



Hammon P. Acuna Named CAP Senior Vice President and Chief Membership Officer

Hammon P. Acuna has been named Senior Vice President and Chief Membership Officer for the Cooperative of American Physicians, Inc. During the past four years, Mr. Acuna has served as CAP's Senior Vice President of Business Development. He continues to report to CAP Chief Operating Officer Cindy Belcher.

Mr. Acuna will oversee and direct the activities and performance of Membership, including the Mutual Protection Trust (MPT) Membership Development, Membership Services, and Membership Programs, as well as the Risk Assessment Peer Review unit – ensuring that the CAP enterprise meets its growth and retention goals.

“As CAP continues to grow, it’s more important than ever to ensure that current and prospective members are given the attention they deserve,” said Ms. Belcher. “During his time at CAP, Hammon has demonstrated a keen understanding of, and passion for, developing powerful relationships with our members and we are confident that he will continue to ensure that members understand the products and services that CAP offers to

protect and support physicians, hospitals, and medical groups.”

Mr. Acuna brings 30 years of experience in the medical professional liability industry, with a wide range of leadership roles in marketing, sales, retention, and customer service. Prior to joining CAP, he worked for 18 years at SCPIE Holdings, Inc., which was later acquired by The Doctors Company. At SCPIE, he served as Vice President of Marketing. He holds a Bachelor of Arts degree from the University of California, Santa Cruz, and studied in the MBA program at California State University, Northridge.

“The most important part of CAP, aside from the products and services it offers to medical professionals, are those medical professionals themselves,” said Mr. Acuna. “My roles with CAP have allowed me to really focus on the needs of our current members and continue to foster strong relationships with prospective members, and I’m thrilled to now do so at an even higher level.” ➦

CAP Staff Members Help Lead California Medical Group Management Association Board of Directors

Two CAP staff members have taken on new and exciting roles as part of the board of directors for the California Medical Group Management Association (CAMGMA), an organization composed of medical group managers and people who provide services to medical practices.

CAP's Vice President of Membership Development Daniel Cavanaugh was elected by CAMGMA to be President in 2019. This appointment follows years of active membership in several regional chapters as well as being a founding board member of the Central Coast Chapter. Additionally, CAP's Public Affairs Analyst Gabriela Villanueva has joined the board as Legislative Liaison.

During his time at CAP and his ongoing role as Vice President of Membership Development, Mr. Cavanaugh has leveraged his expertise to partner with various IPAs, physician networks, and physician purchasing

organizations around the state to introduce their members to CAP's high-quality and cost-effective malpractice coverage.

"I am honored to lead this group of medical group administrators and professionals who are so engaged in the medical group practice management field," said Mr. Cavanaugh. "I look forward to the collegial exchange of ideas and influencing the direction of the organization."

Ms. Villanueva brings her experience and knowledge of the state and federal legislation-making process to her new role as Legislative Liaison. Working with CAP's state and federal lobbyists, as well as the National Medical Group Management Association, Ms. Villanueva monitors and tracks bills throughout the legislative process and provides information and education on state and federal bills, as well as regulatory issues related, to their functions.

"Education on legislation is important and can improve the sharing of important information to the general public," said Ms. Villanueva. "I look forward to using my expertise and working with the association to enhance the understanding of public policy as it relates to medical group management." ➦

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Daniel Cavanaugh



Gabriela Villanueva

Risk Management — and — Patient Safety News



My Employee Got Stuck with a Dirty Needle... Now What?!!

by Amy McLain, BSN, RN

It's no secret that healthcare workers are at an increased risk for needle stick or sharps injuries, especially nursing staff, doctors, and lab workers. The Centers for Disease Control and Prevention estimates that 600,000 to 800,000 needle stick injuries occur each year, many going unreported. They remind us that without appropriate follow-up or post-exposure prophylaxis (PEP) care, these injuries can lead to serious or fatal infections, such as Hepatitis A, C, and HIV. CAP's Risk Management and Patient Safety Specialists recommend the following:

1. Follow the Centers for Disease Control and Prevention's guidelines for needle stick injury and post-exposure prophylaxis treatment. Call the CDC's Clinician's Post Exposure Prophylaxis Hotline at 1-888-448-4911 or visit <https://www.cdc.gov/niosh/topics/bbp/emergnedl.html>.
2. Contact your workers' compensation insurance carrier. If you do not have a policy or you obtained a policy through CAP Physicians Insurance Agency and cannot recall the name of your carrier, please call 800-819-0061.
3. Record the injury and investigate the incident to determine the root cause. Ask "why and how did the needle stick injury occur?" Here are some questions to consider:
 - a. Are disposable syringes with safety features available to staff?
 - b. Is the sharps disposal container within reach of staff for immediate disposal of a contaminated syringe?
 - c. Was there adequate room in the container to safely dispose of the contaminated needle?
 - d. Was staff properly trained in the safe use and disposal of needles?
 - e. Did staff deviate from safety standards and protocols?
 - f. Did staff feel comfortable reporting a needle stick injury?
4. Report to Cal/OSHA on Form 300, as required by law (see below). You can find the form at <https://www.dir.ca.gov/dosh/etools/recordkeeping/CAStandard/CalStandard.htm>
5. Under California Code of Regulations, Title 8, Section 14300.8 (a) Basic requirement. You must record all work-related needle stick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (as defined by Title 8, Section 5193). You must enter the case on the Cal/OSHA Form 300 as an injury. To protect the employee's privacy, you may not enter the employee's name on the Cal/OSHA Form 300.
6. A patient may need viral serology testing for HIV, Hepatitis B, and Hepatitis C if their status is unknown. Take steps to ensure that the patient does not incur any out-of-pocket expenses associated with the incident.

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7. Provide staff training and resources to reduce the risk of a needle and sharps injury. Consider these options:
 - a. E-Volve e-Learning Solutions: Web-based compliance courses for employees on topics like HIPAA, Medicare Fraud and Abuse, Medical OSHA, Bloodborne Pathogens, ICD-10 Billing and Coding, and more. Discount on all available courses with the discount code **cap10off** at <https://www.evolveelearning.com>.
 - b. Centers for Disease Control and Prevention (CDC) and The National Institutes for Occupational Safety and Health (NIOSH) offers a variety of articles, practice guidelines and standards, and training material on needle stick prevention. Visit <https://www.cdc.gov/niosh/topics/bbp/sharps.html>.
 - c. Cal/OSHA publications and training resources can be found at https://www.dir.ca.gov/dosh/dosh_publications/bbpfc.pdf, and

<https://www.osha.gov/SLTC/bloodbornepathogens/index.html>

There's a wise old saying, "An ounce of prevention is worth a pound of cure." It is much easier to prevent a needle stick injury than to deal with its medical, emotional, and regulatory fallout. With proper training and the use of safe equipment and systems, you and your medical staff can minimize risk of exposure to a contaminated needle or sharp. But most importantly, knowing what to do in the aftermath of an unfortunate needle stick injury will minimize the chance of acquiring a life-threatening disease. ↩

Amy McLain is a Senior Risk Management and Patient Safety Specialist for CAP. Questions or comments related to this article may be directed to amclain@CAPphysicians.com.

CAP and MPT Elections, Annual Meeting on July 25

The elections for the Cooperative of American Physicians, Inc. (CAP) Board of Directors and for the Mutual Protection Trust (MPT) Board of Trustees will be July 25, 2019, in conjunction with the Annual Meeting of Members that same day. The meeting will be held at 333 South Hope Street, 8th Floor, Los Angeles, at 1:00 p.m.

Because your vote is so important, this year we have retained the annual meeting advisory firm Innisfree M&A Incorporated to assist with the election process. Innisfree will coordinate the mailing and tabulation process and offer to our members more convenient methods of voting.

Nominees for the CAP Board of Directors are Sheilah M. Clayton, MD; Roger S. Eng, Jr., MD; Dennis Jordanides, MD; Wayne Kleinman, MD; Gregory Lizer, MD; Graham Purcell, MD; and Paul Weber, MD.

Nominees for the MPT Board of Trustees are Othella T. Owens, MD; Stewart Shanfield, MD; Charles Steinmann, MD; Lisa Thomsen, MD; and Phillip Unger, MD. Included in the MPT proxy will be proposed amendments to the Mutual Protection Trust Agreement.

Voting materials will be mailed in late May to all CAP members of record on the date of mailing. As always, your prompt participation at that time will be much appreciated.



CAP Expands Influence in Healthcare Community CEO Sarah Pacini Shares Expertise and Inspiration at Two Major Healthcare Conferences

Protection, innovation, and expertise drive CAP's commitment to its growing membership and it is its leadership that inspires action among the medical community. Healthcare organizations around the country know this and often invite our participation in events.

Earlier this year, CAP CEO Sarah Pacini was a featured guest at the American College of Legal Medicine's 59th Annual Health Law and Legal Medicine meeting where she served as a speaker during the event's Dr. Dorothy Rasinski-Gregory Women's Leadership Breakfast. Aligning with the same commitment CAP provides its members, Ms. Pacini focused on empowering and educating healthcare providers as they navigate a rapidly evolving and challenging industry, particularly as it pertains to the medical and legal aspects of this business.

In May, she will give the keynote address before nearly 300 attorneys, insurance professionals, hospital risk managers, and other risk management professionals at the Southern California Association for Healthcare

Risk Management's 39th Annual Educational Conference focusing on "Golden Opportunities in Risk Management." The conference will offer high-quality risk management education and networking to all types of risk management professionals.

"Through its ongoing collaborations with, and influence among, industry professionals and organizations, CAP is able to expand its knowledge of the ever-changing needs of its members," says Ms. Pacini. "It is this ability to adapt to change, to diversify while at the same time strengthening core services and promoting access to quality healthcare, that will keep CAP a leading provider of MPL protection, risk management, practice management, and financial management services for a long time to come." ➦

A New Voice in State Healthcare

by Gabriela Villanueva

Since taking office in January, Governor Gavin Newsom has been busy appointing a team of experts to help propel his healthcare priorities for the people of California.

In the governor's first proclamation document instituting Executive Order N-02-19, establishing the state's first-ever Surgeon General position, the governor proclaimed, "California faces serious health challenges rooted in early social determinants of health... and that these challenges disproportionately impact low-income communities." The order executes the state appointment of a leader "who can harness the insights and talents of medical and public health professionals, along with other stakeholders." With this charge, Governor Newsom appointed Dr. Nadine Burke Harris California's first Surgeon General. Dr. Burke Harris was sworn-in on February 11.

A national expert in child development and a UC Davis School of Medicine-trained pediatrician, Dr. Burke Harris founded the Center for Youth Wellness (CYW) in San Francisco, which advocates for screening and early intervention to head off adverse childhood experiences. Dr. Burke Harris has dedicated her professional career to understanding the link between adverse childhood experiences and toxic stress in children, and the effect both have on future health outcomes. A national leader in the effort to advance pediatric medicine, raise public awareness, and transform the way society responds to children exposed to adverse childhood experiences and toxic stress, she leads the Bay Area Research Consortium on Toxic Stress and Health, a partnership between

CYW and UCSF Benioff Children's Hospitals. Dr. Burke Harris serves as a member of the American Academy of Pediatrics' National Advisory Board for Screening and on a committee for the National Academy of Medicine. She is an expert advisor on the Let's Get Healthy California Task Force, a former member of the Boys and Men of Color Trauma Advisory Committee, and a former appointee by then-Mayor Newsom to the San Francisco Citizens' Committee for Community Development.

Dr. Burke Harris' expertise aligns with the governor's agenda of healthcare initiatives to help tackle the social detriments to health and health equity by focusing on early childhood policy as reflected in the \$1.7 billion in funding for expanded early childhood education and early interventions proposed in the upcoming state budget.

In her new role as the state's top health advocate, Dr. Burke Harris aims to urge state policymakers across the state to consider the social determinants of health, especially for children. She plans for her work to focus on combating the root causes of serious health conditions. She also sees her role as one of medical advisers to the government and Newsom administration, a health strategist, and as a public health advocate, using her platform to reach families across the state. ↩

Gabriela Villanueva is CAP's Public Affairs Analyst. Questions or comments related to this article should be directed to gvillanueva@CAPphysicians.com.



CAP Relocates Bay Area Office

After nearly 10 years in Palo Alto, CAP has relocated its Bay Area office 50 miles north to beautiful Walnut Creek. The new office, only a three-minute walk from a BART station, will enable CAP to better provide a range of member services in this region of the state.

Our new address: **100 Pringle Ave., Suite 233**
Walnut Creek, CA 94596
650-543-2180

California Reminds Employers That Valid Workers' Compensation Insurance is Required



In a recent release, the California Labor Commissioner's Office reminded employers they must maintain valid workers' compensation insurance coverage for all workers, including part-time employees.

"If the Labor Commissioner's Office finds an employer does not have valid coverage for its workers, it can cite the employer \$1,500 per employee not covered by valid workers' compensation insurance, and issue a stop order prohibiting work until valid insurance is acquired. The employer may be required to pay employees' lost wages during the work stoppage. Violation of the stop

order could result in additional penalties up to \$10,000 and misdemeanor charges."

CAP Physicians Insurance Agency, Inc. can analyze your current workers' compensation insurance coverage and make recommendations to keep your practice safe. The CAP Agency team understands medical practice challenges — and how to insure against those challenges most cost effectively. Our experienced insurance professionals can work with top carriers to help you get the best pricing on your workers' compensation insurance.

Contact CAP Agency for a personalized consultation by phone at 800-819-0061 or by email at CAPagency@CAPphysicians.com.

For more information about the California Labor Commissioner's Office requirements, visit their website: <https://www.dir.ca.gov/dlse/>. ↗



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April 2019

Save
the
Date

The Cooperative of American Physicians, Inc.
Invites You to Its

First Public Affairs Symposium:
Your Membership, Your Voice

Date: Saturday, September 7, 2019

Location: 333 S. Hope St., Auditorium, Los Angeles, CA 90071

The legislative and political climate continues to affect liability issues in California. CAP remains committed to educating our state and federal elected officials on our work to defend California's Medical Injury Compensation Reform Act (MICRA) and support policies that safeguard patient access to quality healthcare in California.

Join your fellow CAP members where you will have the chance to hear from CAP's public affairs experts and join the discussion about regulatory issues impacting healthcare delivery and your practice.

Additional details, including presenters and agenda, to follow.

For more information and to pre-register, please email

PACinfo@CAPphysicians.com. ↗

Case of the Month

by Gordon Ownby



Court Rebuffs MBC Records Request of Pain Management Specialist

Even as the Medical Board of California (MBC) continues to examine the drug-prescription practices of physicians, the Board often has to convince a court of its right to examine patient records. The key element in whether the courts will permit an MBC request for patient records is whether the Board adequately demonstrates “good cause” for piercing a patient’s privacy.

In 2014, the MBC received an anonymous complaint about the prescription practices of Dr. Kamyer Cohanshoet, a pain management specialist. The MBC obtained a CURES report on Dr. Cohanshoet for a year’s period in 2014 and 2015 showing the physician prescribing Schedule II, III, and IV controlled substances. Using that information, MBC consultant Dr. Shaib Naqvi identified five patients at risk for over-prescription of opioids. When the MBC attempted to obtain the patients’ medical records, the patients declined to sign releases and Dr. Cohanshoet refused to comply with a subpoena, asserting his patients’ right to privacy.

In the superior court dispute over the subpoena, the MBC submitted a declaration by Dr. Naqvi in which he maintained his familiarity with the standard of medical practice in California and with the different classes of controlled substances. He further explained how a “morphine equivalent dosing” (MED) is used to evaluate different kinds of opioids and that a MED of greater than 100 mg per day “puts the patient at added risk for overdose and death.” The standard of care, Dr. Naqvi continued, requires the prescriber to inform the patient of potential risks and benefits of the drug and that the patient’s

informed consent includes being notified that death is a potential risk when opioid dosing exceeds 100 mg MED per day.

In the five patients noted in Dr. Naqvi’s declaration, three received prescriptions exceeding 100 mg MED; two others had prescriptions of between 60 to 75 mg MED. Dr. Naqvi concluded these patients may have received excessive opioids and explained that the records are necessary to determine whether Dr. Cohanshoet performed a proper examination, screening, and informed consent and whether he properly monitored the patients.

In opposing the subpoena, Dr. Cohanshoet submitted a declaration from Dr. Jack Berger. Dr. Berger agreed that physicians who prescribe controlled substances to treat pain are required to properly complete a medical history, perform a physical examination, diagnose the problem, inform the patient of risks, and write an appropriate treatment plan.

But Dr. Berger’s declaration challenged Dr. Naqvi’s reliance on opioid prescription guidelines from the Centers for Disease Control and Prevention as mere recommendations for primary care physicians who are prescribing opioids for chronic pain outside of active cancer treatment, palliative care, and end-of-life care. (The court also noted the guidelines were not in effect when the patients in question were treated.) After explaining that a dosage greater than 100 mg MED does not automatically violate the standard of care — so long as the patient’s informed consent was obtained — Berger stated there was no reason to suspect that Dr. Cohanshoet failed

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to obtain informed consent or review the risks and benefits of higher dosage therapy with each of the five patients.

The trial court backed the MBC's subpoena, but on appeal by Dr. Cohanshoet, the Los Angeles-based Court of Appeal found that the Board did not meet its burden in light of the patients' right to privacy.

On that right to privacy, the Court of Appeal referred to a quote from another court that, "the state of a person's gastro-intestinal tract is as much entitled to privacy from unauthorized public or bureaucratic snooping as is that person's bank account, the contents of his library or his membership in the NAACP."

The court in *Grafilo v. Cohanshoet* went on to explain the requirement for the state to show "good cause" when it seeks to invade an individual's privacy rights through an administrative subpoena seeking his or her medical records. "Good cause calls for a factual exposition of a reasonable ground for the sought order."

In finding that the MBC failed to meet that burden, the Court of Appeal leaned heavily on Dr. Cohanshoet's pain management practice.

"There are no facts suggesting Dr. Cohanshoet was negligent in treating his patients or that he prescribed controlled substances without meeting the standard of care. Given that Dr. Cohanshoet is a pain management specialist who sometimes treats patients seeking active cancer treatment, palliative care, and end-of-life care, it is reasonable to assume at least some of his patients would require treatment for pain that would exceed the recommended dose."

The appellate court distinguished its ruling from a 2017 opinion that allowed the MBC to proceed with a request for records of three patients of a psychiatrist. The court said that in the psychiatrist's records dispute, the supporting evidence provided much greater detail as to why stimulants prescribed to three post-menopausal patients may have put them at increased risk for coronary artery disease. ➦

Gordon Ownby is CAP's General Counsel. Questions or comments related to "Case of the Month" should be directed to gownby@CAPphysicians.com.

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SAVE THE DATE FOR THE NEXT LITIGATION EDUCATION RETREAT

Whether you are in the process of a medical professional liability lawsuit or simply want to understand the process, CAP's Litigation Education Retreat can provide valuable support and guidance. During this daylong, interactive event, you will learn techniques to help you secure the most favorable litigation result and alleviate the anxiety that most physicians experience during this exceptionally stressful time.

This event is free to all CAP members and their guests. CAP, a CME-accredited provider, designates this educational activity for a maximum of six AMA PRA Category 1 Credit(s)[™].



The first Litigation Education Retreat of this year takes place in Los Angeles on Saturday, May 4. There will be a second program in Orange County on Saturday, October 19.

If you are interested in attending one of the retreats, please contact **Andrea Crum** at **800-252-7706** or at **LERinfo@CAPphysicians.com**.



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We welcome your comments! Please submit to communications@CAPphysicians.com.

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