Are You Going to Be a Casualty or a Leader of the Health Care Revolution?

An experienced health care attorney takes a candid look at managed care and issues a call to arms.

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In the two decades I have served physicians as a medical lawyer and adviser, I have never seen such widespread despair and confusion. "We are getting beaten up" and "What's the point of practicing?" are common refrains of private practitioners throughout America. Most of all, physicians are asking: "What do I do now?"

The source of the confusion

It is understandable that physicians feel overwhelmed and confused today. Medical practice is undergoing a revolution.

The most fundamental change that can be made in any industry is altering the way people are paid, and physicians are clearly feeling the effects of the dramatic changes in the method of payment for health care. In moving toward a system of capitated care, health plans — including governmental plans such as Medicare, Medicaid and to some extent workers' compensation — are abandoning traditional fee-for-service reimbursement in favor of paying doctors a fixed rate each month per patient, whether the patient is healthy or ill or receives treatment or not.

Capitated care introduces an entirely new element of risk into the practice of medicine. Under capitation, physicians' profits come not from their skill and the time they spend treating patients, but from how well they assess, absorb and manage the health risk of the patient population for which they have contracted to provide care. Economically, the practice of medicine is being turned on its ear.

While capitated reimbursement systems have not been imposed everywhere in the country, their presence is looming in every state and virtually every community. Medicare officials and legislators are encouraging the rapid rise of HMOs for seniors; more and more states are using capitation or global budget systems

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► **Health plans see capitation as a way to shift the financial risks associated with caring for an aging population to health care providers.**

► **More practices are merging, first into small groups and then into larger networks, to share the risks assumed under capitation.**

► **Most physicians lack training in business to deal successfully with the restructuring of the health care system.**

► **The control of health care seems to be slipping away from physicians into the hands of those who authorize reimbursement.**

ing that half century it profited heavily from the dynamics of medical advancements (the Golden Era of Medicine) and the baby boom. Because health insurance was underwritten largely on a group basis, and since most groups were demographically young and healthy, the insurance industry was historically shielded from really assuming much risk. Now the population is aging and needs more health care, so the industry has figured out a way to shift the risk to health care providers while paying its administrative costs and assuring its profits. It is little wonder, therefore, that health insurers and plans are embracing capitation while physicians are struggling so hard to cope with the implications of this basic change.

We are beginning to see profound economic changes in the practice of medicine, as physicians try to provide more care to an aging population with greater technology and more bureaucratic hassle at less cost. The fact that there are, and will be, fewer dollars in the system is inevitable, but the changes are more structural. *As physicians try to achieve economies of scale, the cottage industry of medicine is giving way to larger and larger groups.* Indeed, the real assumption of risk under capitation requires physicians to pool together into risk-sharing groups. Consequently, we are seeing more and more consolidations and mergers of physician practices, first into small groups, then into larger networks.

Unfortunately, few physicians are trained to cope with this restructuring. Practice management, business administration and corporate finance have not been an important element of medical education. Physicians in private practice historically never had a line item on their budgets to pay for "Reorganization Necessary to Adapt to Market Conditions." Physicians have largely been shielded financially from having to make ongoing investments in their practices and have no habit of building business reserves, nor have they developed adaptive business behaviors that would facilitate a massive restructuring of the profession. In short, *physicians are, as a group, extremely ill-equipped to participate in the largest corporate reorganization in the history of America.*

As unsettling as these economic upheavals are to physicians, there is a greater assault on the integrity of the profession. Physicians are facing more and more direct attacks on the exercise of their professional judgment by payers. Health plans, insurance companies and government programs have created whole new layers of nonphysicians who control whether patients receive the care and treatment their doctor recommends. This army of authorizers has been put in place to hassle patients out of recommended treatment and physicians out of adequate reimbursement. In the name of utilization review, insurance carriers and health plans have arrogated to themselves the right to determine "medical necessity." This erosion of professional prerogatives has largely gone unchallenged. Yet for many physicians, the constant irritant of being second-guessed by a remote-control penny-pincher engenders a level of frustration that greatly diminishes the satisfaction of practicing medicine.

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Another frontal assault on the profession is coming directly from the hospital industry. In the early 1990s, the hospital industry's think tank, the Advisory Board, looked into the crystal ball for the 1990s and saw three changes: 1) there would be fewer patient days because of better medicine, 2) more and more services traditionally rendered by hospitals would be going off-campus (into surgicenters and home health care, for example) and 3) the biggest savings in managed care would be achieved by lowering the number of hospitalizations and lengths of hospital stays. In short, they saw a bleak future for hospitals, so they commissioned the creation of a strategic plan. That plan, which outlines several long-term strategic positions for hospitals, has as its principal recommendation hospital

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► For the good of patients, physicians should abandon turf battles and promote harmony within the medical community.

► While health care rationing may become a reality, it is unlikely that health executives' salaries or insurance company profits will be trimmed.

► The key to surviving the rapid rise of capitation is for physicians to form large networks to manage the risk of capitated care.

► To avoid exploitation, physicians should form physician-owned and physician-controlled networks.

Thus far, physicians have been unable or unwilling to speak with a common voice. Instead, many have become fractious and even reactionary in fighting change. When physicians and their organizations try to play or pander to nonpatient interests, Faustian deals get cut: The profession becomes splintered, and the greater good of the patient is forgotten. Many of the factions derive from a perceived division of interests between generalists and specialists. Consequently, physician fears that "I'll not get mine, and they'll get theirs" are pitting doctors against each other based on jealousies and turf battles that are petty in the long run. Physicians are forgetting that they are physicians first and primary care physicians or specialists second. Instead of trying to figure out how to mount invasions into other specialties, physicians should be uniting to assure overall good patient care with innovative reimbursement and compensation formulas that will promote harmony in the medical community.

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Physicians' enemies are not their fellow physicians, but those who would diminish health care in this country. Most physicians can see the future and know that rationing, like that which is occurring with capitation and legislation such as Oregon's Health Plan, will mean that American citizens in the future will be denied available medical technology and advanced medical care that could save their lives. *People will be cured or suffer, and even live or die, based on the allocation of dollars in our health system.* The first to suffer will be the poor and the aged, then "the basic benefit package" will be cut back for the middle class. Meanwhile, executive salaries at health care plans (which run as high as eight million dollars for some CEOs) are not likely to be trimmed, and insurance company profits will probably not be rationed. Physicians should speak with a single voice and insist on real access to quality care for all people in this country. Physicians should, with a united front, attack the inefficiencies, waste and excess in the system that deprive patients of cost-effective care.

Get an agenda

The third-party payers have an agenda — capitation. The hospital industry has an agenda — controlling physicians in hospital networks. What is the physicians' agenda? Physicians have a great opportunity to help shape and direct the coming changes in health care, but they need a strategic plan based on a common vision of the future.

That vision is emerging. Spurred by the rapid rise of capitation, market changes and the demands of payers, the survival strategy for physicians must be to form large physician networks capable of managing the risk of capitated care. Many organizations, such as PhyCor, are buying physicians' practices. In California, the Mulliken Group, Pacific Physicians Service (now merged with Mulliken) and Hill Physicians are creating networks with tremendous contracting capacity. The practical value of these entities has been proven as they have garnered large numbers of patient lives in a very short time. The monetary value of these networks has been proven by the fact that the stock of Pacific Physicians Services' Management Service Organization (MSO) has been publicly traded at 28 times earnings, and Mulliken's merger and acquisition activity has involved sums close to 70 million dollars.

The only problem with Mulliken and Pacific Physicians Service, as organized, is that ownership of the physician network and the MSO is not democratically distributed among all the physicians who work in the group. These groups are entrepreneurial; therefore, profits tend to flow more heavily to the founders and investors. Physicians who work in these groups are, to some degree, exploited to make profits for others. In creating networks in the future, physicians should eliminate this inequity and instead establish physician-owned networks (and physician-controlled MSOs) that are modeled on the democratically doctor-owned malpractice insurance companies. ▸

ment, what "autonomy" do they have left? The choice for physicians is boiling down to going to work for themselves by forming their own network, or going to work for somebody else. In short, *the choice is to own or be owned.*

Get active

Time is short. Capitated care has become a predominant force in health care in California, Minnesota and elsewhere. The five largest health insurers in America have withdrawn from the

FAX REACTION FORM

What's your reaction?

Do you agree that physicians must build groups and networks to survive under capitation?

Have you done anything to "get mad, get moving, get together, get an agenda and get active"?

Or does the author's whole argument seem misdirected or futile?

Response:

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