



Practicing pharmacy "the quality way"

by **Kenneth R. Baker, R.Ph., J.D., Pharmacists Mutual Insurance Company**

If there is any one thing upon which every pharmacist who has ever practiced can agree on, it is that none of us ever wants to make a mistake on a patient's prescription. Every pharmacist works hard to avoid making an error. Yet, every one of us is fallible, and every one of us will make errors. No matter how hard we work and how hard we try, one day we will get that call that says, "You made a mistake."

As pharmacists, we cannot guarantee we will never make a mistake, but we can practice in a way that decreases errors and the potential for errors. The answer is not in working harder. The answer is not in pledging, "I will not make any mistakes." The answer is in an organized, planned workflow followed by a monitored, statistical control of all mistakes so we can continuously improve our prescription system. This is what the insurance industry calls professional liability risk management.

Believing that every pharmacy should use a structured system of risk management, Pharmacists Mutual formed a subsidiary, PMC Quality Commitment, Inc., to design such a system especially for pharmacy. The directions Pharmacists Mutual gave to the new company were (1) make it simple; (2) make it affordable; and (3) make it work. The result was the Pharmacy Quality Commitment[®]

Sentinel SystemSM for independent pharmacies and the Pharmacy Quality Commitment[®] Consulting Services for multi-pharmacy businesses.


An important piece of each system is the online quality management system. This completes the continuous quality improvement program. It is designed to allow each pharmacy to record their errors (mistakes reaching the patient) and their near-misses (mistakes successfully intercepted and corrected before reaching the patient). To emphasize the non-punitive nature of the system, the system classifies both errors and near-misses as Quality Related Events (QREs). Understanding the importance of time, the online quality management system is designed to take an average of less than 5 minutes in a pharmacy filling up to 500 prescriptions in a day. Those 5 minutes are scattered in 30-second increments throughout the day. If you fill 1000 prescriptions a day, it may take up to 10 minutes.

These systems have been in operation and testing for over five years. While the systems have been modified and improved through the years, in one form or another, they are currently used in over 2500 pharmacies in the United States.

No system will eliminate all QREs, but the number and frequency of QREs

being made and reaching the patient can be reduced. The Pharmacy Quality Commitment[®] systems are designed to reduce the chance of QREs occurring, and if one does occur, to catch it before it gets to a patient.

One pharmacy using the Sentinel SystemSM for the last year makes very few mistakes. But, even that pharmacy makes some. The online quality management system allows the pharmacy manager to track where any mistakes are made and where they are caught. This allows the manager to examine what happened to allow the mistake and to show the technicians and pharmacists how to "fix the problem." Usually what is found is that one of the process controls was left out and merely needs to be re-emphasized. We cannot report that no errors ever reach a patient in that pharmacy, but it has statistical evidence that if any mistakes are made, 98% are caught in the system and never reach the patient.

If you would like more information on the Sentinel SystemSM; the Pharmacy Quality Commitment Consulting Services; or the online quality management system, call 800-247-5930 ext. 400. To view a sample of the online quality management tools, visit www.pmcqc.com and click on "Data." 

HIPAA and confidentiality

In 1996 Congress passed and the President signed into law the Health Insurance Portability and Accountability Act (HIPAA). On one of the final pages of the Act, Congress gave itself until 1999 to pass legislation setting standards for the protection of patient privacy for medical records. The Act also provided that if Congress did not meet its own mandate, the federal Department of

Health and Human Services (HHS) was to do so. Congress did not, so HHS did. The result was a federal regulation that will have a large impact on the practice of pharmacy and medicine – and probably little impact on the protection of privacy.

In some ways, HIPAA is nothing new. Pharmacy has always dealt with confidential information and has protected it.

In the last several years, pharmacists have been receiving more and more health information about their patients and have become more sophisticated about how such information is handled. Almost every state has a pharmacy regulation saying, in essence: "The pharmacist shall protect the confidentiality of its patients." HIPAA takes that thought and expands it

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into over sixty pages of poorly written regulations that have resulted in over twice as many pages of explanation. However, every pharmacist must know and understand HIPAA and must comply with its mandates.

In brief, HIPAA requires each pharmacy do several things, including, at least, the following (Note: This is not an exhaustive list):

1. Prepare a policy and procedure manual covering the pharmacy's privacy standards, including when and under what circumstances information can be and cannot be released.
2. Prepare and give to each patient a notice of patient privacy rights, informing the patient of their rights under HIPAA and state law and outlining the pharmacy's policies and procedures on the use of protected healthcare information (PHI).
3. Record proof, usually by way of patient signature, that each patient has received a copy of the required notice.
4. Have a system of taking and dealing with complaints by the patient and of disciplining employees who violate the pharmacy's policies and procedures.
5. Train all employees in the requirements of HIPAA and state privacy laws.
6. Have available Patient Authorization forms that patients can sign to authorize release of records when necessary.

Remember, this is not a list of all of the items required by HIPAA. Three other terms used in the HIPAA regulations that pharmacists should be familiar with:

1. **Minimum necessary:** Patient iden-

tifiable information should be made available only to those within the pharmacy who "need to know."

2. **Covered Entity:** Health plan; health care clearinghouse; health care provider who transmits any health information in electronic form in connection with a transaction covered by this subchapter. This includes the pharmacy.
3. **Business Associate:** A company or individual who, on behalf of a covered entity (other than in the capacity of a member of covered entity workforce) performs or assists in functions involving the use or disclosure of individually identifiable health information or any other function regulated by HIPAA. A business associate must agree in writing to comply with the pharmacy's privacy rules.

Not all releases of information require a signed authorization. Generally a release of information for the purpose of treatment, payment, or health care operations of the pharmacy does not require authorization. In addition, release of information, otherwise protected, is allowed to law enforcement and government authorities (including boards of pharmacy); pursuant to court order; the department of HHS; and to business associates for services covered by the agreement with the pharmacy.

Enforcement of HIPAA is to be through the Office of Civil Rights (OCR), a federal agency, that has promised to investigate every allegation. Penalties range from \$100 up to \$250,000. Criminal sanctions can also apply.

These are some FAQs concerning HIPAA and the professional liability insurance policies issued by Pharmacists Mutual Insurance Company.

1. **Do I need to buy a new or special policy to gain "HIPAA coverage"?** No. If a patient brings a claim based on HIPAA, it is essentially a breach of confidentiality claim. This is covered by your professional liability policy from Pharmacists Mutual under "Personal Injury." The definition of "Personal Injury" in the policy states, "Personal Injury" means injury . . . that violates a person's right of privacy. . .
2. **Am I covered if I am fined by the OCR?** Unfortunately no. No insurance policy can protect you against all potential exposures. Professional

liability policies issued by Pharmacists Mutual exclude payments of fines or penalties.

3. **Do I need to execute a Business Associates agreement between my pharmacy and Pharmacists Mutual Insurance Company?** No. The Office of Civil Rights (OCR) issued its *Guidance Explaining Significant Aspects of the Privacy Rule* on December 4, 2002. One of the questions concerned the applicability of HIPAA to professional liability insurers. The answer is as follows:

"The Privacy Rule permits a covered health care provider to disclose information for 'health care operations' purposes, subject to certain requirements. Disclosures by a covered health care provider to a professional liability insurer or similar entity for the purpose of obtaining or maintaining medical liability coverage or for the purpose of obtaining benefits from such insurance, including the reporting of adverse events, fall within 'business management and general administrative activities' under the definition of 'health care operations.' Therefore, a covered health care provider may disclose individually identifiable health information to a professional liability insurer to the same extent as the provider is able to disclose such information for other health care operations. See 45 CFR 164.502(a)(1)(ii) and the definition of 'health care operations' at 45 CFR 164.501."

Other recent federal enactments have placed additional safeguards on personal information that is handled by financial and insurance institutions. As a policyholder, you should have received a copy of our privacy statements. These safeguards apply not only to information about you and your company, but also to information that is shared with Pharmacists Mutual for the purpose of investigating and adjusting claims.

The privacy of our patients is important, and pharmacists should use all of our best professional practices to protect it. The outline above is only a brief introduction to HIPAA. There are several good references available through national and state pharmacy associations. Two good HIPAA manuals are the ones published by the National Association of Chain Drug Stores and the National Community Pharmacists Association. Both are available through your state association.

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Burglary – What can I do?

What can I do to prevent burglaries? What do we do when we discover our pharmacy has been burglarized?

These are questions our Risk Management and claims personnel are asked regularly, and, lately, with increasing frequency.

Prevention and reduction–

- Reassess and adjust your cash handling procedures! Make bank deposits more often using no discernible time or method routines. Keep minimal cash and checks in the cash registers. Keep excess cash and checks in locked safes until it can be transferred to the bank.
- Have an audit done on your alarm system! Preferably by a third party, not the vendor that sold you the system. Read and utilize the information in the Alarm System White Paper posted on the Risk Management section of www.phmic.com. Make sure you have a variety of sensors designed to detect the most likely methods of illegal entry. Make sure your alarm system communication signal is backed up by cell phone, 2-way radio, or line integrity sensors.
- Work with local law enforcement officials to establish rapport with them. Obtain their insights into what threats or hazards you should be protecting your business from in your particular city or region. If possible, have them do a walk-through of your locations and give you an assessment of security.
- Protect all areas that are likely points of illegal entry - doors, windows, roofs, walls in common with less well

protected neighbors, common basements. Protection can mean proper deadbolts, substantial door-bars, metal clad doors, shatterproof glass, metal security gates or “curtains,” or motion or vibration sensors in false ceilings or targeting those common walls.

- Of course, keep targeted drugs targeted locked up during closed hours. If feasible, periodically rearrange the layout and placement of drugs on your pharmacy shelves.
- If your alarm system has been hit with one or more false readings recently, it may be burglars “testing the waters.” Ask local law enforcement for extra surveillance during off hours.

Remember, the burglars need a certain amount of time to perpetrate the crime. The “pros” probably know fairly accurately how much time they have to “work” from the time your alarm goes off until the time the cops arrive. Taking the actions above will help cut into that “working time” and make your store a less attractive target.

We’ve been robbed! Now what?

- The discoverer should secure (lock, if possible) the premises and call the local law enforcement officials. Post a sign in the window that opening will be delayed. Then go back outside (so as not to compromise the crime scene) and wait for law enforcement. As a memory aid, the discoverer should write down all the details he/she can remember about the discovery.
- Cooperate fully and completely with the law enforcement investigation.

- Call the Pharmacists Mutual, or other insurance company’s, claims department to get the claims process started and receive guidance about information gathering.
- If there has been physical damage to the property, call a contractor who can temporarily, or permanently if possible, secure the facility immediately.
- Call your alarm central station or law enforcement center for a reset of your alarm system.
- Call your alarm vendor for an assessment of the system’s performance; have them repair the system. If necessary due to inadequate design or performance, redesign, replace, or enhance the current system. Get proposals from more than just the company whose system just underperformed.
- Begin gathering all the information necessary for aiding the investigation of the crime and for filing your insurance claim(s). You will be told by the cops and claims people what is necessary.
- Stay as calm as possible. You will feel betrayed and/or violated, but try to remember, these things are usually not “personal.” Organize yourself and your staff to resume business as usual as soon as possible and try to put the experience behind you. Learn from it; but get back to normal. 📞

High auto insurance premiums

Ever wonder why your **auto insurance premiums** are so high? One reason is the insistence by most states that wrecked vehicles be repaired with so-called “genuine” replacement parts supplied by the car manufacturers.

A recent study by the Alliance of American Insurers reveals that a 2002 Dodge Grand Caravan Sport **retailing**

for \$24,815, would cost \$71,631 to rebuild when totaled out and rebuilt entirely from car company parts. And, that doesn’t include labor or paint.

Those kinds of costs **“account for 40 to 50% of the premiums for most auto insurance consumers,”** said Kirk Hansen, Alliance Director of Claims. 📞

Pharmacists Mutual Companies: Pharmacists Mutual Ins. Co.; Pharmacists Life Ins. Co.; Pharmacists National® Ins. Corp.; Pro Advantage Services, Inc.; and PMC Quality Commitment, Inc.

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Insurance fraud costs everyone

Insurance fraud, according to the latest estimates, may be costing the insurance industry \$96 billion annually. To make that number more meaningful, it is also estimated that insurance fraud **costs the average household in the U.S. \$5,000** annually. That sounds high, you say. Perhaps, but factor in the direct costs of increased insurance premiums and in-

creased consumer costs of everything you buy, and that figure might not be too far off.

Everyone understands that insurance premiums are higher because of fraud. There is a direct relationship there. However, think of fraud against any business, whether it is Workers Compensation insurance fraud or employee theft; **that business must increase the cost of their product to offset the losses** caused by the fraud. Every consumer who purchases that product pays part of those increased costs!

With Enron, MCI, Adelphia and other high profile fraud stories in the news, every rational person is shocked by the greed displayed. Rightly so, but what is the mindset of the same people that are aghast at Enron when they themselves have an auto accident claim and the body shop tells them that “we can bury your deductible in the estimate”? Unfortunately, too many people will take them up on the offer. Or, how about padding that claim just a little to help make up for

all the premiums you’ve paid through the years without making a claim? Or, how about an employee taking a little phantom back injury “vacation” on the Workers Comp system? Those situations are all examples of **insurance fraud! Not on the same scale as Enron**, but with over half of U.S. citizens telling pollsters that these “mini-frauds” are OK, one can see how the totals mount.

What can one person do to help stop insurance fraud? You can report suspected fraud to local law enforcement, your state insurance department’s fraud division, or to the National Insurance Crime Bureau at <http://www.nicb.org/services/hotline.html> or 800-TEL-NICB (835-6422). You can refuse to do business with that “helpful” auto shop. You can refrain from the temptation to “pad” a claim. If enough of us recommit to the basic principle that integrity in all business dealings should be the norm, not the exception, that would do more to cut those fraud numbers than any other single action. 📧

Do you have any questions or requests concerning

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

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