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ARIZONA MEDICAL BOARD SUBSTANTIVE POLICY STATEMENT #12

Internet Prescribing

The Arizona Medical Board (“Board”) issues this Substantive Policy Statement to provide guidance and education to physicians on the law regarding the use of the internet in the physician-patient relationship.

Prior to prescribing any medication or device a physician must obtain a reliable medical history, conduct¹ an appropriate physical examination, and establish a proper diagnosis for the medication or device being prescribed. A physician cannot rely on a questionnaire submitted over the internet to meet these requirements.

The health and well-being of patients depends upon a collaborative effort between physician and patient. The relationship between physician and patient is complex and is based on the mutual understanding between physician and patient of the shared responsibility for the patient's health care. When a physician treats a patient, that physician owes the patient a duty of care that requires the physician to obtain an appropriate medical evaluation of the patient to make an informed diagnosis. In Arizona, the standard of care requires a physician to conduct an appropriate examination and thorough medical history. This is critical for a physician to determine the correct diagnosis and appropriate course of treatment. The physician-patient relationship is fundamental to the provision of acceptable medical care. It is the expectation of the Board that physicians recognize the obligations, responsibilities and patient rights associated with establishing and maintaining an appropriate physician-patient relationship.

¹The Board's use of “Conduct an Examination” does not preclude a physician's reliance on an examination conducted under physician supervision by a physician assistant or nurse licensed in Arizona and practicing within their scope of practice.

In addition to the requirements of the standard of care, Arizona Revised Statutes Section 32-1401(27)(ss), makes it an act of unprofessional conduct for a physician to prescribe, dispense or furnish a prescription medication or prescription-only device to a person unless the physician first conducts a physical examination of that person or has previously established a physician-patient relationship. How the examination is conducted will depend on the patient and condition being treated. What constitutes an adequate work-up depends on the facts of the specific situation; however, an on-line questionnaire cannot meet these minimum requirements. Prior to providing treatment, including issuing prescriptions, electronically or otherwise, a physician must document a patient evaluation, including taking a history and conducting a physical examination adequate to establish the diagnoses and identify underlying conditions and/or contraindications to the treatment recommended or provided. There are exceptions to this requirement for covering physicians, emergencies, prescriptions written to prepare a patient for an examination and prescribing or dispensing for immunization programs.

In recent years, the rapid growth of the internet and other technologies has expanded the means by which health care is provided. The Board recognizes the potential benefits these new technologies offer in the provision of health care. Technology can augment the physician-patient relationship by facilitating communications and providing timely health information. These amazing strides in new technology may enhance and supplement the physician-patient relationship, but do not replace the significant personal connection that forms the very basis of the physician-patient relationship.

These new technologies may also be abused. A recent troubling trend is the rise in internet prescribing based solely on a written questionnaire provided to the customer through an "on-line" internet based web site. Some websites make arrangements with physicians to review the questionnaire. Without the benefit of any other information, the physicians at these sites routinely prescribe medications for these customers. Nationally, this practice has led to the prosecution of some physicians and the Board has disciplined physicians for issuing prescriptions without first establishing a physician-patient relationship by conducting a physical examination.

This form of prescribing poses significant threats to patient safety. A few examples are:

- An on-line questionnaire by itself is not a substitute for an in-person examination. The on-line questionnaires that have appeared on some web sites are not appropriate for prescribing medications. For instance, a questionnaire does not provide the opportunity for the dialogue necessary for a physician to obtain a sufficient patient and family history. In fact, the online prescriber cannot even be sure of the gender or age of the patient.

- An on-line questionnaire without the benefit of physician-patient interaction can confuse a symptom with a disease. Drugs for erectile dysfunction (“ED”) are readily obtainable via the internet. A questionnaire, however, cannot rule out such causes as diabetes, peripheral vascular disease, hormonal imbalance, prostate disease, etc. Symptoms of ED in a new patient require a physical examination and laboratory analysis to achieve a differential diagnosis.
- Some patients, after their own internet research, arrive at their own diagnoses. These patients may have decided that their symptoms are consistent with a specific disease and request erroneous treatment. Because there is no interpersonal interaction, the internet prescriber does not have the opportunity to verify the patients presumed symptoms and disease.
- Patients on long-term prescription medication should be monitored. Drugs need to be monitored for both effectiveness and side effects. For example, cholesterol-lowering drugs require periodic blood tests to ascertain the degree of effectiveness and to rule out liver toxicity. These conditions cannot be managed solely on the basis of on-line questionnaires.

Internet prescribing differs from e-prescribing and telemedicine. E-prescribing is the issuance of a prescription electronically instead of in written form. E-prescribing has the potential of providing many benefits to both physicians and patients. When issued after a physical exam, a thorough history, and an informed diagnosis, an e-prescription is a safe and effective tool.

In Arizona, telemedicine means the practice of health care delivery, diagnosis, consultation and treatment and the transfer of medical data through interactive audio, video or data communications that occur in the physical presence of the patient, including audio or video communications sent to a health care provider for diagnostic or treatment consultation. Telemedicine is predicated on a treating health care provider who has properly established a physician-patient relationship. The telemedicine statute specifically does not abrogate or diminish the requirements of the Medical Practice Act, including the requirement of establishing a valid physician-patient relationship before prescribing.

Telemedicine should not be confused with internet prescribing. In telemedicine, the prescribing physician has access to the patient, the patient’s medical records and charts and the patient’s health care provider. The prescribing physician can confer with the professional who conducted the examination or direct a physical examination over the telemedicine network. The prescribing physician enters all necessary and relevant information in the patient’s medical record to maintain a complete medical record and ensure proper medical follow-up. The standard of care in telemedicine is to ensure that the physician has all the necessary information including a physical examination, a thorough history, and medical records, prior to making a diagnosis and beginning treatment. Internet prescribing differs significantly from telemedicine.

With internet prescribing, the diagnosis and the decision whether treatment is indicated and, if so, the type of treatment is based solely on an online questionnaire filled out by the patient. The online prescriber typically does not have access to the patient, the patient's medical record or to the treating physician to verify the diagnosis. Nor does the online prescriber develop a medical record that is transmitted back to the patient's health care provider to maintain a complete medical record and ensure appropriate medical follow-up.

Wherefore, it is the Board's position that prior to prescribing any medication or device a physician must obtain a reliable medical history, conduct an appropriate physical examination, and establish a proper diagnosis for the medication or device being prescribed. A physician cannot rely on a questionnaire submitted over the internet to meet these requirements.