



THE RISK AUTHORITY

Transitioning from Residency to Practice Tip Sheet

MISCELLANEOUS RISK MANAGEMENT CONSULTATIONS

1. **Stolen prescription pads:** http://www.mbc.ca.gov/Licensees/Prescribing/DEA_Reporting.aspx
2. **Dismissing/Terminating patients** that are non-compliant, abusive, threatening, uncooperative
3. **Good Samaritan laws** (vary by state): **California Health & Safety Code §1799.102 (a)** *No person who in **good faith**, and **not for compensation**, renders emergency **medical or nonmedical care** at the scene of an emergency shall be liable for any civil damages resulting from any act or omission.*
4. **Complaints & Grievances**
 - Insurance
 - Patient Relations
 - The Joint Commission
 - State Department of Public Health
 - Medical Board

RESOURCES

Know your resources

- Quality / Patient Safety
- Risk Management / insurance representative
- Compliance/Privacy
- Patient Relations
- Ethics
- Medical Staff Leadership
- State Medical Board
- Security

INSURANCE BASICS

If patient files claim after you leave SHC for an incident that occurred while you worked within the scope of your residency, SUMIT insurance will cover you.

Certificate of insurance / Proof of insurance

- Coverage (type & limits)
- Insurance company
- Policy #
- Effective periods

Definitions

- **Claims-made:** covers events occurring during policy period & reported during policy period
- **Retro-active date:** 1st day insured is covered by a claims-made policy
- **Occurrence:** covers events occurring during policy period *regardless* of when claim is reported
- **Tail:** covers claims filed after claims-made policy expires
- **Nose:** Purchase from new carrier to cover prior acts

DOCUMENTATION

Documentation is key for communication, patient safety, continuity of care, defending a lawsuit, and reimbursement.

DO'S

- Factual / objective
- Accurate
- Complete
- Timely

DON'TS

- Blame / Criticism
- Speculation or conclusions
- Inflammatory words / characterizations ("negligence", "overdose", "human error")
- Promises of compensation or bill waivers
- Documenting "Risk Management" and/or "incident report submitted"

MEDICAL MALPRACTICE BASICS

Triggers:

1. Request for money/compensation
2. Unanticipated / unexpected clinical outcome (death, severe disability)
3. Allegations of negligence

Elements of negligence:

1. Duty
2. Breach
3. Causation
4. Damages
 - Non-economic damage caps vary by state

WHAT TO EXPECT WHEN LAWSUIT IS FILED

1. Notice of Intent to Sue, Summons & Complaint
2. Service of Process (Service in-person, mail, fax?)
3. MD should call Risk Management / insurance representative *immediately* & schedule time to review care.
4. Discuss care only in *protected forum* (peer review, discussion with Risk Management / insurance representative, attorney assigned to you)
5. Care reviewed by internal and external experts.
6. Depositions

FINDINGS FROM “WORDS THAT WORK” PILOT

Favorable Words

- We don't understand either
- We hope we can work together
- We recognize this is difficult
- We want to work with you...
- Try to help...
- I appreciate...
- Hearing from you...
- Get answers to the family...

Unfavorable Words

- Trust
- Truly
- Trustworthy
- Do what is right
- Fairly
- I promise
- We have an honest and fair process

STATEMENT OF EMPATHY / I'M SORRY LAWS

- “I'm Sorry” laws vary by state
 - **California Evidence Code §1160:** (a) The portion of statements, writings or benevolent gestures **expressing sympathy** or a general sense of benevolence relating to the pain, suffering or death of a person involved in an accident and made to that person or to the family of that person shall be **inadmissible as evidence of an admission of liability in a civil action**. **A statement of fault**, however, which is part of, or in addition to, any of the above **shall not be inadmissible** pursuant to this section.
 - Care should be taken to **avoid any expression that would imply an admission of fault**.