



NORTH CAROLINA'S SOURCE FOR IMPORTANT PHYSICIAN INFORMATION

Withdrawal of Medications from the Market

Following the withdrawal of Vioxx® from the market by its manufacturer on September 30, 2004, physicians across the country have been contemplating appropriate steps to protect the safety of their patients. Physicians who have prescribed any medication recalled or withdrawn from the market would be prudent to establish simple and proactive plans of response. Above and beyond discontinuing prescriptions, physicians may consider the following:

- Identify patients who have been prescribed the drug and determine the clinically appropriate response for their particular medical condition, including factors like the length of time the patient has taken the drug
- Post notices in the waiting room and, if feasible, contact affected patients by letter to inform them of the drug's withdrawal
- Develop a follow-up protocol and ask patients to contact you for alternative medications or treatments, as appropriate
- Physicians, nurses, physician's assistants or other qualified personnel should be trained and utilized to respond to patient inquiries
- Place a message on your phone system
- Refer patients to www.merck.com, www.vioxx.com or www.fda.gov for detailed information on the Vioxx withdrawal

These considerations could apply to any prescription medication that has been withdrawn from the market by its manufacturer. If a patient alleges you were in any way negligent by prescribing Vioxx, or any other medication, please contact MAG Mutual Insurance Company's Claims Department at 800-282-4882. If you would like more information on an appropriate response to drug recalls or withdrawals, please contact Kris Kuzenski at 866-798-5281. ●

HIPAA – Reporting Claims to MAG Mutual

As a result of the HIPAA Privacy Rule and the medical community's heightened focus on patient confidentiality, some physicians have expressed reservations about disclosing patient information to MAG Mutual when reporting claims-related incidents. **Please be assured that HIPAA does not prohibit such disclosure.**

One key element of the HIPAA Privacy Rule is that physicians may disclose protected health information (PHI) to others without patient authorization for the purpose of conducting certain healthcare operations. The term "healthcare operations" includes such things as applying for professional liability insurance, engaging in risk management activities, arranging for legal services and reporting claims to medical professional liability insurers. Physicians may disclose PHI to MAG Mutual without obtaining patient authorization when reporting claims-related incidents. On the same basis, physicians may disclose PHI to MAG Mutual without patient authorization for insurance underwriting and risk management activities.

In February 2003, MAG Mutual Insurance Company mailed HIPAA Business Associate Agreements (BAA) to our policyholders. We currently include a copy of the BAA with new and renewal insurance policies issued and have posted a copy on our website at www.magmutual.com/mmic/articles/Hipaa-BAA.pdf. This Agreement provides contractual assurance as to what we will and will not do with PHI we receive from our policyholders. Our policyholders should keep a copy of the MAG Mutual BAA with other documentation that proves their compliance with the HIPAA Privacy Rule.

Physicians should carefully evaluate the impact of applicable state laws and HIPAA Privacy Rules on any disclosure of PHI, but it is merely a myth that patient authorization is required for any and all disclosures of PHI under HIPAA. For information on reporting potential claims or incidents to MAG Mutual, please contact our Claims Department at 800-282-4882. ●

Have you ordered your 2005 Physicians' Fee & Coding Guide Yet?

The most comprehensive fee guide in America is yours from MAG Mutual Healthcare Solutions, Inc. To order, call toll free 888-738-7485 or visit www.coderscentral.com/feeandcoding. You'll receive a FREE Codey the bear with each order.



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Did you know?

Disability Income Coverage Cap for Physicians Raised

For the first time in 16 years, disability insurers have begun to raise the cap on the amount of monthly income protection a physician can purchase. While physicians still cannot purchase as much coverage as those in other occupations, **the previous monthly benefit cap of \$10,000 has been raised from 25-50% per month**—depending on your current annual income. This benefit is payable under the terms of the policy as issued in the event you can no longer work due to an illness or injury.

MAG Mutual Financial Services, Inc., is working with some of the nation's top disability insurance carriers to provide you the ability to protect more of your income, with special 20-30 percent discounts for MAG Mutual policyholders. If you are interested in increasing your income protection, now is the time. Please call Ron Lundy at 800-282-4882, ext. 5567.

Looking for our latest tips, guidelines and news?

Now you can join several hundred of your peers who are receiving free email notification of the most current MAG Mutual electronic newsletters. Just go to our Website—www.magmutual.com—click on the “Sign Me Up” button on the bottom left-hand side and answer the three quick questions. The following month you will receive notice that the latest *MAGnet* and *Healthcare Risk Manager* publications are posted on our site.

Risk Management Tips

Six Ways to Bolster Your Malpractice Defense

When you first receive notice that a claim or lawsuit has been filed against you, or you anticipate that you may become involved in a lawsuit, it is imperative that you take certain measures to protect and enhance your defensibility.

- 1. Tell us early.** Once you are served with a lawsuit, we have a limited amount of time, typically 30 days, to file an answer to the plaintiff's allegations of negligence against you.
- 2. Collect all your medical and financial records,** and radiology films, and make no “after the fact” entries or alterations of any kind. The medical record is a legal document, and any alteration may be a crime.
- 3. Do not discuss the case with anyone** except your MAG Mutual representatives and your defense attorney. Anyone else could become a plaintiff's witness in the case.
- 4. Once a lawsuit has been filed, do not talk about the case with the patient/plaintiff,** his or her friends, family or attorney. The time for an amicable resolution is past, and further comments by you may be considered an admission of liability.
- 5. Do not transfer ownership of your assets at the time of a claim or lawsuit.** It may be viewed as fraudulent by concealing them from collection for a potential judgment. Structure your assets before you have a claim or lawsuit.
- 6. Call MAG Mutual before offering to speak with attorneys** “off the record” and before giving depositions in cases. You may also need to be represented at medical board hearings or when notified by Medicare/Medicaid of an audit.

For more information, please call Kris Kuzenski at 866-798-5281. ●

Need to file a claim? Call our Raleigh Office at 866-798-5281.

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