

Health Care Insights

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HIPAA and the Octuplets

By this point, just about everyone has been saturated with stories, both sensational and factual, about the birth of octuplets to Ms. Nadya Suleman this past January in California. The social and medical/legal ethics issues brought to public scrutiny by the single mother who already had six children are too complicated to be addressed here.

However, following the births, other legal concerns arose when staff members at the Bellflower Medical Center who were not involved in any aspect of Ms. Suleman's or the infants' care were disciplined for going through Ms. Suleman's medical information. Apparently, they were seeking data on the sperm donor who had fathered the eight babies.

The workers were discharged for this egregious privacy violation.

Michael A. Kurs, who can be reached at (860) 424-4331 or mkurs@pullcom.com, can answer inquiries about HIPAA.

Will Hospital Tax Exemptions Go the Way of the Dodo?

At a meeting of the Senate Finance Committee in mid May, Iowa Senator Charles E. Grassley asked whether hospital tax exemptions would continue to be necessary if President Obama's effort to accomplish a major overhaul of the health care system is successful. "Over the last 40 years, with the creation of federal and state insurance programs such as Medicare and Medicaid, and the growth of private insurance, it has been increasingly difficult to distinguish the activities of for profit hospitals from the activity of charitable hospitals," the senator opined.

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Given that the Obama plan can be expected to eliminate or sharply reduce uncompensated care by hospitals, "does it make sense," the senator asked, "to retain tax exemptions for hospitals?"

The pace of developments in the health care arena since the new administration took office makes it inadvisable to take a long journey without daily e-mail access!

Elliott B. Pollack at 860-424-4340 or ebpollack@pullcom.com and Alan S. Parker at (860) 541-3318 or aparker@pullcom.com can respond to questions about federal, state and local tax exemptions of health care facilities.

Magnetic Resonance Imaging and Radiation Therapy Discussed

Radiologists practicing at the Cross Cancer Institute in Edmonton, Alberta, Canada, announced that they "have successfully taken a magnetic resonance (MR) image at the same time radiation therapy (was) delivered," reports the June 2009 issue of *Duke Medicine Health News*. According to the Institute, its linac-MR prototype machine "provides clear video images, including soft tissue, and allows doctors to guide radiation in real time to the tumor.

New Drug Isn't Much Better Than the Old Version

The Medical Letter, the not-for-profit publication which seeks to provide health care professionals with unbiased drug prescription recommendations, comments on the modified nasal spray Azelastine recently approved by the Food and Drug Administration. Intended to treat seasonal allergic rhinitis, Azelastine has been available since 1997. Since its patent expires in 2010, apparently the manufacturer thought it best to develop a new formulation.

New Azelastine contains an artificial sweetener "to mask the bitterness" of the drug without completely succeeding in doing so.

While the therapeutic impact of the old and new formulations appear to be fairly similar, *The Medical Letter* notes that "over the counter second generation oral antihistamines cost much less and may be less sedating."

Environmental Concerns and the Practice of Medicine Intersect Nicely

The Connecticut Clean Energy Fund announced on April 20, 2009, that Brooklawn Dental Associates in Bridgeport and Mansfield Family Practice in Mansfield have installed and are successfully operating solar photovoltaic systems at their offices.

The Bridgeport installation sits on the rooftop of the dentists' building at 990 Brooklawn Avenue and now supplies approximately 24 percent of the practice's electric needs. A Fund grant of \$26,600 covered almost half of the cost.

The Mansfield installation at the physicians' office located at 34 Professional Park Road produces approximately 16.5 percent of their electric needs. A grant of \$44,658 from the Fund again picked up almost half of the cost.

“ It is encouraging to see that health care providers, ranging from family practices to hospitals, are embracing clean, healthy alternatives in energy production. ”

According to Lise Dondy, president of the Connecticut Clean Energy Fund, there are now nine completed and in progress Clean Energy installations at medical facilities throughout Connecticut. "It is encouraging to see that health care providers, ranging from family

practices to hospitals, are embracing clean, healthy alternatives in energy production," she stated.

Lee D. Hoffman at (860) 424 4315 or at lhoffman@pullcom.com is knowledgeable in the area of clean energy.

The Role of Retail Health Care Clinics

Dr. Maria Lenaz of Chattanooga, Tennessee writes in the April 2009 issue of *Connecticut Medicine* that "retail based health clinics are a growing trend and their accessibility is emerging in many communities." Dr. Lenaz notes that many national insurers and employers have added retail clinics to their health care networks and are hoping for significant savings over the large costs incurred when patients present for relatively minor health concerns at hospital emergency departments.

The reaction of the physician community, as might be expected, is generally not positive. According to Dr. Lenaz, on a quality of care basis, physicians are concerned that clinics will not do well with complex cases. On pocketbook concerns, the accessibility of retail clinics may reduce revenue from insured patients. "Open access scheduling," a nice euphemism for not being required to make an appointment, is a major attraction of these clinics and its competitive impact may stimulate physicians to adopt similar practices at their offices. "For now," Dr. Lanaz opines, "the question about the value of retail clinics and health care remains open as this model continues to develop."

For further information, please contact Jennifer A. Willcox at (203) 330 2122 or jwillcox@pullcom.com.

Prominent Connecticut Medical Ethicist is Deceased

Dr. Jacob "Jay" Katz, born in Germany in 1922, immigrated to the United States to escape the Nazis. He began teaching psychiatry, and then psychiatry and law, at Yale University in 1955. He was motivated to concentrate on this field because, he said in 1996, of what he "learned about Auschwitz" (and then) to an exploration of physicians' striking inattentiveness to ethical values in the conduct of experimentation before, during and after the Nazi era."

One of Dr. Katz's major accomplishments was his service on a federal panel formed to investigate the outrageous study conducted by the U.S. Public Health Service from 1932 to 1972. Designed to evaluate the effect of syphilis in African-American men, "[e]ven when the treatment became available in 1947," the January 31, 2009 issue of *The Lancet* reports, "it was denied to study participants, many of whom suffered greatly, died or passed syphilis on to others."

Dr. Katz is seen as one of the leaders of modern bioethics studies in America.

He died in New Haven on November 17, 2008.

Attorney Notes

The Health Care Department of Pullman & Comley is pleased to announce that partner **Michael Kurs** has been appointed as one of two non-resident member representatives to the New York State Bar Association House of Delegates, the policy-making body of the Association.

Pullman & Comley litigation partner **Richard C. Robinson** was honored at a gala at the Connecticut Convention Center on May 3. Mr. Robinson's term as chairman of the Hebrew Home & Hospital, a premier not-for-profit, multi-level long term and chronic care health care provider in West Hartford, runs through the end of 2009.

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