

Work With a Hospital Without Working for It

BY RICHARD M. KIRKNER

EXPERT ANALYSIS FROM THE ANNUAL MEETING OF THE AMERICAN SOCIETY OF NUCLEAR CARDIOLOGY

PHILADELPHIA – With hospitals buying up physician practices, many doctors are tempted to take the bait, but Alice G. Gosfield, a lawyer who specializes in physician practice ownership strategies, called this the “employment delusion” and the “acquisition fantasy.”

Many physicians don't recognize that “the common law term for the employer-employee relationship is ‘master-servant,’ ” she said. The master “gets to tell you who, what, where, when, and why and how, and if you think that a contract can prevent that from happening, you would be wrong.”

Ms. Gosfield gave the meeting audience a real-world dose of how even the best-laid plans go awry when physicians sell out to hospital groups. She also shared strategies on how doctors can avoid selling their practices to hospitals but still affiliate with hospital groups.

She debunked myths about how selling out to a hospital group can guarantee financial security. “The hospital is getting paid under the same stupid reimbursement formula that you are,” she said. “The only way that revenue stream ends up being more than what you're getting in your practice is if they are paying you for doing other things besides clinical work.”

Another delusion is that the contract is a safeguard. “A contract is only as good as the will of the parties to abide by it,” Ms. Gosfield said. Not infrequently, one party will break the contract with little recourse out-

side the courts, “and litigation is a really, really bad way of solving business problems,” she added.

She singled out two strategies for selling a practice to a hospital: the sale of physical assets, including diagnostic “toys and weapons” but not the practice per se; and noncompete covenants. “It has to be fair-market value under the Stark regulations,” she said of the latter, “and somebody – not a lawyer – has to do a valuation.”

But hospitals will not pay for good will. “They're not going to make you whole for what it took you to build your practice,” she said. “I don't care how long it took, what your sweat equity was, what all the pains were – you are not going to get that back from a hospital in terms of an acquisition or lease or other kind of arrangement.”

For self-preservation, she implored physicians to adopt the quality improvement measures that will provide the basis for Medicare reimbursement in 2012. “Now is the time to change your clinical and administrative processes,” she said. “Don't wait until the conditions they're going to be focused on are published. We all know what the conditions are.” That information is already available from the National Quality Forum, she said.

Among alternatives to selling, Ms. Gosfield suggested leasing the practice to the hospital, entering into comanagement contracts, having the hospital place a new physician in the practice, gainsharing, giving the hospital the right of first refusal if another entity offers to buy the practice, having the hospital provide CME for practice physicians and ancillary staff, leasing practice staff to the hospital, and having the practice provide contract services to the hospital.

“Your group stays as your group,” she said in describing the leasing process. “You reassign your right to get paid to the hospital. They pay you a salary. They will require productivity measures, but they can pay you irrespective of whether they get paid, which is not how your system works when you're in private practice.”

A comanagement contract involves the physician's providing on-call services or advising the hospital on its care delivery systems. This could include performance bonuses when the hospital achieves specified results, she said, but she advised against getting paid an hourly fee. “Swapping an hour in your office for an hour of their time – you can't make it up,” she said.

Having the hospital place a physician in the practice should be carefully structured, Ms. Gosfield said. Her preferred arrangement would have the hospital subsidize the up-front costs with a loan, then forgive the loan for each month the doctor stays in the community after the subsidy ends. One problem with this approach, she pointed out, is that “you can't then have a restricted covenant which prohibits this young doctor that you brought in and introduced to your patients from opening up next door,” she said.

Physicians can benefit from the right collaboration with a hospital, she said. “The things that unite you with the hospital are more than the things that divide you,” Ms. Gosfield noted. “You will do better holding hands crossing the dangerous street of health care in the future with the hospital, but you need to maintain your own identity.”

Ms. Gosfield reported no disclosures. ■

Be Ready to Answer Questions on Environmental Risks

BY SHERRY BOSCHERT

EXPERT ANALYSIS FROM THE ANNUAL MEETING OF THE AMERICAN ACADEMY OF PEDIATRICS

SAN FRANCISCO – The principles of “risk communication” can help physicians answer parents' questions about environmental risks to health.

Dr. Maida P. Galvez employed these principles to demonstrate how she addresses a common parental question these days: Are plastics dangerous? Whether discussing plastics or other topics, it's helpful to craft clear and concise messages in advance using straightforward language, she said.

Develop a maximum of three key messages. For each of those messages, prepare three supporting facts, advised Dr. Galvez of Mount Sinai School of Medicine's Center for Children's Environmental Health and Disease Prevention Research, New York.

In the three key messages, first define the exposure to the potential environmental risk, then explain what is known about potential health effects, and finally offer action items for families, she said.

Many parents have heard of potential health risks from phthalates or bisphenol A in plastics. They may ask physicians how to tell if toys contain phthalates. Are bottles with bisphenol A harmful? What health effects should they look for?

Utilizing the lessons in risk communication, a physician might first define the exposure to these substances by saying that phthalates and bisphenol A are plasticizers that are added to common prod-



Recycling symbols and numbers on packaging show which products have safe amounts of plasticizers.

ucts because they add flexibility and durability, Dr. Galvez said.

Summarizing what is known about potential health effects, the physician might then say that concerns have been raised about the potential for health effects based on animal studies and growing evidence that the U.S. population is universally exposed to phthalates and bisphenol A.

If families want to take action, given the concerns raised by animal studies and limited human studies, they can take a precautionary approach and choose alternatives to products that may contain these plasticizers, she said.

That simple one-two-three messaging can be fleshed out with the supporting facts if there's time and interest from the parents.

Phthalates are found in personal hygiene products like cosmetics, shampoos, fragrances, and nail polish, as well as in food packaging, medical tubing, children's toys, and vinyl products. Bisphenol A is found in hard plastic items like sports water bottles, baby bottles, canned foods, and dental sealants. These two plasticizers can leach

from the products, exposing humans through ingestion, inhalation, or dermal absorption.

Phthalates and bisphenol A are known to have hormonal activity, and thus are often referred to as endocrine disruptors. Studies suggest they are ubiquitous in the U.S. population, with higher exposure levels in children and teens than in adults.

In animal studies, exposure to these plasticizers can affect birth outcomes, especially the reproductive tract in newborn males. Human studies are assessing potential links between plasticizers and early puberty, obesity, asthma, and male infertility.

What can parents do? “Keep it simple,” Dr. Galvez said. “Less is more. Especially in pregnancy, simplify your routine, and simplify the number of products you're using.”

Look for products free of phthalates and bisphenol A. If labels don't provide the needed information, look at recycling symbols: numbers 3, 6, and 7 should be avoided, but numbers 1, 2, 4, and 5 should be okay, she said. Her institution created a 2-inch by 3.5-inch “Pocket Guide to Plastics” that physicians may want to distribute to patients. Copies can be requested by e-mailing Dr. Luz Claudio at Luz.Claudio@mssm.edu.

Similar fact sheets can be downloaded from the Web site of the Pediatric Environmental Health Specialty Units at www.aoc.org/PEHSU/facts.html.

To avoid plasticizers, don't put plastic items in the microwave or dishwasher because heat promotes leaching. When possible, choose safer alternatives to plasticizer-containing products, such as fresh fruits and vegetables instead of canned food, breast milk instead of canned infant formulas, foods in glass containers instead of plastic, and water bottles made of stainless steel, Dr. Galvez recommended.

Dr. Galvez said that she has no pertinent conflicts of interest. ■