

CASE STUDY WITH RISK MANAGEMENT STRATEGIES

Presented by HPSO and CNA

Medical malpractice claims can be asserted against any healthcare provider, including pharmacists. Although there may be a perception that physicians are held responsible for the majority of lawsuits, the reality is that pharmacists are more frequently finding themselves defending the care they provide to patients.

Case Study: Dispensing error allegedly hastened patient's death

Settlement Payment: Low six figure settlement**Legal Expenses:** \$47,300

The decedent patient / plaintiff was undergoing treatment for stage IV lung cancer. Her physician ordered Tarceva as an adjunct to her established chemotherapy protocol. The defendant pharmacist misinterpreted the prescription and incorrectly dispensed Tambocar, which is not used in conjunction with cancer chemotherapy drugs but rather is used in the treatment of cardiac arrhythmia.

The exact number of days the patient ingested the Tambocar was disputed among the parties, but it is alleged to have been 29 days. The error was discovered when the patient visited her physician to obtain a refill prescription and expressed complaints of multiple falls, dizziness, and shortness of breath. Drug toxicity was diagnosed, and the patient was hospitalized, requiring inpatient care for several weeks.

The defendant pharmacist did not dispute the dispensing error and was unable to provide any reason why the physician was not contacted to clarify the illegible prescription.

The patient alleged toxicity from the improperly dispensed medication resulted in an unnecessary progression of her cancer because the Tarceva actually ordered could not be initiated for approximately one month due to complications of the medication dispensing error. The patient was also confined to a hospital for several weeks as a result of the error.

Resolution

The patient and defendant pharmacist agreed to arbitration of the matter. The patient argued that the dispensing error delayed her receipt of the correct drug and allowed her cancer to advance more rapidly. The defense argued that the error was not the cause of the advancement of the patient's disease, which was already in final stages. This lack of causation argument was effective, and the patient changed the demand from a very high number to a low six-figure number. The case was settled.

Risk Management Comments

- While it was determined that the defendant pharmacist's dispensing error was not the cause of the patient's subsequent demise, it was a significant and preventable error. The prescription was not legible and rather than verifying the drug name with the prescribing physician, the pharmacist dispensed the drug he "believed" was written.

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Risk Management Recommendations

- **Contact the prescribing physician directly to verify any illegible or questionably legible prescription** prior to dispensing the medication.
- **Withhold the prescription until and unless validation of the order is achieved** and explain to the patient the need to be certain of the exact drug ordered in order to protect health and safety.
- **Provide patient educational materials with each drug/medication to ensure patient awareness** of known side effects, potential interactions and signs and symptoms of an adverse reaction that requires reporting to the physician and/or immediate medical intervention.
- **Counsel the patient to contact the physician or to go to the nearest emergency room** in the event of any adverse or unexpected reactions after initiating treatment with a new/additional medication.

Guide to Sample Risk Management Plan

Risk Management is an integral part of a healthcare professional's standard business practice. Risk management activities include identifying and evaluating risks, followed by implementing the most advantageous methods of reducing or eliminating these risks— A good Risk Management Plan will help you perform these steps quickly and easily!

Visit www.hpso.com/risktemplate to access the Risk Management plan created by HPSO and CNA. We encourage you to use this as a guide to develop your own risk management plan to meet the specific needs of your healthcare practice.



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