

Tamper Resistant Prescription Pads/Paper

April 2010



BENTON FRANKLIN COUNTY MEDICAL SOCIETY

The Society Pages

A new law signed by the governor in 2009 requires that prescriptions written in Washington be on tamper resistant paper or pads (TRPP) approved by the Washington State Board of Pharmacy. Beginning **July 1** this year all medication prescriptions hand delivered to a pharmacy must have a new look. While the layout will be much the same as previous forms — with two signature lines for prescriber and patient information — the forms will include a “seal of approval.” Prescribers, pharmacists, and patients can identify approved forms by the “seal of approval” printed in the lower right-hand corner of the prescription form.

The tamper resistant prescription paper and pads now in use won't comply with the new law. Only board-approved forms are to be used for hard copy given to a patient or patient designee, including prescriptions printed from an electronic medical record system.

A few helpful tips will assure prescribers are using the proper forms in the correct way. The seal of approval, for example, should always appear in the bottom right corner of the prescription form. The seal consists of a mortar and pestle watermark with the Washington State map centered over the top. The state is green thermo-chromic ink that changes from green to yellow when exposed to heat or friction, and goes back to green when cooled. Don't use tamper-resistant prescription paper or pads when faxing directly to a pharmacy. The fax machine may activate the pantograph, making it appear that the prescription is invalid or void.

It's okay for vendors to provide legitimate requestors with blank stock of the board-approved tamper resistant paper, with the seal, to be print in the office. Remember, prescribers are always responsible to safeguard prescription pads and paper from theft. It's a good idea to check with your supplier to be sure tamper-resistant prescription paper or pads are board-approved. Check the [Board of Pharmacy Web page](http://www.doh.wa.gov/hsqa/Professions/Pharmacy/default.htm) (www.doh.wa.gov/hsqa/Professions/Pharmacy/default.htm) for a list of vendors that have received approval. Your supplier or print distributor may not be on the list if they are using products that have received prior-approval by the board.

Benton Franklin Orthopedic Case Update

(Courtesy of WSMA Monday Memo, March 22, 2010)

Last week's state Supreme Court opinion in *Columbia Physical Therapy, Inc. P.S. v. Benton Franklin Orthopedic Associates* was very good news – and an affirmation of the WSMA's increased focus on the legal front in today's health care environment. To recap: Columbia Physical Therapy was suing Benton Franklin Orthopedic Associates over its employment of physical therapists alleging this employment arrangement violated state law. Had the plaintiff prevailed, physician employment of several types of non-MD/DO caregivers would have been prohibited. We won on almost all the significant issues in play. The court granted summary judgment to BFOA on the plaintiff's corporate practice of medicine doctrine, Professional Service Corporation Act (PSCA), and Anti-Rebate statute claims.

Major points of the unanimous ruling:

The PSCA is a narrow exception to the corporate practice of medicine doctrine which allows similarly licensed professionals to come together in a business to practice in their field. At the heart of the Court's decision on the PSCA claim was the Court's declaration that physical therapy is included within the scope of the practice of medicine. As we argued in our amicus brief, the Court ruled that the broad definition of the practice of medicine encompasses the practice of physical therapy and therefore a medical practice operating under the PSCA can employ physical therapists.

(continued page 3)

UPCOMING EVENTS

GENERAL MEMBERSHIP MEETINGS

6:30-7:00 pm, Social Hour

7:00-8:30 Membership Business and
Presentation

All Meetings are at Meadow Springs
Country Club

April 20, 2010

Tom Curry, CEO of the WSMA

“Health Care Reform:
Politics, Policy and Impact”

May 18, 2010

Members of the Medical Quality Assurance Commission will be traveling our meeting to discuss the role of the commission and seek feedback on how they can accomplish their mission better.

Unfortunately, Detective Dramis, who was originally scheduled for April, had to reschedule his presentation due to an unexpected work conflict. We are rescheduling his presentation for the Fall.

Attention Office Managers-

We are interested in providing practice management offerings this summer and need your help.

If you have particular subjects that you would be interested in (coding, billing, etc.) please email the office at

bfmedsoc@charterinternet.com or call

582-2866 and talk to Nicole.

Thank you for your help!

Final dues invoices have been sent out and are due April 15th for those members who haven't paid yet.

As a reminder, you will be paying your county dues directly to us,

NOT to the WSMA.

We are now able to accept credit cards (Visa and MasterCard). Please call the office if you have any questions.

Applications for Membership

Second Notice:

Cheta Nand MD

Board Certified Psychiatry and Sleep Medicine

Medical School: Fiji School of Medicine (1987)

Internship: Lautoka Fiji

Residency: Albany Medical Hospital, Albany NY

Second Notice:

Michael Turner MD

Physical Medicine and Rehabilitation (Board Certification Pending)

Medical School: Harvard (2005)

Internship: Mayo Clinic

Residency: Mayo Clinic

(BFOA Case Update, continued from page 1)

The corporate practice of medicine doctrine prohibits a business entity from employing medical professionals to practice their licensed profession – absent specific legislative authorization. On the corporate practice of medicine claim, the Court rejected our argument that the doctrine addresses only who can own a professional practice, not who can employ professionals. However, the Court found in our favor on the larger issue in stating that the PSCA represents legislative authorization for employment of physical therapists (*physical therapy is part of the practice of medicine*). Therefore, the corporate practice of medicine doctrine was not violated.

The state's anti-rebate statute prohibits receiving and paying unearned profits (for referrals or otherwise). On this issue the Court found the exception in RCW 19.68.040 permitting employers to receive profits earned by an employee of a licensee's business to be dispositive. The Court also declared that there is no supervision requirement of employees under the anti-rebate statute, a matter which had long been unclear.

The only claim the Supreme Court left alive is whether BFOA violated the Consumer Protection Act (CPA) by engaging in an unfair or deceptive trade or practice by allegedly telling patients, or inferring, that the only place they could receive PT was BFOA's PT office. Because there was a legitimate dispute regarding the facts of this claim, the Court remanded the CPA issue to the lower court.

The Supreme Court's ruling that the manner in which physicians refer patients for other medical services, depending on the facts, could serve as a basis for a CPA claim, emphasizes that practices will need to have good procedures in place for ensuring that they avoid these traps, such as written notices to patients with lists of options for obtaining PT, imaging and other care, and careful training of staff to ensure that they are not engaging in any behavior that could look like they are directing a patient solely to the practice for that care.

Last year, the WSMA formed the Preserve Patients Access to Care Legal Fund to assist in raising funds to help offset the costs of the case and \$41,550 was contributed to the fund from specialty societies and county medical societies. The Washington State Orthopedic Association (WSOA) was a key partner in this effort and needs special recognition for its role in helping ensure this litigation was a success. In addition to the monies raised through the Legal Fund the WSOA,

WSMA and a number of other physician groups were actively involved in this litigation over the past three years – providing significant support both financially and through staff support to BFOA. Specifically, the AMA Litigation Center contributed \$25,000, and the WSMA contributed over \$65,000.

It's also important to note that our county medical society donated over \$11,000 to this case both directly to BFOA and also through the WSMA Preserve Patient Access Fund.

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The objectives of the Benton Franklin County Medical Society are to promote the art, science and practice of medicine and the practitioners who pursue these goals; to promote the care and well being of the patients of Benton and Franklin Counties; to protect and improve the health of the public; to provide medical education and to provide leadership for the members of the Society.

Please contact Nicole Austin with any questions, comments or information you would like added to the Newsletter.