Annals of Health Law

Volume 20
Issue 2 *Summer 2011*

Article 1

2011

Table of Contents

Annals of Health Law

ANNALS OF HEALTH LAW

THE HEALTH POLICY AND LAW REVIEW OF
LOYOLA UNIVERSITY CHICAGO SCHOOL OF LAW

VOLUME 20, ISSUE 2 SUMMER 2011

CONTENTS

of many, if not most, ACOs is likely to be the Patient Centered Medical Home (PCMHs), a business structure that evolved from Retail Medical Clinics, which made greater use of physician extenders (PAs). Accordingly, this paper examines the evolution and structure of PCMHs as well as how the PCMH is regulated. As neither legal or market regulatory mechanisms are ideal for policing business structures that employ PAs, this paper concludes that the tort reform most appropriate for PCMHs is the introduction of either no-fault or enterprise liability coverage.

The dominant rhetoric in the health care policy debate about cost has assumed an inherent tension between access and quality on the one hand, and cost effectiveness on the other; but an emerging discourse has challenged this narrative by presenting a more nuanced relationship between access, quality, and cost. This is reflected in the discourse surrounding health literacy, which is viewed as an important tool for achieving all three goals. Health literacy refers to one's ability to obtain, understand and use health information to make appropriate health decisions. Research shows that improving patients' health literacy can help overcome access barriers and empower patients to be better health care partners, which should lead to better health outcomes. Promoting health literacy can also reduce expenditures for unnecessary or inappropriate treatment. This explains why, as a policy matter, improving health literacy is an objective that has been embraced by almost every sector of the health care system.

As a legal matter, however, the role of health literacy in ensuring quality and access is not as prominent. Although the health literacy movement is relatively young, it has roots in longstanding bioethical principles of patient autonomy, beneficence, and justice as well as the corresponding legal principles of informed consent, the right to quality care, and antidiscrimination. Assumptions and concerns about health literacy seem to do important, yet subtle work in these legal doctrines — influencing conclusions about patient understanding in informed consent cases, animating decisions about patient responsibility in malpractice cases, and underlying regulatory guidance concerning the quality of language assistance services that are necessary for meaningful access to care. Nonetheless, health literacy is not explicitly treated as a legally relevant factor in these doctrines. Moreover, there is no coherent legal framework for incorporating health literacy research that challenges traditional assumptions about patient comprehension and decision-making, and that emphasizes the need for providers to improve communication and take affirmative steps to assess patient understanding.

The absence of a clear and robust consideration of health literacy in these doctrines undermines core access and quality aims, and it means that such laws are of limited efficacy in promoting health literacy. Returning to the theme that the health literacy problem reflects a complementary view of access, quality and cost, it is likely that the cost implications of this problem (and not concerns about quality and access) will motivate the kind of health literacy reform that may ultimately strengthen existing quality and access standards. One recent example of this can be seen in reforms linked to government, insurer and provider attempts to reduce costly medication errors.