

From the President:

Ten Questions You Should Pose to Your Organized Medicine Delegation

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1. Why do so many physician leaders accept lucrative positions with managed care?

Doesn't an administrative position in an HMO place the physician in conflict with treating physicians and their patients? Are these the physicians who will obstruct and deny necessary medical care? Will their denials reap rich rewards for themselves and their HMOs?

According to a recent report, Dr. Nancy H. Nielsen, current speaker of the AMA House of Delegates, became chief medical officer of Independent Health, an HMO in Amherst, New York, that, carries Medicare, commercial, and Medicaid lines.¹

Will Dr. Nielsen's "managed care" decisions be independent of Independent Health's quest for increasing profitability? Will such decisions pit her against treating physicians, some of whom might be AMA members?

If Dr. Nielsen or her associates make denial decisions on patients they have never examined, nor even met, would it be ethical? Don't state medical boards take a dim view of doctors who diagnose, treat, and prescribe for those they have never seen?

Is it proper for the speaker of the AMA House of Delegates to be employed by an HMO that siphons taxpayer funds for Medicare and Medicaid ventures? Is not the purpose of these Medicare and Medicaid HMOs to exclude physicians who fail to "participate"? Are "participating" physicians fairly compensated for their efforts?

A Medicaid HMO in the Dayton, Ohio, area recently announced plans to build a new \$51 million building and to significantly expand its employees, while simultaneously refusing to fairly compensate some physicians for emergency care to their enrollees.²

Do you know of leaders of organized medicine in your community who are enriching themselves with HMO funds?

A number of years ago, local organized-medicine leaders developed a managed-care venture to "keep other managed-care products out of the Dayton area." The idea was that physicians would control it. But these same physicians sold out to United Healthcare a few years later. Some of us strenuously objected to the sale and did everything we could to prevent it. It was, after all, the sale of physicians' and patients' independence. One night I received an irate phone call from a physician, who was prominent in organized medicine and had a large stake in this venture. His ultimatum was to cease activities that were alienating me from local physician leaders, or be run out of town.

These were no idle words, since this physician's son, an attorney, later brought a malpractice action against me. This young attorney sought out a distant expert witness who served up a very vague and crafty affidavit that did not even specify deviations in standard of care. I couldn't even determine the basis of the litigation, since the patient had never previously disclosed any dissatisfaction. The case lingered on and off for years, and was ultimately dismissed for a third and final time, without going to trial and without a penny's payment.

2. Why do leaders of organized medicine and their family members bring actions and testify against other physicians, while their organizations moan about the "malpractice crisis"?

Organized medicine acts as if it is "saving the day" because it is advocating for malpractice caps and limited economic damages, which, in my judgment, do little to inhibit escalating medical liability premiums. Meanwhile, it apparently forgets that every malpractice action has at least three components: (1) an unhappy patient, (2) a plaintiff's attorney, and (3) a plaintiff's physician expert witness.

We can do little or nothing to control the first two. However, is it not contemptible for rogue physicians to exchange their integrity and sound science for a few dollars? Is it not abominable for physicians, especially those in leadership positions in organized medicine, to take such actions against other physicians? Are there such leading physicians in your community who testify against other physicians?

Several years ago, I wrote a resolution to the Ohio State Medical Association (OSMA), which called for disclosure of the activities of these leaders of organized medicine and their families. The resolution called only for disclosure, not for banning these activities. The OSMA leadership censored it, and did not even allow discussion in the House of Delegates.

3. Why can't organized medicine either take a moral stand on sexual issues, or stay out of the discussion of such issues?

A few years ago, the Boy Scouts of America decided to exclude known homosexuals. One would expect that most parents would be supportive of such a position. After all, do you really want young minds to be subjected to inappropriate behavior from Scout leaders? As a private organization, the Scouts fought this issue all the way to the Supreme Court, and won!

The AMA, on the other hand, passed a resolution that essentially condemned the Boy Scouts, and asked them to reconsider, even though the resolution used the term "youth service organization."

A year later, a resolution was introduced to the OSMA calling for a reversal of the AMA's original resolution. Three senior AMA delegates rose to speak against reversal of such a stand. One even stated that he was fearful of taking it back to the AMA, because it might result in something even worse!³⁻⁴

The AMA recently published a Teen Sex Guide priced at \$12.95, which, according to the AMA, "is a comprehensive, reliable guide." AMA President J. Edward Hill, M.D., said, "These books are tremendous resources for preteens and parents of preteens who are looking for reliable medical information to help their children through puberty."⁵ Parents might not agree. The authors claim there is nothing unusual in being attracted to someone of the same sex. "People can be attracted to different people at different times in their life. You may find that you are only interested in boys, only interested in girls, or somewhere in between."

4. Why did the AMA file an amicus brief with the Supreme Court on behalf of Southern Building Code Congress International?

Peter Veeck, a concerned Texas citizen, thought that it was only proper that local building codes be published on the Internet. That way, someone who is planning to erect a structure will know how to comply with the law. Veeck was met with litigation from a builders' association determined to protect its revenue stream derived from selling compliance manuals. The matter worked its way to the Supreme Court, where the AMA filed an amicus brief in support of the builders' association.

As you may have guessed, the AMA was interested in the possible impact of this case on its own revenue stream. The AMA comes out with a new CPT codebook every year. Then-Senator Trent Lott estimated the yearly revenue from CPT codebooks at \$72 million. AMA leaders denied this—but would not offer another figure!

The AMA apparently derives a much greater portion of its income from its commercial ventures than from membership dues. Membership continues to dwindle, and now stands at considerably less than 30 percent of U.S. physicians. The AMA's income is further expanded by sales of personal physician data.⁶

Then there are other AMA manuals on how to comply with government rules and regulations. It has been noted that the more encumbered the practice of medicine, the more organized medicine stands to profit. How many HIPAA compliance manuals have you seen promoted by AMA publishing ventures?

Is it proper for the AMA to earn millions of dollars from physicians by selling items like CPT codebooks, which are continuously being updated? Might this possibly compromise its ability to advocate strongly against further government intrusions?

5. How can the AMA get away with the sale of personal physician information, even information of non-member physicians?

The AMA sells data from its Physician Master File to many entities, including pharmaceutical companies that wish to track physicians' prescribing practices.

6. Why is the AMA so secretive about its financial reports?

Several years ago, an AMA member had to go to AMA headquarters in Chicago in order to look at the form 990, which by law must be made accessible to anyone who asks for it. He was not allowed to make a photocopy, only to take notes by hand.

7. Where is the AMA when physicians are unfairly prosecuted?

Dr. Robert Mitrone served nearly two years in prison for a billing discrepancy of \$75.34. Furthermore, prosecutors used perjured testimony to convict him. You probably know doctors in your community who were unfairly prosecuted for writing prescriptions for pain relievers, supposed billing violations, etc. Did the AMA help them? Maybe not, but the OSMA should be applauded for filing an amicus brief on behalf of an Ohio physician who was recently prosecuted for prescribing pain-relieving medications for some of his patients. Perhaps this is the beginning of a sincere effort to protect the integrity of the practice of medicine.

When my oldest son Christopher was 9, he indicated an interest in becoming a physician, but asked, "Is the risk of going to jail too high?" Coming from an intelligent, sensitive, God-fearing young boy, this is a terrible indictment of the American justice system. Why should responsible young people shy away from the medical profession for fear of being incarcerated for minor infractions in an increasingly complex business?

8. Why does organized medicine, year after year, claim victory after "fighting" to reverse scheduled decreases in physician compensation?

You've seen this charade before. Organized medicine claims to have "saved" each physician x number of dollars (even non-members) and then goes on to castigate non-members! The net effect, year after year, is that any minuscule changes in compensation don't come anywhere near the cost-of-living increases. According to the latest figures, Medicare will *increase* payments to HMOs by 7.7 percent, *increase* hospitals' compensation by 4.4 percent, and *decrease* physician compensation by 5.1 percent for 2007.⁶ Why doesn't organized medicine do anything substantive, such as calling for a complete dissolution of Medicare, managed care, and Medicaid? For the answer to this question, refer back to question No. 1 and Dr. Nancy H. Nielsen's position as Chief Medical Officer of an HMO that does business with Medicare, Medicaid, and commercial managed care!

9. Why does organized medicine promote electronic medical records (EMRs)?

10. Why does organized medicine promote pay for performance (P4P)?

These two questions are closely linked. It is no secret that government (including Medicare and the Veterans Administration), HMOs, hospitals, big industry, and pharmaceutical companies are highly motivated to develop a fully integrated EMR system. We are told that EMRs will be more cost-effective and lead to improved patient care. The true reason, however, is to allow payers and other "controllers" to dictate the way that medicine is practiced. In other words, EMRs lead to P4P. Make no mistake about it. Don't be misled into believing that the "performance" is synonymous with quality care. "Performance," sooner or later, will be equivalent to how costly a physician is to the payer.

Many physicians are discovering that EMRs are not only far from being cost-effective, but are also full of potential problems, not the least of which is the destruction of patient confidentiality.

When I related my concerns about EMRs to one organized-medicine leader, she responded, "As long as physicians control this, we'll be O.K." Where have we heard that before?

Dr. Duane Cady, Chair of the AMA Board of Trustees, echoed a similar response at the Loma Linda University School of Medicine Postgraduate Convention on Mar 3, 2006. When explaining why the AMA was developing 140 guidelines for health care delivery, he said the idea was for physicians to control the process. Most physicians in the audience did not seem to buy it, and neither did I.

In my opinion, the fix is in. Watch for some sort of compromise from organized medicine that will clear the road that leads to EMR and P4P. The only viable escape will be for all physicians to stand up against organized medicine, and refuse to participate in EMR and P4P.

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REFERENCES

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- ⁵ *NewsMax.com*, Jun 12, 2006.
- ⁶ What's next? OSMA's 2nd District Report. *Dayton Medicine*, October/November 2006, p 13.