

KANE QUARTERLY

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PARTNER SPOTLIGHT: ERIC E SHORE DO, MBA, ESQ



One of a small number of people holding advanced degrees in medicine, business and law.

Eric E Shore, DO, MBA, ESQ.

As an attorney, Dr. Shore's combined background in business and medicine has allowed him to think "out of the box" and successfully represent clients in such major, high profile litigation as *The Association to Save MCP v. Tenet*

Healthcare Systems—a nationally reported case in which he helped to prevent Tenet Systems—a nationally reported case in which he helped to prevent Tenet from closing the Hospital of the Medical College of Pennsylvania. He has been quoted in, and appeared on the cover of national publications like *Medical Economics*, *American Medical News* and *Physicians News Digest*, and is a recognized expert in his field. He has represented physicians in contract issues, and taken part in significant Medical Malpractice litigation.

He concentrates his law practice in health related fields such as Healthcare

Law, Workers Compensation, Personal Injury and Medical Malpractice.

As a physician, Dr. Shore served as a hospital medical staff officer and Chief of Service at Thomas Jefferson University Hospital—Ford Road Campus, as well as medical director of several Long Term Care facilities.

He holds a teaching appointment at Drexel University College of Medicine and an appointment to the medical staffs at the Hospital of the Medical College of Pennsylvania (now Women's Medical Hospital) and Roxborough Memorial Hospital.

PHARMACY NEGLIGENCE PRACTICE GROUP

Over a million people each year are injured by medication errors caused by pharmacy or pharmacist malpractice. Of those, nearly 100,000 people die each and every year as a result of medication mistakes. Drug errors are vastly underreported due to the fact that states may require only major drug errors such as those resulting in death be reported, leaving a wide array of other serious errors left unreported. Con-

sequences of these actions can lead to permanent injuries and even death.

Pharmacists are licensed individuals by their State Board of Pharmacy who require to at a minimum for pharmacists to: graduate from a pharmacy school, complete internship requirements, pass the licensure exam and demonstrate good moral character. These requirements are to ensure a

competent pharmacist is filling your prescriptions.

Malpractice is the breach by a member of a profession of either a standard of care or conduct. Malpractice refers to negligence or misconduct by a professional person such as a lawyer, doctor or an accountant. In this case, we are focusing on the negligence of a pharmacist. When a pharmacist fails to meet the standards of pharmacy care (duty

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Immigration
Discrimination

PHARMACY NEGLIGENCE

of care) and a patient is injured because of breaching those standards, a degree of negligence it met. In order for a consumer to recover against a pharmacist or pharmacy, their attorney must prove that their injuries were caused by a breach in the pharmacist's duty of care.

DUTY OF CARE

A pharmacist holds several areas of professional responsibility including: compounding medications, dispensing medications, teaching and counseling and supervision of his/her staff.

When a pharmacist receives a prescription, that pharmacist has undertaken a duty to the patient to fill the medication correctly. It must be filled with due diligence taking into account all intelligence a pharmacist is expected to have. This duty applies not only to retail pharmacists, but also to those who work in hospitals, clinics and any other setting involving patient care. The filling of a prescription is a very complex process that involves much more than just "counting pills and putting a sticker on the bottle."

BREACH OF CARE

A pharmacist's duty of care is breached when an error is made. Errors can be made at various points throughout the process of filling a prescription. For example, a breach can occur when a pharmacist reconstitutes medication in which they combine different

ingredients (such as sterile water and a powder) to make the end product for the patient (this is common with children's liquid antibiotics and some topical creams). During this process, if the wrong substances are combined, too much a quantity of a substance measured out, or the product is contaminated pharmacist technique, there would likely be a breach in the pharmacist's duty of care to fill the prescription accurately and safely.

COMMON TYPES OF PHARMACY ERRORS

Dispensing errors lead to many deaths and permanent injuries and can be caused by being given a wrong drug,

THE PRESCRIPTION FILLING PROCESS HAS MULTIPLE STEPS IN WHICH ERRORS CAN OCCUR. ALL TOO FREQUENTLY, PATIENTS ARE GIVEN THE WRONG DRUGS OR THE WRONG DOSE

wrong directions on a bottle or receiving the wrong prescription altogether. It can all start with a misunderstanding between the pharmacist and the physician such as the inability to interpret what the physician wrote for and an assumption is made. It is here where a wrong drug is then selected and the patient is not receiving the therapy s/he was intended to have. Additionally, medication errors often occur because the wrong strength is selected (for example, 100 milligrams instead of 10 milligrams) or there is a mistype of the dosage (for example, the direc-

tions may read "Take 2 tablets every 2 hours" instead of the intended directions of, "Take 2 tablets every 12 hours".) The wrong manufacturer bottle could also be pulled off the shelf because it looks like another bottle, or the name sounds like name of the correct drug (this is better known as a "Looks A-Like, Sounds A-Like" error). Pharmacists also have a responsibility to review and detect any potential problems with the patient taking the drug that has been prescribed. This includes screening for drug interactions with other medications the patient is taking or disease states the patient has. This information is sometimes overlooked and devastating consequences may result.

Failure to properly counsel often leads to serious injuries and wrongful death. A pharmacist has the responsibility to offer to counsel patients or caregivers so potential problems can be prevented and how to manage problems if they arise after the medication has been dispensed and therapy started. The pharmacist must offer to discuss information about the drug that in their professional judgment are most significant – this includes but is not limited to, what the drug is for, how to take it, side effects that can be expected and rare, but serious or life-threatening side effects. Failure to do so may result in severe patient harm or even death to the patient.

Improper supervision of a

pharmacist's staff can lead to injuries and cause death. It is essential that technicians and cashiers do not act in a way that is outside their scope of knowledge. This means anyone other than the pharmacist is not permitted to counsel a patient on any drug or disease state or offer any suggestions for use of any product. Although, a pharmacy intern or technician may perform some of these tasks in certain states, if an error is caused by support staff, generally the pharmacist is responsible.

THE PATIENT

A pharmacist can play a tremendous positive role in your health care needs. They are available at your disposal essentially twenty four hours a day, seven days a week and do not require appointments to offer their professional advice. At the same time, just one error, no matter how small or how big, could result in detrimental consequences to a patient including severe, debilitating, permanent injury and death. It is essential that you, as a patient, take a proactive approach with your pharmacist and ask questions, look for clarification, and if not satisfied, take action. If your pharmacy does make a mistake that causes you severe harm, do not hesitate to contact KANE LEGAL for a case assessment.