POLICY & PRACTICE

Guidelines on Organ Donation

The American Medical Association at its annual meeting adopted new resolutions to guide physicians involved in transplanting organs from living donors. The resolutions recommend that living donors be assigned an "advocate" team whose primary concern will be the well-being of the donor. Physician support is also needed to develop and maintain a national database of living donor outcomes, the new language stated. "Over the past 10 years, the number of living organ donors has more than doubled, and these living donors, who give the gift of life, require special protection," said AMA Trustee Peter Carmel, M.D. The AMA claims these are the first national guidelines to be developed on this issue. In another measure, the House of Delegates voted to encourage and support pilot studies that investigate the effectiveness of presumed consent and mandated choice for organ donation.

The Cost of Smoking Deaths

Smoking deaths cost the nation $92 billion in lost productivity on an annual basis, from 1997 to 2001, the Centers for Disease Control and Prevention reported. This reflects an increase of about $10 billion from the annual mortality losses for the years 1995 through 1999. During the same period, an estimated 438,000 premature deaths occurred each year as a result of smoking and exposure to secondhand smoke. To reduce the toll, "we must provide the 32 million smokers who say they want to quit with the tools and support to do it successfully," CDC Director Julie Gerberding, M.D., said in a statement. In an independent action, the AMA's House of Delegates took measures at its annual meeting to discourage tobacco use, voting to support increases in federal, state, and local excise taxes on tobacco. Such increases in the excise taxes should be used to fund the treatment of those with tobacco-related illness and to support counteradvertising efforts, the resolution stated.

Health Insurance Statistics

The ranks of the uninsured appear to be leveling off, according to a survey conducted by the CDC's National Center for Health Statistics. In 2004, 42 million Americans of all ages were without health insurance, about the same level as in 1997, the first year this survey began tracking these statistics. One in five adults aged 18-64 years were without health insurance last year, a number that had been steadily rising in recent years, but also leveled off in 2004. The survey showed continued improvements in coverage for children: 7 million children under 18 years of age were without health insurance in 2004, compared with 10 million children in 1997.

Uneasy Retirement

Baby boomers are concerned about their financial and health security—and would favor setting aside a portion of their earnings in a special account to save for future medical expenses, a report from the Commonwealth Fund stated. In a nationally representative sample of 2,000 adults aged 50-70, very few thought they would have enough income and savings for retirement, and three of five adults in this age group worry that they will not be able to afford medical care in the future. More than 50% of those working or with a working spouse said they would not have job-based retiree health benefits when they retire. These fears are somewhat warranted: 12 million older adults are currently uninsured or have had histories of unstable coverage. The survey reflected a strong interest among older adults in a Medicare health account that would allow people to add to savings as well as receive the traditional Medicare benefit.

Medicaid's Public Support

Most people think Medicaid is a "very important program" and should not be cut to balance state budgets, the results of a poll of more than 1,200 adults conducted by the Kaiser Family Foundation showed. In fact, the majority thought the federal government should maintain (44%) or increase (36%) federal spending on Medicaid. Only 12% thought cuts to Medicaid should take place. "We expected Medicaid to be relatively unpopular with the public, much like welfare was," said Mollyann Brodie, Ph.D., Kaiser's vice president and director of public opinion and media research. The fact that many of the respondents (56%) reported having some interaction with Medicaid could explain why the program ranked closely with such other popular programs as Medicare and Social Security, she said.

NIH Extends Disclosure Deadline

Officials at the Department of Health and Human Services are giving employees at the National Institutes of Health more time to report prohibited financial interests and to divest stock investments. In its announcement of the extension, HHS wrote that the department is considering issuing revisions to its current ethics regulations. In February, the agency issued regulations prohibiting NIH employees from engaging in consulting relationships with organizations that are substantially affected by NIH decisions. And NIH employees who are required to file financial disclosure statements are prohibited from acquiring or holding financial interests, such as stocks, in these affected organizations. NIH employees now have until Oct. 3, 2005, to file financial disclosure reports and until Jan. 2, 2006, to divest prohibited financial interests. This is the second extension offered to NIH employees. "There's no doubt in my mind that at the end of the day, the advice that NIH gives has to be completely untainted, completely unimpeachable, and completely trusted," NIH Director Elias A. Zerhouni, M.D., said during a teleconference sponsored by the Kaiser Family Foundation.

—Jennifer Silverman

Malpractice Reform Options Debated in D.C.

BY JOYCE FRIEDEN
Associate Editor, Practice Trends

The District of Columbia is the latest in a growing number of jurisdictions trying to combat rising malpractice insurance premiums among physicians, as legislators there battle over whether the best solution is damage caps or increased regulation of insurers.

D.C. Mayor Anthony Williams has proposed legislation that would limit noneconomic damages to $250,000 and expand the city's Good Samaritan law to provide immunity to all health professionals who provide free care.

"The District is home to some of the best medical care in the country," Mayor Williams said when he announced the bill. "This bill is all about ensuring that our residents and visitors always get top-notch care and that our medical community can practice without undue burdens."

Linda Cropp, chair of the District of Columbia City Council and a frequent political adversary of Mr. Williams, has introduced her own medical liability reform bill. Under Ms. Cropp's bill, the city's insurance commission would be required to approve all proposed liability premium increases that exceed a certain percentage, would allow the insurance commissioner to consider a malpractice insurer's current surplus as a factor in rate making, and would authorize refunds for physicians who have paid excessive insurance premiums.

The average payment, including both settlements and trial judgments, grew by 4% per year between 1991 and 2003, consistent with other health care costs.

Unlike Mr. Williams, Ms. Cropp said she believed that tort reform wasn't the answer. "The problem is the high [cost] of insurance," she said in a statement. "Payments to patients who sue doctors in the District have declined dramatically, even as doctors and politicians have blamed skyrocketing jury awards for driving up the cost of malpractice insurance and driving doctors out of business."

Ms. Cropp cited a recent analysis by the consumer watchdog group Public Citizen to back up her contention. That analysis found that insurer payouts in the city, when factored for inflation, dropped from $29 million in 2001 to $11 million in 2004, a reduction of more than 62%.

"Did the malpractice insurance rates paid by doctors drop commensurately?" Ms. Cropp said. "No, they did not."

But Victor G. Freeman, M.D., president of the Medical Society of the District of Columbia, disagreed with Ms. Cropp's approach. "Linda Cropp's heart is in the right place," Dr. Freeman, an internist, said in an interview. "She recognizes there is a crisis, and her solution is to make sure there is tighter regulation around medical liability rates in town. Unfortunately, I think she's been misled by Public Citizen and the trial lawyers, because she believes medical liability companies are making huge profits in the city at the expense of physicians."

Dr. Freeman suggested that Ms. Cropp might want to consider that NCRIC (formerly the National Capital Reciprocal Insurance Co.), the liability insurer for 80% of the District's physicians, lost $7 million last year. "If NCRIC wasn't losing money, other companies would come in and compete. They're staying out for one very clear reason: It's bad business to come into the District because of the high jury awards."

The Public Citizen study that Ms. Cropp referred to is one of several studies on malpractice insurance that recently have been published. A study of 27 states appearing in the online version of the journal Health Affairs found that counties in states that had a cap on noneconomic damages had 2.2% more physicians per capita than counties in states without a cap (Health Aff. [Millwood] May 2005:[Epub ahead of print]). The study, which used data from the years 1985-2000, also found that rural counties in states with a $250,000 cap had 5.4% more ob.gyns. and 5.5% more surgical specialists per capita than did rural counties in states with a cap above $250,000.

Health Affairs also published an online study showing that malpractice payouts appear to be growing more slowly than previously thought (Health Aff. [Millwood] May 2005;[Epub ahead of print]). Using data from the National Practitioner Data Bank, Amitabh Chandra, Ph.D., of Dartmouth University, Hanover, N.H., and colleagues found that the average payment—including both settlements and judgments at trial—grew by 4% per year between 1991 and 2003, consistent with increases in other health care costs. Finally, another recent study found that the adoption of "direct" malpractice reforms—including reducing damage caps—resulted in a 3.3% increase in physician supply.

"Our results illuminate the mechanisms by which malpractice liability reduces growth in physician supply," wrote Daniel P. Kessler, Ph.D., of Stanford (Calif.) University, and colleagues (JAMA 2005;293:2618-25). "In our study, the estimated effect of direct reforms was greater among physicians who practice in nongroup settings. … This is consistent with the lesser ability of smaller practices to spread liability insurance costs among many physicians, cushion premium volatility with high patient volume, or share risk with hospitals or other health care institutions."

The authors noted several limitations, however. For instance, the study didn't take into account the effect of reforms adopted prior to 1986, nor did it address the trade-offs between the potential benefits of the reforms and their potential cost, such as reduced compensation for medical errors. ■