E-prescribing Malpractice Risks

E-prescribing is being rapidly adopted, driven by federal financial incentives. It is estimated that 35 percent of physician office practices use e-prescribing, which provides electronic routing to pharmacies. It also facilitates quick access to drug formulary and eligibility information and to the patient’s prescription history.

The SureScripts network has data on 66 percent of U.S. patients. E-prescriptions transmitted on this network go to all chain pharmacies, 60 percent of independent pharmacies, and most insurance formularies. The SureScripts software checks for drug-drug interactions, dosage errors, medication allergies, and patient-specific medication factors.

E-prescribing reduces costs by flagging generic and “on-formulary” drugs. It also encourages patients to fill prescriptions (20 to 30 percent do not), because a prescription sent to the pharmacy electronically is ready to be picked up when the patient arrives. E-prescribing is often synchronized with office prescription renewal requests.

E-prescribing is facilitated by the electronic health record (EHR), which incorporates clinical decision support systems that provide algorithm-based alerts, warnings, and reminders for medication management. The reminders include drug-drug interaction lists, improper drug dosages, and drug allergies. The EHR also facilitates medication reconciliation, e.g., ensuring the active medication list corresponds to what the patient is actually taking.

The Doctors Company supports the integration of the EHR into medical practices and believes it has great potential to advance both the practice of medicine and patient safety. However, there are always unanticipated consequences when new technologies are adopted—and the EHR is no exception. Real and potential liability risks are beginning to be recognized, and it is important for physicians to become familiar with them.

Doctors are responsible for clinical information they can reasonably access. There is increased access to e-health data from outside the practice through the practice EHR or Web site or through a health information exchange (hospital charts, consultant reports, and laboratory and radiology reports). Doctors also have access to data through e-prescribing community medication histories, which can expose the physician to potential interactions with drugs prescribed by others. For example: Dr. A renews a medication, and his e-prescribing program sends an alert advising him that the medication could interact with another drug the patient is taking. He has not prescribed that drug, so his office staff will have to contact the patient to identify who has prescribed it, and then Dr. A will have to contact Dr. X to “negotiate” which drug will be discontinued or changed. If failure to take this action results in patient injury from a drug-drug interaction, Dr. A may be liable.

Drug-drug interaction lists are often so comprehensive and generate alerts with such frequency that they can become disruptive and annoying. Doctors may develop “alert fatigue” and ignore, override, or disable them. However, if it is shown that following an alert would have prevented an adverse patient event, the physician may be found liable for failing to follow it. Optimized clinically meaningful drug-drug interaction lists focused on a smaller set of interactions most frequently associated with harm or expert consensus lists may address this problem. However, EHR vendors may resist eliminating the low-risk warnings, fearing that doing so may increase their liability.

**Meaningful Use** requires that EHRs provide e-prescribing drug information and clinical decision support. Clinicians should know the source of this information, because it may conflict with their specialty’s clinical standards of care or practice guidelines—and with information in FDA-approved drug labels and drug alerts (boxed warnings).

The PDR Alert Network is a free service that electronically delivers FDA Alerts (including FDA label changes and boxed warnings) to physicians and other prescribers. This Alert Network improves physician access to important and timely medication information, thereby improving patient safety and reducing medical liability.

The PDR Alert Network resulted from a multiyear effort engaging the American Medical Association (AMA), medical specialty and state medical societies, professional liability insurance carriers, patient safety groups, manufacturers, and the FDA. It is governed by the iHealth Alliance, a nonprofit board consisting of leaders from medical societies (including the AMA), university medical centers, the National Patient Safety Foundation, and professional liability carriers. It is dedicated to protecting the interests and privacy of patients and providers.
In collaboration with the FDA’s Safe Use Initiative, PDR Network and medical professional liability carriers launched a national Know the Label campaign early in 2011. The campaign allows physicians to earn free continuing medical education (CME) credits for reviewing the FDA-approved labeling for the drugs they most commonly prescribe, then taking a short online test on the label’s content. PDR Network hosts the CME programs, and The Doctors Company provides the CME credits to all U.S. physicians at no charge.

PDR BRIEF on the EHR
PDR BRIEF serves as a companion to existing EHR-embedded drug database and drug interaction checking tools. It also provides access to the latest FDA-approved patient education and financial assistance information, which will improve medication adherence and patient satisfaction. It presents critical information (date of last label update and boxed warning) at the point of care. PDR BRIEF provides this drug information on four brief lines whenever a drug is e-prescribed or when the drug name is detected on the EHR screen or in any EHR application or Web site. The highlighted word(s) (illustrated above) link to the information detail.

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The guidelines suggested here are not rules, do not constitute legal advice, and do not ensure a successful outcome. The ultimate decision regarding the appropriateness of any treatment must be made by each health care provider in light of all circumstances prevailing in the individual situation and in accordance with the laws of the jurisdiction in which the care is rendered.