Don’t Let Surprise Billing Surprise Your Practice

By Elizabeth Woodcock, MBA, FACMPE, CPC

President Trump’s 2020 State of the Union speech addressed an important topic currently being debated on Capitol Hill. Patients, he espoused, should never be "blindsided" by medical bills. Tackling surprise billing, which occurs when an insured patient receives care from an out-of-network provider at an in-network facility, has the bipartisan support of Congressional leaders. Senate Health, Education, Labor, and Pensions (HELP) Committee Chairman Lamar Alexander (R-TN) joined House Speaker Nancy Pelosi (D-CA) in opposing “egregious billing practices.” With Presidential support and stories of patient misfortune flooding the airwaves, members of Congress are jumping on the bandwagon to put forward legislation to halt surprise billing.

The only issue at this point is the *solution* – and it may have an impact on all medical practices. Aimed to formulate a payment due from the patient in the circumstance of a surprise bill, two proposals are on the table:

- *Benchmark: rates set based on median in-network rates for a geographic area, with maximum thresholds.*
- *Arbitration: payment established based on an independent dispute resolution between the provider and the insurer with guardrails based on time – without agreement, an independent, third-party meditator would take over.*

Hospitals that outsource care to staffing companies – for example, emergency medicine groups – will be immediately impacted, as will the physicians staffing the hospital.

While the issue is focused on specific circumstances that may initially impact only a subset of hospitals and providers, all physicians experience treating and billing for an out-of-network patient, even in the medical office setting. It's typical practice to bill and collect the full out-of-network charge for these patients, perhaps discounting based on upfront payment or the patient's financial circumstances. The federal debate on surprise billing – and whichever outcome is chosen – may impact these cases in the future. If there is an established benchmark rate for an encounter for an out-of-network provider in an in-network facility, for example, patients and insurers will certainly reference that rate for an out-of-network provider *in a medical office* setting. Further, the proposed legislation from both sides – those favoring benchmarks and those preferring arbitration – includes some reference to "transparency" related to *all* medical bills. Given the complexity of our reimbursement system, operationalizing this may prove a daunting challenge.

When will we get an answer? Federal health care funding for community health centers and physicians in several mid-western states runs out on May 22, 2020. Experts concur that lawmakers are shooting for this date to choose a solution to surprise billing to incorporate in the expected health care legislation. While the broader impact may not be known for some time, we will keep you posted on how this legislation plays out and how it might impact your practice.

SVMIC’s 2020 Education Offerings Are Now Available

By Judy Musgrove

SVMIC’s education offerings are now together in one place for your review:

- Live Risk Education Prescribing Seminar
- Innovative new Practice Manager education curriculum
- Self-paced courses eligible for CME and 10% premium credit for physician policyholders
- Free online courses for staff education
- Free educational podcasts

We are proud to launch a brand-new, streamlined curriculum for practice executives and staff.

- Regional One-Day Medical Practice Management Updates bring the latest expertise in practice management closer to our policyholders. These one-day events are

being held this summer at 8 locations around Tennessee, Arkansas, and Kentucky, and will feature content including cybersecurity, HR hot topics, MIPS, and much more. Find the schedule and register here.

- Practice Management Symposium is a longer 1.5-day event held this fall in Nashville and Little Rock. The agenda is full of content, such as payment reform, clinical risk management, revenue cycle management, compliance, and much more. The schedule and registration information are located here.

In 2020, SVMIC is offering the live seminar Prescribing Controlled Drugs: Minimizing the Risks in 17 cities. It is a dynamic, interesting course that qualifies physician policyholders for 10% premium credit, as well as providing 2.0 CME hours of mandatory prescribing credits for physicians and other providers.

Important to note, there is a significant change to CME attendance requirements this year. To receive the full 2.0 hours of CME credits for the prescribing course, attendees **must sign in no later than 7 minutes** after the start of the course. No one will be permitted to sign in after 20 minutes. No exceptions. All physician policyholders who sign in by 20 minutes after the start time and stay until the end of the seminar will be eligible for the 10% premium credit. Register for your course now.

To better accommodate your busy schedules, we continue to expand our portfolio of online courses. Like the live seminars, these booklet and online self-study courses provide a 10% premium credit and 2.0 hours of CME.

Visit the SVMIC Education Center to read about all our education offerings and to get registration instructions.

An Ounce of Prevention Is Worth a Pound of Cure

By Matthew Bauer, JD

Medical offices routinely receive medical records requests, and medical offices should have established policies and procedures for the proper handling of medical records requests in order to promote patient care and to comply with state law and HIPAA. While such factors are important, a frequently overlooked fact is that the proper handling of medical records requests can also potentially prevent a medical malpractice lawsuit from being filed.

A plaintiff's attorney will typically review their client's medical records before filing a medical malpractice lawsuit. If a plaintiff's attorney is not provided with a copy of their client's complete medical chart when requested, then the plaintiff's attorney may be under the misconception that a health care provider committed medical negligence due to missing medical records and may file a medical malpractice lawsuit based upon such

misconception. This is exactly what happened in the following closed claim case.

A forty-year-old female patient with GERD, dysphagia, and esophageal stricture had a consultation with Dr. Orton[i] and decided to undergo esophagogastroduodenoscopy (EGD) with dilation. During the consultation, Dr. Orton reviewed the risks and known complications of the procedure with the patient and had the patient sign an informed consent form. Unfortunately, the patient suffered an esophageal perforation during the procedure and required extensive post-procedure treatment.

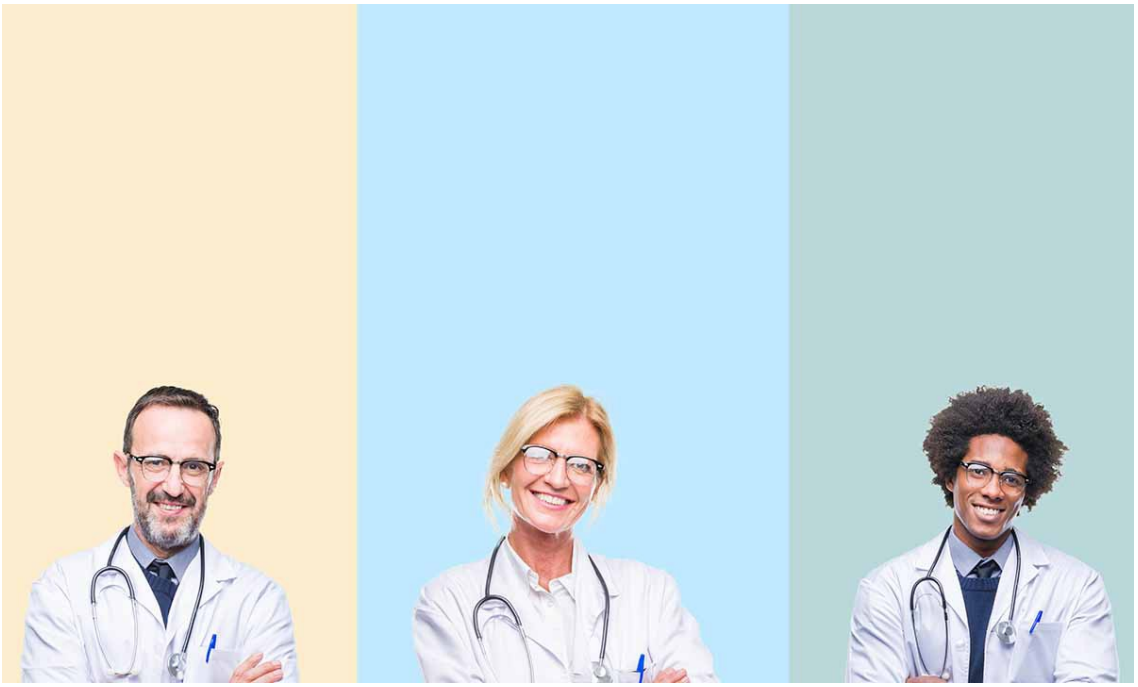
Dr. Orton's medical office subsequently received a request from the patient's attorney for a copy of the complete medical chart. However, when Dr. Orton's office processed this request, some of the patient's medical records, including the informed consent form signed by the patient, were inadvertently not sent to the patient's attorney. The patient's attorney subsequently filed a medical malpractice lawsuit against Dr. Orton alleging medical negligence and lack of informed consent.

During the discovery phase of litigation, Dr. Orton's defense attorney realized the error and promptly sent a copy of the patient's complete medical chart, including the informed consent form, to the patient's attorney. The informed consent form enumerated the risks and known complications of an EGD procedure, including the risk of a perforation or tear in the esophagus. Shortly after receiving the informed consent form signed by the patient, the patient's attorney withdrew from representation of the case. The patient was unable to find another attorney to take her case, and approximately two years after the lawsuit was filed, the case was dismissed for lack of prosecution. While the case was eventually dismissed, Dr. Orton had to expend a significant amount of time and effort to defend a medical malpractice lawsuit that potentially could have been avoided in the first place by properly handling the original medical records request from the patient's attorney.

As demonstrated by this closed claim case, there are proactive steps that medical offices can take to reduce professional liability exposure. SVMIC has valuable informational and educational resources for policyholders (https://www.svmic.com/resources) that can help medical offices take these proactive steps, which not only improve patient care and legal compliance, but which could also potentially prevent a medical malpractice lawsuit from being filed.

[i] The physician's name has been changed.

Physician Mental Health Help Now More Proactive with TN PSQ



By Michael Baron, MD, MPH, FASAM

Take the Survey

Physician mental health is a big issue these days, with burnout rates approaching 54 percent. There is a huge amount of stigma that limits a physician's ability to get help, including the fear of licensure, career or practice issues, as well as the fear of being considered "less than" by their peers, colleagues, administrators, and employers.

In addition to overall mental health problems, suicide rates are increasing in both the general and physician populations. Physicians are twice as likely to die by suicide than non-physicians. We have been made aware of recent completed suicides at two medical schools in Tennessee, which sadly means there are probably more we don't know about.

As the number of mental health referrals began to rise, the TMF began searching for helpful resources that would make an impact and encourage people to reach out for help

sooner in the process, hopefully before there's a need for intervention.

After a long search for the right resource, the TMF partnered with the American Foundation for Suicide Prevention (AFSP) in 2019 to develop the Tennessee Professional Screening Questionnaire, or TN PSQ. As of February 3, this online mental health screening tool is available statewide. Thanks to SVMIC and other key stakeholders, including the Tennessee Board of Medical Examiners, Tennessee Medical Association, and the Tennessee Hospital Association, we are now able to offer this to all physicians licensed in Tennessee, as well as all trainees and medical students located in Tennessee.

The TN PSQ utilizes the AFSP's Interactive Screening Program (ISP). This platform is being used by healthcare organizations across the country. For example, the University of California-San Diego incorporates the questionnaire into its HEAR (Healer Education Assessment and Referral) staff wellness program, with good results. We are hoping to see similar success here in Tennessee.

The goal is to connect Tennessee physicians, trainees, and medical students in distress with mental health services in an anonymous, confidential, free, and voluntary way – ideally before a call to the TMF is necessary. Data is encrypted to protect anonymity, and online engagement with a psychiatric professional is offered but optional. All utilization is driven by the user.

The hope is that this resource will be used widely across Tennessee. This tool is available to all the professions we are contracted to serve, including physicians (MDs and DOs), physician assistants, chiropractors, podiatrists, veterinarians, x-ray technologists, clinical perfusionists, and their respective trainees and students. There are over 16,000 physicians with a Tennessee license alone so if we reach even 10 percent, that is still a huge number. If it helps to save even one person's life or career, it's worthwhile.

Mental illness knows no boundaries of race, religion, or profession. Physicians are just as susceptible, if not more so, than the general population. They're also innately paranoid about services provided by organized medicine or their employer, so this will hopefully be an outlet for them to receive free, confidential, anonymous, and a completely voluntary assessment of their mental health. They can take the self-screening and then go from there. It is their choice.

We are also sharing this new resource with additional organizations, including medical schools, medical societies, and specialty organizations. Each of these partners is spreading the word about this resource in its own way, which means physicians and other health professionals will learn about the TN PSQ from multiple sources, which is by design. In this case, duplication of effort is desired. We want everyone who is struggling to have a chance to get connected to available resources, one way or another. We don't care how they get help, only that they do.

The Tennessee Medical Foundation has provided an excellent set of Frequently Asked Questions regarding the TN PSQ which are available here.

Access the TN PSQ.

The contents of The Sentinel are intended for educational/informational purposes only and do not constitute legal advice. Policyholders are urged to consult with their personal attorney for legal advice, as specific legal requirements may vary from state to state and/or change over time.