

Of Note

Hospital Care at Life's End: A Disparity

According to a report released by researchers at Dartmouth College, at the end of life, people with chronic diseases like cancer get more aggressive medical care in the New York area than anyplace else in the country, continuing a trend going back decades.

The study looked at federal data from 2007, the most recent year available, and found that 46 percent of chronically ill patients in the Manhattan hospital region, which also covers most of Brooklyn and Staten Island, were being treated at hospitals when they died, as opposed to dying at home or in hospices or nursing homes. That rate was the highest in the country.

Nationally, 28 percent of hospitals' chronic patients were being treated at hospitals when they died.

The study also found that the use of hospice care was increasing in New York and across the country.

The average number of days patients spent in hospice care, either at home or in an institution, rose to 10.1 days in 2007 from 5.4 days in 2003 at the five academic medical centers in the New York City area.

“End-of-life care in the U.S. is changing fairly rapidly,” said Dr. David C. Goodman, a professor of pediatrics and health policy at Dartmouth Medical School. Patients, he said, “are spending less time in the hospital and receiving more hospice care overall.” **Anemona Hartocollis, *New York Times*, April 11, 2011.**

Medical Errors Cost Health Care System Billions

Researchers are reporting that as much as 45 cents out of every dollar spent on U.S. health care is related to a medical mistake.

Some kind of mistake or adverse event occurs in one-third of all hospital admissions--far more than in previous estimates and in spite of ten years of efforts to do away with these errors, according to one of several studies on the subject published in the journal *Health Affairs*.

The single most expensive cause of harm is infection after surgery. In 2008, more than 252,000 infections cost \$3.36 billion, according to the report in *Health Affairs* by Jill Van Den Bos of Milliman's Denver Health Practice and colleagues. Bedsores, or pressure ulcers, are the most common preventable event, with nearly 375,000 cases in 2008 and a cost of \$3.27 billion, they found. **Althea Fung, *National Journal*, April 7, 2001.**

Panel Says End-of-Life Wishes Unheeded In Call for Patient Forms

According to a new report written by a committee of public policy and medical specialists, there is often a significant gap between the type of care patients want at the end of their lives and what they actually receive. The report recommends that the state adopt a standardized form for patients to communicate and document their wishes.

The report said patients lack a way to express their specific wishes in a format that can be readily understood and followed by health care providers in such settings as hospitals and nursing homes.

Called Medical Orders for Life-Sustaining Treatment, the suggested two-page form allows patients to check off whether they want machines to allow them to be fed, keep them breathing, and keep their kidneys functioning.

Unlike the more traditional Do Not Resuscitate forms, which reflect a patient's wishes for being revived and are typically used by emergency responders, the new form documents a wider choice of treatments and is intended for use by all care providers.

It includes a section that is to be signed by a health care provider, indicating that the decisions were discussed with the patient. **Kay Lazar, www.boston.com, April 14, 2011.**

Social Media Use By Patients Raises Practical Issues for Doctors

Patients using social media to check in on what their friends and family are doing are starting to use the sites as sources of information for health care.

National Research Corp., a health care research company based in Lincoln, Neb., recently surveyed more than 22,000 Americans and found that nearly 16 percent use social media sites as a source of health care information. Of those, 94 percent said Facebook was their preferred source, followed by YouTube with 32 percent and Twitter with 18 percent.

"For many people, social media -- or Facebook in particular -- is the Internet," said Jennifer Dyer, MD, MPH, a pediatric endocrinologist and an assistant professor of pediatrics at the Research Institute at Nationwide Children's Hospital in Columbus, Ohio.

On a scale of 1 to 5, with 5 being the highest, 82.3 percent of those surveyed who used social media trusted the information on a level of 3 or higher, and 78.8 percent gave a level of 3 or higher to the likelihood of social media influencing their health care decisions.

Pamela Lewis Dolan, www.ama-assn.org, March 28, 2011.

New Frontier in Health Care: Electronic Health Records

Just two years ago, the acronym EHR didn't mean much to many people. But since Congress passed the health-care reform law last year, physicians and hospitals have become intimately acquainted with it — and patients may follow suit.

Electronic health records (EHRs) are quickly being adopted by hospitals and physicians as the federal government begins to pay out \$19 billion in incentives.

An EHR is a digitized copy of a person's health record, essentially replacing the file folder that has typically held handwritten information about a patient. It generally contains information about a patient's laboratory and radiology results, diagnoses, prescriptions and other treatment.

Rather than being locked in a doctor's office, EHR information, in theory, can be accessed by other health-care providers, regardless of which one the patient is seeing. "It's about the information always moving with you," said Nancy Szemraj, spokeswoman for the Office of the National Coordinator for Health Information Technology.

EHRs are expected to reduce unnecessary tests and treatment because they will list tests that have been performed, and to reduce the potential for medical errors, because they containing such cautionary information as the patient's allergies.

Tara Kaprowy,
www.richmondregister.com, March 25,
2011.

Gardasil Rejected by FDA for Older Women

The FDA has declined to expand the approved age range for the human papillomavirus (HPV) vaccine Gardasil to 45, according to the product's manufacturer.

The decision was based on a trial in 3,253 women ages 27 to 45. Although the vaccine appeared to prevent persistent HPV infection, no significant benefit was found for more important outcomes such as high-grade neoplastic lesions or cervical cancer when all participants were included irrespective of baseline HPV status.

A summary of these data is now included in Gardasil's prescribing information.

The quadrivalent vaccine covers HPV subtypes 6, 11, 16, and 18 and is currently approved for females and males 9 to 26 years old to prevent various conditions associated with the virus, including cervical cancer, anal cancer, and genital warts. **John Gever**,
www.medpagetoday.com, April 7,
2011.

Students from the Center for Health Law Studies at Saint Louis University School of Law contributed the following items to this column. Amy N. Sanders, Assistant Director, Center for Health Law Studies, supervised the contributions of health law

students Ann Schunicht (JD anticipated '12) and Chelsea Mortimer (JD anticipated '12)

Obama Administration Unlikely to Block Arizona Plan to Cut 250,000 from Medicaid Rolls

In one of the country's most aggressive cuts to Medicaid and other health initiatives, Arizona plans to cut an estimated 250,000 adults from Medicaid after a "demonstration waiver" expires Sept. 30, 2011 that allows Arizona to run Medicaid as a managed care system. After the expiration, Arizona will be able to put tighter restrictions on coverage for childless adults. Arizona Democrats plan to fight the proposed changes with a lawsuit claiming that state lawmakers lack the authority to scale back coverage after Arizonans voted to expand Medicaid to childless adults in a referendum. N.C. Aizenman, *Washington Post*, Feb. 17, 2011

FDA Strengthens Topamax Warning

In response to new data suggesting an increased risk of birth defects, the FDA added new warnings to Topiramate, sold under the brand name Topamax. Topamax is prescribed as an antiseizure drug or to help prevent migraines. The new data showed that Topamax created an increased risk of cleft lip and cleft palate in babies whose mothers took the drug. The FDA now categorizes Topamax as a pregnancy Category D, meaning there is evidence of fetal risk but the benefits of the drug may still outweigh the risks in certain situations. Johnson & Johnson, producer of Topamax, said it is

cooperating with the FDA on the new warnings, adding that the Topamax label currently warns of the risks of using the drug during pregnancy. Thomas Gryta, *Wall Street Journal*, March 4, 2011)

Hospitals Increasingly Offer Palliative Care

Palliative care is a growing trend in hospitals throughout the country. Palliative care provides emotional support to people coping with serious, chronic or life-threatening disease and helps them deal with the challenges and decisions they face regarding treatment goals and medical decisions. Research shows palliative care programs also save money. A study in the March issue of the journal *Health Affairs* showed that Medicare patients who received this type of specialized care saved, on average, nearly \$7,000 compared to other Medicaid patients who did not receive the care. Despite these findings, hospitals are not typically reimbursed for palliative services beyond the normal coverage. Michelle Andrews, *Washington Post*, March 28, 2011

Lobbyists Won Key Concessions in Budget Deal

A program that would have allowed approximately 300,000 workers to choose their own insurance coverage through a system of employer-financed vouchers was cut amid the attempts to prevent a government shutdown. Sen. Ron Wyden, D-Oregon, was "flabbergasted, just flabbergasted" to hear news about the demise of the program he had succeeded

in passing just months earlier. Opponents of the plan said younger, healthier employees would opt-out of plans, making insurance more expensive for the older and sicker workers.

Supporters of the program, such as Charles Kolb, president of the Committee for Economic Development, commented that Wyden “was trying to introduce the type of structural reform that the system is crying out for.” Wyden’s program was included in the final health care plan signed by President Obama last March. **Eric Lichtblau, *New York Times*, April 12, 2011**

KV Pharmaceutical Boosts Prenatal Drug Price 100-Fold

KV Pharmaceutical announced in March a price increase in the prenatal drug Makena that is used to prevent pre-term labor. The St. Louis-based company cited increased costs in health care and the long and expensive process of FDA approval as a cause for the dramatic price increase. A typical treatment of 15 to 20 shots could cost approximately \$25,000 with the increase. **Jim Doyle, *stltoday.com*, March 10, 2011**

http://www.stltoday.com/business/local/article_55dbaf88-4ab0-11e0-ad73-0017a4a78c22.html?sms_ss=email&at_xt=4dacf812a06f4c85%2C0

Health-care Sector Facing Increased Antitrust Scrutiny

Antitrust actions initiated by the Justice Department are turning up the heat on

health care providers and insurers that appear to be violating antitrust laws. These allegations arise in the midst of the hotly debated health care reform initiatives. A case that has been deemed “the first of its kind since 1999” alleges that United Regional Health System of Wichita Falls has been giving incentives to insurers to refrain from doing business with competing hospitals. The lawsuit alleges that the deal essentially allowed the hospital to keep its monopoly and become one of the most expensive hospitals in the state.

Other antitrust cases have been cropping up on the Justice Department’s radar in the last few years. Alleged offenders include a group of orthopedists in Idaho and Blue Cross Blue Shield of Michigan. These issues are becoming more complicated due to the nature of health care reform. Federal antitrust officials want to allow plenty of leeway for Accountable Care Organizations to collaborate, but even with this policy, the alleged actions taken by the defendants would not have been legal based on the more flexible ACO guidelines. The balancing act will be the encouragement of new and innovative health care collaborations for health care reform weighed against the need to keep competition fair and healthy among health care players. The concept of consolidation favored by reformers could, at times, be the very thing that makes many antitrust experts uneasy. **Julie Appleby, *Washington Post*, April 4, 2011).**

http://www.washingtonpost.com/business/economy/health-care-sector-facing-increased-antitrust-scrutiny/2011/04/01/AFIYc9fC_story.html

111 Charged in Medicare Scams Worth \$225 Million

In nine cities nationwide, doctors, nurses and physical therapists wish they had not attempted to defraud the government. The \$225 million bust is trivial compared to the estimated \$60 to \$90 billion that this type of fraudulent billing costs the U.S. government yearly. A podiatrist in Detroit, who was essentially clipping toenails, billed Medicare for roughly \$700,000 for the “costly and unnecessary procedures”. In Brooklyn, a physical therapy group allegedly recruited elderly patients to participate in their clinics. The services provided were glorified back rubs billed to Medicare for about \$57 million. According to HHS Inspector General Daniel R. Levinson, the message is clear: the government will no longer sit back and allow criminals to take advantage of the elderly and taxpayers. Other potential changes include better screening of providers as well as issuing numbers, separate from Social Security numbers, to Medicare recipients. The goal is to make it easy to cancel compromised Medicare accounts. **Kelli Kennedy, Associated Press, Feb. 17, 2011).**

http://news.yahoo.com/s/ap/20110217/ap_on_bi_ge/us_medicare_fraud_bust