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### Special Report

## MIEC Claims Alert

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## Medication-related claims: the causes and their prevention

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### The Problems:

#### The most common medical error is “adverse drug events”

In response to the Institute of Medicine's (IOM) November 1999 landmark report, *To Err is Human: Building a Safer Health System*, reduction of medical errors in both a hospital setting and in private practice is a topic receiving much attention across the country. According to the IOM's report *one million* people suffer preventable medical injuries each year and 100,000 patients *die* from them. “Adverse drug events” are the most common error and cost U.S. hospitals over \$20 billion per year<sup>1</sup>. The Physician Insurers Association of America's (PIAA) Data Sharing Project lists medication errors as the fifth most prevalent misadventure. It was the *primary* issue in 6,517 claims costing over \$380 million in indemnity expenses averaging \$123,506 per claim<sup>2</sup>. Approximately 56% of all medication errors occur in physicians' offices and 35% in a hospital setting, according to the PIAA.

MIEC's medication-related claims experience includes approximately 900 cases; over 50% of the claims were closed without payment to the claimant. “Failure to monitor or manage medication resulting in injury” is the most common allegation in MIEC's drug-related cases; injuries include drug addiction, hip necrosis, suicide, non-fatal

overdose and liver failure. The average indemnity payment for this type of MIEC claim is \$170,273. The second most common category of claims involves prescription of a medication that was contraindicated due to a known allergy or significant medical history; the average indemnity payment for this allegation is \$74,052.

### **Patients are noncompliant about medicines**

Based on a literature review done by the American Medical Association's Council on Scientific Affairs (CSA), researchers found that 30-50% of all patients fail to take prescriptions as directed<sup>3</sup>. Researchers examined more than 200 variables as potential factors related to patient noncompliance. According to the CSA report, physician/patient relationship factors associated with noncompliance include: "Poor communication of information and instructions by the physician leading to misunderstanding by the patient; and general patient dissatisfaction with his/her physician." Medication regimen factors that affect compliance: "Multiple medications; complex dosage regimen; increased duration of treatment; the regimen interferes with daily lifestyle; and increased cost of the medication." Individual factors that impact compliance: "Increased forgetfulness in the elderly; cultural conflicts; and language barriers or literacy."<sup>4</sup>

### **Poor documentation leads to injury, liability, and impaired defensibility**

MIEC's Loss Prevention specialists who survey physician and clinic practices have identified documentation practices that increase the potential for error and jeopardize the defense of physicians who are sued. Among the documentation shortcomings associated with injuries to patients:

- Failure to chart and update drug allergies; MIEC found that 18% of its drug-related claims resulted when physicians prescribed medications to which a patient had reported an allergy that was documented in an obscure part of the chart and overlooked;
- Failure to record details of prescriptions and refills, including dose, number dispensed and directions; these omissions are especially hazardous in practices in which several physicians prescribe or refill medications for the same patients;
- Illegible handwriting and incorrect abbreviations or nomenclature on prescriptions and hospital orders that result in wrong drugs or doses;
- Failure to obtain and chart information about drugs other doctors prescribe, which increases the risk of drug-drug interactions.

### **The Solution:**

#### **Implement measures to decrease patient injury**

The AMA, the PIAA, and others demonstrate that many medication-related malpractice claims are preventable. The following includes some of their loss prevention recommendations, and MIEC's advice for physicians:

#### **Before you prescribe medicines. . .**

- Ask patient about all medications and over-the-counter drugs; when

- appropriate, ask patients about illicit drugs, alternative remedies they take, and the names of prescribing physicians. Ask patients to bring in drugs prescribed by other providers to ensure you have accurate information.
- Ask patients about allergies and document their responses. If patients deny allergies, write “No-Known-Drug-Allergies” (NKDA) as evidence the question was asked. Periodically update this information.
  - Highlight allergy information prominently and consistently. MIEC recommends an eye-catching sticker on the chart cover to alert physicians and staff to known allergies or NKDA.
  - Be familiar with the indications, contraindications, side effects, and correct dosages of drugs you prescribe or administer. Know when pre-testing is required to rule out a potentially serious allergic reaction.
  - If several drugs are available for a specific problem, discuss with the patient your recommendation to try them in the order your experience and judgment determine is best.
  - If you are a managed care provider, be familiar with the managed care organization(s)' formularies to avoid prescribing medications not covered by a patient's health plan.
  - Ask patient about other doctors they are seeing. The question may prompt a memory of other drugs they have been taking but forgot to mention.

### Protect patients and yourself. . .

- Carefully monitor prescriptions and refills. Do not permit staff to prescribe medications; do not permit staff to refill medications without a physician's direct authorization. Have patient charts available for review before approving refills.
- When prescribing medications that require periodic laboratory tests for efficacy, ensure that patients are tested at appropriate intervals for patient safety. Document test results in a central location in patients' charts to ensure close monitoring of toxicity and/or therapeutic levels.
- Document prescriptions and refills where data can be easily reviewed. You may use a Medication Control Record (MCR) available at [www.miec.com/publications.htm](http://www.miec.com/publications.htm). Click on “Forms.”
- Write medication information legibly. Pay particular attention when using abbreviations (e.g., “q.d.,” “q.i.d.”).
- Use a zero *before* a decimal point of a fractional number on medication orders (e.g., Terbutalene 0.5 mg; not Terbutalene .5 mg).
- Document sufficiently to justify diagnoses, prescriptions and refills.
- Consider setting aside specific times of the day to approve routine refills.
- Don't prescribe controlled substances or dangerous drugs without adequate examination. Medical ethics and the law require physicians to perform a physical examination to verify the need for drugs prescribed.
- Before prescribing unfamiliar medications, review authoritative references (e.g., *Physician's Desk Reference*, resources on the Internet) for the correct dosage, contraindications, known side effects of the medication, and recommendations for monitoring drug toxicity. Learn about recalls and new

medications.<sup>5</sup>

- Ask patients to inform you when they are placed on new medications by other doctors or when they begin taking alternative medicines (e.g., herbs, dietary supplements). Tell patients to advise their other doctors about medicines you prescribe. Explain to your patients why it is important to share information about medication use with each physician they see. Warn patients about the pitfalls of ordering medications online.<sup>6</sup>
- When on-call for another physician, consider whether you know enough about a patient's medical condition to refill or prescribe without an exam. Limit refills of another doctor's prescription to a small amount to last until the patient's regular doctor returns. Comply with state laws regulating the amount of medication that can be provided when on-call for a colleague (e.g., enough to cover a 72-hour period). If you prescribe new drugs or refill long-term drugs, advise the patient's physician, preferably in writing.
- Ensure that staff who inject medications have had sufficient training and are permitted by law to administer the drugs. Instruct staff to double check medication prior to administration (e.g., verify a patient's identity; check the dosage, route and form; confirm appropriate reason for use; check for known allergies and medication contraindications).<sup>7</sup>
- Encourage patients to ask questions about prescription drugs and to report problems.

### **Provide oral and written medication advice to patients. . .**

- Provide oral counseling to patients about their medications, followed by written information that they can take home with them. The AMA's *Guidelines for Physicians for Counseling Patients about Prescription Medications in the Ambulatory Setting* recommend that physicians include information about:
  - The name of the medication and what it is supposed to do;
  - How and when to take the medication and for how long;
  - Appropriate foods, drinks, other prescription or nonprescription medications, or activities that the patient should avoid while taking this medication;
  - The relevant side effects that should be reported to the physician if they occur;
  - If applicable, whether anything is unusual about the use of the medication being prescribed (e.g., for an off-label indication; prescribing larger than the usual dose);
  - Whether the prescription can be refilled and how often;
  - What written information the patient can take with them (if available) or instructions to obtain written information from their pharmacist.
- After counseling the patient, the physician should encourage the patient to ask questions and should ask the patient whether he or she has any concerns about obtaining the medication or about using it in the way it was prescribed.”
- Dispense written information and instructions for medication use. Contact MIEC's Loss Prevention Department for a list of resources for pre-printed educational materials, or write your own.
- Document in the record your oral discussion with the patient and that you

dispensed written materials. Medication information sheets can be numbered, so that chart documentation, “PMI #007,” indicates that patient medication information sheet #007 was dispensed, the patient was told to read it, and to let the doctor know if he/she had any questions. MIEC’s Medication Control Record has a space to indicate that printed instructions were distributed.

### **Avoid civil and criminal liability. . .**

- Prescription drug laws are strictly enforced. Don't risk civil and criminal penalties by bending the law or violating good medical practice.
- Don't write new prescriptions for conditions being treated by another doctor. Your prescription may duplicate the other doctor's order or interfere with his or her planned therapy, including the reduction of medication.
- Don't be trapped by clever drug abusers or patients who “lose” medications more than once. Beware of patients who self-prescribe. Don't take a patient's word about medications other doctors have prescribed. Doubt all tales of lost prescriptions.
- Keep prescription pads out of patient treatment areas. Stolen prescription blanks may be negotiable and become a liability problem for the physician.
- Keep drugs and drug samples in a secured area. Controlled substance samples must be kept in a locked container.
- Don't accept long distance refill approval from a “doctor” whose authenticity you cannot verify.
- Document a patient's non-compliance with prescribed medicine regimens. Consider discharging patients who habitually misuse medications.

### **Get your staff involved. . .**

- The doctor's office staff can help avoid medication-related claims. Nurses, medical assistants and office staff should consider these precautions:
- Obtain the physician's authorization for patient-requested refills before telling a pharmacy to dispense a refill. Non-licensed personnel may not authorize medication refills unless a physician approves.
- Keep each patient's drug information updated and accurate. Document refills and the physician's authorization. For ease of documentation, use an MCR. When you see what appears to be a medication-related error (e.g., drugs are being refilled too often; the medical record is unclear as to the current dosage of a medication; a medication is being refilled to which the patient is allergic), notify the physician immediately.
- When instructed to administer a drug, ask questions if the prescription or directions are unclear or illegible.
- Always read labels and avoid placing look-alike medication containers next to one another.
- Keep prescription pads out of patient care areas.
- Keep drug and drug samples in secured areas.
- Identify patients before administering medication.
- When appropriate, assist the doctor to educate patients about their medications.

- Be cautious about ambiguous, sound-alike or look-alike names such as Surbex/Surbex T; Tylenol #3/Tylenol 3 tabs; Zantac/Xanax; quinidine/quinine. Spell sound-alike drug names when calling medication orders in to the pharmacy. When appropriate, submit a prescription or refill request in writing to the pharmacy.

### Suggested reading. . .

Physician Insurers Association of America. *Medication Errors Symposium White Paper*. 2000. To purchase a copy, request an order form at [www.thepiaa.org](http://www.thepiaa.org).

American Medical Association's Council on Scientific Affairs (1-98). *Physician Education of Their Patients About Prescription Medicines*. 1998. To obtain a copy, download the full text at [www.ama-assn.org/ama/pub/article](http://www.ama-assn.org/ama/pub/article).

United States General Accounting Office. *Adverse Drug Events: The Magnitude of Health Risk is Uncertain Because of Limited Incidence Data*. January 2000. A free copy of the report can be downloaded from the GAO's website at [www.gao.gov](http://www.gao.gov) or call 202/512-6000.

The National Coalition on Health Care. *Reducing Medical Errors and Improving Patient Safety: Success Stories from the Front Lines of Medicine*. February 2000. A copy can be downloaded from the National Coalition on Health Care website at [www.nchc.org](http://www.nchc.org).

Visit the National Council on Patient Information and Education website at [www.talkaboutrx.org](http://www.talkaboutrx.org).

#### REQUEST A PUBLICATION



1. Roessner, J. "Making Doctors Computer Literate." *Reducing Medical Errors and Improving Patient Safety*. 2000. National Coalition on Health Care and the Institute for Healthcare Improvement, pp. 12-15.
2. Physician Insurers Association of America. *PIAA Research Notes: Medication Issues*. Fall, 2000.
3. "Physician Education of Their Patients About Prescription Medicines." *Report 2 of the Council of Scientific Affairs (1-98)*.
4. *Ibid.*
5. Physician Insurers Association of America. *Medication Errors Symposium White Paper*. 2000.
6. *Ibid.*
7. *Ibid.*

6250 Claremont Avenue, Oakland, CA 94618 800.227.4527 Fax 510.654.4634

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