

Joint Commission Calls for Changes to Improve Patient Safety

Officials at the Joint Commission (JCAHO) have called on lawmakers to reform the nation's medical liability system, asserting that the current system chills the identification and reporting of adverse events and thus undermines opportunities for learning that could provide the basis for significant safety improvements.

In a white paper—called “Health Care at the Crossroads: Strategies for Improving the Medical Liability System and Preventing Patient Injury”—JCAHO experts emphasize the importance of open communication between patients and practitioners and call for the creation of an injury compensation system that is patient-centered.

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What JCAHO Recommends

The Expert Roundtable identified the following three strategies for achieving its overall goal:

1) Actively pursue patient safety initiatives that prevent medical injury. Specific recommendations address the need to encourage the creation of cultures of safety in health care organizations; to strengthen oversight and accountability mechanisms for ensuring the competency of doctors and nurses; and to provide health care researchers access to open liability claims to permit timely identification of problematic trends in care. “Pay-for-performance” programs that provide incentives for improving patient safety and health care quality must also be part of the solution.

2) Promote open communication between patients and practitioners. Emphasize that patients must become members of the health care team. Lack of communication and disclosure are prominent complaints of patients and their families. As one of its recommendations, the report urges pursuit of legislation that would protect disclosure of mistakes and the associated apologies from being used against practitioners

in litigation. Other recommendations encourage the non-punitive reporting of errors to third parties to support the development of patient safety solutions and enactment of pending federal patient safety legislation that would provide legal protection for medical errors and adverse events reported to designated patient safety organizations, such as JCAHO.

3) Create a patient-centered injury compensation system. Specific recommendations emphasize the need to conduct demonstration projects of alternatives to the current medical liability system that promote patient safety and provide swift compensation to injured patients. While these efforts are underway, the report also advocates prohibition of confidential settlements known as “gag clauses” that prevent learning from events that lead to litigation; use of court-appointed, independent expert witnesses; and the redesign or replacement of the National Practitioner Data Bank, which has never fulfilled its promise to be the premier resource for meaningful, valid, and reliable information about physician performance.

A complete copy of the Joint Commission white paper is available at www.jcaho.org/about+us/public+policy+initiatives/medical_liability.pdf.

Dennis S. O'Leary, MD. "The medical liability system in place today simply falls short of this goal."

The white paper was developed in collaboration with an Expert Roundtable whose 29 members represent a diversity of interests relevant to medical liability. The report contains 19 specific recommendations and identifies accountabilities for each proposal.

According to JCAHO, the current medical liability does not effectively deter negligence, truly offer corrective justice, or provide fair compensation to those who have been injured through the care process.

Too little progress has been made in improving patient safety since the release of the Institute of Medicine's report on medical error five years ago,

according to JCAHO officials. In addition, the officials assert that a very small proportion—two to three percent—of injured patients receive compensation through the medical liability system, and those who do, receive highly variable recompense for similar injuries.

"This crisis is preventing physicians from providing optimal and efficient care," says Alan C. Woodward, MD, president, Massachusetts Medical Society. "Medical liability reform is necessary to restore

sanity to a system that right now severely inhibits physicians' efforts to learn from mistakes and make health care safer for everyone. The health care and legal systems and patients must come together to put these proposals into action." ■

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