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May 18, 1999

Connie Basch, M.D.
Northcountry Clinic
1644 Central Avenue, #A
McKinleyville, CA 95519

Re: Risk management recommendations on the supervision of midwives

Dear Dr. Basch:

Mary Lai of Lai Insurance has forwarded to me your risk management inquiry on the supervision of midwives. A task force comprised of representatives from the Clinic Purchasing Group, healthcare practitioners from the clinics, and NORCAL will be drafting policies and procedures on this issue.

While awaiting the results of the task force, enclosed please find interim risk management recommendations. They address three groups of patients: all prenatal patients presenting to the clinic (section A); patients whose primary caregiver is a licensed midwife or certified nurse-midwife who is being supervised by a clinic doctor (section B); and patients of unlicensed midwives or planning home births (section C).

A. All prenatal patients presenting to the clinic
   1. Give sheet on minimum prenatal visits and when to call clinic/doctor.
   2. Have a discussion of caregiver and birth plans, and have the patient sign the plan
      a. Clinic physicians can supervise, consult with, and back-up certified nurse midwives and licensed midwives if:
         1. a signed agreement and protocol exists (see below)
         2. the physician has current training and experience in obstetrics and is privileged for C-sections at the hospital at which the patient would present in the event of a complication
         3. the patient is seen by the doctor at least once in the 1st and 3rd trimesters.

4. EXCLUSIONS AND LIMITATIONS ON COVERAGE

a. Clinic physicians cannot supervise, consult with, or back-up any midwife for **home birth.**

   The policy language specifically excludes, in II.A.7 of the "PROFESSIONAL LIABILITY COVERAGE FORM" section of the policy:

   "d. The attendance at or supervision of labor and/or delivery in any place other than a licensed acute care hospital or licensed alternative birth center, except in the case of a bona fide emergency which requires the immediate and unexpected intervention by the Insured..."

b. A clinic physician is only covered while acting within the scope of his/her duties for the clinic. If the **doctor is moonlighting** and delivering a baby on his/her own account, the policy would not provide coverage to the physician.

c. NORCAL underwriting criteria do not allow physicians to supervise, consult with, or provide back-up to **unlicensed** midwives.

B. If a licensed or certified nurse midwife is the primary obstetrical caregiver, with a clinic doctor as supervising physician:

1. Supervisory terms and agreement: There must be a signed agreement and detailed protocol between the supervising physician and the certified nurse midwife/licensed midwife that explains:
    1. who the doctors and midwives are; NORCAL underwriting guidelines for physicians in private practice is maximum ratio 1 M.D./4 midwives
    2. when the midwife will consult with the doctor and refer patients
    3. prescriptive authority, if any.
    4. how the supervision will occur: at a minimum, two visits to the doctor (1st and 3rd trimester), telephone availability at all times, regular discussion of patients; regular chart review.
    5. The M.D. has the ultimate responsibility, liability, and authority.
    6. The patient should be given a written disclosure explaining the midwife's liability insurance coverage (if she is not a clinic employee) and of the legally mandated relationship with the supervising physician, including the name of the physician.

C. Care/Referral of patients from unlicensed midwives or home births. Since the Clinic is the main source of medical care for many patients in the area, it cannot refuse to treat those who choose to be seen by unlicensed midwives or to have home births. If such patients either come to the clinic or present at the hospital when a clinic doctor is covering for obstetrics, the following steps are recommended.
    1. TREAT THE PATIENT AS A HIGH-RISK PATIENT
    2. Meticulous history and physical each visit, detailing the patient's condition and the changes since the last visit, as well as follow-up attempts made in the interim (see below).
    3. Signed birth plan
    4. If planning a home birth or seeing an unlicensed midwife, detailed discussion of risks, lack of physician back-up, no supervision or co-management: sign "Acknowledgement of Risks" form.
    5. if a patient who is planning a home birth or seeing an unlicensed midwife (or whom you suspect is) develops a complication and refuses to follow advice, sign "Informed Refusal of Care" form. A sample form is enclosed. Please tailor it to your needs and put it on clinic letterhead.
    6. Give all patients list of minimum prenatal care and when to call the doctor/clinic.
    7. Follow-up systems
        1. Have the patient make the next appointment before leaving.
        2. If she can't, the clinic should call the next day to make appointment: document.
        3. If any prenatal patient misses an appointment or the clinic is unable to schedule the next appointment, send a certified letter informing the patient of the need for prenatal care; place a copy in the chart.
        4. Repeat discussion of risks at each prenatal visit.

8. If an unlicensed midwife or home birth midwife calls for advice of any kind, explain that you cannot give any advice (otherwise you are engaging in supervision, which is not covered under your policy, as discussed above). Similarly, do not enter into a conversation about a patient. Instead, offer to see the patient at the clinic AS A CLINIC PATIENT. Document the conversation with the unlicensed midwife or homebirth midwife. Have the patient call the clinic to make an appointment. The clinic staff will follow normal procedures for triaging the call and assigning appointments. Document the scheduling conversation with the patient.
9. If an unlicensed midwife or home birth midwife calls to report an emergency situation, tell him/her to call 911 in order to have the patient transported to the hospital. Do not give any other advice. Document the conversation.
10. If you are on-call for obstetrics and a homebirth or unlicensed midwife patient presents at the hospital: document carefully when and in what condition the patient was seen, who was treating the patient before she was seen by clinic physician.
11. NO CO-MANAGEMENT: if the patient presents to the clinic or if the clinic doctor is covering for obstetrics at the hospital, the patient becomes a clinic patient for whom the doctor has SOLE authority.

The above information constitutes risk management recommendations; it is not intended as legal advice, nor does it take the place of a legal opinion. If legal advice is required, the Clinics should consult an attorney.

Thank you for your efforts to improve the quality of perinatal care at Northcountry Clinic. As always, I am available to assist you or the Clinic in any way I can.

Very truly yours,

Anne M. Menke

Anne M. Menke, Ph.D.
Risk Management Specialist

cc: Mary Lai
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