

EXECUTIVE DECISIONS IN DERMATOLOGY

JULY & AUGUST 2016

Employers Need to be Ready for New Overtime Rule by December 1

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Association of Dermatology
Administrators & Managers

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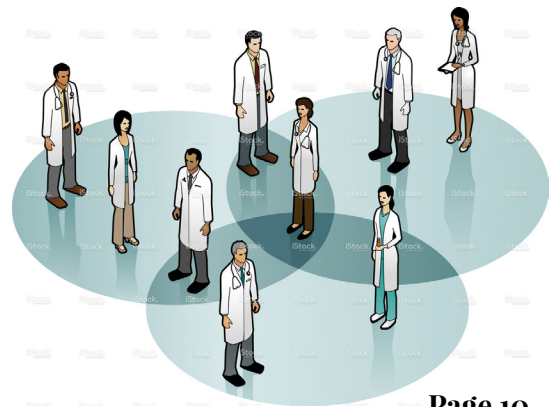
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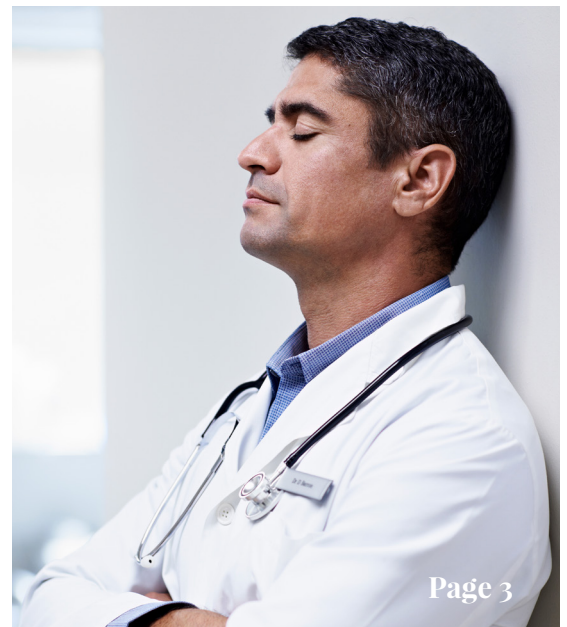
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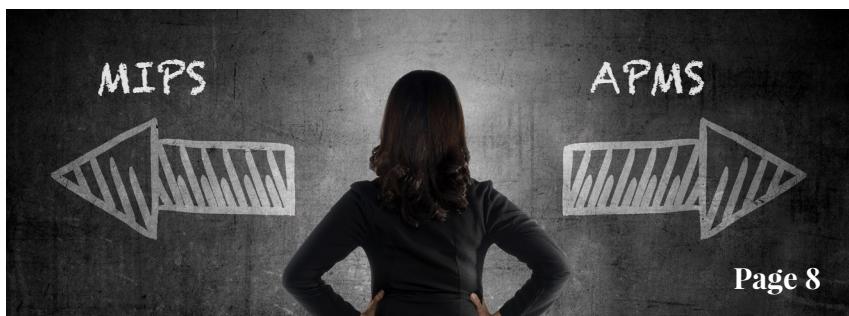
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Executive Decisions in Dermatology is a bimonthly publication of the **Association of Dermatology Administrators & Managers (ADAM)**. ADAM is the only national organization dedicated to dermatology administrative professionals. ADAM offers its members exclusive access to educational opportunities and resources needed to help their practices grow. Our 650 members (and growing daily!) include administrators, practice managers, attorneys, accountants and physicians in private, group and academic practice.

To join ADAM or for more information, please visit our Website at ada-m.org, call 866.480.3573, email ADAMinfo@shcare.net, fax 800.671.3763 or write Association of Dermatology Administrators & Managers, 1120 G Street, NW, Suite 1000, Washington, DC 20005.



2016

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President's *Message*

Summer is finally here! And with it come more challenges to dermatology practices everywhere!

The new rules regulating overtime, including exemption status eligibility, have been announced. They've been announced with enough time to allow us to evaluate our payroll policies and make adjustments where necessary.

We've stopped celebrating the death of one Medicare payment policy and, even as we're learning about the MACRA and MIPS systems, large medical organizations including the American Academy of Family Practitioners and MGMA have come out in opposition to the changes.

Meaningful use is ending but quality reporting is increasing. How does a dermatology practice successfully implement these changes? Is there a tipping point when it costs more to implement the reporting than is recoverable by participating?

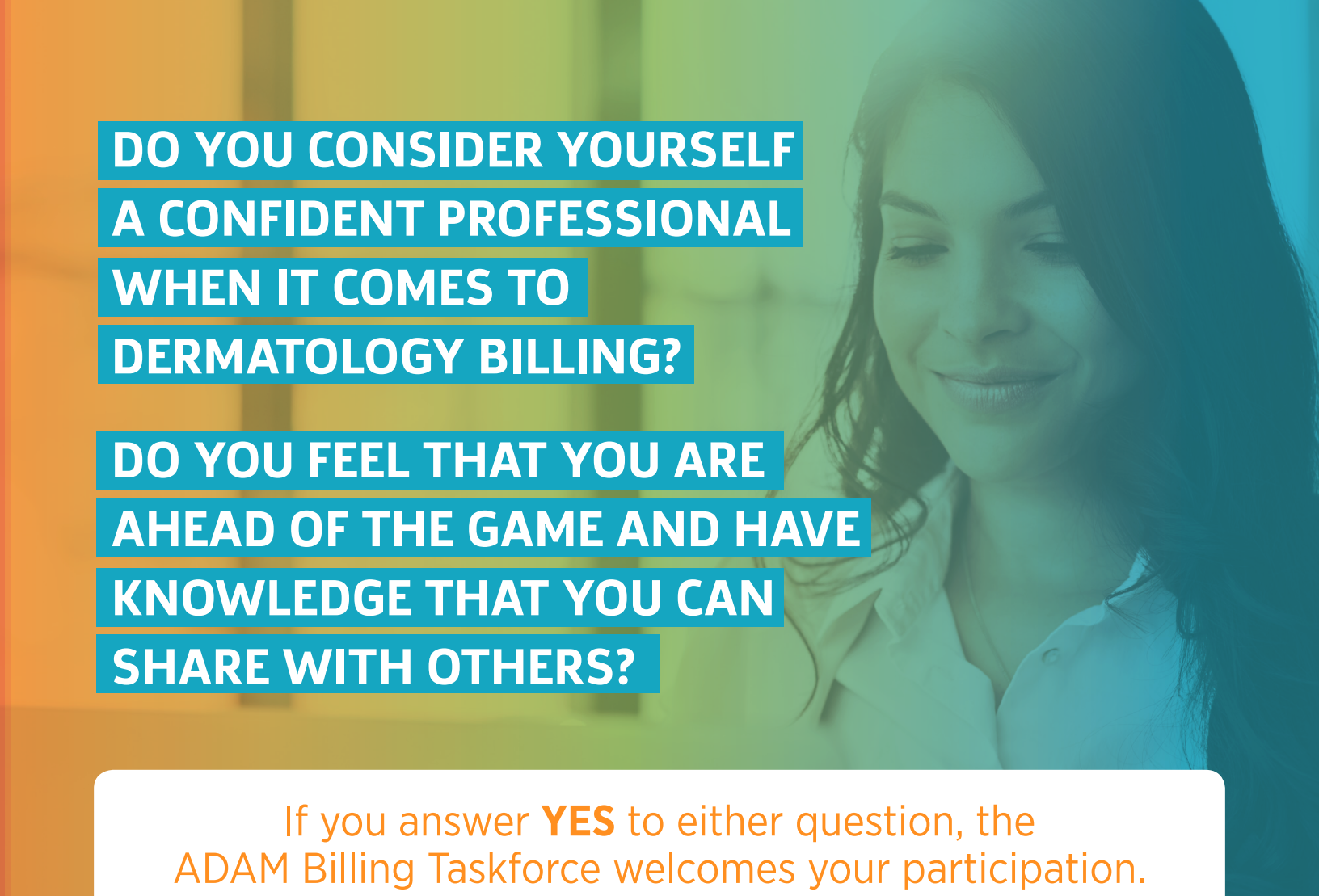
Technology is ever-evolving and always more costly: How do we keep our technology current, our practices able to maintain their own identity and integrity, and yet offer expanding services to meet patients' needs?

And, in the background, is the increasing incidence of larger group practices purchasing smaller, independent dermatology practices. How does that make us feel? Insecure? Or secure that we have the skills and knowledge to be a valuable member of a larger organization?

Change is never easy but it is certainly inevitable. There are no easy solutions. But one thing I do know is that it is even more important for all of us to become even more knowledgeable and skilled in addressing the challenges facing dermatology practices.

Warmest Regards,

Gabi Brockelsby
ADAM President



**DO YOU CONSIDER YOURSELF
A CONFIDENT PROFESSIONAL
WHEN IT COMES TO
DERMATOLOGY BILLING?**

**DO YOU FEEL THAT YOU ARE
AHEAD OF THE GAME AND HAVE
KNOWLEDGE THAT YOU CAN
SHARE WITH OTHERS?**

If you answer **YES** to either question, the
ADAM Billing Taskforce welcomes your participation.

The Taskforce was developed to help ADAM introduce a billing (not coding) certification and educational curriculum to ADAM Members. **We have an aggressive goal to introduce the initial billing certification exam in 2017.** However, a project of this nature requires **dedicated resources** and **expertise** and **this is where you come into the picture.** We have set up a wikiboard where members of the Taskforce will spend 5-10 minutes per day adding questions or reviewing information posted to the discussion board. From the discussions, the taskforce will spend about 30 – 45 minutes on the telephone each month finalizing the next iteration of the program for group discuss and agreement. Based on the group's efforts, **we are confident that the end product will provide significant value to our members.**

**If you are interested in joining the Billing Taskforce please reach out to
Patricia Chan at Patricia.Chan@shcare.net for additional information.**

EMPLOYERS NEED TO BE READY FOR NEW OVERTIME RULE BY DECEMBER 1

By Tammy Binford

The flurry of speculation is finally over. The White House and the U.S. Department of Labor (DOL) have released details of the new final rule governing which workers must be paid overtime. The changes aren't quite as drastic as what employers were preparing for based on the contents of the proposed rule made public last summer, but the final rule more than doubles the amount workers must earn to qualify as exempt from the law's overtime pay requirement.



4.2 MILLION MORE EMPLOYEES ACROSS THE COUNTRY, ACCORDING TO WHITE HOUSE ESTIMATES, WILL BE ELIGIBLE TO EARN OVERTIME PAY WHEN THE NEW FINAL RULE TAKES EFFECT ON **DECEMBER 1.**

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The changes mean some 4.2 million more employees across the country, according to White House estimates, will be eligible to earn overtime pay when the new final rule takes effect on December 1.

Under the new rule, workers deemed exempt from the Fair Labor Standards Act (FLSA)—and therefore ineligible to collect overtime pay for any hours worked beyond 40 in a workweek—must earn at least \$47,476 a year (\$913 a week). That's up from the \$23,660 a year (\$455 a week) threshold under the current rule. The \$23,660 figure has been in place since 2004.



The new rule provides for automatic updates to the salary threshold. A **White House fact sheet** explains that the threshold will be automatically updated every three years and will be set at the 40th percentile of full-time salaried workers in the lowest income Census region (currently the South). That differs from language in the proposed rule, which said the threshold would be set at the 40th percentile of full-time salaried workers nationwide. The White House fact sheet says the revision is a result of public comments regarding regional variations in income.

In addition to meeting the salary test, workers classified as exempt also must meet the duties test, which means workers must perform executive, administrative, or professional work as their primary duty. Many had expected the new final rule to toughen that test to make even more employees eligible for overtime, which must be paid at a rate of at least one and one-half times an employee's regular rate of pay. But the duties test provisions remain the same as in the old rule. Even with that concession, employers are in for big changes.

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**“EMPLOYEES
ARE IN FOR BIG
CHANGES”**

WHAT YOU NEED TO KNOW ABOUT THE NEW OVERTIME RULE ...

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“The DOL tried to make the new rule less onerous—but barely,” said **BURTON J. FISHMAN**, senior counsel

with Fortney & Scott, LLC, in Washington, D.C. “Moving the effective date to December 1 will give employers more time to figure out what changes they need to make to maintain productivity and profitability.” In addition, Fishman noted:

- Reducing the cost-of-living adjustments to the salary threshold to once every three years will moderate some pressure on budgets and reduce wage compression in the short term;
- Since the DOL didn’t change the duties test, employers are relieved of making additional changes and adding additional time tracking; and
- Employers can use bonuses to meet up to 10 percent of the threshold amount, but the bonuses must be paid at least quarterly.

RECLASSIFICATION OPPORTUNITY



“The good news about this change is that, if the employer has some currently exempt workers

who are perhaps wrongly classified because they don’t really meet the appropriate white-collar exemption, the new rules will offer that employer the opportunity to change the classification without raising red flags about the fact that the employer hasn’t been paying any overtime to the worker,” **SUSAN FENTIN**, an attorney with Skoler, Abbott & Presser, P.C., in Springfield, Massachusetts, said of the new rule.

“So this is a great opportunity to fix job descriptions and reevaluate classifications overall to ensure that all the employees who are going to be considered exempt under the new regs will actually meet the applicable test for the exemption,” Fentin said.

TRAINING, MORALE ISSUES

The new rule means millions of employees currently classified as exempt but earning less than the new \$47,476 threshold will have to either get a raise or be changed to nonexempt status. That’s likely to require training in timekeeping or a new way of tracking time, Fentin said.

“Some commentators have recommended that no nonexempt employees be allowed to work remotely because of the difficulty in ensuring that they are appropriately paid for all hours worked,” Fentin said. “If the currently exempt worker is used to having remote access, this could be a problem, both in terms of recording hours and in terms of making sure the work that he or she is responsible for actually gets done.”

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“IT CAN ALSO BE EXTREMELY DIFFICULT FOR NEWLY NONEXEMPT EMPLOYEES TO LEARN TO MANAGE THEIR TIME SO THAT THEIR WORK IS COMPLETED IN THE 40 HOURS OF THE WORKWEEK.”

- BRENT SILER, ATTORNEY BUTLER SNOW LLP

Besides training formerly exempt employees on timekeeping, the new rule may present a morale problem, Fentin said. “Many [exempt] employees who get a salary see it as a mark of pride. Changing that employee to an hourly worker might adversely affect employee job satisfaction.”



BRENT SILER, an attorney with Butler Snow LLP in Memphis, Tennessee, also expects training

and timekeeping challenges. “It can be extremely difficult for an employee to remember that the e-mail or phone call he or she answered at home was actually work time and that the employee must submit a time adjustment request to get paid,” he said. “It can also be extremely difficult for newly nonexempt employees to learn to manage their time so that their work is completed in the 40 hours of the workweek.”

Siler said the new rule means employers should review worker classifications across the board, but at a minimum, they must determine whose status will change. Then, they should review their policies to make sure they have appropriate policies on time entry and overtime and language that prohibits improper deductions.

“Once they are comfortable with their policies, employers must train employees (especially those who have changed status) and management on what is required of them under the employer’s policies and the law,” Siler said, adding that he expects an increase in litigation because the FLSA and similar state laws “have long been a favorite” of the attorneys representing employees because “it is relatively easy to aggregate claims into collective or class actions, and the FLSA provides for attorneys’ fees for prevailing parties.”

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TAREEN ZAFRULLAH,
an attorney with
Faegre Baker
Daniels LLP in
Indianapolis, also

sees a training issue for employers since employees will need to understand the intricacies of “accurately recording and reporting all hours worked, what constitutes ‘hours worked,’ avoiding off-the-clock work, clocking out and in for unpaid breaks, and avoiding performing overtime work without prior approval.”

Zafrullah acknowledges a potential morale problem among some newly classified employees who see a switch from exempt to nonexempt as a loss of flexibility and prestige. He advises employers to remind those employees that they will receive overtime pay if they work more than 40 hours in a workweek. “The employer could also point out that classification as nonexempt does not mean the employer values the employee’s contribution to the organization any less; it

simply reflects a change in legal requirements by the government.”



REGGIE GAY, a
shareholder
with the McNair
Law Firm in
Greenville, South
Carolina, also says

some employees may see going from exempt to nonexempt as a type of demotion. He said an employee doesn’t have to go to

an hourly basis and can remain on salary, but the employee will be entitled to overtime pay.

“Employers will have to explain the reason for the change and the need to record all time worked,” Gay said. “This may be difficult for many employees who have not had to keep track of their time.” In addition, after changes are made, employers will need to monitor the employees to be sure they are complying with the new rules, he said.

For more information on how the new overtime rule counts bonuses and incentive payments toward the threshold salary level and affects highly compensated employees, check out BLR Legal Editor Susan Prince’s summary [here](#).

To learn more about the implications of the DOL’s final overtime exemption rule, join us for a live expert-led webinar May 26 or June 2. During this event, you will learn how to get your policies and practices in order by the final rule’s effective date. Your specific questions will be answered by our in-house editors and Washington insiders from the law firm of Fortney & Scott, LLC. To register, [click here](#).

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MIPS

APMS



CMS RELEASES NEW PHYSICIAN PAYMENT SYSTEM PROPOSED REGULATIONS



By **Devon Seibert-Bailey**
Vice President, Health Policy,
Strategic Health Care

The impact of the newly proposed physician payment system (Medicare Access and CHIP Reauthorization Act of 2015 (MACRA)) that CMS now refers to as the Quality Payment Program cannot be overstated. It is a game changer! The likely impact on your physicians will be substantial.

On April 15, 2015, the President signed MACRA into law and repealed the previous physician payment formula known as SGR. CMS released long-awaited proposed regulations that detail the new Medicare physician payment formula on May 9th. The new system would implement these changes through the unified framework called the Quality Payment Program (QPP).

The QPP includes two paths for clinicians: The Merit-Based Incentive Payment System (MIPS) and Advanced Alternative Payment Models (APMs). Click here for CMS' QPP website where you can find fact sheets and slide decks on the new program.

Most clinicians will initially participate in the QPP through MIPS. This new program will combine parts of the Physician Quality Reporting System (PQRS), the Value Modifier (VM or Value-based Payment Modifier), and the Medicare Electronic Health Record

(EHR) incentive program into one single program in which Eligible Professionals (EPs) will be measured on quality, resource use, clinical practice improvement, and meaningful use of certified EHR technology.

However, clinicians who participate in certain Advanced APMs would not be required to participate in MIPS. These eligible clinicians would be exempt from the MIPS payment adjustments and would qualify for a 5 percent Medicare Part B incentive payment. The proposed rule includes a list of current models that would qualify under the terms of the proposed rule as Advanced APMs. These include:

- Comprehensive ESRD Care Model (Large Dialysis Organization arrangement)
- Medicare Shared Savings Program—Tracks 2 and 3
- Next Generation ACO Model
- Comprehensive Primary Care Plus (CPC+)
- Oncology Care Model Two-Sided Risk Arrangement



Assistance is available to help your practice get ready for QPP! Facing growing criticism that the newly proposed MACRA physician payment formula hurts small physician practices, CMS released a six-page document outlining the flexibility the new system provides small and rural practices. Click here for the CMS document.

CMS is also providing \$10 million over three years to support networks to help doctors transition to QPP. The Transforming Clinical Practice Initiative will provide peer-to-peer support to help doctors be more successful within the new program. Click here for the program website. ■



By **Don Glazier**, Administrator,
OHSU Dermatology



By **Sancy Leachman**, MD, PhD,
Professor and Chair, OHSU
Dermatology

DERMATOLOGY PRACTICE COMPARISONS

In academic dermatology practices, we frequently face questions about the salary disparity between academic faculty positions and community dermatology practices.

In some cases there is more than a 75% difference between academic practice and private practice. We often talk about “life style” and “desire to teach” but we had no data. We put together the following chart (*see page 12*) to highlight some of the differences in three general dermatology practices and included adult medical dermatology in this analysis.

PROCESS

We first brainstormed categories of information. We then grouped them into compensation, productivity and professional activities. Several alumni in private practice and in larger group practices in the Pacific Northwest were contacted and they generously shared their information for each category. Their information and our academic department information are displayed in the chart.

CATEGORIES

Most of the categories are self-explanatory. The adjusted salary is the sum of the compensation categories that result in their gross salary. Clinics represent a 4 hour session seeing patients. Collegial interaction reflects the frequency of discussions with other dermatology providers about interesting/unusual cases, attendance at weekly grand rounds and the ability to sub-specialize within dermatology.

1

CONCLUSIONS

The adjusted salary per patient calculation confirms that production expectation heavily influence salary but it was surprising how close each groups calculation was.

2

Academic practice is the only one that allows time each week for teaching and academic discovery.

3

Academic and Group Practice have higher overhead, but those providers have support staff to handle most operational and business aspects of the practice allowing more time to focus on their practice and other interests.

While not for everyone, an academic dermatology practice offers a great life balance, clinical challenge, teaching the next generation and exploring and sharing new discoveries in the field. Additionally, once salary was normalized for the number of patients seen, academic general dermatology is compensated at a level very comparable to private and group dermatology practices.

SEE THE RESULTS ON THE NEXT PAGE



DERMATOLOGY PRACTICE COMPARISONS

	CATEGORIES	PRIVATE PRACTICE^	GROUP PRACTICE~	ACADEMIC PRACTICE*
COMPENSATION	Salary	\$450,756 ^	\$360,000~	\$255,333*
	Benefits (health ins, emp taxes, retirement)	10% of salary	15% of salary	20% of salary
	Retirement	24,000	16,000	12% from benefits
	Malpractice	7,300	part of overhead	part of overhead
	Disability	3,300	part of overhead	part of overhead
	CME time off	self funded	\$13,846 (10 DAYS)	\$9,820 (10 DAYS)
	CME expense	8,000	4,000	4,000
	Adjusted Salary	469,231.60	415,846	292,580
PRODUCTIVITY	# patients/clinc	20	18	15
	# clinics/week	8	8	7
	# weeks/year	48	46	45
	Total patients/year	7,680	6,624	4,725
	Salary/patient	\$58.69	\$54.35	\$54.04
	Adj Salary/patient	\$61.10	\$62.78	\$61.92
PROFESSIONAL ACTIVITIES	collegial interaction in practice	little/none	variable/some	high/often
	Teaching	n/a	n/a	5%
	Research/writing	n/a	n/a	5%
	Overhead %	55%	58%	62%

SOURCES

- ^ Private Practice data comes from the MGMA Annual Community Salary Survey and a recent ADAM dermatology practice administrator's survey. Also, it was corroborated with dermatology alumni.
- ~ Group Practice data comes from an interview with a large multi-specialty practice in Portland, OR and corroborated with a dermatology alumni in a large multi-specialty practice in the Northwest. Retirement includes 50% matching from benefits
- * Academic Practice data comes from AAMC Academic Salary Survey Western Region median and actual data from the OHSU Department of Dermatology in Portland, OR.
- ^ MGMA Community Salary Survey
- ~ Alumni survey
- * AAMC Academic Salary Survey

GHS GLOBALLY HARMONIZED SYSTEM



By Mandy E. Martin, RPSGT,
Compliance Consultant

MedSafe: The Total Compliance Solution

What is GHS and what does it mean for you? GHS means Globally Harmonized System, offering an infrastructure on hazardous safety standards that is designed for the many participating countries involved.

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KNOWING THE FACTS

GHS stands for Globally Harmonized System. It is aimed towards the classification and labeling of chemicals.

Your facility should mandate guidelines for safe handling, storing and disposing of chemicals.

Our United Nations created this system so that there would be international agreement, shared by all countries involved, on how to best transport chemicals.

On March 26, 2012, the United States officially adopted the GHS. This is NOT a global law or regulation, but a system.

More than 65 countries have now adopted the Globally

Harmonized System or are in the process of doing so.

One noticeable change will be the (MSDS) Material Safety Data Sheets, which will now be known as (SDS) Safety Data Sheets.

June 1, 2016, is the deadline to alternative workplace labeling and the hazard communication program. It is imperative to provide training to staff as needed.

Make sure your office has obtained the new SDS through the manufacturer's website. Also, update your inventory list of products, used in your facility that can be spilled, splashed, or inhaled. It is important to remember that any time a new product is introduced into your facility,

all employees are to be kept informed and that all SDS's are available for reading. One easy way for this to be accomplished is by posting the SDS in the employee break room for 15 to 30 days and then placed in the SDS Manual for easy access.

This way it can be discussed during a team and/or office meeting.

It is especially important to keep in mind that any product(s), no longer being used in a facility, should be immediately removed from the inventory list and that particular SDS can, and should, be discarded.

When the employees know the facts, they will have a better understanding of the Globally Harmonized System. ■





ASK A MEMBER

Q&A with Janice Smith

QUESTION: What Do You Do for Team Building?

ANSWER: We all have busy practices, and it can be challenging to find time for team building. We found this to be especially true in our practice, with many employees working different days. The idea was thrown out 4 years ago to do the Warrior Dash together. The Warrior Dash is a 5k obstacle course that has you sliding into mud pits, crawling under barbed wire, climbing over walls and jumping over fire. Talk about team building! By the end of the course, our sides hurt from laughing so much. I'm sure it

had nothing to do with me flying off the monkey bars into the muddy water! We had "Spencer's Warriors" shirts made up just for the occasion, and our picture even ended up in the local newspaper. We slugged through the mud 2 years in a row, then had to take a year off and really missed it. This year we decided to do the Bubble Run, which is another 5k course with foam bogs full of colored bubbles. We tie-dyed socks and each picked out the color of tutu we wanted. We're definitely a colorful bunch! Can't wait to decide what our next adventure for 2017 will be... could get muddy again!







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