



Risk Management 101

Teresa McMillan, RN, MSA, CPHRM, LHRM



MAG MUTUAL[®]
Because your patients come first.

Disclaimer

- The content and information presented in this program is intended to be used for general information purposes only and is not intended to be legal advice.
- Consult a licensed attorney at law to assist with specific situations that require legal advice or counseling.

Objectives

- Discuss risk management for the physician practice
- Identify top 5 allegations related to office based malpractice claims
- Identify the most common diagnosis associated with office based diagnostic related claims
- Identify processes associated with high risks and strategies to reduce those risks

Risk Management

- Proactive vs. Reactive
- What can go wrong?
- What will we do if it does?
- What can we do to reduce the chances of something going wrong resulting in patient harm?

Effective risk management is necessary for all types of risks...



Good anticipation reduces risk...



According to PIAA data from January 1, 1985-June 30, 2009, approximately 68% of claims occurred in a hospital setting and approximately 21% occurred in a practitioner's office.

Why Do People Sue?

- ❖ Anger
- ❖ Guilt
- ❖ Surprise
- ❖ Money \$\$\$\$

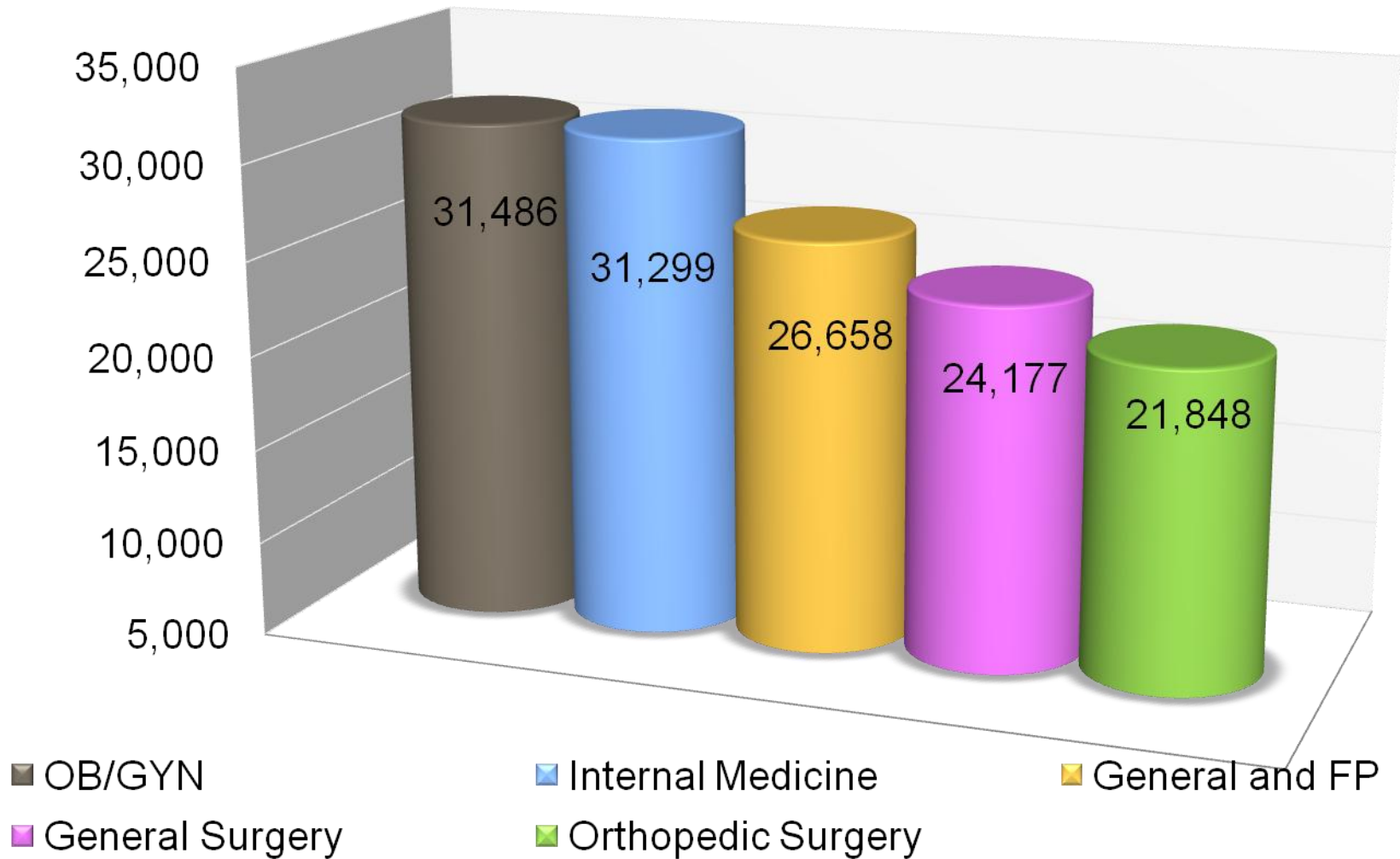


Essential Elements of a Medical Malpractice Claim

1. Legal duty (patient-physician relationship)
2. Breach of that duty
3. Damages
4. Damages proximately caused by the breach of duty



Closed Claims by Specialty Group



Claims by Five Most Prevalent Medical Conditions

1. Brain damage infant
2. Pregnancy
3. Breast cancer
4. Symptoms involving abdomen and pelvis
5. Back disorders, including lumbago and sciatica

Top Allegations related to Office Based Claims

Diagnosis **52%**

Medication **13%**

Medical Treatment **13%**

Communication **4%**

Surgery **3%**

Source: LaValley D. Improving Patient Safety in Office Based Practice. *Forum* 2007 June; 25 (2):1-2

Office Based Diagnostic Related Claims

55%-Involved poor follow up of a referral or test result

38%-Involved an indicated diagnostic test not ordered

50%-Involved cancer diagnosis (colorectal, prostate, lung, breast, head/neck)

Other commonly involved: infection, AMI, benign tumor, pulmonary embolism, cardiovascular disease

Source: LaValley D. Improving Patient Safety in Office Based Practice. *Forum* 2007 June; 25 (2):1-2

Medical Errors in the Outpatient Setting

- The 1999 Institute of Medicine report indicated that many errors are likely to occur outside the hospital.
- In a study supported by the AAFP that examined errors and preventable adverse events that occurred during office based clinical encounters, an error or event occurred in 24% of outpatient visits.

Causes of Medical Errors

- **Communication problems**
- Inadequate information flow
- Human factors-related problems
- Patient-related issues
- Organizational transfer of knowledge
- Staff patterns and workflow
- Technical failures
- Inadequate policies and procedures
 - Source: Agency for Healthcare Research and Quality

Factors in Poor Patient Outcomes

Inadequate follow-up on:

- Patients who must return to the office
- Referrals to other physicians and coordination of care
- Diagnostic test results



Components of a Clinical Tracking System

- Patient follow-up process
- Test tracking management system
- Referral management system
- Mechanism for documenting informed agreement and/or refusal.

Tracking is Complete When...

- Follow-up is complete
- There is documentation of informed refusal
- The documentation supports reasonable attempts to encourage patient compliance.



The Doctors Point of View

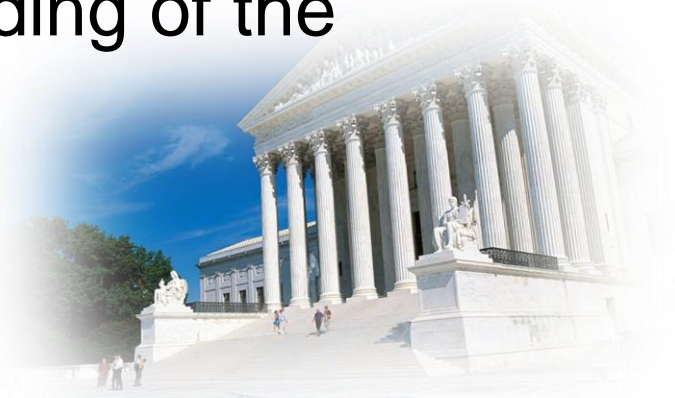
It is the patient's responsibility is to:

- Return to the office as directed
- Obtain recommended tests



The Jury's Point of View

- The patient is the consumer of healthcare
- The physician is the provider of healthcare who has a professional duty to supervise & monitor care
- The physician holds higher degree of education in the health field
- Therefore, has a better understanding of the patient's needs.



Test Results Management System


- All tests ordered during the work-up of a critical or acute problem
- Any tests where subsequent follow-up is essential and the risk for not following-up is high
- Any tests ordered to monitor medication levels with known adverse effects
- Any tests ordered in which the specimen is obtained in the office but sent elsewhere for testing.

Example of Follow-up Issue

INDICATION Cough and fever.

Heart size is within normal limits There is an ectatic thoracic aorta The lungs show no active infiltrates The costophrenic angles are sharp No pulmonary vascular congestion is seen. In projection of the right upper lung field there is a nodular density measuring about 1 cm in diameter No old films are available for comparison.

IMPRESSION.

- 1 NO DEFINITE ACUTE CARDIOPULMONARY PROCESS IS SEEN
 - 2 THERE IS A NODULAR DENSITY SEEN IN PROJECTION OF THE RIGHT UPPER LUNG FIELD MEASURING ABOUT 1 CM IN DIAMETER NO OLD FILMS ARE AVAILABLE FOR COMPARISON IF THE PRIMARY PHYSICIAN CANNOT OBTAIN OUTSIDE FILMS FOR COMPARISON THEN CT SCANNING SHOULD BE CONSIDERED FOR FURTHER EVALUATION OF THIS POSSIBLE COIN LESION.
- 

Follow Up Tracking

- Breast mass
- Questionable pap smear
- Borderline or abnormal test results
- High risk medications such as warfarin
- Any finding in which the physician believes it crucial that the patient be seen again
- Patients discharged from hospital with instructions to return to the office.

Other High Risk Processes

Documentation and the Medical Record

The medical record is both a medical and legal document. Without adequate documentation of visits, lab tests, treatments or surgeries, coordination of care is compromised and can lead to medical errors.



Issues with Paper Medical Records

- Missing pieces
 - Reports
 - Faxes
 - Documentation of phone calls and other communication
- Limited documentation
- Legibility
- Gaps in documentation



Issues with Electronic Records

- Electronic foot prints
 - Time and date stamped
 - User entry
 - Time spent in the record
- Pending actions
- System not used as intended
- Discoverability
- Pre-populated areas
- Junk in=Junk out

Documenting Telephone Calls

When one of the following occurs:

- Prescribing or changing medications
- Making a diagnosis
- Directing treatment
- Directing patient to another provider or facility.



Staff Training and Competency

- Orientation and ongoing education/training
- Annual requirements by various agencies/laws
- Evaluation/Competencies
- Address issues
- Position vs personality
- Position vs education/training

Midlevel Providers

- In the past 5 years, MAG Mutual has seen an increase in the # of malpractice claims involving physicians due to faulty performance by a midlevel provider.
- Supervision and guidelines are key to managing the midlevel provider risk.

Risk Management Strategies for Managing Midlevel Providers

- Hire MLPs with proper credentials
- Review/update job descriptions, policy statement
- Name badge identification should be evident
- Follow regulatory guidelines
- MLPs should not perform clinical activities under any physician not authorized as a supervising/collaborative physician

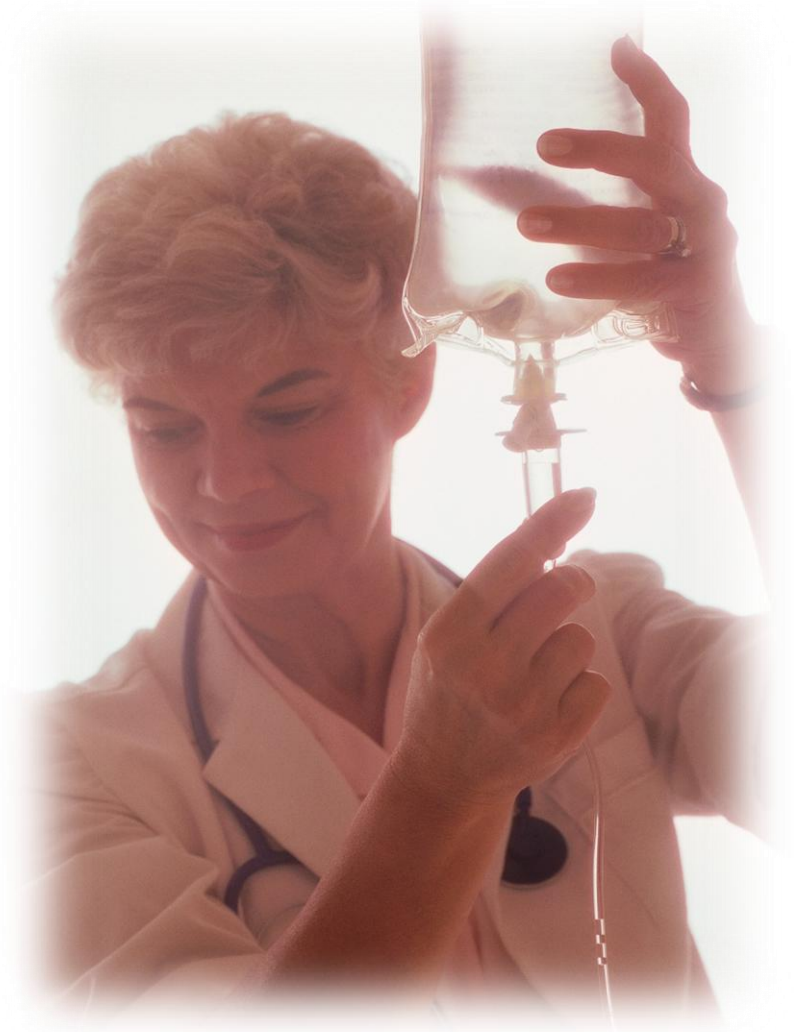
Risk Management Strategies for Managing Midlevel Providers

- Obtain permission to do background checks.
- Review/update job descriptions, practice protocols, collaborative and employment agreements on an annual basis.
- Conduct regular and periodic reviews of MLP activities and clinical responsibilities.
- Spell out the scope of practice; Set limits.
- Specify the frequency of reviewing prescriptions written for controlled substances.

High Risk Medications

Three drug categories account for 87% of preventable adverse drug events:

- Cardiovascular drugs
- Analgesics
- Hypoglycemic agents



Problems Most Frequently Associated with ADEs

- Use of an inappropriate drug
- Ignoring of clinical or laboratory results
- Inadequate monitoring

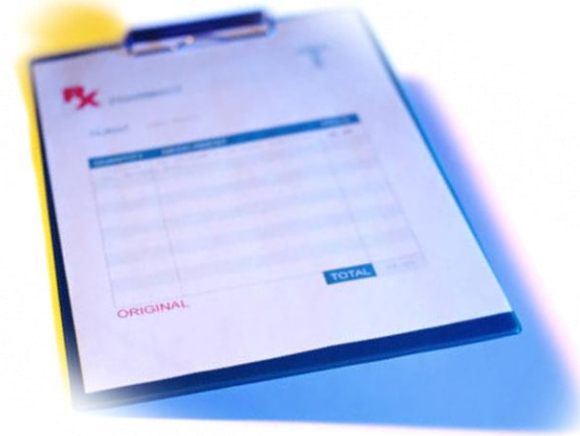


Accurate Medication List

- Highly recommended that a “formal” medication list be maintained in the chart.
- Way to readily discern what drugs the patient is taking.
- Important to help avoid drug-drug interactions & to determine dosages & frequencies of medications prescribed.
- Identify all chronic meds
- Be placed in a prominent location in the chart.

Medication Reconciliation

- A process that may prevent up to 70% of all potential errors and 15% of all adverse drug events
- Medication list should be evident and updated on a regular basis.



Medication Risks

- Provider should approve all refills unless protocols are in place that have been approved
- Beware of high risk medications
- Complete duties according to position/job description



Labeling of Sample Drugs

To ensure the safe distribution of drug samples, the Institute for Safe Medication Practices (ISMP) recommends that samples provided to patients be labeled with the following information:

- The patient's name
- The reason that patient has been prescribed the medication
- The amount of medication the patient should take
- How often the medication should be taken
- Precautions
- Significant side effects

Document Allergies and Adverse Reactions

- Allergy/adverse reactions positive or negative should be documented in a consistent, prominent location in the record
- Multiple reaction locators are discouraged as they may not all get up-dated when there is a change.
- Avoid leaving blanks on forms where allergies are to be recorded.

Problem List

- Serves as a summary to help avoid overlooking important information about a patient's medical problems.
- Should correlate with the medication list when possible.
- Primary Care provider – identify all of the patient's chronic & recurrent medical problems & significant illnesses.



"It's nothing to worry about. Listen - I had the same thing, only worse."

Telephone Risks

- ❖ Triage
- ❖ Medication refills
- ❖ Timely return of calls
- ❖ Appropriately route calls
- ❖ Work within job duties
- ❖ Training
- ❖ Avoid phone advice-use protocols
- ❖ Documentation

Communication

- ❖ In a study by PCISME, 69% of errors occurred in the physician office.
- ❖ 2/3 of the errors were initiated by communication errors.
- ❖ Communication issues underlie many patient safety issues as well as a majority of lawsuits.

- ❖ Source: ECRI 2008

Communication

- ❖ Impacts all key processes
 - ❖ Documentation
 - ❖ Medication process
 - ❖ Emergencies
 - ❖ Diagnostic test and referral process
 - ❖ Informed consent
- ❖ Verbal vs. nonverbal



Customer Service

Patients are less likely to sue the physicians/practices that they like.

Other benefits of positive customer services include:

- Improved patient retention
- Increase in patient referrals
- Greater patient compliance

Office Emergencies

- Be prepared.
- What is the policy for your practice?
- Staff training? Roles?
- What equipment/meds do you have available?
 - Who is responsible for checking stock, meds, etc.

New Risks on the Horizon

- Cell phones
- I pads and other computer devices
- Face-book, twitter, BBM
 - Friends vs patients
 - HIPAA
- Other sophisticated devices

Moving Forward..

- Assess your risks
- Identify areas to focus on to improve
 - New requirements for board certifications for providers
- Make a plan
- Work with staff/providers to move forward with implementation of tools, forms, training
- Keep a file/document the process

Success is achieved...

- One mile at a time...sometimes one step at a time
- Staying on course
- Having a passion for your purpose



www.magmutual.com
tmcmillan@magmutual.com



MAG MUTUAL[®]

Because your patients come first.