

Office of Professional Medical Conduct

Common Sense Approaches to Avoiding Misconduct Charges

Have you been writing prescriptions for a family member whom you have not examined and for whom you have not kept a medical record? Did a neighbor ask you to write a prescription for a visiting relative whom you have never met?

Are you scheduling a patient, to whom you are attracted, for the last appointment of the day and then dismissing your staff? Is a patient bringing you gifts and scheduling appointments when there is no discernable medical reason?

These seemingly innocent and very human activities are how physicians get caught up in New York's medical conduct system. Each year, the Office of Professional Medical Conduct (OPMC) receives thousands of complaints, most from members of the public, about physician conduct. The New York State Public Health Law requires OPMC staff to investigate every complaint received. Many of those complaints are less about quality medicine than they are about inappropriate behavior or poor communication between physician and patient.

But even seemingly simple acts, such as writing prescriptions for people who are not your patients, are truly medical quality issues. They can bring catastrophic results for those receiving medications, and they

can result in catastrophic consequences for the prescriber. They are simply not good medicine.

While it may seem acceptable to write prescriptions for a family member, if you are not examining the person, how do you know if his or her condition has changed and if the drugs are still appropriate? If there is no medical record, how can someone follow up on your care if you are not available and how can you justify your prescribing? While it is understandable that you want to help your neighbor with the ill visiting relative, aren't you placing yourself and your neighbor's relative in jeopardy by prescribing medications for someone you've never examined or even met?

As a physician, you bring an air of authority and command as well as caring and kindness to any situation. Some people mistake that self-assurance and concern for romance. As a physician, you must not use the power you bring to patient encounters for anything other than tending to their medical needs. Using that power to initiate a relationship or to respond to what you perceive as advances is really an abuse of your power.

All of the situations described above can lead otherwise caring and competent physicians into trouble. Recognizing the dangers inherent in such situations and

making sure to avoid them are your best guarantees for a successful, problem-free career.

Appropriate communication with patients and treating patients respectfully can also help physicians avoid myriad of misunderstandings and problems that can ultimately be fashioned into complaints that find their way to OPMC.

Every physician is pressed by time constraints. Those constraints often make taking an extra minute to explain a diagnosis or course of treatment a second time impossible. But, failing to do so can result in misunderstandings and even mistakes in how and when medications are to be taken. Correcting the resultant problems can take much longer than explaining them properly the first time. Sometimes, correcting patients' impressions that their physicians simply don't care about them can take years to correct if the patients choose to return at all.

Explaining what will occur during examination can save you and your patient a great deal of frustration and concern. Frightened patients make poor patients. They do not cooperate with your instructions; they do not hear your directions. And, frightened, uninformed patients may misunderstand your actions, leading to allegations ranging from abuse to incompetence. Always tell the patient what you are going to do, how it will feel and why you are doing it. While it might seem to be a time-consuming process, it will save time in the long run.

Treating patients with respect is another way to avoid misunderstanding and complaints. Listen to their questions and, no matter how rushed you may be, answer them. You may need to call a patient when you are less

rushed. Respect also means that patients must be given sufficient privacy to dress and undress alone and must be provided with gowns and draping to maintain their dignity. Having a chaperone in the examination room, especially during intimate examinations, can help put the patient at ease and reduce the likelihood of complaints of improper activities later.

And, if you are running late and have kept patients waiting, apologize for the inconvenience; their time is valuable, too.

It is not uncommon for OPMC to receive complaints from patients about charges for consultants whom they say they never saw. If you order a consultation, make sure the patient is aware of it, why you have decided to order it, who the consultant is and what form the consultation will take. If your consultant is going to examine the patient, advise him or her to introduce himself or herself to the patient and explain what will happen during the examination.

Your office staff is a patient's first impression of your practice. If your staff is rushed, rude, or surly, patients will have a negative start to their relationship with you. That impression may spill over into their impression and feelings about you and set the tone for your appointments.

Being a physician today is not easy. Keeping up with the latest advances in your field, making decisions about what type of practice to pursue and satisfying the patients, insurance plans, hospitals and regulators with whom you deal can be overwhelming. Making the effort and taking the time to blend good medicine with good human relations and some common sense can help reduce your likelihood of becoming involved in a medical conduct dispute.