

Aligning Your Chiropractic Practice With the Law

You're too honest to be subject to disciplinary action, right?

Guess again. It's not just the crooked few that are sanctioned for disregarding regulations. In fact, it's often honest, hard-working professionals like you who are sanctioned.

Maybe you tried to take a shortcut. Maybe you were in a hurry and forgot to record something properly. Or maybe you just didn't know that paragraph 14, section 103 of the Chiropractic Paperwork Augmentation Act of 2004 requires you to print out all copies of records on ivory paper instead of pure-white paper.

OK, so it's not quite that bad - at least not yet. But the regulations are becoming more complex each year, and even a simple slip-up can result in penalties, a loss of credentials, or the suspension or loss of your license. Many well-meaning chiropractors have had their reputations and their practices severely damaged because they failed to pay adequate attention to regulatory compliance.

Preventing Sanctions

The best way to prevent sanctions, of course, is to always be in full compliance with the regulations. You may not have time to work through the fine print, but we can at least help you take the first step by identifying the most common trouble spots. Based on my experience, the following are the big five:

1. Poor clinical record-keeping. Just because you take good care of your patients doesn't mean you won't be sanctioned. In fact, inadequate clinical treatment records may be the most common cause of sanctions.

There are other reasons for you to keep explicit records. Failure to do so can lead to denial of payment, and possibly even to a government audit or investigation for overutilization or suspected fraud. Inadequate records can also deprive you of critical information you need to defend yourself against lawsuits and patient complaints. Failure to adequately document the results of all diagnostic procedures can lead to serious questions about the adequacy or appropriateness of your course of treatment. Failure to document a patient's consent to procedures that involve contact with sensitive areas of a patient's body can seriously hamper your efforts to defend yourself against a complaint of sexual misconduct.

These are just some of the reasons why careful evaluation of your clinical record keeping can be vital to protecting your practice.

2. Failure to respond promptly and appropriately to requests for patient records. Patient privacy is a growing concern. Share patient information with the wrong person, and the Health Insurance Portability and Accountability Act (HIPAA) may subject you to civil penalties of up to \$100 for each error, steep criminal penalties for deliberate violations, and exclusions from Medicare and Medicaid

coverage. Failure to respond promptly to requests for patient information can also result in disciplinary action. Every chiropractor needs to know what to release, to whom, and how to do so correctly and promptly.

3. Lack of "due diligence" in hiring personnel or delegating patient care. If you have an ownership interest in a practice, you are responsible for the actions of everyone in your practice. Failure to check out the licensure status, prior disciplinary history, criminal record, and educational qualifications or experience of anyone working in your practice can result in sanctions and unnecessarily expose you to liability.

4. Failure to maintain appropriate limits on patient interaction. While a chiropractor should demonstrate compassion and concern for patients, it is important to remember that a patient is not a "special friend" or a member of your extended family. Touch is the most powerful instrument of healing a chiropractor has, but touch can also be intrusive and harmful when used inappropriately.

To ensure the physical and emotional safety necessary for effective diagnosis and treatment of patients, practitioners need to set and maintain appropriate limits on the nature and extent of interactions with patients and employees. A relationship in which the patient becomes the "caregiver" or "service provider" for the benefit of the chiropractor is especially suspect.

5. Failure to respond promptly and effectively to patient concerns. Nothing prompts a patient to file a malpractice suit or state board complaint faster than perceived indifference to the patient's concerns. Most dissatisfied patients seek only an acknowledgement that something went wrong, an apology for an error and reasonable assurances that it will not happen again. They also need to know that their concerns will not be ignored or dismissed as unimportant. An attempt to shun responsibility is an invitation to the patient to take action.

Paying attention to these five trouble spots is just the beginning. Compliance issues are much broader in scope and they will not go away if you ignore them. Procrastination will only make matters worse.

If you don't have the time or inclination to learn all of the state and federal regulations that affect your business, seek help from a qualified professional. In the process of achieving compliance, you may even find that your business becomes better organized and patient satisfaction improves.

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