This newsletter provides a recap of the 100th Anniversary of the AAOMS Annual Meeting and how this correlated with OMSNIC’s 30th Anniversary defending the OMS specialty.
Cosmetic surgery, as defined by the Board of Cosmetic Surgery, means “procedures, techniques and principles focused on enhancing a patient’s appearance. Improving aesthetic appeal, symmetry and proportion are the key goals.” By this definition, Oral and Maxillofacial Surgeons who perform orthognathic surgery could, theoretically, be considered cosmetic surgeons. Orthognathic surgery has the potential to make life changing cosmetic improvements to a patient. As a natural progression in their training, some OMS have elected to expand their ability to help patients by learning and including traditional facial cosmetic treatments into their practices.

In the 1980’s, pioneers in OMS learned about, and began performing, traditional cosmetic facial surgery. Today, these procedures are considered more common within the realm of Oral and Maxillofacial Surgery. Currently, 14% of OMS insured by OMSNIC have opted for coverage to perform Cosmetic Maxillofacial Surgery including Facelift, Rhinoplasty and Blepharoplasty, as well as non-surgical procedures such as Botox, fillers, chemical peels and laser treatments.

With a background in dentistry (which emphasizes attention to detail, manual dexterity, and esthetic appreciation) and residency training focused on surgical improvement of form and function of the face and mouth, OMS have the foundation to build upon and expand their scope of practice to include maxillofacial cosmetic procedures. Other factors provide OMS with the skills to succeed in this arena. Understanding the face from the inside and knowing ideal facial structure and proportion through Orthognathic Surgery, the OMS has a broad range of treatment options and perspectives on facial beauty and harmony. Office-based surgery and anesthesia training allow OMS to perform common cosmetic maxillofacial procedures on healthy patients under IV sedation and local anesthesia in an office setting, resulting in significant cost savings for the patient. Finally, OMS practices have an existing flow of patients who may benefit from esthetic procedures. The demographics of the facial cosmetic surgery patient are similar to that of the dental implant patient, allowing the OMS to treat existing patients and their families with whom they already have an established relationship.

To broaden traditional OMS services to include cosmetic procedures, appropriate education is essential. Exposure to cosmetic maxillofacial surgery during OMS residency varies from program to program, meaning most surgeons will need additional training and experience after residency if they wish to provide these services. Some OMS may prefer to offer limited cosmetic services like fillers and neurotoxins. Specific surgical procedures such as Rhinoplasty or Blepharoplasty, will also require additional training, such as cadaver courses, live surgery workshops and fellowships offered by members of our profession. In addition to these resources, the AAOMS Clinical Interest Group on Cosmetic Maxillofacial Surgery offers many educational opportunities, in addition to the American Academy of Cosmetic Surgery, and the American Academy of Facial Plastic and Reconstructive Surgery.
Although cosmetic patients are generally pleasant, realistic and appreciative, it has been reported that 10% have an unfavorable psychological profile. It is important that you evaluate the patient prior to performing the procedure and set expectations. If you do not believe you can please the patient, do not try. It is better to explain that a few wrinkles will remain prior to surgery rather than wait until the post-op period when the patient may interpret the explanation as an excuse. The goal of esthetic treatment should be to achieve a natural appearance while using the most conservative techniques available. When evaluating the patient, if you can see what the patient sees, have the tools to fix it, manage their expectations and handle complications; then, treatment can be very rewarding for both the patient and surgeon alike.

High quality clinical photography is an essential component of the successful cosmetic practice as it provides a means by which to document pre-op appearance and post-op results, and to provide a sample of the surgeon’s previous work to prospective patients. In today’s world, the public frequently determines a surgeon’s skill by viewing their website photo gallery. It is important to remember to obtain the patient’s written consent prior to using their images in the public domain.

It is also important to appreciate the role that well-trained staff can play in the cosmetic surgery practice by building relationships with cosmetic patients. This relationship allows the patient another avenue to communicate thoughts and concerns about treatment that they may not reveal to the doctor. This information may affect both surgical outcome and patient satisfaction.

Lastly, a comprehensive informed consent process is as important for the cosmetic surgery patient as it is for the traditional OMS patient. This discussion allows the surgeon to review the major risks and potential outcomes of the procedure and to uncover the risk of unrealistic expectations. To assist in documenting this process, OMSNIC has developed Informed Consent Forms, in both English and Spanish, for the most commonly performed facial cosmetic procedures. These forms can be downloaded from the OMSNIC website and tailored to fit your practice.

How to Access the Related Resources:
How to access the related resources:

2. Click on “Informed Consent” on the left side of the screen.
3. Under the heading “Cosmetic Treatment” you will find Cosmetic Informed Consent Forms.
30 Years of Defending and Protecting the Specialty - The Beat Goes On!

James Q. Swift, DDS - Chair of the OMSNIC Board

We are still basking in the afterglow of the AAOMS 100th year anniversary and the very special annual session in Chicago. It was a tremendous event with presentations from surgeons who reminisced about our most respected specialty of oral and maxillofacial surgery.

Anniversary events give rise to reflection of one’s own history and origin. It was coincidental that the 100 years celebration of the AAOMS correlated with the 30 year history of our medical professional liability company, OMSNIC, originally known as AAOMS Mutual. We had the opportunity to reminisce at our annual OMSNIC recognition dinner as we entertained many of those who helped to make us the company we are today. It was a great opportunity for our current directors, committee members and senior management to share memories with past long-serving directors Drs. Jack Bolton, Lew Estabrooks, Jeff Topf, Duke Deegan, Steve Holmes, Jerry Jones and Ms. Victoria Sterling, all of whom were in Chicago with us.

During our many meetings, we had the opportunity to report that since inception our company has managed over 15,000 oral and maxillofacial surgery claims, by far the most over the last thirty years of any company providing medical professional liability coverage to OMS. And we have taken more lawsuits against OMS to trial than any other company during that time as well. No company has even come close to matching our success with defending OMS claims. We have a fantastic team of professionals who have contributed to our success and exceptional results. Claims against oral surgeons have remained flat in frequency due in part to our continuous efforts to quell lawsuits. As many would expect, we have seen a rise in severity of the claims we have handled which is also true for the medical professional liability companies worldwide. Our committees, with committed oral and maxillofacial surgeons representing our specialty, in conjunction with the exceptional personnel working for our company, are responsible for our continued success.

Our policyholders have been the beneficiaries of this success. We reported that retired shareholders over these thirty years who received the proceeds of their OMSCap preferred stock investment were paid $43 million versus original investments of $8 million.

We realize our commitment to our specialty goes beyond fighting malpractice claims. Historically, OMSNIC has been very supportive of our OMS residency training programs. Today’s OMS residents are the specialty’s future and will inherit our practices and patients. The OMSNIC sponsored and maintained Residents Surgical Log (RSL) is utilized in over 95% of OMS educational programs. The number of our educational presentations made to residents in training has increased significantly over the last two years. We continue to strongly support the ROAAOMS organization by sponsoring activities and providing information that will facilitate their transition to practice.
Board Message

30 Years of Defending and Protecting the Specialty - The Beat Goes On!

continued from previous page

While our first responsibility is to provide our OMS policyholders with medical professional liability insurance coverage, additional benefits are also featured in the OMSNIC policy and are the result of our constant efforts to find other ways we can be of greater value to our policyholders. For example:

- Group Personal Excess (“Umbrella”) Coverage through Chubb- each OMSNIC policyholder is provided with $1 million in coverage; and
- Cyber Liability Coverage (Data Defense) - is provided in the amount of $100,000 for individuals, a maximum of $350,000 for groups of 2-10, and a maximum of $500,000 for groups of 11+. And we are pleased to announce that, in response to requests from policyholders, beginning in the first quarter of 2019 optional higher limits will be available for an additional charge.

As the holidays approach and the end to another year is imminent, we look forward to 2019, which will bring new challenges and opportunities to face. As always, we value your input. Please stay in touch. Visit our website. Make contact with our directors, officers and staff. Let us know your concerns. Consider serving on our committees. Thank you for your support and your loyalty.
The Importance of a Third Party Cybersecurity Audit in Your Practice

Justin Joy, JD - Law Firm of Lewis Thomasone

Legal and Regulatory
Covered entities (oral & maxillofacial surgeons) are required to completely and accurately assess the potential risks and vulnerabilities to the security of ePHI, held by a medical or dental practice. In order to meet its obligations for thorough and accurate assessments, a practice may choose to engage a company with the requisite expertise and capabilities in information security. IT firms and managed service providers focus on keeping your practice’s network, desktops, and applications running on a day-to-day basis. However, in most instances, these firms do not focus on the process of assessing and identifying vulnerabilities, which may create risk to your practice’s data. Some examples of vulnerabilities are: improper network configurations and security privileges, unsecured devices and out of date software. Covered entities must keep in mind that a single vulnerability may be the only “unlocked door” that a hacker needs to gain access to your network. Vulnerabilities are typically detected with the help of advanced cybersecurity tools and human network penetration testers. Additionally, if your IT firm engineered and setup your network environment, then from an audit perspective, an independent party is necessary to examine the work and provide feedback to you, regarding the security posture and any vulnerabilities within the environment.

The HHS Office for Civil Rights (OCR), which enforces HIPAA, requires that any assessment of your practice’s risk and vulnerabilities be documented. It is important to select a company that has the expertise in information security. The requirement of a proper security risk analysis has been a focus of recent resolution agreements between the OCR and covered entities who were found to be in violation of the HIPAA regulations. A common refrain in resolution agreements, which settle, include potential enforcement actions for HIPAA violations due to the covered entity’s lack of a documented risk analysis.

Benefits of An Independent Cybersecurity Audit
Companies who conduct independent cybersecurity audits will work with your IT vendor to understand your organization’s network environment. They will also take an exacting view of vulnerabilities within your system that may present significant risk to your patients’ ePHI. Practices must also be mindful that the requirement to analyze their risk and vulnerabilities is on a continuing basis. In this way, an audit by an independent firm can be valuable, and in many cases necessary, to reduce risk to your practice’s data and meet regulatory requirements.

The Security Rule also requires that assessment documentation must be updated any time there is an environmental or operational change that may potentially affect the security of your practice’s ePHI. Given the never-ending proliferation of cyber threats, such environmental changes are ongoing as is the assessment of the risk to your practices PHI. Reasonable security measures may be put in place; however, a practice must first be made aware of any deficiencies through regular assessments.

Black Talon Security can provide initial and ongoing risk assessments for OMS practices; for more information, contact Black Talon Security at (800) 683-3797 or blacktalonsecurity.com. OMSNIC members receive a 15% discount from Black Talon Security on its services.
Social Media and Your Practice
Julie Goldberg, DDS - Dental Education Coordinator

The OMSNIC Patient Safety and Risk Management Department receives many questions regarding how to best interact with patients through Social Media. The decision to use Social Media for your practice is ultimately up to each individual. However, social media can play a role in claims. Here is what we have learned:

1. **Keep It Professional: Maintain separate personal and business presences online**
   “Friending” or “Following” your patients through your personal profile can blur the professional doctor-patient relationship. It also could increase your exposure for unintentional HIPAA violations. The same holds true for your staff. Be sure to implement clear policies and procedures regarding staff’s interaction through professional and personal social media platforms.

2. **Market with Caution: Set Realistic Patient Expectations**
   Social media can allow you to reach a large number of current and prospective patients. You can share educational information about procedures you perform in your practice or give an inside look at your practice. This virtual “first impression” can help patient’s feel more comfortable at their first appointment, but it can also set patient expectations. It is recommended that you avoid statements such as “an expert in…” or “pain-free dentistry” which may give patients unrealistic expectations.

3. **Establish a Posting Policy: Best Practices to Manage Your Profiles**
   Who is responsible for managing your professional social media profiles? How frequently should you post? What information is appropriate to share, “like” or “retweet” for your practice? These are just a few questions that should be considered and addressed in your social media policy. It is important to remember that social media is a public platform, and as such, the information you share can be easily shared and consumed. “Going viral” may sound appealing from a marketing perspective, but only if the attention is positive for your practice. Best practices suggest keeping posts objective, and reference only reputable sources when sharing information for educational purposes.

4. **Protect Patient PHI: HIPAA Applies in the Digital World**
   **Post Patient Information Only After Proper Authorization**
   A testimonial or photograph of a positive treatment result can encourage prospective patients to seek treatment at your practice. However, be sure to have written authorization or release by the patient (or the patient’s guardian) to use their words, images (even if de-identified) and names.

   **You Have Options When Negative Reviews Arise**
   Social media is a global conversation platform, but one of the greatest risks is the inability to control the conversation. While there is benefit to asking patients to post about their positive experiences, they can also post negative comments about a dentist or their practice, whether the posted information is true or not.
Social Media and Your Practice

continued from previous page

When this happens, your first instinct may be to respond, but caution is warranted. Consider these tips to respond in a professional manner and avoid an inadvertent HIPAA violation:

- Pause and think about the options. First, is a response even necessary? Generally, patients may be more likely to trust your overall rating, even if a few negative reviews are included.
- Continue to encourage satisfied patients to post positive reviews to offset any negatives.
- As opposed to commenting on the review site itself, and depending on the situation, you may try to contact the patient via their HIPAA approved method of communication; whether that is by phone or mail.
- Alternatively, you may be able to hide or remove a review on the website by contacting the website's customer support. A reputation management company may be able to assist you in this process.

If, after considering the above, you believe there is value in responding to the review, or you want the chance to speak with the patient and address concerns, a generic de-identified response is likely your best option. A statement such as the one below does not directly acknowledge or confirm a relationship and gives the patient an opportunity to contact the office to address concerns.

Sample Response:

“We appreciate your feedback. Our office strives to provide an excellent experience, and we work hard to constantly improve our practice. In order to protect the privacy of our patients or potential patients, we do not address specific comments made online. Please contact our office to discuss any concerns that you may have.”

Ultimately, how you respond is your decision. However, revealing any personal information about the patient, or even acknowledging a patient-doctor relationship, can be considered a HIPAA violation. In these cases, patients can accuse the practice of negligence in protecting their personal health information. Avoid getting into a back-and-forth conversation with the patient. Assume that anything posted is in the public domain, and anything typed or e-mailed will create a permanent record. All posted or written information is also subject to discovery in litigation proceedings. This includes deleted information.

Conclusion

The very attributes that make Social Media attractive, its immediacy and engagement also increases the potential dangers linked to its usage. Remember to consider HIPAA Rules and Regulations, and maintain professionalism. If you would not say it in person, do not post it online.

Additional Resources

The ADA offers members a selection of resources related to social media best practices:

Social Media Policy for Dentists

The ADA’s Posting Policy: A helpful reference when drafting your practice’s policy

Social Media: Five Rules of Engagement
The Importance of Documenting Discussions with Patients on Blood Thinners

Kim Gersler, JD - Claims Manager

Female patient, age 66, presented to our insured with seven non-restorable teeth. Her medical history was significant due to a prior stroke and prescription blood thinner. Our insured examined the patient and discussed her medical history, developing a plan to extract all seven non-restorable teeth under IV sedation. Discontinuing the blood thinner was not recommended by the insured. The patient’s cardiologist was contacted by the insured and medical clearance was received in writing.

The insured performed the extractions as planned and the surgery was uneventful with appropriate hemostasis noted. Post-operative instructions were given and the patient was discharged in good condition in the company of her adult son. The post-operative instructions included contacting the insured on an emergency line if there was significant bleeding.

One day post-surgery, the patient’s adult son called the office and left a message during the evening to report bleeding. For unknown reasons, the adult son did not contact the emergency line as directed. When the office returned the call in the morning, the son conveyed that the patient had passed away during the night. It was alleged that the patient had been bleeding moderately from the extraction sites for nearly 48 hours following the surgery.

The patient’s family filed a lawsuit against the insured, alleging that the blood thinner should have been ceased and that the post-op instructions were inadequate. Our experts, including an oral surgeon and a cardiologist, were supportive of the insured’s treatment. The defense highlighted the risks of discontinuing the blood thinner given the patient’s medical history, as well as the specific post-operative instructions provided to the patient and family. After a short deliberation, the jury returned a verdict in favor of the insured.

Risk Management Tips:

- When treating a patient with a complicated medical history, it is helpful to consult with the patient’s other providers, and, in certain cases, to obtain medical clearance.
- Clear and contemporaneous notes of all procedures and conversations is critical to the defense of a claim.
- When a patient faces increased risk for a complication, this should be discussed with the patient and documented in the chart.
- Make all of your patients aware of the after-hours contact information in the event of any complication or emergency in writing, documenting the communication.

How to access the related resources:

2. Click on “Clinical and Office Documents” on the left side of the page.
3. Under the heading “Patient Education” you will find the following resource:
   - Education for Patients on Blood Thinners
OMSGuard Patient Safety and Risk Management Education
A wealth of complimentary education, training, and other custom resources are available. Member policyholders and staff can take online courses or attend live seminars for CE credits and premium discounts. Login to omsnic.com to access these resources.

**e-Learning Center**
A robust risk management education library that provides you and your staff with courses on demand that are free of charge and designed to be completed at your own pace. The curriculum covers patient safety and risk management as well as emerging issues. Content is written and presented by OMS and legal and insurance experts well versed in oral and maxillofacial procedures.

**Get CE Credit:** Earn CE credit upon successful completion of any e-Learning Center course.

**Live Seminars**
In a collaborative learning environment, OMSNIC’s team of speakers integrates case examples with nonclinical issues commonly seen in OMS claims. Check our online calendar for an upcoming seminar in your area and registration information. Member policyholders who attend a live seminar earn a renewable 5% risk management premium credit that is applicable for three policy periods.

**Can’t Attend a Live Seminar?** Patient Safety and Risk Management for the Oral and Maxillofacial Surgeon, available in the e-Learning Center, is a recorded version of the live seminar. Complete Patient Safety and Risk Management for the Oral and Maxillofacial Surgeon to earn 4 CEs and the 5% premium credit.

**ADA CERP® Continuation Education Recognition Program**
OMS National Insurance Company, RRG (OMSNIC) is an ADA CERP Recognized Provider.
ADA CERP is a service of the American Dental Association to assist dental professionals in identifying quality providers of continuing dental education.
ADA CERP does not approve or endorse individual courses or instructors, nor does it imply acceptance of credit hours by boards of dentistry. Concerns or complaints about a CE provider may be directed to the provider or to ADA CERP at www.ada.org/cerp.

**OMSNIC Board of Directors**
James Q. Swift, DDS  
Chair  
Michael J. Stronczek, DDS, MS  
Secretary  
Robert F. Guyette, DMD, MD  
Treasurer  
Colin Bell, DDS, MSD  
Nicholas Bournias, DDS  
Anthony M. Spina, DDS, MD  
William Passolt, CPA  
President & CEO  
Patricia Pigoni  
Sr. Vice President & COO  
Katherine Ehmann  
Sr. VP & CFO  
Matthew Nielsen  
Sr. VP Claims & Underwriting

**OMS Guardian Editor:** Patricia A. Pigoni
This newsletter is intended to provide information only on certain risk management topics, and is not to be construed as providing legal, medical or professional advice of any form whatsoever. It is your responsibility to evaluate the usefulness of the information provided herein. OMSNIC and its related, affiliated and subsidiary companies disclaim any and all warranties, expressed or implied, as to the quality, accuracy, or completeness of the information provided herein. Because federal, state and local laws vary by location, nothing in this newsletter is intended to serve as legal advice or to establish any standard of care. Legal advice, if desired, should be sought from competent counsel in your state.

OMS National Insurance Company, RRG  
6133 North River Road, Suite 650  Rosemont, IL 60018-5173  
800-522-6670  www.omsnic.com