

Malpractice Consult

Don't ignore "unsolicited" reports



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» A doctor-patient relationship could be established once you agree to accept a referred ED patient.

» If you receive an abnormal test report for a patient not assigned to you, be sure to notify the sender.

» In handling test results that come to your office, don't forget to document your actions.

Have you heard about the doctor who was sued for \$3 million by a patient she never saw? You could find yourself in the same predicament if you aren't careful about how you handle unexpected laboratory, X-ray, and ECG reports. To see how this plays out in the real world, let's look at that \$3 million malpractice case. I've changed the names to simplify things.

"Mr. Apple," a 61-year-old long-distance trucker, presented to the ED with chest pain and severe heartburn. The ED physician did a routine workup, including an ECG, which he provisionally interpreted as normal. His diagnoses were musculoskeletal pain and possible gastroesophageal reflux disease. Because the patient didn't have a private physician, "Dr. Moss," who had agreed to accept new patients referred by the ED, was assigned as his primary care provider. Written aftercare instructions told the patient to "See Dr. Moss for GERD workup" and that "ECGs are reviewed by a cardiologist." The cardiologist who reviewed Mr. Apple's ECG considered it significantly abnormal, requiring prompt follow-up. He phoned the ED and sent a copy of the revised interpretation to the ED and to Dr. Moss.

Because Mr. Apple hadn't yet contacted Dr. Moss' office for an appointment, a staffer put the abnormal ECG report in a pending basket—as was the practice in that office. (Dr. Moss didn't see the report.) In the ED, a clerk, following routine procedure, telephoned Mr. Apple to report the cardiologist's findings; unable to reach him, she set aside the report, intending to call later. However, the report was overlooked when the aide went off duty, and apparently no follow-up calls were attempted.

Meantime, Mr. Apple felt better after taking antacids and an anti-inflammatory drug the

ED physician prescribed, and returned to work without calling Dr. Moss' office. Days later, he had a heart attack while driving, crashed his big rig, and suffered internal injuries and the loss of his left leg.

The patient sued, alleging that the hospital and Dr. Moss were negligent for not notifying him that his ECG was grossly abnormal. In her defense, Dr. Moss claimed she had no duty to the patient as he had not contracted her office. Medical-legal experts were divided. Several contended that Dr. Moss' agreement to be named as PCP for referred ED patients established a doctor-patient relationship with Mr. Apple that required her to review the ECG report and act accordingly. Others argued that state law was unclear about when a doctor-patient relationship begins.

The hospital acknowledged liability and quickly settled for not informing the patient that his ECG had been reinterpreted as abnormal. Faced with a trial in which she would be the only defendant, Dr. Moss agreed to settle for an undisclosed amount.

To prevent a recurrence, Dr. Moss now reviews all abnormal reports and her office contacts the sender to ensure the patient has been advised; in some instances, she contacts the patient herself. Likewise, if she receives abnormal test reports for patients not assigned to her, her office promptly notifies the sender. When she receives a courtesy copy of an abnormal result for a test ordered by another physician, she contacts the other physician's office to determine if the report was received there and reviewed. Normal test results for new ED referrals who don't contact her office within 30 days are returned to the ED with a note. Each of these actions is documented. ■

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