

What is a Nurse Manager's Liability for Patient Care?

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I often get questions about being a “charge nurse” or being a nurse manager on a unit. Many of the nurses who ask this question are concerned about their liability in this role should a patient be injured due to the alleged negligent care of one of the nursing staff. A charge nurse or nurse manager could potentially have some liability should an injury occur, but the liability is different from that of the staff nurse caring for the patient at the time of injury.

Remember that under professional negligence principles, four elements of negligence must be proven for there to be a successful suit: duty, breach of duty, proximate or legal cause, and injury or damages compensable by law. 1 In addition, a nurse's conduct in a particular situation is measured by the overall standard of care—that is, what other ordinary, reasonable and prudent nurses would do in the same or similar situation in the same or similar community .2 A third principle to keep in mind is that everyone is responsible for their own behavior, including their own negligent behavior.

A charge nurse or a nurse manager has as one of his or her duties of care the non-negligent supervision of the nursing staff. 3 Negligent supervision might take place when the nurse manager fails to delegate patient care consistent with principles of proper delegation 4, when the nurse manager is present during the provision of patient care and does not intervene to prevent an injury, or when the nurse manager does not regularly evaluate the staff's nursing care and/or instruct nursing staff regarding patient care, when indicated.

So, a charge nurse or nurse manager's liability is not a higher form of liability but a different form of liability. This liability is not based on the doctrine of *respondeat superior* (discussed in an early bulletin) because the nurse manager/charge nurse is *not* the employer of the staff nurse. Rather, the potential liability exists due to his or her role as the nurse manager.

Do keep in mind that if you as a nurse manager or charge nurse also provide patient care while in the role, and a patient is injured allegedly due to *your* care of the patient, your potential liability for that care would be yours, just as it would be for a staff member, separate and apart from any duties as a nurse manager or charge nurse .

So, when you are in the role of the nurse manager, you should:

- Remember that your overall duty is to prevent injury to the patient, so a proactive risk management leadership style is vital;

- In addition to the general orientation a new staff member might receive from the facility, be certain to orient the staff member to your unit;
- Your supervision must be constant, active and consistent with a nurse manager's standard of care and standard of practice;
- Along with the policy and procedure committee, help develop and implement patient care policies and procedures consistent with standards of practice;
- Establish open lines of communication with all nursing staff;
- Respond to patient family concerns quickly and compassionately;
- If you provide care for patients while also performing the charge nurse/nurse manager role, provide that care in a non-negligent way; and
- Continue with your own professional development through attendance at seminars, participate in continuing education courses, obtain additional degrees and/or certification, and establish networking contacts with other nurse managers for personal and professional support.

FOOTNOTES

1. Bryan A. Garner (ed). 2004. Black's Law Dictionary. 8th Edition. St. Paul, MN:

West, 1061-1062.

1. Robert John Kane, Ross Silverman and others (2007). The Law Of Medical Practice In Illinois. Volume 2. 8th Edition. Eagan, MN: Thomson West, 19-20 (with regular updates).
1. Nurse Manager Website. "Documentation: Legal Risks For Nurse Managers". (August 1, 2007). Accessed August 17, 2013 at <http://hcpro.com/HOM-75287-5627/Documentation-Legal-risks-for-nurse-managers.html> . (The article also discusses additional areas of nurse manager liability in addition to negligent supervision).
2. Id.

GENERAL REFERENCE

Nancy J. Brent (2001). "The Nurse As Administrator", in Nurses And The Law: A Guide To Principles And Applications. 2nd Edition. Philadelphia: W. B. Saunders, 384-388.

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