



## Voices of Medicine

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By Del Meyer, MD

**Items from Everett, WA and Sonoma County, and an interview with a former doctor, now a felon.**

### **"End Third-Party Relationships"**

Thomas Mueller, MD, an otolaryngologist in Everett, WA, is tired of gloom-and-doom messages and thinks it is time for physicians to take the lead. While problems in medicine are legion, the solution is simple but not easy.

"As rapidly as possible, as many physicians as possible need to end all third-party relationships," Dr Mueller writes. Patients should submit receipts to their insurance company for reimbursement, under the terms of their contract with the insurer. "Every other proposal falls short of accomplishing the goal [of restoring free market in medicine] and does little to control the reign of bureaucrats...all other proposals are simply like rearranging the deck chairs on the Titanic"

His proposal requires no new legislation, simply a critical mass of physicians to take the lead. That might not be very many.

### **Getting out of Managed Care**

Paul Marguglio, MD, a Healdsburg internist and president of the Sonoma County Medical Association (SCMA), states that now is the worst of times for medicine. He embarks on a 15-year perspective, outlining what we've been through and where we are today.

The lead article in Sonoma Medicine is by Herb Brosbe, MD, "How I Learned To Love Medicine Again." On the last day of August 2000, one hour before a meeting with the director of his medical group, "I received a telephone call from the CEO. "You're terminated. We're done dealing with you."

He writes, "There was nothing brave or heroic about being fired; about having the locks of our office changed to deny us access to our records and patient files; about watching helplessly as my practice of 18 years was divided among other doctors. Begging health plans and other medical groups to intervene fell on deaf ears. Phone calls, e-mails and letters to the California Department of Managed Health Care went unanswered. A letter to the SCMA Ethics Committee went unacknowledged. I was in crisis. No practice. No job. No income."

He then rediscovered a known truth: "Crisis can be a foundation for powerful changes. A deeply rooted process of values clarification evolved. I loved my profession, but I hated my previous job. The tensions between staff and patients, the endless apologies for poor service, the many uncompensated hours of paperwork - all made for horrendous working conditions."

"Why did we participate [and] continue to participate? Because we've been trained to always serve...We were also afraid. If we didn't participate, our patients would be sent elsewhere." He felt he became a provider for an insurance industry rather than his patients.

While Brosbe was hiking in Point Reyes, a naturalist told him, "I'll always remember our family doctor. He always took time with you. When he put his hands on your stomach, looking for a source of your pain, you knew you would be okay. You always knew how much he cared. You are very lucky being a family doctor."

Brosbe immediately urged his patients to obtain lower premium insurance by paying for routine outpatient care themselves so he could spend time with patients. After two months in a partnership practice, he is "deliriously happy" with no stress or anger or paperwork. Dr. Brosbe challenges the members of his medical society to send a memo to their patients saying: AS OF DECEMBER 2001, WE WILL NO LONGER BE ACCEPTING MANAGED CARE.

### **Another Case of "Fraud"**

I interviewed Dr. Don ReVile about his Medicare problem of some five years ago. He had converted to a skilled nursing facility (SNF) practice and joined the California Association of Medical Directors for Skilled Nursing Facilities; he became its president and, later, president of the national organization.

His SNF practice grew to 400 patients. His sign-out partner, who needed six weeks to accommodate pulmonary surgery, asked him to cover his 600-patient practice. This combined 1000-patient number triggered a red flag on a Medicare screen. An extensive investigation of ReVile focused on Sutter Oaks Alzheimer's Center, where he served as Medical Director and had made rounds for several years, accumulating approximately 60 patients.

Because medical interviews and examinations of demented patients do not produce significant medical information, the Director of Nursing had suggested he order his time by first making Charge Nurse rounds, chart rounds and then walking rounds to perform examinations dictated by the medical condition.

This approach worked productively for over 10 years, until Medicare arrived and said the American Medical Association/Health Care Financing Administration guidelines required he spend at least 15 minutes per month with each patient plus several functions. The Medicare investigator agreed that Dr. ReVile was practicing good medicine; however, because his practice did not conform to the AMA/HCFA E & M codes, he would be prosecuted for fraud.

Dr. ReVile spent \$25,000 in retainer fees before an attorney would discuss the case. After another \$40,000 and tons of what appeared to be boiler plate (computer-derived) documents, Dr. ReVile was assured that his attorney knew lawyers at HCFA who could have the case dismissed for another \$35,000 fee. This attorney bailed when Dr. ReVile refused to ask colleagues for loans. A second attorney was hired for \$20,000 for the trial.

The U.S. prosecutor compared Dr. ReVile to Attila the Hun. His attorney asked for a recess, took Dr. ReVile aside and advised him that his guilt was obvious and, to avoid prison time, he should so plead. ReVile asked for a second legal opinion, which concurred. Dr. ReVile signed a document stating he had violated the AMA/HCFA E & M guidelines, hoping to get on with his practice and his life. But he was sentenced to 21 months in federal prison. After 13 months he was released, to face the loss of his house, automobile, practice and reputation.

Later, in reviewing the Medicare regulations, he noted that he was required to do two of three E & M guidelines regarding nursing home patients: (1) Review the medical chart; (2) Make face-to-face contact and/or perform an examination; (3) Formulate a medical decision. His legal counsel and the federal prosecutor stated that his sentencing was based

on the requirement that he perform all three items.

Since he did perform the required two, he feels the case against him should have been dismissed - in which case he would still be a licensed physician rather than a felon.

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