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Pressure Injuries

RDNs Professional Liability Risks

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The national incidence rate of pressure injuries (PIs) for hospitalized patient is 2.5%, resulting in 60,000 deaths per year.[i] Individuals who developed PIs are more likely to die during the hospital stay, have generally longer hospital lengths of stay, and be readmitted within 30 days after discharge.[ii]

The prevalence of PIs is also significant in other healthcare institutionalized settings such as long term care and rehabilitation settings. In additional to the human toll of PIs, their economic impact on the U.S. healthcare system is between 9-11billion per year.[iii] In 2008, the Centers for Medicare and Medicaid Services (CMS) began to reduce payments to hospitals for patients who develop hospital acquired conditions, such as pressure injuries, central line-associated blood stream infections (CLABSIs), and venous thromboembolism (VTE). Malnutrition and poor dietary intake are significant risk factors for the development of PIs and wound healing. Nutritional support is crucial preventing and healing of PIs. The role of the RDN in pressure injury prevention and treatment cannot be underestimated.

PRESSURE INJURY LITIGATION

Medical liability claims related to PIs are not uncommon. According to an article published in Today's Wound Clinic, "Pressure ulcers are highly litigated and are the second most common cause of civil suits alleging medical malpractice — superseded only by wrongful death suits."[iv] The average settlement of a PI lawsuit is $250,000, with some awards topping $312 million. Plaintiffs are favored in up to 87% of these cases.[v,vi]

Some of the more significant verdicts in PI cases include:

The Estate of Doris L. Cote, et al v. Five Star Quality Care, Inc., et al.

An Arizona jury awarded the estate of an 86-year-old woman $16.7 million in punitive damages, and $2.5 million in compensatory damages, against the defendant Five Star Quality Care. The complaint alleged that the patient become *malnourished and dehydrated* after overmedicating her with painkillers, resulting weakened condition allowed a bedsore to become infected and eventually cause her death. They further alleged that the facility consciously disregarded procedures designed to prevent pressure ulcers and intentionally falsified medical records to cover it up.[vii]

Dieser v. St. Anthony's Medical Center

A Missouri jury entered a verdict against a medical center and in favor of a 58-year-old, awarding $883,000 for development of a Stage IV pressure ulcer on the coccyx following surgery. Dieser developed a black spot on his coccyx that turned out to be a Stage IV pressure injury, which required surgery and removal of his coccyx, low back, buttocks and anus. As a result, he required dressing changes and plastic surgery over the next year He alleged that the hospital staff should have timely turned him and provided *adequate nutrition,* among other things.[viii]

Reyna Van TASSELL, on behalf, of herself and all those entitled V. UNIVERSITY MEDICAL CENTER CORPORATION, an Arizona corporation, Southern. 23

An Arizona jury awarded the estate of a 63-year-old with paraplegia $6.5 million (including $3.5 million in punitive damages) against a hospital where the man developed a pressure ulcer in his sacrum that advanced to Stage III. Van Tassell suffered from malnutrition and lost 45 pounds during his 22 day hospitalization. The plaintiff argued that the pressure ulcer, which eventually became infected, placed him in an irreversible state of deterioration, even though the cause of death was complications of paraplegia. [ix]

A common allegation in these three closed claim examples is malnutrition, weight loss, and poor dietary intake. Other factors such as diabetes, peripheral vascular disease, dehydration, and anemia are also associated with pressure injuries.

CAN THE RDN BE SUED?

A plaintiff can name an employer or an individual healthcare provider in a lawsuit. Under the legal theory of “respondeat superior” employers may be found liable for their employees’ actions that resulted in harm to a patient. This principle, “makes an employer or principal legally responsible for the wrongful acts done by an employee or agent, if such acts occur within the scope of the employment or agency.”[x] Hospital professional liability policies typically cover employees for their professional acts, errors, or omissions. To assess whether you need to

maintain a separate policy, you should know whether you share limits with the organization or if a separate policy is maintained.

A shared limit means that you share your limits of liability with your organization. Based on the coverage amount per occurrence, you and the organization would draw against that amount. When the organization reaches the shared limit for the policy year, no additional coverage is available under that policy year. Separate limit means that your organization has an additional limit of liability that you do not share with the organization. Separate limit policies are typically more expensive.

PRACTICAL TIPS FOR REDUCING YOUR RISKS

- Adhere to an evidenced-based treatment plan. Refer to the 2014 National Pressure Ulcer Advisory/European Pressure Ulcer Advisory Panel/Pan Pacific Injury Alliance (NPUAP/EPUAP/PPPIA) Nutrition Guidelines for recommendations related to calories, protein, fluid, and vitamins.
- Use a validated screening tool to identify patients who require a comprehensive nutritional assessment based on the risk factors.
- Develop a process to identify patients with significant changes in nutritional status.
- Maintain accurate, complete, and timely documentation. (Your documentation should support that the standard of care was met.)
    - Document all important aspects of screening, assessment, and monitoring to include non- compliance/barrier with treatment plan
- Communicate any significant in condition or concerns to the patient's provider immediately

[i] Lyder, Ch, Y Wang, M Metersky, M Curry, R Kliman, N R Verzier, and D R Hunt. 2012. "Hospital-acquired pressure ulcers: Results from Medicare Patient Safety Monitoring System study." *Journal of American Geriatric Society* 60 (9): 1603-8. doi:10.1111/j.1532-5415.2012.04106.x.

[ii] Ibid

[iii] Ibid

[iv] Petrone, Kim, and Leanne Mathis. 2017. "Pressure ulcer litigation: What is the wound center's liability." *Today's Wound Clinic* 11 (9).

[v] Bennett, RG, J O'Sullivan, E M DeVito, and R Remsburg. 2000. "The increasing medical malpractice risk related to pressure ulcers in the United States." *Journal of the American Geriatric Society* 48 (1): 73-81.

[vi] Voss, AC, S A Bender, and M L Ferguson. 2005. "Long-term care liability for pressure ulcers." *Journal of the American Geriatric Society* 53 (9): 1587-92

[vii] *The Estate of Doris L. Cote, et al. v. Five Star Quality Care, Inc. et al.* 2012. CV2012-094285 (Maricopa County Superior Court).

[viii] *Dieser v. St. Anthony's Medical Center.* 2015. No. 12 SL-CC03428 (Mo. Cir. Ct. St. Louis County,Feb 27).

[ix] *Reyna Van TASSELL, on behalf, of herself and all those entitled V. UNIVERSITY MEDICAL CENTER CORPORATION, an Arizona corporation, Southern.* 23. C20099898 (Superior Court of Arizona, Pima County, Febuary 2014).

[x] US Legal. n.d. "Respondeat Superior Doctrine Law and Legal Definition." https://definitions.uslegal.com/r/respondeat-superior-doctrine/.

The Estate of Doris L. Cote, et al. v. Five Star Quality Care, Inc. et al. 2012. CV2012-094285 (Maricopa County Superior Court).