



Litigious Cancer Care: What are the Alternatives?

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FROM THE EDITOR

Litigious Cancer Care: What Are The Alternatives?



By now, all of us are used to the depressing fact that cancer patients and their families frequently have two or three battles to fight at the same time. Of course, there is the primary fight: the disease and its complications. Taking a close second place, patients, (and you, their health care guardians) have to ensure that they have access to the most effective therapies. Then, assuming they become cancer survivors, patients have to fight to get health care insurers to pay for those therapies.

Litigation is a route we must all begin to understand. The plain fact is, sometimes it's the only way that disputes can be resolved in the patient's favor. Litigation is expensive,

but it is also a deterrent which insurance companies apparently favor over paying for costly new technologies. This is obvious when their *modus operandi* is to continue to deny payment for procedures and drugs even when they have lost disputes with other patients over the same technology. If patients are faced with battling their disease and their insurance company, it may just be too much.

And, how can patients know in advance whether or not their insurance plan will deny payment for an important drug or procedure? How can they know that that they will have to take their insurer to court? Patients and their providers are clearly looking for solutions to the problem before they have to go to this extreme. ACCC recently published a brochure, *Cancer Treatments Your Insurance Should Cover*. We have had requests for more than 70,000 copies, and the requests are still pouring in.

The brochure is a good start, but only a start. The fact is, most insurance plans are so complicated, with so many endorsements and addenda, that the average health care benefits plan manager doesn't know what they contain or preclude from coverage. Further, it's not until you see an insurer in action that you find out whether or not its going to force patients to go to the limit (or beyond) to obtain adequate care.

Legislation will help, and certainly it is exciting to have the support of the American Cancer Society in ACCC's push for uniform state legislation on off-label drug use. Yet, perhaps we can provide patients with another option—one that we have discussed before—that will preclude the need to resort to the courts: rating the insurance companies. Why fool around? Oncologists and their office managers are well aware of which insurance companies regularly force their patients to the wall and those which provide them with the care they paid for. An annual appraisal by state medical oncology societies of the quality of care they perceive to be available from their local plans could draw attention to those insurers that are truly causing harm to patients.

What do we use for criteria? Well, we now have the same criteria in the brochure, Congressional legislation, state legislation, an advisory from the Health Insurance Association of America, and in the Lasagna committee report. Those might provide an excellent starting point!

If we do not lobby the public, advocate patient rights in state legislatures, and publicly point out which insurance companies are screwing patients behind closed doors, I suspect that you will not only need to keep this issue of the journal, you will need to use it as a daily reference guide to the legal system! In the light of the potential for litigious cancer care as a way of life, rating the insurance companies no longer seems quite so radical.

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