UCSF Resident and Clinical Fellow Orientation 2013

UC Professional Liability and Risk Management Programs

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Orientation Overview

- When to Call Risk Management
- Professional Liability Coverage
- Informed Consent
- Advance Directives
- Adverse Outcome Disclosure
- Interpreters—Use them
- Documentation
- Risk Reduction Strategies

Tips From Risk Management

- Treat Your Patient as a Whole Person
- Make Effective Communication a Priority
- Utilize Risk Management
- Pick Your Role Models Carefully
- Learn early how to manage patient’s expectations and behavior

Risk Management Consultation

- In connection with any concerning clinical situation or adverse event
- Receipt of any legal notice, such as a claim, complaint or subpoena
- California Medical Board inquiry
- Policy & procedure clarification/assistance
- Request for information by legal counsel (verbal or written)
- Patient’s written request for compensation
- Receipt of notice of taking deposition
How Does UC’s Professional Liability Program Work?

- UC—system wide is self-insured up to $5 million with excess coverage after that.
- The system covers all employees of UC
- UC attorneys are representing interests of all—Any UC liability is derivative of the actions of its employees

Professional Liability Coverage

- Coverage extended for approved activities within the course and scope of training program
- Excludes “moonlighting”
- Excludes intentional acts, such as assault, battery or other criminal behavior
- Does not cover “off the books” treatment

Can a Resident be Involved in a Lawsuit?

- Yes, but
  - Don’t panic—call Risk Management to discuss if you get notified of involvement
  - Know that attending has ultimate responsibility for care, with some exceptions
  - You don’t advise your attending of what is going on when you have been told to do so—check with your Program Director for rules for attending contact—it varies from program to program
  - You practice outside your area of competency
  - You do something that is considered an intentional tort

Professional Liability Coverage

- Mandates participation in the review of adverse clinical outcomes—focus on Patient Safety Processes for Residents
- Mandates participation in the defense of a claim or litigated matter—including meeting with defense attorney who is representing you
- Mandates compliance with medical center policies, bylaws, rules & regulations

Informed Consent—An under appreciated obligation

- UCSF Policy: Informed Consent is a process that includes:
  - A discussion with the patient/family by the person performing the procedure
  - Completion of Consent form
  - Completion of Progress note evidencing discussion of risks, benefits and alternatives.
  - Goal is to get the consent form signed BEFORE the day of surgery and ideally in the clinic—and then scanned in.

Who can Obtain Informed Consent?

- It is the responsibility of the physician or other health care provider who is credentialed to perform the procedure to obtain the informed consent
- It is the responsibility of the physician or provider who is performing the proposed treatment to write a note documenting the discussion of IC
The Consent Form—new 2 page form

Consent form now includes Blood Transfusion related to surgery

Blood Transfusion form for non-surgical cases

But Don’t Forget Consent for Blood

Blood Consent

Oral Advance Directive
Inappropriate patient, visitor and family behavior has become a bigger problem across the country due to lack of mental health resources.

**I Want Patient Centered Care, Or Else!**

**The Patient Behavior Huddle**
- Make a plan before a blow up occurs
- Initiated by Nursing
- Different than patient rounding—huddle includes:
  - Attending MD and trainees
  - Nursing
  - Social Work
  - Risk
  - Security
  - Psych as appropriate
  - ED as appropriate

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**Example—Without the Huddle**

**Risk**
- PCM
- Resident
- Attending
- Psych
- Social Work
- Security
- UCPD

**Recipe for Miscommunication**

**Overarching Message—Managing Patients**
- We want to reinforce the PRIDE values and address legitimate complaints
- While your style of patient centered care and shared decision making with patients and families will work for most patients—it may not work for patients or families with serious personality problems, mental illness or other psycho social issues.
- You will need to develop a basic skill set for recognizing the potential for inappropriate behavior or personality issues and make a different plan of care

**Overarching Message**
- Address inappropriate behavior WHEN it occurs
- If necessary work with Risk/Nursing on warning patient orally, or in writing
- Warning Memo/Letter is not a substitute for nursing/physician management of the situation
- Behavior needs to be documented in medical record
- Communication from shift to shift is key to success
- Compliance with policies important—staff needs to know where the policies reside
Examples of inappropriate behavior

- Firing physicians, nurses or other staff
- Limiting pain medication—independent legal obligation to manage pain
- Limiting when staff come into the room
- Limiting which members of health care team attend meetings
- Having staff sign in when they come into a room
- Refusing to meet when requested
- Invasion of privacy of other patients
- Interfering with the care of patient or other patients

What Do I Do When Things Go Wrong?

Disclosure & Adverse Event Reporting to DHS

Disclosure of Adverse Events

- Ethical and legal responsibility to disclose adverse events to patients/families
- Attending physician maintains primary responsibility for disclosure
- Consult with the healthcare team and risk management before disclosure—risk attendance at meeting may be helpful
- Do not engage in speculation

Unanticipated outcomes have 2 origins

- With Error
- Without Error

Unanticipated Outcome

Difficult Conversation if it is a complication vs. error

At what point do we know it is an error?

Disclosure of Unanticipated Outcomes

- How to Disclose—After the event
  - Talk about how the patient’s care will be managed
  - Arrange for appropriate consultants
  - Advise family of identity of contact person
  - Inform Risk Management and preserve equipment/relevant information
  - Ensure following—disclosure may be an ongoing process
  - Document the event and the disclosure
  - Advise other staff e.g. nurses, of the plan for disclosure so message to patient/family can be consistent
  - Goal: dispel anger, confusion and distrust

Documentation of Event

- Documentation of the error should be objective: what happened and outcome
  - No speculation, conjecture or blame “Just the facts”
  - Discuss management of and treatment plan for patient
  - No discussion of corrective action
- Incident Report is Important & Confidential
  - Protected document
  - Your thoughts are appropriate in this document
  - Suggested investigation
  - Important evidence
Don't Forget Your Needs

- Adverse Events result in several victims—
  - The patient
  - The patient’s loved ones
  - The Involved Providers
- Seek help for your own emotional needs
  - Address your needs separately from those of the patient’s
  - There are confidential resources available to you

Disclosure of Unanticipated Outcomes

- Expressions of Condolences vs. Disclosure—don’t mix them up
  - Condolences are very different from disclosure and should be treated separately
  - People who express condolences are not always the people who do the disclosure

Expressions of Condolences

- Expressions/Notes of condolences: Suggested language: keep it personal, not medical:
  - “I am very sorry to hear about your loss. I was saddened to hear of it and offer you my condolences and the condolences of my staff. We all enjoyed your son and caring for him. We will miss him.”

Notes of Condolences—well intended but twisted interpretation:

  - Her illness and death have affected me more than any other patient death under my care because...she seemed so salvageable...
  - We cried about the futility of it all, our failures as health care providers...

In Summary....Do:

- Disclose errors (if error confirmed)
- Have the Attending MD lead the disclosure
- Involve nursing as appropriate (nursing error)
- Apologize
- Maintain the relationship with the patient and family
- Inform that there will be an investigation with follow up to the patient and family
- Seek help from Risk Management in cases which are multidisciplinary, complicated, or where significant harm occurred
- Seek debriefing for yourself and your own medical team from an objective resource (chaplain or palliative care social work)

In Summary....Don't

- Speculate
- Deflect blame to others
- Document emotion or blame in the medical record
- Avoid the patient/family
- Project your own emotional response (ie. feelings of guilt) in the disclosure

Resources

- Risk Management Office (353-1842)
- Individual Consultations: Faculty and Staff Assistance Program (476-8279)
  - For Housestaff, Faculty and other staff
- Team or Individual Debriefing
  - Denah Joseph, Palliative Care Service
  - Michelle Shields, Chaplain Service
### Basic Charting Tips
- Do NOT chart the preparation of an incident report
- Do NOT chart consultation with risk management
- Do NOT engage in intramural warfare or criticize other providers
- Do NOT make derogatory statements about patients/family members
- Do NOT Alter record

### Risk Reduction Strategies
- Do not practice beyond the scope of your approved competencies, skill or level of training
- Call your Attending
- Maintain clear & effective channels of communication with your patients and others on the health care team
- Follow up on Test Results
- Be accurate and complete in your documentation of care rendered
- Obtain appropriate informed consent for treatment
- Consult risk management on questions

### Elements of Malpractice Claim
- Health care providers owe fiduciary and ethical duties to their patients to provide appropriate levels of care
- Breach of duty by failing to comply with applicable standards of care
  - Act or omission to act fell below applicable standard of care as established by expert testimony
  - Causation (act/omission to act resulted in injury)
  - Injuries & damages according to proof

### Questions or Comments?
Consider Risk Management as a resource that is available to you 24/7
RM Website via UCSF Intranet:
[http://intranet.ucsfmedicalcenter.org/](http://intranet.ucsfmedicalcenter.org/)
Under Browse Medical Center Sites, Click on “Risk Management”
- PAGER: 443-2284
- PHONE: 353-1842