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# Professional Liability and Patient Safety for Employer On-Site Clinics

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## Professional Liability

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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

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### Actions

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

The Basics of Patient Safety: How You Can Improve the Safety of Patient Care,  
[http://www.brownspace.com/powerpoint/patient\\_safety\\_files/frame.htm](http://www.brownspace.com/powerpoint/patient_safety_files/frame.htm) (Last accessed 2/2/2010)

## Scope of clinical services

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- 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

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- 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

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- Accreditation Association for Ambulatory Health Care  
[www.aaahc.org](http://www.aaahc.org)
- Council on Accreditation (EAP)  
[www.coanet.org](http://www.coanet.org)
- National Association for Ambulatory Urgent Care  
[www.urgentcare.org](http://www.urgentcare.org)
- National Committee for Quality Assurance (Disease management)  
[www.ncqa.org](http://www.ncqa.org)
- The Joint Commission  
[www.jointcommission.org](http://www.jointcommission.org) Urgent Care Association of America  
[www.ucaoa.org](http://www.ucaoa.org)
- URAC (Healthcare management, workers' compensation programs)  
[www.urac.org](http://www.urac.org)

## Occupational Health Program Risk Mitigation

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- 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

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- 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

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- 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

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- 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

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- 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.

[http://www.ccaclinics.org/index.php?option=com\\_content&view=article&id=6&Itemid=13](http://www.ccaclinics.org/index.php?option=com_content&view=article&id=6&Itemid=13) (Last accessed 2/5/2010)

## CREATING A SAFETY CULTURE

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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

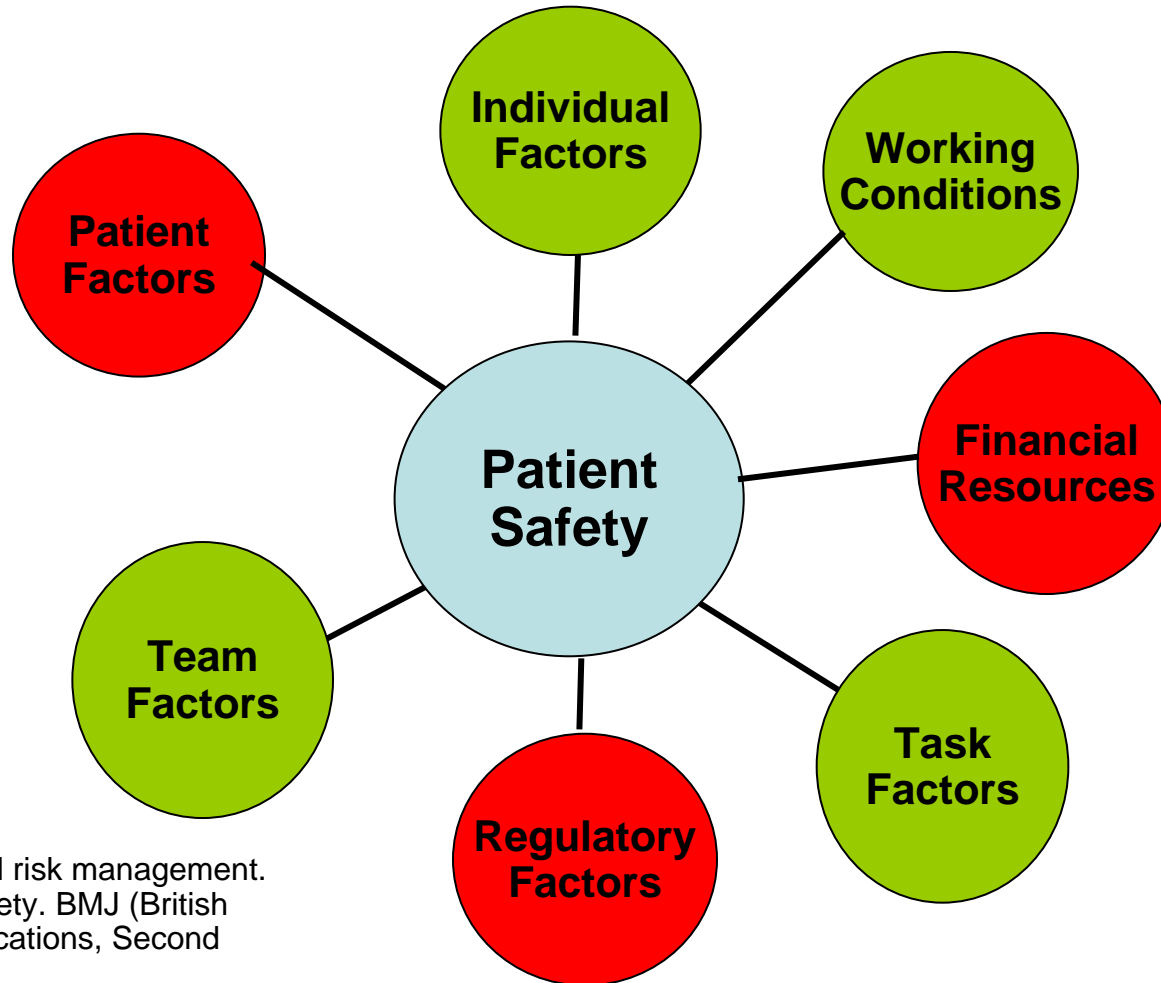
## PATIENTS as Partners

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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



Vincent CA ed. Clinical risk management. Enhancing Patient Safety. BMJ (British Medical Journal) Publications, Second edition, 2001

## Safety Self-Assessment

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Medical Office Survey on Patient Safety Culture

Agency for Healthcare Research & Quality, HHS

[www.ahrq.gov/qual/mosurvey08/medofficeapb.htm](http://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

[http://www.cna.com/vcm\\_content/CNA/internet/Static%20File%20for%20Download/Risk%20Control/Medical%20Services/RMStrategiesforthePhysicianOffice.pdf](http://www.cna.com/vcm_content/CNA/internet/Static%20File%20for%20Download/Risk%20Control/Medical%20Services/RMStrategiesforthePhysicianOffice.pdf)

## CNA HealthPro Nurse Practitioner Claim Study

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

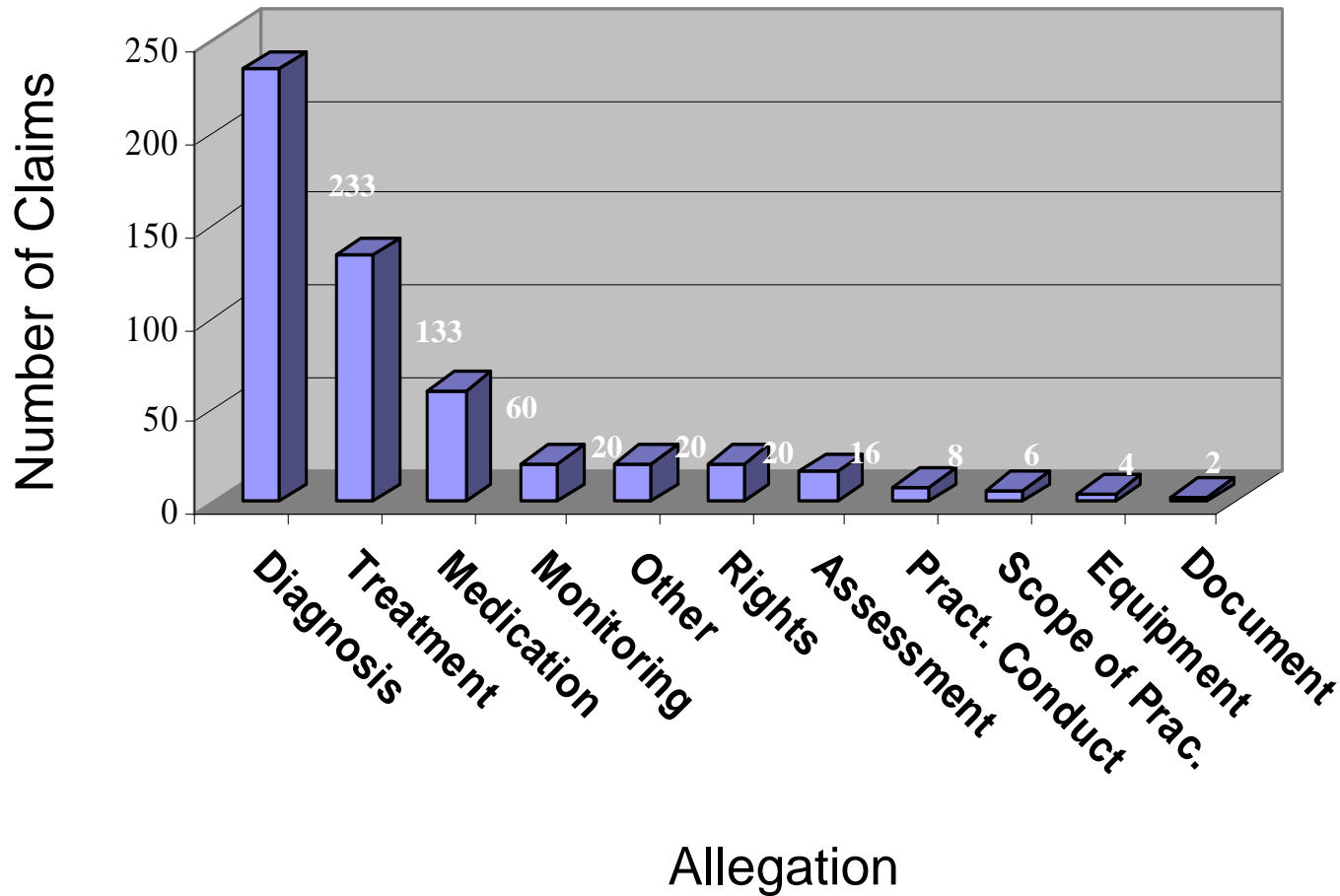
[http://www.cna.com/vcm\\_content/CNA/internet/Static%20File%20for%20Download/Risk%20Control/Medical%20Services/NursePractitionerClaimsStudy.pdf](http://www.cna.com/vcm_content/CNA/internet/Static%20File%20for%20Download/Risk%20Control/Medical%20Services/NursePractitionerClaimsStudy.pdf)

## Potential Liability Allegations

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- 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



## Severity by Allegation

Allegation Category	# of Open & Closed Claims	# of Closed Claims	% of Closed Claims	Avg Paid Indemnity
Monitoring	20	5	4.7%	\$325,200
Patient Assessment	16	3	2.8%	\$263,167
Medication	60	17	15.9%	\$189,815
Diagnosis	234	49	45.8%	\$187,810
Treatment	133	26	24.3%	\$57,684
Scope of Practice	6	3	2.8%	\$31,667
Confidentiality, Privacy	20	3	2.8%	\$4,517
Equipment	4	1	0.9%	\$499
Practitioner Conduct	8	0	0	0
Documentation Only	2	0	0	0
Other	20	0	0	0

## Recruitment, credentialing and hiring protocols

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- ❑ 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

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- 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

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- 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

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- ❑ 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

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- ❑ 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

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- 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

[www.cna.com/vcm\\_content/CNA/internet/Static%20File%20for%20Download/risk\\_control/Client\\_Use\\_Bulletins/PropertyProtection/BurglaryPreventionChecklist.pdf](http://www.cna.com/vcm_content/CNA/internet/Static%20File%20for%20Download/risk_control/Client_Use_Bulletins/PropertyProtection/BurglaryPreventionChecklist.pdf)

## Physical security

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- Lighting
- Ventilation
- Infection control
- Cash
- Medications
- Prescription Pads
- Computers/Medical Records

## AAFP & AMA Desired Attributes of Retail Health Clinics

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- 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

<http://www.aafp.org/online/en/home/policy/policies/r/retailhealthclinics.html> (Last accessed 2/5/2010)

American Medical Association, Reference Committee G REPORT 7 OF THE COUNCIL ON MEDICAL SERVICE (A-06), Store-Based Health Clinics, June 2006

## Challenges

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- 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

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Q&A

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