

THE MAGNET™



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Risk Management Tips

*Off-Label Prescribing:
Consider this Risk Management Plan*

Off-label prescribing, also known as "unapproved use," is the physician practice of prescribing a drug or medical device for a purpose different from the indications for which the product is approved by the FDA. Of all drug prescriptions written in a given year, the AMA estimates that off-label use runs between 40-60 percent. Despite the benefits of off-label use, there are numerous examples when the controlled studies later proved such use imprudent.

Off-label prescribing is a matter of medical judgment. It is the physician's judgment and not the fact that device or drug was used in an off-label manner that will determine whether medical malpractice occurred. Courts recognize that off-label use of devices and drugs is common place and sometime define the standard of care. Therefore, physicians must be well-versed in the risks and benefits of the agent being considered for off-label use.

Physicians should consider the following minimum risk management recommendations when prescribing off-label devices and drugs:

- Periodically review literature indicating off label uses of certain drugs and for new treatments
- If the off-label is uncommon, fully investigate the possible side effects of using the device or drug
- Fully disclose the medical risks to your patient and ensure that your documentation provides that the patient is aware of such risks

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MAG Mutual Insurance Company Committee Members Appointed

We are pleased to announce that W. Scott Bohlke, M.D. and Sheila A. Robinson, M.D. recently became members of MAG Mutual Insurance Company's Board of Directors' Underwriting Committee.

Dr. Bohlke practices family medicine in Brooklet, Ga. He received his B.S. in Microbiology from the University of Georgia and his medical degree from the Medical College of Georgia. Dr. Bohlke completed his internship and residency at The Medical Center, Columbus Regional Healthcare System.



Dr. Robinson is a cardiologist in private practice in Atlanta. She earned her medical degree from the University of Texas Medical Branch in Galveston, her residency in internal medicine at Emory University Affiliated Hospitals and her fellowship in cardiology at the University of California, Irvine. She also did a preceptorship in pacemaker implantation in Stoke-on-Trent, England.

We welcome them to their new roles in MAG Mutual's leadership. ●

MAG Mutual's Alliance with the Principal Financial Group® Launches Quickly

It only took a few weeks for MAG Mutual Financial Services, Inc. (MMFSI) to start receiving positive comments from satisfied MAG Mutual-insured physicians regarding our strategic alliance with The Principal Financial Group. The relationship, which was formed in December 2005 and announced in a prior *MAGnet* and letters to policyholders, expands our ability to:

- Meet the financial needs of more of our policyholders
- Provide more investment choices
- Offer local service in many of our physicians' communities

We invite you to call the **MMFSI hotline at 1-800-316-0143** to take advantage of this MAG Mutual member benefit. You can arrange to personally meet one of the many experienced, well-qualified representatives to discuss your financial picture. ●

(Off Label Prescribing: Consider the Risk Management Plan, continued from page 1)

Off-label use is a balancing act between the risks and the benefits for a given patient. The decision to prescribe an off-label drug requires the art and the science of medicine combined with pragmatism and wisdom. For more information, please call Georgette Samaritan at **404-842-5686** or **1-800-282-4882, ext. 5686**. ●

Change of Venue Ruling

The Georgia Supreme Court, in a February 13, 2006 decision, ruled on the venue rules in medical malpractice cases involving joint tortfeasors by upholding one venue statute while finding another unconstitutional. The venue provisions, which the Court considered, were both enacted as part of the Georgia Tort Reform Act (SB 3) which became effective on February 16, 2005. The Court considered two cases, *EHCA Cartersville, LLC v. Turner and Garland v. Earle et al.*, when making its decision. In both cases, the plaintiffs filed medical malpractice actions in the county where one of the defendants resided, but not where the tort allegedly occurred. In each case, a defendant who resided in the county where the tort allegedly occurred moved to have the case transferred to that county pursuant to O.C.G.A. §9-10-31(c). The Court held that O.C.G.A. §9-10-31(c) vested the power to change venue in the *defendant* and not the court.

In *Garland*, a defendant also moved to transfer venue pursuant to O.C.G.A. §9-10-31.1(a) which authorizes a court to transfer a case if the court determines that it would be "in the interest of justice" and "for the convenience of the parties." Since the authority to change venue in this statute rested with the *court* and not with the defendant, the Georgia Supreme Court found it to be constitutional.

Unlike O.C.G.A. §9-10-31(c) which only requires proof that the nonresident defendant be a resident of the county where the tort allegedly occurred, O.C.G.A. §9-10-31.1(a) requires the court to consider a laundry list of factors in determining whether a case should be transferred e.g., unnecessary expense or trouble to the defendant not necessary to the plaintiff's own right to pursue his or remedy.

Since the Court's decision, the plaintiff in *Garland v. Earle et al.* has filed a motion for rehearing with the Court. As new information becomes available, it will be reported in future issues of *The MAGnet*. ●

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MAG Mutual policyholders can now receive a 20 percent premium discount on disability income protection insurance.* A comprehensive portfolio of disability protection programs for your personal and practice needs includes:

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- DI retirement security – helps you continue to save for your retirement if you are disabled
- Overhead expense – can reimburse you for practice business expenses incurred during a disability
- Disability Buy-out – provides funding for your partners to purchase your share of the practice if you can't return to work

If you are interested in protecting your income, now is the time. Call the MAG Mutual Financial Services Center at **1-800-316-0143** for details. ●

*Disability income insurance provided through a leading national insurance provider.

Risk Management Help is on the Web

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- Look for new online CME programs
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- Examine ready-to-use sample forms and policies

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