COMPLAINTS & LAW SUITS: HOW TO STAY OUT OF TROUBLE!

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ORL DOFF

DISCLOSURES

- I'M NOT A LAWYER (THEY MAKE MORE MONEY!)
- ICRC OF CPSO
- MEDICAL CONSULTANT FOR CMPA/BLG
- HOSPITAL QUALITY REVIEWS

OBJECTIVES

- DISCUSS: RISKY BUSINESS!
- DISCUSS COMMON CAUSES OF MEDICAL ERROR IN THE ED AND STRATEGIES TO PREVENT POOR OUTCOMES

WE WILL NOT DISCUSS...

- MEGACOGNITION
- NURSING DOCUMENTATION
BACKGROUND

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<th>CNO</th>
<th>CPSO</th>
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<tr>
<td>Members</td>
<td>150,000</td>
<td>35,000</td>
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<td>Complaints</td>
<td>310</td>
<td>3,900</td>
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<tr>
<td>NFA</td>
<td>54%</td>
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<td>Disciplines</td>
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USUAL ERRORS

- Critical Thinking: Cognitive Error 34%
- Compliance: Failure to follow protocol 32%
- Competency: Lack of knowledge/skills 13%
- Consciousness: Failure to execute task 15%
- Communication: Incorrect information 6%

USUAL ISSUES

- Missed dx: ACS, PE, Vascular, sepsis, foreign bodies, etc.
- Documentation: Care, handover, d/c instructions
- Team Communication: He said/she said: Pt, nurse, MD, consultant
- Swiss cheese model: Multiple contributing factors

BARE ESSENTIALS OF A SUCCESSFUL LAWSUIT

- Duty of care
- Breach of duty
- Harm or injury
- Causation

> 70% EM successful suits involve missed/delay dx
WHAT ARE THE COMMON ISSUES ...

Communication/Professionalism

Care

CASES

CASE 1

NURSING NOTES

- CHEST PRESSURE WITH SWEATING
- WORRIED ABOUT HEART ATTACK AS FATHER DIED OF MI AT EARLY AGE
PHYSICIAN NOTES

- CP X 4 HOURS, RESOLVING
- PX: VSS, TENDER LEFT ANT CHEST
- DX: MSK CP
- RX: TYL #3
- F/U PRN

THESE STATEMENTS ARE NOT GOOD DEFENCES

- “I DIDN’T HAVE TIME TO WRITE EVERYTHING DOWN!”
- “DO YOU WANT ME TO LOOK AFTER SICK PATIENTS OR WRITE ESSAYS?”
- “I’M SURE I DID THAT EVEN IF I DIDN’T WRITE IT DOWN.”
- “IT LOOKS LIKE 60/40 IN MY NOTES, BUT I MEANT TO WRITE 160/40.”
- “I SCRIBBLED IT OUT BECAUSE I WROTE ON THE WRONG CHART”

STANDARDS

STANDARD OF CARE*

YOU ARE EXPECTED TO FIND TIME TO WRITE CONCISE, LEGIBLE, TIMELY NOTES DOCUMENTING WHAT YOU FOUND OUT, WHAT YOU DID AND WHAT YOU THINK.

LEGAL INTERPRETATION

IF YOU WROTE IT DOWN, THAT’S THE FACTS.

*PHA, RHPA, CPSO, CNO, ACCREDITATION, HOSPITAL
CASE 2: Visit # 1

Visit # 2

Visit # 3
Visit # 4

PEARL #1

“CT NEGATIVE” IS NOT A DIAGNOSIS

PEARL #2

IF THEY KEEP COMING BACK, IT’S USUALLY NOT FOR THE HOSPITAL FOOD

COGNITIVE BIAS: FAILURE TO Dx

- ANCHORING BIAS
- DIAGNOSTIC MOMENTUM
QUESTIONS/COMMENTS?

REALITY-TV

CAUTION SLIPPERY WALKWAY
PEARL #1

“CT NEGATIVE” IS NOT A DIAGNOSIS

PEARL #2

A PATIENT WHO WAS WALKING YESTERDAY SHOULD NOT GO HOME IN A WHEELCHAIR TODAY
PEARL #3

CONSULTANTS WILL SOMETIMES GIVE YOU TERRIBLE ADVICE (PARTICULARLY AT OFF HOURS)

COGNITIVE ERROR: DELAY IN MANAGEMENT

- ANCHORING BIAS
- CONFIRMATION BIAS

WAITING ROOM MEDICINE

- REASSESSMENT OF PATIENTS AT REGULAR INTERVALS WITH PROLONGED DELAYS: ?Q1H
- INITIATION OF INVESTIGATIONS: ECG, BLOOD TESTS, IMAGING
- LIFELINE FOR PATIENT AND FAMILY
- ESCALATION OF CARE TO CN/MD
MISTAKES HAPPEN

- DISCLOSURE
- SAY SORRY

RESOURCES

- CNO: PRACTICE SUPPORT
- CMPA: PERSPECTIVE, RISK MANAGEMENT TOOLBOX/WORKSHOPS
- HOSPITAL COUNSEL
- ACEP: RISK MANAGEMENT TOOLS/GUIDES/WORKSHOPS
- ANNALS EM: 2007;49:196-205

QUESTIONS/COMMENTS?