

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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Malpractice Prevention

- **General guidelines**
 - Always act within scope of practice
- **Safety**
 - Primary concern for patient welfare
- **Communication**
 - “Say what you mean and mean what you say!”
- **Documentation**
 - “If it isn’t written, it wasn’t done!”

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Suggested Reference

Fremgen, B.F., Medical Law and Ethics, 5th edition (2016). Pearson Education, Inc. ISBN 978-0-13-399898-6

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Credits

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