

## DOCUMENTATION FOR RISK MITIGATION DURING A HEALTHCARE CRISIS

Claims are often filed years after an event occurs, which is why it is important to maintain accurate and detailed documentation within the electronic health record (EHR). This is especially important during a healthcare crisis as government guidelines may change frequently, impacting provider decision-making and patient care.

Despite liability protections that may be implemented for medical providers during a healthcare crisis, physicians should not consider themselves immune to litigation arising after the crisis. Retention of healthcare records and supporting documentation may minimize risk exposure should the care provided (or delayed) due to the crisis be later called into question.

### Documenting Changes to Patient Care

Recommendations for documentation of patient care during a healthcare crisis:

1. Specify the healthcare crisis impacting patient care.
2. Include government guidelines as they relate to the healthcare crisis.
3. Identify patient factors taken into consideration.
4. Detail changes to the treatment plan (if applicable).
5. Indicate the current status of the patient.
6. Outline any applicable risks or changes in treatment due to the patient's current condition.
7. Summarize the plan for future patient care.
8. Obtain written document of patient understanding that they are seeking care during a healthcare crisis and that the patient has had an opportunity to ask questions, have the questions answered, and agrees to proceed.

Below are examples of guidance documentation templates to consider when applying the above recommendations:

#### Performing a Procedure

TEMPLATE: *During the [healthcare crisis], [government guidelines] permits performance of [procedure]. [Patient name] has elected to move forward with [procedure], and it has been scheduled for [date]. Patient factors taken into consideration include [list factors] resulting in [any applicable or no changes to the treatment plan]. [Patient status] indicates [any applicable or no risks]. Next steps include [treatment plan summary]. [Patient name] has confirmed understanding of the above and has been given an opportunity to ask questions, have the questions answered, and agrees to proceed.*

#### Delaying or Rescheduling a Procedure

TEMPLATE: *Due to [healthcare crisis], [government guidelines] requires [delay/rescheduling] of [procedures]. [Patient name] has been notified that the [procedure] must be delayed due to these guidelines. [Procedure] has been [deferred until/rescheduled for] [timeframe/date]. Patient factors taken into consideration include [list factors] resulting in [any applicable or no changes to the treatment plan]. [Patient status] indicates [any*

*applicable or no risks]. Next steps include [treatment plan summary]. Follow-up will occur in [timeframe]. Patient was advised to contact the practice or go to the emergency department if any changes in [patient status/condition] occurs.*

### Prescribing or Changing Medication

*TEMPLATE: Due to [healthcare crisis], [initially prescribed medication] is currently unavailable. [Dosage] of [newly prescribed medication] is being prescribed for [timeframe]. Patient factors taken into consideration include [list factors] resulting in [medication changes to the treatment plan]. [Patient status] indicates [any applicable or no risks]. [Medication] is anticipated to be just as effective based on the patient's condition. Patient progress is being monitored, and follow-up will occur in [timeframe].*

## Preparing for Resumption of Healthcare Services

Government guidelines, standard of care, and rules for resumption of services may also change frequently during a healthcare crisis. Once the safeguards are implemented per the appropriate guidelines, consider the following recommendations prior to resuming patient care:

- Schedule patients according to government guidelines if applicable
- Otherwise, prioritize scheduling the backlog of patients based on patient condition or need
- If an EHR is in place, utilize reporting functionality if available to track overdue orders, tests, referrals, and appointments
- If there is limited or no access to the EHR during the healthcare crisis, implement a process to support all notes being added to the patient records as soon as possible
- As the healthcare crisis resolves, reorient staff to normal practice policy and procedures, especially as government waivers associated with the healthcare crisis expire
- Utilize state-specific examples, checklists, and prompts if available
- Incorporate custom prompts into the EHR (e.g. Epic dot phrase) to support documentation of practice workflows adjusted to comply with state proclamations
- Implement a “Patient Consent to Treat” outlining inherent risks involved in receiving care during the healthcare crisis and addressing steps taken for patient staff and staff safety (see Physicians Insurance Consent to Treat During COVID19 Pandemic 2020)

## Documenting Resumption of Healthcare Services

During a healthcare crisis, recommendations for documenting resumption of care:

1. Specify the healthcare crisis impacting patient care.
2. Include government guidelines (and date if relevant) as they relate to the healthcare crisis.
3. Include the interpretation local state proclamations to support documentation.
4. Summarize changes in patient condition since time of last communication or visit.
5. Indicate the current status of the patient.
6. Outline any applicable risks or changes in treatment due to the patient's current condition.
7. Summarize the plan for patient care.
8. Obtain written document of patient understanding that they are seeking care during a healthcare crisis and that the patient has had an opportunity to ask questions, have the questions answered, and agrees to proceed.

Below are examples of guidance documentation templates to consider when resuming care during a healthcare crisis:

### Resuming Elective Procedures

TEMPLATE: *[Practice name] where [procedure] will be performed confirmed compliance with [government/organization guidelines]. [Patient name] requires [procedure]. [If applicable: Delaying procedure puts patient at risk for - list.] Patient has been screened for [factors for screening, i.e. specifics of travel, symptoms related to healthcare crisis, etc.]. [Patient name] is considered a low-risk admission based on [patient factors, i.e. age, ASA status—insert ASA level if applicable] and has no additional risk factors. [Patient name] has elected to move forward with [procedure], and it has been scheduled for [date]. [Patient name] has confirmed understanding of the above and has been given an opportunity to ask questions, have the questions answered, and agrees to proceed.*

### Performing Previously Delayed Procedure (Not Initially Documented)

TEMPLATE: *The [procedure] for [patient name] was previously delayed due to [healthcare crisis] based on [government/organization guidelines]. New guidance on resuming [procedures] has since been released. Patient has signed a Consent to Treat During [healthcare crisis] form and agrees to proceed.*

## Supporting Documentation

Retention of the following physical or electronic records is recommended to support documentation:

- Waivers (including blanket or specific waivers applied for)
- Government guidance used to develop or refine policies and procedures
- CDC or other professional organization guidance used to develop/refine policy and procedures
- Interim or updated policies and procedures developed throughout the healthcare crisis
- PPE tracking documents
- Staff education tools utilized (handouts from the CDC, videos assigned, names of online courses assigned, etc.)
- Records of training/education for staff applicable to delivery of medical care (emails, sig- in sheets, certificates, etc.)
- Attestation documents if required (for example, practice/facility meets state guidelines to resume patient care)
- Notices of Human Resource support and services offered/provided to staff throughout the crisis
- Ensure long-term access to the above records, avoiding website links as they may expire

*This information should be modified based on individual circumstances, professional judgment, and local resources. This document is provided for educational purposes and is not intended to establish guidelines or standards of care. Any recommendations contained within the document is not intended to be followed in all cases and does not provide any medical or legal advice.*

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