



PRF NEWS

Covering Practice and Risk Management Issues for Physicians

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“Code Green” for Unanticipated Outcomes *(continued from page 3)*

Some examples of patient expenses that would be reimbursed under Code Green include:

- Home health care due to complications from a procedure
- A patient’s lost wages due to extended recovery time caused by complications
- Hospital stay, medications, and other medical expenses that are not covered by insurance
- Any of the patient’s out-of-pocket expenses directly related to the Code Green incident

***Being honest,
direct and
genuinely
concerned is your
best response.***

In general, as soon as an adverse outcome is suspected or reported, the physician should call PRF staff, tell them what has transpired, and they will assist in implementing Code Green.

However in some instances it is appropriate to talk to the patient immediately, even before you have the opportunity to con-

tact PRF. Such was the case when a patient’s capped tooth was dislodged during endotracheal intubation for anesthesia.

Immediately following the surgery, the anesthesiologist told the patient what happened and asked that the patient have the tooth repaired and send him the bill. The physician paid the bill and contacted the PRF office regarding reimbursement. In this case, a quick response to the unintended outcome was best, because if the patient had realized the error on her own she may have been angry that no one told her. Being honest, direct and genuinely concerned is your best response. ■



YOUR PRF – WHEN TO CALL

Please call the PRF office staff at **(415) 921-0498** whenever you:

- Plan to have a physician or allied health professional join your practice.
- Change your practice location or phone number.
- Change your home address or phone number.
- Know that you or another physician or allied health professional will be leaving your practice.
- Plan to change your scope of practice, such as from Ob/Gyn to Gyn only.
- Have any questions regarding your premiums.
- Have any questions regarding credentialing.
- Need a copy of your Declaration Page as proof of insurance.
- Have questions regarding *anything* about your professional liability coverage. ■

PRF NEWS

IMPROVING PHYSICIAN COMMUNICATION

Informed Consent

BY STEPHEN J. SCHEIFELE, M.D.

After the President's Advisory Commission on Consumer Protection and Quality recently equated information and the patient's right to information with the quality of healthcare, there has been mounting pressure on physicians to improve their communication with patients. Some states have proposed legislative initiatives that would make reports of serious adverse events directly available to the public. While this is not the case in California, a new JCAHO standard requires that patients, and when appropriate their families, be informed about the outcomes of care. These trends reinforce the principle that not only is medical information-sharing the essence of the doctor-patient relationship, but effective communication actually improves patient outcomes.

Informed consent is the formal process by which patients acknowledge that they have participated in decisions about their health care. This forthright communication in discussing both intended and unintended outcomes with patients and their families not only serves to deliver cautionary or risk information, but lays the foundation for building effective doctor-patient rapport. The core elements of a valid consent for a test, procedure, or treatment strategy include a description and discussion of the:

- Indications, nature, and purpose
- Benefits and risks
- Alternatives

- Consequences of forgoing the recommendation
- Disclosure of remote risks such as serious impairment or death

Consent is not a form to be signed but a communication process. Patients should have sufficient time to absorb the information and ask questions. With the permission of the patient, inclusion of others in the discussion creates a relationship with those who may later become recipients of adverse outcome information. Knowing what to expect and what to look out for not only helps define realistic expectations for outcome, but offers the patient and other family members a defined role and responsibility as caregivers. ■

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Informed Consent

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Talking About Adverse Outcomes¹

BY STEPHEN J. SCHEIFELE, M.D.



YOUR PRF – HOW CAN WE HELP?

The PRF office staff wants to remind you that we are here to assist you. Please call us at **(415) 921-0498** whenever you:

- Receive a request or notice of deposition (in writing or verbal). PRF will retain an attorney to consult with you regarding the case and to accompany you to the deposition.
- Have an unexpected adverse patient outcome where you think Code Green would be helpful.
- Receive a request for records that is not accompanied by the patient's written authorization to release those records.
- Receive a 90-day notice of intent to sue.
- Receive a summons and complaint. ■

By their very nature, unanticipated adverse outcomes take place when least expected and are universally unsettling, yet the immediate and full disclosure of an adverse outcome demonstrates the physician's honesty, integrity and compassion. Full disclosure of information about outcomes without making admissions of liability is an integral part of the philosophy of Physicians Reimbursement Fund (PRF).

"Code Green" is the name given to the PRF policy that acts

as the patient's advocate when they experience an unexpected medical outcome. Stated simply, the implementation of Code Green allows the PRF physician to facilitate the successful resolution of an unanticipated outcome (without regard to liability) by reimbursing the patient or patient's family for certain expenses arising from the adverse outcome. (See the related article on page 3.)

Communicating with patients and sharing with them details about adverse events can diffuse a situation that might otherwise

lead to litigation or regulatory scrutiny. Failure to report actually increases the risk of lawsuits and leads to higher settlements when claims do arise. Voluntary disclosure of information does not relinquish evidentiary protection for peer review or other protected information.

The conversation to discuss an adverse event is difficult but if structured properly can become a compassionate, constructive dialogue. The acronym **FEARED** may be useful:

- Facts:** Disclosures should be factual and thoughtful without attributing blame or fault. If the medical management chosen resulted in the unanticipated outcome, the relationship of action to outcome must be addressed. Be honest and provide an opinion if an alternative management should have been used.
- Empathy:** Acknowledge accountability and make appropriate condolences. Acknowledging accountability does not equate to blame but rather that one did one's best with the information at hand.
- Anger:** Diffuse anger and make sure it is directed at the correct issue. If appropriate, apologize and suggest lessons learned that can be used for the benefit of others. A simple "I'm sorry" may deter an otherwise hostile person from proceeding with litigation.
- Relate:** During the discussion have the patient and/or their family relate back their understanding. This will limit the perception that explanations are inadequate or an attempt to hide the truth.
- Extended Family:** Family members are often the first to learn of an unanticipated outcome. The effect of an adverse outcome can be numbing and reduce the ability of the caregiver to ask important questions or offer salient answers. The family's future needs should be discussed.
- Document:** Documentation is a critical part of the conversation. The note should be dated, timed and list those present. Issues raised by the family, their understanding of the facts, opinions and sources of anger are important. Factual documentation is essential. Conjecture, fault or blame should not be documented.

¹ Information for this article was taken from *What Do I Say? Communicating Intended or Unanticipated Outcomes in Obstetrics* by James R. Woods, M.D. and Fay A. Rozovsky, J.D., M.P.H., John Wiley & Sons, Inc. 2003.

“Code Green” for Unanticipated Outcomes

BY JUNE RILEY

“Code Green” is the name given to the PRF policy that acts as the patient’s advocate when they experience an unexpected medical outcome. Code Green may be appropriate in any of the following situations:

- 1) the patient was not pleased with the results of the medical treatment
- 2) there were complications with the procedure, or
- 3) there was a failed procedure.

Because the implementation of Code Green is between the patient and the physician, not between the patient and the insurance company (PRF), the physician should feel comfortable working with the patient to reach an agreed upon resolution.

The following two clinical scenarios are examples of situations where Code Green was appropriately applied:

- A few months after undergoing a tubal ligation, a patient presented with a missed menstrual period and was diagnosed with an ectopic pregnancy. The patient received methotrexate to successfully treat the ectopic pregnancy, but faced the prospect of future unintended pregnancies. The treating physician worked with the patient to schedule a date to perform a second tubal ligation. The repeat procedure was made as conveniently as possible for the patient and was performed at no cost to her (if the patient had preferred to have the second procedure done by another physician, the original treating physician would have been supportive of her choice). The hospital costs of the second procedure and the patient’s related out-of-pocket

expenses were paid by the physician and reimbursed by PRF. (“Code Green” does not reimburse the physician for professional fees that have been waived or for fees associated with performing a repeat procedure.)

corrective procedure was successful and the patient suffered no long term effects. However, the patient’s recovery time was increased, she was off work for an extended period of time, and she lost wages. In addition, she

In this instance, the patient’s lost wages, the cost of her home health care, and any out-of-pocket medical expenses she incurred due to the corrective procedure were reimbursed under Code Green.

- A few days after undergoing a procedure to remove an ovarian cyst, a patient developed a fever. Despite antibiotics, the fever persisted and the patient developed symptoms consistent with a bowel injury that required a second procedure to repair the bowel. The

required home health care for a week during the recovery process. In this instance, the patient’s lost wages, the cost of her home health care, and any out-of-pocket medical expenses she incurred due to the corrective procedure were reimbursed under Code Green.

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