



## Case of the Month

### Beware of Secret Agents - The *Not So* Independent Contractor

by Margaret A. Martin, RN, JD  
and Lee McMullin, CPHRM

Our case for this month is all about "agents," so if you hire independent contractors, you'll want to read on to learn more about how to manage your liability exposures.

In brief, we are specifically talking about the physician, physician's assistant, nurse, or nurse practitioner that you classify as an independent contractors (IC) rather than an employee, often for tax purposes. There is a plethora of entangled issues involving a blend of legal doctrines<sup>1</sup> that may affect what and how you present your ICs to the public as the following case history demonstrates. First, we need a little understanding of some terms that affect what we're about to talk about: ostensible agent, vicarious liability, and the "ABC" test.

The first term, ostensible agent,<sup>2</sup> is described by Cornell Law as "...one where the principal has intentionally or inadvertently induced third persons to believe that such person was its agent although no actual or express authority was conferred on him as agent..." A classic example of the ostensible doctrine in action is the independent contractor physician encountered by a patient in the emergency room or urgent care setting where the patient looks to the hospital or urgent care center for treatment. The patient goes to the emergency room for services and accepts whichever physician is assigned to his or her case. Should issues arise over quality of care, the healthcare facility may be held responsible for the actions of that contractor.

Next, we'll briefly touch on "vicarious liability."<sup>3</sup> Under vicarious liability, an employer can be held responsible or liable for the acts of his or her employees or agents. This doctrine is also known as respondeat superior,<sup>4</sup> which in Latin means "let the master answer."

Lastly, we have the "ABC"<sup>5</sup> test under California's independent contractors (IC) rule. The ABC test was created by a California Supreme Court decision<sup>6</sup> to define whether a person is really an IC or an employee, regardless of how you equate them for tax purposes. In California, under the ABC test, a worker is considered an employee and not an independent contractor, unless the hiring entity satisfies all three of the following conditions:

- The worker is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact;
- The worker performs work that is outside the usual course of the hiring entity's business; and
- The worker is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

It remains to be seen how these rules will churn through judicial evolution on ICs and their application to a medical practice. However, for now the rules are here

to stay. Be aware of the rules and their effects on your practices as the following case illustrates:

A 29-year-old female presented to Urgent Care Center with complaints consistent with those of the flu. The patient was seen by Dr. X, an independent contractor with Urgent Care Center. The patient receives a steroid injection, Tamiflu, and prescription for a NSAID. The patient was discharged home with the usual admonitions: Return to the center if symptoms persist/worsen, or go to the emergency room.

Six days later, the patient presented to an ER with persistent flu-like symptoms. A thorough workup was performed, and patient was admitted to the hospital with a diagnosis of sepsis, UTI, and pneumonia. Patient was discharged home two days later with significant improvement. Patient subsequently filed a lawsuit against Dr. X and the Urgent Care Center.

In the complaint, the patient (now plaintiff) asserted causes of action for medical negligence and negligent hiring and supervision under both ostensible and vicarious liability theories. In essence, the plaintiff claimed that the Urgent Care Center owner/operator should not have hired Dr. X or allowed him to work unsupervised at the time she was treated. Plaintiff discovered that Dr. X had a medical board accusation filed against him and contented that the Urgent Care Center should have fired Dr. X after learning about this accusation (the accusation was not patient care or clinically related). The owner/operator of the Urgent Care Center understood that the disciplinary action involving Dr. X had nothing to do with the practice of medicine and decided not to take action to terminate their contract with Dr. X.

The owner/operator of the Urgent Care Center and the plaintiff eventually resolved this matter informally prior to trial/arbitration. Had the Urgent Care Center remained in the case, it could have been held liable for the patient's injuries. Absent an acknowledgement by the

patient of the independent nature of the providers on duty, i.e., Dr. X, the Urgent Care Center could have been held liable under an ostensible agency theory if Dr. X was found negligent in his treatment of patient.

Insofar as the issue of agency to which our Case of the Month alludes – what factors may have weakened Urgent Care Center's argument Dr. X was an independent contractor, not an agent? There were no posted signs, documents, conditions of admissions, or otherwise at Urgent Care Center to indicate the providers on duty, regardless of license class, i.e., physician, PA or NP, were independent contractors and not employees of Urgent Care Center. Had the patient been provided with this information when she was seen by Dr. X, the nature and degree of Urgent Care Center's involvement in this lawsuit may have been different.

The moral of the story - to reduce your liability for independent contractors:

- Post proper signage stating which providers are independent contractors.
- Have patients sign an acknowledgement that the provider(s) they may see are not your employees. Hospitals accomplish that under its "conditions of admission." You should have a similar tool.
- Credential your independent contractors to show your due diligence in evaluating license status, claims history, medical board actions, etc., similar to a hospital's credentialing process for its medical staff.
- Consult a healthcare attorney on agency issues, as ignorance can take you places wisdom will never lead you. ➦

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## References

<sup>1</sup><https://www.law.cornell.edu/wex/doctrine>

<sup>2</sup>[https://www.law.cornell.edu/wex/ostensible\\_agent#:~:text=The%20%2E2%80%9Costensible%20agent%E2%80%9D%20is%20one,conferred%20on%20him%20as%20agent.](https://www.law.cornell.edu/wex/ostensible_agent#:~:text=The%20%2E2%80%9Costensible%20agent%E2%80%9D%20is%20one,conferred%20on%20him%20as%20agent.)

<sup>3</sup><https://www.shouselaw.com/ca/personal-injury/vicarious-liability/#:~:text=Vicarious%20liability%20is%20a%20legal,and%20suffering%20and%20other%20losses.>

<sup>4</sup>[https://en.wikipedia.org/wiki/Respondeat\\_superior](https://en.wikipedia.org/wiki/Respondeat_superior)

<sup>5</sup><https://www.contractsounsel.com/b/california-independent-contractor-laws>

<sup>6</sup><https://www.labor.ca.gov/employmentstatus/abctest/>

# Risk Management — and — Patient Safety News



## Releasing Medical Records – Guidelines for Reducing Your Risk of a Violation

by Rikki Valade, RN, BSN, PHN

A frequently asked question we receive at CAP is “can I release the records?” Medical practices frequently receive medical record release requests from multiple sources, including subpoenas, attorneys letters, law enforcement, regulatory agencies, and patients themselves.<sup>1</sup> As we know, this is a complex question that has many facets and is subject to specific protection for sensitive information. The federal Health Information Portability and Accountability Act (HIPAA) of 1996 and California law provide guidance on the release of medical records.

However, to protect yourself from inappropriate release of records and potential violations of patient privacy and confidentiality, it is important to know when you can, and cannot, release records and when to seek guidance from your professional liability carrier.

Following are examples of the most common types of requests for patient records and general risk management tips.

Request	Description	Reduce Your Risk
Attorney Letter	Letter from an attorney requesting medical records on behalf of a patient. This type of request may indicate the patient is seeking legal advice in anticipation of litigation.	<ul style="list-style-type: none"><li>• Letter must be accompanied by a signed release or authorization from your patient.</li><li>• CAP recommends our members compare the patient’s signature with existing records or you may call the patient to confirm.</li></ul>
Subpoena Duces Tecum	Is a request for a production of records. It is a court ordered command. <sup>2</sup> The term “subpoena” literally means “under penalty.” <sup>3</sup>	<p>Review subpoena for:</p> <ul style="list-style-type: none"><li>• Notice to Consumer or Employee. This document confirms your patient has been notified and you are not obligated to notify the patient of the request.</li><li>• Proof of Service.</li><li>• Contact your professional liability carrier if in doubt.</li></ul>

April 2022

Workers' Compensation Subpoena for Medical Records	Same as Subpoena Duces Tecum.	<ul style="list-style-type: none"> <li>• Same as Subpoena Duces Tecum.</li> </ul>
Health Plan Access to Medical Records	Federal privacy regulations (HIPAA) permit the disclosure of confidential medical information to health plans in certain situations without the patient's authorization for the following purposes, such as for, diagnosis/treatment, payment purposes, peer review activities, etc. <sup>4</sup>	<ul style="list-style-type: none"> <li>• Ensure all patients have a signed HIPAA Notice of Privacy Practice. Find a sample here: <a href="https://www.capphysicians.com/articles/sample-notice-privacy-practices">https://www.capphysicians.com/articles/sample-notice-privacy-practices</a></li> </ul> <p>What if your patient requests information not be disclosed to a health plan?</p> <ul style="list-style-type: none"> <li>• Effective February 17, 2010, the Health Information Technology for Economic and Clinical Health (HITECH) Act of 2009 requires physicians covered by HIPAA to comply with an individual's request to restrict disclosure of protected health information (PHI) to a health plan if:<sup>4</sup></li> </ul> <ol style="list-style-type: none"> <li>1. Purposes of payment or healthcare operations.</li> <li>2. The PHI was paid out-of-pocket in full.</li> </ol>
Minor's Parents Request for Records	Pediatric offices have a special challenge. Divorced, separated, and/or parents in the process of a divorce may attempt to restrict the other parent's rights to access. However, parents have a right to their child's medical records regardless of marital status with the exception of a court order restricting release.	<ul style="list-style-type: none"> <li>• Request to view court document denying parental access.</li> </ul> <p>In general, persons having responsibility for decisions respecting the healthcare of a minor should have access to information on the minor patient's condition and care. (Health &amp; Safety Code §123110.)<sup>5</sup></p>
Patient Request	The HIPAA Privacy Rule states individuals have a right to their "protected health information." Patients, or their legal representatives, generally have a right to inspect and copy their medical records. <sup>5</sup>	<p>Click here for CAPsules article regarding release guidelines for patient requests.</p> <p><a href="https://www.capphysicians.com/articles/patient-record-requests-what-proper-release-protocol">https://www.capphysicians.com/articles/patient-record-requests-what-proper-release-protocol</a></p>
Law Enforcement	Many agencies fall under Law Enforcement and guidance varies.	Contact CAP Hotline at 800-252-0555 for risk advice.

Other entities you may encounter in your practice that may request records include, but are not limited to:

- Coroner's Office
- Medi-Cal and Medicare investigators
- Regulatory agencies

Many requests for medical records must also satisfy special confidentiality requirements.

Special confidentiality requirements are specific laws that require additional specific authorization to protect the release of medical records involving the diagnosis and/or treatment of the following patient conditions: minors, HIV, psychiatric/mental health conditions, and alcohol/substance abuse. If a patient does not authorize the release of this specific medical information, the office must declare in writing the following: "This disclosure does not contain patient medical information, if any, that is protected by special state and/or

federal confidentiality laws and which cannot be disclosed without specific written consent." Once the requesting party has been given notice that this information may be withheld from the release, the burden of obtaining the patient's consent shifts to the requesting party.<sup>1</sup>

In summary, ensure your practice has proper policies and procedures in place for responding to requests for the release of records and that these processes are followed to decrease your risk of violating federal or state patient privacy laws. If in doubt, call CAP's Risk Management Hotline at 800-252-0555 for guidance. ➦

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#### References

<sup>1</sup>CAP Risk Management (12/2019) Patient Record requests: What Is Proper Release Protocol?

<sup>2</sup>Cornell Law School; Legal Information Institute. [https://www.law.cornell.edu/wex/subpoena\\_duces\\_tecum](https://www.law.cornell.edu/wex/subpoena_duces_tecum)

<sup>3</sup>FindLaw (2018) What is a Subpoena? <https://www.findlaw.com/litigation/going-to-court/what-is-a-subpoena.html>

<sup>4</sup>CMA California Physician's Legal Handbook (01/2020), Document #4202 Health Plan Access to Medical

<sup>5</sup>CMA California Physician's Legal Handbook (01/2021), Document #4205 Patient Access to Medical Records

April 2022



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# Patient Privacy Protections and the Medical Board of California

by Gabriela Villanueva



At the start of this year's legislative cycle, a bill related to the Medical Board of California stood out immediately. Senator Melissa Hurtado (D-Fresno) introduced SB 920, a bill that proposes to authorize a Board investigator and a medical consultant to inspect a physician's business location and records, including patient and client records. The bill would provide that in the case where consent of a patient to inspect patient records is not present, the board investigator and medical consultant may inspect records in the office of the licensee for the limited purpose of determining whether good cause exists to seek a subpoena for those records.

The current language and what it intends to do is deeply problematic because it aims to expand the Board's enforcement capabilities. It bypasses the patient's right to keep personal health information private and the ability to be notified, and to provide consent, when appropriate. SB 920 in its current form diminishes established privacy laws and protections afforded to patient records. This process would make providers unintended participants in breaking patient confidentiality.

After review of SB 920, CAP's Public Policy Steering Committee deemed it necessary to voice CAP's opposition to the bill. On March 12, 2022, a **formal letter** was submitted to Senator Hurtado and the appropriate policy committee chairs, to express CAP's opposition to the bill.

SB 920 is the result of a request by the Board to both Senate President Toni Atkins and Speaker of the Assembly Anthony Rendon as part of their 2022 legislative requests. ([See Board letter here.](#)) In their letter, the Board's proposed changes include requests for a longer waiting period before reinstatement of a revoked or surrendered license, an increase in physicians' licensing fees, and a lower burden of proof for disciplining doctors.

Aside from the items raised by the Board, Senator Hurtado's bill expands the Board's power to access medical and pharmacy records without patient consent. SB 920 also gives patients a direct voice in the disciplinary process by allowing patient statements to be included in the adjudication process. ➦

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# Continuing the Conversation on Physician Burnout

Physician burnout continues to be a prevalent challenge in healthcare, with a substantial number of physicians reporting that with the additional challenges of COVID-19, increasing administrative duties, and new regulatory burdens, it is more difficult than ever to find time for themselves and their families.

According to a 2021 survey conducted by Medscape,<sup>1</sup> 79% of physicians experienced burnout prior to COVID-19 with the top specialties being Critical Care, Rheumatology, and Infectious Disease.

The top causes of burnout:

- **58%** – Too many bureaucratic tasks
- **37%** – Too many hours spent at work
- **37%** – Lack of respect from administrators/employers, colleagues, or staff
- **32%** – Insufficient compensation/reimbursement

Of the physicians surveyed, almost half (47%) stated that their burnout had a strong or severe impact on their life and over 70% of respondents considered their burnout strong enough to consider it having a moderate impact on their lives. One tenth of the respondents considered their burnout strong enough to consider leaving medicine all together.

What we know about burnout is that it can affect every area of a physician's life in and outside of the workplace, and may result in:

- Increased dissatisfaction
- Higher incidences of physician errors
- Higher incidence of alcohol and drug abuse
- Higher rate of depression
- Physician and emotional exhaustion
- Cynicism and detachment
- Low sense of accomplishment

To counteract some of the frustrations and dissatisfaction, physicians need to set realistic goals for work-life balance and periodically assess their wellbeing.

Balancing work and life through exercise, social time with family and friends, and additional sleep can help manage stressors to prevent burnout. Physicians that have this balance are better role models for their children and families, as well as for patients and employees.

Remember to care for yourself first before you can care for others.

### Feeling burned out at work? Find out what you can do when your job affects your health.

Mayo Clinic has a self-assessment tool and resources to help identify and take action against burnout.

<https://www.mayoclinic.org/healthy-lifestyle/adult-health/in-depth/burnout/art-20046642>

For additional resources and support regarding burnout, or for any other practice-related challenges, contact *My Practice* at **213-473-8630** or email

**MyPractice@CAPphysicians.com** for immediate assistance.

*My Practice* is a CAP member-exclusive program providing valuable services and resources to help you manage the business and operational side of your practice. ➤

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<sup>1</sup> <https://www.medscape.com/slideshow/2021-lifestyle-burnout-6013456?faf=1#1>





# Rising Cybercrime May Be Impacting Your CyberRisk Insurance Coverage – Learn How to Prevent Costly Ransomware Attacks in Your Practice



Cybercrime is on the rise and the insurance industry is taking a close look to make sure its policyholders have the basic security controls to prevent losses.

Ransomware is a type of malware that threatens to publish the victim's data or perpetually block access to it unless a ransom is paid.

Unfortunately, when it comes to ransomware, once your files are encrypted, there's not much you can do — besides cut your losses or pay up. And even if you do pay up, there's a chance you won't get your files back.

Medical practices continue to be increasingly vulnerable targets. Cyber criminals recognize the value of confidential and protected patient data and are now doubling and even tripling their efforts to take advantage of medical practices and healthcare organizations.

*Did you Know: Ransom Demands Increased 40 times from 2016 to 2019?*

## **Real-Life Scenario**

Your employee receives an email seemingly from Microsoft, warning them that their account may have been compromised, and to login to verify that they are the owner of the account. The user inputs their login and password, and the credentials are stolen by a hacker using this rudimentary but highly successful phishing technique. The criminal notices that your employee's computer has the Remote Desktop Protocol (RDP) enabled, and logs into the employee's computer while they work from home, using the stolen credentials.

The hacker uses the hijacked computer to find the backup server on the company's network, and deploys ransomware to encrypt the company's backups, before launching a wide-ranging attack on the rest of the company's computers and servers. This attack costs the company over \$10,000,000 between the seven-figure ransom payment, related expenses, and business interruption losses.

Protect your practice against scenarios like this and make sure that you implement these five preventative steps:

## **Five Steps to Preventing Ransomware Attacks**

### **1. Lockdown Remote Desktop Protocol Across Your Entire Organization**

More than 60 percent of ransomware attacks originate from hackers gaining unauthorized access to a computer via Remote Desktop Protocol (RDP). Using compromised credentials, a hacker can login to a computer within your company's network using RDP, move within the network undetected, and launch a crippling ransomware attack on your organization. Login credentials are highly vulnerable to theft from social engineering techniques and assorted malware variants, so they cannot be solely relied upon to protect your organization. Compromised RDP credentials are available for sale on the dark web for as little as \$3.

The easiest way to avoid having criminals get access to your network via this method is to simply disable this feature on all machines/servers on your network. If you absolutely need to use RDP, we recommend placing RDP

access behind a VPN that is protected by multi-factor authentication, which adds an important additional layer of security. Alternatively, a Remote Desktop Gateway Server can be utilized, which can also be protected with multi-factor authentication.

## 2. Two-Factor Authentication (2FA)

You should implement this simple and cost-effective security measure. 2FA protects your organization because it adds another layer of protection to password-protected remote access to your network. 2FA is also convenient to implement because it is often used on your mobile phone. Most successful hacking/ ransomware attacks are a result of the hacker gaining access to a company's network using compromised login credentials. In other words, even if the hacker has stolen an employee's login credentials, dual-factor authentication should prevent them from accessing your network, since they would also need to have the employee's mobile phone. 2FA should also be used on all remote access to your email servers (Office 365 and GSuite have free solutions). Hackers use compromised email accounts to launch ransomware or social engineering attacks against your contacts.

## 3. Offline Segregated Backups

Backups can be another effective strategy to reduce ransomware damages and business disruption. If you get infected with a ransomware virus, you may not need to pay the ransom to get back up and running if you have an intact backup. You will be able to wipe out the virus, clean your devices and network, and reinstall everything from a recent, clean backup.

Recently, hackers have been effectively attacking backups that are not properly protected. All backup solutions that are connected and mapped on your network are highly vulnerable to malware and hackers. Having a properly segregated backup is an effective technique to reduce this risk.

Consider the cloud. For small- and medium-sized companies, Veeam, Datto, Backblaze, and iDrive are popular cloud solutions for backups. Just because you

are using the cloud does not mean the cloud backups are properly isolated or segregated. Be sure to properly configure any cloud backups to ensure they are isolated from your operating environment.

Create internal procedures for maintaining on-site and onsite backups of your critical systems and data. Best practices include periodically testing your backups by restoring your systems from backup to ensure they work when needed.

## 4. Spam Filtering and Email Configuration

Your email server can automatically filter out suspicious emails. Activating these filters is an easy way to prevent dangerous phishing emails from landing in your employees' mailboxes. Use email filtering to quarantine suspicious emails and scan documents and files before they are opened.

Because criminals are using a compromised account concurrently with the actual user, they must hide their activity. Check your email for suspicious email forwarding and mailbox rules. These rules are a signature that reliably detect whether criminals have infiltrated your email.

## 5. Next Generation Antivirus: Behavior-Based Protection

Behavior-based security software scans devices for unusual behavior and can decide if the deviation is a threat. These solutions are typically connected to the cloud, so their ability to detect new malware variants is updated in real time. This is sometimes known as Next Generation Antivirus (NGAV).

Antivirus software on user devices, networks, and servers is used to find or block suspicious activity. Traditional antivirus relies on a vast database of virus signatures to help the software identify malicious applications on your computers. Modern malware can easily be modified to not match existing signatures. Popular NGAV endpoint protection tools include Microsoft Defender Advanced Threat Protection, BitDefender Gravity Elite, CarbonBlack, and CrowdStrike's Falcon/Protect. Behavior-based endpoint protection is an efficient way

to protect against new threats and prevents ransomware from spreading throughout your network.

As a reminder, CAP members are offered complimentary access to TMHCC CyberNET®, an advanced cyber risk management training solution addressing the latest trends in data breaches and cybercrime.

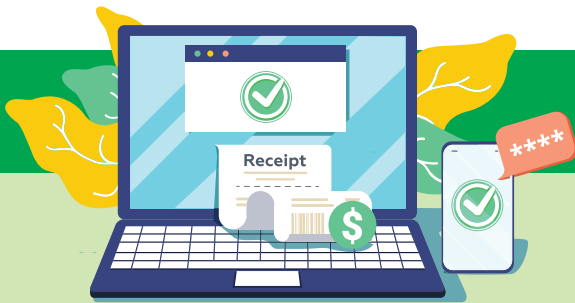
To access the trainings, visit <https://CAP.nascybernet.com>. (First-time users will need to sign up for a free account with your CAP member number as your

“Sign Up Code.” Once you have registered, you will be able to create username(s) and password(s) for your employee(s).)

For more information, please contact CAP Agency at 800-819-0061 or email [CAPAgency@CAPphysicians.com](mailto:CAPAgency@CAPphysicians.com). The licensed professionals with CAP Agency can also help you learn about your own personal cyber risk and about affordable coverage options and services available through Tokio Marine HCC. ➔



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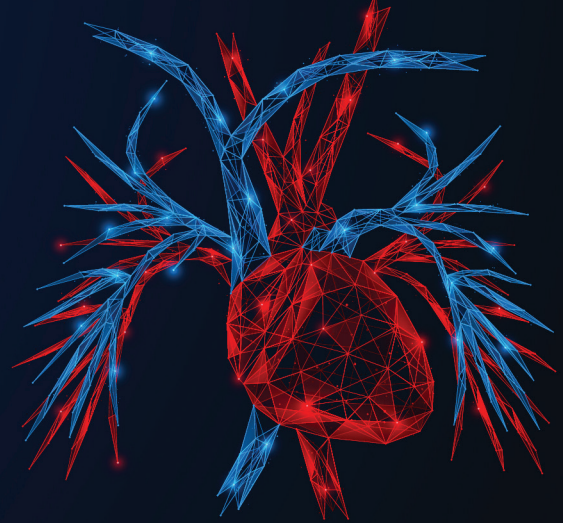
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4. Verify your email address and click the “Save Changes” button.

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# Improving Patient Experience and Outcomes Through Engaging Content Using Multimedia and 3-D Animation



Patient engagement is the holy grail of many quality initiatives. If patients can be more fully engaged in their healthcare, comprehension increases, compliance goes up, informed consent is improved, anxiety is reduced, and outcomes improve.

Over the last ten years, much research has bolstered anecdotal stories that patients improve when their experience with healthcare organizations is positive. When they feel their overall well-being is tended to and their individual needs are valued, not only do they feel better, but their outcomes improve. Why is that? “Innovative delivery systems are measuring activation to improve and individualize patient care and to strengthen the patient’s role in improving outcomes. They are improving care principally by tailoring coaching, educating, and implementing care protocols to patients at different levels of activation (engagement).”<sup>1</sup>

An earlier study concludes that “patients with the knowledge, skill, and confidence to manage their health and healthcare are more likely to engage in:

- Preventive behaviors
- Healthy behaviors
- Disease specific self-management behaviors
- Health information seeking behaviors

...and such behavior improves health outcomes.”<sup>2</sup>

One commonly used technique to increase patient engagement is through patient education and patient

family outreach efforts. Both the patient and the family must understand why medical intervention is necessary, its scope, complications, and intended outcomes. Given the challenges of elderly patients and those with low levels of formal education, the family is often translating medical providers’ instructions for the patient and themselves.

Traditionally, patient education has been communicated via text-based media or through verbal explanations repeated by the same healthcare provider *ad infinitum*. The efficacy of both techniques has been long questioned. In addition, with the advent of eHealth initiatives, it is now possible for medical records, personal patient records, patient education, informed consent, and outcomes metrics to be posted online or integrated within an electronic medical records system and personal health records, yet verbal education cannot be integrated. In addition, electronic integration of education with patient records generally qualifies as “meaningful use” under the ACA definitions, which can enhance revenue generation.

## The Superiority of Animation and Other Multimedia Tools Versus Text-Based Learning

An interesting study from Austria affirms the superiority of animation over text, supporting the conclusion that engaging patients through animation and other multimedia education content improves patient understanding, retention, and engagement:

“Understanding of and subjective knowledge about the surgical procedure and possible complications,



the degree of trust in professional treatment, the reduction in anxiety, and readiness for the operation were significantly better after watching the computer animation than after reading the text."<sup>3</sup>

According to this seminal 2015 study<sup>4</sup>, "Processing web-based health information can be difficult, especially for people with low health literacy. Presenting health information in an audiovisual format, such as animation, is expected to improve understanding among low health literate audiences." The aim of his paper is to investigate what features of spoken health animations improve information recall and attitudes and whether there are differences between health literacy groups.

### **Low Health Literate Patients Gain Even More**

The results show that among people with low health literacy, spoken messages about colorectal cancer screening improve recall and attitudes substantially compared to written messages. When combined with spoken text, they (animations) significantly improve recall. When exposed to spoken animations, people with low health literacy recall the same amount of information as their high health-literate counterparts, whereas in all other conditions people with high health literacy recall more information compared to low health-literate individuals. For people with low health literacy, positive attitudes mediated the relationship between spoken text and the intention to have a colorectal cancer screening. In conclusion, the authors found that spoken animation is the best way to communicate complex health information to people with low health literacy. "As animations do not negatively influence high health-literate audiences, it is concluded that information adapted to audiences with low health literacy suits people with high health literacy as well."<sup>4</sup>

Of particular interest is the following prospective randomized controlled trial where the authors tested the effectiveness of a Spanish language animation version at improving diabetes health literacy, compared to "easy to read" diabetes information from the National Institute of Diabetes and Digestive and Kidney

Diseases. They measured functional health literacy by the Short Test of Functional Health Literacy in Adults. Diabetes health literacy was measured by the Diabetes Health Literacy Survey (DHLS). Their conclusion is that... "The positive effect on DHLS scores suggests that animation has great potential for improving diabetes health literacy among Latinos having limited functional health literacy."<sup>5</sup>

This study reinforces the Mepplelink study cited above that animation with spoken words in the patient's native language works particularly well in patient populations with relatively low health literacy levels.

Also found in educational research theory are many studies looking at medical student information retention, which confirms the patient education study results. The conclusion of a study from the journal *Plastic and Reconstructive Surgery* concludes by stating: "A prospective, randomized, blinded study comparing the educational efficacy of a surgical textbook to digital animation demonstrates that, in novice learners, digital animation is a more effective tool for learning. Test takers found digital animation to be the superior educational medium."<sup>6</sup>

### **3-D Animation and Multimedia Patient Education Content Improve Outcomes**

As reimbursement in the United States becomes tied to outcomes metrics, the push to improve patient outcomes through fuller patient engagement is omnipresent. The connection between patient engagement and patient outcomes is well documented. Highly engaging patient education content is becoming integral to improving the overall patient experience. A plethora of data exists that confirms what many healthcare professionals know intuitively: that multimedia content, including 3-D animation education, is superior to text-based or static image education content. When culturally appropriate languages and images are added, the efficacy is multiplied. Retention increases, compliance increases, and better understanding by the patient and his or her family lead to better patient engagement and



improved outcomes. The days of handing a patient a written brochure hoping they “get it” should be long gone.

Visual Health Solutions is a participant in the CAPAdvantage program, CAP’s suite of no-cost or heavily discounted practice management programs, providing physicians with an innovative platform offering medical

illustrations and interactive graphics to share with patients for improved understanding of treatment and outcomes.

For more information, please visit [visualhealthsolutions.com](http://visualhealthsolutions.com) or contact Paul Baker, CEO, Visual Health Solutions, at 303-324-2016 or via email at [pbaker@visualhealthsolutions.com](mailto:pbaker@visualhealthsolutions.com). ➦

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## IN THIS ISSUE

- 1 Case of the Month:  
*Beware of Secret Agents - The Not So Independent Contractor*
- 3 Risk Management and Patient Safety News:  
*Releasing Medical Records – Guidelines for Reducing Your Risk of a Violation*
- 6 Public Policy:  
*Patient Privacy Protections and the Medical Board of California*
- 7 Ask My Practice:  
*Continuing the Conversation on Physician Burnout*
- 9 Rising Cybercrime May Be Impacting Your CyberRisk Insurance Coverage –  
Learn How to Prevent Costly Ransomware Attacks in Your Practice
- 11 Sign Up to Enjoy the Benefits of Paperless Billing
- 12 Improving Patient Experience and Outcomes Through Engaging  
Content Using Multimedia and 3-D Animation

April 2022

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