition.

To most, the guidelines are much easier to understand and implement. However, there is one area in the revised guideline section of the Evaluation & Management Services. The table published for adding prolonged service time contradicts the basic guideline of not charging for PROLONGED SERVICE TIME UNDER 15 minutes. The CPT table (Columns 1 & 2) allows the prolonged service add-on code for times under the fifteen minutes requirement. The Centers for Medicare & Medicaid Services (CMS) has provided clarification on these times (column 3). CMS is clear, you cannot bill Medicare/Medicaid for the times listed in the 2021 CPT Manual. Instead, you should follow the "bold" times listed below, as specified by CMS.

Please direct any questions or comment to:

kim.myers@erbills.com

Kim A. Myers, CCS-P, CPC
President,
Emergency Billing Services
Lake Milton, Ohio

✓	<75 MINUTES	DO NOT REPORT	**(CMS says <89 minutes)**
✓	75-89 MINUTES	99205 & 99417	**(CMS says 89-103 minutes)**
✓	90-104 MINUTES	99205, 99417 & 99417	**(CMS says 104-118 minutes)**
✓	105 MINUTES OR >	99205, 99417, 99417 & 99417	**(CMS says 119 or > minutes)**
✓	<55 MINUTES	DO NOT REPORT	**(CMS says <69 minutes)**
✓	55-69 MINUTES	99215 & 99417	**(CMS says 69-83 minutes)**
✓	70-84 MINUTES	99215, 99417 & 99417	**(CMS says 84-98 minutes)**
✓	85 MINUTES OR >	99215, 99417,99417,99417	**(CMS says 99 or > minutes)**

PROTECTING YOUR

LARGEST ASSET

Brenda S. Basso, ChHC® • Lifetime Financial Growth, LLC

Did you know more than one in four 20-year old's can expect to be off work for at least a year due to a disabling condition before they reach normal retirement age?1 One in twenty working Americans will suffer an illness, injury or pregnancy causing them to miss six months or less of work.2 Most of these are not job-related and would not be covered by Workers Compensation.

You most likely know someone who has suffered a short-term disability such as a pregnancy, back strain and more recently, COVID-19. What if a disabling condition lasted longer? The most common reasons for long term disabilities include musculoskeletal disorders, cancer, heart attacks, strokes, and mental health issues. Do you know anyone who has experienced this… perhaps yourself?

WHAT WOULD BE THE FINANCIAL IMPACT TO YOUR FAMILY IF YOU ARE NO LONGER ABLE TO WORK?

Your ability to earn an income is the foundation for all other elements of your financial plan. It is like the foundation of your house. *Without a good foundation the house could crumble.* A 40-year-old making $250,000, assuming 3% annual increases, could expect cumulative earnings of $9,114,816. Wouldn't this represent your largest asset, your ability to work? Think about what would be impacted if you were no longer able to work for a period of time. Your ability to earn an income takes care of personal expenses such as a home, student loans, cars, college savings, medical expenses, etc.… There is a great deal at stake.

ANOTHER KEY QUESTION TO ASK IS WOULD YOU BE ABLE TO SAVE FOR RETIREMENT IF YOU WERE UNABLE TO WORK?

There are solutions that address the risk of experiencing a disability. Most businesses provide a group disability benefit which often protects up to 60% of monthly income. The issue is there are often benefit caps of $5,000 or $10,000 per month and bonus income is not included. This results in higher wage earners being unable to protect their full earnings, even at the 60% benefit amount. In addition, this benefit is often taxable resulting in even less income.

Individual disability income insurance is a solution that can fill the gap between the benefit provided by the group disability benefit and a person's full income. Pre-disability earnings of up to 80% may be protected when combining group disability plans with an individual disability income plan. These individual disability income policies provide a more comprehensive definition of disability, cost of living adjustments, the ability to increase benefits as income climbs, and a benefit that can make your contributions to a retirement plan.

Many physicians have recognized the need to protect their most important asset through the purchase of individual disability income protection. However, what we often see is that this protection may have been put in force at the beginning of their career or during a period with different concerns in mind. A periodic review should be conducted to make sure the policy has kept pace with changing needs and rising income levels. In addition, new provisions may be available which can enhance income protection and provide more comprehensive coverage.

There are many plans and policy options available in the disability market. A knowledgeable representative can provide invaluable guidance as to the best and most current options in disability coverage. *Remember, your income is the foundation of all other financial objectives. Shouldn't you protect your largest asset?*

1. Social Security Administration, Disability and Death Probability Tables for Insured Workers Born in 1999 https://www.ssa.gov/oact/NOTES/ran6/an2019-6.pdf, Table A

2. Integrated Benefits Institute, Health and Productivity Benchmarking 2016 (released November 2017), Short-Term Disability, All Employers. Group average for new claims per 100 covered lives.

If you have questions or would like to discuss this in more detail, please contact Brenda Basso at 330-265-2600 or brenda.basso@lfgco.com.

IF YOU HAVEN'T PAID YOUR

2021 DUES

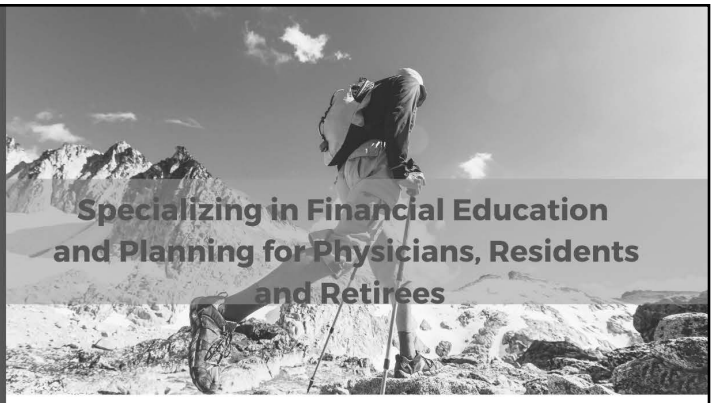
Please Do So!

If you need another invoice, please contact Taylor at

330.492.3333

Stark County Medical Society

Together we can make a difference in Stark County!



Working with physicians from residency to retirement, we provide education covering areas of specialty-specific disability coverage, life/health insurance protection, student loan pay-off strategies, savings, retirement planning and wealth management.

Our process shows how these products work together to create an efficient and effective financial plan to secure your future.

Let's Talk.

Brenda S. Basso, ChHC®
4150 Belden Village St NW, Suite 301
Canton, OH 44718
(330) 265-2600
brenda.basso@lfgco.com

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Michael Oberholzer
4150 Belden Village St NW, Suite 301
Canton, OH 44718
(330) 265-2600
michael.oberholzer@lfgco.com

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Don't forget!

With your medical society membership, you have free access to Medici Connect (formerly DocbookMD)

- HIPAA Compliant
- View your medical society directory
- Unlimited secure messaging
- Message colleagues
- Message patients
- eReferrals

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To learn more, visit

medici.md/connect-members

THE MEDICAL RESERVE CORPS IS LOOKING FOR VOLUNTEERS FOR COVID-19 VACCINATION CLINICS

We are seeking assistance from both medical and non-medical individuals to help us at our future COVID-19 vaccination clinics. There will be numerous positions needed including those that are licensed to administer vaccine. If you are interested, please register under our MRC unit. Having all volunteers registered in our MRC database will allow us to easily notify and communicate with our volunteers along with providing a framework to coordinate this response.

The Medical Reserve Corps (MRC) is a group of volunteers (medical and non-medical individuals) whose purpose is to provide assistance to the community during a time of need. The Stark County, Carroll County and Tuscarawas County MRCs are coordinated by the Stark County Health Department. These volunteers respond to local emergencies and disasters including assisting with mass prophylaxis/vaccination clinics.

If you are interested in helping at future COVID-19 vaccination clinics, please register at the following link: https://www.ohioresponds.odh.ohio.gov/ Please select the Organization "Medical Reserve Corps Organizations" then click on "Carroll/Stark/Tuscarawas County MRC".

Once you register, we will receive a notification and we will respond and accept your request into the MRC unit. We will then be able to send you information and notifications through the Ohio Responds system as we need volunteers at specific clinic sites.

Feel free to contact Amy Ascani with any additional questions at ascania@starkhealth.org

From The Desk of
Carl Foster, M.D.

PHARMACY PRICING & INNOVATION

In formulating an anesthetic plan for a preoperative surgical patient, the process is less complicated if the patient's condition is optimized. If the patient has been noncompliant with prescribed medication during the period prior to the day of surgery optimization is extremely unlikely. This set of circumstances often complicates the anesthetic plan, puts the patient at risk for complications, and possible cancellation of the planned procedure.

It is well known that prescription drug prices are quite high. In fact, US drug prices are the highest in the world and are a major driver of the high cost of health care in the US. Expensive drug prices are a major reason for patient noncompliance as many patients forego purchasing prescription medications in favor of other necessities. Prescription drug prices are not subject to very strenuous government regulation and are therefore unrestrained by market forces. These steep drug prices result in hefty profits that enable pharmaceutical companies to finance research and development (R&D) of new drugs and to provide a return on investment (ROI) that is more attractive to investment capital than other industries.

US pharmaceutical profits make up about ¾ of all pharmaceutical profits worldwide. In 2019, approximately $80 billion was spent industry wide in the US on R&D. During that decade, the investment resulted in an average of 47 new drugs approved annually. Nearly 47% of those drugs benefited few patients (orphan drugs), ½ were first in class and only ¼ could be considered breakthrough drugs. As one can imagine the costs of drug development are exorbitant and for every success there are many failures. Compounds that for one reason or another are not useful add to the R&D overhead. The range of production costs are $314 million to $2.8 billion with a mean cost of $1.3 billion and a median cost of 985 million. High-priced prescription drugs help pharmaceutical companies recoup those expenditures.

Pharmaceutical companies also spend large amounts of money to market their products. Distribution of free samples cost $13.5 billion in 2016. During that same period $5 billion was spent on "detailing" (direct one-on-one visits to providers), and $1 billion was spent on physician and non-research hospital activities. Another $119 million was spent on ads in medical journals and other publications.

Direct-to-consumer (DTC) pharmacy drug ads are allowed in the US and New Zealand only. First appearing in the 1980's, these ads have seen exponential growth from 79,000 in 1997 to 4.6 million in 2016. Including 663,000 TV ads. DTC advertising serves the dual purpose of diverting sales from competing products and generating demand for products without competition.

The market forces at play with respect to prescription drug pricing is a rather complex, state-of-affairs. In 2018, there were 5.8 billion prescriptions filled in the US. While 90% of those were for generic drugs, they accounted for only 20% of prescription drug spending. For generic drugs, the average amount spent for a prescription is $19. Innovator drugs, on the other hand, account for 80% of prescription drug spending while amounting to only 10% of prescriptions filled. These brand name drugs have an average cost of $428 per prescription.

The pharmaceutical industry operates under a complicated system that allows it to recoup the high cost of drug development. Brand drug prices are insulated against competition by government granted monopolies based on patents and data exclusivity. So, the effect of competition to lower prices is eliminated especially when no alternative is available. Consumerism's potential effect on pricing is blunted by health insurance which pays most of the cost. Pharmacy and Therapeutic Committees (P&T) determine which drugs are covered and the placement of drugs in appropriate tiers. Placement is determined by both clinical factors and cost.

continued on page 11

PHARMACY PRICING & INNOVATION

continued

US health plans contract with pharmacy benefit managers (PBM'S) to provide prescription drug benefits which are separate from the benefits that they pay for physician services and the like. PBM's negotiate drug prices with manufacturers and handle claims. PBM's and payers create formularies of name brand and generic drugs that they cover which are tiered to determine patients' out-of-pocket payments. Prior authorization and other utilization management techniques also help to keep prices in check. Manufacturers often offer discounts from the list price of drugs to PBM's to achieve advantageous tier placement. Furthermore, manufacturers offer rebates to insurers as well. These payments are made after the insured have purchased the drug. These disbursements are confidential trade secrets designed to gain advantage especially when there are competing compounds.

Expensive brand name drugs can be a major cause of patient non-compliance thwarting clinicians' therapeutic efforts. The challenge facing policy makers is to strike a balance between possible ceilings on drug costs and profit margins that still provide incentive for investors to subsidize drug innovation. It has been estimated that reductions of 20 to 40% would stifle innovation. So, stakeholders need to strike a balance between affordability and continued promotion of innovation.

Retrieved 12/26/2020 from: healthaffairs.org/do/10.1377/hblog20201123.114048/full/

Stark County
Medical Society

4942 Higbee Avenue NW, Suite L
Canton, OH 44718

Phone: 330.492.3333
Fax: 330.492.3347
E-mail: starkmedical@ameritech.net

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Calendar of Events SCMS 2021

Every effort has been made to publish an accurate Calendar. Please continue to check the SCMS News for any unforeseen modification in dates and locations. Thank you.

MARCH (Wed.) **24**	Brennan Manna Diamond Webinar – 5:30 PM
APRIL (Sat. - Sun.) **10/11**	OSMA Annual Meeting
APRIL (Wed.) **28**	Lifetime Financial Growth, LLC Webinar - 5:30 PM
MAY (Thurs.) **06**	Board Meeting - 6:00 PM
MAY (Wed.) **26**	AUI, Inc. Webinar - 5:30 PM
JUNE (Thurs.) **TBD**	Membership Meeting
JUNE (Wed.) **23**	Lifetime Financial Growth, LLC Webinar - 5:30 PM
AUG. (Thurs.) **TBD**	Membership Meeting
TBD	SCMS / SCMSA Health Fair
SEPT. (Wed.) **22**	Golf Outing - 10:30 AM
OCT. (Thurs.) **21**	Annual Meeting - 6:00 PM
TBD	Practice Manager Lunch