When Trusted Physicians Are Cut Out of Patient Care Decisions

Citizens’ Council for Health Freedom Says Hospital Changes Due to Federal Payment Schemes Are Detrimental and Not Charitable

ST. PAUL, Minn.—A significant court case this spring highlighted yet another emerging problem in today’s medical care climate—when hospitals limit who can admit patients. And it has come with deadly results in at least one instance, says Citizens’ Council for Health Freedom (CCHF).

CCHF is highlighting a case in Minnesota “involving a hospital doctor who allegedly refused to admit a patient who was being treated by a nurse practitioner at the Essentia Health Clinic in Hibbing in August 2014,” according to U.S. News & World Report.

“The nurse spoke with Dr. Richard Dinter at Fairview Range Medical Center and asked him to admit 54-year-old Susan Warren because she was suffering from abdominal pain, fever, chills and other symptoms, according to the lawsuit from the patient’s family,” U.S. News reported. “Dinter had a brief conversation with the NP, who had recommended hospitalization. Dinter did not recommend hospitalization, and also did not review the patient’s records. After the call, the NP did not further seek hospitalization. The patient later died from sepsis caused by an untreated staph infection,” reported Medical Economics.

The family sued in 2016, but lower courts dismissed the case because Dinter was not directly treating the patient. On April 17, the Minnesota Supreme Court ruled that such a relationship was not necessary to sue.

“The move by hospitals to severely limit who can admit patients is a significant issue that affects both patients and physicians,” said CCHF president and co-founder Twila Brase. “In a growing number of hospitals, the practitioner caring for the patient may not be able to admit that patient to a hospital, but must rely on persuasion to convince a hospitalist, a physician employed by the hospital who hasn’t met the patient, to allow the admission.

“At Fairview Range Medical Center in Minnesota, Dr. Dinter was the designated gatekeeper when the clinic call came in,” Brase added. “He had the power to decide who was and was not admitted. As this case shows, physicians and those in charge of patient care are being limited by hospital admitting restrictions. These restrictions are encouraged by the Affordable Care Act’s Accountable Care Organization (ACO) payment system, of which Fairview is a part. If hospitalists make decisions based on these payment schemes, which transfer financial risk to the hospital, it could mean patients like Susan Warren suffer the consequences.”

The lawsuit ruling was based on “foreseeability,” Brase said. According to the opinion:

1. A physician-patient relationship is not a necessary element of a claim for professional negligence. A physician owes a duty of care to a third party when the physician acts in a professional capacity and it is
reasonably foreseeable that the third party will rely on the physician’s acts and be harmed by a breach of
the standard of care.

2. Viewed in the light most favorable to the non-moving party, it was reasonably foreseeable that a patient
seeking admission to a hospital would rely on a hospitalist’s acts and be harmed by a breach of the
standard of care, thus making summary judgment for the hospitalist and his employer on the element of
duty of care improper.

Brase added that the 2010 Affordable Care Act (ACA) and the creation of ACOs and shared savings programs,
and other risk-transfer schemes, have increasingly led to hospital restrictions on patients and doctors.

“Many of the hospitals that limit admitting and treatment privileges to the hospitalists under their control are
tax-exempt, based on stated charitable purposes, yet they refuse to let the patient’s trusted doctors make the
treatment decisions. How is this charitable or a community benefit?” Brase asked.

Read how U.S. Sen. Chuck Grassley, chair of the Finance Committee, is renewing his inquiry of tax-exempt hospitals here.

Brase also noted that independent, fee-for-service and Direct Primary Care (DPC) physicians who are part of
CCHF’s “The Wedge of Health Freedom” wouldn’t be able to admit their patients to hospitals with these
policies.

In December, CCHF reported a similar issue in Naples, Florida, where independent doctors saw their admitting privileges end at the Naples Community Hospital Healthcare System when a new pilot program dictated that the system’s “hospitalists” will handle all medical admissions from emergency rooms as well as referrals from doctors’ offices. NCH launched an ACO in 2018. See an update on Naples here.

“The fact is that many patients are being deprived of their chosen physicians,” Brase said. “The doctors they
have seen for years will no longer be allowed to admit them to local hospitals, write orders, choose specialists
or have any say in their care. Hospitalists, employed by the hospital, will be in charge.”

Regarding the Minnesota case of Susan Warren, Minnesota Supreme Court Justice David Lillehaug wrote for
the 5-2 majority: “We have never held that such a relationship is necessary to maintain a malpractice action
under Minnesota law.” The Supreme Court also argued that the lower courts ignored precedents going back 100
years. The lawsuit will now head back to trial in St. Louis County District Court, U.S. News reported. Read the
American Medical Association and Minnesota Medical Association responses to the case.

Brase writes about government and health plan control of treatment decisions in her award-winning book, “Big
Brother in the Exam Room: The Dangerous Truth About Electronic Health Records,” which also exposes
how the mandated, government-certified electronic health record technology has negatively affected doctors
and patients. It also details the federal HIPAA “no-privacy” rule (Section IV). Learn more at

Learn more about CCHF at www.cchfreedom.org, its Facebook page or its Twitter feed @CCHFreedom. Also
view the media page for CCHF here. For more about CCHF’s initiative The Wedge of Health Freedom, visit
www.JointheWedge.com, The Wedge Facebook page or follow The Wedge on Twitter @wedgeoffreedom.