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- Friday 2 November 2007
- Partnership for Coverage Public Hearing in New York, NY
  
- The governor's statement on 7.11.07 announcing these hearings said:

“ 'Our 'partnership for universal health coverage' will be based on a building-block approach that ensures access to affordable, high quality medical care for every single New Yorker ... “

- On 10.25.07 the state health commissioner testified at the first hearing of the state budget division on the 2008-2009 state budget:
  
- “ I firmly believe in doing more with less... We want a "health care" not a "disease care" system. ... The Department is also working to ensure that the Medicaid program only contracts with high quality providers, rather than simply requiring them to meet minimum standards. When multiple providers offer the same specialized services, we should only contract with those that have the best health commissioner outcomes. Additionally, like Medicare, we should not pay for “never events.” We will collect the data that will permit Medicaid to deny payment for “potentially preventable conditions.” .... Recent quality reports show that Medicaid Managed Care continues to improve access to and quality of care. We need to take the successes of the managed care program and apply them to the Medicaid fee-for-service program where little has been done to measure or improve the quality of care..... Last year the Governor and the Legislature recognized the need to shift the focus from expensive curative care to preventative measures ....”

I want to define a few of the things I consider to be among the most basic building blocks.

- I want to outline some constraints to keep this project from running off the rails, as I believe it already has and may continue to do. These are short-term actions to defend, sustain and preserve and project into the future certain values .... ethical, moral and religious values essential to the establishment of any system of universal health coverage and health care.

- EXEMPTIONS AND EXCLUSIONS FROM COMPULSORY MEDICAID MANAGED CARE

- (Social Services Law, Article 5, Title 11, section 364-j - Managed care programs -- subsection 3, paragraphs (b), (c) and (d), under Laws of New York at <http://public.leginfo.state.ny.us/menuegtf.cgi>).

- “SPECIAL NEEDS” ... some animals are more equal than others

- SSL 354-j-k et seq <http://public.leginfo.state.ny.us/menuegtf.cgi>).

(k) "Special care". Care, services and supplies relating to the treatment of mental illness, mental retardation, developmental disabilities, alcoholism, alcohol abuse or substance abuse, or HIV infection/AIDS

- CODE OF PROFESSIONAL MEDICAL CONDUCT & PREVENTIVE CARE CLAIMS

- Education Law Article 131-A, Definitions of Professional Misconduct Applicable to Physicians, Physician's Assistants and Specialist's Assistants §6530. Definitions of professional misconduct. <http://www.op.nysed.gov/article131-a.htm>

- Managed care violates the Code:

- 16. A willful or grossly negligent failure to comply with substantial provisions of federal, state, or local laws, rules, or regulations governing the practice of medicine;

- 17. Exercising undue influence on the patient, including the promotion of the sale of services, goods, appliances, or drugs in such manner as to exploit the patient for the financial gain of the licensee or of a third party;

- 24. Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform, or performing without adequate supervision professional services which the licensee is authorized to perform only under the supervision of a licensed professional, except in an emergency situation where a person's life or health is in danger;

- 25. Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified, by training, by experience, or by licensure, to perform them;

- 27. Advertising or soliciting for patronage that is not in the public interest.

1. Advertising or soliciting not in the public interest shall include, but not be limited to, advertising or soliciting that:

1. is false, fraudulent, deceptive, misleading, sensational, or flamboyant;

2. represents intimidation or undue pressure;

3. uses testimonials;

4. guarantees any service;

5. makes any claim relating to professional services or products or the costs or price therefor which cannot be substantiated by the licensee, who shall have the burden of proof;

6. makes claims of professional superiority which cannot be substantiated by the licensee, who shall have the burden of proof; or

- Managed care is based on the claim that physicians should practice beyond their competence; and should also campaign publicly that practice by one limited discipline is by definition superior to practice by better taught, better experienced and more mature physicians in another discipline
- Based on junk science promoted by two lawyers, one MD, and a career bureaucrat.
- Sara Rosenbaum is a former lobbyist for the Children's Defense Fund and a JD.
- John Billings is another JD and perpetual hired gun by the Robert Wood Johnson Foundation, the Commonwealth Fund, the United Hospital Fund and various other agencies promoting managed care ... we never see a stock portfolio report or disclaimer of conflict of interest from him or all those like him who are lawyering for the Medicaid managed care interests.

• DISABILITY REALITIES, RIGHTS AND ACCOMMODATIONS

- Data
- NYSDOH reports
- ADA Restoration Act
- Vital Statistics .... not politics and preferential treatment .. Gottfried .. AIDS Institute
- Asthma/National Asthma Education Program/NHLBI 1989
- COPD not among protocols distributed by NYSDOH
- No recognition of problem in NYS ... merely a body count.
- The NYSDOH website includes a link on its home page to a webpage titled "Statistics & Data" at <http://www.nyhealth.gov/statistics/>. Under "Other Publications" the page omits any reference to the landmark NHLBI report on the National Asthma Education Program published in 1989. The Statistics and Data page at <http://www.nyhealth.gov/statistics/> and most of the webpages linked from there make no reference to COPD at all.

COPD is the fourth most common cause death in the US and third in New York. There have been countless major WHO and NIH studies of COPD within the last decade. There are scores of reports and papers defining optimal protocols for diagnosis and treatment. Not one of these documents is available on the NYSDOH website.

As the cliché goes, we do not discriminate. We are not racists. They just haven't applied.

I will be submitting a list of some of the major reports and studies in the near future. Meanwhile, Google COPD/Bronchitis/Emphysema via the NIH, Medline, the CDC, the WHO and the National Jewish Medical and Research Center in Denver, Colorado at <http://www.njc.org/>.

In terms of relative priorities for undiagnosed, under-represented politically, under-treated COPD, see Vital Statistics of New York State 2005 Table 33a "Deaths and Death Rates by Selective Causes" at

[http://www.nyhealth.gov/nysdoh/vital\\_statistics/2005/table33a.htm](http://www.nyhealth.gov/nysdoh/vital_statistics/2005/table33a.htm) .....

What are the three most common causes of death in New York? Cardiovascular disease, Cancer, and COPD.

At Table 32, Death Summary Information by Age, under Cause of Death, you will see the same pattern ... Chronic Lower Respiratory Disease ranks third in New York. The ratio of number of deaths from CLRD and AIDS in 2005 was 10.53 to one. The death rates per 100,000 were 8.5 for AIDS and 35.3 for COPD ... a ratio of 4.15 to one.

If you look at table 41c Deaths by Selected Causes in New York City, for 2005, , at [http://www.nyhealth.gov/nysdoh/vital\\_statistics/2005/table41c.htm](http://www.nyhealth.gov/nysdoh/vital_statistics/2005/table41c.htm) you find 1380 for AIDS, and 1618 for CLRD, a ratio of 1.17 to one.

- Historically, the level of concern for health problems in New York has little or nothing to do with prevalence, incidence, epidemiology or reason. It is determined by politics. That kind of decision-making must come to an end. New York has to create a health coverage system that is truly universal, truly comprehensive. Then, and only then, should it entertain the legitimate political demands of groups claiming to represent people who are being short-changed. The health care system in New York has been stood on its head for decades by the politics of health care. The time is long overdue to correct that pathology.

Why is it so? Two reasons. First, and despite all the best intentions and the knowledge, experience and wisdom of a great many people, MMNY and NYFAHC do not represent the vast majority of health care consumers in New York, and it is high time that the state and federal government stop treating them as if they did.

Second, and again using COPD as an example, on a few occasions in the last few years, I have addressed the NYSDOH Records Access Office and asked can you provide me with copies of any submissions to the NYSDOH Medicaid program in any form --- clinical, coverage, financial etc. -- by the New York or national representatives of the American Thoracic Society and the American Lung Association. And the answer is no ... after turning the building upside down. Not one syllable of representation on behalf of disabled, poor New Yorkers with COPD.

The department badly needs an ombudsman who acts in the public interest and in the interest of society as a whole when the legislature and the lobbyists do not. But after all the press releases and press conferences over it recently, you cannot find the reputed NYSDOH ombudsman anywhere on the NYSDOH website, or his mandate, job description or address and phone number.

• HEALTH CARE SECRECY IN AN OPEN SOCIETY

- Sally Bedell Smith and Hillary health care in 1993: exclusiveness
- Letter from NYSDOH chief of staff
- NYSDOH ombudsman
- Website, conference calls, audiocasts, webcasts, transcripts
- Amtrak Advocates NYFAHC and MMNY
- Models: Thomas, Pataki-Berger Commission
- Stop playing politics with health
- Full disclosure by HMOs: Annual reports, IRS 990s, state & federal financial and clinical reviews
- TBI waiver document, TBI services coordinating council.

**Caminante, no hay camino. Se hace camino al andar.  
Searcher, there is no road. We make the road by walking.**  
Proverbios y Cantares XXIX - Antonio Machado - (1875-1939)

**If I am not for myself, who will be for me?  
If I am for myself only, what am I?  
If not now, when?**  
Pirkei Avot (Ethics of the Fathers) - Mishna  
Rabbi Hillel (30 B.C. - 9 A.D.)