Editorial

Signing the script

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It is perhaps galling to realise, after all your years of medical training and experience in practice, that your most valuable asset is not your knowledge and skill – but your signature!

Your signature does not just give patients access to the Pharmaceutical Benefits Scheme (PBS) and prescription-only drugs, it can open the door to sickness benefits, invalid pensions, workers' compensation and other benefits. The power of that signature brings with it a heavy burden of responsibility **and** the threat of dire consequences if that power is abused.

If you apply your signature negligently, you can find yourself sued. Similarly, if your signature enables a patient to obtain a benefit to which he or she is not entitled, you can face criminal charges, or at best, a demand that you repay the benefit improperly obtained by the patient.

Not once but **four** times, in my almost 20 years in general practice, I signed, and gave to the patient, a prescription for a penicillin derivative, when on the outside of their notes, in red ink, in my own handwriting, were the words 'Allergic to penicillin'. In three out of the four cases, the patient took the script to the local pharmacist, whom I knew well enough for him to be able to ring me and say, 'Listen, you idiot, you've done it again!'. The fourth time, the patient had the script filled by a pharmacist who did not know either her or me. Fortunately, she only suffered a mild rash and when she rang me, my abject apology was accepted. Clearly, that was negligent prescribing. I did not meet the standard of care to which she was entitled when I signed that script.

Most general practitioners now use computers to print prescriptions. The software will alert the prescriber if a drug to which the patient is known to be allergic is about to be prescribed or if the drug will interact with the patient's (known) usual medications. These warnings will not occur if the necessary information is missing or incorrectly entered into the database. Such systems are only as good as the data entered into them. Ultimately, if you sign a computer-printed script, you are responsible for it, not the computer!

There is a downside to computer-generated scripts. They are too easy. At the end of an already extended consultation, when a patient says, 'Oh, and seeing I am here, can I have a repeat of all my tablets?', do you carefully review the medication to see if all of it is still appropriate or do you just hit the 'print' button, grab the scripts as they emerge from the printer and sign them automatically while talking to the patient?

Apart from liabilities in negligence which can arise from signing scripts, there is also the consequence of falling foul of the law. Prescribing is governed by State law, such as those relating to prescribing of drugs of addiction, and Commonwealth law, such as those relating to the PBS.

When did you last read the Explanatory Notes section of the Schedule of Pharmaceutical Benefits? That is, the yellow pages at the front of the book. They detail both what is required of you by law and what is requested of you. For example, the Schedule requests that prescriptions contain no more than three items and be clearly legible. That might seem gratuitously insulting, but pharmacists should not have to struggle to understand your writing. Tragedies occur; for example, while the pharmacist who dispensed 'Inderal' instead of 'Intal' was roundly criticised by the Coroner (yes, the patient died), so was the doctor who compounded illegible handwriting by adding as the only instruction on the script, 'prn' (an antiquated Latin abbreviation for 'take as needed').

In this issue…

Prescriptions are such a routine part of practice that it is easy to forget that they are legal documents. Paul Nisselle therefore reminds us of some of the medicolegal issues in prescribing.

As advertising influences prescribing it also requires regulation. Craig Davies informs us what the Therapeutic Goods Administration is doing to protect Australian health professionals and consumers from inappropriate pharmaceutical advertisements.

Sometimes it is appropriate not to prescribe for a patient, but withdrawing treatment can be problematic. Christine Kilpatrick discusses the issues to consider when stopping antiepileptic drugs. In some conditions it is not possible to stop a drug which may be increasing the patient's risk of adverse effects. For example, Joe Proietto outlines the difficulties of managing patients who have schizophrenia and diabetes.

Insulin resistance also has an important role in polycystic ovary syndrome. Metformin has been studied in this condition, but Beres Joyner suggests caution before prescribing it to women with infertility.

You will come under pressure to 'bend' the law. Common examples when I was in practice included:

- 'Doc, the chemist said that if you just add "SP" to the script, I'll get the tablets much cheaper' or 'Doc, I'm told that if you ring to get a special authority…'
- 'My mother overseas can't afford to buy the tablets she needs over there. Give me a script in my name and I'll get it filled here and send them to her.'
- 'My mum's/dad's on Repat. Write the script in her/his name and I'll get the medicine cheaper.'

To agree to such requests is not compassionately 'bending' the law, it is fraud. It is criminal fraud, because it would satisfy the test of *mens rea* (literally, guilty mind). You clearly knew that you were issuing a document which would enable a Commonwealth benefit to be obtained improperly. Penalties can be heavy. Section 128B of the *Health Insurance Act 1973* [Commonwealth] states that the penalty for such offences is a fine of up to $10 000 or five years in prison, or both.

You should also be aware that section 128A of that same Act says that it is an offence even if, without intent (that is, without *mens rea*), you:

> make, or authorise the making of, a statement (whether oral or in writing) that is:
>
> (a) false or misleading in a material particular; and
>
> (b) capable of being used in connection with a claim for a benefit or payment under this Act.

The penalty for a breach of section 128A is a fine of up to $2000. That's called a 'strict liability' offence, meaning that there is no need to prove *mens rea*. In other words, if you wish to prescribe under the PBS the burden is on you to learn how the Scheme works.

A prospective study[1] has described how latent conditions interact with error-producing conditions leading to active failures and then prescribing errors:

- 'Latent conditions' – organisational sloppiness, such as the boss saying to the intern, 'Put Mr X on digoxin' without checking that the intern knew the correct dose, frequency, route of administration, and duration of treatment.
- 'Error-producing conditions' – such as overwork, poor team communication, inadequate protocols, H.A.L.T. doctors (Hungry, Angry, Late or Tired), and unhelpful patients with perhaps both complex medical problems and language or other communication difficulties.
- 'Active failures' – these can be subdivided into:
  - 'errors', such as slips (thinking of one name but when distracted writing another), lapses (such as failing to delete the previous drug from a medication chart when substituting it with another) and frank mistakes (such as co-prescribing drugs known to interact)
  - 'violations' (such as consciously ignoring clearly stated protocols, for example checking procedures).

This research points the way to avoiding treatment errors:

- When delegating treatment, always give clear, detailed (preferably written) instructions.
- Slow down and concentrate even more than usual when H.A.L.T. (Of course, it is better to HALT when H.A.L.T.!)
- Concentrate when writing prescriptions – do not try to write them while the rest of your brain is attending to another task. (How often do you attend to the list of requested repeat scripts when also returning that day's phone calls?)
- If the computer prescribing system is down, and you have come to rely on it, slow down and check, check, check.

One way or another, general practitioners probably use their signatures about 50 times a day. That means that over the average professional lifetime, you will sign your name about half a million times. It is frightening to think that any one of those signatures applied carelessly could land you in medicolegal hot water.

Reference

1. Dean B, Schachter M, Vincent C, Barber N. Causes of prescribing errors in hospital inpatients: a prospective study. Lancet 2002;359:1373-8.

Conflict of interest: none declared

Letters

Letters, which may not necessarily be published in full, should be restricted to not more than 250 words. When relevant, comment on the letter is sought from the author. Due to production schedules, it is normally not possible to publish letters received in response to material appearing in a particular issue earlier than the second or third subsequent issue.

Withdrawal of temazepam gelcaps

Editor, – I was disappointed to read certain advice and factual inaccuracies in the article regarding issues relating to the use/misuse of temazepam capsules (Aust Prescr 2004;27:58-9). The withdrawal by Sigma of its temazepam capsules from the market has not led to a complete lack of this drug in Australia and temazepam gelcap injection still continues to be a problem.

Furthermore, I am concerned about the comment, 'in this instance they have a duty of care not to prescribe benzodiazepines'. While doctors should not respond to coercion, as alluded to in the article, appropriate