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Hospitalists' role at center of racketeering lawsuit

Perhaps it was inevitable, but a prominent company that is part of the fastest growing specialty in medicine finds itself in the middle of a coverage disagreement between a hospital and an insurer.



Russell Holman, M.D.

The charge is racketeering, and hospitalists—those site-based specialists touted for improving hospital quality, lowering costs and taking the pressure off overburdened primary-care physicians—have been caught in the crossfire.

Brookdale University Hospital and Medical Center, a 960-bed facility in New York, names the Health Insurance Plan of Greater New York and privately held Cogent Healthcare, a Nashville-based provider of hospitalists programs, in a Racketeer Influenced and Corrupt Organizations Act lawsuit filed in U.S. District Court in New York in April. Brookdale, part of the three-hospital MediSys Health Network, accuses the health plan and hospitalist company of using “a pattern of racketeering activity” to deny coverage to HIP members.

Cogent was “a Trojan horse,” brought into the hospital by HIP to improperly unleash its hospitalists to conduct utilization review rather than care for patients, says David Rosen, president and chief executive officer of Brookdale and MediSys.

If Cogent were merely acting as an employment agency placing hospitalists in hospitals, “that would be fine because their loyalty would be to their patients,” Rosen says. “If they are functioning as utilization review, their loyalty is not to patients, which implicates the proscription against the corporate practice of medicine.”

Still in the discovery process, the lawsuit nevertheless raises questions regarding just who commands the loyalty of hospitalists, who are proliferating faster than emergency room doctors and will soon dwarf by number nearly every other specialty, according to the Society of Hospital Medicine. Barely 10 years old, the practice of hospital medicine has grown to 20,000 today and is expected to reach

30,000 by 2010, eventually topping out at 40,000, says Larry Wellikson, M.D., CEO of the society.

“The hospitalist movement has so much momentum,” Wellikson says. “We like to think of ourselves as the iPod of healthcare.” By that he says he means the specialty has advanced by leaps and bounds technologically while costs have come down. “That’s why insurers love us as well as hospitals and surgeons because of the opportunity to get better care for less money. This is an evolution in healthcare,” he adds.

Still, a study by research company Thomson Healthcare found mixed results when measuring the impact hospitalists have had on hospital care, finding that hospitals using them may experience shorter lengths of stay and improved mortality rates. But there was no indication that hospitalists markedly lowered costs, improved patient safety or reduced complications.

Rosen himself says MediSys hospitals have employed hospitalists for many years to ease the transition and improve efficiencies. Many patients admitted to the hospitals through the emergency room don’t have their own physicians, and “it’s important to have people prepared to take cases on duty and make judgments early on,” he says. “We want people who are highly skilled and know how to maximize efficiencies in the hospital.”

But that’s not how it worked with Cogent, Rosen says. According to a news release, HIP “convinced Brookdale to implement a ‘hospitalist utilization monitoring program’ using HIP’s ‘consultant’ Cogent to provide doctors and nurses purportedly ‘specially trained’ to deal with hospital practices and procedures.”

The complaint alleges that HIP and Cogent conspired to use the “licenses of physicians to allow nonphysicians to make adverse determinations regarding coverage of hospital care for HIP members, as evidenced by such irrelevant and unbelievable justifications for denying coverage that they could not have been made by a licensed physician,” the news release says. The denials resulted in losses for Brookdale of one dollar out of every five that HIP should have paid it for care provided to HIP members, Rosen charges.

HIP declined to be interviewed for this story but in a written statement says, “Hospitalists have been very effective in improving the quality of patient care through enhanced coordination in other parts of the country. HIP is pleased to bring this effective strategy, based on patient advocacy, to the New York metropolitan area.”

For its part, Cogent said in a written statement that it “is disappointed” that Brookdale included the company as a defendant in what amounts to a reimbursement dispute between the hospital and HIP. The company denies that

it makes any coverage or payment decisions “pursuant to the express terms of its agreement with HIP.” Although officials also admit that the “client arrangement with HIP is unique in that the company’s client is a health plan, as opposed to the usual case where Cogent is invited by a hospital or health system into their facilities to provide hospitalist program expertise and support.” Like HIP, Cogent notes in the statement that Brookdale is “a struggling hospital at odds with a significant payer.”

Just how unusual the arrangement between Cogent and HIP might be is revealed in a survey conducted by the hospitalist society in 2005-06. More than one-third—34% of all hospitalists—are employed by hospitals or hospital corporations, based on the responses of 396 hospital medicine groups representing 2,550 hospitalists.

Another 20% are employed by academic institutions, 19% by hospitalist-only groups or management companies like Cogent, and 12% by local hospitalist-only groups. The remainder is employed by multispecialty or primary-care medical groups. Health insurance companies were not even on the radar.

Russell Holman, M.D., Cogent’s chief operating officer and also president of the Society of Hospital Medicine, says with this possible exception, “Cogent never works for insurance companies.” Indeed at Brookdale, the physicians employed by Cogent had previously worked for a long time for a New York medical group. Cogent’s business model varies so that sometimes it employs hospitalists directly, and other times the company may have a joint venture relationship or be employed by a hospital. Commonly, Cogent employs the doctors and manages “the infrastructure around the doctors to provide a comprehensive program for caring for hospitalized patients,” Holman says.

Regardless of the model, the hospitalists’ first loyalty is to the patient, Holman says. “There are multiple stakeholders involved in the care of hospitalized patients. You have the physicians who work for us, the hospital itself, referring physicians from the community and outlying areas and other physicians working within the hospital, but most importantly you have patients,” Holman says. “I think if we were to conduct a survey, patients would be the absolute first starting point, and then you would look at other stakeholders along the way. That’s what it all boils down to.”

Wellikson, who says he had heard Cogent was sued but knew no other details, says he doubts the lawsuit will do anything to slow the specialty’s momentum.

Even Rosen says he doesn’t believe the lawsuit casts dispersions on the specialty itself. “There is nothing wrong with being a hospitalist,” Rosen says. “What you have here are these guys who were really not hospitalists. They were utilization review people. That’s what our argument is. We’re making the allegation, but there is a lot to be learned once we get into discovery.”