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The Nurses Legal Toolkit

By Carol Cook RN

The Nurse Practice Act

One of the most essential tools in any nurse's legal defense fund is to acquire a copy of the Nurse Practice Act, also known as "the Act" from your State Board of Nursing. "The Act" is the standard by which decisions will be made regarding issues relating to malpractice suits.

Answers to the types of questions listed below can be found in "the Act". If you don't have a copy from your state, visit the Nurse Practice Act and request one ASAP. And if you relocate, request a new one with your license.

– Can an LPN care for patient with a Swan–Ganz catheter? – Can an LPN hang a piggyback with 50 cc's of fluid in it or push IV–meds? – What are the duties of a nurse's aid and are the RN's liable?

Policy and Procedures Always review and double check the general nursing manual, as well as any that pertain to your specific area of practice. If your hospital has a policy that is different from "the Act" follow the guidelines in the "the Act".

For example: If your institution allows unlicensed personnel to insert Foley catheters but the policy found in the Nurse Practice Act requires that insertion be performed by licensed personnel only, the licensed nurse should insert the Foley.

Remember, if there is a negative outcome, the licensed nurse will be judged by the standards of "the Act" not by the hospitals policy.

Insurance Clearly, insurance is essential. Shop around for a policy that suits your needs. Two types to look for are:

Occurrence – means the company that covered you during the period of the occurrence will be responsible for damage and expenses.

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Claims – means the company will cover any claims made while the policy is in effect, no matter when the occurrence happened.

A few questions you may want to ask the insurance companies representative are: 1. Can I select my own attorney? 2. Does your company routinely settle claims or will I have my day in court?

Continuing Education Continuing education is another essential. Not only does it keep you abreast of the most current changes and innovations in your area of specialty but it is one of the first things an attorney will check into if a claim is filed. Was this individual up to date on their Continuing Education?

Licensing and Certifications Clearly, you must keep all licensing and certifications current. This is another key area that an attorney will investigate if a claim is filed.

Important Industry Specific Terms to Know and Understand

Negligence – Failure to act as a reasonably prudent person would act under the same circumstances; failure to do something, to do something carelessly or recklessly

Malpractice – Negligence by a professional.

Assault – A threat or attempt to inflict bodily harm combined with the ability to commit the act :: If you move another inch, I'll have to tie you to the bed.

Battery – Intentional harmful or offensive contact that occurs without consent :: Use of restraints without an order or a written policy of protocol.

Libel – Publication of defamatory statements. Nurses Notes will be scrutinized for libel.

Slander – Oral defamatory statements :: can be words or gestures.

Statute of Limitations – There are periods defined by state statute during which you may file a claim or it is forever barred :: the clock starts at the time of the occurrence or at the time the occurrence was discovered or should have been discovered, such as a lap sponge left in a patient's abdomen that was discovered several years post operatively.

Informed Consent – Permission given for a proposed treatment or procedure following full disclosure of risks, benefits and alternatives by the physician -- when you are asked to sign your name as a witness on the consent form. Remember, you are witnessing the patient's signature only.

Physician Orders Telephone Orders – Repeat each order to verify what you heard is what was ordered. Illegible Orders – Ask the physician for the interpretation :: Never Guess! Inappropriate Orders – Inform the physician of the policy and standards. If the physician insists that the order be completed, contact the supervisor immediately.

Communication Remember, most lawsuits are filed because the patient or the family isn't happy.

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Good communication skills can go a long way in alleviating this problem.

– Always be honest. – Don't be afraid to apologize if an apology is needed. – Be a good listener. Sometimes it isn't what they say, but how they say it. – A little PR goes a long way. – Take the time each shift to speak with the patient and their family. – The medical record is the ultimate communication tool.

Documentation

– Be accurate, objective, and complete.

– Be aware that negative charting (check lists) may not hold up in court. At least once during your shift, it's better to document in narrative form a complete assessment as well as any events. Many courts still feel that if you didn't chart it, you didn't do it.

– Use only approved abbreviations found in the Policy and Procedure Manual.

– If you make an error, draw a line through it and write "mistake in entry" followed by your initials. Do not write "error" as it has a negative connotation.

– Document calls to physicians noting the time the page was made or the call was placed, as well as the time the call was returned and the physician's response.

– Document all teaching. If family members are present, list their names in your note.

– Of utmost importance is to document the review of "discharge instructions" including the review of any medications prescribed and any handouts provided.

– Document all patient comments, both the positive and negative, regarding their condition.

– Record the effects of medications as well as the med, dose, time, route and reactions to treatments and your response.

– If something unusual occurs, record all pertinent information in your notes, then complete an incident report but don't mention the incident report in your notes.

– If you perform a procedure on a patient assigned to another nurse, you must document your actions in the patient's chart.

– Not every treatment or procedure that you perform or assist with is going to have a positive outcome. If there is a negative outcome, document the details truthfully in your notes and if necessary, complete an incident report.

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Carol Cook RN, Paralegal. For more information about nursing law, legal nurse consulting education, and continuing nursing education visit

<http://medi-smart.com>

Forensic Nursing, The New Breed Of Nurses

By Larry Ford

With the continuing rise in crime rates, forensic nursing is quickly becoming a popular part of the American judicial system. Forensic nursing is one of the newest forms of forensic sciences recognized by the American Nurses Association. The new field combines the health care profession with the judicial system.

Nurses trained in forensic nursing are needed to quickly and appropriately gather evidence that can be used in a court of law. Along with gathering forensic information, they also testify in trials of their jurisdictions.

The appeal of forensic nursing is mainly with victims of violence. Multiple people are seeing victims, social workers, doctors, the police etc. This can be hard on the victim. Having one expert that can do everything from start to finish including going to trial would make it a lot less stressful for the victim.

Because forensic nursing is such a new and growing specialty, it offers great opportunities for recent nursing graduates and experienced RN's looking for a career change.

In 1992, approximately seventy nurses gathered together in Minneapolis, Minnesota as the first national convention for sexual assault nurses. This convention led to the founding of the IAFN, the International Association of Forensic Nurses.

Their mission statement was the concept of nurses willing to devote their energy and resources to develop a role in nursing that can have a impact on the future of forensic science and the health care industry.

Forensic nurses practice in many diverse fields. They range from nurses who specialize in domestic violence, emergency trauma, and sexual assault nurse examiners (SANE's), witch SANE's are often the entry point into forensic nursing. Forensic nurses may also serve as legal nurse consultants or attorneys.

The education for forensic nursing vary. Degree programs are available in forensic nursing but are not required for entry into the profession. Certification courses required for the SANE program is a good start.

The employers of forensic nursing specialists vary as well. They include acute healthcare facilities,

correctional institutions, county prosecutors, coroner's offices, medical examiner's offices, insurance companies, and psychiatric facilities.

Another opportunity is working independently on a per job basis to all of these employers – starting a forensic nursing business.

The industry of forensic nursing is only getting more and more attractive to nurses that really want to make a difference in the community around them. It's an opportunity for them to help victims of violence and helping the perpetrators of violence to get help.

Larry Ford runs a website providing information for forensic nursing. You can find it at

<http://www.forensicnursingzone.com/>



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