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## 5 Steps to Avoid Malpractice Claims

By Lorie Brown, RN, MN, JD

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### Legal Issues

No nurse practitioner wants to face a medical malpractice action. According to the National Practitioner Databank, damages were paid by or on behalf of 290 nurse practitioners in medical malpractice cases in the year 2012 alone.

The best way to prevent a medical malpractice action is to be proactive. Here are five tips to avoid malpractice claims.

#### 1. Good Communication

People want to feel they are heard. Taking the time to really listen to your patients is essential. But, on the other end of the spectrum, good communication is a two-way street. As the sender of information, it is your job to make sure that the information you provide is properly received. To avoid malpractice claims, it's smart to provide information in writing and keep a record of what information is given.

#### 2. Good Documentation

It is important to thoroughly document what information was conveyed to the patient and whether or not the patient verbalized understanding of that information. Simply providing information is not enough. It is important to make sure that the patient actually understands the information you are conveying.

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to make sure that the patient actually understands the information you are conveying. Checking boxes in the electronic health record seems simple and easy, but sometimes the thought process gets left out and we don't add up  $A+B = C$ . There is something about putting a pen to paper that activates logical thinking and forces you to really think through your thoughts. Therefore, it is important to write a narrative report anytime anything looks outside of the ordinary.

One good exercise is to read your documentation after a year and see if you can remember the patient and the care provided. It takes a long time for lawsuits to get filed and for depositions to be taken. If your documentation was thorough and complete, your notes should help you clearly remember this patient and the care that was provided.

Documentation is also an important communication tool in your work with other healthcare providers. Ask yourself: Does my communication accurately document not only the care provided, but the thought process that went into my decision making?

### 3. Don't Allow Others to Dictate Your Care

The insurance company or the patient's financial situation should not dictate your care. If you think a test is prudent and the insurance company will not pay for that test, you must provide informed consent to the patient so that he or she can decide whether to undergo the test and pay for it themselves or not pursue testing at all. Not ordering the test could be malpractice.

Although patients are responsible for their care, patients do not dictate care. If a patient insists on having a test or medication that you do not feel it is in his or her best interest, document this discussion with the patient and the reasoning behind your decision.

This is especially important in hospital settings when a patient wants to go home and is not stable to leave. Although the patient is the ultimate decision maker and can leave against medical advice, document that the patient was notified of the ramifications of his or her decisions.

### 4. Know Your Limits

If you are in a situation in which you do not feel you have the skills, education or qualifications to provide a particular patient's care, refer. If you are employed by a physician or hospital, do not allow yourself to be put in a position in which you are required to undertake the care of a patient who requires more skill and knowledge than you can offer. This is particularly relevant to nurse midwives who undertake the care of a higher risk patient that might actually require the skills of a maternal-fetal medicine specialist.

Advocate for yourself and your patient if you feel you cannot meet the patient's needs. Although none of us wants to admit weaknesses, your honesty will help avoid a malpractice lawsuit and accusations of practicing beyond your skills and expertise.

### 5. Respond Promptly

As an attorney, I sometimes joke that clients don't know whether I am a good or bad lawyer, but they do know if I return phone calls. The same is true in medicine. The lay public does not understand medicine, so they don't know what constitutes good medicine or bad medicine.

The interactions and relationships you build with your patients are your main tool to protect yourself from a malpractice action. I always say that friends don't sue friends. Treat your patients as you would want to be treated by your healthcare providers, and respond promptly to their needs while always staying focused on providing the best possible care. ■

Lorie Brown is a registered nurse, attorney and the author of *Law and Order for Nurses: The Easy Way to Protect Your License and Livelihood (Empowered Nurses, 2014)*. She practices at Brown Law Office in Indianapolis.

By Lorie Brown, RN, MN, JD

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