Prudent prescribing for patients with addictions

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Did benzodiazepines prescribed to patient with addiction cause delirium?

Maricopa County (AZ) Superior Court

A 40-year-old woman addicted to diazepam sought treatment from a psychiatric nurse who performed a psychological evaluation. The patient claimed that the nurse negligently prescribed benzodiazepines and other medications for anxiety, panic attacks, and depression.

The patient claimed that the prescriptions caused a drug-induced delirium, during which she put a nonlethal amount of the medication on her two minor daughters' ice cream, then attempted suicide by overdosing with her prescriptions. The patient and her daughters survived.

The patient was charged with two counts of attempted murder and was incarcerated for 18 months while awaiting trail. She was acquitted of the charges but lost custody of her daughters.

The psychiatric nurse argued that the medication prescribed was appropriate and the patient was not in a drug-induced delirium when she tried to kill herself and her daughters. The defense alleged that other factors caused the patient to attempt suicide/homicide, including a pending divorce and financial problems.

• A defense verdict was returned

Woman claims she was prescribed narcotics despite alprazolam addiction

Multnomah County (OR) Superior Court

The patient, age 57, began seeing a psychiatrist in March 1993 for anxiety and panic attacks. She had kicked a 10-year alprazolam addiction and had been drug-free for more than 6 months when she first visited the psychiatrist.

The patient claimed that over the next 11 years she developed an intimate friendship with the psychiatrist. The patient visited the psychiatrist's office almost weekly—sometimes twice a week—and incurred almost $100,000 in fees. The patient says that the psychiatrist prescribed her narcotics, then sought the drugs from her for his personal use, and was negligent in his treatment.

• A $593,000 verdict was returned, which included $200,000 in punitive damages

Cases are selected by CURRENT PSYCHIATRY from *Medical Malpractice Verdicts, Settlements & Experts,* with permission of its editor, Lewis Laska of Nashville, TN (www.verdictslaska.com). Information may be incomplete in some instances, but these cases represent clinical situations that typically result in litigation.

Box 1

Tips for prescribing abusable drugs to patients with addictions

- **Try prescribing** nonaddictive alternate medication first.
- **Prescribe** a limited amount for a short time when an abusable substance is clinically warranted.
- **Document** in the patient's chart specific treatment needs that will be addressed by the medication, potential benefits and risks, the dosage, and date of the prescription.
- **Use medication in combination** with an ongoing discussion of the patient's anxiety, history of addiction, and the clinician's attempts to prevent future addictions.
- **If prescription drug abuse develops,** identify the problem and help the patient find appropriate treatment, such as detoxification inpatient chemical dependency treatment, or intensive outpatient dependency treatment.

Dr. Grant's observations:

Should benzodiazepines or other addictive substances be prescribed to a patient with a history of substance abuse? Little evidence guides clinicians,[1,2] and limited research has examined whether former substance abusers are more likely than other patients to abuse benzodiazepines or if these medications increase the risk of substance abuse relapse.[2]

A psychiatrist can prescribe medication whenever a medical basis exists. In the first case a patient with anxiety and panic attacks was given benzodiazepines, an appropriate treatment for anxiety disorder.[3] But what if the patient has a history of substance abuse? When is prescribing these medications negligent?

The fiduciary relationship between psychiatrist and patient states that the therapist is the patient's ally and should always act in the patient's best interest. With limited data, clinicians have no clear rule for a standard of care.

On one hand, benzodiazepine misuse is a problem and these medications must be prescribed cautiously. In 2004 roughly 300,000 Americans reported using prescription sedatives for nonmedical purposes.[4] Many addiction specialists believe benzodiazepines are contraindicated for patients with current alcohol or drug abuse problems and for those in recovery. In this scenario, the clinician could choose an appropriate alternative to a benzodiazepine such as an antidepressant, buspirone, beta blocker, or anticonvulsant. Explain to the patient that these medications' clinical effect is slower than that of benzodiazepines. Also consider psychotherapy to address anxiety.

On the other hand, benzodiazepines might be underused because of fear of addiction.[5] Clinicians must consider whether their prescribing practices are designed to protect themselves or are in the patients' best interests (*Box 1*). Of course, when treating a patient with a benzodiazepine addiction, the risk-benefit analysis shifts and abuse concerns may be more appropriate.

In the first case, the patient attempted suicide by overdosing on the prescribed medication. This fact might support the patient's argument that she was not an appropriate candidate for benzodiazepines and the psychiatric nurse could be held liable—even though in this case she was not. One court found that a psychiatrist writing prescriptions for large amounts of controlled substances to someone addicted to drugs could be held liable for the patient's suicide.[6]

In the second case, a psychiatrist prescribed narcotics to a patient with a history of addiction. The code of medical ethics is clear: A psychiatrist who regularly practices outside his or her area of professional competence should be considered as

having acted in an unethical manner.[7] So if you wish to prescribe narcotics, you must follow internal medicine's ethical standards (*Box 2*).

RESPONSIBILITY OF CARE

Although the nurse in the first case could be liable for her actions, the psychiatrist who supervised the nurse might also be partially responsible. The law assumes that those who work under a physician's supervision act as his or her agents. Nurses working for a physician are the physician's agents, and the physician is responsible for a nurse's acts. This legal principle is respondeat superior, or "let the master reply."

Generally, the physician's lack of knowledge about what the nurse prescribes is not a defense for a malpractice claim. In fact, the law requires that the physician know whether his or her agents meet the profession's standard of care. In cases where a nurse prescribes an inappropriate medication, the psychiatrist can be charged with negligent supervision—that is, failing to provide to the nurse proper guidance and instruction.

ETHICAL CONDUCT

Relationships with patients. The second case raises several egregious issues in patient care. Although intimate relationships with patients are prohibited, the fact that these cases still come before licensing boards and courts suggests that physicians are not getting the message. Although the report of this case is vague about what "intimate" means, several points are raised:

- **Sexual relationships** with current or former patients are not allowed.[7] A patient is vulnerable, and the power differential makes it difficult for the patient to resist the therapist's requests.
- **Nonsexual, intimate relationships** likely would be seen as a boundary violation, akin to a sexual relationship. In the case presented, the boundary violation is obvious even though the relationship may not have been sexual.

> The law requres that the physician know if his or her nurses meet the profession's standard of care

Inappropriate prescribing. There is no justification for a physician seeking drugs from a patient for personal use, as was reported in the second case. Interestingly, one study found that 17.6% of physicians had used opioids in the past year in an unsupervised fashion.[10]

Medical ethics prohibit this behavior and state that psychiatrists should not:[7]

- use the unique position afforded by the psychotherapeutic situation to influence the patient in any way that is not directly relevant to treatment goals
- exploit information furnished by patients.

In this case, the psychiatrist could face federal and state criminal charges because of his use of a patient's narcotics and inappropriate prescribing.

State medical boards have varying procedures in place to handle a physician's substance abuse.

Box 2

Internal medicine's ethical standards for prescribing medication

- **Establish** a patient-physician relationship.
- **Perform** and document a medical history and physical exam to justify the medication prescribed.
- **Medication** must be warranted and consistent with the physician's diagnosis.
- **Dosages** and prolonged prescriptions need to be within the usual course of medical practice.
- **Maintain** accurate and complete treatment records.

Source: Snyder L, Leffler C. *American College of Physicians Ethics Manual: fifth edition*. Available at: http://www.acponline.org/ethics/ethicman5th.htm. Accessed August 30, 2006.

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—Daniel Mills, Executive Vice President and CFO, 9/5/06

These programs' goal is to assist recovery, eliminate risk to the public, and allow the physician to return to work. Clinicians should be aware of such programs in their jurisdictions.

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DRUG BRAND NAMES

Alprazolam • Xanax Buspirone • BuSpar Diazepam • Valium