JOURNAL OF NURSE LIFE CARE PLANNING

SPRING 2022

EXPERT WITNESSING & TESTIMONY

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Hello Life Care Planners,

I am Stephen, the new Editor for the Journal of Life Care Planning. I have had the honor of meeting some of you already. However, for those of you who I have yet to have spoken to, I wanted to start our Spring Issue with a bit of a look forward to what will be coming in the future.

One of my editorial goals is to help develop the professional community that is present here throughout the AANLCP. To that effect, you will see a few new additions to the Journal that I wanted to highlight:

Reviewers:
The reliability, rigor, and strength of the Journal is due, in large part, to our fantastic reviewers. As a thank you to these wonderful people, we will be adding a section thanking them for their efforts.

Some notes about the reviewer’s section:
• Reviewers will have a section where their biography can be highlighted to contribute to their reputation.
• The work(s) that each reviewer has reviewed will not be included in this section unless the reviewer, writer, and journal editor are in agreement that this should change on a case-by-case basis.
• Anonymized feedback, handled through the Editor, exists for many reasons and will still be respected in this section.

Maintaining Methods:
Our Editorial Council expressed a desire to increase the medical and scientific reliability of our Journal. A goal I find continuously valuable. In that spirit, every issue will have a section dedicated specifically to keeping methodology strong and accurate. It will often be a review, but review is often the core of sharpness and rigor. We hope you will find it as useful as it is enjoyable to create.

I hope this year is as filled with growth as the beginning of the year has been for us.

Stephen Axtell
JNLCP Editor  |  journal@aanlcp.org
Information for Authors

AANLCP® invites interested nurses and allied professionals to submit article queries or manuscripts that educate and inform the Nurse Life Care Planner about current clinical practice methods, professional development, and the promotion of Nurse Life Care Planning. Submitted material must be original. Manuscripts and queries may be addressed to the Editor. Authors should use the following guidelines for articles to be considered for publication. Please note capitalization of Nurse Life Care Planning.

Text

- Manuscript length: 1500 – 3000 words
- Use Word® format (.doc, .docx) or Pages (.pages)
- Submit only original manuscript not under consideration by other publications
- Put the title and page number in a header on each page (using the Header feature in Word)
- Place author name, contact information, and article title on a separate title page
- Use APA style (Publication Manual of the American Psychological Assoc. current edition)

Art, Figures, Links

- All photos, figures, and artwork must be in JPG or PDF format (JPG preferred for photos).
- Line art must have a minimum resolution of 1000 dpi, halftone art (photos) a minimum of 300 dpi, and combination art (line/tone) a minimum of 500 dpi.
- Each table, figure, photo, or art must be submitted as a separate file, labeled to match its reference in text, with credits if needed (e.g., Table 1, Common nursing diagnoses in SCI; Figure 3, Time to endpoints by intervention, American Cancer Society, 2019). Graphic elements embedded in a word processing document cannot be used.
- Live links are encouraged. Please include the full URL for each.

Editing and Permissions

- The author must accompany the submission with written release from:
  - Any recognizable identified facility for the use of name or image
  - Any recognizable person in a photograph, for unrestricted use of the image
  - Any copyright holder, for copyrighted materials including illustrations, photographs, tables, etc. Note that images harvested online may be copyrighted.
- All authors must disclose any relationship with facilities, institutions, organizations, or companies mentioned in their work.
- All accepted manuscripts are subject to editing, which may involve only minor changes of grammar, punctuation, paragraphing, etc. However, some editing may involve condensing or restructuring the narrative. Authors will be notified of extensive editing. Authors will approve the final revision for submission. The author, not the Journal, is responsible for the views and conclusions of a published manuscript.
- Submit your article as an email attachment, with document title articlename.doc, e.g., wheelchairs.doc

All manuscripts published become the property of the Journal. Submission indicates that the author accepts these terms. Queries may be addressed to the care of the Editor at: journal@aanlcp.org

Manuscript Review Process

Submitted articles are peer reviewed by Nurse Life Care Planners with diverse backgrounds in life care planning, case management, rehabilitation, and nursing. Acceptance is based on manuscript content, originality, suitability for the intended audience, relevance to Nurse Life Care Planning, and quality of the submitted material. If you would like to review articles for this journal, please contact the Editor.

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A Message from the President

Dear Members, Colleagues and Fellow Nurse Life Care Planners,

Being able to use my intuition to comprehend other people’s emotions and moods, to understand the relationships and stances of individuals, has not only served me in my career as a nurse, but helped me as a middle child with two brothers. An ability that I needed to be able to navigate the world in my younger years became something to comfort patients and their families in my role as a nurse, and lead groups of professionals.

During the weeks leading up to AANLCP’s Annual Educational Conference, I spent time preparing for the annual membership meeting. The words spoken by an executive board member, “it needs to be a meeting, rather than a presentation” lingered in the back of my mind. The visions and goals for the Association, discussed and worked on during the strategic planning meeting, filled my field of vision.

I was filled with excitement and enthusiasm to be able to share those goals and visions with everyone. Energy only matched by the hope to get individuals involved and feel empowered to step up and become engaged members. But then apprehension appeared. How can I achieve this when the virtual platform presents a barrier to reading a room? When no in-person connections can be made, and no face-to-face conversations can be held?

Looking back, the membership meeting was one of my favorite hours during the conference. I couldn’t read the room, but the chatroom offered enough insight to learn that members are committed and coming forward, verbalizing their desire to step up. I felt the motivation, excitement, and pride.

Fast forward to today, where AANLCP’s research committee is back up and running, the journal committee has more than tripled its members, and feedback and ideas are being shared. I am beyond excited and thankful for all of you, and I wish each one of you to have individuals in your life who are committed to whatever group effort you are involved in.

Like all of you who attended the AANLCP’s Annual Educational Conference, I was glued to the screen for three days in March, appreciating all the excellent speakers who were sharing their knowledge and expertise. Taking in the new information, diving deeper into a variety of topics, and gaining access to new material and tools as they relate to the practice of Nurse Life Care Planning. I am deeply grateful for all the ones who volunteered their time to make the conference a success – the speakers, the conference committee, and all the various other individuals who were involved.

Not only have the last couple of months once again proven that my belief that barriers are only growth opportunities masquerading as perceived obstacles, but it has also filled me with pride to be surrounded by professionals who don’t hesitate to dedicate their time and share their knowledge. With these professionals, the Association can continue in providing its members with resources and support to achieve excellence as Nurse Life Care Planners. Individual commitment will offer the opportunity to implement new ideas and raise AANLCP to even higher levels.

Thank you, members for your continued participation, enthusiasm, and support!

Please reach out to me to share your ideas, suggestions, and comments. Let me know if you would like to get more involved with the Association, there is an opportunity for everyone, and our committees are more than happy to welcome you!

With gratitude,

Andrea Nebel, RN, BSN, CNLCP
President, AANLCP | president@aanlcp.org

“Individual commitment to a group effort – that is what makes a team work, a company work, a society work, a civilization work.” — Vince Lombardi
Methodology Memo

By Misty Coffman, RN, CLNC, MSCC, CNLCP

As a Nurse Life Care Planner, it is important to understand the purpose of a Life Care Plan, i.e., “Will it be used by a Case Manager in a clinical environment?” “Will it be used for budget planning?” In the mid-1970s, Paul Deutsch first identified the term “Life Care Planning” by referring to it as future needs, as a tool to project the costs of medical care in the litigation environment. The focus of this Methodology Memo is to briefly address preparation of Life Care Plans in the litigation environment.

The AANLCP Core Curriculum for Nurse Life Care Planning states that, the potential for across-the-board tort reform could lead to capping the damages in medical malpractice, liability, and personal injury cases. This will warrant the need for nurse life care planners to provide appropriate lifetime healthcare dollar amounts to care for injured persons and give direction to their future care needs. Attorneys will likely come to depend on nurse life care planners to provide direction as to what the injured person needs so that cases can be resolved appropriately.

As also stated in the AANLCP Core Curriculum for Nurse Life Care Planning, the nurse life care planner provides for the needs of an individual throughout the health care continuum, across multiple settings, and throughout the lifetime. The individualized assessment and diagnoses of that particular person's response to disability or illness as well as the potential health risks stemming from that disability or illness is the foundation for the care plan. It is designed to minimize risk and promote function over the lifetime, while anticipating the effect of aging and the evolution of the disability or illness itself on that individual’s future needs.

When a life care plan expert allows the client to dictate that all future care is to be included in the healthcare dollar amount in a Life Care Plan for litigation purposes, methodology is misapplied and ethics are compromised. In summary, the client does not dictate Life Care Planning methodology or what future care needs should or should not be included in the healthcare dollar amount in a Life Care Plan for litigation purposes, including the addition of the healthcare dollar amount for future needs that the client would have needed regardless of the illness or injury being litigated. As noted in the AANLCP Code of Ethics and Conduct, “all nurse life care planners have an ethical obligation to practice with integrity, demonstrate competency, and have accountability.”

Contributors to this Issue

Misty Coffman, RN, CLNC, MSCC, CNLCP

has been a registered nurse for 33 years. She became a legal nurse consultant in 1997; a Medicare Set-aside Consultant Certified in 2012; and Nurse Life Care Planner 2016. She became a Certified Nurse Life Care Planner in 2018. She founded Arizona Medical-Legal Consulting, LLC in 2005. She and her husband enjoy time at their cabin in Wisconsin and spoiling their grandchildren.

Richard Bays

has served in numerous capacities in the healthcare industry ranging from clinical services and operations, healthcare bill & policy analysis, medical-legal consulting for healthcare attorney groups and oversight of accreditation, licensure and regulatory compliance programs. He specializes in economic aspects of healthcare litigation such as Life Care Plans, Future Medical Cost Projections, accounting and tax considerations, as well as reimbursement issues.

Noah Wick, M.A.

is the National Director of Litigation Consulting at Trial Exhibits, Inc. where he advises trial teams on theme development, visual strategy, and impression management through creating demonstratives, medical illustrations, animations and trial support, running trial presentation software. He has a master’s degree in Strategic Communication and Leadership Studies from Gonzaga University, served 8 years with the U.S. Air Force, and is a past president of the Washington State Health Care Risk Management Society. He is on the advisory board of the Online Courtroom Project and in April, published a book with the ABA: The Online Courtroom – Leveraging Remote Technology in Litigation. He is national speaker on Hybrid and Remote Jury Trials having consulted in both State and Federal Courts during the pandemic including the first binding Zoom jury trial in King County Superior Court, Seattle, WA.

Jim Quinn RN, BSN, LCP-C, CLCP, CPB

is a registered nurse with over 15 years of healthcare experience. He began his career providing home care in a residential setting for traumatic brain injury clients before transitioning to being an RN. Jim’s nursing experience includes working in numerous ICU and acute care specialties, rapid response, emergency room, and trauma nursing.

He began to focus on expert witnessing and consultation with a B.S. in nursing and FIG’s Life Care Planning course. Jim has written and developed numerous life care plans, cost projections, and rebuttals at the request of both plaintiff and defense attorneys. In 2022, Jim began a two-year term on the Executive Board for the American Association of Nurse Life Care Planners (AANLCP) as Treasurer, Mentor in the AANLCP Mentor Program, and Journal Committee member.
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REMOTE JURY TRIALS
What Expert Witnesses Need To Know

By Noah Wick, M.A.

Due to the pandemic, our legal society has experienced a dramatic change in the use of technology this past year. Most courtrooms across America have typically been 10 years behind the rest of professional environments when it comes to technology. Remote witness testimony has been available for well over 15 years using programs such as Skype, but it was not until the pandemic that really pushed litigators and the court system to evolve. In this shift, there has been many lessons learned by all involved in the use of technology in the courtroom. Several courts have made it clear that remote testimony works and saves cost and time.

Over this last year, we have seen a variety of different ways courts using technology from remote voir dire to fully remote jury trials, including deliberations. The one consistency throughout every state has been remote testimony for expert witnesses. The technology being used has been approved by the court and tested beforehand with the jurors. A key component in a smooth session is ensuring that all parties have stable internet connection and their device is connected via an ethernet cable, which is preferred over a wireless router. All participants should have the Zoom call-in number readily available in case a disconnection occurs so they can call in to immediately rejoin and explain their situation. A reliable back-up internet option is recommended. Some of those options are: using mobile hotspots or your mobile phone hotspot. Getting to know this feature and testing it out before a virtual call will make this process more efficient if it is ever needed. To prepare for trial testimony, experts should test their internet connection on a website called...
“speedtest.net,” which can allow one to view their upload and download speeds. For any party that is screen sharing records, imaging or video, a high upload speed is vital, as all other participants can only download as fast as you can upload. A slow upload speed can cause distraction, delay, and further frustrate all involved, especially a jury.

Practice Makes Perfect
Before a trial starts, it is always beneficial to practice using the remote testimony software, whether that be Zoom, Microsoft Teams, GoToMeeting, etc. This includes making sure the latest version of the software has been installed to avoid lags and discrepancies with others in the meeting. Make sure to practice using the annotations and knowing how to properly share your screen to present your information to the audience smoothly. Learning how to share the screen is important so that you do not end up sharing items that you hadn’t intended to share, such as the inbox of your email or any other personal information that a jury does not necessarily need to see. Another important reason is that if there is a problem with the presentation (such as a blank screen being shown) and it is due to the presenter’s error, not a Zoom/software error, the jury will not receive that missed information in the deliberation. This is a mistake that could sway the jurors a certain way and could be avoided by practicing how to use the software to your advantage. When sharing a PowerPoint or videos, there are settings that need to be changed depending on the content such as sharing the computer sound while simultaneously silencing all incoming notifications so that no one must listen to the sound of every new email the presenter receives.

Recently, Zoom has been the software of choice for several court systems nationwide. Zoom has different view options and settings. To name a few, there is a speaker only view, gallery view, speaker with screen share or gallery view with screen share. Another set of options relate to choosing who is pinned to the presentation and how to view the presentation and speaker side by side. There are settings to turn on that will give the option to have everyone muted as soon as they join the meeting as well as an option to choose if anyone is allowed to unmute themselves during a meeting, the host (typically the court) can choose to have everyone stay muted the entire time. The host can also decide if they want to give the option of screen sharing, they can either give everyone permission or only themselves and a co-host. Automatic recording options are also available. Before the meeting starts the host can create breakout rooms and pre-assign individuals to each room as they see fit. In trial, the host may have you in a breakout room prior to testimony and then bring you in when ready.

When having a trial that is partially in person and socially distanced there are a few important considerations.

Depending on the restrictions at the time, the courtroom must be large enough for everyone to social distance, this means that there is a greater chance for echo as well as feedback. Even though there is a greater risk of feedback, more microphones are needed because it is harder to hear. Expert witnesses may be as far as 100 feet away from the jurors, shielded and in some cases, also wearing masks. In situations like this, jurors have found that they could better judge the credibility of expert witnesses that testified remotely on a big screen to those masked and 100 feet away. Most of the witnesses would be remote testifying at the front of the room making it harder to hold eye contact with anyone in the room. Wearing a mask can make it difficult to read a person’s non-verbal communication meaning it is hard to gauge both the witness and the jury.

Set Up is Half the Battle
Fully remote jury trials may require a lot of equipment set-up to run smoothly. There was a lot of trial and error in figuring out the best technology for these purposes and the best presentation set-ups. For attorneys and paralegals, a set-up with two or more screens is recommended: one to see what is being presented for the exhibits and one to see the jury. For remote witnesses, I would recommend using two monitors as well so you can dedicate one to reviewing the exhibits being shared without needed to squint to see any details while having the attorney directing questions on the other.

When presenting, it is important to engage the jury like you would in person in a courtroom. This is achieved by making sure your technology works well beforehand and you are well prepared to testify. Using compelling visuals can capture the jury’s attention and help you explain your opinion in the case.

We have found that the best condenser microphone to use in presentation is the Blue Yeti USB Mic for recording and streaming on PC and Mac. This microphone will make a huge difference compared to the one embedded in your computer, it makes the audience feel as though there is not as much of a screen barrier. One of the best cameras to use is the Logitech C922 Pro Full HD 1080p Stream Webcam. With this camera, the settings can be configured in HD and you can use other software tools from Logitech to turn off the autofocus so that if the presenter is moving, the camera does not create a distraction in trying to refocus. Before testifying, always make sure to check the audio and visual settings so the software program is using the right webcam/mic as it may default to your computer’s prior settings.
The Varidesk is a standing desk with sides that can be rotated in different directions and a surface that can be moved up or down for the best fit. With a two-monitor set-up, they are great for use as a presenter’s platform. The first monitor can be used facing straight forward to show exhibits. The second monitor can be set up right above the other, with a view of the jurors/counsel. A camera connected on top of the bottom monitor to simulate making eye contact with the jury can portray a sense of face-to-face communication. Please note that most all courts will not allow use of a green screen or virtual background.

In some cases, the judge may ask you to fully rotate your camera to ensure no one else is in the room with you at the time, which makes your background a relevant item to consider. For the background, you will want to use a blank wall or one with minimal distractions behind you. To avoid a glare, try not to present next to any windows as this can end up blocking crucial information and/or the face of the presenter. Our best suggestion for lighting is the Elgato Key Light Air F183 with a setting for warmer lighting and the intensity can be changed from your phone. As for clothing, it is best to wear solid-colored clothes, preferably ones that contrast strongly with the background. When you wear any designs, such as stripes, dots, or patterns, the video may show more patterns, as if your clothing is moving.

In the end, the surveys sent out demonstrated that the jurors loved the technology of remote expert witnessing while attorneys and judges have had great experiences overall. Jurors stated that they could better judge credibility by reading body language through a computer screen. While live in person testimony without social distancing and masked would be the most preferred option, remote witness testimony will not be going away any time soon.

Editor’s Note:
While some of this article is anecdotal, this article reflects the current, and changing, state of remote legal proceedings. Noah Wick is on the advisory board of the Online Courtroom Project and in April, published a book with the ABA: The Online Courtroom – Leveraging Remote Technology in Litigation. He is national speaker on Hybrid and Remote Jury Trials having consulted in both State and Federal Courts during the pandemic including the first binding Zoom jury trial in King County Superior Court, Seattle, WA.
An expert is someone with specialized knowledge, skill, experience, training, or education in relation to a topic. This qualifies that person to form authoritative opinions for stages of litigation up to and including trial. In addition to possessing these attributes, the court must determine that the expert’s opinion will be relevant to the issues of the case and will aid the court in making determinations.

The standard for admitting expert testimony became focused on the expert witness’s methodology rather than solely upon the credentials of an expert with the cases of the United States Supreme Court and the Supreme Court of Texas, Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579, 113 S. Ct. 2786 (1993)\(^1\). This was further reinforced a short time afterward by the E.I. Du Pont De Nemours and Company, Inc. v. Robinson, 923 S.W.2d 549 (Tex. 1995) case\(^2\). From this point on, an expert should hold sufficient credentials in their field and properly apply their specialized knowledge to the facts in a manner that is reliable. The trier of fact ultimately is the sole judge of the credibility of all expert witnesses.

Depositions and trials are not unusual stomping grounds for expert witnesses. The purpose of expert testimony is to explain specialized core knowledge to the triers of fact, whether it is a judge or jury members. Any experienced trial attorney will admit that the performance of an expert has been the deciding factor in obtaining a favorable verdict and settlements have been successful based on the abilities of an expert witness alone.

Reliable and objective opinions based on solid positions are the function of the expert when testifying. Unfortunately, experts can make grave errors in their testimony and even in their formation of opinions. These mistakes can be used to undermine opinions and their overall credibility. Examining these problems can help strengthen your ability to testify when you are in the role of an expert witness.

**Understand When You Don’t Understand**

Most depositions start with introductions and the attorney will typically instruct that if you don’t understand what they are asking then you will say so. They further state that if you answer the question they assume you understood it. An expert should never attempt to answer a question that they simply do not understand. If there is a term, a phrase, or even a full sentence that is not clear you should not attempt to reason out what you “think” they are asking. If the attorney asks a question that is composed of multiple parts or ideas, do not attempt to answer it. As an expert, you should ask them to repeat the question. If it is still unclear you should state that fact. Questions that contain multiple parts are...
difficult to dissect and track, therefore you should always ask for clarity. One strategy is to repeat what you heard as the question and ask if that is correct. An example would be, “What was the level of the spinal injury? Is that the question you are asking?”

You Cannot Possibly Know Everything

As an expert, you are being sought after for your knowledge, expertise, and experience in your field. Testimony is given so that you can explain concepts and answer questions. However, sometimes you may simply not know the answer to a question being asked of you. It may be a technical issue you are not familiar with or more of a procedural item such as where something is located in the records. Your role is to offer an objective opinion and given that, the correct response at times may indeed be that you do not know. While saying, “I don’t know” may be uncomfortable to some, it will be the correct response if it is the truth. It is acceptable to state you are not sure at this time or you will need to refer to some document to provide an accurate answer. This is especially true when there are numerous mathematical or formulaic issues within the case. Most experts want to be helpful and provide answers, but it is unreasonable to expect to know absolutely everything that can be asked of them. Admitting you do not know the answer to a question will garner more credibility than firing back an answer for the sake of providing one.

No One Left Behind

Organization and preparation for delivering testimony is essential to performing optimally. This includes reviewing any reports or memos you have drafted as well as reviewing the records you have based your opinions on. These documents are the foundation for your testimony. Any documents you have reviewed or drafted should be available to you during testimony. It will be impossible to remember everything you have read and reviewed while being questioned. If a specific item is being discussed, the source document should be made accessible to you to refresh your recollection. Ask to review the document as necessary to ensure you are not misquoting or remembering incorrectly. Some expert reports are so lengthy that it would be a mistake to attempt to remember every point and sub-point contained within them. Likewise, some records provided to you may be several thousands of pages in length. Testimony is not a memorization exercise and experts should always request documents as needed to provide the most accurate responses they can.

Hearing The Unheard

Unlike written interrogatories, testimony is auditory in nature. Active listening is imperative to answering the questions being asked of you. Your response should be narrowly tailored to the exact question being asked. Going outside the scope of the question can lead you into unforeseen problems. When approaching providing testimony, experts should mentally “Miranda-ize” themselves: Anything you say can and will be used against you. Opposing counsel is not your friend, and they will use what you say to achieve their goals, not yours. Litigation is designed to designate a winner and a loser. What you say can be used to discredit you, contradict you, and confuse you. Listen very carefully to what is being asked and answer the question as directly as possible. Many questions are answered with a simple yes or no response. Sometimes the question will be obviously biased and your yes or no response will not make sense without proper context and explanation. Attempts to explain will likely be objected to as non-responsive. It is your retaining attorney’s job to rehabilitate your answer on cross-examination. Concentration on the question being asked will allow you to provide the most accurate answer and to achieve this you must hear the question.

REFERENCES

2 E.I. Du Pont De Nemours and Company, Inc. v. Robinson, 923 S.W.2d 549 (Tex. 1995)
UCR Databases

The intention of this article is to explore the user interfaces and methodologies of three usual, customary, and reasonable (UCR) databases. UCR databases of medical procedures and services facilitate the life care planner’s role when projecting future care costs. Without them, experts must rely on a more time intensive approach of calling physician offices, hospitals, or ambulatory surgical centers to obtain costs. This approach can result in the omission of charges such as anesthesia services or post-operative rehabilitation fees. Life care planners often have the option to utilize past bills, however, the procedure may not have yet been performed, and therefore, the data would not be available. This article defines costing databases as a collection of charges from submitted claims forms for medical services provided.

UCR costing databases must include charges for services provided and not reimbursement from health insurance companies or Medicare. Reimbursements are negotiated between the insurance carrier and the hospitals/providers. Individual clients do not have the collective bargaining power of large organizations and, therefore, will often be charged UCR rates for services when health insurance is not factored, such as in litigation. The purpose of this article is to present the life care planner with user interfaces and methodologies of three costing databases.

FAIR Health, The American Hospital Directory, and Find-A-Code were willing contributors to this article. This author held telephone conversation with representatives from FAIR Health, The American Hospital Directory, and Find-A-Code. Each representative provided applicable content related to each respective organization. Context 4 HealthCare, Medata, and Optum 360 were also contacted but either declined to participate or did not respond. The contributing companies were requested to provide screenshots of their user interfaces and the methodology by which their data is obtained.

FAIR Health:
FAIR Health, Inc., a national, independent nonprofit corporation qualifying as a public charity under section 501(c)(3), was established to bring transparency to healthcare costs and health insurance information. It owns and manages the nation’s largest database of privately billed health insurance claims and is entrusted with Medicare Parts A, B and D claims data from 2013 to the present. The company uses these data sources to create benchmark products and analytics, which it packages to meet the needs of all stakeholders in the healthcare system, including consumers, providers, researchers, government and commercial entities.

FAIR Health obtains its data from an independent nonprofit organization with a repository of private healthcare claims currently comprising over 33 billion claim records from across the country and growing by over 2 billion claim records per year. The benchmarks are refreshed twice yearly, keeping them current.
FAIR Health runs a voluntary Data Contribution program that currently has more than 60 payor and third-party administrator participants. As a condition of participating, contributors must agree to provide all claims for the categories of service for which they are submitting claims (e.g., professional or outpatient). Contributors participate for several reasons including: to contribute to the goal of price transparency; to ensure that their data are reflected in benchmarks that are widely used throughout the industry; and to receive discounts on data products they license from FAIR Health. FAIR Health runs the claims data received from contributors through a comprehensive validation process to assure the integrity of the database.

FAIR Health’s interface permits the user to select the service type, based on procedure codes and geographical zip code for a selected period of time. The resulting data is separated by percentiles.

**Fig. 1** FAIR Health user interface. Used by permission of FAIR Health.

1. Select service type
2. Enter geozip and procedure code(s)
3. Choose time period/release date
4. Click to search for results

**The American Hospital Directory:**

The American Hospital Directory® provides data, statistics, and analytics about more than 7,000 hospitals nationwide. AHD.com® hospital information includes both public and private sources such as Medicare claims data, hospital cost reports, and commercial licensors.

Costing information for outpatient/Ambulatory Payment Classification Codes (APCs) is taken from the Medicare Outpatient Prospective Payment System (OPPS) Limited Data Set which is updated annually by CMS based on the calendar year. This includes billing data for 100% of all Medicare fee-for-service claims for hospital outpatient services during the twelve months ending December 31. The report is based on the most recent period available and is consistent with CMS cell size suppression policy. Data is based on gross charges and not Medicare reimbursements.

Costing information regarding Inpatient fee is derived from the Medicare Provider Analysis and Review (MedPAR) file which is updated annually by CMS. The database includes billing data for 100% of all Medicare fee-for-service claims for discharges during the twelve months ending September 30. Again, this data is derived from gross charges submitted and not actual Medicare reimbursements for inpatient stays. Costs are allocated on a patient-by-patient basis. Each patient’s bill contains charges by revenue center. These charges are converted to costs using a cost-to-charge ratio (RCC) for each revenue center. The corresponding RCCs are derived from the hospital’s cost report.

For example, if a patient had $300 in pharmacy charges and the hospital’s RCC for pharmacy was 0.5000, then the cost would be allocated as $150 (300 x 0.5000 = 150).

Revenue center costs are then totaled to determine the total costs for each patient. Patients are subsequently summarized for reporting by DRG, by Medical Service, etc.

Costs are not allocated for hospitals that do not have a recent cost report (i.e. a cost reporting period ending no more than 30 months prior to the federal fiscal year end of claims data) or that do not have sufficient data (i.e. a recent reporting period of at least six months with both costs and charges reported). If a departmental cost-to-charge ratio is zero, indefinable, or unreasonable, then a national median ratio is used.
At AHD.com, the MS-DRG code is entered. Here, MS-DRG 460 is used to reflect hospital costs associated with a spinal fusion.

**Fig. 2** The American Hospital Directory user interface. Used by permission of The American Hospital Directory.

After the submit button is selected, the following screen will populate which provides costs associated with a spinal fusion surgery.

**Fig. 3** The American Hospital Directory user interface. Used by permission of The American Hospital Directory.
Find-A-Code:

Find-A-Code offers UCR fees gathered from the US Department of Veterans Administration (VA) using geographically-adjusted charges and the 80th percentile conversion factor. VA Reasonable Charges are based on amounts that third parties pay for the same services furnished by private-sector health care providers in the same geographic area. Reasonable charges are calculated for inpatient and outpatient facility charges, and for professional or clinician charges for inpatient and outpatient care. VA Reasonable Charges data is derived from The FAIR Health Database and Medicare claims.

Find-A-Code provides costs for services at a defined percentile (i.e. 75th, 80th, etc) per geographical area based on a zip code for each code. The VA Database through which Find-A-Code's data is based upon, has an extensive library of HCPCS codes for which costs are often difficult to obtain, especially for lesser utilized HCPCS codes.

Different zip codes can be added by going to the More tab, Account, My Account and scroll down to add locations. Once those are added in, they can be selected by them at the top of the screen:

**Fig. 4** Find-A-Code user interface. Used by permission of Find-A-Code.
Here is an example of using UCR fees on DRGs. For DRG code 158, to calculate a final charge for a single admission you would add the room (either ICU or standard) to the ancillary fees, multiplied by the length of stay. (Woolstenhulme, 2020.)

In summary, FAIR Health and Find-A-Code facilitates the life care planner’s search for historical costs per coded service and per geographical region within certain percentiles. The American Hospital Directory provides costs per MS-DRG or medical service based on submitted charges through Medicare’s fee-for-service claims for hospital and ambulatory procedures. Find-A-Code’s library, which is comprised of the VA Reasonable Fees, is less clear when attempting identify inpatient hospital fees, but is exceptionally beneficial when obtaining costs for difficult to find HCPCS codes. All three UCR databases are comprised of submitted claims from providers, hospitals, and ambulatory surgical centers which can assist the life care planner in determining future costs.

REFERENCES

Fair Health Inc. Christine O’donnell, (2021, Jan 15th.) “Information for your article” personal interview/communication.
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