Academic Medical Center | Patient Safety Organization
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Patient Safety Alert

Informed Patient Refusal in Virtual Care

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A patient called his primary care office with complaints of intermittent chest pain and per protocol the triage nurse referred the patient to the emergency room for evaluation. The patient did not want to go to the ED because he did not currently have pain and did not want to wait in the ED and feared contracting COVID. The physician reiterated the recommendation for ED evaluation, but the patient wanted outpatient evaluation resulting in patient presenting to the ED with an acute MI.

Case Study

A 50-year-old male with a family history of heart disease and a personal history of type 2 diabetes called his primary care office with complaints of intermittent chest pain for the past 48 hours. Per protocol, the triage nurse referred the patient to the emergency department for evaluation. The patient told the nurse he did not want to go to the ED because currently he had no pain, but wanted to check in with his doctor, and requested a virtual visit, which was scheduled for later that afternoon. During the virtual visit, the physician explained that it was important for the patient to be evaluated in the ED. The patient said he didn't want to incur a high ED co-pay, thought the ED wait times would be too long, and feared contracting COVID. The physician reiterated the recommendation for an ED evaluation, but the patient said he wanted an outpatient evaluation. The physician agreed and a stress test was scheduled for the following week. Two days after the virtual visit, the patient presented to the ED with an acute MI.

Through the lens of CRICO's clinical coding taxonomy, adverse events that included a refusal of treatment as a contributing factor were analyzed.

TABLE 1: TOP ALLEGATIONS
• Failure, delay, or wrong diagnosis
• Delay in treatment/procedure
• Improper management treatment course
• Improper medication regimen management
• Failure to monitor patient's physiological status

TABLE 2: TOP ASSOCIATED CONTRIBUTING FACTORS
• Insufficient/lack of documentation—refusal to treat
• Patient factors—non-adherence with treatment regimens
• Patient Assessment—failure/delay in ordering diagnostic test
• Failure to appreciate and reconcile relevant sign/symptom/test result
• Patient assessment—narrow diagnostic focus -failure to establish differential diagnosis

N=41 MPL cases asserted 2009–2019 from across the U.S. involving a refusal of treatment.

Introduction

Since March of 2020, virtual care has expanded rapidly in primary care practices. While virtual visits were a lifeline for patients during the early days of the pandemic, as the rates of COVID continue to fluctuate, primary care providers respond to these fluctuations with crisis, peak, or usual care protocols. To meet the goal of providing the best care possible, primary care physicians and their teams now routinely consider the best location and modality to evaluate and treat patients as part of their decision-making process.

Based upon the patient's clinical presentation, physicians may recommend a virtual or an in-person visit. Occasionally, when a primary care physician determines that an in-person visit is necessary, the patient refuses the recommendation, and either insists upon a virtual visit, or wants to substantially modify the physician's recommendation. When appropriate and available, physicians can consider potential alternatives to a clinic visit, such as urgent care, but if the patient refuses any in-person visit, the primary care provider must consider the next steps to ensure the patient will receive safe and reliable care.

The Academic Medical Center Patient Safety Organization (AMC PSO) and the CRICO Primary Care Physician Leaders recently convened to consider the issue of patient refusal when a primary care physician recommends an in-person clinic visit instead of virtual care. This Patient Safety Alert highlights the convening recommendations. They include:

CONVENING RECOMMENDATIONS

- Setting patient expectations about virtual vs. in-person care
- Helping the patient to make an informed decision
- Communicating empathically with the patient; and
- Documenting the doctor-patient exchange clearly and succinctly, including the patient's refusal and the associated risks

Who makes the decision about virtual versus in-person care? Do you explain the limitations of virtual care versus an in-patient encounter to your patients?

Before the patient's virtual care visit, physicians can establish expectations for themselves and their patients about when an in-person visit is necessary. The use of triage protocols, sort criteria, and an escalation process for the care team can facilitate the initial scheduling of patient for the appropriate visit type. In the absence of literature, you may want to develop criteria specific to your patient population with periodic review and updates/adjustment.

While virtual care is a valuable and convenient option, in some cases, it will be necessary to schedule an in-person visit or to convert a virtual visit to an in-person encounter. According to Dr. Joseph Kvedar[1], physicians can make this decision by asking themselves whether they would do anything differently if the patient were in the office. If the answer is, "Yes," recommending an in-person appointment would be appropriate. The physician's recommendation to the patient should include an explanation that the clinical decision to recommend an in-person visit is based on an evaluation and assessment of the patient's presentation.

How do you feel when your patient decides not to follow your recommendation for in-person evaluation or treatment? Does it feel adversarial? How can you maintain a therapeutic alliance?

You may feel frustrated when a patient disagrees with you and decides not to come into the office. It is normal to have mixed feelings when a patient does not accept your recommendation, but the conversation with the patient does not have to become adversarial. Exploring the patient's reasons for refusal is an important first step in helping your patients to make an informed decision in their specific situation and matching their values.

What is informed patient refusal?[2]

Patients have the right to make informed decisions about their care.[3,4] This includes being informed of their health status, being involved in care planning and treatment, and being able to accept or refuse provider recommendations. Information provided to patients, and/or their representatives, includes an explanation of their current condition, diagnosis, treatment options, benefits, risks, treatment alternatives, costs, and prognosis. Part of any informed decision is an explanation of the specific risks to the patient of refusing a recommended treatment plan.

- Communicate the information in a manner that patients can understand to assist them in making an informed decision.
- There is no obligation to fulfill a request for treatment that the clinician does not deem to be medically necessary or consistent with the standard of care.

How can I clearly communicate the risks of refusal to my patient and maintain a therapeutic alliance?

Engaging the patient with active listening and conveying empathy are important elements of successful communication. A conversation with the patient about refusal begins by acknowledging your patient's experience and giving the patient an opportunity to explore their concerns and ask you questions.

Despite the physician's best efforts, a patient may continue to refuse an in-person appointment. When this happens, it is useful to have developed a strategy to respond to the patient, manage next steps, and document the exchange. In the example above, after listening attentively and acknowledging the patient's resistance to an ED evaluation, you can explain your concerns, the reasons for your recommendation, and the risks of refusal to follow the recommendation.

> *I understand where you are coming from. It could be inconvenient to go the ED, but I want to make sure you understand what I am worried about—and that you have all the information you need to make your decision. In this case, I am concerned that your chest pain could mean you are having a heart attack because you have two risk factors, a family history of heart disease and diabetes. I am recommending an ED evaluation because this is the best way to figure out what is going on. If you don't go to the ED, there is a risk of serious damage to your heart, which could cause severe illness or possibly death.*

How would you document this encounter in the medical record?

When a patient declines to follow a recommended plan for in-person evaluation and care, medical record documentation does not always accurately reflect the provider's conversation with the patient about the reasons recommending an in-person visit, and the potential consequences of not following it.

Effective documentation of care is specific, timely, objective, and indicative of the provider's and the patient's decision making. Careful documentation about patient refusal conversations is especially important in the event of an adverse outcome where patient refusal was a contributing factor, resulting in a delayed diagnosis or treatment. In these circumstances, medical record documentation has heightened importance. Incomplete, missing, or poor documentation increases the risk to patient safety and provider liability.

In this example the patient refused referral to the ED and had an acute myocardial infarction before the outpatient evaluation began. While it is understandable that you may be reluctant to use the word, "refuse," because you don't want to label or upset the patient, documenting the elements of your conversation clearly would include the following:

CLEAR CONVERSATION DOCUMENTATION
• The patient's chief complaint of intermittent chest pain for two days
• Risk factors, including a family history of heart disease and the patient's co-morbid diabetes
• Your assessment and recommendation of an ED evaluation to diagnose the cause of the chest pain
• An opportunity for the patient to ask questions and your assessment that the patient understands what you have said
• Your explanation of the specific risks of not going to the ED, i.e., a serious heart attack and possibly death
• A statement that the patient refused your recommendation for an ED evaluation

Summary and Conclusion

Virtual care is a convenient and valuable option for patients and primary care providers. Whether to schedule a virtual visit or an in-person encounter is based upon the physician's clinical assessment and recommendations for a proposed evaluation and treatment plan. Helping patients to make informed decisions when they refuse your recommendation can be facilitated by conveying interest and empathy for the patient's concerns, by clearly explaining your reasons for the recommendation, and succinctly documenting the substance of your conversation with the patient about the potential risks of refusal.

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