

Nursing Law Report

Volume 1, No. 2 February 2007

Using Healthcare Reform to Expand Scopes of Practice

1. mentioned last month, need to have the plan flushed out
2. all nursing organizations should stand hand and shoulders with the governor and utilize all of their political power to get this plan enacted
3. national nurse organizations should develop press releases and at least articulate support of some components of the plan
4. nursing organizations should gather evidence based data to support expansion of PA sop, and not leave this fight to the state nurses association

Yes, it is still a supervising state, so if NPs open their own practice, they need to have a contract on paper that there is a doctor supervising, albeit offsite..Carla/Portland, OR

GIN11153@aol.com wrote: I was under the opinion that in Calif., NPs could own their own clinics and have a collaborating MD-have looked into that substantially over the last 2 years. I have just read a second article that says it's a supervising state. Was there a new law this year?

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A proposed National Coverage Determination (NCD) posted today includes a coverage expansion that reflects the latest evidence on the effective use of stenting, a procedure that reduces the occurrence of stroke in the Medicare population. Stroke is the third leading cause of death in the United States and the leading cause of serious, long-term disability. Approximately 70 percent of all strokes occur in people age 65 and older.

To view the entire press release, click here:

http://www.cms.hhs.gov/apps/media/press_releases.asp

Abstracts of Articles Related to Nursing

[Occupational Risk Factors and Asthma Among Healthcare Professionals](#)

George L Delclos, David Gimeno, Ahmed A Arif, Keith D Burau, Arch Carson, Christine Lusk, Thomas Stock, Elaine Symanski⁴, Lawrence W Whitehead, Jan-Paul Zock, Fernando G Benavides, and Josep M Anto

American Journal of Respiratory and Critical Care Medicine (Published ahead of Print, December 21, 2006)

Am. J. Respir. Crit. Care Med. 2006, doi:10.1164/rccm.200609-1331OC

Recent U.S. data suggest an increased risk of work-related asthma among healthcare workers, yet only a few specific determinants have been elucidated.

Objectives: To evaluate associations of asthma prevalence with occupational exposures in a cross-sectional survey of healthcare professionals. Methods: A detailed questionnaire was mailed to a random sample (n=5600) of all Texas physicians, nurses, respiratory therapists and occupational therapists with active licenses in 2003. Information on asthma symptoms and non-occupational asthma risk factors obtained from the questionnaire was linked to occupational exposures derived through an industry specific job-exposure matrix.

Measurements: Two a priori defined outcomes: a) physician-diagnosed asthma with onset after entry into healthcare ('reported asthma'), and b) 'bronchial hyperresponsiveness-related symptoms', defined through an 8-item symptom-based predictor.

Main Results: Overall response rate was 66%. The final study population consisted of 862 physicians, **941 nurses**, 968 occupational therapists and 879 respiratory therapists (n=3650). Reported asthma was associated with medical instrument cleaning (OR, 2.22; 95%CI, 1.34-3.67), general cleaning (OR, 2.02; 95%CI, 1.20-3.40), use of powdered latex gloves between the years 1992 and 2000 (OR, 2.17; 95%CI, 1.27-3.73) and administration of aerosolized medications (OR, 1.72; 95%CI, 1.05-2.83). The risk associated with latex glove use was not apparent after the year 2000. Bronchial hyperresponsiveness-related symptoms were associated with general cleaning (OR, 1.63; 95%CI, 1.21-2.19), aerosolized medication administration (OR, 1.40; 95%CI, 1.06-1.84), use of adhesives on patients (OR, 1.65; 95%CI, 1.22-2.24) and exposure to a chemical spill (OR, 2.02; 95%CI, 1.28-3.21). Conclusions: The contribution of occupational exposures to asthma in healthcare professionals is not trivial, meriting both implementation of appropriate controls and further study.

REMINDER

The **National Council of State Boards of Nursing (NCSBN)** voted to raise the passing score for the NCLEX-RN exam effective April 2007. This recognizes that changes in health care delivery and nursing practice require a greater level of knowledge, skills and abilities to ensure minimal competence for entry level RNs. The NCSBN also received a Health Resources and Services Administration (HRSA) grant to reduce license barriers impacting tele-health and interstate nursing practice and to expand implementation of Nurse Licensure Compacts and Criminal Background Checks to support licensure portability.

First HIPAA Federal Trial Results in Conviction

A Fort Lauderdale jury convicted defendant Fernando Ferrer Jr., of conspiring to defraud the United States, computer fraud, wrongful disclosure of individually identifiable health information and aggravated identity theft. The case involved the theft and transfer of Medicare patient information from the Cleveland Clinic in Weston, Florida.

Isis Machado, a coordinator at the clinic, printed out information from electronic files that included Social Security numbers, dates of birth, addresses and other details about Medicare patients at the clinic's Naples location, prosecutors said. She then sold the information to her cousin, Fernando Ferrer Jr., owner of Advanced Medical Claims in Naples, who let the information be used to file fraudulent Medicare claims, prosecutors said.

The theft resulted in the submission of more than \$7 million in fraudulent Medicare claims, with approximately \$2.5 million paid to providers and suppliers. Sentencing has been scheduled for April 27, 2007. Ferrer Jr. faces a maximum statutory term of imprisonment of five years on the conspiracy and computer fraud counts, ten years on the wrongful disclosure count and two years on each of the aggravated identity theft counts. According to the Justice Department, this is the first Health Insurance Portability and Accountability Act ("HIPPA") violation case that has gone to trial in the United States.

HIPAA Security Guidance for Remote Use of and Access to Electronic Protected Health Information

CMS has prepared guidance to provide HIPAA covered entities with general information on the risks and possible mitigation strategies for remote use of and access to Electronic Protected Health Information ("EPHI"). The guidance document sets forth CMS's minimal compliance expectations for covered entities seeking to safeguard EPHI that is accessed, stored or transported offsite. The document provides a general list of suggestions for organizations that require remote use of sensitive health information.

<http://www.cms.hhs.gov/SecurityStandard/Downloads/SecurityGuidanceforRemoteUseFinal122806.pdf>

thought you might be interested in the link below, for a GAO report on recent health information technology issues and the need for "comprehensive" privacy efforts in this area.

LETTER REPORT

Health Information Technology: Early Efforts Initiated but Comprehensive Privacy Approach Needed for National Strategy. GAO-07-238, January 10

<http://www.gao.gov/cgi-bin/getrpt?GAO-07-238>

Highlights - <http://www.gao.gov/highlights/d07238high.pdf>

Government Forums or Meetings

The next Rural Health Open Door Forum will be hosted from the National Rural Health Association (NRHA) Conference on **February 28, 2007 at 11:30 AM Eastern Standard Time (EST)**.

This conference will be held at:

The Grand Hyatt Washington Hotel

Franklin Room

1000 H Street, N.W.

Washington, D.C. 20001

Conference Leader(s): Terry Kay/John Hammerlund/Natalie Highsmith

Conference Participation Instructions:

There are 2 ways to participate, "in-person" or by phone.

1. To participate in this Open Door Forum "in-person" at the Grand Hyatt Hotel, please arrive no later than 11:00 AM.

2. To participate by phone: **Dial: 1-800-837-1935 & Reference Conference ID: 9399209**

TTY Communications Relay Services are available for the Hearing Impaired. For TTY services dial 7-1-1 or 1-800-855-2880 and for Internet Relay services click here

<http://www.consumer.att.com/relay/which/index.html> . A Relay Communications Assistant will help.

Encore: 1-800-642-1687; Conf. ID# **9399209**

Encore is an audio recording of this call that can be accessed by dialing 1-800-642-1687 and entering the Conf. ID., beginning 2 hours after the conference has ended. The recording expires after 3 business days.

For Forum Schedule updates, Listserv registration and Frequently Asked Questions please visit our website at www.cms.hhs.gov/OpenDoorForums/

Upcoming WEDI Events

WEDI will host the WEDI NPI Industry Forum on February 12th, an audio cast on the impact of the NPI on standard transactions on February 28th, as well as a question and answer session on March 21st. Visit the WEDI website for more details at <http://www.wedi.org/npioi/index.shtml> on the web. Please note that there is a charge to participate in WEDI Events.

Next Month's Forums

The next Hospital Open Door Forum is scheduled for Thursday, March 8, 2007. If you wish to participate, please see the "Related Links Inside CMS" section below to sign up on the Mailing List. A Mailing List notice with the participation information will be sent 2 weeks prior to the scheduled date.

The next Home Health, Hospice, and DME Open Door Forum is scheduled for Wednesday, March 14, 2007. If you wish to participate, please see the Related Links Inside CMS to sign up on the Mailing List. A Mailing List notice with the participation information will be sent 2 weeks prior to the scheduled date.

The next Low Income Health Access Open Door Forum (ODF) is scheduled for Friday, February 23, 2007. If you wish to participate, please refer to the "Related Links Inside CMS" section below to sign-up on the Mailing List. A Mailing List notice with the participation information will be sent 2 weeks prior to the scheduled date.

The next Physicians, Nurses, and Allied Health Professionals Open Door Forum is Tuesday, March 6, 2007. If you wish to participate, please see

the "Related Links Inside CMS" section below to sign up on the Mailing List. A Mailing List notice with the participation information will be sent 2 weeks prior to the scheduled date

NO MEDICARE PART D LATE ENROLLMENT PENALTY

FOR LOW-INCOME ENROLLEES, CMS SAYS

CMS Acting Administrator Leslie V. Norwalk announced the elimination of the 2007 late enrollment penalty for any beneficiary eligible for the low income subsidy for a Part D plan even if they failed to sign up by the program's initial deadline.

Generally, Medicare beneficiaries who are qualified to join a prescription drug plan, or Part D, but choose not to enroll during their initial enrollment period, may be subject to a late enrollment penalty (LEP). These fees were intended to encourage Medicare beneficiaries to sign up for the drug coverage plan when they first become eligible, but may cause some low-income beneficiaries to avoid seeking coverage.

"It is very important that we remove whatever barriers may be preventing low-income beneficiaries from taking advantage of this great, cost-saving program," said Ms. Norwalk. "This is our most difficult population to reach and the one for which we continue to focus our efforts. By continuing to remove the fear of a late enrollment penalty for those who may not be able to pay, we are taking a positive step aimed at broader coverage for everyone."

By taking today's action, CMS is continuing the same protection against the LEP for low-income Medicare beneficiaries as it did during last year's launch of the massive new program. Under the initiative announced today, certain low-income Medicare beneficiaries can enroll in a Medicare prescription drug plan with no penalty through December 31, 2007.

The program is aimed at seniors who qualify for extra help paying for their Medicare prescription drug coverage. Certain other groups are also exempt from the late enrollment penalty, such as those who qualify for Medicare for the first time in 2007 and enroll in a prescription drug plan during their initial enrollment period.

There are two simple steps that a potential low-income beneficiary can take to secure Part D coverage. First, they can check with the Social Security Administration to determine eligibility for extra help paying for Medicare prescription drug coverage. Second, once the person is declared eligible for the low income subsidy, they can apply for drug coverage, with the late enrollment penalty waived.

Those who qualify for the low-income subsidy can join a prescription drug plan anytime throughout 2007. If they do not enroll on their own, Medicare will enroll them in the prescription drug plan that is most suitable for them.

For more information, call the Social Security Administration at 1-800-772-1213, or visit www.socialsecurity.gov on the web. TTY users should call 1-800-325-0778

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To view the entire press release, click here:

http://www.cms.hhs.gov/apps/media/press_releases.asp

AP) — [Abbott Laboratories](#) said Tuesday that it plans to start enrolling the first women-only clinical trial to study the use of drug-coated heart stents by midyear.

Stents are wire mesh tubes that act as scaffolding in diseased blood vessels. The drug coating keeps tissue from growing through the mesh and blocking the blood vessel.

North Chicago-based Abbott plans to track the use of its Xience stent in about 2,000 patients at 100 sites in Europe, Asia-Pacific, Canada and Latin America. The study is aimed at producing specific data on heart disease and how it is diagnosed in women.

The company cited figures showing that more women than men die from heart disease, but women account for only 33% of angioplasties, stents and bypass surgeries; 28% of implantable defibrillators, and 36% of open-heart surgeries.

Job Announcements

NIDA Deputy Director

We are looking for a talented scientist to join the group at NIDA as the Deputy Director in our Division of Epidemiology, Services and Prevention Research (DESPR). This position will be complex, challenging and rewarding! It is a leadership position in the Division at NIDA that develops and manages research programs of national and international scope in the areas of drug abuse epidemiology, services and prevention. The Deputy provides leadership in planning, developing, directing, and evaluating the Division's program of grants, contracts, and cooperative agreements and is also responsible: for providing leadership and oversight of the Division's major programs in research training and career development; for all Division scientific and administrative activities; and for providing direction and supervision to a staff of professional scientists, technical support personnel, and other staff.

Details about the position and application information can be found on the website www.usajobs.gov using the job announcement number NIDA-07-167427. Applications must be submitted by February 21.

New Articles and Publications

The Agency for Health Research and Quality Public Safety Network provides listings of articles, publications, slides on quality and safety. List listing can be found at:

<http://psnet.ahrq.gov/whatsnew.aspx>

EHRs: A tale of progress and frustration, Jan 12, 2007, Ken Terry, *Medical Economics Infotech Bulletin* <http://www.memag.com/memag/article/articleDetail.jsp?id=395686>

Final Report and Recommendations: Medicaid Commission, presented to Secretary Michael Leavitt, December 29, 2006 <http://aspe.hhs.gov/Medicaid/122906rpt.pdf>

The Spell of Illness for Skilled Nursing and Long Term Care Facilities was recently posted. It reflects how reimbursements are made for care:

http://www.cms.hhs.gov/OpenDoorForums/25_ODF_SNFLTC.asp#TopOfPage

NP and PAs: A Seller's Market, Jan 5, 2007, Robert Lowes, *Medical Economics* <http://www.memag.com/memag/article/articleDetail.jsp?id=394848>

Council for the Advancement of Nursing Sciences Meetings:

2007 Special Topics Conference

Evidence-Based Practice and Practice-Based Evidence

Two Sides of the Knowledge Development Coin

October 24, 2007

Omni Shoreham Hotel, Washington, D.C.

2008 National State of the Science in Nursing Research

October 2-4, 2008

Omni Shoreham Hotel, Washington, D.C.

February 2007

22-25 ACNP National Nurse Practitioner Summit Washington, DC

March 2007

8-11 Virginia Council of Nurse Practitioners* Annual Conference Reston, Virginia

21-24 National Association of Pediatric Nurse Practitioners Annual Conference Orlando, Florida

28-Apr.1 California Association for Nurse Practitioners* Annual Conference Sacramento,
California

April 2007

12-15 National Organization of Nurse Practitioner Faculties* Annual Meeting Denver, Colorado

June 2007

23 -29 Center for Mind-Body Medicine "Food As Medicine" Professional Nutrition Training Program The Tremont Grand, Baltimore, MD