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NSO and CNA

## Nurses Medical Malpractice Case Study with Risk Management Strategies

### Case Study: Failed to follow established policies and procedures, Failed to perform a nursing assessment on a patient at high risk for a cardiovascular accident

**Indemnity Settlement Payment:** Policy limits

**Legal Expenses:** Greater than \$130,000

#### Summary

(Monetary amounts represent only the payments made on behalf of the insured registered nurse and does not reflect payments made on behalf of any other parties involved in the claim.)

Our insured registered nurse (defendant) was employed in a healthcare setting working as an occupational health nurse. While she was in the cafeteria during her lunch break, she was approached by a 42 year old, maintenance employee (plaintiff) complaining of a headache. She instructed the employee to come to the occupational health office after lunch and she would give him some over-the-counter medication.

An hour later, the employee came to the office stating that his head was hurting worse and he felt nauseated. He had been working on air condition units in an older part of the building which was known to have mold and dust. He contributed the dust and mold to the cause of his headache. The patient/employee seemed in a hurry when he entered into the office, so the nurse bypassed assessing him or ascertaining about a medical history and instead gave him medications. She gave him 500 milligrams of acetaminophen and 25 milligrams of Benadryl® and told him to go home and rest. The employee thanked the nurse and left the office to take her advice of going home early from work to rest. This is the last contact our nurse had with employee.

Two days later our insured nurse learned that the employee had suffered a massive cardiovascular accident (CVA) at home. When she learned about his condition, she went back to review his health file and found that he was a compliant diabetic with medication controlled hypertension. The CVA left the patient/employee unable to return to full-time employment and because of this disability he suffered from depression. His depression was so severe that he was admitted to a psychiatric unit due to an attempted suicide.

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 study involves a nurse working as an occupational health nurse.



#### Risk Management Comments

Our insured had 30 years' experience as a registered nurse and the last 10 years as an occupational health nurse. She testified that the patient/employee never told her about his history with diabetes and hypertension, but if he would have told her about his history, she would have done a complete nursing assessment to include vital signs. Our insured did not document any note in the patient/employee's health file as she felt the interaction with him was so brief that any notation made would be insignificant.

The healthcare facility had a occupational health policy and procedure stating whenever medication or medical advice was offered, a nursing assessment and full medical history must be completed and documented in a patient/employee's health file.

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Several defense experts were asked to review the claim. They all felt the case was somewhat defensible without the documentation, but since the nurse did not perform an assessment and violated the facility's policies and procedures, a resolution prior to trial was recommended.

## ▶ Resolution

Our estimate of the insured apportionment was 75 percent with a 25 percent change to prevail at trial.

Several other healthcare practitioners were also included in the lawsuit, but their settlement amounts were not available.

## ▶ Risk Management Recommendations

- **Know and follow facility established policy and procedures.**
- **Follow documentation standards established by professional nursing organizations and comply with your employer's standards.** The importance of complete, appropriate, timely, legible and accurate documentation cannot be overstated.

- **Maintain thorough, accurate and timely patient assessment and monitoring,** which are core nursing functions.
- **Maintain competencies (including experience, training, and skills)** consistent with the needs of assigned patients and/or patient care units.
- **Report any patient incident, injury or adverse outcome** and subsequent treatment/response to risk management or the legal department.

## 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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