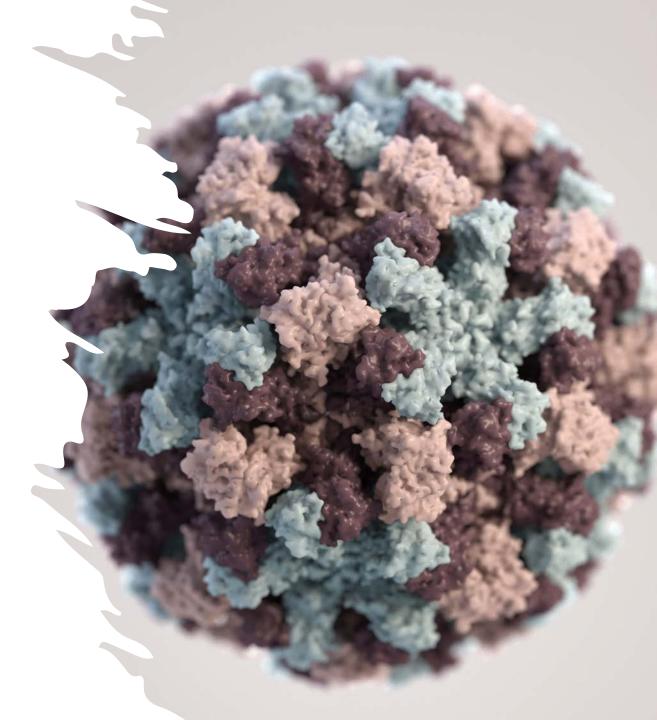
COPING WITH COVID-19 MAY 11TH, 2020 WEBINAR HOSTED BY CINDY PEZZA, PMAC *PINNACLE PRACTICE ACHIEVEMENT* <u>WWW.PINNACLEPA.COM</u>

THIS EVENING'S GUEST SPEAKER: VINCENT N. DEPALO, ESQ.







Welcome to week 9 of our Coping with COVID-19 Discussions



Information is changing rapidly so we all must take personal responsibility and stay informed (i.e. Don't shoot the messenger!)



Two Positive Pieces of News

1. On Tuesday (May 5th), Senate introduced legislation that would overrule an IRS Notice and clarify that ordinary expenses funded by the Paycheck
 Protection Program (PPP) loans are deductible by taxpayers! << Read more here >>

2. Clarification on employees not wanting to return to work and the effects on PPP forgiveness. Link to full article below...

Question: Will a borrower's PPP loan forgiveness amount (pursuant to section 1106 of the CARES Act and SBA's implementing rules and guidance) be reduced if the borrower laid off an employee, offered to rehire the same employee, but the employee declined the offer?

Answer: No. As an exercise of the Administrator's and the Secretary's authority under Section 1106(d)(6) of the CARES Act to prescribe regulations granting de minimise exemptions from the Act's limits on loan forgiveness, SBA and Treasury intend to issue an interim final rule excluding laid-off employees whom the borrower offered to rehire (for the same salary/wages and same number of hours) from the CARES Act's loan forgiveness reduction calculation. The interim final rule will specify that, to qualify for this exception, the borrower must have made a good faith, written offer of rehire, and the employee's rejection of that offer must be documented by the borrower. Employees and employers should be aware that employees who reject offers of re-employment may forfeit eligibility for continued unemployment compensation.

As your patient volume begins to build, I may at times be sending "Extra Extras" with multiple topics addressed (like on Wednesday, May 6th)

Please read these emails closely and click through to full articles or websites referenced

<< Click here to read the article >>

Still hopeful but keep watching

From my eblast on 5/6:

#1: Senate introduced legislation that would overrule an IRS Notice and clarify that ordinary expenses funded by the Paycheck Protection Program (PPP) loans are deductible by taxpayers!

We need to keep watching this one. Here's why...

Notice 2020-32 comes in response to requests from the tax community for clarification on this point.

While the CARES Act explicitly states that forgiven PPP loan amounts aren't included in the borrower's gross income, it doesn't expressly state whether borrowers can claim business expense deductions for the expenditures the forgiven amounts cover.



In a nutshell, the IRS maintains that a business shouldn't be allowed to avoid taxable cancellation of debt income on forgiven PPP loan amounts **and also** to deduct the payments made with those loan amounts. The result for borrowers essentially is an offset of the tax benefit — the forgiven amounts are excluded from gross income but the deduction(s) for those amounts are eliminated.





Members of Congress are signaling that the expenses paid by forgiven PPP loan proceeds should indeed be tax deductible. "On May 5th, Senate introduced legislation that would overrule an IRS Notice and clarify that ordinary expenses funded by the Paycheck Protection Program (PPP) loans are deductible by taxpayers!"

The chair of the Senate Finance Committee, and the chair of the House Ways and Means Committee, have indicated that the IRS interpretation runs contrary to the goal of the PPP and said they would like the discrepancy to be remedied legislatively in the near future.

It's also possible that borrowers will challenge the IRS stance in court, or the IRS simply could succumb to pressure from the public, Congress and/or the administration and reverse its interpretation. So keep watching. . .

Clarification on employees not wanting to return to work and the effects on PPP forgiveness.

 This was sent in an Extra Extra on 5/6 (with a link to the full article on FAQs about PPP loans)

Question: Will a borrower's PPP loan forgiveness amount CARES Act be reduced if the borrower laid off an employee, offered to rehire the same employee, but the employee declined the offer? Answer: No. As an exercise of the Administrator's and the Secretary's authority under Section 1106(d)(6) of the CARES Act to prescribe regulations granting de minimise exemptions from the Act's limits on loan forgiveness, SBA and Treasury intend to issue an interim final rule excluding laid-off employees whom the borrower offered to rehire (for the same salary/wages and same number of hours) from the CARES Act's loan forgiveness reduction calculation. The interim final rule will specify that, to qualify for this exception, the borrower must have made a good faith, written offer of rehire, and the employee's rejection of that offer must be documented by the borrower. Employees and employers should be aware that employees who reject offers of reemployment may forfeit eligibility for continued unemployment compensation.

Now that you may have it: Using and proving how you spend PPP funds

Additional details from the SBA are forthcoming (so keep checking for emails from your lender and stay up to date from credible sources)

What we know:

The CARES Act specifies that starting on the date a business receives PPP loan funding, it has the next 56 days to use at least 75% of the money for payroll expenses.

Terms: Payments on unforgiven expenses are deferred for 6 months

1% interest rate

2 years to repay



Here's what you can do now: Rehire

Pav

Be

Pay your employees at current salary levels without any reductions in wages or headcount, OR

Rehire any employees you may have furloughed or laid off as a result of the pandemic-related economic downturn and pay them the same amount they were earning during the weeks prior.**

If you pay yourself, that amount must be limited to eight weeks' worth of the amount you made in 2019.

What counts as eligible compensation?

• The SBA says eligible payroll costs can include salary, wages and tips, up to \$100,000 of annual pay per employee (for eight weeks, a maximum of \$15,385 per individual); and covered benefits for employees (but not owners), including health care expenses, retirement contributions and state taxes on employee payroll paid by the employer (including unemployment insurance premiums.)

Reduction of forgiveness

If you use less than 75% of your funds for qualified payroll expenses, then the difference will be subject to loan repayment terms.

Example: if you use 70% of your loan for payroll, 25% for rent and 5% to order supplies, you'll have to pay back that 5% at an interest rate of 1%. PPP loan forgiveness rules also dictate that you can use any remaining funds, after what you've spent on payroll, on any combination of the following:

- Payments of interest on mortgage obligations incurred before Feb. 15, 2020
- Rent payments on lease agreements in force before Feb. 15, 2020
- Utility payments under service agreements dated before Feb. 15, 2020
- You can also use the proceeds from a PPP loan to refinance an SBA Economic Injury Disaster Loan made between Jan. 31, 2020 and April 3, 2020. But at least 75% of the PPP loan amount must be used for eligible payroll costs.

Keep Detailed Records

It is advised that all small businesses hold onto their PPP documentation for the foreseeable future, because the SBA hasn't announced when the audit period is (it could be anywhere from three to six years after the loan is forgiven.

Setting up separate accounts for PPP loans, HHS deposits, etc. and keeping clean records (in Quickbooks or other accounting software) will make it easier to show how you spent every cent. The lender has to make a decision on your forgiveness application within 60 days (so the more complete an application you submit, the better) You'll have to supply the following as part of your loan forgiveness application:

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Documentation verifying the number of full-time equivalent employees on payroll, and their pay rates

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Payment verification for covered mortgage obligations, lease obligations and utility payments

Certification that the documentation presented is true and correct, and that the amount for which forgiveness is requested was used for eligible expenses

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Any other related paperwork the lender requests **



This may only be a portion of what the SBA ultimately asks for from borrowers hoping to qualify for forgiveness.

We are still waiting on more details of forgiveness

- The American Bankers Association sent a letter on May 7th urging the government to "release clear, bright-line guidance on loan forgiveness as soon as possible.
- Without this critical guidance, small businesses cannot take the necessary steps to best utilize their Paycheck Protection Program (PPP) loans."
- Stay tuned

IT IS NOW CLEAR

THAT IT IS

UNCLEAR.

Q: Can you apply for/receive both?

A: YES, but you cannot use them for the same purpose.

- What are the terms of the EIDL?
 - Low fixed interest rates: 3.75% or 2.75% for non-profits
 - Long-term repayment of up to 30 years
 - No prepayment penalties
 - Payments deferred (interest accrues)
 - EIDLS are working capital loans that may be used to pay fixed debts, payroll*, accounts payable, and other bills that could have been paid had the disaster not occurred. The loans are not intended to replace lost sales or profits or for expansion. (*but NO double dipping)
 - *Funds cannot be used to refinance long-term debt.

Did anyone else just hear about their EIDL loan (after you received your PPP)?

Switching gears to Telehealth... I hope by now you heard the news

On April 30th CMS Announced Pay Parity for Audio-Only Telephone Visits

CMS will boost the payment rate for telephone visits to match those for similar office and outpatient care, an increase that is retroactive to March 1. The rule change was part of a broad package of waivers and rules shifts that were brought forward Thursday by CMS to facilitate COVID-19 testing and expand access to telehealth.

The new rule increases payments for audio-only telephone consultations from \$14-\$41 to about \$46-\$110, CMS said in a media release.

https://www.cms.gov/Medicare/Medicare-General-Information/Telehealth/Telehealth-Codes

В	C	D	E
	LIST OF MEDICARE TELEHEALTH SERVICES		
Short Descriptor	Status	Can Audio-only Interaction Meet the Requirements?	Medicare Payment Limitations
Phone e/m phys/qhp 5-10 min	Temporary Addition for the PHE for the COVID-19 Pandemic—Added 4/30/20	Yes	
Phone e/m phys/qhp 11-20 min	Temporary Addition for the PHE for the COVID-19 Pandemic—Added 4/30/20	Yes	
Phone e/m phys/qhp 21-30 min	Temporary Addition for the PHE for the COVID-19 Pandemic—Added 4/30/20	Yes	
	Phone e/m phys/qhp 5-10 min Phone e/m phys/qhp 11-20 min	Short DescriptorStatusPhone e/m phys/qhp 5-10 minTemporary Addition for the PHE for the COVID-19 Pandemic—Added 4/30/20Phone e/m phys/qhp 11-20 minTemporary Addition for the PHE for the COVID-19 Pandemic—Added 4/30/20	LIST OF MEDICARE TELEHEALTH SERVICES List of MEDICARE TELEHEALTH SERVICES Short Descriptor Can Audio-only Interaction Meet the Requirements? Phone e/m phys/qhp 5-10 min Temporary Addition for the PHE for the COVID-19 Pandemic—Added 4/30/20 Yes Phone e/m phys/qhp 11-20 min Temporary Addition for the PHE for the COVID-19 Pandemic—Added 4/30/20 Yes

If you were wondering...

Q: How do codes 99441,99442 and 99443 translate to E/Ms? A: 99441 will be reimbursed the same as 99212

99442 same as 99213

99443 same as 99214

Q: Should we use the same POS and no modifier when billing 99441,2, 3 since the change on 3/30?

A: YES

UNKNOWN AT THIS POINT

Q: Does resubmission need to take place, or will CMS automatically pay the difference for claims billed with the 99441,99442,99443 since March 1st?

A: This has not been addressed yet and may be a Contractor (MAC) decision rather than a CMS decision and none of the MACs have addressed how they are going to handle it They were clear about making it retro to March 1, so it is fair to expect the MACs to make up the difference.. I think the options are either for them to just autopay the difference or have people resubmit.

I will keep you posted as I learn more or hear from docs who are receiving autopayments making up the difference or having to resubmit.

As always, we ask that any patient or family member who displays symptoms such as cough, fever, or shortness of breath, to reschedule appointments until they are free from symptoms for at least 48 hours. We ask this of our medical staff members as well.



It is advisable to wear a facemask to appointments to be proactive in reducing exposure to the virus. Our office will continue to provide a safe, clean environment for your visit. If you have a medical condition that prevents you from leaving home, we are still connecting with our patients via Telemedicine Visits.

 Defining the new normal and getting back into the swing of things



Avoid the ER!

We are open and can treat: -Infections -Fractures -Ingrown Nails -Wounds -Sprains -Acute Leg/Ankle/Foot Pain

Now offering Telehealth

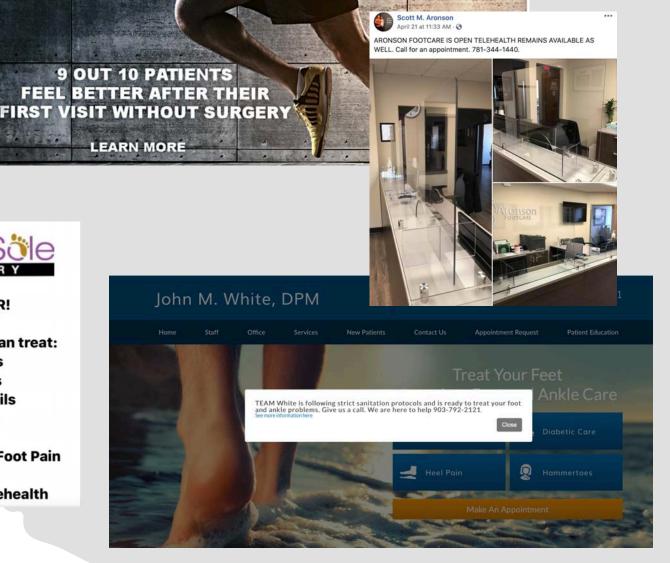


HOME ABOUT WE CAN HELP WITH TECHNOLOGY OFFICES PATIENT INFO BLOG

SCHEDULE NOW

CONTAC

See Below for Important Scheduling Announcement and info on Telemedicine







PPE must still be worn by patients and staff



Spacing appointment times, seating in reception areas and limiting contact/contact time will continue



Week by week schedule adjustments will have to be made



Telehealth Services will continue (and should become part of regular practice)

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Plans/Preparation for possible resurgence of hot spots must be made Keep adapting your protocols and schedule weekly. Check in with staff often (provide support)

Now trending

The New Patient Coordinator (NPC)

This person (or individuals trained to perform the same function) serves as the primary liaison to the practice for new patients and referring physicians, working in conjunction with scheduling and clinical staff to improve efficiency and work-flow.

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"Mr. Green, we ask that you either complete and submit your intake paperwork ahead of time OR if you prefer, we can set up a pre-visit interview with our New Patient Coordinator. This allows us to keep wait times down and to limit contact with other patients and staff members.

Scripts are important (for every staff role)



If the patient chooses to complete paperwork on their own, an email is sent immediately following the call with portal log in instructions or a direct link to your website.

A very small % of practices have patients who log in to the portal and COMPLETE all required info Confirmation of reason for visit/chief complaint

During the pre-visit interview, all remaining demographic and clinical information will be recorded directly into the patient's chart including: Personal and family medical history

Medications and allergies

Vital Signs

Most MIPS measures (Height, Weight, Smoking Status, Immunizations, etc.)

Financial policy, HIPAA and consent to treat will need to be signed at the time of visit (if forms are not completed via the portal)

For Commercial Payer patients

 The NPC could also perform insurance eligibility and benefit checks (to determine active coverage, copay, deductible and other out of pocket expenses that may be incurred). Information obtained will be discussed during the phone interview or in addition to the reminder communication (in order to inform and prepare patient for any monies that may be owed during visit).



The NPC is responsible for following up/rescheduling missed new patient appointments and after 2 noshow incidences communicating with referring providers via professional communication (documenting the practice's efforts in coordinating care).

Additional NPC Tasks



The NPC ensures that patient updates and consult visit notes are e-faxed to PCP/Referring providers within one week of new patient visits or procedures.



What else could an NPC or PC; patient coordinator do for you to increase efficiency?

HHS Round 2 began on 4/24

Unlike the first round of funding, you need to take action to receive any money from this allocation.
It is important that you act quickly to submit the necessary information as the money will go quickly (again).

https://covid19.linkhealth.com/docusign/#/step/1

More information is available at hhs.gov/providerrelief

Round 2 Formula Simplified

- For the Round 2 formula, HHS takes this revenue from your latest tax filing, divides by \$2.5 trillion, then multiplies by \$50 billion. Put simply, this becomes 2% of the revenue reported on your latest tax filing or audited financials.
- The resulting amount is your expected *combined* general distribution. Note the word *combined*: This means when the Round 2 amount is calculated, you must subtract the amount you received in Round 1. If the remaining balance is still positive, that amount will be due to you in Round 2. If the Round 2 calculated amount is less than what you received in Round 1, you would not be eligible for additional funds.

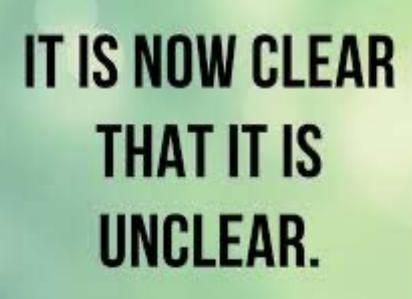
Balancing of the scale

Initial payments favored those who do mainly Medicare patient business and paid little to nothing to those who provide care primarily to Medicaid or commercially insured patients.

Round 2 now allows for those providers with a higher payer mix of commercial insurance and Medicaid to get more.

So, if you received more than you believe you should have in the first wave, then you most likely will not "be owed" any additional funding. Remember, these are grants.

Once again. . .



Attestation announcement from May 7th

 The Department of Health and Human Services has extended the deadline for healthcare providers to attest to receipt of payments from the Provider Relief Fund and accept the Terms and Conditions. Providers will now have 45 days, increased from 30 days, from the date they receive a payment to attest and accept the Terms and Conditions or return the funds. As an example, the initial 30-day deadline for providers who received payment on April 10, 2020, is extended to May 24 from May 9, 2020. With the extension, not returning the payment within 45 days of receipt of payment will be viewed as acceptance of the Terms and Conditions.

Are you second guessing attestation/acceptance of the funds?

I have received email content like this several times over the past week

- If your practice recently received an electronic payment as part of the HHS distribution of stimulus relief funds, you may be wondering whether or not you can retain those funds. How can any practice make sure it has a right to retain the relief funds from HHS? Consider these steps:
- 3. Work with legal and financial counsel to set up a tracking system and a process to confirm that all use of relief funds is legitimate. Expenses such as purchasing PPE, COVID- test kits, COVID-antibody testing kits, etc. are clearly the type of expenses that would be covered. Salary and overhead expenses are something that should be reviewed more carefully.
- 4. HHS relief funds may not be used for the same purpose that a practice may receive other funds, such as
 through the Paycheck Protection Program (PPP) loan. This overlap must be carefully avoided. If a practice's
 expenses have been covered by a PPP loan, there should be serious thought given to returning the HHS
 funds. **
- 5. There are certain compliance policies that must be developed as described in the Terms and Conditions. Work with legal counsel to make sure these policies are developed and retained.

This is from hhs.gov/providerrelief.com

- President Trump is providing support to healthcare providers fighting the COVID-19 pandemic through the bipartisan CARES Act and Paycheck Protection Program and Health Care Enhancement Act which provide \$175 billion in relief funds to hospitals and other healthcare providers on the front lines of the coronavirus response. This funding will be used to support healthcare-related expenses or lost revenue attributable to COVID-19 and to ensure uninsured Americans can get treatment for COVID-19.
- In allocating the funds, the Administration is working to address both the economic harm across the entire healthcare system due to the stoppage of elective procedures and addressing the economic impact on providers particularly impacted by COVID-19, and to do so as quickly and transparently as possible.

- HHS is distributing \$50 billion across the healthcare system to providers and facilities that bill Medicare.
- Recognizing the financial strain from COVID-19 inpatient admissions, HHS is distributing \$12 billion to hospitals that reported at least 100 COVID-19 inpatient admissions through April 10 to HHS.
- HHS is distributing \$10 billion to rural hospitals and clinics.
- HHS is distributing \$400 million to tribal healthcare providers.
- HHS is using a portion of the Provider Relief Fund to reimburse healthcare providers, at Medicare rates, for COVID-related treatment of the uninsured.
- HHS is working to provide relief to additional healthcare providers including skilled nursing facilities, dentists, and other providers significantly impacted by COVID-19.

*Also found on hhs.gov/providerrelief.com

Defend Yourself Against Malpractice Claims During the COVID-19 Pandemic

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Home / COVID-19 (Coronavirus) Lawsuits

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Pandemic?

What Medical Malpractice Claims May Arise From The Coronavirus

COVID-19 (Coronavirus) Lawsuits





Plaintiffs' Firms Are Capitalizing on the COVID-19 Pandemic

Plaintiffs' Lawyers are on the Lookout for:

Failure to adequately treat patients Failure to timely diagnose patients' conditions Failure to take appropriate precautions or limit exposure to COVID-19



A podiatrist assumes a duty of care to his or her patients.

Quick Primer on Malpractice Claims:



Malpractice occurs when a podiatrist fails to fulfill that duty of care, i.e. the doctor was negligent.



Duty of care

IS

determined by the Standard of Care

Meaning: How a reasonable and prudent podiatrist of similar skill and experience would act under the <u>circumstances</u>

"under the circumstances"

Future medical malpractice and podiatric malpractice claims will be examined by courts and juries through the COVID-19 lens.

What has COVID-19 Changed?



Journal of the American **Podiatric** Medical Association

All Feet On Deck—The Role of Podiatry During the COVID-19 Pandemic: Preventing hospitalizations in an overburdened healthcare system, reducing amputation and death in people with diabetes

• By Lee C. Rogers, DPM, et al.

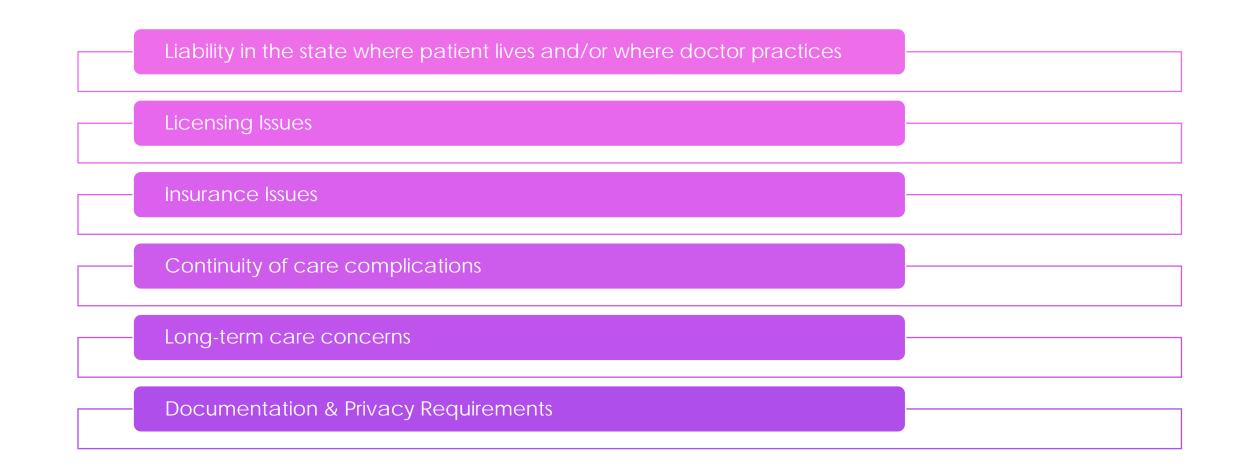
"But podiatrists will have to quickly adapt the new pandemic system of care and change to provide services in new and unique ways. We strongly recommend implementing a triage system for lower-extremity wounds and diabetic foot problems, which will drive the site and urgency of podiatric care."

	Conditions	Site of Care	Urgency
Critical (0.25% of patients with diabetes)	- IDSA Severe and some Moderate infections - Gas gangrene - SIRS/Sepsis - Acute limb-threatening ischemia	Hospital	Priority 1 Urgent
Serious (0.75% of patients with diabetes)	 IDSA Mild and some Moderate infections (including osteomyelitis) Chronic limb-threatening ischemia (CLTI) Dry gangrene Worsening foot ulcers Active Charcot foot 	Outpatient Clinic Office-based Lab Surgery Center Podiatrist Office	Priority 2
Guarded (3% of patients with diabetes)	- Improving foot ulcer - Inactive Charcot foot (not yet in stable footwear)	Podiatrist Office Home Telemedicine	Priority 3
Stable (94% of patients with diabetes)	 Uncomplicated venous leg ulcer Recently healed foot ulcer Inactive Charcot foot (in stable footwear) Healed amputation Diabetic foot risk assessments 	Home Telemedicine	Priority 4

Only <u>1%</u> of certain patients may require hospitalization or a clinical visit under recommended triage system during pandemic

https://www.japmaonline.org/doi/pdf/10.7547/20-051

What is the impact of these changes?



How to Defend Yourself?

- Document. Document. Document.
 - <u>Document</u> all contact with patients.
 - <u>Document</u> all follow-ups with patients.
 - <u>Document</u> all missed calls to patients.
 - <u>Document</u> everything ----Contemporaneously

Check with Your State Board for Changes to Licensing Requirements

https://www.fsmb.org/siteass
ets/advocacy/pdf/state-
emergency-declarations-
licensures-requirementscovid-
19.pdf

of the Education Law and Part 60 of Title 8 of the physicians licensed and in current good standing ctice medicine in New York State without civil or	NYCRR, to the extent necessary to all in any state in the United States to p	•
sure; Section 6502 of the Education Law and Part		
ent necessary to allow physicians licensed and in e but not registered in New York State to practice	current good standing in New York St	
nal penalty related to lack of registration.		

In response to the evolving situation with the Novel Coronavirus (COVID-19), and for those licensees whose registrations are due to renew March 1-June 1, 2020, the Department will grant an adjustment to all licensees to complete up to 100% of the continuing education as self-study, so long as it is taken from a Department-approved provider and is in an acceptable subject area for the specific profession.

New York

Massachusetts

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Guidance

State Resource Page

 With the Governor declaring a State of Emergency, the Board of Registration in Medicine has established an Emergency Temporary License Application for out-of-state physicians to assist in meeting the increased demand for physician services in Massachusetts. To qualify for an Emergency Temporary License a physician must hold an active full, unlimited and unrestricted medical license in good standing in another U.S. state/territory/district. "Good standing" shall not include a license that has been revoked, cancelled, surrendered, suspended, or is subject to disciplinary restrictions.

Interim Policy re: CME

BORIM Press Release

- Re: renewals All physicians whose licenses have or will come up for renewal during the State of Emergency, which was declared on March 10, 2020, shall have their renewal date extended until 90 days after the end of the Emergency.
- Re: CME For the duration of this state of emergency and until December 31, 2020, the continuing medical education (CME) requirement for physicians is suspended. Any physician with a CME requirement whose license is due for renewal on April 2, 2020

State Resource Page

Application



U.S. States and Territories Modifying Licensure Requirements for Physicians in Response to COVID-19 (Out-of-state physicians in-person practice; license renewals; CME requirements)

Last Updated: May 5, 2020

States with Waivers: 50 + DC + GU + CNMI + USVI + PR

States without Waivers: 0

Check Your Malpractice Insurance Policy!

- Check your malpractice policy to see if it covers telemedicine or home visits.
- Consider notifying your insurer if you are performing telemedicine or home visits
 - Don't forget to <u>document</u> your notification!



Bonus Issue:

PPP Loans

Different issue, same lesson:

Document. Document. Document.

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Phone: (617) 228 - 4464

Thank you for joining and keep watching for emails and posts. If you have a colleague who needs support, please contact <u>info@pinnaclepa.com</u> so we can add them to the list.

"Extra Extras" will be sent as frequently as possible with helpful tips and information. These are also archived in the Extra Extra tab of <u>www.pinnaclepa.com</u>

Visit <u>www.pinnaclepa.com</u> for more information on how to become a PEP member and stay up to date on everything PODIATRY! PRACTICE ACHIEVEMENT

Stay tuned and stay safe⁽²⁾