

Medical Risk Management

Finally, when it comes to medical malpractice, the majority of cases reflect fact situations that are repetitive, David Rubsamen, MD, LLB, wrote in an article titled "The 10 Commandments of Medical Risk Management" published by Practice Management Daily on April 8. To help you avoid some of these common errors, follow these suggestions:

1. Don't alter records, a vexatious problem for defense attorneys. Lost pages are also considered "record alteration."
2. Keep good records. Every mistake is not actionable, and the standard of care is not perfection. It is merely living up to the quality of practice represented by other competent physicians. Keeping excellent records can be the difference maker.
3. When a complication occurs, recognize possible errors instead of continuing in a routine way.
4. Do not give inexperienced nurses an isolated post, such as a graveyard shift, for obvious reasons.
5. Establish a rigid protocol for processing laboratory results.
6. Look at the record of a previous visit to avoid false diagnosis and potentially disastrous outcomes.
7. Don't hesitate to refer a difficult case to a specialist in a timely manner.
8. Offer staff such as interns and first-year residents proper supervision. An adverse treatment outcome is almost certain to be blamed on the failure of supervision if a jury is convinced that an unsupervised trainee has exceeded the scope of his skills.
9. Record telephone conversations. Once a lawsuit is filed, the patient's memory can become highly selective. Even a brief notation on what the patient said and doctor advised can be of great help to the defense. When the doctor expands on this note, telling the jury in detail what was said on the phone, his testimony becomes much more believable compared to a recollection unsupported by any note.
10. Carry adequate malpractice insurance.

Marketing Your Practice

While many physicians may be wary of marketing, the changing medical climate, with its new delivery models focused on "consumers," means that more doctors must adopt new forms of communication and, with that, marketing. The good news is that marketing in this new era is less focused on selling and more on clearly communicating one's products and services. Use the following seven expert tips to market your practice successfully today.

1. In this new era, physicians need to clearly communicate the value of a well-earned set of medical skills to entice consumers. One of the best ways to market your practice is via social media. It also helps to use digital services such as online scheduling and bill-payment capabilities by providing patients with a secure portal and other medical software, wrote Zach Watson in Medical Practice Insider.
2. According to a study by the Journal of the American Medical Association, 89% of patients rated insurance acceptance as the most important factor in choosing a primary care doctor, and referrals from other doctors received 34%. This means that marketing to healthcare professionals who can refer patients to your practice as well as making presentations to insurance providers to get involved with their managed care plans can yield big results.
3. Ensure that your website isn't only live and functional but also shows up in Google search results so that patients can easily find your practice.
4. Delivering excellent care still is the best way to attract a great number of referrals from your existing patients as well as positive online reviews, which is another tactic that carries substantial weight.
5. Taking a closer look at your office to determine that it provides friendly and fast service is as pertinent as focusing on extraordinary services that make you stand apart from other practices.
6. Also consider offering free services such as a monthly flu clinic or free vaccines to the first 10 patients, which is a great way to attract patients who may otherwise visit a pharmacy clinic.
7. Given the rise in retail clinics providing fast and convenient service, practices that create a fast track for patients to come in and get lab work done and emailing forms to patients before they come in can be a great way to make your practice more attractive.

Legal Tips

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1. You should perform HIPAA training for your employees on an annual basis. This will reduce the chances of a breach and provide greater protection in the event of any breach.
2. If you are contacted by an investigator from the Medical Board, DEA, the police or any other state or federal agency, you have the right to, and you should, decline to discuss any matter pertaining to your medical practice, and you should contact an attorney who specializes in representing physicians.
3. You should not turn over medical records without written patient authorization to anyone, including the California Medical Board, in the absence of a search warrant, with the single exception that the California Department of Healthcare Services may come to your office to inspect MediCal patient charts, and if you decline to permit such inspection, you may be suspended from MediCal.
4. It's wise, although not necessarily required by the standard of care, when examining a patient of the opposite sex, to have a chaperone present to guard against baseless patient claims of inappropriate conduct or touching.
5. If you utilize physician assistants in your practice, you should be certain to document your review of the medical records prepared by the physician assistants with your signature. You should ensure that your treatment protocols are up to date to avoid the potential of charges by the Medical Board of inadequate supervision.
6. You should not rely only on office administrators to fill out medical staff appointments and reappointments or other credentialing documents. You should be certain to carefully review such documents because any errors will be attributed to you as captain of the ship and could potentially result in denial on the basis of dishonesty.
7. Always bill patients for co-pays and deductibles. The failure to charge for these services may raise an issue for insurance companies and government payors about whether what was charged to the payor was truthful and accurate. Ultimately, if the patient is unable to pay, you may write off the fees, but they must first be billed.

Managing Malpractice Risk for Electronic Health Records

When it comes to potential liability risks, the Doctors Company finds that new technologies such as EHRs can pose unanticipated consequences. A supporter of EHRs, the Doctors Company offers the following tips to help doctors minimize their liability risk:

1. Doctors are responsible for e-health information they can access from outside the practice, from their practice EHR or Web site, or through a health information exchange, and if the patient gets injured as a result of a failure to access such information or make use of it, the physician may be held liable.
2. E-prescribing is rapidly being adopted and offers many benefits but can also expose practices to community medication histories. For instance, if a doctor sees that a drug prescribed by another doctor could interact with a drug he wants to prescribe to the same patient, it is his responsibility to contact the other doctor to "negotiate" which drug will be discontinued or changed. If the doctor doesn't take action, he or she may be liable.
3. Doctors need to take all drug-drug interaction alerts into careful consideration and follow up.
4. Doctors need to pay close attention to the quality of notes and documentation. By substituting a word processor, for instance, for the physician's thoughtful review and analysis, the narrative documentation of daily events and patient's progress may be lost, compromising the patient's records.
5. The computer creates a barrier between doctors and patients, diverting attention from the patient, limiting interactive conversation and restricting creative thinking. Also, its location within the office is an important ergonomic consideration.
6. Many EHRs autopopulate fields in the H&P (history and physical) and in procedure notes. Overdocumentation may facilitate billing, but entering erroneous or outdated information can increase liability.
7. Providers are responsible for the information and materials provided through patient portals to the EHRs, which can create risk. Some EHRs have patient questionnaires that use an algorithm to interview the patient through these portals. Lack of or incomplete follow-up to health issues that come up through the questionnaire can create potential liability.
8. Vendor contracts may try to shift liability resulting from faulty software design or CDS (clinical decision support) data onto the doctor, which makes it critical for physicians to pay close attention to their vendor contracts.
9. Attorneys may request printed copies of EHRs and copies in native form to show how the data was used and when. All physician interaction with the EHR, as well as email and smartphone records, is time-tracked and discoverable.
10. Beware that erroneous information once entered into the system may be perpetuated elsewhere in the EHR.
11. Clinicians should know the source of medication and CDS information on EHRs, because it may be in conflict with the clinical standards of care or practice guidelines for their specialty and with the information in Food and Drug Administration-approved drug labels or drug alerts.
12. Computer-assisted documentation can contain redundant information that makes it easy to overlook significant clinical information, posing a risk.
13. Document why a prompt related to medication and chronic disease management and preventive care was overridden.

How to Prepare for Government-mandated Audits

When it comes to government-mandated audits, Medicare Advantage health plans are at risk of potentially losing millions of dollars, according to Pam Klugman, co-founder and chief product officer of Clear Vision Information Systems. To prepare for an audit she offered the following four suggestions. Here is what doctors need to know:

1. A review of the Centers for Medicare and Medicaid Services' requirements should be done annually.
2. Doctors should learn about proper and accurate documentation.
3. Having the proper systems and discipline in place can make a major difference in how health plans perform in the audits.
4. Assigning a project manager and creating cross-functional teams that include risk adjustment, clinical, coders, medical directors and compliance are key.

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