

# Amputation mishap

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Amputation Mishap The Neighborhood News reports of a medical error at The Neighborhood Hospital. The report states a 62 year-old male patient underwent surgery to have his leg amputated only to discover the wrong leg was amputated during surgery. The newspaper article states the mishap is negligence. In the following paragraphs, negligence, gross negligence, and malpractice are discussed and determine if the newspaper's statement of negligence is correct. Ethical principles in nursing and nursing documentation regarding such issues are also discussed. Negligence and malpractice fall under the tort laws definition.

According to Guido (2010), "Torts are civil wrongs, not based on contracts, but on personal transgressions in that the responsible person performed an action incorrectly or omitted a necessary action" (p. 92). Tort laws are based on fault and in a health-care setting, tort laws are the most common. To determine if the above scenario results in negligence, gross negligence, or medical malpractice, one must understand the definition of each. According to Guido (2010), negligence is a general term and "equates with carelessness, a deviation from the standard of care that a reasonable person would use in a particular set of circumstances" (p. 2). According to Judson and Harrison (2006), four key elements (four D's), must be present to prove negligence (p. 101): 1. Duty: The person charged has a duty to provide care to the patient. Neighborhood Hospital and staff have a duty to provide a standard of care that a reasonable person would use in a particular set of circumstances. 2. Dereliction: The person charged breaches the duty of care to the patient. The operating room team failed to identify the correct leg

for amputation prior to proceeding with the operation; therefore a breach of duty has occurred. 3.

Direct cause: The breach of duty is a direct cause of injury to the patient. The wrong leg is amputated as a direct result of failure to identify the correct leg for amputation. As a direct result, the patient will become a double amputee once the correct leg is amputated. 4. Damages: A recognizable injury to the patient is present. In this case, the wrong leg was amputated deeming a recognizable injury. Using the above criteria, negligence is present in this case scenario. Gross negligence occurs when medical practitioners perform an intentional act regardless of the negative, anticipated consequences.

In this scenario, the patient must prove the medical staff at Neighborhood Hospital intentionally amputated the wrong leg. The medical staff at Neighborhood Hospital did not intentionally amputate the wrong leg, therefore ruling out gross negligence. According to Guido (2010), medical malpractice is “ the failure of a professional person to act in accordance with the prevailing professional standards or failure to foresee consequences that a professional person, having the necessary skills and education, should foresee” (p. 93). Guido further states the difference between negligence and malpractice is licensure.

If the act is by a non-professional person, it is negligence. If the act is by a professional person, it is malpractice. Six elements must be present to prove malpractice (Guido, 2010, p. 93): 1. Duty owed to the patient Neighborhood Hospital and staff have a duty to provide a standard of care that a reasonable person would use in a particular set of circumstances. 2. Breach

of the duty owed to the patient. The operating room team failed to identify the correct leg for amputation prior to proceeding with the operation; therefore a breach of duty has occurred. 3. Foreseeability.

The omission of identifying the correct leg for amputation prior to surgery. 4. Causation: breach of duty owed caused injury. The wrong leg is amputated as a direct result of failure to identify the correct leg for amputation. As a direct result, the patient will become a double amputee once the correct leg is amputated. 5. Injury. In this case, the wrong leg was amputated deeming a recognizable injury. 6. Damages. The amputated leg cannot be replaced; therefore the patient is entitled to compensatory damages regarding pain and suffering, permanent disability, disfigurement, emotional damages as well as financial loss and medical expenses.

In this scenario, all six elements to prove malpractice are present. The negligence is by licensed personnel in a hospital setting. Using the definitions and criteria above, the newspaper incorrectly defines the mishap as negligence. The correct term to use in this case is professional negligence or malpractice. Nursing documentation should be reflective of the patient's hospital stay. This includes identifying and addressing patient needs, assessments, problems, limitations, and responses to nursing interventions.

According to Guido (2010), " Documentation must show continuity of care, interventions that were implemented, and patient responses to the therapies implemented. Nurses' notes are to be concise, clear, timely, and complete" (p. 197). Guido (2010) lists the following guidelines for nurses to use to ensure documentation is complete and accurate (p. 197-209): 1. Make an entry for every observation. If documentation is absent, it can be assumed an

observation did not take place. 2. Follow-up as needed. Evaluation and observations require follow up to ensure appropriate patient responses and optimal outcomes. . Read nurses notes prior to giving care. Reading nurses notes enable the nurse to know and understand patient diagnosis, response to treatment, and steps necessary to carry out the plan of care. 4. Always make an entry (even if it is late). Document immediately after the observation to reduce the risk of losing valuable information. A late entry is acceptable although risks omitting valuable information. Never document an event before it happens. 5. Use clear and objective language. Document using clear, objective, and definite terms to describe the observation.

Vague terms lead to misinterpretation. 6. Be realistic and factual. It is important to document factual observations and assessments exactly as they happen. It is also recommended to document a realistic picture of the patient, especially if the patient is noncompliant with the plan of care. 7. Chart only one's own observations. Charting observations of others is not accurate observations and can cause credibility of the nurse in question. 8. Chart all patient education 9. Correct chart errors. 10. Identify oneself after every entry. 11. Use standardized checklists or flow sheets. 2. Leave no room for liability. According to Guido (2010), " Understanding one's ethics and values is the first step in understanding the ethics and values of others and in assuring the delivery of appropriate nursing care" (p. 4). Nurses and other healthcare providers face ethical issues daily. Together, law and ethics guide nursing practice to provide safe, effective care keeping patients free from harm. " Ethics are concerned with standards of behavior and the concept of right and wrong, over and above that which is legal in a given

situation" (Judson & Harrison, 2006, p. ). In addition, understanding law and ethics in nursing practice keeps nurses at their professional best and decreases the risk of legal litigation, such as the scenario described by the Neighborhood News. " Though malpractice is rare in the lives of individual healthcare professionals, the number of malpractice suits is on the rise" (Larson & Elliott, 2010, p. 153). The nursing profession has more professional responsibility and accountability than any other time in the history of nursing.

According to Weld and Garmon Bibb (2009), " nurses must confront the fact that they now owe a higher duty of care to their patients, and by extension, are more exposed to civil claims for negligence than ever before" (p. 2). Understanding ethical principles in nursing, importance of nursing documentation and how it relates to medical malpractice and negligence is imperative. References: Guido, G. W. (2010). Legal & Ethical Issues in Nursing (5th ed. ). University of Phoenix eBook Collection database. Judson, K. , & Harrison, C. (2006). Law & Ethics for Medical Careers (5th ed. ). University of Phoenix eBook Collection database.

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