

Colorado Foot & Ankle Society

Newsletter November 2010

A publication of the Colorado Podiatric Medical Association
This Issue sponsored by Podiatry Plus/PFS Insurance Group

President's Message: Forward Progress for CFAS

Change. What is change? In my mind, it is the opportunity to move forward, allowing us to keep up with our ever changing society. At our recent annual membership meeting, our members overwhelmingly chose to move forward into the future. Today, we are the Colorado Foot & Ankle Society. Why the change? It allows us as podiatrists to clearly and definitively state who and what we are to our state, communities and patients. We should all be very proud of this change, as we are only the second State in the Union to do this. It is likely that more states will be taking a similar step in the very near future. Please note that we still have our Colorado Podiatric Medical Association designation. We conduct business under that name as well

At times, change is tough; however, it is necessary in order for us to be on the forefront of the evolution of podiatric medicine. That being said, our Bylaws which have been in place since 1964, underwent a significant revision to make us more current with aspects of APMA Bylaws, especially in categories of membership. While our new document is not "perfect" by any means, it allows our Society a baseline from which to grow. If there is any member who wishes a copy of these By Laws, contact our Executive Director, Anne-marie Zuccarelli. Thanks to our Bylaws Committee, Drs. Hineser, Maurer and Travers, and our Executive Director and Parliamentarian, Mrs. Gayla Stone, for helping to get this most important and necessary task accomplished.

Congratulations to Dr. Gerry Travers for being re-elected as our APMA Delegate, Dr. Bill Hineser, for his continued desire to be our APA PAC representative, and to Drs. Brett Sachs, Nicholas Sol and Erik Thelander who were all elected to our Board of Directors at the annual business meeting. This is the first year I can remember when we had so many members who were willing to run for the board. For your commitments to serve, I thank our new board members.

Change is hard and, at times, not very satisfying in the beginning. It often takes time for people to really see a difference. For me, this is my fourth year of service to you, and only now am I beginning realize what we are possible of accomplishing. Please encourage all Colorado podiatrists to join our Society, to donate to the APA PAC and to assist our podiatry students, residents and new graduates in their endeavors.

Fraternally, Frederick S. Mechanik, DPM, FACFAS

Summary of Bylaws Changes

Name Colorado Foot & Ankle Society dba (doing business as) Colorado Podiatric Medical Association reviewed by APMA . Similar to North Carolina.

Membership. Voting classes of membership are active, military (including active reserves), federal service, life, non-practicing, permanently disabled, senior and post graduate. Each of these categories is defined and all hold the same member privileges.

Audit/Review of Finances. Gives an option for financial review to be conducted by immediate past president or other board member with no check writing authority and two non-board members-at-large or CPA. (The number of checks written annually is very small—60 total for 2009—and CPA audit can be very costly.)

Board: A board member can serve for up to 4 two-year terms. After eight years on board, three years off is required before being reelected. Section on removal from office added (by 2/3 vote of board.) Board is composed of nine members.

Nominating Committee: Three members, two of whom are not on the board.

Executive Committee: President, President- Elect and Secretary/Treasurer. Duties are defined.

Standing Committees: Streamlined to include Budget/Finance, Bylaws and Procedures, Education, Ethics and Nominating and Election. Defines duties of each committee.

Electronic Meetings: Authority for Board, Executive Committee and standing and special committees to meet by telephone or interactive technology.

Dissolution: Recommended by APMA. Defines procedures in event of dissolution of the organization.

Bylaws. Creates process for amending the bylaws. Bylaws Committee reviews proposals for amendments. Bylaws shall not be in conflict with bylaws of APMA.

APA PAC Report

We are now half way through our APA PAC 2010 campaign. As usual I would like to thank those who have already donated. The last donation was 5/28/2010 with no new donations since that time. It is critical that we make our donations very soon. We need to contribute both through our PAC and personally to candidates who will actively work on the SGR (payment formula) fix. If this is not taken care of we could face up to a 26% cut the next time this comes up.

The entire medical profession is at serious risk. Podiatry, being a minority, is at even greater risk. The only way we can protect ourselves is by supporting members of congress who will actively support us. Our profession shows our support for the right persons by donating to their campaigns. In order to continue doing this we urgently need your help.

Please send your APA PAC donations to: APMA PAC, Lockbox #4672, PO Box 758943
Baltimore, Maryland 21275-8943
or to my office (7375 W. 52nd Ave., Ste 350, Arvada, CO 80002) and I will forward them.

Don't let your profession or yourself down!!!!!!

William F Hineser DPM, PAC Representative

New Board of Directors Members

Three doctors were elected to two year terms at the Annual Meeting. Brief descriptions and contact information follows. They will be working on exhibitors for the 2011 meeting.

Dr. Brett Sachs is a Maryland native and earned his undergraduate degree in Biology from the University of Maryland at College Park in 1994. He graduated from the Temple University School of Podiatric Medicine with honors in 1998. Dr. Sachs completed his podiatric surgical residency at Presbyterian-St. Luke's Medical Center in Denver, Colorado in 2001. Dr. Sachs completed additional training at Kaiser Permanente in San Francisco, California specializing in trauma. Dr. Sachs returned to Colorado to practice and joined the Rocky Mountain Foot and Ankle Center in Wheat Ridge in 2005 where he practices with Drs. Barbara and Matt Paden. He is a board certified in reconstructive foot and ankle surgery by the ABPS and is a Fellow of ACFAS. Dr. Sachs is currently a member of the Clinical Review Committee for the Surgery Center at Lutheran Medical Center. He is on the board of directors for the Highlands Institute and serves on the residency committee for the Highlands Presbyterian-St. Luke's residency program. In his free time, Dr. Sachs enjoys golf, skiing, tennis, hiking, and fitness. His office phone is 303-423-2520 and email is bandsachs@hotmail.com.

Dr. Nick Sol. After graduating from OCPM in 1985 and completing a surgical preceptorship in Detroit, Dr. Sol began practicing in Colorado Springs in 1986. He is ABPS Board Certified in foot and ankle surgery and is an ACFAS Fellow. He has multiple publications on a variety of podiatric topics including a chapter about gait analysis in a text about whiplash injuries. He has lectured about gait analysis and biomechanics in the US and Europe. He completed his MBA at University of Colorado in Denver. He enjoys skiing, shooting and flying. He's in solo practice at The Walking Clinic. Office phone is 719-635-7700 and email is drsolt@thewalkingclinic.com.

Dr. Erik Thelander was born and raised in Jamestown, NY. He received his undergraduate degree from Grove City College in PA and graduated from the Scholl College of Podiatric Medicine in 2000. He completed his residency at Mt. Sinai Medical Center in Miami Beach, FL. He's an ACFAS Fellow and is board certified in forefoot and rearfoot. He's in practice with Dr. Robert Anderson at Centennial Foot and Ankle Specialists, Centennial. He's married with two boys, 6 and 4 years old. He enjoys golf, skiing, road biking, camping and hiking. His office phone is 303-632-3668 and email is erik_thelander@hotmail.com

Annual Meeting 2011, Oct. 21-22

Based on positive comments and ratings from attendees and exhibitors, we will return to the Inverness Hotel and Conference Center in Englewood, Oct 21-22 for our 2011 Educational Meeting. With great assistance from Dr. Fred Mechanik, we've already lined up some top speakers. These include Alan Banks, DPM, Mary Beth Crane, DPM, William Li, MD, Bryan Markinson, DPM, Richard Quint, DPM, Harold Schoenhaus, DPM, and James Wang, DPM.

If you've heard a great speaker and think we'd benefit from his or her words of wisdom, please contact me at 303-789-9255 or rivenrent@yahoo.com. And if you have contact with a potential exhibitor (new and returning) please contact one of our three new Board Members, Drs. Sachs,

Sol and Thelander. Many thanks to those of you who attended our recent Annual Educational Meeting. You contributed to our success. Special thanks to Dr. Dale Carnegie who was able to get us a significant discount from the Inverness where he's a golf club member.

Clint Holland, DPM, Education Chairman

Residents Column

To all fellow residents, I would like to remind you to please encourage your newest colleagues to join APMA/CPMA. As you might know, the fee is waived for the first year and there are no out-of-pocket expenses/costs. This is a great time to join CFAS (we have voting rights) and learn about the importance of belonging to a state association, no matter where you plan to practice in the future. We have a great benefit for those who will be going into practice next year so please contact me for more information. Also, if you are not already on the resident email list and would like to receive updates from me, please contact me at dollystelzer@gmail.com

Dolly Stelzer, DPM Resident Representative to the Board

This Newsletter is published for the members of the Colorado Foot & Ankle Society (also known as Colorado Podiatric Medical Association). Web Site: www.colopma.org

2011 Officers:

President: Dr. Frederick Mechanik
President-Elect: Dr. Clinton Holland
Secretary-Treasurer:
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Immediate Past President :
Dr. Brian Maurer

Resident Representative

Dr. Dolly Stelzer

CAC

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Dr. Jeffrey Mechanik
Dr. William Montross
Dr. Gerry Travers (HOD Delegate)
Dr. Brett Sachs
Dr. Nicholas Sol
Dr. Erik Thelander

APA PAC

Dr. William Hineser

For assistance and additional information contact our officers, directors or Executive Director, Anne-marie Zuccarelli at 303-881-8837 or maxamz@aol.com

Thanks to Podiatry Plus, PFS Insurance Group, sponsor of this issue. For information contact Shawn Wotowey at 970-635-9400.

PRACTICE MANAGEMENT INSERT

Secrets of Success: "Classification of Employees"

There appears to be a huge misunderstanding about employee wage classification and so this column provides a very narrow look into FLSA (Fair Labor Standards Act) rules that affect you as an employer. FLSA Compliance is something you should take seriously. In 2008, the Department of Labor (DOL) recovered \$220 million in back wages and employees are filing record number of lawsuits under state and federal wage and hour laws.

- **The Rule** – FLSA requires employers to compensate employees at 1½ times their regular wages in excess of 40 hours/week (7 consecutive 24 hour periods).
- **The Exception** – Employer is not required to pay any overtime to an exempt employee.
- **The Solution** – Proper classification of employees

First things first: you should no longer refer to your employees as ***"salaried"*** or ***"hourly"*** because in doing so you might make certain inaccurate assumptions. Instead, the proper way to classify employees should be ***"exempt"*** or ***"non-exempt."*** What's the difference? A non-exempt position must be paid at least minimum wage on a salary, hourly, piece rate or commission basis and subject to the overtime rule. Non-exempt is the proper classification for the overwhelming majority of podiatric staff. An "exempt" employee must meet a salary and duties test:

Salary: they are paid a minimum \$455/week that cannot be reduced due to variations in the quality or quantity of work performed – regardless of how many hours they put in;

Duties: they have assigned job duties and responsibilities that meet the requirements within their particular category (Executive, Administrative or Professional) as set forth in the FLSA regulations.

For clarity: An exempt employee must be salaried; however *a salaried employee may be non-exempt*. HUH? Such is the confusion of classification.

Some common misconceptions are:

"Our office managers are exempt because they're salaried"

Not true. The federal law states that unless an employee is classified as (and meets the description of) "exempt", their employer has to pay them time and a half their hourly rate for each hour worked over the 40 hour threshold. Therefore just because a staff person is assigned the title "Office Manager" or is "salaried", that does not necessarily qualify them for exemption. Classification does not revolve around an employee's title, but rather around their job duties and many "office managers" are not given the level of responsibility necessary to fit this job description.

"The FLSA rules don't apply to us...we only have a couple employees."

Some employers assume that because their business is small, they are not covered by the rules of FLSA. Unlike most state and federal employment laws, the FLSA rules do not depend directly upon the number of employees.

"We have an agreement that covers all the time they work"

No, it does not. As noted above, a salaried employee may not necessarily be an "exempt" employee. Regardless of any arrangement a non-exempt employee agrees to, it only covers straight-time pay for 40 hours worked, so again for any hours worked over 40/week (and in some states 8/day), an employer must pay overtime pay.

"What if the employee agrees to waive overtime pay?"

Nice thought, but they can't. An employer is required to pay overtime (time and a half the regular rate), EVEN IF the employee requests to work over their "regular time" (or takes work home, works during lunch time, comes in on their own without your permission, stays late or "volunteers" or "donates" their time).

It is important that you set policy in your practice that addresses overtime and a system to monitor their schedule and hours. Bottom line...YOU are responsible. The FLSA does not differentiate between approved and unapproved overtime, so if employees DO put in OT hours despite your written policy against it, you cannot refuse to pay them their overtime rate. Of course, violation of your policy could result in disciplinary action, including termination. So while proper exempt/non-exempt classification may seem vague, the repercussions and penalties for non-compliance are very real. Finally, please note that State law supersedes Federal, so in cases of OT and Comp Time for example, you should refer to your own state jurisdiction. Again, heed the warning. While these issues might not ever present a problem in the "harmonious" workplace, they could be a bone of serious contention in the event of a parting of ways.

Questions? Email me at info@soshms.com. Also, you can download a free slide presentation created by the US Dept. of Labor that helps explain more about FLSA federal law at: <http://www.dol.gov/whd/regs/compliance/fairpay/presentation.ppt> Ms.Lynn Homisak, President of SOS Healthcare Management Solutions, has a Certificate in Human Resource Studies from Cornell University School of Industry and Labor Relations and is the 2010 recipient of *Podiatry Management's Lifetime Achievement Award* and recently inducted into the PM Hall of Fame.

Medicare Compliance and You

While the healthcare reform debate wages on, one thing is certain; the U.S. federal government will continue to actively pursue Medicare and Medicaid fraud as a strategy to rein in costs.

This makes it important for physicians to understand both the process and the risks associated with whistleblower lawsuits. Even a whiff of impropriety or innocent-yet sloppy coding and billing procedures can put your practice at risk. The simplest scheme of healthcare fraud is billing for services that either weren't provided or at a level higher than documented. Others include lack of medical necessity, false certification or information, self-referral and kickbacks, and grant or program fraud.

Qui tam, or whistleblower, lawsuits in healthcare have outnumbered those for defense contractor fraud in the past few years. Physicians and administrators are being watched not only by fiscal intermediaries and patients, but also by employees and competitors. Why the scrutiny? There's an incentive: whistleblowers receive 15 to 25 percent of recovered money.

To prevent problems, all medical providers should regularly review compliance in seven key areas:

1. compliance officer performance
2. internal monitoring and auditing
3. appropriate training and education
4. standards development and review
5. facilitation of open lines of communication
6. response to detected offenses and corrective action plan development
7. management and professional liability insurance

Shawn Wotowey, CLCS, specializes in healthcare industry risk management and the unique insurance products required by today's healthcare/life sciences businesses. Contact him at shawnw@mypfsinsurance.com