

Nurse Liability Claims Study: Implications for your Practice

Aon Affinity's Nurses Service Organization (NSO) and CNA HealthPro have released a new Nurse Claims Study that examines the overall nursing litigation environment and provides risk control recommendations. The study analyzes 8,151 nursing professional liability claims brought against NSO insureds in a 10-year period (from January 1, 1997 through December 31, 2007), providing data on trends related to nursing claims and risk management recommendations.

The study helps to describe liability risks to nurses, provides data which can be used to benchmark individual practice, provides recommendations related to reducing liability risks, and describes the differences between historic and emerging nursing practice models and the related legal implications.

While common perception may be that doctors bear the brunt of lawsuits, the reality is that nurses are increasingly finding themselves defending the very care they provide to patients. Three of the significant findings uncovered by the study are:

- Over \$94 million in indemnity payments and expenses have been paid out over the course of the 10 year period, and an additional \$43 million is set in reserve for open suits.
- While the obstetrics/gynecology nurse specialty realized the highest average paid indemnity at \$335,000, the adult medical/surgical nurse specialty had the overall highest total dollar paid indemnity with nearly \$30 million aggregate, and accounted for 56 percent of all closed claims.
- Thirty-eight percent of claims came from a hospital inpatient setting (excluding the hospital emergency department's 7.8 percent).

As highly skilled and educated professionals, you are charged with making clinical observations, exercising discretion, and taking appropriate treatment actions based upon a patient's changing clinical disposition. The enhanced role of the nursing profession reflects an increasing number and importance of nursing specialties and areas of expertise. Ironically, the growing prestige and accountability of nurses resulted in greater vulnerability to medical malpractice lawsuits. Examples of claims against nurses cited in the study include the following:

- After an older adult falls, a nurse is sued for failing to change his care plan despite increasing problems with gait and behavior.
- A nurse is sued for failing to note a patient's risk for skin breakdown and initiate appropriate preventive interventions.
- After a patient experiences adverse drug reactions, the family alleges that the nurse failed to administer the drug correctly.

As nurses, you play a critical role in delivering healthcare in a wide range of clinical settings. Nurses are often the member of the healthcare team best known to the patient and family. The nurse's responsibilities include administration of powerful medications, performance of complex patient/resident assessments, development and implementation of appropriate nursing care plans, and provision of therapeutic and comfort measures. Each of these services carries inherent risks. By knowing the areas within your own daily practice that present the highest degree of risk exposure, you can act more effectively to prevent or minimize patient injury and financial loss.

We encourage you to read the extensive risk management recommendations present in this full study as they relate to the nursing profession as a whole and to individual nurse specialties. The full study can be found at www.nso.com/rnclaimstudy. The following is an excerpt of general recommendations that were derived from this study:

Scope of Practice

Review at least annually and comply with the relevant state nurse practice act as it defines the nurse's scope of practice, as well as any applicable regulatory authority requirements.

- Maintain professional communication skills to interact effectively with all levels of healthcare workers involved in the provision of nursing services.
- Verify, that your employer(s) maintain appropriate professional liability insurance limits as may be required by state law or regulations.
- Immediately report any allegation or notice of pending professional or legal action related to professional scope of practice to your insurance company, if you purchase your own professional liability insurance.

Nursing Competencies

Regardless of clinical specialty, there are certain core competencies required for all nurses at a given level of training/education.

- Maintain clinical nursing competencies through continuing education.
- Prepare to undergo an annual skills assessment and demonstrate required competencies.
- Inform appropriate managers, supervisors and nurse educators of your educational needs and goals in order to strengthen your nursing competencies.

Patient Health Information Records

Nurses are frequently included in the development of policies and procedures related to the patient health information record. In that capacity, they can increase awareness of areas of risk and promote measures to manage these risks.

- Ensure that entries are legible and written in ink.
- Avoid subjective comments regarding the patient, family or other healthcare providers.
- Document actions and patient discussions as soon as possible after the event.
- Do not insert late entries for any reason after a lawsuit has been initiated, to avoid the appearance of tampering.
- Use only approved methods for correction of documentation error(s).
- Use only approved abbreviations, and write out words fully if there is any possibility of confusion.
- Maintain patient health information records in a confidential manner, consistent with the Health Insurance Portability and Accountability Act (HIPAA) requirements, other pertinent state and federal regulations, and organization/facility policies.
- Document nursing actions in accordance with facility requirements.

Documentation

Maintaining a consistent, professional patient health information record is essential to providing quality patient care, ensuring consistent communication among all professionals caring for the patient, and establishing the basis for an effective defense should litigation arise.

- Mark any allergies in a conspicuous manner.
- Indicate current and past medications and whether the patient has deviated from the current prescribed medication regimen.
- Incorporate nursing risk assessments and detail nursing observations.
- Record medications administered, including injections, ointments and infusions, as well as a description of the patient's response.

Medications

It is essential to remain current and in compliance with state laws and regulations and the state nurse practice act regarding administration of medications.

- Familiarize yourself and comply with all requirements regarding medication administration, reconciliation and documentation practices.
- Recognize the appropriate indications, dosage range, route(s) of administration, contraindications, side effects and warnings related to commonly prescribed drugs, obtaining this information prior to administration of any new or unfamiliar drug.
- Know how to obtain current drug reference materials, and refer to them when administering a drug that is not frequently prescribed or whenever questions arise regarding a drug.
- Document any wasted or destroyed medications in compliance with organizational policy and all applicable laws.

The study also provides risk management recommendations for twelve specific areas of nursing practice, including medication administration, documentation, informed consent, advance directives, cancer screening and diagnosis, and some higher-risk specialties.

For a closer look at the study's data analysis and recommendations, visit <http://www.nso.com/rnstudy>.

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