CONSEQUENCES OF UNPROFESSIONAL CONDUCT

MARVIN FIRESTONE, MD, JD

CASE PRESENTATION

- Dr. IM, primary care for patient, a 48 y/o RN
- Allergy: ASA, analgesics and NSAIDs
- Diagnoses: hypertension on medication, iron deficiency anemia; hypothyroidism; and Addison's disease.
- Complaint: LBP radiating to both legs.
- Rx: Flexeril 5 mg 2x/d and Tramadol 50 mg 4x/d
- X-ray: advanced narrowing of the L4-L5 disc space

SEVEN YEARS TREATMENT

- Tramadol
  and cyclobenzaprine plus zolpidem, lorazepam, sertraline, carisoprodol, hydrocodone, vortioxetine, temazepam, and lidocaine patches.
- Problems: Anxiety, breakthrough pain, difficulty sleeping, and depression.
- Referred to psychiatrist at year six, but no follow up.

FOLLOW UP

- At 6.5 years, had knee surgery
- Long-term controlled substances therapy contract
- Continued various prescriptions, including celecoxib for knee pain
- 8 months later, the 48-year-old patient was found unresponsive by her husband.
- death due to apparent mixed-drug intoxication via accidental overdose of prescription medications.

OPIOID PRESCRIPTION LAWSUITS AGAINST CLINICIANS

A. **Liability for Underprescribing:**
   1. Negligence (Malpractice);
   2. Elder Abuse;
   3. State Board Discipline;

OPIOID PRESCRIPTION LAWSUITS AGAINST CLINICIANS (CONT'D)

B. Liability for Overprescribing

1. Addiction
2. Overdose
3. Third party liability-Duty to Warn
4. Criminal liability
5. Federal DEA license revocation
6. State Board Discipline

CALIFORNIA DEATH CERTIFICATE PROJECT -2015

About 2,700 death certificates from 2012-2013

2,256 matches in CURES

522 prescribers warranted investigation (450 MDs; 12 DOs; 60 NPs and PAs).

216 MDs cases closed

46 accused of overprescribing

13 MDs cases are pending

2019, review 2016-2017 overdose death cases.

NORTH CAROLINA'S SAFE OPIOID PRESCRIBING INITIATIVE

- Probes clinicians with at least two opioid-related patient deaths in the preceding 12 months;
- Prescribed at least 30 tablets within 60 days of the patient's death, or
- When licensees have large numbers of patients on 100 milligrams of morphine equivalents (MME) per patient per day

REACTIONS – DRS AND PATIENTS

1. Opioid tapers or coercively changed medications;
2. Refuse chronic pain patients;
3. More patients with acute withdrawal problems not finding doctors;
4. Most adversely affected are African Americans, Latinos and other minority groups.

OPIOID CRISIS – SOME SOLUTIONS

1. Utilize the Prescription Drug Monitoring Program (PDMP) – CURES;
2. Implement the 2016 CDC Guideline for Prescribing Opioids;
3. Use the Opioid Overdose Prevention Toolkit, 2018, by SAMHSA;
4. Use the 2018 FDA Risk Evaluation and Mitigation Strategy (REMS)
5. Education of Providers
6. Drug Courts v. Incarceration

PERSONAL REMARKS

- Medical boards
- Types of sanctions
- Administrative Law Judges
- Right to due process
- Report to national practitioners data bank
- medical board action v. medical malpractice lawsuit
- guidelines v. acceptable standards of care