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
• 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
Reminder: Consent and Disclosure

The Flip Side of the Same Coin

Informed Consent Will help with Disclosure
Informed Consent: Consent Form

• Discussion needs to include:
  – *Nature and purpose of procedure*
  – *Likelihood of benefits, risks, complications and side effects of procedure and its alternatives*
  – *Possible alternative methods of treatment (included the risks of not receiving treatment)*
  – *Potential problems during recuperation*

• A thorough discussion of a treatment plan, expectations and risks can go along way to buffer the discussion in the event of a complication
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.
What Do I Do When Things Go Wrong?
Unanticipated outcomes have 2 origins

Without Error

With 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**
Disclosure of Unanticipated Outcomes

• How to Disclose—Before the Meeting
  – Decide time and place to disclose
  – Decide who should disclose (attending physician should be involved)
  – Decide who should attend—consider whether the family will feel overwhelmed
  – Obtain permission from patient to speak to the family as needed
  – Consider patient/family’s emotional state/need for privacy
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*
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
Inappropriate Documentation—speculation in the record

- Post-operative patient suffered air embolism
- Uncertainty on cause, but investigation concluded problem with the tubing/locking mechanism
  - *Med Watch report filed for faulty equipment design*
  - *Catheter set completely changed throughout the hospital*
  - *Nurse’s version of events consistent with equipment issues*

But.........
Attending physician’s note:

• “...The patient, unfortunately, developed an air embolus secondary to an inappropriate accessing of his Cordis without appropriate consideration of the lock mechanism…”

• The attending had not:
  – Spoken to the nurse involved
  – Been present at the time of the event
  – Participated in the investigation as to cause

• Yet, this note will be used as Exhibit A in litigation by the defendant product manufacturer
You may think you are doing the “right” thing

• But You Cannot Un-ring the bell of speculation

• What you may think is the truth may end up being wildly incorrect

• Disclosure is a disciplined process to determine our best understanding of the facts
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 (i.e. feelings of guilt) in the disclosure
Patient Behavior

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

• Address behavior when it occurs
Examples of inappropriate behavior

• Firing physicians, nurses or other staff
• Limiting pain medication—独立的法律义务来管理疼痛
• 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
Disruptive Behavior – Adult Inpatient Setting

Level 1
Demanding, Dissatisfied, Excessive Repetitive Questions About Care (Pt and/or Caregiver/Visitor)

Team Triage (RN, SW, PCM, MD, RN Supervisor as available) to develop plan of action

- Implement and Assess Plan
- Not Resolved
- Patient Relations
- Not Resolved
- Notify Risk

Level 2
Disruptive Behavior (Pt and/or Caregiver/Visitor), Non-Compliance with Care and Hospital Policies, Verbal Abuse

Visitor Behavior

- Implement and Assess plan of action
- Not Resolved

Verbal Abuse, Non-compliance w/ care

- Implement and Assess plan of action
- Not Resolved
- Notify Risk and Security (Warning Letter; Reg Alert)
- Not Resolved

Refusing Discharge

- CM will determine Insurance/Appeal Right
- Has Appeal Right
- No Appeal Right
- Follow P&P until appeal process exhausted
- Call Security if Patient refuses To leave
- Not Resolved
- Not Resolved
- Consult w/ Risk and security again

Level 3
Verbal Threats, Physical Abuse, Aggression

Smoking ETOH/Drugs

- Notify MD, PCM, Risk and Security Follow P&P
- Warning Letter & Reg Alert if warranted, may include visitation restriction
- Not Resolved
- Not Resolved

Call Security to stabilize the situation (may also involve UCPD and calling a Code Grey if necessary)

Team Triage (RN, SW, PCM, MD, RN Supervisor as available) and include Risk and Security to develop plan of action

- TMT
- Not Resolved

If warning letters are warranted please see templates on the Risk Management website:
http://rm.ucsfmedicalcenter.org/

See attached Action Plan
Social Media
Warning about use of Social Media

• Journaling
  – House Staff and students encouraged to “journal” about their experience
  – Resident in the ED involved in treatment of patient who died and the circumstances of the death were the subject of a news story
  – Resident decided that he would put his experience in an on-line journal
  – Recalcitrant in removing journal entry until advised that it was a privacy breach: “I don’t see how these posts are different than clinical reflections that are published weekly in journals that have a much larger readership than my notes”
Warning about Social Media

• Journaling
  – “Last night’s trauma will live with me for a while and right now it’s keeping me awake…time to vent”
  – “Last night’s event may have long term legal implications for the parties involved (not me)”
  – “My other co-residents wouldn’t be much help”
  – Blow by blow of treatment rendered—for pages
  – “My one error in prepping…..”
  – “the patient’s outlook was grim”
  – A Colleague attached links to the news story at the end of his journal
Risk Reduction Strategies

• Do not practice beyond the scope of your approved competencies, skill or level of training
• Call your Attending
• Hand-offs: 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
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/

Under Browse Medical Center Sites, Click on “Risk Management”

- PAGER: 443-2284
- PHONE: 353-1842