

Claims alleging Medical Negligence – Lessons Learned for organizations caring for those with Mental Health and Substance Use Issues

presented by

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Purpose and Objectives

- Gain an understanding of the medical malpractice claims that impact those with mental health and substance use issues
- Understand the risk management strategies that can be put in place to prevent claims or allow for better defense of claims
- Appreciate the significance of timely identification of clinical issues and prompt assessment
- Realize the importance of communication and documentation
- Recognize how to determine what can be learned from an event and how to improve the system

Lessons Learned, Lessons Shared

Lesson #1 Complications of care occur and Failure to Appreciate Symptoms can exacerbate the situation.

Lesson #2 Failure to Follow the Plan of Care is problematic.

Lesson #3 Communication is key.

Lesson #4 Documentation is critical. Lack of documentation and/or altered documentation could significantly impact defense of the case if there is litigation.

Lesson #5 Review of the event allows an opportunity to learn from the event and implement system changes.

Lesson #1 Complications of Care

Most frequent complications noted in claims;

1. Medical problems

- Eye problems
- Cardiac problems

2. Medication related issues

- Adverse effects of medications
- Drug – Drug interactions
- Be on the alert for self-medication / illicit drug use

- * Recognition of the medical problem
- * Responding appropriately and in a timely manner

Risk Management Strategies – Medical and Surgical issues

- Medical problems
 - Awareness of the individual's medical history – current and previous
 - What medications is the patient currently taking for medical problems?
 - Are those medications available?
 - If they are not available, how significant a problem is it?
 - If care or follow-up care is planned, need to make it happen!
- Monitoring post-surgery
 - Is there a dressing? What is the plan of care for the dressing?
 - ? Fever or other signs/symptoms of infection
 - ? Wound drainage or bleeding
 - How is that being monitored?
 - How is that being treated?
 - Equipment – wound vacs

*Is your organization qualified to manage these conditions?
*Does the individual need to be transferred to a higher level of care?

Lesson #1 Complications of care

Medication Issues

- Allergies – flagging system to prevent administration of meds allergic to
- Given as ordered
 - Right to refuse medication – Try to understand why, Notify NP / PA ?ND
- Be aware of significant side effects related to medications
 - Priapism - prolonged and painful erection > 4 hours
 - Antidepressants
 - Antipsychotics
 - Rare event, but constitutes urological emergency
 - Time is of the essence and, due to embarrassment, individual many not say anything until pain becomes unbearable
 - Other medications and the most likely side effects – tremor, sedation, dizziness

Risk Management Strategies – Medication issues

1. Rights of Medication Administration

- | | |
|-----------------------------------|------------------------------------|
| Correct medication | Correct route |
| Correct dose | Correct reason for the medication |
| Correct time | Correct documentation |
| Correct patient – two identifiers | Correct response to the medication |

2. Allergy flagging system

3. Is the correct medication available?

- Priority in ordering and receiving medication
- Be careful with refills and dosage changes

4. Staff and client awareness of medication changes and possible side effects

- Who to notify
- Timely notification
- Documentation

5. Medication reconciliation on a periodic, ongoing basis

- Number of medications
- Drug-Drug interactions – concerns regarding respiratory depression

Medication Side Effect vs. Adverse Drug Reaction

	Predictability	Severity	Management	Example
Side Effect	Usually predictable	Can be beneficial, neutral, or harmful	Typically, does not require discontinuation of medication	Benadryl - sleepiness
Adverse Drug Reaction	Often unpredictable Occurs with normal dosing and during proper use.	More serious than side effect; can be severe or life-threatening.	Immediate cessation of the medication and appropriate medical treatment.	Anaphylactic reaction

Lesson #2 Failure to Follow Plan of Care

Patient Monitoring

- Frequent checks / Rounding
- Signs and symptoms of withdrawal –
 - Use of standardized assessment tools (COWS, CIWA)
- Depression, suicidal ideation
 - Use of standardized assessment tools (C-SSRS, ASQ, PHQ-9, SAFE-T)

Risk Management Strategies – Following the Plan of Care

1. Written policies for your organization

- Are staff aware of the policies?
- Do staff comply with the policies?
 - Frequent monitoring
 - Rounding
 - Searches
- If non-compliance, how is it handled?

2. Did staffing play a role?

3. Emergency policies – Are they known? Are they followed?

- Call Supervisor vs. Performing CPR
- ? Need for drills, role playing

Lesson #3 Communication is key

- Hand-off from one shift to the other
- Failure to inform medical personnel (supervisor, nurse, nurse on call, medical director, PA/NP/MD)
- Failure to timely refer for medical care (911)
- Failure to notify the family

Risk Management Strategies – Communication

- How does hand-off happen in your organization?
 - Is there an opportunity to discuss concerns, answer questions?
 - Are key concerns shared?
- Policies re notifying clinical staff
 - Criteria with written specifics, examples of when to call
 - Culture to encourage and “accept” the call
 - Virtual assessment vs. actual hands-on physical assessment
 - When there is a disagreement, onsite/in-person exam is warranted
 - Documentation of notification (including date, time, names)
- Policies re notifying family
 - When to notify 2:00 am?
 - Who should do the notification
 - Who has rapport?
 - Who has a good understanding of the situation?
 - Who can explain – clinically – what happened and what is being done...even if this is the first of multiple conversations (which it may be)!
 - Importance of explaining only what you know and keeping the lines of communication open
 - Document names, dates, times of all conversations
- Referring for medical care and treatment
 - Written policy with criteria defining when individual needs to be transferred
 - Oxygen saturation – What is low? (93-94% O2 sat 95-100% WNL) When to take action? (92% or below)
 - Monitoring till transport (suicidal ideation)
 - Trust your gut instinct
 - Respond to requests by client / family

Lesson #5 Documentation is critical.

- Lack of documentation
- Inconsistent or missing documentation
- Inaccurate documentation
- Inappropriate documentation
- Delayed documentation
- Altered documentation

Risk Management Strategies – Documentation & Medical Records

- Lack of documentation
 - Staff education regarding when to document, how to document, what to document
- Inconsistent or missing documentation
 - Ongoing audits
 - On the spot correction of the problem
- Inaccurate documentation
 - Review records
 - Correct record if appropriate to do so
- Inappropriate documentation
 - Education
- Delayed documentation
 - Culture / Written policies...be careful of documenting ahead of time!
 - Delays in entering handwritten information into the computer...gaps in care, knowledge
- Altered documentation
 - Just don't do it! No matter how badly you may be tempted....

Risk Management Strategies – Documentation & Medical Records CONT.

- Importance of knowing the patient
 - Read the record. Review previous notes.
- Written policies
 - Timely documentation
 - Corrections or additions to the medical record
- What are the record retention laws for your state?
 - Complications / Complaints / Concerns
 - American Health Information Management Association (AHIMA)
 - Destruction of medical record information
- What are the laws regarding retention of employee files for your state?
- What about video footage? Has it been retained, secured?

Lesson #6 Review and Response after an Event

“Too often, healthcare professionals are punished for being human. This drives fear, suppresses error reporting, and ultimately puts patients at risk. We must create environments where people can speak up, learn from mistakes, and feel supported while doing their jobs. The focus must shift from determining who is at fault when errors happen, to determining what went wrong, what we can learn, and how to improve the system overall.”

Marcus Shabacker, MD, PhD

President and CEO of ECRI

<https://home.ecri.org>

Risk Management Strategies – Responding After An Event

- Do employees report only what can't be concealed?
- Do employees report only state reportable events?
- Avoid turning a blind eye to risky choices simply because no harm occurred.
- Avoid knee jerk reactions to a tragic event – Terminating all staff involved

*Punitive cultures undermine patient safety, erode trust
and increase burnout among staff.*

QUESTIONS?

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