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Newsletters

Medical Litigation Newsletter - April 2011

April 4, 2011

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Venue À La Carte?

"À la carte": to designate an option to choose at no extra charge; having unlimited choices with a separate price for each item. In *Kaiser v. Dr. A. Doll-Pollard and Southern Obstetrics and Gynecological Associates,* 398 Ill. App. 3d 652, 923 N.E.2d 927 (5th Dist. 2010), the Illinois Fifth District Appellate Court may have given patients' attorneys in certain medical malpractice cases the unlimited option to choose or to designate their choice of venue.

Co-Management Re-Emerges as a Hospital-Physician Integration Option

Health care reform promotes performance-based pricing, value-based bundled payments, shared savings, and other payment models that are designed to focus on improving the value of care by improving quality and reducing costs. Clinical integration is a way for hospitals and physicians to bridge the gap between fee-for-service reimbursement and new value-based payment methodologies. The core feature of successful clinical integration requires the strategic alignment, collaboration and integration of hospital and physician goals. In order to recruit and retain physicians whose interest and efforts support service line growth, the hospital's goals for the service line must be aligned with those of the physicians. Engaging physicians in hospital service lines is critical to success, as physicians are the main driver of hospital volumes, profitability, quality and patient satisfaction. Hospitals that fail to achieve clinical integration with their medical staffs will be unable to effectively compete in a "value" driven health care economy.

Contact for more information: Michael A. Dowell

Hinshaw Representative Matters

Patrick F. Koenen, a Partner in Hinshaw's Appleton, Wisconsin, office, received a defense verdict in a wrongful death case against a urologist in which plaintiff sought approximately $900,000 in damages. The patient was a 66-year-old woman who suffered from uterine cancer. She was taken into surgery by a gynecologist-oncologist to remove the primary cancer site and any areas of metastatic spread. The urologist was called in to do an intra-operative evaluation of a suspicious looking adrenal gland. During that procedure, the gynecologist-oncologist biopsied a mass near the adrenal gland, with the urologist assisting. The mass was, in fact, the patient's pancreas. The

Attorneys

Michael A. Dowell

Brett B. Larsen

Jill M. Munson

Service Areas

Appellate

pancreatic injury allowed leakage of acidic enzymes onto the patient's bowel, which caused it to perforate. The patient became septic and died 33 days later, after having undergone nine surgeries to try and save her. Plaintiff alleged that: the urologist had misidentified the mass and failed to note that it was a normal pancreas; the gynecologist-oncologist was relying on the urologist's expertise of organ location during the subject part of the operation; and the urologist gave the gynecologist-oncologist bad advice.

Michael P. Malone, Brett B. Larsen and Jill M. Munson, all attorneys in Hinshaw's Milwaukee office, recovered a complete defense verdict from a jury in a medical malpractice case in which approximately $2.5 million in damages were sought. Plaintiff, a 78-year-old patient, had lost her vision as a result of temporal arteritis, an inflammation of the arteries that supply blood to the optic nerves. The inflammation causes a buildup that eventually occludes the arteries and results in permanent vision loss. The patient claimed that defendant physicians failed to timely diagnose and treat her. Hinshaw represented the patient's primary care physician and one of his partners in their internal medicine group. Over the course of a two-week trial, Hinshaw's attorneys established that the patient's presentation was extremely atypical and that her symptoms were insufficient to alert the physicians that she had temporal arteritis. Additionally, a neuro-opthamologist testified that the patient's disease was so malignant that even earlier treatment would not have saved her vision.

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