



Your Fellow Physicians Need You

The CAP Fellows Program could be one of the most interesting and rewarding years of your career. Over the course of the year, you will attend a variety of committee meetings, mostly in downtown Los Angeles, and some possibly in Orange County or Palo Alto.

You will be immersed in how CAP works and have the opportunity to contribute your ideas on ways to improve the organization for the benefit of all member physicians.

"The CAP Fellows Program offers an unparalleled opportunity to serve your fellow physicians as you help build the organization for the future."

- Sarah Pacini, JD, CEO, Cooperative of American Physicians

Committee meetings you may attend include:

- CAP Board of Directors and MPT Board of Trustees
- Business Development Committee
- Finance Committee
- Physician Closed-Claims Review Committee
- Risk Assessment Peer Review Committee
- Education and Patient Safety Committee
- Claims Review Committee

"Being a CAP Fellow is a great experience. I learned a lot, met great physicians, and thoroughly enjoyed it."

- Dr. Alan Frischer, Internal Medicine

Here's the best part: in the process, you'll meet smart, dedicated physicians just like you who care about making CAP, and the protection it provides to healthcare professionals, the very best it can be.

"I'd recommend that every physician who has the time and interest consider joining the CAP Fellows Program. I'm really glad I did."

- Stacie Macdonald, OB/GYN

To learn more about this opportunity and the specific requirements, please send a current CV to CAP's Chief Operating Officer Cindy Belcher at cbelcher@CAPphysicians.com by January 31, 2018. The Boards will be choosing 2018's Fellows shortly. ➦

Risk Management — and — Patient Safety News



What We Learned in 2017: General Surgery Data Study

by Ann Whitehead, Catherine Miller, and Steven Blackburn

In the coming year, the Risk Management and Patient Safety Department will continue mining data from a variety of sources: CAP closed claims, hotline calls, CAPCares calls, and practice survey data. Our goal is to identify trends, vulnerabilities, and emerging concerns or new issues that impact a physician's practice. We hope to use the data to drive change, provide education, curb losses, identify new data needs, collaborate with other industry partners, and advance quality outcomes and patient safety initiatives at CAP.

This article will provide a brief summary of findings from the 2017 General Surgery – Laparoscopic Cholecystectomy study.

General Surgery – LapChole Study Summary

The Risk Management (RM) team reviewed 10 years (2006 to 2016) of laparoscopic cholecystectomy closed claims. Between 2012 and 2016, CAP saw a 68 percent increase in the number of lawsuits involving laparoscopic cholecystectomies and a staggering 431 percent increase in the total expenses incurred, meaning the total indemnity (money paid to plaintiffs) plus the costs of legal defense. Additionally, from 2012 to 2016 there was a 39 percent increase in claims closed with an indemnity payment, evidence that lap chole injuries can be very challenging to defend.

In the CAP RM focused review of closed claims with an intraoperative complication, 58 percent of patients suffered an injury to the common bile duct, 24 percent incurred an injury to the right hepatic artery, 16 percent suffered an injury to the hepatic ducts, and in four percent a gallbladder remnant remained.

In the focused review of the closed claims with an indemnity payment, 80 percent of patients required additional more extensive surgery; 18 percent died from sepsis, bleeding, or post-op anoxia; five percent had substantial damage to the liver requiring either partial hepatectomy or liver transplantation; and five percent sustained brain damage resulting in a persistent vegetative state.

To understand the reasons for these statistics, and to make laparoscopic cholecystectomy safer, requires a full understanding of all of the root causes and the contributing factors. The following root causes were identified: Inappropriate patient selection; patient-specific factors (aberrant anatomy, adhesions, and inflammation); misidentification of anatomical structures (cognitive bias and incomplete understanding of the critical view of safety); errors in intraoperative judgment (failure to exercise options such as an intraoperative cholangiogram); failure in technical performance (dissection, use of cautery or clip placement); unsuccessful repair of the biliary injury; and delay in diagnosing the bile duct injury (postoperative instructions on surgical complications that warrant immediate medical attention).

As bile duct injuries become more common in laparoscopic cholecystectomies, it is important to understand how error occurs and develop risk mitigation strategies such as:

- 1) Implement a well-rounded informed consent discussion (risks unique to the patients, alternatives, including risks and benefits of no treatment, and

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possible conversion to open);

2) Use a reliable dissection method that most closely mimics the open procedure and achieves the critical view of safety;

3) Know when you are in trouble and exercise options in light of increased technical difficulty or presence of red flags (cholangiogram, time-out, request assistance, convert to open, or discontinue to a later date);

4) Recognize confirmation bias – implement checks and safeguards;

5) Manage OR production pressures and empower OR staff to “stop the presses” when production pressure compromises patient safety; and

6) Provide discharge instructions that include signs and symptoms of a surgical complication that warrants obtaining immediate medical attention.

Moving forward, it is important to direct our efforts to proactively prevent bile duct injury. Strategies for minimizing bile duct injury can be found at the Society of American Gastrointestinal and Endoscopic Surgeons (SAGES) website (<https://www.sages.org/safe-cholecystectomy-program/>). The SAGES Safe Cholecystectomy Program has the mission to enhance a universal culture of safety around cholecystectomy. SAGES has developed a six-step program published on its website that surgeons can do now to potentially reduce risk of incurring a biliary injury.



Look for a future CAP RM expanded publication on this subject in 2018. ➦

Ann Whitehead is Vice President, Risk Management and Patient Safety for CAP. Catherine Miller and Steven

Blackburn are Senior Risk Management and Patient Safety Specialists for CAP.

Questions or comments related to this article should be directed to awhitehead@CAPphysicians.com.



The Successful Physician

by Gwen C. Spence and Carole A. Lambert, MPA, RN

Report from the Front Lines

Over the course of the year, we meet with residents, medical students, practicing physicians, and office staff in locations and facilities from Sacramento and Folsom to Anaheim and Moreno Valley, and from Cedars-Sinai Medical Center to Riverside University Health. The physicians we meet, wherever they are in the trajectory of their careers, share perspectives and concerns that are remarkably similar given the diversity of communities we have visited. Physicians, with all their gifts of remarkable intelligence and skill, are human too. They want to get things right, to promote good outcomes, to not just survive but thrive.

Physicians worry about not being able to practice their craft. They sometimes wonder what has happened to their dreams. Each physician has his or her own unique vision of what becoming a physician will mean to them and how they will live out their commitment to caring for the patients and families who come to them. This dream bumps up against the environment in which the physician practices. The current environment for healthcare delivery is uncertain and fluid, with competing and sometimes contradictory demands.

Physicians worry about their ability to provide the best, most appropriate, safest patient care. The tension between their motivation and the practice environment prompts them to express frustration with the politics, legislation, and regulations that, in their view, pushes them to practice what they call “cookie cutter medicine.” This perception is difficult to square with the goal of patient-centered care.

Physicians worry about being sued. The headline-making cases in the news often generate more heat than light, stoking physicians’ fears with dramatic descriptions of a physician’s or hospital’s failings. Most physicians say they know a colleague who was targeted unfairly or wrongly.

Physicians, especially those who are new to practice, worry about their own resilience. As their professional role evolves from novice to expert, meeting the challenge of the fourth element in the Quadruple Aim – caring for the caregiver – becomes a reality for them. In the words of one physician, they “want to be strong” for their patients.

CAP physicians, leaders in their profession, organizations, and communities, know the worth of their leadership. When it comes to having a strategy for responding to the very real worries that confront them, CAP physicians can agree with Richard Corder, who, when he was at Massachusetts General Hospital, observed, “If the CEO [read physician] doesn’t get it, understand it, rally around it, speak to it, make it important among his or her team – then it’s not going to work.”

The good news for CAP members, and for the community beyond CAP, is that the components of CAP’s Residents Program and The Successful Physician have been designed and developed to offer information, tools, and strategies to support physicians and their staff as they deal with their concerns. The Residents Program and The Successful Physician provide guidance, leading physicians to their ultimate goal of getting things right — to becoming the physicians they want to be.

Working across departments and disciplines, the Residents Program and The Successful Physician mobilize teams composed of CAP and Schmid & Voiles staff to work with physicians and their staff in areas ranging from risk management fundamentals and professional development to specialty-specific risk management and enterprise risk management. Educational offerings such as: “The Impact of Physician Leadership on Quality and Safety”; “Resilience – A New

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Take on Physician Wellness”; “Anatomy of a Lawsuit”; and “Payment Reform – How’s That Working for You?” are specifically designed to help physicians thrive.

The goal of the Residents Program and the Successful Physician is to meet CAP physicians and their staff, and their colleagues in the wider community, at the inflection point where we can be of most help in

supporting their commitment to providing safe and effective patient care. ➦

Gwen C. Spence is Senior Representative, Membership Services for CAP. Carole A. Lambert is CAP's Vice President, Practice Optimization. Questions or comments related to this article may be sent to clambert@CAPphysicians.com.

Primary Care Physician Shortage Challenges California

The legislation creating the Affordable Care Act (ACA) was crafted to address multiple aspects of healthcare access and delivery.

On the issue of access to care, a concern over the shortage of physicians, especially here in California, has been part of the conversation for some time. A 2017 study by UCSF Healthforce Center found that California does not have enough primary care physicians in most regions of the state and the situation will only grow more acute from an aging physician workforce, a growing population, and expanded coverage through the ACA. The UCSF study estimates that California will need an additional 8,243 primary care physicians by 2030 — a 32 percent increase. One avenue for relief could come from increasing residency slots in the state.

The California Medical Association (CMA) has been very active in helping to secure greater state and federal funding for primary care graduate medical education. From its vantage point, CMA sees hundreds of graduating medical students not able to find residency slots in California to continue their training, forcing these young and talented doctors to move away. Policymakers say this is important because there is evidence showing new doctors are likely to continue their practice in communities where they complete their residency.

The Teaching Health Center Graduate Medical Education (THCGME) program was established under the ACA to help alleviate primary care physician shortages in underserved areas. The program currently supports 742 physician residents at 59 teaching health centers, eight of which are in California. A very important step to secure funding occurred in early December as the U.S. House of Representatives, with the leadership of

California Congressman Jeff Denham (R-Modesto), passed HR 3922, the Community Health and Medical Professionals Improve Our Nation (CHAMPION) Act of 2017. The passage of HR 3922 reauthorizes the THCGME for another two years. During intense negotiations prior to the bill’s passage, CMA successfully advocated to double the funding from \$60 million to \$126 million for this program. In a letter to the California Congressional Delegation expressing support for passage of HR 3922, Dr. Ted Mazer, president of the California Medical Association, emphasized: “Data show that when compared to traditional postgraduate physician trainees, residents who train at teaching health centers are more likely to practice primary care (82 percent vs. 23 percent) and remain in underserved communities (55 percent vs. 26 percent).” ➦

Reference: California’s Primary Care Workforce: Current Supply, Characteristics, and Pipeline of Trainees/ Healthforce Center at UCSF (<https://healthforce.ucsf.edu/publications/california-s-primary-care-workforce-current-supply-characteristics-and-pipeline#>)



Case of the Month

by Gordon Ownby



No-Show Practitioners Cannot Challenge Psych Exam Order, Court Says

The California Court of Appeal has ruled that a psychologist who failed to appear for a licensing board-ordered psychiatric exam has no grounds to challenge the subsequent suspension of his license.

The case involves a California psychologist who was notified by the California Board of Psychology that it was investigating complaints concerning his behavior and communications with patients. Though the psychologist, Dr. P, spoke with a board investigator over the telephone, he would not agree to a formal interview. Several months later, Dr. P refused to comply with a subpoena to appear and give testimony.

Two months later, the Board issued an order compelling Dr. P to submit to a psychiatric examination within 30 days. The Board later modified that deadline to allow for an investigative interview. Following that interview, Dr. P's neurologist wrote to the Board arguing that a psychiatric interview was not necessary. When Dr. P did not appear for the scheduled examination, the Board filed an accusation against him for discipline. An administrative law judge issued a recommendation that the Board revoke Dr. P's license for his failure to comply with an order for a mental examination under California Business & Professions Code Section 820. The administrative law judge refused to allow Dr. P to submit evidence concerning the lack of good cause for the order compelling the exam.

In supporting the trial court judge who also ruled in favor of the Board, the California Court of Appeal considered the language of Section 820 authorizing a health licensing board to order such evaluations.

Whenever it appears that any person holding a license . . . may be unable to practice his or her professional safely because the licensee's ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licensee to be examined by one or more physicians and surgeons or psychologists designated by the agency.

The Court of Appeal then cited Section 821, which provides:

[F]ailure to comply with an order issued under Section 820 shall constitute grounds for the suspension or revocation of the licensee's . . . license.

According to the Court of Appeal opinion, *[P] v. Board of Psychology*, Dr. P asked that the court determine "what standard must be shown for an order under Section 820. . . ." The Sacramento-based appellate court cited the statute itself and said that the Board may issue a Section 820 order "whenever it appears" to the Board that a licensed practitioner may be unable to practice his profession due to impairment from mental illness or physical illness affecting competency.

The Court of Appeal rejected Dr. P's request that the court determine when a licensee may challenge that showing. The Court said that by not showing up for the examination, Dr. P had no basis to challenge the basis for the order.

In finding for the Psychology Board, the Court emphasized that the government interest in protecting the public is compelling:

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"Section 820 was enacted for the express purpose of creating a mechanism to ensure the licensing agency had the power to revoke the license of a healing arts professional who was mentally ill. The actual ability to investigate whether the medical professional is indeed mentally ill is paramount to that call. That a revocation order may be issued suspending a license for noncompliance with a Section 820 order in pending revocation proceedings further underscores the importance of this interest." ❧

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

CAP Purchasing Alliance Saving You Money on Everyday Purchases

If becoming more financially savvy is on your list of New Year's resolutions, then you'll want to enroll in CAP Purchasing Alliance, **a free group purchasing program that can save you 10 to 20 percent on medical and non-medical supplies for your practice.** Take advantage of savings on needles and syringes, IV sets, wound care, office supplies, shipping, and much more.

Enrollment is quick and easy, and you can cancel the program at any time. Simply visit CAPPurchasingAlliance.com or call 855-907-9227.

As We Ring in the New Year...

Don't Forget About Your Value-Added Coverages!

As we begin 2018, CAP Physicians Insurance Agency (CAP Agency) would like to thank you for putting your trust in our agency and all of our insurance professionals in 2017. Each of us appreciates the opportunity to serve you and help you with all of your insurance needs.

The new year is also an opportune time to remind you that, **as a CAP member, you automatically receive a number of valuable coverages** through CAP Agency that you can take advantage of, should the need arise. These include:

CAP Group Long-Term Disability Insurance Policy – Provides coverage for up to \$2,000 per month for up to 24 months for loss of income by a CAP physician due to illness or injury.

CAP Group Life Insurance Policy – Provides coverage for \$10,000 in the event of the death of a CAP physician.

CAP CyberRisk Insurance Policy – Provides coverage to CAP physicians and qualified medical groups for third-party claims due to data breaches involving privacy liability, computer information security, and electronic media liability. This program also provides assistance with patient and regulatory notifications, as well as payment of certain regulatory fines and penalties.

CAP's Employment Practices Plan* – Provides protection to CAP physicians and qualified medical groups to help cover legal expenses associated with employment-related lawsuits alleging wrongful termination, discrimination, and harassment.

CAP's MedGuard Plan* – Provides protection to CAP physicians to help cover legal expenses resulting from governmental disciplinary proceedings alleging Medicare or Medicaid fraud and abuse, medical board proceedings involving improper patient care, and other disciplinary proceedings alleging HIPAA violations. The MedGuard Plan also provides protection for disciplinary proceedings instituted by a hospital or hospital's governing committee.

As a full-service insurance agency, CAP Agency is here to help you understand these value-added benefits, provide information and quotes on additional coverage, and review your current insurance program to make sure you are adequately protected. Call us today at 800-819-0061 or email CAPAgency@CAPphysicians.com to find out how you can kick off the new year with all of your insurance needs met. ❧

**Various deductibles and/or exclusions may apply.*



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333 S. Hope St., 8th Floor

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

The information in this publication should not be considered legal or medical advice applicable to a specific situation.

Legal guidance for individual matters should be obtained from a retained attorney.