Electronic Health Record

Managing the Risk, Benefit & External Review of YOUR EHR

Session Team

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Discussion Topics

- EHR Documentation Risks
- Malpractice & Other Risks with EHR Documentation
- Internal Compliance Review
- Questions

EHR Documentation Risks

Colleen Dennis
EHR Documentation Challenges & Risk

The rapid rise of EHRs has brought with it both challenges and risk in how physicians record their patient encounter.
<table>
<thead>
<tr>
<th>Challenge</th>
<th>Risk</th>
<th>Significance</th>
</tr>
</thead>
<tbody>
<tr>
<td>• EHR systems that allow progress or office visit notes to remain open until users “close” or “finalize” the note in system;</td>
<td>• Inappropriate late entries;</td>
<td>• Compromises the integrity of the entire patient encounter.</td>
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<tr>
<td>• Changes to a medical record entry;</td>
<td>• Lack of timely documentation (not contemporaneous);</td>
<td>• Documentation does not support codes billed.</td>
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<tr>
<td>• Systems without an automatic lock-out timeframe if note not competed.</td>
<td>• Manipulation of or changes to medical record entry for purpose of reimbursement</td>
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Polling Question

Does your EHR have an automatic “lock out” time frame?
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<tr>
<td>• EHR systems that support pull forward &amp; copy &amp; paste functions</td>
<td>• Indiscriminate use of copy function damages the clinical trustworthiness and integrity of the health record;</td>
<td>• Lack of current patient information in record;</td>
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<td></td>
<td>• Inconsistent patient information;</td>
<td>• Inaccurate patient information;</td>
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<tr>
<td></td>
<td>• Data</td>
<td>• Can the information be trusted?</td>
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<td></td>
<td>• Was the billing correct?</td>
</tr>
<tr>
<td>• EHR point &amp; click fields that create &quot;note bloat&quot;</td>
<td>• Documentation can lack specificity required for coding;</td>
<td>• Risk Mgmt liability;</td>
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<tr>
<td></td>
<td>• Redundant information can impact documentation integrity;</td>
<td>• Billing risk;</td>
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<tr>
<td></td>
<td>• Does not assist in collaborative patient care among providers.</td>
<td>• Patient safety and quality of care risk.</td>
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</table>
Polling Question

Does your Compliance Team review notes for “Bloat”?

EHR Documentation Impacts

- Patient Care
- Quality
- Patient Safety
- Propagation of inaccurate information
- Unnecessary and redundant notes
- Omission of new information needed to treat patient
- Provider and Enterprise @ Risk
How to Change Behavior

1. Ensure that each patient visit entry is closed, becomes unalterable and is authenticated within a specified timeframe after the patient visit and prior to billing for the encounter.
2. Develop written policies and procedures defining standards for the timely sign off and locking of patient visit encounters.
3. Define the problem of open encounters and determine how to manage individuals who chronically fail to close encounters.
4. Establish a physician champion to assist compliance with a periodic bloat note review.
5. Develop written policies and procedures defining standards for the timely sign off and locking of patient visit encounters.
6. Is the information “copied” forward relevant or redundant? Pull inpatient consecutive notes to review for encounters that have been up-coded or may not meet medical necessity.
7. Be a provider champion through education and training. Outline the risks that are avoidable, assist with building “compliant” drop down boxes.
Malpractice & Other EMR Risks

Shelly Denham

Polling Question

• Electronic Medical Records – our friend or our enemy.....

Do you believe the implementation of an EHR increases or decreases the potential for legal risk?
Risk Management – Electronic Health Records

• Errors easy to find
• Audit trails prove access
• Providers touch more data

### System Challenges

<table>
<thead>
<tr>
<th>Copy and Paste</th>
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<tbody>
<tr>
<td><strong>Risk</strong></td>
</tr>
<tr>
<td><strong>Significance</strong></td>
</tr>
<tr>
<td>• Erroneous and obsolete data carried forward</td>
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<tr>
<td>• Provider may forget to make the appropriate changes;</td>
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<td>• Leads to overlooked patient information;</td>
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<td>• Provider credibility issues</td>
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<tr>
<td>System Challenges</td>
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<tr>
<td>------------------------</td>
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<tr>
<td>Drop Down Menus</td>
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<tr>
<td>Use of Templates</td>
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<tr>
<td>System Challenges</td>
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<tr>
<td>Clinical Decision</td>
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<tr>
<td>Support Alerts</td>
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<td>Alert Fatigue</td>
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<tr>
<td>Task/Order Verification</td>
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</table>
## System Challenges

### Poorly Designed Interface
- Sub-optimal design;
- Key stakeholders inclusion in design and implementation

### Poor design within the EMR
- Information in multiple areas

### System Security
- Inadequate privacy and security controls

### Certified EHR technology
- Use of a non-certified EHR

### Risk
- Difficult to substantiate standard of care was met;
- Ripe for legal, risk and compliance issues

### Significance
- Easy to overlook important data
- HIPAA Privacy and Security implications.
- Target for hacking due to lack of firewalls and encryption
- Unable to demonstrate the product satisfies ONC/CMS certification criteria
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<td>Reconciling information from two or more systems</td>
<td>• Lack of information necessary for continuity of care</td>
<td>• Ripe for medical errors</td>
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<td>Provider not documenting or working tasks</td>
<td>• Delay in patient care</td>
<td>• Hard to defend in a malpractice case</td>
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<tr>
<td>Backup System(s)</td>
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<td></td>
<td>• Lack of solid processes and/or confirmation that backup is working as intended;</td>
<td>• Lack of complete or accurate medical record</td>
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<td></td>
<td>• Lack of internal process for downtime procedures</td>
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</table>
How do we address our Risks?

Risk Assessment: Proactive Mitigation

• outside of the required HIPAA Security RA
• develop PI/CAP plans for high priority risks
• awareness and education on opportunities and vulnerabilities

Collaboration:

• IT, Compliance, Risk, Vendor(s) and Providers all need to be at the table when implementing/changing/upgrading an EHR

How do we address our Risks?

Promoting Safety Best Practices

• Encourage the development of a committee that proactively addresses concerns; i.e. Clinical Optimization Steering Committee. Recommend committee meet on a quarterly basis to address provider, quality and patient safety concerns

• Encourage IT representative be a member of the organization’s Safety Committee
Recent Enforcement or Regulatory Activities

• eClinical Works lawsuit claim for not meeting meaningful use and ONC certification. Additional lawsuits related to inaccurate patient medical information.

• 2/6/19 – Greenway Health software “Prime Suite” to pay $57.25 million to settle False Claims Act Allegations – lack of certified EHR caused users to submit False Claims to the government. Additionally caused remuneration to induce the use of the EHR to others, causing an AKS violation.

• ONC and CMS release NPRM to interoperability rules to increase EHR access.

Internal Compliance Reviews; Targeted Probe and Educate (TPE); RAC and other Risks with EHR Documentation

K. Mark Jenkins
Internal Compliance Reviews; Targeted Probe and Educate (TPE); RAC and other Risks with EHR Documentation

K. Mark Jenkins

Effective Compliance Programs

1. Implementing written policies, procedures and standards of conduct
2. Designating a compliance officer and compliance committee
3. Conducting effective training and education
4. Developing effective lines of communication
5. Conducting internal monitoring
6. Enforcing standards through well-publicized disciplinary guidelines
7. Responding promptly to detected offenses and undertaking corrective action
Monitoring & Auditing

• Internal Monitoring & Auditing
  • Reasons – required to perform
    • Should be an ongoing/integrated program
    • Should have regular reporting to senior leadership/board
    • Qualified personnel, focused programs
    • Ensure compliance with federal, state and internal policies

Monitoring & Auditing

• Our Environment:
  • Outpatient Documentation and Coding Reviews
    • Routine
    • Focused/adhoc
    • Clinician Coded
  • Inpatient Documentation and Coding Reviews
    • Routine
    • Focused/adhoc
    • Professionally Coded
Monitoring & Auditing

• Correct issues discovered
• Educate, Educate, Educate
• When clinicians do not meet the goals set forth, re-review within a reasonable period, to help ensure the education was effective
• Evaluate the risks to the organization and determine areas to be reviewed going forward
• Goal is to know where our issues/risks are and work diligently to fix them

CMS Targeted Probe and Educate (TPE)

• Designed to help providers and suppliers reduce claims denials and appeals
• Medicare Administrative Contractors (MACs) utilize claims data to identify:
  • Providers and suppliers who have high claim error rates or unusual billing practices, and
  • Items and services that have high national error rates and are a financial risk to Medicare

Our internal auditing and monitoring practices help us gain comfort our documentation supports our bills
CMS Targeted Probe and Educate (TPE)

- Common claim errors ID by TPE
  - The signature of the certifying physician was not included
  - Encounter notes did not support all elements of eligibility
  - Documentation does not meet medical necessity
  - Missing or incomplete initial certifications or recertification

CMS Targeted Probe and Educate (TPE)

- How does TPE work?
CMS Targeted Probe and Educate (TPE)

- The TPE areas under review are many and likely focus various by jurisdiction of the MAC.
  - What we found:
    - Old EHR outputs for review were not easily generated by record release vendor; often lacked full LMR; did not adequately reveal authentications; difficult for the reviewer to understand
    - New EHR outputs, not set-up to easily generate full record for release (eventually corrected)
- How did our internal team help?
  - Established a pre-release review standard
  - Find issues in samples and acknowledge those issues when submitting
  - Log and trend findings and work to correct issues at root cause
  - Encourage transparency throughout the process

RAC and other Reviews

- Recovery Audit Contractors (RAC)
  - Detect and correct past improper payments
  - Provide information to help prevent future improper payments
- Quality Improvement Organizations (QIO)
  - Improve the quality of health care for all Medicare beneficiaries
  - Medicare Short Stay Reviews
- Others.....
Similarities with Reviews

• Selected based on claims data
• Requests for medical records
• Timely and Accurate submission critical
• Similar protocols to track/trend to determine root causes – education and improving are key

What Have We Learned

• Incomplete medical record documentation being submitted (EHR/Record Release)
  • System issues/lack of knowledge
  • Not timely submitting documentation
• Authorship/Documentation Integrity Issues
• Copy and Paste Issues
• Teaching Physician Rules Issues
• Templates
Education

• In the end, Electronic Health Records (EHRs) are wonderful tools
• There are risks with all documentation tools
• Use internal and external reviews to learn
• Improve quality through education
• Continue to look for opportunities to improve
  • Help ensure documentation in the records provide for superior continuity of care
  • Help ensure paid appropriately
  • Help ensure you keep payments for services

Questions?