

What is an “Unreasonable and Foreseeable Risk of Harm” to a Patient

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You may remember that in one of the earliest Bulletins, I wrote about professional negligence and that one of the overall duties of a nurse is to protect a patient from an unreasonable and foreseeable risk of harm.

“Unreasonable and foreseeable risk of harm” means that the harm that did occur (to the patient) could be anticipated by the nurse at the time of injury because a reasonable likelihood existed that it could take place. ¹ So, when evaluating a nurse’s conduct in a particular situation that allegedly resulted because a patient experienced an unreasonable and foreseeable risk of harm, the objective standard is due care; that is, what an ordinary, reasonable and prudent nurse would have done in the same or similar circumstances in the same or similar community. ²

Although this duty sounds pretty clear to those of us in the practice of law, it may not be as clear to you. So, here are some of the reported case examples of a nurse’s conduct that exposed an unreasonable and foreseeable risk of harm to a patient:

- Administering the wrong medication to a patient without following proper medication administration procedures, causing injury to the patient;
- Failing to contact the physician or other health care provider when the patient’s condition changed and the change resulted in injury to the patient;
- Failing to follow a physician or APN order that resulted in injury to the patient;
- Improper utilization of patient care equipment (e.g., ventilator) that caused injury to a patient;
- Inadequate monitoring of a patient or inadequate patient assessment that caused injury to a patient;
- Failing to follow hospital or other facility patient care policies and procedures, resulting in injury to the patient;
- Leaving a vulnerable patient unattended, resulting in a fall with injuries;
- Inadequate patient/family teaching that results in an injury to the patient;
- Failing to properly equip special patient care areas—delivery room, OR—with appropriate equipment for patient care; and
- Providing patient care when not competent to do so (e.g. never Having done a procedure, not possessing adequate experience to do so), resulting in a patient injury.

There is no specific formula that applies to every situation a nurse may become involved in when

needing to protect a patient from an unreasonable and foreseeable risk of harm. The duty depends on the patient care situation, the experience of the nurse, and so forth. What is specific, though, is that you as a nurse must be constantly vigilant about the patient care you provide and how you provide it.

In short, if there is a potential of exposing a patient to an unreasonable and foreseeable risk of harm, you have a duty to protect the patient from that harm.

FOOTNOTES

1. Daniel Dobbs (2001). The Law of Torts. St. Paul, MN: West, 463-470 (with regular updates).
2. Id., 275-291.

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