

Risk Management: An Increasing Impact on Your Practice

The specialty of risk management is well-known outside of the chiropractic profession. Many businesses have someone or a specific department working in the area of risk management. In the chiropractic profession, risk management has slowly and quietly come into greater light. Malpractice has not been a major problem; thus, most practitioners have not given much attention to risk management. That is changing now, not so much from a higher incidence of malpractice, but rather because of the creation of laws and the increasing preponderance of lawsuits that deal with sexual abuse and discrimination in the workplace.

Not only are boards of examiners called to protect society, they formulate and administer rules and regulations by which they can inform and enforce laws enacted by Congress and state legislatures.

What we share comes from a broad spectrum. Practitioners are well-advised to be as informed as possible about federal and state statutes and the rules and regulations of their board of examiners. A great deal of common sense is involved in professional boundaries. In essence, if a practitioners attempt to live and practice by doing unto others what they would have others do unto them, they would find themselves living within the laws of the land.

Advertising for Employees

Under federal and state law a prospective employer cannot ask in an advertisement or interview any questions regarding age, religion, color, race, sexual preference, economic status, health status or disability. You cannot demand that prospective employees have a physical examination, or in most situations require that they be tested for drugs.

Unless authorized in writing, you cannot contact other people for information on prospective employees. Letters of reference are often innocuous, in that previous employers will not state any information that could cause the former employee to sue them. That being the case, you should not put a great deal of weight on hiring based on references.

You cannot require a prospective or present employee to receive care from you or in your clinic. If employees need chiropractic care, it is far better to have a colleague who does not practice with you treat them. Also keep in mind that if you have treated an employee, you must keep records of their care as accurately as those required of nonemployee patients.

Bait and Switch

One area of great concern in risk management today is deceptive marketing. This comes from some practice management teachers who suggest that their clients use gimmicks to lure potential patients into their offices. One of the most common gimmicks is to place large banners on or in front of their buildings, or place ads in newspapers or fliers that state "Hiring," when in fact the practitioner is not hiring, but attempting to turn applicants into patients. Do not use hiring programs designed to turn prospective employees into patients.

Offers of a free examination and/or advertising "Whiplash Victims Accepted," "All Insurance Accepted," "No Out-of-Pocket Expenses," "You Pay Nothing," etc., are no problem as long as the practitioner follows through with the promises.

There is nothing wrong with advertising, but using "bait and switch" methods, is wrong, unethical, and in many cases, illegal. It will eventually backfire, usually through complaints filed with the practitioner's board of examiners. Just because some practice management guru or colleague advocates using certain gimmicks does not make them legal, right or ethical.

Workers' Compensation

In many states, practitioners are required to carry workers' compensation insurance. Many practitioners don't. Not only are they in violation of the law, but they predispose themselves to employee lawsuits and the government getting more deeply involved in their practice. Don't foolishly try to save money on workers' compensation insurance. Doing so could end up costing thousands of dollars and a lot of legal problems you would never have had if you had provided workers' compensation insurance for your employees. It doesn't matter if you like or agree with the laws, but that you do what you can to know and obey them.

Commissions or Bonuses

Offering commissions, bonuses, awards, etc., to employees or patients for bringing in new patients can be illegal and hazardous to your practice. Often other health care providers do offer bonuses and/or commissions for "up selling" patients, but doing so provides the opportunity for complaints of unfair treatment by employees who may have less opportunity to "up sell."

Practitioner Associates

When contemplating hiring an associate practitioner, employee, doctor employee and/or contract doctor employee, it is good to ask their permission and obtain written authorization to check their background. Just because a practitioner has a license to practice chiropractic does not mean that a board of examiners has not disciplined them. In the same manner, just because complaints have been filed against a practitioner doesn't mean the doctor did anything wrong. The same holds true with checking into previous malpractice problems or business agreements with other practitioners.

If another doctor is practicing in your clinic as a partner, associate and/or contract employee, they should be well known to you before you enter into any relationship and carry at least the same malpractice insurance with the same insurance company that you do. Keep in mind that even if the only thing you're doing is allowing another practitioner to use your office, a patient can sue that you and that doctor, even though you never treated the patient. This may not seem right, but that's the litigious nature of some people and their attorneys.

As far as sexual impropriety lawsuits, are concerned most malpractice policies do not include coverage for those suits. You also are held responsible for the level of care and the professional demeanor of the employees and practitioners in your office. You cannot control what they do, but you are held accountable for talking the appropriate steps your board of examiners requires if any practitioner, associate or employee violates statutory law or other regulations or rules that are in force in your state.

Go Slow in Forming Business Relationships

Unfortunately, most practitioners go into practice with other practitioners without considerable thought, discussion or a suitable process of consideration, professional legal counsel or

investigation, prior to the "marriage." Far too often, practitioners go into business relationships out of need, too quickly and based on short-term relationships. One should keep in mind that it is illegal in many states for a licensed health care professional to go into business with anyone other than those of the same license. There are very specific laws regarding stock ownership and corporate practice.

When going into business with another practitioner, acting too quickly and without proper investigation opens you up to all kinds of difficulties. Just because the two of you like each other, use the same diagnostic/treatment methods, went to the same school and golf together doesn't mean it will work. Blood runs thicker than water, but even business relationships among family members often don't work.

Easy Does It

Don't be so quick to take on more doctors or employees. We recognize that this statement goes against the grain of many practice-building consultants, but very often practitioners are inexperienced in what it costs personally and professionally to have a bigger practice. Any time you take on an associate, you take on their liabilities, most of which are ignored or glossed over during the "prenuptial."

What's important is what makes you happy and brings you peace. How much more money and personal time would you have if your practice got really large? How much of the money you might generate is left over after business expenses and taxes? Are you working for yourself, your family, a practice consultant or the government?

Employee Handbooks/Contracts

All practitioners would be better served if what they orally agree to with the employee is part in writing, followed by an employment contract that clearly details the responsibilities of the employee.

Failure to do so opens the door for misinterpretation and creates an environment where employees could feel that the doctor hired them under false pretenses.

You Are in the Clinic to Care for Patients

Doctors too often hire people who bring with them personal needs and problems that have no place in the practice. The doctor ends up losing patient care time by having to listen to and deal with the employee's personal problems. This is not implying that your employees should be neglected, but it is far better to hire people who are emotionally mature.

In the same context, never hire a person who looks to you as their mother/father, confessor, counselor, minister or confidant.

It is wrong, neither healthy nor professional and is a disservice to the employee, your staff, your family and yourself. The more room left for emotional immaturity, dependencies or codependency, the more the practice becomes dysfunctional and good care of present patients is compromised. If a patient, doctor or employee is in need of mental or spiritual help, they should be offered it outside of the office by competent professionals who specialize in those areas - not you. You cannot be everything to everybody. You need to know your limitations and function within the framework of your gifts.

If there are any problems with employees or patients, the doctor should show due and appropriate concern, make written notes and discuss the problem in private in a nonthreatening manner and a professional setting. If the patient or staff person is prone to emotional outbursts or misconstruing what you say, another staff person should attend the meeting as a witness.

We all are flawed. Sometimes people get into jobs in which they don't properly fit. We need to do what we can to help these people move on to a higher calling. Being abusive or cold is not the right or healthy thing to do. Never shout or try to correct anyone in the heat of the moment. If you have problems controlling your emotions, delegate the task to some staff person who can carry out the task in an unemotional fashion.

We are not mistake proof. The key is that we take our time before hiring people. Based on your personality, there are some people you are not fitted to work with, care for or relate to. That doesn't make you or them bad. We are equipped to relate to some in more harmoniously ways than others.

Never make demands of your employees or patients. Always ask and inform before you perform. Document everything you, the patient or employee says or does during the meeting. Make sure that no one but you has access to those records.

"Please," "thank you," "job well done" and "I appreciate you" are words you can't overuse. Don't be patronizing. Treat people as you would like to be treated, and you'll have more ups than downs in life.

If you've made a mistake, admit it. Tell people you're sorry and do what you can to show you're working on improving yourself.

Sometimes when we are critical of others, what we're really seeing in them is a reflection of ourselves. The best way to help others improve is to lead by example. Be open enough to recognize your shortcomings and be free enough to allow employees and associates the freedom to help you better see and correct your shortcomings.

If you have some unresolved problems, seek professional counsel. Doing so is not a sign of weakness or ignorance but of strength and intelligence. Respect the dignity and privacy of your patients and employees. Never violate confidentiality or privacy. Never attempt to impose your personal, social or religious beliefs on others. Certainly, we have a constitutional right to express our opinions, but not to impose them on others.

Life has hills and valleys, bumps and chuckholes, but the more we try to be fair to others, the better things will turn out. Some people will say bad things about us and accuse us, but the more we attempt to be honest, the more seeds we sow that will turn scars into stars. Rough spots in the road of life will be smoothed out; valleys turned into mountain top experiences; shadows into sunlight; and you'll see yourself come out on top.

References

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