Risk Advisor for Healthcare Business Owners

NSO/HPSO Risk Advisor

Evidence-based practice makes good business sense

As a business owner, you expect your employees to make the right clinical decisions in a variety of situations. But do they consistently do so? And are they making those decisions based on the latest evidence in their field? Clinicians need to base their actions on evidence to ensure optimal patient outcomes—and to protect themselves and your business from litigation should an untoward event occur.

Evidence-based practice (EBP) is a problem-solving approach that encompasses research, clinical expertise, and patient values and circumstances. Clinicians should use information from these three components to make informed decisions.

Advantages of EBP include the ability to obtain an accurate assessment of the risks and benefits of various therapeutic approaches. Evidence-based practice also facilitates decision-making in situations where there are limited resources, for instance, the patient or client with no or little insurance. Most importantly, EBP improves outcomes.

Despite these benefits, too few clinicians engage in EBP. For example, a 2013 study found that although physical therapists, pharmacists, and nurses support EBP, many feel they lack the needed time, knowledge, and skills to engage in it. You, as the leader of your business, must set expectations for EBP and provide a supportive environment for it.

The gold standard

Evidence-based practice is accepted as the gold standard because it improves patient outcomes. For example, the 2003 Institute of Medicine (IOM) report *Health Professionals Education: A Bridge to Quality* states EBP is a core competency for healthcare professionals.

Additional support comes from professional associations. For example, an American Physical Therapy Association (APTA) position statement says the organization "…supports and promotes the development and utilization of evidence-based practice that includes the integration of best available research, clinical expertise, and patient values and circumstances related to patient/client management, practice management, and health policy decision making." The *Standards of Practice for Occupational Therapy* document from the American Occupational Therapy Association states that an occupational therapist is "knowledgeable about evidence-based research and applies it ethically and appropriately to provide occupational therapy services consistent with best practice approaches." Other associations have similar statements.

All this adds up to a consensus that EBP is a vital part of the profession. In a court case, an attorney will stress this fact while attempting to prove that a clinician failed to engage in EBP. So how can you ensure EBP is practiced in your business?

Set expectations

Clearly state in job descriptions that employees are expected to practice according to the latest evidence and be sure employees are evaluated on that criterion. You may want to establish a committee or process for supporting EBP projects.

Be ready to encounter resistance. Some clinicians incorrectly fear EBP will usurp their own decision-making. They may also worry that EBP creates a "cookie-cutter" approach to practice, which is not true. You'll need to use education and your ability to lead change efforts to create an environment where EBP thrives.

You should also ensure that the latest evidence drives all the protocols, policies, and procedures in your organization. Document the sources of the in-

formation in case you are asked about them as part of legal action related to a client incident.

Finally, foster an EBP environment by encouraging discussion of evidence during staff meetings and promoting a journal club to encourage staff to keep current in clinical developments.

Provide education

As mentioned earlier, many clinicians feel they lack EBP skills. Consider that many of your employees did not receive EBP training as part of their basic education because they graduated before it became part of the curriculum. The good news is that you don't need a large budget to help your employees gain knowledge about EBP. You can have them access free self-study programs online. For example,

staff at Duke University Medical Center Library and the Health Sciences Library at the University of North Carolina at Chapel Hill developed an "Introduction to Evidence-Based Practice" tutorial, available online at http://guides.mclibrary.duke.edu/content.php?pid=431451&sid=3529491.

For tips on interpreting the information your employees find, suggest they access the "How to read a paper" section of the *BMJ* website, which contains article on how to read and interpret different types of studies and includes two articles related to statistics (http://www.bmj.com/about-bmj/resources-readers/publications/how-read-paper).

Consider earmarking funds specific to education related to EBP to encourage staff attendance. Retain documentation of courses they complete in case an employee is involved in a lawsuit.

Provide resources

Be sure your employees know about these free resources:

- Guideline Clearinghouse (www.guideline.gov), which provides summaries of clinical practice guidelines and has a tool that allows comparison between multiple guidelines
- PubMed, which has a feature that allows the user to limit a search to systematic reviews or meta-analysis articles
- Trip (www.tripdatabase.com), a clinical search engine where the user can quickly find high-quality research
- Cochrane Database of Systematic Reviews (www.cochrane.org), which provides analysis of available literature related to a topic (some information available for free)
- Tools to help in critically appraising the evidence, including those from the Centre for Evidence Based Medicine (www.cebm.net) and the University of Minnesota (http://hsl.lib.umn.edu/biomed/help/levels-evidence-and-grades-recommendations).

Encourage staff to download useful apps and databases to their smartphones or tablets so they can access them more easily.

Protecting the clinician and you

Clinicians who base their practice on evidence will benefit patients by ensuring optimal outcomes and will benefit you by providing support for their decisions if those decisions are questioned as part of a legal action.

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Using incident reports to improve your business

No business owner likes to see an incident report cross his or her desk, as they often conjure up images of courtrooms and prosecuting attorneys. But incident reports can serve as a useful tool for improving safety for patients, families, and employees by identifying system-wide trends that could contribute to future incidents.

For example, incidents where patients fell because lifting equipment was not readily available may indicate the need for additional equipment. Although this will cost the business money in the short-term, in the long-term it will save money by helping to avoid legal action.

The incident report is merely one component of an overall incident reporting system. Here are elements of that system that you'll want to include in your business.

Creating a just culture

Incident reports alert business owners to potential claims and help them identify areas for improvement. That's why you want to encourage, not discourage, reporting. One way to encourage reporting is by creating a just culture. Just culture recognizes that humans will make mistakes, so errors and adverse events should be measured and monitored to help improve the system, whether it's a large, multihospital system or a small chain of physical therapy clinics. Just culture also recognizes that accountability is shared between clinicians and the organization, with clinicians responsible for their choices and organizations responsible for systems that have been designed.

In a just culture, near misses are important in identifying potential problems before an error occurs. Employees are not automatically blamed for near misses or errors, but rather these are seen as an impetus to investigate whether a change in the system is needed.

You can create a just culture by paying attention to three essential components for success: commitment, competence, and cognizance.

Spotting incidents

Spotting and reporting incidents is the first step in the professional liability claims process. But how do you know when you've experienced an incident? Incidents are any error or omission in professional services that have resulted in a patient injury or client complaint and that you think may lead to a claim. Incidents include statements from a patient indicating that they may be considering filing a claim related to your professional services, even when you cannot identify an error in your treatment. Concerns such as adverse treatment results would be considered an incident, however, incidents also include signs of a patient's displeasure, such as a letter of complaint, a heated disagreement, or repeated failure to keep appointments without adequate explanation.

Crafting the policy

Your incident reporting policy should include what to report, how to report, communication, a process for investigating reports, and recordkeeping. Reporting should include incidents involving patients, families, and employees.

Keep federal requirements in mind. For example,

the Occupational Safety and Health Administration requires all employers with more than 10 employees to maintain records of "recordable" occupational injuries and illnesses such as falls and exposure to potentially infectious materials. Typically, an injury should stimulate the completion of an incident report.

If possible, have clinicians complete incident reports via an online system. Doing so will make it easier for you to track trends and ensure the report is legible. Keep in mind that your goal is not to simply create incident reports, but to set up a system where incident reports are investigated so that larger lessons can be learned.

Providing education

Once you have your policy and forms in place, communicate the information to staff. Explain the value of reporting, what should be reported, and how to report, including whom to contact. Explain that if in doubt, the employee should complete an incident report. Provide a few scenarios and ask participants to work in teams to complete an incident report so they can practice. Provide the following tips for completing an incident report:

- Complete the incident report as soon as possible after the event, while your memory is fresh.
- Be objective. State the facts and document what you did.
- Describe only what you saw and heard. Unless you saw the patient fall, write, "found patient lying on the floor."
- Include patient and witness input. State the comments as direct quotes such as, "Patient said, 'I thought I could make it to the door without my walker.'"
- Don't assign blame to anyone. Again, stick to the facts.
- Use correct spelling and grammar. Neatness counts in court. An attorney may imply your carelessness in writing is similar to your carelessness in patient care.
- Submit the incident report to the right person.
- Don't make copies of the report, and don't put the report in the patient's health record.
- Describe what occurred in the patient's health record, but do not state that an incident report was completed. If an attorney would find such a notation, he or she could subpoena the report.

Document attendance at the education program in each employee's personnel record.

What should an incident report contain?

When creating an incident report form, it's important to balance thoroughness of the information with the burden of the clinician's time and effort to complete the form. Checkboxes can be used to obtain needed information quickly. For instance, include a list of types of incidents such as patient, employee, visitor, and other (specify), so the clinician can simply check the appropriate box. Here is essential information the report should include:

- date, time, and specific location (for example, "exam room 3" as opposed to "patient care area") of incident
- names and contact information of those involved in the incident
- description of the incident (ask the reporter to include who, what, when, where, how, and why)
- environmental conditions at the time of the incident (for example, in the case of a patient fall, it would be important to note whether the floor was dry or wet)
- actions taken, including notifying the patient's primary care provider
- names and contact information of any witnesses
- signature of person completing the report and the date
- results of the review and name, date, and signature of the person completing the review.

Download HPSO's sample incident report at http://www.hpso.com/business-owners/resources/claim-reports.jsp.

Closing the loop

An incident report does little good if it remains stashed in a file drawer or computer. Instead, investigate the incident by talking with those involved, including the patient, who may choose to have a family member present. It's best to be honest and open in your communication with patients. Full disclosure is associated with lower risks of litigation and with lower payments to plaintiffs. Be sure to consult with risk professionals in your state if you wish to initiate a disclosure policy in your healthcare business.

A vital purpose of the investigation is to identify factors that can be modified to avoid future problems.

Include front-line staff as members of a team to conduct a root cause analysis of the event and identify potential solutions. However, establish ground rules first: Tell participants that the goal is not to assign blame, but rather to prevent such incidents from happening again. Disseminate lessons learned and any system changes. Remember to document the work of the team and provide timely feedback to the person who filed the report.

Incident reporting for success

Incident reporting isn't typically mentioned as a sign of a successful organization, but without an effective reporting system, your business is unlikely to identify potential problems or correct system deficiencies to prevent errors. Such activities will help your business thrive—and reduce the risk of litigation.

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Rules can guide success

The Golden Rule, rule of thumb, follow the rules, *Robert's Rules of Order,* rules of etiquette … rules are an important part of our lives from the first time we play a childhood game through to adulthood. Unfortunately, rules have gotten a bad rap. Henry David Thoreau once said, "Any fool can make a rule, and any fool will mind it."

But consider a world without rules. Traffic jams, shoving in store lines, escalating arguments at meetings—these are just a few examples of the chaos that would occur.

The problem isn't with rules themselves; the problem is rules that have no meaning or are inconsistently applied. In the case of a business, rules are essential for managing employees successfully. In fact, most employees are in favor of rules, as long as they are applied fairly.

Are your rules for managing employees, as evidenced by policies and procedures, valuable or "foolish"? Foolish rules can lead to litigation, for example, in the case of asking a potential employee illegal questions. To protect yourself from legal action, consider the following as you evaluate your company's rules so they are in "ship-shape."

On board!

Much has been said about the importance of having the right people "on board" for a business. Getting those right people starts with a policy that outlines hiring processes. Be sure your policy follows government regulations ensure that those who are hiring understand the policy and know what they can (and can't) ask during an interview. You may want to periodically sit in during interviews to conduct a spot check.

You may choose to conduct a variety of background checks, including credit checks (first obtain the applicant's permission), past employment, and criminal activity. Before conducting criminal background checks, consult an attorney in your state to ensure you are adhering to laws and regulations. Don't forget to check references provided by the applicant. Surprisingly, many employers fail to take this basic step. Finally, don't ask for social media passwords—in many states it's illegal to do so. Taking care in hiring will help protect you from legal action should you should have to terminate an employee or an employee willfully engages in misconduct.

Once a person is hired, the next step is onboarding. A thorough orientation goes a long way to putting an employee on the road to success. Put in place checklists to ensure that key information is covered. Ask a seasoned employee to evaluate the new employee's competencies, using a checklist. Have employees sign the checklists and keep them in their human resources files.

A vital part of onboarding is reviewing the job description. A good job description includes the job's purpose and responsibilities, tasks involved, the re-

lationship of the job to other jobs, and qualifications. A clear job description sets expectations and makes it easier for managers to evaluate job performance.

Smooth sailing

Employees crave regular feedback, but in most cases, employers don't give enough. You probably have a policy governing annual performance reviews, but you might want to add a policy for quarterly reviews. You should also encourage your managers to give feedback on at least a weekly basis. No employee should be surprised by what is contained in a formal review.

Remember to provide plenty of recognition, too. Studies have shown that recognition is important to employees of all generations. Make recognition specific so it will help reinforce positive behaviors. Ask employees how they would like to be recognized; some will appreciate a public ceremony, while others might just want a handwritten note. Keep in mind that happy employees are more productive.

Being the skipper

Managers should be outstanding communicators to ensure that employees understand the organization's vision mission and values, as well as where they fit in. It's almost impossible to over-communicate.

Start with a new employee, who should receive a copy of the employee handbook. The handbook should contain human resources guidelines and expectations about following the business's guidelines.

It's also helpful to remind employees periodically of rules, particularly ones that might not be used frequently. For instance, education programs on completing an incident report would help ensure employees follow the policy appropriately. You might also target high legal risk areas such as falls by reviewing related policies and procedures.

Your managers and employees also need to understand the principles of delegation. Review the principles with them, and have a policy that outlines those principles.

Disembarking

Ensure that you have a disciplinary procedure in place that adheres to regulations and is fair to employees. Your disciplinary policy should include a step-by-step approach, beginning with a verbal warning and ending with termination if behavior

By the book

An employee handbook is an important tool for communicating rules. Here is what the handbook should include:

- *Nondisclosure agreements and conflict of interest statements.* Have employees sign these to protect your company's proprietary information.
- *Antidiscrimination policies.* State that your company complies with equal employment opportunity laws preventing discrimination and harassment.
- *Compensation.* Explain that the company will deduct taxes and include information on overtime pay, pay schedules, and performance reviews.
- *Work schedules.* Include attendance and how to report absences.
- *Standards of conduct.* This section should address dress codes and professionalism and include reminders to adhere to regulatory requirements such as maintaining patient privacy.
- *General employment information.* This covers information such as job classifications, employee referrals and eligibility, and termination and resignation procedures.
- *Safety and security.* State the company's adherence with Occupational Safety and Health Administration standards for a safe workplace and note requirements to report injuries and safety hazards.
- *Computers and technology.* Outline appropriate use and policies regarding security.
- *Media relations.* Instruct employees to direct media inquiries to the designated person.
- *Employee benefits.* Explain all benefits such as insurance, retirement, and tuition reimbursement.
- *Leave.* Be sure to include leave required by law such as family medical leave, military leave, and time off for court cases.

The handbook should be written so the information can be clearly understood.

doesn't improve. Be sure you counsel the employee and provide opportunities for improvement.

If you have to terminate an employee, have another manager or a representative from human resources present. It's best to terminate early in the day and early in the week. Be simple and direct; most employees will know that they aren't performing well.

Documentation is particularly key in these situa-

tions to protect yourself from a wrongful discharge suit brought by a disgruntled employee. Most managers dislike having to give negative feedback, but failure to do so negatively affects the morale of employees who are doing their jobs. And, an employee who is unsuccessful in your company might simply not be the right fit and could find success somewhere else.

The right rules

Rules can create a business environment where employees feel valued and liability is kept to a minimum. However, it's important to create the right rules. As Dee Hock, founder and former CEO of the Visa Credit Card Association says, "Simple, clear purpose and principles give rise to complex and intelligent behavior. Complex rules and regulations give rise to simple and stupid behavior."

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