ANESTHESIA & the LAW

A RISK MANAGEMENT NEWSLETTER

PREFERRED PHYSICIANS MEDICAL RISK RETENTION GROUP, INC.

SPECIAL ISSUE

Wrong Site Surgery: Has the Universal Protocol Failed?

Preferred Physicians Medical (PPM), industry-leading provider of professional liability insurance for anesthesia practices, announced today that a preliminary review of PPM's adverse outcome database suggests that the Joint Commission's Universal Protocol for Preventing Wrong Site, Wrong Procedure, Wrong Person Surgery has been ineffective.

A query of PPM's database reveals that in the three years immediately prior to the implementation of the Universal Protocol in July, 2004, twenty-three (23) wrong site incidents were reported to PPM by its policyholders. In the three years immediately following the implementation of the Universal Protocol, PPM policyholders have reported 29 wrong site incidents. Throughout this six year period, PPM's policyholder base and reporting patterns have remained relatively constant.

Looking beyond the numbers, "our investigation of the actual cases highlights the weakness with the current approach," according to Steve Sanford, PPM's Executive Vice President and Chief Operating Officer. Sanford believes "shared responsibility for site identification, while good in theory, is dangerous in practice. Shared responsibility appears to actually result in a dilution of individual responsibility and, all too often, health care providers assume someone else has verified the proper site. Mandatory time outs become pro forma and mistakes continue."

In addition, Sanford indicates that implementation guidelines for the Universal Protocol may be far too generic and subject to interpretation. With respect to surgical procedures, PPM believes it is essential that the surgeon, in consultation with the patient, mark the surgical site with the surgeon's initials at the very outset of the case. "Unfortunately," according to Sanford, "facilities are sometimes willing to accommodate surgeons by allowing site marking to be delegated to the nursing staff or permitting site identification to be conducted at less optimal times, including after a patient is sedated."

Sanford also suggests that in today's practice environment health care providers working at more than one facility would benefit from greater uniformity. "Widely varied site identification protocols seem to create confusion. Significant differences in marking techniques, timing of the mark and involvement of various health care providers can create additional uncertainty."

PPM continues to argue that a more effective approach to preventing wrong-site procedures is to focus responsibility on the individual performing the procedure, a suggestion Sanford voiced to the Joint Commission prior to its adoption of the Universal Protocol in 2004. Sanford notes, "spreading responsibility around the operating room provides everyone involved with an opportunity to duck responsibility and point fingers. When mistakes occur, shared responsibility also helps to thinly spread any monetary impact and any licensing sanctions are tempered by each individual's ability to suggest others were at fault. Except in the most extreme situations, there are no serious disincentives and few lasting repercussions." Underscoring this concern, PPM notes several situations where a single physician or facility has been involved in multiple wrong site procedures.

PPM recently contacted the Joint Commission to discuss these concerns. Sanford indicates he was pleased to learn that Joint Commission is already actively reviewing the effectiveness of the Universal

Protocol. Sanford reports, "I have recently spoken with Dr. Peter Angood, Chief Patient Safety Officer at the Joint Commission, and shared our concern about a lack of progress in preventing wrong site procedures. Dr. Angood acknowledged similar reports from other organizations and indicated the Joint Commission has been meeting on this issue and is currently preparing proposed revisions to the Universal Protocol." While PPM anticipates new revisions will continue to reflect a shared responsibility philosophy, Sanford believes reducing wrong site mistakes will ultimately require surgeons to accept primary responsibility for surgical site identification. Sanford went on to note that PPM looks forward to working with Dr. Angood and the Joint Commission on this issue.

PPM plans to publish a more detailed review of its findings in an upcoming issue of its risk management newsletter, *Anesthesia & the Law*.

PREFERRED PHYSICIANS MEDICAL RISK RETENTION GROUP, INC.
9000 West 67th Street
Shawnee Mission, KS 66202-3656

T 913.262.2585 • 800.562.5589
F 913.262.3633

NEWSLETTER EDITOR
Brian J. Thomas, JD
Senior Claims Attorney

Note: The purpose of this newsletter is to provide information to policyholders and defense counsel regarding professional liability issues. Risk management analysis is offered for general guidance and is not intended to establish a standard of care or to provide legal advice.

Copyright © 2007 Preferred Physicians Medical Risk Retention Group, Inc. All rights reserved. Contents may not be reproduced without prior written permission of the editor.