

Managing Risk in Clinical Practice-- How to Stay Out of Court

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DoD MedMal Torts

- **1100 Claims/Yr**
- **350 Paid Claims/ Yr**
- **\$75M/Yr**



DoD MedMal Torts

- **Age:**

- < 2 17%
- 2-18 10%
- 19-41 40%
- 42+ 33%

- **Gender:**

- Male - 39%
- Female - 61%



DoD MedMal Torts

- **Status:**
 - Active Duty - 8%
 - AD Dependents - 54%
 - Retirees - 18%
 - Retiree Dependents - 20%
- **Resolution:**
 - Administrative - 80%
 - Litigation - 20%



DoD MedMal Torts

- **Primary Allegation:**
 - Diagnosis - 41%
 - Surgery - 20%
 - Treatment - 14%
 - OB - 13%
 - Medication - 5%
- **Mental Disorders - 1.6%**



DoD MedMal Torts

- **Provider Specialty:**
 - OB/GYN - 23%
 - Surgery - 16%
 - Family Practice - 14%
 - Internal Medicine - 10%
 - Pediatrics - 5%
- **Payments:**
 - < \$10K 18%
 - > \$500K 10%



DoD MedMal Torts

- **On the Horizon...**
 - Telemedicine
 - Telephone Triage
 - Patient Privacy/HIPAA



Why Claims Are Filed

- Upset with the System
- Unreasonable Expectations
- Unexpected Results
- Devastating Injuries



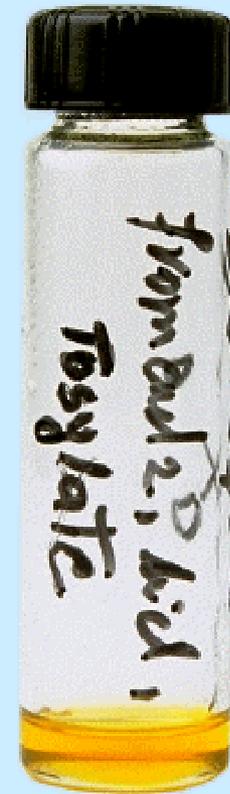
Errors

- Whatever You Touch, You Put at Risk
 - Personal Issues
 - System Issues
- Errors \neq Malpractice



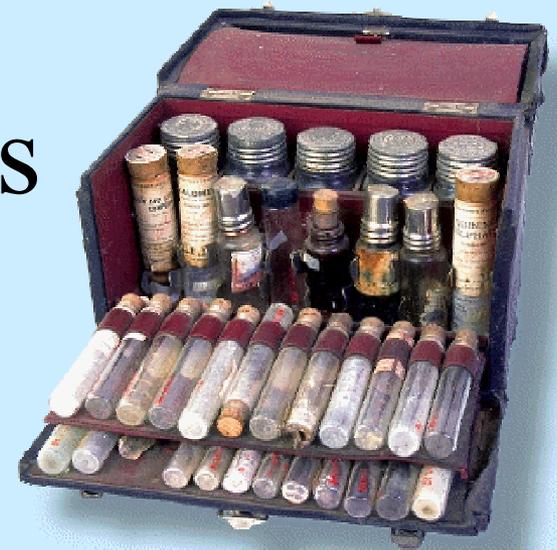
Why Reduce Errors?

- Quality Care
- JCAHO
- Statute
- Barriers:
 - Fear of Consequences
 - Command Culture



Medication Errors

- Sources of Errors
- System Improvements
- Provider Strategies:
 - Educate Your Patient
 - Ask Good Questions



DoD Patient Safety Program

- DODI 6025.17
 - P. L. 106-398
- Focus on Identifying and Implementing corrective Actions to prevent medical errors at the MTF

DoD Patient Safety Program

- Nonpunitive
- Preventive
- Confidential
- Respectful of Patient Rights



Informing the Patient

- “Benevolent Gestures”
- Do it Yourself
- Honest
- Compassionate
- Timely
- Objective
- No Blame Game
- Documents
- No Legal Stuff

Clinical Practice Guidelines

- Improves Quality of Care
- Influences the Standard of Care
- Saves \$\$\$
 - Cost Avoidance/UM
 - *Quigley*



Creation Of Guidelines

- Quality
- Key Elements:
 - Scientific
 - All Evidence
 - Consensus
 - Descriptive
 - Dynamic
 - Education
 - Practical
 - Multidisciplinary
 - Adapted to Setting
- **DoD/VA Guidelines**
 - Adult Depression
 - PTSD/Psychosis

Guidelines in Court

- Generally Admissible
- Direct Proof of SOC
- Affirmative Defense



Informed Consent

- Manages Risk by:
 - Educating the Patient
 - Alters Expectations
 - Enhancing the Provider-Patient Relationship
- Documentation of Consent
 - Not Written = Didn't Happen
 - Rev. Code Wash. § 7.70.060
 - Prima Facie evidence



Consult - Because No One Can Do It All

- Know What You Don't Know
- Get Help When You Need It
- You Try It, You Buy It



Document - Because People Forget/Lie

- Informed Consent
- Consults
- Document Thought Process
- Differential Diagnosis
- Objective
- No White Out/Obliteration
- Don't Backdate
- Legible

Patient Relations - Because Technically Good Care is Not Enough

- Listen
- Respect
- Communicate
- Care





MEDIOCRITY

IT TAKES A LOT LESS TIME
AND MOST PEOPLE WON'T NOTICE THE DIFFERENCE
UNTIL IT'S TOO LATE.

QUESTIONS?



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