



THE LIGHTHOUSE

The official publication of the Maine Association Medical Staff Services, published by and for the MeAMSS membership

President's Message

By Frederica Jackson, CPMSM

Hello Everybody!

I can't believe it, but this will actually be the last message I write to you as President of MeAMSS. This year has flown by, and I feel like I'm just getting my feet wet! I want to thank all of our members for your support for myself, the Board and the Association as a whole. I have enjoyed my time in this role and look forward to another fun-filled year on the Board under the leadership of Ron Lambert.

As you all know, I recently conducted a salary survey at the request of the Board (results were recently distributed). It was obvious to me from the rapid response I got from our members that this is clearly an important issue for many of us. It seems to be an ongoing struggle to earn the respect and the income we rightfully deserve as Medical Staff Services Professionals given the level of responsibility we carry. The results of the survey definitely demonstrated a need for professional development across the Association. We all possess a broad knowledge base in credentialing and other Medical Staff services and for most of us, that is widely recognized within our institutions. And yet time after time, we're overlooked for promotions and/or pay increases. It's time we start looking beyond what we know as credentialing experts. We need to shift the focus toward how we manage and convey our knowledge, how we present ourselves, how we promote ourselves and to set goals on how to achieve further advancement. No one's going to give you a raise or promotion just because you know a lot or do a lot. Also, it's highly unlikely that you'll get either a raise (other than merit) or a promotion if you don't ask for one. This is a case where the squeaky wheel definitely has a better chance of getting the grease. I'm a very squeaky wheel and, trust me, I get a lot of grease. I've achieved five separate salary adjustments (one of which was substantial) and a promotion to manager two years ago. The more you appear and communicate as a professional, the more you will be perceived as one. The more you demonstrate yourself as a leader, the more you will be perceived as one.

The Board has expressed enthusiastic support for promoting professional development within the Association in 2006. Look for special educational sessions on self-promotion, confidence building, resume writing, and other related subjects in the coming year.

Guess that's all for now. I hope everyone has a wonderful holiday season, and I look forward to seeing you all next year.

Freddie

**November/December 2005
Volume 5, Issue 6**

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In the next issue, look for information regarding federal rural health centers and federally qualified health centers!

**NEXT NEWSLETTER DEADLINE
December 31, 2005**

Follow-Up to Pros and Cons of the CAQH Application

by Susan Flanders Physician Network Coordinator MaineGeneral Health
published in the October/November Lighthouse

One of the questions that had been asked by MeAMSS membership and included in the last issue of *The Lighthouse* was the fact that residency and affiliated universities are not listed in the CAQH drop down menus. I had given the Anthem rep the AMA – FREIDA On-line listing of these programs (which we received at the September MeAMSS meeting) and she was going to see if it could be included in the CAQH drop down menu. She learned that CAQH would have to purchase the AMA database to load this information, which is too costly at this time.

However, CAQH would be willing to add the information as people provided individual information on residency programs and affiliated universities for specific programs. They would need to contact Pat Smith @ CAQH via e-mail: psmith@caqh.org. She would then forward to CAQH’s HelpDesk for addition.

2006 MEMBERSHIP RENEWAL NOTICE

It’s that time of year, not only is school back in session, but it is time to renew your MeAMSS membership for 2006. Remember the advantages of membership including, but not limited to, discounted registration fees for quarterly education sessions and receiving network emails addressing the current issues/items of interest in credentialing and privileging.

If you know someone who is currently not a member but could benefit by becoming a member, please direct them to the MeAMSS website, www.meamss.org, to obtain a copy of the membership form (listed under the Membership tab); or, if they have any questions, refer them to me or any member of the Board (listed below and on the MeAMSS website).

Thank you for your support,
Jamie Mark, CPCS, Membership Chair

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Upcoming Education Sessions

March 10, 2006*

May 18 and 19, 2006

Biennial Conference

Village by the Sea, Wells, Maine

August 18, 2006*

November 3, 2006*

Locations Not Yet Determined

We’re on the Web!

Check us out!

Meamss.org

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Kudos Korner

Please join us in congratulations!

*Kimberly Pelletier, CPMSM, and
Melissa Cadieux (nee Tibbetts)
were notified that they had successfully achieved
Certified Provider Credentialing Specialist certification.
Kim is our second member who is dually certified!*

*Jamie Mark, CPCS, left Synernet CVO and began work
August 22, 2005, at Martin's Point Health Care
as Credentialing Supervisor.
This was a promotion for Jamie.*



BOARD MEETING DATES

January 12 & 13, Portland
February 24, Bangor
April 28, York
June 16, Caribou
August 4, Waterville
October 13, Bangor

Any member wishing to place an item
on the Board agenda may contact
Ron Lambert, CPCS

NOTES FROM DAN SPRAGUE'S TALK AT THE SEPTEMBER 09, 2005, MEAMSS EDUCATION SESSION

Dan Sprague, Assistant Executive Director of the Board of Licensure in Medicine, provided the audience with some updates and clarifications:

1. Mr. Sprague advised that effective August 2005, a biennial registration fee of \$50 will be assessed for registering the supervisory relationships of APRNs and physicians assistants. The recent relocation of the Board's offices and the installation of a new data base had complicated the registration of APRNs causing delays in processing those applications. Approval letters would be coming out soon.

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2. **Emergency Licenses:** If one were to apply for an emergency license, within 14 days of that license being issued, physician must apply for a permanent license. An emergency license is valid for 100 days. [One major problem with the emergency license is that the U.S. Drug Enforcement Administration (DEA) does not recognize this license and will not issue prescriptive authority to a physician with an emergency license. (Since this meeting Mr. Sprague has learned that the DEA will issue a temporary DEA certificate to an emergency licensee.)
3. **Temporary Licenses:** Applying for a temporary license might be a better alternative for physicians because of the delay in receiving FCVS verifications for permanent applications.
4. If the Governor were to declare a State of Emergency, the Governor could call in physicians from anywhere in the country. Because of the Emergency Management Assistance Compact, whenever any physician holds a license issued by another state which is a member of the Compact and by holding such license has been credentialed and when assistance is being requested, such person shall be considered licensed by the state issuing the license and able to provide assistance in the state requesting assistance subject to the limitations that might be proscribed by the requesting Governor.
5. **Disasters:** Because of Hurricane Katrina and the resultant flood damage to records at the Louisiana State Board of Medical Examiners, FSMB (Federation of State Medical Boards) and AIM (Administrators in Medicine) have set up a process to assist state medical boards, hospitals, clinics and other organizations needing to verify the licensure status of Louisiana physicians. The processes went into effect September 2 and may be used to verify licensure status of Louisiana physicians volunteering in stricken parts of Louisiana and displaced Louisiana physicians who need license verification to practice in other states. FSMB is to act as Temporary Display Agent for License Verification for Louisiana. The Louisiana State Board of Medical Examiners has authorized the FSMB to serve as a temporary display agent for the verification of licensure for physicians and physician assistants in Louisiana. This meets JCAHO standards for primary source verification of licensure. The FSMB has all physicians' licenses on file. For medical schools whose records were lost or destroyed in Louisiana, one can contact the Association of American Medical Colleges or FCVS (if the physician is in their system).

Verification of Physician Assistants: The Executive Director of the National Commission on Certified of Physician Assistants (NCCPA) is receiving a list of eligible physician assistants from the various schools affected by Hurricane Katrina, and this is maintained by the NCCPA. NCCPA is a repository of information during a disaster.

6. **Legal Issues:**
 - a. **LD 697 (P.L. Ch. 221)**, Title 24, § 2506, the fine for not reporting adverse privileges action taken against a physician has been raised to \$5,000 from \$1,000. The practitioner's name is also required.
 - b. **LD 398 (P.L. Ch.162) – Four changes:**
 - (i) Eliminated license fee waiver for physicians over 70 years. At the present time the BOLIM is not going to implement a fee.
 - (ii) Changed the time a post graduate after July 1, 2004, can obtain initial application from 24 to 36 months.
 - (iii) Cleared up the description of locum tenens license vs. emergency license.
 - (iv) Physician assistants can now be disciplined by the BOLIM under the same standards used for physicians.
 7. **FSMB has a list of fictitious doctors on its website.**
 8. The BOLIM has lifted its moratorium on issuing Schedule II prescriptive authority to physician assistants. However, there are limitations: with regard to pain medications, PA's are instructed not to prescribe for too many meds and for too long a period of time; they cannot issue new prescriptions of pain medications or stimulants (must be renewals).
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Medical Malpractice Claims Against the Military Under the Federal Tort Claims Act/Military Claims Act

by Claudia Edwards, CPMSM

We've recently had a network question inquiring how to verify malpractice claims history for a career military physician. When processing an applicant who has spent his time in the military, a credentialer would have to rely on the National Practitioner Data Bank for any reported adjudged or settled claims. In addition the credentialer should secure a copy of the applicant's DD214 from the Department of Defense. This form is valuable because it details the applicant's career in the military and provides you with his/her discharge status or whether the applicant is still active reserve. If the applicant is active reserve, then determine which base the applicant is assigned as his/her military records will be at the base. One should send an affiliation letter to the reserve base to verify his military status and to ask if there are any issues about care. You may or may not obtain answers to all your questions, but you will have performed due diligence. That's about all that can be done as there is no malpractice insurance carrier for military personnel.

The reason a credentialer must rely on the NPDB for malpractice claims history of military personnel is that there are only two venues under which claims can be brought: - either under the Federal Tort Claims Act or Military Claims Act and whether one can pursue a claim can involve complex legal issues.

The federal government was immune from negligence (tort) actions until 1946, when Congress enacted the Federal Tort Claims Act to provide a right to recover damages from the United States for injuries inflicted by the negligence of federal employees.

The Federal Torts Claims Act (FTCA) provides that the United States is liable for personal injuries, and medical malpractice "in the same manner and to the same extent as a private individual under like circumstances." The FTCA is the waiver of sovereign immunity for the United States. Medical malpractice cases are just like other tort cases – they require proof of duty, breach of duty, causation and injury.

The FTCA is a complex law and the ability to bring suit is limited by several exceptions. Whether one can prevail on a claim is subject to the following:

1. Claimant's status at the time of the negligence;
2. Status of the negligent person;
3. Place where the negligence occurred.

Claimant's status at the time of negligence: FERES Doctrine which obtained its name from the U.S. Supreme Court decision, *FERES v. U.S.*, 340 U.S. 135 (1950) determined that armed forces personnel are barred from making a claim against the United States for personal injury or death arising "incident to service". Military medical treatment received by a service member, while he/she is on active duty, has been held by the courts to be "incident to service" and thus not actionable. However, military dependents and military retirees (even if the treatment were service connected) are not barred by the FERES doctrine.

Status of the negligent person: In order to bring a claim against the United States, the person who caused the injury must be a federal employee who is acting within the scope of his/her employment. As an example, many times private contracting physicians cover the VA hospital emergency rooms and are not federal employees. Claims should be filed individually rather than against the government. However, if the physician is working under a personal services contract, then FTCA is applicable.

Place where negligence occurred: If the injury occurred in a foreign country, one cannot bring claim against the United States under FTCA and would have to consider filing a claim against the United States under the Military Claims Act (10 U.S.C. 2733). The other option is to file a lawsuit directly against the negligent person in the country where negligence occurred. The drawbacks to this latter option are obvious (language barriers, cultural differences, local laws not as friendly to claimant as in the U.S). One must also remember that when bringing a claim under FTCA, the state laws prevail within the state in which the action

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was brought. Therefore, what might be an actionable offense in one state might not be the same in another and could affect one's ability to file claim.

The following procedures must be adhered to in order to file a claim under FTCA:

1. One must file an SF-95, administrative claim form. The form must be filed within two years from the date one knows, or through exercise of due diligence should have known, of the negligent act. All claims must be in writing and a specific sum must be requested. No vague amounts are allowed, nor range of expected damages. The "sum certain" requirement serves two purposes: it may dictate approval or denial authority based on the dollar amount, and it provides a ceiling on the recoverable damages. Plaintiff might recover a sum greater than demanded only by showing "newly" discovered evidence not reasonably discoverable in a lawsuit. Any claim not properly filed within the two-year period is forever barred.
2. The agency has six months on which to act on a filed claim. No suit can be filed during this six-month period. Once the six months has passed or the agency has taken "final administrative action", a suit may be filed. If claimant receives notification of "final administrative action", then claimant must file a suit within six months of the date of notice of final administrative action or the claimant is forever barred.

Suits are filed in Federal District Court and are tried before a judge, without a jury. All successful claims are supposed to be reported to the National Practitioner Data Bank.

The Military Claims Act (MCA), unlike the FTCA, compensates for personal injury, death or property damage caused by activities of the federal government and is applied worldwide (you'll recall under FTCA the injury had to occur within the United States). MCA claims are limited to two categories of claim:

1. injury, death or property damage caused by military personnel or civilian employees acting within the scope of their employment; and
2. injury, death or property damage caused by noncombatant activities of a peculiarly military character.

The primary limitation of the MCA is that there is no right to sue if the claim is denied. Each service has developed regulations governing what claims may be paid. A claimant that is denied by the adjudicating authority has a limited right of appeal to the office of the Judge Advocate General for that particular service. The appeal must be filed within 30 days. (*source: Jones, Blechman, Woltz & Kelly PC, military law group*).

The above discussion was intended to highlight the difficulties in bringing lawsuits against the United States government. Many times private contracting physicians cover the VA hospital emergency rooms and are not federal employees. In these cases claims should be filed individually rather than against the government. However, if the physician is working under a personal services contract, then FTCA is applicable.

The following is a brief description about MEDCOM, the U.S. Army Medical Command that was activated on October 2, 1994, and was excerpted from its Patient Information sheet.

The Surgeon general of the Army is the commander of MEDCOM. Army Medical Centers and Medical Department Activities are grouped under seven major regional commands:

1. North Atlantic Regional Medical Command (NARMC), Washington, DC
2. Southeast Regional Medical Command (SERMC), Fort Gordon, Georgia
3. Southwest Regional Medical Command (SWRMC), Fort Bliss, Texas
4. Northwest Regional Medical Command (NWRMC), Fort Lewis, Tacoma, Washington
5. Great Plains Regional Medical Command (GPRMC), Fort Sam Houston, Texas
6. Europe Regional Medical Command (ERMC), Landstuhl, Germany
7. Pacific Regional Medical Command (SERMC).

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All MEDCOM hospitals are accredited to the same standards as used by the JCAHO. The Army claims that their standards in granting privileges are more stringent than those required by JCAHO. The Army follows a credentials/licensing procedure very similar to what all of us follow. Risk management assessments are performed; privileges are granted and/or revoked; physicians are not able to see patients until their credentials have been verified. External peer reviews are also obtained. The Army Medical Department reports physicians to the National Practitioner Data Bank when malpractice claims are paid and when it is determined that standards of care were not met.

As noted elsewhere in this article, all branches of the military have their own credentials systems and all are mandated to report adverse actions on physicians and dentists to the National Practitioner Data Bank on paid claims or when standards of care are not met (the latter would affect their military status). I outlined the details involved in bringing claims against federal employees because I have to understand why I can or cannot do something, why a certain procedure is followed. If I know the source, then I retain the reason and can move forward from there to develop policies, procedures, and protocols. As my friend, Cheryl Schilke, informed me some time ago, Maine is unique in that DHHS requires us to verify malpractice claims history directly to the insurance companies, whereas most other states only require a credentialer to query the NPDB to verify claims history.

Sources:

LSU Law Center

The 'Lectric Law Library's Legal Lexicon on FTCA

1999 Claims Training Course, Medical Malpractice Investigation – Facts, U.S. Army Claims Service

<http://usmilitary.about.com/library/milinfo/blferes.htm>

www.wramc.amedd.army.mil/patientinfo/accreditation.html

QUIZ CORNER

(SOURCE: *MSSPNEXUS.COM*)

JCAHO – answers next issue

1. The Elements of Performance (EP) for MS.1.40 states that the majority of voting members on the MEC must be:

- Licensed physicians
- Licensed physicians actively practicing at the hospital
- Members of the Active medical staff
- Individuals with clinical privileges

2. The EP for MS.1.40 states that this hospital staff member or designee, attends each executive committee meeting on an ex-officio basis, with or without vote:

- Chief Executive Office
- Vice President, Medical Staff Affairs
- Chief Nursing Officer
- Vice President, Legal Affairs

3. Approval for administrative procedures pertaining to corrective actions, fair hearing and appeal, credentialing, privileging, and appointment must be identical to the process for adoption and amendment of the medical staff bylaws.

- True
- False

4. MS.1.20 identifies 19 EP (2/2005 update) to be included in the medical staff bylaws. Which of the following is NOT a required element?

- The governing body approves and complies
- The organized medical staff enforces and complies
- The qualifications, roles and responsibilities of the department chair
- A description of the credentials committee function, size and composition