Safe Harbors and Evidence-Based Medicine

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Current Environment

- Risk of medical malpractice claims
- Disconnect between lawsuits and adverse events
- Negative impact on physicians
- Harm to patients
  - Injured patients wait for resolution
  - Defensive medicine
Goals of Reform

• Promote accountability for both decisions and performance

• Compensation for damages and injuries

• Encourage higher level care
Safe Harbor Proposal

• Development of evidence-based clinical practice guidelines
• Document adherence to those guidelines
• Use quality health information technology systems
• Use clinical decision-support systems that incorporate guidelines
Safe Harbor Proposal

• The guidelines are presumed to define the legal standard of care

• What does that mean?
  – Patients who bring malpractice claims must show their doctor did not meet the standard of care
  – Standard of care now evidenced-based
Safe Harbor Proposal

• Patients may still present evidence that the guidelines were not applicable in their case
• Patients may use the guidelines to establish negligence by physicians