Concierge Medicine: Medical, Legal and Ethical Perspectives

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Abstract

Over the last 20 years, dissatisfied primary care physicians have turned to an alternative medical practice known as “concierge medicine,” “boutique medicine” or “retainer medicine.” Concierge medicine is a system in which the physician limits the amount of patients in the practice and offers exclusive services for an annual fee. Primary care physicians today are challenged with low reimbursements, malpractice premiums, overwhelming paperwork, and the responsibility of taking on thousands of patients to offset the rising cost of healthcare. They also face an immense pay discrepancy compared to medical specialists. To maintain their income levels, primary doctors may take on more patients and more hours to compensate for the transaction costs of dealing with insurance, which can take up nearly 40% of a physician’s income[1]. The increasing volume of patients and responsibility can compromise the overall quality of a physician’s attention. Today, the average primary care physician sees dozens of patients a day, and can treat thousands of patients a year. Primary care physicians may feel the need to comply with the overloaded standards of today’s healthcare system rather than the best interest of the patient’s health to keep up with patient demand in primary care. With this being said, it is no surprise that many primary-care physicians report that they no longer enjoy practicing medicine. A 2004 survey of physicians age 50-65 found that over three-quarters of them viewed medicine as increasingly unsatisfying[2]. Although only a small percentage of these disgruntled physicians have made the switch to concierge practices, the trend is expanding rapidly across the country. There are an estimated 5,000 physicians practicing concierge medicine in 2010 across the nation out of an estimated 240,000 internal medicine physicians and related subspecialists[3]. Of these 5,000 concierge medicine physicians, 1,000 of them opened their practice in 2009 alone[4].The purpose of this article is fourfold: First, to examine the history of concierge practices; Second, to compare medical benefits and disadvantages of concierge practices; Third, to explore the legal implications for concierge physicians and their contractual agreements with patients; and fourth to determine if a concierge model follows solid ethical principles. The paper will be concluded with recommendations based on whether concierge medicine as a whole is in the best interest of the patient or the physician providing the service, as well as healthcare as a whole. It is the authors’ goal to provide unbiased information about concierge medicine so that readers can make informed decisions.

INTRODUCTION

Primary care, the backbone of a strong medical system, is struggling to stay afloat in the United States. Today, there are over 200,000 family practitioners and internists practicing in the United States. About one-third of family practitioners and internists are over 55 years old, and will retire within 5-10 years[2]. The number of primary care physicians will decrease rapidly over the next decade, as it is rare for students graduating from U.S. medical schools to pursue a position in primary care medicine. There are a number of factors that have led to the lack of primary care physicians, but the general trend can be attributed to the workload and lack of compensation in comparison to their peers in specialty medicine. A 2008 New England Journal of Medicine study found that family medicine only filled 42.1% of its residency positions by US medical school graduates, the lowest percentage of any specialty[4]. Of the 16,000 students who graduate from U.S. medical schools every year, less than 600 graduating senior residents per year plan on entering general internal medicine practice[2]. Between 1997 and 2005, the number of US medical school graduates entering primary care dropped 50%[2].

Pay discrepancies among medical specialists and primary care physicians have also lead to the shortage in primary care. The average income for a primary care physician with over 3 years of training is $168,000 a year[5]. The average salary for family practitioners is the lowest of any medical specialty[6]. A radiologist on the other hand, with similar experience, will make $354,000 a year. Gastroenterologists

with the same experience will make $349,000, a Dermatologist will make $308,000 a year, and cardiovascular and neurological surgeons enjoy an average salary of $515,000 and $541,000 a year respectively[5]. Although there is a significant discrepancy in the salary, the average hours per week is similar among most physicians. A study in the Journal of the American Medical Association (JAMA), found the average hours worked by a family practice physician is 52.5 hours per week, while specialties such as dermatology, emergency medicine, and ophthalmology work less than 50 hours per week[7]. In addition, physicians' inflation-adjusted incomes dropped 7% from 1995-2003, while those of professional and technical workers increased by 7%[8].

Financially, it is no surprise that most US medical school graduates pursue specialties over primary care medicine. As of 2006, more than 80 percent of graduating medical students carried educational debt. The median debt for public medical school students was $120,000. The median debt for students attending private medical schools was $160,000[2]. As medical students face overwhelming educational debt, the only viable option for them may be to pursue specialty medicine rather than primary care.

Some health insurers compensate a physician as little as 45 dollars per visit[9]. When insurance companies pay as little as 45 dollars per office visit, the physicians will take on more and more patients to maintain their income, leaving less time with the patients. Therefore, patients with medical problems that could be treated in primary care are often quickly directed to specialists, costing insurance companies even more through sophisticated tests and heavily compensated specialty physicians[10].

By cutting out the insurance intermediary, including overhead and transactions costs, physicians can save thousands of dollars which could be used towards their patients and their medical needs. They will be able to take on fewer patients and spend more time with them. Concierge models accomplish everything that healthcare reform is aiming to do, from lowering medical costs, improving access and increasing the quality of care[11]. Some services of a typical concierge practice include:

- House calls
- 24-hour access to physician by phone, email, text-message, or pager
- Preventive care
- Same day appointments
- Longer physicals and routine appointments
- Coordination with fitness and nutrition providers
- Free check-ups
- Personalized wellness programs
- Electronic medical records
- Physician will attend specialist appointment with patient
- Telephone and e-mail consultations

Concierge healthcare, or "retainer medicine," emphasizes the accessibility and immediate attention that a physician can give to patients. In a concierge practice, patients are allowed to establish direct relationships and have greater access to their physician. Although there is an annual retainer fee, patients must pay health insurance to cover specialist appointments and hospitalizations. The annual retainer fee for concierge medicine ranges from $1,500-$20,000 depending on the services that are provided. There are different tiers of concierge care, with the highest tiers of care offering the most services but expensive retainer fees. Dr. Charles Whitney, a concierge physician of Revolutionary Health Services in New Hope, PA, states that, "every practice is a fingerprint," in that each one offers a different variety of services[12]. Factors that affect the cost of the fee include the extent of the services, the patient's age, the patient's health, and the number of family members already participating in the concierge practice.

HISTORY

Concierge Medicine began in 1996 through the efforts of Dr. Howard Maron and Dr. Scott Hall. Dr. Maron, former physician of the Seattle Supersonics (now Oklahoma City Thunder), a professional basketball team, created a practice in which his patients were able to receive the same level of treatment as the professional athletes he treated. The two created the first concierge practice named MD^2 (read- MD squared) and charged an annual retainer fee between $13,200 and $20,000 per family at their Seattle, WA location[13]. MD^2 is categorized into the highest tier of concierge medicine, offering the most extensive services and the highest retainer fees. MD^2 limits the number of patients to 50 per physician. A typical concierge practice will limit the amount of patients to about 600 patients. Other mid-level

concierge practices see anywhere between 200-600 patients. Generally, as the number of patients decreases, the level of attention and exclusivity of services increases along with the price of the annual retainer fee.

Since the establishment of MD[2] in 1996, concierge medicine has grown at a steady rate. In 2004 the Government Accountability Office (GAO) reported 146 concierge practices located in the United States. A large step for the growth of concierge medicine was the establishment of MDVIP, founded by Dr. Robert Colton and Dr. Bernard Kaminsetsky in 2000. In 2006, MDVIP reported over 130 physicians within their network. In 2006 these physicians treated upwards of 40,000 patients worldwide[13]. In 2010, their branch of concierge medicine and management firm had more than 380 physicians with offices all over the United States[14].

Primary care physicians in managed care can be attracted to concierge medicine for many reasons. Physicians who practice concierge medicine report fewer patients, less paperwork, fewer hours, more time to devote to patients, more money, and more time to further their own education[15]. Many physicians make the switch to a concierge practice because of their desire to spend more time educating patients. By reducing the amount of patients, concierge physicians are able to practice medicine in a more personal manner.

By allowing more time to spend with patients to explain diagnoses and treatments, patients will in turn have greater trust, education, and compliance with their physician[16]. Often, the lack of time that a physician is able to spend with a patient will force them to order tests and send their patients to see a specialist. Concierge practices find the hospitalization rates significantly lower for their patients than those in mainstream care. By not allowing adequate time for physicians to administer a thorough physical exam, they may feel obliged to send their patients to a specialist for a medical issue that could be solved in primary care.

By allowing a deeper understanding and better relationship with the physician, concierge medicine acts in the best interest of the patient as well as the physician. One of the most important, if not the most important commodity in medicine is time, and some patients today lack the time they need with their current healthcare coverage. As physicians gain a deeper understanding and knowledge of their patients, they will be able to more accurately assess and manage their patients and their medical needs.

MEDICAL ASPECTS

Concierge medicine is another type of business model for family medicine. Whereas traditional family practice doctors see a large number of patients and bill insurance companies for those visits, concierge practices limit the number of patients seen and have contractual agreements with their patients to cover costs of medical care. With this, many issues arise regarding the medical care of patients who visit concierge doctors. Concierge medicine offers such benefits as increasing time with patients during their office visits. On the other hand, concierge medicine can be expensive thereby lending itself to select patients. Access to healthcare is yet another factor that will be examined. This includes a discussion about the two-tiered system some healthcare critics declare the United States is guilty of having within their healthcare system. The two-tiered system is a confusing one; basically it comprises a healthcare system made up of patients who use insurance and patients who pay cash for their own care. Along with the two-tiered system, the issue of abandonment is discussed as the amount of primary care doctors available to treat patients is becoming scarce. All of these issues will be further discussed in greater detail from the perspective of the patient.

As insurance agencies started to gain more control over medical decisions, many critics of the American healthcare system thought that the U.S. was headed to a two-tiered system. This means that citizens, in the best scenario, would have an option between paying out of pocket, using their insurance, or a combination of both. This could not be more obvious than in the following example which compares a patient using traditional private insurance and one paying out of pocket. In other words, the second is a prime example of concierge medicine.

An MSNBC article from November of 2009 revealed the incredible differences between two women getting their screening mammography at the same radiology center in New York City. Bill Dedman, the investigative reporter, reports that a woman, who uses only her insurance, must wait longer for a scheduled appointment, has a longer wait time the day of her test, never sees an actual doctor and must again wait a week for her results. Also, the radiology department makes less than half of what they charge for a mammography from that patient's insurance company. On the other hand, the woman who pays cash gets a quicker appointment date, has hardly any wait time the day of the test and sees a radiologist for her results as soon as her testing is done[17]. If both women had the exact same

insurance, the woman who pays cash can get reimbursed from her insurance company for the same amount they contracted to pay the radiologist. Ultimately, the second woman pays more out of pocket, but has a better overall experience and less anxiety waiting for her results. Art Caplan, director of the Center for Bioethics at the University of Pennsylvania states:

What is happening with concierge medicine based on what you discovered is that we're biting into the quality of care if you're not paying a premium. That's unethical. It's immoral. It's just flat-out wrong[17].

Access to healthcare is an ongoing battle for the 49 million uninsured Americans[18]. Many American citizens will argue that, although not specifically provided for in any legal document, access to some form of healthcare is a right for all Americans. Unfortunately this is not occurring in the current healthcare system. And it is only going to get worse. It is estimated that by 2020, the number of uninsured could reach 67.6 million[18]. With all of these persons uninsured, is concierge the answer?

Concierge medicine can be expensive; some families pay upwards of $10,000 per person for one year[19]. Is the increasing distance between the 'two-tiered' systems already present? Those that can afford this high rate can pay out of pocket and, like the mammography example, have easy access to their doctors with quicker results. Those that cannot are stuck paying the high costs of insurance, co-pays and deductibles all while not receiving the kind of care they want. Another issue is if patients are able to afford the monthly fee of a concierge doctor, can they afford hospitalization if they become acutely ill? If not, where do they turn? Hospitalizations can cost thousands of dollars and the patient's concierge doctor isn't the one that is going to step in and pay the bill. Some suggest that concierge physicians are running away from their responsibilities:

…Physicians who opt out of the current system by expending their energies catering to 'patron patients' rather than helping reform a deeply flawed health care system or energizing a beleaguered professional community should reenter the fray[20].

Physicians need to come together and work with government and insurers trying to pay them less; rather than try and develop a new system altogether.

On the other hand, it is a myth that concierge medicine is only affordable to the wealthy. As mentioned, most concierge practices have an annual fee of $1,500-$1,800, between four and five dollars a day. Concierge practices not only are affordable but could also save patients on overall healthcare costs. Health insurance is primarily used for illnesses and accidents that are very expensive yet rarely occur. Primary care, however, is generally for conditions that are frequent, inexpensive, and easier to treat. Therefore, it would be cheaper to pay directly for primary care supported by high-deductible insurance, rather than only have it covered by insurance[1]. The American Academy of Family Physicians states that adequate primary care addresses 90% patient's health needs[21].

Dr. Garrison Bliss of Qliance Medical Management, a concierge group that charges as little as thirty-nine dollars per month, argues that primary care should be removed from the insurance model, and patients should pay what it costs, which is relatively inexpensive[21]. Essentially, insurance companies have taken primary care, an inexpensive service, and made it very expensive[22]. A model such as this would help Americans save significantly on insurance premiums and co-pays[1]. It should be noted, however, that health insurance should not be eliminated all together. Health insurance should primarily be used as financial protection for medical costs that are catastrophically high[8].

Despite the recession, renewal rates of concierge practices are consistently very high, indicative of how some Americans have reaffirmed the importance of healthcare and reassessed their priorities. High renewal rates can also indicate how satisfied the patients are with the services, and how health and medical attention should remain a top priority among Americans. These renewal rates can also represent how dissatisfied patients were with mainstream healthcare. Physicians are able to make the switch to concierge medicine because of the high patient demand for personal, convenient, and effective healthcare. Concierge medicine provides an option for those who seek a different style of treatment than managed care[23].

If more and more patients are seeking out concierge doctors, how will this affect the overall number of primary care doctors? With a low number of graduating physicians deciding to train in family practice or internal medicine, there are fewer primary care doctors available to take care of large numbers of patients. The U.S. health care system has about 100,000 family physicians and will need 139,531 in 10 years[24]. This number is only going to become larger with the 78 million Baby Boomer population aging[24]. How will the

healthcare system fill the void of forty thousand doctors? If more primary doctors develop concierge practices that limit the amount of patients seen, overall access will decrease even further. Where will patients turn for their healthcare? It seems that the American Medical Association (AMA) agrees by stating in their Code of Ethics, "[concierge practices] also raise ethical concerns that warrant careful attention, particularly if retainer practices become so widespread as to threaten access to care[25]."

But, what if concierge medicine is a way for overloaded and disillusioned physicians on the verge of retiring to continue practicing medicine? Concierge medicine could then play a critical role in the healthcare crisis. A concierge model would sustain doctors who would otherwise retire[3]. Concierge medicine can also provide salaries that approach those of specialty physicians. This would attract graduating medical students back into primary care, and help revive a medical profession which had the lowest percentage of residency slots filled in 2008[4].

Concierge medicine could also assist in making significant improvements in mainstream healthcare by attracting doctors out of medical school. This relatively new way of providing care is bringing excitement to the field of primary care; one that is in desperate need of something new and refreshing. Ultimately, primary care could be seen as being much more lucrative than it was before.

When a physician transitions to a concierge practice, the number of patients each physician sees on a yearly basis will usually decrease from 2,000-4,000 to about 200-600. Opponents of concierge medicine argue that these physicians are abandoning the thousands of patients that choose not to participate in a concierge model. Many patients are not informed about such an option nor would they be able to afford the retainer fee. New concierge doctors need to carefully transition their practices so as not to abandon their current patients. Although concierge practices may appeal only to those who can afford it, supporters like the American Medical Association state:

Retainer practices will generate higher costs for those patients who are willing and able to pay for higher levels of service, but not necessarily for those patients who cannot afford those higher levels of service[26].

In order to avoid abandonment, the transferring physician must help to find an accepting physician to take over care of each patient and that physician must be an acceptable choice to the patient[27]. The AMA explains:

In accord with medicine's ethical mandate to provide for continuity of care and the ethical imperative that physicians not abandon their patients, physicians converting their traditional practices into retainer practices must facilitate the transfer of their non-participating patients, particularly their sickest and most vulnerable ones, to other physicians. If no other physicians are available to care for non-retainer patients in the local community, the physician may be ethically obligated to continue caring for such patients[25].

Many patients already feel a connection to their doctor, but, if for whatever reason, they choose not to follow their physician into their concierge practice, they are forced to find a new source of care. Relationships take time and effort to develop, and many patients do not want to find new physicians once they trust in the one they already have. At the same time, they may not want to pay one or two thousand dollars a year to fit into a concierge practice or they simply cannot afford to do so.

MDVIP, a major franchise of concierge practices, responds to any criticism of abandonment such as this by refusing to work with any physician that does not have a plan for the continuity of care with other physicians in their community. If a physician plans on switching to a concierge model, MDVIP makes it a top priority to find a physician for those patients who choose not to join the concierge care or cannot financially sustain themselves in that manner. This is an example of one franchise, and the authors could not find other concierge practices' guidelines. Hopefully, this is accomplished by all transitioning medical practices.

By seeing fewer patients, concierge doctors not only have more time for their own patients, but also for volunteering. MDVIP, for example, has opened a clinic for over 600 Medicaid patients who will receive the same services and attention as those who pay the retainer fees of concierge medicine. Through this, MDVIP hopes to prove that they can keep low-income people healthier regardless of their economic status by allowing the Medicaid patients a greater access to their primary care physician[28]. MDVIP also allows physicians to offer scholarships and fee waivers to approximately ten percent of patients who cannot afford concierge care[28]. By allowing these scholarships, concierge care and preventive medicine is available to those who would otherwise not be able to afford it. Essentially, it is these scholarships that make concierge medicine available to everyone, not just the wealthy.

Besides the advantage of volunteering, Dr. Foster Manning, an internist at the Portland, Oregon branch of MD[2], states that concierge medicine will benefit the healthcare industry as a whole by creating competition between the two types of medical practices, "If a typical office wait is 25 minutes, then that office is at risk of losing patients to a retainer [concierge] practice, and they'll find a way to shorten the wait[29]." Concierge practices could lead to an overall improvement in providing care and overall health, not only for those patients who participate in concierge care, but for all patients. Conventional practices will strive to meet the standards that concierge practices have demonstrated, for there is a threat of losing patients to concierge medicine.

Most importantly, concierge practices empower their patients. Dr. Garrison Bliss, president of Qliance Medical Group, explains, "We value our patients, work for our patients, and realize that if we don't provide real palpable service, they will stop paying our monthly fee[29]. Solutions such as this reflect consumer-driven healthcare ideals. Consumer-driven healthcare, a term popularized by Dr. Regina Herzlinger, professor at Harvard University and author of several best-selling healthcare books, empowers individuals and brings their force to bear on the offerings of doctors, hospitals, and insurance and pharmaceutical companies, converting the system to one that is responsive to the consumer[8].

Concierge care could improve healthcare because it offers consumers a choice. The consumer choice of whether or not to join a concierge practice would not necessarily make healthcare more expensive. "The prices for consumer goods such as cars and food have steadily decreased as a percentage of income, while their quality has steadily improved…this is attributed to the fact that choice enables competition, which fuels innovation, which increases productivity[8]."

Patients in favor of concierge care argue that if they prefer to take advantage of the exclusive services of concierge medicine, they should be able to. Concierge medicine has started a trend to making healthcare into a marketplace between the doctor and patient. The doctor is the product that the patient, who is also the consumer, wants to purchase. "Arguments can be made that concierge care is an attempt… for a small, consumer-driven market niche[30]." If an individual wants a medical practice that fits his or her lifestyle and has benefits that they find worth the price, they should be able to pursue it. This is much like flying first-class or purchasing a luxury car; these are not forms of discrimination against the poor. However, not allowing concierge practices to operate would be a form of discrimination against the wealthy.

Then, does this mean that healthcare is in the same market as cars, houses, and other luxury items? If concierge medicine is being driven by the patient, then maybe that's just a way of saying our current system is not working. Again, instead of solving the problem for a select few (patients of concierge medicine), why not try to better the system for all American citizens? It is important to remember that healthcare may be a market, but it is not the same as other fields. For example, it would be unusual for a consumer to trust in their car salesman the same way they trust in their physician. Doctors have privileges that only stand up in the examining room or operating room. These privileges, based on trust and compassion, are not to be taken for granted. If physicians need to act as business people, they also need to be held to a higher standard.

Furthermore, concierge medicine's mainstay of marketing is that better care is provided because there are fewer patients to see and more time for the doctor. When did medicine become about the physician first and not the patient? There are gold standards for most of medical care in the United States and all patients should receive that gold standard whether or not they are part of a concierge practice. "When did doctors come to consider personal attention and quality care an exceptional service requiring a special fee, as opposed to being a definition of the professional ethic?[31] "Although it would be nice to spend an hour with each patient, no matter the time, patients should be receiving the same care wherever they go.

With that, there are no studies that the authors of this paper could find that support concierge doctors having better overall results or a patient population with improved morbidity and mortality. Some concierge practices suggest that they have lower hospitalization rates than those with regular insurance and Medicare beneficiaries. This may be true, but inquiries must be made examining their patient population. There have been trends of concierge doctors to have less sick patients (for example those with diabetes) and fewer poor patients[32]. If this is the case, then of course their practice would have less patient hospital admissions. Simply put, sicker patients are going to have more hospital stays no matter which doctor they visit. Also, poorer patients will be left with even fewer doctors from which to choose.

One study that randomly surveyed both concierge and traditional medical practices throughout the country demonstrated that concierge doctors see less African-American, Hispanic and Medicaid patients[33]. They also proved that concierge doctors see fewer diabetics and fewer patients with coronary artery disease (CAD). There was a statistically significant difference for the number of diabetics seen, whereas the latter for CAD was not[33]. Alexander et al admits that [their] "findings suggest that retainer practices could contribute to tiering of health care and to disparities in health care according to race as well as wealth[33]". The point is clear; there is a need for more doctors to take care of sicker patients, not less. Can those doctors who see a smaller array of patient population be seen as a discriminatory practice?

At the same time, why should some patients not be allowed to choose their doctor? Concierge medicine allows physicians to spend more time with their patients, in turn allowing more time to focus on preventive measures and wellness planning. Preventive medicine, the measures taken to prevent diseases rather than curing and treating systems, allows patients to have a better understanding of a healthy lifestyle. These practices aim at stopping health problems from developing in the first place. Primary care physicians often find themselves in the position of putting out "medical fires" without allotting time for prevention, screening, nutrition, fitness and mental health assessments[4]. Rather than spend billions of dollars for treatment of disease, the focus of primary care should be reoriented toward prevention. This would stem the dramatic growth of healthcare costs. Concierge medicine can also redirect the focus of treating disease to preventing disease. Emphasis on prevention rather than treatment can be found in the Hippocratic Oath: "I will prevent disease whenever I can, as prevention is preferable to cure[34]." Preventive medicine saves the patients money and suffering; it acts in the best interest of the patient.

Through prevention rather than just treatment alone, concierge medicine will hopefully keep patients out of hospitals and emergency rooms and keep healthcare costs down. Prevention of diseases and chronic illness would garner significant savings, as the relatively small number of patients who are already sick with chronic diseases and disabilities make up the majority of healthcare costs. A third-party evaluation of 2008 data showed that MDVIP patients had 61.3% fewer hospitalizations compared with similar patients in commercial insurance plans, and 74% fewer hospitalizations compared with Medicare patients of similar age, gender, and disease risk[35]. Severe hospitalizations could be avoided if patients had greater access and communication with their physicians.

In a concierge medicine practice, physicians can be viewed as a "coach" of wellness and preventive medicine, not just someone to approach in the case of illness. According to Dr Thomas LaGrelius, "Primary care is not an insurable event; it is an ongoing relationship [10]." By intervening early and often, a medical problem can be controlled before hospitalization is required. Practices like this are not restructuring the role of a physician, but are returning to a way physicians practiced years ago, such as ongoing relationships with patients as well as accessibility to the physician. In an age of cell phones, e-mails, text messages, pagers, etc, communication and access to a physician should not be in question. By allowing physicians to have more time with patients to plan and prevent, money can be saved by reducing disease exacerbations and hospitalizations.

A study from the Weill Cornell Medical College found that a third of the money received by primary care physicians pays for interactions between the practice and the patient's health plans[6]. Concierge practices who save this money can invest these costs back into the clinics, electronic medical records, and patient services. Investing funds that would be used for insurance consequently allows shorter wait times, longer appointments, and lower costs. Transaction costs of insurance include the bookkeepers, the computer systems, the forms being filled, emailed, and faxed.

Of every $1 spent on primary care, the insurance industry takes 40 cents. All of this cost and effort is being thrown at something that adds zero value to care. If we eliminate the middleman on primary care, we have done an enormous favor to everyone involved[10].

By eliminating these costs, concierge practices are available to those who could otherwise not afford health insurance. By avoiding overhead costs of insurance companies, concierge practices are able to keep their prices affordable. With so much effort and money going into health insurance rather than actual healthcare, the quality of care for many has been compromised.

LEGAL ASPECTS

Although concierge medicine is not a new phenomenon in the United States, it is more popular than ever. Because of this, it is important to make sure patients understand the concept of this type of medicine and what they should

expect. Seemingly noble in context, concierge medicine has certain legal ramifications of which all patients should be made aware. Doctors who practice this type of medicine must also take note.

First, for those practitioners who currently have a functioning practice, they generally have a devoted group of patients who have formed either a strong bond or sincere loyalty to said practitioner. When the practitioner decides to leave his or her practice and enter into the concierge field, he or she seemingly abandons those loyal patients. Abandonment of patients is unethical and even illegal in many states. Therefore, it must be discussed within this legal section. Common law provides the theory that physicians do not have an obligation to treat any patient, unless there is a prior physician-patient relationship[36]. However, upon the creation of a physician-patient relationship, the physician has a duty to not abandon the patient without proper notice, which depends on the specific facts and circumstances of the matter[37]. More specifically, to prevent abandonment a physician must provide enough notice to allow his or her patient to find a new physician[38].

Therefore, abandonment can be prevented if a physician treats his or her transition into concierge medicine as though he or she were simply moving to another town or state. According to the AMA, a physician making this transition should send a letter to each patient explaining the reasons for terminating the relationship, as well as recommending alternative sources of care and/or specific physicians who would be willing to accept new patients[39].

Upon establishing a concierge practice, physicians must then determine how he or she will obtain their clients. Determining the language of the contract and the fee structure is the most important issue physicians will have to overcome. More specifically, the issues of insurance (i.e. Medicare and private insurers), billing procedures and the retainer agreement all provide legal challenges for both physicians and patients.

When entering into a retainer agreement, patients and physicians must both be acutely aware of the terms of their relationship and understanding of the possible pitfalls associated with the agreement. What specifically will the physician provide to the patient that the patient cannot receive from a general practitioner? What care is specifically provided for in the contract? For example, whether it be longer appointments, increased physician availability, and a wellness plan, including diet, exercise and other care suggestions, or whether the contract would provide for certain medical procedures, including surgery, post-operative care and rehabilitative care. Although a significant number of practices examined by these authors did not provide for operative or rehabilitative care since they are general practitioners, some do include escorting patients to specialist visits. Patients need to be aware of what services are provided for in the retainer agreement offered by the physician.

Many physicians enter into concierge medicine to alleviate the stress of dealing with third party payers. However, as discussed below, Medicare and/or private insurance will dictate what can and cannot be specifically provided for in the retainer agreement between physician and patient. If the physician chooses to accept insurance, he or she must make sure not to double-bill patients. This means that they cannot bill the insurance for the same service that is provided for in their retainer agreement. Medicare presents its own challenges to the practice of concierge medicine since they set their own fee schedule, one that many third party payers use as a baseline. With concierge medicine, however, Medicare patients must still pay a set amount as set by the concierge contract. As concierge attorney Vasilios Kalogredis explains:

Some have argued that these membership fees violate Medicare rules because Medicare beneficiaries cannot receive covered services from such a concierge practice without first paying a fee above and beyond the Medicare fee schedule amount. It will be important to clearly define what services are included within the concierge fee and which are not. If it is clear that the concierge fees charged by the practice were for non-covered services, then such fees would not violate the Medicare rules[40].

Physicians practicing concierge medicine must be very cautious with Medicare patients. A physician who improperly accepts payment from Medicare patients risks violating the False Claims Act, with possible penalties ranging from $5,000 to $10,000 per claim41. Penalties also include restitution of three times the amount of damages that the government sustains due to the act of the physician41.

To avoid such fines, physicians who accept Medicare reimbursement have the option of either accepting assignment and billing Medicare directly for their services or not accepting assignments and seeking payment from the patient directly, who then must seek reimbursement from Medicare42. Medicare provides an option for practitioners to

sign an agreement which provides them with certain benefits, including a five percent (5%) higher reimbursement per Medicare participant42. In exchange for these benefits, physicians agree to accept assignment for all claims and cannot charge more than the Medicare fee schedule amount as provided for by Medicare43. If a physician chooses not to accept assignments, they are restricted from charging more than 115% of the applicable fee schedule amount. Such restriction is considered "limiting charge44."

All of the above can get very complicated for the concierge community as the wording in their contract becomes very important. Physicians must beware not to bill Medicare for a service provided for in their concierge agreement. For example, all patients get one physical as an entrance to Medicare within the first year. Included in many concierge physicians' contracts are hour long yearly physicals. Doctors cannot use that same physical to bill both the patient in their retainer agreement and Medicare for the entrance physical.

In addition, the new "Patient Protection and Affordable Care Act," signed by President Obama in March of 2010 takes into account preventive medicine, which is a large topic that concierge practices bring into their retainer agreements45. This will need to be addressed in future retainers since the bill has been enacted. In his article, attorney John Marquis provides an example for physicians to use so as not to double bill46. In his model, the retainer is $2,000 per year, and the entrance physical is $500 while the wellness plan is $250. The physician would need to discount appropriately for each Medicare patient; in the past illustration it would be a discount of $750 in the first year so as to account for the physical and wellness plan (prevention). Since Medicare only includes one physical in the first year, the retainer could charge for a physical each subsequent year46.

As Marquis eloquently describes in his article, the "Patient Protection and Affordable Care Act," does provide some trouble for concierge medicine. Besides the topic of 'double billing,' the inclusion of a wellness plan to Medicare is likely to greatly affect concierge doctors. In the past, concierge doctors have been able to rely mostly on their wellness plans when developing their concierge contracts. Since the new healthcare bill has come out, however, doctors need to be extra careful on exactly what part of their wellness plan is billed to Medicare and what part is of the concierge contract. All of which always returns to the topic of double billing and trying to avoid it.

Most importantly, the bill gives permission to the United States Preventive Services Task Force to add services to the Medicare coverage46. Therefore, concierge doctors are forced to frequently update their retainer agreements, all while keeping the wording generic enough to not infringe upon services included by Medicare. Concierge doctors, at this point, simply don't know what will be added and it is very difficult to try to keep up. Therefore, it has never been more important for physicians to consult both business managers and attorneys specializing in concierge care before undertaking this type of medicine.

Many of the aforementioned issues overlap in both the medical and legal section as well as the following ethical section. The issue of abandonment has been discussed and is a source of concern when thinking of concierge medicine. Further, the actual retainer agreement between physician and patient is of utmost importance to take into consideration. Finally, Medicare complicates things further especially when new information can be added to Medicare services within the new healthcare bill at any time.

ETHICAL ANALYSIS

"Concierge medicine," "retainer medicine," "platinum medicine," or what some refer to as "executive health programs" is a new concept but one that is here to stay. The basic concept entails a situation whereby a patient pays a set annual fee for "special medical services." The cost of such membership ranges from $1,500 to $20,000 depending on the services that are provided, as well as the age and health of the patient. As stated above, there are numerous benefits and disadvantages to this new alternative medical practice. The main ethical issues focuses on whether concierge medicine will result in a two-tiered medical system based upon economics; is this a form of patient abandonment; and how does this new form of medical practice address the age old notion that physicians have a professional obligation to provide care for all those in need, especially the most vulnerable of patients? To determine if concierge medicine is ethical it will be evaluated by the basic ethical principles of respect for persons, beneficence, nonmaleficence and justice[47].

Respect for persons incorporates two ethical convictions: first, individuals should be treated as autonomous agents; and second, persons with diminished autonomy are entitled to protection. The principle of respect for persons thus divides into two separate moral requirements: the requirement to acknowledge autonomy and the requirement to protect those with diminished autonomy[48]. The physician-

patient relationship is a covenant that is based on mutual trust. It is a fiduciary relationship that is based on honesty. Ethicists Edmund Pellegrino and David Thomasma, who have written extensively in this area, argue that among the obligations that arise from the physician-patient relationship is technical competence: the act of the medical professional is inauthentic and a lie unless it fulfills the expectation of technical competence[49]. This means that patients can expect their physicians to offer the same standard of diagnostic and therapeutic services to all patients. The American Medical Association is quite clear regarding this issue:

Concern for quality of care the patient receives should be the physician's first consideration. However, it is important that a retainer contract not be promoted as a promise for more or better diagnostic and therapeutic services. Physicians must always ensure that medical care is provided only on the basis of scientific evidence, sound medical judgment, relevant professional guidelines, and concern for economic prudence.[50]

Autonomy gives physicians the right to offer concierge care and patients the right to take advantage of these exclusive services. Many concierge physicians argue that this type if medicine is not only in the best interest of the patient but also in the best interest of the physician. Physicians can practice more personalized medicine without being constrained by time and income issues. Having more time to spend with patients will allow physicians to focus not only on treating diseases and injuries but also preventing them. Preventive medicine has been proven to save patients money and suffering. The problem area that arises is the issue of patient abandonment. The cost of concierge medicine can eliminate a number of patients from a physician's practice as was discussed earlier in the paper. Critics argue that this could be seen as a form of patient abandonment. Advocates respond to this criticism by arguing that as long as physicians have a careful transition process that assists patients in finding new physicians and allows for continuity of care then this objection can be negated. The American Medical Association offers a strict guideline on this matter which was referred to on page thirteen. Abandonment of patients violates their basic human right of respect for persons, because they are not being treated with dignity and respect. If a patient is abandoned for economic reasons this patient can be considered vulnerable because their medical conditions are being untreated and their quality of life suffers. This violates the principle of respect for persons because we are failing to protect those individuals with diminished autonomy.

Another area that relates directly to the principle of respect for persons is the issue of informed consent. Most commonly, informed consent refers to surgical procedures and operations. However, in this paper, informed consent also refers to the legal contract between patient and physician. Patients have a right to be informed about the services that are covered and not covered as well as the retainer fees for their medical care. This contract should also provide termination language. Patients have every right to be informed about the duration of the contract and renewal arrangements. Physicians need to be very careful in following all the rules and regulations regarding opting out of Medicare and/or other third-party payers and patients need to be informed about these arrangements and their payment responsibilities. Patients cannot give informed consent unless they have adequate knowledge about their options. One of the basic aspects of the principle of respect for persons is that a person should never be treated simply as a means, but always as an end. Failure to treat a patient because of economic issues or failure to inform a patient of the cost and extent of contracted medical services is to use patients as a means rather than an end. However, if concierge physicians have a plan of continuity of care with other physicians in the community that provide adequate notice and appropriate referrals, do not leave patients in an unstable condition and the concierge contract is clearly understood, then this objection of using a patient as a means to an end can be eliminated. Respect for persons entails giving patients the right to select their physicians and to be treated with dignity and respect. Following the guidelines outlined by the American Medical Association regarding retainer contracts would provide the needed safeguards for patients that would show a basic respect that all human persons deserve.

Beneficence involves the obligation to prevent and remove harms and to promote the good of the person by minimizing possible harms and maximizing possible benefits. Beneficence includes nonmaleficence, which prohibits the infliction of harm, injury, or death upon others. In medical ethics this principle has been closely associated with the maxim Primum non nocere: Above all do no harm[51]. Advocates argue that concierge medicine is in the best interest of the patient. Patients receive special medical services that are not now provided by most primary care physicians. They receive priority same day or guaranteed next day appointments, 24/7 access to physicians, house

calls, preventive care, enhanced yearly health exams, telephone and e-mail consultations, etc. Having immediate access to a physician gives many patients a special peace of mind. It also allows a physician to be proactive with patients focusing on wellness and preventive care. Concierge medicine allows physicians to intervene early before medical issues become problematic. "Patients undergo a comprehensive yearly exam that goes well beyond the typical physical, with chest x-rays, extensive blood work, and electrocardiograms, among other tests. With the information gathered from these extensive checkups, each patient gets a unique 'wellness plan'[4]." According to recent studies, patients in a concierge practice had 61.3% fewer hospitalizations compared with similar patients in commercial insurance plans, and 74% fewer hospitalizations compared with Medicare patients of similar age, gender, and disease risk. Practicing medicine in this manner is not practicing better medicine but it is giving better care. It is maximizing medical benefits and minimizing medical harms.

Concierge medicine is also in the best interest of the physician. As stated above, many primary care physicians feel overworked, underpaid and underappreciated in their current medical practices. Due to time and financial constraints placed upon them, physicians believe they are not providing the treatment that their patients deserve. As a result, many physicians in family practice are contemplating leaving the medical field and many medical students are not opting for family practice residencies. Concierge medicine maximizes benefits for physicians by allowing them to have a reasonable number of patients and a salary that approaches the salaries of specialty physicians. It also minimizes harms by sustaining physicians who might otherwise abandon the medical field and encourages new physicians to seek family practice as a viable professional option.

Critics argue that concierge medicine violates the principle of nonmaleficence because it could cause more harm and even injury to patients. These critics argue that with 47 million people uninsured and with the new Patient Protection and Affordable Care Act set to be initiated, if we continue to drain the healthcare system of qualified physicians then who will care for the majority of Americans who need primary care? It is true that concierge medicine does benefit patients in these practices and is in their best interest medically. However, critics argue that instead of concentrating on a minority of individuals why not spend this time and money on reforming a deeply flawed healthcare system. Concierge medicine does offer the patient, who is a consumer, a choice. Those who can afford concierge medicine have the right to exclusive medical services, because medicine is now a consumer driven market. This may be true but unlike other consumer goods, physicians should be held to a higher standard than other ordinary drivers in the marketplace. Physicians are professionals and have an obligation to provide the "gold standard" of medicine to all patients equally. Failure to do so could inflict harm, injury and even death on the most vulnerable in society, especially minority patients, Medicare patients, and those with chronic diseases.

Advocates argue that this new sense of competition between traditional and concierge medicine may be in the best interest of patients, physicians and society as a whole. The high renewal rates in concierge practices, even in this economy, demonstrate how dissatisfied many patients are with the standard medical practice in the United States. In order to maintain their patients, concierge practices might be setting a new standard for medical practice or may be returning to a standard that once existed in medicine. Emphasis on preventive medicine may become the new standard of care. This is not better medicine but it is better care. If studies continue to prove that taking the time to listen to patients causes physicians to order fewer expensive tests because their physical exam would have told them what they need to know and preventive medicine keeps patients out of hospitals and emergency rooms, then the cost of healthcare will decrease. If the government and insurers begin reimbursing physicians more for their time and clinical services and offered salaries comparable to specialists, then the shortage of physicians could be averted and more medical students would be attracted to primary care residencies. Instead of being accused of draining the healthcare system of primary care physicians, concierge medicine could maximize medical benefits by bringing a new sense of excitement to the field of primary care both medically and financially. The result might be that "doctors in traditional practices could offer more boutique-like services without the boutique prices[4]." It is possible that concierge medicine could fail not only the test of beneficence, but also fail the test of nonmaleficence if proper safeguards are not imposed by the medical profession. However, with these safeguards in place, concierge medicine could also raise the standard of patient care to a level that is in the best interest of patients, physicians and society as a whole. As a result, prevention and wellness could become mainstream and affordable, healthcare costs could decline,

physicians contemplating leaving the medical field may extend their careers, and medical students may be lured into family practice if salaries approach those of specialty care. This would satisfy the tests of both beneficence and nonmaleficence by maximizing benefits and minimizing harms.

Finally, the principle of justice recognizes that each person should be treated fairly, equitably, and be given his or her due. Justice also pertains to distributive justice, which concerns the fair and equitable allocation of resources, benefits and burdens, according to a just standard. Inequality concerning access to medical care is a well-documented fact[52]. To allow some patients, in similar situations, to have better access to physicians and medical treatments is an egregious violation of the principle of justice. Justice dictates that patients should be treated in a similar manner if at all possible. If there are medical treatments that are good for concierge patients, and these are prescribed for some but not others, then failure to treat all equally violates the basic tenet of justice, that is, to treat all people fairly and equitably. The principle of justice can be applied to the problem under discussion in two ways.

First, critics argue that concierge medicine is only affordable for the wealthy. Having discussed the annual fees, it is clear that one would pay at least one thousand dollars for this practice. These critics argue that concierge medicine threatens access to care especially for the poor and the uninsured. Studies have shown that concierge practices see fewer African-Americans, Hispanics and Medicaid/Medicare patients[33]. This contributes to the growing problem in the United States regarding disparities in healthcare. This criticism is countered by advocates who claim that concierge physicians have not only more time for their patients but also for volunteering. As stated above, MDVIP has opened a clinic for over 600 Medicaid patients who receive the same services as those who pay a retainer fee for concierge medicine. MDVIP also allows concierge physicians to offer scholarships and fee waivers to approximately 10% of their patients who cannot afford concierge care[28]. In addition, Qliance Medical Management offers concierge type services but with a monthly retainer fee of forty-four dollars. Qliance is targeting the working poor, the uninsured and small businesses looking for affordable and quality healthcare[29]. Critics contend that concierge medicine is elitist but upon further examination many practices work out to roughly $4 to $5 a day—about the same amount people spend on cigarettes or a coffee at Starbucks. This does not seem to be elitist but a matter of priorities. If healthcare is a priority, then concierge medicine can become mainstream and affordable, not an unjust practice.

Second, critics are also concerned about reimbursement issues. Physicians in concierge practices do not normally sever their ties with third-party payers. If reimbursement issues are handled improperly, then serious legal issues can arise. The American Medical Association Code of Ethics is quite clear on this issue:

Physicians who enter into retainer contracts will usually receive reimbursement from the patients' health care plans for medical services. Physicians are ethically required to be honest in billing and reimbursement, and must observe relevant laws, rules, and contracts. It is desirable that retainer contracts separate clearly special services and amenities from reimbursable medical services. In the absence of such clarification, identification of reimbursable services should be determined on case-by-case basis.[53]

Michael Blau, director of the Health Law Department at McDermott, Will and Emery, in Boston argues that concierge physicians need "to draw a very bright line between the non-covered concierge services for which you're collecting a fee, and covered services for which you're billing[54]." Blau suggests that concierge practices that bill insurers should consider setting up a complete separate business corporation alongside their professional corporation. "The business corporation, which is not authorized to engage in the practice of medicine, collects the non-covered fees; the professional corporation, which is authorized to practice medicine, accepts payment in fill for covered services from third-party payers, subject to coinsurance, deductibles and copays[53]." Justice demands that resources be equitably distributed, fairly priced and properly paid for by patients. Failure to do so is ethically irresponsible and morally objectionable.

If proper guidelines and safeguards are established nationally for concierge medicine it can be medically, legally and ethically justified. However, without these guidelines and safeguards numerous problems can and will arise.

RECOMMENDATIONS

After examining the medical, legal, and ethical aspects of concierge medical care, the authors of this paper are in favor of concierge medicine, but with proper safeguards. We believe that concierge medicine is best for the patients, the

physicians, and good for society as a whole. Although in favor of concierge medicine, specific recommendations for both the physicians and patients are provided.

The patient must be familiar with concierge care and understand the contract in which they are about to enter. Patients should perform their own research both on the physician and the actual contract. They should be aware of which services are covered by their insurance versus the concierge retainer agreement.

The physician must examine his/her motivation for switching to concierge medicine. Concierge physicians tend to be compensated more generously, have less paperwork and fewer total patients. Many physicians find that they are dissatisfied with their own work and the quality of care that their patients are receiving because of the lack of time. Switching to a concierge practice based on the best interest of their patients is not only admirable but strongly recommended.

The physician making the switch to concierge medicine must keep the patients that they will lose in highest priority, making sure the appropriate arrangements are made to find them a new primary care physician. The issue of abandonment is a major concern with concierge medicine. If a physician chooses to switch to a concierge practice, there will be hundreds of patients searching for a new primary care physician. Each transitioning physician should assist patients opting not to sign with the new concierge practice and help them have a smooth transition to their new doctor. This will provide the best continuity of care. If there is no accepting physician, then the new concierge doctor has an obligation to care for that patient whether they can afford the concierge retainer or not.

We recommend that younger, newer physicians consider concierge medicine. As a new physician, it would be advantageous to start a concierge practice right from residency, making it possible to avoid the difficult issue of patient abandonment.

Services offered in a concierge practice should medically contribute to the well being of the patient. We do not recommend excessive and extravagant services that have little to no medical value.

We believe that a concierge practice should offer scholarships that would address the needs of minorities, the poor, and the elderly. This would help to eliminate any disparities in healthcare. Physicians should make their services accessible to all patients, not only the wealthy.

We do not feel that the United States government should have the authority to determine whether or not concierge practices can operate. Physicians have the right to choose which patients they serve, and until the government helps to fund medical education for students, they are not in a position to dictate how a physician should operate their practice or on who they practice.

We recommend that concierge physicians set up a complete separate business corporation alongside their professional corporation if they choose to bill insurers. Concierge physicians need to distinguish between the uncovered concierge services for which they are collecting a fee, and covered services for which they are billing.

We recommend that concierge physicians develop a ‘menu’ of fees and services to offer. Services offered should reflect patient need and be available accordingly.

We recommend incentive programs and government loan forgiveness programs for medical students to increase the number of family practice physicians in the United States. We also recommend increasing the salaries of family practice physicians approaching those of specialty care physicians to increase the number of family practice physicians in the United States.

Concierge medicine must be treated seriously by physicians and patients alike because it is a concept that is here to stay. Paying a set annual fee for “special services” may appear to some to focus on money and greed but to others it may be redirecting the focus of medicine back to preventing disease and seeking wellness. If concierge physicians are successful in preventing illness and keeping patients healthier then it is in the best interest of patients, physicians and society as a whole.

References

1. Neurath P: While congress deliberates, venture firms see promise in 'direct care' model and pump $4M into qliance medical. Pudget Sound Business Journal; 2009.
2. Burton R: Where have you gone, marcus welby?; 2008. <http://www.salon.com/life/feature/2008/07/08/primary_care_physicians> (last visited June 1 2010)
3. Sack K: Despite recession, personalized health care remains in demand. The New York Times; May 11, 2009.
4. Wahlgren E: Concierge medicine: a doctor at your beck and call. Daily Finance; 10 Feb. 2010. <http://www.dailyfinance.com/story/concierge-medicine-patients-pay-up-for-a-doctors-undivided-att/19349963/>. (last visited May 6 2010).
5. physician salaries - salary surveys. Allied Physicians - Physician Employment.

<http://www.allied-physicians.com/salary_surveys/physician-salaries.htm>. (Last visited June 3 2010).
6. Weed J: If all doctors had more time to listen. New York Times, June 7 2009.
7. Dorsey ER: Influence of controllable lifestyle on recent trends in specialty choice by US medical students. The Journal of the American Medical Association; 2003; 290: 1173-1178.
8. Herzlinger RE: Who killed health care: America's $2 trillion medical problem--and the consumer-driven cure. New York: McGraw Hill; 2007.
9. Abelson R: A health insurer pays more to save. New York Times; June 21, 2010.
10. Fisher L: Free market medicine. Milkin Institute Review-A Journal of Economic Policy; 2009; 5-11.
11. Wu N: It's about health care, not health insurance; 28 Sept. 2009 available at.<http://www.xconomy.com/seattle/2009/09/28/it's-about-health-care-not-health-insurance/>.
12. Personal communication from Dr. Charles Whitney to Matthew Fadus (June 30, 2010)
13. A brief history of concierge medicine. AAPP.org; 2010. <http://www.aapp.org/a-brief-history-of-concierge-medicine/>. (last visited June 1 2010).
14. Graham-Silverman A: Two-tiered medical care for haves and have-nots. May 18 2010, available at <http://www.thefiscaltimes.com/Issues/Health-Care/2010/05/18/Two-Tiered-Medical-Care-for-Haves-and-Have-Nots.aspx>.
15. Matz J: Is boutique medicine or concierge care for you? 3 June 2009. <http://www.myoptumhealth.com/portal/Information/item/Is Boutique Medicine or Concierge Care ?archiveChannel=Home/Article&clicked=true>. (last visited December 11 2009).
16. Turner L: White coat or white glove: concierge medicine 101. 28 June 2009 <http://www.studentdoctor.net/2009/06/white-coat-or-white-glove-concierge-medicine-101/>. (last visited December 11 2009).
17. Dedman B: Clinic with two doors, a symbol of two- tier care. Msnbc.com. last visited July 25, 2010.
18. Ledue C: Number of uninsured Americans could grow by 10M in five years. Healthcarefinancenews.com; March 15, 2010; Last visited July 19, 2010.
19. Carnahan S: Concierge medicine: legal and ethical issues. J Law Med Ethics; 2007; Spring; 35(1): 211-5.
20. Stillman M: Concierge medicine: a "regular" physician's perspective. Annals of Internal Medicine; 2010; 152: 391-392.
21. Overfelt M: New visions for fixing health care - health care for a flat monthly fee. CNNMoney.com; 18 June 2009. <http://money.cnn.com/galleries/2009/smallbusiness/0901/gallery.health_care_entrepreneurs.smb/4.html>. (last visited June 29 2010).
22. Royse A: The doctor is IN, and the insurance is OUT. Just Cause; May 14 2009. <http://justcauseit.com/articles/doctor-and-insurance-out>. (last visited July 3 2010).
23. Marquis JR: Concierge medical practices expanding across the nation. Warner Norcross & Judd; February 2004. <http://www.wnj.com/concierge_medicine_expansion/>. (last visited June 29 2010).
24. Lloyd J: Doctor shortage looms as primary care loses its pull. USA Today; 2009
25. AMA. Code of Ethics. http://www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/opinion8055.shtml
26. "Boutique" medical practices-premium care for a premium price. Thompson Hine LLP; 10 Feb. 2003. <http://www.thompsonhine.com/publications/publication41.html>. (last visited December 11 2009).
27. Crausman RS, Baruch JM: Abandonment in the physician-patient relationship. Medicine and Health Rhode Island; 2004 May. Last visited on July 21, 2010.
28. Sawyer M: Elite Practices or Practicing Elitism? Portland Monthly; Sept. 2005; 50-51.
29. Bliss G: The last resort? The case for direct practice models in primary care. Medical Home News; Nov. 2009. <http://www.qliance.com/pdf/Medical+Home+News.pdf>. (last visited July 1 2010).
30. Linz JA, et al: Impact of concierge care on healthcare and clinical practice. JAOA; 2005 Nov; 105(11): 515-520.
31. Thompson RE: The ethics of exclusivity: should doctors practice concierge medicine? PEJ; 2009 Sep-Oct; 35(5): 95-9.
32. Brennan TA: Concierge care and the future of general internal medicine. J Gen Intern Med; 2005 Dec; 20(12): 1190.
33. Alexander GC, et al: Physicians in retainer ("concierge") practice: a national survey of physician, patient and practice characteristics. J Gen Intern Med; 2005 Dec; 20(12): 1079-1083.
34. NOVA | doctors' diaries | the hippocratic oath: modern version. available at <http://www.pbs.org/wgbh/nova/doctors/oath_modern.html>.
35. Goldman E: Despite recession, concierge practices show brisk growth, excellent outcomes. Holistic Primary Care. <http://www.holisticprimarycare.net/topics/topics-o-z/practice-development/1014-despite-recession-concierge-practices-show-brisk-growth-excellent-outcomes>
36. Childs v. Weis, 440 S.W.2d 104, 107 (Tex. Civ. App. 1969)
37. Carnahan S: Law medicine and wealth: does concierge medicine promote heath care choice, or is it a barrier to Access 17; Stan. L. & Pol'y Rev; 121,149; 2006
38. Hall M: A theory of economic informed consent 31 Ga. L. Rev. 511; 528-32; Winter 1997.
39. AMA council on medical services report, report of the council on medical medical services on special physician patient contracts. CEJA Report 9-A-02 (June 2002), available at www.ama-assn.org
40. Kalogredis JV: Should You Consider Concierge Medicine. Physician's News Digest; February 2004.
41. 31 U.S. C. §3729(a) (2010).
42. 42 U.S. C. §1395u(i) (2010).
43. 42 U.S.C. §1395u(h) (2010)
44. 42 U.S.C. §1395w-4(g)(2) (2010)
45. Patient protection and affordable care act, public law no. 111-148; March 20, 2010
46. Marquis JR: New health care act deals serious blows to concierge medicine. April 22, 2010. Available at http://wmol.com/jrm/Concierge%20article%204%2022%2010%201.pdf
47. Beauchamp T, Childress, J: Principles of biomedical ethics. 5th Ed, Oxford University Press. 2001
48. National commission for the protection of human subjects of biomedical and behavioral research: The belmont report: ethical principles and guidelines for the protection of human subjects of research; Washington, D.C.: U. S. Government Printing Office, 1979): B-1.
49. Pellegrino ED, Thomasma DC: A philosophical basis of medical practice; 1981; New York: Oxford University Press: 213.
50. American medical association's council on ethical and

judicial affairs: Code of medical ethics: current opinions with annotations 2004-2005 Edition, (United States of America: AMA Press, 2004): 8.055, Retainer Practices, pp. 199-200.
51. Jonsen AR, Veatch RM, Walter L: The belmont report: ethical principles and guidelines for the protection of human subjects of research, in Source Book in Bioethics: A Documentary History eds. Washington, D.C.: Georgetown University Press; 1998: 22-28.
52. Clark P: Prejudice and the medical profession: a five year update, Journal of Law, Medicine and Ethics; 2009; 37(1): 118-133.
53. American Medical Association's Council on Ethical and Judicial Affairs, 8.055, #4, p. 200.
54. Guglielmo W: How to set up a concierge practice. Modern Medicine; August 22, 2003; 1-7. http://www.modernmedicine.com/modernmedicine/article/articleDetail.jsp?id=112475

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