communications to the editor

Communications for this section will be published as space and priorities permit. The comments should not exceed 350 words in length, with a maximum of five references; one figure or table can be printed. Exceptions may occur under particular circumstances. Contributions may include comments on articles published in this periodical, or they may be reports of unique educational character. Please include a cover letter with a complete list of authors (including full first and last names and highest degree), corresponding author’s address, phone number, fax number, and e-mail address (if applicable). Specific permission to publish should be cited in the cover letter or appended as a postscript. CHEST reserves the right to edit letters for length and clarity.

Editor’s Note:
Freedom of speech is alive and well at CHEST.

A. Jay Block, MD, FCCP
Editor-in-Chief, CHEST

Get Real, Dr. Block

To the Editor:

I read your cri de coeur about managed care (July, 1996). It appears to me that the time has come for you to divorce whatever accommodationist organizations you may belong to and to join the Christian right.

Don’t faint and don’t yell. You do not have to be a Christian. I’m not, and I do not agree with all its positions (abortion and euthanasia). But the fact is, the Association of American Physicians and Surgeons, Inc (AAPS) is the only doctors’ group I know of that has, except for abortion, consistently put the sanctity of the physician’s obligations to his or her patients right where it belongs—at the heart of medical practice. In contrast, all the other organizations—the American Medical Association, the American College of Physicians, and probably various state medical societies—want to get along by going along, or think, somehow, that there’s a way of putting patients first while also fulfilling their supposed obligations to “society,” to the government, to health maintenance organizations (HMOs), to (in my case) a health department, etc.

I must say, though, that New York State has just enacted legislation outlawing HMO gag clauses. I do not know, but I would speculate, that the state medical society had considerable to do this new law.

I enclose a good stiff dose of what AAPS is all about.

One more thing. I’m happy for you and your family that they suffered no harm from early hospital discharge, but everyone else might have been better off if they had. Harm might have enabled them to sue the responsible physicians for malpractice (with you assisting the plaintiffs’ lawyers), which is the only way these doctors will ever learn.

I myself have no objections to hauling other doctors into court, and have, in fact, done so three times. That’s one reason I have no patience with those who blather about how awful things are but won’t do anything to improve them, like testifying for me at no risk to themselves.

What might be a cause of legal action? I don’t know anything about Florida law, but let’s assume this medical care took place in New York State. New York doctors have a fiduciary obligation to their patients, and a duty to use their best judgment at all times. The fact that your family’s doctors tried to get approval means that they determined that further hospital stays were in their patients’ best interest.

Let me make clear that the physicians acted entirely properly in trying to get approval so that the managed care plan will pay, but their orders and professional advice must not depend on whether any third party agrees to pay. Their professional obligation was to their patient, not to the plan.

The early hospital discharges were in breach of both duties. The doctors should have kept their patients hospitalized longer, even at the certain price of destruction of their livelihood. The only thing that might have made them do so would have been a credible threat of a malpractice suit.

The defendant doctors would likely have claimed that they were “just following orders,” and that the early discharges are now standard medical practice. But the Nuremberg defense has been consistently rejected by the New York courts, and our Court of Appeals (New York’s highest) has held that medical care that meets community standards but that does not represent the doctor’s best judgment is malpractice. (You can see my first Lancet letter on this point.) In yet another decision, our Court of Appeals said that “No medical doctor can be required to render services which, in the doctor’s professional judgment, are dangerous or contra-indicated.”

In many respects, we live in a bare-knuckle world. I hope I haven’t offended you or sounded unduly harsh, but I don’t know any other way to tell you what I think. Heartfelt editorials in CHEST are unobjectionable but worthless, nothing more than preaching to the choir, and are laughed off by any opponents who might come upon them.

Dr. Block, get real.

Robert Carlen, MD
Sayville, NY

REFERENCES
2 Carlen R. Get Real, Dr. Stofo. Chest 1996; 109:853-54
3 Rosenberg V. Equitable Life Insurance Society, 79 NY 2d 663, 584 NYS 2d 765

To the Editor:

The editorial “The Barbarism of Managed Care” (CHEST 1996; 110:1-2) raises the economic question: How should the desired additional hospital benefits be financed? To get more care provided at the expense of health maintenance organization (HMO) profits, the name of the HMO should have been given so competition could force it to increase benefits or reduce prices. To get more care