**Challenging Physician Orders: Supporting Documentation and Legal Implications**

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From the Professional Liability Insurance Company’s Perspective and from the Defense Attorney’s Perspective

- Describe accepted standards of safe and effective nursing practice a nurse must follow when clarifying or challenging a physician’s order
  - Ohio Administrative Code: Chapters 4723-1-09.02, 4723-10-09.07, 4723-10-09.08, and 4723-10-09.09
- Discuss implications of law and rules on one’s practice when documentation does not support nurse’s decision in challenging a physician’s order

**Take Away**

- Numerous malpractice cases allege failure to escalate urgent concerns or clarify orders
- You have a duty to the patient to challenge/clarify orders
- Document actions and phone contacts (attempts) when challenging/clarifying physician’s orders
- Use the Chain of Command outlined in the Hospital’s policy and procedure

**Overview of Medical Malpractice Cases**

Negligence action

- Duty
- Breach of duty
- Proximate cause
- Damages

**Overview of Medical Malpractice Cases (cont’d)**

- Who gets sued and why?
  - Doctors
  - Hospitals
  - Nurses

**Overview of Medical Malpractice Cases (cont’d)**

Cases decided by Evidence
- Medical records
- Other documents, i.e. policies
- Testimony
  - Parties;
  - Lay witnesses;
  - Expert witnesses
Ohio Administrative Code
- 4723-4-03 (RN)
- 4723-4-04 (LPN)
- 4723-4-05 (APN)

Nurses shall, in a timely manner, implement any order unless the nurse believes or should have reason to believe the order is:
- Inaccurate
- Not properly authorized
- Not current or valid
- Harmful, or potentially harmful
- Contraindicated by other documented information

If any of the above are applicable, the nurse shall, in a timely manner, clarify the order. In clarifying the order, the nurse must consult with the proper individual, notify the ordering practitioner of a decision to not follow the order, document and take any other action needed to assure the safety of the patient.

Common Nursing Malpractice Allegations
- Failure to accurately assess and monitor patient's condition
- Failure to notify physician of problems / changes in patient’s condition
- Failure to follow orders
- Medication Errors
- Failure to provide discharge instructions
- Failure to ensure safety

Nursing as Patient Advocate
- Conflicts concerning plan of care
- Unclear or potentially unsafe orders
- Unavailability or unresponsiveness of physician
- Unprofessional behavior

Documentation
- Document ALL contacts and exactly what information was relayed, to whom, and when
- Record orders received and carried out
- Clearly document the patient’s response
- Avoid blaming others in the medical record

Phone Contact Recommendations
- Know whom to call
- Ensure the physician is AWAKE and FOCUSED especially when calling at night
- Describe the patient’s condition clearly and state what intervention is being sought
- Have all pertinent information available
Chain of Command Policy
- Depicts chain of authority for communication and decision-making
- Sets forth conditions under which chain of command should be initiated
- Clearly delineates individuals to be contacted and outlines steps to be taken in the communication process

Chain of Command
- Purpose
  - To clarify a care management plan
  - To resolve a conflict involving patient care
  - To obtain necessary care intervention
  - To provide patient advocacy
  - To support patient safety and risk management

Chain of Command
- In General Used
  - To obtain needed intervention for patient when physician is unable/unwilling to intervene
  - When physician response is inappropriate or ineffective, or physician does not present to examine the patient

Case 1
Surgery-Incorrect Count
- What action should the nurse take?
- How would the chain of command apply to this scenario?
- What should be documented?

Case 2
Emergency Department
- What action should the nurse take?
- How would the chain of command apply to this scenario?
- What should be documented?

Final Comments
- Numerous malpractice cases involve failure to escalate urgent concerns or clarify orders
- You are the Patient's Advocate and have a legal duty to the patient
- Be Specific and Factual in Documentation
- Documentation is Critical
  - You are not likely to remember specifics about care several years later
  - Your charting is a reflection of the type of care you provide
- Know the Chain of Command Policy