

Evidence-Based Medicine



Incentives to Foster Health System Quality Improvement

Ample evidence shows quality improves and outcomes for patients are better when healthcare providers utilize clinical best practice guidelines. Evidence-based guidelines improve patient access, quality of care, outcomes, appropriateness of care, efficiency, and effectiveness. Further developing tools and incentives to encourage providers to utilize these best practices will result in improved patient care.

The Issue

Better patient care and safety in the Information Age hinge on the central role of new tools, including evidence-based clinical practices and electronic medical records (EMRs) in healthcare delivery. Best practice guidelines can improve quality and result in better patient outcomes. However, they should be considered as such—guidelines. Optimal usage and integration of evidence-based medicine and continuous quality improvement measures rely on the human judgment of trained healthcare providers.

The Health Information Technology for Economic and Clinical Health (HITECH) Act, enacted as part of the American Recovery and Reinvestment Act of 2009, includes EMR incentive programs that have furthered hospital and physician adoption of HIT. Many EMR systems incorporate clinical practice guidelines to inform clinicians making decisions at the point of care.

Taken together, clinical best practice guidelines and EMR systems that support clinical decision-making have the potential to dramatically improve patient access, quality of care, outcomes, appropriateness of care, efficiency and effectiveness. However, even the use of quality enhancement tools cannot prevent all adverse health events. Instead of allowing care to be hindered by the fear of litigation and incentivizing defensive tests and encouraging silence, we should provide incentives to providers who follow best practice guidelines, report difficulties with EHR systems, and report adverse events can help improve patient care as a whole.

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The Solution

Establishing reasonable incentives and protections for healthcare providers who practice evidence-based medicine, report EHR-related adverse events, and the like, while maintaining the ability of patients injured due to negligence to recover damages will encourage an environment of better healthcare quality. The bipartisan solution around which consensus is evolving is liability safe harbors. This approach:

- Gives providers who followed evidence-based medical practices or who relied on an HIT system whose technical defect led to an adverse event greater legal fairness should a lawsuit ensue.
- Affords conscientious providers additional safeguards, such as a rebuttable presumption, a tighter statute of limitations, evidentiary and procedural refinements, and a higher bar for punitive damages.

Legislation

Bipartisan legislation incentivizing quality and safety measures with safe harbors has emerged over recent Congresses. Congressional leaders include Representatives Andy Barr (R-KY), Ami Bera (D-CA), Tim Murphy (R-PA), and Senator John Barrasso (R-WY).

Benefits

- Advances evidence-based medicine
- Protects harmed patients without limits on awarding damages where appropriate
- Incentives the practice of evidence-based medicine or reporting adverse events
- Facilitates continual quality and safety improvement
- Enhances medical specialty groups' and patient safety organizations' roles in improving quality of care

Important Supporting Information

- A review of over 300 reports found "support for the idea that outcomes improve for patients, personnel, or organizations if clinical practice in healthcare is evidence-based, that is, if evidence-based clinical practice guidelines are used."¹
- "[E]vidence-based clinical practice guidelines represent statements developed to improve the quality of care, patient access, treatment outcomes, appropriateness of care, efficiency and effectiveness and achieve cost containment by improving the cost benefit ratio."²
- "A more promising strategy would provide a so-called safe harbor, in which physicians would be presumed to have no liability if they used qualified health-information-technology systems and adhered to evidence-based clinical practice guidelines that did not reflect defensive medicine. Physicians could use clinical-decision support systems that incorporate these guidelines. Under such a system, the physician could use the safe harbor as an affirmative defense at an early stage in the litigation and could introduce guidelines into evidence to avoid a courtroom battle of the experts."³

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- “Safe-harbor rules hold promise for realigning legal incentives with good medical practice and promoting fast uptake of proven modes of care.”⁴
- More than three-quarters of physicians are likely to be named in a liability claim during their careers.⁵
- The average physician spends about 51 months, or 11 percent of a career, with an open medical liability claim.⁶
- Nearly eight out of ten malpractice cases end in no payment to plaintiffs.⁷

Notes

1. C. Bahtsevani et al., “Outcomes of evidence-based clinical practice guidelines: a systematic review,” *Int’l. Journal of Technology Assessment in Health Care*, Fall 2004.
2. L. Manchikanti, “Evidence-based medicine, systematic reviews, and guidelines in interventional pain management, part I: introduction and general considerations,” *Pain Physician*, March-April 2008.
3. Ezekiel Emanuel, Neera Tanden, Stuart Altman et al., “A Systemic Approach to Containing Health Care Spending,” *New England Journal of Medicine*, September 6, 2012.
4. Randall R. Bovbjerg and Robert A. Berenson, “The Value of Clinical Practice Guidelines as Malpractice ‘Safe Harbors,’” *Robert Wood Johnson Foundation Report*, April 2012.
5. Anupam B. Jena et al., “Malpractice Risk According to Physician Specialty,” *New England Journal of Medicine*, August 18, 2011.
6. Seth A. Seabury et al., “On Average, Physicians Spend Nearly 11 Percent of Their 40-Year Careers With an Open, Unresolved Malpractice Claim,” *Health Affairs*, January 2013.
7. Jena et al., *op.cit.*