

## Hyperglycemia & the Kidney?

Emerging Therapies for Glycemic Control Therapy

### A lawyer provides pain management tips for doctors

GEORGE F. INDEST III, JD / CONDITIONS / OCTOBER 26, 2013

I have represented a number of physicians who have been accused of "overprescribing." Some of these were criminal investigations by local law enforcement authorities, such as a county sheriff's office. Some were investigations by the Drug Enforcement Administration (DEA). Some were investigations by the state licensing agency (in this case, the Florida Department of Health).

In almost every one of these cases, either the DEA, the Department of Health or the local law enforcement authority used undercover agents posing as patients to make appointments with the physician, agents usually wore a wire device, and gave the physician false information.

In several cases the investigation began when the patient died of a drug overdose (in several of these cases it was unclear whether it was a suicide by the patient or an accidental overdose). In each of these cases, there was an angry, upset family member who blamed the physicians for the patient's death. In each case, the physician I represented had no idea what the patient was going to do and did not know the patient was receiving drugs from another physician.

Anytime there is a death that may have been drug related, local law enforcement authorities will usually do a thorough investigation and will usually seize any prescription medications for the patient that they can find. This may result in the prescribing physician becoming the target of a homicide investigation.

Here are some ideas on how physicians might protect themselves from drug-seeking patients. These are tips I give to physicians I advise on this issue. Use the ones you want to and feel free to pare it down.

(Note: The following tips are not applicable to physicians who treat cancer or hospice patients.)

1. Follow all appropriate pain management guidelines, such as those available from the [Agency for Healthcare Research and Quality \(AHRQ\) National Guideline Clearing House](#).
2. Obtain, read and follow the guidance contained in "Responsible Opioid Prescribing: A Physician's Guide" by Scott M. Fishman, M.D., endorsed by the Federation of State Medical Boards (publ. Waterford Life Sciences, Wash., D.C. 2007).
3. Read and take to heart "[Ethical, Legal, and Professional Challenges Posed by 'Controlled Medication Seekers' to Healthcare Providers, Part 2](#)" by Ken Solis, MD.
4. Avoid working for practices or clinics that have a reputation as a "pill mill."
5. Most physicians who are the subjects of investigations for overprescribing tend to be sole practitioners or the only physician working in the clinic. Avoid this. If you are going to practice any pain management, it is recommended that you do so in a group practice or institutional setting.
6. Patients who are clearly addicted to opiates should be referred a physician specializing in addiction medicine for rehabilitation. Do not accept this patient back until the patient does this.
7. Excellent documentation is a must. Make sure your records meet all requirements of state laws and regulations.
8. If you are not a certified specialist in pain medicine, refer pain management patients out to one who is.
9. If you get any information that the patient has been "doctor shopping" or obtaining similar medications from more than one physician, immediately terminate the relationship and notify local law enforcement personnel. In many states, "doctor shopping" by patients is now a crime, and the physician is required to report the patient to law enforcement.
10. Be sure of the patient's identity. Require valid, government issued identification, preferably two, and ask the patient a few background questions that can be verified. Identity theft is common among drug abusers seeking prescription medications.
11. Require that prior medical records, especially diagnostic reports such as MRI and x-ray reports be received by your office directly from the other physicians or the radiology facility. Forgery of radiology reports and the sale of false reports is notorious among drug seekers.
12. Be leery of treating out-of-state patients and families of patients seeking opiates and other controlled substances.
13. If prescribing opiates for more than a short, chronic episode, require a pain management contract be signed by the patient in which the patient acknowledges your guidelines and requirements. These will include a number of provisions that are for the protection of the physician as well as the protection of the patient who may be tempted to over-use prescribed medication.
14. Require a urinalysis test before every visit. Wait and review the report prior to prescribing. An absence of the medications the patient is supposed to be taking is just as informative as the presence of medications you have not prescribed.
15. Establish and maintain a good relationship with the pharmacists at the local pharmacies around your practice, especially the independents.
16. Don't be tempted to deviate from your practice standards and procedures by the fact that the patient is a celebrity or wealthy person. Do not deviate from your standards and procedures for anyone.
17. If the patient demonstrates drug seeking behavior (asking for certain medications by brand name and dosage, becoming angry and upset if the physician doesn't prescribe what the patient wants, etc.), terminate the patient immediately.
18. Make sure you know what is going on outside your own office. Make sure you have loyal, trustworthy staff, especially your receptionist and medical assistants, who will advise you of any unusual behavior or comments of patients, attempts to bribe staff, etc. Train your staff to report such matters to you in person, immediately. Have a zero tolerance for this.
19. Be a good diagnostician. Read the patient history. Listen to what your clients say. Examine them appropriately. Do not prescribe pain medications for those who have no signs or symptoms of pain.
20. Require current x-rays, MRI's and diagnostic tests. Do not treat based on old x-rays and diagnostic test reports.
21. If you are not board certified in the subspecialty of pain medicine, and you are not part of a large, institutional of pain management clinics, then you should only have a few pain management patients in your practice. The majority of your patients should not be pain management patients.
22. Do not ever allow a lay person or non-physician to be in control of your office, patient records, billing, bank accounts or appointments and scheduling. You will be held accountable for these; you must ensure you control them.
23. You should consider reducing the amounts of narcotics at each patient visit. Gradually weaning the patient off of addictive medication should be a primary goal of the physician.
24. Be very wary of any patient presenting with no signs or symptoms of pain or who has inconsistent signs and symptoms of pain. These are patients who may be selling the medications or who may be undercover agents seek to entrap you.

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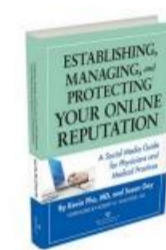
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