

NURSING-509

Main reasons for patients to file a lawsuit

- ▶ a desire to prevent a similar (bad) incident from happening again;
- ▶ a need for an explanation as to how and why an injury happened;
- ▶ a desire for financial compensation to make up for actual losses, pain, and suffering or to provide future care for the injured patient;
- ▶ a desire to hold providers accountable for their actions.



The Risk increases with...

- ▶ Rapid decision making
- ▶ Incomplete information
- ▶ High acuity setting
- ▶ Constant interruptions
- ▶ Frequent distractions
- ▶ Managing multiple patients at once
- ▶ Short relationship with a patient
- ▶ For ER: 1 lawsuit for 20,000 patient
- ▶ Average provider 5,000 pt/year



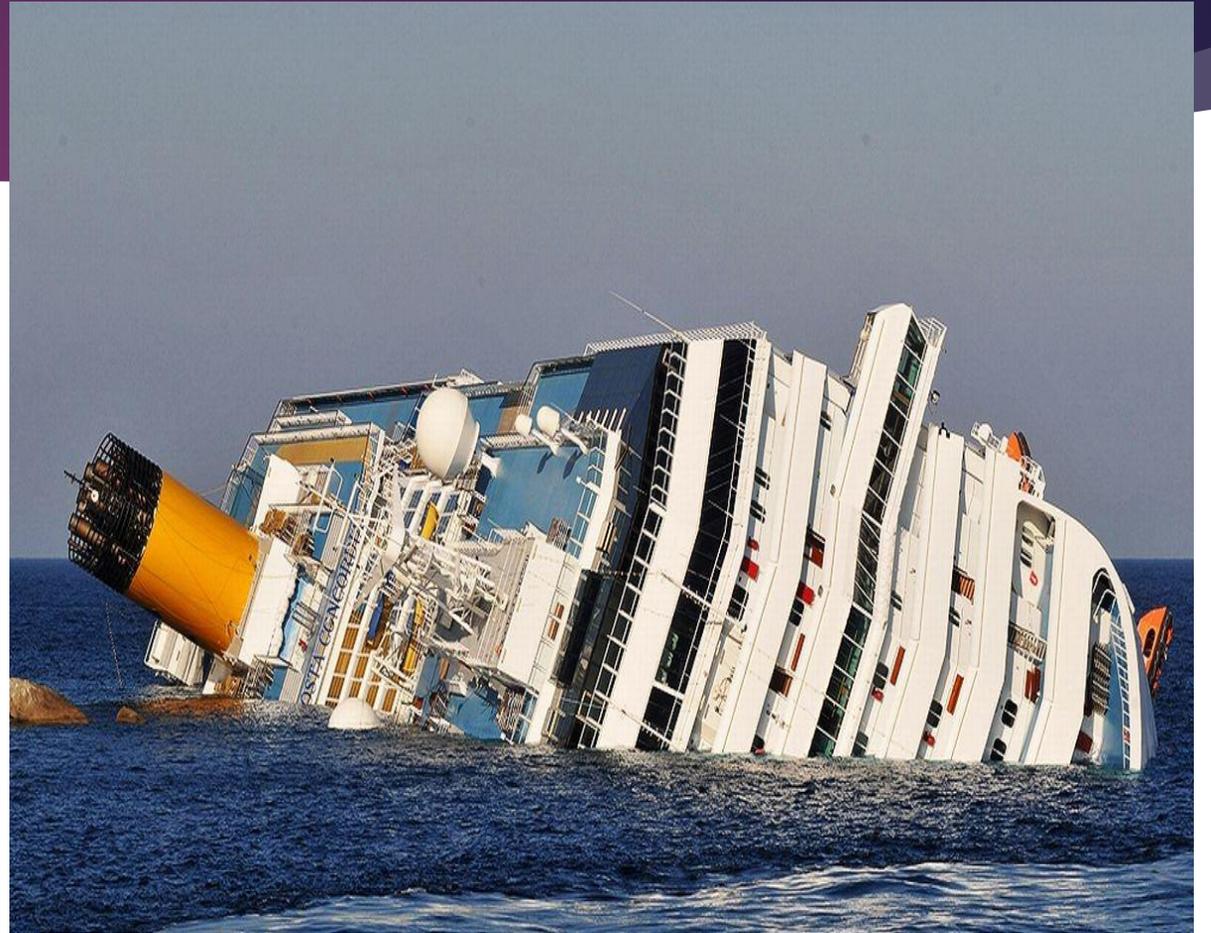
Makeup of medical malpractice

- ▶ Duty to treat (was there a physician-patient relationship?)
- ▶ Negligence
- ▶ *Standard of care* — often determines negligence
- ▶ Causation (did negligence cause harm or injury to patient?)
- ▶ Damages (did patient suffer harm?)



To Err Is Human

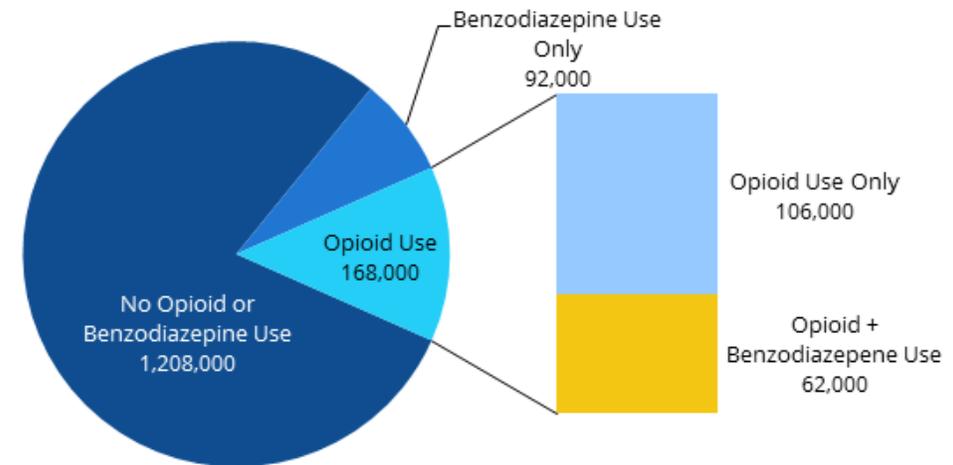
- ▶ Human Error
 - ▶ Perception
 - ▶ Assumption
 - ▶ Communication



Error of assumption:

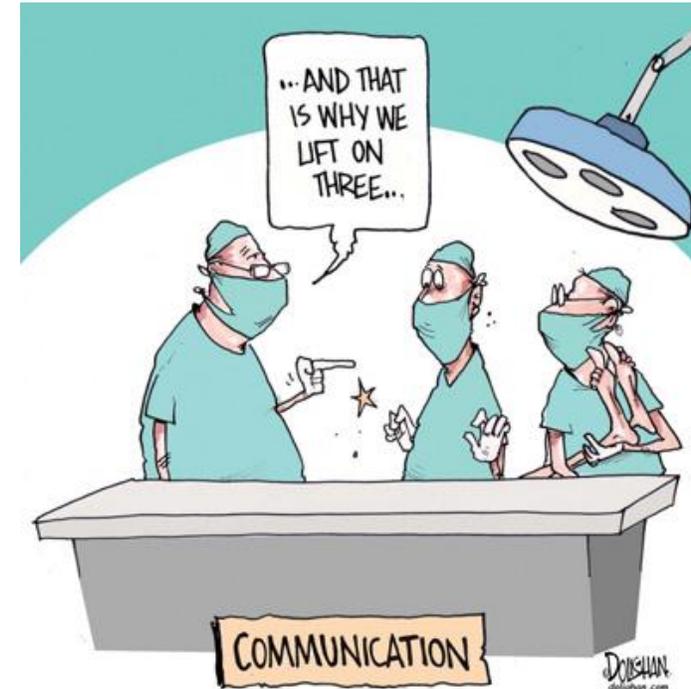
- ▶ Opioids concurrently ordered with benzodiazepines
- ▶ We assume patient knows about cumulative effect
- ▶ Pt. assumes it is safe to take them together

Estimated Number of Current Opioid and Benzodiazepine Users among Philadelphia Adults



Areas to improve: communications

- ▶ **Communication to reduce risk for litigation:**
 - ▶ between team members
 - ▶ discharge instructions
 - ▶ Verifying patient information during sign out
 - ▶ Physician-patient communication about test results and plan of care
 - ▶ Timely disclosure of errors



Documentation

- ▶ Necessary for legal protection
- ▶ Credibility of NP lost when documentation supporting use of restraints lacking
- ▶ Avoid “angry documentation” (can be used by plaintiff lawyers to undermine provider credibility)
- ▶ Macros — credibility lost if false documentation present
- ▶ Macros should be reviewed



Patients under arrest

- ▶ Pt can refuse treatment if capacity is demonstrated
- ▶ Provider may be threatened and experience tremendous pressure by a person of authority to do an invasive procedure against pt's will:
 - ▶ DRE
 - ▶ Vaginal exam
 - ▶ X-rays

4th Amendment

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

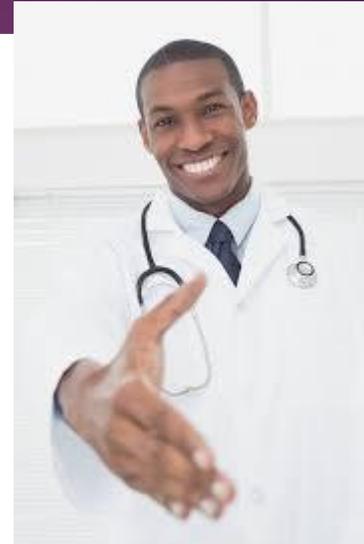
The relation of patient satisfaction with complaints against physicians and malpractice lawsuits

- ▶ Am J Med. 2005 Oct;118(10):1126-33
- ▶ N= 353 physicians
- ▶ divided into 3 tertiles according to satisfaction
- ▶ 200 vs 243 vs 492 complaints per 100,000 patient discharges
- ▶ 29 vs 43 vs 56 risk management episodes per 100,000 patient discharges



specific communication behaviors?

- ▶ 1) greater use of orientation statements that served to educate patients on what to expect
- ▶ 2) greater use of laughter and humor
- ▶ 3) greater tendency to solicit patients' opinions, check their understanding, and encourage them to talk



The body language

- ▶ A handshake and a warm smile shows concern, puts the patient at ease
- ▶ An explanation of the agenda for the visit sets the patient's expectations
- ▶ Maintaining eye contact indicates that the physician cares about the patient
- ▶ A sitting position demonstrates an interest and an unhurried attitude, while a standing position may give the impression of control, an authoritative attitude, and being rushed



Lies in the Doctor-Patient Relationship

- ▶ Providers, when unable to deliver bad news
- ▶ Patient may minimize or exaggerate symptoms or avoid key clinical issues
- ▶ Malingering - the conscious simulation or feigning of symptoms for secondary gain
- ▶ Providers are tempted to retaliate against patients who lie by withholding treatment



The bottom line:

- ▶ Patients do not sue providers they like and trust.
- ▶ Your note establishes your credibility as a provider
- ▶ Good communications help to avoid errors
- ▶ We will talk about communications in the future.

