Multispecialty RM Program

for Commercial Carriers, Hospitals, Captives, Risk-Retention Groups and Physician Groups

Program Introduction

Physicians and attorneys, experienced in loss control, litigation management, patient satisfaction, and other risk management techniques, have developed the Skyview Loss Prevention Services (**Skyview**) Risk Management Program for Physicians (the "Program"). The purpose of this program is to assist physicians in identifying behaviors that impact the physician-patient relationship and to alter, as necessary, those behaviors that detrimentally affect patient encounters and potentially lead to claims and lawsuits. The program addresses issues applicable to physicians across all specialties practicing in a variety of settings, including hospitals, offices and ambulatory centers.

The program is available in a variety of presentation formats, but is most effective via live presentation with participant interaction. In the event attendance at a live presentation is not feasible, **Skyview** offers alternative methods of participation in the program, including web conferencing and play back recordings.

Program Structure

The Program is divided into required core courses and optional courses, and various other program offerings. We recommend that each provider be required to complete 20 credit hours of the 46 credit hours that are being offered by **Skyview.** All credit hours should be completed within a two-year time period.

The required 20 credit hours can be completed via a combination of core courses, optional on-site course offerings, online risk management alerts, and successful completion of a Risk Management Self Examination. Financial incentives are offered to clients in the form of discounts for additional courses and content offerings that are completed by each provider.

Program Requirements and Administration Methods

It is our recommendation that clients of the Program should require their providers to complete 20 credit hours of the available 46 credit hours of courses listed in Table 1. The 20 credit hours are comprised of 16 required core credit hours and4 elective credit hours. An **Skyview** program manager will be assigned to work with each Program client to coordinate and execute successful delivery of all aspects of the program.

Program requirements are as follows:

- **Risk Management Multispecialty On-site Course Seminar – 16 credit hours**
  All On-Site Course Seminars will be offered in Blocks ("Seminar Blocks"). Each Seminar Block will run for 5 consecutive days, during which 30 credit hours of lectures will be offered (6 credit hours per day). Seminar days will begin at 8am and run until 5pm, and will include time for questions, breaks and lunch. Each 5 day Seminar Block will be conducted by a team of 2 **Skyview** consultants. Teams will be comprised of a physician and a healthcare attorney, both of whom possess deep expertise in risk management and professional liability claims management.
- **Web-based Risk Management Self Examination – 4 credits**
  The RM test will be completed via web-based access through the **Skyview** website.
- **Optional Credits – 26 credits**
  In addition to the 20 required credit hours, an additional 26 credit hours will be available via a combination of on-site seminar lectures and bi-monthly web-based Risk Alerts that will be available via <u>**www.skyviewmd.com**</u>. Course registrants will have unlimited access to all web-based programs so that the on-line materials do not have to be completed in one sitting.

Table 1

Content	Credits	Optional or Required	Administration Method
Core Courses	12 credits	Required	On-site Presentations offered in 5-day blocks twice yearly for two consecutive years (total of 20 on-site days)
Optional Courses	18 possible credits (4 must be completed as part of the required course work)	- Required minimum (4 credits) - Optional / Elective (14 credits)	On-site Presentations
Bi-Monthly Risk Management Alerts	12 possible credits	Optional	Available bi-monthly at <u>**www.skyviewmd.com**</u>
Risk Management Self Examination	4 credits	Required	Available at <u>**www.skyviewmd.com**</u>

The **Skyview** program manager (or his/her designee) will maintain a score card for each Program client. As core and optional courses and other content offerings are completed by each provider, the score card will be updated. Results of the Risk Management Self Examination will also be tracked in the score card.

Course Content

Required Program Courses Core Course Content (12 credits)

Title: *Charting as the Best Evidence* (Core Content)

(*Please Note: We recommend the course on Charting as the Best Evidence be completed by the provider in the first year.)

A six (6) hour course designed to prepare the provider to consistently and thoroughly document the quality of care provided, while minimizing exposure to liability and supporting the physician in the event of litigation. This is an interactive session utilizing examples of charts that have thwarted litigation and those which have supported plaintiffs during litigation to demonstrate how documentation can prevent liability even in the event of an adverse outcome. Sub topics include:

- Why chart? The purpose of charting.
  - Clinical Charting
  - Financial Charting
  - Legal Charting
- Charting to reflect quality of care delivered
- What, How, and When to Chart
  - Documenting care and conversations
  - Contemporaneous documentation as the best evidence
- Common Issues in Charting:
  - Addressing errors and inconsistencies
  - Professionalism: Disagreements in the Chart
  - Language
  - Correlation with nurses, residents, PAs and APNs
- Effective electronic charting and EMR traps for the unwary
- The chart as a legal document
  - "If it wasn't charted, it wasn't done" versus a physician's custom, habit and practice
  - Regulatory requirements
  - How a chart is used in litigation
  - Disclosure
- Personal notes, calendars, diaries, message pads

Title: *Effective Communication* (Core Content)

A four (4) hour course designed to enhance the provider's communication with both the patient and the provider's colleagues. The course also includes interactive exercises using real life examples of physician conversations, which will aim to improve patient care and patient satisfaction, while decreasing exposure to litigation. Sub topics include:

A. Physician to Colleague

- Types of Effective Communication:
  - Oral -- in person and telephonic
  - Written -- by hand or electronic
  - Body Language
- The unintended consequences of communication
- Communication at hand off, verbal and written
  - Communication within the Patient's Chart
  - SBAR
- Follow Up
- Listening, Professionalism and Civility
  - The Disruptive Physician
- Optimizing Communication to improve patient care
- Preventing misinterpretation of lab and test results
- Assuring that results always get back to the ordering physician and patient
- Dealing with discrepancies and change of reports

B. Physician to Patient/Patient's Representative:

- Types of Effective Communication:
  - Oral -- in person and telephonic
  - Written -- by hand or electronic
  - Body Language
- Ensuring words and actions reflect dedication to the patient
  - Demeanor/Behavior skills
    - Professionalism
    - Articulation
    - Terminology
  - Patient perception
  - The Reasonable Patient: Patient Satisfaction decreases the likelihood of litigation despite an unanticipated outcome
  - Maximizing the effectiveness of time spent
  - Demonstrating Empathy/Sympathy
  - Interaction of provider's staff with patient -- code of conduct for office behavior
  - Response to - and management of - a patient complaint
    - Apologies
    - Oral vs. written responses
  - JCAHO pronouncements
  - The Disabled Patient

- Language Barriers
- Hearing Barriers
- Intelligence Barriers

Title: ***So You've Been Sued …*** **(Core Content)**

A two (2) hour course reviewing the basics of the claims and litigation process including a timeline of what to expect during the course of a pending claim or lawsuit. Sub topics include:

- The Claims Stage
  - Record requests
  - Claims adjusters
  - Statute of Limitations
- The Building Bricks: critical concepts, terms and definitions
- The Standard of Care
  - State Law
  - Expert Witnesses
- Your Attorney
  - How to be actively involved in your case to ensure the best outcome
  - The attorney client privilege
- The "United Defense" – how finger-pointing fails
- Discovery – Your Role
  - The deposition
  - Motion practice
  - Experts
- Dismissal, Settlement and Trial
- The National Provider's Data Base

Optional Program Courses – Optional Course Content (4 credits)

Title: ***Protecting the Patient from Exposure: Confidentiality, Privacy and HIPPA (Optional Content)***

A two (2) hour course detailing the provider's responsibility to protect patients' confidentiality and privacy. This course includes an overview of HIPAA requirements as they apply to the individual provider, exceptions to the HIPPA requirements, and examples of when violations of privacy have resulted in lawsuits against the provider. Sub topics include:

- Conceptual, legal and ethical foundations – the general duty of confidentiality
  - State and Federal Law
- What information can be disclosed, to whom, and for what purposes
  - Medical Records
  - Psychiatric Records

    - Substance Abuse Records
    - HIV/AIDS Records
    - Criminal Behavior
    - Minors
        - Pregnancy
        - STDs
        - Sexual and Physical Abuse
        - Substance Abuse
        - Psychiatric Treatment
    - Public Health Issues
        - Actions to ensure compliance with HIPAA
        - Documenting compliance with HIPAA
        - Office Code of Conduct, discretion

Title: *Informed Consent: Involving the Patient in His Own Care (Optional Content)*

A two (2) hour course reviewing the law on informed consent and preparing the provider to appreciate the process and implications of informed consent. Sub topics include:

- Foundations, general theory of informed consent
- Documents vs. Discussion
- What Must be Covered
    - The Reasonable Patient and The Reasonable Physician
    - How many risks must a physician disclose?
    - Alternative therapies, what is expected?
- Answering Questions
- Capacity to Consent, State Law
    - Minors
        - Pregnancy, STDs, Abuse
        - Divorced Parents
    - Elderly
    - Intoxicated Patients
    - Disabled Persons
    - Psychiatric Patients
- Forms
- Exceptions:
    - Emergent Circumstances
    - Religious Beliefs
- AIDS/HIV
- AMA – The Patient's Right to Informed Refusal
    - Policies and Procedures
    - Forms
    - Elopement
    - Confidentiality

- Discharge Instructions and/or Follow Up Instructions

Title: ***EMTALA: Not Just About Transfers*** (Optional Content)

A two (2) hour course outlining the requirements of EMTALA as applicable to the individual physician and hospital. The basics of the statute, as well as advanced concepts, are explored through case scenarios. Sub topics include:

- The statutory purpose
- Covered persons and entities
- Statutory duties of Sending and Receiving Entities:
  - Triage
  - Medical screening exam
  - Stabilizing treatment
  - Transfers
  - Responsibilities of on-call physicians
- The on-site evaluation by the state and potential pitfalls
  - Reporting violations
  - Policies
  - Investigations
  - Penalties
- Case Examples

Title: ***Does "Sorry" Work***? (Optional Content)

A two (2) hour course examining the concept of physician apology in the face of an unanticipated outcome. Different theories on the effectiveness of an apology will be explored. Sub topics will include:

- Patient Safety
- Events warranting disclosure
- How, what and who of disclosure
  - Statutory obligations
- Impact on potential litigation
- Impact on the long term relationship with the patient

Title: ***Patient Safety: Can it Be Achieved***? (Optional Content)

A two (2) hour course designed to make the provider aware of the Patient Safety laws in their jurisdiction, with an update on requirements regarding disclosure of adverse outcomes, and a review of state reporting requirements. Sub topics will include:

- General obligations
- Common areas of unsafe practice
  - Medications/Blood Transfusions
  - Unsafe discharge
  - Failure to communicate

  - Equipment failure
  - Falls
- Statutory requirements including what the provider's hospital is required to report
- Requirements of disclosure to the patient; how, where and when to make such disclosures
- The link between statutory disclosure requirements and litigation
- Process Improvement methods requiring provider participation

Title: *Getting Critical: Peer Review and Quality Assurance* (Optional Content)

A two (2) hour course designed to explain the peer review process as a critical component of loss prevention and quality assurance. Sub topics will include:

- General principles of peer review
  - Should you participate in peer review?
- Statutory mandates
- The Health Care Quality Improvement Act
- M&M conferences
- Nuances
- Documentation during peer review
- How to protect your peer review from discovery
  - Unintentional waiver
  - Attorney client privilege

Title: *More Than DNR: Navigating End of Life Decisions with Your Patients* (Optional Content)

A two (2) hour course designed to update the provider on the law regarding Advance Directives and Living Wills. This course will prepare the provider to navigate discussions with the patient and the patient's representatives regarding end of life decisions. Sub topics will include:

- Communication – Family interaction vs. Abiding by patient's wishes
- DNRs, Advance Directives, Living Wills
- End of life decisions in the absence of adequate documentation
- State-specific requirements
- Ethical and Legal Obligations Combined

Title: *Playing Nice in the Sandbox: Interacting With Consultants* (Optional Content)

A two (2) hour course designed for all providers to enhance their relationships with consultants while working together to optimize patient care. The course will also address minimizing the possibility of conflict and litigation. Sub topics will include:

- The "Captain of the Ship" doctrine's applicability
- Where or when does responsibility end?
- Communication
  - Between involved physicians
  - Between physician and patient
- Litigation
  - How to minimize exposure with teamwork
  - The united defense
  - How to manage the finger-pointing colleague

Title: *Mock Depositions and Mock Trials* (Optional Content)

A two (2) hour interactive demonstration of an actual deposition and/or trial testimony including witness preparation, direct and cross examination, and use of deposition testimony at trial. This is an unforgettable course that will use real life scenarios to demonstrate the effectiveness of a well prepared provider in the litigation process.

Additional Program Offerings (Required and Optional)

Required Risk Management On-line Self Assessment (4 credits)

This on-line "test" evaluates the provider's skills in minimizing risk during patient care. The assessment will also serve as an educational tool with detailed answers and explanations offered during the test-taking process.

Optional Bi-Monthly Risk Management and Loss Prevention Alerts (1 credit each for 12 possible credits)

A monthly newsletter dedicated to topics of general interest to the medical community, intended to provide lessons to a physician in the area of risk management and loss control are included. Specific topics and items of interest would include:

- Jury verdict reviews
- Case evaluations/Predictions
- Trends
- Hot Topics
- Patient Safety developments in progressive jurisdictions
- Confirmation of participation by Q&A requirement

About Allied Loss Prevention Services

Skyview Loss Prevention Services (**Skyview**) is a physician owned and managed consulting firm that offers loss prevention services to healthcare captives, risk retention groups, commercial carriers, and third-party administrators, and witness preparation counseling for medical malpractice defendants and their legal counsel. For additional information, call 888-471-4799, or visit www.skyviewmd.com.

Skyview Loss Prevention Services

888-471-4799 • www.skyviewmd.com