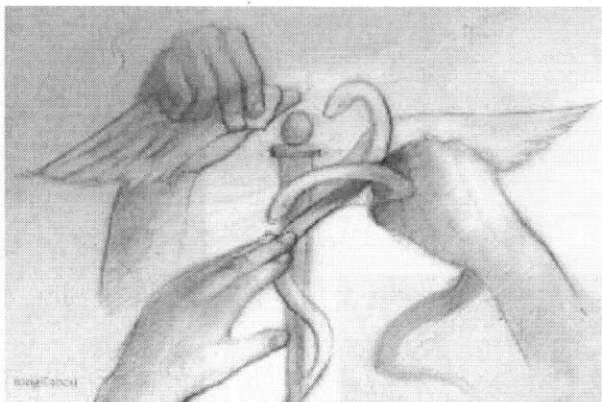


Hamlin: Let doctors bargain together

June 3, 2011 by PAUL A. HAMLIN /



Dr. Paul A. Hamlin, president of the Medical Society of the State of New York, is a physician in Lake Success.

A key objective of the new federal health care law is that every American have health insurance. It's a laudable goal -- but one that will also further empower health insurance companies to control and direct the care patients receive. Physicians know all too well that insurers' decisions about patient care are disproportionately driven by cost and profit, not patient need.

Neither patients nor their doctors have bargaining power with insurance carriers. Most patients' coverage is tied to their employment or a federal or state program, and they have little say in the contracting process.

It's the same for physicians. Typically, the carriers outline the specifics of physicians' contracts and tell them to "take it or leave it." If doctors don't accept these contracts, they risk losing the ability to provide care to a large number of patients. Most physicians can't afford to walk away from these contracts. And most also feel an obligation to continue to care for their patients, no matter how financially inequitable the contracts are.

According to New York State Department of Health data, as of the beginning of 2009, nearly 80 percent of enrollees in the commercial managed care market in the state were enrolled in just six health insurance behemoths: GHI-HIP, Empire, MVP/Preferred Care, Oxford, Excellus/ Univera and CDPHP. On Long Island, Emblem and WellPoint together control nearly two-thirds of the health insurance market.

And insurer profits have jumped significantly. According to a report issued by the group Health Care for America Now, profits at 10 of the country's largest publicly traded health



insurance companies rose 428 percent from 2000 to 2007. A 2009 United Hospital Fund report found insurer profits in New York were nearly \$1 billion, a 25 percent increase over 2008.

All of us are familiar with cumbersome pre-authorization processes that delay patient care and testing, arbitrary limits on needed prescriptions, and barriers to receiving care from the specialists patients choose. These are prime examples of when the patient bears the brunt of this lopsided market dynamic. The market-dominant position of insurers in many regions across New York, including here on Long Island, allows carriers to push these conditions.

But there is a potential solution. Legislation introduced by Sen. Kemp Hannon (R-Garden City) and Assemb. Ron Canestrari (D-Cohoes) would help counter the insurers' complete dominance of both physicians and patients by enabling doctors to negotiate collectively. Currently, such joint negotiations are prohibited by federal antitrust laws, except under very limited circumstances. But states are authorized to allow some exemptions to the antitrust laws, as a result of the "state action" doctrine set forth by the Supreme Court in *Parker vs. Brown*, a landmark 1943 decision permitting collective action otherwise prohibited, in order to serve legitimate public interests.

This legislation would not increase the amount of money committed to health care, but would redistribute existing dollars away from insurance company profits toward enhanced clinical care. Moreover, costs could be cut through improved efficiencies negotiated by providers, reducing administrative costs at the doctor's office. No doubt this would be beneficial for access to care on Long Island, where physicians are straining under exorbitant overhead expenses.

The ability of physicians to negotiate the terms of their participation with these plans is critical, and its importance will only increase as hundreds of thousands of New Yorkers become insured for the first time as the federal health care reform law is implemented.

Independently practicing physicians need the ability to join together under close state agency supervision to collectively negotiate contract terms with the health insurance industry. The State Legislature must ask itself: Who has the patients' best interests at heart - the profit-driven insurance companies or the patients' doctors? Most New Yorkers would agree, it's the person providing the care.

< back to article