

## NURSE PRACTITIONER MEDICAL MALPRACTICE

# Case Study with Risk Management Strategies

Medical malpractice claims may be asserted against any healthcare practitioner, including nurse practitioners. This case study involves a licensed nurse practitioner working in a medical office setting.

**CASE STUDY** Failure to diagnose; failure to refer to a specialist; failure to document; failure to enlist assistance from collaborating or supervising physician to establish diagnosis; failure to order appropriate tests to establish diagnosis

**Total Incurred:** \$740,000

### Summary

The patient was a 49-year-old African American male who was experiencing bleeding during bowel movements. His wife was an established patient of our insured nurse practitioner and made an appointment for her husband due to his rectal pain and bleeding.

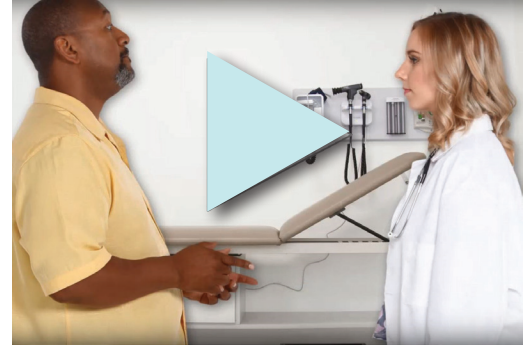
During the first appointment with the nurse practitioner, the patient relayed complaints of bright red rectal bleeding intermittently for two months and on several occasions the toilet would be full of blood. He had a past medical history of depression, anxiety, heavy user of alcohol and hypertension and a family medical history positive for colon cancer and cardiac disease.

The nurse practitioner performed a detailed physical assessment on the patient along with a digital rectal examination. The digital exam was negative for any tumors or tears and she diagnosed the patient with bleeding due to internal hemorrhoids.

Our insured advised him to have a colonoscopy to rule out other diseases, but the patient adamantly refused any referral. He was given prescriptions for suppositories and a hemorrhoid cream and was scheduled for a three week follow-up appointment.

During the three week follow-up appointment, the patient reported that the rectal pain and bleeding had stopped and he had not noticed any blood in his stools or bleeding.

Over the next eighteen months, the patient was seen eleven times by both the defendant nurse practitioner and another physician working in the practice for various other complaints, but never relayed any concerns about continued rectal pain or bleeding to the insured. The nurse practitioner



never had any further follow-up discussions with the patient about a colonoscopy.

Approximately twenty months after the patient's initial office visit for rectal pain and bleeding, his wife made him an appointment to have a colonoscopy due to the patient's continued rectal pain and bleeding.

During the procedure, the gastroenterologist found a four centimeter tumor in his rectum and the patient was diagnosed with differentiated metastatic colon adenocarcinoma. The patient died one year after his cancer diagnosis.

### Risk Management Comments

The nurse practitioner could not fully explain why she failed to document her conversation with the patient about having a colonoscopy and his subsequent refusal. She stated that her medical office utilizes an electronic medical record and she relies on the system's drop boxes to assist her in her documentation. The discussion about the referral for a colonoscopy would have had to be manually entered into the medical record and she may not have had the time between patients to document that conversation.

She testified during her deposition that the patient seemed very uneasy about having her perform a rectal exam and was reluctant to discuss her findings. Her impression of the patient was that he was self-conscious about his rectal pain and bleeding and did not want to discuss it with a female.

She further testified that she did not want to make the patient uncomfortable and that is why she did not follow-up with him about his rectal pain and bleeding in subsequent appointments.

*continued...*

View our video of this case study!



## Resolution

The plaintiff presented eight expert opinions from various nurse practitioners and family medicine physicians that were all critical of the defendant's departure from the standard of care. Experts stated that the nurse practitioner failed to properly document and follow-up with the patient's history of rectal pain and bleeding, thus allowing for the colon cancer to metastasize.

The defense sought the expert opinions of several nurse practitioners, and they were also critical of the defendant's follow-up and documentation practices.

Defense experts assessed the potential exposure or claim value as being between \$750,000 and \$1,000,000 and deemed the possibility of a defense verdict to be less than 15 percent should the case go to trial. The decision was made to attempt to resolve the claim in mediation, where the parties ultimately agreed to a settlement payment. The total costs associated with defending and settling this claim on behalf of the insured nurse practitioner exceeded \$740,000.

## Risk Management Recommendations

- **Understand and maintain the scope and standard of care that applies to the relevant setting,**

including determining whether the patient's clinical symptoms can be appropriately and

safely managed. For more information on current colorectal cancer screening guidelines, review the U.S. Preventive Services Task Force (<https://www.uspreventiveservicestaskforce.org/BrowseRec/Index/browse-recommendations>) and the American College of Gastroenterology (<http://gi.org/clinical-guidelines/clinical-guidelines-sortable-list/>) recommendations for screening asymptomatic adults for colorectal cancer.

- **Obtain, review and consider pertinent patient and family medical history** and document all findings.
- **Document all patient-related discussions**, as well as consultations, clinical information and actions taken including any treatment orders provided or offered. A complete health information record is the best legal defense.
- **Record all patient noncompliance** with ordered testing and treatment, as well as all counseling given and other efforts made to encourage compliance.
- **Inform the patient in writing** that his or her noncompliance with treatment recommendations could result in worsening of symptoms and disease processes.

## 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 [nso.com/riskplan](http://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.



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