Understanding Negligence in Credentialing

Why Credentialing and Privileging are Important

- Patient Protection
- Risk management - Negligent Credentialing
- Accreditation and Regulatory Requirements

What is Negligence?

Conduct that is culpable because it falls short of what a reasonable person would do to protect another individual from a foreseeable risk of harm
Understanding Negligence in Credentialing

Theories of Liability
- Corporate Liability
- Governing Body Authority
- Respondeat Superior
- Apparent or Ostensible Agency

Elements of Negligence
- Duty to Exercise Due Care
- Breach of Duty
- Injury
- Proximate Cause
- Injured party must be able to establish that the injury resulted in compensable damages
- 4D’s: Deviation from Duty Directly causes Damages

Duty to Exercise Due Care
- State licensing regulations
- Accreditation standards
- Medical staff and facility bylaws, R&R, policies
- Case law
Examples of Breach of Duty

- Failure to follow own bylaws, regs, etc
- Failure to address concerns identified in the credentialing & recredentialing process
- Adopting an unreasonable policy

Setting a Precedent

- Establishes a new legal principle based on a certain set of facts
- Finding is thereafter authoritative

Precedent-Setting Cases

Darling v. Charleston Community Memorial Hospital, 33 Ill.2d 326, 211 N.E.2d 253, 1965
Precedent-Setting Cases

Johnson v. Misericordia Community Hospital, 294 N.W. 2d 501, 97 Wis. 2d 521 (Wis. 1981)

Recent Cases

Frigo v. Silver Cross Hospital and Medical Center, No. 1-05-1240 (Ill. App. July 26, 2007)

Providing Information

- Provide correct information when answering verification requests
- Don’t omit key information when answering verification requests
Decreasing the Chance

Training for Medical Service Professionals and Medical Staff Leaders

Medical Staff involvement in all phases of credentialing and privileging
Decreasing the Chance

- Follow all policies, procedures, bylaws
- Audit bylaws, rules & regulations, and policies
- If you are not in compliance with bylaws
  - Determine if required
  - Change if not required

Summary

- Negligence is conduct that is culpable because it falls short of what a reasonable person would do to protect another individual from a foreseeable risk of harm
- Organizations can be found liable for negligent credentialing
- Failing to follow bylaws can result in a negligent credentialing claim
- A thorough credentialing and privileging process that is consistently applied is important

Questions