

Health Care Insights

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Doctor's Political Activism Critiqued

The patient of a Portland, Oregon, obgyn received a call from her physician requesting her to back “a ballot measure requiring parental notification for teenage girls seeking abortions.” Thereafter, the patient was called by two antiabortion organizations seeking her support for the initiative mentioned by her obgyn. Believing that her physician furnished her telephone number to these two groups, the patient inquired of “The Ethicist,” the column of the *Sunday New York Times Magazine's* ethical maven, whether this was appropriate.

Quoting Professor Arthur Caplan, chairman of the Department of Medical Ethics at University of Pennsylvania Medical School, “The Ethicist” advised on January 14, 2007, that it was wholly inappropriate for a physician, lacking the patient’s consent, to reveal any personal health information to anyone unless it was related to her care.

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A doctor should not call upon patients to support the doctor’s political or philanthropic causes unless invited to do so by the patient, “The Ethicist” instructed. The physician/patient relationship demands “tact and sensitivity,” he reminds us.

Nonmedical contact to advance the physician’s political or social goals “risk(s) subverting the doctor-patient relationship, thereby compromising the quality of care,” comments the editors of *Health Care Insights* heartily endorse.

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Carotid Artery Stenting Advances

Asymptomatic patients with carotid arteries which are sufficiently narrowed to meet new federal rules will be entitled to receive stenting on the theory that their risk of suffering a stroke is high. Currently, these patients must be enrolled in an approved clinical trial to receive stenting.

Centers for Medicare & Medicaid Services (CMS) Chief Medical Officer Dr. Barry Straube recently stated that experience with stenting has proved “its effectiveness in improving health outcomes for certain patients.” Patients over 80 would have very limited access to this procedure.

While data concerning the likely number of new stenting procedures is not available from CMS, the manufacturer of the stents, which led the charge to change CMS rules, believes that its market for the devices would grow by up to 75 percent as a result of this regulatory change.

The rule proposed by CMS is expected to be promulgated in final form later this year.

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New Stark II Rule Delay

The Centers for Medicare & Medicaid Services (CMS) was expected to promulgate final rules under the Stark II law to implement the law's restrictions on physicians' referrals to companies in which they or their relatives have financial dealings. A recent notice in the *Federal Register* indicates that CMS has extended the date for another year -- until March 26, 2008.

"Speaking Up Is Hard To Do"

This is the brunt of the title of a provocative essay by Dr. Barron H. Lerner in the April 17, 2007, *New York Times*. Dr. Lerner is a professor at Columbia University Medical Center and a published author.

What to do, he asks, when a medical student is aware that her senior, a medical resident, has replied incorrectly to an important question from a senior attending physician about a patient's clinical status? Noting that hierarchical relationships in hospitals restrain "the inclination and ability of young doctors to speak up," Dr. Barron notes, regretfully, that the medical student who heard the resident apparently lie to the attending physician did not speak up either.

"The resident was a good doctor" the medical student said "and so she had given him the benefit of the doubt." Her willingness to correct the misstatement was also hampered by the fact that "the resident and the attending physician would be grading her."

The author offered that one course of action for the medical student would be to seek out a more senior

colleague. Perhaps the patient or her family should be told directly.

Dr. Barron is comforted a bit by newer trends in medical education which encourage medical students and residents "to provide routine feedback -- positive and negative -- about their supervising physicians at the close of their rotation." Notwithstanding, is the current "perception that constructive feedback, even for a patient's benefit, is whistle blowing" likely to change? Dr. Lerner expresses his doubts.

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Kidneys For Sale?

In the Winter 2007 issue of *Proto*, Rebecca Skloot notes that 17 Americans die every day hoping in vain for the donation of an organ, primarily a kidney, that never arrives. Is there a black market developing for donated organs?

Ms. Skloot interviews Dr. Amy Friedman, a Yale transplant surgeon, who with her father Dr. Eli Friedman, a nephrologist, proposed in the February 2006 issue of *Kidney International* that the sale and purchase of kidneys for organ transplantation be legalized.

Noting that public donation programs have not succeeded, Dr. Amy Friedman also observes that the primary source of donated organs "is of less-than-ideal quality," coming primarily from older decedents.

Live organs from healthy donors tend to provide "longer functionality," especially because the live donor-to-recipient transfer occurs within the

hospital so that the organ is not removed from a blood supply for very long.

Black market transfers are suspect because screening may be poor and matching may be inadequate.

Is it correct to analogize, as does Dr. Friedman, the decision to donate a kidney for compensation for enrollment in the military service? Dr. Friedman offers, “(y)ou enlist with a clear understanding that you’re risking your life in return for money – and if

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you die, your family gets a death benefit. That is not ethically distinct from what we’re proposing.” Dr. Friedman swats away concerns about a market for donated organs comprising largely poor people by offering the military analogy once again.

A system of regulated, legal organ donation protocols would also solve one of the financial inequities in the current organ donation program, she advocates. That is to say, everybody now associated with an organ donation obtains some benefit except the donor. Would a system of legalized payments end the “hypocrisy” of the present approach?

As Dr. Friedman points out, legislation is probably required to bring her ideas to realization. The editors of *Health Care Topics* suggest that the debate on this controversial, but critical, issue should begin forthwith.

Siestas Can Be Healthful

The February 12, 2007, issue of *Archives of Internal Medicine* reports on a study of over 23,000 Greek adults which evaluated the association “between siesta and coronary mortality.”

In a conclusion probably with not much applicability to harder driving, more work-oriented populations in northern hemisphere countries, the authors, led by Dr. Androniki Naska of the University of Athens Medical School Department of Hygiene and Epidemiology concluded that there is an inverse association with coronary deaths and the ‘siesta’ of apparently healthy individuals, and particularly working men.”

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Attorney Notes

Hartford partner Michael Kurs chaired a continuing legal education program sponsored by the Connecticut Bar Association on April 18, 2007, addressing effective advocacy of administrative appeals after the agency’s decision.

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