

## PHARMACY MALPRACTICE: CONSUMERS BEWARE

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I have been practicing law for almost 28 years now, and in that time, I had never handled a case that involved the negligent actions of a pharmacy. I have just completed two separate trials which involved two national chain pharmacies that resulted in verdicts for my clients. Unfortunately, the clients had to endure some very significant trauma as a result of careless practices in the distribution of medication to them. This should not happen, and yet, despite all built-in safeguards, it did. As consumers, we expect the medication we are given to be what was prescribed. That is not what happened in these cases, and because of the huge volumes of prescriptions being filled on a daily basis at chain pharmacies, mistakes are occurring on a regular basis.

In one case, an individual was prescribed a certain blood pressure medication, Altace in a 5 milligram tablet, but the actual prescription filled was Hytrin in a 5 milligram tablet, another blood pressure medication. The patient had no idea that there was a difference in what he was taking, as the pill was the same color, and the bottle said it was Altace. Unfortunately, by taking Hytrin for the first time in the morning in that dosage, there is a tendency for an adverse reaction, and that is exactly what happened. The patient passed out when driving his car and crashed into a tree. When the accident was discovered, he did not appear to be seriously injured, but was carefully treated by the ambulance crew and the emergency ward at the hospital for a possible stroke or heart attack. After several days of treatment, wondering whether he would survive, or had some deadly condition, he was discharged to his home only to begin taking the wrong medicine again. You see, in the hospital, he was getting the correct prescription from the hospital pharmacy. After getting sicker at home, his daughter-in-law, a former cardiac care nurse, called the hospital to determine what the actual pill was from the hospital pharmacist, and the prescription error was discovered. After four days of being scared to death, and then confronting the pharmacy with the problem, the pharmacy's response was that someone should bring the medication back and the pharmacist would replace it with the correct prescription and would not charge them for the additional co-pay on the insurance. Thank goodness the patient had the good common sense to save the medication and the prescription bottle and to go elsewhere to have a new prescription filled. The jury in this case found monetary damages for the patient, but he will never forget the helpless feeling of wondering whether he would survive the ordeal.

In the other situation, a young man who needed thyroid medication to survive on a daily basis, was given a prescription by his doctor for 0.25 *milligrams* of Synthroid, a thyroid replacement medication. This prescription was placed into the computer at the pharmacy as 25 *micrograms*. When the patient's wife picked up the prescription, she complained to the pharmacist that the prescription seemed to be wrong, but the pharmacy technician insisted that it was in the metric conversion, and that it was correct. When the prescription was brought home, the patient also challenged the new medication, and a second call was made to the pharmacy to question whether the medication was in the correct dosage. Again the pharmacy insisted that this was the correct dosage, and the patient began taking what turned out to be 1/10th of the regular dosage per day that he was supposed to have. Over the

ensuing six months, his condition slowly deteriorated, until he was suffering from several symptoms of severe, profound hypothyroidism. Only after he insisted that blood work be performed by his doctor was it finally confirmed that he had been highly under medicated. Again the jury in this case found damages for the patient, but he would not trade the horrible experience for the money he will receive.

In proving damages in both of these cases, particularly the second case, the pharmacies, although admitting they had made mistakes, argued that the pain and suffering that the patients endured was not that bad. They point to the past medical history of the patients, the fact that they should have known the signs of their own illnesses, and that it just couldn't have been as bad as these people made it out to be. The patients felt quite differently, and with good reason.

We are brought up to believe that the places where we get our prescriptions filled are places we are supposed to trust. The next time you go to a busy chain pharmacy, stand to the side of the prescription pick-up line and just watch the activity. Many of the tasks are performed by pharmacy technicians. I have not yet figured out the level of training needed to have that title, but in many cases, it appears that "high school student" is about the only designation required. Of course, this is a vast generalization, but it should put consumers on guard against assuming that the prescriptions they receive are always the ones they were intended to have.

The best advice to be given here is to check your prescriptions carefully, and if there is a discrepancy, call your doctor, go back to the pharmacy where you bought the prescription, and if you get no satisfaction there, go to a different pharmacy, perhaps one that is not quite so busy as the chain stores, and ask that pharmacist for a second opinion.