

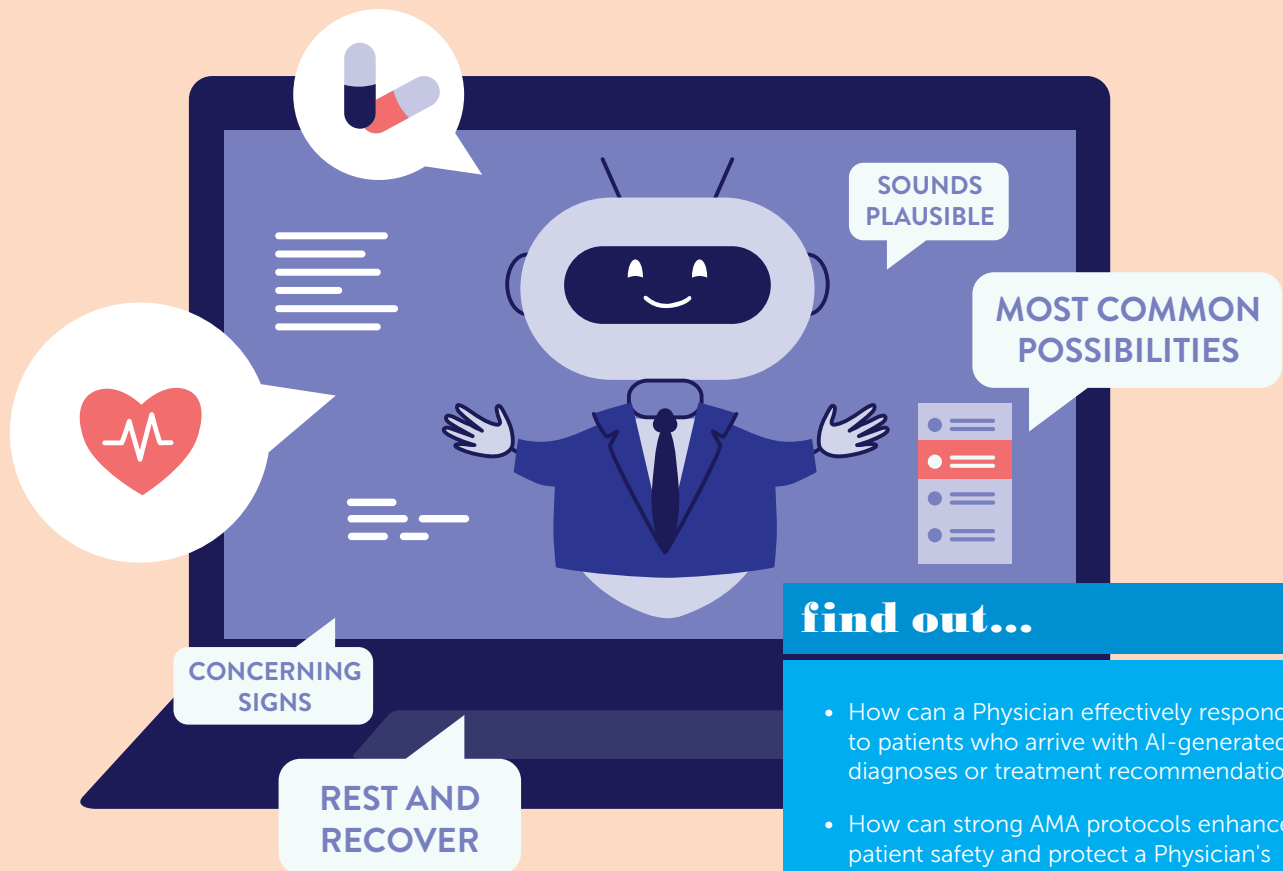
DOCTORS

Volume 34, No. 1

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When Patients Push Back: Navigating Noncompliance in the Age of AI



find out...

- How can a Physician effectively respond to patients who arrive with AI-generated diagnoses or treatment recommendations?
- How can strong AMA protocols enhance patient safety and protect a Physician's practice from liability exposure?
- How can a Physician align management within care teams in the event of patient noncompliance?

A LETTER FROM THE CHAIR OF THE BOARD

Dear Colleague:

Physicians today likely encounter patients with views on health and wellness that are shaped by Artificial Intelligence (AI). While this technology can be useful, it also introduces new challenges related to risk exposure, patient understanding, and adherence. This article explores the increasing influence of AI in patient interactions and offers strategies to help you navigate these conversations while maintaining patient trust and sound clinical judgment.

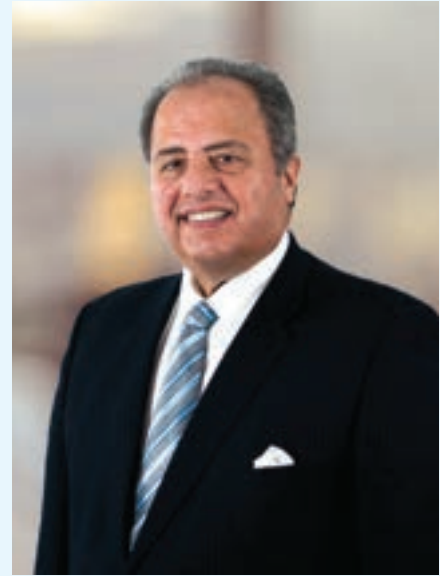
Sincerely,

George S. Malouf Jr., M.D., FACS

Chair of the Board

MEDICAL MUTUAL Liability Insurance Society of Maryland

Professionals Advocate Insurance Company



ISSUE HIGHLIGHTS



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DOCTORS RX

Michael Doll, Editor,
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Dr. George S. Malouf Jr., M.D., Chair of the Board
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WHEN PATIENTS PUSH BACK: NAVIGATING NONCOMPLIANCE IN THE AGE OF AI

The following prompt entered into a generative AI chatbot by a fictional patient is based on a real clinical scenario in one of our claims.

Tommy J. – October 24, 4:54 PM:
I have left arm pain in my forearm and elbow. I was pulling heavy ropes while crabbing yesterday and wonder whether this is a severe muscle spasm. I'm looking for a quick answer. Does this sound right?

AI – October 25, 4:55 PM:
Yes — that does sound plausibly consistent with a muscle strain/spasm or tendon irritation from overuse, especially after repetitive heavy rope pulling.

The most common possibilities from that kind of activity are:

- Strained forearm muscles
- Irritated elbow tendons (tennis elbow or golfer's elbow type irritation)
- Muscle spasm from overexertion

Typical signs that support a minor overuse injury:

- Soreness that started after the activity
- Pain with gripping, lifting, twisting, or extending the wrist
- Tenderness in the forearm or

- around the elbow
- Stiffness/cramping feeling

More concerning signs that warrant medical evaluation sooner:

- Major swelling or deformity
- Inability to grip or move the arm
- Numbness or tingling
- Significant weakness
- Severe pain at rest
- Redness, heat, or fever
- Chest pain or shortness of breath

If it rapidly worsens or isn't improving over **several days**, get it checked.

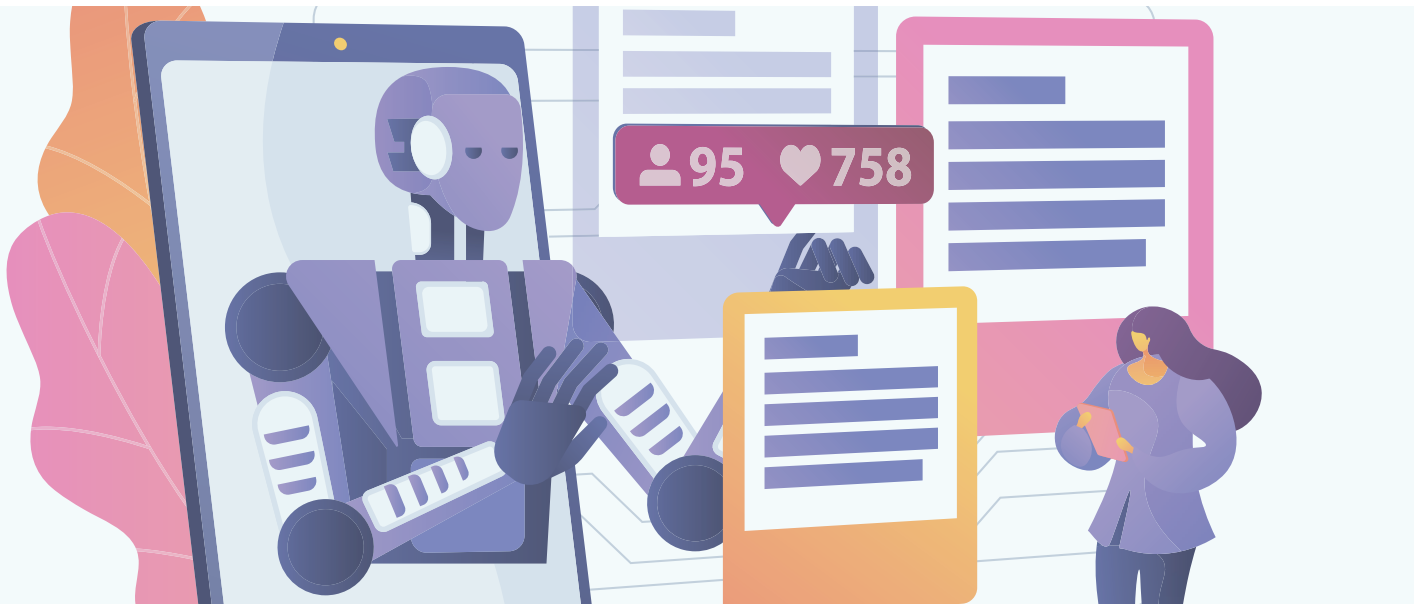
This chatbot response sounds authoritative. Reading it, the patient may be reassured and think: "Just what I thought. I pulled a muscle. I don't need to see my Doctor. I will let this heal for a day." Unfortunately, that reassurance would be misplaced. The chatbot did not obtain a complete clinical picture before offering a diagnosis. Unlike a Physician, the chatbot failed to account for the possibility of a severe, rapidly progressing infection acquired from bacteria commonly found in coastal waters—which is what the patient had in our claim.

This exchange raises an important question for practicing Physicians: *How should I manage my patients who rely on Artificial Intelligence for medical advice?*



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Julie C. Mayer, Esq. is a partner at Dillman Legal Group. Ms. Mayer has extensive experience representing health care professionals throughout Virginia, including Physicians and Physician groups.

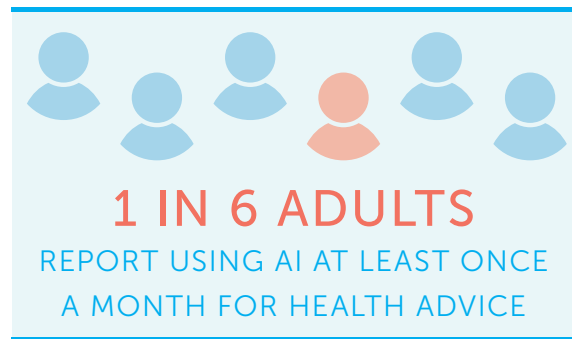


Consider

In many cases, patients treat AI-generated responses as informal second opinions.

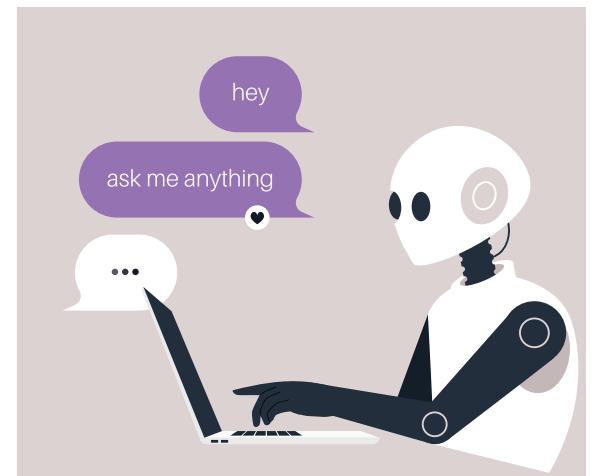
AI'S INFLUENCE ON PATIENT DECISION-MAKING

More than 230 million people ask Artificial Intelligence (AI) about a health concern each year.¹ One in six adults report using AI at least once a month for health advice and information.² Many patients use AI chatbots to self-diagnose medical conditions, obtain second opinions, and even seek advice on when to stop treatment. This reliance on AI will only grow as companies like OpenAI create tailored "health" chatbots.³



Meanwhile, patient noncompliance and departures against medical advice (AMA) have long been challenges for Physicians. These challenges may be exacerbated by the widespread availability of AI-generated medical information. As seen in our opening example, AI chatbots can affirm preexisting beliefs. Chatbots commonly respond to leading or misleading questions with agreeable answers, which can deepen a

patient's confirmation bias. They also risk minimizing a patient's perception of the seriousness of their condition. In many cases, patients treat AI-generated responses as informal second opinions, despite the absence of full clinical context, accountability, or diagnostic responsibility. This tendency complicates Physicians' efforts to ensure patient adherence and informed decision-making.⁴



Given that AI chatbots may misdiagnose or downplay the severity of patients' conditions, it is essential for Physicians to prepare effective communication strategies. A Physician should approach AI-influenced patient perspectives with respect and curiosity, fostering open dialogue that explores the patient's reasoning without being dismissive. Such conversations are critical



to gently challenging misconceptions while upholding patient autonomy and trust.

RISK FACTORS AND MEDICO-LEGAL CONSIDERATIONS

Not surprisingly, AMA departures correlate with increased morbidity, readmissions, and litigation exposure.⁵ Multiple factors contribute to patient noncompliance and AMA departures, including cost barriers, gaps in health literacy, cultural beliefs, psychiatric conditions, and now, AI-sourced information.⁶ Distrust, perceived loss of control, and rushed communication also drive noncompliance behaviors, with AI-generated advice now potentially reinforcing patients' decisions to refuse care.

Patients who leave against medical advice or refuse recommended care can place Physicians in a difficult legal position. The legal precedent set by the Supreme Court of Virginia in *Sawyer v. Comerci* underscores the importance of clear patient understanding and careful documentation in such situations.⁷ In *Sawyer*, the Court clarified the limits of the **contributory negligence** defense in medical malpractice cases. The Court explained that the defense requires proof that a patient acted unreasonably for their own safety at the time of the alleged negligence. The defense must rely on some evidence that the patient understood the seriousness of their condition and the risks associated with noncompliance.

Definitions



Contributory negligence is a legal doctrine that bars a plaintiff from recovering damages if they are found to have contributed in any way, however slight, to their own injury.

Maryland case law is similar. The seminal case of *Sard v. Hardy* establishes a patient-centered disclosure approach, requiring Physicians to disclose material risks and alternatives that a reasonable patient would view as important when making an informed medical decision.⁸ Competent adults retain the right to refuse recommended treatment, even when the refusal carries serious risks—but that decision must be informed.

In both Maryland and Virginia, the case law makes clear that a Physician's liability exposure in noncompliance cases often turns on whether the patient's refusal of care was truly informed. With this context in mind, what can Physicians do to reduce the risks associated with noncompliant patients?

RISK MITIGATION STRATEGIES

Mitigating risks associated with patient noncompliance requires a multifaceted approach, which now includes being mindful of what patients have learned from AI tools.



Note

Multiple factors contribute to patient noncompliance and AMA departures, including cost barriers, gaps in health literacy, cultural beliefs, psychiatric conditions, and now, AI-sourced information.



Consider

Timely, clear, and comprehensive recordkeeping supports transparency and is a cornerstone of claims defense.

Physicians should correct misunderstandings professionally and empathetically, reinforcing clinical judgment while respecting patient autonomy. To set realistic expectations and foster trust, Physicians should caution patients about AI's limitations, especially its tendency to provide agreeable but potentially inaccurate advice.

When a patient presents with AI-sourced information that aligns with a clinical assessment, the Physician should acknowledge the overlap: "What you read is consistent with what I'm seeing." The Physician should also clarify that the diagnosis remains a clinical determination based on the patient's history, examination, and objective testing. The Physician can reduce downstream disputes about accountability by documenting that the AI content was discussed, that the patient was independently assessed, and that the patient understood the plan and return precautions.

Unfortunately, some patients may choose to reject medical advice due to their interactions with AI chatbots. Regardless of why a patient is rejecting care, consistently applying standardized AMA protocols can reduce liability risks. Consider using the following framework to tailor AMA protocols to your own practice:

1. *Evaluate the patient's decision-making capacity—their ability to*

understand, appreciate, reason, and communicate a choice;

2. *Communicate in a calm, non-confrontational manner, using language tailored to the patient's comprehension level;*
3. *Explain your working diagnosis and any diagnostic uncertainty you have;*
4. *State the material risks of refusing the recommended workup or disposition, including foreseeable adverse outcomes;*
5. *Discuss reasonable but lesser alternatives and recommendations for follow-up;*
6. *Confirm patient understanding (using the teach-back method if appropriate); and*
7. *Have the patient sign a comprehensive AMA form.*

Definitions



The **teach-back method** is a communication technique by which a Physician asks the patient to restate key information in their own words. This approach helps the Physician identify and correct any misunderstandings in real time.

Depending on the circumstances, a Physician can deploy other strategies to



help guide a patient who has refused care. Consider using reminder correspondence (e.g., portal reminder messages, postcards/ letters, or text messages), nurse follow-up calls, and care coordination with the patient's other healthcare providers. When appropriate, Physicians may consider involving trusted family members, caregivers, or other authorized individuals identified on the patient's HIPAA authorization form to support patient safety, continuity of care, and treatment adherence.



DOCUMENTING YOUR EFFORTS

Timely, clear, and comprehensive recordkeeping supports transparency and is a cornerstone of claims defense. A Physician

should always document informed refusal by identifying the specific risks, benefits, and alternatives discussed, rather than using vague "boilerplate" language. The Physician should also document the patient's rationale for rejecting care, including any AI-influenced beliefs, as well as efforts made to encourage safe follow-up and return precautions.

Unfortunately, an encounter that ends with a patient rejecting medical advice may be contentious or incomplete. A Physician may not have an opportunity to completely follow their AMA protocols. In such circumstances, the Physician should document any deviations from protocol. For example, if a patient refuses to sign an AMA form and leaves a medical encounter abruptly, the treating Physician should document what transpired and explicitly note that the patient left without acknowledging in writing the risks of leaving against medical advice. If there is no timely documentation showing that the patient understood the risks and still chose to decline care, any negative outcome may be attributed to the Physician's inadequate disclosures instead of the patient's informed decision.

Accessible documentation is essential to effective collaboration within care teams. Physicians should prioritize open communication with colleagues to align patient management. They should share



Note

A Physician can help guide patients who have refused care by using reminder correspondence, nurse follow-up calls, and care coordination with the patients' other health care providers.



Remember

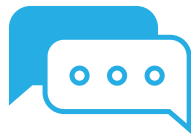
Prioritize open communication with colleagues to align patient management and document conversations about patient encounters.

documentation through secure platforms, have direct conversations about concerning patient encounters, and document those conversations. This approach mirrors best practices based on closed-claim analyses, which demonstrate that unclear or conflicting documentation among multiple defendants complicates defense strategies and increases indemnity risk.⁹

CONCLUSION

The intersection of patient noncompliance and access to AI-generated advice introduces novel challenges to the healthcare landscape. Physicians must be wary of inaccurate or oversimplified chatbot responses that risk reinforcing a patient's impulse to delay care, refuse treatment, or leave against medical advice. Staying informed about evolving patient-facing AI tools and their clinical implications through continuing education is essential to safe practice and effective risk management.

Key takeaways for your practice:



During patient encounters, address AI-based recommendations directly and guide patients according to your clinical judgment with clear, empathetic communication.



Standardize your AMA protocols and apply them consistently across your practice.



Thoroughly document the circumstances when a patient refuses care against your advice.

With clear communication, consistent protocols, and thorough documentation, Physicians can meet the new challenges presented by Artificial Intelligence with confidence while continuing to promote patient safety and trust that are essential to good care.

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⁸Sawyer v. Comerci, 264 Va. 68, 563 S.E.2d 748 (2002).

⁹Sard v. Hardy, 379 A.2d 1014 (Md. 1977).

¹⁰Holmes, E. G., Cooley, B. S., Fleisch, S. B., & Rosenstein, D. L. (2021). Against medical advice discharge: A narrative review and recommendations for a systematic approach. *The American Journal of Medicine*, 134(6), 721–726. <https://doi.org/10.1016/j.amjmed.2020.12.027>

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1. AI chatbots always obtain a complete clinical picture before offering health advice.
A. True B. False
2. Patients may treat AI-generated responses as informal second opinions even when the chatbot lacks full clinical context.
A. True B. False
3. Chatbots can reinforce confirmation bias by responding agreeably to leading or misleading questions.
A. True B. False
4. A dismissive response is the best way to address a patient's AI-influenced beliefs.
A. True B. False
5. Departures against medical advice are associated with increased morbidity, readmissions, and litigation exposure.
A. True B. False
6. In noncompliance cases, a Physician's liability exposure may depend on whether the patient's refusal of care was truly informed.
A. True B. False
7. One step in an AMA protocol is to explain the material risks of refusing the recommended workup or disposition.
A. True B. False
8. The teach-back method asks the patient to restate key information in their own words.
A. True B. False
9. Boilerplate documentation alone is always sufficient to support informed refusal.
A. True B. False
10. Clear communication, consistent protocols, and thorough documentation help reduce risks associated with AI-influenced patient noncompliance.
A. True B. False

Instructions – to receive credit, please follow these steps:

Read the articles contained in the newsletter and then answer the test questions.

1. Mail or fax your completed answers for grading:
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Attention: Risk Management Services Dept.
2. One of our goals is to assess the continuing educational needs of our readers so we may enhance the educational effectiveness of *Doctors RX*. To achieve this goal, we need your help. You must complete the CME evaluation form to receive credit.
3. Completion Deadline: October 31, 2026
4. Upon completion of the test and evaluation form, a certificate of credit will be mailed to you.

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CME EVALUATION FORM

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Readers of the newsletter should be able to meet the following educational objectives:

- 1) Gain information on topics of particular importance to them as Physicians.
- 2) Assess the newsletter's value to them as practicing Physicians.
- 3) Assess how this information may influence their own practices.

CME Objectives for "When Patients Push Back: Navigating Noncompliance in the Age of AI"

Upon completion of this enduring material, participants will be better able to:

- 1) Describe how AI-generated health information may influence patient noncompliance and informed refusal.
- 2) Apply communication strategies that address AI-influenced beliefs while supporting patient autonomy and understanding.
- 3) Document AMA departures and refusals of care to support patient safety and reduce medicolegal risk.

	Strongly Agree				Strongly Disagree
Part 1. Educational Value:	5	4	3	2	1
I learned something new that was important.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
I verified some important information.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
I plan to seek more information on this topic.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
This information is likely to have an impact on my practice.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Part 2. Commitment to Change: What change(s), if any, do you plan to make in your practice as a result of reading this newsletter?

Part 3. Statement of Completion: I attest to having completed the CME activity.

Signature: _____ Date: _____

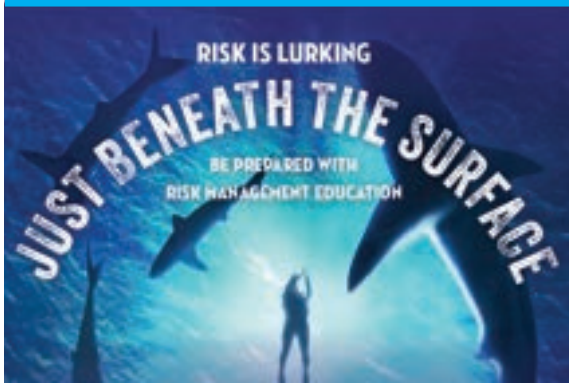
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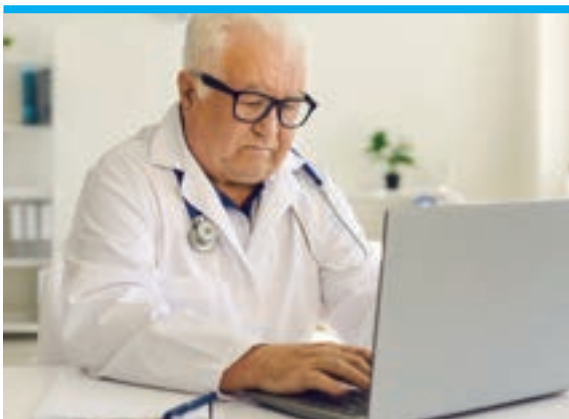
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ARTIFICIAL INTELLIGENCE RISK MANAGEMENT PROGRAMS



AI IN CLINICAL PRACTICE: EMR INTEGRATION, LEGAL IMPLICATIONS AND THE ROAD AHEAD

Presented by John Sly, Esq.

This two-hour course introduces how AI is reshaping clinical practice and medical malpractice risk. It covers core AI concepts and common tools, examines risks from standalone apps and EMR-integrated AI, and highlights workflow issues, such as alert fatigue. The session ends with a look at future trends like AI agents and evolving FDA regulation of Software as a Medical Device (SaMD) to support proactive risk management.

Wednesday, August 26, 2026 – 6-8 p.m. (Hunt Valley, MD)

Thursday, September 3, 2026 – 6-8 p.m. (Frederick, MD)


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MEDICAL MATTERS: NAVIGATING THE LEGAL LANDSCAPE

Presented by the attorneys at Byrne Canaan Law

With the rapid integration of artificial intelligence (AI) into health care, the need for robust collaboration agreements, and ongoing legislative changes in Virginia, this program provides critical insights and practical strategies to mitigate risk and enhance practice. Through case studies, expert-led discussions, and actionable guidance, this seminar equips Physicians with the knowledge and tools to navigate malpractice challenges in an increasingly complex environment.

Thursday, July 30, 2026 – 6-8 p.m. (web seminar)

Tuesday, September 1, 2026 – 6-8 p.m. (web seminar)



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