



Meet Your 2021 CAP Board of Directors and MPT Board of Trustees Nominees

For more than 40 years, members of the Cooperative of American Physicians have benefited from trusted and secure medical professional liability protection offered through the Mutual Protection Trust. They have also relied on the organization's governing physician leaders to deliver on a long-standing commitment to promote safe patient care while keeping medical malpractice coverage costs low.

This year, elections for the CAP Board of Directors and for the MPT Board of Trustees will be held on July 21, 2021, in conjunction with the Annual Meeting of Members that same day. The CAP ballot, MPT proxy, and additional voting information will be mailed in late May to all CAP members of record on the date of mailing.

Your Vote Matters!

As a member of a physician-owned and physician-governed enterprise, you will have the opportunity to make your voice count.

Members will notice that the same physicians are nominated to serve on both the CAP Board of Directors and on the MPT Board of Trustees. The Boards believe that nominating the same individuals to serve on the boards overseeing CAP and MPT will increase

governance efficiencies and move the larger enterprise forward with unity.

We invite you to learn more about the seven physician members who have been nominated by the CAP and MPT boards to serve the membership. Upon election, this diverse pool of candidates will have the privilege of supporting you and your practice and guiding the organization into the next era of strength and service.



Name: Sheilah L. Clayton, MD, FACS

Medical School: Case Western Reserve University School of Medicine

Practice Location: Pasadena, CA

Specialty: General Surgery

Years in Practice: 31 years

CAP Member Since: 1990

As a current member of CAP's Board of Directors and several committees, representing the collective interests of my fellow members is a privilege and an honor. We all share the common goal to provide the best care possible for our patients and sustain the viability of our practices. The protection and resources that CAP offers are paramount to our success, yet the challenges we face are ever evolving and there can be no one-size-fits-all approach. Having the opportunity to continue my service as a CAP and MPT governing leader solidifies my commitment to creating solutions that will further strengthen the future of the enterprise and effectively meet the individual needs of our members, their practices, and their patients.

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Name: Roger S. Eng Jr., MD, MPH, FACR

Medical School: George Washington University School of Medicine & Health Sciences

Practice Location: San Francisco, CA

Specialty: Radiology

Years in Practice: 24 years

CAP Member Since: 2016

While many challenges continue to impact physicians and their practices, I believe this is an exciting time in medicine, as breakthroughs in technology are allowing us to deliver better and more accurate patient care. The medical malpractice protection and benefits we receive through CAP allow us to practice with peace of mind and bolster our ability to drive advancements in healthcare and succeed in our practices. In continuing my leadership role with CAP and MPT, I am committed to working with our physician-led committees and governing bodies to maintain our position as an industry-leading medical malpractice coverage provider and develop even more ways to support our members' practices with innovative resources and benefits that help us deliver excellent patient care.



Name: Wayne M. Kleinman, MD

Medical School: Medical College of Virginia, Virginia Commonwealth University

Practice Location: Tarzana, CA

Specialty: Anesthesiology

Years in Practice: 32 years

CAP Member Since: 1992

For more than 20 years, I have had the privilege of serving CAP and MPT and our members in a variety of leadership roles and have been proud to witness and contribute to the achievements that have made CAP and MPT the strong and stable enterprise it is today. When members have secure financial medical malpractice protection and can access valuable resources supporting safe and effective care, they can spend more time focusing on patients and managing busy practices. As a CAP and MPT leader, I remain responsible for and committed to safeguarding our members and the long-term stability of the organization, which is strengthened through new membership driven by disciplined underwriting, quality coverage, and an ever-growing suite of valuable membership benefits.



Name: John Kowalczyk, DO, FACOS

Medical School: Midwestern University Chicago College of Osteopathic Medicine

Practice Location: Los Angeles, CA

Specialty: Urological Surgery

Years in Practice: 26 years

CAP Member Since: 2005

As a new candidate nominated to serve on CAP's Board of Directors and MPT's Board of Trustees, I am pleased to have the opportunity to work alongside my colleagues to ensure the future health and strength of the organization so that members continue to receive the highest degree of malpractice protection. Upon joining CAP in 2005, I found tremendous value in the many resources offered to help independent physicians like me find solutions to issues we all face in our practices. Combined with excellent medical professional liability coverage delivered by MPT, CAP's valuable benefits and services alleviate many of our burdens and offer us opportunities to spend more time with our patients. In serving as a CAP and MPT leader, I would proudly take on the responsibility of helping our members meet their needs and goals, ultimately for the benefit of our patients.



Name: Othella T. Owens, MD, FACS

Medical School: Medical College of Virginia, Virginia Commonwealth University

Practice Location: Los Angeles, CA

Specialty: Otolaryngology - Head and Neck Surgery

Years in Practice: 38 years

CAP Member Since: 2007

As changes in healthcare continue to rapidly evolve and impact our practices in unprecedented ways, the flexibility with which CAP has deployed staff and services to support members is a testament to the strength and integrity of the organization. I welcome the opportunity to serve my fellow physicians as a member of the CAP Board of Directors and MPT Board of Trustees to tackle new and existing challenges. Ensuring the ongoing strength of the enterprise through careful oversight of financial assets, resources, and unique benefits is a goal we all share and it is my duty to help achieve this as a devoted CAP and MPT physician leader.



Name: Stewart L. Shanfield, MD

Medical School: University of Texas Health Science Center

Practice Location: Fullerton, CA

Specialty: Orthopedic Surgery

Years in Practice: 35 years

CAP Member Since: 1998

Composed of and led by California's top physicians, CAP continues to maintain its place in the market as a leading provider of the best medical malpractice coverage. This success by CAP and MPT relies in large part on the disciplined stewardship of the organization's fiscal resources and on our collaborative approach to understanding the individual needs of practicing physicians. As we conquer the enormous hurdles that challenge our ability to remain viable in our practices, our focus on the cherished physician-patient relationship will only deepen. I can think of no greater privilege than working alongside our esteemed membership to accomplish our shared goals and ensure that all members receive secure protection and valued service unmatched by other providers.



Name: Lisa L. Thomsen, MD, FAAFP

Medical School: University of California, San Francisco School of Medicine

Practice Location: Glendora, CA

Specialty: Family Medicine

Years in Practice: 31 years

CAP Member Since: 2003

Since joining CAP in 2003 and as a participating member of several boards and committees, I firmly believe that the enterprise's history of stability and growth is a result of dedicated leadership by physicians who are sincerely interested in the well-being and success of its membership. As an independent solo family practitioner, I understand the difficulties in sourcing reliable services and support to help run an efficient practice. As a CAP and MPT physician leader, I remain steadfast in my commitment to helping all members and prospective members realize the opportunities and benefits that can only be found through an organization deeply focused on protecting the best interests of physicians and their patients.

Risk Management — and — Patient Safety News



Beyond the Brick and Mortar

by Deborah Kichler, RN, MSHCA

Telemedicine has played a major role in providing healthcare and managing chronic health conditions during the ongoing pandemic. Physicians and their staff have had to implement some type of telemedicine program in their practices to avoid the health risks of face-to-face encounters. These once-underutilized tools and technologies quickly became staples in the medical practice, accelerating their prominence and expansion in the ongoing delivery of care.

While the past year introduced many new challenges, it also served as a testing ground as a result of the government's emergency orders and waivers, allowing physicians and healthcare professionals to provide care via virtual mediums without HIPAA restrictions and receive near equal reimbursement for services provided. Keeping waiting rooms from overcrowding during lockdowns and still being able to diagnose and treat homebound patients was one of the primary purposes of easing regulations around telemedicine programs. Not to say all remote visits were met without difficulty. Many practitioners and patients experienced IT issues associated with broadband and cellular accessibility, among others.

In a post-pandemic environment, physicians and patients alike see the advantages of continuing to offer telemedicine as a means for care. When the government lifts the emergency orders, physicians will want to be prepared as all HIPAA safeguards are reinstated and will want to make sure to have a secure, HIPAA-compliant telemedicine platform

in place that works best for their patients and their practices. There is continued pressure on the federal Medicare program and private insurers not to turn back reimbursement for telemedicine services once the emergency orders are lifted; the final word is pending.

In today's environment, consumers want "on-demand" care. How can physicians shift from a short-term intervention to a long-term strategy? Can telehealth enhance the care you provide? How can you keep what you have but expand the services you provide?

Here are a few tips to consider:

1. Define your goals

Will telemedicine improve efficiency? Improve service to patients? How does telehealth fit into your overall care model?

2. Create new roles for staff in a hybrid model

Assess the workflow that is best for practitioners and patients. How can you blend virtual and physical environments together as part of how care is delivered?

3. Define which patients are to be seen virtually

Telemedicine should provide the same physician-patient relationship as in-person visits. Determine which patients need to be seen in the office (visit type, diagnosis, demographics).

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4. Learn the best way to do a physical exam

[Review your webside manner](#) and provide the same level of care and treatment consistent with clinical impression or working diagnosis.

5. Don't eliminate the telephone

Follow up with check-in visits. Review lab and/or diagnostic results using secure texting and monitoring applications.

Remote Patient Monitoring

Remote patient monitoring (RPM) is the next step to improved telemedicine provision of care and improved outcomes. Chronic disease requires patients to be involved in their care. Devices are used to engage patients in their own health by helping them manage their chronic conditions and stay on track. These patients need more than three to four in-person visits per year. RPM may be used to promote proactive patient self-care, monitor patients' key measures, and allow physicians and patients easy access to information about health issues.¹

Remote patient monitoring offers the following benefits

1. Physicians can closely monitor patients outside the office, identify potential problems earlier, and perhaps prevent hospitalizations while improving overall patient health and containing healthcare costs.
2. Devices can help physicians perform routine tests to monitor chronic diseases: checking a patient's weight and BP (CHF), blood glucose (DM), pulse oximetry and respiratory rates (COPD), and send real-time data to the physician's office to titrate medications or determine the need for an in-person visit or urgent/emergent care intervention.
3. Devices and apps can be worn, like a skin patch or watch, to monitor vital signs and transmit data to the physician's office. A parent can send high-quality images of a child's throat or ear to a

physician. Virtual second opinions or connections with specialists outside a local area can eliminate the burden of travel time and other obstacles.²

Let us not forget that there are risks associated with advancing technologies that need to be considered for safe patient care, including:

- **Data Breaches:** HIPAA violations can occur if patient information and data sharing are not properly encrypted.
- **Viruses and Malware:** Physicians must take steps to safeguard patient information within their network by installing antivirus software, firewalls, and monitoring the network for unauthorized use.
- **Device Malfunction:** Stay up to date on the latest information for the device, including FDA approval, manufacturers warnings, the device's safety record, and approved uses. Read thoroughly all contracts with medical vendors, including who is responsible in the case of device malfunction or failure.
- **Inadequate Staffing:** Who will handle the incoming data? What will be done with it? Have written guidelines and protocols regarding when the device will be monitored; which members of the care team will monitor the data at each point in time; under what circumstances will the appropriate provider be alerted to potential problems; and education of patients regarding device monitoring and physician follow up.
- **Be aware of "alert fatigue":** Do not ignore critical alarms.

Patient selection should depend on each person's motivation to actively manage his or her health, as well as the person's ability to understand and use the technology. As the physician, you should ensure that a complete and thorough informed consent process is conducted with the patient and documented in the patient's medical record. The patient's education should include:

1. What the device is for and what is it measuring.

2. How to use the device.
3. Elements of the treatment plan, such as what times the device will be monitored and how alerts will be handled by the healthcare team.
4. What device failure or malfunction looks like, and what the patient should do if that happens.
5. How to properly maintain the device.

Telemedicine and telehealth are here to stay. Innovations in access to services, increased patient engagement in their own well-being, and costs of healthcare will continue to be the future of medicine and value-based care. ➦

Deborah Kichler is a Senior Risk Manager for CAP. Questions or comments related to this article should be directed to dkichler@CAPphysicians.com.

Footnotes:

¹Niecko-Najjum, L.; Iams, Sara; Johnson, Bruce A. (December 2019) "Remote Patient Monitoring Opportunities and Risks for Technology Vendors and Providers," from <https://www.polsinelli.com>

²Ratnam, Gopal. (June 3, 2020) "Remote Devices for Telehealth See Surge in Demand," from <https://medicalxpress.com/news/2020-06-remote-devices-telehealth-surge-demand.html>

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Don't Overlook Your Business Insurance

As business owners, physicians should have a general understanding of how to protect their practices and themselves from various types of financial risks, in addition to those associated with medical malpractice liability.

Where do you start? What kind of coverage does a physician need? What should the limits be? How much will it cost? Who is a good source for help?

A good place to begin is with an evaluation of your current business insurance coverages to ensure that they are tailored to the specific needs and size of your medical practice.

Here are the top essential business insurance programs you should review regularly and consider adding to your portfolio if you are not currently covered:

Business Owner's Policy (BOP)

Combines a wide range of liability and property coverage into a package that is typically less expensive than purchasing the coverages individually.

Workers' Compensation Insurance

Protects you against lawsuits, fines, and penalties stemming from workplace incidents — and may include protection from COVID-19-related liability.

CyberRisk Liability Coverage

Provides additional protection above the \$50,000 of protection you automatically receive as a CAP member to cover the high costs associated with dangerous cyberattacks.

Coverage for Medical Consultants

Offers protection from errors and omission that may occur when performing duties outside of regular

patient care, such as reviewing medical records for insurance companies, engaging in nonprofit work, evaluating criminal cases, or performing peer review.

Telemedicine Coverage for Patients Outside of California

Your medical malpractice coverage through CAP includes telemedicine for services provided to patients in California. If you are currently seeing and treating patients virtually outside of California, extra professional medical liability protection is important coverage for you to have.

Who is the best source for your insurance needs? CAP Physicians Insurance Agency, Inc. (CAP Agency) is a full-service insurance agency created to support CAP members with important insurance programs. The licensed, trained professional insurance agents with CAP Agency have expertise in all lines of business and personal insurance coverage, and they know healthcare. They can provide you with a comprehensive review of your risk exposures, assess your current coverage, and provide you with comparative, competitive quotes at no cost to you.

To learn more about how we can support you and your practice with comprehensive insurance programs at favorable rates, contact us by calling 800-819-0061 or emailing CAPAgency@CAPphysicians.com. ➡

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PHYSICIAN'S GUIDE TO CHOOSING THE RIGHT INSURANCE



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How Much Insurance Do You Really Need? Free Guide Provides Help to CAP Members

So why not make different choices and be vigilant about protecting your income, assets, and well-being?

Understanding that navigating through what might seem like an endless sea of insurance options can be a daunting and time-consuming chore, CAP created the *Physician's Guide to Choosing the Right Insurance*, which outlines physician-specific insurance programs, what is covered in each, and how to know what is right for your practice.

When seeing patients, the physician's practice is no place for taking chances. The same goes for running a unique business like yours. Customization is key when securing the right insurance and the first step is understanding the options available. ➦

Get the free guide today and discover a convenient and easy way to approach your insurance portfolio. To get your copy, please call 800-819-0061 or email CAPAgency@CAPphysicians.com.

As a physician, you handle patient diagnoses with due diligence, take the right steps to consult with peers, order the right tests, analyze results, and offer the best guidance for safe and effective treatments.

Yet, many physicians do not practice the same diligence when safeguarding themselves or their livelihoods. Sometimes, it is easier to ignore the "what ifs," maintain the bare minimum, and keep your fingers crossed that all goes well. Would you use the same approach treating your patients? If you knew your patients had higher risk factors for certain diseases, you would encourage them to make different choices.

The experts at CAP's Physicians Insurance Agency, Inc. (CAP Agency) know that physicians and their businesses are at higher risk for a variety of threats like workplace accidents, HIPAA violations, data breaches, personal lawsuits, and many others. They also understand that physician practices have very different insurance needs than regular businesses.

Case of the Month

by Gordon Ownby



Use Staff for Pre-Procedure Instructions – But Also Verify

Though physicians may expect that staff will assist in properly instructing a patient on preparing for a procedure, the physician will still be responsible for those instructions having been carried out.

A 49-year-old data analyst was referred to a pain management practice by an orthopedic surgeon after an MRI showed degenerative joint disease from C 2-3 to T 1 and severe bilateral foraminal stenosis at C5-7. When Dr. PM, a pain management anesthesiologist, evaluated the patient and reviewed the MRI, he felt that the patient's stenosis would result in neurological deficits that could lead to disability.

That patient's written history signed by Dr. PM included an entry of his new patient taking 800 mg of ibuprofen three times a day. Dr. PM and the patient discussed performing a cervical epidural steroid (CES) injection and according to custom and practice, Dr. PM would have discussed with the patient the risk of headaches, soreness, and bleeding.

The gentleman later testified that Dr. PM did not tell him to stop the ibuprofen before the contemplated CESI or that failing to do so would increase the risk of bleeding. He also testified that no staff person at the pain management center advised him to stop ibuprofen use before the procedure. Medical records contain no documentation of any such advice or instruction by anyone on that first visit.

A chart entry signed by Dr. PM on the day of the CESI listed the patient's current medications as ibuprofen,

turmeric, ginger, and boswellia. The consent form signed that day by the patient and Dr. PM confirmed that the patient had been advised of possible complications including bleeding, infection, tissue or organ damage, and anesthesia or medication reaction. Neither that consent form nor any other document addressed any need to stop medications prior to the procedure.

The procedure performed that day went uneventfully and Dr. PM's report noted that on aspiration, no blood or CSF was noted. After completing the procedure, however, the skin at the site "seemed to be oozing blood more than usual." Pressure on the site stopped the bleeding and an adhesive bandage plus five minutes of ice appeared to keep the site dry. Dr. PM noted: "Patient was inquired as to why he may be bleeding more than usual [and] at this time he admitted to us that he has been taking an excessive dose of ibuprofen up to eight pills a day regularly, practically overdosing on ibuprofen."

Dr. PM instructed his patient that if he developed any symptoms related to bleeding at the site, including pain, numbness, or weakness, he should inform him and go to the ER immediately. Dr. PM kept the patient for 20-30 minutes after the procedure, confirmed that aftercare instructions were given, and discharged him in good condition.

The patient drove back to work, but about an hour later he felt a sharp pain in his mid-back. Unable to sit straight, the patient called his wife to take him to

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the hospital emergency room. The ED physician noted the patient was alert, oriented X3, cranial nerves intact 2-12, and had normal speech with no motor or sensory deficits. A spine MRI that evening showed a large posterior epidural collection from C3 to T3 likely attributed to a hematoma and resulting in severe spinal cord compression.

Two hours later, the patient underwent laminectomies at C4-T3 to remove the epidural hematoma and foraminotomies at C5-C8. The surgery resolved his acute pain and the patient was discharged two days later.

The patient sued Dr. PM alleging that Dr. PM should have advised him to refrain from taking ibuprofen prior to the cervical epidural injection. The complaint further alleged that Dr. PM negligently proceeded with the epidural injection “despite full knowledge that plaintiff was taking high doses of ibuprofen” and that upon seeing the patient bleeding from the injection site, Dr. PM should have arranged for the patient’s transportation to a hospital instead of releasing him to return home. The patient’s lawsuit alleged residual and continuing pain from the episode. The legal dispute resolved informally prior to a trial.

Without written support, a physician’s verbal advice on identified risks — and reliance on staff to carry out specific pre-procedure instructions — will be subject to “he said/she said” disputes. And should a medical record instead show a patient on the day of a procedure taking a contra-indicated medication, the percentages for a successful defense plummet. ➦

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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Take the Pulse of Your Practice with a Free Virtual Practice Management Assessment

When was the last time you conducted a general check-up on the health of your practice? It may seem obvious, but clinical excellence aside, the care you provide for your patients may be impacted by the efficiency and effectiveness of your practice operations.

As an exclusive benefit of your membership, you have access to *My Practice*, CAP's free practice management and business services solutions program. In addition to being available for general practice-related inquiries, *My Practice* offers CAP members a free virtual practice management assessment. This service is different from CAP's popular Risk Management Practice Survey and is a great way to become more familiar with all that is available to you through your CAP membership.

A regularly scheduled practice evaluation can help you stay ahead of policies and procedures that support optimal workflow capabilities and a healthy bottom line, even when you think your business is running like a well-oiled machine. Plus, an outsider's perspective can identify areas that need improvement to help your practice realize its full potential.

Practice management consultants can be costly, and the results may not always meet your expectations. Through *My Practice*, you can take advantage of free practice management services, including your practice management virtual assessment.

Here's what you can expect to review during your consultation:

- The appointment scheduling process
- New patient intake protocols
- Patient check in/check out best practices
- Billing, collections, and accounts receivable workflows
- Referral procedures
- Patient communications management, and much more!

My Practice was created as part of CAP's commitment to providing you with valuable products, services, and resources to support a safe and successful medical practice, so you can spend more time focusing on superior patient care.

You or any of your employees may contact *My Practice* to get started with your free practice evaluation or to get help with any practice-related challenges, no matter how big or small. Call **213-473-8630** or email **MyPractice@CAPphysicians.com** for immediate assistance.

Andie Tena is CAP's Director of Practice Management Services. Questions or comments related to this column should be directed to atena@CAPphysicians.com.



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