

Legal Issues in Nursing; Infection Control and Equipment Errors

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Final article in a series about the 5 most common allegations associated with nursing negligence lawsuits.

In this final article on nursing negligence lawsuits, we will discuss 2 separate issues; infection control and equipment errors. First, infections. Most patients enter the healthcare system hoping to leave healthier than they arrived. But in some cases, patients acquire infections known as healthcare-associated infections or HAI's. An HAI is defined as an infection acquired in a hospital, long term care facility, outpatient clinic or home care setting that *was not present at the time the patient entered care.*

The 2013 Canadian Report on the State of Public Health in Canada identified that more than 20,000 patients acquire HAI's infections every year. More than 8000 die. The death rates from Clostridium Difficile have more than tripled since 1997. Since 1995 Methicillin-resistant Staphylococcus aureus (MRSA) infections have increased more than 1000%. Patients at the greatest risk are those that are very young, very old, have weakened immune systems or live with one or more chronic illnesses. Highly concerning for all of us is that up to 50% of bacteria causing these infections are resistant to one or more antibiotics. Also concerning is that 80% of the infections are spread by healthcare workers, patients and visitors.

Lawsuits involving infections in individual patients can be challenging for lawyers because so many people may be involved in the care. Sheer numbers can make it difficult to determine exactly how or when, or by who, the infection was transmitted. On the other hand, lawsuits involving large numbers of patients who all develop the same infection, known as class action lawsuits, have been more successful. You may recall a case involving Canadian Blood Services several years ago related to the spread of HIV and Hepatitis C. More recently there have been lawsuits against hospitals and long-term care facilities for outbreaks of Clostridium Difficile and Tuberculosis. These lawsuits can reflect badly on healthcare facilities and the nurses who work in them because infection rates are considered to be a measure of patient safety. Let's look at a lawsuit involving a postoperative infection where the nurses were sued; not for *causing* the infection, but for their lack of response to some well-known signs and symptoms.

Case Study:

32-year-old Steve fell while snowboarding. An X-ray revealed a compound fracture of the tibia and fibula of his left leg. Surgery was performed, and the leg was stabilized with a 'back slab' cast. Steve arrived on the surgical unit at 5:15 p.m. where he was cared for by Nurse Christine. Nurse Christine described Steve's left foot as swollen, warm and bruised. Pedal pulses were strong. At 6:20 p.m. Steve was awake, alert, and oriented. He was given IM Demerol for pain.

At 7:30 p.m. (nursing change of shift) Nurse Janice took over Steve's care, describing his toes as pale and cool to touch. By 9 p.m., Steve was noted to be very uncomfortable, refused to wiggle his toes and stated the pain in his left leg was increasing. His temperature was elevated to 38.5 Degrees. Nurse Janice gave Steve two Tylenol #3 tablets.

Overnight, Steve was unable to sleep due to pain. His left leg was noted to have slight redness and swelling around the incision and his toes were cool. He was given Tylenol # 3 tablets and IM Demerol. His temperature remained elevated.

At 8:00 a.m. Nurse Christine was back on shift. Steve was extremely uncomfortable and described his pain level at an 8 on a scale of 1-10 despite a recent injection of Demerol. His leg was warm to the touch. His toes were cool and pale. Temperature was 38.6 Degrees.

At 8:45 a.m. Steve dangled his legs over the bedside but refused to try crutches. The lab reported an elevated white blood cell count of 14.3 mCL.

At 12:00 noon Steve was irritable and told Nurse Christine that his leg was on fire. Nurse Christine assured him that pain was normal after surgery and administered 2 tablets of Tylenol #3.

At 1:30 p.m. the surgeon arrived on the unit. He did not examine Steve because he was (finally) sleeping. The surgeon asked Nurse Christine how Steve was doing. She reported that although he had some episodes of elevated temperature and pain, he was anxious to go home. The surgeon discharged Steve and provided a prescription for Tylenol #3.

At 3:20 p.m. Nurse Christine documented that Steve had left the hospital with his family. Vital signs were not checked before discharge.

At 11:20 p.m., 8 hours after discharge, Steve's left leg was hot, red, and very swollen. Steve was crying with pain. His wife called an ambulance. When Steve arrived in the ER he was pale and unresponsive. Temperature was 39.1 degrees, respirations were 42, BP was 72/48 and pulse was 132. Steve was diagnosed with sepsis and taken back to the OR where infected tissue was removed from his left leg. He was admitted to the ICU for 13 days. Recovery was long and difficult, and Steve required four additional surgeries. He was left with significant weakness, deformity, and scarring of his left leg and continued to walk with a cane 15 months after the accident.

Steve wondered if his injuries would have been less serious if the infection had been treated earlier. He was concerned that the nurses did not take his symptoms seriously and was unhappy that he had not seen the surgeon before discharge. He was also very concerned that he would never return to his job as a carpenter. 18 months after surgery, Steve filed a lawsuit claiming that Nurses Christine and Janice had failed to meet the standard of care by not recognizing and reporting obvious signs of infection.

Do you think the nurses met the standard of care? Learn the rest of the story at:

https://www.ConnectMLX.com/index.php?option=com_content&view=article&id=61:case-outcome-4&catid=2:uncategorised

This article was written by Chris Rokosh RN, PNC(C), Legal Nurse Consultant and president of Connect Medical Legal Expert. Chris is a popular speaker on legal issues in nursing across Canada and the US. If you want to learn more about this topic, go to the website www.ConnectMLX.com for a list of available courses.



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