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PART 2

Medicolegal Issues During the COVID-19 Pandemic

This three-part series—Part 1 in the June issue covered patient confidentiality—reviews a few topics giving physicians concern during the COVID-19 pandemic.

Maintaining Office Safety

PATIENTS | You retain the right to refuse a patient who will not cooperate with requirements to wear a facemask. If they refuse and can be safely seen later, they should be given an appointment past the expected isolation period. However, you cannot summarily deny care to someone under active treatment without adequate notice to permit them to set up care elsewhere.

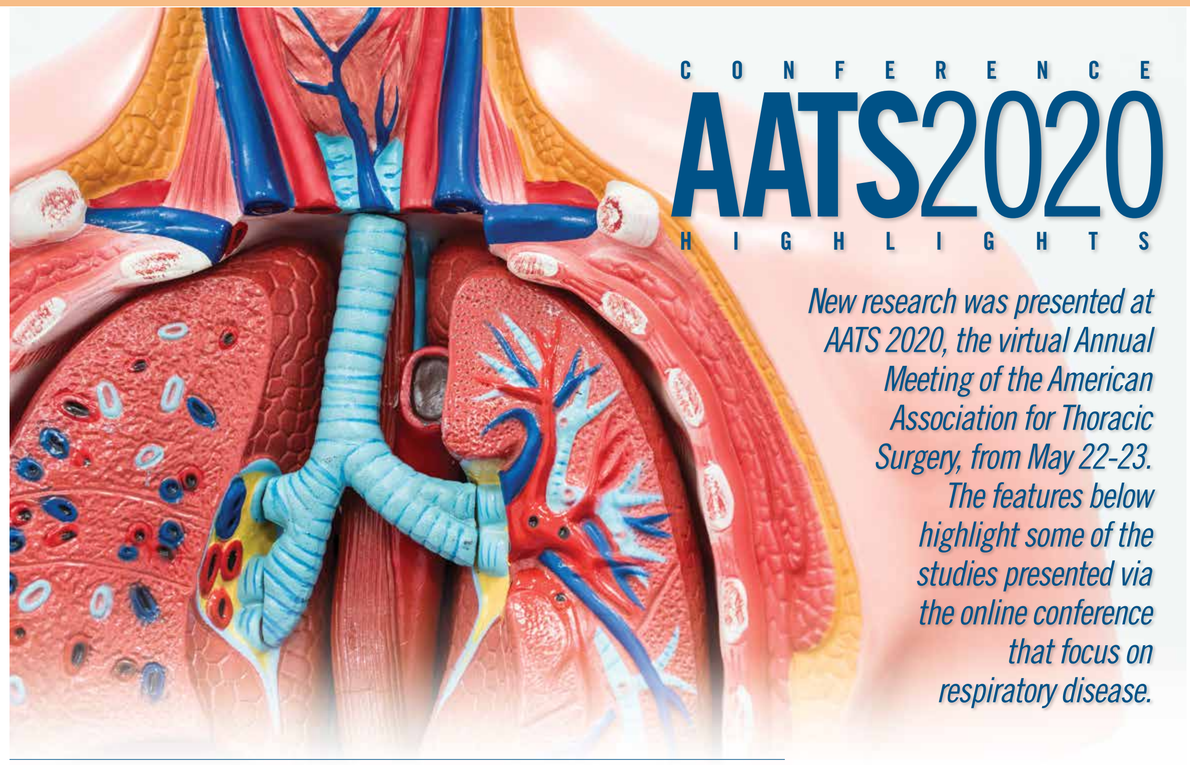
You should also keep the issue of constructive abandonment in mind. Actual termination from your practice because of how a patient conducted themselves is something to deal with when the isolation regimen has ended.

EMPLOYEES | The EEOC has specifically said that nothing in the ADA should be taken to interfere with employers following public health recommendations. As an employer under OSHA obligations to maintain a safe workplace and a physician with a fiduciary duty to safeguard the health of your patients, you may therefore take steps that you would normally be more limited in.

Current employees can be denied access to your premises if they place others at a significant risk. You can require that employees self-report any exposure, answer questions about symptoms, and be tested with sufficient medical basis. You can require temperature checks, should counsel employees to be mindful of how they feel generally and to immediately report any changes, and remind all that hygiene and PPE precautions apply fully. All employees should be required to engage in proper hygienic procedures. If an at-will employee is not cooperating with hygienic conduct, you may fire them immediately.

If an employee was exposed or has tested positive, you will need to inform co-workers, but ask for permission to reveal their identity. If they refuse, tell other employees without naming the source. Since a sudden absence at this time can be revealing, firmly instruct in writing that the employees who remain not discuss a co-worker's PHI. While an employee is on self-isolation, ask only the minimum information necessary to make a work-related determination of their safe return. You can also require that they provide a physician's note saying that they are fit to return.

This article was written by Dr. Medlaw, a physician and medical malpractice attorney.



CONFERENCE
AATS2020 HIGHLIGHTS

New research was presented at AATS 2020, the virtual Annual Meeting of the American Association for Thoracic Surgery, from May 22-23. The features below highlight some of the studies presented via the online conference that focus on respiratory disease.

Eurolung Risk Score Predicts Long-Term Survival After Curative Lung Cancer Resection

The European Society of Thoracic Surgeons developed the Eurolung risk score to stratify immediate postoperative mortality risk following lung resection. To verify whether the Eurolung aggregate score is also associated with overall survival following lung cancer resection, researchers analyzed data on more than 1,300 consecutive patients undergoing anatomic lung resection between 2014 and 2018 at a single center and followed through August 2019. Patients were grouped by Eurolung score: A (0-2.5), B (3-5), C (5.5-6.5), D (7-11.5). Mortality rates at 30 days were 0.9%, 5.4%, 9.7%, and 14.0% for those in categories A, B, C, and D, respectively. Corresponding 3-year survival rates were 78%, 61%, 40%, and 36%. Incremental mortality risk across the categories was observed in those with and without negative nodal disease. In those with positive nodes, 3-year survival rates were 59%, 44%, 26%, and 35% in categories A, B, C, and D, respectively. "This information may be valuable in the shared decision-making process when discussing with patients their treatment options and to assist the multidisciplinary team to select the most appropriate radical treatment in high-risk patients," write the study authors.

Modified Limited Surgery for Crawford Extent I Thoraco-Abdominal Aneurysm Repair

To evaluate the role of a modified limited (thoracotomy-crus-splitting, TCS) surgical approach for Crawford extent I thoraco-abdominal-aneurysm (TAAA) repair, when compared with a conventional (thoraco-phreno-laparotomy; TPL) approach, researchers reviewed mortality and major adverse event data on patients who underwent TPL or TCS between 1997 and 2019. While pre- and intraoperative variables were similar between the groups, aortic cross-clamp time was shorter with TCS. Outcomes for TCS were similar to those for TPL, including operative mortality (5.2% vs 3.6%), myocardial infarction (0.0% vs 0.9%), stroke (2.1% vs 1.4%), spinal cord injury (2.1% vs 3.6%), tracheostomy (5.2% vs 11.3%), dialysis (6.3% vs 4.1%), and major adverse events (18.8% vs 19.8%). Upon propensity-score matching, operative outcomes were similar between the groups, with the exception of tracheostomy, which had a lower rate with TCS (3.4% vs 12.4%). The highest risk factors for tracheostomy were female sex (odds ratio [OR], 6.21), TPL approach (OR, 4.79) and FEV_1 less than 50% (OR, 3.86). "TCS is a safe and reproducible approach to repair extent I TAAAs," conclude the study authors.

Tumor Size & Resection Type in Patients With Early NSCLC

Data on the role that should be played by tumor size in offering segmentectomy versus lobectomy in patients with early non-small cell lung cancer (NSCLC) are conflicting. To determine whether there exists a threshold in tumor size, stratified by histology, beyond which lobectomy is associated with improved survival over segmentectomy, study investigators analyzed data on patients who underwent either procedure for NSCLC between 2004 and 2015. The 5% of patients who underwent segmentectomy were more likely to have tumors on the left side (53% vs 41%) and have smaller tumors (median 20 mm vs 25 mm). A multivariable Cox model of the entire cohort found a significant interaction term between tumor size and type of surgery, suggesting that tumor size mediates the relationship between extent of surgery and overall survival. Upon histology examination, lobectomy was associated with superior survival compared with segementectomy beyond approximately 10 mm for adenocarcinoma and 20 mm for squamous cell carcinoma. A clear size threshold was not identified for large cell, carcinoid, or lepidic histologies. "Based on these data, tumor size can be used, in part, to allocate patients with adenocarcinoma or squamous cell carcinoma to segmental vs. lobar resection for early disease," write the study authors.

Invasive Procedures Rare in Patients With Benign Disease on Lung Cancer Screening

Although data indicate that lung cancer screening with low-dose chest CT appears to improve survival in appropriate patients, evidence suggests that concern over false positive results and subsequent unnecessary intervention hinder universal acceptance of lung cancer screening. For a study aimed at determining the rate of surgery or other invasive procedures performed in patients found to have benign disease, investigators reviewed data on patients who underwent lung cancer screening between 2012 and 2017. Among participants, 8.1% had findings concerning for malignancy, 2.3% were diagnosed with lung cancer, and 2.1% underwent lung surgery. The incidence of surgery for benign disease was 0.37%, with another 1.4% undergoing at least one invasive diagnostic procedure but no surgery, bringing the incidence of undergoing any invasive diagnostic or therapeutic procedure for benign disease to 0.49%. No procedure-related deaths were reported within 30 days.

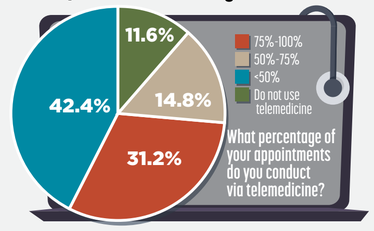
Successful Treatment for Benign Subglottic Stenosis

Despite evidence suggesting it to be the definitive curative treatment for benign subglottic stenosis, laryngotracheal resection is considered by many to be a challenging operation, with only a few high-volume institutions reporting large series of patients in this setting. With novel surgical techniques for the treatment of very-high-level stenosis and the proposal of new trends in the intra- and postoperative management of the airway emerging in recent years, researchers assessed data on patients who underwent laryngotracheal resection for subglottic stenosis between 1991 and May 2019, nearly 60% of whom underwent surgery during the last 5 years of the study period. Among all patients, the complication rate was 9.6%, and the airway complication rate was 7.8%, with no cases of perioperative mortality. Definitive excellent or good results were achieved in approximately 99% of patients.

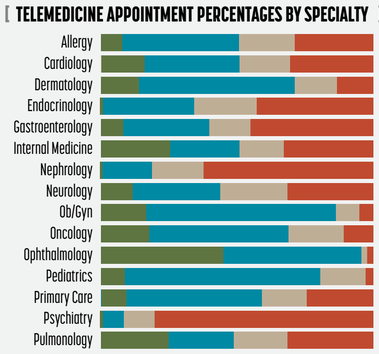
The Impact of COVID-19 on Physician Practices

There's no denying the significant impact the COVID-19 pandemic has made on medicine. "We're practically developing new protocols every day," says PW Editor-in-Chief Linda Girgis, MD. "We now are conducting many visits by telemedicine to limit contact between people and sterilize every surface of the office—for those patients who do come in—like we've never done before." To get a better sense of the impact, we conducted a survey of our physician eNewsletter recipients, during the latter half of 2020. Among the approximately 1,500 recipients representing 15 specialties, we found striking, but understandable, differences by specialty in response to two key questions that reveal and overall trend.

Nearly **90%** of offices are using Telemedicine



[TELEMEDICINE APPOINTMENT PERCENTAGES BY SPECIALTY]



More than **2/3** of physicians are concerned about the future of their practice.

64.2% Yes | 35.8% No

[PERCENTAGES OF CONCERN BY SPECIALTY]

	Yes	No
Allergy	63.0%	37.0%
Cardiology	69.6%	30.4%
Dermatology	84.6%	15.4%
Endocrinology	32.3%	67.7%
Gastroenterology	77.4%	22.6%
Internal Medicine	87.5%	12.5%
Nephrology	52.5%	47.5%
Neurology	54.8%	45.2%
Ob/Gyn	60.5%	39.5%
Oncology	48.4%	51.6%
Ophthalmology	86.4%	13.6%
Pediatrics	77.5%	22.5%
Primary Care	69.6%	30.4%
Psychiatry	45.5%	54.5%
Pulmonology	70.0%	30.0%

Source: 2020 Physicians Weekly COVID-19 Survey

In light of these impacts, Dr. Girgis says "Hang in there, and don't forget to take a pause! We need to speak up and let people know the conditions we are working under and keep pressuring administrators to provide a safe work environment."

Trends in NTM Lung Disease

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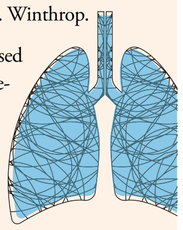
Recent studies report increasing incidence and prevalence of nontuberculous mycobacterial (NTM) lung disease in the US, while these rates have decreased for other mycobacterial diseases, like tuberculosis. Few national estimates of NTM lung disease burden in the US exist, with the most recent prevalence estimates covering through 2007 and only regional studies—not nationwide—addressing incidence. For a study published in *Annals of the American Thoracic Society*, Kevin L. Winthrop MD, MPH, and colleagues sought to estimate the yearly incidence and prevalence of administrative claims–based NTM lung disease between 2008 and 2015 in a U.S. managed care claims database. "We needed to determine if initial trends of increasing incidence were continuing and if this problem was most prevalent in specific subgroups of people," adds Dr. Winthrop.



Using a population-based US claims database representing a geographically diverse population of approximately 27 million members annually, the researchers scanned medical claims from January 2007 to June 2016 for diagnosis codes for NTM lung disease that were dated at least 30 days apart. Annual prevalence and incidence were estimated for each calendar year from 2008 to 2015.

During the study period, the annual incidence of NTM lung disease increased from 3.13 to 4.73 per 100,000 person-years, while the annual prevalence increased from 6.78 to 11.70 per 100,000 persons. Average annual incidence and prevalence changes were +5.2% and +7.5%, respectively. Most cases were women, among whom annual incidence increased from 4.16 to 6.69 per 100,000 person-years and annual prevalence increased from 9.63 to 16.78 per 100,000 persons. Most cases were older than 50, with annual incidence among those older than 65 increasing from 12.70 to 18.37 per 100,000 person-years and annual prevalence increasing from 30.27 to 47.48 per 100,000 persons.

"The findings of increased incidence over time, a higher incidence in women overall (but currently increasing in both men and women), and higher incidences with advancing age are all important and should increase physician awareness of the possibility that their patient with chronic cough, fatigue, or both—particularly if older than 60—might have this infection," says Dr. Winthrop.