

## CASE STUDY WITH RISK MANAGEMENT STRATEGIES

Presented by NSO and CNA

Medical malpractice claims can be asserted against any healthcare provider, including nurses. Although there may be a perception that physicians are held responsible for the majority of lawsuits, the reality is that nurses are more frequently finding themselves defending the care they provide to patients. In fact, over \$83 million was paid for malpractice claims involving nursing professionals, according to the most recent CNA HealthPro 5-year study\*.

## Case Study: Failure to adequately assess and monitor the patient post operatively resulting in the patient's death

**Settlement:** \$250,000**Legal Expenses:** \$14,139

**Note:** There were multiple co-defendants in this claim who are not discussed in this scenario. While there may have been errors/negligent acts on the part of other defendants, the case, comments, and recommendations are limited to the actions of the defendant; the nurse.

The decedent/ plaintiff was a 67-year-old male who underwent a right total knee replacement. Following the procedure, the plaintiff was treated in the post-anesthesia care unit where an epidural catheter was inserted for post operative pain management.

Following one episode of hypotension which was treated successfully with ephedrine, the plaintiff was discharged to an inpatient medical-surgical care nursing unit with the epidural in place. Although the defendant nurse customarily worked on the post-acute critical care unit, she had been re-assigned to the medical-surgical nursing care unit. The defendant nurse stated that she understood her assignment at the time of the plaintiff's admission to this unit was to provide oversight of the patient care on the entire floor for that shift.

The defendant nurse assessed the plaintiff upon his admission to the unit and found him to be stable. The defendant nurse understood that the direct care of the plaintiff was assigned to a co-defendant licensed practical nurse (LPN).

Approximately three hours after arriving on the unit, the plaintiff was unable to tolerate ordered respiratory therapy due

to nausea and vomited shortly thereafter. According to the defendant nurse, approximately ten minutes after the episode of vomiting, the LPN found the plaintiff cyanotic and unresponsive and immediately called a code.

The defendant nurse responded, as did the code team, and the plaintiff was intubated and transferred to ICU. This account of events was disputed by the LPN and two other staff on the unit who understood that the defendant nurse was responsible for the direct care of the plaintiff.

The LPN stated that it was the defendant nurse who found the plaintiff to be unresponsive at some point after the episode of vomiting and called the code herself. The elapsed time between the episode of vomiting and the code is also disputed.

The eventual diagnosis was anoxic encephalopathy due to the time that elapsed before CPR was initiated. The prognosis was poor and life support was withdrawn. The plaintiff breathed independently and was transferred to hospice care where he subsequently expired.

Ordered vital signs and checks of the xiphoid process were not documented. The fact that the plaintiff had experienced hypotension in the recovery room should have warranted even closer observation. The episode of nausea and vomiting should have resulted in additional observation and notice to the physician.

## Resolution

Experts determined that the defendant nurse had breached the standard of care in the following areas, including:

- Failure to formally clarify her work assignment
- Failure to properly assess the plaintiff upon his admission to the medical-surgical care nursing unit
- Failure to properly supervise the LPN's care of an unstable patient
- Failure to follow physician post operative care orders
- Failure to notify the physician of changes in the plaintiff's condition
- Failure to initiate CPR immediately upon finding the plaintiff to be unresponsive

Given the departures from the standard of care and the pejorative testimony of other staff members regarding the defendant nurse's care, the decision was made to settle the case on behalf of the defendant nurse. The case was settled for \$250,000 with an additional \$14,139 paid in legal expenses.



## Risk Management Comments

- ◆ There is some question whether the patient was, in fact, stable when discharged from the PACU and admitted to the medical-surgical care nursing unit. There may have been miscommunication among the nursing staff as the defendant nurse did not usually work on the unit where this event occurred. In addition, the defendant nurse seemingly misunderstood both her assignment, as well as the assignment of the LPN.

## Risk Management Recommendations

- Each staff member is responsible to ensure clarity regarding their direct care patient assignments, as well as any supervisory or monitoring duties that are assigned. Clearly document assignments at the start of the shift and include and communicate any modifications to the assignment during the shift. This is even more critical when staff typically assigned to other areas is floated to the unit.
- Fully assess patients upon admission to the unit and notify the physician if any patient is deemed unstable or if care and monitoring is required beyond that which is provided on the medical-surgical care nursing unit. Provide the physician with the patient's specific clinical signs and symptoms.
- Timely and completely carry out physician orders. Perform and document all ordered monitoring and treatment and notify the charge nurse and physician of any orders that could not be carried out due to patient condition or refusal of care.
- Timely notify the attending physician of any significant changes in the patient's condition.

## Guide to Sample Risk Management Plan

Risk Management is an integral part of a healthcare professional's standard business practice. Risk management activities include identifying and evaluating risks, followed by implementing the most advantageous methods of reducing or eliminating these risks— A good Risk Management Plan will help you perform these steps quickly and easily!

Visit [www.nso.com/riskplan](http://www.nso.com/riskplan) to access the Risk Management plan created by NSO and CNA. We encourage you to use this as a guide to develop your own risk management plan to meet the specific needs of your healthcare practice.



\*CNA HealthPro Understanding Nurse Liability, 2006-2010: A Three-part Approach, CNA Insurance Company, November 2011. To read the complete study visit [www.nso.com/nurseclaimreport2011](http://www.nso.com/nurseclaimreport2011)  
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