



## Medical malpractice claims and PAs

Medical malpractice claims can be asserted against any healthcare provider, including physician assistants (PAs). As PAs are now found in many settings and as the demand for PAs grows, the reality is that physician assistants are more frequently finding themselves defending the care they provide to patients. This case involves a thirty-one year-old patient who presented to the ED with a history of fever, nausea, vomiting, and diarrhea. The patient claimed the PA did not diagnose a bacterial infection. The PA claimed the diagnosis was based on the decedent's symptoms at the time, multiple physical exams and tests, and the decedent's history.

The patient/plaintiff's decedent, a thirty-one year old man, presented to the emergency room with a history of fever, nausea, vomiting, and diarrhea. Lab testing revealed an elevated white blood cell count. The defendant physician's assistant diagnosed an acute viral syndrome and discharged the patient. The defendant supervising physician reportedly agreed with the diagnosis and discharge. The decedent returned to the ED two days later and was diagnosed with pneumonia. He developed Adult Respiratory Distress Syndrome (ARDS) and died. An autopsy revealed he died of Legionella pneumonia. The plaintiff alleged that the defendant PA failed to diagnose and treat the bacterial infection. The defense contended that although the white blood cell count was elevated, there was no identifiable source of bacterial infection at the time of the ED visit. The PA alleged that her diagnosis was based on the decedent's symptoms at the time, multiple physical exams and tests, and the decedent's history.

According to published reports, the jury returned a defense verdict.

Risk Management is an integral part of a healthcare professional's standard business practice. Risk management activities include identifying and evaluating risks, followed by implementing the most advantageous methods of reducing or eliminating these risks. The following risk control recommendations can be used to enhance quality of care and reduce risk:

- Carefully document discussions with the patient and/or responsible party regarding diagnostic test results (both normal and abnormal), as well as recommendations for continued treatment and patient response to results
- Carefully document your clinical decision-making process leading to the diagnosis and treatment plan. Similarly, document your rationale for any deviation in practice from established clinical protocols, guidelines or standards
- Seek alternative physician assistance or consultation if the collaborating/supervising or employing physician is not providing adequate support.
- Diligently screen, test for, monitor and/or treat diseases known to have high morbidity and mortality, such as cancer, infection, heart disease, hypertension and diabetes.
- Utilize evidence-based clinical practice guidelines or protocols when establishing a diagnosis and providing treatment, and document the clinical justification for deviations from protocols.
- Obtain results from indicated diagnostic tests, procedures and consultations before documenting the diagnosis and implementing the treatment plan.
- Seek diagnostic procedure and test results proactively, and document all findings and subsequent treatment actions.
- Seek timely specialist consultations and advice regarding patients with recurring complaints and/or signs and symptoms that do not respond to the prescribed treatment.
- Notify patients of abnormal findings in a timely manner and schedule follow-up appointments without delay.
- Consult with the supervising physician at least as frequently as required and for all cases of difficult or delayed diagnosis.
- Request regular chart review and ongoing feedback regarding the appropriateness of treatment and care.
- Notify patients when indicated health screening activities are due and follow up if patients do not respond, documenting all communications.
- Record all patient noncompliance with ordered testing and treatment, as well as all counseling given and other efforts made to encourage compliance.

It is the PA's duty to practice within the boundaries of a PA's scope of practice. These are determined by four parameters: education and experience; state law; facility policy; and the supervising physician's delegatory decisions. Complying with each boundary must be followed in order to promote effective patient-centered care and may protect you from being named in a lawsuit. By using this example, PAs have a better understanding of the risks they may encounter on a daily basis.



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