ONLINE EXCLUSIVE

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Service scripts, pay for performance and practice liability: Learn how to manage what will be measured

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There are various reasons why an existing physician-patient relationship would be ended prematurely.[1] Often, terminating the relationship is an attempt to protect the physician's liability as well as the overall liability of the medical organization. For instance, it may be terminated when a patient fails to follow the physician's treatment plan, participates in inappropriate medication (and/or illicit drug) use or does not show up for multiple office visits. For these reasons and others, the American Medical Association offers a brief list of steps necessary to ensure a safe, effective and limited liability patient termination.[2] Unfortunately, with new patient-outcomes measurements and new physician reimbursement methods coming down the pike, we hear a growing demand for patient termination guidelines or recommendations that limit practice liability while controlling for poor patient outcomes that are not a direct result of the provider's actions or the level of quality care provided.

Pay for performance and potential consequences

Now that the Supreme Court has ruled on the constitutionality of the Patient Protection and Affordable Care Act of 2010[3], medical practices will have to evaluate their case mix and patients' adherence to prescribed treatment plans even more closely because reimbursement will be primarily based on treatment outcomes or pay for performance vs. fee for service reimbursement.[4]

While it might initially seem appropriate to provide incentives for successful patient outcomes, medical providers have envisioned unintended consequences (see Table 1).

Limiting liability, controlling outcomes

It is the medical provider's responsibility to manage (and terminate) the patient-provider relationship, and that medical authority should be evaluated regularly by a practice ethics committee, senior leadership and legal counsel to ensure that ethical standards and legal requirements are being upheld. In other words, you must manage what is being measured on an ongoing basis. Because of the new performance-based outcome incentives, there is a greater need to involve patients in a higher level of collaboration throughout the treatment process to establish individual patient responsibility. Consider this three-stage process.

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Stage 1: Use service scripts to set patient expectations.
Providers must be comfortable discussing the expectations of patient care and the intended outcomes necessary to continue the treatment process. This is often completed in the form of a treatment

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Potential unintended consequences and resulting practice liability using pay-for-performance reimbursement methodology (Table 1)

Unintended consequence[4]	Potential practice liability
Increase in the inequity and disparity of medical treatment for existing practice patients (i.e., patient dumping)	Medical providers could become focused on report cards and inappropriately discharge patients with high acuity levels or those with multiple, chronic conditions (neglect/abandonment)
Increase in refusals to admit new patients who present with potentially difficult or costly medical care (i.e., "patient cream-skimming") by diagnosis	Providers might focus on their performance ranking in the practice or in comparison with a regional/national benchmark, which would limit the types of new patients they admit based on established performance-based pay guidelines (disparate impact)
Unintentional exclusion of patients based on their established diagnosis and its relation with current pay-for-performance measures and incentives	Medical providers could establish tunnel vision and direct their attention toward patients whose outcomes can be measured under performance-based pay while unintentionally neglecting patients whose care does not involve a payment incentive outcome (neglect)

plan, but in most cases this plan does not involve the patient, nor does it clearly stress the patient's self-management responsibilities.[5,6,7] In general, the patient plays a role in the creation of his or her service script and must understand that deviation from it could lead to confusion and dissatisfaction with healthcare services.[8] The service script evolved from the service marketing industry and creates a sequence of treatment events and steps for patients as participants in their care, not as observers or recipients.

Take, for example, highly structured pain-management treatment processes that entail the prescription of narcotics. Patients are frequently required to sign contracts, such as opioid agreements, that educate them about rehabilitation and other participation expectations while they are taking such strong pain medications. The patient must thoroughly understand the intended treatment plan and individual responsibility before and during the treatment regimen.[6,7]

As financial risk shifts from healthcare payers to providers, patient interactions — and cooperation — become increasingly important.

Stage 2: Evaluate and counsel. Regardless of practice specialty, medical providers need to assess patient progress in the treatment regimen and document the steps in the medical record. Monitoring and documentation of patient compliance has been well-established by the managed care industry and its use of patient utilization controls, primarily case, disease and overall utilization management.[9] Multiple forms of evaluation and counseling exist for medical providers, including provider-to-patient discussions during office visits, nonphysician provider phone calls, email checkups and Internet-based patient risk assessments and goal-monitoring systems. It is the provider's responsibility to document any lack of progress and deviance from the scheduled treatment expectations that were established and discussed.

Throughout the treatment and counseling process, a patient's emotions and

moods should be assessed. Research has demonstrated that patients are more apt to follow instructions and treatment protocols if they possess positive, supportive moods regarding their treatment process.[8] Although medical providers may not be able to change a patient's specific mood, evaluation of the patient's perspective may help determine whether a patient is sincere about assuming the self-management responsibilities required for a successful outcome.

Stage 3: Demonstrate a patient's lack of participation. Unless the patient warrants immediate termination from the practice for violent behavior or illegal activity[4], schedule a final meeting to discuss your intent to end the patient-provider relationship. Providers should review their efforts to salvage the treatment relationship and can cite medical record documentation and discussions about the patient's welfare and health status.

You might want to consider customer co-production here. This concept, a drama metaphor, can have value in demonstrating the patient's lack of responsibility in his or her treatment regimen.[8] In a service context, a patient cooperates or "co-produces" his or her treatment outcome (for examples, going to physical therapy, taking medications appropriately, etc.). Research shows that most customers (including patients) often accept some responsibility for the service encounter if they understand their lack of participation in the overall process.[8] Discussing someone's lack of co-production can establish responsibility for outcomes (or lack thereof). And as word-of-mouth communication through social media venues becomes a stronger marketing tool, practice managers must consider market reputation when dealing with difficult operational decisions such as patient termination. Ensuring that patients understand their part in co-production of health outcomes might limit unfavorable patient remarks.

Discontinuing a patient-provider relationship in an era that requires optimal patient outcomes for reimbursement is not an easy process, and it should be managed carefully to avoid unfavorable consequences. As financial risk shifts from healthcare payers to providers, patient interactions — and cooperation — become increasingly important. Outcome measurement will begin to lead the healthcare system and reimbursement processes, and medical practices must continue to balance quality outcomes with effective and equitable quality medical services.

Notes:

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