Preventing the "*Delta Uniform*," or, Malpractice Reduction in the Urgent Care Center

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A few years ago, I flew over to San Diego to watch the Red Bull Air Races. A friend of mine who is a pilot occupied the right seat and another friend (also a pilot) was in the back of the plane seated with another friend. As we got closer to San Diego, I noticed that a thick inversion layer (dense fog) blanketed the coast. The lack of visibility required me to shoot an instrument approach into the airport.

If you have ever flown into San Diego International on a commercial flight, you probably approached from the east, landing on runway 27. As you may recall, there are some tall hills just to the east of the airport. The elevation of these hills requires a "non-standard" steep approach to land.

Bluntly, I screwed it up. I was too high on the approach and ultimately had to "go missed," an aviation term meaning, in this case, to go to the end of the line.

Unfortunately, this meant I was now number 28 in line for landing. I did not have enough fuel for an hour of holding patterns (FAA only requires enough for 30 minutes), however, so I diverted to a nearby airport, refueled, and rejoined the line of planes landing in San Diego. As I was re-entering the approach, my fair-weather pilot friend gave me the sage advice, "Don't 'dick up,' this time."

Since this somewhat sketchy admonition isn't always appropriate to say, the phrase *delta uniform* was born ("delta" being the military alphabet's version of the letter "d" and "uniform" signifying the letter "u").

My new mantra to urgent care providers and owners who ask me how to prevent medical misadventures is simply to say, "Don't delta uniform."

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At this juncture, you may be asking yourself, "Why do they let this guy write articles?" If you are not asking that question, you may instead be asking, "What are the most common ways urgent care center's 'delta uniform'?"

In no particular order, after 17 years practicing urgent care medicine and helping to defend urgent care providers as an attorney, here are the most common areas prone to the delta uniform:

1. **Discharge instructions.** Lack of proper discharge instructions is a common root cause for urgent care malpractice. Here's how it happens: Let's say a patient gets sent home with the diagnosis of a urinary tract infection, along with a prescription. The written instructions advise the patient to follow up with her primary care physician in seven to 10 days for a repeat urinalysis, and to drink plenty of fluids. The patient starts the antibiotics, which she believes may be making her vomit. Ultimately, she keeps the medication down about 50% of the time. In the interim, she becomes dehydrated, and develops flank pain and an elevated temperature.

   By the time she realizes that it may not be the medication causing her problems, she has gram negative sepsis from pyelonephritis, is very dehydrated, and goes into renal failure. She has a protracted medical course and ultimately develops renal insufficiency. All this stemming from a simple UTI.

   You may be thinking that she should have come back immediately when she became sicker. Unfortunately, not all patients are that smart. If the discharge instructions had said the following, the outcome of the suit would have been much different:

   a. Repeat exam with your provider or back here in two days.
   b. Return immediately or go to the emergency de-

partment if worse *or* no better by the second day.

c. If you cannot keep your medication down, or if you stop producing your usual amount of urine, you need to return or go to the ED immediately.

These instructions give the patient a very clear framework of what to watch for.

After 25 years in medicine, here is what I've learned: the ones who should return don't, and the ones who don't need to return do. Therefore, you have to spell it out in simple English (or the patient's language).

2. **Lab and x-ray results.** Not following up on results is an enormous source of malpractice litigation in all primary care practices.

   Example: A 40-year-old male patient presents on Thursday with a fever, swollen lymph glands, and an enlarged spleen. He is examined and the provider orders a simple blood count for a suspected viral illness. Ultimately, the patient is sent home with the admonition to take acetaminophen, drink plenty of fluid, and to rest.

   Subsequently, his CBC comes back with an Hb of 9, platelets of 15,000, and an absolute neutrophil count of 150/ul. These extremely significant lab findings are missed by the back office tech and sit on the desk of the provider for the entire weekend. On Monday, the provider on duty sees these results, correctly interprets them as worrisome for acute lymphoblastic leukemia, and calls the patient back—only to learn he died the day before from overwhelming sepsis.

   Take-home point: All labs results must be reviewed by the provider, entered in the chart, and the patient called back even if they interpreted as "normal."

3. **Radiology over-reads**: Not having *all* x-rays over-read by a board certified radiologist is another common reason for medical malpractice in the urgent care.

   Consider the 48-year-old nonsmoker who presents with blunt chest wall trauma from a motor vehicle accident. The provider orders a chest x-ray and reviews the films for signs of rib or clavicle fractures, pneumothorax, and widened mediastinum. She correctly determines that none of these finding are present. The patient is discharged home with pain meds and appropriate instructions.

   Six months later, the patients goes to his PCP with weight loss, cough, fatigue, and hemoptysis and is ultimately diagnosed with small-cell lung cancer. The films taken six months ago during the visit for blunt chest trauma reveal that the patient had a mass on their lung which ultimately proved to be the cancer. The urgent care provider had been so intent on looking for trauma that he missed the rather subtle shadow in the superior lobe.

   All x-rays taken in the urgent care center need to be reviewed by a board-certified radiologist. I have heard some owners opine that to save money, they only send out the "high-risk" films for review. This is akin to saying, "I will only wear a helmet on a motorcycle when I think I may crash." High-risk films are rarely missed; the miss occurs on the "easy" films where the finding is incidental but very serious.

4. **Service recovery.** Not addressing patient complaints in a timely manner is a frequent inciting event for an eventual malpractice claim. Bottom line is that angry patients sue providers. Therefore, "keeping the patients happy" is a great mantra to encourage the staff to act professionally and courteously. Parenthetically, the best way to encourage your team to treat the patients compassionately, is to treat your team with the respect and compassion they deserve.

   When the service falls below the patient's expectation and an angry patient contacts you complaining about the care or service, swallow your pride, listen, and make it right. When you do this, two things happen: you maintain the relationship and they tell others about the lengths you went to ensure their happiness; most importantly, their anger is diffused so they are less likely to have their day in court.

5. **Informed consent.** Failure to provide and document informed consent, particularly when the patient does not want to have a test performed or be sent to the emergency department, is a common issue during malpractice suits.

   A 55-year-old male presents alone with atypical chest and shoulder pain. He has a normal EKG, troponin, and chest x-ray. Despite the normal tests, the provider correctly tells the patient that a further work-up is needed and recommends transfer to the ED. The patient refuses and ultimately goes home and dies from an acute myocardial infarction.

   Written on the chart is, "Go to the ED for further work-up." The family sues and argues that had the patient known the potential grave danger he was placing himself in, he would have followed the recommendation of the provider and gone to the ED.

   Ultimately, the family is awarded a high seven-figure amount.

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If the provider had taken the time to write, "I discussed the fact that he is at risk for a heart attack and that he needs to go immediately to the emergency department for further workup and monitoring. Understanding the risk of death or serious illness, the patient, who is competent and verbalizes understanding of the risks, refuses to go to the ED, etc."

This simple paragraph would take only a few minutes to hand write (or seconds to click if you have a macro in the electronic medical record) and would have saved the practice and provider from financial ruin.

6. **Order sets.** Not having protocols or standing orders for potentially high-risk conditions, in other words. The three previous Health Law columns published in *JUCM* discuss this in detail.

   Bottom line: Good providers and urgent care staff make simple mistakes when busy or stressed. The use of standing orders has been shown to prevent medical misadventures, ultimately lower the cost of healthcare, and make the practice more efficient.

7. **Poor hiring practices.** Hiring rude or inadequately trained staff members and providers is a guaranteed inciting event for medical malpractice. The jury is still out on whether or not you can teach people to be nice. My gut tells me that kindness and compassion are probably inherited traits, and that coaching people to be more kind is akin to trying to coach someone to change their sexual orientation, so unless you make the "right hire" don't count on being able to teach them the requisite skills.

   The take-home point is this: Providers or staff that don't know the center's policies, are rude to patients and other staff members, or are negativity mongers have no business working in healthcare. Not only will they predispose your clinic to malpractice suits, they will chase off good team members who don't want to work in such a toxic environment.

8. **Documentation.** Poor, illegible, or inadequate documentation is often the final nail in the coffin when trying to defend care which may border on the standard. Many times I have seen a case rest on documentation. Poor handwriting, scant documentation, and not documenting the pertinent negatives are ultimately what the case turns upon. Spend the money to purchase an EMR system which forces your providers to be thorough, complete, and legible with their documentation. If implemented properly, I guarantee the return on investment on the EMR purchase and adoption will be significant, lasting, and lifesaving.

9. **Callbacks.** Performing callbacks on all patients acts as an early warning detector to identify patients who have complaints about the service, are not getting better, or have not made their follow-up visits. Patients love callbacks. They interpret this simple phone call to mean that you actually do care about them. It is the ultimate win-win-win. The patients love them, they prevent unnecessary suits, and the staff receives positive affirmation from grateful patients.

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Trying to defend the urgent care practice or act as the "expert" on these particular issues can prove to be somewhat challenging, inasmuch as in every instance the defendant-provider or owner had to come up with some reasonable answer as to why they did not have adequate controls in place to prevent the ultimate delta uniform (or, in the case of x-ray over-reads, the rational basis for why other films would be chosen over what was ultimately the culprit x-ray for radiology over-read).

I would venture to say, if an urgent care organization thoroughly addressed each and every one of these areas, the amount of malpractice in our industry would be negligible.

Frankly, as a provider, I would not work for an urgent care practice that did not have these areas adequately addressed, particularly since at the end of the day, no matter the reason, you will forever own and have to defend the resultant delta uniform on every new hire application, hospital or health plan credentialing form, and state licensure submission.

Remember, it is the provider, not the business, that is reported to the National Practitioner Data Bank, so the onus is on you to ensure that adequate safeguards are in place before you start working. It is simply not worth it in the long run to subject your professional career and the lives of your patients to lax business practices.

In aviation terms, malpractice reduction is all about preventing the *delta uniform* so that you don't go *tango uniform* (I'll let you figure that one out for yourself!). ■