Workers' comp, quarantines will be difficult

Relying on the authority of the Centers for Disease Control and Prevention (CDC) for infection control procedures should be safe, even if the CDC later proves to be wrong, suggests **Jane J. McCaffrey**, MHSA, CIC, DASHRM, a risk management consultant in Easley, SC, and a past president of American Society for Healthcare Risk Management. However, that statement does not diminish the hospital's obligation to properly train staff on protocols and provide the necessary equipment, she says.

"One key thing each organization needs to get on board with is that there will be set protocols and no shortcuts," McCaffrey says. "Every facility will need to have a 'junior guru' with the clipboard and a checklist who observes strict compliance with the recommended protocol and documents that compliance."

Quarantines might require digging deep into little-used hospital policies and the fine print of insurance policies, McCaffrey notes. Consider the following questions: Is a quarantined employee on paid leave? Will it matter if the infection was acquired at work or in the community? Will workers' comp apply for the expenses?

Workers' compensation costs could be contested by insurers, particularly if they claim that the hospital did not take adequate precautions. At the same time, however, some insurers are offering specific policies for losses related to Ebola. *(See the stories on p. 127 and p. 128 for more on employment issues and insurance coverage.)*

SOURCE

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EMTALA more difficult with suspected Ebola

If a patient shows up at your emergency department (ED) with risk factors for Ebola, are you ready to fulfill your obligations under the Emergency Medical Treatment and Labor Act (EMTALA)? Complying might not be a simple task.

Many states are designating certain hospitals as the sites where Ebola patients will be treated, which acknowledges that not every hospital is capable of providing adequate care under extreme isolation measures. Some hospitals also have announced that they are not capable of providing the spectrum of care Ebola patients might need and will transfer them to more capable facilities.

Those are legitimate strategies, but those patients still might present at your ED, notes **George B. Breen**, JD, an attorney with the law firm of Epstein Becker Green in New York City. He is in the Health Care and Life Sciences and Litigation practices and chair of the firm's National Health Care and Life Sciences Practice Steering Committee.

If a potential Ebola patient arrives at the ED, the hospital cannot just turn that person away or direct him or her to another facility, he explains.

> "YOUR RESPONSE WILL BE SCRUTINIZED FOR THE SLIGHTEST ERROR OR FAILURE TO PLAN."

"If yours is not the appropriate facility because you don't have the capacity or the capability to take care of this patient, what practice or policy do you have in place to make sure this person is transported to an appropriate facility?" Breen asks. "First, you have the obligation to stabilize this patient to the best of your ability, as with any other patient in your ED. You may not have to prepare your entire hospital for Ebola care, but your emergency department should have a plan for fulfilling EMTALA."

Once the patient is stabilized, then it is a matter of exactly how you are going to transfer this person. Protocols for the transfer must include infection control procedures to protect others, Breen says.

Planning for such an eventuality can seem like an overreaction or even discrimination against people from Africa, notes **Kathleen M. Williams**, JD, also with Epstein Becker Green in New York City. The alternative would be worse, she says.

"Everyone is going to be accused of underreacting when that Ebola patient comes forward," Williams says. "Your response will be scrutinized for the slightest error or failure to plan." ■

Source: Healthcare Risk Management, published by AHC Media, Atlanta. Phone: (800) 688-2421. Email: customerservice@ahcmedia.com. Web: http://www.ahcmedia.com/public/products/Healthcare-Risk-Management.html.