Trends and Implications of Negligent Credentialing

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Conflict of Interest Disclosure

I, John C. Hyde, Ph.D., certify that, to the best of my knowledge, I have no affiliation or relationship of a financial nature with a commercial interest organization that significantly affects my views on the subject on which I am presenting.

Trends and Issues in professional litigation which have led to a rise in negligent credentialing claims

- Currently, 30+ states have adopted NC as cause of action
- And, only 2 have rejected NC
- Darling v. Charleston Comm Hosp-1965 [IL]: first case that established the doctrine of Corporate Negligence; hospital claimed no responsibility over patient care of staff physician
- Frigo v. Silver Cross Hosp-2007 [IL]: podiatrist did not meet Medical Staff Bylaws requirement for surgery performed; never met requirements and never “grandfathered in”
- Issues causing more focus on NC claims:
  - Emerging technology and new procedures (pre-dating MD training/residency)
  - Increased public/media examples of negative outcomes
  - Release of outcomes data for hospitals and physicians
  - Economic downturn or questions of income inequality
Objectives:

- Examine the trends and issues in professional litigation which have led to a rise in negligent credentialing claims.
- Evaluate the issues and defense challenges surrounding negligent credentialing claims.
- Discuss the policies, procedures, reporting, documentation, confidentiality and other strategic issues involved in a negligent credentialing claim.

Issues and Defense/Plaintiff Challenges

- Peer review “shield versus sword”
- Medical staff/hospital dynamics counter to defense strategies
  - Increased competition and hospital/facility “friction”
  - Reluctance to utilize outside evaluators/advice
  - Medical staff bylaws/rules/regulations that aren’t current or reflect standards of practice
  - Hospital policies and procedures: “paper” versus practice
- Increases in plaintiff strategies and collaborations
  - “Product and Drug” multi-state advertising

Process of Credentialing/Privileging

- TJC credentialing/privileging processes:
  - Licensure
  - Education
  - Training
  - Current competence
  - Physical ability

- General Competencies by Accreditation Council for Graduate Medical Education and the American Board of Medical Specialties
  - Patient care
  - Medical/clinical knowledge
  - Practice-based learning and improvement
  - Interpersonal and communication skills
  - Professionalism
  - Systems-based practice
Joint Commission: Comprehensive Evaluation of Practitioner’s Professional Practice

• Ongoing Professional Practice Evaluation (OPPE):
  - Designed to continuously evaluate a professional practitioner’s performance
  - Medical Staff conducts an ongoing evaluation of each practitioner
  - To foster a more efficient, evidence-based privilege renewal process

• Focused Professional Practice Evaluation (FPPE): used in the 2 following circumstances
  - When practitioner has credentials to suggest competence, but additional information or period of evaluation is needed to confirm competence
  - If questions arise regarding practitioner’s professional practice during OPPE

Medical Staff and Facility actions within the Credentialing/Privileging Process

• “Boiler plate” activities (not just mundane efforts):
  - Routine checks of
    - Licensure/actions
    - National Practitioner Data Bank
    - Insurance coverage
    - Physical status

• Practice-specific outcomes:
  - Mortality and Morbidity
  - Patient and Staff satisfaction metrics
  - Practice Trends

• New Privilege requests
  - Demonstration of competencies
  - Utilization of “guiding parameters: ASHRS, SAGES, others
  - Use of outside content/practice experts

Future Trends and Thoughts

• Continued development/ adoption of Negligent Credentialing actions
• Community or System-based credentialing/privileging networks
• Movements towards open disclosures of physician and hospital-specific outcomes and processes
QUESTIONS AND DISCUSSION