



THE *Best* COVERAGE
FOR THE *Best* DOCTORS.

Preventive *Action*

Quarterly Newsletter for Policyholders
June 2010

IT'S A WONDERFUL FEELING TO KNOW YOU'VE MADE THE RIGHT DECISION

When you chose Bentley Insurance Group and First Professionals Insurance Company, FPIC was just that: the right decision! As an insured FPIC physician you were selected as one of the "Best of the Best Physicians" in Illinois.

100 Most Trustworthy Companies in 2010



The really good news is FPIC was recently named by Forbes as one of the 100 Most Trustworthy Companies in

2010. FPIC was ranked 7th among

small-cap companies with a score of 98 out of a perfect score of 100.

In order to qualify, FPIC was audited by Audit Integrity, an independent financial analytics company. Audit Integrity reported that FPIC has consistently shown accuracy and transparency in their financial reporting. Audit Integrity noted in the review that FPIC's staff received appropriate compensation, the company had low levels of staff turnover and good housekeeping practices. To create the list of the Top 100, more than 8,000 publicly-traded companies were evaluated.

"These are the good guys," says Jack Zwingli, the chief executive of Audit Integrity. "They've consistently shown accuracy and transparency in their financial reporting."

"Bentley Insurance is very proud to be a partner with FPIC. The continued growth of our Illinois program is gratifying and the management of Bentley is working very hard to meet the expectations of its clients. The low claims frequency of our top notch insured physicians is a direct result of the success of our company," said Jack Ahern, President of Bentley Insurance Group. ◀

ELM-YOUR RISK MANAGEMENT RESOURCE

Bentley has arranged for risk management courses and CME credit hours offered through ELM Exchange, Inc. (ELM)* for First Professionals Insurance Company policyholders in Illinois. The ELM program allows policyholders to complete three courses per year, totaling 5.25 CME credit hours at no cost and receive a 5% discount on their premium.

The courses are available to you online through the program. Our research indicates that 83% of physicians taking the three courses online were able to complete each course in just over an hour.

For more information, course descriptions and registration, visit

www.bentleyinsurancegroup.com. Select the Risk Management Credits section to view the available courses this year.

**ELM Exchange, Inc. is accredited by the Accreditation Council for Continuing Medical Education (ACCME) to provide continuing medical education for physicians. ◀*

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First Professionals Insurance Company



EMMI PROGRAM

Because you are a FPIC insured and member of Bentley Insurance Group, Emmi Solutions is offering a 10% discount off its subscription cost to you.

First Professionals is partnering with Emmi Solutions to provide this innovative tool designed to educate patients and provide documented informed consent for physicians.

What is Emmi?

Physicians have a legal duty to disclose the known risks and complications of proposed treatments or procedures. Malpractice claims based on misunderstandings and unrealistic expectations can be prevented. Establishing realistic patient expectations and obtaining informed consent that will stand up in court requires effective patient education.

Emmi (Expectation Management and Medical Information) is a series of interactive web-based programs that will walk your patient through their upcoming surgical procedure or treatment. As the patient learns about the surgery, alternatives, risks and benefits, Emmi tracks the individual's responses. The captured

information becomes part of the patient's permanent medical record, providing definitive proof that they have been fully educated and informed. Emmi will:

- Eliminate any uncertainty regarding the issues surrounding informed consent
- Improve patient satisfaction and knowledge retention levels
- Enhance operational efficiencies
- Save time and money

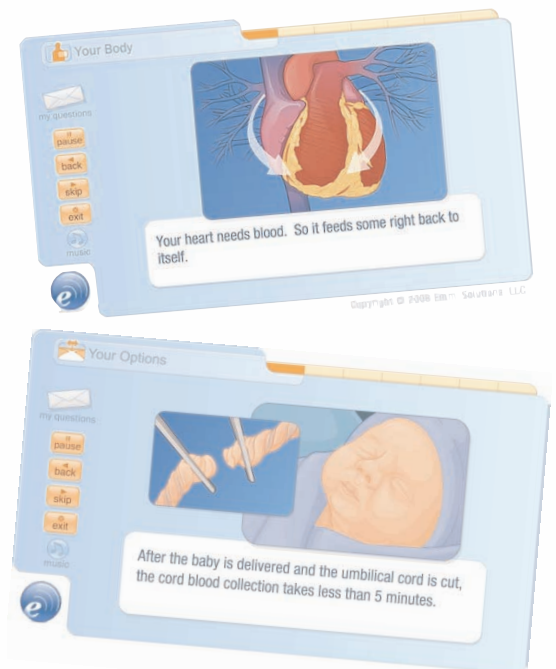
Emmi covers a wide variety of surgical and medical procedures, including gastric bypass, LASIK, commonly performed obstetrics/gynecology procedures, plastic surgery, cardiovascular surgery, orthopedics, and oral surgery. There is also a suite of modules that provides general educational instruction on issues such as hypertension, asthma, depression, diabetes and many others. These features are an excellent way for a practice to differentiate itself from other providers.

Many programs are available in Spanish. All of the web-based programs have been developed by board-certified physicians within their respective fields. Policyholders

of First Professionals will receive a substantial discount from the Emmi program annual subscription fee. The annual subscription allows each physician unlimited access to the complete library of Emmi modules.

How to Register

For a complete product introduction and demonstration please visit www.emmidemo.com. To register for Emmi, contact Emmi Client Services at 866-294-3664 or visit the Bentley website at www.bentleyinsurancegroup.com. Go to Risk Management to learn more and preview some of the Emmi program offerings. ◀



THE PHYSICIAN-PATIENT-POLICE RELATIONSHIP

By Cliff Rapp, L.H.R.M., Vice President, Risk Management, First Professionals Insurance Company



The information below does not establish a standard of care, nor is it a substitute for legal advice. The information and suggestions contained here are generalized

and may not apply to all practice situations. First Professionals recommends you obtain legal advice from a qualified attorney for a more specific application to your practice. This information should be used as a reference guide only.

Of course, there is no such thing as a physician-patient-police relationship and the very real relationship between doctor and patient must never be allowed to morph into one. Yet the crystal-clear tenets of confidentiality can become murky to some physicians with the mere flash of a badge. Few would deny the wilting effect that law enforcement can have on the right to privacy. However, it is important to remember that only under very narrow circumstances may the physician-patient relationship be penetrated and its right to confidentiality breached.

Not surprisingly, uncertainty regarding the right to privacy most commonly arises during criminal investigations

and in particular pain management patients. Typically, such patients come under investigation when suspected of “doctor shopping” and prescription fraud. Before criminal charges are brought (and on occasion even after formal charges are filed), police may seek production of the patient’s “Narcotics Agreement”. However, unless a Narcotics Agreement contains language giving the physician the right to notify and cooperate with law enforcement in the event of a violation of the agreement, the document must remain confidential. It should also be noted that a Narcotics Agreement is an “instruction” or an “agreement” and as such is a medical record and thus subject to the confidentiality protections afforded medical records in most states. These liability caveats are not limited to pain management patients, but apply to virtually all patients under criminal investigation.

Consider a recent case involving an internist providing limited pain management services. A police detective appeared at his office, informing the doctor that his patient had been arrested for fraudulently seeking narcotics prescribed by the physician. The police officer produced documents from the criminal investigation and

requested that the physician produce the patient’s Narcotics Agreement and prescription orders. Although the doctor was reluctant to produce these portions of the patient’s medical records, the detective intimated that failure to “turn over” such information would be tantamount to obstructing a criminal investigation. Feeling intimidated, the physician furnished the records. The patient later entered into a consent agreement on the criminal charges and then filed a civil action against the physician for breach of confidentiality. Because the Narcotics Agreement did not contain language permitting disclosure, the doctor was forced to pay monetary damages to the patient – an admitted criminal. Adding insult to injury, a disciplinary action against the physician followed.

Absent patient authorization, a court order, or issuance of a search warrant, it is illegal for a physician to produce medical records, disclose personal health information, or discuss a patient’s medical condition with law enforcement. The often intimidating presence of a police officer, FBI agent, or any other branch of law enforcement should not be allowed to usurp the confidentiality of the physician-patient relationship. This is not to say that

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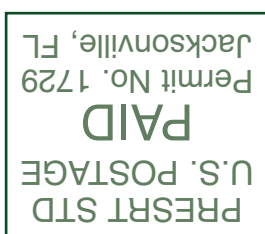
cooperation with the appropriate authorities is discouraged or will not ultimately be provided but rather, that a physician confronts serious civil remedies when violating the privacy rights of a patient. This remains true even in cases where the patient is criminally charged and prosecuted.

The best way to handle a law enforcement officer's request for information or medical records is to ask under what legal predicate they are traveling. Ask what statutory citings permit the right to access and the duty to disclose such information. Do not be surprised if the investigator is chagrined. In cases when it may be permissible to do so, seek legal or risk management guidance before releasing any information.

Risk Management Guidelines

- Ensure that pain management patients execute a Narcotics Agreement containing language permitting the right of disclosure to law enforcement in the event of violation or breach of the agreement
- Do not disclose confidential information without patient authorization, a court order, or search warrant
- Verify the validity of legal instruments before disclosure of confidential information is made
- Request that law enforcement provide the specific legal predicate for access to confidential patient information
- Seek legal or risk management guidance when uncertainty arises ◀

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550 W. Van Buren, Suite 1200 • Chicago, IL 60607
(800) 984-7570 • www.bentleyinsurancegroup.com

