THE MONTHLY PUBLICATION FOR CAP MEMBERS

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Case of the Month

Office Protocols Can Fail—So Training Must Be Constant

This month, we feature a popular "Case of the Month" from the archives written by CAP's former General Counsel Gordon Ownby

An omission in medical treatment is nearly impossible to defend when there is a written protocol specifically addressing the failed act. That is why an open dialogue between physician and staff on office policies and procedures is necessary to avoid patient injuries.

A six-year-old patient visited an urgent care center with his mother for right thigh pain over three days, reporting that the site was sore to the touch and hurt when he walked. The mother reported that there had been no recent trauma. Dr. UC, an urgent care physician, evaluated the patient, who was in general good health with a low-grade fever of 99.3. Dr. UC noted pain in the muscle but not the femur. Dr. UC's working diagnosis was an infection or inflammatory process and she prescribed Augmentin and Tylenol. She gave the mother ER precautions and set up a follow-up visit for two days later.

Instead of returning, the patient's mother mentioned the urgent care visit to the patient's pediatrician, Dr. PD, during a pediatric visit for the patient's sibling. The mother's comments regarding the patient's urgent care visit were noted in the patient's chart at the pediatric practice. The next day, the mother called Dr. PD's practice to request an X-ray for her son. A note in Dr. PD's chart reflected "the mother discussed with [Dr. PD] at the sibling's visit yesterday and she was okay with it." Dr. PD's staff wrote a prescription for an X-ray of the right thigh.

That same day, after Dr. UC's staff called to follow up on the earlier visit, the mother brought her son in to see Dr. UC. On examination, the young gentleman's fever had improved but he still had pain when the Tylenol wore off. An X-ray was taken and Dr. UC noted no acute changes. Dr. UC advised the mother to have her son continue with the Tylenol, follow up in two to three days, and visit the ER if conditions worsened.

Dr. UC's staff attempted to follow up with the family three days later, but the voicemail left by staff was not returned.

Eleven months later, the mother called Dr. UC's office requesting a copy of the X-ray taken at the urgent care center and informed Dr. UC that her son had been diagnosed with Ewing's sarcoma a month earlier.

After that call, Dr. UC discovered that the X-ray taken at the urgent care practice was never sent out for a formal interpretation, even though the office policy

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was to send out all X-rays taken in-house for a board-certified radiologist's interpretation.

At the mother's request, Dr. UC then sent out the X-ray for interpretation. The receiving radiologist noted a large bone lesion involving the right femoral neck, the intertrochanteric region, and the proximal shaft. The X-ray and the radiologist's report, which included a recommended magnetic resonance imaging (MRI) to evaluate the potentially malignant lesion, were sent to the mother.

The patient sued Dr. UC alleging a 10-month delay in his cancer diagnosis, which included pulmonary and pelvic soft tissue metastases. The dispute was resolved informally.

Office protocols are not meant to be "set and forget" procedures, but need to be actively reinforced with staffers. Through the reinforcement of a continuing dialogue between physicians and staff, protocols will not only be better understood, but probably also constantly improved.

by Andie Tena

New Regulations in 2023

CAP can assist you with several new laws and regulations impacting California medical practices that went into effect in January 2023.

Learn more about available resources and the steps you need to take to comply.

1. Data Exchange Framework (DxF) Data Sharing Agreement (DSA) - Deadline to sign up was January 31, 2023

The Data Exchange Framework was put in place to create an equitable, affordable health information exchange for patients, providers, and other healthcare entities to access health information at any time.

The DxF DSA CalHHS Data Sharing Agreement Signing Portal at https://signdxf.powerappsportals.com/ is now open for entities and providers to sign up.

California Health and Safety code requires most providers and healthcare entities to have signed the DSA by January 31, 2023.

For more information, please visit CalHHS at https://www.chhs.ca.gov/data-exchange-framework/

2. Immunization Registry - Effective January 1, 2023

Effective January 1, 2023, a new state law requires providers administering vaccines to register the vaccines they administer into the California Immunization Registry (CAIR).

Contact the CAIR Help Desk (CAIRHelpdesk@cdph.ca.gov or 800-578-7889) or your local CAIR representative with any questions, or to find out whether your practice is already participating.

For more information, see the California Department of Public Health Immunization Registry FAQs.

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3. Notice to Patients (Consumers) - Effective January 1, 2023

Beginning January 1, 2023, all licensees and registrants of the Medical Board of California must provide notice to each patient or client that they are licensed/registered and regulated by the Board, and their license/registration can be checked and complaints against the licensee/registrant can be made through the Board's website or by contacting the Board.

The notice shall include a quick response (QR) code that leads to the Board's Notice to Consumer webpage and shall contain the following statement and information:

NOTICE TO PATIENTS

Medical doctors are licensed and regulated by the Medical Board of California.

To check up on a license or to file a complaint go to

www.mbc.ca.gov,

email: licensecheck@mbc.ca.gov,

or call (800) 633-2322.

Licensees/registrants may comply with this requirement by doing one of the following:

- Post the notice in an area visible to patients/clients on the premises where the licensee/registrant provides the professional services in at least 38-point type in Arial font (sample signs are provided below).
- Include the notice and an acknowledgement of receipt and understanding in a written statement in a language understood by the patient/client or their representative, signed and dated by the patient/client or their representative and retained in that patient's/client's medical records. The notice and acknowledgement of receipt and understanding may be provided and maintained in an electronic format (sample notices and acknowledgements of receipt and understanding are provided below); or
- Include the notice in a language understood by the patient/client or their representative in a statement on letterhead, discharge instructions, or other document given to a patient/client or their representative, where the notice is placed immediately above the signature line for the patient/client in at least 14-point type.

Sample postings with QR code in various languages can be found at https://www.mbc.ca.gov/licensing/Notice-to-Consumers.aspx

You or any of your employees may contact Andie Tena, Director of Practice Management Services, at ATena@CAPphysicians.com or at 213-473-8630 for assistance.

Andie Tena is CAP's Director of Practice Management Services. Questions or comments related to this column should be directed to ATena@CAPphysicians.com.

From First Impressions to Trusting Connections: How to Establish and Maintain a Positive Physician-Patient Relationship

by Yvette Ervin

Trust is the foundational element of an effective physician-patient relationship. A positive and trusting relationship with your patient fosters honest conversations, shared decision-making, improved health outcomes, increased loyalty, and fewer lawsuits. Yet in today's fast-paced environment with increased patient expectations and fewer resources, establishing a trusting relationship with your patient may seem like a daunting and time-consuming endeavor.

At CAP, we recognize the extraordinary demands placed on today's practicing physicians and understand that simple and efficient tactics for connecting with your patients are essential for maintaining positive and enduring relationships.

Knock, Sit, & Ask

First impressions are important, especially when they are made within a matter of seconds. Although some factors that play a role in a patient's first impression of you may be more difficult to control (facilities, time to obtain an appointment, etc.), your one-on-one engagement with your patient is in your hands. Here are three simple actions you can take immediately to enhance the "first impression" you make on your patients:[1]

- **Knock** on the patient's door before entering to demonstrate respect, courtesy, and regard for their privacy. Introduce yourself and smile to help reduce the patient's anxiety. Many patients are coming to you with an issue that they may be worried, anxious, or even self-conscious about. A warm greeting from you can help to lessen these feelings.
- **Sit** next to the patient to enhance the perception of time you spend with them. Listen and allow your patient to speak uninterrupted for a few minutes. Listening is an important communication tool that encourages openness and allows you to build trust.
- **Ask** your patient "What is your greatest concern?"[2] This question establishes your desire to know your patient and their goals and priorities—based on what matters to them. It establishes your relationship as a partnership, where you will work together in your respective roles, to achieve a shared outcome.

Beyond the First Impression

Consistent, effective communication with your patients builds trusting relationships, enhances the quality of care you provide, and helps protect you from lawsuits—even in the event of an unexpected outcome.[3] Our CAP Cares team hears from members when an adverse event has occurred. Overwhelmingly, physicians that have established a trusting relationship with their patient not only avoid a lawsuit but inform us that their patient wants to continue under their care.

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Physicians that are effective communicators consistently practice the following in their patient interactions:

- **Simplify explanations.**[4] Diagnoses and treatments should be shared with the patient in words and a manner they understand. This will be different for every patient, but generally, medical jargon and acronyms should be avoided.

- **Check for understanding and provide space for questions.**[4] After sharing information with the patient, ask if you were clear, if they have any questions, or if they need clarification. Be aware of your body language—a hand on the door may contradict your invitation for questions. Remember, patients may be preoccupied with anxiety or concerns, making it difficult for them to take in new information. Be tolerant and use repetition to reinforce your message.

- **Close the loop and explain the next steps.**[4] Clearly indicate what is next for the patient and in what time frame—is there a follow-up appointment needed? Does the patient need to see another specialist? Who will be the point person to help manage the patient's care from a clinical standpoint, and who should they call for questions? Ensuring that there is a clear plan for any follow up, as well as a resource for the patient in the case of concerns, is important to avoid perceptions of a lack of coordination within physician practices. It is important to establish systems in your office for monitoring your patients' care plans.

- **Demonstrate care for patients as people, using expressions of empathy and compassion.**[2] While it takes mere seconds to say the words "I'm so sorry you are going through this," or "We are going to go through this together—I'll be with you every step of the way," the impact on your patient may be profound, showing them that you see them as a person and truly are their partner in care.

Yvette Ervin is a Senior Risk Management & Patient Safety Specialist for CAP. Questions or comments related to this article should be directed to YErvin@CAPphysicians.com.

References

Debra Roter, (2006). The Patient-Physician Relationship and Its Implications for Malpractice Litigation, J. Health Care L.& Pol'y https://digitalcommons.law.umaryland.edu/jhclp/vol9/iss2/7

Ghazala Q. Sharief, MD, MBA (2017). MD to MD Coaching: Improving Physician-Patient Experience Scores, J Patient Exp https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5734518/

Stephen Beeson (2006). Practicing Excellence, A Physician's Manual to Exceptional Health Care

[1]Ghazala Q. Sharief, MD, MBA (2017). MD to MD Coaching: Improving Physician-Patient Experience Scores, J Patient Exp https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5734518/

[2]Stephen Beeson (2006). Practicing Excellence, A Physician's Manual to Exceptional Health Care

[3]Debra Roter, (2006). The Patient-Physician Relationship and Its Implications for Malpractice Litigation, J. Health Care L.& Pol'y https://digitalcommons.law.umaryland.edu/jhclp/vol9/iss2/7

[4]Anne Long, RN, JD (2011). Healthcare Quality & Risk Management Report, UNT, https://www.unthsc.edu/administrative/wp-content/uploads/sites/23/Risk_Management_Newsletter_September_2011.pdf

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As one of many exclusive valuable benefits to support physician well-being, CAP members and their families have access to expert counselors and resources at no cost to help them navigate difficult personal and professional issues and situations.

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Or

Log on to **metlifeeap.lifeworks.com** and provide the username "**metlifeeap**" and password "**eap**" to access additional free resources online, such as:

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CAP Agency partners with MetLife to provide CAP members and their families with some of the value-added insurance benefits automatically received upon joining CAP, as well as the personal insurance products available for purchase at competitive group rates. Call **800-819-0061** or email **CAPAgency@CAPphysicians.com** to learn more.

Your benefit includes up to five phone or video consultations with licensed counselors for you and your eligible household members, per issue, per calendar year. Any personal information provided is completely confidential.

This service is provided by MetLife and LifeWorks and limitations may apply. MetLife and LifeWorks abide by federal and state regulations regarding duty to warn of harm to self or others. In these instances, the consultant may have a duty to intervene and report a situation to the appropriate authority.

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FEBRUARY 2023

Healthcare Policy Trends: What's Ahead for 2023

by Gabriela Villanueva

Legislators returned to Sacramento on January 4th, 2023, to kick off a new two-year legislative cycle, which began with Governor Newsom presenting his 2023-2024 state budget proposal on January 10th.

While there continue to be major issues to address, such as homelessness, housing, and climate change, among others, newly elected physician legislators, like Jasmeet Bains (D-Bakersfield), are prioritizing additional challenges.

She has introduced a bill to create a task force addressing the fentanyl addiction crisis in the Central Valley—one of the hardest hit areas in the state. The task force would oversee access to healthcare, addiction, rehabilitation services, and methods to effectively get fentanyl off the streets.

She stated, "I think the biggest reality that we see up here in Sacramento is a failure of the Legislature to actively control our drug problem, our drug crisis."

Legislators will have until February 17th to introduce their bill proposals. Thereafter begins the vetting process of bills through committee hearings and floor votes to ultimately make it on to the governor's desk.

On the national level, additional healthcare-related trends and issues will become more prevalent.

What to Watch in 2023:

Expect continued scrutiny of Medicare Advantage programs in 2023. With more than 40% of Medicare-eligible adults relying on it for their care, the program is here to stay. Stakeholders and policy makers will look at the many factors affecting this program, including utilization management, prior authorization, revenue generation, and coding practices. They may examine how major insurers continue to refine the program as it captures more of the older population. Federal regulations are typically adopted by insurers as industry standards, so it may be important to see if there are any shifts in policies affecting these programs.

There is also a fast-growing enthusiasm of private equity and venture capital firms entering the healthcare space. As medical group and hospital consolidations continue, more external buyers are purchasing healthcare firms as investments. Although high interests rates and the uncertain economic forecast can impact this year's opportunities, private equity firms may continue their trend of buying medical groups and seeking substantial returns on their investments.

COVID-19 will continue to make its way through the population and remain a part of the national care delivery landscape in the foreseeable future, bringing with it the ripple effect of 2+ years of decreases in visits for preventative healthcare and chronic disease. We see it now with the continued overflow of patients in emergency departments. Hospitals and managed care organizations should expect a continued surge in the volume of sicker patients and clients who experience COVID imposed delays in care.

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Above all, the healthcare system will have to continue to address the toll that COVID-19 has taken on its workers. In a tightening labor market, healthcare organizations will begin to look at the underlying causes for "burnout" in their systems. Healthcare organizations must begin to fix it. Over the past several years, the topic of burnout has been gaining attention and generating discussions about individually-centered solutions. But it now seems to be the time to look for systemic, administrative, and operational solutions.

While these factors feel very daunting and broad in scope, keeping track of how they develop and evolve is critical as they potentially move into the policy-making space.

Gabriela Villanueva is CAP's Government and External Affairs Analyst. Questions or comments related to this article should be directed to GVillanueva@CAPphysicians.com.

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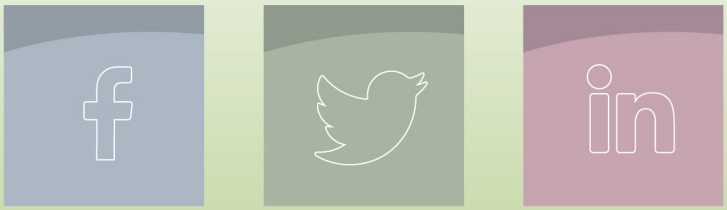

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