



MICHAEL A. CASSIDY, Esq.

Return to practice under the COVID threat

Although physician offices were always classified as essential businesses under the Pennsylvania Emergency Closure Rules, and could always have remained open, many physician practices nevertheless opted to close the practices, reduce hours, or remain only open for emergency patients. Now that Pennsylvania is reopening to all businesses in stages, we thought it would be valuable to have a source of curated information specifically applicable to the reopening of physicians' offices, similar to the COVID-19 Private Practice Checklist published by ACMS on March 19, 2020.

We believe the risk issues can be separated into four basic categories:

1. Patient management
2. Facility management
3. Staff protection
4. Patient consent forms and waivers

Patient management

The scheduling, management and testing of patients returning to the practice, and prioritizing their treatment based upon the severity of their medical conditions, will be one of the most challenging aspects of reopening the practice, if only because of your lack of actual control over patients' conduct. Communicating to patients how the practice is being reopened and patient management also will involve the

issues of preparing the facility and protecting your workforce, each of which will be discussed separately. All practices should take the following steps:

1. Screen patients, and visitors if you are going to allow visitors to accompany the patients (which is another judgment issue), for symptoms of acute respiratory illness or other potential COVID implications.
2. Administer or require testing and screening where possible.
3. Work with your primary hospital to determine what action plans the hospital has implemented and might be willing to share or coordinate.
4. Ensure proper inventory and availability of PPE.
5. Require patients to use PPE and train staff to train patients in the proper use of the PPE.
6. Coordinate with the organization and management of your facilities.

Facility management

One of resources included from the CDC is a lengthy document including planning resources by setting. The material for physicians' offices includes a medical office planner, templates, timelines, resource allocation guidelines, etc., for the use of the office. You must make arrangements for:

1. Appropriate cleaning and disinfecting of the office as required and

communication of that to patients in order to demonstrate not only your compliance but your expectation of the patient's compliance.

2. Redesigning your patient intake process to minimize contact (reduce handling of patient sign-in sheets and writing instruments, sterilization of the writing instruments, social distancing for check-in).
3. Select waiting room and exam room furniture to facilitate cleaning. For example, if the current waiting room furniture is cloth and very difficult to clean, perhaps you either want to cover the furniture, rent plastic chairs, or make some other arrangements.
4. Encourage the use of the telehealth if your practice resources are set up to accommodate that.
5. Limit visitors.
6. Allow telephone check-in and instruct patients to wait in their cars until they are called to the office, minimize the number of patients (visitors) in reception or examine rooms and provide a means of exit that doesn't require the patients to return through the reception room, if possible.

Staff protection

In the resources section is the CDC Interim Guidance on Risk Assessment for Healthcare Personnel who might be exposed to patients, i.e., Criteria for

Return to Work. Protecting your staff from patients is equally as important as protecting patients from potentially infected staff. Therefore, the planning should include many of the same precautions:

1. Testing and screening both for daily practice and especially for return to work if a staff member has tested positive.

2. Appropriate training and PPE resources for staff.

3. Implementing social distancing for staff if possible, with respect to the concentration of the staff in the office, allowing staff to work remotely, either from home or from another offsite location, for services that do not require

direct patient contact.

4. Rotating staff by groups so that one group is not exposed to the other group if possible.

5. Reducing the density of all individuals in the office by extending office hours and booking fewer patients per hour.

Patient consent forms, waivers

Many physicians have asked whether it would be appropriate, and perhaps even advisable, to require patients to sign waivers and releases with respect to potential infection from their offices. We have advised that this is both inadvisable and probably ineffective. Instead, we suggest a

patient notice or advisory communicating all of the affirmative steps you have taken to protect both the patients and your staff ending with a conclusion or warning that, despite all of your efforts, everyone should be aware, because of your statements and because of all the publicity and public announcements regarding potential COVID infections, that is impossible to guarantee the safety of any individual who has chosen to go out into the public, to accept services from your office, or any other commercial office or any of their other social contacts, but that you will do your best. Asking the patient to sign a waiver as a condition to further

Continued on Page 190

Tucker Arensberg lawyers have experience in all major healthcare law issues including:

- Compliance • Cybersecurity • Reimbursement • Mergers & Acquisitions
- Credentialing & Licensing for Individuals & Healthcare Facilities • Employment Contracts and Restrictive Covenants
- Tax & Employment Benefits

For additional information contact any of the following attorneys at (412) 566-1212:

◆ Mike Cassidy - Compliance; Contracts, Peer Review, Stark/AKS

◆ Paul Welk - Mergers & Acquisitions

◆ Danielle Dietrich - HIPAA, Collections & Litigation

◆ Ryan Siney - Cybersecurity, Compliance

◆ Jerry Russo - Investigations

◆ Rebecca Moran - Mergers & Acquisitions and Physician Contracts

TUCKER ARENSBERG
Attorneys

tuckerlaw.com

Visit our Med Law Blog for the latest news and information for you and your medical practice
medlawblog.com

Pittsburgh, PA
Harrisburg, PA
New York, NY

From Page 189

treatment also would suggest that you would refuse to treat the patients if they did not sign the waiver; this might not only invalidate the waiver but it might be tantamount to patient abandonment in the midst of necessary medical treatment, which is an ethical violation.

Conclusion

We have attached below a list of what we think are the most appropriate resources regarding these issues, but please contact us if you have further questions.

Resources

- Criteria for Return to Work for Healthcare Personnel with Suspected or Confirmed COVID-19 (Interim Guidance): <https://www.cdc.gov/coronavirus/2019-ncov/hcp/return-to-work.html>
- Coronavirus (COVID-19) Partner Toolkit: <https://www.cms.gov/out-reach-education/partner-resources/coronavirus-covid-19-partner-toolkit>
- Interim U.S. Guidance for Risk Assessment and Public Health Management of Healthcare Personnel with Potential Exposure in a Healthcare

Setting to Patients with Coronavirus Disease 2019 (COVID-19): <https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-risk-assessment-hcp.html>

- Planning Resources by Setting: Physicians' Offices: <https://www.cdc.gov/cpr/readiness/healthcare/physicians.htm>

Mr. Cassidy is a shareholder at Tucker Arensberg and is chair of the firm's Healthcare Practice Group; he also serves as legal counsel to ACMS. He can be reached at (412) 594-5515 or mcassidy@tuckerlaw.com.

Moving?

Be sure to let us know

We can update our system to better serve you!

When your patients call, we will know where to send them.

Call (412) 321-5030 to update your information.

ACMS members:
We want to hear your opinions on important topics affecting healthcare.

Email Meagan Sable at msable@acms.org to learn more about submitting a Perspective column to the *Bulletin*.

ALLEGHENY COUNTY MEDICAL SOCIETY
www.acms.org • (412) 321-5030