

AND THE LAW

By Don. R. McGuire Jr., R.Ph., J.D.

This series, **Pharmacy and the Law**, is presented by Pharmacists Mutual Insurance Company and your State Pharmacy Association through Pharmacy Marketing Group, Inc., a company dedicated to providing quality products and services to the pharmacy community.

DOCUMENTATION IN THE MODERN WORLD

The world continues to change and the way that we communicate with each other continues to evolve. This includes communication between you and your patients, and you and the prescribers. Pharmacists need to be able to sufficiently document their communications to support the actions taken in the care of their patients.

Early in my career, prescriptions were written on paper or called into the pharmacy. If clarification was needed after hours, it meant a call to the prescriber's answering service. The response time was seldom fast. The next great improvement in communication was the introduction of pagers. The prescriber got a message to call the pharmacy directly, but didn't know who the patient was or what the issue was. About this same time, faxing of prescriptions began to become more common. This included faxing refill requests to the prescriber's office and the return fax of the authorization. This format created its own documentation. The next step forward was electronic transmission of prescriptions from the prescriber to the pharmacy. No paper copy is generated with this method, but significant electronic documentation is available.

In today's world, the speed of communication in the 1980s seems like the

Stone Age. And as the speed of communication has increased, keeping a record or documenting these communications is not at the forefront of most people's minds. Communications happen in the now. Keeping them for the future doesn't seem important. But it is important in professional communications. Texting patients and prescribers has become more prevalent as a fast and efficient means of communication. While nothing is ever truly deleted from cyberspace, trying to recover texts from two years ago should not be your documentation plan. Approach the documentation of texting as you would a phone call.

Documentation should be readily retrievable. In the past, documentation on the prescription itself was the favored location. That is still a good place for it, but we do not always have a paper prescription today. Computer systems have expanded documentation functionality today. You can also use a log book (paper or electronic) to document all communications. Documentation for texts is analogous to that

for phone calls. The typical entry for a phone call includes date, time, person talked to, the question at hand, and the resolution. Documentation created out of a pattern of consistent behavior is every bit as admissible as a document itself.

Documentation of texts should include date,

time, the number texted, the question, and the resolution.

Pharmacists should also take HIPAA into consideration when using texts to communicate about prescriptions. What protected health information (PHI), if any, is being transmitted? If PHI is being transmitted, is the PHI protected from disclosure? The pharmacist should be careful that correct phone number is used for this type of communication. If the pharmacist is using their personal phone for such communications, is the information protected so that family members don't accidentally have access to the PHI? This is another good reason to not let your children play with your phone.

In the fast pace of today's world, documenting texts can be forgotten, but it is as important as documenting phone calls. Most pharmacists have developed a habit for documenting phone calls. This habit needs to be expanded to include the information that is being communicated by text. While those with Luddite tendencies might say that it would be better to eliminate the use of texting in this situation, I doubt that we will be able to stem the tide. Texting is becoming the preferred method of communication with many people. Proper documentation of those transactions is essential to complete your patient care records.

© Don R. McGuire Jr., R.Ph., J.D., is General Counsel, Senior Vice President, Risk Management & Compliance at Pharmacists Mutual Insurance Company.

This article discusses general principles of law and risk management. It is not intended as legal advice. Pharmacists should consult their own attorneys and insurance companies for specific advice. Pharmacists should be familiar with policies and procedures of their employers and insurance companies, and act accordingly.