

Patient Safety – A Y2K Reminder

The healthcare industry, including hospitals and physicians, will be the target of intense scrutiny on and after January 1, 2000. While recent news reports have downplayed any significant Y2K problems for most segments of the economy, publications continue to report that many healthcare facilities remain unprepared for this challenge.

According to most surveys, including those performed by the federal government, healthcare facilities have been reluctant to publicly disclose their Y2K status, thereby suggesting a possible lack of preparedness. While they may have identified the areas at risk for Y2K problems, it appears unlikely that every area of concern will receive corrective action given the time constraints involved.

Unless your healthcare facility has formally disclosed its completion of the process for reaching Y2K readiness before December 31, 1999, there is increased potential for serious injury to patients and interruptions in health care delivery.

Preferred Physicians Medical has identified several key concerns and developed some suggestions for improving patient protection.

Concern #1

The Y2K impact on patient safety will likely focus on electronic equipment used for patient care. Anesthesia equipment identified as high risk for Y2K problems would include, but is not limited to, vaporizers, ventilators, physiologic monitoring systems, data management systems, defibrillator infusion pumps and anesthesia machines.

Suggested Action

- Have an understanding of the contingency plans developed by the healthcare facility, especially if it has not announced Y2K readiness. These might include temporarily limiting the number and types

of procedures to emergency situations. Consider arrangements for increasing the medical staff for a period of time to assist with potential problems associated with Y2K. Are there back up systems available for oxygen supplies and have they been tested recently?

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As we approach the new year, we have one final opportunity to remind readers of important considerations for the year 2000. While no one can predict the exact impact of Y2K issues on individual physicians, it is critical to remember that individual physicians are likely to be held responsible for injury to patients that result from Y2K failures.

Physicians should also be aware that most states have allowed insurance companies to exclude the "Year 2000 Problem" from coverage under their policies. Preferred Physicians Medical does not intend to add this exclusion and our policy will provide coverage for those claims that would otherwise be covered.

Lastly, our policyholders should be aware that Preferred Physicians Medical has implemented and completed its own five phase Y2K Plan with respect to its own operations as well as those of its vendors.

We are pleased to share this information with you and hope it will be of assistance. If you have any questions, please contact our offices.


Steve Sapiord
Editor

- Where applicable, medical equipment should be tested in advance by entering 2000 dates in order to evaluate the effects on functional capabilities.
- Review the anesthesia apparatus checkout recommendations and document that this checkout has been performed before administration of anesthesia for each procedure.
- Make a list of alternative methods for patient monitoring, in the event of equipment failure, to help minimize the possibility of harm or injury to a patient. This list might also include identifying those physicians who are most familiar with these alternative methods.

Concern #2

The informed consent process takes on more importance during the early part of the year. Many patients undergoing surgical procedures may express Y2K concerns. In addition, ethical and legal considerations may dictate some effort to address Y2K preparedness in the informed consent process.

Suggested Action

Anesthesiologists should be prepared to address patient concerns about Y2K preparedness. This may require anesthesiologists to provide a candid assessment of their healthcare facility's Y2K effort and steps taken to insure alternative methods are available in the event of equipment failure. Documentation of this discussion with the patient may help decrease physician liability exposure.

Concern #3

Adverse outcomes, whether or not caused by a Y2K problem, may result in litigation which

includes Y2K allegations. Preferred Physicians Medical anticipates that some unexpected outcomes will lead patients and their attorneys to suggest an unidentified equipment failure.

Suggested Action

Anesthesiologists may be able to reduce the likelihood of such claims by careful documentation of the medical record. The more detailed the anesthesia record, the more likely an accurate explanation for the outcome becomes. In addition, anesthesiologists can improve their ability to defend such claims by carefully identifying the equipment that was used during the procedure so that potential equipment failures can be detected.

In the event an anesthesiologist suspects a potential equipment failure, steps should be taken to preserve the evidence. Any suspect equipment should be immediately segregated and not used until tested. Typically, medical equipment is the property of the healthcare facility and therefore custody must be turned over to the facility. Healthcare facilities should not send the equipment to the manufacturer for testing. Absent independent testing, facilities and the involved health care providers may be subject to claims of spoliation of evidence. To prevent such issues, Preferred Physicians Medical strongly encourages anesthesiologists to immediately report any cases of suspected equipment failure to their insurance carrier. Prompt reporting will provide us with an opportunity to prevent the loss of important evidence. ❖

Y2K Resources on the Web

For physicians who utilize the Internet, we suggest several public web sites that appear useful for checking anesthesia equipment compliance.

www.fda.gov — (then check on year 2000)

This is the FDA's medical device database and is searchable by manufacturer.

www2.mc.duke.edu/depts/clineng/yr2000.htm

This site is hosted by Duke University (on www2) and lists the results for each piece of equipment

tested. The testing includes all forms of anesthesia equipment and the results can be downloaded as an Excel spreadsheet file for review.

www.medmarket.com — (then choose Select a Service – Healthcare Mfg. Industry)

This is a commercial advertising site that you can use to easily find and link to the Homepage of almost every medical equipment manufacturer. You can search or browse alphabetically. ❖

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Note: The purpose of this newsletter is to provide information to policyholders and defense counsel regarding professional liability issues. Risk management analysis is offered for general guidance and is not intended to establish a standard of care or to provide legal advice.

***Anesthesia & the Law* is published by**

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