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THEORY TO FACT:
MEDICAL RECORD ANALYSIS

Plaintiff or defense, let our experience with and knowledge about the health care system work for you.

Volume 3 2009

New Guidelines: Hospital Infections are Preventable

Cases involving hospital acquired (nosocomial) infections pose many challenges for attorneys. The causation issues are difficult to establish. There are several reasons for this:

- Patients can be at high risk from many surgical procedures, especially if they involve areas of the body where bacteria are already present such as the intestines or dirty wounds.
- Wounds can be difficult to keep clean, especially if they are contaminated by feces or urine from pressure ulcers in the coccyx area.
- Symptoms of a nosocomial infection may not become evident until after discharge from the hospital.

Several agencies have implemented new guidelines and policies that will strengthen the causation issues in infection cases. This will help reduce litigation costs because insurance companies will want to settle quickly.

Last year the CDC published infection prevention guidelines. The CDC estimates that annually 90,000 deaths occur due to hospital acquired infections. In long-term care facilities there is an estimated 1.5 million nosocomial infections each year.

The Joint Commission released infection prevention strategies in October 2008. Hospitals must prioritize and address the most common deadly infections including central line infections, surgical site infections, and the spread of antibiotic-resistant microorganisms such as MRSA. Also, the Centers for Medicare and Medicaid Services (CMS) are no longer going

to reimburse for certain nosocomial infections.

Never Events: Not Defendable

Medical malpractice claims will be more difficult to defend in light of these changes. There are medical events that should never happen in a health care setting. The goal of these guidelines and policies are to save lives by saving money. It will be possible for plaintiff attorneys to litigate these types of cases more cost-effectively because damages do not necessarily need to be catastrophic.

Certified Legal Nurse Consultant®'s (CLNC®) identify these kinds of cases by reviewing medical records and recognizing how these guidelines and policies apply. Causation issues can be addressed by investigating facility policies and

CMS Non-reimbursable Events:

- Retention of an object after surgery
- Air embolism
- Blood incompatibility
- Pressure ulcers stage III and IV
- Falls, burns, and electric shock
- Poor glycemic control
- Catheter urinary tract infection
- Vascular catheter infection
- Deep vein thrombosis or pulmonary embolism after orthopedic procedures
- Surgical site infection
- Surgery on the wrong body part
- Surgery on the wrong patient
- Wrong surgery performed



National Quality Forum's Serious Reportable Events in Healthcare (new and changed events):

- Wrong donor sperm or egg
- Retention of a foreign object
- Elopement injury or death
- Serious med errors
- Wrong blood products
- Electric shock
- Falls

(Go to <qualityforum.org> for 21 unchanged events.)

procedures and whether they measure up to accreditation and reimbursement guidelines.

If 78 year-old Mrs. Jones becomes septic (generalized blood infection) with MRSA from a urinary tract infection, close scrutiny should take place concerning urinary catheter care, pericare, and hydration. Infection control, staff education, and management and administrative issues to implement policies and procedures should be taking place. If not, these are breaches in standards of care.



Diana Schmitt, RN, BSN, CLNC

Resistant Microbes: More than MRSA

Antibiotic resistant microbes are the cause of many infectious diseases in the United States. Methicillin-resistant *Staphylococcus aureus* (MRSA) accounts for up to 60% of nosocomial infections. This microbe is usually treated with vancomycin; however, it has become resistant even further. Vancomycin-intermediate *Staphylococcus aureus* (VISA) is partially resistant to vancomycin and there have been several reported cases of vancomycin-resistant *Staphylococcus aureus* (VRSA).

Because these microbes proliferate and adapt rapidly, science cannot keep up by creating antibiotics to defeat them. So, the answer is not new antibiotics; the answer is clinical practices that meet standards of care and prevent patients from acquiring nosocomial infections.



Prudent antibiotic use:

- clinicians need to follow prescribing restrictions and guidelines
- close monitoring of vancomycin use

Stringent infection control measures:

- standard precautions throughout health care facilities
- strict adherence to contact isolation protocols
- disinfection of environmental surfaces and equipment

For information on standard precautions, see www.cdc.gov.

To find out more about VISA and VRSA, read *Investigation and Control of Vancomycin-Intermediate and Resistant Staphylococcus aureus (VISA/VRSA)* at www.cdc.gov/ncidod/dhqp/pdf/ar/visa_vrsa_guide.pdf.

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By: Diana Schmitt, RN, BSN, CLNC

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