Nurse Practitioners and Medical Malpractice

Presented by NSO and CNA

Medical malpractice claims can be asserted against any healthcare provider, including nurse practitioners. Although there may be a perception that physicians are held responsible for the majority of lawsuits, the reality is that nurse practitioners are more frequently finding themselves defending the care they provide to patients. According to CNA HealthPro’s and NSO’s 2009 nurse practitioner claims study encompassing ten years of nurse practitioner claim data, over $64.8 million was paid for medical malpractice claims on behalf of nurse practitioners.*

Case Study: Improper technique, improper assessment and treatment of hematoma; failure to notify the physician and intensive care staff of the need for close monitoring of hematoma and patient condition

Settlement Payment: $105,000 Legal Expenses: $24,627

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 practitioner.

The decedent/plaintiff was a 76-year-old female admitted to the hospital for congestive heart failure. She was placed on a respirator and sedated. ICU staff obtained telephone consent from the plaintiff’s daughter for placement of a peripherally inserted central catheter (PICC). The defendant nurse practitioner was a PICC specialist employed by an agency that contracted with the hospital for placement of PICC lines for its inpatients.

During the first PICC placement attempt, the defendant nurse practitioner nicked the brachial artery. He applied pressure to the resulting hematoma, and his second PICC insertion attempt was successful. The defendant nurse practitioner documented that the patient had a moderate hematoma and ordered the arm elevated, the application of warm moist heat for 20 minutes, 4 times per day for 48 hours, dressing changes and to notify the contracted PICC agency in the event of an increase in the circumference of the patient’s arm.

Brachial artery bleeding continued unchecked, expanding the hematoma and resulting in compartment syndrome. The surgeon identified and repaired an actively bleeding tear in the brachial artery and performed a fasciotomy. Following surgery, the plaintiff developed signs of clinical deterioration and died the following day. The autopsy revealed a 19-inch contusion of the right arm and chest involving 400 ml of clotted blood, congestive heart failure, atherosclerotic heart disease, chronic obstructive pulmonary disease and liver fibrosis.

Expert review identified the following departures from the standard of care regarding the defendant nurse practitioner:

• Failure to apply pressure to the area of the arterial injury until bleeding ceased
• Failure to consider the effect of the plaintiff’s medication (Plavix) on the blood’s ability to clot
• Improper orders for warm moist compresses which could increase bleeding
• Failure to mark the baseline hematoma borders and record the arm circumference
• Absence of orders requiring close monitoring with frequent, visual inspection of the hematoma borders, circumference re-measurement, and palpation of the radial artery
• Failure to contact the physician immediately, or at a maximum, within one hour of the arterial injury

Resolution

Experts determined that the nurse practitioner had breached the standard of care. The claim was settled for $105,000 with an additional $24,627 in legal expenses. The total settlement amongst all of the defendants in the case was not available.
Risk Management Comments

In addition to the failure to act within the standard of care, the lack of effective written documentation and verbal communication between the defendant nurse practitioner and the ICU staff were significant factors in the unchecked expansion of the hematoma, as well as the delay in obtaining physician assessment and intervention.

Risk Management Recommendations

- Prior to PICC insertion, review the patient’s medications to identify those that would affect bleeding/clotting times and consider that effect when determining the appropriate pressure application time at the site of the arterial puncture.
- Timely notify the physician of an arterial injury occurring during insertion of a vascular access device.
- Request prompt (not longer than one hour) physician consultation for any signs of continued bleeding following the arterial puncture.
- Remain with the patient until bleeding cessation is established or until the physician has assumed the care of the patient.
- Ensure the care team is aware of necessary ongoing treatment, observation, assessment and reporting of the status of the site following arterial puncture.
- Document the actions taken, pressure application time, determination of bleeding cessation, physician notification of arterial injury with orders for continued observation, measurement and interventions, as needed.

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.