

## Medical Tourism: U.S. Providers Weigh In

*Monday, Jul 14, 2008* --- On June 16, 2008, at its annual policy-making meeting, the American Medical Association (“AMA”) adopted guidelines for medical tourism. The guidelines, described in an AMA press release as a first-of-its-kind, address the phenomenon of U.S. residents traveling abroad for medical care – so-called “medical tourism” or “medical travel.”

The timing of the adoption of the AMA guidelines is not unexpected, as U.S. health insurance companies and employers begin to actively consider incorporating medical tourism into their health benefit programs.

Medical tourism is not a new phenomenon. Patients from countries without well developed medical infrastructure have always traveled abroad to seek medical care. And the U.S. has been, and continues to be, a primary destination for medical tourists.

But more recently, U.S. residents, facing the high cost of health care in the U.S., have begun to look abroad for alternatives. This is especially true for uninsured and under-insured individuals. What they have found are a number of high-quality, customer-service-oriented hospitals and other facilities in developing nations, such as India and Thailand, that provide services at costs sometimes as much as 80% lower than in the U.S.

Entrepreneurs entered the market a number of years ago to help prospective medical tourists find appropriate facilities. Companies such as IndUS, MedRetreat and Planet Hospital have been helping U.S. residents receive care at foreign hospitals for many years.

The phenomenon of traveling to southeast Asia and other far-off destinations for medical care follows what has been on-going in the southwestern U.S. for many years. Some employers close to the Mexican border have offered a medical tourism benefit option to their employees who travel to Mexico for treatment.

But travel across the border to Mexico for dental work is not as involved a process as traveling to India for heart surgery or Singapore for orthopedic procedures.

What began as a phenomenon identified almost exclusively with the self-pay, under- and uninsured market is now expanding into the insurance and employee benefit market, as insurance companies, benefits consultants, third-party administrators and self-insured employers begin to develop medical tourism products.

The development within the third-party payer market has many anticipating a huge increase in the number of medical tourists as plans roll out, promising huge savings to employers and those patients who choose the medical tourism option.

Those involved in the medical tourism industry have long awaited the “official” response of the U.S. provider community. Already, the United Steelworkers has made its views known when it effectively stopped a worker in North Carolina from taking advantage of a medical tourism program that would have netted the employee approximately \$10,000 in incentive payments.

The United Steelworkers also wrote to the House Committee on Education and the Workforce, the House Committee on Energy and Commerce, the House Committee on Ways and Means and the U.S. House of Representatives outlining its concerns with medical tourism:

“No U.S. citizen should be exposed to the risks involved in international travel, possible exposure to less than sanitary conditions, lack of oversight, forfeiture of legal rights and little, if any, recourse in the event of problems. These are all unwarranted risks to which Americans should not be subjected. The willingness of employers to offer incentives for assuming these risks is frightening. The right to safe, secure and dependable health care in one’s own country should not be surrendered for any reason – certainly not to fatten the profit margins of corporate investors.”

But not until now have any U.S. provider organizations taken a definitive position with respect to the development of the medical tourism industry. The AMA guidelines, rather than a set of protectionist proposals, address issues that many in the medical tourism industry have been struggling with – and which concern the United Steelworkers. In fact, the International Medical Travel Association has indicated its strong support for the AMA guidelines.

The AMA guidelines address certain core issues that are implicated by the medical tourism phenomenon. While the guidelines generally provide excellent guidance, they do highlight some of the subtleties and complicated aspects of this phenomenon.

The guidelines unequivocally state that “[m]edical care outside the U.S. must be voluntary.” This is a proposition that everyone can support, but its general nature also makes it somewhat ambiguous in application. But the second guideline gives an indication of the AMA’s assessment of what might undermine the notion of a purely “voluntary” choice.

The second guideline provides that financial incentives to travel abroad for care “should not inappropriately limit the diagnostic and therapeutic alternatives that are offered to patients, or restrict treatment or referral options.”

By tying the notion of providing the patient with a full range of choices or

options to the notion of financial incentives, the AMA appears to be suggesting that offering patients a financial incentive to travel abroad may be inappropriate. But this goes to the heart of the development of this industry.

One of the reasons the institutional health industry is looking to medical tourism is the cost savings offered by foreign providers. That cost savings is only realized if there is utilization. Many who develop medical tourism products view financial incentives as a way to foster utilization. Accordingly, the AMA guidelines could be viewed as running counter to what may be a key feature of the institutionalization of medical tourism.

The AMA guidelines predominantly focus on patient safety, as well. These guidelines should be easily embraced, even if in concept only, by the medical tourism industry. These guidelines:

- (a) call for patients to travel only to facilities accredited by the Joint Commission International (affiliated with the Joint Commission) or other internationally recognized accrediting organization,
- (b) would require patients to have access to physician licensing and outcome data as well as facility accreditation and outcome data,
- (c) require patients to be informed about potential risks associated with medical treatment and travel and
- (d) call for the coordination of local follow-up care in the US.

Most involved in the medical tourism industry would embrace these measures, and indeed, would go farther in some areas.

For example, the International Medical Travel Association as well as the Medical Tourism Association both are looking at ways to develop uniform methods of preparing and distributing statistical information, including outcome data, from hospital system to hospital system and across national boundaries.

In addition, many medical tourism facilitators, such as MedRetreat, Planet Hospital, IndUS and BridgeHealth already employ highly developed protocols associated with the continuity of care and patient safety with respect to patient travel.

Accordingly, in this regard, the AMA guidelines reinforce what the medical tourism industry is already doing.

The AMA guidelines address a number of additional issues, again, some of which the medical tourism industry is already addressing. One of these issues is the privacy of a patient's medical record.

The AMA guidelines would require that the transfer of a patient's medical record to and from U.S. facilities be consistent with HIPAA regulations. The

medical tourism industry is already addressing this issue by requiring foreign providers to sign agreements requiring that HIPAA standards be met, even if the foreign facility is not otherwise obligated to follow HIPAA.

The payment of the costs associated with follow up care is also addressed by the AMA in one of its guidelines. Specifically, the AMA advocates that financial coverage of care outside of the U.S. “must include the costs of necessary follow-up care upon return to the U.S.”

This is a practical guideline that few in the medical tourism industry should object to. As third-party payers and employers offer a medical tourism option, it is logical that the benefits incorporate pretravel care and post-travel follow up care. By arranging this care in advance, and agreeing to pay for such care, the risks to the patient are minimized.

The final guideline of the AMA states that “[p]atients should be informed of their rights and legal recourse prior to agreeing to travel outside the U.S. for medical care.” This is a very important issue for those in the medical travel industry because the legal systems abroad do not generally provide for the same type of monetary recovery in the event of a bad outcome.

Few foreign countries, for example, allow for punitive damages. This distinction between the U.S. legal system and the foreign legal system must be carefully explained to the patient. Many participants in the medical tourism industry already provide this explanation. However, as third party payers and employers provide medical tourism options, this patient information and education will be crucial.

The press release announcing the AMA guidelines also stated that the AMA will introduce model legislation for consideration by state lawmakers. At this time it is unknown how that proposed legislation will incorporate the guidelines or expand upon them.

Even if draft legislation is proposed, it may not impact many medical tourism participants. Many of the third-party payers and self-insured employers developing medical tourism benefits are not covered by state insurance laws, but are covered by ERISA instead.

The AMA guidelines are an important first statement from one of the primary provider associations in the U.S. They offer practical and aspirational guidance on a range of subjects important to the development of the medical tourism industry.

As the medical tourism industry continues to develop, it will be essential that third-party payers, facilitators and employers consider the AMA guidelines and use them to help ensure that patients opting to receive care from a foreign provider maximize the quality of the care provided and minimize the risks associated with travel abroad.

In addition, the AMA guidelines suggest the possibility of the medical tourism

industry working together with U.S. providers to help ensure patient safety.

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