



Canadian Medical Protective Association



Staying Out of Hot Water

Dr Susan Swiggum – Senior Physician Risk Manager, CMPA
ACCADA AGM – Saskatoon September 2010



Conflict of Interest

I have no financial or professional affiliation with any organization that can be perceived as a conflict of interest in the context of this presentation

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Patient safety

- Reduction and mitigation of unsafe acts
- Use of best practices shown to lead to optimal patient outcomes



Myths

- Perfection myth
 - if I just try harder, I won't make any mistakes
- Punishment myth
 - if we punish people when they make mistakes they will make fewer of them



System failure(s)



From James T. Reason



Long waits to be seen Phone calls

Work area design Many sick patients Uncertainty

Dim lighting

Faulty communication Home stress

New or unfamiliar procedure Noise New trainees

Multi-tasking Multi-tasking

Shift work fatigue Violence Ambiguity

Constant interruptions Hunger

Need to hurry Short-staffed

Technology won't work

Pre-occupation

Taking short cuts

Human factors – understanding how humans interact with their environment



System approach to providing better care

- Make it easier to make right decision
- Make it harder to make wrong decision



Objectives

- Delegation and supervision
- Policies and procedures





Objectives

Delegation and supervision

- Responsibility of supervisors
- Responsibility of trainees





Delegated Acts

- Delegating and accepting responsibility
 - What?
 - Who?
 - How?





Delegation – supervisor

Was the delegation reasonable?

- 1 - level of training
- 2 - trainee's experience and capabilities
- 3 - was the supervision adequate





Delegation – the court considers

Resident or student:

- act in a reasonable or prudent manner
- recognize limits, caution
- notify staff of abilities
- update staff of any change
- document





Was the patient informed?





Summary

- High risk area
- Familiarize yourself with the procedure
- Be willing to supervise others
- Consider patient's unique circumstances
- Be available for assistance



Delay in diagnosis
of appendicitis
July 1





Risk management

- Liability of residents
 - residents
 - staff
- Uncertain diagnosis
- Documentation
- Informed discharge
- Analgesics in abdominal pain



Brain damaged baby





Why don't people speak up ?

- Afraid to look stupid or unknowledgeable
- Not sure I'm correct
- Not sure how to speak up
- Not encouraged to speak up





Common questions



- Should you inform the patient that a trainee is providing care?

- Can I delegate an informed consent discussion?

- What if an adverse event happens.
Who's responsible for disclosure to the patient?

 Disclosure of adverse events

- Members may call the CMPA for advice
- Disclosure resources available on website
- Training in Disclosure



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- What if I don't agree with what the medical student or resident has documented in the medical record?



- If I sign the medical record, am I liable for the care provided?



Summary



Delegated Acts

- Delegating and accepting responsibility
 - What?
 - Who?
 - How?





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 Was the patient informed?



 Delegation and supervision
Summary

- Delegation versus abdication
- Know your own limits
- Encourage trainees to ask for help
- Supervise:
 - task
 - patient's characteristics
 - level of training
 - knowledge, skills of the individual

 Objectives

- Delegation and supervision
- Policies and procedures





Policies and procedures

- Is there a policy?
- Is it reasonable?
- Does it assign roles and responsibilities?
- Is it known?
- Is it working – quality assurance mechanism?





Liability - Hospital





Liability – private office





Judgment re hospital policy

- Not to enforce their own policy rules or instructions is in my opinion negligence.”





Court's judgment re Hospital (cont'd)

- “... hospital has **overriding responsibility** for **quality of care** rendered to patients.”
- “... **reorganization of the relationship** of the ER doctors with residents and fully qualified doctors in internal medicine are **aimed at better care** for patients, **not to enforce its own higher standard is negligence.**”



Alberta Court of Queen's Bench

The law

- “ I find there is an **inconsistency** in the **hospital policy** and **what is actually done.**”
- “... the **failure of the hospital to enforce** its own rules or regulations or instructions **amounts to negligence** on the part of the hospital.”

Justice J. Hope



Saskatchewan Court of Queen's Bench

The law

- “ Where a patient in a hospital is treated by more than one specialty, the hospital owes a duty to ensure that proper co-ordination occurs and that the treatment program operates as a unified and cohesive whole.”

Justice J. MacLeod



Risk identification

- Are policies in place in your institution regarding consultations, transfers or care and discharges ?
- Are the policies current, known and followed ?



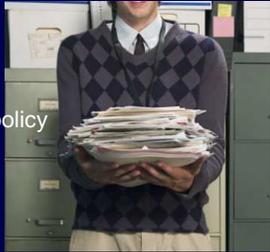
Suicide in hospital





Role of Hospital Policies

- No policy exists
- Inadequate policy
- Sound policy
 - no one follows the policy





Bottom Line

- Is there a policy?
- Is it reasonable?
- Does it assign roles and responsibilities?
- Is it known?
- Is it working – quality assurance mechanism?