CASE OF THE QUARTER: DEADLINES - WHY THEY MATTER

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The "Case of the Quarter" column is a sample case study that highlights best practices in actual scenarios encountered through PRMS' extensive experience in litigation and claims management. Specific names and references have been altered to protect clients' interests. This discussion is for informational and education purposes only and should not be relied upon as legal advice.

FACTS:

Dr. Smith practices psychiatry in New York. She has been working from home since the pandemic. She has her professional mail go to a post office box since she gave up her office space. Every one to two weeks, she goes to pick up the mail. She brings the mail back to her home office and goes through it within a week. However, she was on vacation for two weeks during the month of June so some of the mail she is reviewing on this particular day arrived more than a month ago. She comes across a request for records and authorization signed by her patient. She copies the records and sends them to the patient. The patient calls Dr. Smith and leaves an angry voicemail message telling Dr. Smith that she reported her to the Board for not getting the records to her within thirty days. She needed them for a legal matter. Two weeks later the Board's letter arrives informing Dr. Smith that her failure to release records to the patient is under investigation.

ISSUES:

Timely response to a records request: Some states have deadlines for producing a copy of the records upon receipt of a valid authorization and request. New York, for example, considers producing records within ten to fourteen days to be reasonable. If a physician cannot produce records within thirty days, the physician is expected to send a written explanation for the delay to the patient and the expected date on which the copy of the records will be sent.

Board investigation: Not all patients will complain to the licensing Board about not receiving a copy of their medical records within thirty days. However, some will. Now Dr. Smith is the subject of a Board investigation.

OUTCOME:

Dr. Smith reports the matter to her professional liability insurance carrier. Fortunately, she has coverage for such matters and the claims examiner assigns an attorney to represent her. The attorney helps Dr. Smith draft a response to the Board explaining the delay in producing records and her plan for avoiding the problem in the future. The Board does not take disciplinary action, but encourages Dr. Smith to produce records in a timely fashion going forward.

TAKEAWAY:

Deadlines are important in legal matters. A records request should be promptly addressed. Review the laws in your practice state regarding expected or mandatory response times. Check your mail frequently. Promptly send records request and authorizations to your professional liability insurance carrier and seek advice on the response time.

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