

CHICAGO LAWYER

OCTOBER 2017

MED-MAL MATTERS

W

ho could object to a simple, existing technology that improves patient safety by capturing the important information exchanged during a patient encounter and then later,

remind patients about how and when to take their prescriptions, what side effects to watch out for and other important details they need to know about their medical condition or an upcoming procedure? Apparently, only doctors, but a Phoenix neurosurgeon, Randall Porter, is trying to change that.

In 2015, Porter started a company called Medical Memory to market a cloud-based "video patient engagement system" that allows physicians and hospitals to record patient encounters and make the videos available to patients and their families on a secure platform. According to a recent *New York Times* article, this may be an idea whose time has come.

The *Times* interviewed several physicians that routinely record office visits to allow patients to refresh their memories whenever they need to remember what was discussed: Do I take the blue pill at night or in the morning? Is my cough possibly related to my new blood pressure medication? Dr. James Ryan, a Michigan family practitioner, uses audio recording uploaded to a secure web platform to provide answers to these types of questions after a patient leaves the office.

With an aging population, the *Times* notes, many patients have memory, cognitive or hearing problems and research shows that older patients struggle to remember important information from doctors' appointments. According to a Dartmouth researcher, "[t]here's more to remember and difficult words to decipher and interpret." Further, when older patients want to relay important information to a relative that lives far away much of the information gets lost in translation.

This is precisely the reason Porter created his video recording platform. According to his company's website, Porter became frustrated when his father was diagnosed with cancer in Chicago and he had to rely on nonmedical family members to relay complex information about his father's condition and treatment options.

According to Porter, as quoted in the *Times*, "patients forget 80 percent of what we say by the time they hit the parking lot." According to a study of recorded visits cited by the *Times*, most pa-



WHO COULD OBJECT?

Choosing safety isn't brain surgery, until it is

By **THOMAS A. DEMETRIO** and **KENNETH T. LUMB**

tients listened to their recording, shared them with family and caregivers and reported an increased ability to retain and understand the information provided.

The practice is starting to catch on. For instance, the University of Texas Medical Branch at Galveston buys recorders and batteries "in bulk," the *Times* notes, and offers the recording practice to its new cancer patients. But doctors and hospitals using this technology are in a distinct minority because doctors seem to instinctively fear anything that could possibly be used against them in a lawsuit. Ryan believes appointment recordings will become routine, but that it might take 20 years or more due to physician resistance.

This resistance is as short-sighted as it is wrong-headed. Simply from a philosophical standpoint, how can the truth increase risk for a physician? The answer, at least for reasonably careful physicians, is that it does not. According to Porter, recording patient encounters has cut his prac-

tice's malpractice insurance premiums in half, which makes complete sense.

If a physician is providing all of the appropriate information in patient encounters, what is there to fear from a recording that provides irrefutable proof of that? As Porter states in the *Times*, when patients bring a recording device or request one, "it's not because they're trying to catch us. It's because they're desperate to remember everything we tell them." CL

Thomas A. Demetrio is a founding partner of Corboy & Demetrio, representing victims of medical malpractice and personal injury.

TAD@CorboyDemetrio.com

Kenneth T. Lumb is a medical-malpractice attorney and partner at Corboy & Demetrio.

KTL@CorboyDemetrio.com