

WELCOME TO: COVID 19 PRACTICE SURVIVAL GUIDE

Week 9 of a series

Guest Speaker:

**Compliant Electronic Communication
in the COVID-19 Era and Beyond**



*Ross Taubman, DPM, President
and Chief Medical Officer, Pica*

Moderators:



Michael King, DPM, FACFAS

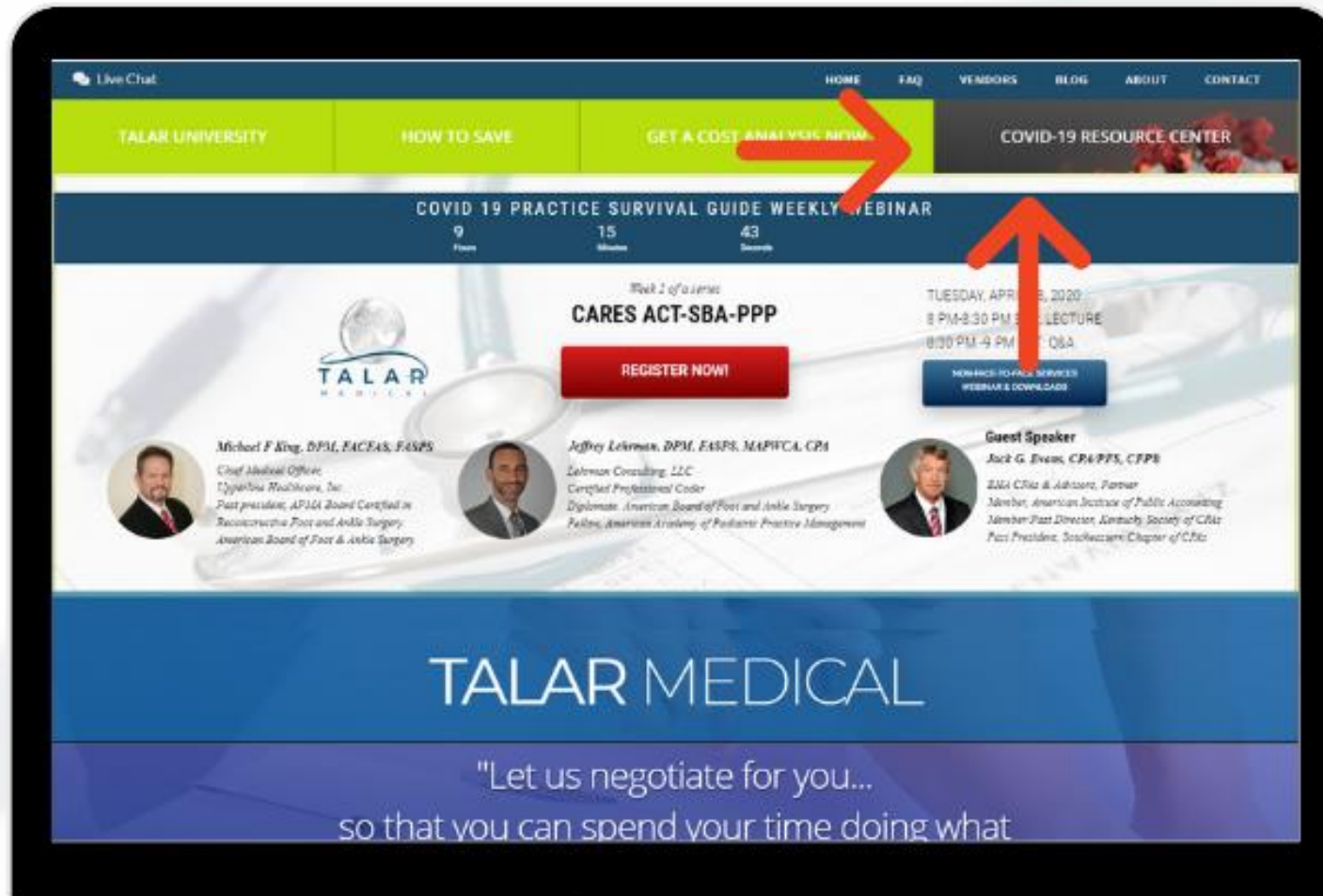


Carla Ross, COO, Talar Medical



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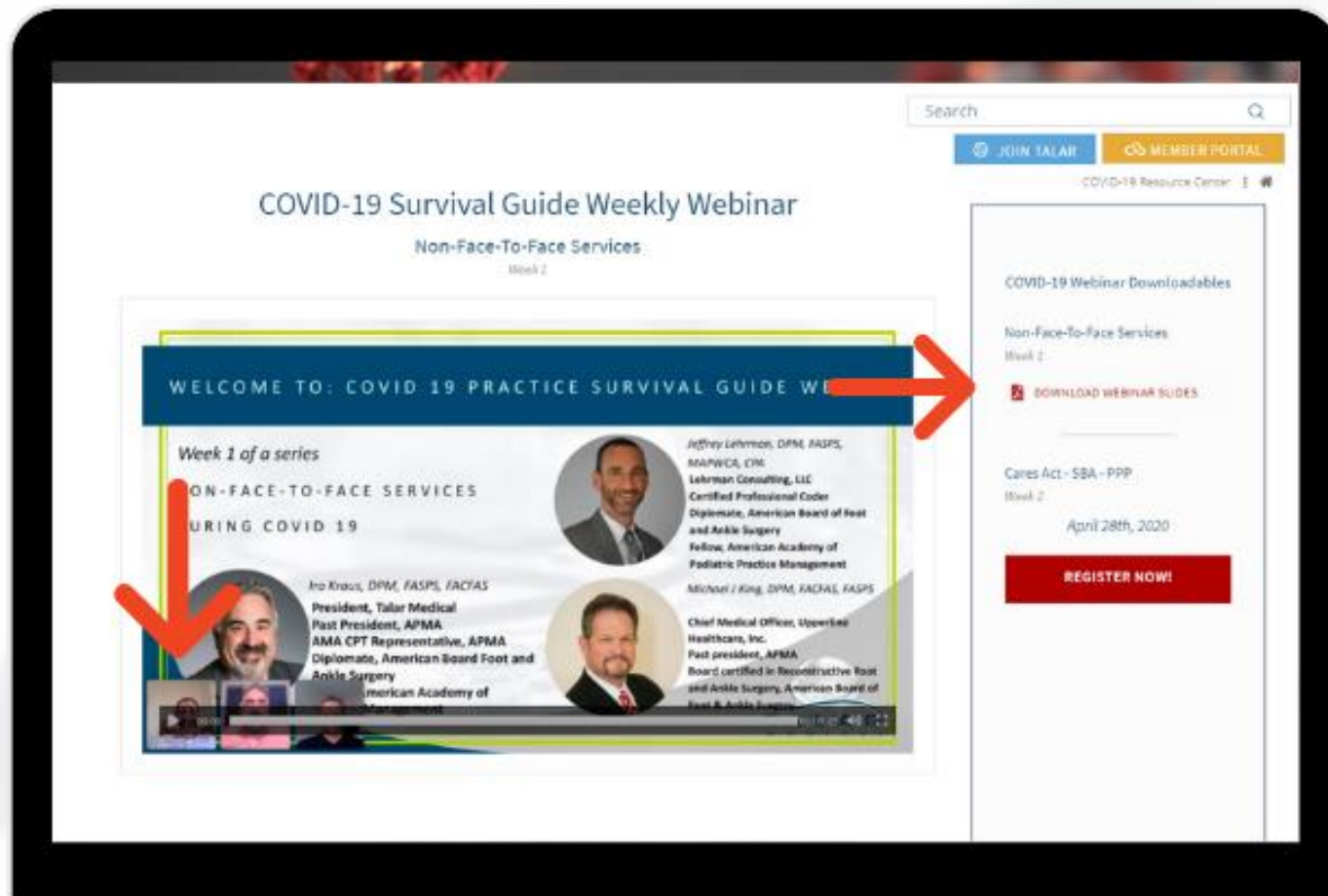




Would you like to find a replay of tonight's webinar? Find it on our website today!

1. Visit our website www.TalarMedical.com
2. Look for our COVID 19 Resource Center located in the upper right hand corner





- Inside the COVID 19 Resource Center you will find:
- An archive of the entire webinar series “COVID 19 Practice Survival Guide”
 - A downloadable version of the lecture slides.
 - Updates, news, and information regarding COVID 19 and your practice

Want to receive a personalized, no obligation medical supply cost analysis?

This is how

1. Send us the products you are currently ordering in excel spreadsheet format. Please include:
 - Current Vendor
 - Item Description
 - Manufacturer Number/SKU
 - Unit of Measure
 - Price
2. Email the spreadsheet to admin@talarmedical.com or visit our website at talarmedical.com/complimentary-medical-supply-cost-analysis/
 - * Can't easily provide the information in an Excel format? We have you covered! Just send us a copy of your most recent receipts. Please note, comparisons presented in receipt format do require longer to turn around.

Compliant Electronic Communication in the COVID-19 Era and Beyond

Presentation By:

Ross E. Taubman, DPM
PICA President and CMO
June 16, 2020



LEGAL NOTICE/DISCLAIMER

The information contained in this presentation does not establish a standard of care, nor does it constitute legal advice.

The information is for general informational purposes only and is prepared from a risk management perspective to aid in reducing professional liability exposure.

Please review this presentation for applicability to your specific organization. You are encouraged to consult with your personal attorney for legal advice, as specific legal requirements may vary from state to state.



picagroup.com/COVID-19

Presenter Disclosure

Dr. Taubman is a full-time employee of PICA/ProAssurance

Dr. Taubman is a shareholder of ProAssurance (NYSE:PRA)

No off-label uses of any drugs or products will be discussed in this presentation

Objectives

- Discuss current HIPAA Rule waivers in light of COVID-19
- How Do these changes apply to electronic communication

As of March 15

There is limited waiver of various provisions of the HIPAA Rule



Please be aware these waivers are not global

This limited waiver is designed to facilitate the disclosure of patients' protected health information in a number of specific circumstances **connected to the ongoing pandemic**

Enforcement Relaxation?

Notification of Enforcement Discretion for
telemedicine/telehealth Remote
Communications During the COVID-19
Nationwide Public Health Emergency

<https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html>

Notice of Privacy Practices

- Waiver of Requirement to distribute a notice of privacy practices
- Please note this is a facilities only waiver you still need to provide the Notice of Privacy Practices in your private office

Privacy Restrictions

- Patient's right to request privacy restrictions have been waived for sharing records with other providers
- This is a facility only waiver
- If you elect to use this waiver thoroughly document your rationale for the decision

Confidential Communications

- Patient's right to request confidential communications
- Once again this is a facility only waiver
- You still need to do your best to communicate confidentially but in crowded areas this may simply not be feasible

Communicating with a Family Member

You are still required to obtain a patient's agreement to speak with family members or friends involved in the patient's care

What about Virtual Visits?

The Notice of Privacy Practices still needs to be provided upon request

- Have a copy on your website and direct the patient to the website
- **You CAN email a copy to the patient** – Nothing in the Notice of Privacy Practices contains protected health information so EMAIL is NOT a HIPAA violation

What does this mean to you?

- The waiver probably **DOES NOT** apply to a Podiatry Practice
- We are **not diagnosing or treating COVID**



Privacy Disclosures

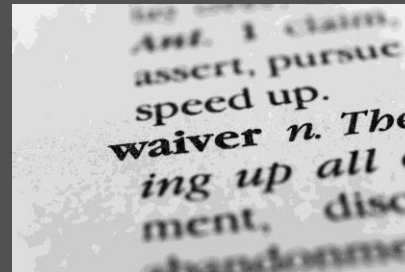
(allowed even before the waiver)

Without the patient's authorization

- **For purpose of the treatment**
 - Coordination or management of healthcare
 - Consultation between providers
 - Referral of patient for treatment
- **For Billing Purposes – Don't Forget your Business Associate Agreement**

Already part of HIPAA without the Waiver

Public health authorities and others responsible for ensuring public health and **safety may access protected health information that is necessary to carry out** their public health mission, and as such, individual authorization by patients is not required in a number of circumstances



<https://www.hhs.gov/sites/default/files/ocr/privacy/hipaa/understanding/special/publichealth/publichealth.pdf>

Already part of HIPAA without the Waiver

- Disclosing PHI to Public Health Authorities (CDC, State Health Departments, etc)
- If authorized by the CDC or State Health Authority
- As necessary to identify, locate, and notify family members, guardians, police, or anyone else responsible for the patient's care, of the patient's location, general condition, or death

Disclosures to Prevent or Lessen a Serious and Imminent Threat

HIPAA's Privacy Rule expressly defers to the professional judgment of health professionals in making determinations about the nature and severity of the threat to health and safety. Consistent with applicable state law and professional standards of professional ethical conduct, healthcare providers may share information with anyone as necessary to avert or mitigate a serious and imminent threat to the health and safety of other individuals.

So What About Electronic Communication?

- First, you must still comply with HIPAA Privacy and Security Rules
- However, you are allowed to use non-public facing technology platforms to provide telemedicine/telehealth visits to patients during the COVID-19 public health emergency

Under this Notice, covered health care providers may use popular applications that allow for video chats, including Apple FaceTime, Facebook Messenger video chat, Google Hangouts video, Zoom, or Skype

However, Facebook Live, Twitch, TikTok, and similar video communication applications are public facing, and should not be used in the provision of telemedicine/telehealth by covered health care providers

<https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html>

Strategies to Mitigate the Risks

- Set Reasonable Expectations
 - Not All visits are suitable for telehealth
 - Encourage in office follow up
- Obtain a Telemedicine/Telehealth Consent – VERBAL at least
- Video record telemedicine/telehealth visits
- Document the encounter
- Document any education provided
- Review the medications they are taking

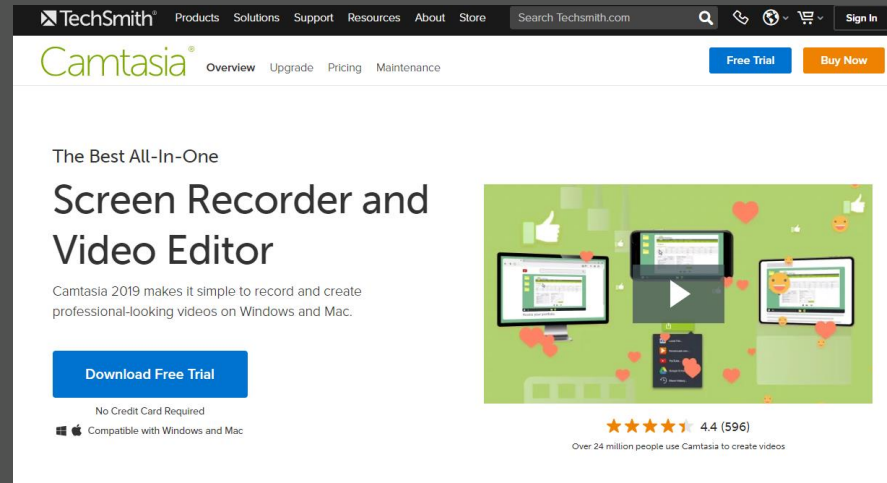
Tips For Recording The Encounter

Determine if your telemedicine/telehealth platform can record the visit (audio and video)

- Use it
- Test the system before using it
- Review the test to ensure the quality of the audio and video

If Your Current Platform Does NOT Support Recording

- 1) Consider moving to a different platform
- 2) Consider getting a program that can record the screen for you.
 - Camtasia will provide you with a 30 day free trail of the software that you can download today. <https://www.techsmith.com/video-editor.html>



The screenshot shows the TechSmith website for Camtasia. The header includes the TechSmith logo and navigation links for Products, Solutions, Support, Resources, About, and Store. The main content area features the Camtasia logo, a 'Free Trial' button, and a 'Buy Now' button. The headline reads 'The Best All-In-One Screen Recorder and Video Editor'. Below this, it states 'Camtasia 2019 makes it simple to record and create professional-looking videos on Windows and Mac.' A prominent blue button says 'Download Free Trial'. Underneath, it notes 'No Credit Card Required' and 'Compatible with Windows and Mac'. To the right, there is a graphic showing a laptop, a tablet, and a smartphone with a play button, surrounded by hearts and thumbs-up icons. Below the graphic, there is a 4.4 star rating from 596 reviews and the text 'Over 24 million people use Camtasia to create videos'.

Screen Capture Software

- Learn how to use it
- Conduct some 'test' sessions
- Utilize and save images into the medical record



Encounter

- Standard of Care applies
- Physician-patient relationship
- Just as if in the office
- Document the start and end time of the visit
- Document if the visit included history, exam or medical decision making processes
- Was the visit consultative and/or for the coordination of care



When others are Present

- Obtain consent to speak with the other individuals present
- Have those individuals identified by name and relationship to patient



Questions



Thank You!

Join us #TalarTuesday, June 23, 2020 at

5 PM PST/8PM EST for *Applying Nudge Theory to Optimize Biomechanics Treatment of Diabetic Foot Ulcers*

with guest speaker

Josh White, DPM, CPed

Principal, HealthyOutcomes EOS

Founder, Safestep



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