

The Radiology Manager's Handbook

*Tools and Best Practices
for Business Success*

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Organizing your radiology practice

As recently as a decade or two ago, most radiology practices consisted of three or fewer physicians. But with managed care, government regulation, and the need for radiology practices to maintain expensive equipment to compete effectively, this has changed.

Now, larger group practices make more economic and competitive sense. But a large group practice can be difficult to run efficiently and fairly—especially for physicians who have no formal training or expertise in management. Many “old style” practices have no formal management structure at all, with the result that all shareholders may have a say in decision-making.

Juggling many different opinions while conducting business can lead to ill will among your physicians, inefficiency, and loss of business opportunities. Worse, if everyone has a say in managing a large group practice, it’s only a matter of time before the older physicians who founded the practice find themselves outvoted—or frozen out of decision-making—by the younger physicians they brought into the practice.

One way to solve these problems is to establish a formal management structure as soon as it starts to grow by setting up a board of directors and a management committee or committees. A board of directors and a management committee can help a large group practice operate efficiently while preserving the authority—and the financial stake—of the physicians who started the practice.

Use the Model Amendment on page 6 (Figure 1.1), which establishes a board of directors and gives the board the right to set up a management committee as well as other standing committees. Show this Model Amendment to your attorney, who can tell you which legal documents, depending on the legal form of your practice and which state you're in, you'll need to amend. Your attorney can adapt the amendment to suit your wishes for your practice's management structure.

Establish a board of directors with management authority

Physicians in a small practice should start considering establishing a board of directors as soon as they begin to think about adding physicians. Otherwise, it may be difficult to make this change should the practice make new physicians partners in the practice. Before the founding physicians realize it, the newer physicians may outnumber them—and the practice may start heading in a direction that the founding physicians disapprove of. Delegating management responsibility to a board of directors is one way to take full advantage of the benefits of being in a large group practice, while making sure that the founding physicians maintain a majority on the board and thus retain their authority within the practice.

How a board of directors works

Here are the answers to some frequently asked questions about how a board of directors might work, with references to the Model Amendment. You can adapt the amendment language to suit your situation. Founding shareholders should consider all of these questions and discuss them among themselves and with their attorney so that the amendment they adopt in your practice reflects their wishes.

The amendment should spell out the manner of selecting and removing directors, as well as their duties and responsibilities. Because some states have laws governing some or all of these issues, your attorney will discuss these issues with you to make sure that the amendment to your organizational documents reflects both the shareholders' wishes and state law requirements.

1. What are the responsibilities of the board of directors?

You can make the board responsible for as much of the management of your practice as you choose. But you should include as many management duties as possible. Some duties you may delegate to the board of directors include decisions about capital expenditures, personnel issues, purchase and lease of equipment and office space, and developing new business [Amend., par. 1].

2. Who should be on the board?

You have several options for determining the makeup of the board of directors. The board may consist of

- the founders of the practice or the more senior shareholders
- the shareholders who have held their shares for some minimum period of time
- the shareholders with the greatest amount of equity in the practice

Any one of these options ensures that the founding shareholders retain control. But your amendment may instead mandate that directors be elected by a vote of all the shareholders. Or you may decide to select directors by some combination of the above methods. For instance, in our Model Amendment, of five directors, the three physicians with the largest share of the practice's equity get to be permanent directors [Amend., par. 1a]. The other two “at-large” directors are elected by majority vote of all the shareholders [Amend., par. 1b]. This way, the founding shareholders (assuming they have greater equity) retain their influence, while the newer shareholders in the practice have some opportunity for input, too. You can use whatever method works best for your practice and allows you the most flexibility as your practice grows.

3. What if you need to remove a director?

It's important to think about how you'll remove a director before you ever need to do it. So you should write a sort of prenuptial agreement for your practice.

Because the purpose of the board is to establish management authority and stability, you may want to make it difficult to remove a director. One way to do that is to say that directors may be removed only for cause by a unanimous vote of the board (except for the affected director). If you expect a number of changes over the next few years—say, if several of your senior shareholders may retire soon—you may want to make removal a little easier.

In the Model Amendment that follows, permanent directors may not be removed unless they give up their shares in the practice, but at-large directors serve for a three-year period unless they're removed for cause. This gives the permanent directors—the senior shareholders of the practice—special protection against an uprising by the junior shareholders of the practice [Amend., pars. 1a and 1b].

4. Should committees be temporary or permanent?

Temporary, or ad hoc, committees are useful for dealing with decisions that require research but aren't likely to be ongoing issues—for example, selecting a manager for the practice's retirement plan or choosing an interior designer for new offices.

Permanent committees—called “standing committees”—assume day-to-day responsibility for ongoing business and management issues [Amend., pars. 2a and 2b].

5. How much authority should committees have?

You can set up committees any way you like. They can be purely advisory, or the board of directors can delegate authority to certain committees. The Model Amendment allows the directors to establish either of the two sorts of committees.

A majority of the board must vote to delegate its authority to a committee; otherwise the committee's role is purely advisory [Amend., par. 2]. Doing it this way offers maximum flexibility.

6. What committees should your board establish?

What works in a given group depends on the size and culture of the group, the expectations of the shareholders, and the complexity of its business model. Typically, committees are particularly effective at handling issues like personnel, compensation and benefits, compliance, and real estate—which may involve scouting new offices or locations, physically maintaining existing locations, and dealing with office leases. Our Model Amendment establishes standing committees to handle auditing, billing and compliance, compensation, and management [Amend., par. 2b].

7. Who should be a committee member?

As with most other management issues, there are various ways to determine who can be on a committee. Some groups require the committee members to be directors. In other groups, any shareholder may serve. Sometimes a practice will require that the CEO of the practice serve as the chair of a certain committee—this is often the case with the compensation and benefits committee, for example [Amend., pars. 2a and 2b].

8. How do we disband a committee or remove a committee member?

The board also should retain the power to disband a committee and/or remove an individual committee member at will. Keeping that power with the board leads to greater stability within the

practice because it helps prevent a small group of shareholders with “issues” from disrupting the management of the practice. The Model Amendment makes clear that committees exist at the pleasure of the board and that members can be removed at the board’s will [Amend., par. 2c].

Consider management committees

Even with a board of directors, it can be time consuming and stressful to make the decisions necessary to manage a large or growing group practice effectively. And not every director will have the time, the skills, or the personality to handle every aspect of a practice’s management. Some groups allow their board of directors to set up a management committee—or several committees—that are responsible for handling the day-to-day issues that arise.

The committee(s) can meet regularly—management committees meet once a week—and can distribute minutes of their meetings to directors and/or other shareholders. Forming committees helps to ensure that no director is overburdened with management issues, and allows various shareholders of the practice to pursue areas they’re interested in—such as quality control or new technology.

As a radiology practice grows, it may need to amend its organizational documents to reflect its founders’ desire for a more formal, effective, and efficient management structure. Organizational documents can be the practice’s corporate bylaws (for a professional corporation), its partnership agreement (for a partnership or an LLP), its operating agreement (for an LLC), and/or its certificate of incorporation (depending on the state). Your attorney can advise you about which documents to amend. Our Model amendment assumes the practice is a professional corporation, but your attorney can adapt the amendment to fit any corporate form. The Model amendment that follows in Figure 1.1 states who may serve on the board, and defines the board’s responsibilities. It also gives the board the right to establish and disband committees for various management or advisory purposes.

Model amendment

WHEREAS, the owners of ABC Radiology intend to expand their practice and improve the range and quality of services it may offer its patients, and WHEREAS, in order to fulfill this intention, ABC Radiology must establish a formal system to manage the practice's business affairs, now, therefore, the owners of ABC Radiology vote to amend their corporate bylaws as follows:

1. BOARD OF DIRECTORS. The Corporation shall be governed by a Board of Directors that shall be responsible for managing all aspects of the Corporation including, but not limited to:

- i. Capital expenditures and improvements;
- ii. Hiring and retention of personnel;
- iii. Compensation and benefits of employees;
- iv. Acquisition and maintenance of facilities and office locations;
- v. Business development; and
- vi. All other aspects of the management of the Practice.

a. Permanent Directors. The Board of Directors shall have three (3) Permanent Directors. The Permanent Directors shall be the three (3) Shareholders who hold the greatest number of shares of the Corporation (and to the extent that there is equal ownership, the most senior). A Permanent Director shall serve until such time as he/she relinquishes some or all of his/her shares in the Corporation such that he/she no longer holds sufficient shares to qualify as a Permanent Director as set forth, above.

b. At-Large Directors. The Board of Directors shall have two At-Large Directors. The At-Large Directors shall be elected by majority vote of all the Shareholders of the Corporation. The At-Large Directors shall serve for a term of three years unless removed for cause prior to the expiration of the term.

2. COMMITTEES. The Board of Directors shall have the power to create a committee or committees for any purposes that the Board of Directors may deem to be in the best interests of the Corporation, and to elect or appoint any of the Directors or Shareholders as members thereof, provided, however, that a vote of the majority of the total number of Directors shall be required

Model amendment (cont.)

to delegate any powers or authority of the Board of Directors to any such committee. All committees appointed without such majority approval of the Directors shall function in only an advisory capacity to the Board of Directors.

- a. **Ad Hoc Committees.** The Board of Directors may, at its discretion, establish a temporary, or ad hoc, committee to handle a discrete issue. The ad hoc committee shall be disbanded upon completion of its mandate.
- b. **Standing Committees.** The Board of Directors may, from time to time, authorize and appoint standing committees to handle certain matters that the Board shall, in its discretion, define. Each such committee is deemed discharged when a new committee is appointed for the same task. The following standing committees of the Board of Directors shall consist of three members, each of whom [must/need not] be a [Shareholder/Director] and who shall be appointed by the President of the Corporation:
 - i. Auditing, Billing, and Compliance Committee, which shall be empowered to make recommendations to the Board of Directors pertaining to the billing practices of the Corporation and the Corporation's compliance with healthcare and hospital laws, rules, and regulations;
 - ii. Compensation Committee, which shall be empowered to make recommendations to the Board of Directors pertaining to the amount of Physician/Shareholder compensation. The President shall be member and Chair of the Compensation Committee;
 - iii. Management Committee, which shall be empowered to make recommendations to the Board of Directors pertaining to the day-to-day management of the Corporation's business.
- c. **Committees serve at Board's pleasure.** All committees established by the Board of Directors, whether standing committees or ad hoc committees, shall exist, and members thereof shall serve, at the pleasure of the Board of Directors, and the Board of Directors may disband or abolish any such committee and remove any member appointed or elected to it with or without cause at any time.

Editor's note: Look for this model language on the accompanying CD-ROM.

Check out business partners

A successful practice depends on having quality staff members. However, you must also be careful about choosing business partners. Recent prosecutions by the federal government show that, to avoid legal trouble, a medical practice must do more than just ensure its own compliance.

To stay out of the range of government prosecutors, a practice must make sure that other healthcare providers and healthcare-related businesses it does business with are in compliance, too. That's why it's important for practices to do "due diligence"—which is the name attorneys and accountants use for the process of investigating a person or organization with which you plan to do business.

If you turn up something bad, you can drop out of the business deal before it begins. Even if your investigation shows nothing, your attempt to discover any problems may help you deal with government investigators or prosecutors if any problems turn up later.

Why do due diligence?

The government has been taking a very aggressive stance in enforcing laws against healthcare fraud and abuse and false claims. One tactic is to force healthcare providers to be each other's keepers by making them responsible for the actions of others that they do business with. That means you need to make a clear and obvious effort to find out how healthcare providers and related businesses you propose to have a relationship with are conducting themselves, so that you can avoid being tarred with the same brush if they get into trouble.

There's no standard form of due diligence to use for healthcare business partners. The best guide is common sense and a healthy fear of the government's enforcement authorities. And get expert help—an experienced healthcare attorney, an accountant who's familiar with healthcare reimbursement issues, or a healthcare consultant may be appropriate to assist you in conducting your due diligence. But because the stakes are so high, it's crucial that whoever does your due diligence be thorough and document everything.

At a minimum, before you agree to an employment or independent contractor relationship, set up an office or equipment rental agreement, or sign any sort of business contract with a healthcare provider or business, conduct appropriate due diligence that includes the following:

- 1. Verify appropriate licensing.** You need to make sure that your healthcare business partner has all the licenses it needs to operate legally. A hospital and any associated off-site clinics will be subject to state licensing requirements. There may be additional city or state requirements regarding, for example, the handling of radioactive materials or the disposal of medical waste. If you plan to establish a relationship with a hospital, imaging center, or other healthcare provider, you're responsible for knowing before you begin the relationship that it has all the licenses it needs to conduct its business.
- 2. Evaluate past licensing difficulties.** In almost every state, it's a matter of public record if a hospital, physician, or other healthcare provider has been in trouble with the licensing authorities. The government will assume you knew about any past problems, whether you actually knew or not. Therefore it is prudent that you check. If your potential business partner's license has a cloud on it, that doesn't necessarily mean you shouldn't go forward, but it should make you even more cautious. Make sure the trouble has been resolved and that the partner has procedures in place to ensure the problem doesn't recur.
- 3. Check for Medicare and Medicaid sanctions.** Be sure your potential business partner isn't in trouble with Medicare or Medicaid. Doing business with an individual or organization that has been sanctioned by Medicare endangers your own Medicare status, so if you find a problem, it's best to turn down the arrangement with that partner.
- 4. Ensure the arrangement's viability.** You want proof that your potential business partner has the physical and financial capability of doing what your proposed business arrangement requires of it. A hospital that's strapped for cash with a crumbling physical plant may not be able to provide you with the environment you need to practice the kind of radiology you want to practice. Not only will this affect your business, but businesses that are strapped are more likely to cut corners on compliance.
- 5. Analyze contracts carefully.** If you're signing a lease, an equipment rental, or an employment or independent contractor arrangement with a hospital or another healthcare provider, it's crucial to have a healthcare attorney review the contract. You need to be sure the contract complies with the anti-kickback law, the federal anti-referral law known as Stark II, and any other relevant laws and regulations. Often physicians will rely on a hospital's attorney to tell them what's right and will assume that the hospital is compliant. That's a big mistake. It's crucial to get independent expert advice to make sure that the arrangement with the hospital or another healthcare provider passes regulatory muster.

6. Assess compliance commitment. Most of all, look into how your proposed business partner deals with compliance issues. Does the business have a compliance program? Is the program publicized and enforced? Or does your proposed business partner emphasize cost cutting and efficiency at the expense of strict compliance? If the proposed business partner has a genuine commitment to compliance, and has taken steps to ensure continued compliance, you can feel a little better about the risks of doing business with it.

Recheck business partners

You can't relax your vigilance once you've established a relationship with a healthcare business partner. Be alert for any problems that arise for a business partner. Suppose a hospital you contract with runs into trouble with your state's Medicaid office, has financial difficulties, or an agreement the hospital has with another group is the subject of a Medicare investigation. If you hear about any potential issues like these, ask your partner about them directly, preferably in writing.

Even if you don't hear of any problems, reassess your relationship once a year. Recheck and reevaluate, as needed. And reassess your partner's compliance commitment regularly, to make sure that no changes have occurred that might lead to problems. Always be prepared for problem situations. Make sure all your contracts with healthcare business partners permit immediate termination if any of the following occurs:

- A license necessary to do business is restricted, suspended, or revoked
- Medicare or Medicaid imposes a sanction
- Your state's health department imposes restrictions, monitoring, or periodic reviews on your business partner's operations
- Your business partner loses its medical malpractice insurance
- An accrediting body revokes or suspends your business partner's accreditation, or places your business partner on probation

Any of these is a cue to consider terminating the relationship before you're dragged into the mess.

Marketing your services

You may not think about marketing every day, but it is an important business practice, and essential to increasing your business. Like carefully chosen staff and business partners, marketing can increase and enhance your business. Many practices simply contract with plans, expecting to increase busi-

ness by getting access to all of the plan's members and to other providers who can refer members. But simply contracting with the plan and getting listed in its provider directory may not tell members and other providers enough about you to boost your business.

For instance, your listing in the provider directory may say where you're located and what your specialty is, but not that you have an important new piece of imaging equipment. That's why negotiating experts recommend that you ask the plan to help you market your practice, facility, or organization to the plan's members and providers.

Plans will often agree to help with your marketing efforts to increase your visibility within the plan, even if you haven't signed a global capitation contract or don't otherwise have leverage. It's often cheaper for the plan if members use an in-network provider or a new provider that's reimbursed at a lower rate, and marketing efforts can make the plan look helpful to members. Providers may be pleasantly surprised at how a plan will help them this way.

Some plans may not want to spend their own money but will let you use their name when you promote a particular service that you offer. For example, they'll let you send your own mailing to plan members and providers. Others may be willing to send out a mailing themselves to promote your services.

Asking a plan to help you with marketing can increase your revenues and profits because of the higher volume the marketing generates. It's best to ask for a plan's marketing help when you're negotiating your contract, rather than waiting until after you sign the contract. You won't have much leverage then, especially if you're raising the issue as a fallback for not getting the higher fees you want. Take the following steps to get a plan to agree to help you:

- **Assess your services.** Before you approach the plan about marketing, carefully assess which of your services the plan might be willing to help you promote. Most providers have something that would be of value to the plan to promote.
- **Propose several marketing ideas.** To get the discussions started, try to propose several marketing ideas to the plan. What's important for you may not be important to the plan. For example, your radiology practice may want to promote its PET services, but the plan may prefer to promote your mammography services. Also, there's no one "best" way to market particular

services. For instance, you and the plan can share the cost of a newsletter to help you attract new patients or a billboard to advertise your affiliation with the plan. And while getting the plan to pitch in on cost is obviously better for you, you may want to be prepared with some marketing ideas that cost the plan nothing.

- **Confirm marketing help in writing.** Once you and the plan agree to some form of marketing assistance, make sure you confirm the agreement in writing. Unless you're a very large provider signing a global-type contract with a plan, which may include an overall marketing program, the marketing help will typically be a one-shot deal and not part of the provider contract. So you should confirm the agreement by letter or e-mail with the plan representative who agreed to it. Your confirmation needn't be long, but it should include an understanding of what the plan will do for you, and specify a completion date, if applicable.
- **Review your contract to see if it affects whatever marketing deal you may work out with a plan.** For instance, if the contract has general language that says that you and the plan will work together, that language may come in handy if the plan later balks at helping you with a joint mailing that it previously agreed to. Or if the plan gives you permission to send out an announcement to all referring providers about your new plan contract, check to see if the contract requires you to notify the plan when you send the announcement, or if the plan has the right to review it before it's mailed. A plan will rarely authorize a provider to use the plan's name without plan oversight.

Donating services

From time to time, radiologists are asked to donate their medical services—for example, to interpret films at a mammography screening event, or to staff a public clinic. Such volunteer activity is good both for the patients served and for your reputation—plus, it probably makes you feel good.

But if you're not careful, donating medical services can lead to problems. To avoid such pitfalls to donating medical services, see the Model Letter that follows, which you can send to your malpractice insurer so you can be sure you're covered for your donated medical services.

Kickbacks

In certain situations, donating your medical services could be considered a kickback.

Example:

A family practice that sends your practice a lot of patients has a health fair at a retirement home and offers osteoporosis screening at the fair.

Your radiologist attends the fair to assist in interpreting these screening tests. Neither you nor the family practice will bill Medicare or any other payer for the services performed at the fair, and the family practice won't be compensating your practice or the radiologist for his or her time.

If there's an indication that your radiologist's participation at the fair is part of a quid pro quo—that is, the participation is in exchange for the family practice's referral of Medicare patients to your practice—then both your practice and the family practice could be charged with violating the anti-kickback law.

So if you encounter a situation where someone wants you to donate free services in return for the referral of paying patients—especially Medicare and Medicaid patients—you should decline.

Make sure malpractice insurance covers you

Physicians are often shocked when, after they've donated free medical services to a needy patient, that patient turns around and sues them for malpractice. But it happens—you owe every patient you treat the same duty of care and the benefit of your best medical judgment. And the patient you treated for free has the same right to sue you as any other patient. Before you agree to donate your medical services, make sure that you have the time and inclination to give these nonpaying patients exactly the same care that you give to your regular patients. And most importantly, make sure that your malpractice insurance covers these donated medical services.

If you'll be performing the donated medical services in your office or the hospital where you normally work, and the services are typical of those you perform in your regular practice, then malpractice coverage shouldn't be an issue. But your insurance may not cover your services in certain situations.

For example:

- If you plan to perform the services off-site—e.g., at the retirement home
- If the services aren't typical of the services you perform in your practice

Chapter one

Check your policy before you agree to donate medical services to see if there are limitations that might affect your coverage for them. If you think your policy might not cover your services, make sure you write your malpractice insurer a letter. Direct it to your practice representative so that you can be sure it will get attention. Use the Model Letter (Figure 1.2) that you can adapt and use in your practice. Like the Model Letter, the letter you send to your malpractice insurer should

- identify the sponsor of the volunteer activity
- explain exactly what medical services you plan to provide
- disclose where and when you'll be performing the medical services
- ask the insurer to give you a written verification of coverage and an explanation of any limitations on coverage

Keep a copy of the letter you send the insurer in your files. And if you don't get a response within ten days or so, follow up—that is, call the representative to note you're waiting for a response, and send another letter, this time by certified mail, return receipt requested. You want to be sure to have the insurer's written verification of coverage before you perform any donated medical services.

FIGURE 1.2

Model letter

Here's a letter that you can adapt and send to your malpractice insurer asking it to verify coverage for your proposed volunteer activity. Direct the letter to your practice representative—that helps ensure that your letter won't get "lost."

[Insert date]

Re: Policy # A7890

Dear Practice Representative:

Main Street Family Practice is sponsoring a health fair for the residents of the Anytown Retirement Home on Thursday, December 12, 2002. The fair will take place at the retirement home at 123 Willow St. I plan to offer my professional services on-site at the health fair to provide interpretation of osteoporosis screenings and other radiological services.

Kindly send me written verification that my malpractice insurance policy referenced above will cover me in the event of a lawsuit arising out of my activities at the health fair. Please include an explanation of any limitation on my coverage.

Thank you for your prompt attention to this matter.

Yours truly,
Roger Rad, MD
ABC Radiology

Editor's note: Look for this model language on the accompanying CD-ROM.

Quality matters

Quality of care is an important issue for every facility. Keeping your patients satisfied should be a top priority. One way to ensure satisfaction is to put policies in place when dealing with anxious patients. Many patients experience anxiety when they come in for a diagnostic exam, but not all of them seem anxious. Some patients act angry and derisive. Others are overly chatty or appear absent-minded or forgetful. Patients often adopt these behaviors to cover up their anxiety about the exam, and if these behaviors aren't recognized for what they are, it can make for an unpleasant experience for all involved.

Although radiologic technologists (RT) perform many exams each day, they should remember that the patient may have only one a year or that this may be his or her first exam ever. It's up to technologists to detect this anxiety and address it to help the patient get through the experience. Detecting anxiety can be tricky, but look for the following signs:

- Avoidance of eye contact
- Arms crossed across the chest
- Fidgeting with purse, tissues, or clothing
- Perspiring noticeably
- Shortness or holding of breath
- Talking excessively
- Not talking at all
- Blocking behavior, in which the patient does not seem to be taking in any information
- Nervous laughter
- Repeating questions
- Asking for reassurance that he or she is doing things correctly
- A "let's get this over with" message

It's important for the technologist not to take the patients' reactions personally. They represent coping mechanisms that the patient is using in order to personally manage the experience of the examination at hand. Understanding these reactions is the first step in responding to them. If you know the person is nervous, it will be easier to respond than if you take his or her emotions at face value and react on that level.

Following the four Cs

Once you've noted a patient's anxiety, take the following steps to help make the experience easier, which should also make the exam go more smoothly:

- Acknowledge your patient's feelings. Don't just ignore his or her emotions and continue with the exam.
- Avoid jargon. Use terms that the patient will understand, which can help ease the process.
- Educate the patient. Help the patient through the process by letting him or her know what you are doing and why.
- Watch your tone of voice. When you repeat instructions all day long, it's easy to become monotonous.
- If you sense that a patient is having a difficult time with an exam, encourage him or her to breathe or to picture him or herself in a relaxing setting.

Use the four Cs when it comes to reducing anxiety: competence, communication, comfort, and caring.

The following are steps you might take in each of these categories:

- **Competence.** Technologists must come across to their patients as being experienced and confident in their skills. Demonstrate competence by displaying licenses, certificates, and educational degrees and by dressing professionally.
- **Communication.** Avoid personalizing and use broad terminology instead. For example, instead of saying, "You look scared," say, "Most patients are anxious about having a mammogram. Is there anything I can do to make you more comfortable today?"
- **Comfort.** The facility's décor can make a strong impression on patients. Ensure that it is pleasing and comfortable to help put patients at ease.

- **Caring.** It's possible to show patients that you care about them while maintaining appropriate professional boundaries. For example, greet the patient with a two-handed handshake, which exudes warmth and caring.

Disaster planning

If you're like many private radiology practices, you probably spend a lot of time, energy, and money protecting your physicians and practice against the risk of medical malpractice lawsuits. But there are a lot of other risks—like fires, earthquakes, or other disasters—that can damage your office space or make it unsafe to occupy. This damage can disrupt your business operations just as badly as a large malpractice judgment can.

The first step to making sure your practice is protected is to find out what risks your practice is exposed to. Consider the following:

- **What's the weather like in your locale?** If hurricanes, tornadoes, or blizzards are likely, you should formulate a plan to help you get through any weather event that may disrupt your operations. If your practice is located in an earthquake zone, factor that into your planning.
- **How do you protect your practice's records?** If you still keep paper records, a hurricane or an earthquake that scatters your records could devastate your practice. If your records are electronic, a fire or flood could destroy all your data if you don't have recent backup at another location.
- **Does your practice have one indispensable employee who knows all about the practice's billing and collection system, as well as its business relationships with vendors and others?** If so, you're leaving yourself vulnerable should something happen to that employee—or if your trust in that employee turns out to be misplaced. The important point is to think through all these scenarios ahead of time and prepare for them as much as you can. Insurance will pay you money for a loss, but it can't reconstruct lost records for you.

Planning ahead

Once you've identified and weighed the risks that your practice is exposed to, think hard about how to prevent or minimize losses. Most practices can benefit from taking the following steps:

1. Distribute a current contact list.

You should have an up-to-date contact list with the address, phone number, cell phone number, and/or pager number of everyone on your staff. All the practice's physicians, supervisors, and managers should have a copy of that list.

2. Arrange for off-site storage.

All practices should have off-site storage for copies of certain records so that information that's crucial to your practice will be available in case of a fire, flood, or other catastrophic event at your office location. Copies of the patient list, the last few months of accounts receivable (A/R) records, and patient records should be kept at a secure off-site facility. Be sure to update these records regularly so that current information is always available. If you keep records electronically, make backup tapes at least monthly, and store those backup tapes at a secure facility. And make sure that the off-site facility is truly secure. For example, don't rely on fireproof safes for storing diskettes and electronic tapes because in the event of a fire, the information on the diskettes and tapes can be corrupted. Instead, invest in a "media safe" that's designed to protect the integrity of electronic media. If your practice is in an earthquake or flood zone, the storage facility should be located at least 50 miles away from your practice location.

3. Make a video.

If there's ever an event that destroys your office or its contents, you'll need a good record of what you lost. A dated, narrated video is one of the best ways to validate your losses. Go through the office slowly and describe the furnishings, equipment, and other items as you film them. Make a note of the price of each item and the date that you bought it or the rental charge if the item is leased. Don't forget to make at least one copy (preferably two) of the video and to keep each copy in a separate, secure location.

4. Have a contingency plan.

Think about what would happen if your office or facility were destroyed or couldn't be used for a period of time. How long a period of interruption could your practice survive? If, like most practices, yours would need to be back in business within a couple of weeks to remain viable, you should have some alternative sites in mind before disaster strikes. Do you have a satellite office that you could move into temporarily? Is there space you could use in your hospital or a nearby office building? Would a mobile facility suffice temporarily? Considering these options ahead of time can make a big difference should you ever need to relocate your practice suddenly. Having a plan in mind can help your practice recover as fast as possible.

5. Share responsibilities among employees.

Make sure that more than one employee is familiar with every system. If only one employee knows the billing and collections system and that employee is away on vacation when some catastrophe occurs, you could be hamstrung until the employee returns. That's a bad business practice because it hampers your efficiency. Plus it makes you susceptible to dishonest employees.

6. Insure against business losses.

Even the best planning can't protect you against all risks. But there are insurance products that can provide you with a comfortable cushion if a catastrophic event affects your practice's ability to operate. These are commonly called "box policies," and they typically have three components: 1) A general property insurance component that insures your office or facility against loss due to a catastrophe such as a fire, hurricane, or building collapse. *Note:* In flood zones, earthquake zones, and other susceptible areas, you may need to buy an additional rider to protect you against those specific risks; 2) A general liability component that insures your practice against losses for injuries to third parties—for example, if a patient slips and falls in your office; and 3) A business interruption component that reimburses your practice for certain costs you may incur if you must cease operations for a period of time and/or move operations to another location.

7. Make sure the business interruption component meets your needs.

The business interruption component of the major insurers' box policies varies significantly in price and in what's covered. But it may be the most important part if something happens and it takes you a while to get the practice going again. A good business interruption policy will help you pay your employees, secure temporary space if necessary, and keep your business going despite the disruption. If you're considering buying a box policy, read it carefully to find out whether the business interruption component will do the following:

- **Pay your A/Rs.** If you're unable to see patients because your office was destroyed, a good policy will pay you an amount similar to the amount you would have collected under normal circumstances. Always maintain good A/R records: The better your records of what you've been collecting in the recent past, the more likely that the insurer will pay you a comparable amount.
- **Provide virus protection.** Many good policies offer you protection against computer viruses and will reimburse you for the cost of professional data recovery services if a virus destroys your

data. But keep in mind that data recovery doesn't always work, so there's no substitute for maintaining up-to-date virus protection and using it religiously.

- **Pay expenses associated with temporary operations.** If your office isn't usable for some period of time and you must reestablish your practice elsewhere, a good policy will cover things like rent at your alternative location, cell phones, furniture, computer and medical equipment rental, and so on. The best policies will advance you cash for these purposes—you could find yourself strapped if you must pay for these items out-of-pocket and wait for reimbursement. Some companies may offer some of the coverage described above only as a rider that will cost extra. But you should carefully consider the potential losses if you don't have the coverage before you reject the additional rider.

8. Protect yourself against dishonest employees.

Although it's not generally part of a box policy, your insurance broker can also help you get an employee dishonesty bond. If an employee steals from you, this type of policy protects you by reimbursing you for the amount stolen. It's prudent to buy one of these bonds for each of your employees who handle money for your practice. The insurer generally does a brief background check on each employee you want bonded and may refuse to bond an employee with, for example, a poor credit history. The insurer also may reserve the right to audit your practice periodically or require you to conduct independent audits, in order to maintain the bond.

9. Look for terrorism insurance in the future.

Although it's not readily available now, you may soon be able to get a policy that insures you against losses due to terrorism, biohazard exposure, and so on. At this time such policies are difficult to find, but in the current climate, demand for this type of coverage is increasing. Over time, insurers will get a better sense of exactly how much risk is involved in writing these policies, and they may become more readily available and affordable.

10. Use a reputable insurance broker.

When shopping for a box policy or any insurance product, it's important to deal with reputable people. Your accountant and your attorney can help steer you toward a reputable insurance broker. Both these professionals may be able to help you decide specifically what risks you should insure against and give you good advice about what insurance products may be best for your practice. Other physicians in your area may be able to steer you toward insurance professionals who

understand the needs of medical practices. Above all, consult two or three brokers, ask a lot of questions, and read all the fine print before you decide to buy a particular policy.

Teleradiology

Teleradiology has changed the lives of radiologists and patients for the better. It has become a common way for radiologists to cover a hospital's emergency department (ED) because it's so convenient—radiologists can read films taken in the ED at home, while the patient is still in the ER. Plus, it relieves the radiologists of the burden of being on-site to read films after hours, and it relieves patients of the need to stay in the emergency department while waiting for the radiologists to come in to read the film. Teleradiology also permits rural patients to get consults by specialists without having to travel long distances. But there are some risk management issues to be concerned about with teleradiology, as well as wrinkles in Medicare rules about billing for services provided by teleradiology.

Teleradiology concerns

Sometimes radiologists find that the quality of the image they receive at their remote locations is poor. This may be due to inadequate equipment, the way the image was transmitted, or carelessness on the part of the tech. Whatever the reason, it's important to recognize that there are risks in interpreting a poor image. Here's why:

- **Increased malpractice liability.** A malpractice lawsuit alleging an erroneous or missed diagnosis is difficult to defend if the radiologist read a poor image. Even if a clear image is unlikely to have made a difference in the patient's outcome, it's difficult to prove that one way or another. And since the radiologist could easily have avoided the problem by either asking for another image or going to the hospital to interpret the film, a jury isn't likely to be sympathetic.
- **Medicare requires quality services.** According to Medicare rules, it's improper to bill for a poor quality service. Even when radiologists are performing the professional components only and aren't responsible for the quality of the image, they're responsible for producing interpretation of acceptable quality—which they can't possibly do if the images they're reading aren't clear. So it's critical that your radiologists read images of acceptable quality only. It's the only way to protect patients, and the only way radiologists can protect themselves.

- **Billing can be complicated.** Billing for teleradiology services isn't always straightforward, and that can lead to compliance problems. Here are two common scenarios that cause billing confusion:
 - Teleradiology interpretations are professional components. An interpretation of a radiological test is the professional component of the test—regardless of where the interpretation was made. Payment will be made under the Part B fee schedule for Medicare patients, and under the third-party payer's fee schedule for other insurers' patients. So it's important to remember that the professional component consists of the radiologist's interpretation and report only.
 - "Place of service" is not clear. Typically, the interpreting radiologist is providing only a professional service at the remote site—the technical component is provided at the place where the patient is located. So the "place of service" for the professional component would generally be the place where the image was interpreted. But what place of service code should you use if the radiologist was at home when he or she interpreted the image? There's no place of service code for that. Also, if the radiologist's office is used as the place of service code and the patient is a hospital inpatient, the claim may be rejected. CMS hasn't issued national billing guidance on place of service for teleradiology, although individual carriers may have issued instructions. Check with your carrier for guidance on which place of service code to use.
- **Supervision can be an issue.** Some radiology tests—notably those that require the administration of contrast material—require a physician's direct supervision. Consider a practice with several remote satellite offices, and a central location where radiologists interpret images from all the locations. Even if the practice has the technical capability for the radiologists to watch the tests being performed at the remote locations in real time, a test that requires direct supervision requires the supervising physician to be on-site. So there must be a physician available at each remote location to supervise tests. If the remote location is an independent diagnostic testing facility (IDTF), in some states, the supervising physician must be qualified to perform and interpret the test that he or she is supervising. That means, in essence, that the supervising physician must be a radiologist. If the practice owns the remote facility, the practice is responsible for ensuring that the technical component is properly supervised. But let's say that the practice isn't the provider of the technical component. Instead, it's purchasing the technical

component and billing globally under a reassignment agreement with the technical component provider. Even in that case, the practice should ensure that a properly qualified individual is on-site to supervise tests. That's because an improperly supervised test isn't reimbursable under Medicare. When a practice submits a claim to Medicare, it's attesting that all clinical and legal requirements for billing for the service—including proper supervision—are met.

Overseas transcription

It's increasingly common for medical transcription companies to outsource to—or directly hire—medical transcriptionists located overseas. Transcription companies that use overseas transcriptionists can offer high-quality service, often at a lower price than the domestic competition. But there's more than price to consider when hiring a transcription company that uses transcriptionists located overseas. You'll need a guarantee that the turnaround time and the transcription quality will be acceptable—just as you would with any transcription service. And you'll need to be sure the arrangement doesn't lead to certain HIPAA compliance problems.

Medical practices that use outside transcription services are assuming a certain amount of risk, regardless of the location of the company or its transcriptionists. That's because of the nature of medical transcription: The practice is allowing the transcriptionist access to its patients' confidential information, including protected health information (PHI) governed by HIPAA and its privacy regulations. The privacy regulations require a practice to have a business associate agreement with the transcription company before releasing any PHI to the company. The business associate agreement must require that your patients' confidential information be handled in a manner that's HIPAA-compliant. The practice would be liable under HIPAA for the conduct of the company if the practice

- knew that the company violated the terms of the business associate agreement
- knew that the company engaged in a practice or pattern of activity that was likely to breach the terms of the business associate agreement;
- didn't take reasonable steps to stop the violation (and if unsuccessful, terminate the contract).

A patient could sue a practice for a single improper disclosure that the transcription company made. Even though a patient doesn't have a private cause of action under HIPAA for improper disclosures of the patient's PHI, a patient could file a breach of privacy lawsuit under state law, for example, asserting that the practice didn't comply with the minimum protections HIPAA requires. So the business associate contract not only protects the patient, it protects your practice as well by making the transcription company agree to the proper handling of your patient's PHI. The problem with

companies that use overseas transcriptionists is one of enforcement. And if the company itself is located overseas, it may be difficult to gain jurisdiction over the company to sue it if its negligence or malfeasance caused a HIPAA violation for which your practice is being held responsible. And even if you get jurisdiction and sue successfully, collecting any damages is more difficult if the company is located offshore. Even if the company is domestic and only the transcriptionists are located overseas, you can still have problems. All this means that the risks you assume are greater if the company or its transcriptionists are located overseas—and the risk to them is less than it would be if they were domestic. So you need to keep this in mind when deciding whether overseas transcription is right for your practice or facility.

Practice due diligence

To avoid getting burned by a transcription service that uses transcriptionists located overseas—whether the company itself is foreign or domestic—take certain basic steps to assure yourself that the company is legitimate and offers an acceptable level of service:

- **Check references.** First, ask for references from the company and check them out thoroughly. Contact your specialty society, local medical society, and medical administration resource groups like the Radiology Business Management Association and Medical Group Management Association, to find out if they've heard anything good or bad about the company. And canvass your colleagues for information. If no one has heard of the company, or if the information you hear is negative, then you should pass.
- **Get assurance of financial viability.** If you get good reports, you may want to go ahead. But your due diligence isn't done. You need to make sure that the company has sufficient financial resources to cover any losses its negligence or malfeasance may cause you. There are several ways of establishing this, the most common being an indemnification provision coupled with a bond, a letter of credit, or proof of insurance naming the practice as an additional insured. To avoid unnecessary expense to your practice, ask to see these documents before you consult your attorney for help with the contract—if the company's financial wherewithal isn't satisfactory, you won't need a contract because you won't hire it.

- **Get help from your attorney.** Let's say that you hear good things about the company and its services, and it has demonstrated its financial responsibility to your satisfaction. Even if you typically handle vendor contracts without the assistance of your attorney, it's essential to get legal help when dealing with an overseas company or even a domestic company that will be doing work for you overseas. So call your attorney and and say you're considering a transcription contract with a company that will be doing the work overseas, regardless of where the company is located. Your attorney should help you make sure that you have a valid business associate agreement that binds the company and any of its employees or independent contractors to obey and comply with all laws that govern your practice. While signatures are not necessarily required by HIPAA, your attorney may want the actual transcriptionists, as well as the principals of the company, to sign the agreement. And your attorney must ensure that there is language in the contract that makes the company and its transcriptionists subject to the court's jurisdiction in your locality.

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