SCSA Newsletter

We are physicians first and then anesthesiologists. Giving anesthetics and placing a breathing tube is only a small part of our everyday job. Dr. Bhoumesh Patel, Physician Anesthesiologist, Texas Heart Institute

SCSA/NCSA ANNUAL MEETING

September 17-19, 2021

Myrtle Beach Marriott

Click here for hotel reservations

Click here to register for the meeting

BUSINESS CORNER

-By Michael Bowe, CEO Resource One, LLC

Will the No Surprise Act be an unintended windfall for small groups?

The *No Surprise Act* is set to take effect January 1st, 2022. The goal of the legislation is to take the patient out of the reimbursement discussion between medical providers and insurance companies. For anesthesia practices and other "ancillary providers," this in effect means limiting patient bills from what we now know as balance billing.

A quick review of how we arrived at this position:

- Originally, providers were paid based on what they billed.
- Payers created managed care networks requiring discounts on billed charges.
- Payers started limiting the networks (referred to as narrow networks) and paid a very reduced rate if at all, to out of network providers. The reduced payments benefited the insurance companies at the expense of the patient and the providers.
- Patients complained of having large out of network bills.
- Insurance companies lobbied for no balance billing legislation.

Starting January 1st, 2022, if an anesthesia provider is not in network, they will have to accept the Median in Network Rate, as reported by the payor, or go through an onerous appeals process.

Much has been written about insurance companies anticipating how best to get one over on the providers, by preemptively dropping the higher rate contracts that have been in place for years. As the more expensive contracts are terminated, the Median Rate declines. The payers benefit from eliminating the more expense contracts by reducing the Median Rate, and therefore paying less for out of network providers. Lower paying insurance companies will always have an advantage because their Median is lower.

So how do we protect ourselves against this scheme being perpetrated by the insurance companies?

***Now is the time for smaller and low paid anesthesia groups to consider terminating their contract with insurance networks*.** If your group is being paid at the Median or less, why should you continue with the contract? ***Groups being paid below the Median will increase revenue by terminating the network contract now*.** Revenue will go up or remain the same and the provider will not have to agree to the restrictive language in the contract. The patient will not have to pay any more than if the group was in network at the Median Rate.

Just like the insurance companies dropping higher paying contracts to drive down the Median, if lower paid providers drop the lousy contracts, the Median Rate will increase.

Review your contracts now to see if it is worth staying in network. Know that insurance companies are making decisions who to terminate based on who they are paying the most to and then they can force the median rate down to take advantage of the numbers game.

BUSINESS CORNER CONTINUED…

Unanswered questions remain:

Will physicians be given the data to know what is the Median Rate for each insurance plan?

How will the Insurance Companies (Payers) be audited?

Will the Payer Rates be published to help you determine if you should go out of network?

As insurance companies terminate higher paying contracts and as providers terminate lower paying contracts, we will come to one price. Is this the real intent of the law? A not-so-subtle move to single rates?

Will there be one rate for MDs/DOs and a different rate for CRNAs?

Will there be Geographic adjustments?

Will the Credentialing Requirements change with the new Law?

PRESIDENT'S REMARKS

Greetings From Your 2021-2022 SCSA President, Thomas Phillips, M.D., FASA

This year's annual meeting is the first in person meeting for us since the pandemic changed the world.

Much work has been done in organizing our meeting next month in Myrtle Beach. Special thanks to our 1st Vice President, Joshua Smith, M.D., who is the Program Chair from South Carolina. I am excited about the agenda for this year's *Excellence in Anesthesia* meeting. Our Keynote Speaker will be former Surgeon General and anesthesiologist, Jerome Adams, M.D. The meeting includes 11.00 AMA PRA Category 1 Credits. Lecture topics include OB Anesthesia, Perioperative Pain Management and a session titled: Goldilocks, The Devil, and Anesthesia Workforce Trends. There will also be a robust program for Residents. I look forward to seeing many of you in Myrtle Beach.

The year to come will be an important one at the General Assembly, with the dangerous and unnecessary independent practice bill that the leadership of the SC Association of Nurse Anesthetists is continuing to push. We will continue to advocate against the threat to patient safety and teamwork that this bill poses. These

battles are not pleasant for any of us, including the many nurse anesthetists who work with us daily in our practices.

The practice of medicine has been changing over the last 10+ years. Corporate medicine is no longer the outlier. Most physicians, including anesthesiologists, now work for either hospital systems or corporate entities. With this change, comes a huge paradigm shift in accepting who is in charge, clinical versus organizational authority, reimbursement, and income agreements, among many other work changing issues. While 'the boss' may be different, DO NOT forget that the clinical decisions are very much still yours to make. Your license as a medical doctor makes that clear. Just ask any trial lawyer who is in charge from a medicolegal standpoint. Stand your ground on your position as the doctor in the room!

EXECUTIVE DIRECTOR'S REPORT

-By Margarita Pate, PhD, Executive Director, SCSA

WORKING WITH THE BEST

The SCSA has, what I would describe as the best lobbying team in the state. Leading our team for the last 20+ years is Graham Tew. Graham has a long and distinguished career in national and state politics. He worked for many years with the former firm of Tompkins and Kinard, a political consulting group whose eponymous leaders came from both Republican and Democratic sides of the aisle. Now with the McGuire and Woods Firm, Graham and Drew Clawson (who has been working for the SCSA for the last 4+ years and is a great asset to our team) are committed to patient safety advocacy and preserving the practice of medicine. Another important member of the team is Jason Puhlasky, with the firm of Parker Poe. Jason has worked for the SCSA over the years, including when he was with Tompkins & Kinard, and is one of the best and most respected lobbyists in Columbia. He is a dedicated friend to the SCSA. Our newest team member is Damon Jeter. Owner of Jet Corp Consulting, Damon is a former member of the Richland County Council, and the husband of a physician. We are delighted to have him as our newest team member. Rounding out the group is our attorney, Sally Rogers, with Nexsen Pruet. She has years of political and legal expertise and is invaluable to us. Sally is a highly regarded legal expert in healthcare matters. We are fortunate and well represented by this fine team.

COMMENTARY CORNER

News from the Board of Medical Examiners

-By Jennifer Root, MD, FASA

South Carolina's Board of Medical Examiners has several principal functions to ensure the health, safety, and well-being of the citizens of South Carolina. The board is responsible for determining Physician and Physician Assistant applicant eligibility for licensure, establishing the criteria for that licensing and renewal of licensure, approving continuing education requirements, promulgating regulations, establishing professional codes of conduct, and conducting hearings into allegations of professional misconduct. The board must follow the South Carolina Constitution, The Medical Practice Act, and all other laws and regulations that govern the practice of medicine when acting as an agent for the state in the performance of these duties. The board meets quarterly to review complaints, interview new applicants, and address board related issues related to the practice of medicine. It also works with the Board of Nursing and the Board of Pharmacy when issues arise that crossover into multiple professions.

Having been newly elected this year to represent district two on the BOME I am still learning how this process works and where the obligations of the board begin and end. At the most recent August Board meeting we were given insight into some of the finances of LLR and the Medical Board. Ms. Farr, who was appointed two years ago to run LLR, has worked hard with the finance staff to review staff positions, spending, IT infrastructure, as well as improved financial forecasting for the agency. The good news is that it looks like for now there is no need to raise fees for medical licensure. Mr. Sheridan Spoon who was board administrator for a

very long time has retired and currently if you need to speak to someone at the medical board, Ms. Pam Dunkin is filling the position.

Since January, the board has received 243 complaints, and last year 277 cases were closed… 135 were dismissed, issued six public reprimands, and has revoked five licenses. Most of these complaints fall into the categories of patient care, unprofessional conduct, and prescribing issues.

And now for my advice for Anesthesiologists! The nurse practice act requires annual review of the scope and written guidelines for each CRNA and AA. It is the responsibility of the Anesthesiologist who supervises to make sure that this is being done for all those with whom you practice. Do not assume that 'staff' is managing it. Also, each year there are licenses that need to be renewed such as DEA, DHEC, and Medical Licensure. It is your responsibility to keep track of when these documents expire and if you do not receive notice for license renewal from any of these agencies it is still your responsibility to make sure renewal occurs in a timely fashion. Sometimes as you move between jobs and even between residences these things can fall through the cracks. It is always good to make sure that LLR has your correct address, email, and phone numbers. And finally, those who practice with telemedicine need to make sure that if they are prescribing schedule drugs and they initiated these meds during the pandemic during the state of emergency, that they must now that the emergency is over establish an in-person physician patient relationship to continue to prescribe those schedule drugs. Only those physicians with a board waiver may prescribe schedule drugs via telemedicine. Further clarification on this will be coming out from the board and from DHEC soon.

If you ever have any questions, do not hesitate to reach out!

Dr. Root is the ASA Director from South Carolina and a member of the SC Board of Medical Examiners

NEWS OF NOTE

The Future of Anesthesiology Payment Town Hall (click here for information)

ASA is monitoring the ongoing federal rulemaking process that implements the "No Surprises Act" to ensure it is a robust and thorough process.

The American Board of Anesthesiology gets into the DEI arena with recent survey (click here for more information)

Anesthesiology 2021 – San Diego, CA – October 8-12 (click here for meeting information)

Two South Carolina Physicians elected to national office:

Gerald E. Harmon, M.D. is the new President of the American Medical Association (2021-2022). Dr. Harmon is a family medicine physician from Georgetown and is a past president and Chairman of the SCMA. Along with numerous other distinguished positions in medicine and his community, Dr. Harmon served as a Major General in the U.S. Air Force and the U.S. Air Force Reserves.

Ada D. Stewart, MD, FAAFP is the new President of the American Academy of Family Physicians. Dr. Stewart is a family medicine physician from Columbia. In the aftermath of September 11, 2001, she joined the U.S. Army Reserves. She is a former President of the SC Academy of Family Physicians and the Columbia Medical Society.

Anesthesiologist Elected as President Elect of the South Carolina Medical Association:

President Elect of the SCMA is our own Christopher A. Yeakel. M.D., FASA. Chris is a newly retired anesthesiologist who worked at Richland Memorial Hospital for 25+ years. Chris is a former President of the SCSA and has also served as President of the Columbia Medical Society. Chris is an outstanding member of the SCSA and is ALWAYS willing to advocate for the specialty and patient safety.

Anesthesiologist appointed by Governor McMaster to serve on the SC Board of Medical Examiners:

Jennifer Root, M.D., FASA was nominated and confirmed to serve as a member of the SC Board of Medical Examiners. Dr. Root is a former President of the SCSA, Vice Speaker and then Speaker of the House for the SCMA, and she is the ASA Director from South Carolina.

Anesthesiologist appointed by Governor McMaster to the DHEC Board:

Robert R. Morgan, Jr., M.D., FASA was nominated and confirmed by the SC Senate to serve on the DHEC Board. Rob is in practice with Greenville Prisma Healthcare and is a past President of the SCSA. Rob is also a former Delegate to the ASA and a member of the ASAPAC Board.

Special thanks to our outgoing President, Kathryn Bridges, M.D., FASA.

Katie is an attending at MUSC in the Department of Anesthesiology and Perioperative Medicine. Katie's year as President was a busy year with multiple calls, meetings, presentations, and testimony to the General Assembly fighting for patient safety and the Anesthesia Care Team. Thanks for your leadership during this difficult year!

Strong work from South Carolina's physicians!

SCOPE CORNER

Did you know that the various licensing boards respond to questions of policy and scope? They often respond to these requests by issuing Advisory Opinions. NOTE: Advisory Opinions are NOT necessarily correct. It is not unheard of for a Board to issue an Advisory Opinion in error. In those cases, a request for review by another Board or by the Legal Department of LLR may be appropriate. With regards to the Board of Nursing and scope of practice questions, the BME must agree with the BON. This "Agreed to Jointly" is statutorily required. That is a requirement that nurses, and the BON have tried to remove for years (without success).

The SC Board of Nursing was asked the following question with the response following:

QUESTION: What is the role and scope of responsibilities for the registered nurse (RN) to administer fentanyl intravenously for pain management?

ANSWER FROM BON: The State Board of Nursing for South Carolina acknowledges that it is within the role and scope of the responsibilities of the RN to administer fentanyl IV for pain control when ordered by a licensed physician, dentist, or Advanced Practice Registered Nurse (APRN) or other licensed provider authorized to prescribe by law. THIS ADVISORY OPINION DOES NOT APPLY TO THE ADMINISTRATION OF AGENTS FOR THE PURPOSE OF SEDATION MANAGEMENT. (See Advisory Opinion #25) However, fentanyl is considered an extra potent narcotic that evokes a larger response at low concentrations (i.e., mcg vs mg) and should only be given in settings that the patient response and condition can be monitored closely. The Board recommends that the health care facilities have an educational credentialing mechanism which includes a process for evaluation and documenting the individual RN's competency relative to the management of the patient receiving intravenous pain medications. This statement is an advisory opinion of the Board of Nursing as to what constitutes competent and safe nursing practice.

Title Misappropriation is alive and in overdrive, especially among Nurse Anesthetists. Just this month, the AANA officially changed its name to the American Association of Nurse Anesthesiology.

"Patient deception is unacceptable. For a non-physician, a non-anesthesiologist, to misrepresent his or her clinical training as an 'anesthesiologist' is deception, pure and simple….Proper use of the term 'doctor' and 'anesthesiologist' with patients reflects the duty of every health care provider to be honest with our patients, while fully respecting their rights and autonomy."

Steven L. Shafer, MD

Editor-in-Chief, ASA Monitor