

LOS ANGELES

# MEDICINE

OFFICIAL PUBLICATION

MEDICAL ASSOCIATION

LACMA WELCOMES 153RD PRESIDENT  
Po-Yin Samuel Huang, MD

*Installation*  
of President & Officers



SUMMER 2024

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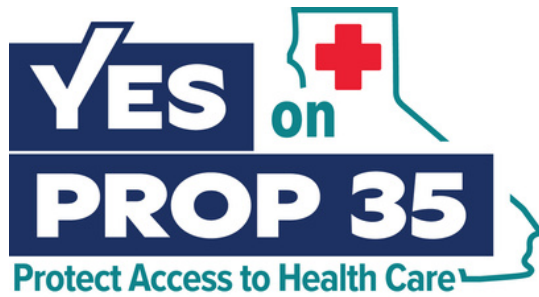


— *Summer 2024*

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CELEBRATING THE 153RD  
INSTALLATION  
of President & Officers

On August 10, 2024, the Los Angeles County Medical Association celebrated its 153rd Installation of President and Officers at the prestigious Huntington Library, installing Dr. Po-Yin Samuel Huang as President.



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— *LACMA*  
*Leadership*

LACMA's Board of Directors consists of dedicated physicians working hard to uphold your rights and the rights of your patients. We always welcome hearing your comments and concerns.

You can contact us by emailing or calling Lisa Le, VP of Operations and Strategic Initiatives, at [lisa@lacmanet.org](mailto:lisa@lacmanet.org) or 213-226-0304.

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Congratulations to the newly installed



**President**

**Dr. Po-Yin Samuel Huang**

and all the 2024 LACMA Officers

*At AltaMed, we are committed to providing quality health care  
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— *President's Message*

# Po-Yin Samuel Huang, MD

It is with great honor that I step into the role of President of the Los Angeles County Medical Association (LACMA). As we navigate the evolving healthcare landscape together, I am excited about the opportunities we have to further support and strengthen our medical community.

Our association's strength lies in its members—you, the dedicated physicians who are the foundation of our medical community. My primary goal this year is to ensure that you are supported in every aspect of your practice. We will continue to enhance our Solutions Portal, tailoring tools and services to meet your needs, optimize your workflow, and improve your professional satisfaction.

Your well-being is a top priority. We will advocate for policies that support a healthy work-life balance, provide mental health resources, and reduce moral injury.

A key priority will be advancing education and professional development. We will introduce new programs designed to equip you with cutting-edge knowledge and skills, enabling you to lead effectively in your practice and within the broader field of medicine. Our advocacy efforts will be expanded to ensure that the concerns and perspectives of our members are effectively communicated to policymakers and that we play an instrumental role in shaping the future of healthcare in Los Angeles County.

Building a strong community remains our focus. Through social events, grassroots projects, and public health initiatives, we will foster collaboration, share knowledge, and drive collective success. We will offer more networking opportunities, ensuring that every member has the chance to connect, learn, and grow.

Looking ahead, we must embrace innovation. The healthcare landscape is evolving rapidly, and we will keep pace by exploring advancements in telemedicine, AI, and personalized medicine. By engaging with state and national leaders, we will equip our members to integrate these innovations into their practices.

As we embark on this journey, I encourage each of you to actively engage with LACMA's initiatives and share your insights. Together, we can continue to build a strong, resilient medical community that leads with excellence, compassion, and innovation.



*...our advocacy efforts will be expanded to ensure that the concerns and perspectives of our members are effectively communicated to policymakers and that we play an instrumental role in shaping the future of healthcare in Los Angeles County.*



## Health Net is proud to support the Los Angeles County Medical Association and their 153rd Installation of Presidents and Officers event!

For more than 40 years Health Net has been dedicated to transforming the health of our community, one person at a time by providing health plans for individuals, families, businesses and those that qualify for Medical or Medicare — providing Coverage for Every Stage of Life™.





# Gustavo Friederichsen

## The Intersection of Growth and Gratitude

While it might not be the holidays, I wanted to share how grateful I am for the organizations that have taken the leap of faith to partner with us. Organizations like Facey Medical Group, Southern California Permanente Medical Group, UCLA Health, L.A. Care Health Plan, St. John's Well Child, Clinica Romero, JWCH Community Health, AltaMed Health Services to name a few and more recently, City of Hope, AstranaHealth, Garfield Medical Center and San Gabriel Valley Medical Center. I can't stress enough the impact these organizations make each day, from delivering exceptional, high-quality health care for patients to supporting their physicians and independent medical practices across Los Angeles County.

*...without membership, from large institutions to private practices, LACMA simply doesn't exist. Thank you to our members, both large and small, for supporting LACMA's mission, vision, and values.*

What you might not know is that without membership, from large institutions to private practices, LACMA simply doesn't exist. We wouldn't be able to develop and sustain resources and support for 7,000 members. We wouldn't be able to hold world-class events and symposia, virtual town halls, and webinars.

Thank you to our members, both large and small, for supporting LACMA's mission, vision, and values.

And speaking of sustainable growth, much thanks go to our strategic partners who sponsor events, activities, and outreach year-round. The Cooperative of American Physicians (CAP) is the industry leader in medical malpractice and has never wavered from supporting LACMA and its members. I encourage you to connect with CAP to ensure your practice, your livelihood is protected. L.A. Care Health Plan doubles as a member organization (over three hundred sponsored primary care physicians) and a sponsor of many events and activities such as



the extraordinarily successful gun violence prevention campaign. L.A. Care Health Plan CEO John Baackes, who is more than a colleague but a true friend of the organization, is retiring at the end of 2024 and I wanted to take this moment to recognize John for his leadership and for being the original visionary behind the Managed Care Organization (MCO) Tax which is on the ballot November 5th. The MCO Tax will provide vital and permanent funding for Medi-Cal physicians. Thank you, John!

AltaMed Health Services is another “hybrid partner” as they sponsor almost 200 physicians while also sponsoring various LACMA events throughout the year. Many thanks to AltaMed Health Services CEO Castulo de la Rocha, Dr. Ilan Shapiro, Dr. Efrain Talamantes, Dr. Cristian Rico, and the entire AltaMed Health Services family.

It's no secret that continued growth is a major priority for 2025 as we tap into the momentum of 2024. We are in conversations with multiple organizations as well as countless independent physician practices to join us so we can help them, after all physicians take care of patients every day, but who's taking care of physicians?

LACMA is.



## Leading the way to well ahead

Blue Shield Promise Health Plan  
is proud to sponsor LACMA's 153rd  
Installation of President and Officers.

[blueshieldca.com/promise](https://blueshieldca.com/promise)





## Protect Access to Health Care

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Fifteen million Californians and half of the state's children depend on Medi-Cal, but our health care system is in crisis. Hospitals are closing, emergency rooms are overcrowded and patients wait months to see a doctor.

That's why the California Medical Association is joining Planned Parenthood, community health centers and hospitals, and hundreds of organizations to support #Yeson35. Prop 35 will support Medi-Cal and provide dedicated resources to improve patient care – without raising taxes.

**Yes on 35 to protect Medi-Cal, California families and children, and access to health care.**

---

**[VoteYes35.com](http://VoteYes35.com)**



# PROPOSITION

# 35

## HERE'S HOW YOU CAN HELP

The Los Angeles County Medical Association (LACMA) and the California Medical Association (CMA) are proud supporters of **Proposition 35**, which will secure dedicated funding to keep hospitals, clinics, and doctors' offices open.

Proposition 35 proposes a permanent tax on managed care organizations (MCOs) that deliver or arrange healthcare services for a set monthly fee. The measure would also specify how the revenue from this tax can be utilized.

This initiative comes in the wake of California's expansion of Medi-Cal eligibility to include all individuals meeting income requirements, irrespective of their immigration status. Despite this expansion, there has been widespread criticism from healthcare providers and advocacy groups regarding insufficient reimbursement rates for Medi-Cal services. Proposition 35 aims to address these concerns by increasing funding for Medi-Cal.



## Background on the MCO Tax

California has intermittently imposed an MCO tax to support Medi-Cal. In the summer of 2023, Governor Gavin Newsom and state lawmakers renewed this tax to fund the expanded Medi-Cal coverage. The Legislative Analyst's Office estimated that this tax would generate between \$6 billion and \$9 billion annually through 2026. Lawmakers committed to using part of this revenue to increase Medi-Cal reimbursement rates, essential for preventing provider shortages and long patient wait times.

However, Governor Newsom later proposed reallocating a significant portion of the MCO tax revenue to other Medi-Cal program costs. Although the final budget included some funds for provider rate increases, it was less than initially planned.

## Provisions of Proposition 35

Proposition 35 aims to ensure that MCO tax revenue is used as originally intended, limiting lawmakers' ability to divert these funds for other purposes. The measure would require a three-quarters majority in both the state Assembly and Senate to amend its provisions in the future.

Additionally, the proposition would establish a new advisory committee to guide the Department of Health Care Services on using the tax revenue. This committee would include representatives from physicians, hospitals, clinics, labor unions, and other healthcare stakeholders.

## Allocation of Funds

In the short term, Proposition 35 mandates that the tax revenue be allocated according to the original plan, which includes increased reimbursement rates for Medi-Cal providers, funding for healthcare worker training, and covering some general fund costs for Medi-Cal.

Starting in 2027, the measure outlines a funding formula for various programs, with spending dependent on the tax revenue generated.

## Support for Proposition 35

The Coalition to Protect Access to Care, comprising groups like the California Hospital Association, California Medical Association, Planned Parenthood Affiliates of California, labor unions, emergency responders, and community health centers, backs Proposition 35. Both the California Democratic Party and the California Republican Party support the measure.

Jodi Hicks, president and CEO of Planned Parenthood Affiliates of California, emphasized that Proposition 35 would enable providers to expand their patient population and services. She stressed the importance of a well-funded system to ensure patients receive necessary care, including access to specialty care when needed.

## Financial Implications

The Legislative Analyst's Office noted that Proposition 35 could reduce lawmakers' flexibility in balancing future budgets. Although the state has passed a budget relying on MCO tax revenue, the measure could disrupt existing funding plans.

Hicks assured that Proposition 35 allows some tax money to go into the general fund, giving state leaders flexibility in healthcare spending. She clarified that the measure does not prevent lawmakers from funding other programs.



**HERE'S HOW YOU CAN HELP**



## PROP 35 WILL:

- Provide long-overdue **rate increases for Medi-Cal providers** and stabilize rates, to **protect and expand access to care**
- **Secure ongoing funding** – without raising taxes on individuals – to ensure that our healthcare system has the resources it needs
- Ensure health care funds aren't redirected for non-healthcare purposes
- **Fund more graduate medical education** (GME) residency programs to address the physician shortage
- **Fund loan repayments** for physicians and allied health professionals
- **Expand access to preventative health care** to alleviate the burden on ERs
- **Reduce wait times** in emergency rooms and urgent care facilities
- Help hire **more first responders** and paramedics to reduce emergency response times

**Bottom line: Prop 35 will improve health outcomes for millions of Californians.**

**GET INVOLVED** | Physicians are trusted healthcare messengers across regional and partisan lines. Your participation and support will be key to our success. Here's how you can help:

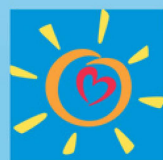
- ➔ **Join the coalition**
- ➔ **Follow the campaign on Facebook, Instagram, LinkedIn and X and share our messages with your followers.**
- ➔ **Sign up to receive campaign materials that you can share with friends, colleagues and patients.**

# **BUILDING** **HEALTHIER COMMUNITIES**

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# INSTALLATION OF PRESIDENT & OFFICERS

HONORING 153RD PRESIDENT PO-YIN SAMUEL HUANG, MD

Heather Silverman, MD, President-Elect | Hector Flores, MD, Treasurer | Stacey Ludwig, MD, Secretary  
Jerry P. Abraham, MD MPH CMQ, Immediate Past President



[CLICK HERE](#) or scan the QR code to view the photo album, video and digital program

# ON THE MORNING OF AUGUST 10, 2024, THE LOS ANGELES COUNTY MEDICAL ASSOCIATION CELEBRATED ITS 153RD INSTALLATION OF PRESIDENT AND OFFICERS AT THE PRESTIGIOUS HUNTINGTON LIBRARY.

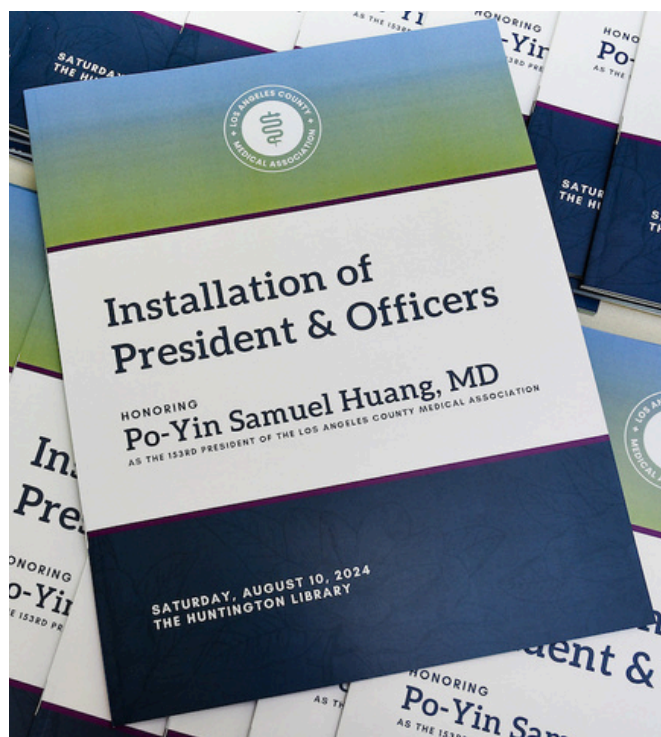
The grand occasion brought together esteemed guests, distinguished medical professionals, and dedicated supporters to honor the association's legacy and usher in new leadership.

## A WARM WELCOME

The ceremony began with welcoming remarks from Dr. Jerry P. Abraham, the 152nd President of LACMA. Dr. Abraham highlighted the contributions of the board members and acknowledged the presence of notable representatives from the American Medical Association (AMA) and the California Medical Association (CMA).

Among the honored guests were keynote speakers Dr. Jesse Ehrenfeld, Immediate Past President of AMA, and Dr. Tanya Spirtos, President of CMA. Dr. Abraham also recognized past presidents in attendance and guests who traveled to be part of the celebration, showcasing the strength of unity and support within the medical community.  
(Con't)

*Opposite Page, LACMA Officers, L to R: Stacey Ludwig, MD, Secretary, Heather Silverman, MD, President-Elect, LACMA President Po-Yin Samuel Huang, MD, Jerry P. Abraham, MD MPH CMQ, Immediate Past President, and Hector Flores, MD, Treasurer*







**Molina Healthcare congratulates the Los Angeles County Medical Association (LACMA) incoming president and officers:**

President Po-Yin Samuel Huang, MD  
President-Elect Heather Silverman, MD  
Treasurer Hector Flores, MD  
Secretary Stacey Ludwig, MD

We salute the exceptional compassion and commitment provided to our communities and the residents of Los Angeles.



Dr. Abraham expressed gratitude to the event sponsors, including title sponsor, the Cooperative of American Physicians (CAP) as well as Advocate Sponsors AltaMed, HealthNet, L.A. Care Health Plan, and Molina Healthcare. He also emphasized the importance of supporting LACMA's Political Action Committee (LACPAC) and the Patient Care Foundation, which awards scholarships to disadvantaged medical students.

### INSPIRING KEYNOTE SPEECHES

The keynote speakers, Dr. Jesse Ehrenfeld and Dr. Tanya Spirtos, delivered inspiring speeches, highlighting the challenges and opportunities in the healthcare sector. Their insights and experiences resonated with the audience, reinforcing the commitment to advancing healthcare quality and advocating for the medical profession.



### HONORING LIFETIME ACHIEVEMENT

Dr. Omer Deen, the 151st President of LACMA, presented the Lifetime Achievement Award to Dr. William Hale, a distinguished orthopedic surgeon with 63 years of dedicated service to LACMA and the medical community. Although Dr. Hale could not attend, his contributions and unwavering commitment to health policy and advocacy were celebrated.

### INSTALLATION OF NEW OFFICERS

The installation ceremony continued with Dr. Troy Elander, the 140th President of LACMA, swearing in the newly elected officers: Dr. Heather Silverman as President-Elect, Dr. Hector Flores as Treasurer, and Dr. Stacey Ludwig as Secretary. The momentous occasion was marked by the oath of office and the collective pledge to uphold the values and mission of LACMA.



*Top L to R: Dr. Jerry Abraham, Dr. Jesse Ehrenfeld, Immediate Past President of AMA, Dr. Tanya Spirtos, President of CMA, and Dr. Po-Yin Samuel Huang*

*Middle: Dr. Troy Elander swears in new officers*

*Bottom: Dr. Troy Elander officially installs new president Dr. Po-Yin Samuel Huang*



### WELCOMING THE NEW PRESIDENT

The highlight of the event was the installation of Dr. Po-Yin Samuel Huang as the 153rd President of LACMA. Dr. Huang, a respected leader and physician, took the President's oath of office, committing to lead with integrity, uphold the association's bylaws, and advocate for physicians and patients in Los Angeles County. The ceremony included the presentation of the president's medallion and gavel by Dr. Jerry Abraham, symbolizing the passing of leadership.

### VISION FOR THE FUTURE

In his inaugural speech, Dr. Huang expressed his vision for LACMA's future. He emphasized local advocacy and a commitment to supporting member physicians, and fostering a strong, collaborative medical community. He issued a call to action, inviting active participation from all members to achieve shared goals and make a positive impact on the community. His remarks were met with enthusiasm and support, setting a positive tone for his tenure.

Gustavo Friederichsen, CEO of LACMA, concluded the event with heartfelt thanks to all contributors, especially the sponsors and LACMA staff. Attendees were invited to explore the Huntington Library grounds and participate in special tours showcasing LACMA's historical collection, including the highly anticipated 1543 Fabrica book.

The 153rd Installation of President and Officers was a memorable event, celebrating the dedication and leadership within LACMA and setting the stage for continued excellence and advocacy in the medical field.

Dr. Po-Yin Samuel Huang was born in Taiwan and moved to the United States at the age of 12. He attended middle school and high school in Denver before moving to Los Angeles to attend Caltech for his undergraduate studies, followed by medical school at Keck USC. He completed his Family Medicine Residency at Kaiser Permanente Los Angeles Medical Center, where he stayed on as faculty and became a partner of the Southern California Permanente Medical Group. In addition to primary care, he provides inpatient care to adults and children and treats children with chronic pain in the Pediatric Pain Clinic.

Dr. Huang is passionate about promoting the health of his patients and finding systemic solutions to enhance care delivery while improving the lives of his colleagues. At the Los Angeles Medical Center, he serves as the chair of the Medical Services sub-committee to the Health Care Quality Committee. Regionally, he conducts numerous workshops and seminars on workflow efficiencies using the electronic medical record system.

Dr. Huang became involved in organized medicine during his residency. He became the first Young Physician board member of the Los Angeles County Medical Association and was subsequently elected to the executive board. At the national and state levels, he serves as a delegate to the House of Delegates of the American Medical Association and the California Medical Association. He has also served as president of the Los Angeles Academy of Family Physicians and is currently an alternate board member to the California Academy of Family Physicians.

In his spare time, Dr. Huang enjoys traveling and visiting national parks around the world. He loves trying new cuisines and learning about different cultural traditions. He also enjoys playing board games with friends and family or simply hanging out with his wife and their cats.



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President-Elect Heather Silverman, MD

Treasurer Hector Flores, MD

Secretary Stacey Ludwig, MD

Immediate Past President Jerry Abraham, MD, MPH, CMQ

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FREE FOR  
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MEMBERS

# LACMA Reveals **Breakout Sessions**



LACMA will hold its inaugural Business of Medicine Conference & Career Fair at the Westin Pasadena on Saturday, November 2, 2024. The event will bring together physicians and physicians in training from Los Angeles and across the state, offering a unique opportunity to enhance the understanding of the business side of medicine. *(continued)*

**NOVEMBER 2 | 8:30am - 1:30pm | Westin Pasadena**

## FOR INAUGURAL **Business of Medicine** CONFERENCE



Developed in response to LACMA member feedback, the 2024 Business of Medicine Conference will provide essential tools and insights to navigate the complexities of managing a small or solo practice. Addressing topics such as Practice Operations, Technology, and Financial Wellness, attendees will benefit from real-world insights and tools designed to reduce costs, improve efficiencies, and elevate the quality of patient care. Additionally, solution providers will be available to answer questions and engage directly with physicians seeking specific solutions. Look forward to seeing you there.



## **BREAKOUT SESSIONS**

The conference is scheduled to feature a series of breakout sessions on the following topics:\*

### **Navigating Malpractice Coverage & MICRA's Impact**

- Understand malpractice insurance fundamentals, including policy types and liability limits.
- Learn best practices and common mistakes in maintaining comprehensive coverage.
- Explore the implications of MICRA law and recent updates affecting malpractice claims.

*Ideal for: Physicians, practice managers, healthcare administrators.*

### **Implementing Value-Based Care for Quality Outcomes & Incentive Compliance**

- Enhance patient care and meet incentive measures with value-based care (VBC).
- Learn integration strategies, data analytics, and patient engagement techniques.
- Explore programs like MACRA, MIPS, and ACOs for aligning with incentive measures.

*Ideal for: Physicians, healthcare providers, administrators transitioning to VBC.*

### **Mastering Payor Contracts & Navigating Healthcare Regulations**

- Learn negotiation strategies for favorable payor contracts and optimizing reimbursements.
- Streamline the prior authorization process and understand key legal and compliance issues.
- Gain insights into the licensing and credentialing process to avoid delays and ensure compliance.

*Ideal for: Physicians, practice managers, healthcare administrators.*



## **Modernizing Your Practice: Embracing Technology for Future-Ready Healthcare**

- Discover how AI, scribing, EHR interoperability, and cybersecurity can modernize your practice.
- Learn practical applications, implementation strategies, and best practices.
- Engage with experts to address your questions and challenges in modernizing healthcare.

*Ideal for: Physicians, practice managers, healthcare administrators.*

## **The Anatomy of a Startup Practice: Key Steps to Success**

- Detailed guide to opening a practice, including legal setup, financing, and regulatory compliance.
- Strategies for staffing, HR, and creating a positive workplace culture.
- Develop a marketing plan with digital and traditional strategies to grow your patient base.
- *Ideal for: Physicians, practice managers planning a startup.*

## **Exploring Modes of Practices: A Panel for Early Career Physicians**

- Insights into private practice, employed practice, FQHCs, and concierge medicine.
- Hear from experienced physicians about financials, autonomy, rewards, and challenges.

*Ideal for: Early career physicians, residents or any physician exploring options.*

**Career Fair:** Network with potential employers and explore career opportunities in a dedicated session for residents.

**And More:** More details and additional sessions will be announced soon!

*\*topics and titles subject to change*

**This conference represents a significant opportunity to enhance your practice's efficiency, reduce operational costs, and improve patient care quality. Participants will engage with industry experts, network with peers, and gain actionable insights to drive your practice forward.**

**Mark your calendars and [REGISTER HERE](#) to be part of this landmark event in Los Angeles. We look forward to seeing you there.**





11 days after appendectomy,  
tests for acute abdominal pain  
revealed a

# retained object

left inside the patient.

**Surgical miscounts are considered *never events* because they are usually preventable by following established procedures.**

ProAssurance offers risk assessments designed to help practices minimize errors by establishing and evaluating safety procedures and communication protocols.

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Surgical Never Event:  
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# DIRECT LIABILITY OF HEALTHCARE ENTITIES: RISK EXPOSURE HIDING IN PLAIN SIGHT

BY STACY STAUFFER, JD

"Direct liability involves acts or omissions committed by an entity or person that result directly in harm, usually to a patient."

**D**

irect liability means that a person or entity is held responsible for their own or its own acts or omissions. Causing a perforation during surgery or making a medication error are obvious examples where a

physician may be held directly accountable for a patient injury. However, physicians and the entities they own and serve may not realize the extensive ways they may subject themselves to direct liability allegations, even when not performing hands-on care or treatment. Everything from negligent facilities management, to improper hiring and supervision, to inadequate policies and procedures may lead to unanticipated outcomes that plaintiffs' counsel might pursue as a direct liability case.

## **Direct Liability vs. Vicarious Liability: Recognizing Different Kinds of Risk Exposures**

Direct liability involves acts or omissions committed by an entity or person that result directly in harm, usually to a patient.

"Direct negligence claims against a healthcare provider-employer include failure to train employees, failure to enforce accepted standards of care, and failure to employ protocols to ensure quality care for patients. Direct liability claims also include allegations of negligent supervision."<sup>1</sup>

Vicarious liability results when an entity or person is held responsible for the actions or omissions of a third party, where the liability is not based on any improper action by the person or entity. In contrast to a direct liability claim, in a vicarious liability claim an employer faces liability for the

actions of an employee, rather than the actions of the employer. However, physicians as principals in their own corporations, and other entities must guard against other lapses in their own behavior and other entities must guard against lapses in behavior occurring outside of patient encounters to avoid patient harm and direct liability allegations.

Both vicarious and direct liability claims arise from a variety of situations. Partnerships, agency/ostensible agency, independent contractors, educational supervision, and the like produce liability claims. Additionally, an individual physician may discover they are considered an entity for the purposes of a lawsuit. Providers may develop a false sense of security when careful and conscientious with their own encounters with patients. They envision guarding against unanticipated outcomes resulting from the acts or omissions of third parties, and vicarious liability.

## **Hiring/Supervision/Oversight: How an Employer's Failure to Act Causes Injury**

Healthcare professionals and entities require vigilance in hiring, supervision, and other oversight to avoid direct liability claims. Staff or other personnel acting beyond the scope of their skills, experience, and education, or even committing crimes, can result in claims directed at the employing entity. In other words, the failure of the employer to act may lead to the injury of a patient. Examples include failure to conduct criminal background checks; failure to verify training, experience, or credentials; or a failure to heed reports of inappropriate behavior or practices.

**Case Study | A patient with a chronic health condition returns to a clinic expecting to obtain lab results after a blood draw. Such a visit ordinarily lasts approximately 10 minutes and does not include a physical examination. On the day in question a nurse takes the patient's vital signs and places him in a private exam room. He waits there for the physician, who will discuss the lab tests with him. The patient remains in his street clothes. The physician enters the room with the patient, and they discuss the tests, after which the patient stands to leave, believing the visit is concluded. Explaining to the patient that a physical examination is required, the physician then asks the patient to remove his pants. The patient complies and takes down his trousers. The physician asks the patient to turn his head and cough. The patient does so and feels the doctor touching his testicles, he realizes the doctor is not wearing gloves for the exam. Moving away from the doctor, the patient tells the doctor she should be wearing gloves. Approaching the patient, the physician tells him she wants to have sex with him. The patient refuses, immediately pulling up his trousers and attempting to leave the exam room. Due to the size of the room the physician holds the door closed as the patient tries to open it, begging him not to report her behavior.**

### **Discussion**

In this case the patient alleged that the clinic negligently investigated and hired, and failed to properly train and supervise, the physician. Additional allegations included failure to provide a safe environment for the patient. Taken together, these allegations formed the foundation of the patient's claim that the clinic breached the duty and standard of care owed to him. The patient claimed that these failures created increased medical expenses and emotional distress, including humiliation, fear, and physical harm. During the investigation, defense counsel discovered that the physician moonlighted at another clinic at the same time she worked at the clinic in question.

Three additional patients at the clinic under investigation and two patients at the other clinic came forward with allegations of inappropriate sexual advances by the physician. The physician admitted to a relationship with yet another patient at the clinic under investigation but claimed she did not realize the person was a patient at the facility and stated the relationship was consensual. The physician denied all the allegations from the other patients at both clinics.

Since the clinic conducted a rigorous background check of the physician prior to hiring, the allegations generated alarm and surprise with management. No chaperone policy existed that might have prevented the inappropriate behavior of the physician. While a code of conduct prohibited any form of sexual harassment of patients, no system monitored whether physicians and staff were required to refresh their familiarity with the policy and acknowledge doing so. Ultimately doubts arose regarding whether the physician was truthful in denials about the behavior. Further, the clinic failed to produce clear documentation showing the timeline for learning of and investigating the allegations, versus when they removed the physician from patient interactions and fired her. For these reasons, defense counsel considered the case too risky to take before a jury, and settlement resulted.

### **Risk Reduction Strategies**

Consider the following strategies: 2

- Conduct complete background checks of any applicant considered for an offer of employment.
- Use primary source verification to validate the education, experience, and credentials of all employees.
- Maintain an employee code of conduct and have all employees review and sign off on their review at regular intervals.
- Take all reports of inappropriate behavior seriously, investigate thoroughly and in a timely manner, and document all steps taken to address complaints.

- Create an environment where employees feel safe speaking up and know how to report concerns for patient/employee safety or well-being.
- Consider using a chaperone system to protect patients, physicians, and staff.
- Consider whether the physical environment is conducive to inappropriate behavior.
- Enact protocols to explain procedural touch before making physical contact with a patient, and do not assume that patient silence means consent to procedural touch.
- Educate patients to inform you or staff if any process or procedure makes them uncomfortable.

### Conclusion

Avoiding direct liability claims might appear simple. Most clinicians and medical entities provide attentive and skillful treatment to patients, resulting in excellent outcomes. However, patient harm resulting in a direct liability claim may stem from circumstances even conscientious providers fail to consider. Certain measures help prevent

unanticipated results and demonstrate commitment to the appropriate standards of care. Further, such actions strengthen entity and individual provider defenses in the face of a direct liability claim.

- Strenuous hiring protocols
- Continual review and updating of policies and procedures
- Scanning facilities for dangerous conditions
- Knowledge of federal and state regulations and clinical guidelines
- Taking a universal view of entity protection

### Endnotes

1. *El Paso Southwestern Cardiovascular Associates, P.A. v. Crane*, 649 S.W.3d 430 (Tex. App. 2021).
2. Russel G. Thornton, "Responsibility for the Acts of Others," *Baylor University Medical Center Proceedings* 23, no. 3 (July 2010): 313-5, <https://doi.org/10.1080/08998280.2010.11928641>.

*The information provided in this article offers risk management strategies and resource links. Guidance and recommendations contained in this article are not intended to determine the standard of care, but are provided as risk management advice only. The ultimate judgment regarding the propriety of any method of care must be made by the healthcare professional. The information does not constitute a legal opinion, nor is it a substitute for legal advice. Legal inquiries about this topic should be directed to an attorney.*

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