

HEALTHCARE SERVICES GROUP

RISK MANAGEMENT & PATIENT SAFETY NEWSLETTER

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HSG INTRODUCES Healthcare Event Assistance & Lending Support Program (HEALS)

Beginning May 1, 2014, Healthcare Services Group's *Healthcare Event Assistance & Lending Support (HEALS)*¹ program will provide education and support² to insured healthcare providers after they experience a bad patient outcome, during a complaint investigation and during malpractice litigation. HEALS is a service to insured providers, available at no cost. The voluntary program focuses on the healthcare provider's thoughts, concerns and questions about the unfolding events.

HEALS is intended to help insured providers process the event and get back to peak performance.

HEALS is not a counseling or therapy program – it is information sharing. HEALS's primary objective is to help providers return to peak performance³ as quickly as possible.⁴

¹ Healthcare Services Group would like to thank Susan D. Scott, RN, MSN, for her assistance with HEALS and for her continuing support and guidance. Ms. Scott, RN, MSN, is a leading authority on the Second Victim/Wounded Healer experience and the director of the University of Missouri Health Systems' nationally recognized "forYou" program.

² Hanan H. Edrees, Lori A. Paine, E. Robert Feroli, Albert W. Wu, "Health care workers as second victims of medical errors," *Pol Arch Med Wewn.* 2011, 121(4):101-108.

³ "Physicians reported that errors in which they had been involved increased their anxiety about the potential for future errors (61%) and negatively affected their confidence in their abilities as physicians (44%), ability to sleep (42%), job satisfaction (42%) and professional reputation (13%)." Amy D. Waterman, Jane Garbutt, Erik Hazel, William Claiborne Dunagan, Wendy Levinson, Victoria J. Fraser and Thomas H. Gallagher, "The Emotional Impact of Medical Errors on Practicing Physicians in the United States and Canada," *The Joint Commission Journal of Quality and Patient Safety*, August 2007, Vol 33, No. 8 467-476 at pg 469.

⁴ "Rapid restoration of emotional equilibrium is suggested as a way of reducing further risk because risk for an additional claim doubles for physicians who have a claim in the previous year." Sara C. Charles, "Coping with a medical malpractice suit," *West J Med* 2001; 174:55-58 at 56.

⁵ Surgeons who experienced an error in the past 3 months tended to have a lower quality of life and increased symptoms of burn out and depression and subsequently there is an increased likelihood of decreased clinical performance. Tait D. Shanafelt, Charles M. Balch, Gerald Bechamps, Tom Russell, Lotte Dyrbye, Daniel Satele, Paul Collicott, Paul J. Novotny, Jeff Sloan and Julie Freischlag, "Burnout and medical errors among American surgeons," *Ann Surg* 2009; 251: 995-1000 and A. Pinto, O. Faiz, C. Bicknell and C. Vincent, "Surgical complications and their implications for surgeons' well-being," *British Journal of Surgery* 2013; 100: 1748-1755.



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Unfortunately, in medicine things do not always go as planned. During treatment, patients may experience complications and subsequently suffer harm or patients perceive that the provider did something wrong, resulting in a complaint investigation or lawsuit being filed. In many cases, the healthcare provider experiences anxiety and distress⁵ after one of these events.



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HSG INTRODUCES Healthcare Event Assistance & Lending Support Program (HEALS)

Sometime after the medical event is resolved, the healthcare provider may be sued for malpractice which causes another level of anxiety and stress⁶ – not necessarily the same type of stress experienced after the unexpected outcome. Academic research tends to view a provider's response to an adverse event and response to a malpractice lawsuit as two distinct events, but HSG's experience reveals it is more accurate to view them as two events in an incident's life-cycle.

The first event in the life-cycle is the incident itself. After a medical error, there is a growing awareness that healthcare providers are emotionally impacted and may need assistance processing the event. If the error was unexpected, preventable or the provider feels responsible, it has a more significant negative impact.⁷ Additionally, research reveals a correlation between the severity of the injury (i.e., permanent harm vs. temporary setback) and the degree of emotional distress the healthcare team experiences.

Following an adverse event, ninety percent (90%) of doctors⁸ felt hospitals and healthcare organizations do not do enough to support them, and eighty-two percent (82%) were interested in getting some type of support while they work through events.⁹ Many providers want information that explains what they are experiencing – they want to understand their reactions and how they compare to what others report.

Essentially, they are looking for information that indicates their reaction is normal to the abnormal event (i.e., the adverse event). Recognizing the toll¹⁰ adverse events can have, healthcare institutions are developing support programs (e.g., University of Missouri Health Systems' "forYou" program), but these programs focus on the response to the adverse event not subsequent litigation.

HEALS is intended to help insured providers process the event and get back to peak performance. Research indicates that providers tend to be at a higher risk for

being involved with subsequent adverse events if they ignore their reactions.¹¹ Providers typically go through several stages¹² while processing the event.¹³ (see page 5 for the Second Victim Trajectory) Over time, providers process the event and the stress dissipates, but the memories of the event may continue to last¹⁴ for many years.

The second event in the incident life-cycle is when the physician receives notice of a formal complaint filed with the professional licensing board¹⁵ (e.g., Board of Healing Arts) and/or is served with a malpractice lawsuit. The physician is now the "Defendant" or "Litigant" instead of the "doctor." Typically, the provider has processed the adverse event and the litigation comes as a surprise.¹⁶ In many ways, the litigation stage can be more stressful¹⁷ and overwhelming¹⁸ than the adverse event itself because the provider must repeatedly explain the events as well as why he/she took specific actions. The provider's competence is probed,

⁶ Sara C. Charles, Jeffrey R. Wilbert and Kevin J. Franke, "Sued and Nonsued Physicians' Self-Reported Reactions to Malpractice Litigation," *Am J Psychiatry* 142:4, April 1985.

⁷ Pinto, Faiz, Bicknell and Vincent.

⁸ The provider is called a "Second Victim" or "Wounded Healer" in the academic literature.

⁹ Waterman, Garbutt, Hazel, Dunagan, Levinson, Fraser and Gallagher.

¹⁰ Pinto, Faiz, Bicknell and Vincent.

¹¹ Charles.

¹² Not everyone goes through all the stages or in the same order.

¹³ S.D. Scott, L. E. Hirschinger, K. R. Cox, M. McCoig, J. Brandt, L. W. Hall, "The natural history of recovery for the healthcare provider 'second victim' after adverse patient events," *Qual Saf Health Care* 2009; 18:325-330.

¹⁴ Pinto, Faiz, Bicknell and Vincent.

¹⁵ The academic research focuses on malpractice litigation but providers anecdotally report experiencing the same reactions to complaints, investigations and disciplinary actions initiated by professional licensing authorities.

¹⁶ According to a survey about 75% of the physicians sued were surprised that the patient sued them and 59% indicated they could not recall an adverse event or trigger incident that would have put them on alert to look for a lawsuit. Conversely, 25% of the physicians expected the

lawsuit. Mark Crane, "Lawsuit: 'The Worst Experience Ever' and 'A Total Surprise,'" July 24, 2013, <http://www.medscape.com/viewarticle/808145> and Medscape article, "Malpractice Report: The Experience of Getting Sued," <http://www.medscape.com/features/slideshow/malpractice-report/public>.

¹⁷ Medscape survey revealed 23% of physicians thought that getting sued was "Horrible; one of the worst experiences of my life"; 16% said it was "Very bad; disruptive and humiliating"; 41% said "Upsetting, but I was able to function" Medscape article, "Malpractice Report: The Experience of Getting Sued," <http://www.medscape.com/features/slideshow/malpractice-report/public>.

¹⁸ Charles, Wilbert and Franke.



challenged and questioned throughout the litigation process. Further, the physician who normally “commands the ship” may feel out of his/her element because others (e.g., lawyers, judges) control what will happen and how things will unfold. Although the healthcare provider’s actions are at the center of the litigation, the provider is unable to exert any significant procedural control¹⁹ over the process. Empirical and anecdotal evidence indicates litigation is traumatic and stressful²⁰ for about 95% of the physicians sued.

HEALS focuses on the provider’s perceptions, experiences and thoughts after the event, and during the litigation process – the focus is on the provider not the litigation. After the adverse event, HEALS shares information and academic research about what others have experienced and how they addressed the situation – acute stress responses are normal in this abnormal situation. If litigation ensues, HEALS shares information about the litigation process and strategies to manage the stress and anxiety. The goal is to help the provider through the process and back to peak performance.

HEALS provides the type of information and support a healthcare provider would receive from the Risk Manager at a facility with a Second Victim program, such as University of Missouri Health Systems (see Three-Tiered Interventional Model of Second Victim Support).

Three-Tiered Interventional Model of Second Victim Support



The HEALS protocol is initiated as follows:

1. **The healthcare provider reports an event or situation that he/she feels is likely to result in some type of formal action by the patient to HSG’s Claim Department;**
2. **The healthcare provider receives notice that Professional Registration (i.e., Board of Healing Arts, Nursing Board) has opened an investigation into an incident and notifies HSG’s Claim Department; or**
3. **The healthcare provider was served with a malpractice lawsuit and notifies HSG’s Claim Department.**

Once initiated, HSG will send the insured provider information outlining the HEALS program along with information and research about responses to adverse events and litigation. Subsequently, HSG will contact the provider to set up a face-to-face meeting if the provider so chooses. The intent is to help the provider in the manner that best fits his/her needs. At various times during the incident’s life-cycle (e.g., after lawsuit is served), HSG will “check-in” with the provider to offer assistance. The goal is to

support the provider during these stressful events. HEALS is also available to provide “Second Victim” and litigation process educational programs to the insured provider’s staff. Research indicates that treatment team members may also experience stress related to an adverse event and explaining the Second Victim response can help the team return to peak performance quicker.

An important component of HEALS is the after-action analysis with the provider. At the incident’s conclusion (i.e., after case resolution), HSG will work with the provider to review the entire incident for lessons learned and implement appropriate changes.

HSG’s Claim Department and the Risk Management & Patient Safety (RM&PS) Department work closely together to deliver the HEALS program to insured clients. HEALS is part of HSG’s claims services. HEALS is managed and controlled by the Claim Department as part of the claims process but delivered by HSG’s RM&PS Department. Since it is a part of the claims management process, the information discussed is privileged just like other claims related information.

¹⁹ MLA Professional Liability Insurance Policies have a “Consent” clause that grants the insured provider the authority to approve or disapprove of any claim settlement.

²⁰ Charles.



INCIDENT LIFE-CYCLE

The unexpected medical event and litigation scenarios typically unfold as follows:



1. The healthcare provider treats the patient.
2. The patient experiences an adverse event.
3. The patient suffers harm.
4. The adverse event is handled.
5. The healthcare provider experiences emotional, cognitive and physiological responses after the event. The responses tend to follow recognizable patterns and stages. (see Second Victim Trajectory on page 5)
6. The healthcare provider works through his/her response to the event.
7. The healthcare provider's organization conducts an investigation and analysis.
8. Changes are implemented to decrease the likelihood of the event reoccurring (i.e., peer review, root cause analysis).
9. There is a lull, things quiet down while the patient decides if he/she will take further action such as filing a complaint or a malpractice lawsuit. Frequently, the provider assumes nothing is going to happen because of the lull and forgets about the event.
10. The patient files a formal complaint/lawsuit.
11. The healthcare provider relives the event and the initial feelings in addition to the new emotions generated by the complaint/lawsuit.
12. The provider begins to experience the stress and anxiety of litigation – the stress and anxiety fluctuates sometimes more, sometimes less. Litigation is not a linear process there are periods of intense activity followed by periods of seeming complete inactivity.
13. The inquisition begins anew – provider's actions are scrutinized and critiqued far more intensely than during the investigation after the adverse event.
14. The litigation and accompanying stress can drag on for years – common for the healthcare provider to be answering questions about the event more than three years after it happened.
15. Frequently the provider does not hear anything about the case from anyone for significant periods. Stress of the unknown builds (What's going on?). The matter inches toward resolution – dismissal, settlement or trial.
16. The matter is resolved, everyone who was intensely interested in the healthcare provider walks away and the healthcare provider returns to his/her practice and processes the entire scenario (What just happened to me?).



SECOND VICTIM TRAJECTORY

STAGING	STAGE CHARACTERISTICS	COMMON QUESTIONS
<p>STAGE 1 CHAOS & ACCIDENT RESPONSE</p>	<p>Error realized/event recognized Tell someone – get help Stabilize/treat patient May not be able to continue care of patient Distracted Experience a wave of emotions</p>	<p>How did that happen? Why did that happen?</p>
<p>STAGE 2 INTRUSIVE REFLECTIONS</p>	<p>Re-evaluate scenario Self-isolate Haunted re-enactments of event Feelings of internal inadequacy</p>	<p>What did I miss? Could this have been prevented?</p>
<p>STAGE 3 RESTORING PERSONAL INTEGRITY</p>	<p>Acceptance among work/social structure Managing gossip/grapevine Fear is prevalent</p>	<p>What will others think? Will I ever be trusted again? How much trouble am I in? Why can't I concentrate?</p>

(STAGES 1-3 MAY OCCUR INDIVIDUALLY OR SIMULTANEOUSLY)

<p>STAGE 4 ENDURING THE INQUISITION</p>	<p>Realization of level of seriousness Reiterate case scenario Respond to multiple "why's" about the event Interact with many different "event" responders Understanding event disclosure to patient/family Litigation concerns emerge</p>	<p>How do I document? What happens next? Who can I talk to? Will I lose my job/license? How much trouble am I in?</p>
<p>STAGE 5 OBTAINING EMOTIONAL FIRST AID</p>	<p>Seek personal/professional support Getting/receiving help/support</p>	<p>Why did I respond in this manner? What is wrong with me? Do I need help? Where can I turn for help?</p>
<p>STAGE 6 MOVING ON (ONE OF THREE TRAJECTORIES CHOSEN)</p>	<p>Dropping Out Transfer to a different unit or facility Consider quitting Feelings of inadequacy</p> <p>Surviving Coping, but still have intrusive thoughts Persistent sadness, trying to learn from event</p> <p>Thriving Maintain life/work balance Gain insight/perspective Does not base practice/work on one event Advocates for patient safety initiatives</p>	<p>Is this the profession I should be in? Can I handle this kind of work?</p> <p>How could I have prevented this from happening? Why do I still feel so badly/guilty?</p> <p>What can I do to improve our patient safety? What can I learn from this?</p>



FREQUENTLY ASKED QUESTIONS

Can you explain the relationship between Healthcare Services Group (HSG), Missouri Hospital Plan (MHP) and Medical Liability Alliance (MLA)?

HSG is the management company that provides the human resources that manage and operate MHP and MLA. MHP is the leading insurer of not-for-profit hospitals in Missouri and MLA is a wholly owned subsidiary of MHP and a leading stock insurer of physicians and for-profit facilities in Missouri, Kansas and Illinois.

What does HEALS cost?

All of the HEALS services are available, at no cost, to MHP and MLA insured healthcare providers.

The HEALS educational program about the Second Victim experience and the stages of recovery can also be delivered to the insured provider's "team" at no cost, but this program does not include one-on-one.

HEALS can also deliver an educational assistance program about professional registration investigations and the civil litigation process to the provider's "team" at no cost, but this program does not include one-on-one assistance.

Who will provide the HEALS services?

HSG's Claim Department and the Risk Management & Patient Safety (RM&PS) Department work closely together to deliver the HEALS program to insured clients. HEALS is part of HSG's claim services. HEALS is delivered by HSG's RM&PS Department, but managed and controlled by the Claim Department as part of the claim process.



FREQUENTLY ASKED QUESTIONS

Are MHP and MLA insured healthcare providers required to participate in the HEALS program?

No. This program is strictly voluntary for providers who wish to participate.

Can the HEALS services be delivered over the phone?

Yes. However, research indicates HEALS education and support is most effective when initially delivered in a one-on-one setting. After the provider and the HEALS team develop a relationship, periodic phone discussions can be effective.

Will HEALS help in the litigation process?

HEALS supports the provider through the litigation process, but the litigation process is managed by HSG's Claim Department and defense counsel.

Are conversations between the healthcare provider and the HEALS team protected?

Yes. HEALS is not a counseling or therapy program – it is education and support, but it is part of the claim services MHP/MLA provides to their clients. Since HEALS is part of the Claim Management Services, the information shared is privileged and confidential.



Questions? Comments?

Healthcare Services Group is interested in your comments about the *HSG Risk Management & Patient Safety Newsletter*.

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Articles in the *HSG Risk Management & Patient Safety Newsletter* are not legal advice. Specific legal advice should be obtained from a qualified attorney when necessary.

The risk management recommendations contained in this newsletter are intended to be advisory only for HSG policy holders. HSG does not undertake hereby to establish any standards of medical practice. Although HSG believes strongly in the effectiveness of good risk management, no guarantee can be made that claims experience will decrease if the recommendations are followed.

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