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FAMILY PHYSICIANS

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Recommended Curriculum Guidelines for Family Medicine Residents

Risk Management and Medical Liability

This document is endorsed by the American Academy of Family Physicians (AAFP).

Introduction

This Curriculum Guideline defines a recommended training strategy for family medicine residents. Attitudes, behaviors, knowledge, and skills that are critical to family medicine should be attained through longitudinal experience that promotes educational competencies defined by the Accreditation Council for Graduate Medical Education (ACGME), www.acgme.org. The family medicine curriculum must include structured experience in several specified areas. Much of the resident's knowledge will be gained by caring for ambulatory patients who visit the family medicine center, although additional experience gained in various other settings (e.g., an inpatient setting, a patient's home, a long-term care facility, the emergency department, the community) is critical for well-rounded residency training. The residents should be able to develop a skillset and apply their skills appropriately to all patient care settings.

Structured didactic lectures, conferences, journal clubs, and workshops must be included in the curriculum to supplement experiential learning, with an emphasis on outcomes-oriented, evidence-based studies that delineate common diseases affecting patients of all ages. Patient-centered care, and targeted techniques of health promotion and disease prevention are hallmarks of family medicine and should be integrated in all settings. Appropriate referral patterns, transitions of care, and the provision of cost-effective care should also be part of the curriculum.

Program requirements specific to family medicine residencies may be found on the ACGME website. Current AAFP Curriculum Guidelines may be found online at

www.aafp.org/cg. These guidelines are periodically updated and endorsed by the AAFP and, in many instances, other specialty societies, as indicated on each guideline.

Please note that the term “manage” occurs frequently in AAFP Curriculum Guidelines. “Manage” is used in a broad sense to indicate that the family physician takes responsibility for ensuring that optimal, complete care is provided to the patient. This does not necessarily mean that all aspects of care need to be directly delivered personally by the family physician. Management may include appropriate referral to other health care providers, including other specialists, for evaluation and treatment.

Each residency program is responsible for its own curriculum. **This guideline provides a useful strategy to help residency programs form their curricula for educating family physicians.**

Preamble

Risk management refers to strategies that reduce the possibility of an adverse outcome, harm, or loss. Systematic gathering and utilization of data are essential to prevent loss and improve outcomes. Good risk management techniques improve the quality of patient care and reduce the probability of an adverse outcome or a medical malpractice claim. This core curriculum outlines the attitudes, knowledge, and skills in risk management and medical liability currently recommended for residents.

The primary goal of risk management is to reduce untoward events for patients and their families. Risk management programs are designed to reduce patients’ risk, health care professionals’ liability, and the health care system’s overall burden. Evidence-based medicine forms the foundation of successful risk management through the establishment of standards of care. The main components of a risk management program are continuous quality assurance and oversight; dedicated patient safety programs; formalized policies for disclosure of adverse events; and support of patients and families. Additionally, robust medical staff credentialing and staff competency training contribute to successful risk management.

Quality assurance involves monitoring and oversight. Quality improvement requires: 1) continuously defining clinical standards; 2) collecting outcomes data; 3) analyzing data and systems; 4) monitoring clinical practice; 5) utilizing data and analysis to affirmatively correct problems that have potential or actual risk; and 6) implementing and utilizing evidence-based clinical decision support systems.

Nonmedical and medical risk management is a three-step process that involves: 1) identifying risk; 2) avoiding or minimizing loss; and 3) reducing the impact of loss when it occurs. Medical risk management focuses on risk reduction through improvement of patient care and safety.

Liability (responsibility) for medical malpractice in patient care is a source of financial and psychosocial risk to providers and the health care system. The family physician's actions are considered negligent when: 1) the physician and his/her care team have a duty to treat the patient; 2) the physician's interaction with the patient falls outside the accepted standard of care; 3) the patient is harmed because of this interaction; and 4) actual damages are suffered by the patient.

Good communication with the patient and the family is fundamental to achieving a strong physician-patient relationship. This relationship requires the physician to provide patient care that is within acceptable standards.

The occurrence of an adverse event, injury, or loss is a stressful situation for physicians, care teams, patients, and their families. Family physicians have a duty to disclose honestly, to communicate with patients and their families, and to develop systems that minimize the risk of recurrence. When appropriate, the physician should inform the patient and family about any changes that are being implemented in response to the event or situation to prevent future occurrences.

The ACGME and the American Board of Family Medicine have implemented The Family Medicine Milestone Project as a framework for assessing the development of resident physicians in key dimensions of physician competency related to risk management and medical liability.

This Curriculum Guideline provides an outline of the attitudes, knowledge, and skills that should be among the objectives of training programs in family medicine and that will lead to an understanding of risk management and medical liability in the current health care environment.

Competencies

At the completion of residency training, a family medicine resident should be able to:

- Clearly document quality of acceptable standard of care provided to patients (Interpersonal and Communication Skills, Professionalism, Patient Care)
- Effectively communicate risks and benefits of therapy for medical conditions and ensure that informed consent is obtained (Interpersonal and Communication Skills, Professionalism, Medical Knowledge)
- Evaluate his or her practice for potential liability risks and develop risk management strategies to mitigate them (Practice-based Learning and Improvement, Professionalism)
- Demonstrate empathy for mistakes and tactfully disclose to patients and their families (Professionalism, Interpersonal and Communication Skills)

- Foster team members' adherence to patient care protocols that enhance patient safety and prevent medical errors (Interpersonal and Communication Skills, Patient Care, Systems-based Practice)
- Participate in identifying health care system errors and implementing potential systems solutions (Systems-based Practice)

Attitudes and Behaviors

The resident should develop attitudes and behaviors that encompass:

- Awareness of potential risk and professional liability
- Practice of evidence-based medicine within the standard of care for a competent family physician
- Appreciation of the importance of good communication and rapport
- Demonstration of humanism and cultural proficiency in clinical practice
- Appreciation of the importance of timely documentation of all medical actions
- Consideration of the importance of obtaining and documenting informed consent
- Sensitivity to the roles of federal, state, commercial, and other agencies involved in risk management and medical liability issues
- Self-awareness and incorporation of data, feedback, and experience into ongoing professional improvement and learning

Knowledge

In the appropriate setting, the resident should demonstrate the ability to apply knowledge of the following:

1. Source of law
 - a. Constitution (federal and state)
 - b. Statutory law
 - c. Common law
 - d. Good Samaritan law
2. Physician licensure/state board of medicine
 - a. Regulation through the Medical Practice Act
 - b. Medical delegation
 - c. Rules pertaining to treatment of self, family, and employees

- d. Professional conduct
 - e. Termination of patients
 - f. Controlled substance prescribing
 - g. Physician dispensing/retail product sale
 - h. Issues related to intrastate care
 - i. Telemedicine rules and regulations
3. Medical malpractice
- a. Elements of case
 - b. Duty
 - c. Breach
 - d. Causation
 - e. Damages
 - f. Common allegations and events
 - g. Malpractice judgment reporting and when it applies
 - h. Trial or arbitration
 - i. National Practitioner Data Bank
 - j. Malpractice insurance (e.g., claims made versus occurrences and limits of liability)
4. Risk management
- a. Physician-patient communication
 - b. Appropriate charting
 - c. Timely management of diagnostic tests
 - d. Documentation of face-to-face conversations, phone calls, and all electronic communications
 - e. Documentation of patient failure to follow physician's advice
5. Consent
- a. Necessity of informed verbal and/or written consent
 - b. Health care proxy
 - c. Power of attorney for health care, living will, and prior expressed health request
 - d. Mental competence to provide consent
 - e. Advance health care directives

- f. Minors (e.g., when they can provide consent and when parental consent is required)
6. Privacy
 - a. Patient confidentiality and the Health Insurance Portability and Accountability Act (HIPAA)
 - b. Privilege to disclose
 - c. Duty to disclose
 - d. Minors
 - e. Legal breach of confidentiality (e.g., abuse, reportable diseases)
 7. Office issues
 - a. Americans with Disabilities Act (ADA)
 - b. Sexual harassment
 - c. Hiring and firing
 - d. Occupational Safety and Health Administration (OSHA)
 - e. Employment at will
 - f. Liability insurance
 - g. Liability related to electronic medical records and data storage

Skills

In the appropriate setting, the resident should demonstrate the ability to:

1. Communicate with patients in a compassionate manner
2. Communicate with other health care providers to enhance team-based care
3. Create appropriate, timely documentation reflecting an acceptable standard of care
4. Interact appropriately with regulatory entities and the legal system
5. Maintain competence through continuing medical education
6. Obtain informed consent from patients to facilitate intelligent decision making
7. Develop and implement a program of risk management focusing on facility needs and services provided
8. Notify a malpractice carrier appropriately

Implementation

Implementation of this curriculum is dependent upon a didactic and clinical approach to learning. The didactic aspect addresses ethical and legal obligations, providing the resident with knowledge about the law and standards of care. The clinical aspect is an ongoing process to make the resident aware of the need to document verbal and electronic communications, communicate compassionately when adverse events occur, and have the skill to analyze the amount of risk in the health care system.

Residents should be taught error detection, correction, reporting, and monitoring so they can participate fully in the hospital's quality improvement efforts. When residents are part of a culture of reporting and discussing mistakes, the fear of negative effects often associated with admitting or reporting a mistake is reduced.

Having faculty physicians share personal cases of medical liability and risk management is a necessary component of this teaching process. Cases that arise during residency training will have the deepest impact on the learning process for the resident. Residents must learn how to properly document informed consent and medical discussions in the chart. Preceptors, by sharing their own charts and reviewing residents' charts, can contribute to residents' sophistication and skills in appropriate medical charting.

To create a culture of safety rather than a culture of blame, faculty members need to be role models for how to handle these cases and give guidance on how to prevent similar cases from arising. This can be achieved through root cause analysis; modeling of communication and disclosure; modeling of self-analysis and improvement; development of office- and systems-based solutions to mitigate harm and prevent adverse events; and utilization of evidence-based clinical decision support systems.

Resources

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Website Resources

Accreditation Council for Graduate Medical Education. www.acgme.org

American Medical Association. www.ama-assn.org

Medical Group Management Association. www.mgma.com

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