The Green Mountain Physician

A Publication of the Vermont Medical Society

"Not for ourselves do we labor"

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In This Issue:

Contact Us

PO Box 1457

Montpelier, VT 05601

800-640-8767 or 223-7898

Fax 802-223-1201

Online at:

www.vtmd.org

VMS President Dr. Tortolani Discusses H1N1 Precautions His Office is Undertaking

As I stated in my address at our annual meeting on Oct. 4, 2009, I feel deeply honored to serve as VMS president during this extremely interesting and challenging time for all of us, and of course, for our patients. But as the saying goes, the greater the challenges before us, the greater the opportunities to make a difference in the lives of those for whom we care.

The most obvious of the many challenges at this time is the H1N1 pandemic. Vermont Health Commissioner Dr. Wendy Davis deserves a great deal of credit for the way she has kept us all informed about the flu developments in our state, and of course, how she has engineered the distribution of the somewhat slowly arriving vaccine.

I expect most you have been able to get immunized for H1N1 through the hospital on which are an active staff member. For Brattleboro, we have also been fitted for our N95 respirators and made preliminary arrangements for dealing with the possibility of an emergency department overwhelmed with patients who present with influenza-like illnesses.

I expect each of you has thought about staffing issues in your offices if there were a large number of employees becoming ill at the same time. We can only hope that this doesn't happen.

In terms of the treatment of patients in our family medicine practices, I and my two associates have for the first time instituted precautions to protect our staff and other patients from those patients with influenza-like illnesses whom we deem are ill enough to be seen (so far in our practices, the majority of patients with influenza-like illnesses have been able to be treated by giving telephone advice, as they have not seemed ill enough to need to be examined). They come in by a separate, rear entrance, and clean their hands with disinfectant and put on a surgical mask and are

Five Things Doctors Should Keep in Mind Regarding the 2009 H1N1 Flu

As Suggested by the Vermont Dept. of Health

1. Talk to your eligible patients about getting vaccinated. And talk to parents of children as old as 24 to make sure they get vaccinated. With more vaccine coming into the state, now is a good time to get protected – and no child is too old for good parenting!

2. Talk to your patients about warning signs and when to call for medical attention. Don't delay treatment for patients at high risk for complications from the flu. Make a plan to start antiviral treatment as soon as symptoms begin.

3. Encourage health care provider office staff to get vaccinated – to protect themselves, your patients and the larger community.

4. Talk to eligible patients and staff about taking the nasal spray vaccine. It's safe and effective for healthy people age 2 to 49 who are not pregnant. Healthy, breastfeeding women who are not pregnant can get the nasal spray vaccine.

5. Call the Vermont Department of Health if you have a specific vaccine-related needs – (802) 863-7638 (Immunization Program). Call VDH if you have high risk patients scheduled for an office visit, but no vaccine. VDH is happy to work with providers to try to meet your needs whenever possible. Let the department know of any other opportunities to provide vaccine to eligible patients.

Continued on page 2

Letter From the President

Dear Colleagues,

As I enter the third month in my role as VMS President, I continue to feel very honored to represent all of you, the people of Vermont, and all of our patients.

I have been trying to visit the staffs of as many of Vermont's hospitals as I could during these past two months, but so far have been to less than a fourth of them. I hope over the course of this year to meet as many of you as possible.

All of us are challenged by the clinical and administrative aspects of our work and it is sometimes hard to step back and reflect upon how fortunate we are to be physicians. Few people have the satisfaction of doing work which has such personal meaning to them and does such good work for mankind – we are among these few.

I praise you all for the hard work you do to help keep your patients well, and wish you and your families a very pleasant holiday season.

I shall do my very best during this next year to be a good spokesperson for all of you and I encourage you to call me or email me with any concerns you may have – (802) 257-1575 (home) or robert.e.tortolani@dartmouth.edu.

I also hope that you enjoy this issue of the Green Mountain Physician. In it you'll find articles about my office's H1N1 precautions (page 1), including a list of five things the Vermont Department of Health suggests physicians keep in mind regarding the virus. Other insightful articles include ones about a new federal grant that will help Vermont physicians implement electronic health records (page 3), the state once again topping national health rankings (page 4) and the details of two new policies – Medicare billing procedures (page 4) and Rule 10 (page 5) that will surely have an impact on physicians.

Sincerely,

Robert E. Tortolani MD

Robert Tortolani, M.D., President

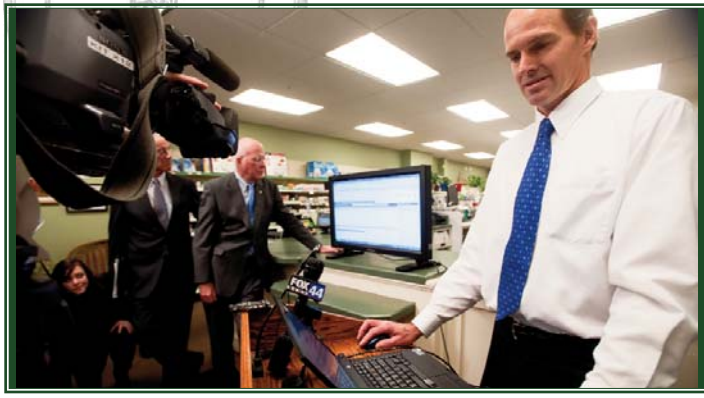
H1N1 Precautions

(cont'd from pg. 1) seen in the exam room closest to the separate entrance. I also wear a surgical mask while examining patients. If the patient requires further imaging, I ask the patient to wear his or her mask in the hospital and I inform the radiology staff that the patient has as an influenza-like illness. So far, we've been fortunate that no one with an influenza-like illness has needed to he hospitalized.

A personal frustration for me this fall has been my inability to get enough seasonal flu vaccine through my suppliers to immunize all my older patients who have regularly got their flu shot at the time of a fall visit with me. They are very understanding but I feel a sense of helplessness, which I don't like. I hope they will eventually be able to be immunized against H1N1.

I hope you all remain well so you can continue to give your patients the excellent care they've come to expect and deserve.

I also hope you have a holiday season which provides you with some well-deserved down time with family and helps to restore you for the Vermont winter which is around the corner.



VMS Member, Anthony Williams, M.D. (right) demonstrates eprescribing at a press conference with Senator Patrick Leahy, David Cochran, VITL and Paul Harrington, VMS

Sen. Leahy, VITL, Announce $1 Million Grant to Support ePrescribing

Vermont's physicians and independent pharmacies have one million new reasons to consider adopting electronic prescribing and other health information technologies thanks to a federal grant recently secured by U.S. Senator Patrick Leahy.

A $1 million grant from the Health Resources and Services Administration, jointly announced by Sen. Leahy and Vermont Information Technology Leaders, Inc. (VITL) at a press conference in October, aims to boost Vermont's electronic prescription rate by providing technical assistance and financial incentives.

"Sending prescriptions to pharmacies electronically is an important advance in patient safety," said Sen. Leahy. "Physicians using electronic prescribing technology are alerted to potential allergies and drug interactions. When the electronic prescription is received at the pharmacy, pharmacists no longer have to decipher physician handwriting. There is much less chance of errors being made."

Through the grant, VITL will provide electronic prescribing technology and technical assistance to physicians statewide. VITL will also assist independent pharmacies to upgrade their systems to accept electronic prescriptions.

"This grant will be very beneficial in helping physicians adopt e-prescribing technology, and in ensuring that all pharmacies in Vermont are able to accept prescriptions electronically," said VMS's Executive Vice President Paul Harrington, who also spoke at the announcement event. "Senator Leahy's efforts in this area demonstrate his continued commitment to promoting the use of health information technology to improve our state's health care system for both physicians and their patients."

Beginning in 2011, Vermont physicians can qualify for between $44,000 and $64,000 in payments from the Centers for Medicare and Medicaid Services for adopting and demonstrating "meaningful use" of an Electronic Health Record (EHR). Electronic prescribing is a key component of any EHR, and the easiest process for physicians to automate as a first step toward fully electronic patient records.

Incentives already exist for physicians to prescribe electronically, as they can qualify for a two percent bonus from Medicare for using the technology, said David Cochran, M.D., VITL's president and CEO. If a physician is not e-prescribing by 2012, moreover, Medicare will begin reducing its payments to the physician. "It is VITL's goal to help as many Vermont physicians as possible qualify for the Medicare bonus payment, and avoid the reduced reimbursement in 2012," said Dr. Cochran.

Physicians can learn more about VITL's electronic prescribing technology by visiting *www.eprescribevt.org.*

Vermont Medical Society

Vermont Named Nation's Healthiest State Once Again

For the third year in a row Vermont has taken the top spot in the United Health Foundation's America's Health Rankings.

Vermont scored in the top 10 of more than half of the 22 criteria used to formulate the rankings, and was particularly strong in the areas of high school graduation, violent crime and childhood poverty rates, per capita public funding and uninsured residents.

The study illustrated Vermont's steady rise in the rankings over the last two decades, as the state has moved up from 20th in 1990 and 1991 to its current No. 1 ranking. Recent trends helping push the state to the top of the rankings include: the incidence of infectious disease decreasing from 8.0 to 4.8 cases per 100,000 people over the last five years; the rate of deaths from cardiovascular disease decreasing from 334.8 to 248.9 deaths per 100,000 people over the last ten years; and, since 1990, the prevalence of smoking decreasing from 30.7 percent to 16.7 percent of the population.

"Vermont's physicians can take a lot of pride in the state earning the results of these rankings," said Dr. Robert Tortolani, VMS's president. "The quality of care that we provide our patients, as well as our ability to educate them about healthy lifestyle choices, are very evident in Vermont being named the nation's healthiest state. I hope to see our state at the top of these rankings for a very long time."

The 2009 rankings also showed areas Vermont could improve upon, namely its comparatively low immunization rates for children ages 19 to 35 months (37th out of 50 states) and a high prevalence of binge drinking at 17.6 percent of the population (37th).

For more information, visit www.AmericasHealthRankings.org.

Medicare Adopts New Consultation Billing Policy

The CMS has adopted a new policy for billing consultations beginning Jan. 1, 2010, that eliminates the use of all consultation codes (inpatient and office/outpatient codes for various places of service except for tele-health consultation G-codes). The new policy, which is included in the 2010 Medicare Physician Fee Schedule, calls for physicians to bill for consults using the new and established patient codes rather than the consultation codes in the CPT manual.

The codes that will be utilized in place of the New Patient Office/Outpatient Consultation codes (99241 – 99245) are the New Patient Office/Outpatient Visit codes (99201 – 99205). Although CMS increased the RVUs on these New Patient Visit codes that will replace the New Patient Consultation codes, the RVUs are still not as high as they were on the old Consultation codes.

With the elimination of these consult codes, most providers will also be billing more transfers of care codes (CPT codes 99201 – 99205 and 99211 – 99215). A transfer of care occurs when the referring physician transfers the responsibility for the patient's problem to a receiving physician at the time of referral, and the receiving physician documents approval of care in advance. The receiving physician would report/bill a new or established patient visit depending on the situation (a new patient is one who has not received any professional services from the physician or another physician of the same specialty who belongs to the same group practice, within the past three years) and setting (e.g., office or inpatient).

Since the inpatient consult codes (99251 – 99255) have been eliminated by CMS and the initial hospital care codes (99221 – 99223) are only for use by the admitting physician, the subsequent hospital care codes (99231 – 99233) may be the appropriation codes to use in place of the new or established inpatient consult codes. The RVUs on the subsequent hospital care codes are lower than those associated with the inpatient consult codes and will also lead to a decrease in revenues for these services.

Editor's note: While the above article is accurate to the best of our knowledge, it is recommended that physicians consult a certified coder before changing coding practices.

BISCHA Updates Rule 10, Seeks to Reduce MCO Requirements Imposed on Practices

The Department of Banking, Insurance, Securities and Health Care Administration (BISHCA) has adopted a rule designed to update and streamline managed care consumer protection and quality requirements in existing the Rule 10, which was initially adopted in 1996. VMS commented on the proposed rule four times during the rulemaking process, and most of VMS' comments were incorporated in the final proposed rule approved by the legislative committee on administrative rules on Dec. 1st. Some major issues addressed by BISHCA at VMS' request are discussed below.

One area of significant concern for VMS is sustaining the viability and vibrancy of the Vermont's physician workforce where the recruitment and retention of physicians is becoming increasingly difficult while at the same time the state's population is aging and the incidence of chronic conditions is increasing. The "administrative hassle factor" is one aspect of the physician practice environment that impacts the workforce.

It is widely recognized that health care professionals are devoting more and more time to paperwork, which detracts from their ability to spend time with their patients. In addition to the time Managed Care Organization (MCO) requirements impose on clinical practices, MCO administrative burdens also contribute to a difficult practice environment. Since the provisions of the regulation may result in increased administrative burdens for physicians, VMS requested that wherever possible BISHCA minimize and moderate any increased administrative burden created by the rule for physicians who contract with managed care organizations.

At the request of VMS, the rule includes important recognition that the quality management activities of MCOs can impose an undue administrative burden on providers, especially for those providers in small group practices and it includes provisions that require MCOs to consult with contracted providers to develop and implement a satisfactory process to minimize such administrative burdens.

A longstanding issue for Vermont physicians has been managed care organizations' use of unaudited claims data for the evaluation of individual physician performance. Use of unaudited claims data can result in inaccurate attribution of patients and procedures and require physicians to spend inordinate amounts of uncompensated time correcting the errors. At VMS' request the BISHCA rule includes a provision that requires plans to confirm measures derived from claims data by reviewing medical records prior to any public reporting of the measures, if requested by a physician.

For the first time, the BISHCA Rule regulates organizations that manage pharmacy benefits for insurers (PBMs). At VMS' request BISHCA extended the notice period for members and prescribers when PBMs change formulary coverage, institute step therapy, prior authorization or other requirements from 30 to 60 and finally to 90 days. Patients with active prescriptions must be notified individually and may receive up to 90 days of coverage to allow the prescribing physician to order a new prescription.

If a coverage exception is requested, for example if a formulary drug is expected to be less effective than a non-formulary drug, coverage may continue throughout the prior authorization, internal grievance and independent external review process. As long a drug is considered to be safe and effective, PBMs may not require new prior authorization, or utilization review for refills of the prescription if an exception has been granted or the patient has prevailed in the grievance process.

The rule also addresses VMS' concern that some managed care organizations reduce member benefits by linking member co-pays to plans' often flawed provider quality ranking methodologies. In an environment with shortages of primary care and specialty physicians, VMS believes that patients should not face the additional burden of higher out-of-pocket expenses based on these flawed ranking systems. The final rule prohibits plans from using quality management program data to reduce member benefits.

The new rule includes detailed requirements for disclosure of information to patients, including requirements to maintain and update provider directories every six months, and a requirement to provide mental health patients with active assistance in identifying qualified providers.

Regulation of utilization review and grievance requirements has been significantly strengthened. The new version of the rule requires that all pre-service utilization review requests concerning mental health services, substance abuse services, pharmacy benefits, medically necessary cancer drugs and appeals be treated as urgent reviews requiring that patients be notified of benefit determination within 72 hours or less. Plans have 15 days to complete non-urgent pre-service review determinations.

Plans' utilization review guidelines must be made available to contracting practitioners and utilization review decisions must be compatible with the unique needs of individual patients and presenting situations. The rule also includes specific and detailed requirements for review of mental health and substance abuse services and requires plans to

Continued on page 7

10 Questions with Madeleine Mongan

Madeleine Mongan is the Vermont Medical Society's deputy executive vice president. She works with the Vermont Legislature, state agencies and insurers on health care policy and provides education and technical assistance to Vermont physicians on legal issues. As an attorney, her practice addresses a range of health law issues including confidentiality, licensing, managed care, scope of practice, liability reform, public health, contracting, and fraud and abuse.

Green Mountain Physician: How long have you been at VMS and where were you prior to that?

Madeleine Mongan: I've been at VMS since January 1996. Before that I worked for the Disability Law Project, part of Vermont Legal Aid and was in private practice. Before law school, I taught in Scarsdale, NY, Iran and Saudi Arabia.

GMP: What got you interested in a career in law in general?

MM: Half of my family members are engineers and I was drawn to solving problems, but not math or science. Practicing law, you can solve problems and resolve conflicts using analysis, research and communication. Each client, or colleague, and every content issue or policy is different from the last. Patterns emerge, but it remains challenging, particularly when you are working on health care issues on behalf of Vermont's physicians.

GMP: If you weren't a lawyer, what would you be?

MM: I really can't imagine doing anything else. It would be interesting to do something connected to improving international health or education, though.

GMP: If I only had one afternoon to sight see in your hometown of East Montpelier, what is an absolute must see?

MM: In East Montpelier, I would go down to the new bridge on the Mallory Brook Trail, or across the street to see the Old Meeting House with its wood stove and wooden box pews. I would also bring visitors downtown to see the Statehouse in Montpelier, shop in the bookstores, have coffee and climb up to the top of the Hubbard Park tower.

GMP: Which colleges or universities did you attend?

MM: I majored in anthropology at the University of Delaware, earned a master's in education from Stanford University, and my JD is from the University of California at Davis.

GMP: How do you relax and unwind?

MM: I like to walk, bike, hike, cross-country ski or snowshoe. Inside I like yoga, meditation, cooking, and keeping in touch with my family and friends.

GMP: Complete this sentence. I like being a lawyer because...

MM: I like to influence health policy to improve the practice environment for physicians, the health of Vermont communities, and individual patients. I also like to provide technical assistance to help physician practices find their way through the maze of laws, rules and administrative procedures.

GMP: What new trends have you seen recently while practicing law in the medical field?

MM: This year, VMS worked with the Department of Health as it set up a monitoring system for controlled substances in schedules II through IV. Since April, Vermont physicians have been able to register with the Vermont Prescription Monitoring System to look up their patients to see what controlled substances they are taking. This system can dispel concerns about patients and provides physicians with tools they can use to talk with their patients. (More information is available at http://healthvermont.gov/adap/VPMS.aspx).

GMP: If you were named U.S. Secretary of Health and Human Services, what would be your first policy enactment?

MM: As part of health care reform and universal access, I would work on incorporating malpractice reform and reducing the administrative hassles and paperwork that are part of the current health care delivery system. I would also encourage other parts of the country to emulate Vermont's high health care quality system.

GMP: Of all the policy and legal issues you've worked on while at VMS, which have had the biggest impact on the day-to-day life of physicians?

MM: Financial sustainability issues like Medicaid reimbursement and educational loan-repayment have a big impact on physicians' ability to stay and practice in Vermont. We work tirelessly on these issues. Some years we make headway towards parity with Medicare and other years we succeed only in reducing proposed budget cuts.

VMS has made some dents in the administrative burdens on physicians through its work in the legislature on issues like timely payment, prior authorization and claim edit standards. We also worked with the Attorney General's office to pass a law that prohibits data miners from selling information about physicians' prescriptions to drug manufacturers without their permission. That law has been upheld by the Federal District Court and now awaits a decision from the Second Circuit Court of Appeals.

Finally, it has been a pleasure to work with Vermont lawyers and VMS interns and staff to create the Vermont Guide to Health Care Law. We are currently updating the guide on the VMS website: *www.vtmd.org/Guide/Guide%20Disclamer.html.*

Improving Communication Between Referring and Consulting Physicians

By Cheryl Peaslee, Medical Mutual Insurance Company of Maine

Issues arise when clear expectations are not defined between referring and consultings physician. Poor coordination of care can be the result of undefined roles leaving the patient at risk and the physician's exposure to liability heightened. The referring physician should clearly define the expectations of the consultation to both the patient and consulting physician – the referral is for a consultation only with the assessment and recommendations forwarded to the referring physician for follow through or the referral is for both an assessment and the implementation of a treatment plan.

In an outpatient/office practice setting the referring physician should inform the patient of the role the consultant will be playing in his/her care. For example the referring physician could state, "Mrs. Smith I am referring you to Dr. Jones for an evaluation and treatment of your thyroid disease. Dr. Jones is a specialist in this area and he will be taking care of any problems you have related to your thyroid from now on. However, I will still see you for all of your other health needs."

Another scenario may be, "Mrs. Smith I am referring you to Dr. Jones for evaluation of your thyroid disease. After you see Dr. Jones he will forward back to me his recommendations for how to proceed with treating your thyroid. Please stop at the check out desk so that the receptionist can schedule an appointment with Dr. Jones. I would also like you to schedule an appointment with me for one week after your visit with Dr. Jones so we can discuss his recommendations."

The referring physician should speak directly with the consulting physician regarding the patient's history and expectations of the consult. Once this conversation has occurred a formal letter of referral should be sent to the consulting physician containing the following:

- Why the referral is being made;
- The patient's history and any diagnostic studies performed related to the referral;
- A specific definition of expectations;
  - Please refer any recommendations to me as I will follow up on the treatment with Mrs. Jones; or,
  - Please assume the treatment and care of Mrs. Jones' thyroid disease. Please send me a consultation report and plan so that I am aware of the care you are providing. I will continue to provide her primary care.
- If there are any questions please give me a call.

The consulting physician on receipt of a referral should be clear as to the purpose of the consultation and the expectations of the referring physician. Once the consulting physician has seen the patient he/she should inform the patient that a report is being sent to the referring physician and that follow-up needs to occur with the referring physician. If an immediate need is assessed, the consulting physician should discuss this with the referring physician so a joint decision can be made on who is to care for the patient and what treatment plan to follow.

In addition, assure that office practice systems of the referring physician track referrals to assure a report is received from the consulting physician.

Following these important steps can avoid confusion, for physicians as well as patients.

Medical Mutual's "Practice Tips" are offered as reference information only and are not intended to establish practice standards or serve as legal advice. MMIC recommends you obtain a legal opinion from a qualified attorney for any specific application to your practice.

Rule 10

(cont'd from pg. 5) permit a minimum of two visits before initiation of utilization review.

At VMS' request, several definitions in the rule were tightened. For example, in the definition of "medically necessary care" two provisions were added to ensure that determinations of "medically necessary care" would be consistent with practice parameters recognized by health care professionals in the same specialty as typically manage the care and that determinations would be informed by the "unique needs of each individual patient and each presenting situation."

The new rule became effective on Dec. 17, 2009 and is available on the BISHCA website at: *http://www.bishca.state.vt.us/HcaDiv/RegsBulls/hcaregs/INDEX_REGS_HCA.htm.*

Conferences

Eastern Winter Dermatology Conference

January 15-16, 2010
Stoweflake Conference Center
Stowe, VT

For more information call 802-656-2292 or go to the website at http://cme.uvm.edu

Emergency Medicine Update

February 3-6, 2010
Stoweflake Conference Center
Stowe, VT

For more information call 802-656-2292 or go to the website at http://cme.uvm.edu

Current Concepts & Controversies in Surgery

February 4-6, 2010
Stoweflake Conference Center
Stowe, VT

For more information call 802-656-2292 or go to the website at http://cme.uvm.edu

Fundamental Distaster Management

January 14, 2010
DHMC
Lebanon, NH

For more information
call (603) 653-1234, email ccehs@hitchcock.org, or go to http://ccehs1.dartmouth-hitchcock.org/eventinfo_3260.html

Fundamental Critical Care Support

January 15-16, 2010
DHMC
Lebanon, NH

For more information
call (603) 653-1234, email ccehs@hitchcock.org, or go to http://ccehs1.dartmouth-hitchcock.org/eventinfo_3209.html

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