PROTECT YOUR PRACTICE! MALPRACTICE ISSUES FOR NURSE PRACTITIONERS

Christopher W. Blackwell, Ph.D., APRN, ANP-BC, AGACNP-BC, CNE, FAANP, FAAN

Associate Professor & Director

Adult-Gerontology Acute Care Nurse Practitioner Programs

Department of Nursing Practice

College of Nursing

Academic Health Sciences Center

University of Central Florida

Orlando, Florida

DISCLOSURES -

- Dr. Blackwell has no relevant financial disclosures
- Dr. Blackwell maintains a for-profit malpractice consultation practice that focuses on negligent care allegations levied against nurse practitioners
- Dr. Blackwell has served as an expert witness for both plaintiff and defense legal teams
- Dr. Blackwell has served as an expert for a state Board of Nursing and Department of Health investigation in favor of the defendant nurse practitioner
- All images that appear are in the public domain and are either without copyright or are on accessible platforms that allow use of the image (Creative Commons) or are AI-generated

OBJECTIVES

- At the end of this presentation, participants will describe the anatomy of a malpractice lawsuit and malpractice requisites;
- At the end of this presentation, participants will analyze at least 3 applicable clinical practice strategies that reduce risk for liability in malpractice litigation.
- At the end of this presentation, participants will discern malpractice policies and recognize how malpractice policy variance and liability limits impact their practice.

ANATOMY OF AN ADVANCED PRACTICE NURSING MALPRACTICE SUIT

ARS

Which best describes responsibility of causality in NP malpractice lawsuits?

a. The NP must deflect negligence to other care providers.

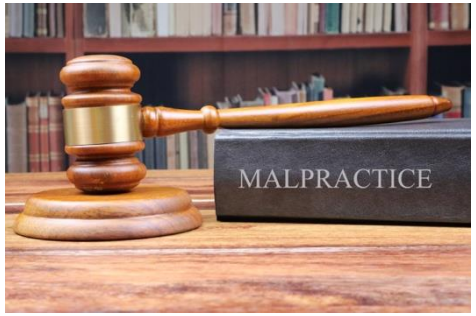
b. The NP must prove malpractice/negligence did not result in injury.

c. The plaintiff must deflect negligence from other care providers to the NP.

d. The plaintiff must prove the NP's negligence resulted in injury. (CORRECT ANSWER)

ANATOMY OF AN ADVANCED PRACTICE NURSING MALPRACTICE SUIT

- Breach in the standard of care
  - **This is first and foremost the most essential aspect of a malpractice claim**
- Florida Statutes (As an Example):
  - The prevailing professional standard of care for a given health care provider shall be that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers.



Malpractice by Nick Youngson CC BY-SA 3.0 Pix4free.org

ANATOMY OF AN ADVANCED PRACTICE NURSING MALPRACTICE SUIT

- Florida Statutes (As an Example):
  - If the injury is claimed to have resulted from the negligent affirmative medical intervention of the health care provider, the claimant must, in order to prove a breach of the prevailing professional standard of care, show that the injury was not within the necessary or reasonably foreseeable results of the surgical, medicinal, or diagnostic procedure constituting the medical intervention, if the intervention from which the injury is alleged to have resulted was carried out in accordance with the prevailing professional standard of care by a reasonably prudent similar health care provider.
- **It is the plaintiff's responsibility to prove this breach occurred.**

Malpractice by Nick Youngson CC BY-SA 3.0 Pix4free.org

ANATOMY OF AN ADVANCED PRACTICE NURSING MALPRACTICE SUIT

- Patients and family members reach out to attorneys:
  - While their family member or themselves are an inpatient
    - This can result in an attorney or legal team providing input to these individuals and even aiding them in gathering data and building a case while the patient remains in the hospital
  - After care has been rendered and they perceive malpractice
  - Or after a death has occurred
  - Plaintiff's attorneys reach out to internal and external experts to review medical documents
    - These documents may extend beyond just the care provided by the NP and may include materials to support the NP's negligence resulted in physical (sometimes chronic) health and psychosocial (punitive) sequalae

Image generated from Microsoft Copilot. (2026). Nurse talking to a patient [AI-generated image].

ANATOMY OF AN ADVANCED PRACTICE NURSING MALPRACTICE SUIT

- Experts provide input to plaintiff's attorneys on whether they believe the situation represents true malpractice
  - Sometimes, there is no malpractice
  - Sometimes, there is no evidence the NP was negligent
  - Sometimes, there is evidence that other providers, not the NPs, were negligent

ANATOMY OF AN ADVANCED PRACTICE NURSING MALPRACTICE SUIT

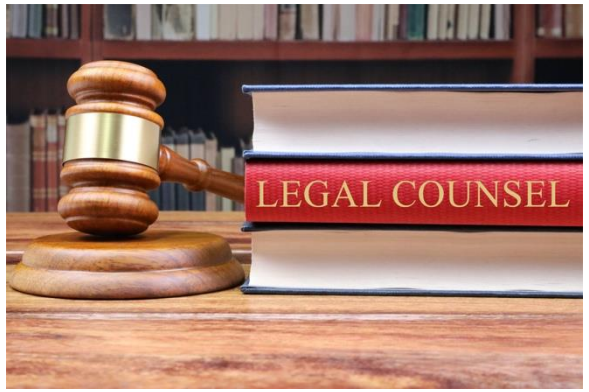
- Experts provide input to plaintiff's attorneys on whether they believe the situation represents true malpractice
  - Sometimes, there is evidence the NP was the only negligent provider (rare)
  - Sometimes, there is evidence the NP and other providers were all negligent

ANATOMY OF AN ADVANCED PRACTICE NURSING MALPRACTICE SUIT

- If experts support a claim of malpractice, they become an expert witness and assist the legal team in preparation of a charging document against the plaintiff
  - The charging document/affidavit provides **explicit** details regarding how the NP committed negligence and how the negligence contributed to the adverse outcome(s) or death of the patient

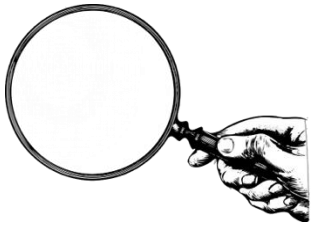
ANATOMY OF AN ADVANCED PRACTICE NURSING MALPRACTICE SUIT

- After receiving the charging document/affidavit (delivered to home or office), the NP reaches out to his or her insurance provider, which will align the NP with a defense attorney and provide guidance regarding his or her immediate actions
- NPs and their practices will notify hospital legal department of the allegations
- NP's legal team will begin working with their own experts who determine the NP did not commit negligence; they will then prepare their own response to the charging affidavit, refuting each and every claim of the plaintiff's legal team and experts (delivered to plaintiff's legal team)



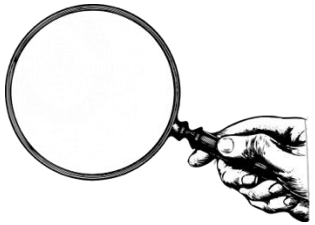
ANATOMY OF AN ADVANCED PRACTICE NURSING MALPRACTICE SUIT

- Next, the discovery stages occur
  - Both plaintiff and defense attorneys procure additional documents, which will include all relevant patient charts, diagnostic tests, and possibly other records:
    - NP scheduling documents
    - Hospital credentialing documents (used often to show scope of practice violations)
    - Physician-NP collaboration contracts (used often to show scope of practice violations)
    - Hospital policies and procedures manuals and documents (to show deviance from expectations)
    - Cell phone records and data (to establish a timeline and log of relevant calls and text message conversations)



ANATOMY OF AN ADVANCED PRACTICE NURSING MALPRACTICE SUIT

- Next, the discovery stages occur
  - Both plaintiff and defense attorneys procure additional documents, which will include all relevant patient charts, diagnostic tests, and possibly other records:
    - Expert-witness prepared documents:
      - Technical reports or summations
      - Socioeconomic reports prepared by economists that estimate past, current, and financial losses consequential to the injury
        - This includes not only medical and supportive care, but also includes loss of salary, loss of benefits, consequential need for future care, potential diminished life expectancy issues (eg. future loss of income or benefits for partner or spouse and/or children)



    - Qualifications of all expert witnesses involved (CVs, past history of working on plaintiff and defense teams in malpractice claims), income derived from expert witness consultation, etc.
    - Any other documents either the defense of plaintiff's team believes is significant to the case can be subpoenaed

- **ALL VERY TIME CONSUMING! May take a year or more!**

ARS

An NP is served a malpractice charging document. The plaintiff's attorney is also demanding a copy of the NP's malpractice policy. The nurse practitioner should:

a. Comply with the order and provide the requested policy documents.
b. Ignore the request for policy documents and contact the malpractice insurance carrier. (CORRECT ANSWER)
c. Notify the hospital's risk management department of the charging document.
d. Provide the requested policy documents and seek legal counsel for representation.

ANATOMY OF AN ADVANCED PRACTICE NURSING MALPRACTICE SUIT

- Next, usually deposition testimony is obtained for all witnesses, plaintiff, defendant(s):
  - Nurses (could be co-defendants or witnesses)
  - Physicians (could be co-defendants or witnesses)
  - Respiratory therapists (could be co-defendants or witnesses)
  - Unlicensed assistive personnel (CNAs, techs, etc.)
  - Office managers and assistants
  - Hospital administration
  - Plaintiff
  - Plaintiff's family members
  - Expert witnesses for plaintiff and defense
  - ANYONE else the plaintiff or defense team believes will be helpful to their case
- Some states (eg. PA) require a written export report in lieu of deposition testimony
  - (federal cases as well)

ALL VERY TIME CONSUMING! May take a year or more!

Image generates from Microsoft Copilot *Deposition* [AI-generated image]. (2026). Microsoft Copilot.

ANATOMY OF AN ADVANCED PRACTICE NURSING MALPRACTICE SUIT

- After all depositions are obtained for a case, the case can go to mediation/arbitration:
  - Some states REQUIRE this (e.g. Florida)
  - Malpractice insurance company and plaintiff's legal team perform a cost/benefit analysis to determine a ratio of settlement : cost for trial to determine if going to trial is wise
    - Going to trial is VERY expensive and risky for BOTH sides
    - A settlement offer might be offered to stave the case from going to trial
    - Plaintiff's attorneys might settle with various co-defendants in a case, but continue to pursue others
    - Multiple mediation/arbitration meetings may occur before a settlement is reached
    - If a settlement is reached, the case effectively ENDS
    - If a settlement is not reached, the case goes to trial

ANATOMY OF AN ADVANCED PRACTICE NURSING MALPRACTICE SUIT

- After all depositions are obtained for a case, the case can go to mediation/arbitration:
  - Average Time from Claim → Closure
    - > $10,000 payout = 4.5 years
    - < $10,000 payout = 3.1 years
    - Close claim with expense only = 4.1 years

Image generated from Microsoft Copilot: *Mediation* [AI-generated image]. (2026). Microsoft Copilot.

CONSEQUENCES OF MALPRACTICE LAWSUITS ON NURSE PRACTITIONERS

CONSEQUENCES OF MALPRACTICE LAWSUITS ON NURSE PRACTITIONERS

- Stress
- Financial Strain
  - Preparing responses to accusations made in malpractice suits is incredibly time consuming and requires a major time commitment from the NPs involved
  - If a financial settlement is made that exceeds an NP's insurance caps, the NP is financially responsible for remaining balance
  - Future malpractice policy costs will increase
    - Car accident? DUI? Ticket? Car insurance prices go UP!

Image generated from Microsoft Copilot *Person reviewing bills at a table* [AI-generated image]. (2026). Microsoft Copilot.

Image generate from Microsoft Copilot. *Empty pockets* [AI-generated image]. (2026). Microsoft Copilot.

CONSEQUENCES OF MALPRACTICE LAWSUITS ON NURSE PRACTITIONERS

- Future credentialing issues
  - Healthcare organizations don't want to employ/credential NPs with significant malpractice histories
- Professional reputation issues
- Possible Board of Nursing or DOH ramifications
- Psychological impacts
- Self-doubt

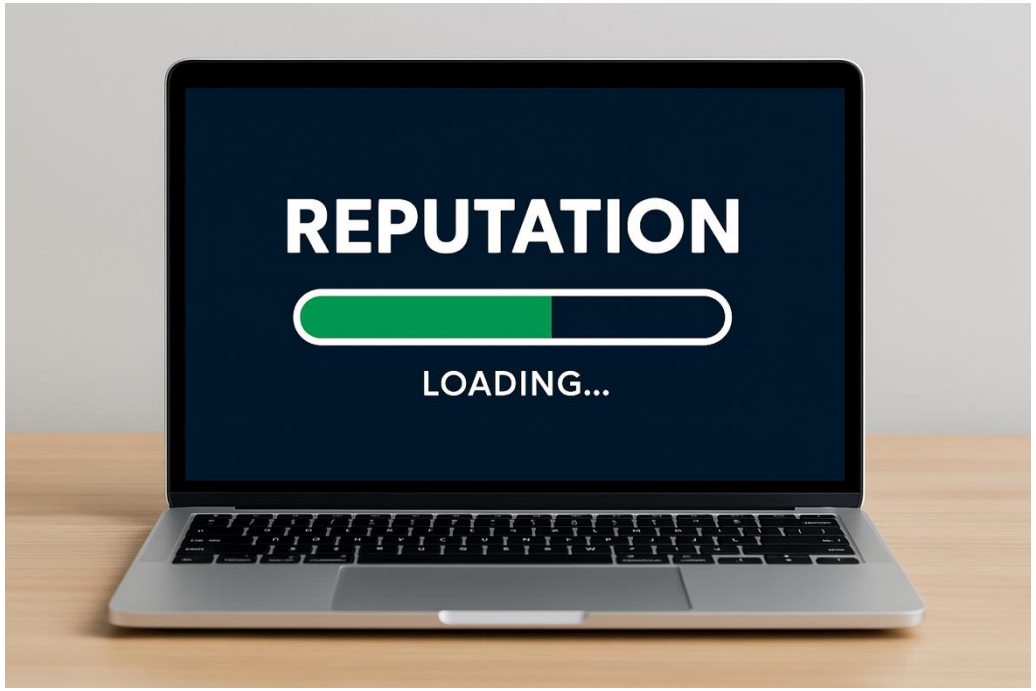


Image generated from Microsoft Copilot Microsoft Copilot. (2026). *Reputation loading* [AI-generated image]. Microsoft.

EPIDEMIOLOGY OF NP MALPRACTICE

ARS

Which best describes the national trend in incidence of malpractice lawsuits naming NP as defendants over the last Nurses Service Organization (NSO) reporting period? Malpractice lawsuits naming NPs have:

a. decreased.

b. increased. (CORRECT ANSWER)

c. stabilized since the prior reporting period.

d. started to outnumber malpractice lawsuits against physicians.

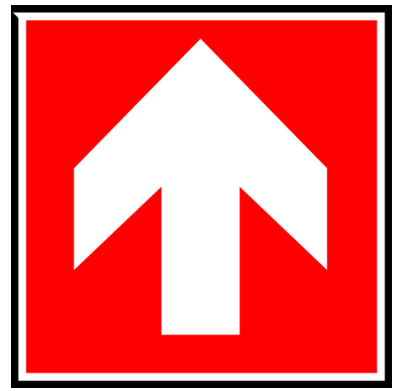
EPIDEMIOLOGY OF NP MALPRACTICE

- Malpractice claims against nurse practitioners (NPs) increased by 10.5% between 2017-2022
- The average total incurred also increased ($300,506 → $332,137)
- Neonatal specialty has the highest claim payout ($627,333)
- Gerontology specialty has the lowest payout ($332,137)
- Adult-Gerontology ranks 4th ($328,871)
  - This includes primary and acute care services
- NSO predicts that as NP full practice authority continues to expand, so will malpractice lawsuits against NPs.

Image licensed through:: https://securefleetmanager.com/10-tips-to-increase-car-rental-business/

EPIDEMIOLOGY OF NP MALPRACTICE

- Diagnosis-related claims are highest represented claims (37.1%) with an average total incurred of $385,947
- Death and cancer are the two most common injuries, accounting for > 50% of claims
- The average cost to defend an NP rose 19.5% from 2017 → 2022; and 61.1% from 2012 → 2022
- Professional conduct, medication prescribing, and scope of practice allegations reflect the highest distribution of DOH/license investigations
- Major Take Away Points:
  - The number of malpractice claims against NPs is increasing
  - The cost to defend an NP named in a malpractice suit is increasing
  - The amount being paid out for NPs named in a malpractice suit is increasing



ARS

Which area of negligence carries the largest payout in NP malpractice lawsuits?

a. Abuse, patient rights, and professional conduct
b. Assessment (CORRECT ANSWER)
c. Diagnosis
d. Treatment and care management

EPIDEMIOLOGY OF NP MALPRACTICE

- Payout Numbers by Allegation (Ranking):
  - Errors in:
    - Assessment = 3.9% ($484,680)
    - Diagnosis = 37.1% ($385,947)
    - Medication Prescribing = 17.7% ($356,892)
    - Treatment and Care Management = 35.3% ($258,229)
    - Abuse, Patient Rights, Professional Conduct = 2.6% ($203,264)

Image generated from Microsoft Copilot *Rankings* [AI-generated image]. (2026). Microsoft Copilot.

EPIDEMIOLOGY OF NP MALPRACTICE

- Assessment = 3.9% ($484,680)
  - Diagnostics/Lab Tests:
    - Failure to order appropriate diagnostic tests
    - Failure to f/u regarding lab/diagnostic
      - Delaying a diagnosis
      - Delay in addressing abnormal lab results
  - History and Physical:
    - Lack of complete patient and family Hx
    - Incomplete physical assessment
    - Failure to list current medications/ and/or complaints
    - Failure to document patient noncompliance with:
      - Appointments
      - Ordered diagnostic tests
      - Prescribed medications
    - Failure to notify of diagnostic test results and recommendations for further treatment of workup

Image generated from Microsoft Copilot. (2026). Nurse listening to a patient's chest [AI-generated image].

EPIDEMIOLOGY OF NP MALPRACTICE

- Diagnosis = 37.1% ($385,947)
  - Cancer (33.7%)
  - Infection (19.8%)
  - Cardiac/Vascular (16.3%)
  - Neurological (12.8%)

Image generate from Microsoft Copilot *Nurse examining an X-ray image* [AI-generated image]. (2026). Microsoft Copilot.

EPIDEMIOLOGY OF NP MALPRACTICE

- Injuries that Lead to Most Claims:
  - Death (45.7%)
  - Cancer (8.2%)
  - Organ failure or loss of organ function (7.8%)
  - Neurological injury/damage (6%)
  - Amputation (3.4%)

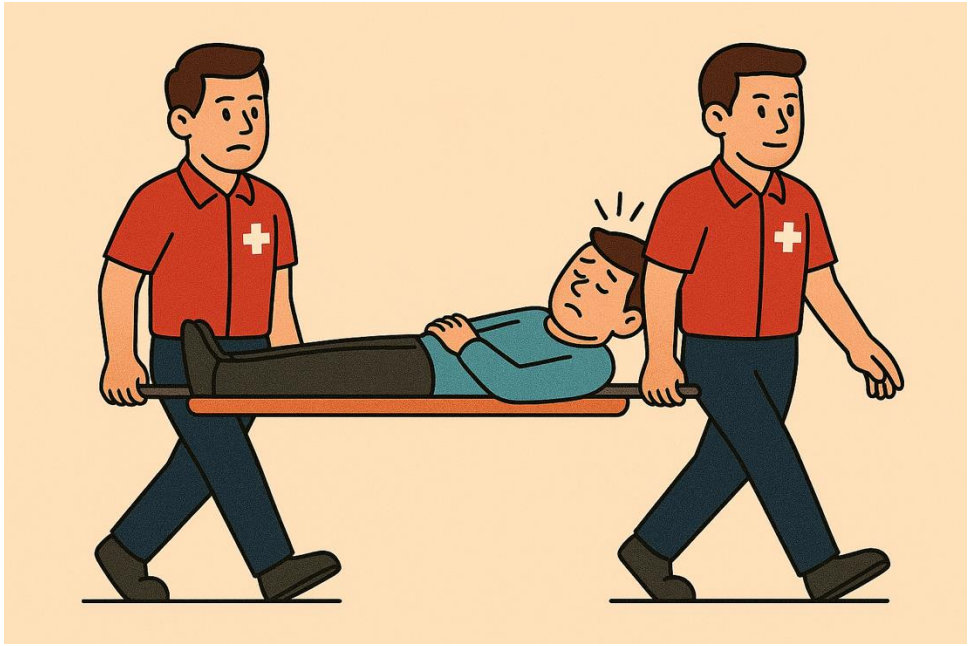


Image generated from Microsoft Copilot *Patient transport on a stretcher* [AI-generated image]. (2026). Microsoft Copilot.

EPIDEMIOLOGY OF NP MALPRACTICE

- Injuries that Lead to Most Claims:
  - Death (45.7%)
    - Infections, abscesses, sepsis (18.9%)
    - Cardiac/pulmonary arrest (14.2%)
    - Cancer (10.4%)
    - Non-infarct cardiac condition (10.4%)
    - Suicide (9.4%)

Image generated by Microsoft Copilot *Injury prevention* [AI-generated image]. (2026). Microsoft Copilot.

ARS

The top three state DOH investigations against nurse practitioners (ranked in incidence) are related to:

a. medication prescribing, scope of practice, and professional misconduct.

b. professional misconduct, medication prescribing, and scope of practice. (CORRECT ANSWER)

c. scope of practice, medication prescribing, and professional misconduct.

EPIDEMIOLOGY OF NP MALPRACTICE

- State Board of Nursing or Department of Health Investigations:
  - Average cost of $7,155
  - Top Investigations:
    - Professional misconduct (27.2%)
    - Medication prescribing (16.8%)
    - Scope of Practice (14.4%)
  - Penalties Levied:
    - Closed case without action: 56.8%
    - Probation: 12%
    - Letter of reprimand: 11.2%
    - Stipulation: 6.4%
    - Fine: 3.6%
    - Continuing Education: 2.8%
    - Suspension: 2.8%
    - Revocation: 2.4%
    - Surrender: 2%

Image generated from Microsoft Copilot. (2026). Investigation with magnifying glass [AI-generated image].

EPIDEMIOLOGY OF NP MALPRACTICE

- The National Practitioner Data Bank (NPDB) is a repository for reporting licensed individuals who have undergone certain types of professional discipline or who are alleged to have engaged in malpractice or unprofessional conduct:
  - Malpractice Allegation Groups lowest, highest values (during reporting period, 2019-2023):
    - Diagnosis related (30.5%, 41.4%)
    - Treatment related (30.3%, 38.2%)
    - Medication related (11.3%, 14.5%)
    - Monitoring related (4.7%, 8.3)
    - Obstetrics related (1.1%, 4%)

Reference: McMullen, P.C., Zangaro, G., Selzer, C., & Howie, W. (2026). Nurse practitioner claims and the National Practitioner Data Bank: Trends, analysis, and implications for nurse practitioner education and practice. *JNP– Journal for Nurse Practitioners*, *22*, 105569. doi: 10/1016/j.nurpra.2025.105569.

EPIDEMIOLOGY OF NP MALPRACTICE

- The National Practitioner Data Bank (NPDB) is a repository for reporting licensed individuals who have undergone certain types of professional discipline or who are alleged to have engaged in malpractice or unprofessional conduct:
  - Specific Malpractice Allegations lowest, highest values (during reporting period, 2019-2023): :
    - Failure to diagnose (22.2%, 30.3%)
    - Failure to treat (7.4%, 9.8%)
    - Delay in diagnosis (8.2%, 8.7%)
    - Improper management (5.2%, 11.3%)
    - Failure to monitor (3.6%, 8.6%)
    - Improper performance (2.8%, 9.3%)

Reference: McMullen, P.C., Zangaro, G., Selzer, C., & Howie, W. (2026). Nurse practitioner claims and the National Practitioner Data Bank: Trends, analysis, and implications for nurse practitioner education and practice. *JNP– Journal for Nurse Practitioners*, *22*, 105569. doi: 10/1016/j.nurpra.2025.105569.

STRATEGIES TO AVOID MALPRACTICE

STRATEGIES TO AVOID MALPRACTICE

- Actively Participate with the Patient
  - Patients and families rarely sue providers they like
  - Maintain communication and discuss your care plan
  - Avoid distractions
- Review other Clinicians' Documentation
  - This can help decrease opportunities to miss data
  - Look particularly for contradictions and differences
  - NEVER retrospectively alter documentation in the belief it will help prevent malpractice

Image generated from Microsoft Copilot. *Male nurse showing a patient a document* [AI-generated image]. (2026). Microsoft Copilot.

STRATEGIES TO AVOID MALPRACTICE

- Address Abnormal Findings
  - Document explanations regarding abnormal vital signs, physical exam findings, or diagnostics
  - If you are not addressing an abnormal finding, document why:
    - **Eg: Pulmonary AGACNP presents to assess a pt with COPD exacerbation. During the visit, the pt informs the NP she is also having "Severe new abdominal pain."**
      - **The AGACNP performs a PE, orders a CT scan of the abdomen, contacts the hospitalist, and informs the hospitalist about the patient's complaints and the pending CT scan.**
      - **The AGACNP documents the PE findings in addition to the following in the plan of care:**
        - **Pt c/o new onset ABD pain during today's visit at 1600. Contacted Dr. Smith at 1605, informed her about the patient's complaints, and immediately ordered a STAT CT scan of the ABD s contrast. Dr. Smith agreed to follow-up. RN will f/u with Dr. Smith for any acute changes.**

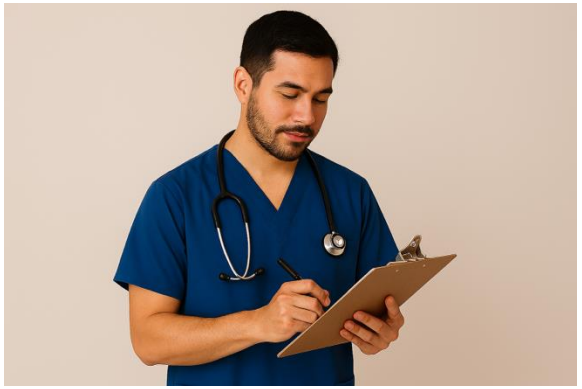


Image by: M365 Copilot. (2026). *Male nurse documenting* [AI-generated image].

ARS

The ICU NP responds to a rapid response (RR) on a post-operative patient with hypotension. The patient quickly stabilizes, without requiring transfer to the ICU. However, the NP notes a significant drop in the patient's hemoglobin and hematocrit two hours prior to the RR event. The NP should contact the:

a. nurse caring for the patient and request he or she report the RR event and drop in hemoglobin and hematocrit to the managing hospitalist, then document the order.

b. managing hospitalist to report the RR event and drop in hemoglobin and hematocrit.

c. managing hospitalist to report the RR event and drop in hemoglobin and hematocrit, then document the discussion. (CORRECT ANSWER)

d. surgeon to report the RR event and drop in hemoglobin and hematocrit, then document the discussion.

STRATEGIES TO AVOID MALPRACTICE

- Explain Your Thinking
  - **MOST** important aspect of charting
  - Window into your brain
  - Include a brief recap of the history, pertinent physical exam and diagnostic findings, and provide an explanation of the presentation
  - Elucidate regarding your differentials and provide rationales as to why differentials were counted and discounted based on history, physical exam, or diagnostics
  - Document pertinent discussions with the patient or family, including medical advice
    - Also document any care that was refused and that you educated the patient and/or family regarding the risks of not getting that care (including death) and this was acknowledged by the patient/family

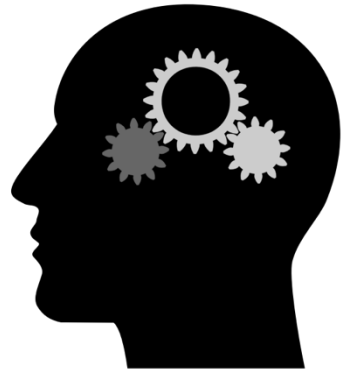


Image licensed through CCO: https://freesvg.org/thinking-v1

ARS

The nurse practitioner prepares a patient for discharge from the ED. The patient will require self wound care at home. The NP should:

a. delegate the discharge instructions to the registered nurse caring for the patient.

b. educate the patient about the proper technical skill involved with the wound care.

c. ensure the patient understands potential adverse events and need to return to the ED for worsening symptoms.

d. ensure the patient understands potential adverse events and need to return to the ED for worsening symptoms, educate the patient about the proper technical skill involved with the wound care, require return demonstration, and document the patient's correct skill and acknowledgement of potential adverse events, and possible need to return to ED. (CORRECT ANSWER)

STRATEGIES TO AVOID MALPRACTICE

- If the patient is being discharged, document a reassessment of the patient's condition before discharge.
    - Ensure you have a follow-up plan of care clearly documented
        - Do NOT rely on the RN to do this!
    - Document an acute follow-up plan:
        - Eg. Pt was educated to call emergency medical services immediately for transfer to the ED for any worsening symptoms
    - Document that the patient (or caregiver) verbalized understanding of all discharge instructions and verbalized these instructions back to you accurately
    - If the patient requires a technical skill as an aspect of care, document the patient correctly demonstrated to you how to perform the skill and verbalized understanding of potential adverse events (eg. fever, sweats, chills, excessive pain, suppuration, heat/erythema at site, etc.)

MALPRACTICE POLICY ESSENTIALS

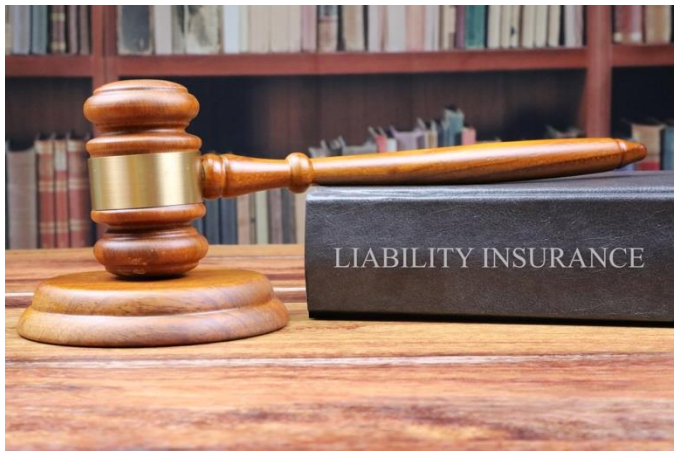
ARS

A nurse practitioner is named in a malpractice lawsuit related to care rendered in January of 2025. The NP is currently not working and doesn't have an active malpractice insurance policy. The NP was covered with a claims-based policy 1/1/25-12/31/25. Will the NPs malpractice insurance cover the malpractice claim?

a. No (CORRECT ANSWER)
b. Yes

MALPRACTICE POLICY ESSENTIALS

- *Two Major Types of Malpractice Insurance Policies:*
  - Claims-Based:
    - Policy covers you only while it is active
      - Eg: Policy is written for 1/1/25-12/31/25 and a claim is filed against you on 6/26/26
  - Occurrence-Based:
    - Policy covers you during the policy coverage dates
    - When the claim is filed doesn't matter
  - Which type do you have?
    - Do you know?



MALPRACTICE POLICY ESSENTIALS

- Two Major Types of Malpractice Insurance Policies:
  - Example:
    - Stella is an AGACNP working for a hospitalist group on 1/5/25
    - She is employed by the hospital, which provides her with a claims-based insurance policy active from 1/1/25-12/31/25
    - Stella gets pregnant in March of 2025 and decides to take 2026 off from work so she can stay at home with her baby
    - On 1/25/26, Stella receives a notification that a malpractice claim has been filed against her for care she provided in February 2025.
    - Because Stella had a claims-based policy, **she is NOT covered and will have to pay legal expenses and settlements/judgments out of her own pocket**
      - If Stella had an occurrence-based policy active in February 2025, the insurance company would cover her legal expenses, settlements, or judgments
      - A claims-based policy would only cover Stella if she renewed it on 1/1/26

MALPRACTICE POLICY ESSENTIALS

- Two Major Types of Malpractice Insurance Policies:
  - Take Away Point?: Get an OCCURRENCE-BASED POLICY!
    - If your employer won't provide an occurrence-based policy:
      - Ask for a malpractice stipend and purchase your own occurrence-based policy
      - Ask if you can personally pay the difference between the claims-based policy provided by the employer and an occurrence-based policy

ARS

Compared to higher malpractice insurance liability limits, lower liability limits:

a. decrease chances of an NP being named in a malpractice lawsuit.
b. increase chances of an NP being named in a malpractice lawsuit.
c. may increase the chance of other care providers being named with the NP in a malpractice lawsuit.
d. may not have an impact on an NP being named in a malpractice lawsuit. (CORRECT ANSWER)

MALPRACTICE POLICY ESSENTIALS

- Liability Limits
  - High versus Low:
    - Higher limits = higher premiums
    - Higher limits = more protection
    - Higher limits = higher chance of being named as a defendant
    - Lower limits = lower premiums
    - Lower limits = less protection
    - Lower limits COULD = lower chance of being named as a defendant
  - What is your worth?
  - What is your practices' worth?
    - Answers to these questions will dictate how much liability limitation you should set on your policy
  - If you leave a job, CANCEL your old policy!
    - Don't ever carry more than one active policy at a given coverage time period

MALPRACTICE RISKS WHEN USING AI

MALPRACTICE RISKS WHEN USING AI

- Accuracy and privacy are at the top of the list for malpractice concerns with AI
- Generative AI operates in a black box, predicting the correct answer based on information stored in a database
- With an incorrect diagnosis by generative AI, liability is with the APN
- Generative AI can provide ideas
- Eg:
  - An AGACNP is unable to remove an ETT after a procedure
  - The AGACNP checked ChatGPT in the ICU, finding a similar case
  - Epinephrine in the anesthetic restricted the blood vessels, causing the laryngeal cords to “stick together”
  - Following the AI information, the AGACNP allowed more time for the anesthesia to diffuse
  - As it wore off, the vocal cords separated, easing the removal of the breathing tube
- Currently, malpractice policies do not specify AI coverage
- Some legal experts believe AI will decrease, rather than increase, malpractice risk
  - Having more data points to consider can make AGACNPs’ jobs faster, easier, and more accurate

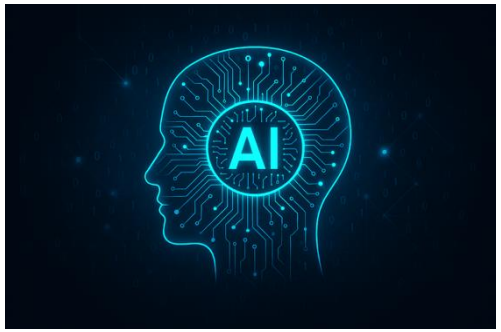


Image generated from M365 Copilot. (2026). *Artificial intelligence illustration* [AI-generated image].

ARS

A nurse practitioner treats a patient on the medical/surgical for endocarditis. The NP orders vancomycin and ceftriaxone. The patient becomes anaphylactic and dies. The electronic medical record indicated the patient had “no known allergies.” Is the NP negligent?

a. No. The chart clearly indicated the patient wasn’t allergic to anything.
b. Maybe. Proof the NP asked the patient about allergies may be necessary. (CORRECT ANSWER)
c. Maybe. Vancomycin and ceftriaxone can carry cross-sensitivities.
d. Yes. The NP ordered the antibiotics and is ultimately responsible.

PRESENTATION REFERENCES

Please see the supplemental handout, which includes a bibliography and additional resources for more information.

Scan the QR Code to access the online bibliography!

Bibliography Compiled by:

Andrew Todd, MLIS, BSN, RN

Reference Librarian, College of Nursing

University of Central Florida Libraries

Image generated from Microsoft Pilot *Thank you note with thumbtack* [AI-generated image]. (2026). Microsoft Copilot.

THE END

REFERENCES

Balestra, M. (2018). Telehealth and legal implications for nurse practitioners. *Journal for Nurse Practitioners, 14*(1), 33-39. https://doi.org/10.1016/j.nurpra.2017.10.003

Balestra, M. L. (2018). Liability risks for psychiatric mental health nurse practitioners. *Journal for Nurse Practitioners, 14*(9), 671-676. https://doi.org/10.1016/j.nurpra.2018.08.005

Brown, A. (2022). Clinical negligence claims for pressure injuries from the perspective of a tissue viability medico-legal nurse expert. *British Journal of Community Nursing, 27*(Sup9), S14-S20. https://doi.org/10.12968/bjcn.2022.27.Sup9.S14

Buppert, C. (2018). Can a nurse practitioner go to jail for malpractice or other things done in clinical practice? *Journal for Nurse Practitioners, 14*(6), 503-504. https://doi.org/10.1016/j.nurpra.2018.04.001

Byrd, S. (2023). Lessons from a patient on not cutting corners. *AJN American Journal of Nursing, 123*(1), 64-64. https://doi.org/10.1097/01.NAJ.0000911560.75075.52

Coffey, S. (2019a). Liability and risk for nurse practitioners. *AAACN Viewpoint, 41*(3), 14-15.

Coffey, S. (2019b). Reducing liability and risk for the advanced practice nurse part 2. *AAACN Viewpoint, 41*(5), 14-13.

REFERENCES

Cypher, R. L. (2022). Elements of negligence in medical liability: First in a 2-part series. *Journal of Perinatal and Neonatal Nursing, 36*(1), 22-24. https://doi.org/10.1097/JPN.0000000000000628

Cypher, R. L. (2022). Elements of negligence in medical liability: Second in a 2-part series. *Journal of Perinatal and Neonatal Nursing, 36*(2), 112-114. https://doi.org/10.1097/JPN.0000000000000645

Goode, V., Douglas, C., & Merwin, E. (2022b). The national practitioner database malpractice study of severity of alleged malpractice injuries trends 2008–2018. *American Journal of Medical Quality, 37*(5), 396-404. https://doi.org/10.1097/JMQ.0000000000000060

Kaplan, D.A.(2024, December 10). Malpractice in the age of AI. Medscape Medical News. Medscape. https://www.medscape.com/viewarticle/malpractice-age-ai-2024a1000mpd?&icd=login_success_email_match_fpf

Khodayarimotlagh, Z., Ahmadi, F., Sadooghiasl, A., & Vaismoradi, M. (2022). Professional protection as the strategy of nurse managers to deal with nursing negligence. *International Nursing Review, 69*(4), 442-449. https://doi.org/10.1111/inr.12744

Matt, S. B. (2018). Good Samaritan laws: Will I be protected if I help? *Nurse Practitioner, 43*(3), 52-54. https://doi.org/10.1097/01.NPR.0000530216.62772.19

REFERENCES

McMichael, B. J., Safriet, B. J., & Buerhaus, P. I. (2018). The extraregulatory effect of nurse practitioner scope-of-practice laws on physician malpractice rates. *Medical Care Research and Review, 75*(3), 312-326. https://doi.org/10.1177/1077558716686889

McMullen, P.C., Zangaro, G., Selzer, C., & Howie, W. (2026). Nurse practitioner claims and the National Practitioner Data Bank: Trends, analysis, and implications for nurse practitioner education and practice. *JNP– Journal for Nurse Practitioners*, *22*, 105569. doi: 10/1016/j.nurpra.2025.105569.

Michel, C. P., & Talley, C. E. (2022). Medication mix-up: What happened at Vanderbilt and how it impacts health care providers. *Journal of Health & Life Sciences Law, 17*(1), 71-78.

Miller, K. (2019). Setting or patient care needs: Which defines advanced practice registered nurse scope of practice? *Journal for Nurse Practitioners, 15*(7), 494-495. https://doi.org/10.1016/j.nurpra.2019.03.004

Myers, L. C., Sawicki, D., Heard, L., Camargo, C. A., & Mort, E. (2021). A description of medical malpractice claims involving advanced practice providers. *Journal of Healthcare Risk Management, 40*(3), 8-16. https://doi.org/10.1002/jhrm.21412

REFERENCES

Nurses Service Organization. (2022). *Nurse practitioner professional liability exposure claim report* (*5th ed.*).

Reiner, G. (2022). Full practice authority: What it means for NPs: Liability considerations as nurse practitioners' scope of practice expands. *Journal of the Nurse Practitioner Association of New York*, *2*(1), 20-21.

Relias Media. (2018a). Nurse practitioner payouts increasing; Opioids and neonatal top concerns. *Healthcare Risk Management, 40*(1). https://www.reliasmedia.com/articles/141982-nurse-practitioner-payouts-increasing-opioids-and-neonatal-top-concerns

Relias Media. (2018b). Report: Nurse practitioners pose malpractice risk similar to physicians. Healthcare Risk Management, 40(5). https://www.reliasmedia.com/articles/142585-report-nurse-practitioners-pose-malpractice-risk-similar-to-physicians

Relias Media. (2019). Metadata find way into ED malpractice litigation. ED Legal Letter, 30(7). https://www.reliasmedia.com/articles/144587-metadata-find-way-into-ed-malpractice-litigation

Warren, D. (2018). Decreasing malpractice risk in the emergency department. *Journal of Emergency Nursing, 44*(4), 407-408. https://doi.org/10.1016/j.jen.2018.03.015

IMAGE REFERENCES

- Please see image citations on slides.

PROTECT YOUR PRACTICE! MALPRACTICE ISSUES FOR NURSE PRACTITIONERS

Christopher W. Blackwell, Ph.D., APRN, ANP-BC, AGACNP-BC, CNE, FAANP, FAAN

Associate Professor & Director

Adult-Gerontology Acute Care Nurse Practitioner Programs

Department of Nursing Practice

College of Nursing

Academic Health Sciences Center

University of Central Florida

Orlando, Florida