

Anecdotal Evidence

A LARGE PART OF MY JOB as editor of *Contingencies* is figuring out what makes a good *Contingencies* story. Though I don't always get it right (too inside baseball, too out of left field) I think I'm better at it now than I was when I first started. And though I never really made a legitimate actuarial connection when I wrote "Marta's List" in 1998, I'm not sorry I wrote it and published it in the magazine.

"Marta's List" was about aging Holocaust survivors who were having difficulty collecting on legitimate life insurance policies left to them by their murdered parents. One of the survivors was a 70-year-old woman named Marta Cornell. I went to her apartment in Queens to interview her. She showed me the list of policy numbers, written in her late father's hand, that became part of the July/August cover.

One morning early this year my phone rang. It was Marta. I hadn't spoken to her in almost seven years, but I immediately recognized her voice. My first thought was that she was calling with news of the insurance case, but that wasn't it.

She was in tears. She had just gotten home from the hospital, she told me, and she likened it to being in the seventh circle of hell. Neglect, contempt, humiliation, filthy conditions. "It was unbelievable," she kept saying. "Unbelievable."

She didn't want to sue anybody. She just wanted to tell somebody. She wanted someone to listen. She hoped, because I had listened seven years ago, I might listen now.

I listened. And even if it wasn't a *Contingencies* story, it might be somebody else's. So I called the NYC Dept. for the Aging and connected her with a sympathetic ear there. I also wrote a letter on her behalf to the offending hospital and sent a copy to a *New York Post* columnist.

I have no idea whether anything I did will produce results or do Marta any good. But it did get me thinking. Both the Academy and *Contingencies* have spent a lot of ink on the medical malpractice insurance issue. Exorbitant premiums are driving doctors out of their practices, and fingers point everywhere, mostly at insurance companies' high premiums and tort law-

yers' frivolous lawsuits.

But what were the health care professionals in this hospital thinking? Yes, it's a big-city facility in New York. I'm sure it's understaffed, overcrowded, and undercompensated. I'm sure it sees hundreds of patients like Marta every day, elderly people *in extremis* who don't always ask politely for the relief they need. And I'm sure many of these people are underinsured, which does nothing to help the hospital's already strained bottom line.

But not all patients are as under-litigious as Marta Cornell. Treat enough of them the way Marta was treated, and the lawsuits are bound to pile up faster than elderly patients in emergency room corridors. And even if the hospital can legitimately defend its behavior on economic grounds, that doesn't change Marta's experience; she went to the hospital to be helped, not traumatized.

So if she were to sue—or if the family of the woman in the next bed who died because no one ever responded to her calls for help were to sue (and I'll be they do)—could such a lawsuit really be considered frivolous? Inconvenient, embarrassing, and expensive, yes, but frivolous?

It makes me wonder about who really needs to reform in this equation. Insurance companies? Maybe. The tort system? Probably. But what about the health care professionals who would rather complain about the high cost of insurance than make the minimal investment necessary to ensure compassion when caring for those in their charge? What about making the effort to eliminate the need for those expensive insurance policies in the first place?

Needless to say, this opinion is simply that, and in no way reflects any official position of the American Academy of Actuaries.



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