Editor’s Note
To continue providing safe, effective patient care, the healthcare industry is constantly transforming. It’s up to healthcare professionals to stay current on frequently evolving elements such as your facility’s policies and procedures, and services to new patient populations. The articles included in this issue outline topics related to potential healthcare changes and how to best handle the new situations your staff will likely encounter.

Healthcare Providers Service Organization
Risk Advisor for Physical Therapists

Improving health literacy improves patient outcomes

On a busy Monday morning, you work with a man who is in his fourth week of physical therapy after surgery to repair his right shoulder rotator cuff. You explain some new exercises for him to do at home and give him a handout that describes the exercises. Two days later, you learn the patient injured his shoulder while performing the exercises—most likely from performing them incorrectly. His family wants to sue you for not giving him the right instructions. You recall that after you gave the patient the exercise information, he shook his head indicating “no” when asked, “Do you have any questions?” What happened in this situation?

The answer is that like many healthcare providers, you probably overestimated the patient’s health literacy. According to a 2003 report from the Department of Health and Human Services (the most recent available data), only 12 percent of U.S. adults have “proficient” health literacy, meaning they can understand and use health information effectively, including tasks such as reading prescription bottles, and more than a third have only a basic or below basic level. That translates into millions of people in the U.S. who don’t understand the vital health information healthcare providers give them.

Such lack of knowledge can be deadly or at least grounds for a lawsuit if the patient is injured. A 2011 report from the Agency for Healthcare Research and Quality found that low health literacy is linked to poorer health status and a higher risk of death. It can also result in communication failures that lead to adverse events in the courtroom.

To change this paradigm, physical therapists (PTs) need to recognize the issue of health literacy and use tools such as “teach-back” and patient-friendly education materials to help ensure comprehension. An additional benefit will be reduced risk for legal action.

The value of health literacy
Patients have to understand instructions so they can manage their own care and improve outcomes. An article in February 2012’s Health Affairs cites studies of strategies that improve patient adherence. For instance, medication counseling using a plain language, pictogram-based intervention resulted in fewer dosage errors and greater adherence, compared to standard counseling.

Three 2010 initiatives recognize the vital role of health literacy—The Affordable Care Act, the National Action Plan to Improve Health Literacy from the Department of Health and Human Services, and the Plain Writing Act. In addition, The Joint Commission’s standards on patient-centered communication, which include health literacy, go into effect July 1, 2012. Healthcare facilities are checking to be sure their policies reflect these standards.

Health literacy is integrated into key American Physical Therapy Association (APTA) core documents, including it as part of the evaluation criteria for accreditation of PT education programs. Health literacy is also implied in APTA’s Standards of Practice for Physical Therapy. For example, one standard states, “The physical therapists involve the patient/client and appropriate others in the planning, implementation, and assessment of the plan of care.” It would be difficult to achieve the plan of care unless the patient understood it. Documents such as these support health literacy assessment as a basic competency for PTs.

The current health environment is a place where PTs and other healthcare providers are held accountable for meeting their patients’ health literacy needs. Legislation, facility policies, and professional standards of practice could be cited in litigation involving mishaps related to a patient’s taking incorrect action—or failing to take action (for example, not seeking needed...
help)— because he or she didn’t understand the provided information.

A “universal” resource
No one can tell a patient’s health literacy by looking at him or her. However, in this busy world of healthcare, there is little time to conduct a formal assessment. That’s why the North Carolina Program on Health Literacy (NCPHL) says that just as healthcare providers use universal precautions to prevent spread of bloodborne disease for all patients, they need to use health literacy universal precautions for all patients.

NCPHL developed the Health Literacy Universal Precautions Toolkit, available as a free download at http://www.nchealthliteracy.org/toolkit. The toolkit, commissioned by the Agency for Healthcare Research and Quality, includes steps that healthcare providers can easily implement in their practice, including selecting provided tools, applying them, and assessing how effective they were in the interaction with the patient. Tools include how to use teach-back (see The power of teach-back) and a reminder of key communication strategies.

Boosting understanding
You can use several simple strategies to address health literacy when working with patients. For example:

• Ask a patient how he or she prefers to receive information (by reading, hearing, or seeing).
• Avoid medical jargon and speak in simple, easy-to-understand terminology.
• Speak slowly, so patients can more easily absorb the information.
• Encourage patients to participate as you teach. For example, you might have the patient hold the resistance exercise band as you are talking about it.
• Repeat key points.
• Use pictures, if possible, to help explain concepts.
• Don’t try to cover too much in one session.

Finally, remember to document the specifics of what you did in the medical record and the patient’s responses. For instance, in the case of exercises, you would want to include the name of the handout that you gave and that you used “teach-back” or return demonstration to verify the patient’s understanding. Such documentation will help an attorney defend you should legal action occur.

The power of teach-back
If asked, “Do you understand?” after receiving health information, most patients will say yes rather than admit their lack of knowledge. “Teach-back” (also called “show me”) is a powerful method that ensures a patient truly comprehends what you have said. In this method, ask him or her to “teach” you the information. For example, you might say to patient starting a new exercise, “I want to be sure that I explained this correctly. Can you show me the exercise?”

Teach-back can help you ensure that the patient understands the information you provided so he or she is more likely to adhere to instructions, thus reducing the likelihood of complications and a possible lawsuit.


A team approach
Any method you use, from speaking slowly to encouraging questions, will help patients be more informed. More informed patients are less likely to sue because they are able to follow instructions and give themselves the best opportunity for successful self-management.

By developing trust and promoting open communication, you can address health literacy and build a relationship with your patients that achieves the best possible outcomes and helps keep you out of the courtroom.

RESOURCES


Are you culturally competent?

A diverse group of people call the United States home, so physical therapists (PTs) and physical therapist assistants (PTAs) routinely encounter patients of different cultures in their practice. But how confident are you in your ability to meet varied cultural needs? Your competency is key, not just to achieve excellent patient outcomes, but also to protect yourself from being named in a lawsuit.

What is cultural competence?

According to the U.S. Office of Minority Health (OMH), culture refers to patterns of behavior of racial, ethnic, religious, or social groups. Cultural competence is the ability to meet the needs of diverse patient populations so that delivered healthcare is safe and equitable. The National Quality Forum (NQF) says culturally competent care seeks to eliminate misunderstandings and improve patient adherence with treatments.

OMH notes that cultural competence is essential for closing the disparities gaps in healthcare because culture and language can affect someone’s beliefs about health, disease, and the behaviors that lead to both. For instance, some cultures believe in the “evil eye” as a cause of illness, and those who believe may want to wear amulets to protect themselves.

Being respectful of—and responsive to—individuals’ cultural needs ensures more effective communication, improving outcomes and reducing the risk of errors that could turn into adverse events and a potential subsequent court case.

The Joint Commission (TJC) recognized the importance of patient-centered communication with its new standards, effective July 1, 2012, which address cultural competency. (For more information about the standards, read Appendix C in Advancing Effective Communication, Cultural Competence, and Patient-and Family-Centered Care: A Roadmap for Hospitals, available online at www.jointcommission.org/Advancing_Effective_Communication.) In addition, many existing TJC standards relate to cultural needs such as “The hospital provides interpreting and translation services, as necessary.”

Almost all hospitals and most healthcare providers are subject to federal civil rights laws such as Title VI of the Civil Rights Act of 1964 and Age Discrimination Act of 1975. The Americans with Disabilities Act (ADA), enacted in 1990, gives civil rights protection to people with disabilities similar to those given to people on the basis of race, color, sex, national origin, age, and religion.

Cultural competence is integrated into key America-
can Physical Therapy Association (APTA) documents, and is part of the evaluation criteria for accreditation of PT and PTA education programs. The APTA position on Cultural Competence (HOD P06-01-26-25) states the members of the association “should demonstrate cultural competence.” Documents such as these support cultural competence as a basic competency for PTs.

Although the Standards of Practice for Physical Therapy from APTA do not specifically mention cultural competence, the need for it is implied in standards such as “The physical therapists involve the patient/client and appropriate others in the planning, implementation, and assessment of the plan of care.” It would be difficult to truly “involve” the patient without considering cultural influences.

Failure to meet regulatory and legal guidelines or to follow professional standards could result in a lawsuit if a patient’s cultural needs aren’t met. Since cultural competence is a basic competency, it would be difficult to provide an effective defense of your actions if you never documented your interactions with the patient in their medical record.

**Developing cultural competence**

There is one important caveat to remember when building cultural competence—don’t stereotype. There are variations within cultures and culture is just one of many factors that shape people. Shaping factors, include, but are not limited to environment, socioeconomic status, genetics, and psychological factors, and they impact different people in different ways.

The first place to start is to assess your own competence. One useful online resource is the Cultural Competence Health Practitioner Assessment, which you can access on the National Center for Cultural Competence website at [http://nccc.georgetown.edu/features/CCHPA.html](http://nccc.georgetown.edu/features/CCHPA.html). Be aware of your own possible biases.

The next step is to educate yourself. Appendix E in TJC’s *Advancing Effective Communication, Cultural Competence, and Patient-and Family-Centered Care: A Roadmap for Hospitals* contains a comprehensive list of resources for cultural competency training. You can use this list to ensure that your cultural competency is sufficient for your practice.

Lack of knowledge is no excuse in a court case. Take the example of a female patient of a culture that requires a woman to be cared for by someone of the same sex. The female patient who is examined by a male PT who does not discuss the situation with the woman beforehand may view the action as an attack. The PT’s lack of understanding would not negate the allegation made by the patient.

**Meeting patients’ cultural needs in practice**

The TJC *Roadmap* publication is also a valuable resource for integrating culture into your clinical practice. You can also turn to the
Center for International Rehabilitation, Research, Information & Exchange cultural competence website at http://cirrie.buffalo.edu/culture. One resource they offer is a 13-volume monograph series that provides information on a variety of cultures.

Be sure to document the results of your assessment of a patient’s culture and actions you took to incorporate cultural needs into the treatment plan in the medical record. Flag any key information through use of stickers or other techniques to ensure other healthcare providers are aware of the patient’s cultural needs.

At times, it may be challenging to meet a patient’s cultural needs. Keep an open mind so you can negotiate a mutually agreed upon solution.

**Ongoing learning**

One of the NQF’s guiding principles of cultural competency is that it should be an ongoing process. Cultural competence is a clinical skill that can lead to more effective care, so it’s important to update your cultural competence skills in the same way you update your other clinical skills. Doing so will help ensure your patients receive the care they need and help you avoid a day in court.

**RESOURCES**


**Physical therapists and medical malpractice: A case study with risk management strategies**

Medical malpractice claims can be asserted against any healthcare provider, including physical therapists (PTs). Although there may be a perception that physicians are held responsible for the majority of lawsuits, the reality is that PTs are more frequently finding themselves defending the care they provide.

In this case, the plaintiff was a 40-year-old female receiving physical therapy following surgery to her ankle. The defendant PT applied a hot pack to the affected area for pain relief. Subsequent to leaving the physical therapy center, the patient called to report a burn on her ankle at the site of the heat treatment...

To read the full case with risk management recommendations, go to www.hpso.com/case-studies/castudy-article/360.jsp.

**Are you consulting, teaching, or training?**

Your professional liability insurance policy provides coverage for medical incidents that result in injury or damage. But, losses that arise from consulting, teaching, or training activities, or through expert testimony, would not typically be covered by your professional liability insurance policy. For only $25, the Consulting Services Liability Endorsement can be added to your professional liability insurance policy. Go to www.hpso.com/services to download a request form. Or, look for the offer in your renewal notice.

HPSO Risk Advisor 2012
Updated PT Claim Report helps physical therapists understand their liability risks

A report from Healthcare Providers Service Organization (HPSO), in collaboration with CNA, found that from 2001 to 2010, $44 million was paid in professional liability judgments, settlements, and expenses on behalf of physical therapists (PTs), with an average of $103,111 per claim.

*Physical Therapy Liability, 2001-2010,* released February 20, 2012, also found that the three most common allegations in cases of a paid license defense claim were:

- improper management over the course of treatment (37.6%)
- inappropriate behavior (26.5%)
- fraudulent billing (14.7%).

The number of claims significantly increased the longer survey respondents worked as PTs. In fact, the highest percentage of claims involved PTs who had worked more than 21 years.

You can find the entire *Physical Therapy Liability, 2001-2010* report online at www.hpso.com/PTclaimreport2011.