



White Paper

Mitigating Surgical Medical Malpractice Exposure in Ambulatory Surgery Centers

Making Your Ambulatory Surgery Center a **Healthcare SafetyZone®**

Given their many benefits to patients and physicians, ASCs have been called a “transformative model for surgical services.”

Even though Ambulatory Surgery Centers (ASCs) have been around for over 40 years, it is not until recently that healthcare has shown a spotlight on them. The traditional framework of only caring for patients in the hospital setting is fading, and many healthcare providers are recognizing the importance of ASCs.

Given their many benefits to patients and physicians, ASCs have been called a “transformative model for surgical services” (Ambulatory Surgery Center Association, 2013). They provide a cost-effective product that patients appreciate, while saving payers, such as Medicare, money. It is these factors, plus those related to provider autonomy and control over the total surgical process, that indicate that ASCs will continue to be a preferred setting for many surgical procedures.

ASCs and Medical Malpractice Exposure

Already more than 50% of malpractice claims against physicians come from the outpatient setting (Withers, n.d.). So, with the growth of outpatient services, and ASCs specifically, it is important that the same emphasis on managing risks and improving patient safety in the hospital becomes part of the fabric of the outpatient care settings. We need to broaden our approach and implement more integrated risk, quality and safety strategies within all healthcare settings. The ultimate goal is to create a Healthcare **SafetyZone®** for our patients everywhere through internal transparency and increased awareness.

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So how can we do this in ASCs? There are three key pieces to mitigating surgical medical malpractice exposures and enhancing patient safety in these settings:

- The first piece is identifying the issues associated with surgical medical malpractice and recognizing that ASCs are different from the hospital in terms of mitigating those issues.
- The second piece is gathering insight from external bodies to establish the ASC's standards of practice.
- And, the third piece involves establishing a data collection system to obtain real-time data that can point to emerging situations of dysquality and potential or real harm in order to drive change.

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Surgical Medical Malpractice – Lessons to be Learned

To prevent allegations of medical negligence, it is important to have a keen sense of what occurs in your practice settings, and a review of your closed claims is a good place to start. In your review, are you able to identify: Gaps in procedures? Consistent and accurate completion of checklists? Areas of problematic communication among the surgical team and post-surgical staff? By asking these questions, conducting a review and sharing the findings, you are taking the first step to internal transparency and placing your organization ahead of a potential claim or knowing when an unsafe condition may lead to an adverse event.

In a number of closed claims review studies and attorney discussions, the main areas associated with surgical error across all healthcare settings included:

- Wrong site surgery
- Wrong patient
- Incorrect incisions
- Retained foreign bodies
- Nerve damage
- Anesthesiology errors

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Contributing factors to these errors included:

- Inadequate pre-operative planning
- Inadequate post-operative and discharge follow-up
- Missed or poor communication – with the family and in handoffs
- Neglect leading to unsterile conditions or failure to rescue a patient in distress
- Incompetence

(What surgical errors constitute medical malpractice, n.d.)

While issues related to surgical medical malpractice claims might be similar in both hospital and outpatient settings, it is critical to acknowledge and understand the differences in addressing patient safety in the AMBULATORY setting. Concern for patient safety and quality of care is directly aligned with the physician's role as the surgeon or anesthesiology professional. Yet, resources, infrastructure and expertise related to improving patient safety and quality, which are well ingrained in the hospital setting, are often limited in the outpatient setting.

We need to take what we already know from closed claims (the current issues) and combine it with insights from regulatory organizations, and real-time data and analytics to create this new RQS model.

As the volume and acuity of patients cared for in ASCs increases, the risk of patient harm, and ultimately the potential for medical malpractice claims, can also increase. At the same time, this increase in outpatient volume will further consume already limited resources, hampering the ability to dedicate attention to an organization-wide, integrated approach to patient safety. Therefore, the time is now to educate, create awareness and develop a model of risk-quality-safety (RQS) management in the ASC setting that aligns with the patient population and surgical procedures performed. We need to take what we already know from closed claims (the current issues) and combine it with insights from regulatory organizations, and real-time data and analytics to create this new RQS model.

External Forces that Impact and Mold ASC Practices

There are several external bodies that exert forces on how the operations of an ASC are managed. These include:

- Your Medical Malpractice Insurance Carrier
- Accreditation Association for Ambulatory Health Care (AAAHC)
- American Association for Accreditation of Ambulatory Surgery Facilities, Inc. (AAAASF)
- Medical and Nursing Specialty Associations
- The Joint Commission

Each of these groups brings a different perspective to assessing your practice:

- Medical Liability Insurance Companies are quantifying their risk exposure in terms of the potential claims payouts they may incur
- AAAHC and AAAASF reflect best surgical practices through their accreditation standards
- Medical and Nursing Specialty Associations provide their constituents best practices information as set by their peers
- The Joint Commission provides accreditation focused on the demonstration of best practices across a series of standards that reflect the total ambulatory surgical organization

As ASCs form and grow, all of these bodies can provide insights and resources into what can be done to keep patients safe and keep an organization focused on best practices.

Real-Time Data to Drive Change

Currently, event management or incident reporting is a function that resides primarily in the domain of the hospital setting. As a result, there is little data to provide us a full picture of safety in non-hospital care settings. While ASCs do report certain types of events as quality indicators to the Centers for Medicare and Medicaid Services (CMS), generally, an ASC does not have a system to help

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them use these data in real time to affect changes that can be adapted from a quality improvement perspective. As we acknowledged earlier, the ambulatory setting may indeed face surgical risks and errors similar to the hospital setting, but the root causes, contributing factors, and the management of those events and how they affect the outcome of care delivery may be very different. Gaining these insights within the ASC presents a real opportunity to have a positive impact on patient safety and quality of care.

Establishing a system for the capture of data from ASCs is a vital part of creating the internal transparency that is needed to actively manage risk, quality and safety. The system must, at a minimum, allow for events to be collected that demonstrate inconsistency of practices, lack of best practices, and patient complaints or dissatisfaction. Analyzing these data to produce actionable information can be a powerful stimulus toward sustaining a safe environment. At the same time, it provides an opportunity to raise awareness about how potential medical malpractice risk exposure is interrelated with clinical outcomes, resource utilization and financial reimbursement.

Many data collection tools exist today, and during the selection of an event management tool, it is important to review the ease of use, how well it can be integrated into your particular ASC setting, and how flexible the tool is to adapt to new types of events and changes in your organization. The ability to access and analyze data easily to create actionable information is also of key importance.

By reviewing ASCs' practices from an RQS perspective, providers can enhance quality, reduce potential medical malpractice exposure and provide a safer environment for patients.

The Risk-Quality-Safety View of ASCs – Mitigating Risk Exposure

The three areas discussed come together in forming a Risk-Quality-Safety (RQS) View of the ASC. The core of a total RQS approach is achieving internal transparency to enable the ASC to be consistently aware of patient safety issues and to create a culture of safety. By reviewing ASCs' practices from an RQS perspective, providers put themselves in a more effective position to enhance

quality, reduce potential medical malpractice exposure and provide a safer environment for patients.

Everyone in the ASC setting—from the Administrator and the physicians to all of the health professionals—plays a critical role and must be actively involved in the development of improvements and interventions that can prevent patient harm. The data collected drives these changes, and the entire staff needs to be a part of the process. Changing a culture to embrace the reporting of events requires vigilance, but the data generated creates awareness around issues of risk, quality and safety for targeted intervention and is critical to RQS Management.

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Creating a Spiral of Positive Change

RQS Management promotes a cycle of continuous improvement and quality enhancement, and it all starts with awareness of issues surrounding patient care and treatment. Once these issues are identified, the next step is to educate staff on these issues and trends. This will help staff understand the kinds of events that need to be reported and why they need to be reported in a timely manner. Through this approach of awareness and education, RQS Management becomes part of the fabric of the ASC, and critical information is captured, shared and acted upon in real time. It moves the organization through a cycle of improvement and modification, which spurs greater awareness and increased reporting, ultimately helping create a culture of safety within the ASC.

Establishing this “spiral of positive change” becomes the process by which the ASC can execute on its goals for preventing and managing potential medical malpractice risk exposure and/or any patient safety and quality of care issues that may be emerging.

Ambulatory Risk-Quality-Safety Management



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The Benefits of RQS Management and Event Reporting

As the healthcare landscape changes and the reliance on ASCs increases, it is important to be vigilant in the areas of Risk-Quality-Safety Management and Event Reporting. ASCs can benefit from these areas in terms of:

- Mitigation of potential medical malpractice exposure
- Sustained financial health of the organization
- Consistent high quality care to patients
- A safe environment for patients, visitors and staff

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For more information on the **Healthcare *SafetyZone*[®] Portal**, Clarity's web-based RQS data management system and Clarity's RQS Consulting Services, please visit our website: www.claritygrp.com.

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