The Reality of ICD-10 and our Medical Profession

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There is a real probability that physicians are on the brink of losing their profession as a result of massive Government mandates and regulations. Many 60 year old physicians who have another good 10 years of practice left in them are retiring early. Many physicians young and old and perhaps mostly in small rural practices will be put out of business by our Government on 10/1/15. A “profession” is not a technical or legal distinction, rather it is a social contract that is based on trust and in our case it is with physicians and society. This social contract carries with it certain responsibilities and corresponding privileges. We continue to fulfill our many responsibilities however we have lost most of our privileges including the freedom to determine the standards of our profession without being subjected to external interference; the freedom to exercise professional judgment without external judgment except by one’s peers; and the freedom to earn a living from the practice of our profession and to establish the basis for the economic relationship with those being served without external interference. So, is the practice of medicine still a profession? I am about to show you the mother of all Government regulations that will probably be the last nail in the coffin for many of our practices.

Marilyn B. Tavenner the administrator of the Centers for Medicare and Medicaid Services (CMS) has determined that ICD-10 will be implemented on 10/1/15 and no one is going to stop it. On 9/30/15 we will have to code in ICD-9 and on 10/1/15 we must change to ICD-10. If anything in the massive payment pyramid between the patient and the physician goes wrong then the physician doesn’t get paid. The government computers didn’t work on 10/1/13 when the ACA exchanges went online and they didn’t work for something as simple as providing data for the “Sunshine Act” so what makes CMS think that things will work smoothly on 10/1/15? The answer is that CMS knows that things will not work smoothly. Here is a quote from CMS before ICD-10 was delayed: “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.”

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 will increase 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.

The American Academy of Professional Coders (AAPC) says that, “becoming familiar with all of the ICD-10 coding concepts was like learning to read Greek.”

President Obama has stated many times that he is committed to reducing regulatory burden. Former HHS Secretary Sebelius said that HHS is committed to work with the provider community to reexamine the pace at which HHS and the nation implement these important improvements to our health care

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The facts are that HHS is not working with physicians and a simple delay of ICD-10 is not going to protect physician’s practices because it does not do a thing to change how ICD-10 is to be implemented and they have not cut back at all on the numerous other government mandates that they are requiring. Physicians are not ready from a computer and EMR standpoint just like CMS is not ready with their 1980 computers for this massive ICD-10 implementation. It will take more than just a 1-2 year delay for physicians to be in a position where they can handle a complete overhaul of our coding system with an implementation as designed by CMS.

CMS said that physicians should have savings to keep their practices going for 4-6 months to survive the implementation of ICD-10 which is ridiculous. CMS has also said that ICD-10 codes provide more robust and specific data that will help improve patient care and enable the exchange of our health care data with that of the rest of the world that has long been using ICD-10. CMS continues to spread falsehoods in trying to justify the move to ICD-10. There is nothing to support the statement that it will improve patient care. Codes do not improve patient care. They will provide more statistics however the statistics may not be accurate if the codes are incorrect and with the exponential increase in codes it will be easy to get the wrong one. There are 250 codes dealing just with diabetes. CMS continues to justify their push for ICD-10 by saying we are the only country that does not use ICD-10. They have not once told the whole truth: we will be the only country to use all 90,000 codes; the only country to couple these codes with payment codes and use them to deny payment to physicians; the only country to use these codes in the outpatient setting; and the only country to put the cost of the system on the backs of the physicians which is estimated to be anywhere from $20,000 to $80,000 per physician.

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 seeing costs rise with decreased productivity because of the new system. I spend an extra 2 – 3 hours every night at home just trying to finish entering all of the needed data into my patients’ records that I did not have time to do during the day. The only other choice I have is to cut corners and not document very well or to see fewer patients and lose money. The only clear winners in this game are the big companies that lobbied for the EMR legislation and have now seen their profits and sales soar to levels never seen previously. I suspect the same will be true with ICD-10 and those in the industry that are demanding the implementation will financially benefit whereas physicians will have another new costly regulation thrown on them.
So, what is the answer? I think we need a 5 year delay in order for a simple fix which is sad. I say that because CMS will not listen to organized medicine and the political climate in Washington is not good for reasonable solutions. There are several potential ways to fix the problem in order to protect our practices and our ability to care for patients:

1) Uncouple the ICD diagnosis code from the CPT code that we use for billing. This would allow physicians to code for their services as usual and they would continue to be paid as usual on the new date of implementation. Physicians would start the new ICD-10 coding on the day of implementation however would not be penalized for coding mistakes or mistakes that happen in the system that may not even be their fault because the payment for services will not be based on the code. We are the only country that couples the ICD code with payments. Why should the diagnosis impact on our payment? Along with uncoupling we should also decrease the massive number of codes as Canada did.

2) We could use ICD-9 and ICD-10 concurrently for a year so that physicians and the industry could slowly adopt ICD-10 and work out the problems. CMS has concluded that concurrent use of both ICD-9 and ICD-10 (at user discretion) would be overly complicated, confusing, and costly most likely because of their antiquated computer system. This still needs to be looked into more thoroughly.

3) We could cold Turkey adopt ICD-10 on 10/1/15 and CMS could simply say they will not penalize physicians for mistakes in the first year (grace period). The concern is what would other payers do?

4) We could scrap ICD-10 all together and wait for ICD-11. When the WHO introduces ICD-11 in 2017 then let’s all work together to make the appropriate changes for the United States’ clinical modification and work with one goal to implement this in the early 2020’s after the Affordable Care Act is fully in place and after physicians have had more time to fully implement their EMR’s.

The AMA has bent over backwards to help President Obama’s administration and CMS with many health care initiatives including the ACA. The implementation of ICD-10 in its present form should be stopped. The desires of those in the health care industry who will profit from ICD-10 should not be placed over the desires of the practicing physicians in this country who are taking care of patients.

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. New HHS Secretary Sylvia Burwell, Washington, and other non-patient care individuals 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 on that day, however, when things don’t go right on October 1, 2015, and 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.