

Presented by
NSO and CNA

Nurses Medical Malpractice Case Study with Risk Management Strategies

Case Study: Failure to follow established institution's policies and procedures on ethical refusal of treating patients and on the chain of command

Indemnity Payment: Greater than \$200,000

Legal Expenses: Less than \$15,000

Summary

Note: There were multiple co-defendants in this claim who are not discussed in this scenario. Monetary amounts represent only the payments made on behalf of the nurse. Any amounts paid on behalf of the co-defendants are not available. 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.

A 29 year-old female underwent a cesarean and a myomectomy. Following the procedure, she suffered severe blood loss and became hypotensive and the obstetrician determined she would need an emergency hysterectomy. Prior to the hysterectomy, the patient refused blood products due to religious reasons and was given blood expanders as a substitution. The surgical procedure was completed without complications, but revealed over one liter of blood in patient's abdomen. Once the patient was in the post-anesthesia care unit (PACU), she became asystolic and was resuscitated twice by the hospital code team. During the first code, the obstetrician alerted the family of the patient's grave condition and obtained verbal consent from the husband to administer blood products. The patient was then aggressively transfused, supported by fluid administration, intubated and transferred to the intensive care unit (ICU) by six healthcare providers (two PACU nurses, hospital nursing supervisor, certified nurse anesthetist and two respiratory therapists).

Prior to transport, patient report was called to the ICU charge nurse. According to the transferring

Medical malpractice claims can be asserted against any healthcare provider, including nurses. In fact, over \$83 million was paid for malpractice claims involving nursing professionals, according to the most recent CNA HealthPro 5-year study*.

This case involves a nurse working in the intensive care unit (ICU).



healthcare team, when the patient arrived to the unit all the ICU nurses refused to accept the patient as they believed the patient's rights were violated with the administration of blood products and they feared if they became involved they may be subject to a lawsuit. The transferring team testified during their deposition that the ICU nurses stood at the nurse's station and refused to advise the transporting team of the whereabouts of needed medications and intravenous fluids. The transferring team cared for the patient approximately two hours before an ICU nurse (the defendant) agreed to assume care of the patient. Due to the delay in care, the patient's experts stated that the patient suffered anoxic encephalopathy. She now requires a tracheostomy to facilitate respiratory function, a gastrostomy tube to promote nutrition, is incontinent of bowel and bladder, and needs full-time nursing care.

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▶ Resolution

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

- Abandonment of a patient
- Failure to participate in an accurate and complete hand-off between assigned caregivers, units, and shift
- Failure to monitor the patient care environment to ensure patient safety
- Failure to follow established institution's policies and procedures on ethical refusal of treating patients and on the chain of command

▶ Risk Management Comments

Given the deviations from the standard of care and the pejorative testimony from other staff members regarding the defendant's care, the decision was made to settle the case on behalf of the defendant.

▶ Risk Management Recommendations

- **Know and comply with your state scope of practice,** nurse practice act and facility policies, procedures, and protocols.
- **Know the organization's policies and procedures** related to clinical practices and documentation.
- **Invoke the chain of command when necessary** to focus attention on the patient's status.
- **Nurses are the patient's advocate,** ensuring that the patient receives appropriate care when needed.
- **When faced with a patient situation that has legal implications,** proceed in a manner that provides the best care for the patient.
- **Monitor and document the patient's vital signs, symptoms, response to treatment,** and changes in condition in the patient care record.
- **Perform and document formal handoff procedures when transferring a patient and report all significant patient information** regarding the patient's treatment, including a review of treatments, tests, medications, and outstanding orders to the accepting nurse.

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 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.

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