

PHARMACY

Risk Management

Pharmacists Mutual Companies

- Pharmacists Mutual Ins. Co.
- Pharmacists Life Ins. Co.
- Pharmacists National[®] Ins. Corp.
- Pro Advantage Services, Inc.
- PMC Quality Commitment, Inc.

Volume 10, Number 1

Spring 2001

A Risk Management Newsletter provided as a service by Pharmacists Mutual Companies.

To report or not to report

Imagine that Fred walks into your pharmacy on a busy Monday morning. He walks behind the prescription counter and proceeds to pull the warfarin stock bottle off of the shelf. He counts the tablets and places them in a prescription vial. Fred performs his own DUR, but fails to detect the interaction with the cimetidine he was already taking. Fred pays for his prescription and leaves the pharmacy. He has paid you for your professional service, but he has not received the benefits of your expertise. While this scenario sounds ridiculous, this is exactly what occurs when pharmacists fail to report a claim to their insurance company or attempt to handle a claim on their own. They have paid for the protection afforded by their insurance policy, but they cannot receive these benefits until the claim is reported.

The steps to take after an error occurs were discussed in a previous newsletter (*You made a mistake. Now what?*, Winter 1998/99). Those steps included notifying the physician and correcting the error. Sometimes that is the end of the story, especially if the patient was not injured. Unfortunately, many times this is not the end, but the beginning. For example, one pharmacist had dealt with a patient following a prescription misfill. He notified us after a patient demanded free medications for life. Obviously, an open-ended settlement such as this is not a desirable resolution to the problem. In another instance, the pharmacist received three letters from the patient's attorney over a period of several weeks. They were never answered and the incident was not reported until the attorney threatened to file a lawsuit. The pharmacist said he thought the problem would "just go away."

In fact, these problems don't go away. Sometimes they get worse. Another pharmacist received a summons and complaint regarding a prescription misfill. This was the pharmacist's notice that a lawsuit had been filed. Because there were other defendants named in the suit, the pharmacist believed that she did not have to do anything. This is a potentially

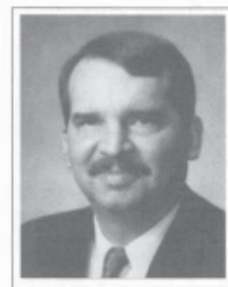
dangerous, and definitely incorrect, belief. Each state sets a time limit in which an answer to the complaint must be filed or a default judgment may be entered against the non-answering party. A default judgment gives the patient an uncontested victory in the lawsuit. The pharmacist notified us three weeks after the deadline had passed. Luckily, a default judgment was avoided because of quick action by our attorney.

Every insurance policy contains some sort of notice provision that sets out the insured's responsibility in reporting claims or potential claims to the carrier. Failure to report claims in a timely manner may result in coverage for the neglected claim being denied. Insurance policies also contain provisions about voluntary payments made by the insured. Payments agreed upon before the carrier has been notified are excluded under the policy. This could leave the pharmacist to personally make good on their promise. In another case from our files, the pharmacist had been negotiating with a patient following a prescription error. After some conversations with the patient, the dollar value demanded reached a level that made the pharmacist uncomfortable. She then reported the claim. The bottom line is that failing to report a claim or promising to

make a payment could compromise your insurance company's rights and could violate your policy.

A pharmacist's day is busy enough without adding claims handling to the workload. Why buy the protection and then handle a claim yourself? This does not make good economic sense and it may jeopardize your insurance coverage. If you have to stop to consider whether an incident is worth reporting, you should treat it as a potential claim. The best risk management tip is to report the claim or potential claim as soon as possible.

Failure to report claims in a timely manner may result in coverage for the neglected claim being denied.



Don McGuire,
R.Ph., J.D.,
Pharmacists Mutual
Insurance Company

There are three topics concerning OSHA that should be of interest to readers.

The first is the **OSHA Ergonomic Standard** we have written about in the last couple of issues of this newsletter. As you probably already know, Congress used its review capabilities to rescind the standard as issued in December. However, most people agree that **some form of ergonomic standard is a necessary and beneficial thing**. Congress has even indicated that they will direct OSHA to come up with another less intrusive and less inclusive version of the standard. The insurance industry and many others will continue to work to shape the new law so workers can be protected while the new standard does not burden businesses unnecessarily. The Pharmacists Mutual Loss Control Department was working on a template program to comply with the rescinded standard and would like to thank policyholders Ed Monroe and Jim Rankin Jr., both of Illinois, for volunteering to help with those efforts. While the project is on hiatus now, we will renew our efforts as soon as the new standards begin to take shape.

OSHA's new **Needlestick Prevention program**, a part of the Bloodborne Pathogens Standard, is scheduled to go into effect on July 17, 2001 after a 90 day Outreach Period. This will affect clients who **perform vaccination or infusion services**. The new law requires those employers with 11 or more employees, and are not otherwise exempt from recordkeeping, to maintain a log of injuries from contaminated needles, clarifies the requirement for employers to select, with employee [non-manager] input, safer needle devices as they become available, and contains new definitions of "sharps with engineered injury protection," "needleless systems," and "engineering controls." The new program also calls on employers to review and update their overall exposure control plans. A fact sheet is available at www.osha-slc.gov/needlesticks/index.html.

OSHA wants to **change their recordkeeping requirements as of Jan. 1, 2002**. The agency has simplified and clarified the forms and terminologies used to record workplace injuries and illnesses. The new forms are available on the OSHA website (www.osha.gov) but use is not mandatory until next year. Businesses with ten or less employees remain exempt from many of the recording requirements that larger businesses are subject to. The Recordkeeping Standard is also being challenged and is on hold as of this writing.

Don't have time to wade through the OSHA regs? If you have questions about OSHA, or don't have access to their website, let us be your source for focused OSHA information. Contact Pharmacists Mutual Loss Control at 800-247-5930 extension 229.

One last note on OSHA – I just returned from a Safety & Health conference where I heard an acknowledged expert on OSHA speak about the future of the agency. In a talk loaded with "insider" information, one thought really struck a note. To paraphrase him, he anticipates that since OSHA has had the above mentioned setbacks recently, we should all be looking for "more enthusiastic inspections and enforcements" by OSHA. There's a comforting thought!

Businesses and their employees should know what to do if a third party **trips, slips, falls and/or is injured** on the premises. Here is a suggested procedure list to handle those situations:

- ◆ Have a designated employee trained to manage the situation.
- ◆ Treat the victim kindly, but without admitting liability.
- ◆ Don't administer treatment unless qualified and authorized to do so.
- ◆ Gather information to aid in any investigation.
 - ◆ Note the victim's clothing and footwear.
 - ◆ Was the victim carrying anything?
 - ◆ Look for surface abnormalities where the fall took place.
 - ◆ Gather names, addresses, etc. from the victim and any witnesses.
 - ◆ Note any contributory weather conditions.
 - ◆ Discreetly try to determine whether the victim might be under the influence.
 - ◆ IF POSSIBLE, TAKE PHOTOS OF VICTIM, LOCATION AND CONDITIONS.
- ◆ Advise all employees to guard against making any statement that may imply liability in the event of an incident.

According to the National Drug Intelligence Center, **OxyContin abuse** and all the problems that go with that abuse, **is becoming a major problem**, especially in the eastern United States. Heroin abusers are opting for OxyContin, and conversely, people who have become addicted to OxyContin have reverted to heroin when their legitimate prescriptions have run out. Increased diversion and abuse is likely. Reliable strength, potential prescription cost coverage, and high profit potential make the drug almost irresistible to both distributors and abusers.

Unfortunately, one of the main sources of supply for the illicit distribution network is theft from legitimate sources. Pharmacists Mutual claims examiners have seen a **dramatic increase in robbery and burglary claims** where OxyContin was the main target. The rash of thefts has even caused some pharmacies to discontinue stocking the product.

So, what's being done? There are task forces at the state, regional and national levels studying ways to alleviate the problems. Some legislatures have drafted bills to increase penalties making illicit distribution less attractive. Education and enforcement activities are being stepped up.

Beyond that, what can an individual pharmacy or pharmacist do? Take care to stock only the necessary quantities of OxyContin (and other opioids), review your security systems and your burglary or robbery policies and procedures, and touch base with your local law enforcement agency to make sure they are aware of the OxyContin situation and the increased risk to you or your pharmacy.

Warning - Distracted Drivers! Vehicles now are equipped with everything from cell phones, to FAXes, to TVs, to laptop computers. Add all those technological advances to the existing problems of eating while driving, distracting conversations with passengers, combing hair, applying makeup, and tuning the sound system; you are up against a lot of distracted drivers out there.

Common sense and the experts would dictate that you not abuse your **responsibility as a driver** by using the above equipment or participating in the practices noted. There are two problems with that. One is that in the real world, we know that all those things can't always be avoided. The second is that, even if we avoid all those items and situations, there will be other drivers sharing our roads who will be using and/or participating in one or more of the unsafe practices.

So, whether you are driving your personal car on a pleasure trip or you're driving a company vehicle on business, **DRIVE DEFENSIVELY!** You have a much better chance of avoiding that other distracted driver if you're not distracted yourself. Make a pact with yourself, or create a company fleet policies and procedures manual, and allow enough time for your travels that you don't have to engage in any of the unsafe practices or habits mentioned.

For more information, contact jack_williams@phmic.com or check out these websites: www.nhtsa.gov (the National Highway Traffic Safety Administration) or www.iii.org (the Insurance Information Institute).

It's become part of the language. Going "postal!" However, there's more to the **problem of workplace violence** than those extreme examples. Bullying, fights, verbal assaults; they are all part of a big problem that's getting bigger.

Beyond the loss of life or injuries sustained by a victim, some experts maintain that **productivity decreases by as much as 80% for up to two weeks following an incident.** Causes of those losses include the obvious; the loss of the victim either permanently or for a period of time, training a replacement, time lost to investigations, etc.; to the less obvious; counseling sessions, time spent by coworkers "gossiping" about the incident, lowered morale, and negative media exposure, etc.

There are ways to avoid these incidents and consequences. Using background and reference checks in the hiring process, developing a policies and procedures manual in the employment practices liability area, educating all employees of the company's "zero-tolerance for violence" policy, and training employees, especially supervisors, to recognize the warning signs. These and other practices can ensure that such **incidents are handled consistently and with limited exposure to the company.**

For help with Employment Practices Liability (EPLI) issues, contact the Risk Management Department at 800-247-5930 extension 229. If you're interested in the EPLI endorsement to your Businessowners Policy, call 800-247-5930 and follow the prompts for reaching "business policies."

Don't forget that past issues of this newsletter are archived in the Risk Management section of our website: www.phmic.com.

Quality Assurance – now it's the law!

California, Texas, and Florida now have regulations that **require community pharmacies to institute a quality assurance program.** Many other states are in various stages of mandating the same.

PMC Quality Commitment, Inc. (PMC QC), the newest Pharmacists Mutual subsidiary, markets quality assurance programs to pharmacies throughout the country. The PMC QC product provides clients with specific techniques, forms, training tools, and reporting mechanisms to detect and record quality related events. Identifying the problems and their location and relationship within the system allows the client to correct the problems and continuously improve the system.

The company's clients are now receiving a monthly "QC Letter" along with **reports summarizing their quality related event data** submitted as part of the program. These reports are designed to allow comparison to industry wide statistics and, anonymously, with other stores within a chain or other similarly sized clients.

For more information, visit www.pmcqc.com or call Ken Baker at 800-247-5930 extension 273.

PhMIC Profile:

Recent management changes announced at the annual meeting of the board of directors of Pharmacists Mutual Insurance Company was the election of **Kirk M. Hayes, CPCU, as Chairman and Chief Executive Officer**, and **Edward T. Berg, MBA, CPA, CPCU, was named President and Chief Operating Officer.**

To better serve customers in the western region of the United States, Pharmacists Mutual has formed a new regional service team. Shirley Pierson, AU, CISR, is the Regional Vice President for the newly organized team. Initially, the team will service customers in Washington, Oregon, Arizona, Colorado and New Mexico, with anticipated expansion into additional states soon.

Risk Management in Pharmacy is published by Pharmacists Mutual Insurance Company, P.O. Box 370, Hwy. 18 West, Algona, IA 50511, ph. 515-295-2461.

All rights are reserved, no material may be reprinted without permission.

This newsletter is distributed to policyholders of Pharmacists Mutual Insurance Company.

Editor: Jack Williams

Assistant Editor: Shelly Brown

Layout: Merry Simpson

Contributors: PhMIC Staff

Board of Directors:

Kirk M. Hayes, CPCU
Chairman, Algona, Iowa
Edward T. Berg, MBA, CPA, CPCU
President, Algona, Iowa
Earl W. Bradley, R.Ph.
Sugar Land, Texas
Gerald W. Deom, R.Ph.
Radcliff, Kentucky
G. Richard Keidel, R.Ph.
Wayne, Nebraska
Sharlea M. Leatherwood, P.D.
Kansas City, Missouri
Larry J. Mayhew, R.Ph.
Phoenix, Arizona
Jay L. Orr, R.Ph.
Midwest City, Oklahoma
James R. Rankin, Sr., P.D.
Highland, Illinois
Richard H. Williams, R.Ph.
Lancaster, Pennsylvania

Advisory Board:

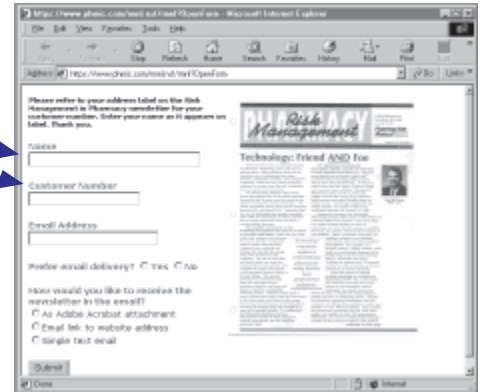
Dennis J. McCallian, Pharm.D.
West Lafayette, Indiana

Alternate newsletter distribution?

Would you prefer to receive this newsletter electronically? We're always looking for ways to save our policyholders (owners) money. Delivering this publication without printing and mailing costs could do just that. There are a number of options for electronic delivery. We are asking for your input regarding your preference of delivery. Using the circled information on the sample mailing label below, please fill out the survey found on our website (www.phmic.com/rmnl) and indicate your preference(s). We will tabulate the results on August 1st and decide if there is enough interest to make the investment in programming time cost efficient.

J. Doe Pharmacist	0123456789
Address	
City, State Zip	

If you are not a Pharmacists Mutual policyholder, you are receiving a courtesy copy of this newsletter and will not have the opportunity to participate in this survey at this time.



Do you have any questions or requests concerning

- ✓ The contents of this newsletter?
- ✓ Safety Consultation Services?

Call 800-247-5930 ext. 229 or E-mail jack_williams@phmic.com

Pharmacists Mutual[®] Companies

P.O. Box 370
Algona, IA 50511-0370

PRSRTSTD
U.S. Postage Paid
Mason City, Iowa
Permit No. 429