

# Allied Health Medical Law & Ethics



## Module B.2 Professional Liability and Medical Malpractice



7/26/2016

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# Professional Negligence and Medical Malpractice



- **Negligence**
  - Charges made when family is unsatisfied with treatment outcome
- **Malpractice**
  - Professional misconduct
  - Failure to meet professional standards of care that result in harm to the patient

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# The Tort of Negligence



- Professional liability malpractice claims:
  - Malfeasance
  - Misfeasance
  - Nonfeasance

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## Four D's of Negligence

- **Duty**
- **Dereliction**
- **Direct or proximate cause**
- **Damages**
  - Compensatory
  - Punitive
  - Nominal

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## Defense to Malpractice Suits

- **Affirmative Defense**
  - Present evidence that patient condition was result of factors other than negligence
- **Denial Defense**
  - Plaintiff must prove defendant carried out wrongful or negligent act
- **Assumption of Risk**
  - Prevents plaintiff from recovering damages if risk is voluntarily accepted

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## Professional Liability

- Civil liability cases
- Physical conditions of the premises
- Illegal sale of drugs
- Promise to cure
- Law of agency
- Altered medical records

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