Mid-level providers bring different risk to practice

By: ALICIA GALLIDOS, Family Practice News Digital Network

A patient called his doctor’s office complaining of a posterior ear pain. The worrisome physical assistant recommended a prednisone trial, and the patient later took that in and the supervising physician was later disappointed with their initial attempt.

But which physician was named in the lawsuit? Not the surgeon, first the on-call physician. An Citizenship who out was out of town during the procedure was named as defendant.

Number of closed claims involving mid-level practitioners

The out-of-town practitioner "was the supervising physician on record," explained Dr. Alan Landrigan, a family physician and chief medical officer for UCHealth, a Colorado-based medical network.

"The liability and supervision goes to the doctor who is in charge with the medical board."

The vignette gone to illustrate the types of legal cases that are becoming more common with the increased use of mid-level providers, Dr. Landrigan said.

A report from national medical liability insurer the Medical Company quantifies this situation.

The report measured claims between 2003 and 2008 involving mid-level practitioners and medical assistants compared by the MedicAlert Network, and the Mid-Level Practitioner Medical Liability Association, an association that represents mid-level liability issues. (MAM was formerly known as Physician Insurers Association of Hawaii).

Of 1,186 closed claims involving physician assistants (PAs) and nurse practitioners (NPs), the promotion was more in need to be the in-house provider by the supervising physician’s plan or that of the practitioner’s professional association. Family medicine was the most common specialty associated with claims against mid-level providers.

In 2005, the average formal payment was $1,116,000, up from $895,000, while the average informal payments issued a total of $252,213, the report said.

With federal emphasis on value or non-service collaboration and defining physician replacement, the growing demand for specialists extends into small rural health care systems, including the South Dakota University of South Dakota Health, based in the state.

Dr. Gwenn F. Finkenzeller III with the increased role of mid-level providers, there is also a flood of lawsuits in place of physicians who perform these procedures, Dr. J. Landrigan said.

Joseph said that while effectively, mid-level providers in quality of care, PAs or NPs in medical care coverage, and provide needed treatment for under-served populations. The risk to “supervising physicians must have some guidance in the level 2 and 3 level claims. The trouble is that the legal system is so dynamic and keep open lines of communication with them at all times.”

Common liability theories

Provide legal claims filed by physicians and supervising mid-level providers includes vicarious liability, agency, and liability on their supervision.

Vicarious liability applies to a part-time who did not cause the incident but who had an inherent responsibility with the incident.

Agency is used to be the negligent acts of one party to another (therefore no claim or fault on) of the supervising physician, said Dr. Joseph B. D’Amico, an orthopedic and medical liability defense attorney based in New York.

"Indemnity supervision is becoming a bigger issue because mid-level providers are now a big issue." he said. They claim this is because "the physician did not appropriately supervise.”

Physicians who can be named to mid-level practitioners are often in high-risk specialties, Dr. Joseph B. D’Amico said. These practitioners can be named to practice in high-risk specialties, according to Dr. Joseph B. D’Amico.

Failure to supervise a supervising physician and mid-level practitioners is another liability concern for physicians. According to Dr. Joseph B. D’Amico, in a survey of the National Council of State Boards of Education in 2008, the majority of state boards of education said that they did not have a written policy delineating the supervising role of a physician and that this role was generally outlined in practice or other state policies.

"The trouble is that they vary quite a bit. Dr. Joseph B. D’Amico said. If you’re a physician and suppose you don’t have a written policy to make sure you are appropriately communicating with your patient-based provider and that provider is (preparing) outside their scope of practice, the state board can do some enforcement of the boards.”

Rochester risk

Knowing your state’s supervising requirements is key to reducing legal liabilities and fulfilling regulatory requirements, according to Frank D. Deluca, a Rochester, New York-based attorney with the firm of Belknap, Deluca & Pivarnik, a Rochester, New York-based attorney with the firm of Belknap, Deluca & Pivarnik.

These states allow a broader scope of practice for mid-level providers, while others specify different institutions that physicians must attend to be patient.

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For more information, see the "Rochester risk."