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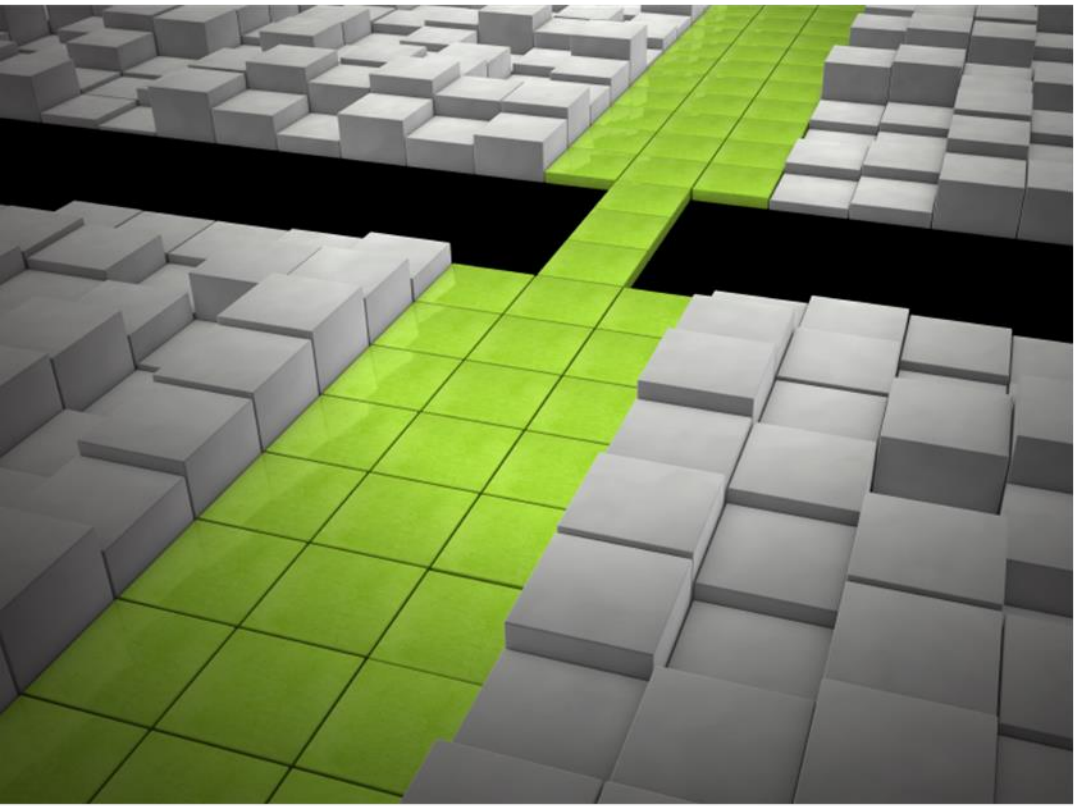

PASSION.

INNOVATION.

ACCOUNTABILITY.

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Top Ten Emerging Risks In Health Care

Risk management without passion, innovation and accountability is just buying insurance

TOP TEN EMERGING RISKS IN HEALTH CARE

Introduction

As the New Year begins, it is important to take some time to evaluate the most vexing challenges in health care and determine which will require proactive planning. After reviewing patient safety and risk management journals, health care daily websites and speaking with many colleagues in the field, this list of the top issues was developed. The complexity of many of these risks requires a multi-faceted approach in order to develop a comprehensive solution. Collaboration has never been more important, both in gaining a full understanding of the risk and in designing the most comprehensive solution. Experts within your organization, your broker and insurance providers should be consulted to assure that you optimize both risk control and risk transfer strategies.

The following issues are prominent areas of discussion for risk managers, health care professionals and clinicians. They are not listed in order of importance and are likely not all present in every organization.

Maintaining Patient Privacy

Patient privacy is an increasing risk in healthcare organizations with large (and very expensive) breaches on the rise.[i] Make certain to evaluate the benefit of cyber liability insurance and verify that you have policies and procedures for managing hand held devices and data encryption. Best practices for assuring interoperability are should also be verified. Recognize that texting and e-mailing, between providers as well as between providers and patients, can cause breaches in privacy. Although offering patients the opportunity to communicate with their provider can be beneficial, policies and procedures need to developed and monitored to assure that such communications remain secure. Techniques should be developed to standardize communication practices across your organization and to educate staff on "best practices". To assure compliance, periodic audits should be conducted.

Misdiagnosis

Misdiagnosis was the theme of the most recent IOM report, which was released September 22, 2015.[ii] Misdiagnosis is a significant risk with potential personal harm to patients and financial harm for organizations. The impact of premature closure on patient safety has been well studied and its link to complications and adverse outcomes established.[iii] Premature closure often occurs in situations where clinicians are under pressure to reach a diagnosis so that treatment can begin, where there are trainees and where there are communication failures. These often occur, for example, in busy emergency departments or when a trainee gravitates to a diagnosis that they feel more comfortable managing. Risk managers may wish to review the IOM report and other excellent references about how to identify and manage the risk management and patient safety issues caused by misdiagnosis.[iv] In departments or organizations where the risk or misdiagnosis is greatest, risk managers may wish to

partner with medical staff to develop educational programs for all supervising physicians and trainees.

Violence in the Workplace

Violence in the workplace is becoming commonplace.[v] Violence occurs when patients present with substance abuse, mental health problems or react to the stress of the environment. It also may be introduced when family members or friends are frustrated or angry about the care provided to their love ones.[vi] Organizations must develop plans to assure the safety of the workplace and their staff, while also caring for patients who might threaten that safety. Every employee should be trained on de-escalation strategies and should know what to do when they perceive that an interaction with a patient or family member has the potential to escalate to violence. In addition, the escalation of violence in the community make it vital that organizations rehearse their disaster and mass casualty plans frequently, and coordinate an effective response with local law enforcement and police.

Medical Devices

Medical devices continue to give rise to both medical malpractice and products liability claims (transvaginal mesh, power morcellators, metal on metal hip implants, ECRP Endoscopes, etc.).[vii] Providers need to be cautioned about off label use and arrangements with device companies that could be perceived as a corrupting influence. Risk managers should work with the medical staff office to assure that physicians are aware of the increased risk they may be exposing themselves to if they are working with medical device manufacturers. They should be advised that as a condition of this work they should seek to have the device company cover the physician for any potential exposure. The risk manager may also wish to work with their brokers and carriers to make certain that any exposures the hospital may face as a result of this activity are covered.

Integration of ERM and Compliance

Planning for a rise in fraud investigations as a result of the integration of ERM and Compliance is vital to an organization. The lines are increasingly blurred as to what might be a compliance violation or a risk management liability. Consider compliance and regulatory concerns as part of your ERM agenda. Meet regularly with members of the compliance department to review the issues you are seeing in claims that might be compliance related. Review the compliance exposures that could create additional liability for the organization that may arise during the provision of care to patients and determine with your broker if any coverage is available to protect the organization. Consider working with both compliance and human resources staff to develop educational resources for staff to raise their awareness about emerging regulations and how to comply with them. Lastly, make certain your organization has a program that allows individuals to report concerns proactively without any fear of retribution.

Patient Centered Care and Shared Decision Making

Beginning in 2016, providers will begin to get paid for discussions that facilitate patient centered care and shared decision-making. The medical literature has long espoused the value of engaging patients in discussions about their health care choices but providers have resisted embracing shared decision making because of the time necessary to engage patients and their families in such discussions.[viii] However, interest in shared decision-making is on the rise. Practitioners who are engaging patients in shared decision making are seeing better and, as result, more meaningful patient engagement and a reduction in overall costs of care and improved patient satisfaction. Since they are now able to get reimbursed for such interventions with their patients, it is important to educate providers so that these discussions are meaningful.[ix] Likely, many providers will not know the questions to ask, or how to elicit information about patient preference regarding treatment options. A number of organizations have developed best practices tools and strategies to assure that patient's preferences, values and finances are aligned with the options available to them.[x] Risk managers should be aware of these resources and offer education to providers so they can be more confident in having these discussions. Furthermore, the risk manager or patient safety officer may wish to facilitate a team to design and disseminate shared decision-making tools to their patients through a patient portal or the hospital website. This allows patients to consider, in advance, how their values, preferences, spiritual and cultural practices influence the choices they make about treatment.

Care Coordination

Care coordination (especially in integrated networks) is increasingly complicated. With the continued rise of consolidation and mergers of hospitals along with the geographic spread of these merged systems, it may be more difficult to assure that patients are able to access needed services. The rising number of chronic diseases that require management by different specialists, who may not all have office locations in the same space, as well as the variety of services that are provided, must be recorded in a central data repository that can be accessed by all providers.[xi] Hand-over procedures also will need to be standardized to facilitate the transfer of patient from site-to-site or provider-to-provider. Failure to adequately plan for patient follow- up and periodic reconciling of all the care the patient receives by a system could be a new source of liability.

Use of Nurse Practitioners and Physicians Assistants

The use of nurse practitioners (NPs) and physician assistants (PAs) is on the rise, particularly in areas where there is a shortage of primary care physicians. The professionals are instrumental in managing the care of complex patients. However, their skill set, specialty and training may vary widely. Make certain you understand the scope of practice laws in all states where your organization offers services and align practice parameters accordingly.[xii] In addition, the scope of practice should be managed in a manner similar to how physicians are managed. Organizations employing NP's and PA's

should also delineate privileges so that the duties they perform are consistent with demonstrated competency.

Telemedicine or Telehealth

Telemedicine or telehealth services continue to grow. This is an area with both up and downside risk. The technology is becoming increasingly sophisticated - providing consultation, monitoring and diagnosis. This allows patients whose access to health care may be compromised (due to the proximity to a health care facility or to an illness that might make leaving the home difficult) to be able to utilize health care services. Additional training and privilege delineation may be necessary to assure that practitioners know the limitations of the technology and how to troubleshoot it. Organizations who seek to expand their telemedical services should make certain they understand the issues related to licensure, credentialing and reimbursement. They should also proactively plan (with IT staff) how to select and use available telemedical infrastructure to bring value to both patients and the organization.

The Ageing of the Workforce

The ageing of the workforce continues to be a significant issue for many healthcare organizations.[xiii] If the current data is correct:[xiv]

- By 2020, nearly half of all registered nurses will reach traditional retirement age. Currently, the average age of a nurse in the United States is 50.
- Nearly one-quarter of physicians in a 2007 nationwide survey were 60 years or older, with New Jersey having the sixth highest rate among the states (26.9 percent).
- In 2001, more than 80 percent of all dentists in the United States were older than 45; the number of dentists expected to enter the field by 2020 will not be sufficient to replace the number of dentists likely to retire.[xv]

The challenge of an ageing workforce will be further challenged by the fact this ageing population will also require more care. The IOM reports that by 2030, the nation will need an extra 3.5 million formal health care providers just to maintain the existing ratio of providers to the total population. This represents a 35 percent increase from current levels." [xvi] Work with your HR department to try and project the impact of ageing on your organization and start planning now for how you will replace seasoned, experienced staff with new graduates and those with less experience. Discuss the importance of hiring aligned with culture so that new staff can be seamlessly integrated into your organization.

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[i] http://www.latimes.com/business/la-fi-ucla-medical-data-20150717-story.html, (accessed 12/22/2015)http://www.healthcareitnews.com/news/list-biggest-hipaa-data-breaches-2009-2015 , http://www.hhs.gov/about/news/2014/05/07/data-breach-results-48-million-hipaa-settlements.html (accessed 12/22/2015)

[ii] http://www.nap.edu/read/21794/chapter/1#iii (accessed 1/2/2016)

[iii] https://psnet.ahrq.gov/webmm/case/297 (accessed 1/4/2016)

[iv] http://jama.jamanetwork.com/article.aspx?articleid=1835 (accessed 1/3/2016)
[v] http://nursingworld.org/MainMenuCategories/ANAMarketplace/ANAPeriodicals/OJIN/TableofContents/Volume92004/No3Sept04/ViolenceinHealthCare.aspx (accessed 1/05/2016
[vi] http://abcnews.go.com/US/shooting-inside-baltimores-johns-hopkins-hospital/story?id=11654462 (accessed 1/5/2016,

[vii] http://www.fda.gov/medicaldevices/safety/alertsandnotices/ucm393576.htm , http://www.drugwatch.com/transvaginal-mesh/, http://www.asge.org/press/press.aspx?id=17917 (accessed 1/6/2016)

[viii] http://www.nejm.org/doi/full/10.1056/NEJMp1209500 (accessed 1/ 06/ 2016)

[ix] http://www.fiercehealthcare.com/story/post-aca-more-hospitals-explore-shared-decision-making/2015-03-16 (accessed 1/7/2016)
[x] http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3445676/ (accessed 1/07/2016) , http://www.nashp.org/sites/default/files/shared.decision.making.report.pdf (accessed 1/7/2016)

[xi] http://www.commonwealthfund.org/publications/blog/2012/feb/care-coordination-imperative (accessed 1/6/2016)
[xii] http://www.bartonassociates.com/nurse-practitioners/nurse-practitioner-scope-of-practice-laws (accessed 1/7/2016)
[xiii] http://www.dol.gov/odep/pdf/NTAR-AgingWorkforceHealthCare.pdf (accessed 1/6/2016)

[xiv] Ibid

[xv] Institute of Medicine of the National Academies. (2008). *Retooling for an aging America: Building the health care workforce*. Washington, DC: The National Academies Press. (accessed 1/6/2016)

[xvi] Ibid

About The Author

Barbara J. Youngberg joined Beecher Carlson as a Consultant to the national healthcare practice. She has more than 25 years of experience in the healthcare industry focused on legal and regulatory issues, risk management and patient safety concerns and internal operations in academic medical centers and complex teaching hospitals. Barbara currently works as a Visiting Professor and Director Faculty of the On Line Programs at the Beazley Institute for Health Law and Policy at the Loyola University College of Law in Chicago. Contact Barbara Youngberg at barbara.youngberg@gmail.com.

