Professional Liability and Patient Safety for Employer On-Site Clinics

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Professional Liability

Legal obligations arising out of a health care professional's errors, negligent acts, or omissions during the course of their practice that cause injury or suffering.
PATIENT SAFETY DEFINED

Actions undertaken by individuals and organizations to protect health care recipients from being harmed by the effects of health care services.

Scope of clinical services

- Urgent Care and Minor Acute Care
- Work-related injuries - first response/onsite emergencies
- Occupational Health Clinic
- Convenience Care
- Routine medical care, services available from a primary-care physician
- Employee Assistance Program
- Health/Disease management and wellness counseling
- Referral management, refer a patient to a specialist, coordinate the person’s care with the other doctor
Scope of clinical services

• Vaccines and immunizations
• Write prescriptions or provide medicines
• Perform annual exams and screenings,
• Treat
  – infections
  – sprains and strains
  – rashes
  – gastrointestinal ailments
• Lab and x-ray exams, onsite, contracted or combination
• Contracted therapeutic services
Certifying/Accrediting Bodies

- Accreditation Association for Ambulatory Health Care  
  www.aaahc.org
- Council on Accreditation (EAP)  
  www.coanet.org
- National Association for Ambulatory Urgent Care  
  www.urgentcare.org
- National Committee for Quality Assurance (Disease management)  
  www.ncqa.org
- The Joint Commission  
  www.jointcommission.org  Urgent Care Association of America  
  www.ucaoa.org
- URAC (Healthcare management, workers’ compensation programs)  
  www.urac.org
Occupational Health Program Risk Mitigation

• Individuals who agree to laboratory testing/medical examinations at the request of their employer are informed of:
  – purpose and scope of the evaluation and the role of the examiner
  – confidentiality protections and information which may be conveyed to the employer
  – whether medical follow-up is necessary.

• Occupational health services are accurately portrayed to patients and purchasers of the services.
Occupational Health Record Documentation

• Occupational and exposure history including essential job functions, conditions of work and hazards of the job
• Individual's current functional abilities
• Capability of individual to perform essential job functions
• Suggestions for accommodations or restrictions
• Relationship of medical conditions or abnormal findings to workplace conditions and exposures
• Preventive counseling re. reduction of workplace exposures and use of personal protective equipment
• Relevant communications concerning the patient, work activities or exposures including those with employers, insurance carriers- union representatives and attorneys.
EAP Case Management Documentation Risk Mitigation

• Case assessment
• Case closing
• Case record access
• Case record documentation
• Case record entries and progress notes
• Case service plans, include goals and timeframes
• Client complaint/grievance resolution
• Client consent
• Client encounter record keeping/document management
• Client review of case records
• Client rights
Convenient Care Association Quality and Safety Standards

• All providers credentialed for license, training and experience
• Verification of training and licensing
• Quality monitored on an ongoing basis, including but not limited to:
  – peer review
  – collaborating physician review
  – selected quality and safety outcomes
  – patient satisfaction data
  – formal chart review by experienced clinicians
  – medical diagnosis and treatment code auditing

Convenient Care Association Quality and Safety Standards

- Standardized evidence-based protocols and guidelines in clinical assessments.
- Relationships with traditional health care providers and hospitals.
- Patients establish a relationship with a primary care provider.
- Appropriate and careful referrals for follow-on care and for conditions outside of the scope of the clinic’s services.
- Emergency response procedures and relationships with local emergency response service providers.

Convenient Care Association Quality and Safety Standards

- Empowered patients to make informed choices about their health care.
- Health promotion and disease prevention education to patients.
- Visible placement of pricing.
- Goal of using EHRs to share patient information and ensure continuity of care.
- Compliance with applicable OSHA, CLIA, HIPAA, and ADA standards.
- CDC guidelines for infection control through hand washing.

CREATING A SAFETY CULTURE

1. Top leadership commitment
2. Authority to make necessary changes
3. Swift and visible correction of unsafe conditions
4. Established anonymous & non-punitive procedures for reporting unsafe conditions
5. Involvement of frontline healthcare workers
6. Rewards for adhering to protocols and procedures
7. “Near misses” included
8. Patient Empowerment
PATIENTS as Partners

Patients as part of the “team”

• Open discussion
  – Informed consent
  – Care process
  – Adverse events

• Patient Empowerment

• Patient Education

• Cultural Issues

• Patient Grievances
Contributing Safety Factors

Safety Self-Assessment

Medical Office Survey on Patient Safety Culture
Agency for Healthcare Research & Quality, HHS
www.ahrq.gov/qual/mosurvey08/medofficeapb.htm - 21k - 2009-12-01

Physician Practice Patient Safety Assessment
Medical Group Management Association
http://www.mgma.com/pppsahome/

Risk Management Strategies for the Physician Office
CNA HealthPro
CNA HealthPro Nurse Practitioner Claim Study

- 1994 – 2004 reported claims
- 523 open and closed claims evaluated

Potential Liability Allegations

- Failure to diagnose/misdiagnosis
- Failure to refer
- Failure to follow-up, no continuity of care; only episodic care
- Breach of confidentiality
- Failure to provide proper oversight
- Scope of practice exceeded
- Failure to obtain informed consent
- Improper management of emergencies
- Substandard preventive care education
Frequency by Allegation

Number of Claims

- Diagnosis: 233
- Treatment: 133
- Medication: 60
- Monitoring: 20
- Other: 20
- Rights: 20
- Assessment: 16
- Pract. Conduct: 8
- Scope of Prac.: 6
- Equipment: 4
- Document: 2

Allegation
## Severity by Allegation

<table>
<thead>
<tr>
<th>Allegation Category</th>
<th># of Open &amp; Closed Claims</th>
<th># of Closed Claims</th>
<th>% of Closed Claims</th>
<th>Avg Paid Indemnity</th>
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<td>Monitoring</td>
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<td>Patient Assessment</td>
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<td>45.8%</td>
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<td>Treatment</td>
<td>133</td>
<td>26</td>
<td>24.3%</td>
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<td>3</td>
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<tr>
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<td>Other</td>
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Recruitment, credentialing and hiring protocols

- Understand scope of practice at the point of hire
- Competent re. scope of treatments and services offered
- Perform duties with minimal on-site supervision.
- Age competencies
- Licenses current and not sanctioned or suspended.
- References attest to the person’s ability to perform administrative & operational tasks (e.g., billing, referrals, etc.)
- Restrictions on the number of hours a practitioner may work consecutively among all of their professional obligations.
- Legibility is a component of performance evaluations
Identification & Verification of Patient ID & Clinical Information

- Patient identification processes documented in the clinical record
- Evidence of training on proper ways to identify patients at orientation and periodically
- Read-back verbal orders, telephone orders and reports of critical test results documented as such
- Time of critical values and test results reported and received
- Are templates used for communicating patient conditions between patient care units, and to external facilities?
- Medication administration record documents double checks of high risk medications?
Identification & Verification of Patient ID & Clinical Information

- Dispensing log/system used for daily reconciliation of medications
- Prohibition of orders that state “continue home medications” or “continue previous orders”
- Patient teaching materials written in a language and reading level understood by the patient
- Patient provided verbally and in writing how to communicate information to the care team
- Health record forms reflect patient teaching and patient’s understanding
- Patient materials provide grievance process
Referral and handoff protocols

- Limitations regarding the amount of follow-up that will/can be done provided to patients each time they seek treatment.
- Formal referral process
- Delineated response time expectations and to whom a response should be directed (e.g., to the patient’s PCP or back to the RHC).
Patient confidentiality

- Electronic patient sign in/sign out and follow-up procedures.
- Music or other sound filtering device to muffle extraneous noises.
- Sound-proof barriers between rooms.
- Public announcements to patients waiting to be seen should use non-name identifiers.
- Use of an electronic medical record, no paper
- EMR links to community physician offices and medical director.
Physical security

- Unauthorized access
  - Ceiling/roof
  - Locks
  - Doors/Windows
  - Key control
- Parking/Escort
- Angry patients/families
- Emergency call system/alarms
- Emergency evacuation protections

Burglary protection additional resource

Physical security

- Lighting
- Ventilation
- Infection control
- Cash
- Medications
- Prescription Pads
- Computers/Medical Records
AAFP & AMA Desired Attributes of Retail Health Clinics

- Well-defined and limited scope of clinical services.
- Clinical services and treatment evidence based and quality improvement-oriented.
- Standardized medical protocols derived from evidence based practice guidelines.
- Health care practitioners have direct access to and supervision by physicians.
- Formal connection with physician practices in the local community or other entities appropriate to the patient’s symptoms beyond the clinic’s scope of work.
- Encourage all patients to have a "medical home."
- EHR system that communicates the patient’s information with the family physician’s office.
- Patients informed in advance of health care practitioners qualifications & limitations.
- Appropriate sanitation and hygienic guidelines and facilities.

American Academy of Family Physicians, Policy, 2007, 2010
American Medical Association, Reference Committee G REPORT 7 OF THE COUNCIL ON MEDICAL SERVICE (A-06), Store-Based Health Clinics, June 2006
Challenges

• Use of aggregate data
• Confidentiality of health information
• Management of infectious/communicable diseases
• Barriers to accessing referrals
• Pharmacy operations
• Laboratory services
• Health claim processing (fraud & abuse)
Open Forum

Q&A
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