The First Thing We Do, Let's Kill All The Lawyers

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I knew that would get your attention! Actually who Shakespeare was referring to in Henry VI was only the rare corrupt lawyer. Corrupt or not, the one thing lawyers have correct is that because their entire practice is "giving advice," they rarely do it for free. Bad advice has consequences. I'm not trying to be Doctor Downer but in medicine and law, it's called negligence.

As opposed to lawyers, doctors and other medical providers are constantly hit up for free advice and if you are like me, you don't whip out "The Square"[1] and plug it into your iPhone so that you can take a credit card payment. We simply hand out advice to anyone and everyone who asks. It's in our DNA to be the helpful, trustworthy conveyers of medical information we were trained to be.

Honestly, they never tell us this in school – that 24 hours per day we will be the go-to provider to everyone we encounter. If I had a nickel for every, "Hey, John, can I ask you a question" I'd have a lot of nickels. I admit, however, that it is a slippery slope. One question can lead to multiple questions, then to prescriptions and reviewing lab and imaging results. Truth is, I would be insulted if they didn't ask and I tell that to anyone who feels like they put me out by asking.

So, if we are going to do it anyway what can we do to have some protection? First, some context in case you don't get the seriousness of this issue. A young woman who finished her ob/gyn residency a few years earlier was in a relationship with a man she planned to marry. He happened to be a bodybuilder and reportedly had low testosterone discovered during a physical and lab evaluation. She was prescribing him and then injecting him with testosterone in order to restore his serum testosterone levels to normal.

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Low T was reportedly rarely ill but after a day of upper respiratory symptoms complained to the ob/gyn that his throat was sore. She performed an undocumented exam on him and prescribed him penicillin on the presumption that he had strep throat. During the day he became worse. She took care of him, by encouraging liquids and anti-pyretics. She even started an intravenous on him for hydration. You probably know where this is going. He developed a rapidly spreading purpuric rash, at which point she called an ambulance, which transported him to the hospital. He was removed from life support 2 days later and died of meningococcemia.

I know, the above true story sounds extreme, but haven't we all called in an antibiotic for a friend or family member? I agree, the testosterone is edgy but I can easily see how she started down this slippery slope to losing her license. She was trying to take care of someone she loved, she kept no written records of her care and, to top it off, she was accused of having a sexual relationship with her patient – never mind the fact that they were engaged.

The American Medical Association in Opinion 8.19 weighs in on this in their Code of Medical Ethics. Physicians generally should not treat themselves or members of their immediate families. Professional objectivity may be compromised when

an immediate family member or the physician is the patient; the physician's personal feelings may unduly influence his or her professional medical judgment, thereby interfering with the care being delivered."[2]

It may, however, be more insidious when friends and family ask us for help navigating the tricky waters of post-Affordable Care Act health care. A referral, a question about a new prescription or side effect or the familiar, "What do you think of this?" While in law school one of my classmates tried to drag me into the bathroom so that I could look at the rash on his scrotum – I'm not kidding. Other than avoiding a few unpleasant scrotum images burned into our minds, when does the line get crossed and you establish a physician-patient relationship and are now burdened with the legal and ethical obligations that come with it?

Hypothetical: What would you do when an out-of-state relative calls for advice and a prescription and even sends you a picture via cell phone of what appears to be a superficial cellulitis? The individual can't get in to see a doctor and is leaving for vacation in a few hours. Most of us would call in the appropriate antibiotic after asking all the pertinent questions – after all, this is a relative. What just happened? You are likely practicing medicine in a state where you probably don't have a license to practice and probably made no written record of the evaluation.

The challenge is that once you put your toe in the water, "That rash appears to be early shingles" you might as well have just taken a dive into the deep end. The follow-up question, "Oh no, I have heard that is painful and should be treated early with anti-virals, and other medications. What should I do?" Or " I have a slight headache" or "It feels like I have something in my eye and the rash has spread to my nose."

Here is how I approach these encounters. When asked, I usually respond, "I am not your doctor and because I don't know your entire history and can't (won't) examine you, it is hard for me to give you the care or advice you need." I then go on to ask a few questions and offer some suggestions, always with the caveat, "This is what your doctor would likely tell you and I suggest you call her."

One of the reasons I started the virtual medicine company MeMD was that I was concerned about this very issue and wanted to have some record of the interaction and a way to provide a prescription when necessary. I even give those that ask a "free coupon code" so all barriers are removed and they don't feel like I am trying to "drum up business." When they call, I make sure it is not me who is their treating provider.

Are there times when it is appropriate to treat friends and family members? Absolutely! When it is an emergency, when no other care is available and the condition is time-sensitive, then go ahead and treat and document your evaluation just as you would any other episode of care. It can be as simple as a soap note written in an email to yourself. Encourage the individual to follow up with his/her own provider once the crisis is over.

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Take-home points:

1. Never prescribe controlled substances to yourself or a family member (unless in an emergency).
2. Document all episodes of treatment just as you would during any other evaluation.
3. Be cognizant of the fact that your "patient," because of embarrassment, may not be supplying you with the entire story.
4. Recognize the "slippery slope" of "Can I ask you a question?"
5. Identify those episodes where advice crossed into a doctor-patient relationship.
6. Don't opine on issues outside of your sphere of knowledge. The standard of care still applies.
7. Don't rely on the "Good Samaritan" doctrine to protect you; chances are that it won't apply.
8. Don't treat patients or opine while under the influence. The same rules apply as if you were in your office inasmuch as you are still practicing medicine.
9. If you open your office after hours to treat a friend, be aware that you may need a chaperone. The last thing you would want to be accused of is unwitnessed and undocumented inappropriate touching. ■

References
1. https://squareup.com
2. American Medical Association. Code of Medical Ethics Opinion 8.19: Self-treatment or treatment of immediate family members. Issued June 1993. http://www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/opinion819.page Accessed May 3, 2014.