Difficult Physician-Patient Relationships

Online OMIC Risk Management Course
Course Description

Eye surgeons are confronted with a wide variety of patient behaviors which can cause stress and miscommunication. These behaviors can also lead to Allegations of professional liability claims against a physician.

OMIC’s Risk Management department offers the following course which outlines a variety of physician-patient scenarios for which an ophthalmologist would need risk management help.
Course Objectives

1. Identify difficult patient behaviors that pose a risk to patient care and a potential professional liability claim against the physician.
2. Identify factors that contribute to dissatisfied & non-compliant patients.
3. Identify risk management resources that can be used to minimize these risks.
4. Analyze the necessary services needed to provide care to deaf & limited English patients.
5. Analyze state licensing & reporting requirements for patients who should not drive motor vehicles.
Types of Difficult Patient Behavior

1. Non-Compliance (no shows, medication)
2. Hostile (angry, threatening, violent)
3. Treating staff, relatives, friends
4. Driving issues (vision requirements)
5. Special needs (deaf, limited English)
Impact to Patient care and Risks to Physicians

1. Patient is non-compliant and harms self but blames physician
2. Physician, staff and other patients are exposed to abusive, violent behavior
3. Take away from time with other patients
4. Non-payment for services
5. Litigation or regulatory complaints
6. Negative Public relations
Resources for Responding to Difficult Patients

- Contact OMIC’s Risk Management department to receive:
  - Risk management recommendation on how to handle difficult patients
  - NOTE: This is a Confidential “hotline” service
  - 800-562-6642, enter 4 (Risk Management)

- Physician Office Safety Guide: Insert Weblink or attach at end

- Your Practice’s Policy and Procedures Manual
Noncompliance
NONCOMPLIANCE

• RANGE OF BEHAVIORS
  – Not taking medications as prescribed
  – Refusing recommended treatment
  – No shows and cancellations
  – Nonpayment for services
  – Dishonest communications (i.e. lying, drug-seeking)
NONCOMPLIANCE

The prevalence of this problem is staggering! *

- Only 55 - 68% of glaucoma patients use their medications correctly
- Nearly 60% of patients cannot identify their own medications
- 30 – 50% of all patients ignore or otherwise compromise instructions
- 12 – 20% of patients take other people’s medications

* FDA and the National Council on Patient Information

1995 Glaucoma Study by Patel, Spaeth
Noncompliance and Litigation

• Litigation experience demonstrates that noncompliant patients are a liability risks.

• Patients will pursue a claim if they believe and can prove their noncompliance resulted from MD’s unclear, inadequate or omitted advice.
Non-compliance and litigation

- Duty on no-shows and recalls - what is the standard? Is there any standard?
  - There is no standard but from a risk perspective some form of action is recommended.
- People are non-compliant: what is the duty of physician to explain disease process?
  - A physician has the duty inform a patient about their medical condition and ensure they understand that information. The physician is in a position of greater knowledge and must take the lead in terms of communication.
- Documentation is the **single best defense if a claim is filed**.
  - “If you wrote it you probably did it”.
  - The trial may be years later, but records were written at the time
  - Jury may remember little, but records may be taken into jury room
Failed Appointments: An Early Indicator

• No show appointments should be a red flag to the practice:
  – Wastes valuable office time
  – Failed appointments often continue without intervention
  – Documenting the failed appointment is a critical first step when addressing noncompliance
NONCOMPLIANCE

Risk Management Recommendation

• **Timely intervention and documentation of no-shows**
  – Improves defense against
    • Poor outcome
    • Alleged abandonment
  – Consider using a series of warning letters to patients when they no show on appointments. Advise them of possible termination from the practice if no shows continue.
Risk Management Recommendation

• Develop a protocol for managing failed appointments
  – Consider having a written policy statement
  • Make it part of your practice’s policies and procedures (P&P) manual.
  • A P&P further evidences your practice’s customary operating process. It also illustrates a proactive process if there is a claim.
**NONCOMPLIANCE**

Risk Management Recommendation

- Prepare a daily list of missed or failed appointments
  - Pull respective medical records and document occurrence in the progress notes.
  - List should be reviewed by physician
  - Document action taken to address the occurrence (take some sort of action).
Risk Management

• Follow up: Have a system that prompts some action
  – Call patient the same day to reschedule
  – Send a reminder card to reschedule
  – Send a certified/return receipt letter

• Face-to-face discussions are always the first choice but not always possible

• If appropriate, send a copy to the patient’s primary care provider.
Risk Management Recommendation

- Terminating the Patient/Physician Relationship
  - when efforts fail to encourage patients to be compliant consideration should be given to terminate the patient–physician relationship
  - This should be done in writing, advising the patient that your primary concern is their health and the delivery of quality medical care. Failed appointments prevent the provision of care.
  - Use assertive but non-threatening language about the recommended therapy
  - Reassure the patient that you are accessible
Risk Management Recommendation

Patient Termination: To ensure proper notice...

- Send a letter by certified mail. It is optional whether to include the reasons for withdrawing medical services.
- The preferred method of communicating specific reasons is through face-to-face discussion before the letter is mailed

NOTE: Contact OMIC’s Risk Management department if you need assistance.
NONCOMPLIANCE

Risk Management Recommendation

• Informed Refusal
  – Should be considered when patient termination is not possible or desired at that time.
  – Persistent refusal to consent to therapy is yet another form of noncompliance
  – Informed refusal must be documented
  – Consider adopting a standardized refusal-to-consent form
  – It is designed to memorialize the discussion regarding proposed treatment, procedure or operation
NONCOMPLIANCE

Risk Management Recommendation

• Informed Refusal (cont.)
  – This additional documentation reflects the patient’s own behavior as a contributing factor to the poor outcome
  – Include current status of patient’s health
  – Recommendations for immediate care
  – The date the relationship will end; thirty days is the customary.
  – Agree to provide emergency care until the stated date of termination
  – Suggest the patient locate another physician by contacting the managed care plan, or local medical society
Hostility
Hostility

Hostile/ Disruptive Patients

Range of Behaviors:

- Pt. in office: aggressive, loud, angry, threatening, drug seeking,
  - May turn to violence
- Pt. out of office: abusive/threatening phone calls, letters, emails, etc
  - “I am going to sue you”
  - May turn to stalking
Hostility
Hostile Website
Sometimes patients go public with their anger…

Is Lasik Vision Correction For You?
Dr. Name of Physician
Address of physician Impairs Name of Patient
for Life and then treats her like she is an ungrateful recipient of a perfect outcome. This Doctor needs to learn how to say I am sorry when he screws up a patients life! I believe he should get

The Most Uncaring Doctor of the Year Award!
Please read Pt. Name Story below!

Actual website posting.
Tips: Prevent/Reduce Disruption

- Loud patient (may be using profanity)
  - Determine cause of patient’s behavior
    - If in clinic
      - Get assistance. Quiet area. Set limits. Ask to leave.
    - If on telephone
      - Set limits - Terminate call
  - If letter of complaint
    - Forward to manager/physician
Hostility

Tips: Disgruntled Patient

• Further attempts to handle patient
  – Manager will contact patient to resolve situation
    • May need to terminate from practice.
  – Physician/compliance officer assumes control
    • No prior history of unacceptable behavior?
    • Pt. behavior related to practice policy?
    • Physician to discharge from practice?
Hostility

OSHA and Violence Prevention

• Healthcare and social service workers highest rate of “non-fatal violent crime”

• Reasons:
  – Isolated work areas
  – Acute chronic mentally ill
  – Availability of drugs
  – Increasing number of drug and alcohol abusers
Hostility

Tips: Preventing/Reducing Violence

• If verbal or actual threats of physical harm
  – DO NOT approach patient DO NOT argue with patient
  – Speak in a calm voice.
  – Signal coworker to call 911 immediately
  – If any weapons displayed, call 911 immediately.

9-1-1
POLICE • FIRE • MEDICAL
EMERGENCY
Hostility

Tips: Preventing/Reducing Violence

• Situations in Clinic
  – Have a designated “quiet area”
  – Always consider safety:
    • leave door open and/or have another staff member present
    • Never allow angry patient to block doorway
  – When in doubt call 911 to protect staff and other patients
Driving – Vision Requirements
Driving – Vision Requirements

- **Patient Population**
  - Patients that are unable to safely operate a motor vehicle due to vision loss
  - Patients that are dilated in your office and have impaired vision due to drops

- **Physician Responsibility:**
  - Need to document that patient was informed of risk of driving because of his visual impairment
  - In serious cases put it in writing (letter) and hand/deliver or mail
  - Patient (family member) may sue but also 3rd party injured by patient
Driving – Vision Requirements

Academy and AMA Resources

- Academy ONE website
  - Practice Guidelines
- Clinical Statements – “Vision Requirements for Driving”
- AMA website
  - “Physician's Guide to Assessing and Counseling Older Drivers”
- State Department of Motor Vehicles (DMV)
  - State laws vary in both responsibility to report, confidentiality / anonymity of reporting physician and liability. Check with your state DMV and attorney.
Treating Staff, Friends, Relatives
Treating Staff, Relatives, Friends

- **Risks**
  - Poor documentation of physician-patient relationship
  - Treating/prescribing care outside area of expertise
  - HIPAA privacy issues
- **OMIC “friend” cases found:**
  - documentation was sparse or non-existent
  - prescribing medicines, even meds not related to and ophthalmologic problem.

**NOTE:** OMIC coverage is for ophthalmic related professional negligence claims only.
Treating Staff, Relatives, Friends

Take Away Points

- Treat every patient whether it is your friend, family or office staff just like a patient you have never met.
Limited English Patients

- Federal Law
  - Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficiency Persons
Limited English Patients

Physician Obligations

• Limited English patients
  – Reasonable steps to ensure access
    • Provide interpreters that when requested at your expense.
  – Analysis (To determine reasonable steps)
    • Number or proportion of LEP persons served
    • Frequency of LEP persons contact with practice
    • Nature and importance of services
    • Resources available and costs
Deaf Patients

- Federal Law

The Americans with Disabilities Act (ADA), 42 U.S.C. § 12101, *et seq.* prohibits discrimination on the basis of disability. It requires those who own, lease, or operate a place of public accommodation, such as a physician’s office, to make reasonable accommodations to meet the needs of patients with disabilities, unless “an undue burden or a fundamental alteration would result” (“ADA Title III Technical Assistance Manual,” [http://www.usdoj.gov/crt/ada/taman3.html](http://www.usdoj.gov/crt/ada/taman3.html), accessed 1/10/06).
Deaf Patients

Physician Obligations

• Deaf patients
  – “No hard and fast rule for provision of services
  – Does not mandate use of interpreters in every instance
  – Special circumstances may need interpreter:
    • Before major surgery
    • Initiating treatment plan for complex condition
  – Pt.’s request for interpreter is a significant factor
Deaf Patients

Steps to Prevent Discrimination Lawsuit

- Understand state and federal statutes
- Work with community groups
- Develop a protocol (step by step)
- Train and educate staff
- Implement
- Survey patients on quality
Report Regulatory Matters!!

• No matter how seemingly “frivolous”....

  – Seek advice from professional liability risk management department personnel

  – Possible coverage for some regulatory claims
Risk Management Resources

- OMIC website
  - WWW.OMIC.COM
- Risk management recommendation articles available on our website:
  - Record retention, terminating patient physician relationship, ROP safety net
  - Informed consent documents (some in Spanish)
  - Informed Refusal document
  - Patient information documents
  - “eRisk” guidelines
  - Closed claims/lawsuits studies
Additional Risk Management Resources

• OMIC Handout: Difficult Physician-Patient Relationships. (Attached)
• Johnson, Lee J., Esq., Malpractice Dangers in Patient Complaints, Medscape Business of Medicine, 7/19/2010. (Attached)
• ECRI- Physician Office Safety Guide- Security and Violence Prevention (Attached)
End of Course

• Contact OMIC Risk Management if you have any questions regarding this material or wish to confirm that you completed this course. Thank you.