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BEST PRACTICES: WORKING WITH ALLIED HEALTH PROFESSIONALS

Physicians are working more frequently with allied health professionals (AHPs) such as physician assistants (PAs) and nurse practitioners (NPs). In these collaborative scenarios, there are several potential liability risks for the supervising physicians and the AHPs.

CASE #1

A PA in a primary care clinic saw a patient with complaints of a swollen, painful elbow along with fever, chills, and night sweats for the last two nights. The patient had escalating symptoms for a week and his elbow had an effusion for the last three months. The patient's history was remarkable for mild gout with attacks affecting the right great toe (occurring about once every two years). The PA diagnosed the elbow as an acute gout attack and started the patient on indomethacin. Forty-eight hours later, the patient was taken to the ER due to rigors and delirium, and was diagnosed with sepsis syndrome from an infected joint, and required surgical drainage, intravenous antibiotics, and hospitalization in the ICU.

The patient sued the PA, alleging negligence for failure to recognize and appropriately treat a septic joint as well as failing to consult the supervising physician. Additionally, the supervising physician was sued and alleged to have negligently supervised the PA by allowing him to see clinical conditions he had no experience with and for failing to train the PA to consult a physician when seeing a complex problem.

During a review of the care, it became apparent that the PA did not have any experience with diagnosing or treating gout, inflamed joints or effusions, and had never seen a septic joint before. The clinic did not have any protocols in place for what type of symptoms or medical conditions the PA could see patients independently and those in which the PA should consult the physician. During deposition, the PA said he experienced difficulty in the past with finding a supervising physician to consult with, and that might have made him less inclined to seek assistance.

LESSONS LEARNED

This case illustrates several areas for potential litigation when working with PAs:

- **PAs often see walk-in or day-of appointments in outpatient clinics. These can be the sickest, and potentially, most risky outpatients.**
- **PAs should have experience with the medical symptoms or conditions present in the patients they are seeing, or they should have a low threshold to consult with a supervising physician.**
- **Supervising physicians should always be readily available to consult with PAs whenever they are seeing patients since the physician is ultimately responsible for the quality of care the PA renders.**

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WORKING WITH AHPs

CASE #2

An NP with prescriptive authority works part-time in a psychiatry clinic where she mostly sees patients for medication follow ups and new referrals when the psychiatrists are fully booked. One afternoon, a new patient was placed on the NP's schedule with symptoms of depression. After her evaluation, including a mental health questionnaire, the NP determined the patient was bipolar and she started him on lamotrigine. After five days on the medication, the patient developed Stevens-Johnson syndrome, was hospitalized in the ICU for two weeks, and required multiple skin grafts.

The patient sued the NP alleging negligent diagnosis of bipolar syndrome, negligent starting of second-line therapy for bipolar prior to other therapies, and failure to obtain informed consent for a medicine with a black box warning. Of note, the NP had seen numerous bipolar patients in follow up who were on lamotrigine, but she had never initiated the medication herself. The physician working in the clinic on the day the patient was seen was also sued for allegations of negligent supervision—even though the NP was licensed to practice independently. The NP and the clinic had a signed contract that implied she would consult with a psychiatrist in the practice if a new patient was complex or was going to be started on a medication she did not have experience with.

LESSONS LEARNED

This case illustrates several areas for potential litigation when working with NPs:

- **The NP was seeing new psychiatry consults which may be more complex or have a difficult to diagnose problem relative to follow-up patients.**
- **The NP diagnosed bipolar syndrome, a psychiatric condition which may be difficult to clearly diagnosis on a first encounter and is known to have potential serious adverse outcomes during treatment.**
- **The NP initiated a second-line therapy with known serious risks including a black box warning without obtaining an informed consent.**
- **Because there was an employment contract indicating that more complex care would warrant a consult with an on-site specialist, the group and physician present were subject to allegations of negligent supervision.**

GENERAL GUIDELINES

Any provider who works with AHPs should be familiar with and understand the relevant requirements. Although compliance rules for supervising AHPs varies across different states and by role, the following are general guidelines to consider:

Things to Avoid

- ☐ AHPs being referred to or addressed as "Doctor."
- ☐ AHPs doing any type of care which the supervising physician does not do.
- ☐ AHPs practicing without a safety net (i.e., ready access to physician consultation).
- ☐ Failing to comply with rules and regulations set forth by the appropriate state licensing board.
- ☐ Failing to document patient conditions, handoffs, or consultations.

Questions Supervising Physicians and AHPs Should be Able to Answer

- ☐ What services are AHPs allowed to perform independently and which ones require direct supervision?
- ☐ Which situations should AHPs consult the physician and document that discussion? Which situations should the physician prepare his or her own documentation?
- ☐ What are the supervisory requirements and who is designated as the supervising physician?
- ☐ What AHP qualifications need to be reviewed and how often?
- ☐ Is the practice complying with rules and regulations set forth by the appropriate state licensing board to fulfill education requirements?
- ☐ What documentation or agreements need to be in place and how often do these need to be updated?
- ☐ Is there an awareness of the network of physicians for support and does this provide adequate coverage for consultation needs?
- ☐ Do AHPs understand their employment contracts, expectations, and limitations as defined by the practice?