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FootNotes

The Newsletter of the Colorado Podiatry Board
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PRESIDENT'S MESSAGE

By Lisa Sullivan, DPM, President, Colorado Podiatry Board

Dear Colleagues:

The members of the Colorado Podiatry Board would like to thank all of you who have assisted the Board by practicing the highest caliber of podiatric practice. It is essential that we all continue to do so in light of the escalating costs of our licensing. We are hoping in the future the fees will begin to decline; however, that is dependent on the number and severity of cases that come before the Board.

The role of the Board is to protect the public by ensuring only qualified persons are licensed, by determining whether the generally accepted standards of care have been met and by enforcing the podiatric scope of practice. The Board is the regulatory avenue for the public to raise concerns regarding

podiatric practice. The cost of running the Board generally is due to infractions in the areas of standard of care and scope of practice.

The scope of practice is defined in statute as:

(3)(a) "Practice of podiatry" means:

(I) Holding out one's self to the public as being able to treat, prescribe for, palliate, correct, or prevent any disease, ailment, pain, injury, deformity, or physical condition of the human toe, foot, ankle, and tendons that insert into the foot by the use of any medical, surgical, mechanical, manipulative, or electrical treatment, including complications thereof consistent with such scope of practice;

(II) Suggesting, recommending, pre-

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Court of Appeals Addresses Podiatric Scope of Practice in Colorado

by Claudia Brett Goldin, Assistant Attorney General

On Thursday, February 26, 2004, the Court of Appeals issued a published decision that addressed several issues, including the scope of the practice of podiatry in Colorado.

In Snyder v. Colorado Podiatry Board, (February 26, 2004) (02CA1648), the Colorado Court of Appeals affirmed the Podiatry Board's decision to revoke the license of Gary L. Snyder, D.P.M. As of this writing, the decision is not yet final, because the time for filing a petition for rehearing with the Court of Appeals or a petition for writ of certiorari (to either the state or federal Supreme Court) has not expired.

On appeal, Dr. Snyder raised several issues including "various challenges to the Board's determination that he engaged in unprofessional conduct by performing ambulatory phlebectomies and injection sclerotherapy above the level of the ankle." The Court of Appeals disagreed with this contention and wrote that Colorado's statute governing the practice of podiatry (Colorado Revised Statutes, Title 12, Article 32) "evidences an intent on the part of the General Assembly to define the practice of podiatry narrowly and to require podiatrists to confine their practices strictly to the scope of their licenses." The Court found that several statutory provisions "support the Board's conclusion that the General Assembly did not in-

YOU SHOULD KNOW...

There is a new **Regulatory Notice e-mail system** that provides people with the ability to effortlessly track and comment on proposed state regulations before they take effect. See article on **page 3**.

The Colorado Court of Appeals addresses the **Podiatric Scope of Practice**. See article on **this page**.

It's time to **renew podiatric licenses**. It is a violation of Colorado law to practice podiatry in Colorado without a current active license. See article on **page 2**.

What to do when you receive a request to **Amend Patient Records**. See article on **page 3**.

The Board has adopted a new rule regarding continuing education. See article on **page 2**.

All addresses currently on record for a licensee are public record and available to the public. See **Changing Your Address of Record** on how to protect a home address from becoming public on **page 2**.

tend to permit podiatrists to perform procedures on portions of the body beyond those structures - - the toe, foot, ankle, and tendons that insert into the foot - - that are specifically named in the Act."

The full text of the Court of Appeals' opinion is posted on the Board's website: www.dora.state.co.us/podiatrists. ■

BOARD ADOPTS NEW RULES REGARDING CONTINUING EDUCATION

The Board, effective January 31, 2004, adopted Board Rule 110, changing the amount of continuing education hours required to renew and the way in which they are reported at the time of renewal. The rule reads:

Licensees must attest at the time of renewal that they have obtained a minimum of 10 hours of continuing education sufficient to maintain currency in the field of podiatry.

Your renewal application package will contain the 2004 mandatory license renewal questionnaire. If you choose to renew your license in an active status, you are required to complete the section of your renewal questionnaire attesting that you have successfully completed a minimum of 10 hours of continuing education in the field of podiatric medicine. You will no longer be required to submit any proof of completion of continuing education hours with your renewal application. For a complete list of all Board rules, please visit our website at www.dora.state.co.us/podiatrists. ■

Time to Renew Your Podiatry License

All Colorado podiatry licenses will expire May 31, 2004. Board Policy 20-3 allows for a 60-day grace period in which to renew your license. If your license was in an active status prior to the grace period, you may continue to practice during the grace period. You may renew your license until May 31, 2003, without penalty. You may renew your license until July 31, 2004 by adding an additional late fee of \$15. No podiatry licenses will be lapsed for non-renewal until July 31, 2004.

Please be advised that before your renewal will be considered complete and a new license issued, the Board staff must receive correct payment of the renewal fee, and a signed and accurately completed renewal questionnaire.

If you lose your renewal form, you may request by calling the Division of Registrations office at (303) 894-7800. Do not attempt to copy a renewal form, as they have been bar coded for the individual licensee. ■

Changing your Address of Record

Pursuant to Colorado law, the designated mailing address of any licensee or applicant is considered public information, and therefore, available to the public. The designated mailing address is used to mail all licenses, renewal notices and other official correspondence from the Board.

Please be aware, this address is also the address the Board releases to the public when an inquiry is made. However, there is also the potential that the Board may legally be required to release all addresses currently on record. If you are concerned about privacy,

you may wish to use only a business address in place of your home mailing address and/or direct Board Staff to remove your home address information from our records.

**Have a change of address?
Mail it to the Division of Registrations at 1560 Broadway, Suite 1350, Denver, Colorado 80202, or fax to (303) 894-7693**

If you are making an address change, you must do so in writing. This request should contain your name, license number and your new address. You should indicate if this is a home or business and whether this is your designated address. You may either mail this change to the Board or fax to the Division of Registrations at (303) 894-7693. ■

Non-Verbal Communication

What your non-verbal communication is saying to your patients may surprise you. Following are selected results of an informal survey of 100 patients asked about their doctors' non-verbal communication:

- "My doctor always looks at the chart instead of at me when walking into the examining room. It's very impersonal."
- "When I try to tell my doctor something, he frowns as if he is confused or disapproves. Maybe he is just concentrating, but it certainly has a chilling effect on me."
- "It's probably a small matter, but my new doctor never shakes my hand at the beginning of my appointment."
- "My doctor seems to be in such a hurry that she begins writing down a prescription before I'm done describing my symptoms. It gives me the feeling she's jumping to conclusions."
- "My doctor started casual Fridays last year, and now his dress is casual to the extreme every day. It doesn't matter to me because I know him so well, but it makes it hard for me to send my friends to his practice. They wouldn't understand seeing a doctor in jeans and a T-shirt."
- "My doctor cleans things obsessively while she is in the room supposedly paying attention to me—her glasses, her stethoscope, the faucets at the sink, even the doorknob. I guess it's just a bad habit, but I wish she would settle down and look at me when I'm trying to tell her something important."

Results of informal survey were originally published as part of "More Than Words Can Say: What Your Non-Verbal Signals Say to Patients," by Art Bell, in *Unique Opportunities: the Physician's Resource*, November/December 2000.

Amending Patient Records in the Age of HIPAA

by Claudia Brett Goldin, Assistant Attorney General

Podiatrists are scrambling to comply with new federal requirements under the Health Insurance Portability and Accountability Act ("HIPAA"). Some are probably wondering how to respond to a patient who disputes the accuracy of her records.

The October 2002 HIPAA Privacy Regulations allow a patient to request an amendment to her records. It is important to remember that the individual has the right to request the change (and to appeal a denial of the request), but the provider always retains the right to deny the request if the original record is "accurate and complete." 45 C.F.R. §164.526(a) and (d). HIPAA generally requires a provider to grant or deny the request within 60 days. 45 C.F.R. 164.526(b)(2).

As with all podiatric record-keeping, accuracy should be a podiatrist's guide when deciding how to re-

spond to a patient's request to amend her records. In fact, "falsifying or repeatedly making incorrect essential entries or repeatedly failing to make essential entries on patient records" constitutes unprofessional conduct and grounds for disciplinary action against

...original records should be retained even when they are amended.

a podiatrist's license to practice in this state. See § 12-32-107(3)(v), C.R.S.

When a health care provider decides to grant a patient's request to amend her record, she may wonder what to do with the original records. In essence, original records should be retained even when they are amended. That is, if an error occurred in the original record, the provider should identify

but not obliterate the erroneous original entry and add a new, more accurate entry. The provider should also note the date on which the correction was made. This approach is consistent with the HIPAA regulations, which refer to "appending" a record or "otherwise providing a link to the location of the amendment." 45 C.F.R. § 164.526(c)(1). For example, in a written patient file, the practitioner may strike through (and not white-out or retype) the original language so that the original language is still legible, and the practitioner would date and initial the amendment. In this way, the amendment revises but retains the original record.

The bottom line is that common sense practices can survive the test of HIPAA, and HIPAA-compliance does not replace the need to follow generally accepted standards of podiatric practice. ■

PRESIDENT'S MESSAGE

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scribing, or administering any podiatric form of treatment, operation, or healing for the intended palliation, relief, or cure of any disease, ailment, injury, condition, or defect of the human toe, foot, ankle, and tendons that insert into the foot, including complications thereof consistent with such scope of practice, with the intention of receiving, either directly or indirectly, any fee, gift, or compensation whatsoever; and

(III) Maintaining an office or other place for the purpose of examining and treating persons afflicted with disease, injury, or defect of the human toe, foot, ankle, and tendons that insert into the foot, including the complications thereof consistent with such scope of practice.

b) The "practice of podiatry" does not include the amputation of the foot or the administration of an anesthetic other than a local anesthetic.

Because innovative new opportunities to expand our practices continue to present themselves, it is imperative that you contact the Board if there are any questions as to whether those opportunities are within the podiatric scope of practices.

Finally, the Board has worked diligently this past year on revising its rules and adopting policies to guide the Board, staff and licensees. We understand that, as is usual with new rules and policies, questions will arise in implementation. We urge you to read the rules and policies and call program staff as issues arise. The Board's statutes, rules and regulations, and policies can be found on our website at www.dora.state.co.us/podiatrists. ■

NEW! DORA Regulatory Notice E-mail System

The Department of Regulatory Agencies' new Regulatory Notice e-mail system provides business owners with the ability to effortlessly track and comment on proposed state regulations *before* they take effect. After signing up at the Office of Economic Competitiveness and Regulatory Reform website (www.dora.state.co.us/ocerr), participants will receive an e-mail when a proposed regulation has been submitted in their specified industry. The e-mail provides several key items: a link to the proposed rule, details about the hearing (time, location, etc.) and the submitting agency's contact information. The DORA Regulatory Notice e-mail system helps to hold state government more accountable for its actions, and empowers Coloradans to become more involved in the regulatory process. Sign up for DORA Regulatory Notice today! ■

Update on Changes within the Division of Registrations

The Division of Registrations is the umbrella agency within the Department of Regulatory Agencies that provides administrative support to the Podiatry Board along with more than thirty other licensing programs. As highlighted in the last newsletter, the Division has been going through a major effort to upgrade its licensing database system and concurrently, centralize duplicative functions throughout the Division, including the intake of mail, cash management, and the processing of applications and renewals for licenses. The purpose of this endeavor, called "Project T: Transformation" was to make all of our business processes more efficient and provide you with enhanced customer service.

The transition has included the relocation of personnel into centralized areas, the reconfiguration of workspace, the implementation of a myriad of new processes, the conversion of data into the new licensing system, and of course, a learning curve for the entire Division. We hope

that if you had any interaction with us during this time that these changes were transparent, but you may have witnessed some of our "challenges" and we appreciate your patience through this period.

Over the next several months, the Division will be tackling the last phase of the transformation: implementing an online system that will allow you to change your address, renew your license, and check the status of an application via the Internet.

As we move toward completion of Project T and beyond, some Board policies and processes may change in order to streamline functions across the Division, as well as increase the level of consistency in how various professions are treated. In the end, we hope you will be able to witness improvements in timeliness, automation, access to information and ease of interaction with the Board and the Division. ■

BOARD ELECTS NEW OFFICERS

At the Board meeting held in December 2003, the Colorado Podiatry Board members voted unanimously to elect Lisa Sullivan, DPM, of Louisville, as the new President of the Colorado Podiatry Board. Dr. Sullivan replaces Ronda Ammon, DPM as the President of the Board. The newly elected Vice-President is Hugh Murray, DPM, of Aurora.

The other members of the Board are Ronda Ammon, DPM, of Colorado Springs, Peter Hartlove, DPM of Longmont and Janice Ferguson, Esq, of Denver.

The Board would like to publicly thank Dr. Ammon for her outstanding leadership as Board President for the past four and a half years. ■

THE COLORADO PODIATRY BOARD

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