AHA Seeks Ban on Physician Self-Referral

BY MARY ELLEN SCHNEIDER
Senior Writer

The American Hospital Association is calling on Congress to permanently ban the practice of self-referral of patients to new physician-owned specialty hospitals.

Congress placed an 18-month moratorium on the construction of new physician-owned specialty hospitals under the Medicare Modernization Act of 2003. The moratorium is set to expire in June.

In a new report, the American Hospital Association (AHA) contends that physician-owned specialty hospitals have led to increased costs and the increased use of health care services, forced cutbacks in other services at full-service hospitals, and placed access to emergency and trauma services at risk.

"This practice strips full-service hospitals of critical resources needed to provide a full array of services that the community expects," George Lynn, chairman of AHA's board of trustees and president of AtlantiCare in Atlantic City, N.J., said during a press conference that was sponsored by AHA.

AHA examined the impact of physician-owned specialty hospitals on patients, communities, and full-service hospitals. When specialty hospitals entered a community, access to emergency and trauma care was put at risk, the report found. Investments in new technologies were delayed or cut altogether, Mr. Lynn said. The report also found that physician-owned specialty hospitals focused on higher-reimbursed services.

But Randolph B. Fenninger, Washington representative for the American Surgical Hospital Association (ASHA), the trade group for physician-owned specialty hospitals, said continuing the moratorium is unnecessary. Instead, Mr. Fenninger said the ASHA supports making changes to the current diagnosis-related–group prospective payment system to better reflect the cost of care.

The Medicare Payment Advisory Commission has recommended that Congress extend the moratorium by 18 months, to study the impact of the hospitals and implement payment changes. ■

Congress Weighs Increasing FDA Authority Over Drug Companies

BY JOYCE FRIEDEN
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WASHINGTON — Congress is considering giving the Food and Drug Administration more authority over the pharmaceutical companies it deals with, but some legislators are warning against doing too much too fast.

"Changes to drug safety . . . must be carefully considered to make sure they don't unduly impact patient access," Sen. Mike Enzi (R-Wyo.), chair of the Senate Health, Education, Labor, and Pensions Committee, said at a hearing on FDA oversight. "Congress needs to engage in strong oversight to maintain public confidence in the FDA."

Sandra Kweder, M.D., deputy director of the Office of New Drugs at the FDA's Center for Drug Evaluation and Research, told the Senate committee that in order to ensure drug safety, it would be helpful if the FDA had more clout. She noted that it took a lot of back-and-forth haggling just to get some earlier warnings added to drug labels.

"The most important lapse [with the safety concerns surrounding Vioxx] was the delay it took to get the information into the labeling; it took over a year," she said. "I think stronger ability to require changes in labeling would be very helpful."

The committee's ranking member, Sen. Edward Kennedy (D-Mass.), also spoke in favor of giving the agency greater labeling authority. "The FDA needs clear authority to require relabeling of a drug after approval once a risk is found," he said.

Some observers said although giving the agency more authority over label changes is a good idea, it only goes so far. "We all know product labeling does not change provider behavior very much," said Arthur Levin, director of the Center for Medical Consumers in New York and the consumer representative on the FDA's Drug Safety and Risk Management advisory committee. Even if FDA does get more labeling authority, "we shouldn't count on it protecting the public from harm," Mr. Levin said at a teleconference announcing the release of a new survey on consumer attitudes toward the FDA.

The survey of 1,000 adults nationwide was performed by pollster Celinda Lake and sponsored by a coalition of consumer groups. The results showed only 14% had a great deal of confidence in the FDA's ability to ensure prescription drug safety.

Another subject discussed at the hearing was the secrecy of clinical trial data. "I'd like to emphasize the importance of open access to data from clinical trials, including negative trials and unpublished research," said David Fassler, M.D., a child and adolescent psychiatrist in Burlington, Vt., who testified on behalf of the American Academy of Child and Adolescent Psychiatry and the American Psychiatric Association.

In 2004, when Dr. Fassler testified on whether there was a link between selective serotonin reuptake inhibitors (SSRIs) and suicide, "there were only four studies in the published literature on [the use of] SSRIs in adolescents. But I later learned that there were 11 unpublished studies whose results had been submitted to FDA. Parents clearly need access to this kind of evidence." ■

Malpractice Reform Leads to Signs Of Improvement in West Virginia

BY MARY ELLEN SCHNEIDER
Senior Writer

The malpractice environment may be starting to improve for physicians in one state, 2 years after a comprehensive medical liability reform bill was enacted there.

"It's probably too early to see a huge improvement," said Frederick C. Blum, M.D., president-elect of the American College of Emergency Physicians. "But the signs are encouraging."

The first signs are coming from the insurance industry. Loss ratios for medical liability carriers have improved since the reform legislation was passed in 2003, according to a report from the state's insurance commissioner. The percentage of medical liability insurance premiums spent on claims and expenses in the state fell from 135% in 2002 to 107% in 2003. Ratios above 100% indicate the insurer has an underwriting loss.

The 2003 law established a $250,000 cap on noneconomic damages and set a $500,000 cap on damages for injuries sustained at trauma centers. The law also strengthened the qualifications required to be an expert witness. Within weeks of the law's passage, physicians stopped talking about leaving the state, said Steven Summer, president of the West Virginia Hospital Association. "Retention changed almost overnight."

And the malpractice insurance market has become more predictable, he said, adding that the next piece will be a reduction in physicians' premiums.

But physicians aren't out of the woods yet, said Dr. Blum, also of West Virginia University. The law is already under attack by plaintiffs' lawyers trying to get the reform declared unconstitutional by the courts. The medical community in the state continues to push for further reforms, said Robert C. Solomon, M.D., faculty director of the emergency medicine residency at Ohio Valley Medical Center in Wheeling.

West Virginia physicians also must contend with the state's lingering image problem, Dr. Solomon said. There is still a sense among physicians around the country that the state has a hostile medical liability environment, he said, which can hurt recruiting efforts. "It's still on the list of danger zones," Dr. Solomon said. ■