

Disclosing Medical Errors Cuts Costs, Legal Expert Says

Tami Swartz, for HealthLeaders Media , November 1, 2010

Preventing [medical errors](#) and patient harm is a top priority for most hospitals. Physicians, nurses, and other clinicians do not enter their professions to produce poor outcomes.

Disclosing harm, and sometimes errors, is complicated not only emotionally, but also legally and financially. The majority of providers currently work in a legal culture in which they aren't allowed to speak of the event, counteracting the ideals of openness and transparency so often valued by patient safety and quality professionals.

Richard Boothman, JD, chief risk officer at the University of Michigan Health System, believes staff members and hospital systems both succeed when they are given the opportunity to be transparent. In 2001, the University of Michigan Health System (UMHS) began changing its procedures for dealing with patient harm by allowing physicians and other clinicians to [disclose errors](#) and offer compensation. The change, in many ways, created a more transparent, positive, efficient, and safe culture, according to Boothman.

"As a trial lawyer, I knew that this institution, like many, was ultimately risk-averse. We were denying and defending every case; we were spending all that money in defense costs, and then we were settling anyway," says Boothman. "So that didn't make a lot of sense to me. The medical staff did not feel very well supported."

The first step to quality improvement is a familiar one. "You can't learn anything if you don't admit you have a problem. Transparency becomes important not necessarily because it's 'the right thing to do.' I don't concern myself too much with the right thing to do because that really depends on whose shoes you're wearing at the time," says Boothman. "[Transparency] is a necessary component to getting better. If you engage in a visceral, knee-jerk deny-and-defend response, you will never learn anything from these cases."

Legal concerns often restrain more important issues such as quality improvement and patient safety, says Boothman.

"I think it is impractical if not impossible to learn anything when you are geared up in that mode," he says. "The honesty part of this doesn't come from some high-blown ethic as much as it does from the practical reality that, in the final analysis, I don't serve our medical staff or this institution well by allowing them to continue to make the same mistake over and over or turn a blind eye to dangerous practices or dangerous individuals."

Although Boothman strongly believes the program allows for better patient safety, it cannot be denied that it has also saved UMHS money.

An *Annals of Internal Medicine*, study, coauthored by Boothman, found that the disclosure-with-offer program at UMHS resulted in a decrease in the monthly rate of new claims from 7.03 to 4.52 per 100,000 patient encounters, and the average monthly rate of lawsuits decreased from 2.13 to 0.75 per the same number of patient encounters. Overall, monthly liability costs decreased.

"What this data shows is you can do the right thing and not have the liability problem that everyone worries about," says Allen Kachalia, MD, JD, director of quality in the Department of Medicine at Brigham and

Women's Hospital in Boston, who served as lead author of the study. "The clearest success is that they have the program running. It's not about lowering your claims cost."

"This is not a claims management strategy, primarily," Boothman says. "It is of course a claims management strategy in part. But the best risk management is to make no medical mistakes. And the second risk management is to not make a mistake again. Quality of care has got to be front and center." The study's point is to prove that you can have this program and not go bankrupt, he adds.

"The headlines [about this program] are often something like 'Apologies save money,' but this is not about saving money in claims," says Boothman. "But this is about getting safer so we don't have claims to begin with."

See Also:

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[Medical Error Disclosure Program Found to Reduce Lawsuits](#)

[Tort Reform's Impact on Lowering Medical Malpractice Litigation Costs May Be Limited](#)

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Tami Swartz is managing editor of HcPro's [Patient Safety Monitor Journal](#).

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