Medical malpractice claims may 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. In fact, over $44 million was paid for malpractice claims and expenses involving nurse practitioners, according to the NSO/CNA HealthPro 5-year study.*

This case study involves a nurse practitioner who provided on-call coverage to nursing facility patients on behalf of her employer; a physician medical group.

**Case Study: Alleged improper admission orders resulting in morphine overdose and death**

| Indemnity Payment: $0.00 | Legal Expenses: in excess of $225,000 |

**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 practitioner. 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 practitioner.

The decedent patient (plaintiff) was a 72 year old woman who had been receiving hospital care for acute back pain resulting from a fall. Her past history included chronic pain management and end-stage renal disease for which she received hemodialysis. She was to be transferred to the co-defendant nursing facility for reconditioning and physical therapy prior to returning to her home.

The nurse practitioner (defendant) was on-call at the time of the patient’s transfer, and the nursing facility contacted her and read the orders to the defendant nurse practitioner over the telephone. The defendant nurse practitioner questioned the presence of two morphine orders for different dosages with both dosages to be administered twice daily. She instructed the nurse to clarify the correct morphine dosage with the transferring hospital’s pharmacist and to admit the patient only after the pharmacist clarified and approved the morphine orders. The defendant nurse practitioner had no further communication with the facility and no other involvement in the patient's care. The facility nurse telephoned the hospital pharmacist who approved both morphine orders, and the patient was admitted to the nursing facility.

During the first evening and full day of her nursing facility stay, documentation revealed the patient to be alert and oriented. On the second day, she was found by nursing staff without vital signs. Despite immediate chest compressions and EMS additional resuscitation measures, the patient was pronounced dead. The autopsy results listed the cause of death as morphine intoxication. Surprisingly, the patient also had an elevated blood alcohol level (equal to drinking three to four alcoholic beverages). Because the source of the alcohol could not be identified, the medical examiner was unable to rule out accident, suicide or homicide and classified the manner of death as undetermined.

**Resolution**

Defense experts found the nurse practitioner's actions to be within the standard of care.

Defense experts stated that the patient's final morphine blood levels, even considering her renal disease, could not have resulted from the amount of morphine ordered, administered and recorded in the patient’s health information record. The elevated morphine and alcohol levels led experts to the opinion that the patient may have ingested morphine and alcohol from a source other than the nursing facility. This question was never resolved.

A motion for partial summary judgment for the defendant nurse practitioner was denied by the court and the decision was made to proceed to trial. After the completion of testimony but prior to receiving the verdict the co-defendants settled the case with no liability attributed to the defendant nurse practitioner. This was a successful outcome for the nurse practitioner.
Risk Management Comments

The defendant nurse practitioner acted within the standard of care. The nurse practitioner expert indicated that, while she did not depart from the standard of care, the defendant nurse practitioner might have chosen to contact the hospital pharmacist directly to discuss the morphine dosage.

Risk Management Recommendations

- Obtain adequate and pertinent current and past patient clinical information prior to providing patient treatment orders.
- Identify and address concerns or questions regarding patient care treatment orders provided by other practitioners and ensure any concerns are resolved prior to accepting the responsibility for the patient’s care.
- Communicate urgent or critical patient care concerns to the primary practitioner in a timely manner.
- Consult with the collaborating or supervising physician in accordance with state regulations regarding concerns related to patient care issues.
- Discuss medication concerns with the involved or consulting pharmacist.
- Examine the patient when clinically appropriate and when there is a question about the patient’s condition that requires direct examination, evaluation and intervention.
- Document all patient-related discussions, consultations, clinical information and actions taken including any treatment orders provided and ensure that the documentation is timely provided to the primary practitioner.

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.