Failure to Follow Office Policy Results in Problems for the Defense

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This case reminds us of two very important principles concerning the adoption of healthcare policies and procedures:

First, healthcare providers, including physicians, hospitals and others must understand that they create self-imposed standards of care through their written policies, and they will be held to those standards even if “higher” or not required by the prevailing community or professional standards of care.

Second, if a healthcare provider adopts a policy or procedure, it had better inform and educate all who will carry out the policy, and ensure they can meet its “standards” on a universally consistent basis.

The Case

At his annual evaluation, the patient’s urologist noted the patient had a mildly elevated PSA and obstructive voiding symptoms, the new development of nodules in the right base of the prostate, and a questionable nodule on the left. His PSA increased from 4.7-5.1. The urologist recommended the patient undergo a prostate biopsy.

The office nurse at the satellite office notified the patient of his PSA results, and scheduled the patient for his biopsy. This nurse was unaware that practice policy required scheduling be done only through the main office. Having departed from practice policy, she was unaware that part of scheduling the procedure included calling in a prescription of 3 days of a quinolone antibiotic to be taken the day prior, day of and day following the biopsy. The patient presented
to the main office for his prostate biopsy; the biopsy was negative. The urologist documented (by assumption) that the patient had taken preoperative antibiotics and an enema per the practice's policy.

Ultimately the patient was admitted to the hospital, suffering a five week stormy course of sepsis, resulting in thrombotic thrombocytopenia purpura (TTP) which required 8 days of plasmaphoresis and hemodialysis for renal failure. The patient was discharged home on the 6th week post admission only to be readmitted for bilateral pulmonary emboli with persistent blood clots in his right leg. He remains on blood thinners indefinitely.

Risk Management Commentary:

The patient alleged (1) the urologist performed the patient’s prostate biopsy without confirming the patient had received the appropriate prep and antibiotics prior to the procedure. (2) The office staff violated practice policy and procedure by not providing the patient pre-biopsy antibiotics and pre-op instructions at the time the appointment was scheduled.

We were unable to secure standard of care expert support for our urologist, primarily because the practice didn’t follow its own pre-op policy. The case was mediated and settled for a large amount.

We suggest that healthcare providers develop policies and procedures based upon best practices and the standards of care. They should also inform and educate the staff & physicians at each location on these policies to guarantee standardization of care. Otherwise the healthcare facility and its providers are at risk for litigation under the theory of “failure to follow its own rules.”

The information provided in this resource does not constitute legal, medical or any other professional advice, nor does it establish a standard of care. This resource has been created as an aid to you in your practice. The ultimate decision on how to use the information provided rests solely with you, the PolicyOwner.

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