

AMA Delegates Approve Fair Prescribing Policies

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CHICAGO — A pharmacist's philosophy shouldn't get in the way of prescribing needed drugs to patients. That was one of the conclusions that physicians reached while addressing controversial topics at the annual meeting of the American Medical Association's House of Delegates.

American Pharmaceutical Association (APhA) policy recognizes an individual pharmacist's right to exercise conscientious refusal to fill prescriptions. In committee debate and in full congress, physicians at the House of Delegates meeting expressed concern that pharmacists were exercising this provision to impede access to certain medications, including emergency contraceptives and psychotropic agents.

"What happens between the doctor and the patient is between doctor and patient," Mary Frank, M.D., president of the American Academy of Family Physicians, told this newspaper. "What they decide has to have priority over the pharmacist's objections."

Although the delegates didn't outwardly oppose the use of conscience clauses, they did call for legislation that would require individual pharmacists or pharmacy chains to either fill legally valid prescriptions or refer patients to an alternative dispensing pharmacy.

AMA Trustee Peter W. Carmel, M.D., promised that the AMA would work with the pharmacists' associations and state legislators "so that neither patients' health nor the patient-physician relationship is harmed by pharmacists' refusal to fill prescribed medications."

The House also agreed that the AMA should lobby for state legislation that would allow physicians to dispense medication to their own patients if no pharmacist within a 30-mile radius is able and willing to dispense the medication. The APhA did not respond to requests for comment from this newspaper.

In other business, delegates addressed the challenges physicians face in balancing the increasing value of imaging tests with payers' efforts to restrict reimbursement. Several resolutions were approved that directed the AMA to oppose any attempts to restrict such reimbursement based on physician specialty.

Some payers propose to reimburse only radiologists for imaging, a practice that other specialists believe is unfair, Bruce Scott, M.D., an otolaryngologist, told this newspaper.

"The ob.gyns. are going to want to bill for ultrasound, and the cardiologists want to bill for their interpretation of slides," he said, adding that the bottom line is physicians should have the right to bill for a service they provide and are qualified to perform.

Balance billing was another topic addressed and measures were approved asking that the AMA prepare legislation that would allow physicians to balance bill regardless of the payer. In the wake of pay-for-performance initiatives, "which are

nothing but third party managers taking over," balance billing would place patients back in control, enabling them to negotiate their own bills with their individual physicians, Jay Gregory, M.D., of the Oklahoma delegation, said during committee debate.

To address the Medicare physician fee schedule, delegates recommended that savings under Medicare Part A that could be attributed to better Part B care (for example, fewer inpatient complications, shorter lengths of stay, and fewer hospital readmissions) should be "credited" and flow to the Part B physician payment pool.

On another contentious issue—malpractice—delegates called on the AMA to explore federal legislation that would correct inadequate state medical liability laws while preserving state medical liability reforms that have proven effective.

The House of Delegates also commented on the aftermath of the Terry Schiavo case, voting to oppose legislation that would "presume to prescribe a patient's preferences for artificial hydration and nutrition in situations where the patient lacks decision-making capacity and an advance directive or living will."

A number of resolutions called on schools to develop children's health programs, such as sun-protection policies in elementary schools. Most delegates were in agreement with this resolution, although some concerns were raised that this might place undue burdens on teachers. Parents should be the adults in charge of applying sunscreen to their children, Peter Lavine, M.D., delegate to the Medical Society of the District of Columbia, said in committee proceedings.

Delegates rejected a provision to impose taxes on sugar-sweetened soft drinks. Instead, they approved policy urging public schools to promote the consumption and availability of nutritious beverages.

Reducing television watching would do more to curtail obesity in children than taxing soft drinks, Holly Wyatt, M.D., delegate to the Young Physicians Section for the Endocrine Society, said during committee debate.

Addressing general policies on obesity, the AMA urged physicians to incorporate body mass index (BMI) and waist circumference as a component measurement in routine adult examinations and BMI percentiles in children. In addition, the resolution called on the AMA to develop a school health advocacy agenda that includes funding for physical activity programs.

Responding to the highly publicized alleged link between antidepressant use and suicidal tendencies in children and young adults, delegates adopted language to promote the education of physicians about the appropriate use of such medications in these age groups. In addition, the AMA should endorse efforts to train additional qualified clinical investigators in pediatrics, child psychiatry, and therapeutics to carry out studies related to the effects of psychotropic drugs in children, adolescents, and young adults. ■

MANAGING YOUR DERMATOLOGY PRACTICE

Medical Records: What to Keep

If your office is anything like mine, you have too many medical records and too little storage space. And since the laws in your state require that old records be kept for only a finite amount of time, you may be tempted to get rid of your oldest charts.

Unfortunately, regardless of your state's retention laws (a list of which can be found at <http://pcarchiver.com/statelaws.html>), there are many reasons why charts should be stored indefinitely. Here are just a few:

► According to one malpractice insurance carrier, GE Medical Protective, 10% of medical claims are filed at least 5 years after the incident, and 5% are brought at least 10 years after—regardless of state laws and statutes of limitation. Without a record, there is only the doctor's word against the patient's word: a treacherous situation.

► Statutes of limitation are often indefinite, or greatly extended, when the patient is a child, especially when birth defects, mental retardation, or parental disputes are involved.

► There is no time limitation on state medical board actions. Patients have been known to file complaints with state boards decades after alleged improprieties. Without the medical record, your ability to defend yourself against such a complaint is severely limited.

► In most states, if a patient alleges that a doctor said an outcome was not the one expected—even if this is only the patient's recollection, true or not—the destruction of the record can be considered hiding evidence, a criminal offense.

► Medicare and the IRS have a 7-year limit on pursuing billing errors, but there is no time limit if fraud is alleged.

► Regardless of any statutes, the Medical Liability Monitor (<http://www.medicalliabilitymonitor.com>) advises all physicians to retain indefinitely records of patients who had complications after treatment or surgery, who died during treatment for any reason, who were treated for cancer or heart disease, or who had traumatic injuries that could or did result in litigation.

So as much as you would like to dispose of old charts, in general it's not a good idea. But office space is limited and expensive. Where should old charts be stored? You have several options:

► **Self Storage.** The most obvious option is to physically move old records to another location. While your attic might be an obvious and cheap option, those records are a fire hazard, and chances are your spouse will not be happy. For a monthly fee you can stash old charts in a commercial self-storage facility. This is the least expensive method, but finding a specific record

when you need it can be a chore. In addition, make sure the storage company is reputable—and the roof doesn't leak.

► **Archiving.** You can hire an archival firm to keep your old records. They will pick them up periodically, store them, and when you need to see an archived file, they'll deliver it back to you within a day or two.

► **Microfilm.** This method allows you to keep the records on site, but in a much smaller space. A microfiche company performs the transfer, and you buy the equipment necessary to read the films. When you need a hard copy of an old file, you simply print it out.

► **Computerization.** Clearly, the wave of the future is digital archiving. The simplest method of doing this is scanning the old records onto a hard drive with backups on disk. Many large clinics already are using such systems, and turnkey programs are now available for smaller offices. One

popular system is called PCArchiver (<http://pcarchiver.com>), and many more can be found with a simple Web search. (As always, I have no financial interest in any enterprise I discuss in this column.) Computerized records occupy less space and deteriorate less rapidly than do microfilm records. Since most medical practices already rely heavily on computer systems to perform a wide range of business functions, computerizing patient records is a natural extension of a system that you probably already have. When you need to refer to an archived record, you simply retrieve it from the hard drive, and, if necessary, copy it to a memory medium or print a paper copy. The costs of memory are now very reasonable, and continue to decrease steadily. Be aware, of course, of Health Insurance Portability and Accountability Act regulations, as well as other looming requirements for protection of electronic records. The incorporation of coding and encryption software into your computer system, with regularly changed passwords, is essential to limit unauthorized access to confidential patient records and to protect them from perusal or corruption by hackers.

Once you've found a home for your old medical records, what about all those other records—business documents of all kinds—you've been meaning to do something with? Which of those need to be kept, and for how long? I'll talk about that next month. ■

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