Impaired Physicians: Patient Safety, Provider Welfare, and Claims Defense

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Learning Objectives

This presentation will support your ability to:
• Assess your practice for risk exposures.
• Apply risk management best practices that increase patient safety and reduce medical professional liability claims.

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Paula G. Snyder, R.N.
“Impaired Physicians: Patient Safety, Provider Welfare and Claims Defense”

What Do We Mean by Impairment?

- **Substance Abuse**
  - Alcohol
  - Prescription medication
  - Street drugs

- **Physical Illness**
  - Alzheimer’s
  - Dementia
  - Traumatic injury

- **Mental Illness**
  - Depression
  - Anxiety
  - Bipolar disorder

How Widespread is Impairment?

- **Substance Use Disorder**
  - 10% - 15% of physicians
  - Alcohol most common

- **Dementia**
  - 3% - 11% of all people over 65
  - 18% of practicing physicians are age 65 or older

- **Depression**
  - 13% of male and 20% of female physicians
  - Risk of suicide slightly increased

CASE STUDIES
Patient Safety, Provider Welfare, and Claims Defense
Negligence and Lapse of Judgment?

- 53-year-old male
- Admitted with severe abdominal pain
- History:
  - Type 2 diabetes
  - Renal disease
  - Degenerative joint disease
  - Aseptic necrosis of the hip
- Laparoscopic cholecystectomy

Negligence and Lapse of Judgment?

- Post-op day 1 - ↑ temperature, ↓ blood pressure
- Transfer to Intensive Care Unit
- After a delay - CT Scan ordered
  - Reveals internal bleeding and liver infarction
- Transfer to tertiary care facility
  - Repair of cystic artery
- Discharge to rehab and then home
- Patient died 10 months after the initial surgery

Allegations

Improper performance of a procedure

Failure to securely clip the cystic artery

Patient died as a result of complications stemming from bleeding and liver damage caused by improper performance of surgery.
Expert Review and Discussion

- Experts acknowledged
  - Comorbidities may have contributed to pt.’s death
  - Postoperative bleeding is a known risk
- Experts were critical of the surgeon
  - For leaving without checking the patient’s status
  - Not formally arranging coverage for his patients
- Complications in the absence of negligence VERSUS substandard surgical technique?

The “Impairment Factor”

Surgeon was...
- Abusing alcohol and drugs
- Suffering from depression

Denied being “under the influence” when treating pts.
  BUT
  Affect on his judgment and surgical skill unclear

Informed Consent and Defensibility

- 62-year-old female
- Outpatient colonoscopy
  - Previous colonoscopy 10 years ago
  - Same gastroenterologist
- Procedure stopped due to inadequate prep
- Discharged home in stable condition
Informed Consent and Defensibility

- That night – temp 101, severe abdominal pain
- Called physician – answering service
  – No call back
- Next morning – Emergency Department
  – CT – bowel perforation
- Emergent bowel resection with colostomy
  – Sepsis following surgery
  – Extended hospital stay
- Colostomy reversed nine months later

Allegations

- Lack of informed consent
- Failure to return phone call
- Improper performance of procedure

Colon perforation would have been diagnosed earlier if the call had been returned.

Patient would not have needed a colostomy if the colon perforation had been diagnosed earlier.

Expert Review and Discussion

- Experts noted
  – Perforation is a known risk
  – Listed as a risk on the signed consent form
  – Patient had undergone procedure before
  – Colostomy would have likely been necessary, even if perforation discovered earlier
- Experts were critical of the gastroenterologist
  – No note describing informed consent
  – Phone call was not returned
The “Impairment Factor”

• Physician diagnosed with dementia one year later
  – Family noticed changes in mentation
  – Surrendered his medical license
• Unable to participate in depositions or aid in his own defense

Impossible to mount an aggressive defense

RECOGNIZING WARNING SIGNS

Why Don’t Physicians Report Impairment?

Overt Signs

• Observed excessively or habitually using drugs or alcohol
• Obvious behavioral or cognitive changes
Subtle Changes and Clues

Performance Deteriorates
- Increased professional errors
- Doesn’t respond to pages and calls

Attitude Changes
- Complains about bedside manner
- Increased irritability, angry outbursts

Attendance/Absenteeism
- Unexpected absences; keeps odd hours
- Frequent c/o flu, headache, vague symptoms

Subtle Changes and Clues

Physical Appearance
- Deteriorating personal hygiene
- Appearance of sleep deprivation

Domestic Problems
- Withdrawn from family, friends/marital problems
- Legal or financial troubles

Health and Safety Hazards
- Increased number of accidental injuries
- Ticket(s) for driving under the influence

AMA Ethical Opinion 9.3.2

To protect patient interests and ensure that their colleagues receive appropriate care and assistance, individually physicians have an ethical obligation to:

a) Intervene in a timely manner to ensure that impaired colleagues cease practicing and receive appropriate assistance from a physician health program.
b) Report impaired colleagues in keeping with ethical guidelines and applicable law.
c) Assist recovered colleagues when they resume patient care.


**Duty to Report**

“Overall, physicians support the professional commitment to report all instances of impaired or incompetent colleagues in their medical practice to a relevant authority, …when faced with these situations, many do not report.”

**Why Don’t Physicians Report?**

1. Someone else will
2. Nothing will come of it
3. Excessive punishment
4. Fear of retribution
5. Don’t know how
6. Not my responsibility

**Why Don’t Physicians Report?**

1. Not my responsibility
2. Can’t prove it
3. Don’t know how
4. Repercussions
5. Someone else will
Great thoughtfulness and care must be exercised when dealing with a colleague who might have a substance use [or other reportable] disorder. Falsely accuse a physician, and the damage to your colleague’s career, family and patients can be extreme. Allow an impaired colleague to continue to work out of fear of taking action, and the danger to the physician and to patients can be extreme.”


What are your options?
Approach the individual[12,13]

* For the American Psychological Association’s model intervention, go to www.apapracticecentral.org/ce/self-care/intervening.aspx
What are your options?

Approach the individual\textsuperscript{12,13}

Use a hospital program

Consult the PHP\textsuperscript{14}

\begin{itemize}
  \item PA's PHP can be accessed at www.pamedsoc.org/foundation/physicians-health-program/about-php.
  \item For a list of state PHPs, go to www.fsphp.org/state-programs.
\end{itemize}

Contact the state licensure board\textsuperscript{9}
**Risk Management Recommendations**

- Manage your emotions
- Recognize your ethical duty
- Make a plan
- Look at yourself

**Treatment Outcomes**

- Alcohol or drug abuse recovery rate is 74% - 90%\(^1\)
- Cognitive impairment or dementia – less optimistic

**In Conclusion...**

The aim of identifying and reporting impaired physicians is two-fold:
1. Shield patients from harm
2. Help colleagues recover a more satisfying quality of life.

It isn’t easy, but taking steps to protect patient safety is important.
Q & A

References

References


Additional Resources/Bibliography


