Risk Manager's Notebook

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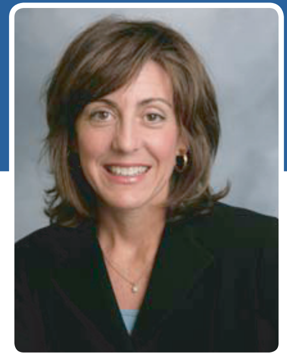

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Managing Professional Liability Risk Today

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As the healthcare risk environment changes dramatically, so must risk management – in the hospital, the long-term care facility, the physician's office, and the everyday professional practice from the brain surgeon to the nurse on the floor. In the 25 years that I've worked in healthcare, risk management has evolved from the traditional medical malpractice model that focused primarily on the clinical relationship between physician and patient to a new model that includes risks inherent in the total universe of healthcare.

Clearly, these changes have been driven by our litigation-prone society and skyrocketing jury awards. But even more important, there's a growing recognition that managing all the risks inherent in healthcare improves patient safety and well being. It's not just loss control; it's keeping the "caring" in healthcare. Given the broad spectrum of risks that any practitioner or facility faces, the only way to meet this challenge is with an enterprise risk management program tailored to your facility or medical specialty.

There are two basic components of risk: the probability of loss and the magnitude of the adverse consequences of a loss. An effective risk management program provides the tools to manage losses and to create a safety conscious environment that will improve patient care. The primary objective of a risk management program is to improve patient care and safety by minimizing adverse occurrences that may be preventable while reducing unnecessary expense. Of course, there are costs involved in operating a risk management program, but it will save money and lives in the long run. In my opinion, risk management offers the opportunity to excel.

Most Frequent Causes of Claims

It's important to identify as completely as possible all the risks you face. In a medical practice the most frequent causes of claims are: failure to diagnose a patient's condition; negligent maternity care; diagnostic errors; failure to refer a patient to a specialist in a timely manner; and failure to obtain informed consent. The most frequently sued specialties are obstetricians/gynecologists; general surgeons; neurosurgeons/orthopedic surgeons; emergency physicians; and radiologists. An enterprise risk management program will prescribe guidelines to avoid error on the part of physicians and surgeons, but it must also address systems issues.

My approach as a risk manager is to help practitioners and facilities develop and implement organizational guidelines, medical record review procedures, and self-assessment tools. First, it's essential to learn and follow Occupational Safety and Health Administration (OSHA) rules. Next, take a hard look at systems in your office or facility. You should have specific requirements for scheduling, following up on missed appointments, diagnostic/lab test results, consultation/referrals, dealing with patient complaints, how to handle telephone calls, managing medical records, patient relationships, obtaining informed consent, and staff motivation.

A formal risk management program will incorporate these guidelines into a set of policies and procedures to share with all members of the medical and office staff. It's especially important to focus on the patient's medical chart and be sure that conditions, diagnoses, prescriptions and related matters are fully documented; that informed consent is obtained for procedures; and that communication with the patient is recorded. Procedures should be put in place to report and track adverse or potentially adverse incidents. A comprehensive risk management program also should include commitment to continuing education for physicians and staff.

The risk of legal action is no longer confined to physicians/surgeons, hospitals, and other healthcare institutions. While most nurses are covered under the liability insurance of the hospital or other institution where they are employed, potential exposure to malpractice claims is growing for Nurse Practitioners (NP) and Nurse Anesthetists (NA). With the shortage of general practitioners and family physicians, NPs are taking greater responsibility in areas, such as prescribing medicine, that were previously reserved to medical doctors. The trial bar doesn't target NPs individually because they lack so-called "deep pockets." However, we are seeing NPs named as co-defendants. We advise nurses in these

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specialized categories to obtain malpractice insurance if they are not securely covered by the institution where they work. Nurses named in malpractice cases are automatically reported to their State Board of Nurse Examiners. If found guilty in a lawsuit, they will be suspended from practice. The adverse judgment will become a permanent part of their record.

Risk Management – A Style of Practice

Risk management is a style of practice. It's no longer just a clinical focus. Whether you're an individual physician/surgeon, member of a group practice, hospital, or long-term care facility, you should begin by committing to a formal risk management program. Next, identify specifically the risks affecting your practice or facility. Then, document the risks and establish guidelines to prevent incidents that will cause harm to a patient or resident. At the same time, it's important to focus on how to create a positive, trusting relationship with patients, residents, and families. The guidelines should be communicated to all members of the staff and evaluated periodically. Risk management should combine clinical competencies, ongoing education, and charting that is accurate, precise, and legible with compassion and positive interaction between practitioners and patients or residents in long-term care facilities.

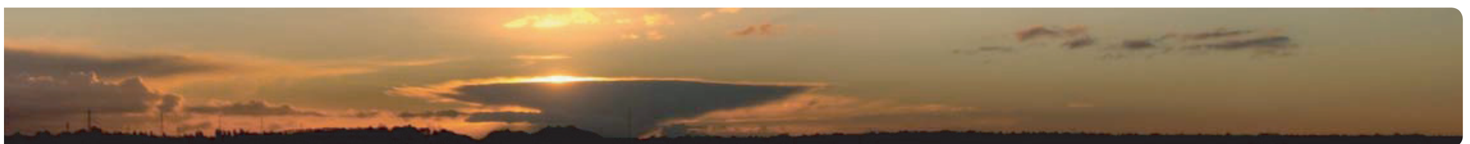
In hospitals today, risk management is accepted increasingly as an integral component of administration. Hospitals are developing quality assurance guidelines that affect not just the physician/surgeon, but all members of the staff. Many programs zero in on "sentinel events" – events that set off a chain reaction resulting in mistakes that lead to adverse outcomes and claims. For example, an error in the pharmacy that is not caught immediately can cause the floor nurse to administer an improper medication. Careful documentation and review at each stage of the process is essential to avoid or catch sentinel events that can cause harm to patients.

Patient Safety Organizations

Successful risk management programs depend on collecting and disseminating data on incidents or conditions that can harm patients. An increasing number of hospital groups, clinics, and some Risk Retention Groups (RRG) are signing on to a program launched in 2005 when Congress passed the Patient Safety and Quality Improvement Act. The Act authorized creation of Patient Safety Organizations (PSO) to collect, analyze, and share data on patient events. Today, there are more than 85 PSOs across the country. PSOs provide a secure environment where clinicians and healthcare organizations can collect data to improve the quality of care by identifying hazards to patients. Information provided to a PSO is used to drive patient safety initiatives and is protected against disclosure for any other purpose. PSO information is not subject to discovery in litigation. The program is administered by the Agency for Healthcare Research and Quality (AHRQ) under the Department of Health and Human Services. Hospital systems, long-term care facilities that are part of groups, and RRGs that serve healthcare organizations should consider creating a PSO as part of their risk management programs.

Another innovation in risk management education is the use of simulators as teaching tools. Taking a lesson from the airline industry that has long used simulators as a component of pilot training, hospitals are using simulators to provide continuing education in risk management for healthcare professionals. For example, an RRG that provides liability insurance to community hospitals in Pennsylvania, West Virginia, and New York funds simulator education for its member hospitals as part of the RRG's risk management program.

In my visits to physicians/surgeons, long-term care facilities, and hospitals I find rapidly growing acceptance of the need for formal enterprise risk management programs. They see the discipline of identifying risks across the board and implementing prevention programs as a commitment to patient safety – to keep the "caring" in healthcare.



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