FROM THE PRESIDENT
PETER GOLDBWEIG, DO

I hope everyone enjoyed the summer.

We are still watching and waiting for Novitas (NJ Medicare Carrier) to release the final ruling on the MAC draft. The comment period for CMS physician fee schedule just closed. The following can be found in the fact sheet attached to the CMS Physician Fee Schedule (I put the sentence in bold/underline):

“Application of Beneficiary Cost Sharing to Anesthesia Related to Screening Colonoscopies. The Medicare law waives deductible and coinsurance applicable to screening colonoscopy. Increasingly, anesthesia separately provided by an anesthesia professional is becoming the prevalent practice in connection with screening colonoscopies, replacing the previous standard of moderate sedation provided intravenously by the endoscopist, which was bundled into the payment for the screening colonoscopy codes. When provided separately with a screening colonoscopy, Medicare did not waive deductible and coinsurance associated with the separately provided anesthesia. If adopted in the final rule, this revision would have the beneficial result of further reducing beneficiaries’ cost-sharing obligations under Part B. This is because the expanded definition of screening colonoscopy would bring anesthesia furnished in conjunction with the service within the scope of the provision that Medicare Part B pays 100 percent of the Medicare payment amount established under the PFS for certain colorectal cancer screening tests.”

This seems to contradict the MAC draft by Novitas. We have requested Novitas to rule after the final CMS Physician Fee Schedule.

We look forward to meeting as many of our members and/or potential new members at our upcoming “On the Road Dinner” series.

Just a reminder to everyone that the ASA Annual Meeting is being held in New Orleans, October 11-15th. Hope to see everyone there (if you’re attending).

Peter Goldzweig
President

SAVE THE DATE
NJSSA’s 56th Annual Spring Meeting
March 14, 2015
Hyatt Regency, New Brunswick
BAN THE BOX BECOMES LAW: WHAT IT MEANS FOR YOUR BUSINESS

On August 12, Governor Christie signed into law The Opportunity to Compete Act (A1999), which prohibits employers, during the initial employment application process, from inquiring about a job applicant's criminal record, and from requiring a job applicant to complete an application that makes such inquiries. The new law will take effect on March 1, 2015. The New Jersey Business and Industry Association has provided us with some Fast Facts on what you need to know to protect your business:

Businesses with fewer than 15 employees are exempt. The law impacts only businesses with 15 or more employees.

Covered employers cannot make oral or written inquiry into an applicant's criminal record until after the initial employment application process "ending when an employer has conducted a first interview." The first interview can be in person or "by any other means."

Covered employers can no longer have a box and/or an associated question asking about an applicant's criminal history on an employment application.

Advertisements for open positions are prohibited from stating that the “employer will not consider any applicant who has been arrested or convicted of one or more crimes or offenses.”

Protections are in place for employers should they decide not to hire the person after they obtain information about a criminal record.

There is no civil cause of action AND there is very strong language that protects employers from lawsuits if a person attempts to sue an employer under other statutes utilizing evidence of a violation of this act. Civil penalties are the sole remedy.

FEDERAL: HYDROCODONE BECOMES SCHEDULE II DRUG

On August 22, the U.S. Drug Enforcement Administration (DEA) announced that Hydrocodone will be classified as a Schedule II drug, placing tougher restrictions on the medication. Hydrocodone is the most widely prescribed painkiller in the United States. This new ruling is in line with current efforts by the DEA to stop the growing epidemic of prescription drug abuse. Hydrocodone will officially become a Schedule II drug on October 6, 2014. The Final Rule issued by the DEA is available for preview by clicking here.

NEW JERSEY PARTICIPATES IN CLINICAL TRIAL TO PREVENT HIV

Twenty-five women in Newark are currently participating in a new clinical trial, which is asking HIV-negative females to take HIV drugs to prevent transmission. The research into the prevention approach is called pre-exposure prophylaxis, or PrEP. Recent guidelines from the U.S. Centers for Disease Control and Prevention stated that PrEP is the newest and possibly best option to prevent the spread of HIV. Under PrEP, the patient must take the HIV drug Truvada once daily. Approximately 1,400 people in the United States will be prescribed Truvada for PrEP in 2014. PrEP trials are currently being coordinated in the Garden State by Rutgers Department of Medicine.

New Jersey ranks among states with the highest number of HIV-positive women in the country. Nationally, only 23 percent of individuals with HIV are women. Yet in Newark, almost 36 percent of infected individuals
are female. According to the annual HIV/AIDS report by the New Jersey Department of Health, 37,511 individuals were diagnosed as living with AIDS or HIV at the end of 2013. There are nearly 1,000 more cases than in 2012 and about 20 percent more than in the 1990s. Essex County is disproportionately impacted by the disease, with more than 23,000 cases—the highest incidence rate in the Garden State.

**UPDATE: AFFORDABLE CARE ACT IN NEW JERSEY**

Approximately 9,600 residents are currently in danger of losing their health insurance through the federal exchange due to failure to prove citizenship or immigration status. The Affordable Care Act limited access to the marketplace to U.S. citizens and immigrants with permanent “green cards.” For some, the social security or permanent resident card number provided does not match federal records. These individuals must provide documentation confirming their status by September 5 or they will lose their health insurance on September 30, 2014.

This summer, the U.S. Court of Appeals for the D.C. Circuit ruled that language in the 2010 Affordable Care Act prevents the federal government from providing tax credits to low and middle-income residents. Meanwhile, a Richmond, Virginia based 4th Circuit court panel decided that the federal government does in fact have the right to provide tax credits to these individuals. The rulings could affect the 36 states that rely on the federal marketplace, including New Jersey. Approximately 84 percent of New Jerseyans enrolled in the federal exchange could be in jeopardy of losing their subsidies, pending appeals to these two rulings. Subsidies are available to all residents with incomes between 100 percent and 400 percent of the federal poverty line, which amounts to $11,670-$46,680 for a single person and $233,850-$95,400 for a family of four.

At the end of the April enrollment period, 161,775 New Jerseyans enrolled in the federal exchange. The next open enrollment period will begin on November 15.

**LEGAL REPORT**

**JOHN FANBURG, ESQ.**

**FEDERAL UPDATE**

**CMS Proposes Updates to Physician Fee Schedule Policies**

On July 11, 2014, the Centers for Medicare & Medicaid Services (“CMS”) published its proposed updates to the Medicare Physician Fee Schedule (“PFS”) and Part B payment policies that will affect services provided by physicians on or after January 1, 2015 (CMS-1612-P).

Key features of the proposed rule include the following:

Defining screening colonoscopy to include anesthesia so that beneficiaries do not have to pay coinsurance on the anesthesia portion of a screening colonoscopy when furnished by an anesthesiologist

Adjusting payments under the PFS to more accurately reflect local differences in the cost of operating a medical practice.

New malpractice RVUs for all services.

Collection of data on services furnished in off-campus provider-based departments beginning in 2015.

Changes to the Open Payments Program, regarding the disclosure of relationships between providers and pharmaceutical and device companies, including removal of an exclusion for reimbursement related to CME; requiring the reporting of the marketed name of the related covered and non-covered drugs, devices,
biologicals or medical supplies unless the payment is not related to the product; and requiring manufacturers to report stocks, options and other ownership interests as separate categories.

STATE UPDATE

New CME Requirement Regarding End of Life Care

On December 20, 2011, N.J.S.A. 45:9-7.7, was passed into law, which implemented a new continuing medical education (“CME”) requirement regarding end-of-life care. The new law became effective as of January 1, 2013. The new law requires that the number of credits of CME for all physicians licensed in New Jersey include two credits of educational programs related to end-of-life care.

The New Jersey State Board of Medical Examiners (“BME”) may waive the requirement for a specific individual if the BME deems it appropriate to do so in accordance with N.J.S.A. 45:9-7.1. Under N.J.S.A. 45:9-7.1, the BME may waive requirements for CME on an individual basis for reasons of hardship such as illness or disability, retirement of license, or other good cause.

The BME has indicated that if a licensee believes that the mandate has little applicability to his or her practice area, waivers or extensions can be requested. The licensee must send to the BME, within sixty days of the expiration of the biennial renewal period (i.e., April 30, 2015), by certified mail, return receipt requested, or other proof of delivery, a letter explaining why such waiver or exemption is applicable. Because anesthesiologists do not interact with patients regarding end-of-life care issues, the BME may waive the requirement if an anesthesiologist petitions the BME to do so. However, according to the statute and guidance from the BME, the waiver is only valid for the current biennial period at the time of issuance.

New Prescription Blanks Must Be Used After September 20, 2014

The New Jersey Division of Consumer Affairs (“DCA”) has adopted new regulations regarding prescription blanks used by medical practitioners in the State of New Jersey. For prescriptions written after September 20, 2014, practitioners may no longer use the old type of New Jersey Prescription Blanks (“NJPBs”). The new NJPBs may be ordered from any of the approved NJPB vendors and sales representatives from the list on the DCA’s website at http://www.njconsumeraffairs.gov/njpb.pdf. The new NJPBs are required to contain the following security features:

- **Thermochromic ink**, which changes color in response to body heat. The heat-activated ink will appear in a small Rx logo on the front of the prescription blank. It will fade when touched, and return to its original color when it cools.

- **Microprint** of 0.5-point type or smaller. The front of each prescription blank will include a line of microprint that is readable when viewed at 500 percent magnification, but becomes illegible when scanned or photocopied.

- A **hollow “VOID”** hidden word feature that is invisible on a genuine prescription blank, but should appear in illegally scanned or copied versions.

- A **unique 15-digit identification number** for each prescription blank. The alphanumeric code will identify the vendor that created the blank, the vendor’s order number, and a six-digit serial number for each separate prescription blank.

- A **barcode** matching the prescription blank’s unique 15-digit identification number. The barcode will enable pharmacists to scan prescription data into the New Jersey Prescription Monitoring Program (“NJMPMP”). The NJMPMP, maintained by the DCA, records all prescription sales in New Jersey of Controlled Dangerous Substances and Human Growth Hormone.
A complete list of all security features will be printed on the back of the prescription blank.

**The new prescription blanks** will be green on the front and blue on the back. This will enable them to be more easily distinguished from the old blanks, which are blue on the front and green on the back.

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# Everything you need to know about New Jersey Prescription Blanks

*As of September 20, 2014, all prescribers who write or issue a prescription must use the new prescription blank format for all prescriptions, including medications, lab tests, medical devices, eye glasses and medical procedures.*

The Division of Consumer Affairs has extended the last date to use old prescription blanks. Both old and new prescription blanks may be used through September 19, 2014. **Effective September 20, 2014, prescriptions must be issued only on the new prescription blanks.**

*If you have not already placed your orders for new prescription blanks, do so immediately.*

**MANDATORY: Certification of Destruction for Old Prescription Blanks**

All prescribers or healthcare facilities using New Jersey Prescription Blanks (NJPBs) must notify the Division of Consumer Affairs' Drug Control Unit of the destruction of NJPBs by submitting the [Certification of Destruction form](#).

Here are some things you should know before completing this form:

This form is **MANDATED** by the state.

- **A separate certification form** must be completed for each unique batch number.

  Under "II. Reason for Destruction," **Unused Blanks** should be checked.

  The 15 Digit ID number corresponds with the **new NJPBs only**. **This does not apply to the old, blue NJPBs and therefore the 15 Digit ID does not need to be included on the Certification of Destruction form.**

  The person destroying the blanks **cannot** be the same person who witnesses the destruction.

- **A photocopy of the first and last serial numbers** for the NJPBs in each batch must be submitted with the certification form.

**Using a Third-Party Vendor to Destroy Your Old Blanks?**

If you are using a third-party vendor (i.e. shredding company) to destroy the old NJPBs, the service must comply with HIPAA regulations. The third-party vendor must complete the section on the top, right hand corner of the form, titled "Person Destroying NJPBs." The third-party vendor should include the company name under "Affiliation," even though the form says "Name of prescriber or healthcare facility." *(This has been confirmed by the New Jersey Drug Control Unit.)*

A sample form for third-party vendors can be found [here](#).
The prescriber should obtain a copy of the receipt for the pick-up and/or destruction of the NJPBs from the third-party vendor. **A photocopy of this receipt must accompany the completed form.**

**Submitting the Form**
Upon destruction, the completed form, photocopies of each batch of NJPBs, and a photocopy of the third-party vendor receipt (if applicable), must be e-mailed or mailed to the Drug Control Unit:

New Jersey Office of the Attorney General  
Division of Consumer Affairs  
Drug Control Unit- NJPB  
124 Halsey Street, 6th floor PO Box 45045  
Newark, New Jersey 07101  
NJPB@dca.lps.state.nj.us  
(973) 504-6200

Physicians should retain a copy of their submission for their records.  
**As of September 20, 2014, all old, unused prescription blanks must be destroyed. Only NEW NJPBs can be used as of September 20, 2014.**

**Electronic Medical Records**
Practitioners may request NJPBs that are pre-printed without the practitioner's name, address and/or NPI number only if the practitioner uses an electronic health records system. As a result, the Division requests that prior to printing such blanks for a practitioner, the vendor must document that the practitioner has an electronic health records program. The vendor will ask the practitioner for the name and manufacturer of the electronic health records program in use in order to complete the state's mandated forms.

**Use of old Prescription Blanks**
Practitioners will be permitted to use old prescription blanks through September 19, 2014. As of September 20, practitioners must use **only** the new prescription blanks when issuing prescriptions to patients.

For a list of approved New Jersey Prescription Blanks print vendor and sales representatives, click here.

For information on the new security requirements for New Jersey Prescription Blanks, click here.

To report an incident regarding New Jersey Prescription Blanks, click here.

Questions/concerns regarding the new requirements for New Jersey Prescription Blanks:

- Controlled Dangerous Substances (CDS)  
  CDS@dca.lps.state.nj.us
- New Jersey Prescription Blanks (NJPBs)  
  NJPB@dca.lps.state.nj.us
- New Jersey Drug Control Unit  
  (973) 504-6351