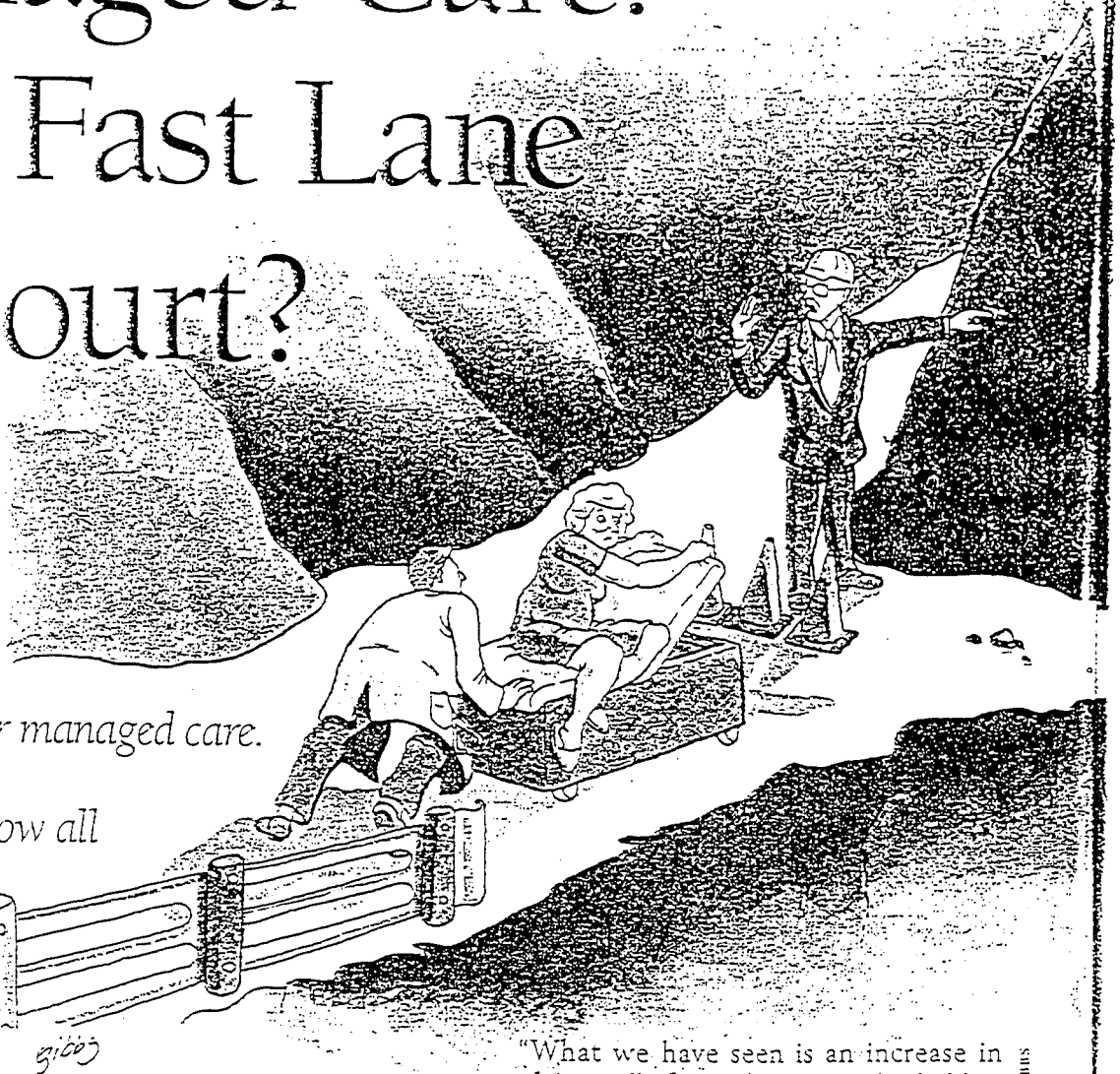


Managed Care: The Fast Lane to Court?

You know the
challenges of
practicing under managed care.

You may not know all
the legal risks.



When you think about risk in managed care, you may think first of financial risk — and it's understandable why you would. But managed care brings dangers beyond the threat of reduced income for practices that aren't prepared to deal with its requirements. When you sign a contract with a managed care organization (MCO), you also risk exposure to new kinds of contractual and medical malpractice liability.

"We have not yet seen an increase in malpractice insurance claims for family physicians," says David Karp, loss prevention manager with the Medical Insurance Exchange of California in Oakland.

"What we have seen is an increase in phone calls from physician policyholders about how to deal with liability problems involving managed care, and that is cause for concern."

Some experts do report that the number of claims are rising. According to George Schroeder, vice president of risk management with SCPIE Holdings, a health care and medical malpractice insurance company in Beverly Hills, Calif., family physicians *are* being named as defendants more often. But he says *valid* claims against family physicians have not yet increased.

Whether immediate or on the horizon, the liability risks of managed care are cause for concern because they go beyond what you have faced before. In managed care, you're just as likely to be sued for breach of contract or breach of fiduciary duty as for malpractice. These

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new risks come from a variety of sources, including MCO contracts, capitation and other financial incentives to reduce costs, people's distrust of managed care and their expectations of physicians in it, administrative demands associated with managed care, and the utilization management (UM) process.

Review the contract

For many family physicians, the most potent source of liability problems is the managed care provider contract. It's no secret that physicians often agree to MCO contracts without fully understanding what they're signing. Typically, these physicians are soon frustrated by the UM process, and their staffs are overwhelmed by the administrative burden of tracking many new patients. Before long, their practices become inviting targets for lawsuits.

Provider contracts are written by MCO lawyers, so it's not surprising that

they're designed with the interests of the MCO in mind. Attorneys who review these contracts say bluntly that contracts typically transfer as much financial and legal risk as possible to the provider. (See "How ERISA shields MCOs," page 47.)

Provider contracts typically include "hold harmless" clauses that indemnify the MCO for virtually everything at the expense of the provider. Many contracts obligate the provider to follow guidelines that aren't included in the contract. Some even allow the MCO to send the physician amendments that become part of the contract unless the physician objects within 30 days. In a busy practice, that provision alone could mean big trouble.

Contracts also may contain apparently contradictory language. For example, one clause may state that the MCO determines medical necessity while another obligates the physician to practice according to accepted community standards. "There's an absolute conflict between those two clauses that I think cannot be reconciled," says Larry D. Thompson, JD, senior partner in the Houston law firm of Lorance & Thompson and a specialist in medical malprac-

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▶ Managed care provider contracts are written to shift risk from the managed care organization to the physician.

▶ You can help limit your risk by ensuring that managed care contracts leave you in control of patient care.

▶ Specialists in the business and law of managed care should review your contracts for potential liability traps.

▶ By linking economic risk to medical decision making, managed care itself can increase your liability risk.

tice defense, health law and managed care litigation. "There ought to be a provision in any contract that says if there is a conflict between medical necessity as defined by the contract and the community standard of care, the community standard must prevail."

Another liability minefield in MCO contracts is control over patient care. Physicians put themselves in an untenable position when they contract to provide services but don't retain control over referrals, screenings, tests or treatments, according to Leonard Fromer, MD, a family physician, member of the

You don't cede control of patient care to anybody, even in managed care.

board of directors of Prairie Medical Group in Santa Monica, Calif., and member of AAFP's Health Care Services Commission. "You avoid that by making sure the contracts you sign contain language giving you control over the care of the patient," Fromer says. "You don't cede control of patient care to anybody, even in managed care."

Mark O. Hiepler, JD, a partner at Hiepler & Hiepler in Oxnard, Calif., who represents physicians in contract review and negotiation, recommends a simple way to reduce your potential expense and liability: Cross out and initial bad provisions in managed care contracts before signing them. If you do so, you also must send the contract back to the MCO for its representative's initials. To avoid later headaches, you should follow up with the MCO and ensure that you get something in writing that shows the MCO's agreement with your deletions.

"You've got to have someone knowledgeable about the HMO business do an analysis of the contract and advise you as to its risks and benefits," Hiepler says. "Then you know what you're into and where the potential snags are, and you can work proactively to avoid them."

Hiepler cautions that managed care is different in each market. In addition,

state legislatures are trying to curb the perceived abuses of managed care by passing scores of new laws, some of which mandate certain covered benefits — and, of course, those mandates vary from state to state. To protect yourself from this potential liability, Hiepler suggests negotiating for the inclusion of a paragraph in the contract stating that the MCO indemnifies the physician for any treatment decisions the physician makes based on the patient's coverage if the MCO's "evidence of coverage" is superseded by more recent state legislation.

Family physicians have rarely needed this kind of contract review and negotiation help before. But then, family physicians haven't had to do business with multimillion-dollar MCOs before.

"We need to be careful in negotiating a contract that's reasonable for us, and that means having your practice attorney read the contract," says Thomas L. Leaman, MD, professor emeritus of family and community medicine at the Milton S. Hershey Medical Center at Pennsylvania State University in Hershey and co-author of two books on reducing physicians' liability risks. "I think we all need practice attorneys. I don't think that used to be the case, but I'm sure it is now." In fact, many experts recommend asking an attorney who specializes in managed care contracting to review your contracts. Some experts also say a financial adviser should review your contracts' reimbursement arrangements.

Financial incentives

It's not just the specifics of your contract with an MCO that can get you into liability trouble. You can also get bitten by the perception that economic considerations have influenced your medical decision making.

"What managed care introduces into the practice of medicine that never existed there before is the element of financial risk," says Charles Bond, JD, of Charles Bond & Associates and Practice Power Consulting in Berkeley, Calif. "You can't make a more fundamental change in an industry than changing the way people are paid."

Economic considerations include not only capitation and other arrangements that mean more money in your pocket

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► ERISA has shielded managed care organizations from liability for decisions that may have compromised patient care.

► If you choose to treat patients you might otherwise refer, the standard of care is the same as it would be for referral specialists.

► Managed care's incentives to limit patient care spending can be powerful weapons for plaintiffs suing for breach of fiduciary duty.

► Awards in cases of breach of fiduciary duty aren't limited by state caps on malpractice judgments.

How ERISA shields MCOs

For more than two decades, managed care organizations (MCOs) have enjoyed legal immunity from the consequences of their decisions that may have adversely affected patient care. The 1974 Employee Retirement Income Security Act (ERISA) exempts "employee benefit plans" from state laws and liability. By arguing that health plans are employee benefit plans, MCOs have been able to avoid legal liability under ERISA.

It has become a truism among physicians that MCOs involve themselves in patient care decisions, but if patients sue after adverse outcomes, the same MCOs will point to the physicians and say, "It's not our fault. They're the ones practicing medicine." So far, ERISA's preemption of state law has enabled MCOs to shift liability to the physicians.

But the tide may be turning. Earlier this year, Texas became the first state to open MCOs to medical malpractice liability, and other states are considering similar legislation. Recent federal court decisions also suggest that ERISA's days as a liability shield for MCOs may be numbered. In addition, the Patient Access to Responsible Care Act (S 644 and HR 1415), currently in Senate and House committees, also includes provisions that would enable patients to file suit against MCOs, but passage is far from certain. The managed care industry is not likely to give up the ERISA preemption without a fight.

when you use fewer resources, but also the fear of deselection from a plan's provider panel. These incentives to hold down expensive referrals, diagnostic procedures, tests and treatments can create at least the appearance of a conflict of interest. In the event of an adverse outcome, even if your actions are medically defensible, the plaintiff's attorney will present evidence that you had a financial incentive to scrimp on care.

Family physicians may subject themselves to an additional liability hazard by treating patients they might otherwise refer. "A lot of family physicians feel that if they refer too many patients to specialists, they're going to be sanctioned in some way," says Carol O'Brien, JD, director of the AMA's Division of Patient Advocacy. "Many primary care physicians feel they can successfully treat patients with diabetes or arthritis or asthma. But sometimes the issue becomes, when do you refer a patient who isn't responding right away?"

In all states, when family physicians treat patients rather than refer them, the standard of care automatically rises to the knowledge and skill of the referral specialist, according to Bond. "The family physician who tries to do orthopedics had better be as good as an orthopedist," he says.

Juries are so appalled by the idea that

a physician would place financial interest above his or her duty to the patient that they have awarded unprecedented damages in recent cases. These decisions have introduced a new cause of action, breach of fiduciary duty, into case law, and it's a major source of potential liability for physicians in managed care.

"In California, 85 percent of medical malpractice jury verdicts favor the doctor," Hiepler says. But, even though real questions may exist about liability or the physician's negligence, "the complexion completely changes when the plaintiff has hard evidence, in the form of a contract, that the doctor's business plan provides that the more patients he takes on and the fewer patients he sees, refers and orders tests for, the more he makes."

Many states now have caps on medical malpractice awards, but these caps don't apply in cases related to contractual risk. Not surprisingly, plaintiffs' attorneys prefer filing suits in which the awards are unlimited.

"I think the potential for more and larger awards is greater in managed care because you're bringing in a whole new idea, which is liability for the business decisions of medicine," Hiepler says. "Physicians must be very careful that their medical judgment won't be misinterpreted as business judgment." ▶

► The AMA is encouraging doctors to talk with patients about how physicians are compensated in managed care.

► New roles for physicians and patients under managed care can complicate the doctor-patient relationship and make legal action more likely.

► Poor procedures for tracking patients in managed care can result in some of the greatest liability problems.

► In a "gatekeeper" model, you need excellent administrative procedures to keep patients from becoming "lost to follow-up."

management problems and changing roles. But the implications of managed care's potential conflicts of interest are even bigger, touching on the doctor-patient relationship itself. Defense attorneys complain that the juries who come down hard on physicians are a microcosm of the American public, which simply doesn't trust managed care or physicians who take part in it.

"When I was growing up, a family doctor took care of my mother, my dad, my brother and me," Thompson explains. "If anything was wrong, he was there. You have kind of a warm, fuzzy feeling when you think about a family doctor, but a 'gatekeeper' sounds like somebody who's trying to keep you away from the care you need."

"The patient's perception frequently is 'I've always seen my cardiologist for high blood pressure. Why don't you refer me to him?'" says John T. Hoggard, MD, of Family Medical Group Northeast in Portland, Ore.

To help counteract this erosion of trust, the AMA launched an initiative in conjunction with its annual meeting in June to promote discussion between doctors and patients about managed care and physician compensation. O'Brien says physicians have a duty to provide full medical counsel, obtain informed consent and disclose any financial incentives. She notes that if a physician has disclosed his or her financial incentives to patients, that disclosure also could be used to defend the physician in a liability suit.

The obvious strategies for avoiding lawsuits for breach of fiduciary duty are simply to put the best interests of your patients first in all cases, to be up front with your patients about how you're compensated and to develop the best doctor-patient relationships possible.

Unfortunately, you may be sued, and lose, even if you follow this advice in letter and in spirit. The reason has to do not only with recovery-happy lawyers but with the new roles of the physician as health care manager and the patient as health care consumer, as well as the new working relationships between physicians, patients and MCOs.

As you know all too well, managed care has encouraged patients to see themselves as customers and your practice as a

business. With that mind-set comes a readiness to mistrust and an expectation of superior service. Meanwhile, increased patient loads and care management duties mean you have less time to spend with patients and more responsibility for the continuity of their care.

"Doctors often say, 'My care and treatment were appropriate. Why am I in this claim?'" Schroeder says. "They forget that quality of care is only one duty to the patient. So is administration, and so is supervision of staff. Even if there is no breach in the standard of care, a plaintiff's attorney can get a jury angry enough to deliver an award because there was an adverse outcome, a perceived adverse outcome or an unmet expectation, and the attorney argues the doctor was incentivized not to provide care."

Keeping track of patients

As Schroeder suggests, your practice administration also can land you in hot water if it isn't up to handling large volumes of patients and meeting their expectations. In fact, he says the greatest liability problems for physicians in managed care stem from poor administrative processes.

One of the most common administrative failures is a patient "lost to follow-up." A classic example is the patient referred for a mammogram after a routine physical. What if the patient never makes the appointment, or makes it and fails to keep it? What if the facility is backed up and schedules her appointment for two months later? What if the results never come back to your office, or no one at your office reads the results or notifies the patient? Unless you have a system to track this patient through the process, she could be lost to follow-up. In this example, the consequences may include undiagnosed breast cancer and a medical malpractice suit likely to be settled in the plaintiff's favor.

"My experience is that we are seeing a higher percentage of family physicians being named in lawsuits mostly because of failures to diagnose cancer, and it stems from 'loss to follow-up,'" says Deborah Shulman, director of quality and risk management with Harriman Jones Management Services in Long Beach, Calif. "The problem has been magnified with

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► Through group practices, IPAs and MSOs, physicians are using economies of scale to finance systems for administrative support.

► Denial of a preauthorization request doesn't relieve you of your responsibility to provide needed urgent care.

► Even in nonurgent situations, you must make preauthorization requests and appeals without delay and exhaust all appeal processes.

► Even when payment arrangements are uncertain, meeting the patient's needs always must come first.

managed care because of fragmentation of care and broken processes."

Practices also need to follow up with patients about lab tests, referrals, drug regimens, ongoing disease management, emergency care and telephone calls. In a nutshell, the family physician in a "gatekeeper" managed care model is responsible for ensuring that patients get the care they need, when they need it, from the right provider and in the right setting. As Schroeder says, "In managed care, the primary care physician owns the patient."

To finance the practice support systems and staff necessary to handle the increased risks, responsibilities and patient volumes of managed care, many primary care physicians are pooling their resources by forming group practices, joining IPAs or contracting with management services organizations.

Care first, appeal second

A final category of managed care liability risk involves obtaining preauthorizations, appealing denials and delivering the care the patient requires — regardless of the MCO's decisions.

If a patient needs an immediate diagnostic procedure, treatment or surgery, you must do what is medically indicated, even if the MCO denies an urgent request for payment authorization. Several court decisions unequivocally hold physicians responsible for doing everything possible to see that patients receive appropriate care, with or without payment authorization from an MCO.

"Denial of a request doesn't represent denial of care," Schroeder says. "It represents a denial of preauthorization of payment for care. Ultimately, that payment may be awarded one way or another. Physicians must keep in mind what's best for the patient and follow through on that."

"If a doctor does not proceed on a medically indicated course of action and instead waits for the authorization to be paid, that is not going to sell with the jury," Bond says. "The legal standard is that the doctor has to take care of the patient."

In nonemergencies, you must inform the patient about the indicated treatment, including its risks and benefits; alternative courses of action and their risks and benefits; and the urgency of the need for treatment. You should explain

that you are submitting a request for payment preauthorization and then submit the request immediately.

If the request is denied, immediately inform the patient and, if time is of the essence, explain that the patient may pay out of pocket for the care while an appeal is made. If the MCO suggests an alternative therapy that you find unsatisfactory, you must warn the patient accordingly.

If the first appeal is denied, you must discuss further appeal options with the patient. At this point, the patient usually has to initiate his or her own appeal to the plan, and receive a denial directly from it, to have legal standing to sue the plan. Technically, a payment issue is not resolved until both the physician and the patient have appealed the initial preauthorization denial.

In *all* situations, you must be an advocate for the patient and exhaust all appeal processes with the health plan. Choosing not to appeal because you assume the plan will deny it amounts to failing to fulfill your professional duty to recommend appropriate care to the patient. Delaying preauthorization requests or appeals also

Choosing not to appeal amounts to failing to fulfill your professional duty.

makes you potentially liable for any adverse consequences to the patient.

"It's always better to appeal an adverse financial decision than to make a decision that will have a negative impact on a patient's outcome," says Nancy W. Ashbach, MD, MBA, medical director of Prudential Health Care of Colorado in Denver and a member of the Academy's Commission on Health Care Services. "If a physician truly believes that the patient needs the intervention and if it is critical to the patient's health, then the physician must always do what is right for the patient, regardless of the payment issues."

Physicians who have never had to justify their medical decisions may find the preauthorization and appeal processes distasteful. But UM is what defines

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- Documenting care completely is vital so ancillary personnel can provide all the information that authorizers request.
- Even if they don't employ full-time risk managers, small practices can benefit from having staff perform risk management part time.
- Risk managers help prevent problems through quality management, and they evaluate situations that might place the practice at risk.
- The key to reducing liability risk is understanding your part in managed care and how you interact with managed care organizations.

managed care, whether it's performed by an MCO or an IPA's UM committee. Physicians who are less than conscientious about following preauthorization and appeal procedures risk harm to their patients and legal action.

"This process is one of the biggest liability exposures for physicians," Shulman says. "If your patient's care was delayed because of the utilization process and that delay contributed to an adverse or suboptimal outcome, you'd better be sure you can show that the request was submitted in a timely fashion, that the UM committee addressed it in a timely fashion and, if it needed to go back to the physician, that there's documentation of why it went back."

One reason preauthorization requests often come back to physicians is missing data. According to Ashbach, preauthorization requests should always include the following information:

- Accurate and complete patient demographics (full name, date of birth and plan identification number),
- The primary diagnosis with the appropriate ICD-9 code,
- The appropriate CPT code if the proposed treatment plan includes a procedure.

Since support staff handle most preauthorization requests over the telephone, their ability to answer an authorizer's questions about previous treatments depends on good documentation. "If the physician doesn't document it in the chart, there's no way that someone reading from the chart can get that information," Ashbach says.

Managing risk

Of course, you can't eliminate your liability in managed care, but you can manage it by continuously monitoring the quality of care, searching for opportunities to improve care and minimizing the effects of problems when they occur. Many large group practices have full-time risk managers who also direct

quality management, as Shulman does, but even solo physicians with limited resources can assign part-time risk management responsibilities to qualified staff.

On the quality side, Shulman says, a risk manager assesses the processes for monitoring patient care and other services in a practice to answer questions such as these: How are errors tracked? What constitutes a trend? When should you intervene to reverse a bad trend? Were adverse outcomes preventable? How can you prevent them in the future?

Risk managers also can teach physicians how to communicate with patients more effectively, Shulman says, noting that patients who like their physicians are less likely to sue even when an adverse outcome has occurred.

On the risk side, the risk manager

More liability management tips

In addition to assigning risk management duties to a staff member, here are several other practical steps you can take to help keep your liability risk under control:

- **Understand what contracts mean.** If you don't have a practice attorney, check to see whether your state medical association offers reviews of managed care provider contracts, says Charles Bond, JD, of Charles Bond & Associates and Practice Power Consulting in Berkeley, Calif.

- **Negotiate contracts to avoid problems.** "Don't sign a contract that you believe is going to force you to practice in a way that may become unethical and low-quality and may expose you to liability risk," says Leonard Fromer, MD, a family physician, member of the board of directors of Prairie Medical Group in Santa Monica, Calif., and member of AAFP's Health Care Services Commission. "There are always points of negotiation. If you're a good doctor, even if the MCO has more doctors than it needs, you have the power of your patients wanting you."

- **Keep the patient satisfied.** Happy patients are less likely to sue you. "There's a customer satisfaction issue that has nothing to do with medical outcomes but with how well somebody is treated in the process of seeing a doctor," Bond says. "In managed care environments such as Los Angeles, people are now selecting their plans based on how affable the physician is, how nice the staff is and how quickly you can get an appointment."

responds to physicians' concerns about potential liability problems and evaluates these situations at a very early stage. Sometimes, that evaluation may call for mitigating a patient's bad experience by providing special services at no charge. All adverse events require documenting the facts as completely as possible.

Whatever the problem — inadequate lab services, formulary drugs that aren't equivalent to the physician's preferred prescriptions, backups at the mammography screening unit — the risk manager helps ensure appropriate patient care and minimize liability for the physician.

"A risk manager's first priority is to keep trouble from happening," Fromer says. "That's why it's never too soon for a physician to call in the risk manager. Usually, a suit is filed many months after an

adverse occurrence, and you have to go back and build your defense based on people's recollections. It's much better to have your risk manager doing that proactively as soon as you suspect something may turn into a problem."

For other ways to manage liability risk, see "More liability management tips."

Time to collaborate

"To minimize your liability exposure in managed care, you have to understand your role; what it means to manage care, cost and health; and your relationship with the managed care organization," says James W. Saxton, JD, a vice chair of the Managed Care Committee of the American Academy of Health Care Attorneys, a partner with Barley, Snyder, Senft & Cohen in Lancaster, Pa., and Leaman's

- **Cultivate the doctor-patient relationship.** "We need to be sure that we're very open with patients, that we explain things and, probably most important of all, that we involve the patient in decision making," says Thomas L. Leaman, MD, professor emeritus of family and community medicine at the Milton S. Hershey Medical Center in Hershey, Pa.

- **Refer wisely.** You may be liable for the quality of your referrals. "The primary care physician has a responsibility to know to whom the patient is being referred and, in effect, to vouch for the physicians to whom he's referring," Bond says.

- **Communicate effectively with specialists.** "Physicians need to communicate to referral specialists what the expectation is," says George Schroeder, vice president of risk management with SCPIE Holdings in Beverly Hills, Calif. "Sometimes the specialist sends the patient back to the primary care doctor and has never told the patient about the treatment options, expecting that the primary care doctor will do that." Poor communication can delay treatment and increase the likelihood of a bad outcome.

- **Make preauthorization requests more complete.** "What the reader wants to see is what the doctor is recommending, what other reasonable alternatives exist, whether they have been considered and why this recommendation is the best decision not only for care but also in some cases from the standpoint of cost efficiency," Schroeder says. When requesting more expensive procedures, explain why they will save money in the long term by reducing morbidity or mortality. When recommending an unusual course of action, include litera-

ture that supports your request.

- **Document more in less time.** Use templates for frequently occurring types of encounters, such as diabetes, well-baby or postoperative visits, says David Karp, loss prevention manager with the Medical Insurance Exchange of California in Oakland. These help ensure the record's completeness and save time.

- **Protect your patients' privacy.** "Doctors need a contract provision that says the information in a patient's chart will not be provided to anyone until either the HMO or the doctor has a consent form signed by the patient authorizing that to be done," says Larry D. Thompson, JD, senior partner in the Houston law firm of Lorance & Thompson.

- **Avoid patient abandonment.** Patient abandonment issues can arise when a patient is terminated from a plan or when a physician decides to leave a plan or is deselected. The MCO contract should stipulate appropriate patient care in these circumstances. If it doesn't, physicians should err on the side of providing care, especially to a patient in urgent need, Thompson says.

- **Let the MCOs help train your staff.** Require your office staff to read your plans' provider manuals, but also take advantage of the help MCOs provide. "Every plan I've worked for has a provider relations department that makes visits to the office and will educate everyone from the office manager on down in exactly what the administrative issues are," says Nancy W. Ashbach, MD, MBA, medical director of Prudential Health Care of Colorado in Denver and a member of the Academy's Commission on Health Care Services.

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► Resources on liability risk management are available from the Academy, the AMA, and state and local medical societies.

► Risk management also involves implementing new office systems, investing in staff training and perhaps hiring more staff.

► Collaboration with health plans, rather than confrontation, is one of the best ways to reduce your likelihood of ending up in court.

For more information

The Academy offers a number of educational materials on liability management, including the following:

- *Risk Management Handbook: Protecting You and Your Practice From Legal Risk* (item number 9336),
- *Medical Malpractice and Legal Risk Management — A Practical Analysis* (item number 308),
- *Litigation Assistant: A Guide for the Defendant Physician* (item number 310),
- *Legal Analysis of Managed Care Contracts* (item number 553; part of the *Family Practice 2000* monograph series).

These publications are available from the AAFP Order Department, 800-944-0000.

The AMA also offers literature on managed care and related liability issues, including *Managing Managed Care in the Medical Practice: The Physician's Handbook for Success and Survival*. K. Stanley, ed. Norcross, Ga: Coker Publishing; 1996. For more information on AMA publications, call 800-621-8335.

In addition, the AMA's Division of Representation helps state and county medical societies represent physicians and groups before health plans. The division also can refer physicians to qualified local counsel. For more information, contact Lynne Gavin, division assistant, at 312-464-5490.

Local and state medical societies and associations often provide publications and other services to help physicians avoid liability in managed care. Many medical malpractice insurance carriers also publish excellent materials for their policyholders about risk management, loss prevention, malpractice and managed care liability.

Newsletters on liability include the *Medical Liability Monitor*, published by Malpractice Lifeline in Winnetka, Ill. For more information, call 312-944-7900.

Finally, publications from experts quoted in this article include the following:

- *Managed Care and Physician Liability: Avoiding Sandtraps and Other Hazards*. L.D. Thompson. Presented at a series of seminars sponsored by the Texas Medical Association; 1997. For more information, call 800-229-5560.
- *Managed Care Risk: Reducing Risk While Increasing Patient Satisfaction*. T.L. Learman and J.W. Saxton. Gaithersburg, Md: Aspen Publishers; In press.
- *The Satisfied Patient: A Guide to Preventing Malpractice Claims and Promoting Managed Care Goals*. J.W. Saxton. Lancaster, Pa: Wentworth Publishing; 1997.

co-author. "At some point, I really think the managed care bashing needs to stop. Physicians have to figure out a way to coexist with managed care, because it's going to become even more dominant."

According to Saxton, the first step is for physicians to educate themselves about what managed care means for their practices. His proposed curriculum includes understanding your contracts, capitation rates, patient mix and new relationships with patients, specialists, labs, screening facilities, hospitals and other health care facilities.

Once up to speed on the managed care environment, Saxton says, physicians and their practices will need new systems, such as telephone triage, to handle higher volumes of calls. Staff will need more

education to assume new roles and use new tools, such as electronic documentation systems. It may make sense to hire a patient educator, or a nurse practitioner or physician assistant to handle routine care. Saxton points to disease management as a good example of adapting to managed care by using fewer resources to deliver care in new ways while maintaining outcomes and patient satisfaction.

"The most important thing is to do the right thing for the patient first," Ashbach says. "The second is to educate yourself and figure out why managed care companies are doing what they're doing and what some of the nuances are. And third is to work collaboratively with the health plan rather than in an adversarial way. It's much more effective."

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