POLICY & PRACTICE

No Word From CBO Yet on Mohs

In November 2008, the Mohs Coalition, made up of the American Academy of Dermatology, the American College of Mohs Surgery, the American Society for Dermatologic Surgery, and the American Society for Mohs Surgery asked the Congressional Budget Office to determine how much Medicare's 2007 multiple-procedure payment reduction rule has saved the Centers for Medicare and Medicaid Services. The CBO has not yet responded, said AAD President David Pariser at the annual meeting of the American College of Mohs Surgery. Dr. Pariser said that the rule has had an adverse impact on Mohs surgeons. Because of fears that the technique is being overused, "people are shooting darts at Mohs," Dr. Pariser said. He encouraged Mohs surgeons to begin gathering data about the value of their work. The coalition is also mulling whether to request a national coverage decision from CMS for Mohs.

AAD Launches Lexicon

The American Academy of Dermatology launched DermLex, an online database of dermatologic terms that had been in beta testing for several months (SKIN & ALLERGY NEWS, March 2009, p. 11). "With widespread electronic health record adoption on the horizon and patient safety and quality of care always a top priority for dermatologists, this database can assist all physicians in the correct interpretation of a patient's dermatologic history," said Dr. Pariser in a statement. The AAD intends to eventually equip the database with online tools to work with electronic medical records.

Company Would Grow Derm Role

GlaxoSmithKline has offered $2.9 billion for Stiefel Laboratories Inc. If the deal closes, the combined entity would be one of the largest dermatology specialty companies in the world. The new company would still operate as Stiefel and continue to offer such brands as Duac, Olux E, Soriatane, Bactroban, Cutivate, and Altabax, according to GSK. Combined revenues for the two companies would have totaled $1.5 billion in 2008, and accounted for 8% of the global prescription dermatology market. Stiefel stockholders have already approved the acquisition, but it still has to be given a green light by federal regulators. GSK said that it expects the transaction to close some time in the third quarter of this year.

HHS Launches Lupus Campaign

The Department of Health and Human Services, in cooperation with the American College of Rheumatology and other health care organizations, has launched a national advertising campaign to educate women about lupus. "Despite its prevalence in the United States, lupus is rarely discussed and often misunderstood among women in our country," said Dr. Wanda K. Jones, deputy assistant secretary for women's health at HHS. A recent study by the Ad Council found that about 80% of women aged 18-44 in the United States have little or no knowledge of lupus.

PhRMA Revises Trial Standards

The Pharmaceutical Research and Manufacturers of America has revised its voluntary standards for how drug manufacturers run clinical trials and communicate trial results. The new PhRMA standards call on drugmakers to register on a public Web site all interventional clinical trials—including some phase I studies. The standards also call for companies to "greatly expand transparency in medical research" by providing summaries of results from all interventional clinical trials, regardless of whether the research is discontinued or the medication being studied is ever approved. Finally, the new standards call for drugmakers to adopt the authorship standards of the International Committee of Medical Journal Editors.

New Web Site Pushes Reform

Doctors for America, a new grassroots physician organization, is launching a campaign to get physicians' voices heard on health care reform. The group's "Voices of Physicians" campaign has collected comments nationwide and put them on the Web site www.voicesofphysicians.org. The 11,000-member group, which started a year ago and was originally Doctors for Obama, has no outside funding and does not take a position on health reform, Dr. Vivek Murthy, Doctors for America president and cofounder, said during a teleconference sponsored by the Center for American Progress.

Small Promo Items Have Influence

Subtle exposures to small promotional items, such as notepaper with printed logos, influences attitudes of medical students toward pharmaceutical brands, a study in the Archives of Internal Medicine showed. However, medical school policies on pharmaceutical advertising might affect whether students' attitudes toward drug brands are favorable, the researchers noted. At one institution, where a strong school policy warned against persuasion tactics underlying pharmaceutical marketing, the students had more negative reactions to a brand-name drug after exposure to small promotional items. At another institution, where no such policy was in place, students had more positive reactions to the same product after promotional item exposure. An editorial accompanying the study noted that medical schools have been slow to enact widespread restrictions on academic-industry interactions.

—Alicia Ault

MANAGING YOUR DERMATOLOGY PRACTICE

Listen Up

A recent claim against a New Jersey physician attracted considerable attention in the medical community, not because it resulted in a substantial jury award, but because the award was not covered by the doctor's malpractice insurance.

It is a good reminder for the rest of us: Your malpractice policy covers allegations of malpractice only, which is generally defined as negligence or deviation from the standard of care. This case involved a charge of discrimination against a hearing-impaired patient—which meant the physician not only had to fund his own defense, but he was personally responsible for the $400,000 award against him. (The case is now on appeal.)

BY JOSEPH S. EASTERN, M.D.

The Americans With Disabilities Act (ADA) was designed to protect individuals with various disabilities against discrimination in various public situations—including, specifically, "the professional office of a health care professional."

When the disability is impaired hearing, the law requires physicians to provide any "auxiliary aids and services" that might be necessary to ensure clear communication between doctor and patient. In the vast majority of such situations, a pad and pencil will satisfy that requirement. But occasionally, it does not, particularly when complex medical concepts are involved, and in such cases, as the New Jersey trial demonstrated, failure to make the necessary extra effort can be very expensive.

The claim involved a hearing-impaired patient with lupus erythematosus who was being treated by a rheumatologist. For almost 2 years, the patient's partner and her daughter provided translation, but that arrangement was inadequate, the patient testified, because her partner and daughter were unfamiliar with medical terminology, and the patient was "unable to understand and participate in her care," which left her "unaware of risks and available alternatives."

So she repeatedly requested that the rheumatologist provide an American Sign Language interpreter for her office visits. He refused on grounds that the cost of an interpreter would exceed the payment he would receive for the visits, which made it an "undue financial burden," and, therefore, exempt from ADA requirements.

But the "undue burden" exemption is not automatic; it must be demonstrated in court. And the jury decided the rheumatologist's annual income of $425,000 rendered the cost of an interpreter quite affordable.

The lessons are clear: Physicians must take antidiscrimination laws seriously, particularly when uninsurable issues are involved, and we must be constantly aware of the needs of disabled patients, to be sure their care is not substantially different from that of any other patient.

In the case of hearing-impaired or deaf patients, it is important to remember that forms of communication that are quite adequate for most are not appropriate for some. Lip reading, written notes, and the use of family members as interpreters may be perfectly acceptable to one patient and unsuitable for another.

If the patient agrees to written notes and lip reading, as most do, you need to remember to speak slowly, and to write down critical information to avoid any miscommunication. And as always, it is crucial to document all communication and the methods used for that communication—specifically the fact that the patient agreed to those forms of communication.

As I so often say, documentation is like garlic: There is no such thing as too much.

Should a patient not agree that written notes are sufficient, other alternatives can be offered: computer transcription, assisted listening devices, videotext displays (often available in hospitals), and telecommunication devices such as TTY and TDD. But if the patient rejects all of those options and continues to insist on a professional interpreter, the precedent set by the New Jersey case (if upheld on appeal) suggests that you need to acquiesce, even if the interpreter's fee exceeds the visit reimbursement; the ADA prohibits you from passing your cost along to the patient. But any such cost will be far less than a noninsured judgment against you.

If you must go that route, make sure the interpreter you hire is familiar with medical terminology, and is not acquainted with or related to the patient (for confidentiality reasons). Your state may have an online registry of available interpreters, as, for example, New Jersey does at www.njrid.org. Or your hospital may have a sign language interpreter on staff that it might allow you to "borrow" at little or no cost.

The good news is several states have responded to this issue by introducing legislation that would require health insurance carriers to pay for the cost of interpreters. ■

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