



The Changing Role of the Healthcare Risk Manager

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Introduction

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The healthcare sector is undergoing broad and rapid transformation, driven by changing demographics, new technologies, economic realities and legislated reforms, all of which have implications for risk management. The Patient Protection and Affordable Care Act (PPACA), signed into law by President Obama in 2010, is one of the most significant drivers of change. However, many of the innovations incentivized by the act already were underway, motivated substantially by the equally important, but seemingly conflicting priorities of reining in skyrocketing healthcare costs while improving care.

Achieving these priorities necessarily means that healthcare delivery models are evolving. A key objective of the Medicare Shared Savings Program (MSSP) section of the PPACA is encouraging “investment in infrastructure and redesigned care processes for high quality and efficient service delivery”. To help achieve this goal, entities, called Medicare Accountable Care Organizations (ACOs), that meet quality and performance standards are eligible to receive payments for shared savings. But even without these incentives, a team approach to interdisciplinary care – a defining characteristic of an ACO – is increasingly seen as a viable model to more efficiently deliver quality healthcare services.

For many hospitals, the continuum of care now extends well beyond the primary care facility and into the various communities they serve. ACOs, patient centered medical homes (PCMHs) and other related team approaches to medical care are part of this more expansive continuum of care philosophy.

More broadly it means locating a range of facilities such as clinics and ambulatory surgery centers within the communities, as well as deploying community outreach programs and providing home health services. This broader concept of a hospital not only is increasingly recognized as important to effective patient care and population health management, it also is a critical component of many hospitals' revenue models -- in markets dominated by fee-for-service reimbursements, outpatient services provide the majority of operating margin for most health systems.¹

The transformation of healthcare delivery models creates new challenges for risk managers. For many whose responsibilities were largely contained within a single, albeit highly complex, facility, their accountabilities now may extend to locations and programs serving various communities and purposes. They also may be responsible for risk management programs encompassing novel new affiliations of both employed and independent healthcare practitioners, as well as with various service providers. Adding to the complexity, the underlying risk landscape is undergoing rapid change. For example, risks such as cybercrime, which weren't even on the risk manager's radar a few years ago, now are generating serious concerns. In part driven by these changes, the role of the risk manager is evolving. Accountabilities, incentives and reporting relationships are undergoing change for many risk managers, and many now are functioning within enterprise risk management systems in varying stages of implementation.

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The Shifting Risk Landscape

The risk profile of healthcare organizations has changed materially over the past several years, and the pace of change is likely to accelerate. Some of the most significant issues facing risk managers in this rapidly-evolving environment include:

- **Medical malpractice exposures and coverages for employed physicians and other healthcare professionals.** Around 70 percent of doctors had independent practices in 2006; now, less than 50 percent do.² Most doctors today work in offices owned and operated by hospitals. This results in a number of issues for risk managers:
 - ◇ The traditional distinction between insurers who specialize in entities and insurers who specialize in individual doctors is necessarily changing, with a number of options now available for combined or coordinated medical malpractice coverage for the entity, employed physicians, and even in some cases non-employed physicians. It therefore is important for risk managers to be clear about how insurance coverage applies for both the entity and its employed physicians, and to be certain the program is structured to avoid gaps, to provide a coordinated defense of both the entity and the employed physicians, and to assure adequate limits of liability.
 - ◇ With more employed physicians, hospitals are exposed to more malpractice risk. Risk management departments need to be equipped to handle a larger volume of potentially more complex malpractice claims. This is especially the case since the hospital may be seen as vicariously liable for the actions of employed physicians, whereas in the past it may have been easier to be dismissed from a lawsuit if the physician were considered an independent contractor.
 - ◇ Risk managers also need to be aware that insurance for employed physicians may not be packaged with the loss control services offered by some providers of individual physician policies, making it important that the entity's risk management and loss control departments fill that gap.

- **Potentially greater exposure to medical malpractice claims under new healthcare delivery models.** Some risk managers are concerned that medical malpractice risk exposure may increase through an integrated system such as an ACO where patients rely on the system of care as a whole. Risk managers involved with integrated delivery systems and multi-specialty group practices need to carefully assess the risks associated with the individual functions within these structures. They also should understand how interrelationships and incentive structures, as well as requirements imposed on more formalized structures such as ACOs, may lead to new or heightened medical malpractice exposures.³ Furthermore, increased responsibilities for healthcare professionals such as certified nurse practitioners under some new healthcare delivery models may result in more opportunities for medical malpractice claims.
- **Increasing HIPAA compliance challenges.** HIPAA has been a fact of life for healthcare providers since 1996, but compliance continues to present challenges as technology and healthcare delivery models evolve. The Health Information Technology for Economic and Clinical Health Act (HITECH), part of the American Recovery and Reinvestment Act of 2009 (ARRA), provides financial incentives for electronic health record (EHR) adoption under Medicare and Medicaid. This creates new issues in keeping records secure, especially in collaborative care environments where records are routinely shared among providers. HITECH also significantly ups the ante for HIPAA non-compliance.

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- **Other Data Security Issues.** Beyond the four corners of HIPAA compliance lie an array of other data security concerns. Personal health information is increasingly attractive to hackers, especially information that can be used for lucrative Medicare fraud. Several studies have put the value of a stolen health record at about \$50 on the black market.⁴ Despite the sensitivity of the information, the healthcare industry has a poor track record for data security, with one study concluding that healthcare entities are responsible for about two thirds of all breached records.⁵ The costs to notify patients of a breach, to identify and repair the cause of the breach, and potentially to defend, and possibly settle, lawsuits related to a breach, can be crippling to a healthcare organization. Additionally, a serious breach can damage an organization's reputation, potentially driving away patients.
- **Patient Safety.** Recent studies indicate that patient safety is not improving. The most common problems are complications from procedures or drugs and hospital-acquired infections. In a study of North Carolina hospitals – chosen because of the state's higher involvement in safety improvement programs – about 18 percent of patients were harmed by medical care, some more than once, and nearly two thirds of the injuries were judged to be preventable.⁶ In an environment of both changing healthcare delivery models and stressed budgets, risk managers are challenged to find creative new solutions to continuously improve patient safety.
- **Compliance.** Legal compliance has always been complicated in the heavily-regulated healthcare industry, and it grows yet more complex in the current environment. New healthcare delivery models, for example, can raise compliance issues as concerns the Stark Law, corporate practice of medicine limitations, anti-kickback statutes and anti-trust laws. Additionally, and perhaps most significantly from a loss perspective, the coding and billing practices of all healthcare entities are coming under increased scrutiny by regulatory bodies, which are investing more time and energy to assure that the government is being properly billed.

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- **Consolidation.** “Nearly every independent hospital board is examining the questions, ‘Can we remain independent?’ and ‘Should we remain independent?’” according to the Camden Group, a healthcare management consulting company.⁷ In addition to consolidation within the hospital sector, hospitals are acquiring physician group practices in droves, as well as alternate site care businesses. Assessing the risks posed by an acquisition target is an essential part of the due diligence process, but can pose challenges to often-overburdened risk management departments.
- **Other continuum of care risk management issues.** As the continuum of care continues to expand beyond primary facilities, risk managers will need to consider how exposures are changing and whether new exposures are being introduced. For example, risk managers may need to assess how the risks of ambulatory surgery centers compare to those of surgery departments in hospitals, and how risk management strategies should differ accordingly. Beyond patient safety and malpractice considerations, risk managers also may need to take into account differences in property exposures, environmental exposures and compliance issues, information security issues, employee safety concerns, and communication and coordination with the risk management department.

The Evolving Role of the Risk Manager

Not only must healthcare risk managers contend with a rapidly shifting risk landscape, many must do so as their roles and responsibilities within their organizations are undergoing transformation. These changes are being driven by a number of factors, the most significant being the adoption of enterprise risk management (ERM) in many organizations, and the risk management demands of new healthcare delivery models.

Enterprise Risk Management

Frequently risk managers are early champions of enterprise risk management initiatives within their organizations, but according to research by Advisen and RIMS, many do not retain leadership roles as ERM programs mature.

Increasingly, healthcare organizations recognize that risk presents an overarching challenge that is best addressed by taking a comprehensive, proactive approach. A growing number of healthcare organizations are moving towards enterprise risk management systems that coordinate risk management philosophies and process across the entire organization. The premise of healthcare enterprise risk management, according to the Enterprise Risk Management Task Force of the American Health Lawyers Association, is that “by evaluating all risk exposures confronting an organization and addressing these risks proactively, the organization will optimize its ability to provide safe, efficient, and effective patient care while preserving the organizational assets required to deliver such care.”⁸ ERM principles take into account that risks may have traditionally been treated in silos, but they are not isolated, especially in a complex environment such as a hospital. The Emergency Department and the Legal or Finance Departments, for example, share easily crossed barriers.⁹

To maximize their influence within ERM programs, and more broadly within their own organizations, risk managers must take the initiative to re-define their roles within these new frameworks. Frequently risk managers are early champions of enterprise risk management initiatives within their organizations, but according to research by Advisen and RIMS, many do not retain leadership roles as ERM programs mature. Organizations with ERM programs often create a Chief Risk Officer (CRO) position, to whom the risk manager may have a direct or dotted line reporting relationship. While perhaps not leading the ERM effort over the long term, the hospital risk manager should nonetheless have a key front line role, focused on daily operations: According to ASHRM:

[The risk manager] develops risk management strategies in line with the business goals and objectives communicated by the CRO and senior leaders. The risk manager also nurtures alliances with other departments to develop a broader understanding of the risks within the organization and adjust risk management policy in response.

The risk manager should continue to regularly report to senior management and the CRO about ongoing or newly identified risks, and be a reliable resource for staff at all levels. Education of staff about enterprise risk management would be another responsibility for the risk manager.¹⁰

New healthcare delivery models

The current environment represents an unprecedented period of experimentation and innovation in delivery models. How the role of the risk manager evolves depends a great deal on the specific characteristics of these various models, but what many models have in common is the need for risk managers to develop new processes and strategies for managing risk across an extended organization with a wider array of risk management challenges.

As previously mentioned, the ambit of a hospital risk manager's responsibilities is less likely to be limited to a single facility today, but rather to encompass remote facilities and community-based programs with very different risk management needs. In some cases, risk managers will need to engage otherwise unaffiliated individuals and organizations in the risk management process. Addressing these demands may require new formal, quasi-formal and informal reporting relationships and communication channels. They also may make it necessary for risk managers to cultivate new skills as they deal with disparate sets of both employed and independent healthcare professionals – some of who may not be accustomed to the risk management requirements of a large organization – and with various affiliated service vendors and alternate care site businesses.

Conclusion

The political future of legislated healthcare reform may be uncertain, but the influences behind the creation of PPACA will continue to drive experimentation and innovation in payment systems and healthcare delivery models.

“Nothing endures but change,” according to Heraclitus. Healthcare risk managers, however, can hardly be faulted for wishing for a bit more durability and a little less change. That is not a likely outcome, though; the pace of change in the U.S. healthcare system is more likely to accelerate than to abate for the foreseeable future. The political future of legislated healthcare reform may be uncertain, but the influences behind the creation of PPACA will continue to drive experimentation and innovation in payment systems and healthcare delivery models. These changes, combined with ever-newer technologies, inevitable new legislation and regulation, and fundamental shifts in the underlying risk landscape are producing increasingly complex risk profiles for healthcare organizations, and with them new challenges for healthcare risk managers.

At least in part because of the changes in healthcare entity risk profiles, the roles of the risk manager also are undergoing transformation. Whether a consequence of a more expansive continuum of care, or as a result of ERM programs, risk managers are likely to find that they are operating in new matrices of communication channels and reporting relationships, in roles requiring both new knowledge and new skills. Risk managers who view these changes as opportunities, and who cultivate the skills and knowledge to navigate new organizational structures and unfamiliar risk domains are likely to excel in these new roles, and to be seen as highly valuable assets to their organizations.

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NOTES:

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⁹ *Enterprise Risk Management: Part 1, ASHRM* <http://www.ashrm.org/ashrm/education/development/monographs/ERM-monograph.pdf>

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