

# Health Care Update

## Impact of the New Health Care Reform

- Health Insurers cannot deny children health insurance because of pre-existing conditions. A ban on the discrimination in adults will take effect in 2014
- Businesses with fewer than 50 employees will get tax credits covering up to 50% of employee premiums
- Seniors will get a rebate to fill the so-called "donut hole" in Medicare drug coverage, which severely limits prescription medication coverage expenditures over \$2,700. As of next year, 50 percent of the donut hole will be filled.
- The cut-off age for young adults to continue to be covered by their parents' health insurance rises to the age 27
- Lifetime caps on the amount of insurance an individual can have will be banned. Annual caps will be limited, and banned in 2014
- A temporary high-risk pool will be set up to cover adults with pre-existing conditions. Health care exchanges will eliminate the program in 2014
- New plans must cover checkups and other preventative care without co-pays. All plans will be affected by 2018
- Insurance companies can no longer cut someone when he or she gets sick
- Insurers must now reveal how much money is spent on overhead
- Any new plan must now implement an appeals process for coverage determinations and claims
- New screening procedures will be implemented to help eliminate health insurance fraud and waste
- Medicare payment protections will be extended to small rural hospitals and other health care facilities that have a small number of Medicare patients
- Chain restaurants will be required to provide a "nutrient content disclosure statement" alongside their items.

## THE LEGAL NURSE CONSULTANT-ATTORNEY RELATIONSHIP

### Assessing Medical Records and Analyzing the Case

- Identify, locate, review and interpret relevant medical records, hospital policies and procedures, other documents and tangible items.
- Organize, tab and paginate medical records for easy reference.
- Prepare chronologies of the medical events involved in a case.
- Summarize, translate and interpret medical records.
- Identify issues of tampering with the medical records.
- Screen medical malpractice cases for merit.
- Identify, locate, summarize and interpret applicable standards of care.
- Identify adherences to and deviations from these standards.
- Identify causation issues, assess damages/injuries and identify contributing factors.
- Identify and recommend potential defendants.
- Develop written reports for the attorney's use as study tools.

### Supporting the Attorney's Case

- Search and summarize medical and nursing literature and integrate results of your search into case analysis.

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- Analyze the validity of research studies relied on by all parties.
  - Coordinate and attend independent medical examinations.
  - Help in developing life care plans.
  - Expand the attorney's medical library.

### Serving as the Attorney's Liaison

- Interview plaintiff and defense clients, key witnesses and experts.
- Consult with healthcare providers.
- Meet with other consultants and service providers on the attorney's behalf.

### Working with Experts and Other Witnesses

- Identify types of testifying experts needed for the case.
- Find and communicate with appropriate expert witnesses for deposition and trial.
- Analyze potential experts' reports and other work product.
- Help prepare witnesses and experts for deposition and trial.
- Serve as an expert witness and testify to the nursing standard of care.

### Assisting with Discovery and Preparing for Court

- Prepare questions for deposition or trial examination (direct or cross).
- Prepare interrogatories and requests for production.
- Review and draft responses to various legal documents and correspondence for the attorney's signature.
- Analyze and summarize depositions and past testimony.
- Assist with exhibit preparation and other demonstrative evidence.

### USE OF PARAPROFESSIONALS: HELP OR RISK TO PATIENT CARE?

As healthcare costs have risen, efforts, both by government and private entities to control costs have focused largely on professional staff. Although salaries have risen as a recruitment tool, the caseload has also increased. The use of lower cost paraprofessionals has also grown, so that an increasing share of the workload is being performed by aides and technicians, consequently professionals are doing more checking, reviewing, and supervising. One nurse recently wrote: "The job isn't what it used to be. Due to short stays, the overall level of acuity is like that of an ICU 20 years ago. The patient load, however, is 3-4 times that of an ICU. By passing physical care off to the nursing assistant, the nurse has a brief time to try to make an assessment, build a rapport with the patient, evaluate physical, emotional and educational needs, and implement a plan to meet them."

What affect does the use of paraprofessionals have on patient care? For one, patients being discharged from the hospital are not receiving discharge instructions on their medications, treatments, or follow-up appointments. Patients are also returning home requiring more care than they did 5, 10 or 20 years ago. A high risk is prevalent among seniors who may not have a strong support system when they get home and are unable to care for themselves adequately or even schedule and keep follow-up appointments with specialists.

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### MEDICARE BENEFITS WITH HEALTH CARE REFORM

There are no cuts to the traditional Medicare benefit. The lion's share of spending cuts are in Medicare Advantage -- a program that uses private firms such as Humana and UnitedHealth Group to deliver Medicare benefits. Many of these providers offer extra coverage and some of those extras could be dropped as Medicare Advantage subsidies are bought more in line with the cost of traditional Medicare benefits. Medicare Advantage payment rates will be frozen in 2011 and then gradually reduced giving companies time to adjust to the changes.

Medicare will begin paying for annual wellness visits and increase reimbursements for primary care physicians. Currently Medicare only pays for a general checkup when someone first enters the program and many health analysts believe regular check ups would help improve the overall health of elderly people and provide for better coordination of care.

Also the bill provides for an improvement in the Medicare prescription drug program. The current program includes a significant coverage gap that the legislation will eventually close. Currently people fall into this so-called doughnut hole falls after a total \$2,700 is spent on drugs. Coverage begins again after \$6,154 is spent.

Lawmakers hope the program will save billions of dollars by avoiding duplication of services and by providing better coordination of care for people with chronic conditions. The main aim of these delivery system reforms is to reward a quality of care rather than a quantity of services.

### Nationwide Critical Nursing Shortage Threatens Patient Care

Tens of thousands of hospital deaths every year can be blamed on a nationwide nursing shortage, according to a report released today by the Joint Commission on Accreditation of Healthcare Organizations.

The private commission, which inspects and accredits hospitals, believes that a lack of nurses is to blame for thousands of deaths caused by problems such as medication errors, patient falls, and hospital infections.

Of the 1,609 "adverse" events, or unexpected problems, that hospital officials reported between January 1996 and March 2002, 24 percent took place in part because hospitals had an insufficient number of registered nurses on the job, the report says. Findings were based on each hospital's assessment of unexpected deaths and serious physical or psychological harm patients suffered during their hospital stay.

Nurse staffing levels were found to contribute to 50 percent of ventilator-related incidents, 42 percent of surgery-related incidents, 25 percent of transfusion incidents, delays in treatment, and infant abductions, 19 percent of medication errors, 14 percent of in-patient suicides, and 14 percent of patient falls.

"When nurses care for more patients than they can handle, patients that are sicker than nurses used to care for five years ago, or they may be asked to do extra shifts, sooner or later, you get stressed, you get tired, you get more vulnerable to making mistakes," said Dr. Dennis O'Leary, president of the Joint Commission on Accreditation Health Care Organization.