



Bayshore Independent Updater



In This Month's Issue:

- > President Obama and the future of healthcare
- > The potential impact of the Medicare Risk Adjustment system
- > South Florida is local

Tort Reform?... No Help from the President

I believe that by now we have all seen the news from President Obama's speech at the AMA in June. Unfortunately, while we are all hoping for some clean-up of the current state of malpractice, it is apparent that malpractice reform isn't on this president's agenda.



To be perfectly clear, here is the quote *"Now, I recognize that it will be hard to make some of these changes if doctors feel like they're constantly looking over their shoulder for fear of lawsuits. I recognize that. Don't get too excited yet. Now, I understand some doctors may feel the need to order more tests and treat-*

ments to avoid being legally vulnerable. That's a real issue. Now, just hold on to your horses here, guys. I want to be honest with you. I'm not advocating caps on malpractice awards which I personally believe can be unfair to people who've been wrongfully harmed". It isn't just this statement that we can look to, I believe the lack of follow up commentary by the administration can be equally powerful in what we can expect.

In addition, it is also becoming clear that while your risks will continue to rise, you are going to be expected to cover your practice with less reimbursement. Under the new plan, Medicare Advantage plans (Medicare HMO's) are going to be squeezed in an effort to decrease Medicare spending and thus helping

to pay for the 1.6 trillion (the amount quoted by Politico in April). So naturally, if the HMO's are going to receive less money, so will their providers.

In a debate with a few of our key practice consultants, it seems pretty clear: Risk will continue to rise while everyone will make less.

There is a bit of a silver lining for some health practitioners in Florida. There is a new carrier emerging in the local market that will offer coverage for practices that participate in "Best Practices" CME's at a discounted rate. If your practice is active in minimizing your risk, you may qualify for this new program.

If you are interested, contact your BIU representative for details.

Outpatient Procedures: Hospital or Surgery Center?

While there are several clinical decisions that must be made by physicians, there is something else that you have to consider: Cost of services. With the new "Consumer-driven environment", practices now must choose where to deliver those services. For example, a GI doctor who has privileges at both Hospital X and a local Surgery Center has to choose between performing an endoscopy at the Hospital where

his or her patient may pay upwards of \$3000 in deductibles and coinsurance or a simple \$250 surgery center copayment. By not giving the patient the option, you are increasing your own risks. In a growing trend, patients who feel they weren't given the proper information on financial impact, are viewing this as a reason to seek legal counsel to attack both the hospitals AND their physician. For obvious



reasons, a patient who finds out that he/she could have saved thousands if given the opportunity to have their service at an ASC, creates anger. It is important to explore these options with your

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Is my liability coverage "Adequate" or "Thorough"

Seems like an odd question, right? Maybe not. Often, due to the high cost of malpractice, practitioners often seek minimal coverage simply to meet the state requirements. In some cases, certain key elements are left off. For example, think of "sexual misconduct". Many physicians don't believe they will ever face a suit of this nature because they know their own ethics. However, we have to acknowledge that it's not the act of sexual misconduct that is called into question, it's the

accusation of sexual misconduct that has to be defended. That pat on the knee or the friendly smile to put a patient at ease. Did he or she take that the wrong way?

An unfortunate and very disturbing question to have to ask. There are many more considerations. Example: are you carrying the minimum required of \$250k/\$750k or higher, safer limits of \$1m/\$3m. (As is often required to participate in certain Managed Care plans). What would happen if the set-



tlement was higher than the \$250k? So the question remains, are you "Adequately" covered or is your coverage "Thorough"?



**Medicare Update for
June, 2009**

News on Medicare: Medicare Advantage Plans under attack

It appears that funding of the new health care reform will come in-part from the funding of Medicare Advantage plans. While the current administration hasn't fully explained how they will fund the \$1.6 trillion-dollar reformation of our current healthcare delivery system, it is clear that they expect a portion of it to come from Medicare Advantage HMO's, PPO's and PFFS plans.

The major plans have been placed on notice that in the upcoming year, they can expect cuts in excess of 10%. When you consider that even the most profitable Florida plans operate on less than a 2% profit margin, this is an alarming number.

It is important to look at why the administration is seeking to fund their program in part from funds allocated to the current Medicare system. To put it simply, "success". While traditional

Medicare's cost of administration and benefit loss ratio is in excess of 21% of directly allocated funding, Medicare Advan-



tage plans operate on a 9% administrative cost to benefit ratio.***

"With a 12% gap in simple cost to benefit ratio, the administration has sought to recoup this money to fund it's initiatives" (CEO of a prominent health plan in Florida who wishes to remain anonymous)

While you must consider the source of the quote, it is a concern for practices. Consider that with Traditional Medicare, pa-

tients have \$130+ deductible, then a straight 80/20 coinsurance (not to mention a Rx plan that has a gap in coverage). With most Medicare Advantage plans, patients have less out-of-pocket and usually a simple co-payment for all prescriptions. These are advantages not considered in the cost to benefit ratio.

Make sure you're protected. If you accept any of these plans, it might be time to discuss this with your provider representative.

BIU is a proud sponsor of the Relay for Life. In 2009, BIU sponsored the winning banner/tent for Lynn Brown and "The Giant Pandas of Sichuan, China". Congratulations to Lynn Brown and her team!

Want to help? Ask your agent how to have a portion of your commission donated to the search for a cure.



Florida Legislation on Tort Reform, will it survive?

In a recent medical malpractice continuing education seminar, an enlightening fact was brought to fore. Tort reform has been passed by several states. Thirteen to be exact. Of those states, only California has been successfully upheld to date. Some are in process of being challenged as of this date but in many cases, those that have gone challenged, the states have been relatively unsuccessful in maintaining the original intent of the law. Also, certain states have incorporated the "I'm Sorry" clause indemnifying the physicians when a physician apologizes for an outcome. This is important as often, an apology is used by unscrupulous attor-

neys as a means to tie the apology to malpractice.

What does this mean for practitioners today? This remains unclear. Five years is a relatively short period to evaluate the impact of legislative reform of this nature but be certain, the challenges are coming. The best way to mitigate this becoming your issue is to utilize "Best Practice" guidelines as a standard. But what is "Best Practice"? How can a practice incorporate these practices?

There are many good practice guidelines available by the AMA ® and the various specialty organization. When these practice guidelines are incorporated,

there is statistical evidence of reduced exposure as well as a better chance that should a suit be brought forward, the practice has a much better chance of being defended successfully.

Successful implementation of Electronic Health Records, Outcome Tracking and minimally invasive procedures have all impacted patient satisfaction. This has been proven to be directly tied to malpractice as what one views as a successful outcome is often subjective.

As for the legislation, only time will tell if it is upheld.

By Darren Majors,



Florida Legislature

Letter from our President

Dear Clients,

Thank you for taking the time to read our newsletter. I'm excited about the experience and education afforded us with Darren Majors joining our firm. His years of practice experience including time as a Sr. Practice Administrator with Mount Sinai Medical Center as well as his most recent time in managed care with AvMed Health Plans, will help us in identifying opportunities to reduce risk and reduce costs for our clients.

As a practice consultant specializing in private and multispecialty groups, your practice can benefit from a knowledgeable source who understands the intricate needs of private practitioners, small to medium groups and how to consolidate expenses as well as implement "best practices".

Please join me in welcoming Darren to our BIU family.

Sincerely,

Carolyn Dehlinger



Why you should chose *Bayshore Insurance Underwriters*:

1. Dedicated to Medical Practice needs. We are not a general agency, rather we focus solely on the needs for Medical and Allied Health Professionals
2. Experienced practice consultants who have the knowledge of risk associated with practices
3. Local, hands-on approach. You can count on your agent to arrive at your office and work hand-in-hand with your practice's administration
4. Financial consideration of practice needs. Make sure your practice is covered for exactly what it needs. Have a group? Find out how to cover the group instead of carrying individual policies for much higher rates.
5. Small to medium practices are our specialty. No, you aren't too small to be given the attention the larger groups receive.

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Top 10 Patient Complaints in Offices

We polled several friends, family members and people in the community about their recent visit to the doctor. Here are the informal results:

10. No parking spaces for patients in the lot or had to pay for parking to see the doctor

9. Could not retrieve my lab results or diagnostic information

8. Doctor's office was un-kept, odorous or dirty

7. I wasn't seen in order

6. The office was overcrowded

5. The doctor didn't spend enough time with me (I wasn't able to explain my symptoms)
4. Too much paperwork



every time I see the doctor
3. Can't get an appointment to see my doctor. Whenever I call, they're on service (combined)

2. The wait time to see the doctor was too long (Didn't count under 20 minutes)

1. The office staff was rude

Surprised at these results?

With some, we agree...

Important information for those that care about your patients. It's important to solicit feedback not only about you and the service you provide but also the treatment received by your staff.



"We Remain Dedicated to the individualized one-on-one approach that has made [us] successful"

If you haven't received a one to one conversation about your malpractice needs, maybe it's time you reassess your agent.

At Bayshore Insurance Underwriters, we are dedicated to servicing the medical community.

Give us a call today 813-348-0762

We're on the web! www.BayshoreInsurance.com