Legal Concerns for School Nurses

How Well Do You Know the Law?

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The information and recommendations in this presentation are based on extensive research and information obtained from medical and nursing authorities. To the best of my knowledge, the information presented reflects current recommendations and practices. Please be reminded all interventions must be based on individual patient situations and must be implemented within your scope of practice and facility policy and procedure. The author disclaims responsibility for any adverse effects, directly or indirectly from the suggested recommendations or from the reader’s misunderstanding of the information or context thereof.

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Disclaimer Notice

Objectives

• Discuss elements of a lawsuit
• Identify common sources of litigation for school nurses
• Discuss practice strategies to decrease risk of litigation
Statistics on Lawsuits

- 60% Acute Care Hospitals
  - Med/Surg Nurses
  - OB Nurses
  - CC, ICU, Peds, RR, ED
- 18% Long-Term Care Facilities
- 9% Advanced Practitioners
- 8% Psychiatric Facilities
- 2% Home Health Agencies

What the Numbers Don’t show...

- Doctor’s Offices
- Prison Nursing
- Volunteer Nursing
- Occupational Health Nursing
- School Nursing

Facts on Litigation

- Documentation is one of the main areas of negligence
- Juries rely heavily on documentation
- Nurses’ credibility focal point
- Nurse’s actions compared with the standard of care and policies and procedures

The Medical Record is “the witness that never dies and never lies”
“Surely, no one would sue a school nurse”

Cases involving School Nurses

- Bethlehem School District, 2010, Pennsylvania
- Bedford Iowa School District, 2012, Iowa
- Wichita School District, 2009, Kansas
- Tulsa Public Schools, 1996, Oklahoma

What about Sovereign Immunity?
Legal HOT Spots

- Policies/Procedures
  - Equipment
- Scope of practice
  - Delegation
- Communication
- Medication administration
- Clinical competence
  - Competence in most common chronic and acute childhood illnesses
  - Crisis intervention [CPR, first aid, etc.]

Martinez vs. New York City’s Department of Education

Most Common Childhood Illnesses

<table>
<thead>
<tr>
<th>Chronic</th>
<th>Acute</th>
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<td>![Question Mark]</td>
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Is your practice consistent with "Best Practice?"

Required Elements for a Lawsuit

- Duty
- Breach of duty
- Harm
- Proximate
Sources of Lawsuits

- Failure to:
  - Keep abreast of knowledge
  - Recognize urgent situations
  - Follow school district policy/procedure
  - Challenge administrative decisions that put students at risk
  - Schwab & Gelfman (2001)
- Delegation
- Failure to communicate
- Failure to advocate
- Failure to document

Scope of Practice

Clinical Competence
- Policies and Procedures
- Delegation
- Medication Administration

Scope of Practice Issues

- Definitions
  - Nurse
  - Unlicensed Assistive Personnel (UAP)

A Person licensed as an APRN, RN or LPN...

http://www.lir.state.sc.us/pol/nursing/index.asp?file=faq.htm
Practice Standards for School Nurses

- Diagnosis
- Planning
- Assessment
- Implementation
- Outcome Identification

- Evaluation
- Consultation
- Coordination of care
- Prescriptive authority

Demystify Roles with a Well-defined Orientation Program

Policies/Procedures

- Consistency
- Adherence
- Equipment
- Potential Conflicts/Problem areas
  - Educational/Administrative regulations
  - Parental and/or student requests/demands
  - Too vague or constraining
Delegation: The transfer of responsibility to another to perform an activity with the former retaining accountability for the outcome

Safety Standards

Student Health Status

Legal Standards

The Five Rights of Delegation

- Right Person
- Right Task
- Right Situation
- Supervision

Medication Administration

- Licensed nurse function
- Unlicensed assistive personnel (UAP) may assist:
  - Opening containers for student
  - Providing reminders
  - Assisting with placement of medication
- 7 rights of medication administration
  - Patient, Dose, amount, route, reason, time, technique, documentation
Medication Guidelines: Considerations

- Should be delivered in original pharmacy-labeled container
- Count and/or measure initial quantity delivered
- Written order required
- Verify safety parameters
- Store medications according to state/federal regulations
- Training for staff who will be assisting with medication administration
- Documentation!

Documentation

Is it possible to define??

Nursing Documentation

- Nursing Documentation - written account by nurses involving a patient’s health status, nursing care/actions and patient response.
Common Pitfalls in Nursing Documentation

- "Too busy"
- Vague descriptions or explanations
- Medication administration
- Untimeliness
- Inconsistency between observations and interventions.
- And the I's have it…
  - Inaccurate, Incomplete, Inconsistent

The intended meaning and legal interpretation may not be the same

- No distress noted
- Patient encouraged to...
- Verbalized understanding...
- No c/o...
- Condition unchanged or vital signs stable
- Will continue to monitor...

Charting Challenging Conversations and Situations
Documenting PRNs

Date/Time: (med/amt.) given (how) for (what reason) Signature.

Include symptoms, your observations and interventions.

PQRST

✓ Precipitating/Palliative Factors
✓ Quality/Quantity
✓ Region/Radiation/Related Symptoms
✓ Severity
✓ Timing

F.A. Davis 2003

Chain of Command

- 0900 “Dr. Jones informed of... no orders given. [signature]”
- 0905 “P. Jones, principle informed of situation and conversation with Dr. Jones. [signature]”
- 0910 “911 called [signature]”
Parent/Guardian Notification

- Student’s mother (Jane Doe) informed that child is c/o “upset stomach” and wants to “go home.” Ms. Doe informed of assessment findings and denies that child has any GI hx or underlying illness that would cause pain; stated “sometimes she does this, just call me if she gets worse, I’m not coming to get her.”

What about Fax or Email Communication?

- Call to verify that report was received.
- Document name of person spoken to, date/time.
- Unavailable

Plan of Care

- RN function, *cannot be initiated by LPN
- Should reflect patient’s current health status/goals
- Must be updated to reflect patient’s progression toward identified goals
Co-signing and Liability

Documentation of Pain

Pain: Assessment

10/10/11 0900: states fell on playground about 30 minutes ago, “c/o of frontal headache, rates as 6, onset 20 minutes ago, describes as sharp, intermittent, non-radiating. A&O x4, calm demeanor, denies having other symptoms, none present.”
Pain: Intervention/Response

1/23/10  1000 “Tylenol 325 mg. given po at 0930 for c/o headache. Observed in office x 30 min. with child stating “It’s gone, can I go back to class?” Calm, no sx pain/discomfort present. Verbalized understanding to report sx to teacher/school nurse. J. Smith, RN

Refusals

(Date/time) 0900  Mother informed of ______refused _______. states “I know what to do” Explained purpose/benefits of _______. stated “I hear you but I’m still not going to agree with this so call whomever you like.” ______ informed (your signature).

Electronic Documentation
Electronic Documentation

• Do’s
  ▫ Document in real time as much as possible
  ▫ Ensure Time documented is same as Time done
  ▫ Follow facility guidelines for documentation
  ▫ Use only facility approved abbreviations
  ▫ Exercise caution with “cutting and pasting”
  ▫ Free text when necessary
  ▫ *avoid duplication as much as possible
  ▫ Protect your password!

“If you didn’t chart it, you didn’t do it”
References

- Lawsuit City. [www.chabad.org](http://www.chabad.org)
- Lawsuits drain school dollars. [www.sptimes.com](http://www.sptimes.com)
- Legal Issues for school nurses. [www.schoolnurse.com](http://www.schoolnurse.com)
- National Association for School Nurses. [www.nasn.org](http://www.nasn.org)
- South Carolina Board of Nursing