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Preventive Action

The Quarterly Risk Management Newsletter for Policyholders of APAC **Second Quarter 2006**

Vol. 3 No. 2

APAC Risk Management Bulletin



FREQUENTLY ASKED Legal Questions

present and future medical bills, lost wages, and other expenses attributed to the negligent act or injury.

What action should be taken when a summons and complaint is received?

Immediately notify APAC by calling the Claims Department at (866) 294-6014 or 954-577-2721, ext. 12. If you are served, APAC only has a limited number of days to assign a defense attorney and prepare a response to be filed on your behalf. It is important to not discuss the case with the patient, the patient's attorney or other parties involved in the care and treatment of the patient. You should gather and secure the patient's records immediately. To report claims in a state other than Florida, call 800 -741-3742, ext. 3293 or 904-354-5910

Is a 'time out' process required before surgical procedures?

Yes. In Florida, the time out process is required by law. Florida Administrative Code 564B8-9.007 requires the surgical team to pause prior to initiation of the surgery or procedure to confirm the side, site, patient identity, and surgical procedure. The notes of

the procedure must specifically reflect when the time out was completed and which personnel on the surgical team confirmed each item

What is meant by a 'Root Cause Analysis'?

A widely adopted method of identifying underlying causes of medical error. An effective RCA looks beyond the immediate result and identifies the chain of events or contributing factors which led to the error.

What is 'arbitration' and what benefit does it provide?

Arbitration is the submission of a dispute to one or more impartial persons for a final and binding decision. Through arbitration, patients and physicians both benefit because they are able to more promptly resolve malpractice claims and for less cost to each party. It is also believed that arbitration panels will help to avoid unreasonable jury wards, thereby further lowering costs. These cost savings would positively impact professional liability rates and the cost and availability of healthcare services.

SUBJECT

Preventing dental Injuries

OBJECTIVE

Implementation of loss prevention measures designed to reduce anesthesiology claim frequency and severity attributed to dental injuries.

CONCLUSION

Dental injuries are one of the most common patient complaints after surgical anesthesia. Malpractice claims involving dental injuries occur with some degree of regularity and can be prevented with fundamental risk management practices.

TABLE OF CONTENTS

- Page 1 APAC Risk Management Bulletin
- Page 3 Risk Management Products & Services
- Page 4 Frequently Asked Legal Questions

DISCUSSION

A recent study of almost 600,000 patients involving anesthetic services indicated that one in 4,500 suffered a dental injury. Earlier studies indicated that the incidence of injury was even greater (one in 2,000). The Physician Insurers Association of America (PIAA) lists tooth injury cases among the 5 most prevalent misadventures occurring in anesthesiology. In the PIAA cases, the percentage of paid claims to total closed claims is almost 60%, with an average indemnity payment of almost \$10,000 per paid claim for tooth injury cases.

The specific risk factors for dental injuries that have been identified are:

- History of prior intubation problems
- Anticipated intubation problems due to the patient's anatomy
- Pre-existing poor dentition



- Previous head and neck surgery

All patients are at some degree of risk for dental injuries during anesthesia. To help avoid these risks, the following risk management practices should be considered:

- Conduct a thorough examination, including attention to the condition of the patient's dentition

Continued on page 2



APAC publishes *Preventive Action* on a quarterly basis as a service to its policyholders. Information in this publication does not establish a standard of care, nor is it a substitute for legal advice. The information and suggestions contained in this newsletter are generalized and may not apply to all practice situations. APAC recommends you obtain legal advice from a qualified attorney for a specific application to your practice. The information should be used as a reference guide only.

For comments, questions, or to obtain additional copies contact the APAC Risk Management Department at 866-294-6014, ext. 3016, or rm@fpic.com.

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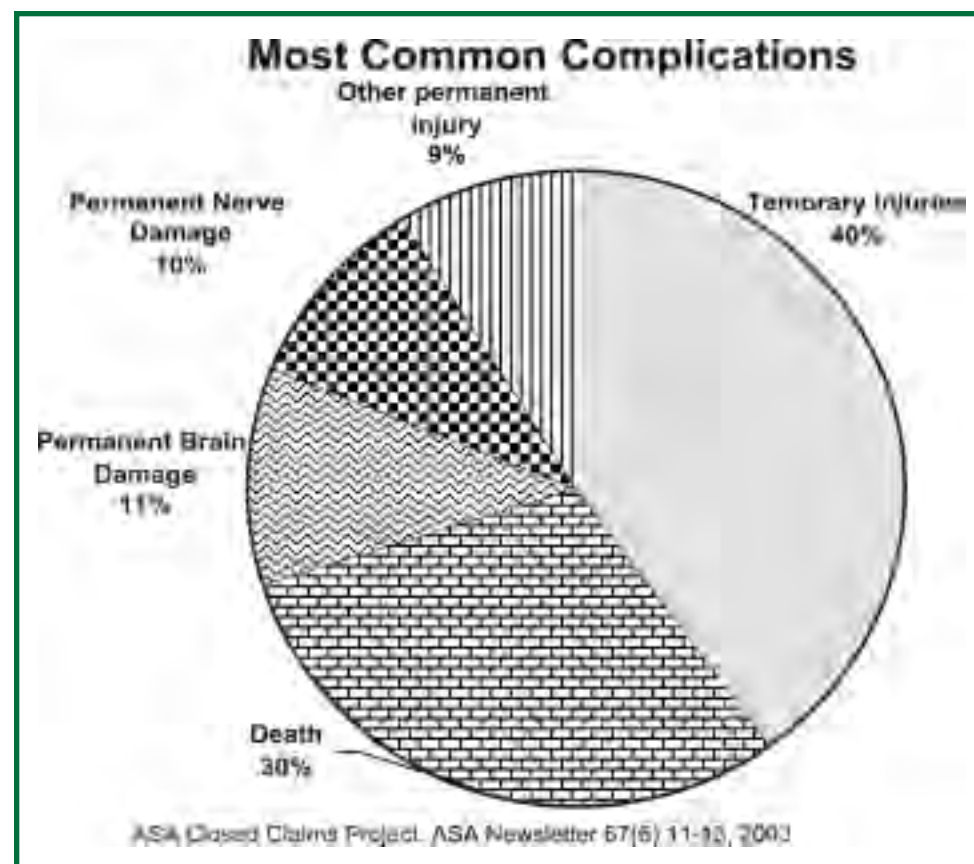
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Continued from page 1

prior to the procedure.

- Make sure the patient is fully informed of the potential for dental injuries during anesthesia and surgery. Consider adding specific wording to your informed consent documents which acknowledges the potential and risk of dental injuries. Examples of this wording are available from APAC's Risk Management Department.

Should a patient present with a dental injury as a result of anesthesia, take the time to evaluate how the injury occurred. It is in your best interest to discuss the incident with your personal attorney or professional liability insurance carrier. Payment made to the patient for dental injuries and reimbursement of dental expenses are reportable events under Florida Statutes and therefore must be reported to the Department of Insurance Regulation.



Risk Management Products & Services

Reducing Malpractice Liability: Anesthesiology Preventive Action and Loss Reduction Plan

This risk management guide addresses the highest risks encountered in anesthesiology. An in-depth claim analysis serves as the predicate for the preventive action and loss reduction plans described for high-risk exposures in anesthesiology.

The risk management measures outlined are proven to be highly effective. Implementing them will facilitate a proactive approach to loss prevention and validate the quality of care rendered.

APAC has available a number of highly effective, risk management products and services. These comprehensive products are designed to avoid claims and disciplinary actions and encourage physician participation. Such products and services are available at no cost to our policyholders.

To obtain a copy of the *Anesthesiology Preventive Action and Loss Reduction Plan* or any other risk management reference material, contact the Risk Management Department at 800-741-3742, ext. 3016 or rm@apac.com. The materials are also available on the APAC website at www.apacinsurance.com

Reducing Medical Malpractice Liability



Anesthesiology Preventive Action & Loss Reduction Plan



Risk Management Guidelines: Anesthesiology Claims

The average indemnity payment and percentage of paid cases have increased significantly. In tandem with the increase in elective, office-based procedures is the higher severity of injury and higher proportion and amount of indemnity payment of such claims. Other emerging concerns include chronic pain management, central venous catheterization, burn injury, and visual loss. Burn injuries are of concern because such injuries are rarely defensible and result in a malpractice payment more often than other types of anesthesiology claims.

- Anesthesiology ranks in the top ten of all specialties by claim frequency
- 33% of closed claims are paid, with an average indemnity of \$362,880
- Mortality or permanent CNS damage resulted in 90% of claims
- Pre-surgical evaluation and workup are the most prevalent exposures
- Esophageal intubation accounts for 25% of all claims
- Inadequate patient monitoring is the most expensive misadventure
- Patient positioning problems are among the top five misadventures