Utilizing Curbside Consults

The well-established practice of “curbside consults”—probably as old as medicine itself—occurs when a physician, informally seeks advice from a colleague to assist in a patient’s management. It’s a valuable tradition because sometimes another perspective can make all the difference. However, in our often litigious society, practitioners may question whether participating in these informal consultations creates an unreasonable risk of legal liability. Fortunately, when curbside consults are handled appropriately, the risk is minimal. The key is to understand the criteria for a true curbside consult and to know when a formal consult would be more appropriate.

Curbside consult criteria

A curbside consult takes place when a physician informally seeks advice or information about a particular patient from a physician who is not otherwise involved with the patient in question. Usually, the issues are not complex, and the treating physician presents only basic details of the case. The discussion does not involve a review of the chart or seeing the patient. There is no charge for the consultation, and the patient typically doesn’t even know the consult took place. In fact, a curbside consult is often considered a service to the physician seeking consultation rather than to the patient.

Different types of consultations

Several different kinds of consultations can occur in medicine. It is important to recognize the difference between curbside consults and other types. The following are not curbside consults:

• The consultation involves a question posed to an on-call physician.
• The consultation occurs between a supervising physician and the health-care providers being supervised.
• The consultation is provided by a physician who has a preexisting patient/physician relationship with the patient in question, or who is covering for a physician who has that relationship.
• Consultations for patients in active labor, patients who are critically ill, or patients whose conditions are rapidly deteriorating.

The situations listed above describe formal consultations instead of true curbside consults.

When should a formal consultation occur?

Collegiality and collaboration are fundamental to the medical profession, and it is often appropriate for physicians to informally seek advice and insight from their peers. Concerns about litigation should not discourage the valuable practice of curbside consults. However, the informal role of the consultation
must be clearly defined, and the threshold for defining when it crosses the line into a formal consult should be extremely low.

A curbside consult should be fairly simple and brief. In the following situations, a formal consultation is likely more appropriate and should be considered:

- If the medical situation is complex or if advice cannot be given without examining the patient or the records.
- If the treating physician returns with a second question regarding the same patient.
- If the treating physician is suspending his or her own professional judgment and is relying on the consultant’s advice to determine the course of the patient’s care.
- If the patient has requested the consult or knows that a consultation is being obtained, and therefore, arguably, a physician/patient relationship is formed.

While curbside consults are very convenient, that convenience should never be placed above the patient’s care needs. When in doubt, a formal consultation should be considered.

**Documentation**

Curbside consults are often done face to face or over the phone. However, when email or text is used to seek a curbside consult, the request itself results in creating documentation. While practitioners often do not consider these communications part of the medical record, such communications could be discoverable if a medical malpractice lawsuit occurs and may become part of the medical record for purposes of litigation. So, before seeking or responding to a curbside consult in writing, remember that even informal written communication may exist forever. Be deliberate and careful with content, and make sure that protected health information is never sent over unsecure systems.

There is no rule requiring the documentation of curbside consults or the degree of documentation that should occur. However, if seeking or providing curbside consults is a regular part of a physician’s practice, it may be wise to develop some consistency in the type of information documented and how that documentation is maintained. If a consulting physician finds it necessary to create a lengthy documentation of the consult, then it may be time to consider a formal consult instead.

**When does liability arise?**

Traditionally, medical malpractice liability exists in the context of a physician/patient relationship, and the physician owes the patient a duty of care only when such a relationship has been established. A true curbside consultation should not give rise to a physician/patient relationship because the consulting physician has not seen, treated, or cared for the patient. All he or she has done is render informal advice to the treating physician in an abstract, general sense.
Problems can arise when the dialogue moves beyond generality into the realm of specific patient care. This can occur, for example, when the advice sought will be relied upon in making treatment decisions, where the scope of discussion identifies a patient and involves his or her specific medical issues, or where a patient’s medical records are involved. A formal consultation or referral is likely appropriate in situations like these.

**Guidelines for curbside consults**

Curbside consults can be a valuable and efficient tool for providers to use for the ultimate benefit of their patients. Just as these informal consults serve a distinct purpose, so also do formal consultations serve a distinct purpose. When the dividing line becomes blurred, greater liability concerns may arise. Here are some practical considerations to follow when utilizing curbside consults.

**Establish the substance of the consultation.** At the outset, the requesting and consulting physician should explain the expectations and nature of the consult. Both physicians should clearly understand that the consultation is informal.

**Avoid patient identifiers and records.** A curbside consult should be couched in the abstract and not require specific patient identifiers. Generally, medical records should not be reviewed during a curbside consult.

**Keep it brief and simple.** The dialogue should address general issues and be relatively brief. The more detailed and complex it becomes, the more the consultation adopts a formal connotation.

**The medical record should contain minimal but appropriate reference when needed.** Often, curbside consults are often documented anywhere. The treating physician must exercise judgment about an informal consult being referenced in the medical record. When he or she does document a curbside consult, the note should be brief and include the nature of the consult. The treating physician should also alert the consulting physician that the consultation is being included in the record.

**Conclusion**

When used correctly, curbside consults are a desirable, well-accepted part of medical practice. A true curbside consult poses minimal risk of creating liability for the treating or consulting physician. To ensure that this is the case, it is important that physicians communicate clearly and avoid common pitfalls that can create the impression of a more formal consultation. However, the convenience and ease of curbside consults must be balanced with the needs of the patient and when in doubt, a formal consultation should be obtained.