

## *Effective Use of Physician Assistants*

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There is no doubt that many practitioners regard the use of physician assistants as an important, and even necessary, adjunct to their practices. P.A.s complement the physician and extend his or her reach, allowing more flexible scheduling for the convenience of patients, often providing more immediate care, much to the satisfaction of the patients who generally want to be seen "today."

While physician assistants do provide valuable services, it is imperative to remember that the P.A. is not a replacement for the physician and that he or she is a dependent practitioner. No matter how well trained and experienced a given P.A. may be, their examinations and treatment plans nonetheless, require scrupulous evaluation and appraisal by the physician. P.A.s generally lack sufficient exposure to unusual presentations, with which a physician is more likely to be familiar. Thus, the use of P.A.s presents a number of medico-legal considerations for the practice.

Initially, it is necessary to establish consistent procedures within the practice for the utilization of P.A.s. This includes establishing a protocol not only governing the circumstances under which the patient is initially scheduled to see a P.A., but also the circumstances under which a patient may continue under the care of the P.A. A protocol must be developed regarding the scope of physician review of the P.A.'s observations, diagnoses and treatment plans. Merely counter-signing the P.A.'s note is not sufficient. While most of the patients seen by the P.A. will present familiar and recurring patterns, just as most of the patients seen by the physician, there will likewise be those situations which are out of the ordinary and it is these situations that present the potential legal exposure to the practice. P.A.s simply do not have the depth of training nor breadth of experience of medical doctors. There is no way to quantify what they do not know. It must be remembered, if a lawsuit develops, the P.A. may very well have his or her own malpractice insurance and, once a lawsuit is brought, he or she, therefore, may be represented by an attorney whose sole consideration is the welfare of the P.A. The likely defense of the P.A. will be that he or she was a dependent practitioner and that the supervising physician is responsible for "approving" the diagnosis or the treatment plan. Thus, a physician who co-signs a P.A. note without thorough review is inviting personal responsibility for the actions of the P.A.

By law in Connecticut, a P.A. may perform only under the supervision of a physician. Connecticut General Statute Section 20-12a notes that "supervision includes, but is not limited to: (i) continuous availability of direct communication either in person or by radio, telephone or telecommunications between the physician assistant and the supervising physician; (ii) active and continuing overview of the physician assistant's activities to ensure that the supervising physician's directions are being implemented and to support the physician assistant in the performance of his or her

services; (iii) personal review by the supervising physician of the physician assistant's services through a face-to-face meeting with the physician assistant, at least weekly or more frequently as necessary to ensure quality patient care, at a facility or practice location where the physician assistant or supervising physician performs services; (iv) review of the charts and records of the physician assistant on a regular basis as necessary to ensure quality patient care and written documentation by the supervising physician of such review at the facility or practice location where the physician assistant or supervising physician performs services; (v) delineation of a predetermined plan for emergency situations; and (vi) designation of an alternate licensed physician in the absence of the supervising physician." Within these requirements, there is obviously a great deal of room for flexibility and the actual utilization of P.A.s can vary greatly from one practice to another.

Failure to provide patients with sufficient information regarding the practice's utilization of P.A.s, preferably in written form, will likely result in misunderstandings and even lawsuits from the patient who may insist that he or she never knew that "Dr. Jones" was a P.A. and not "a real doctor." The security of having provided a written protocol to the patient will go a long way in defending any claims brought on that basis.

Equally critical is to document in the medical chart that the protocol was, in fact, provided to the patient, when it was provided and that there was a discussion relating to this issue. Instructing the staff to note that the patient was offered options, provided a written protocol, and chose to be seen by the P.A. (or to wait to see a physician), will likely assist in the defense of a lawsuit years later, when office personnel have departed and the physician can only say that he or she does not know how it came to be that the patient was seen by a P.A. on a given visit.

There is no doubt that physician assistants are a useful adjunct to patient care, both from the physician's viewpoint and from the patient's. The promulgation and adherence to written protocols for their utilization will help maximize their effectiveness within the office, as well as minimize misunderstandings by the patients thereby mitigating legal consequences to the physician.

*Should you wish to discuss the matter further, please feel free to contact Barry B. Cepelewicz, MD, Esq. at Meiselman, Denlea, Packman, Carton & Eberz P.C.'s Health Care Group, or Richard J. Nealon, Esq., of the firm's Litigation Department. For over 30 years MDPC&E has successfully represented physicians and other health care providers in litigation, transactional and regulatory matters. Barry and Rich can be reached at (914) 517-5000, bcepelewicz@mdpcelaw.com, or rnealon@mdpcelaw.com.*