

Health Law: Quality & Liability

Prof. Thaddeus Pope

Accreditation,
Certification, Private Reg



Course theme:
Using **law** to
ensure quality
healthcare



Primary
course focus:
threat of
tort liability



But that is
just one legal
tool to help
ensure quality



Other Tools



Gate-keeping:
controlling who
gets to practice
medicine



Gate-keeping mechanisms



- Licensing (state gov.)
- Hospital credentialing (private)
- MCO credentialing (private, unless CMS)
- Market forces




1. Market Forces



"IT IS NOT FROM THE BENEVOLENCE OF THE BUTCHER, THE BREWER, OR THE BAKER THAT WE EXPECT OUR DINNER, BUT FROM THEIR REGARD TO THEIR OWN INTEREST."

-ADAM SMITH-

Intellectual TAKEOUT




Brag about services




A time to **build up.**
Watch us grow at www.TheNewHTMC.org

Did you know?

- HTMC's HonorVest Services offers:
 - Free postnatal coverage for mom
 - Professional photography
 - Baby's first hospital stay
 - A personal lactation consultant
 - Inpatient and Outpatient services
 - A hospital-based Intensive Care Unit
 - Patient service advisors
 - Labwork program with AUP (AUP) coverage

HTMC offers a safe, compassionate environment for you and your new baby. After 81 years of health care service, we look forward to providing continued care for you and your growing family as we grow with you.

The new HTMC will provide larger patient rooms, 37 post-partum rooms, 16 neonatal intensive care beds and 11 labor and delivery rooms. With this state-of-the-art medical center, HTMC can take care of Middle Tennesseans better than ever before and for many years to come.



Middle Tennessee Medical Center
We're here for life.



Brag about **outcomes**



Meet Dr. Tom Kucharchik, Family Medicine



Hampton Medical Center & Coastal Plains Primary Care
to welcome Dr. Tom Kucharchik

He is a board certified family physician who has been practicing for more than 25 years.

Medical School: Columbia University
Residency: Medical University of South Carolina
Certifications: American Board of Family Medicine

Now Scheduling Appointments
for the week of June 24th

Call: 803.943.7612



Public **reporting** on quality



ZocDoc
Get well sooner.

Consumer Reports

healthgrades[®]
How America finds a doctor.

RateMDs.com

vitalsSM





Public reporting on costs, COIs



Breaking Down the Payments
 Medicare disclosed payments of \$77 billion in 2012 to more than 880,000 doctors and other medical providers for services and equipment. The breakdown for the top 15 medical specialties ranked by average paid to individual billers:

Provider type	Number of providers	Total paid in millions	Average amount paid per provider
Hematology/oncology	7,374	\$2,703.9	\$366,677
Radiation oncology	4,135	1,499.6	362,666
Ophthalmology	17,067	5,585.0	327,239
Medical oncology	2,613	806.6	308,702
Portable X-ray	7	2.0	288,020
Rheumatology	4,053	1,044.5	257,701
Nephrology	7,503	1,685.6	224,657
Cardiology	22,241	4,965.3	223,248
Dermatology	10,507	2,235.3	212,745
Interventional pain management	1,856	366.1	197,229
Peripheral vascular disease	74	14.3	193,441
Hematology	687	127.6	185,757
Cardiac electrophysiology	1,117	204.0	182,641
Vascular surgery	2,696	485.3	180,019
Urology	8,791	1,385.4	157,589

Source: Centers for Medicare and Medicaid Services
 The Wall Street Journal

2. Private regulation

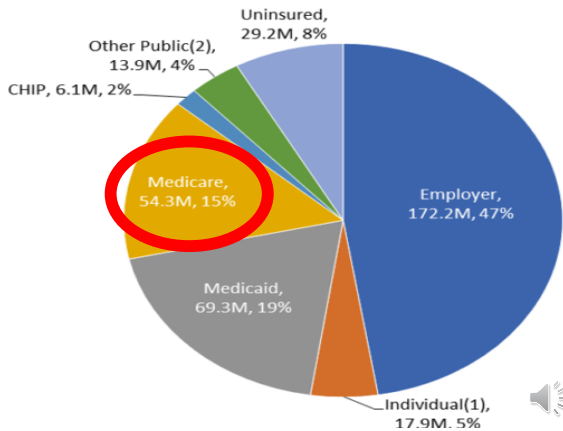
Hospital credentialing

Granting, revoking,
& restricting staff
privileges



MCO Credentialing

Listing, delisting
in networks
Medicare exclusion



Take These Steps to Enroll in the Medicare Program



Step 1: Obtain a National
Provider Identifier (NPI)



Step 2: Complete the Proper Medicare
Enrollment Application



Step 3: Await Application
Processing



Step 4: Keep Your Enrollment
Information Up to Date



In addition to
business reasons,
direct liability
incentive



Specialty Boards

Certification,
decertification



Board Certification and Maintenance of Certification



**American Board
of Medical Specialties**
Higher standards. Better care.®

- Board Certification is a voluntary process, and one that is very different from medical licensure. Obtaining a medical license sets the minimum competency requirements to diagnose and treat patients. It is not specialty specific. Board Certification demonstrates a physician's exceptional expertise in a particular specialty and/or subspecialty of medical practice.



Contrast Licensing v. Accreditation



Accreditation



Not state government

Private sector body
sets standards,
gives designation



Voluntary, not mandatory
like licensing

Unlike licensure, does not
create an absolute barrier

Consumer can choose



One license for **all**
MD/DO –
dermatologists
to oncologists



Works the
same way in
legal profession



License absolutely
required

One license for all
(criminal to tax)



You **must** have
a license to
practice law



You may
distinguish
yourself with
other credentials



But still have licensure
requirement
("minimum floor")



Minnesota
24,000 lawyers
44.45 per 10,000
6th highest in USA



940 Minnesota attorneys are certified as **specialists**

- Business Bankruptcy
- Civil Trial Practice
- Consumer Bankruptcy
- Creditors' Rights
- Criminal Law
- Elder Law
- Family Law Trial Advocacy
- Labor and Employment Law
- Real Property



Healthcare facilities



Facility Licensing



Both functions
Gatekeeping
Discipline



As with individual practitioners, a license is **required** to operate a healthcare facility



- Hospitals
- Assisted care living facilities
- End-stage renal dialysis centers
- Halfway house treatment
- Nursing homes
- (and 20+ more)
- NOT** physician offices



1200-8-1-.03 DISCIPLINARY PROCEDURES.

- (1) The board may suspend or revoke a license for:
 - (a) Violation of federal or state statutes;
 - (b) Violation of the rules as set forth in this chapter;
 - (c) Permitting, aiding or abetting the commission of any illegal act in the hospital;
 - (d) Conduct or practice found by the board to be detrimental to the health, safety, or welfare of the patients of the hospital; and
 - (e) Failure to renew license.



Facility accreditation



Independent,
non-governmental

But states rely on
them



Facility Certification



Will the FED GOV
spend Medicare /
Medicaid dollars
at this facility?



Voluntary like accreditation

Contrast licensure



inpatient psychiatric problems, but got into compliance (2014)



70 clinics in 22 states **excluded** from Medicare & Medicaid for 5 year minimum

