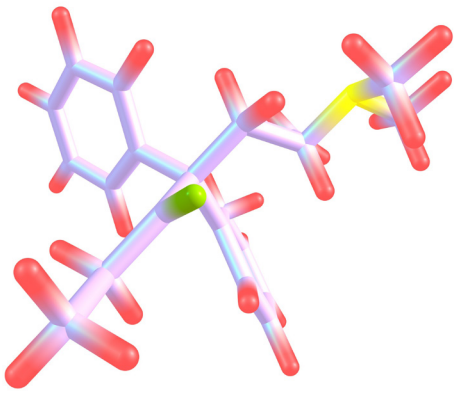
Methadone Clinic Liability



By now, most people have learned how the opioid crisis has ruined countless lives. As addiction and dependency have spread at a record pace, communities have struggled to keep up with the direct and indirect challenges that have come along with the epidemic. One of the main ways that the medical community has battled opiate addiction is with replacement therapy, often with methadone as a part of methadone maintenance treatment (MMT).

Methadone is a dangerous drug of its own, and MMT involves its own set of challenges, some that will give rise to significant risks and liability. When MMT is working, an addicted person can take a daily dose (usually first thing in the morning) and then goes about a normal and productive day, free from cravings. A person might continue in an MMT program for years and years, often working his or her way up to taking many methadone pills home for unsupervised use.

As the opioid epidemic persists, attorneys in the personal injury, medical malpractice, and health care spaces can all expect to encounter methadone in cases from time to time. Aspects of methadone treatment that are likely to give rise to risks or liability claims in an MMT setting include a lack of medical oversight, inadequate counseling, and mismanagement of take-home medication.

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LIABILITY FROM LACK OF MEDICAL OVERSIGHT

MMT is governed by Federal regulations within 42 C.F.R. §8.12. Each opioid treatment program needs to have a medical director, who under federal

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law, assumes responsibility for administration of all medical services provided by the clinic. 42 C.F.R. § 8.12(b). Before a person begins treatment, they must have an initial medical examination. This is incredibly important because of how deadly methadone can be. To put this in perspective, under federal regulations, an initial dose of methadone for a new patient in MMT can be as high as 30mg. 42 C.F.R. § 8.12(h)(3)(ii). For a person who is not addicted to methadone, this is a lethal dose right out of the gate.

With this level of toxicity, a high degree of medical attention is required and the medical oversight must continue over the course of the program. Liability can arise when a clinic opts for one-size-fits-all approaches and goes extended periods of time without medically evaluating its patients. Shortcuts in medical oversight can lead to significant problems, including overdose, relapse, and failure in the program.

LIABILITY FROM COUNSELING NEGLIGENCE

Another required piece of the MMT program is counseling, which can also be another source of risk. Counseling sessions are required by the federal regulations and when done right, are immensely helpful to patients. Counseling sessions cover the whole patient, and often involve discussions about stressors outside of the limited world of drug addiction. Counselors are expected to inquire about family, job, and any other stressors in life to potentially identify issues before they arise. Methadone programs will run into trouble when counselors are not communicating with medical personnel about problems that come up, because counselors are often privy to the early warnings. Sometimes this information is recorded and never ends up going anywhere, which is a major risk. Clinics with no back-and-forth between the counseling and medical personnel can cause major red flags to be overlooked.

LIABILITY FROM TAKE-HOME MEDICATION

For obvious reasons, the biggest risk of all comes in the form of take-home methadone. Patients begin MMT coming into the clinic six days a week to receive a dose under direct medical supervision. This can be burdensome for the patient, but the rules require it until the patient can build up trust, which is also defined under the federal regulations. The regulations lay out eight criteria that all must be met for patients to receive any take-home medications at all. The criteria speak to abstaining from alcohol and drugs, regular clinic attendance, length of time in the program, but they also look at stability of home life and relationships. They are intended to make sure patients are safe, that they can be trusted to administer their own medication, and that the medication will not fall into the wrong hands. Clinics who take shortcuts in the take-home assessment process endanger not only the patient, but innocent people at home and in the public as well. Clinics must take this responsibility seriously and be consistently vigilant, watching for any signs that the 8-point criteria are no longer being met in their take-home patients and be ready to dial them back and require regular clinic attendance when necessary.

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