Patient Rights & Patient Safety: Malpractice in nursing practice

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Stellenbosch University
Quality and Patient Safety Symposium
“Towards Safer Healthcare”
9 November 2016
OBJECTIVES

▪ Examples of malpractice litigation case studies
▪ Investigation into malpractice litigation in Nursing Practice in South Africa: Pilot study results
▪ Risk analysis of pictures taken during OHSC inspections of public health establishments
▪ Malpractice litigation and costs
▪ Global perspective
▪ Regulations on norms & standards
Health Minister Aaron Motsoaledi has asked the Office of the Health Ombudsman to investigate reports that 36 psychiatric patients have died in Gauteng”  (Ref- SAnews.gov.za 15 Sept 2016)
Case 1: Midwifery-Obstetrical: Caesarean section

- Gestation 38 weeks; Grav. 4; para 3
- Admitted with abdominal pain at 15h30
- Baby delivered by caesarean section at 19h00. (Second caesar)
- Post-operative: intense pain, tachycardia, hypertensive, abdominal distension. Unusual high dosages of pethidine given with no effect
- Day 2 & Day 3 post op: patient given Dulcolax. Clinical signs and symptoms persisting
- Day 4 post-op: Discharged at 08h00 with no improvement in condition; Readmitted with an acute abdomen at 20h00.
Case 1: Analysis of adverse event

- Second Caesar always have possible complications of a perforation.
- Midwives concentrated on the delivery aspects, holistic care were required.
- Unusual to have given the large amounts of pethidine post Caesar.
- Extreme pain persisted, increase BP, tachycardia, increase temperature, distended abdomen did not respond to the Dulcolax given on two days.
- Discharged a pt. acutely ill still with a distended abdomen and abnormal vital signs. Readmitted the evening.
Case 1: Outcome

- Increase hospitalization
- Increased costs
- Returned to theatre x3 times
- Pt had two heart attacks in ICU and CVA.
- Discharged two months later disabled with a hemiplegia
Case 2 Psychiatry: Patient with acute depression

- 46-year-old patient was admitted to a general ward with depression at about 18h30
- Medical history confirms the medical condition and at times suicidal.
- Family history confirms depression in the family and a family member who have committed suicide
- At about 22h00 observations were done
- At 02h00 when the nurse checked in on the patient found a trail of blood
- Pt managed to pull out the IV line and jumped through the window. Three floors down.
Psychiatry: Patient with acute depression

- Nurse looked through the window saw Pt lying in a bundle
- Rushed down and bundled her into a wheel chair
- Incorrect technique was applied to lift patient from the ground by ward staff.
- Following this the trauma nurses rushed with a trolley and just lifted the pt. onto the trolley
- Emergency nurses also applied an incorrect technique when pt. was lifted onto the trolley. No neck brace applied.
Analysis of adverse event

- General ward not designed for psychiatric patients
- Windows open
- Training of staff
- Poor knowledge about how to lift patients.

Outcome of this adverse event:
- Increase hospitalization
- Surgery
- Increased costs
- Pt developed a paraplegia (Disabled)
- Depression aggravated
- Quality of life affected
Case 3: Spinal surgery: Removal of an intradural spinal cord tumor of 1cm

- 43 Year-old male admitted for elective surgery
- Returned from theatre 11h45
- Surgery was successful
- No specific prescriptions given by the surgeon
- Post surgery: Patient complains of opposite foot feeling weak.
- By 14h00 no attention given to patient.
- Patient complains again that both his feet are feeling week and lame. Again no attention given
- By 17h00 patient was a paraplegic
Case 3: Analysis of adverse event

- Surgeon to ensure that specific instructions are given
- Negligence of ICU registered nurses
- Post surgery poor monitoring specifically sensory and motor action of the limbs.
- Porta-Vac drain not monitored
- Haematoma formed & applied pressure on the spinal cord
- Pt complained of weakness in the leg that was never affected- no action was taken
- Irreparable damage to the spinal cord
Case 3: Outcome

- Extended stay in hospital
- Additional surgery
- Increased costs
- Paraplegic / disabled
- Quality of life affected
Negligence may be defined as the “failure to use such care as a reasonably prudent and careful person would use under similar circumstances” (Weld and Garmon Bibb, 2009).
Non-protective ventilation strategy

Inadequate supervision

Communication

Non-application of guidelines

Junior staff, inadequate training, low or high case load

ADVERSE EVENT
Malpractice Litigation in Nursing Practice in SA: Pilot study results: Principle type

(Stellenberg et al. 2016)

<table>
<thead>
<tr>
<th>Principle type (n=42)</th>
<th>Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clinical management</td>
<td>42/100%</td>
</tr>
<tr>
<td>Human behavioural problems</td>
<td>40/95.2%</td>
</tr>
<tr>
<td>Organizational</td>
<td>27/64.3%</td>
</tr>
</tbody>
</table>
## Malpractice Litigation in Nursing Practice in SA: Pilot study results: Factors influencing adverse events (Stellenberg et al. 2016)

<table>
<thead>
<tr>
<th>Factor</th>
<th>Frequency n=42</th>
<th>Factor</th>
<th>Frequency n=42</th>
</tr>
</thead>
<tbody>
<tr>
<td>Poor monitoring</td>
<td>35/83.3%</td>
<td>Incorrect Treatment/incorrect technique</td>
<td>34/81%</td>
</tr>
<tr>
<td>Behavioural</td>
<td>39/92.9%</td>
<td>Failing to give treatment as prescribed</td>
<td>31/73.8%</td>
</tr>
<tr>
<td>Failing to react to clinical manifestations</td>
<td>40/95.2%</td>
<td>Failing to apply guidelines</td>
<td>39/92.9%</td>
</tr>
<tr>
<td>Lack of supervision</td>
<td>33/78.6%</td>
<td>System failures</td>
<td>25/59.5%</td>
</tr>
<tr>
<td>Lack of training</td>
<td>34/81%</td>
<td>Accumulation of errors</td>
<td>34/81%</td>
</tr>
<tr>
<td>Lack of knowledge</td>
<td>34/81%</td>
<td>Omissions</td>
<td>35/83.3%</td>
</tr>
</tbody>
</table>
An adverse event “...is an incident which results in harm to a patient. Harm implies impairment of structure or function of the body and/or any deleterious effect arising there from. Harm includes disease, injury, suffering, disability and death and may thus be physical, social or psychological” (World Health Organization, 2009).

Adverse events may be classified between extremely severe to minor or insignificant (SA Health Risk Management Framework, nd).
Malpractice Litigation in Nursing Practice in SA: Pilot study results: Severity of adverse events (Stellenberg et al. 2016)

<table>
<thead>
<tr>
<th>Severity</th>
<th>Severity assessment code (SAC)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>n=42</strong></td>
</tr>
<tr>
<td>Extreme</td>
<td>24/57.1%</td>
</tr>
<tr>
<td>Major</td>
<td>11/26.2%</td>
</tr>
<tr>
<td>Moderate</td>
<td>7/16.7%</td>
</tr>
</tbody>
</table>
Malpractice Litigation in Nursing Practice in SA. Pilot study results: Outcomes of the adverse events. (Stellenberg et al. 2016)

<table>
<thead>
<tr>
<th>Outcomes</th>
<th>Frequencies n=42</th>
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</thead>
<tbody>
<tr>
<td>Death</td>
<td>3/7.1%</td>
</tr>
<tr>
<td>Disabled</td>
<td>24/57.1%</td>
</tr>
<tr>
<td>Increased hospital stay</td>
<td>39/ 92.9</td>
</tr>
<tr>
<td>Quality of life affected</td>
<td>39/92.9%</td>
</tr>
</tbody>
</table>
Patient safety is recognised as a major threat to patients entering healthcare facilities.

- In acute care facilities in Australia the risk of iatrogenic injury was 40x higher than the risk of dying in an MVA (Runciman & Moller 2009)
- 13.5% / 1:7 of one million discharged Medicare beneficiaries had an adverse event (Department of Health and Human Services, 2010)
- Medical error is the THIRD CAUSE of death in the USA
- 2000-2002: 575 000 deaths occurred due to medical error
- 2008 180 000 deaths due to medical error
  
  (Martin Makary & Michael Daniel, 2016)
Risk modelling: James Reason 1990

Source: Adapted from Reason, 1990
Patient safety at risk, Identification risk, Management risk, Documentation risk, Cross infection risk

How could we allow this? They are not twins! Not family!
Privacy compromised & Risk to injury

Confidentiality violated:
Patients screened in the passage

Shortage of chairs for patients
Constitutional rights of patients violated: Dignity, privacy and confidentiality compromised

Improvised screen in the consulting room

Area where HIV counselling and testing is done

Mpumalanga Patients rights to safe quality care
9 Nov 2016
Gross violation of basic human rights: Risk for cross infection, cleanliness & hygiene compromised
Respect and dignity compromised including a risk to cross infection, risk to injury
Signage to Service Areas

Records Management
Commendable in terms of Patient’s safety

Handrail for support
COMMENDABLE PRACTICE

ZERO TOLERANCE FOR ALCOHOL, DRUGS, SMOKING AND WEAPONS

STORAGE FOR HAZARDOUS WASTE
UNAUTHORISED ENTRY IS PROHIBITED
Malpractice litigation will be the destruction of health care: Costs spiralling without control

- “...the value of reported claims has more than doubled:
  - an increase of 132% within two years”- 2011-2012
- Claims exceeding R1 million increased by nearly 550%
- Claims over R5 million increased by 900% in the past 5 years (Malherbe 2013)
Judge Neels Claasen President of the South African Medico-Legal Association indicated that litigation pending in:

- ECP is R11 billion
- Gauteng is R10 billion
- KZN is R9 billion

Malpractice litigation will be the destruction of health care.
In 2006 the United States of America had 12,513 malpractice claims resulting in a pay-out value of four billion US dollars (East, 2011:72).

In 2008 in the USA the overall annual medical liability system costs, including defensive medicine, were estimated to be $55.6 billion dollars, or 2.4 percent of total health care spending (Mello, et al. 2010).

The United Kingdom received 5,470 malpractice litigation claims in 2007, and the total pay-out value for these claims were 633.3 million pounds.

In West Virginia there is one lawsuit for every two practicing physicians.

Seventy percent of physicians in Texas’ Rio Grande Valley have a medical liability claim outstanding (Morris et al. 2003).
Malpractice is a broader concept and may include negligence. The Joint Commission on Accreditation of Healthcare Organizations (2003) defines malpractice as "improper or unethical conduct or unreasonable lack of skill by a holder of a professional or official position; ... to denote negligent or unskilful performance of duties when professional skills are obligatory."

These two concepts are often used interchangeably (Weld and Garmon Bibb, 2009).
INSPECTION RESULTS 2014-15: CLINICS DOMAINS

- Patients Rights
- Patient Safety / Clinical Governance / Clinical Care
- Clinical Support Services
- Public Health
- Leadership and Corporate Governance
- Operational Management
- Facilities and Infrastructure
## OHSC INSPECTION 2014-15 RESULTS
### COMPLIANCE STATUS PER FACILITY TYPE

<table>
<thead>
<tr>
<th>Score</th>
<th>Clinics</th>
<th>CHCs</th>
<th>District Hospital</th>
<th>Regional</th>
<th>Provincial</th>
<th>Central Hospitals</th>
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<tbody>
<tr>
<td>A</td>
<td>13</td>
<td>5</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>B</td>
<td>15</td>
<td>4</td>
<td>0</td>
<td>7</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>C</td>
<td>39</td>
<td>29</td>
<td>1</td>
<td>5</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>D</td>
<td>69</td>
<td>57</td>
<td>3</td>
<td>7</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>E</td>
<td>116 (27.8%) Non-compliant</td>
<td>106</td>
<td>2</td>
<td>8</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>F</td>
<td>166 (39.8%) Critically Non-Compliant</td>
<td>157</td>
<td>7</td>
<td>2</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td>417</td>
<td>358</td>
<td>13</td>
<td>29</td>
<td>7</td>
<td>3</td>
</tr>
</tbody>
</table>

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The emphasis on human error is an old view when organizations blamed the staff member of incompetence, in contrast to the new view human error is viewed as an organizational problem (Dekker 2002)
Regulations on the Norms and Standards: Urgent promulgation required to provide safe quality patient care.
Conclusion

- Patients have constitutional rights
- Technology has empowered patients they are better informed than ever before.
- Social media, either a friend or foe.
- Healthcare providers should be more caring, compassionate, competent and knowledgeable to ensure that their clinical practices are beyond question.
I thank you elstel@sun.ac.za