

Preventive Action

Quarterly Risk Management Newsletter for Policyholders of APAC

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APAC Introduces New Risk Management Product



APAC is proud to announce the development and release of Risk Management for the Medical Practice, a comprehensive manual for risk management covering such topics as communication, medical records, informed consent, managed care,

HIPAA, incident reporting, and many others.

Risk Management for the Medical Practice was developed as a comprehensive risk management reference tool for policyholders of APAC that utilizes a highly-focused approach to loss prevention.

This reference guide contains many of the liability challenges commonly confronted by practitioners, including:

- Management of control of risk
- Evolving legal theories
- Managed care liability

- Physician Extender liability
- Fee-based e-consultations
- Liability inherent to EMR systems
- Patient identity theft

Risk Management for the Medical Practice evidences APAC's commitment to effective risk management products and services. This publication is available in hard copy and, for your convenience, electronic formats.

To request your copy of this new risk management product, please call APAC's Risk Management Department at (800) 741-3742, ext. 3016 or send an e-mail to rm@fpic.com. —

Pain Clinic Registration and Inspection Program Board of Medicine & Osteopathic Medicine (Important Information for Florida Doctors)

Florida law requires all privately-owned pain management clinics/facilities/offices which advertise in any medium for any type of pain management services, or employ a physician who is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications must register. Each clinic location must

register separately even if the clinic/facility/office is operated under the same business name or management as another. The clinic must designate a physician, who practices pain management at the clinic, to register.

This bill was signed into law by the Governor on June 18, 2009.

When does the clinic/facility/office have to be registered?

January 4, 2010.

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Anesthesiologists Professional Assurance Company



Anesthesiologists Professional Assurance Company publishes Preventive Action on a quarterly basis as a service to 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. Anesthesiologists Professional Assurance Company 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 Anesthesiologists Professional Assurance Company Risk Management department at 866-294-6014, ext. 3016.

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The Boards of Medicine and Osteopathic Medicine began conducting Rule Workshops in late August 2009. The Boards conduct rulemaking, which include at a minimum, the following areas:

- application
- fees
- facility operations
- physical operations
- infection control requirements
- health and safety requirements
- quality assurance requirements
- patient records
- training requirements for all facility health care practitioners who are not regulated by another board
- inspections
- data collection and reporting requirements

When will an application be available and how much will it cost?

The registration requirements and fees have not been established yet. The Boards of Medicine and Osteopathic Medicine began conducting Rule Workshops in late August. Part of the Rule Workshop process is to develop the registration application as well as the other items noted above. The application will be ready prior to the registration date. Stay tuned to the Board of Medicine website for additional information. The website can be found at www.FLHealthSource.com. Click on Provider/Licensee. Once there, click on the drop down box in the upper right hand corner and select Medicine. Then click on the Pain Clinic Registration and Inspection Program Link.

Does the clinic/facility/office have to be inspected?

The law requires the pain management clinic/facility/office to be annually inspected by the Department of Health or accredited by a national accrediting organization. Approved accrediting organizations will be detailed during the rulemaking process.

What are the requirements for registering?

The Boards of Medicine and Osteopathic Medicine have been tasked to develop the requirements for registration. The Boards will do this through Rule Workshops.

Do I have to be board certified or have specialized training in pain management to work in a pain clinic?

This will be determined through the rule making process.

Am I exempt from registering as a pain clinic?

If the clinic/facility/office is registered under Chapter 395, Florida Statutes, you are exempt from registering. You are also exempt if the majority of the physicians who provide services in the clinic/facility/office primarily provide surgical services.

If the clinic is registered under Chapter 400, Florida Statutes, the medical director will be responsible for registering the clinic/facility/office.

To see the types of facilities licensed under Chapters 395 and 400, Florida Statutes, go to <http://www.leg.state.fl.us/statutes/index.cfm>.

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If I would like to participate or send documentation for the Board’s consideration during the rulemaking process, how would I do that?

Please go to the Board of Medicine’s website (see directions below) for meeting dates. Please note the deadline for receipt of materials for a meeting is one month prior to the meeting. The reason for this is to allow the board member time to read the materials by the meeting date.

Where can I find more information as it becomes available?

You can go to the Board of Medicine’s website for additional information. The website can be found at www.FLHealthSource.com. Click on Provider/Licensee. Once there, click on the drop down box in the upper right hand corner and select Medicine. Then click on the Pain Clinic Registration and Inspection Program Link.

Another option is to go to: <http://flems.doh.state.fl.us/mailman/listinfo/boardofmedicine> and join a no-cost e-mail program to automatically receive updates. •

APAC Risk Management Bulletin

SUBJECT

Fires in the Operating Room

OBJECTIVE

Reduction in malpractice claim frequency and severity attributed to patient burn injuries.

CONCLUSION

Operating room fires remain a risk that can be mitigated by the implementation of several fundamental loss prevention measures.

DISCUSSION

It is estimated that there are between 100 and 200 operating room fires every year in the United States. One in five of these results in serious injury, and one or two deaths are recorded each year. Most of these situations are attributed to an oxygen enriched atmosphere, that, when combined with an ignition source (electrocautery or laser) and a flammable substance (surgical drapes, endotracheal tube, oxygen cannula and the patient) lead to fire. The most lethal of these involve endotracheal tubes. Other cases have been reported involving burns to the face and neck occurring involving the excision of facial lesions. Another common situation involves oversedation (often with the use of propofol). As the patient is given too much sedation, the oxygen saturation decreases and the oxygen flow is increased to maintain an acceptable saturation level. This increases the oxygen concentration in the surgical field, and when electrocautery is activated, a flame is seen and a burn ensues.

Consider the following to further limit the risk of operating room fires:

- Utilize pulse oximetry to determine when supplemental oxygen is needed. When not needed, consider not using it in order to reduce the risk of fire.
- Encourage the surgeon to use sharp dissection when opening the trachea during tracheostomy.
- Make sure that the Bovie is properly “holstered” when not in use. Make sure that the laser is in “standby” mode when not being used.
- Discourage the use of flammable prep solutions.
- Avoid the use of heated IV bags to prevent or treat hypothermia. Even though the bags may not feel hot to the touch, they can cause burns to poorly diffused or hypothermic skin.
- Be alert to any source of ignition when supplemental oxygen is being used.
- Verify the operating room facility has adequate preventive measures and emergency response procedures. •



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Legal FAQs For information specific to your state of practice, contact APAC's Risk Management department



What basic elements comprise the informed consent process?

1) Proposed treatment or therapy; 2) risks and benefits; 3) likelihood of success; 4) treatment alternatives, and 5) potential outcome with no treatment. The risk list need not be exhaustive, but rather material to the specific procedure, anesthetic, and patient involved.

When should the "time out" occur?

The "time out," or immediate preoperative pause, must occur in the location where the procedure is to be done (for example, when the patient is on the operating table). Given this restriction, the "time out" may

precede induction of anesthesia or may occur after the patient is anesthetized (participation by the patient is not expected) but just before starting the procedure.

Who should participate in the "time out" process?

The "time out" must involve the entire surgical team. At a minimum, this includes active participation by the surgeon, anesthesia provider, and circulating nurse. Participation by the other members of the team, as appropriate to their involvement in the procedure, is also encouraged. In particular, there should be no barrier to anyone speaking up if there is concern about a possible error. To include some members of the team but not others sends the wrong message.

What is an 'error of omission'?

An error which occurs as a result of an action not taken. Examples include delay in performing an indicated cesarean section resulting in a fetal death, a nurse omitting a dose of a medication that should be administered, or a patient

suicide is associated with a lapse in carrying out frequent patient checks in a psychiatric unit. Errors of omission may or may not lead to adverse outcomes.

What is a 'barrier analysis'?

The study of the safeguards that can prevent or mitigate (or could have prevented or mitigated) an unwanted event or occurrence. It offers a structured way to visualize the events related to system failure or the creation of a problem.

What is an 'action plan'?

The product of the root cause analysis which identifies the strategies that an organization intends to implement to reduce the risk of similar events occurring in the future. The plan should address responsibility for implementation, oversight, pilot testing as appropriate, time lines, and strategies for measuring the effectiveness of the actions. —