POLICY & PRACTICE

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New Bone-Health Goals for 2020

The federal government has issued its new goals for improving public health by 2020, and they include a reduction of the proportion of adults diagnosed with arthritis who find it "very difficult" to perform certain joint-related activities. "Healthy People 2020" focuses on four such activities: walking one-quarter mile; walking up 10 steps without resting; stooping, bending, or kneeling; and using fingers to handle small objects. The federal government is seeking a 10% improvement in each of these areas. For example, 2008 data from the Centers for Disease Control and Prevention showed that 15.2% of adults who have arthritis found it very difficult to walk one-quarter mile. The new goal is to bring that figure down to 13.7%. The complete "Healthy People 2020" objectives are available online at www.healthypeople.gov/2020/topicsobjectives2020/default.aspx.

Arthritis Is Lowest in Hawaii

Only 23% of women in Hawaii report having been diagnosed with arthritis, giving the state the lowest prevalence of the condition among women. On the other end of the spectrum is Alabama, where 38% of women have been diagnosed with arthritis. The figures are part of a new report from the National Women's Law Center, which graded each state on how well it meets women's health needs. The report, the fifth produced by the group and the first since 2007, gave the nation an overall grade of "unsatisfactory." The nation improved on only 1 of 26 indicators of women's health, rising from "unsatisfactory" to "satisfactory minus" in cholesterol screening for women.

Hospital Adverse Events Common

More than 13% of Medicare beneficiaries hospitalized in late 2008 experienced at least one adverse event causing lasting harm during their stays. Among them, 1.5% experienced an event that contributed to their deaths, according to a report from the Health and Human Services Office of the Inspector General. Another 13% of hospitalized beneficiaries experienced temporary harm, such as hypoglycemia, the report found. The combination of events cost Medicare an estimated $324 million in October 2008, the month the report covered. Physicians reviewing the data said that 44% of the adverse events, such as hospital-acquired infections, and temporary-harm events were clearly or probably preventable.

TNF-Alpha Inhibitors in Early RA

The tumor necrosis factor–alpha inhibitor etanercept (Enbrel) is prescribed more often during the early phases of rheumatoid arthritis than is its competitor adalimumab (Humira), according to an analysis that was performed by the health care research firm Decision Resources. However, just 2% of RA patients receive etanercept as a first-line treatment within a year of their diagnosis, whereas about 1% of newly diagnosed patients receive adalimumab. Decision Resources also found that, as a second-line treatment, etanercept is prescribed for 8.6% of newly diagnosed RA patients, compared with 5.7% of patients receiving adalimumab. "Physician familiarity with Enbrel likely contributes to Enbrel's higher patient share in newly diagnosed RA patients. Enbrel has been on the market longer," Madhuri Borde, Ph.D., of at Decision Resources said in a statement.

Medicare Reduces Bad Payments

Following a pledge to reduce waste, fraud, and abuse in Medicare, the Centers for Medicare and Medicaid Services said in a statement that it has already reduced the error rate for claims since 2009 and is on track to cut it 50% by 2012. Improper payments don't necessarily represent fraud and abuse, the CMS said. Instead, most such errors stem from insufficient documentation and the provision of medically unnecessary services. In 2009, the fee-for-service error rate was more than 12%, or an estimated $35.4 billion in improper claims, according to the report. In 2010, the rate has fallen to less than 11%, or an estimated $34.3 billion. The agency said that it continues to work with providers across the country to help them "eliminate errors through increased and improved training and education outreach."

Industry-Physician Ties Persist

Although most physicians continue to have financial relationships with industry, the percentage has declined significantly since 2004, according to a study led by Harvard Medical School researchers in Boston. They reported in the Archives of Internal Medicine that although fewer physicians are accepting gifts such as drug samples and food, most continue to do so. About 64% take drug samples, compared with 78% in 2004, and 71% accept free food and beverages, compared with 80% in 2004. However, the number of physicians accepting payments for consulting, speaking, or enrolling patients in clinical trials has fallen by half since 2004, according to the study. Only 18% of physicians said they accept reimbursements for meeting expenses, compared with 35% in 2004, and just 14% receive payments for professional services, compared with 28% in 2004. "These data clearly show that physician behavior, at least with respect to managing conflicts of interest, is mutable in a relatively short period," the researchers concluded. "However, given that 83.8% of physicians have [physician-industry relationships], it is clear that industry still has substantial financial links with the nation's physicians."

–Mary Ellen Schneider

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LAW & MEDICINE

The Statute of Limitations

Question: Billy underwent a tonsillectomy at age 8 years. Unbeknownst to him and his parents, a tiny surgical clip had slipped down the trachea during surgery. Billy was largely asymptomatic until age 20, when he began to develop recurrent respiratory infections and asthma. X-rays eventually identified a foreign body in his right lung. He filed a malpractice lawsuit when he turned 23, and the case was dismissed because the statute of limitations had lapsed. On appeal, which of the following is best?

A. The statute of limitations usually requires all malpractice lawsuits to be filed within 2 years of the negligent act.

B. In the case of minors, disability, and concealment, the statute may be tolled, thereby giving the plaintiff more time to file a claim.

C. The statute starts to run when the cause of action accrues, i.e., when the claimant knew or should have known of the injury.

D. B and C are correct

E. A, B, and C are correct

Answer: D. At common law, there was no time limit that barred a plaintiff from bringing a claim, although there was a so-called "doctrine of latches" that foreclosed an action that had long lapsed. However, statutory changes in the law now require that complaints be brought in a timely manner so that the evidence remains fresh, accurate, and reliable. Another reason is to provide repose to the wrongdoer, that is, relieving him or her from worrying for an indefinite period of time whether a lawsuit will be brought. This time period, during which a lawsuit must be filed or it will be barred, is termed the statute of limitations. It is 2 years for the tort of negligence in most jurisdictions, although states like California and Tennessee place a 1-year limit on medical malpractice claims under some circumstances. The statute of limitations does not start to run from the date of the negligent act or omission, but from the time of reasonable discovery of the damage. For example, if there is a failure to diagnose and treat a cancerous condition in a timely manner and the patient suffers harm several years later, time starts to run from the date of discovering the injury, not the date of misdiagnosis.

All statutes of limitations emphasize the date when the plaintiff first discovered that the injury was the result of the act or omission of the health care provider. This is termed the discovery rule.

In malpractice cases involving minors, the running of the time period is tolled, that is, halted, until the minor reaches a certain age, commonly the age of majority. *Chaffin v. Nicosia* dealt with such a situation. As the result of negligent forceps delivery, which injured the optic nerve, the plaintiff became blind in the right eye in early infancy. He brought suit when he was 22 years old. Indiana had two statutes on the issue, one requiring a malpractice suit to be brought within 2 years of the incident, and the other allowing a minor to sue no later than 2 years after reaching the age of 21. The Indiana Supreme Court allowed the case to go forward, reversing the lower court's decision barring the action.

Patients who are injured from malpractice might not always be aware that a negligent act had taken place or that it had caused the injury. And some injuries might remain latent for a long time. Recognizing this, all statutes of limitations emphasize the date when the plaintiff first discovered that the injury was the result of the act or omission of the health care provider. This is termed the discovery rule. Stated more formally, the limitation period commences at the time the cause of action "accrues," and this usually means when the claimant knew (actual knowledge) or should have known (constructive knowledge).

There may be other statutory prescriptions. For example, Ohio, which has a 1-year statute of limitations, provides that a cause of action for medical malpractice accrues at the latest when the physician-patient relationship finally terminates. In cases of fraudulent concealment of a right of action, the statute may be tolled during the period of concealment. Tolling also might apply during legal disability or in case of retained surgical instrument or sponge.

Courts are likely to closely scrutinize attempts to use the statute of limitations to bar recovery, because this deprives the injured plaintiff of an otherwise legitimate claim. In a typical example, the defendants sought to dismiss the case (so-called motion for summary judgment) by arguing that the plaintiff filed suit some 32 months after she had developed Sheehan's syndrome

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