Failure to follow up on mammogram

by Kassie Dye, MBA, CPHRM, Risk Management Representative, TMLT

PRESENTATION
A 54-year-old single woman returned to her primary care physician with left side pain in her arm, chest, and back that had continued for a week. The patient’s medical history included hypertension, fibroid tumors, and a hysterectomy, with a history of smoking.

PHYSICIAN ACTION
During the patient’s visit in January 2007, the primary care physician noted a moveable mass on the lower side of the left breast. A mammogram was ordered and a cardiac consult. A stress test, EKG, and echo-cardiogram were found to be normal, and the consulting cardiologist concluded that the patient’s complaints were non-cardiac in nature.

In February 2007, a mammogram was performed and the radiologist noted microcalcifications occurring more centrally in the left breast with no identifiable mass at the six o’clock position. The radiologist noted that the right breast was dense with a centrally located fibroadenoma. The radiology report stated that the microcalcifications needed further examination by either stereotactic or excisional biopsy. The radiologist instructed that the radiology report was to be faxed to both the primary care physician and the patient. The primary care physician and the patient maintained that they did not receive the reports.

Approximately 16 months later, in April 2009, the patient came to a local emergency room with sharp pain in the right armpit and chest wall pain. The pain was distinct with movement. The chest x-ray showed “minimal discoid atelectasis or linear fibrosis in the left lung base,” suggestive of emphysema. The patient was prescribed ibuprofen, cyclobenzaprine hydrochloride, and hydrocodone bitartrate and acetaminophen for pain. The patient was instructed to follow up with her primary care physician.

The patient made a follow-up appointment with another primary care physician two weeks later. This second primary care physician ordered a mammogram of the left breast. This study was compared to the original study from February 2007. The left breast showed a possible hypoechogenic nodule or cyst at the three to four o’clock position and a small cyst at the six o’clock position. Six month clinical follow-up was highly recommended.

On June 18, the patient came to her original primary care physician for evaluation of a self-detected mass in... (Continued on page 2)
the lower outer left breast. She also reported pain in the upper aspect of the left breast. She was referred to another radiologist for evaluation of the left breast. A bilateral breast and axillary ultrasound were highly suggestive of malignancy in the left breast with several suspicious-looking lymph nodes. The right breast showed a mass of calcifications. A breast core biopsy, MRI of both breasts, and left breast image-guided core biopsies were recommended.

The diagnostic radiologist completed several imaging studies on June 22 that indicated an invasive, well-differentiated mammary neoplasm with features of lobular carcinoma, showing individual cell infiltration with occasional single cells. Due to arterial bleeding, the left breast stereotactic-guided vacuum-assisted core biopsy had to be aborted and a surgical consult was recommended for the palpable invasive lobular carcinoma.

On July 10, the patient was admitted for surgery. The surgeon performed a left modified radical mastectomy and prophylactic right total simple mastectomy for a preoperative diagnosis of left breast invasive carcinoma and right breast atypical fibroadenoma. The pathology reports indicated extensive lymphatic vessel invasion of the medial portion of the left breast. The right breast showed proliferative fibrocystic alteration with multifocal and multi-segmented atypical lobular hyperplasia. Next, the patient had a hematology-oncology consult and began anti-hormonal therapy and chemotherapy to reduce the risk of recurrence.

In November, the patient underwent an excisional biopsy of the left chest wall mastectomy site due to pathology reporting infiltrating carcinoma of the left breast status post left modified radical mastectomy.

ALLEGATIONS
A lawsuit was filed against the original family physician alleging:

- failure to follow appropriate standards of care by neglecting to closely follow up on the findings of the February 2007 mammogram;
- failure to timely recognize the possibility of malignancy in the patient; and
- failure to timely communicate the findings and recommendations to the patient.

LEGAL IMPLICATIONS
Physicians who reviewed this case for the defense felt strongly that the primary care physician was deficient in providing timely follow up on the results of a mammogram. There was no office policy or procedure in place to ensure that diagnostic tests were completed in a timely manner and results obtained for review. The reviewers were also critical of the physician for not scheduling a follow-up appointment to discuss the test results. Some reviewers were marginally supportive of the primary care physician since the patient did not make any attempts to follow up regarding the diagnostic studies. The majority of the reviewers agreed that the patient would have had a more favorable outcome if the diagnosis had not been delayed for 16 months. Additionally, the reviewers suggested that the radiologist did not make sufficient efforts to contact the patient or the primary care physician with the abnormal test results.

DISPOSITION
This case was settled on behalf of the primary care physician.

RISK MANAGEMENT CONSIDERATIONS
According to a breast cancer study by the Physician Insurers Association of America (PIAA), the most common allegation in breast cancer claims is error in diagnosis including delay in diagnosis, failure to diagnose, and misdiagnosis. Diagnostic errors resulted in payment 44% of the time.¹

When diagnostic tests are being ordered for suspicion of cancer, tracking and follow-up appointments are essential. There are numerous tools that physicians can establish to minimize the possibility of a delayed diagnosis. Physicians can develop a policy and procedure for tracking diagnostic testing and receipt of results. The policy and procedure can be enhanced with dedicated personnel who assist to schedule diagnostic testing, monitor tracking logs, make appointment reminder calls, and follow up on patients who do not keep their scheduled appointments. Also, physicians can develop a procedure that at each appointment patients will schedule their next follow-up appointment. Having patients schedule while in the office can also help reduce the number of inbound phones calls that staff must manage. It is recommended that physicians document in the patient record when patients are instructed to return for a follow-up appointment.

Physicians’ documentation of discussions with their patients is valuable in the event of a claim or complaint. Discussion of the risks, benefits, and alternatives of treatment options should be documented in the patient chart. Documentation of the patient’s informed consent and understanding of the treatment plan and diagnostic testing will demonstrate the physician’s efforts to provide education to the patient.

Source

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Online reputation management for physicians

by Laura Hale Brockway, ELS

As more patients go online to find information about physicians, your reputation is being built and managed on the Internet. And like it or not, your online reputation plays a role in acquiring new patients and maintaining trust with existing patients and colleagues. It is imperative for physicians to have a plan and focus on online reputation management.

Online reputation management is the process of preventing and repairing threats to your online reputation. It is done by tracking what is written about you and using techniques to address or moderate the information on search engine results pages or in social media. The goal is to promote positive or neutral content while suppressing negative content.

For physicians, online reputation management involves addressing information in three areas:

1. information found on search engine results pages (Google);
2. information found in social media (LinkedIn, Facebook, blogs); and
3. information on rating websites, such as Vitals, HealthGrades, Rate MDs, Yelp, and Angie’s List.

Recently, a physician received an email from a company offering online reputation management services to help him mitigate negative online reviews on sites such as Yelp, Google, and health care review sites such as Vitals.

There are hundreds of companies out there offering these services. However, physicians are urged to use extreme caution when choosing a reputation management company. Some companies engage in questionable techniques that could lead to disciplinary action by the Texas Medical Board (TMB).

Specifically, the company that emailed this physician said they “will post reviews for our clients to over 40 social media websites … We post up to 25 reviews per month.”

This claim is alarming in the context of medical practice. How are they managing to post reviews from the patients of a particular physician? Are they making up reviews and then posting them?

It is unethical and dishonest to post reviews on these sites that are not from actual patients. Physicians are held to a different standard than other businesses, and posting fake patient reviews is inappropriate. Doing so would also violate TMB advertising rules, as this type of advertising (and the TMB does consider this to be advertising) would be considered “misleading.”

Here are a few techniques for managing your own online reputation.

KNOW WHAT IS BEING SAID.
Conduct web searches on yourself and your practice regularly. Review the first 30 hits of the search. (Any hit past 30 is generally considered extraneous and not likely to be read.)1 Among the top 30 hits, what are these sites saying about you? Continue to monitor these online discussions.

KNOW WHAT YOU CAN AND CANNOT DO ABOUT NEGATIVE REVIEWS.
Because of health care privacy laws, physicians cannot respond to online reviews. The fact that a patient’s identity is protected information directly hinders the physician’s ability to refute a complaint. Simply acknowledging publicly that the complaining party is a patient breaches confidentiality and violates HIPAA.

CONSIDER GIVING PATIENTS MORE CONSTRUCTIVE WAYS TO OFFER THEIR FEEDBACK.
Conducting a patient survey, for example, would be a good way for patients to express their dissatisfaction and feel empowered.

Another option is to talk to the patient directly if you can identify who made the comment. This should be done in person or over the phone. Begin by asking the patient why he or she is dissatisfied.

It is also a good idea to investigate the patient’s complaints. Is the complaint legitimate? Was the problem with a procedure, a staff member, or the patient’s wait time? Can the problem be fixed?

OPTIMIZE YOUR WEBSITE FOR SEARCH ENGINES.
Optimizing your website for search engines will ensure that anyone typing in your name or your practice name will see your website at the top of the search list. Optimizing your site involves creating comprehensive and targeted meta tags and website page titles that help search engines index your site.

More sophisticated techniques include editing your site’s content, HTML, and associated coding; removing barriers to the indexing activities of search engines; increasing inbound links; or purchasing related web addresses.

CREATE YOUR OWN BLOG.
You cannot control what other people say about you online, but you can create your own (Continued on page 4)
story and your own content. Your blog could be as simple as one 300-word post per week.

The content could be about services you are offering to patients, the importance of getting a flu shot, or any other health topic that is relevant to your patient base.

CREATE A LINKEDIN PROFILE.
Your LinkedIn profile is another aspect of your online presence that you create. Add information about where you went to school, your specialty, and your practice. Make your profile public so that patients and potential patients can learn about you in a way you can control.

TAKE ADVANTAGE OF THAT “THANK YOU.”
The next time you receive a thank you note or email from a patient or family member, ask that person to post their comments on your blog, on your LinkedIn profile, or on physician rating sites.

Keep in mind that with the prevalence of smartphones and tablet PCs, patients can post a review of you — a positive or negative review — at any time and from anywhere. Even from your waiting room. Don’t ignore what’s being said.

For more information on online reputation management, please see the following TMLT resources:


Source
1 Hoffman, T. “Online reputation management; cleaning up your image is hot, but is it ethical?” Computer World, February 12, 2008.