ICD-10: The Final Nail In The Coffin For Our Profession?

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The International Classification of Diseases, 10th revision (ICD-10), is now just around the corner with its implementation date set for October 1, 2014. ICD-10 is not part of the Affordable Care Act (ACA). It is owned by the World Health Organization, and its primary purpose historically has been for vital statistics and epidemiological data. ICD was first published in 1900, and ICD-9 was introduced in the United States in 1979. ICD-10 is being implemented by Secretary Kathleen Sebelius, the Department of Health and Human Services (HHS), and the Centers for Medicare and Medicaid Services (CMS). On January 16, 2009, HHS published a final rule in which Secretary Sebelius adopted ICD-10 as the HIPAA standard to replace ICD-9 with implementation set for October 1, 2013. On August 24, 2012, HHS issued a new final rule that officially changed the implementation date from October 1, 2013 to October 1, 2014 primarily because of advocacy from the American Medical Association (AMA). HHS made the following statement in the Federal Register as part of the review process:

If 25 percent of physician claims were to continue to be submitted using ICD-09 codes after an October 1, 2013 compliance date, millions of claims would likely be returned and physicians might experience devastating cash flow problems. Lack of reimbursement could force practices to shut down, making medical services inaccessible to patients and/or forcing physicians to ask patients to pay up front, out-of-pocket, for medical services, which, aside from being barred by the terms of some insurance programs, would be extraordinarily burdensome to patients.

HHS also stated:

A two year delay in the ICD-10 compliance date may also signal a lack of HHS’ ICD-10 commitment, potentially engendering industry fear that there could be another delay in, or complete abandonment of, ICD-10 implementation, with subsequent heavy financial losses attributable to ICD-10 investments already made. Industry representatives also expressed concern about the loss of momentum in progress toward ICD-10 compliance that would result from a 2-year compliance extension.

HHS and Secretary Sebelius continue to speak of industry favoring ICD-10. They apparently do not consider physicians as part of the industry.

Resolution 216 from the AMA meeting in November 2011 was passed without dissent and called for our AMA to vigorously work to stop the implementation of ICD-10. Since that meeting we have passed other resolutions (1) to vigorously advocate that CMS eliminate the implementation of ICD-10 to alleviate the increasing bureaucratic and financial burdens on physicians and (2) to reiterate to CMS that the burdens imposed by ICD-10 will force many physicians in small practices out of business. In spite of this very strong stance in opposition to ICD-10 by organized medicine and very strong personal lobbying by the President and Board Chair of the AMA, Secretary Sebelius continues to forge ahead with the

\[1\] “A Change to the Compliance Date for ICD-10-CM and ICD-10-PCS Medical Data Code Sets, Proposed Rule.” Federal Register 77:74 (17 April 2012) p. 22989.

October 1, 2014, implementation date. This stance by Secretary Sebelius is amazing since the AMA represents every state medical association and every national surgical and medical specialty society in this country. Physicians are the backbone of medicine in this country. Physicians are the ones with their feet on the ground working hard every day to care for our country’s population. Physicians are part of the “industry,” and we are the ones who best understand how the day-to-day government regulations are harming our profession as well as the care and access to care of our patients. Physicians are the part of the industry who work on Christmas, other holidays, weekends, and nights, while the rest of the industry is at home. Physicians are the ones who have to make coding decisions in the office under short time constraints while the government and insurance regulators review our records with much more time on their hands to criticize our choice and deny payment for our care. The government and Secretary Sebelius have no idea how much harm they will do to our profession by implementing this tsunami of codes into our practices all on one day! I think they would have learned some lessons from October 1, 2013, when the implementation of the ACA exchange website failed. Either HHS did not learn from that experience, or they simply don’t care about the physicians and patients in this country.

Even if you think ICD-10 is the best thing that has happened to medicine, it is not being implemented properly and the negatives far outweigh the perceived positives. Most of the arguments for changing to ICD-10 have to do with statistical things and very little with patient care. There has never been a study clearly showing that EMRs or ICD-10 will decrease errors or improve patient care. There will be definite costs associated with implementation, and studies have shown that our government is sticking each physician with a $23,000 tax bill for the privilege of implementing ICD-10 and practicing medicine the way Uncle Sam tells us to do it.

The actual transition will be complicated, and experts have said that it will take a year of preparation to make the transition, so if you haven’t already started then you have a problem. This transition will be one that every physician, hospital, insurance company, and anyone in the complicated medical payment pyramid will have to make all on one day. It is important to understand that if you are not ready, and if all of your vendors are not ready by October 1, 2014, then your income plummets to zero. And if you do not have a friendly banker, then you are out of business. My bank has refused to give me a $1.6 million unsecured loan, which is what it takes to run my eight-physician practice for two months. I can’t say that I blame them, and I am not about to put up my personal assets and retirement funds as collateral.

The United States is the only country that will use all approximately 90,000 codes, and the United States is the only country that will use it for billing purposes, that will use it in the outpatient setting, and that puts the cost of implementation on physicians and the private sector. This distinction is important to note because the main reason given for implementing ICD-10 is that we are the only nation who has not done so. We are also told that we must move ahead with the new technology because we have outgrown ICD-9; however, if the technology is bad, will not improve patient care, and will make our practices less efficient then there is no need to implement it. Another major comment by CMS is that the “industry” has already invested millions of dollars in this new system so we must move on with it. I have also invested much money preparing for the implementation of ICD-10; however, the money lost after implementation to physicians will far surpass the money spent preparing for it. Perhaps someone in the health care system will save money on ICD-10 however it will be at the expense of physicians and patients. These statements as well as almost every other reason to implement ICD-10 are not accurate, and like everything else that comes out of Washington is full of politics. CMS also says that after ICD-10 implementation, physicians can expect changes in payers’ prior authorizations and approvals as they
refine medical policies. Physicians may also see a significant increase in denials as a result of coding challenges. Audits of all types are increasing in depth and breadth, including Recovery Audit Contractors. After the transition to ICD-10, the specificity and detailed information levels will result in greater documentation scrutiny.³

Why are physicians treated differently? We can’t have ownership in hospitals, and Stark laws make many cost-effective services we can provide for our patients almost impossible. We can’t have private contracting with our patients, and if we even talk about fees with one another then we are in violation of antitrust laws where as insurance companies use their massive numbers and monopolistic powers to control us and determine what we are paid for our services. There is no true competition or free market forces in health care. Previous attempts to control the legal profession’s contingency fee payments did not get to first base, nor does any significant medical liability reform. What would happen if our government tried to pass a law on industry mandating a new accounting system for every business that would cost every employer more than $25,000 to implement? It also would not get to first base, yet this is exactly what Secretary Sebelius and CMS are doing to our profession. If we do not comply, then basically we are out of business unless we can afford to be a 100% cash only practice.

Many physician practices (especially the rural one- or two-physician practices) do not have the time, money, or expertise to meet all of the requirements for meaningful use in EMR (electronic medical records), the PQRS (Physician Quality Reporting System) program, e-prescribing, HIPAA, OSHA, CLIA (Clinical Laboratory Improvement Amendments), and now ICD-10. Physicians are overwhelmed with all of the regulations being poured down on us from Washington and are slowly getting regulated out of business. Each regulation is just another nail in the coffin. Physicians in our country are looking at huge increases in capital outlays to meet EMR requirements and at the same time are looking at penalties for not meeting the meaningful use requirements, for not meeting a threshold for e-prescribing, for not reporting appropriately in the PQRS program, along with a 2% reduction in payment due to sequestration. If ICD-10 is implemented and physicians are not prepared, their payments will go to zero. That is a pretty steep penalty for a coding system that will not improve the care we give our patients in our offices.

There are two bills in the U.S. Congress that can put a halt to this insanity. They are H.R. 1701 and S. 972, entitled “The Cutting Costly Codes Act of 2013.” The two bills in Congress ask for a study within six months and recommendations for a replacement of ICD-10. There are several things that can be done. The main reason the American ICD-10 is so complex is because it will be used for billing. If we decouple it from billing, then things will be simplified. That is just one idea. We can also come to the realization that doctors need to get their heads out of the computers and start taking care of their patients again. All of these detailed codes are said to be helpful for research and statistics; however, they still do not meet the requirement of the scientific method that we use in medical research. These detailed codes are not needed in the day-to-day care that we give our patients in our offices.

We are a profession with a social contract between our patients and us, not between the government and us. We are losing our profession slowly but surely, and ironically, because we are too busy caring for our patients to see it coming. Secretary Sebelius, Washington, and other non-patient care physicians in the health care system simply do not understand what they are doing and do not see the big picture.

On October 1, 2013, they should have seen the enormity and complexity of the health care system. Patient care didn’t suffer (at least not yet); however, when things don’t go right on October 1, 2014 (and it will not—why else are we being told to have a line of credit and contingency plans), then patient care will suffer. Physicians are humans, too, and if our income goes to zero because of an ill-conceived coding system and problems in the payment pyramid of medicine, then it may be the final nail in the coffin for many of us individually and potentially for our profession.