

Is There a Medical Malpractice Storm on the Horizon?

The power and scope of federal involvement in healthcare has been expanded beyond the comprehension of most providers, healthcare institutions and certainly patients. It is suggested that this catalyst of reform will result in changes in malpractice in both the frequency and severity of claim.

The Current ‘Calm’ The professional liability insurance arena is currently enjoying an unprecedented period of “stability” from the perspective of low frequency and relatively predictable severity trend.

‘It Will Be Like Drinking Out of a Fire Hose’ When the *Patient Protection and Affordable Care Act* (PPAFCA) and its companion legislation of reconciliation was signed into law, we as a nation began the process of bringing some 32 million previously uninsured Americans into healthcare financing, and subsequently improved access to the entire healthcare delivery system.

As the healthcare system begins to embrace the bulk of these 32 million Americans over the next few years, we can anticipate that these new entrants may have a number of expected characteristics; untreated or undertreated health conditions (comorbidities; e.g. diabetes, heart disease, cancer, arthritis, obesity, etc.) and unfamiliarity with the complexities of the healthcare delivery system with could result in potential frustrations and unmet expectations.

Some say that the healthcare system itself is woefully unprepared for a significant increase in the patient loads and demands of such a large influx, and that this could result in a provider/system scenario similar to attempting to “*drink out of a fire hose*”.

Not Enough Doctors, Expanded Use of Mid-Levels *The Wall Street Journal* recently noted that medical schools cannot keep up with demand- “*the new federal health-care law has raised the stakes for hospitals and schools already scrambling to train more doctors.*” They go on to note that America could face a shortage of as many as 150,000 doctors in the next 15 years, citing the *Association of American Medical Colleges*. The current number of U.S. doctors now totals about 954,000.

To help alleviate the pressure on physicians, the *Associated Press* reported that “a nurse may soon be your doctor” in an article published April 13, 2010, in which they catalog the 28 states that are considering expanding the authority of nurse practitioners.

Undiminished Demand for Specialists, No One On-Call A recent issue brief published by the *Center for Studying Health System Change* noted that *American College of Emergency Physicians* data indicated that 73 percent of emergency departments report inadequate on-call coverage by specialist physicians.

Resource Constraints Reform will also engender resource constrictions on diagnostic tests, as system administrators and providers look to reduce unnecessary costs that have little or no evidence based value.

Absence of Tort Reform The final legislation did not include any specific changes to existing tort laws.

The Recipe for a Storm This could be the ingredients of storms that could result in increased frequency and severity of medical malpractice claims and costs in the years ahead.

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