

What About the Employer?

The Ethical Dilemma Facing Occupational Medicine

Focus Paper

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Ethical dilemmas are nothing new to healthcare. The unique situations presented in the healthcare industry cause most healthcare workers to face ethical dilemmas during their career. One unique area of concern is in occupational medicine services where the rapid growth of occupational medicine has led to a specific dilemma that faces this specific segment of the healthcare industry. As a whole, the healthcare industry has focused on the patient first message for many years. In occupational medicine, the employer often presses for their needs and concerns to be considered before patient care. This employer dilemma highlights the importance of strong ethical standard and decision-making in occupational medicine among all care levels.

Historical Information

The healthcare industry has historically focused on managing ethical dilemmas from the patient perspective. The goal is always to do no harm to those who seek care from the healthcare professional, or nonmaleficence (King, 2017). One of the first practices of hospital or medical groups is to establish core principles of patient rights to receive fair and appropriate care. The patient rights of informed consent, timely access, easily understood healthcare and reasonable choice are all great focus items promoting the patient being actively involved (Chauhan & Coffin, 2014). These patient rights assure that healthcare professionals operate with the patient's best interest in mind.

Most healthcare professionals understand the importance of patient rights and having an actively involved patient. The attention transitions when considering healthcare professional dilemmas when facing crucial decisions. There are times these decisions are made without the ability to consult with the patient, such as emergency situations. This education starts in the very beginning where ethics education is placed into nursing and provider training regarding right

actions (Vanlaere & Gastmans, 2007). The healthcare professional must learn to focus not only on the patient's rights, but also focus on these crucial decisions and acting in the appropriate manner.

The normal provider relationship also relies on trust that is established by the healthcare provider. The doctor-patient relationship is said to have an intrinsic level of trust or a paradigm of a relationship of trust (Tamin, 2013).

Differences. The situation changes however when occupational medicine comes into focus as the employer is added. Physicians find themselves in different roles in the occupational medicine setting leading to conflicts of interest (Phillip, Goodman, Harling, & Beattie, 1997). These roles consist of not only the practice of medicine, but also the management of the employer. In the normal patient-doctor relationship, the employer has no interaction with the physician. The patient is simply presenting for a medical concern and seeking treatment from the medical professional. This typical relationship does not typically involve concern over the ability to work in the long term and provide for the family.

Challenges of the Relationship

Occupational medicine brings in a unique set of challenges for the physician as the typical relationship dynamic changes due to the service offerings that are made. A routine physical transitions to a physical abilities screening determining the ability for the employee to perform job duties. There may be determinations regarding the employee's visual or auditory abilities in addition to actual physical strength and performance. Employers are interested in the results of these healthcare interactions as a means to determine employee ability and help the employer attempt to mitigate potential workforce issues in the future. The employer relationship may press the physician to make determinations or issue opinions in which a healthcare provider

may not typically make a determination. This unique relationship with the employer being involved changes the patient doctor relationship into one where the healthcare provider may feel more an intermediary than a typical healthcare provider.

As employers are more profit focused than ever, they remain focused on controlling any potential loss or problems that may arise. One area that the employer feels they can help control is with the actual workforce. Hiring qualified and capable workers that remain healthy in the workplace helps eliminate many potential issues for the employer regarding workforce. These demands create a unique occupational medicine relationship with some unique challenges for each of the sides involved.

As briefly mentioned, the employer has many concerns regarding workforce when looking at the occupational medicine relationship. Pre-employment screenings and effective work injury management programs are ways employers have addressed their concerns. Many of these concerns are created by government regulations from the Occupational Health and Safety Administration or from Workers Compensation legislation.

Regulations. The Occupational Health and Safety Administration, or OSHA, sets forth safe workplace requirements and guidelines for employers. Requirements are mandated for the record keeping of injuries, workplace healthcare files and reporting certain information to the department for investigation or action (OSHA, n.d.). OSHA sets the standards regarding recordable injury and gives guidelines for what is considered first aid treatment to help employers determine what should be reported or not. Recordable injuries are a sign of a potential unsafe work area for employees which could lead to the potential for an OSHA inspection. Routine OSHA inspections are common for employers and are typically scheduled in advance. After

significant injuries or increased recordable injuries, surprise inspections can occur that commonly lead to hefty fines or increased regulations on an employer.

In addition to the OSHA concerns, employers are also concerned with workers compensation claims and liability. Since the passage of The Workmen's Compensation Act of 1981, employers and management have become more focused on how to avoid claims or defend themselves against the claims of sick or injured employees (Kumar, 2009). Workers compensation claims can be a tremendous financial burden on any employer. According to OSHA, it is estimated that employers spend almost \$1 billion per week for direct workers compensation costs, which include insurance premiums, medical expenses and legal fees (OSHA, n.d.). In addition to the extreme costs that can be had with potential claims, extended periods of liability are also a concern for employers. Employers may be liable for workplace injuries for many years before the case is settled, leading to additional costs as part of the potential litigation of the claim.

Employee concerns. While the employer has a lot at stake, so does the employee that is involved in the occupational medicine case. There is a strong correlation between the care an injured worker receives and the overall longevity of the employee in the workplace. One study cites that an employee who received less favorable treatment were more likely to be off work and receiving disability compensation 6-12 months after a workers compensation claim (Wickizer et al, 2004). While the employer creates a unique dilemma, the focus must still be on the patient for many different reasons.

A major concern in regard to the employee is that they still feel valued by the employer. If appropriate care is not received, the employee can perceive this as the employer does not care. The employee may also feel as though the employer is not concerned due to mishandling of the

assessment and treatment of the workplace injury or illness. The employee may be worried about potential lost wages as they are focused on providing for their family. In some more serious cases, the employee may be concerned about the ability to work in the future and the ability to function in normal family life. In each of these concerns, a focal point is on the provider and how the provider handles the occupational medicine case with both the employer and employee.

Provider concerns. The healthcare provider is placed in a unique position in the occupational medicine case and the concerns associated with their position may be overlooked many times. Many providers realize the intermediary role they play in these cases. In a recent case study, one provider stated, “The role of the occupational physician is a pragmatic one not only to help the employee but also to help the business” (Brandt-Raul et al, 2011). The healthcare provider must focus on managing the occupational medicine case effectively while not compromising their ethics and morals.

One of the most challenging concerns facing the provider is to care for the employee while managing the employer expectations. This starts with an effective understanding of OSHA regulations as it pertains to both the employer and employee. The provider must understand the patient’s rights in regard to a safe workplace but also the employers responsibility to provide the same. The provider must also be able to provide appropriate care outside of the employer relationship. Studies have found that satisfaction with occupational medicine services is directly influenced by the perception of independence of the physician (Brandt-Raul et al, 2011). The patient should know the involvement of the employer in the care decision and be aware of the options that are present. There is also a strong need for effective communication with the employer. The provider should not be afraid to advocate for the patient according to the patient’s rights. The healthcare provider must also focus on effective documentation for protection. The

high prevalence for malpractice claims and litigation against the employer should cause the employer to realize this is the greatest need outside of appropriate patient care.

Conclusion

When the historical information and challenging relationships are taken into account, the importance of focusing on ethics in occupational medicine becomes overwhelmingly apparent. Healthcare professionals must be able to identify and understand the unique situations that are presented in occupational medicine. The employee is focused on their concerns regarding recovery, potential loss of work or wages and how the illness or injury may affect them outside of work. The employer is focused on controlling costs, eliminating government reporting and minimizing responsibility to their organization in both near and long-term. If the healthcare professional understands the viewpoints of the other parties involved, the ethical dilemma can be addressed appropriately.

The healthcare professional must understand how to identify the employee fears and manage them. The healthcare provider must maintain independence from the employer assuring the employee of the measures in place to protect them and their interests. The healthcare professional must also learn to address the employer as there will be crucial conversations that take place. The provider must be committed to providing the best treatment possible for the patient, even when faced with questions from the employer regarding the treatment plan. Any attempt to manipulate the treatment plan or documentation should be addressed immediately with the employer. Legal counsel should be considered to help provide clear instructions regarding the provider responsibility as well as the employer responsibility in relation to national and state laws. The provider must understand that thorough documentation of both the medical case as well as any interactions with both the employer and employee are important to managing ethical

dilemmas in occupational medicine. The healthcare professional should be concerned with documentation of phone conversations, e-mail requests, or verbal conversations with the employee and employer. Proper documentation will help manage the concerns the provider may have over potential litigation in the future.

Responsibilities. Many responsibilities exist for all involved in the delivery of occupational medicine at any practice. The management of the practice must focus on providing proper training for healthcare professionals. Ethical guidance to providers is usually based on the assumption that a normal doctor-patient relationship exists (Tamin, 2013). The evidence presented clearly identifies that the normal relationship is further complicated in occupational medicine. Any practice delivering occupational medicine services should have deliver a more robust training plan in relation to ethical dilemmas to everyone involved. This training should include simulations for potential interactions with employers as well as case studies into previous cases for review.

Quality assurance audits of documentation is important to help providers learn the importance of additional and thorough documentation of all interactions in occupational health cases. Consideration should be given to establishing ethics audits to determine potential areas of the ethics policy that need modification (Kirkpatrick, Reamer, & Sykulski, 2006). Audit results should be used to design and implement changes within the practice and as educational opportunities to help staff continue to develop ethical awareness.

The healthcare provider must also focus on specific responsibilities. The provider must commit to protecting the patient. Appropriate care must be provided without influence from the employer. The patient should not have concerns regarding the independence in the assessment

and treatment of their work injury or illness. Assurance must be made to the patient relating to life outside of work to help manage the patients fears.

The provider must also focus on protecting themselves. The provider must realize that failure to adhere to a strong code of ethics in relation to occupational medicine is not an option. Ethics are important in all aspects of healthcare, but specifically in occupational medicine. Litigation is a higher risk in occupational medicine cases as compared to any other specialty care setting. The question presented by many employers in considering occupational medicine services is “what about the employer?” The occupational medicine provider and practice must remain focused on ethics and the patient first.

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