UTILIZING GRIEVANCE DATA AS A STRATEGIC ADVANTAGE FOR YOUR CAPTIVE

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Located in the northwest suburbs of Chicago, Northwest Community Healthcare consists of a 489-bed hospital, 4 Intermediate Care Centers, and a Medical Group that serves patients in 20 outpatient locations.

The NCH Medical Group is comprised of 135 employed physicians with a variety of specialties.

NCH location: Cook County, Illinois, a venue notorious for inflated malpractice verdicts.
Cook County, Illinois encompasses the Chicago area and neighboring suburbs.

Notable Verdicts & Settlements 2016-2017

- $53 million verdict in Birth Trauma Case
- $47.7 million settlement in pediatric sepsis case
- $22 million verdict in obstructed tracheostomy case
- $21.3 million judgement in birth trauma matter
- 10 million verdict in medication error case
At NCH, we performed an analysis in 2012 of all of our existing professional liability lawsuits, and discovered that 33% of our claims had begun as a patient complaint; many of which were not handled to the patient’s satisfaction.

Further, a review of our patient grievance data revealed many recurrent themes and patient safety concerns, which were not being adequately addressed.

This information prompted us to perform a full assessment of our Patient Relations Program and development of a new model.

Our Goal: To Resolve Patient Concerns Effectively, and Reduce Losses
RETHINKING PATIENT GRIEVANCE DATA

- **Regulatory Requirements**: Reporting a grievance is a patient right and heavily regulated by CMS & Joint Commission.
- **Grievance Response**:
  - Investigation
  - Resolution
  - Written Response to Patient
- **Harbinger of Litigation Risk**: If unresolved, patients will seek out attorneys.
- **Patient Safety/Quality Risk**: Grievance investigation uncovers underlying safety/quality issues.
GRIEVANCE DATA IN THE LITERATURE

Grievances & Quality Outcomes
Physicians, (particularly surgeons) with more patient complaints tend to have poorer quality outcomes.

Grievances & Litigation Risk
Patient complaints, and conversely the physician’s ability to establish rapport with patients, has been established as a predictor of litigation risk.

Patient Experience
Patient Complaints are associated with lower patient satisfaction scores, which in turn are correlated to litigation risk.

Reimbursement
Patient satisfaction is a key element in Medicare reimbursement – analysis of patient compliant data can help pinpoint areas that require improvement.
Hickson, Stelfox, and Pichert from Vanderbilt University are considered the pioneers in identifying the implications of patient complaints and grievances. Several other researchers have followed.

**Safety Outcomes:** Cooper et al., found that unsolicited patient complaints about surgeons were associated with adverse outcomes in surgery.

**Patient Satisfaction:** Virginia Jones noted the correlation between patient satisfaction scores and liability risk in her ASHRM article.

**Early Intervention:** Bismark et al., stressed the importance of early intervention with physicians who garner complaints, to improve quality and reduce risk.
PATIENT RELATIONS AT NCH

**Old Model**
- Staffed by Non-Clinical Staff Members
- Reliance on Managers to Investigate and Respond to Patients
- Little to No Trending/Analysis

**New Model**
- New Patient Relations Coordinator with Strong Clinical Experience
- Independent Investigations
- Proactive, Hands-On Approach
- Quarterly Trending
NEW MODEL – FROM REACTIVE TO PROACTIVE

Litigation Prevention

• Patient relations team at the bedside after adverse outcomes
• Physicians and nurses call Patient Relations when patients express concerns
• Re-Estimbling Trust, Demonstrating Transparency

Improving Quality and Safety

• Referral of safety issues to Quality for peer review/RCA
• Identification of safety trends every quarter
NEW MODEL – FROM REACTIVE TO PROACTIVE

**Patient Experience**

- Demonstration of transparency, empathy
- Patients feel heard

**Resolution**

- Write-Offs
- Pre-Suit Resolution for Meritorious Claims
WHAT OUR DATA SHOWS

✓ Quarterly Metrics
✓ Identification of Areas of Risk
✓ Claims Information
QUARTERLY METRICS

Metrics We Track and Trend

✔ Grievances reported as PCEs
✔ Grievances resulting in a Claim/written demand
✔ Grievances referred for Peer Review
✔ Common themes in trends – by Department, by physician

Education Program
✔ Physicians: Communication, Informed Consent, Disclosure
✔ Nursing: Embracing Patient Complaints, Communication with Patients and Colleagues
QUARTERLY METRICS

2017 Patient Relations Data

Face-to-Face Meetings/Family Conferences Quarterly Comparison

FY 2017

Grievances Reported as PCEs: 21
Grievances Resulting in a Claim/Written Demand: 7
Grievances Referred for Peer Review: 13
WHAT ISSUES MATTER TO PATIENTS?

Our data shows that physician conduct and expertise comprised the highest volume of complaints. This information guides our education program for the coming year.

We utilize multiple different methods of providing information to physicians, including lunch and learns, web-based modules, and presenting at staff meetings.
WHERE TO PATIENT COMPLAINTS OCCUR?

2017 Patient Relations Data – By Location

- Emergency Department
- Immediate Care Centers
- Medical Groups
- Critical Care Unit
- Ortho Unit
- Neuro unit

The emergency department and intermediate care centers see a high volume of patients in a fast-paced environment.

The ED medical director is a member of our Grievance Committee and calls each patient who raises a grievance personally, to help resolve the issue.

Similarly, the executive director of the Intermediate Care Centers calls each patient to address and resolve concerns.
In 2012, we noted that the number of cases that started as a grievance was \textcolor{red}{33\%}%. In some cases, patients reached out, and were told to put their concerns in writing – they retained an attorney instead. In 2017, \textcolor{red}{7\%} of newly filed claims began as a grievance.

**GRIEVANCE AND CLAIMS DATA**

- This past year, 6 grievances were settled pre-suit for nominal amounts.
- 5 grievances that resulted in demands were denied, and have not been filed as lawsuits.
- 1 matter escalated to a lawsuit.
PRE-SUIT VS LITIGATED CLAIMS - FALLS

Falls – Inpatient

Pre-Suit Costs (2 cases):
$65,000, $17,500
Litigated Cost (1 case)
$198,597

Falls – Outpatient

Pre-Suit Costs (2 cases)
$2,111, $3563
Litigated Costs (3 cases)
$45,892, $41,977, $87,142
PRE-SUIT VS LITIGATED CLAIMS - DECUBITUS ULCER

**Pre-Suit Claim**
(Referred through Patient Relations)

Pre-Suit Costs
$30,000

**Litigated Claim**

Litigated Cost
$98,140
DISCLOSURE & GRIEVANCE MANAGEMENT

Amy Kane, JD
General Principles
Unanticipated Outcomes Include:

- Outcomes that are significantly different than expected;
- Outcomes resulting from deviations from the standard of care;
- Patient harm resulting from errors.

Remember: Unanticipated Outcomes Occur In the Absence of Negligence
In the Immediate Aftermath of an Adverse Event:

**PLAN THE CONVERSATION**
✓ Meet with the physician to develop talking points.

**REFRAIN FROM SPECULATION ABOUT CAUSATION**
✓ Reassure the Patient/Family: “At this time, we do not know how and why this occurred, but we can assure you that your loved one is in safe hands.”
✓ Commit to the investigation.
✓ The physician should be prepared to discuss immediate short-term effects and long-term effects, if known.
✓ Schedule another meeting to discuss what happened and provide closure.
DISCLOSURE DECISION TREE

CLEAR-CUT ERROR
Disclosure warranted; be sure the patient/family is heard; consider offering compensation and referring patient to an attorney. Discuss with patients any process changes to improve safety.

ADVERSE OUTCOME BUT NO CLEAR ERROR
Keep communication open with family/patient. Decide whether to make an offer of compensation or write-off a bill.

ADVERSE OUTCOME, BUT NO ERROR
Provide clear explanations of outcomes, comfort measures to family. Consider write-off of portion of bill.

Disclosure has been found to decrease costs related to total liability, patient compensation, and other related legal costs. (See Kachalia, et al., Ann Intern Med. 2010 August 17; 153(4) 213-212)

To re-establish trust: allow the patient to be heard and explain what will be done to prevent similar events in the future.
WHEN TO INVOLVE OUTSIDE COUNSEL

**Early in Clear-Cut Error**
- Conduct interviews early and develop strategy for early resolution
- Meet with patient/family and counsel
- Be prepared in event discovery must be done prior to resolution

**Early in Adverse Outcome, No Error**
- Meet with patient/family and counsel
- Develop defense strategy
Alleged delay in diagnosis of ruptured AAA
Internal investigation results were mixed (questionable delay but no change in outcome)
Patient’s wife dissatisfied with explanations at meeting
Lawsuit resulted in trial

Alleged emotional distress and psych damages following medical encounter
Impartial and thorough investigation
Plan to meet with patient and counsel to explain
Anticipate and strategize for vigorous defense
PERSPECTIVE OF THE REINSURER

Kim Willis, Sompo International
LOSS COSTS VARY

- 200 hospitals
- 7 states – IL, GA, MD, NY, OH, TX, PA
- 20-30 hospitals per state
- Indemnity losses excess of $100K-$10M
Loss costs are material

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- Risk characteristics are complex
- 300 occupied bed hospital -- 500M in revenue
- Average hospital operating margin is 3.4% -- $500M x .034 = 17M
- $750K vs. $18M is material
- It isn’t all territory
STRATEGIES AND KEY TAKEAWAYS –
BRINGING IT ALL TOGETHER
STRATEGIES & KEY TAKEAWAYS

Aligning Patient Relations with Risk and Quality

Start with the Data!
- Analysis of common themes
- Identification of frequent actors & departments
- Focus on Areas with Higher Frequency

Proactive Approach
- Resolve Issues at the Bedside
- Disclosure if Applicable
- Face-To-Face Meetings
- Discuss Remedial Measures

Claim Referral
- Refer PCEs to Risk and Quality
- Resolve Meritorious Claims Pre-Suit if Possible
In the 21st Century, much is required of physicians – not only technical expertise, but excellent communication skills.

Physicians must model respect at all times to other staff and patients.

Provide support during this process!
FUTURE DIRECTIONS

✓ Align Patient Relations Efforts with Patient Experience Committee

✓ Develop Peer Mentoring with Physicians, Similar to Vanderbilt PARS program

✓ Refine Trending to Hone in on Key Issues that Require Improvement
REFERENCES


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