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New Legislation for 2013

The following are selected new bills which passed in the Virginia General Assembly for 2013 which may have some interest or impact for EVMS Medical Group Physicians. These are excerpts from the Medical Society of Virginia's 2013 Legislative Wrap-up published May 8, 2013. All of the new bills start as of July 1, 2013.

Prescription Monitoring Program (PMP): disclosure of information to local law enforcement. HB 1704 – Del. Chris Stolle, MD. MSV worked to amend the bill to allow physicians to track their own PMP profile, thus enabling them to review their own prescribing patterns and identify and eliminate prescription fraud.

Upon contacting the PMP program administration they were quick to remind me that this does not go into effect until July 1, 2013 but did give instructions for how to access your profile.

Once you have logged in, in the top right go to “request” and there is a drop down menu and select “self-lookup” which is the last option. This will provide you with the last 90 days of your prescription profile.

Timely return of death certificates to funeral directors. HB 1796 – Del. John Cosgrove. MSV secured amendments to the bill to allow physicians to delegate the authority to complete and sign a death certificate if such individual has access to the medical history of the case and death is due to natural causes. The authority to sign certificates has been expanded to include the medical directors, or a designee, of the facility in which death occurred. *At MSV's request, language was stricken that would have made failure to sign a death certificate within*

24 hours reportable to the Board of Medicine.

This section of the law has been updated to state:

In the absence of such physician or with his approval, the certificate may be completed and signed by *the following* (i) another physician employed or engaged by the same professional practice, (ii) a physician assistant supervised by such physician, (iii) a nurse practitioner practicing as part of a patient care team, (iv) the chief medical officer *or medical director, or his designee*, the institution, *hospice or nursing home*, in which death occurred. (v) a physician specializing in the delivery of health care to hospitalized or emergency department patients who is employed by or engaged by the facility where the death occurred, (vi) the physician who performed an autopsy upon the decedent or (vii) an individual to whom the physician has delegated authority to complete and sign the certificate, if such individual has access to the medical history of the case and death is due to natural causes. There have been a few incidences of physicians being requested to complete the medical certification for patients who have not been seen for several weeks and/or months. There is substantial pressure to complete death certificates within 24 hours as evidenced by the billing originally having language that would make it reportable to the Board of Medicine until the MSV had it removed. One important part of the current law that remains is as follows: *F. A physician, nurse practitioner or physician assistant who, in good faith, signs a certificate of death or determines the cause of death shall be immune from civil liability, only for such signature and determination of causes of death on such certificate, absent gross negligence or willful misconduct.* The main reason for the urgency of having the death certificate signed within 24 hours are related to religious considerations so physicians will be fine if they indicate the cause of death based on the information they have available to them.

There are four bills which passed that will impact medical malpractice litigation in Virginia and will help to maintain Virginia's positive litigation climate. The individual bills are;

1. HB 1433 Statute of Limitation on Infant Injury
2. HB 1477 Clarification of Dead man's Statute
3. HB 1545 Expert Witness Certification
4. HB 1709 Non Suit Reform

The specifics of each bill passed can be viewed at <http://lis.virginia.gov> 2013 Legislative Session. A copy of the Medical Society of Virginia's 2013 Legislative Wrap-up document has been emailed to your department

administrator.

DME Order Requirements - Effective July 1, 2013

As a condition for payment, beginning July 1, 2013 the Affordable Care Act requires a physician to document that the physician, PA, NP or CNS has had a face-to-face encounter examination with a patient in the six months prior to the written order for certain items of DME.

The date of the written order must not be prior to the date of the face-to-face encounter.

The face-to-face encounter conducted by the physician, PA, NP or CNS must document that the patient was evaluated and/or treated for a condition that supports the item(s) of DME ordered.

In the case of DME ordered by a PA, NP or CNS, a physician (MD or DO) must document the pertinent portion of the medical record.

The written order for the DME must include, at a minimum:

1. the patient's name;
2. the item of DME ordered;
3. the prescribing practitioner's NPI;
4. the signature of the ordering practitioner and
5. the date of the order.

Failure to meet any of the above requirements will result in denial of the claim.

Physicians will be provided an additional payment, using code G0454, for signing/co-signing the face-to-face encounter of the PA/NP/CNS. The physician should not bill the G code when he/she conducts the face-to-face encounter. Note that the G code may only be paid to the physician one time per patient per encounter regardless of the number of covered items documented in the face-to-face encounter.

A MedLearn Matters article addressing this issue and listing the covered items of DME may be found at:

<http://www.cms.gov/Outreach-and-Education/Medicare->

CMS Open Payments Program

The Affordable Care Act requires the establishment of a transparency program, now known as the National Physician Payment Transparency Program, or Open Payments. The program is intended to increase public awareness of financial relationships between drug and device manufacturers and certain health care providers. The program requires manufacturers to do the following:

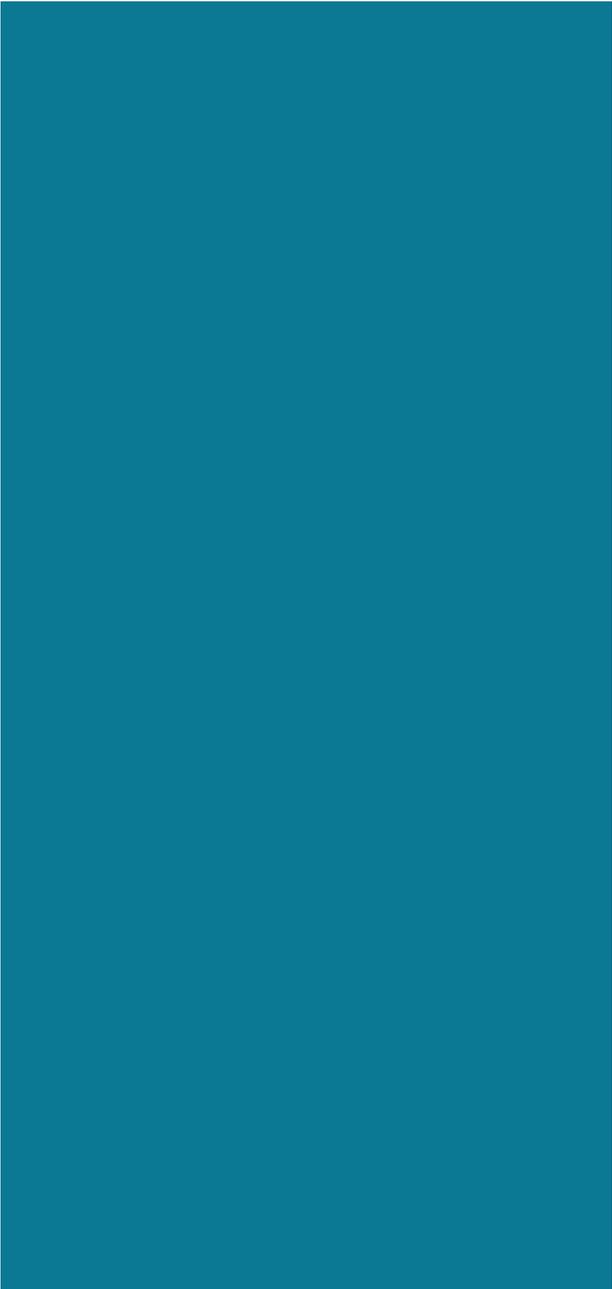
- Report payments and other transfers of value to physicians and teaching hospitals to CMS
- Report ownership or investment interests held by physicians or their immediate family members to CMS
- Report payments and other transfers of value made to physician owners or investors if they held ownership or investments at any point during the reporting year.

Physicians are not required to register or send any information to Open Payments, but they are encouraged to do the following:

- Become familiar with the types of information that will be reported about physicians
- Keep records of all payments/transfers of value received from manufacturers and GPOs (Group Purchasing Organizations)
- Look at information that is submitted on the physician's behalf by manufacturers and GPOs
- Work with manufacturers and GPOs to ensure that information submitted is correct

Examples of payments or transfers of value that require reporting include the following, with the exception of any valued under \$10. They must be categorized as:

- Consulting fees
- Compensation for serving as faculty or as a speaker at an event other than a continuing education program

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- Honoraria
 - Gifts
 - Entertainment
 - Food and beverage
 - Travel and lodging
 - Education and research
 - Charitable contributions
 - Royalty or license
 - Current or prospective ownership or investment interest
 - Grants
 - Space rental or facility fees (teaching hospital only)

CMS gives physicians 45 days to review and work with manufacturers and GPOs to correct any inaccurate information. After the 45 days, manufacturers and GPOs will have 15 additional days to submit corrections before the information is made public.

The initial reporting period begins on August 1, 2013 and runs through December 31, 2013. Collected data for that period must be submitted to CMS by March 31, 2014. Reported data will be publically available by September 30, 2014.

More information is available by sending questions to openpayments@cms.hhs.gov or visiting the website at:

<http://go.cms.gov/openpayments>