

We are pleased to offer our latest installment of *Insight and Perspectives*. This newsletter is dedicated to sharing healthcare news, trends and developments impacting our broker and insured customers.

In this particular installment you will find Glenna Schindler's article discussing risk management and infection control.

As always, we appreciate your continued support and thank you for allowing Endurance to be a part of your risk and insurance programs.

About Us

Endurance U.S. Healthcare offers healthcare professional liability coverage to community-based hospitals and large-physician groups.

Endurance Bermuda Healthcare offers excess liability coverage for large multi-hospital systems, academic medical centers and specialty hospitals.

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Risk Management and Infection Control: Intersection of Responsibility

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Infections resulting from healthcare procedures are a major cause of patient morbidity and mortality. As noted in the 4th Quarter 2013 edition of Endurance Insurance's *Insight and Perspectives*, overwhelming sepsis is among the categories of medical claims that have trended upward over the last several years and some of these severe sepsis cases have serious consequences, including amputation of some or all of patients' extremities.¹ Other types of infection and communicable diseases are much more prevalent in healthcare settings including not only hospitals, but also ambulatory and long-term care facilities.

There were an estimated 1,737,125 healthcare associated infections (HAIs) reported in the U.S. in 2007, the latest year that Center for Disease Control (CDC) figures were available, with a financial impact of \$35.7 - \$45.0 billion dollars.² Considering that at that time, the cost of one HAI ranged from \$1,007 for a catheter associated urinary tract infection to \$34,670 for a surgical site infection, the annual cost in today's dollars is staggering. Averting and managing these incidents must become a priority and a team effort for healthcare practitioners, risk managers, patients and visitors.

HAI Prevention Practices

Infection prevention practitioners are responsible for implementing appropriate surveillance and other practices for HAI and communicable diseases that may occur within their facility or community. Risk managers must be aware of these infection prevention programs as together, they need to educate frontline staff and physicians to remain alert to signs of infection at the earliest stages.

Not only can poor hand hygiene and equipment sterilization issues transmit bacteria, viruses and fungi to patients causing an HAI, healthcare workers can spread communicable diseases to patients through droplet or airborne transmission. There is still a great deal of controversy regarding mandatory immunization of healthcare workers against influenza and other communicable disease such as Hepatitis B. As the liaison between the facility and legal counsel, the risk manager should be involved in the development and implementation of employee immunization policies and would be wise to contact their state Department of Health for guidance. If a mandatory immunization policy is implemented and some employees refuse to be immunized each case should be reviewed to determine the reason for refusal.³

There are specific laws, regulations, and standards to address HAIs that the infection prevention practitioner and the risk manager must be aware of and put into practice. Assuring employees are adhering to regulations is an important responsibility for both professionals. Standard practices that should be in place include a process to report specific cases or outbreaks to local and state agencies, public reporting of HAI rates, and building codes for the housing of patients who present with infection or a communicable disease.⁴ Professionals must be aware of CMS, CDC and accrediting agencies reporting requirements that place great accountability on the facility.



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Consequences of Lax Standards

A facility that does not implement and adhere to high infection prevention standards may find itself in a public relations nightmare that can be difficult to overcome. Loss of reputation may be damaging but of greater importance is the potential closure of a facility or loss of license to practice. Knowingly taking 'short-cuts' to save on costs such as using left-over, single-dose medications for more than one patient can also lead to loss of license, potential charges of billing fraud as well as loss of reputation. Several infamous cases where a lack of standard infection control practices led to actual or potential patient infection are described below:

- A pain clinic in Nevada was forced to close, the physician owner and a physician assistant were criminally prosecuted, and ultimately they had their licenses revoked for not following accepted infection prevention standards. Re-use of syringes on different patients and general cleanliness issues were identified.
- A few years ago the reputation of a well-regarded North Carolina medical center was significantly impacted following the discovery that, for a period of time, surgical instruments were cleaned with hydraulic fluid rather than a detergent solution due to a container labeling error. A large number of patients were potentially exposed to disease although it is believed none contracted a HAI.
- Two 2013 cases involve at least one VA hospital and an acute care hospital in New York State where nurses used the same insulin pen on different patients. The needles were changed between patients but not the pen which is designed for single patient use only. This practice exposed multiple patients to potential infection by blood borne pathogens.

Awareness of medication administration practices is essential for both the infection prevention practitioner and risk manager.

Any HAI or potential exposure should be considered an adverse event that triggers involvement of risk management. An incident report should be generated for each patient identified as having been potentially impacted by poor medication administration practices or acquiring an HAI. Depending upon the severity of the infection the event may need to be reported to legal counsel and the insurance carrier.

According to a study conducted by Aon Corporation in conjunction with the American Society for Healthcare Risk Management, litigation due to HAIs has risen about 1% annually.⁵ Juries are beginning to take note of HAIs and awarding significantly large settlements for infections such as necrotizing fasciitis, methicillin resistant staphylococcus aureus (MRSA), and surgical site infections contracted during medical care. Examples of recent outcomes include:

- In December 2013 a technician was sentenced to 39 years in prison for infecting at least 45 patients with Hepatitis C by contaminating syringes used in their care. Lawsuits in that case are on-going.
- In January 2014 a New York City jury awarded \$62 million dollars to a woman who contracted an HAI and as a result had both legs amputated.

Collaboration Is Key

It is imperative that risk managers and infection prevention practitioners collaborate and share in the responsibility for managing HAIs. The following recommendations can assist the risk manager, working with infection prevention practitioners, to ensure that best

practices are in place in their facility to minimize HAIs and their consequences.

- Work with the infection prevention practitioner to perform proactive risk assessments of infection prevention practices in all areas of the facility
- Educate employees regarding the importance of adhering to infection prevention standards for patients and themselves
- Monitor and audit employee infection prevention practices
- Educate frontline staff that variations in key vital signs may be early warning signs of sepsis
- Analyze workflow processes to assure that signs of sepsis are recognized early, and treatment is ordered and started as soon as possible
- Assure that personal protective equipment is readily available and conveniently located and that the risk manager is aware of every HAI or breach in infection prevention controls
- Classify the acquisition of HAIs as an adverse event and complete root cause analysis and develop an effective action plan to prevent future occurrences
- Define necessary infection prevention strategies needed in healthcare settings other than acute care and assure those prevention practices are followed

Implementing robust infection prevention practices will reflect well on both disciplines as they improve patient outcomes, protect the reputation of the facility and its healthcare workers and minimize legal and claims costs. ◀

Resources:

1. Crockett, S. Medical malpractice litigation trends: What is driving large settlements? Insight and Perspectives. Endurance Insurance. 4th Quarter 2013.
2. Scott, R Douglas. The direct medical costs of healthcare-associated infections in U.S. hospitals and the benefits of prevention. Division of Healthcare Quality Promotion National Center for Preparedness, Detection, and Control of Infectious Diseases Coordinating Center for Infectious Diseases Centers for Disease Control and Prevention. March 2009.
3. ECRI Institute. High-profile healthcare-associated infections. HRC. January 2013. P.3.
4. Nelson, MD. Firing employees who don't get flu shots: what risks do hospitals face? National Law Review. <http://www.natlawreview.com>. 2013. Downloaded 11/10/2013.
5. Infection Control today. HAI-related litigation: what infection preventionists need to know. December 18, 2009. <http://www.infectioncontroltoday.com/articles/2009/12>. Downloaded 12/03/2013.