MSHRM MICHIGAN SOCIETY OF HEALTHCARE RISK MANAGEMENT

Healthcare Legal Update

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Conflict of Interest Disclosure

Beth A. Wittmann does not have any real or apparent conflict(s) of interests or vested interest(s) that may have a direct bearing on the subject matter of the continuing education activity.

Learning Objectives

This presentation will enable participants to discuss recent decisions of the Michigan appellate courts addressing issues relevant to healthcare law

- medical malpractice
- tort reform
- HIPAA/HITECH
- Medicare/Medicaid

Notice of Intent to File Suit

Haksluoto v Mt. Clemens Reg'l Medical Ctr

- Plaintiff sent the NOI to the potential defendants on the last day of the limitations period, then filed suit after waiting the presuit notice period

Notice of Intent to File Suit

- Court of Appeals held that notice period did not begin to run until the day after the NOI was sent, and therefore the limitations period had expired before tolling would have begun
- Suit therefore was untimely

Notice of Intent to File Suit

- Supreme Court reversed, holding that some fraction of the last day in the limitations period remained when the NOI was sent
- Suit was timely because there was one day remaining for the plaintiff to file the complaint after the presuit notice period ended
- Plaintiff is required to wait until day 183, not day 182, before filing suit

Notice of Intent to File Suit

Kostadinovski v Harrington

- Plaintiff suffered a stroke during the course of surgery performed by the defendant doctor
- Plaintiffs timely served defendants with a notice of intent to file a claim (NOI), and later timely filed a complaint for medical malpractice against defendants, along with the necessary affidavit of merit

Notice of Intent to File Suit

- In the NOI, affidavit of merit, and the complaint, plaintiffs set forth multiple theories with respect to how the doctor allegedly breached the standard of care in connection with the surgery at issue
- After nearly two years of litigation and the close of discovery, plaintiffs' experts disavowed and no longer could endorse the previously-identified negligence theories and the associated causation claims

Notice of Intent to File Suit

- Plaintiffs agreed to the dismissal of the existing negligence allegations and complaint, but sought to file an amended complaint that included new allegations of negligence

Notice of Intent to File Suit

- The trial court denied the motion to amend, holding that, while any amendment generally would relate back to the filing date of the original complaint, an amendment would be futile because the existing NOI would be rendered obsolete since it did not reference the current malpractice theory, and without the mandatory NOI, a medical malpractice action could not be sustained

Notice of Intent to File Suit

- The Court of Appeals reversed, holding that the trial court, as opposed to automatically not allowing plaintiffs to amend their complaint because of the NOI conundrum that would be created, was required to assess whether the NOI defect could be disregarded or cured by an amendment of the NOI under MCL 600.2301 and *Bush v Shabahang*
- Application and Cross-Application are pending in Supreme Court

Affidavits of Merit/Meritorious Defense

Castro v Goulet

- Plaintiff filed a motion for extension of time to file the affidavit of merit
- MCL 600.2912d(2) permits the court to grant plaintiff an additional 28 days in which to file an affidavit of merit "upon motion" and "for good cause shown"

Affidavits of Merit/Meritorious Defense

- Court of Appeals held that a plaintiff must file, within the limitations period, the complaint and file either (1) an affidavit of merit or (2) a motion for a 28-day extension of time to file the affidavit of merit.
- If a motion for 28-day extension is filed, the plaintiff must file the affidavit of merit within 28 days of the filing of the complaint, irrespective of when the motion is granted

Affidavits of Merit/Meritorious Defense

- Supreme Court initially ordered oral argument on the application (MOAA)
- Asked the parties to address whether the filing of a motion for extension of time to file the affidavit of merit, which subsequently is granted, is sufficient to toll the statute of limitations

Affidavits of Merit/Meritorious Defense

- Following MOAA, the Supreme Court denied the application "because we are not persuaded that the questions presented should be reviewed by this Court"
- Concurrence by Justice Viviano: *Scarsella* wrong?
- Dissent by Chief Justice Markman: *Scarsella* right, should dismiss

Affidavits of Merit/Meritorious Defense

Cox v Hartman

- Defendant McGregor was a registered nurse whose care and treatment during the delivery of the minor plaintiff was alleged to be negligent
- Defendants argued that plaintiff's proposed nursing expert was not qualified to offer standard of care testimony against McGregor pursuant to MCL 600.2169(1)

Affidavits of Merit/Meritorious Defense

- The trial court granted summary disposition on the ground that plaintiff's nursing expert was not qualified
- The trial court also denied plaintiff's motion for leave to file an amended affidavit of merit by a new expert witness

Affidavits of Merit/Meritorious Defense

- The Court of Appeals affirmed, holding that plaintiff "fails to explain" how an affidavit of merit signed by a new expert witness, i.e., a different affiant than the expert who had signed the prior affidavit of merit, would constitute an "amended" affidavit of merit
- The Court also held that dismissal was not granted based upon any deficiencies in the affidavit of merit, such that amendment of the affidavit would not affect the basis on which dismissal was granted

Ordinary Negligence v Medical Malpractice

Trowell v Providence Hospital and Medical Centers, Inc

- Patient alleged she was advised she needed 2 nurses to assist her to bathroom, but only 1 nurse assisted her on several occasions
- Alleged nurse's aide "dropped" her twice while assisting her to the bathroom, causing injury

Ordinary Negligence v Medical Malpractice

- Hospital alleged claims sounded in medical malpractice, not ordinary negligence, and were barred by the two-year limitations period for medical malpractice claims
- Trial court agreed and granted summary disposition

Ordinary Negligence v Medical Malpractice

- Court of Appeals held that summary disposition improperly granted
- Based on allegations in the complaint alone and without documentary evidence to establish the facts, not possible to determine whether claim sounded solely in medical malpractice

Ordinary Negligence v Medical Malpractice

- As to negligent staffing of nurses or aides, Court held that such a claim may or may not sounds in medical malpractice, depending on whether issue of staffing implicates questions of medical judgment

Ordinary Negligence v Medical Malpractice

- As to claim based on negligence by nurse's aide in the physical transfer, Court held that medical judgment "could be" pertinent in some cases, but may not be an issue in other cases if the transfer assistance was "plainly unreasonable"

Ordinary Negligence v Medical Malpractice

- Supreme Court held a MOAA on 12/6/17
- Asked the parties to address whether the case sounds in ordinary negligence or medical malpractice
- Still awaiting decision from Supreme Court

Expert Qualification

- MCL 600.2169, expert qualification statute
- MCL 600.2169 provides that in a medical malpractice action an expert witness "may not testify" to the appropriate standard of practice or care unless the expert is licensed as a health professional in this state or another state and meets the requirements of the statute

Expert Qualification

MCL 600.2169(1)(a):

- if defendant is a specialist, expert must specialize at the time of the alleged malpractice in the same specialty as the defendant
- If the defendant is a board certified specialist, the expert must be a specialist who is board certified in that specialty

Expert Qualification

MCL 600.2169(1)(b):

- testimony on the applicable standard of practice is not admissible unless the expert, in the year preceding the alleged malpractice, devoted a "majority of his or her professional time" to the active clinical practice of, or instruction of students in, the same health profession or specialty as the defendant

Expert Qualification

Cox v Hartman

- Defendant McGregor was a registered nurse whose care and treatment during the delivery of the minor plaintiff was alleged to be negligent
- Defendants argued that plaintiff's proposed nursing expert was not qualified to offer standard of care testimony against McGregor pursuant to MCL 600.2169(1)

Expert Qualification

- Defendants argued that, during the year immediately preceding the alleged malpractice, the nursing expert did not devote the majority of her professional time to the active clinical practice or teaching of labor and delivery nursing, or even nursing more generally, but instead devoted the majority of her professional time to instructing students in a nurse practitioner graduate program

Expert Qualification

- The trial court granted summary disposition and denied plaintiff's motion for leave to name a new nursing expert
- The Court of Appeals affirmed, holding that, in the year preceding the alleged malpractice, plaintiff's nursing expert devoted a majority of her professional time to the practice or, or the instruction of students in, the health profession of a nurse practitioner

Expert Qualification

- The Court held that the health profession of nursing and the health profession of a nurse practitioner are different, as reflected in the fact that the former is practiced pursuant to a license while the latter is practiced pursuant to a registration or specialty certification

Expert Qualification

- The Court further held that the trial court did not abuse its discretion in denying plaintiff's motion for leave to name a new expert, where plaintiff did not act diligently in pursing the case and did not file the motion to add an expert witness until after summary disposition was granted
- An application for leave to appeal is pending in the Supreme Court

Expert Qualification

Roberdeaux v Evangelical Homes of Michigan (unpublished)

- Defendant was a board-certified internist, while expert specialized and was board certified in geriatric medicine, a subspecialty of internal medicine
- Both defendant and expert had the same clinical practice – care and treatment of patients in a nursing home

Expert Qualification

- No dispute expert was qualified under MCL 600.2169(1)(a)
- Court held defense expert was qualified to testify under MCL 600.2169(1)(b) because he devoted a majority of his professional time to the practice of internal medicine, the same specialty of the defendant

Expert Qualification

- Court concluded must look beyond label used by expert and examine what expert and defendant actually did in their respective practices in order to determine whether they practiced the same specialty
- Defendant and expert were practicing internal medicine with patients who happened to be elderly, rather than "dealing with problems related to old age"

Expert Qualification

- Supreme Court denied leave to appeal
- Dissent by Chief Justice Markman
- Case illustrates the difficulties of applying the expert witness qualification statute to the sometimes complex issue of medical specialties

Admissibility of Expert Testimony/*Daubert*

Walters v Falik (unpublished)

- Plaintiff's expert sought to testify that a dental etching solution used in plaintiff's mouth, which contained phosphoric acid, caused plaintiff's autoimmune disease, Wegener's granulomatosis (WG)

Admissibility of Expert Testimony/*Daubert*

- Court of Appeals held that the trial court improperly declined to permit the plaintiff's causation expert to testify
- Medical literature indicates that WG probably is caused by a combination of genetic and environmental factors, and plaintiff was not required to establish "definitively" a causal link between phosphoric acid and WG

Admissibility of Expert Testimony/*Daubert*

- Supreme Court granted a MOAA and reversed the Court of Appeals and reinstated the trial court order granting defendants' motion in limine to exclude the plaintiffs' experts' causation testimony

Admissibility of Expert Testimony/*Daubert*

- Supreme Court held that the trial court did not abuse its discretion in finding that the expert's opinion was unreliable, especially since the scientific articles presented by the plaintiffs indicated that the etiology of WG is unknown and no study has referred to an association between phosphoric acid and WG

Admissibility of Expert Testimony/*Daubert*

- Expert failed to explain why phosphoric acid was analogous to other environmental factors potentially associated with WG
- Trial court therefore did not abuse its discretion in holding that expert's testimony was not sufficiently reliable to proceed to the jury because it amounted to speculation

Reliability of Evidence

Mitchell v Kalamazoo Anesthesiology, PC

- An issue arose at trial whether an ultrasound image sought to be introduced by the defense was, in fact, an accurate scan of the ultrasound image taken of plaintiff's shoulder on the day of surgery
- The image purported to show that the defendant physician properly placed a needle and catheter while performing post-operative services on plaintiff, contrary to plaintiff's claim

Reliability of Evidence

- Outside the presence of the jury, the trial judge held that defendants had properly authenticated the image and, as a result, plaintiff's counsel was precluded from presenting evidence or argument to the jury that the proffered image was not, in fact, an accurate image of plaintiff's shoulder

Reliability of Evidence

- The Court of Appeals reversed, concluding that the trial court properly served its gatekeeping role by admitting the ultrasound image as authentic under MRE 901.
- The Court further held, however, that authentication under MRE 901 is a threshold matter that goes to the admissibility of evidence, not the ultimate weight to be given that evidence

Reliability of Evidence

- The Court held that by precluding plaintiff's counsel from attacking the genuineness and reliability of the ultrasound image before the jury, the trial judge overstepped his gatekeeping role and, instead, intruded on the jury's role as fact-finder

Collateral Source

Greer v Advantage Health

- Plaintiff can recover for insurance "write-offs" (the difference between amounts billed by health care providers and amounts actually paid by a private insurer)
- "Discounts" or "write-offs" of medical expenses, resulting from negotiations between health care providers and private health insurers, constitute insurance "benefits" that are subject to the collateral source statute, MCL 600.6303.

Collateral Source

- Court further held that such insurance "discounts" cannot be deducted from a jury verdict as a "collateral source" where the private insurer has asserted a lien, regardless of the amount of the lien or whether the lien does, or ever could, include the amount of the discounts

Collateral Source

- Thus, as a result of the holding in *Greer*, a plaintiff was permitted to enter a judgment against the defendant that included the full amount of medical bills, even though only a portion of those bills ever was paid by the plaintiff's health insurer

Collateral Source

- In order to alter this outcome in medical malpractice actions, the Legislature enacted a new statute, MCL 600.1482, to provide a legislative "fix" to *Greer*
- Effective for cases filed on or after April 10, 2017

Collateral Source

- Under MCL 600.1482, in an action alleging medical malpractice, the plaintiff can only recover, and present evidence at trial of, "actual damages for medical care"
- "Actual damages" are limited to the dollar amount "actually paid" by on or behalf of the individual whose care is at issue, excluding any "discounts" or "write-offs," and any amounts for which the plaintiff remains liable to pay for medical care

Collateral Source

- MCL 600.1482 is intended to prevent the result in *Greer*, and to ensure that a plaintiff cannot introduce evidence of, or recover for, medical expenses that are billed but have not been paid and never will be paid by anyone, due to health care provider agreements with insurers to accept less than the amount billed

Noneconomic Damages Cap

While no new decisions addressing the damages cap, significant questions remain:

- Application of the higher versus lower cap
- Application of the cap to cases involving multiple plaintiffs or multiple actions
- When, and based on what evidence, court is to make the determination of which cap applies
- Whether cap applies to cases that include both medical malpractice and other tort claims

Noneconomic Damages Cap

Also has been a renewed interest among some members of the plaintiff's bar in challenging the constitutionality of the cap

- Issue already addressed by Court of Appeals
- Supreme Court has shown little interest in addressing issue

Statute of Limitations

Jendrusina v Mishra

- Court of Appeals addressed the six-month "discovery rule" for medical malpractice actions set forth in MCL 600.5838a

Statute of Limitations

- Plaintiff claimed that his primary care physician had committed malpractice by failing to refer him to a kidney specialist so as to prevent kidney failure
- Plaintiff contended that he did not discover a possible cause of action until after a kidney specialist told him that an earlier referral would have avoided kidney failure
- Defendant submitted that plaintiff discovered a possible cause of action when he was diagnosed with kidney failure over a year earlier

Statute of Limitations

- Court of Appeals held that the plaintiff had no reason to discover a possible cause of action until he was advised by a kidney specialist that he could have avoided kidney failure, not when he was diagnosed with kidney failure

Statute of Limitations

- Court concluded that, although the plaintiff's blood tests prior to the kidney failure did reflect abnormal and worsening kidney function, and the plaintiff's medical records contained a note indicating that he had kidney disease, there was insufficient evidence that plaintiff was made aware of the results or their significance, or the fact that he had worsening kidney function

Statute of Limitations

- Court further held that a layperson would not have reason to understand kidney disease and how quickly it can progress to kidney failure.
- The diagnosis of a serious illness combined with knowledge that there was prior test of that organ does not necessarily mean that the plaintiff should have discovered a possible claim.

Statute of Limitations

- The Supreme Court granted a MOAA, and after oral arguments, denied the application for leave to appeal
- Dissent by Chief Justice Markman: plaintiff knew in January 2011 when diagnosed with kidney failure, or at least by October 2011 when plaintiff's nephrologist recommended a kidney transplant (Wilder/Zahra joined)

Damages Under the Wrongful Death Act

Denney v Kent Cnty Rd Comm'n

- Damages for loss of earning capacity are recoverable in a wrongful death case under the Michigan Governmental Tort Liability Act (GTLA) highway exception to governmental immunity

Damages Under the Wrongful Death Act

- The Court of Appeals held that a decedent has a claim for lost earnings under the Michigan Governmental Tort Liability Act (GTLA) highway exception to governmental immunity (unlike a claim for loss of financial support), which survived his death under the wrongful death act, despite the fact that the wrongful death act does not explicitly specify this element of damages

Damages Under the Wrongful Death Act

- The Court of Appeals explained that because decedent suffered a "bodily injury" under the GTLA when he fell off of a motorcycle prior to his death, decedent had a cause of action against defendant for lost earnings because "lost earnings are damages that decedent could have sought on his own behalf had he lived"

HIPAA/HITECH – Ex Parte Meetings

Holman v Rasak

- ex parte communications with a plaintiff's health care providers are allowed upon compliance with the procedural requirements of the Health Insurance Portability and Accountability Act (HIPAA)

HIPAA/HITECH – Ex Parte Meetings

Szpak v Inyang

- plaintiff must show "good cause" for the inclusion of additional requested conditions on meeting with treating health care providers, and any additional conditions imposed on ex parte communications must be "justified in their own right."

HIPAA/HITECH – Ex Parte Meetings

- Court of Appeals routinely issues orders peremptorily reversing the imposition of "notice conditions" placed on ex parte interviews of plaintiffs' treating health care providers

Medicare/Medicaid - Exclusion

Parrino v Price

- Excluding a healthcare provider from participating in federal health care programs under 42 USC 1320a-7 does not violate a healthcare provider's property interest and such exclusion is rationally related to a legitimate government interest

Medicare/Medicaid - Exclusion

- Plaintiff, a pharmacist, pled guilty to a strict liability misdemeanor – introducing misbranded drugs into interstate commerce
- Due to this charge, the Secretary of the Department of Health and Human Services ("HHS") notified plaintiff that it was "required to exclude [him] from participation in any capacity in the Medicare, Medicaid, and *all* Federal health care programs as defined in the Social Security Act (Act) for a period of five years

Medicare/Medicaid - Exclusion

- Plaintiff challenged this exclusion, arguing that his exclusion from all federal health care programs due to his guilty plea to a strict liability misdemeanor was a violation of his substantive due process rights and that HHS violated the Administrative Procedure Act ("APA") by excluding him arbitrarily and capriciously

Medicare/Medicaid - Exclusion

- The Sixth Circuit Court of Appeals held that health care providers are not the intended beneficiaries of the federal health care programs and they therefore do not have a property interest in continued participation or reimbursement
- Plaintiff failed to demonstrate that he had at stake a liberty interest where he had not argued that this "stigmatizing information" (his exclusion) was publicly disclosed, or alleged that HHS will disclose such information in the future.

Medicare/Medicaid - Exclusion

- The Court further held that the exclusion was "rationally related to a legitimate government interest" because the exclusions under 42 USC 1320a-7 are meant to protect the government from fraud/abuse and to protect beneficiaries of the federal programs, which are mainly the most vulnerable members of society, from inappropriate or inadequate care

Medicaid Lien Recovery

Neal v Detroit Receiving Hosp & Univ Health Ctr

- The State may recover for a Medicaid lien only the amount from a settlement or judgment that is designated or allocated as medical expense damages; the court, however, must review the fairness and appropriateness of the allocation unless the State stipulates to the allocation

Medicaid Lien Recovery

MCL 400.106(5)

- state department or department of community health has first priority against the proceeds of the net recovery from the settlement or judgment
- The state department or department of community health "shall recover the full cost of expenses paid under this act" unless the state department or department of community health "agrees to accept an amount less than the full amount"

Medicaid Lien Recovery

- The plaintiff in a medical malpractice action reached a confidential settlement agreement with the defendants, which allocated the settlement funds as follows: 55% to non-economic damages, 40% to economic damages (lost earning capacity, attendant care, and household services), and 5% for medical expenses, totaling $26,775

Medicaid Lien Recovery

- Plaintiff filed a motion to reinstate the case to resolve the Medicaid lien with Meridian Health Plan, and the trial court, in relying on MCL 400.106(5), ordered plaintiff to pay the full amount of its Medicaid lien, $110,238.19

Medicaid Lien Recovery

- The Court of Appeals reversed, holding that "to the extent the provision in MCL 400.106(5)—that the state 'shall recover the full cost of expenses paid,' operates to permit the recovery of the full amount of a Medicaid lien from a tort judgment or settlement regardless of the allocation of damages, it is in direct conflict with, and is preempted by," 42 USC 1396p(a)(1)

Medicaid Lien Recovery

- The Court relied on *Arkansas Dep't of Health & Human Servs v Ahlborn*, 547 US 268; 126 S Ct 1752 (2006), which held that states may not enact statutory provisions designed to recover medical expenditures from the tort proceeds received by Medicaid recipients that are not designated as payment or reimbursement for medical expenses incurred by the recipient

Medicaid Lien Recovery

- Because Meridian Health Plan was not part of the stipulated confidential settlement agreement in this case, however, Court of Appeals held that the trial court was required to hold a hearing and review the fairness and appropriateness of the allocation of plaintiff's claimed damages in the confidential settlement

No-Fault Insurance

Covenant Med Ctr, Inc v State Farm Mut Auto Ins Co

- A healthcare provider does not have an independent claim against a no-fault insurer for no-fault benefits absent an assignment between the insured and the healthcare provider

No-Fault Insurance

- The Court held that nothing in the no-fault act confers on a healthcare provider a right to sue for reimbursement of the costs of providing medical care to an injured person, or authorizes or entitles a healthcare provider to bring a direct action against an insurer for payment of PIP benefits

No-Fault Insurance

W A Foote Memorial Hosp v Michigan Assigned Claims Plan

- The Supreme Court's decision in *Covenant* applies retroactively and applies to recovery of PIP benefits through Michigan's assigned claims plan

No-Fault Insurance

- The Court also rejected plaintiff's argument that defendants "waived" or failed to preserve the issue of whether plaintiff possessed a statutory cause of action
- The Court held that the defense of "failure to state a claim on which relief can be granted" is not waived even if not asserted in a responsive pleadings or motion

No-Fault Insurance

VHS Huron Valley Sinai Hosp v Sentinel Ins Co

- Court of Appeals reversed trial court's order denying defendant's motion for summary disposition based upon *Covenant*

No-Fault Insurance

- The Court rejected plaintiff's argument that defendant waived the issue of standing by entering into a stipulated order and consent judgment, which permitted it to appeal the issue of res judicata only
- The Court relied, in part, on the fact that there was no language in the stipulated order and consent judgment indicating that defendant intended to clearly and unequivocally waive its legal position with respect to plaintiff's standing

No-Fault Insurance

Standard Rehabilitation, Inc v Grange Ins Co of Michigan (unpublished)

- Court of Appeals granted leave to determine whether reports prepared for nonparty independent medical examinations (IMEs) may be obtained during discovery
- Defendant raised the Court's decision in *Covenant* prior to oral argument

No-Fault Insurance

- At oral argument, plaintiff conceded that the insureds made no assignment of their claim to plaintiff prior to suit being filed
- The Court therefore agreed that, in light of *Covenant*, defendant was entitled to have plaintiff's claims dismissed

Expanded Scope of Practice for Physician Assistants

MCL 333.17047

- Took effect March 22, 2017
- Increases the autonomy of physician assistants (PAs)

Expanded Scope of Practice for Physician Assistants

- PAs are no longer required to work under the delegation and supervision of a physician or podiatrist
- PAs are not required to work with a participating physician or podiatrist according to the terms of a "practice agreement"

Expanded Scope of Practice for Physician Assistants

"Practice agreement" must include:

(1) A process between the PA and participating physician or podiatrist for communication, availability, and decision-making when providing medical treatment to a patient

- The process must utilize the knowledge and skills of the PA and participating physician or podiatrist based on their education, training, and experience

Expanded Scope of Practice for Physician Assistants

(2) A protocol for designating an alternative physician or podiatrist for consultation in situations in which the participating physician or podiatrist is not available for consultation

(3) The signatures of the PA and participating physician or podiatrist

Expanded Scope of Practice for Physician Assistants

(4) A termination provision that allows the PA or participating physician or podiatrist to terminate the practice agreement by providing written notice at least 30 days before the date of termination

(5) The duties and responsibilities of the PA and participating physician or podiatrist

Expanded Scope of Practice for Physician Assistants

(6) A requirement that the participating physician or podiatrist verify the PA's credentials

- The duties and responsibilities are subject to any restrictions or rules imposed by the Michigan Boards of Medicine, Osteopathic Medicine and Surgery, or Podiatric Medicine and Surgery or the Michigan Department of Licensing and Regulatory Affairs ("LARA")

Expanded Scope of Practice for Physician Assistants

- The practice agreement may not include as a duty or responsibility of the PA or participating physician or podiatrist an act, task, or function that the PA or participating physician or podiatrist is not qualified to perform by education, training, or experience and that is not within the scope of the license held by the PA or participating physician or podiatrist

Expanded Scope of Practice for Physician Assistants

PAs can:

- Make calls and go on rounds
- Prescribe drugs
- Order, receive, and dispense complimentary starter dose drugs

Expanded Scope of Practice for Physician Assistants

<u>Practical Considerations</u>:

- Review and update corporate and hospital policies and Medical Staff Bylaws and rules regarding the scope of practice for PAs
- Designate a "participating physician" or "participating podiatrist," as applicable, and alternative physician or podiatrist to work with the PA under the terms of a practice agreement

Expanded Scope of Practice for Physician Assistants

- Make certain the PA and participating physician or podiatrist enter into a "practice agreement" (or update any written collaboration agreements currently in use by PAs and their supervising physicians or podiatrists), which complies with all of the statutory requirements for a "practice agreement"
- The practice agreement must be updated, as necessary, to reflect any changes to the agreement (e.g., changes to any practice restrictions)

Advanced Practice Registered Nurses

MCL 333.17201

- Took effect April 9, 2017
- Amended the Public Health Code to license and regulate advanced practice registered nurses ("APRNs"), a classification of registered nurses with a masters, post-masters, or doctoral degree in a nursing specialty

Advanced Practice Registered Nurses

- An APRN is a registered professional nurse who has been granted a specialty certification in nurse midwifery, nurse practitioner, or clinical nurse specialist
- MCL 333.17210 adds clinical nurse specialists to the list of registered professional nurses who can hold a specialty certification, along with nurse midwifery, nurse practitioner, and nurse anesthetist

Advanced Practice Registered Nurses

APRNs can:

- Make calls and go on rounds
- Prescribe drugs
- Order, receive, and dispense complimentary starter dose drugs

Advanced Practice Registered Nurses

- The Act refers to an APRN, in addition to a physician and a physician's assistant with whom the physician has a practice agreement, in provisions regarding a policy a health facility or agency must adopt describing the rights and responsibilities of patients or residents

Advanced Practice Registered Nurses

<u>Practical Considerations</u>:

- Review and update corporate and hospital policies and Medical Staff Bylaws and rules regarding the scope of practice for APRNs
- Update any written collaboration agreements currently in use by APRNs to reflect the expanded scope of practice for APRNs

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Questions?

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Thank you!

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