



By Patricia A. Costante

IS YOUR PRACTICE ADEQUATELY PROTECTED?

Emerging changes in the practice of medicine present new risk factors that go beyond patient care. Laws such as the Affordable Care Act and the resulting new rules in development place more of the risk burden on the medical practice itself. This burden impacts all of the elements of your medical practice.

At MDAdvantage, our risk management staff with clinical backgrounds visit physician practices regularly to perform practice assessments and to assess areas where physicians may be opening themselves and their practices up to potential liability. The following is an overview of the common areas where physicians are lagging behind or not paying enough attention to small details that may mean big liabilities down the road.

ARE YOUR POLICIES AND PROCEDURES UP-TO-DATE?

It is not uncommon for our risk management consultants to go into a medical practice and find a policies and procedures manual that is 12-15 years old. Clearly, that manual is not keeping pace with rapidly-changing technology and regulatory requirements.

In addition to human resources policies, your manual should also include specific documented procedures on key areas of your practice, such as:

- Your process of tracking patient diagnostic studies
- Your procedures for communicating with patients that may have limited hearing or limited English proficiency
- Your process for documenting your informed consent process
- Your established guidelines for the use of social media

Also consider whether your policies adequately address regulatory compliance, such as Stark and Health Insurance Portability and Accountability Act (HIPAA) rules. These policies should be updated regularly. For example, final HIPAA rules were recently released that attempt to clarify many matters related to privacy and security of health information. The new rules become effective on March 26, 2013, and compliance is required by September 23, 2013.

ARE YOU PREPARED FOR THE NEXT EMERGENCY?

We have all experienced the recent uptick in hurricanes, flooding and other severe weather events in recent years. Certainly Hurricane Sandy woke many of us up to gaps in emergency preparedness that may have previously been considered unnecessary. Consider whether you have adequate procedures in place to handle extended power outages, destruction of facility and/or medical records, and displacement

of employees.

It is helpful to share your experiences and lessons learned with other medical practices, so that we can all be better prepared for the next emergency. In fact, *MDAdvisor: A Medical Journal for the New Jersey Medical Community* is planning an article that will offer readers an insider's look at the effects of the storm from the viewpoints of New Jersey medical practice managers. This article will focus on a discussion of the "preparedness" of the practices, in terms of plans in place before the storm, how those plans were executed, and how plans might be adjusted going forward based on actual experiences. I invite you to participate in a survey on this very subject (<https://www.surveymonkey.com/s/MDAhurricane-sandy>) and look forward to sharing the findings with you.

DOES YOUR PRACTICE CARRY THE APPROPRIATE INSURANCE COVERAGE?

All physicians know they need malpractice insurance, but have you had a discussion with your broker about what other coverage may be needed? This conversation should be occurring on an annual basis. As new coverages become available to keep pace with the changing healthcare environment, it is your broker's responsibility to make you aware of the coverage needed in your practice, and to educate you on the different options.

For example, there are a rising number of lawsuits involving privacy and data security. In January of this year, the U.S. Department of Health and Human Services reached a settlement for the first time over a data breach that affected fewer than 500 people, reinforcing its message that no medical practice is too small to be held accountable for not following privacy and security laws. The case stemmed from a stolen laptop with unencrypted data containing the protected health information of 441 patients. Consider whether your practice is adequately protected from data security breaches, and the loss, theft or accidental release of personally identifiable information.

Additionally, as the requirements for billing, coding and documentation become increasingly complicated, consider whether your practice is prepared to handle regulatory audits. Medical practice administration coverage is available that can provide coverage for attorney and audit costs, as well as fines and penalties incurred in response to actions or proceedings resulting from billing errors, Recovery Audit Contractor (RAC) audit findings, HIPAA violations and STARK proceedings.

Make sure you understand the extent of the coverage, particularly when there are shared limits. For

example, some medical practice administration coverage may be principally intended to cover just physicians. Consider whether you wish to also cover the medical practice entity itself, and other staff such as practice administrators or nurses. This coverage is often available as a separate option, and often at very reasonable premiums. Do your homework from the beginning; don't be the physician who only learns about the exclusions of his or her policy at the time that a claim occurs and the coverage is needed.

ARE YOU PERFORMING REGULAR RISK ASSESSMENTS?

The best way to confirm that your practice is managing its risks appropriately is to have an outside professional review your practice's policies and procedures. However, that does not mean that your practice can forgo performing its own internal ongoing risk assessments. All practices should be performing periodic, proactive random medical record audits, and that process should be well documented. There are also external auditors that can help assist with this. Find out about any weaknesses in billing or coding-

- and correct them-- before you are subjected to a formal audit. And make sure that ongoing risk assessment is a key aspect of your practice administrator's or compliance officer's annual duties.

HAVE YOU IDENTIFIED PARTNERS THAT YOU TRUST?

There are numerous resources that you can go to for information on protecting you and your practice. Your healthcare attorney and your broker are two very significant assets to your practice, so make sure you have strong and ongoing working relationships with them. Some medical professional liability carriers provide risk management products and services that can significantly assist you and your practice, so when you evaluate your carrier at your next renewal don't forget to evaluate the quality of risk management services. Small proactive efforts to manage the risk in your practice now are likely to make a big impact over the long run.

Patricia A. Costante is Chairman and CEO of MDAdvantage Insurance Company of New Jersey (www.mdadvantageonline.com).

L & A

LAWLOR AND ASSOCIATES

Physician and Executive Healthcare Search



NATIONWIDE TELEMEDICINE POSITIONS

We are working with several quality Companies offering Nationwide Physician coverage for 24/7/365 Telemedicine care. Earn excellent money working from anywhere. Opportunities throughout the U.S. in all Primary Care specialties as well as Orthopedics, Dermatology, Neurology, Cardiology, and Psychiatry. This does not require relocation and no special equipment is required, just a phone and high speed Internet access. Physicians have the flexibility to choose their desired volume

of patient appointments, based on their current professional availability. You will always be able to review the patient's medical record prior to a consultation that may, at your discretion, include a diagnosis or prescription for a non-controlled medication. Applicants Should Be: Licensed in their respective states; Verified through the National Physician Data Base (NPDB) and the American Medical Association (AMA) for medical licensure. Bilingual is a plus.

Contact: Margie Quinlan,
800-238-7150; 610-251-6852
fax: 610-431-4092
margie@lawlorsearch.com