Objectives

- Highlight characteristics of Hospitalist Medicine.
- Identify common Hospitalist Medicine risk exposures.
- Describe potential ERM solutions for implementation of Hospitalist Medicine programs.

Characteristics of Hospitalist Medicine
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- “Prompt and complete attention to all patient care needs including diagnosis, treatment, and the performance of medical procedures (within their scope of practice).
- Employing quality and process improvement techniques.
- Collaboration, communication, and coordination with all physicians and healthcare personnel caring for hospitalized patients.
- Safe transitioning of patient care within the hospital, and from the hospital to the community, which may include oversight of care in post-acute care facilities.
- Efficient use of hospital and healthcare resources.”

Hospitalist Models

- Hospital Employed Hospitalists
- Independents Contracted as Hospitalists
- Hospitalists Company Employees
- Hospitalist Company Contractors

“Hospitalists” Often Means More than Physicians

- Nurses
- APRNs
- PAs
An Interesting Demographic

- One segment includes newly minted internal medicine physicians.
- We are NOT being xenophobic! A cohort of hospitalists are foreign born care providers.
- Many of the younger hospitalists are trying to decide “which” specialty or sub-specialty to pursue.
- Many of the older hospitalists decided it was time to get rid of the office headaches and just practice medicine.

Hospitalist Specialties

- Laborists.
- Intensivists.
- Surgicalists.

Risk Exposures of Hospitalist Medicine
Tug of War

“You take your direction from the hospital, not that hospitalist company!”

“Oh really” We work for the company. We are independent contractors. We do not take our direction from you!”

So who is in control?

Scope of Practice Risks

“You want me to do what?”

“I am not supposed to manage OB patients. I am not an OB hospitalist. I am an internist. I don’t have OB privileges.”

Mission Creep Risks

“You want me to supervise the third year residents? No way, John. Sorry, but I cannot do it. Our contract does not authorize me to do so.

“Well, look again. It does not say that you cannot do it, does it?”

“But I am already the hospitalists for two med-surg floors.”
And What About Supervision Risks?

Medical Residents
Nurse Practitioners
Medical Students
Med Tech Students

Should the hospitalist be taking on these supervisory responsibilities?

Cultural Competency Risks

Many hospitalists are from developing nations. They bring with them their own cultures. For many, English is a second or third language. In their training they have not enjoyed cultural diversity or education in cultural competency. And then patients or families react angrily to “their” attitudes.

Consent Risks

Consent is far more than a piece of paper. It is a communication process. The hospitalist may not know much about this patient or his or her spokesperson.

“I want my doctor to take care of me!”
Communication Risks

For the hospitalist, a major area of concern

- Nursing & Pharmacy Personnel
- Patient, Family or Support Persons
- Community Health Clinics
- PCP (if there is one)
- Community Pharmacies
- Specialists & Consultants

Documentation Risks

- Timeliness.
- Accuracy.
- Completeness - Missing information.
- Discharge planning information.
- Transmission of critical data to PCP or community clinic.

Billing and Coding Risks

- Remember Present on Admission?
- Remember MS-DRGs vs. DRGs?
- Remember Healthcare-acquired conditions?
- Remember, discharge planning and the 30 day readmission rule?

Often, billing and coding issues will depend on how the hospitalists recorded information.
Negligence Risks

Failure to follow applicable medical standards of care resulting in reasonably foreseeable and proximately linked injury or death to a patient.

Some examples- there are many more.

The hospitalist failed to:

- Order the correct tests.
- Call for a consult by a specialist in a timely manner.
- Order the correct medication or correct dose.
- Write the correct discharge orders.
- Write a timely, accurate follow-up to the PCP.

Failure to follow applicable medical standards of care resulting in reasonably foreseeable and proximately linked injury or death to a patient.

Vicarious Liability Anyone?

"Mom, I am telling you, the doctor had on a white lab coat with the hospital's insignia. He introduced himself to me as the hospitalist for my floor of the hospital. It was that guy who wrote the medication order that caused my severe allergic reaction."

Breach of Contract

"Yes. I see it. The contract clearly states in Clause IV.B.1 that the hospitalist company shall provide two hospitalists for each shift. This is the fifth time in three months we have been down to one hospitalist when we have had a high post-op census. We cannot accept any further excuses. They have had their chance to "fix" things, Richard. We are done, finished. We are terminating the agreement for material breach."
Credentialing Claims

The “new” hospitalist had three serious medication errors in the last quarter of 2011. She was still working with ‘temporary privileges’ because her credentials packet was labeled “incomplete.”

The chair of Internal Medicine learned that the hospitalist had been given the opportunity to “resign” after two serious medication errors at another facility.

“We are not following the bylaws. She should not be on temporary privileges. We could face serious claims of negligent credentialing. As a board we need to take appropriate action.”

Enterprise Liability, Anyone?

“But we are protected, right? We do have that hospitalist contract with the shift in liability.”

“Under the law of tort, the hiring of an independent contractor, unless done negligently, precludes liability because the hiring party has no duty to an injured third party to procure non-negligent performance of the independent contractor. However, delegation of a contractual duty to an independent contractor does not eliminate the duty.”

P v. WPHG, 939 So. 2d 185, 191 (Fla.Ct.App. 5th District 2006)

ERM Solutions for Implementation of Hospitalist Medicine Programs
### ERM Strategic Analysis

Data Driven Analysis for the HCO or Hospitalist Group

- **ID ERM Risks**
  - No
- **ERM Risk Analysis**
  - Yes
- **ERM Risk Evaluation**
  - Type
- **ERM Risk Recommendation**
  - Manage Risk Portfolio

### Look at the ERM Risks

- Financial
- Reputation
- Human Capital
- Technology
- Operations
- Legal-Regulatory
- Hazards

### ERM Hospitalist RM Strategies

- Make the hospitalist contract a key part of ERM.
- Expectation Setting with Patients and Families.
- Expectation Setting with Staff.
- Credentialing and Reappointment
- Close communication gaps with the healthcare community.
- Get the right insurance portfolio.
- Tie to compliance.
More ERM Hospitalist Strategies

- Education.
- Chain of Command: a two-way street for hospitalist care.
- The "red telephone" approach with the hospitalist medical director.
- Look for improper use of social media communication with outside hospitalist officials.
- Be poised to handle non-compliance issues.
- Be ready to plug the gap when the contract is terminated.

Conclusion

Hospitalist medicine is here to stay.

It is apt to expand, with different "ists" being added and innovative staffing arrangements.

It can be cost-effective, efficient, and improve continuity of quality care.

The ERM approach is to leverage risk opportunity information to avoid litigation, regulatory scrutiny, and adverse publicity.

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