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ALTERNATIVE DISPUTE RESOLUTION

How ADR Helps Control Health Costs

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The health care delivery and payment systems in the United Sates are rife with conflicts. Just a few examples:

Providers of patient care and those companies that pay the bills regularly dispute scope of coverage and amount of payment per procedure, among other things. Contractual relationships between these entities attempt to foresee and address these issues, but disputes arise routinely nonetheless.

Organizations of providers, most notably hospitals and individual physicians or physician groups within those hospitals, often don't see eye to eye. Even when these differences do not escalate into full blown disputes, they can threaten the physician/provider relationship and impact care and attention to patients. A hierarchical staffing structure within provider organizations can impede communication and allow disputes to deepen rather than be resolved in the ordinary course.

And, of course, there are battles at both the individual patient/physician level and state and national policy levels about what to do with medical errors and unintended treatment outcomes. The "medical malpractice crisis" remains in the headlines.

It's no surprise that there is so much conflict. There is, after all, an enormous amount of money at stake and innumerable players working to receive their share. According to the federal Centers for Medicare and Medicare Services, health care spending in the U.S. was about $1.8 trillion in 2004 and is expected to double by 2014, rising from 15.5 percent of GDP currently to 18.7 percent (higher than Canada and European countries which presently spend about 10 to 11 percent on health care). Many of the fights are over that money and getting a greater share of the pie. The prevalence of these conflicts creates

inefficiencies, increasing the overall cost to the system.

Politicians and policymakers grapple with what to do to stem this tide of health care costs rising faster than the rate of inflation. These resources expended on regulation and oversight of health care providers and debate over policy initiatives such as caps on damage awards or limitations on malpractice premiums are indirect costs not factored into the quoted statistics. If they were, the numbers would increase considerably.

The interrelationships between and among the players in health care are complex. Our system of health care delivery has evolved within a culture of providing the highest available level of care (at least for those who are insured and can afford it), which is driven by scientific and technological advances, physicians trained and truly committed to doing the best they can for their patients, and growing sophistication among patients as consumers of health care services.

Positions of these stakeholders often are deeply felt and entrenched. Patients' health and financial well-being are at risk; individual physician's livelihoods and professional reputations are at on the line; and the performance of organizations, both profit and non-profit, is under close scrutiny by regulators and shareholders. These dynamics breed conflict and elude consistent and effective approaches to resolving routine disputes.

That is not to say no progress is being made. In the medical malpractice area, early intervention by physicians and hospitals with patients and family members involved in a potential suit can substantially reduce overall claims costs and lead to more satisfactory outcomes for all parties. In the area of payment for services, arbitration clauses in agreements between payers and providers help short circuit full-scale litigation and preserve continuing relationships. Within provider organizations, there is a growing recognition that the participants in the hierarchical culture characteristic of health care need training and assistance to improve communication and work together to more efficiently provide patient care.

But so far such efforts have just scratched the surface. There is much more that can and needs to be done that will help reduce the incidence of conflict and develop embedded means of resolution. Better and more pervasive dispute resolution processes are not the cure by themselves to escalating heath care costs, but they in fact would help eliminate some of the inefficiencies from the system.

By developing ways to identify incipient disputes early on and channel them to creative and effective processes in which the parties can more readily identify common interests, costs can be contained, errors can be reduced, and the system can be better conditioned to look for means of eliminating fat rather than fighting over it. The issues are too complex to be fleshed out in this space; the purpose is to identify some of the problems and raise awareness of the need for more innovative approaches to conflict resolution in health care. More specifics on those possibilities in columns to come. ■

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