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INSIDE

RELIAS
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Sexual Harassment Can Cost an ASC Millions

Sexual harassment allegations made headlines for weeks in late 2017, targeting politicians, actors, movie moguls, and others. In recent years, similar allegations also resulted in surgery centers and other healthcare organizations paying millions in fines and lawsuit damages after such allegations were ignored.

For instance, an employee sued one neurological surgery center, alleging repeated sexual harassment, including a physician's questions about her appetite for sex and crude comments about her body. *(Read more about the case at: http://bit.ly/2i04UMV.)*

In another case, a federal judge awarded a woman $800,000 in damages after a civil jury trial in which the woman said a physician sexually harassed her and managers took no corrective action. *(Read more about the case at: http://bit.ly/2ipLF01.)* In another case, a woman won nearly $168 million in a harassment suit that included a hospital and surgeon. The plaintiff described receiving a needlestick, someone calling her a "stupid chick," and hearing trashy sex talk. She'd filed 18 written complaints and was ultimately fired. *(Find more information at: http://abcn.ws/2APC8pD.)*

> "THE COST OF NOT TAKING A COMPLAINT SERIOUSLY CAN BE ASTRONOMICAL WHEN IT COMES TO DAMAGES AND ATTORNEY FEES AND THE TIME TO PROCEED WITH DISCOVERY."

"You can see from the news the tremendous attention the issue has gotten," says **Veronica Gray**, partner at Nossaman LLP in Irvine, CA. Gray also is the chair of the employment

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law practice group at Nossaman. "Women are becoming empowered by this. They're more aware. We're all becoming more aware of how widespread it is."

The cases that make it to court often are extreme examples, and often involve alleged victims who brought the problem to managers' attention. More commonly, employees will suffer uncomfortable behavior and not speak up, as shown by the decades-old allegations that are surfacing.

"One of the big issues with sexual harassment is it's often a situation where you have a much more powerful person sexually harassing someone, and that person doesn't have the power to speak up," says **Elizabeth J. Chen**, JD, an associate with Wigdor LLP in New York City. For instance, when it's the surgeon making sexual comments, the lower level the employee, the harder it is for the worker to speak up, Chen adds.

What surgery center managers need to keep in mind is that sexual harassment exacts a huge social cost and can be financially burdensome to ambulatory surgery centers (ASCs). Surgery center directors must take seriously all sexual harassment complaints, says **Stuart M. Address**, Esq., of Stuart M. Address Law in Stuart, FL.

"The cost of not taking a complaint seriously can be astronomical when it comes to damages and attorney fees and the time to proceed with discovery," Address says. "Frankly, it's not worth it. It shouldn't happen, and, if it does happen, I'd tell any employer to take it seriously."

The costs to ASCs also include higher employee turnover and developing a reputation as a bad place to work. The workforce quality diminishes, Chen says.

"A lot of companies make a cost-benefit analysis that is wrong," Chen says. "You look at someone like Harvey Weinstein or Bill O'Reilly, and time and time again, as *The New York Times* reported, those companies made a choice."

They chose to pay off the women making accusations and keep their stars.

"But there's a cost to that," Chen warns. "When you look at surgical centers and hospitals, you find that it's not always the person in the most power who is doing the harassing, but that's the person who is most likely to get away with it."

When an employee makes a sexual harassment allegation, ASCs should investigate immediately.

"If there's a potential lawsuit, they should get attorneys to run the investigation, rather than doing it on their own," Chen suggests. "It's better

EXECUTIVE SUMMARY

As news reports indicate, sexual harassment charges can occur anywhere, anytime, including in ambulatory surgery centers (ASCs).

- One sexual harassment case resulted in a surgeon and hospital losing a suit to the tune of $168 million.
- Sexual harassment often involves a powerful person harassing a less powerful person.
- Surgery centers that ignore sexual harassment run the risk of huge financial, reputational, and worker morale costs.

to have advice from an attorney who is skilled and qualified in this area."

Investigations can find out the intent of the incident. "Was it a stupid compliment?" Address asks. "There are people who think sexually oriented jokes are good for morale or fun."

If the investigation finds that the problem can be remedied with better staff education about sexual harassment, then it might not be necessary to fire the person accused of harassment. It might be enough to move the person to another location or shift, Address says.

"You don't want to move the victim because that could result in an adverse employment action, unless the victim asks to be moved," he says.

One of the challenges from an ASC perspective is that the person who is accused might be a surgeon partner/owner of the ASC. The employee's complaint cannot be ignored, but handling it properly is complicated, Address notes.

"What you need to do is show you're taking the complaint seriously and make sure the partner understands that this is not how we operate and it won't happen again," he says.

Managers and employees might think of sexual harassment as falling under Title VII of federal law, which covers discrimination. But state and local laws sometimes provide even more protection than federal laws, Chen says. For example, in California, there is a law against harassment and discrimination under the Fair Employment and Housing Act, Gray says. The 1959 act protects workers from discrimination due to age, race, disability, gender, religion, and other characteristics. It's been used successfully in sexual harassment cases. *(Read more about this law at: http://bit.ly/2zM4nbr.)*

"Typically, employees are going to sue under the Fair Employment and Housing Act in California because it's broader," Gray says.

Also, California companies with 50 or more employees are subject to mandated harassment training of supervisors, according to Assembly Bill 1825. An amendment includes bullying and abusive conduct, Gray says.

"Your company policies can go beyond the law," she says. "Look at most companies' handbooks, and you'll see that bullying and abusive conduct are prohibited conduct." ■

ASCs Can Take Steps to Prevent and Handle Sexual Harassment Allegations

Communication, reporting, and action are required

Recent lawsuits about sexual harassment in ASCs have involved allegations of physicians harassing technicians, nurses, and other staff. These types of incidences are particularly difficult to handle in ASCs because those accused also might be a partner in the practice. The best solution is prevention.

Surgery centers can create policies, procedures, and corrective actions that could prevent sexual harassment from taking place and prevent lawsuits when incidents occur. The following are some effective strategies:

• **Establish an independent reporting structure.** ASCs should make sure there are ways employees can report sexual harassment that do not rely on the person going to the harasser.

"There should be a board or independent, outside consultant," says **Elizabeth J. Chen**, an associate with Wigdor LLP in New York City.

Smaller companies might use outside human relations groups, and they could handle harassment reports. Employees should be able to approach more than one person to report their experience, just as there are different ways staff can report unsafe behavior in the operating room.

• **Communicate written policies clearly to managers and staff.** Internal policies and structures should make it clear that sexual harassment is not acceptable and applies to everyone in the center, including the ASC's owners, Chen says.

"Within their policies, there should be a reporting structure where if something does happen, there's a clear way for anybody who feels harassed to report it," she adds.

"You need to start with a written policy and communicate that policy to supervisors, management-level people, and even to regular employees, making it very clear that the policy will be enforced and is not just a piece of paper," says **Stuart M. Address**, Esq., of Stuart M. Address Law in Stuart, FL.

The policy must outline the mechanism for how employees can make a complaint and how the complaint is handled.

"The legal standard to avoid legal liability is to do a prompt investigation, and, depending on what you find, to take proper action," Address says. "If an employer does not do the appropriate investigation and take remedial action, then they're on the hooks for damages for sexual harassment."

Handled correctly, an ASC might be able to avoid a lawsuit.

"It really comes down to having the written policy, communicating the policy, and enforcing the policy," Address stresses.

Today's workplace is a long way from "Mad Men," a TV show that depicted Madison Avenue advertising culture in the 1960s when sexual harassment was routine and women were powerless to stop it.

"What was accepted years ago is not acceptable today," says **Veronica Gray**, partner at Nossaman LLP in Irvine, CA. "I've litigated a lot of cases, and at the end of every case, whether it's litigation or remediation, people always ask me, 'Veronica, what could I have done differently?' And I say, 'You could have communicated better.'"

• **Train management and staff.** ASCs should conduct regular training about what sexual harassment is and how it's unacceptable in the workplace, Chen says. New ASC practices can hold sexual harassment training when the center opens, but also should hold refresher classes on sexual harassment and gender discrimination policies, Chen adds. Training sessions should provide examples of appropriate and inappropriate behavior to provide staff with context, Chen suggests.

"You can tell people to not sexually harass people, but without examples, it's hard to know what that line is," she says. "You hope everyone has a clear line of what is harassment behavior and what is not, but for those who are less able to see that line, it's useful to give them words and statements that someone could find offensive."

Organizations can educate with the help of online videos, but interactivity is crucial, Gray says. In one training video, there is a clip from the 1980 movie "9 to 5," starring Lily Tomlin, Jane Fonda, and Dolly Parton. The movie was about three women office workers who exacted revenge on a sexist male boss.

"The excerpt is about how an employee named John is getting more money, and the boss' excuse is that John has a family, and Lily Tomlin let him have it," Gray says. "It's funny, cute, and everyone gets the point."

The problem is that women still deal with similar problems in today's workplace, she adds. "Our biggest challenge is how to create the change," Gray says.

Training is one positive step. "I believe live training is more effective because you're in that room and you can read people's body language, communicate, and bring up hypotheticals and get group involvement," Gray explains. "A lot of people don't realize that their behavior is inappropriate and how it is being perceived, and the perception becomes reality."

An organization's leadership must buy into the training and policies. Training sessions could include top leadership, who might hear the war stories of women who have been sexually harassed at previous jobs, Gray notes.

"Typically, the women won't speak about a situation at their current company, but we've had war stories of situations where some women were comfortable enough to share their intimate situations," she says.

ASC directors must protect the company and its employees, Chen notes.

"Sometimes, it's just a question of making sure someone is aware of their behavior and explaining that what might have been appropriate in a surgical suite 30 or 50 years ago may not be appropriate today," she says. "How do you moderate the behavior of someone who owns your practice? Unfortunately, the best way is to give them the cost-benefit analysis of how sexual harassment leads to more employee turnover, and it's bad for morale."

Also, lawsuits are extraordinarily expensive from the moment they're filed, regardless of the outcome, Chen adds.

"And there's a reputational cost," Chen notes. "Getting bad publicity off Google is extraordinarily expensive." ■

EXECUTIVE SUMMARY

Surgery centers can take several steps to reduce the likelihood of a sexual harassment claim or to handle one without it heading to court.

- The first step includes establishing an independent reporting structure.
- Communication about written policies on how sexual harassment is handled is crucial.
- Train both managers and staff on what sexual harassment is and how to handle such incidences.

Follow These Strategies to Prevent Problems With Dissatisfied Patients

Communication is key to reducing risk

Any surgery center director can recall or imagine several reasons why a patient might be dissatisfied with his or her surgery. It could be the result of unresolved post-surgery pain or an adverse event. It could be because the patient owes more for the surgery than he or she expected. It could be the patient didn't understand the informed consent or self-care instructions. Whatever the cause, this patient's unhappiness could lead to financial and legal problems for an ASC.

"An unhappy patient can do anything from simply not paying you to suing you for professional negligence," says **Scott Schoeffel**, JD, an attorney with Nossaman LLP in Irvine, CA. "There are all sorts of negative consequences, and that's what makes it such a touchy problem. You have a limited range of ways to solve that problem."

Schoeffel suggests the following best practice strategies to eliminate legal and financial risk resulting from dissatisfied patients:

1. When possible, eliminate financial risk. One basic step is to pre-verify patients' insurance benefits, Schoeffel says.

"When a patient comes in and says, 'I've got XYZ payer and this coverage,' you want to make sure that what they're telling you is accurate," Schoeffel says.

ASCs that fail to verify could end up with unpaid bills. The payer might deny payment based on the procedure or the patients' coverage limits. Then, it becomes the patient's responsibility — and the patient might not be able or willing to pay it, he explains. In addition to pre-verifying coverage, ASCs should emphasize advance payments.

"You have less of a collection problem when you collect in advance," Schoeffel says. "If the patient is uninsured, then ask for payment in full before the procedure. You can use credit card payments. Alternative payments are great."

> "AN UNHAPPY PATIENT CAN DO ANYTHING FROM SIMPLY NOT PAYING YOU TO SUING YOU FOR PROFESSIONAL NEGLIGENCE."

ASCs could use secure, online payment portals that deposit funds directly into their bank accounts. PayPal is one example.

"This accelerates the statement process and makes sure you get the bills out on time," Schoeffel says. "The more payments you can get up front, the more you reduce your financial risk, and you may reduce your legal risk, as well."

Surgery centers can offer payment plans to cash-strapped patients, but the net result often is that patients will find their own way to pay for the surgery so they don't have to deal with the payment plan, he adds.

2. Reduce legal risk. One best practice to avoid risk is to provide a fully informed consent before the procedure, Schoeffel says.

"You need to prepare the patient for the possibility of an adverse outcome," he says. "It's your professional obligation, and the more professionally you do it, the more patients are prepared for the possibility of something happening that they didn't expect."

Communication skills and empathy are important when providing informed consent, Schoeffel notes.

"Walk through informed consent from the patient's point of view," he says. "Try to be as empathetic as you can with the patient. You might do 10 of these procedures in one day, but it is the only procedure like it that this patient will have in his lifetime."

Another best practice is to follow up with patients through patient surveys.

"Let them know you care and value their opinion about their experience," Schoeffel says. "And together with that, make sure everyone in your staff who has a conversation with the patient or patient's representative is trained in communication."

Give employees who speak with patients the talking points of these interactions, making certain there is a uniform style coming from the surgery center. Talking points can help staff know what kind of questions to expect and how to handle those questions.

"The last thing you want is someone who is going to communicate, either through a collection call or an intake call, to a dissatisfied patient, and they're not able to communicate well," Schoeffel says.

3. Recognize warning signs. "The most obvious warning sign is when a patient or patient's caregiver expresses a grievance [about] the experience," Schoeffel says.

They might complain of pain that has continued for two weeks or that the surgery experience was not what they expected. Another warning sign is when the patient experiences an unexpected adverse event.

"Things didn't go smoothly," Schoeffel says. "Maybe the patient came in for sinus surgery, but left with a bad post-op infection and can't breathe well."

4. Invest well in training. Clear communication is a good way to prevent patient dissatisfaction.

"Surgery is an important process, and you want to have as much communication with patients as possible about what they can expect and what they have to look forward to," Schoeffel says.

It's always important to discuss any potential problem up front.

"The centers that invest time into training personnel have much smaller numbers of dissatisfied patients. They also reduce the financial and legal risks," Schoeffel says.

ASCs can hire law firms or consultants who assist with training and risk reduction. These consultants will study the surgery center's whole business practice and offer suggestions and training.

"It's a long-term investment," Schoeffel adds.

5. Express sympathy without admitting fault. "There's an art to not admitting fault," Schoeffel notes.

Some states, including California, have created "apology laws" that are designed to allow healthcare facilities to express sympathy without running the risk of words turning into legal liabilities. The California evidence code, section 1160, reads, in part, "The portion of statements, writings, or benevolent gestures expressing sympathy or a general sense of benevolence relating to the pain, suffering, or death of a person involved in an accident and made to that person or to the family of that person shall be inadmissible as evidence of an admission of liability in a civil action …" *(Learn more about the law at: http://bit.ly/2zdhtLU.)*

But the code also reads a "statement of fault, however, which is part of, or in addition to, any of the above shall not be inadmissible pursuant to this section." This means that a letter that expresses sympathy is fine from a legal standpoint. But if the letter inadvertently admits that the ASC caused the problem or adverse event, then such a letter could be used against the surgery center. Whenever a facility plans to send a letter to patients who've experienced problems or who expressed dissatisfaction post-surgery, it's a good idea to show the letter to a risk manager or healthcare lawyer, Schoeffel advises.

6. Know when to ask for help. These are the three main circumstances when an ASC should seek professional assistance:

• First, involve the administrator and risk manager in developing policies and training staff for when internal methods fail. ASCs could hire a law firm or consultant to assist, Schoeffel says.

• Second, involve the ASC's attorney when someone threatens litigation or it appears litigation is likely. Often, it's obvious when someone is heading to litigation, Schoeffel notes. "You might get a letter that talks about something having gone wrong and it's the fault of the facility or physician, or they allude to some sort of professional fault," he says.

• Third, improve communication. "Review scripts and processes with a lawyer; train employees and give them scripts to start with during phone conversations," Schoeffel suggests.

Problems often occur because of poor communication between healthcare staff and patients.

For instance, a patient might call the dentist's office to report that his gums have been bleeding for several days. The person on the phone might say, "Oh, that's interesting." This isn't the type of response that will make a patient feel as though the dentist is as concerned as desired, Schoeffel explains.

The chief communication problem isn't saying the wrong thing, it's not saying enough and not showing empathy, Schoeffel says. "You can't be too empathetic."

The right answer could be, "I'm so sorry you're feeling this way. Gosh, that must be miserable," and similar

EXECUTIVE SUMMARY

Unhappy patients can cause major headaches for a surgery center. Problems could lead to financial and legal issues.

- In today's ASC market, the best strategy to reduce post-surgery billing conflicts with patients is to pre-verify patients' insurance benefits.
- Thorough informed consent can help reduce miscommunication snafus.
- Know when to seek professional help in dealing with a patient's complaint.

expressions of empathy, Schoeffel offers.

"Nobody goes in for a medical procedure and is in a good mood," he says. "They're stressed; they're anxious. That's when you can do your best with your communication and the clarity of your informed consent to make them feel at ease."

7. Be cautious about discounting bills. ASCs might be tempted to give dissatisfied patients a discount, much as a retail clothing store might give a client a 25% discount after a bad experience. But this often doesn't work in healthcare, particularly when ASCs receive government payer funding, Schoeffel warns.

"Depending on the type of patient, how much the bill is, and whether there's a government program, you may not be able to discount the bill," he explains. "There's a possible compliance implication, so it's helpful to get an attorney to look at your scripts, processes, and all of those things." ■

Balancing Needs of Multigenerational Staff Challenging for ASC Directors

Be sensitive to each generation's priorities

About one-third of U.S. workers are 50 years of age or older, according to the U.S. Census Bureau. Within a couple of years, about half of all registered nurses will reach the traditional retirement age.[1] ASCs need these older employees, but ASCs also need younger workers in the staffing pipeline. Balancing both needs can be challenging because of societal differences in a multigenerational workforce, says **Cindy Young**, BSN, RN, CASC, administrative director at Surgery Center of Farmington in Farmington, MO.

"In our surgery center, we don't have much turnover," Young says. "A lot of people have been here for many, many years, and we're aging."

When an employee retires or moves, the ASC usually will replace the person with a millennial.

"The millennials are very eager to get in there; they want to take charge, and they want to make a difference," Young says. "Sometimes, the older generation has difficulty with, 'I've been here. I've got the experience. You're new.'"

Directors have to reassure older, much more experienced workers that their expertise and work history matter when it comes to scheduling, responsibility, and pay. But, simultaneously, everyone has to acknowledge the younger workers' need for relevance — making a difference and taking on responsibilities that matter.

"I feel like a lot of millennials, and I have a daughter in that generation, are kind of a take-charge generation that feels like they should come in and have a good position," Young says. "They want to be at the top of the ladder."

But in Young's own generation, the belief is that they started at the bottom and worked their way up, so the younger employees should do the same. Millennials disagree.

"Millennials want to be at the top quickly," Young says. "They're the instant generation — instant fast food, instant internet, and they struggle when you hold them back."

From a managerial perspective, there must be a balance between encouraging them, giving praise, and finding work roles that are important to them and useful to the surgery center.

Baby boomers and Generation X are accustomed to the workplace management style of "If I don't acknowledge you, then that means you're doing good." For millennials, there must be more attention and recognition. A little praise can go a long way, Young says. "If you don't say anything to them, they think they did something wrong."

Another issue involves training millennials. Managers should be clear with older, more experienced staff that training younger workers is not a sign managers are phasing out older workers.

"It's a touchy subject," Young notes. "The older generation came from a belief that 'If somebody learns my job, they're going to replace me.'"

Make it clear to existing staff that they're doing a good job with the training and that the purpose of bringing on new, younger workers is to give other employees more flexibility in their time off and to prepare for the time when older workers decide to cut back on hours or retire, Young suggests.

"Focus on the positives that as long as we train new workers to do the same jobs, then long-time staff will be able to take time to do more things they love," Young says.

Despite the prevailing belief

that millennials will switch jobs more readily than baby boomers and Generation Xers, this isn't necessarily true.

"We have one millennial who has been here eight years," Young says. "You have to support them, and as long as you make them feel important and give them responsibilities, they're more apt to stay."

Another way to attract and retain millennials is to offer them work-life balance.

"I think it's generational, and I talk with other millennials — and even my daughter is the same way," she notes. "They only want to work a certain amount of time. They want more time to spend with their children and less time to work."

Surgery Center of Farmington employees can earn benefits, starting at 32 hours per week. So, a four-day work week is popular with some younger staff. Building staff camaraderie is an important strategy for maintaining morale, particularly when the workforce is multigenerational. For instance, the Surgery Center of Farmington arranges staff activities outside the surgery center, which included gathering staff to attend a baseball game. Another was a holiday party. There also are potlucks and a Thanksgiving dinner at the center.

"Sometimes, staff will arrange outings among themselves, like they might go shopping one Saturday," Young says. "They want this center to be more of a family than a job, and whenever you can mingle a family in there, then coming to a mundane job every day is not as stressful."

Other morale-building ideas are to engage staff in team-building activities and to give each employee a one-on-one lunch with the manager on their birthdays. "We have an hour for lunch and talk about their life and home," Young says.

Areas that can cause morale trouble involve starting salary, raises, and annual reviews. For example, potential new hires often say that their previous salary was greater than what the new job will offer, and so they expect to receive that higher amount.

"I say, 'I'm sorry, but this is our wage scale, and if I hire you at that rate, then it will be unfair to others, and I can't do that,'" Young says. "I've had people turn down the job because of the wage, but I'm fair to the employees I have, and I won't hire someone from outside the company for more than what someone inside the company is making."

In some instances, the potential employee will agree to the lower wage because they want a different work environment, she says.

Working in an ASC can be a challenge for new employees of any generation because of its fast pace, Young says.

"We've had a couple of employees over 17 years who couldn't keep up with the pace and ended up leaving," she explains. "The surgery center environment is not for everyone." ■

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Screening Patients Can Be Tricky, Particularly Without Electronic Records

Identifying the right patients for outpatient surgery can be tricky. Surgery centers must ensure patients have no conditions or take no medications that would jeopardize a safe surgical outcome. ASCs that receive funding from the Centers for Medicare & Medicaid Services (CMS) also must make certain patients are not expected to be hospitalized after surgery.

"CMS wants to make sure we are choosing patients that are appropriate to having surgery at an outpatient facility and will go home safely afterward," says **Missy Soliz**, BSN, RN, quality and risk manager for Mississippi Valley Health in Davenport, IA. "You can't just say, 'We have strict and appropriate exclusions and won't take a patient over X age or BMI,' and leave it at that. While we do have some clear restrictions, there is more to it than that."

The team must take into consideration the ASC's capabilities and limitations, including staff expertise and training. The team also should consider:

- the patient's current health status;
- the patient's medical history;

• the procedure's variables, including anesthesia type, invasiveness, duration, and estimated blood loss;

• the patient's support at home and/or ability to take care of himself or herself effectively at home.

Soliz offers these tips on improving patient selection or screening:

1. Collaborate to improve safety. Proper patient selection and preadmission screening require a strong collaboration among the patient, the patient's healthcare team, the surgeon, the anesthesia provider, and the surgery center's team, Soliz says.

"The priority is patient safety, and the goal is the best possible outcome for the patient," she says.

Keep in mind that safe patient care is a patient's right.

"The ASC has a responsibility to collect a patient's health history to help ensure that the patient is an appropriate candidate for the ASC setting," Soliz says.

This requires collaboration with the patient's healthcare team to ensure the patient is optimized for the specific, planned procedure, with the planned anesthesia type in the ASC setting, she adds.

2. Investigate patients' particular risks. "More and more, we're seeing sicker patients in the ASC," Soliz says. "Sometimes, those patients don't understand the risks pertaining to surgery and anesthesia."

ASCs often do not maintain electronic medical records or access to all patients' records from other providers. Hospital and medical reports often do not include the whole picture. Thus, ASCs must rely on patients' memories and self-reports.

"There is a hope that all of these electronic medical records would communicate with each other, but we're not there yet," Soliz says. This leaves ASCs to rely on the patient's knowledge, which can be problematic. "A common situation we see is we'll ask them if they have any history of high blood pressure, and they'll say, 'Nope, I have no problem with that,'" Soliz says.

"THE ASC HAS A RESPONSIBILITY TO COLLECT A PATIENT'S HEALTH HISTORY TO HELP ENSURE THAT THE PATIENT IS AN APPROPRIATE CANDIDATE FOR THE ASC SETTING."

The truth is that the patient has been taking high blood pressure medication daily. But, in the patient's mind, this is a fixed problem and no longer an issue.

"They don't understand their personal health conditions and the potential risks of those conditions," Soliz says.

ASC nurses can learn about problems that patients omit by comparing their answers with their list of medications. If a patient said she had no trouble with blood pressure, but the medication list includes a drug to lower blood pressure, then the nurse can ask and educate about the discrepancy.

"We call to clarify and say, 'What is this medication for?' During those nurse interactions, we educate them on the importance of these answers," Soliz says.

During pre-surgery visits, nurses can go through the health information line by line. Nurses can ask patients about over-the-counter (OTC) medications and discuss which of the OTC and prescribed medications they can continue taking prior to surgery.

"We need to educate patients about supplements, including fish oil, which some physicians will say they cannot take before surgery because of the increased risk of bleeding," Soliz says. "It may take some digging to uncover some of those health problems, and we might not find out about them until the day of service," Soliz says. "We have cancelled patients on the day of service for problems we had not known about."

Identifying all risk factors well in advance can save the patient the inconvenience and frustration of a last-minute change. Date-of-service cancellations also create issues for the ASC, disrupting operations, changing case order, and adding to the chaos, all of which collectively increase the stress on staff and risk to the patient.

3. Direct patients to input their health information electronically, when possible. Some surgery centers use an online preadmission health history form in which patients input their medical information and their medications. This helps reduce the nursing hours used for collecting health history information. Gathering this information via phone or in-person interviews is time consuming. Still, it is important that a nurse review these, Soliz says.

When a patient answers "yes" to a question, such as a question about

experiencing heart problems, the electronic system provides a drop-down menu of heart problems to select.

"The system queues them on certain questions," Soliz says.

Not all the information is accurate, but it gives ASC nurses additional data, which nurses can use in follow-up inquiries.

"We need to know if they need special instructions, and we need to know if we've uncovered something where the outpatient setting may not be the best for the patient," Soliz says. "We look at their physical status, health condition, stabilization, and health diseases."

Nurses also will see whether patients went to follow-up doctors' appointments. "If a patient never went back to the doctor in a year, we are hesitant because this patient did not follow up as directed on this condition."

This could mean the patient would fail to follow post-surgery instructions, which could lead to less positive outcomes.

4. Delve into patients' social factors. ASCs must consider other patient factors, like transportation.

"Do they have someone to take them home?" Soliz asks. "And when we talk about support and getting a ride home, those are two different things. If they have a ride home and someone drops them off and leaves them there, that might not be the best thing for that patient."

It's important to make certain patients can perform self-care when they return home from surgery, she adds. "Is this something they can do?" ■

SDS Manager

Eroding Profits, Compromised Benchmarks

By Stephen W. Earnhart, MS
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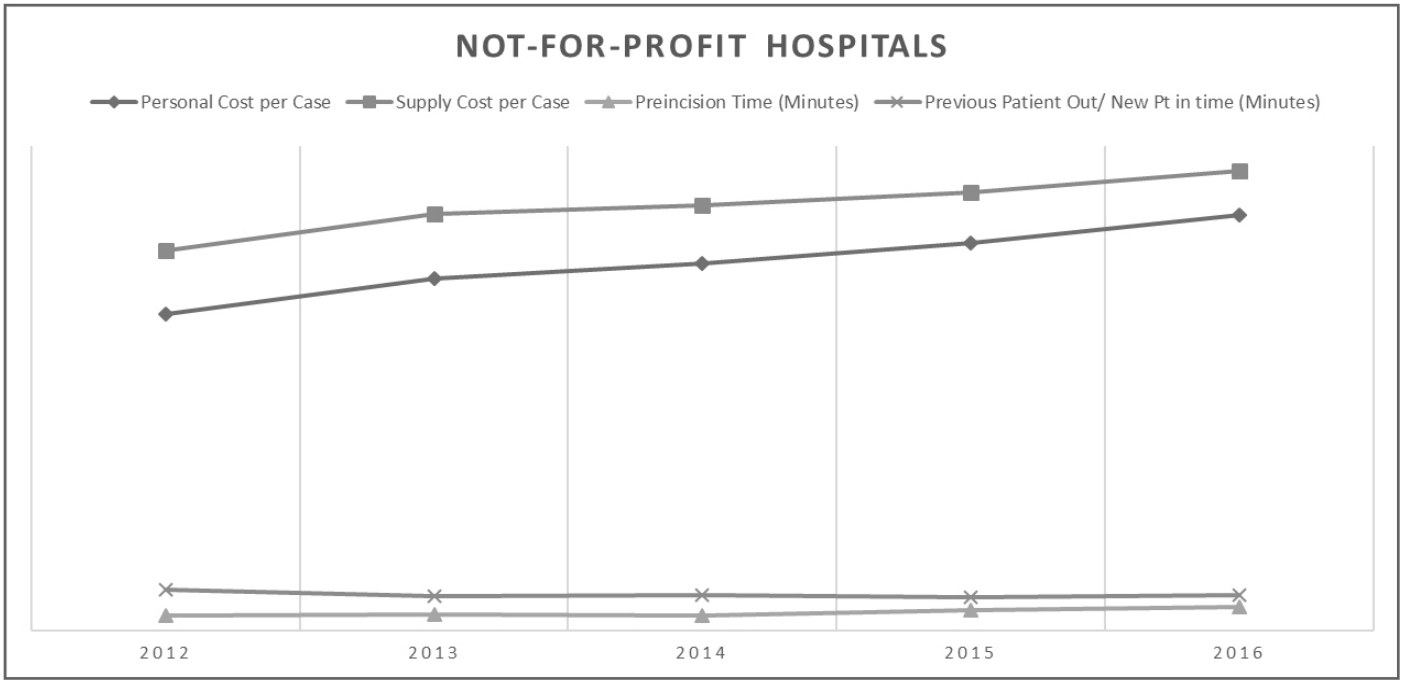
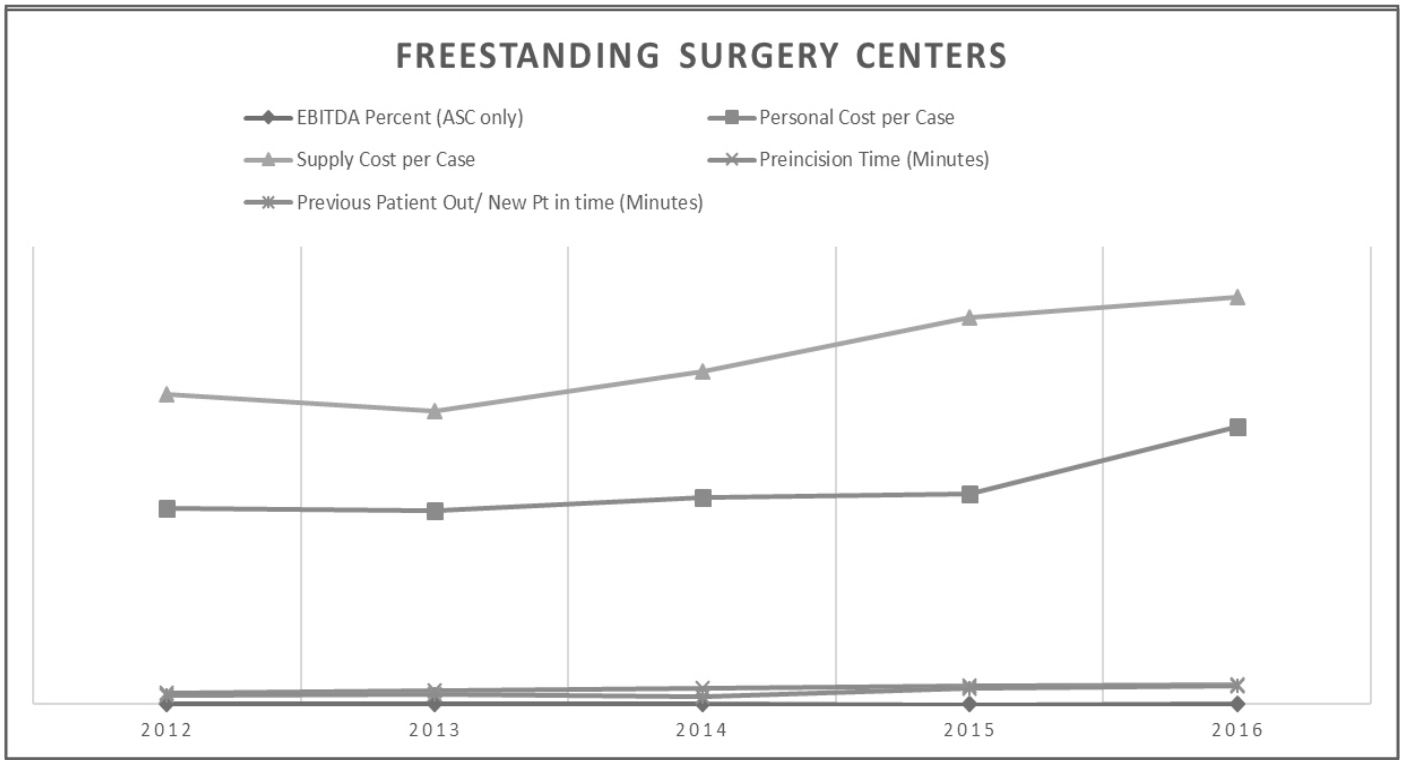
Austin, TX

Is your profit margin not what it used to be? Has your turnaround time increased? You are not alone. It happens to the best facilities, both hospitals and freestanding surgery centers. The reasons vary, but the leading cause is usually one reason: No one monitors trends.

Hospitals are better at spotting trends than surgery centers, but hospitals employ more personnel that make the task easier. Surgery centers are more cognizant of the numbers but don't maintain the software or personnel to track these numbers over time.

So, how does one monitor numbers and trends? Over the





summer we completed the homework for five hospitals and five surgery centers in different geographic areas. It's not enough facilities to be considered an accurate portrayal of the industry, but for our internal purposes, it is enough.

The following is what we monitored:

- EBITDA, an accounting term that means Earnings Before Interest, Taxes, Depreciation, and Amortization. We were unable to monitor this for hospital due to software restraints;
- personnel cost per case;
- supply cost per case;
- pre-incision time (time patient in suite to incision time);
- time from one patient out of the surgical suite and new patient into room (to follow cases only with same surgeon).

We studied five years' worth of data and found enough information to demonstrate some trends. It's important to note that the hospital software does not roll up the financial picture as easily as ASCs, so we were unable to obtain the EBITDA we were seeking for them.

The actual numbers are not all that important for this illustration since we were not trying to compare the two — just the trends. *(See trending charts, page 10 and 11.)*

Again, there is the caveat that these results are not very scientific. They are used only to show trends that every facility should monitor (and facilities can add more than we listed here) and to find ways to improve or reverse them. Some results potentially are positive, such as the pre-incision times increase. That could show increased attention to time-outs and vigilance for patient safety. Also, we duplicated like procedure "To Follows" for the turnover time listed.

Trending your facility makes a difference. It can either make you look really good or you will need to spend more time to understand what it all means. As a nurse in both the hospital operating room environment and ASC, I rarely looked at or cared much for the "numbers." I certainly do now since so much is at stake.

Earnhart & Associates is a consulting firm specializing in all aspects of outpatient surgery development and management. Earnhart & Associates can be reached at 5114 Balcones Woods Drive, Suite 307-203, Austin, TX 78759. Phone: (512) 297-7575. Fax: (512) 233-2979. Email: searnhart@earnhart.com Web: www.earnhart.com. ■

COMING IN FUTURE MONTHS

- Optimize an ASC's billing workflow
- How to insulate an ASC from loss of volume leader
- Calculate an ASC's key performance indicators
- Start competency program for reprocessing

SAME-DAY SURGERY

CE INSTRUCTIONS

To earn credit for this activity, please follow these instructions:

1. Read and study the activity, using the provided references for further research.

2. Log on to AHCMedia.com then select My Account to take a post-test. *First-time users must register on the site.*

3. Pass the online tests with a score of 100%; you will be allowed to answer the questions as many times as needed to achieve a score of 100%.

4. After completing the test, a credit letter will be emailed to you instantly.

5. Twice yearly after the test, your browser will be directed to an activity evaluation form, which must be completed to receive your credit letter.

CE QUESTIONS

1. **Sexual harassment complaints are subject to which federal law?**

   a. Title V
   b. Title VII
   c. Title IX
   d. The Fair Wage and Labor Act

2. **What is a good strategy to reduce legal risk when a patient feels dissatisfied with his or her surgical outcome?**

   a. Provide a fully informed consent before the procedure.
   b. Prior to the procedure, highlight the expected positive results possible from the procedure, but de-emphasize the potential negative outcomes.
   c. Reassure patients that the ASC performs hundreds of these procedures a year and is the patient's best option.
   d. All of the above

3. **Whether employees are baby boomers, millennials, or Generation Xers, they could experience lower morale if they view something as unfair in:**

   a. salary.
   b. raises.
   c. annual reviews.
   d. All of the above

4. **Which of the following is a social factor that could affect a patient's post-procedure recovery?**

   a. Patient's body mass index
   b. Physician's rapport with patient
   c. Patient's transportation options
   d. None of the above

CE OBJECTIVES

After reading *Same-Day Surgery,* the participant will be able to:

- identify clinical, managerial, regulatory, or social issues relating to ambulatory surgery care;
- identify how current issues in ambulatory surgery affect clinical and management practices;
- incorporate practical solutions to ambulatory surgery issues and concerns into daily practices.