

# THE OHFAMA JOURNAL



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## Ohio 2020 Election Preview

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## A WORD FROM THE PRESIDENT

Richard Kunig, DPM

# The Winds of Change



Richard Kunig, DPM

Now that Fall is upon us the leaves are changing and hurricane season is in full swing. It may feel as though we have been swirling in a COVID-19 hurricane since March. The winds will continue to blow until there is a vaccine available.

In my first message, I stated that this year would bring new challenges to each of us. Some challenges for the good, others more difficult. COVID-19 has been difficult to say the least, but it pushed us into utilizing virtual visits with patients and virtual meeting & seminars with our colleagues.

At present, we are utilizing a virtual meeting platform for our Board of Trustees meetings. Only the executive committee travels to Columbus.

We are in preparations for the annual House of Delegates on November 14, 2020. First & foremost, our concerns are for the safety of staff & delegates. We find ourselves being creative with a hybrid-meeting format that will allow safety for all and still allow the House to conduct its business within the guidelines of the OHFAMA by-laws. There are several important items on the HOD agenda. Consideration of changing from the House of Delegates format to an Annual Business meeting format is one of those items.

Since late June, OHFAMA has been sending out information on these changes. It has been on the OHFAMA website and blasted out

multiple times in emails to membership. We have been accepting feedback on the proposed changes for the past three months. If you have not yet had a chance to review the information, please go to the OHFAMA webpage and start with the short video by Dr. Greenberg as he explains this process very concisely.

OPPAC is gearing up for the general election. This election cycle will be here soon and OPPAC needs to be able to support the candidates that support podiatry. With advice from our lobbyist, we have contributed to 43 candidates who are advocates for our profession.

This will put a strain on OPPAC resources and donations that have been falling short. By utilizing a virtual annual seminar, we missed the opportunity to ask for your donation in person. Today, I ask for your donation to OPPAC. Please consider a one-time donation or set up a quarterly plan on your personal credit card (Not a business credit card). There is even a link on our website to donate.

Again, please check the OHFAMA website for information on the proposed changes to the bylaws scheduled for a vote at this year's HOD on November 14.

It has been a challenging year. With academy meetings and seminars canceled, I was unfortunately unable to visit most of the academies during my term.

It has been an honor serving OHFAMA.

Richard Kunig, DPM, President

## Dr. Fred Conti Earns Mideastern Academy Lifetime Achievement Award

The Mideastern Academy awarded Dr. Fred Conti its Lifetime Achievement Award on September 23.

"Dr. Conti has been a member of this Academy for almost 50 years and although retired, he continues to attend our monthly meetings and seminars, always reaching out to our residents and young members and helping to advise them in any way possible," said Dr. Mike Boyer, Mideastern Academy President. "Dr. Conti is a true champion of our profession."

Dr. Conti attended Ohio College of Podiatric Medicine, had his residency in Youngstown, and operated Family Foot Care Center in Akron for over 40 years. He served as Treasurer of the Mideastern Academy from 1981-1993.

During his career, Dr. Conti was on the medical staffs of Wayne General Hospital, Dunlap Memorial Hospital, Wadsworth Rittman Hospital, Akron General Medical Center, Cuyahoga Falls General

Hospital, and the Summa Hospital System. Over the years, Dr. Conti has helped train hundreds of podiatric residents.

Dr. Conti is a member of the Rotary Club of Akron, is a member of St. Hilary Catholic Church and is extremely proud of his two daughters and his two grandchildren.



*Dr. Fred Conti (right) accepts the Mideastern Academy Lifetime Achievement Award from Academy president Dr. Michael Boyer at the Mideastern Academy Meeting on September 23.*

## FROM THE EXECUTIVE DIRECTOR

Mike Mathy, CAE

# The Importance of Political Participation



Mike Mathy, CAE

My first job out of college was working for a state representative in the Wisconsin Legislature.

During the three years I worked at the Capitol,

I did everything from handle constituent concerns to write press releases to manage legislative committees.

As a young, idealistic legislative aide I thought I knew it all. I was young, hungry, and playing a meaningful role in shaping public policy and public perceptions on issues facing the state.

But my time in the Legislature humbled me and taught me many lessons. I quickly realized that some of the decisions we made, particularly on health care policy, had a tremendous impact on the personal and professional lives of people throughout the state. Some issues that came before our office were literally a matter of life or death. That was heavy stuff for a carefree guy in his early twenties.

Perhaps the biggest takeaway from my time working on the frontline of politics — one that sticks with me to this day — is how few people participate in our democracy. You might find this hard to believe, but if our office received three genuine constituent contacts on an issue — not those generic form letters or blast emails — that would prompt me to include the issue in my daily briefings with my boss, a state Assemblyman who represented the Green Bay area.

That is all it took — a few phone calls, emails, or letters from constituents — to get the undivided attention of an elected representative.

While few people take the time to share their thoughts and concerns with their elected officials, sadly our country faces a disturbing pattern of apathy when it comes to voting — the most fundamental responsibility each of us have in our democracy.

In the 2016 presidential election, 138 million Americans — just 59% of eligible voters — cast their vote in the presidential election. By raw numbers, that means 92 million Americans across the country did not bother to vote!

Considering President Trump's Electoral College victory came down to just 79,316 votes across three battleground states — Pennsylvania, Michigan, and Wisconsin — it is clear that a modest uptick in voter participation in 2016 could have altered the results of the election.

With just a few weeks before the election, former Vice President Joe Biden holds a 47.1% to 46.4% lead over President Trump in FiveThirtyEight's average of 2020 presidential general election polls in Ohio. Since the advent of the modern two-party system, no Republican has ever won the presidency without winning Ohio and only two Democrats — Grover Cleveland in 1884 and 1892 and John F. Kennedy in 1960 — were elected president without winning Ohio.

That is why it is vitally important for you to take the time to vote in this election — regardless of who you favor in local, state, and national elections. As history has shown us, a few votes in key battleground states like Ohio could tip the scales of the election and alter the course of history.

So make your voice heard this election season! **Vote!**



# Ohio 2020 Election Preview

By Dan Leite, OHFAMA Lobbyist



Dan Leite, OHFAMA Lobbyist

While Ohio is solidly in Republican control at the state government level, the 2020 election outlook is offering some intriguing storylines heading into November 3. With the COVID-19 pandemic continuing, the request for absentee ballots in Ohio has become remarkably high and voter registration levels across the state for 2020 have risen substantially compared to the 2016 and 2018 elections. With the controversy over mail-in ballots and the number of allowed voter drop box locations, various Court rulings could impact outcomes in certain races. We could have scenarios in various races around Ohio where close elections may have to wait to determine a winner past Election Day because of outstanding absentee ballots and other election law factors.

Because of the pandemic, candidates at all levels have had to find different ways to reach potential voters and because early voting in Ohio began on October 6, Ohioans are seeing more and more political advertising pop up on television and their social media outlets. An additional factor in 2020 is that candidates are running in legislative districts that were drawn a decade ago and there have been large demographic swings in some of those districts over that period. Here is a preview of what Ohioans will see in some key races.

## President

In 2016, Ohioans delivered a substantial victory for Donald Trump over Hillary Clinton on Trump's road to winning the presidency. According to voter data, rural and suburban voters turned out and provided Trump the votes to offset Clinton's victories in Ohio's major cities. The biggest question in the presidential race in Ohio appears to be can the president hold those same suburban voters four years later against former Vice President Joe Biden. Turnout will be a huge key to both candidates and recent polls have shown Ohio to become a "toss up" state in the presidential race. Most talk about the validity of mail-in ballots and the number of allowed voting drop boxes per county have centered around this race. Republicans still solidly believe the President will win Ohio but Democrats across the state have become very energized in recent months as Biden's polling numbers have substantially risen.

## Ohio Delegation — US House of Representatives

Most data indicate that Ohio's congressional delegation will remain largely unchanged but recent polls have shown that one a very close race has emerged in Ohio's 1st Congressional district (Warren county and parts of Hamilton County). Incumbent Republican Steve Chabot's hold on this seat is facing a very tough challenge from Democrat Kate Schroder. One additional congressional race some are watching is in the 10th district, where longtime Republican incumbent Mike Turner is facing a challenge from Democrat Desiree Tims.

## Ohio House of Representatives



Republicans currently hold a 61-38 seat advantage and control of the House is not in jeopardy of changing hands. However, the factor impacting some House races is the alleged involvement of former Republican House Speaker Larry Householder in a \$61 million bribery and racketeering case brought by the FBI and Department of Justice. Householder was arrested in July (he pleaded not guilty) along with four lobbyists in an alleged financial scheme regarding the passage of House Bill 6, legislation concerning substantial changes to Ohio's energy



portfolio. After Householder's arrest, the House voted unanimously to remove Householder as Speaker (he remains a House member for the moment and is on the ballot in the 72nd district in November) and install former State Senator and Ohio Supreme Court Justice Bob Cupp as the new Speaker. Cupp inherits a fractured caucus that is frantically trying to raise money to support its candidates and maintain the large majority in the House.

House Democrats have built the campaigns of most of their candidates on the alleged corruption issue and Householder himself, as they are trying to gain enough seats to break the Republicans super majority. Their caucus strongly believes that it will pick up anywhere between 4-8 seats to narrow this margin. Here are a few races that many on Capitol Square are watching:

### 16th District

Incumbent Republican Dave Greenspan has a huge challenge on his hands retaining this seat in Cuyahoga County if a blue wave does indeed happen. Greenspan is very popular and holds endorsements from many key statewide and local groups (including organized labor) and voted against HB 6 and former Speaker Householder. This is a very difficult seat for Republicans.

### 43rd District

Republican J. Todd Smith, a close Householder ally, is retiring from a seat he only won in 2018 by a few hundred votes. Democrats strongly feel this will be a seat they can flip. Democrat Amy Cox is running against Republican Rodney Creech for this Dayton-area seat.

### 27th District

Incumbent Republican Tom Brinkman is facing a huge challenge in this changing district from Democrat Sara Bitter. This is a district that was solidly Republican in the past but has gradually changed over the past decade. Brinkman is a veteran of the House and current chairman of the House Insurance Committee. Democrats appear confident that Bitter will knock off Brinkman.

### 89th District

Incumbent Republican D.J. Swearingen is battling for a new two-year term in this Northwest Ohio district against Democrat Alexis Miller. This district has a history of being represented by both parties, so it always appears to be "in play." Swearingen was appointed to this seat by Householder after the retirement of Republican Steve Arndt; a factor that Democrats are using in this campaign.

### 96th District

Veteran Democrat Jack Cera is facing term limits so this is an open seat that Republicans are confident they can pick up. Republican Ron Ferguson will be facing Democrat Richard Olivito in this race and in 2016, this district voted solidly for President Trump.

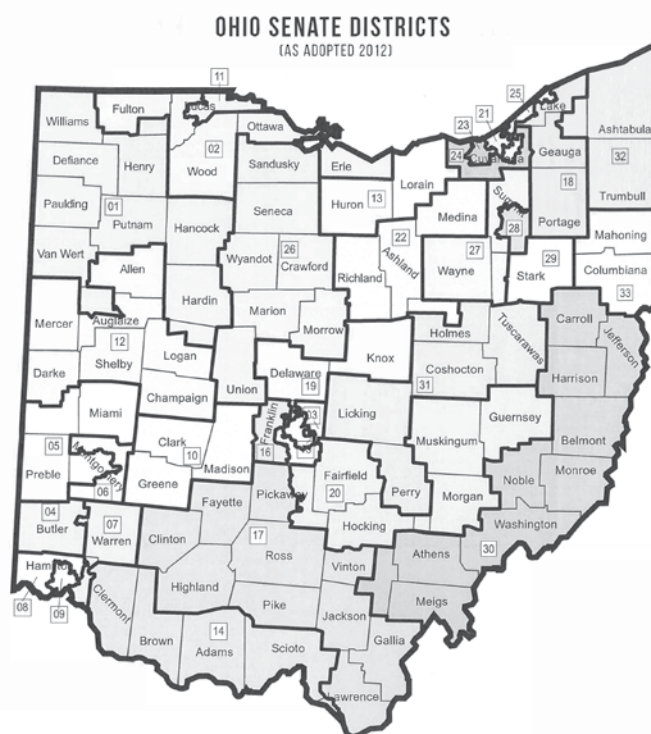
### 99th District

Democrat John Patterson is facing term limits as well and Republicans believe they may be able to add this seat to their majority because of the past popularity of President Trump. Republican Sarah Fowler has a strong local network and will be running against Democratic Attorney Richard Dana.

### 23rd District

Incumbent Laura Lanese is seeking to retain the lone Franklin County (area around Columbus) House seat for Republicans. Lanese is a member of House leadership and is leading the fight to overturn HB 6. She has a strong local network, but Democrats think that a pastor, Nancy Day-Achauer, can provide a net gain seat for them.

## Ohio Senate



Republicans hold a commanding 24-9 advantage in the Ohio Senate and that large majority is not expected to change too much after this election. However, there are several competitive districts that could slightly change the makeup of the Senate heading into 2021. Current Republican Senate President Larry Obhof faces term limits and Senator Matt Huffman from Lima is strongly expected to become the next Senate President in January. Here are a few races that are generating the most interest:

(Continued on next page)

### 16th District

Popular Republican incumbent Stephanie Kunze is in a huge battle with Democrat Crystal Lett for this Franklin County Senate seat. Democrats feel they will gain this seat, as Kunze holds the last Republican-held seat in the county. Kunze is viewed as being bipartisan by her colleagues in the Senate but this district is very anti-Trump and that continues to hurt Kunze, despite her involvement in many social issues (infant mortality, human trafficking). Many believe Kunze is down in the polls and has a large deficit to overcome. A solid chance for Senate Democrats.

### 24th District

Incumbent Matt Dolan, chairman of the Senate Finance Committee, is facing a spirited challenge from Democrat Tom Jackson of Solon. Dolan's family owns the Cleveland Indians, so his name recognition is high in the district. However, the district involves areas of Cuyahoga County (Cleveland area) and the Cleveland suburbs that, under the right conditions, could make this a close race. Most expect Dolan to retain this seat, but it is one to watch on election night.

### 32nd District

Popular incumbent Sean O'Brien is the main target of Senate Republicans despite being a moderate Democrat who has a very strong friendship with Republican Senate President Larry Obhof and is considered "business friendly" by most in his district. He is facing Republican Sandra O'Brien. This district was always considered solidly Democratic but 2016 appears to have ushered in a new dynamic, as voters overwhelmingly supported President Trump in 2016. Sean O'Brien is still considered the favorite, but anything could happen here.

### 18th District

This is an open seat, as Republican incumbent John Eklund is facing term limits. Republican Lake County Commissioner Jerry Cirino is facing Democrat attorney Betsy Rader (Senior Counsel at the Cleveland Clinic). Cirino was recruited to run for this seat by Senator Matt Huffman and remains the favorite but Rader has proven to be a good candidate and is making this a race to watch.

### Ohio Supreme Court

Along with the presidential race, the two contests for the Ohio Supreme Court appear to be the focus of Ohio Democrats. Republicans currently hold a 5-2 advantage on the Court, but that majority would switch if Democrats can capture both 2020 contests. With Republican advantages across state government, a Supreme Court majority would be a huge victory for Ohio Democrats.

Republican incumbent Justice Judith French of Columbus is facing a very strong challenge from former Democratic Secretary of State and current 10th District Court of Appeals Judge Jennifer Brunner. Brunner has name recognition and most around Capitol Square think this is a very vulnerable seat for French to retain.

The other Republican incumbent of the Supreme Court is Justice Sharon Kennedy of Hamilton who is facing off against current 10th District court of Appeals Judge John O'Donnell of Lakewood. Kennedy is believed to be a slight favorite in this race.

Justices for the Supreme Court appear on the ballot with no noted party affiliation.

## License Renewal Deadline is December 1

Due to COVID-19, your license expiration may have been extended to December 1, 2020.

Although the state emergency has not been lifted, the December 1, 2020 deadline is approaching and will be enforced. By law, you will need to renew your license by December 1, 2020 for your license to remain active.

As a reminder, your renewal schedule has not changed, even though you were permitted to renew your license later than usual. For example, if your normal license renewal was due on June 30, 2020, your next renewal date will be on June 30, 2022, regardless of when you renew during the extension period.

To renew your license, log into your account at [elicense.ohio.gov](https://elicense.ohio.gov). Please feel free to contact the State Medical Board of Ohio at [License@med.ohio.gov](mailto:License@med.ohio.gov) if you have any questions or need any assistance during the renewal process.

# OHFAMA House of Delegates Set for November 14

The 2020 House of Delegates will take place November 14 at the Embassy Suites – Airport in Columbus.

The House of Delegates is the governing body of the association. Each year, Delegates gather to receive OHFAMA updates, determine the policies of the organization, conduct elections, and set the annual budget of the organization.

Due to the COVID-19 pandemic, all Delegates will have the option to participate in the meeting in person or via our virtual meeting platform. OHFAMA is working with our hotel partner to ensure the organization fully complies with all CDC and state and local public health guidelines.

Among the issues to be discussed is a series of proposed changes to the OHFAMA bylaws, most notably a shift from the House of Delegates to an Annual Business Meeting. The OHFAMA House of Delegates webpage features a wealth of information about the proposed bylaws changes, including:

- Video Overview from Bylaws Committee Chair Dr. Marc Greenberg
- House of Delegates Assessment Committee Annual Business Meeting Research
- Summary of Proposed Bylaws Changes and Current OHFAMA Bylaws
- Annual Business Meeting Sample Agenda
- Two Versions of the Proposed Bylaws Changes:
  - Annual Business Meeting Language
  - House of Delegates Language

All members are encouraged to attend the virtual Reference Committee meeting on Thursday, November 5 to voice their opinion on the proposed bylaws changes.

## Elections

OHFAMA Delegates will elect the President, the 1st Vice President, the 2nd Vice President, 2 three-year APMA Delegate positions and 1 one-year APMA Alternate Delegate positions during the 2020 HOD. If you have an interest in running and would like more information as well as a job description/time involvement, please contact OHFAMA Executive Director Mike Mathy.

## House of Delegates Schedule

### Thursday, November 5

Reference Committee Meeting (Virtual)  
7:00 p.m.

### Friday, November 13

Budget and Finance Committee (Hybrid)  
2:00 p.m.

Board of Trustees Meeting (Hybrid)  
3:00 p.m.

### Friday, November 14

House of Delegates (Hybrid)  
8:00 a.m.

## Summary of Changes to the OHFAMA Bylaws

1. APMA bylaws changes that required OHFAMA bylaws matching changes.
2. 2019 OHFAMA HOD Propositions and Resolutions resulting in changes.
3. Other miscellaneous changes

### 1. APMA bylaws changes that required matching OHFAMA bylaws changes.

- Membership category definition changes.
- Membership and dues payment procedures.

### 2. 2019 OHFAMA HOD Propositions and Resolutions resulting in changes.

- Proposition A-19: Defined a term length for the Young Member Trustee to match the three-year terms of all other Trustees.
- Resolution 19-01: Proposal for an OHFAMA Annual Business Meeting (ABM) to replace the OHFAMA HOD.
- Resolution 19-02: Changed the chair of the Finance & Budget Committee from a member on the Committee to the Secretary/Treasurer of OHFAMA.

### 3. Other miscellaneous changes.

- Federal Services Member category created for OHFAMA.
- Name changes such as the name of some of the member categories and Budget & Finance Committee.
- Removal of dues and fees references from the bylaws and creating a separate document for this called the "OHFAMA Dues and Fees Schedule".
- Correction of a typo/misplaced section from Active Member to Postgraduate Member definition.
- Adding a five-year term limit of the OHFAMA Secretary/Treasurer.
- Defining procedures for replacing a possible vacancy of the Young Member Trustee and APMA 2nd Alternate Delegate positions.
- Adding the ability of the BOT to have electronic voting on business matters.
- Adding and defining an Emergency Bylaws Amendment policy for the OHFAMA Annual Meeting (HOD or ABM), mimicking the APMA definition.

## Member Profile

# Dr. Kelly Whaley, OHFAMA 1st Vice President



Dr. Kelly Whaley

### ***Why did you choose a career in podiatry? What led you to this career path?***

I've always enjoyed science. I always wanted to be a doctor, but I just wasn't sure which path to take.

First, I wanted to be a Marine biologist. Being a California kid, I was an avid water person, lifeguard, canoe and sailing instructor and scuba diver. I wanted to swim with the dolphins for the rest of my life and thought that that would have been a great career, but my dad kind of intercepted me on that one. He said, "Okay, that sounds like a great career, but what happened to being a doctor? You always want to be a doctor."

So initially I wanted to be an ophthalmologist, but it grossed me out when I saw pus coming out of somebody's eyes. My eyes were watering. There was no way I could spend a career with my eyes watering so I knew it was not for me.

Then I was in college at Cal State Fullerton, I was a middle-distance runner on the track team. I had a foot problem and the athletic trainers were focused more on the baseball players and the football players.

So I went to one of the local podiatry offices even though our student health insurance didn't cover anything. I just kind of walked into the office and said, "I don't know how I'm going to pay you. I don't know what I am going to do. My foot is hurting, and I can't walk." He was like, "Oh, let me help you out."

After a few visits, Dr. Larry Anton became my mentor and friend. By the time I was done with a few visits, I knew all the bones in the foot and I knew my diagnosis, the etiology, and had a treatment plan. With regard to my future, I knew exactly what I needed to do. I was podiatry bound.

### ***Where did you do your training?***

I became focused on podiatry and was accepted to the Ohio College of Podiatric Medicine. I packed up my little Honda civic in Southern California and I drove Route 66 all the way to Cleveland so that I could meet my roommate and find a place to live.

And I was like, "I can't believe I'm doing this." I was 22-years-old and driving across the country. Alone.

I graduated in 1997 and did the UH residency program, which was PHS Mount Sinai Medical Center East, Richmond Heights Hospital with Bill Saar. And it was a good program.

My second year I did at the Department of Veterans Affairs residency in New York, New York and I really liked it a lot. I would have stayed in New York, but I was married, so I came back to Ohio for practice.

### ***How did you establish your practice?***

At first, I worked for somebody for a year and then I bought a very small practice, which was basically a list of names of home care patients and those at nursing homes, senior centers, and retirement communities. And then I got started providing geriatric, diabetic foot care and wound care to home bound patients.

My practice is small, and always has been very small. I have two part-time employees, a billing agent and an accountant. And it's gotten me through all the while. I love my little practice and I feel like my patients appreciate the niche I have created here in northeast Ohio.

### ***How did you get involved with the Northeast Academy?***

Not long into my career I wasn't sure how to bill class findings – Q7, Q8 and Q9 – and how to document them. So I went to an



Academy meeting and talked to my colleagues who answered all my questions. My colleagues were all very helpful but I felt like in order to be deserving of all the practice management advice, I needed to belong. So I paid my dues, joined the OPMA and attended meetings at NEOAPM.

I have always enjoyed being a member of the NEOAPM, I enjoy attending meetings and networking with my colleagues. My mentors included Mark Gould, Ed Floyd, and Irv Lewis, who recently passed away.

Shortly after that, I was asked to become Academy secretary, an office I held for 5-6 years. I then worked my way up the ranks to vice president and president where I have been for at least 12 years.

### ***What are the major challenges and opportunities facing the field of podiatry?***

I would like to see an expanded scope of practice as far as the ability to practice equally with MDs and DOs on below-knee procedures.

I would also like to see some of our young members become more active in the association. It's hard to find the time, I know. But getting involved is rewarding.

I also think we need to ask ourselves, "Why aren't young kids in college leaning towards careers in medicine?" I'm afraid it's not one of those fields where you become wealthy anymore and insurance billing is complicated and frustrating sometimes not to mention that the training is extensive and time consuming. It's a field that you go into because you care about people and want to provide a service and specialty that no one else can.

We need to do a better job reaching out to students and educating them about the benefits of working in podiatry.

### ***What's the Most Unusual Job You've Ever Had?***

I was raised in Anaheim where Disneyland is located. In high school, I won the city of Anaheim Youth of the Year Award. It came with a scholarship and any job that I wanted in the City of Anaheim. So, I picked Disneyland, where I worked as a monorail driver for five years. I wore a little pill box cap and a polyester suit and drove the monorail all day long. I loved it.

That's what I did throughout college: I worked at Disneyland, taught sailing and canoe, and hung out at the beach.

### ***What do you like to do in your free time?***

I love to travel the world and I've been a lot of places. My husband and I travel a lot to Cancun, Hawaii and home to California. We've been on a zillion cruises I just love vacationing with my husband, family, and our friends. We have a lot of great friends.

The rest of my free time I spend exercising. I love those challenging cross fit moves, HIIT classes, kickboxing, and Tabata training. Call me crazy but I also love yardwork and gardening.

### ***What is your favorite travel destination? What is on your bucket list?***

I'm a big national park fan. My favorite trip was snowmobiling in Yosemite National Park. I love the scenery. I love nature and science.

My dream destinations include places like Australia and Africa. Galapagos is on my foreseeable bucket list. I'm looking at 2022, if we can ever see the world again.



*Dr. Whaley and her husband, Matt (Ogre) Whaley give back to the community through Ogre's Bears for Burns, our personal charity and organization that has donated stuffed animals to the Metro Hospital Pediatric ICU & Burn Unit every year at Christmastime. Every year, they collect donations and host a spaghetti dinner and raffle.*

*The organization was established by Matt, a burn victim in his teenage years, over 25 years ago and has grown to donate thousands of stuffed animals each year for burn victims as well as other children requiring services in the Cleveland area.*

## COVID-19 Liability Bill Signed into Law

Ohio podiatrists and other essential workers will enjoy greater legal protections related to COVID-19 under a bill signed into law by Governor Mike DeWine.

House Bill 606 provides temporary immunity from civil liability and professional disciplinary actions to a wide range of health care providers, including podiatrists, for injury, death, or damages arising from health care services rendered in response to the COVID-19 pandemic. The immunity will also protect health care facilities, such as hospitals, podiatry and physician practices, and other settings where health care services are provided.

The new law also grants civil immunity to health care providers, businesses, schools, and other entities from lawsuits arising from exposure, transmission, or contraction of COVID-19, or any mutation of the virus, as long as they do not engage in reckless, intentional, or willful misconduct.

OHFAMA fought for this vital legislation to protect our members and other health care providers for their essential work during the COVID-19 pandemic. During a global pandemic, we need our health care providers to provide essential care without fear of legal liability. Granting immunity to health care providers and facilities will provide much-needed stability by better enabling our members, health care providers, and facilities to focus on their core responsibility – treating patients.

The bill and its corresponding protections will be retroactive to the date of the declared state of emergency in Ohio, March 9, 2020, and will expire on September 30, 2021.

OHFAMA would like to thank Governor DeWine, bill author Representative Diane Grendell, House Speaker Bob Cupp, Senate President Larry Obhof, and all of bill's sponsors and supporters for their leadership in protecting essential workers. We would also like to recognize our lobbying team, Dan Leite and Courtney Saunders, for their efforts to ensure podiatric physicians were included in this legislation.

## OHFAMA Advocates for Permanent Telemedicine Rules

OHFAMA submitted testimony supporting the Ohio Department of Medicaid's plans to make permanent a series of telemedicine rules aimed at making access to care easier and more flexible during the COVID-19 pandemic.

The agency, in partnership with the Governor's office, our sister agencies as well as managed care plans, providers and consumers, has:

- Expanded telehealth services to include a wide array of medical, clinical and behavioral health providers and counselors
- Eased technology restrictions on patient-physician interaction to deliver telehealth services
- Reduced prior authorization requirements to for many medical and behavioral services
- Enhanced pharmacy benefits, eliminating in- and out-of-network

restrictions, pharmaceutical co-pays while increasing pharmacy reimbursements for over the counter medications

- Enabled nursing home and congregate care members to access telehealth services with no prior authorization

In written testimony, OHFAMA Executive Director Mike Mathy, CAE, said making these rules permanent will help Medicaid address the issues of access and health disparities for all healthcare services during the pandemic and beyond.

"Even when the pandemic subsides, much doubt remains if we as a society will return to health care delivery mechanisms that were in place before the pandemic," wrote Mathy. "The use of telehealth in the delivery of health care services has been rapidly accelerated by the pandemic and the OHFAMA appreciates our continued partnership with ODM in making Ohio's podiatric physicians part of this ongoing effort."

## Governor DeWine Announces Medicaid Overhaul

Governor DeWine announced that the Ohio Department of Medicaid will open a new application for businesses interested in providing managed care plans for children and adults within the Medicaid program. The request for proposals is part of a new vision for Ohio's Medicaid program that focuses on people -- not just the business of managed care.

"Since coming into office in January of 2019, my administration has been evaluating our Medicaid program to develop a vision of a better, healthier, and more productive state," said Governor DeWine. "With input from Ohioans covered by Medicaid, physicians, hospitals, health care providers, and managed care plans, this will be the first major overhaul of Medicaid in 15 years."

Medicaid's new program will focus on improving care for children with complex needs, emphasizing personalized care experience, improving wellness and health outcomes, and increasing transparency and accountability across managed care.

A second managed care application will be issued later this fall to specifically serve children who have complex behavioral health needs.

Changes to Ohio's managed care plans will not disrupt Ohioans' coverage or access to care.



Choosing the cheaper oceanside dream vacation could send you home with a queasy tummy.

**The same might be said of a medical professional liability insurance policy.**

**You get what you pay for.**

**Remember, not all policies are the same.**

What might look like a great deal at first glance, may not be all that great of a savings when you look closer. Before you make a decision based on price alone, be sure you know exactly what you will be getting.

**What you get from PICA for an all-inclusive price:**

- **Only** medical professional liability insurance provider with \$100,000 of administrative defense coverage for any part of your ADC
- Up to 5 levels of Medicare appeal
- **Only** medical professional liability insurance provider with in-house podiatry-specific risk management
- Individual, group and entity coverages
- Consent to settle, per policy terms
- **Only** podiatry-specific medical professional liability insurance provider to have handled 25K+ podiatry malpractice claims
- **Only** medical professional liability insurance provider with FREE online CPME approved programs for podiatrists
- **Only** medical professional liability insurance provider focused on podiatry

**All this from the only podiatry-specific medical professional liability insurance provider rated A.M. Best A+ (Superior) and exclusively endorsed by 41 state and national podiatry associations –including OHFAMA.**

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# October 2020 BWC News from CareWorks

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## Apply Now: 2021 Policy Year Group Rating & Group Retrospective Enrollment Deadline is Approaching !!

It's that time of year again: 2021 Traditional Group Rating and Group Retrospective Rating offers are now being sent out to employers. Contact us for a premium savings projection. CareWorks Comp will assist you in determining the program options

that work best for your organization. Each year there may be a different mix of cost-saving strategies that work best to maximize your premium savings. **The enrollment deadline for the 7/1/2021 Rate Year is November 16, 2020 for Traditional**

**Group Rating, and January 22, 2021 for Group Retrospective Rating.** For more information, contact Meridith Whitsel CareWorks Comp Program Manager at 614.745.4935 or Meridith.Whitsel@careworkscorp.com.

## BWC Board Approves 2nd Dividend this Year to Ease COVID-19 Financial Impact

On September 25, 2020, the Board of Directors of the Ohio BWC approved yet another employer "Billion Back" dividend. This approximately \$1.5 billion dividend will be sent to Ohio employers near the end of October 2020, after first applying the dividend to any unpaid balances. The BWC's aim is to provide some immediate economic relief to employers amid the ongoing pandemic.

This dividend equals approximately 100% of the premiums paid in policy year 2019. (This would be January 1, 2019 to December 31, 2019 for public employers and July 1, 2019 to June 30, 2020 for private employers.) Dividends like this, as well as previous ones, are possible because of strong investment returns on employer premiums, a declining

number of claims each year, prudent fiscal management, and employers who work hard to improve workplace safety and reduce injury claims. Employers who did not complete their 2019 policy year True Up **may be** ineligible to receive this Billion Back Dividend.



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## APMA NEWS BRIEFS

### APMA Launches Step in Podiatry Campaign

One of APMA's long-term strategic goals is developing the profession through active recruitment of high caliber applicants to our colleges of Podiatric Medicine.

To accomplish this goal, every podiatrist who is satisfied with their professional career choice should consider actively promoting the profession to the next generation.

To help facilitate this process, APMA has created a standalone web page titled "Step Into Podiatry" which provides excellent resources for high school and undergraduate students, including a flyer for prospective students and a customizable PowerPoint presentation which can be used when speaking with student groups or individuals.

Please visit [StepIntoPodiatry.com](http://StepIntoPodiatry.com) or contact the OHFAMA office for more information.



### APMA Expresses Significant Concern with Proposed MPFS

APMA submitted comments to CMS on October 2 to express significant concerns with a proposed rule for revisions to payment policies under the Physician Fee Schedule and Other Revisions to Part B for Calendar Year 2021, as well as comment on proposed changes to the Quality Payment Program (QPP).

Of note, while CMS estimates that some specialties will see a -10 percent or higher adjustment in reimbursement due to the changes in conversion factor and other policies, CMS anticipates only a -1 percent adjustment for podiatrists. Furthermore, APMA expects that with the negative adjustment for high utilization codes such as 11721, most podiatrists should expect to see an overall increase in Medicare reimbursement given that with the new E/M policies, more podiatrists will likely code level 4 and level 5 codes. Below are some of APMA's higher-priority comments and requests related to the proposed MPFS changes:

1. APMA urged CMS to pursue opportunities to mitigate the impact of the budget neutrality adjustment as related to the proposed conversion factor (which is leading to significantly reduced reimbursement for certain surgical codes like CPT 11721), including pursuing any available PHE authorities and working with Congress to enact a legislative remedy, while preserving the changes to the office/outpatient E/M codes that have previously been finalized for 2021;
2. APMA urged CMS to postpone implementation of the GPC1X E/M add-on code and allow the CPT Editorial Panel to better define the code.
3. APMA requested that CMS allow certain services to be provided via telehealth permanently outside of the public

health emergency, expressing our concern that not doing so will perpetuate burdens on physicians and/or patients by requiring patients to travel to a provider's office or requiring a provider to travel to a patient's nursing facility, home, or domiciliary setting for a condition that could have been safely and thoroughly treated using telehealth; and

4. APMA requested that CMS work with Congress to remove the telehealth statutory geographic and site of service originating site restrictions.

With regard to proposed changes to the QPP for 2021, APMA commented on the following:

1. APMA requested that CMS consider an automatic neutral adjustment for any 2020 PY MIPS eligible clinician who does not submit data, even if they have not submitted a hardship application;
2. APMA supported the delay of the MVP implementation to at least the 2022 performance year, and recommended that CMS consider delaying implementation further to the 2023;
3. APMA requested simplification and clarification for the APM Performance Pathway (APP), especially as related to the scoring for the quality and improvement performance categories scoring; and
4. APMA requested that the Cost category remain at 15 percent.

Read the full comment letter at [www.apma.org/commentletters](http://www.apma.org/commentletters).

# KSUCPM Senior Associate Dean Vince Hetherington, DPM, Retires



Vince Hetherington, DPM

Following nearly 32 years supporting the Kent State University College of Podiatric Medicine (KSUCPM), as well as the entirety of the podiatric community, Vincent Hetherington, DPM, retired on September 30.

Hetherington received his Doctor of Podiatric Medicine in 1977, and a Master of Science in Podiatric Surgery in 1981, both from the Temple University School of Podiatric Medicine (formerly the Pennsylvania College of Podiatric Medicine).

Hetherington began his tenure at KSUCPM in 1989 as a Professor and Chairman in the Department of Surgery, shortly after the Dean of Academic Affairs, and ultimately, Senior Associate Dean when the Ohio College of Podiatric Medicine was acquired by Kent State University in 2012, a transition in which Hetherington was a driving force.

He has served as residency director for the KSUCPM University Hospital Residency Program and has been the leader through decades of the college's accreditation programming. His "students first" service over three decades has led to amazing progress, change and passion for thousands of CPM graduates.

"I met Dr. Hetherington as a first-year student in 1993. At first, I felt intimidated by his title and position but quickly learned he was approachable, kind, patient, knowledgeable and well respected by

the students and faculty at OCPM," said OHFAMA 1st Vice President Kelly Whaley, DPM. "I am grateful to have worked with him as a student and resident and I am honored to call him my Dean, my colleague and my friend."

The Brooklyn, New York native's impact reaches far beyond the KSUCPM campus, however, Hetherington is a recipient of a Senior International Fellowship at the National Institute of Health's Fogarty International Center, has received international invitations in Austria, China and Korea, and has served on the International Federation of Podiatrists, the International Academy of Podiatric Medical Educators, and the World Congress of Podiatry. Most recently, in 2014, Dr. Hetherington was inducted as a Fellow of the Faculty of Podiatric Medicine of the Royal College of Physicians and Surgeons in Glasgow.

To leave the profession even stronger, Dr. Hetherington has served on many national and international committees, led various research initiatives, has edited and contributed chapters to three textbooks and played a key role in the writing and editing of over 80 other publications. He also has played a key role in developing opportunities for students and colleagues to earn international experience through the Foot & Ankle Renaissance CME program, as well as student rotations, both in Italy.

In his well-deserved retirement, Dr. Hetherington plans to spend time with his wife Jo, their daughter, Nancy, and his grandchildren. Hetherington is hoping to continue his work at CPM in Emeritus Status through student mentorship, guest lectures, research, and furthering CPM international programming.

## OHFAMA CLASSIFIEDS

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### Rare Opportunity to Buy-in/ Purchase – Northeast Ohio

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### Associate Position - Ohio-Greater Dayton Area

Established practice (four locations) looking for a full-time podiatrist with the opportunity for partnership. Individual should be highly motivated, personable and have a strong work ethic. Must have completed a three-year surgical residency and must be board certified by the American Board of Foot and Ankle Surgery or Board Qualified pursuing certification in forefoot and rear-foot surgery. Practice has excellent reputation, EHR, digital x-ray, DME supplies, hospital and surgical center affiliation. Competitive salary, bonus incentive, opportunity for ownership in practice and surgical hospital. Email cover letter, CV, transcripts and letters of reference to [Podiatry2020@gmail.com](mailto:Podiatry2020@gmail.com)

### Experienced Associate Wanted - Western Michigan

Western MI - Established practice seeking experienced associate for part-time employment. Opportunity to practice in busy practice without ownership responsibilities. Competitive compensation. Flexible schedule. Multiple surgery opportunities available. Contact: [yourpracticenow@gmail.com](mailto:yourpracticenow@gmail.com)

### Immediate Position Available

Northeast, Ohio – Immediate position available for a full-time associate for a very busy (\$1m annual receipts) 52 year old solo practice. Competitive salary with bonus and 401k. Great buy-in/purchase potential. Great working environment. Please forward CV to [john@infinitemedtech.com](mailto:john@infinitemedtech.com)

# Make Your OPPAC Contribution Today!

OHFAMA's legislative success relies on member contributions to our political action committee — the Ohio Podiatric Political Action Committee (OPPAC).

In the 2020 election cycle, your contributions helped OPPAC support 43 candidates who support and appreciate the work that podiatric physicians do to keep the people of Ohio moving.

Please consider making a personal donation to OPPAC today. Your generous OPPAC contribution will help preserve, protect, and advance podiatry in Ohio! It's easy. Go to OHFAMA.org, and under Advocacy, select state.



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## CALENDAR

### 2020

**October 22 – 24**

NEOAPM Fall Classic Seminar  
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**November 5 – 7**

GXMO Training  
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**November 5**

Reference Committee Meeting  
Virtual Meeting

**November 14**

OHFAMA House of Delegates  
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**December 15**

OHFAMA Service Awards Deadline  
Mail to OHFAMA Headquarters

### 2021

**February 25 – 27**

GXMO Training  
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**March 5 – 7**

NCAPM No Nonsense Seminar  
Holiday Inn | Independence  
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**May 20 – 22**

Annual Seminar  
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For more calendar information  
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# Top 10 COVID-19 Employer Mistakes to Avoid

By Daniel S. Zinsmaster and Courtney M. White, Dinsmore & Shohl LLP

COVID-19 has sent many employers into a workforce management tailspin. Laws, regulations, and recommendations change daily, and as the pandemic continues to affect the workplace, the risk of legal complacency increases. The list below identifies the top 10 mistakes for employers to avoid during the COVID-19 pandemic.

## **Mistake 1: Failing To Prepare and Update a COVID-19 Response Plan.**

Not only are COVID-19 response plans legal requirements in some states, but they also serve as a useful resource for both employers and employees. The Occupational Safety and Health Administration (OSHA) can cite employers for recognized hazards if they fail to prevent or abate them. Businesses that operate without a well-developed response plan will be exposed to several legal and business risks. Along with those risks, businesses jeopardize their goodwill and reputations for failing to protect their employees. A proper response plan can help employers maintain operations while protecting their workforce and providing useful information to their employees to help prevent the spread of COVID-19 in the workplace.

## **Mistake 2: Failing to Take Affirmative Steps during the Onboarding Process to Avoid Liability.**

COVID-19 has impacted hiring and onboarding processes. Notable changes include candidate interviews by phone or video conferencing and the ability to complete Form I-9 employment verifications electronically. Employers should clearly articulate job duties and protect themselves during this process. Employers must also anticipate potential problems and address liability concerns in offer letters and pre-employment screening. While waiver agreements between employers and employees are disfavored and often unenforceable, there are options an employer can consider using. For example, an employer can implement an arbitration agreement to avoid the time, expense, and publicity associated with litigation in the court system. These need to be carefully drafted to minimize the appearance of coercion and avoid arguments of unenforceability. Further, employers must avoid mistakes such as placing these solely in an employee handbook, which is not a binding contract. Because arbitration is a matter of consent, a separate document can prove vital for enforceability.

## **Mistake 3: Not Providing Training in a Recorded Format for All Employees to View on Demand.**

Employers must educate their employees on the development of new protocols before reopening. In fact, in many states employers are required to roll out COVID-19 Preparedness Training to all employees. Training should cover concepts such as sanitation in the workplace, social distancing, required Personal Protective Equipment (PPE), and other procedures and protocols based on state and federal requirements. Employees must also be educated regarding the fundamentals of assessing risk while understanding the procedures on how to address a suspected case and even rumors of a suspected exposure. The best practice, especially in light of many statewide limits on indoor gatherings, is to make training available digitally so employees can continually reference training materials.

## **Mistake 4: Allowing Telecommuting without Having Proper Policies and Systems in Place.**

Employers need to implement a remote work policy that addresses the specific needs of the organization. Employers must carefully review state and federal wage and hour laws to make sure their plans are compliant. Workers must understand how to log telework hours, and organizations must specifically address confidential information and data privacy. Employers should also identify if there is an anticipated end date in a remote policy or if remote work will become the norm in the future. Finally, the remote work policy should clearly set forth performance, production, and availability expectations for employees working remotely to ensure company goals continue to be met at all times.

## **Mistake 5: Ignoring Non-COVID Legal Developments.**

With all the chaos caused by the pandemic, it is easy for employers to avoid addressing other legal developments. For example, in the landmark *Bostock v. Clayton County* decision, which was decided during the height of the pandemic, the United States Supreme Court held that an employer who fires an individual for his/her LGBTQ+ status violates Title VII of the Civil Rights Act of 1964. Employers must remain diligent to update their policies and train their employees on these new legal developments.



### **Mistake 6: Allowing Employees to Receive Sick Pay or PPP Funds and Unemployment Simultaneously.**

During the period for enhanced unemployment benefits, unemployment fraud drastically increased. In addition, there are oversights that can expose both employers and employees to unintended liability. Employers and employees are prohibited from double dipping to collect unemployment. Employees must report all wages earned when certifying for unemployment. Moreover, self-employed workers who applied for unemployment and the Paycheck Protection Program (PPP) and received a PPP loan are required to withdraw from unemployment. Simply put, there are substantial risks for those individuals and organizations that try to game the system.

### **Mistake 7: Not Considering Retaliation and the National Labor Relations Act When Making Termination and Return-To-Work Decisions.**

Although the CDC has identified the high-risk-for-severe-illness population and recommended employers protect these employees, organizations must be wary about how they make employment decisions with this information. An employer cannot exclude the employee “solely because the worker has a disability that places him at a ‘higher risk for severe illness’” if the employee contracts COVID-19—unless the employee’s disability poses a “direct threat” that cannot be eliminated or reduced by reasonable accommodation. Employers should follow the same procedures they would in reductions-in-force situations, such as statistical analysis to avoid disparately affecting protected classes.

Likewise, the National Labor Relations Act provides all workers—regardless of union membership—with a job-protected right to engage in “concerted activity for the purpose of mutual aid or protection.” The NLRA only protects group-based activities, not individuals seeking protection solely to protect themselves. Employers must consider this to avoid a potential labor charge related to employees who participate in a work stoppage based on a good-faith belief that their working conditions are abnormally dangerous.

### **Mistake 8: Failing to Understand Federal and State Leave Laws and How These Overlap.**

Federal and state leave laws are difficult to navigate. What’s more, the country is entering a new school year, forcing many to stay home and care for children who are learning remotely. This is causing additional headaches for employers and employees alike. Regardless, organizations must address when certain laws apply, how they overlap, and how business goals can be met under these circumstances.

### **Mistake 9: Ignoring Potential Disability Accommodations.**

COVID-19 employment litigation is skyrocketing and is only expected to increase as the pandemic rages on. One of the emerging trends involves the ADA. Depending on the circumstances, employers may need to provide reasonable accommodations that offer protection to individuals whose disability puts them at a greater risk of complications associated with COVID-19. This includes employees with certain preexisting mental health conditions who have increased anxiety while coping with the COVID-19 pandemic. On that basis, engaging in the interactive process to determine whether the condition is a disability and exploring potential accommodations are critical to avoid liability.

### **Mistake 10: Disregarding the Importance of Public Relations and Social Media for Reputation Purposes.**

Business reputation is more critical than ever in the digital world. One bad incident can go viral and corrode an organization’s goodwill. Not only are we currently faced with the COVID-19 pandemic, but the nation is also engaged in a long-overdue battle with systemic racism and inequality.

Employers who fail to protect their workforce are facing harsh social media backlash. Employers must establish their commitment to the safety of their employees and adopt policies and protocols that demonstrate their intentions to put employees first. Although there may be greater initial expenses, taking action now can prevent substantial liability in the future.



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## The 21st Century Cures Act: What Physicians Need to Know

### What is the 21st Century Cures Act?

This is federal legislation designed to ensure patients can access their health records and information easily and at no additional cost. Beginning November 1, 2020 all clinical notes, laboratory results, radiology results, and procedure results must be made available to your patients. The Cures Act is also designed to accelerate medical product development, and bring new innovation and advances to patients faster and more efficiently.

### Who needs to comply with the Cures Act?

Any practice (regardless of size) and any provider that utilizes an electronic health record (EHR) system or any form of health information technology (IT) must comply with the Cures Act. Contact your EHR vendor to learn more about what your practice and providers need to do to comply.

### Are there any Cures Act exemptions?

You and your practice are exempt if you:

- Fully use paper charts for your patient health records
- Are a behavioral health provider, as psychotherapy notes are excluded

### What happens if I don't comply by November 1? Are there penalties for non-compliance?

There will be penalties if practices and providers do not adhere by November 1, 2020. However, specific penalties have not yet been announced.

### What are the benefits of sharing notes with patients?

A recent study found that patients who read their notes:

- Have a better understanding of their health and medical conditions
- Recall their care plan more accurately
- Are better prepared for visits
- Feel more in control of their care
- Take better care of themselves
- More frequently take their medications as prescribed
- Have better conversations and stronger relationships with their doctors

### Does sharing patient notes increase liability and lawsuits?

Data on liability risk with other forms of transparent communication in healthcare, such as disclosure of medical error, suggest open and honest communication may decrease lawsuits.

### What can I do to prepare for November 1?

- Contact your EHR vendor. They should be able to help answer questions about what you may need to do to comply with the Cures Act, including how to share patient notes
- If you do not have an EHR, review your current patient information-releasing process

Please watch for future communications from OHFAMA regarding this Act.

## OHFAMA NEWS BRIEFS

### ECM Offers New Member Benefit Programs

Not too many years ago most physicians made house calls, grabbing the Gladstone bag and running to the rescue when duty called. These days, however, the traditional doctor's bag just isn't big enough to carry all the available tools to treat patients, leaving many services to be performed by ancillary businesses. And while these services are still at the direction and oversight of the treating physicians, their practices lose out in both the continuum of care and the revenue associated with that services.

The decreases in time and income have also hit the ancillary service providers. Physicians and their staff have little leisure to meet with providers, and when they can sit down together, everyone shares the same story of working harder, making less, and envisioning little change for the future in the practice of medicine.

Not satisfied with these dire prospects and the resulting shuffle of patients and their needs, the founders of ECM Medical sought to tackle the issue from within. Keith, Matt, and Michael each have over 20 years of experience in ancillary healthcare marketing and have developed a business model that reintroduces growth-generating programs back

into the physician's practice. Through their model, FTEs are eliminated, while introducing low-entry expense and high return on investment. More importantly, patients' focus is returned to the physician's practice, creating a better continuum of care.

ECM Medical might not be able to squeeze all of their medical equipment back into the old Gladstone bag, yet they can lighten the load by returning revenue to the practice and by realigning the physician to the center of patient care.

To explore how ECM Medical Point of Care Dispensing could benefit your practice contact:

Michael Purcell at [michael@ecmmd.com](mailto:michael@ecmmd.com) or call 843-478-4168.

To explore how IncreMedical Physical Therapy Services could benefit your practice contact:

Keith Hinnant at [KHinnant@incremedical.com](mailto:KHinnant@incremedical.com) or call 803-915-7667



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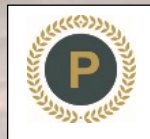
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The Ohio Foot and Ankle Medical Foundation is approved by the Council of Podiatric Medical Education as a sponsor of continuing education in podiatric medicine.

**OCTOBER 22-24, 2020**

[www.neoapm.org](http://www.neoapm.org)



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