THE MONTHLY PUBLICATION FOR CAP MEMBERS

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COOPERATIVE OF AMERICAN PHYSICIANS

Case of the Month

Specialist Referrals Are Not Always Enough

by Gordon Ownby

One of the great balancing acts in medical care is the family practitioner's decision about what to take on oneself and what to send to a specialist. This column has frequently shown the risks of the primary care physician doing too much, but sometimes, he or she may have the tools readily available to handle an urgent situation.

A 42-year-old woman had been the patient of Dr. FP, a family practitioner, for 10 years with a history of smoking, hypertension, anxiety, and panic attacks. She was taking Procardia, Lidex, Adderall, Seroquel, and Viibryd when she presented to Dr. FP with complaints of dizziness, chest pain, and numbness in her feet over the previous two days. She reported that at one point she had been unable to stand and had called her mother for assistance while on the floor. She said that her heart rate at the time was in the 40s to 50s.

Dr. FP noted vital signs of BP 90/60 and 84/56; and a heart rate of 80. Physical examination noted no cardiomegaly or thrills, a regular rate and rhythm, and no murmurs or gallops.

Dr. FP discontinued the Procardia out of concern for hypotension, but because the patient expressed a worry about a blood pressure spike, Dr. FP prescribed HCTZ and recommended a cardiologist referral if the patient experienced no improvement. Dr. FP finished by ordering the patient's annual lab studies but did not perform an EKG, though she had the apparatus to do so.

The patient returned three days later for follow-up and was still experiencing lightheadedness but no syncope. Examination showed a temperature of 101.9, a heart rate of 80-90, and blood pressure readings of 100/60 and 90/60 sitting and 82/52 standing. Lab work showed an elevated AST and WBC. Dr. FP was not sure if the patient was experiencing a viral or bacterial infection. She prescribed a Z-Pak and recommended that the woman go to the ER for IVF/BP support and further workup. The patient declined because of lack of insurance but promised to go if her symptoms worsened. A chest x-ray showed findings consistent with bronchitis with no evidence of pneumonia.

Two days after her last visit with Dr. FP, the patient presented to the emergency room with shortness of breath and chest pain. At the hospital, tests revealed findings consistent with acute inferior lateral myocardial infarction, an occluded right coronary artery, global hypokinesis and inferior akinesis, and an ejection fraction of 30 percent. A balloon pump was placed but surgery could not proceed because of the Plavix administered in the ER. When a stent failed to establish

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reflow, the patient was treated with TPA, verapamil, and nitroglycerin. After transfer to ICU and intubation, the patient experienced multiple recurrences of cardiac arrest before CPR was terminated, followed by her death.

Family members filed a lawsuit against several healthcare defendants over the care rendered. In addition to alleging that Dr. FP should have been more urgent in her cardiology referral, they claimed that Dr. FP's failure to perform an EKG on the first of the visits contributed to her death. The lawsuit against Dr. FP resolved informally.

Patients lacking insurance coverage may frequently decline a general practitioner's advice to see a specialist for more targeted care. Documenting the advice given and declined is important in the defense of a later lawsuit, but it will likely never be enough to overcome not doing a test routinely performed at a family practice.

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

Enhanced Coverage Options for CAP Members and Their Family and Staff Available Soon!

September 2020

Starting October 1, you will receive an exclusive opportunity to enhance your supplemental coverage for you and your family. For a limited time, CAP members will have the opportunity to expand their personal insurance portfolio to include:

- Short Term Disability
- Long Term Disability
- Life Insurance
- Hospital Indemnity
- Critical Illness
- Accident
- Dental
- Vision

And your staff members will be able to enroll for:

- Hospital Indemnity
- Critical Illness
- Accident
- Dental
- Vision

Stay tuned for complete details including instructions on accessing the new, easy-to-use benefits portal.

A Complaint Has Been Filed Against You: Cal/OSHA in the Season of COVID-19

by Lee McMullin

It's no surprise that COVID-19 caught the personal protective equipment (PPE) storehouses in short supply. In turn, the supply versus demand issues have generated complaints from healthcare workers in acute care settings about the lack of PPE and the real or perceived risk of COVID-19 exposure. Many of these complaints are directed to the regulatory body that enforces the state's mandated illness, injury, and aerosol transmittable diseases prevention programs, commonly known as Cal/OSHA – technically, the Department of Industrial Relations, Division of Occupational Safety and Health.

As the private sector reopens, employees in medical office settings are making similar complaints as their hospital counterparts, which can generate a Cal/OSHA complaint letter to the business (your medical practice). Failure to respond results in an unscheduled inspection of your workplace and can result in fines if violations are found. A copy of the Cal/OSHA complaint must be posted in a prominent location for three working days, or until the hazard complained about (if true) is corrected – so all the staff know about it. The rules allow for anonymous complaints.

Most of the complaints are the "employer is not providing PPE for COVID-19." So, what are these rules and what must you do to comply?

In short, you'll find these rules in the California Code of Regulations under Title 8, which has more words than a small town's phone book. While the total depth of that rule is beyond the scope of this commentary, you need to know that at its core insofar as COVID-19 is concerned, it's all about PPE and infection control. It's the stuff you're already doing, but have you written it down in case Cal/OSHA wants to pay you a visit? For example – do you have a written policy addressing:

- Training of all employees on the use of PPE provided by the employer
- A log of that training
- Mandated use of PPE in all clinical areas
- Use of PPE in nonclinical areas except when at a personal workstation, during meals and breaks provided the employee maintains a six foot or greater distance from others
- Mandatory use of masks when entering and exiting the building
- Disinfection of clinical and non-clinical areas, work surfaces, and frequent contact points, i.e. doorknobs
- Other practices specific to your office like thermal scanning, having patients wait outside to limit the number in the reception area, etc.
- A log of work related illnesses – such as if a staff member test COVID positive and claims to have contracted it at work – referred to as Form 300. You can find it at **https://www.dir.ca.gov/dosh/doshreg/apndxa300final.pdf**
- Electronic submission of workplace injury/illness

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records annually – more on that at **https://www.dir.ca.gov/dosh/calosha-updates/log300-reporting.html**

- Periodic monitoring of CDC recommendations on PPE and healthcare worker exposures. The most recent bulletin is at **https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-risk-assesment-hcp.html**
- Guidance on Preparing Workplaces for COVID-19, OSHA 3990-03 2020

Lee McMullin is a Senior Risk Management and Patient Safety Specialist for CAP. Questions or comments related to this article should be directed to lmcmullin@CAPphysicians.com.

Update Your Membership Information to Help with Your Year-End Planning

If you are contemplating a change in your practice, please notify CAP as soon as possible so our Membership Services Department can review your options with you and make your coverage transition a smooth one. Changes include, but are not limited to:

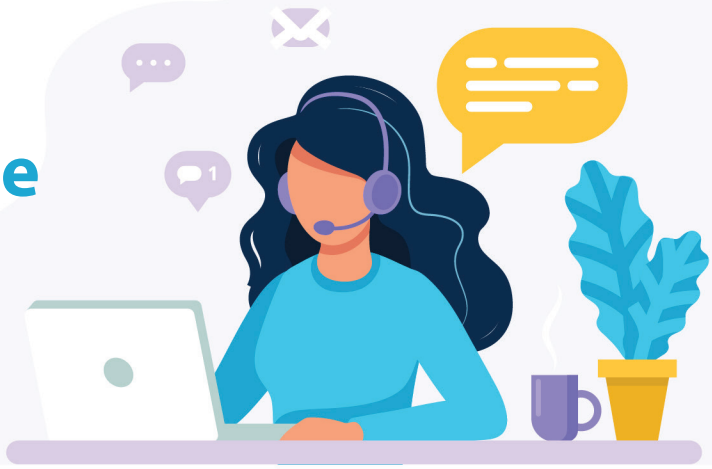
- Retirement from practice at age 55+
- Part-time practice (e.g., 20 or fewer hours per week or 16 hours for anesthesiologists)
- Reduction or any change in the scope of your practice
- Employment with a government agency or non-private practice setting
- Employment with an HMO or other self-insured organization
- Joining a practice insured by another carrier
- Moving out of state
- Termination of membership

The Board of Trustees of the Mutual Protection Trust will levy an assessment in November 2020. To allow ample processing time, we recommend that members advise us in writing no later than October 31, 2020, of any of the above changes to be considered eligible for waiver or proration of the next assessment.

The online Membership Information Update form will be available soon in the Members' Area of the CAP website at **www.CAPphysicians.com.** Members will be notified via email when the form goes live, so keep an eye on your inbox.

If you have not yet registered for the Member's Area, please register for an account at **https://member.CAPphysicians.com/register.** You will need your member number and last four digits of your Social Security number.

The Experts at CAP Agency Are Your Personal Insurance Consultants



Physicians can attest to the value of yearly physical checkups and the key role they play in detecting issues early, monitoring ongoing concerns, and mitigating the risk of future complications. They are also keenly aware that despite knowing the benefits of regular checkups, due to a variety of factors, patients do not always abide by an annual exam schedule.

Imagine if patients had a personal concierge guiding them through the process of seeking routine physicals – someone at their sides every step of the way, from scheduling appointments, to picking up prescriptions, to providing ongoing guidance. It's a safe bet that with this degree of support, patients would be more likely to prioritize their care and engender better outcomes all around.

Concierge service is exactly what CAP seeks to deliver through CAP Physicians Insurance Agency, Inc., a wholly owned CAP subsidiary. Through this agency, CAP members have access to dedicated insurance experts who are invested in providing better outcomes for you and your practice on all fronts, not just concerning medical malpractice coverage.

The licensed, trained professional insurance agents of CAP Physicians Insurance Agency, Inc. will walk you through the risk exposures and insurance solutions and assess your current coverage, as well as provide you with comparative, competitive quotes at no cost to you. The agency's insurance carriers, many of which are rated A+ by A.M. Best Company, know the medical community and understand physicians and their practice needs. CAP Agency has access to the best insurance programs to protect our member physicians.

With so many competing priorities in professional and family life, in can be difficult to find time for an annual review of your insurance portfolio. However, like the physical checkup, a regular assessment of your insurance coverage will ensure that you are adequately protected on business and personal fronts. Perhaps your practice has hired new staff, purchased new equipment, or moved to a new location.

On the personal side, you may have a new addition to the family, a new teenage driver, a new vacation home, or a new boat or other hobby item. Whatever the change, it may increase your exposure both professionally and personally.

Let the experts at CAP Agency help you with your insurance checkup. Contact CAP Agency to quickly get quotes and personalized consulting at 800-819-0061 or CAPAgency@CAPphysicians.com.

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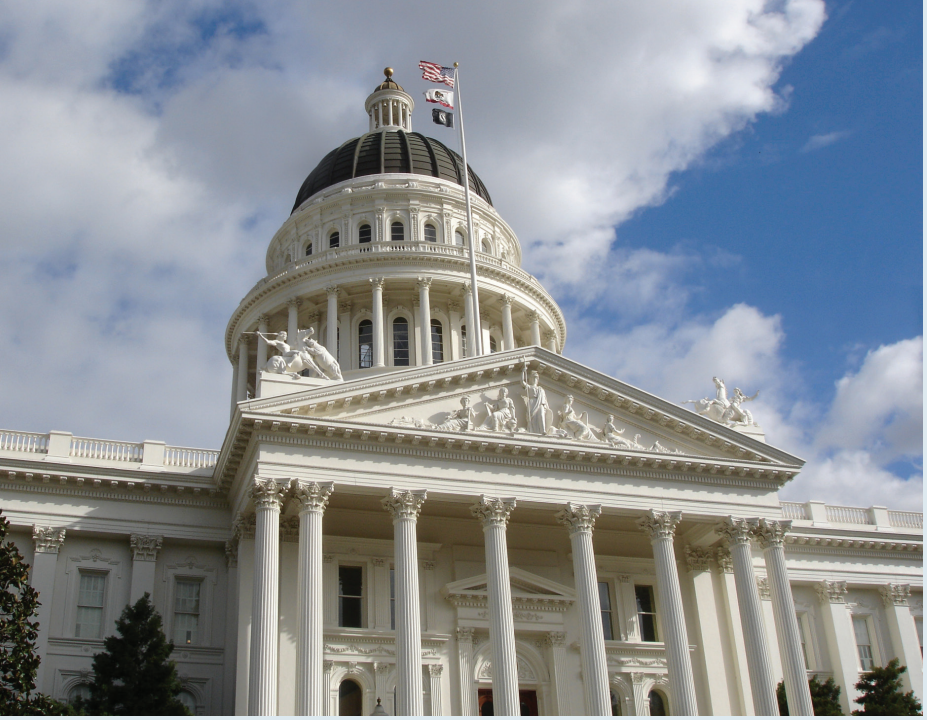

The 2020 Ballot Propositions

by Gabriela Villanueva

Public Policy

In a matter of weeks, Californians will once again be casting ballots in the 2020 General Election. While the presidential race will be taking center stage in November, voters will also be asked to cast their votes on 12 qualified initiatives. (A proposition circulated this year that would upend California's Medical Injury Compensation Reform Act that has been qualified for the November 2022 ballot.)

Here is a brief summary on each initiative appearing in the 2020 General Election:

Proposition 14: Authorizes bonds to continue funding stem cell and other medical research.

- Would issue $5.5 billion in bonds to stem cell and other medical research.
- Dedicates $1.5 billion to fund research and therapy for Alzheimer's, Parkinson's, stroke, epilepsy, and other brain and central nervous system diseases and conditions.
- Limits bond issuance to $540 million per year.
- Appropriates money from General Fund to repay bond debt but postpones repayment for the first five years.

Proposition 15: Increases funding for public schools, community colleges, and local government services by changing tax assessment of commercial and industrial property.

- Amends Proposition 13 (1978), which limits property tax increases.
- Increases funding for public schools, community colleges, and local governments.
- Taxes commercial and industrial properties based on current market value.

Proposition 16: Repeals affirmative action restrictions.

- Repeals Proposition 209 (1996), which prohibits the state from discriminating against, or granting preferential treatment to, any individual or group based on race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

Proposition 17: Restores voting rights following completion of prison term.

- Restores voting rights of people on parole upon completion of their prison terms.

Proposition 18: Adjusts voting rights for those turning 18 years old.

- Allows 17-year-olds to vote in primary and special elections if they turn 18 before the general election.

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Proposition 19: Provides property tax relief if disabled or victim of disaster.

- Allows people age 55 and older who are severely disabled or victims of wildfires and other disasters to keep lower property tax rates when they move to new homes.

Proposition 20: Restricts parole for non-violent offender and authorizes felony sentences for certain offenses currently treated only as misdemeanors.

- Changes parts of two previous ballot measures (Propositions 47 and 57) that eased criminal penalties.
- Restricts parole for nonviolent offenders and authorizes felony sentences for certain offenses currently treated only as misdemeanors.

Proposition 21: Expands local governments' authority to enact rent control on residential property.

- Amends state law to allow local governments to establish rent control on residential properties more than 15 years old.
- Allows rent increases on rent-controlled properties of up to 15 percent over three years from previous tenant's rent above any increase allowed by local ordinance.
- Exempts individuals who own no more than two homes from new rent-control policies.

Proposition 22: Changes employment classification rules for app-based transportation and delivery services.

- Allows drivers for companies like Lyft, Uber, and Doordash to be classified as independent contractors.
- Criminalizes impersonation of app-based drivers and requires background checks.

Proposition 23: Authorizes state regulation of kidney dialysis clinics.

- Requires kidney dialysis clinics to have at least one licensed physician on-site; clinics are exempt from this requirement if there is a shortage of qualified licensed physicians.
- Requires state approval for clinic closures or service reductions.
- Requires dialysis clinics to report infection data.
- Prohibits clinics from discriminating against clients based on payment source.

Proposition 24: Amends Consumer Privacy Law.

- Would allow consumers to prevent businesses from sharing personal information, to correct inaccurate personal information, and to limit businesses' use of "sensitive personal information."
- Triples maximum penalties for violations concerning consumers under age 16.
- Establishes the California Privacy Protection Agency to enforce consumer data privacy laws and impose administrative fines.

Proposition 25: Replaces cash bail system with a system based on public safety and flight safety risk.

- Replaces the state's money bail system with a system based on public safety risk.
- Limits pretrial detention for most misdemeanors.

For more details visit: **https://www.sos.ca.gov/elections/ballot-measures/qualified-ballot-measures/**

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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.

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My Practice

CAP is pleased to offer *My Practice* as a free member benefit for practice management resources, support, and solutions to help independent physicians succeed.

My Practice is part of CAP's ever-growing suite of practice management support programs offering personalized one-on-one guidance to help address common administrative and operational business challenges associated with running an independent practice.

As a CAP member benefit, *My Practice* provides member practices free access to experienced professionals who can offer advice, connect you to first-rate resources, and customize solutions for a wide variety of practice-related issues, all to help support an efficient and successful business operation.

My Practice provides guidance in areas such as:

- Front and Back Office Workflow
- Closing/Opening a Medical Practice
- Credentialing/Contracting
- Release of Medical Records Without a Subpoena
- General Billing/Revenue Cycle Management
- Electronic Medical Record/Electronic Health Record
- Patient Experience
- Policies/Procedures
- Retention of Medical Records
- OSHA Regulations
- HIPAA Compliance
- Telehealth

Ask My Practice

- Does my office need to meet the requirement to provide sexual harassment avoidance training for my employees by 2021, or does this not apply to small businesses?
- How do I let my patients know that our practice now offers the option of telemedicine visits?
- I need to save on medical and non-medical supplies. Where do I go?
- How should my office handle sending past due patient accounts to collections?
- How much can I charge my patients for medical records?

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