

## From my perspective

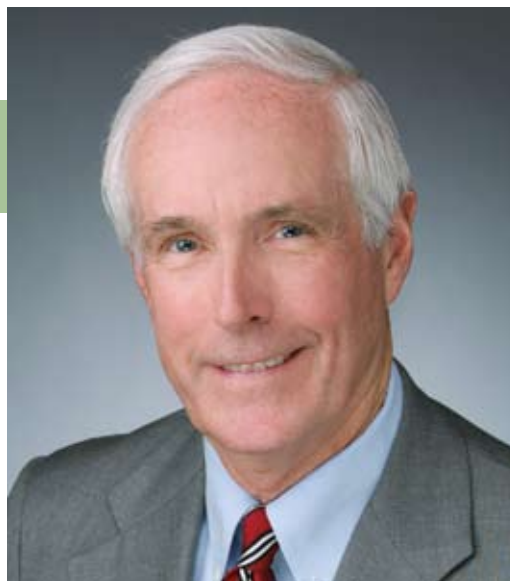
Over the past few years, the government has sought to make health care more transparent. Most of the efforts that have been undertaken have scrutinized how surgeons, other physicians, medical institutions, and other providers use resources, make decisions, and control quality. The purposes of these activities are to reduce waste and errors, improve quality, and limit spending through pay-for-performance and pay-for-compliance strategies.

As a result, medical organizations and institutions—including the American College of Surgeons, Dartmouth University, Harvard University, and so forth—have devoted considerable time, thought, and money to developing and testing instruments that measure resource use, outcomes, volume, variances in care, and other quality indicators. For example, the ACS has revitalized its national trauma and cancer data banks and has taken responsibility for bringing into nonfederal hospitals what is now known as the American College of Surgeons National Surgical Quality Improvement Program (ACS NSQIP). ACS NSQIP uses risk-adjusted data to examine surgical outcomes and has been vetted through numerous government agencies and quality-improvement programs.

We also have dedicated ourselves to educating the professionals who comprise our membership, faculty, and staff about the value of participating in clinical and scientific research and staying abreast of and adhering to emergent standards of care. In other words, our profession has acknowledged the need for openness about systems of care and accepted responsibility for analyzing and disseminating data that medical professionals and hospitals can use to deliver cost-efficient and effective care.

### *Insurers*

While the medical and surgical professions have been responsive to the demand for increased transparency, some health insurance companies have not. A notable example came to the public's attention on February 13, when New York Attorney General Andrew Cuomo announced plans to sue UnitedHealth Group after a six-month investigation into the insurer's Ingenix subsidiary revealed that the company's



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database was deficient.\* Most large insurers rely on Ingenix data to calculate the “usual, customary, and reasonable” (UCR) payment for physician services.

The probe verified physician claims that Ingenix had manipulated UCR rates for out-of-network providers to keep them artificially low. As a result, UnitedHealth and 16 other subpoenaed insurance companies profited, whereas consumers, who pay higher premiums for plans that offer access to out-of-network physicians, have been getting less coverage than they anticipated.

Typically, insurers that provide out-of-network coverage agree to pay most of the bill—generally 80 percent of the physician's full fee or 80 percent of the UCR amount, whichever is less. According to Mr. Cuomo, the problem with UnitedHealth's policies is that the faulty Inge-

\*Information regarding the New York/UnitedHealth case came from the following source: Berry E. N.Y. takes on United over tactics as industry arbiter of doctor pay. *Am Med News*. 2008;51(9):1-2.

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nix data yielded UCR prices below physicians' actual costs. Hence, the 80 percent of the UCR amount insurers pay out-of-network physicians is far less than the amount physicians charge, and patients are left to pick up the remaining tab. Needless to say, this situation often creates a rift between physicians who want to be appropriately reimbursed and patients who believe their insurance will compensate providers for the bulk of their care.

Specific problems with the database cited by the attorney general's office are as follows:

- Lacks information about the provider's training and qualifications, the type of facility where the comparative service was delivered, and the patient's medical condition
- Deletes valid high charges and omits proportionally more high charges than low ones
- Pools data from dissimilar providers, such as nurses, physician assistants, and physicians
- Contains outdated information
- Contains data that have not been audited to ensure that the contributors have submitted all appropriate information and have omitted negotiated or discounted rates

Mr. Cuomo also asserts that some data contributors delete higher charges from the information they submit, thereby skewing reimbursement rates downward. He further alleges that Ingenix uses the defective data in the repository and a flawed methodology to "derive" additional charges, resulting in a rate that is deflated.

### *Consistent rules needed*

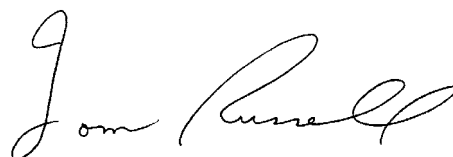
For many years, physicians have asked UnitedHealth to explain how it sets UCR prices. The insurer has responded to these requests only by claiming that its methods for determining the UCR figures are proprietary and completely reliable. Likewise, when UnitedHealth members complained about low reimbursement for out-of-network care, the company dismissed their concerns by saying that the prices are based on "independent research from across the health care industry," according to the attorney general's notice of proposed litigation.

As American Medical Association president-elect Nancy H. Nielsen, MD, PhD, said, "It is shocking and unacceptable for any health insurer to hide behind a shroud of secrecy." It also

is ethically aberrant to mislead patients about how a company operates. The reality is that UnitedHealth owns Ingenix and its data come from UnitedHealth and other insurers, all with an interest in reducing UCR rates to boost their profit margins.

These findings are particularly disturbing at this point in the evolution of our nation's health care system. A commonly held belief among policymakers is that the future of health care delivery will be determined largely on the basis of scientific research and the information gathered through electronic databases. Hence, the College and other medical institutions have attempted to be absolutely meticulous in the development of such repositories and scrupulous in the analysis and dissemination of information derived from them.

If this nation truly intends to build a safer, more equitable, and cost-effective health care system, all stakeholders—physicians, consumers, business, the government, and insurers alike—should be held to the same standards of accountability and should operate with the overarching goal of putting patients before profits. The lawsuit that the New York Attorney General has filed should prove useful in ensuring that we all will play by the same rules.



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If you have comments or suggestions about this or other issues, please send them to Dr. Russell at [fmp@facs.org](mailto:fmp@facs.org).