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Working with NPs and PAs: Reducing Liability Risks

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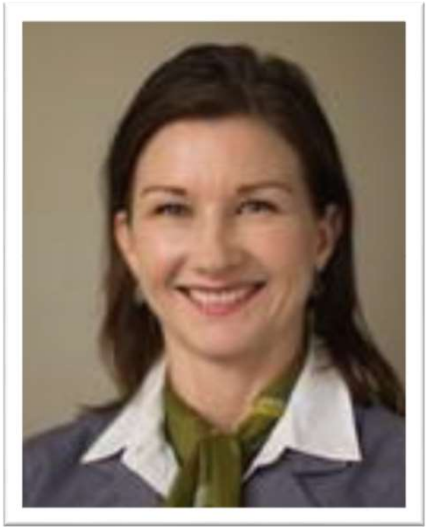

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Disclosure

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Objectives

1. Describe how physicians can create a collaborative working relationship with APPs
2. Identify contributing factors involving APPs that jeopardize patient safety and increase liability risk
3. Discuss risk management and patient safety strategies that will improve patient outcomes when care is shared by a MD/APP
4. Define the duties and responsibilities of a physician when supervising an APP
5. Explain medical services within/outside of the APP scope of practice

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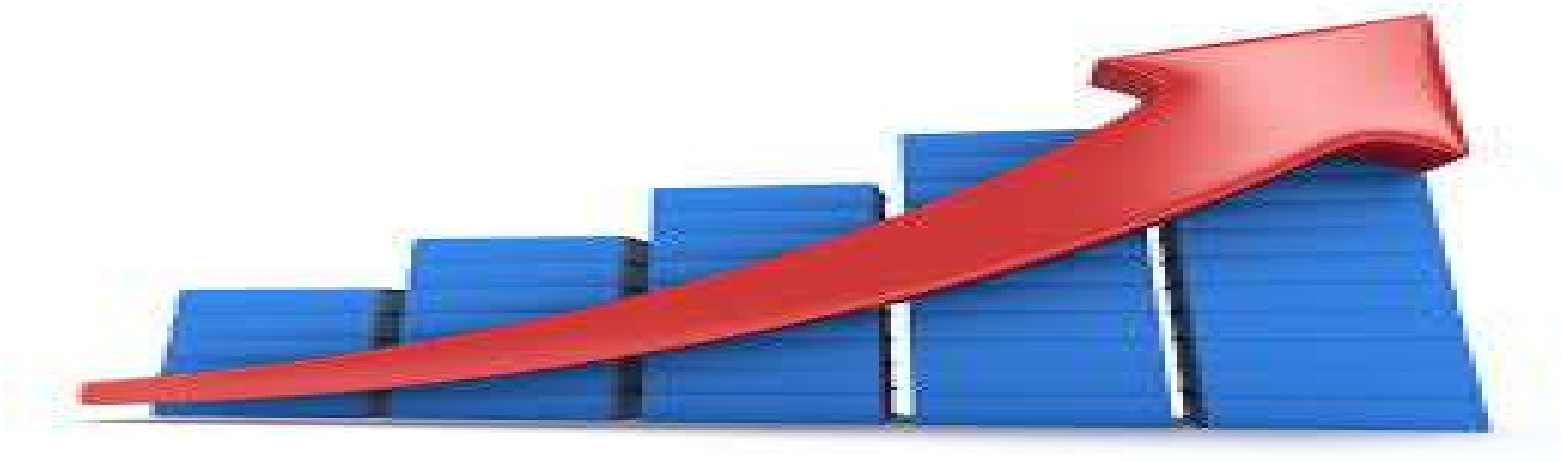
Trends

- Increasing employment of Nurse Practitioners and Physician Assistants (APP)



- New team approach to care

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Benefits: For the Physician

- Meet the demands of larger patient loads
- Allow focus on complex, high risk patients
- Boost practice revenue

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Benefits: For the Patient

- Increased access to care
- Shorter wait times
- More time with providers
- Increased practice satisfaction with medical practice

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Physician Liability

- Increases vicarious liability
- Hiring APP based on licensure
- Unaware of APP competencies and scope of practice
- Uniformed of supervisory role
- No written procedures and protocols
- False sense of assurance when APP has own liability coverage

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CAP APP Closed-Claims Study

- Focused review of 42 cases involving member physicians and their APP (n=42)
- 1/1/2011-12/31/2016 closed claims
- Total Indemnity: $11,896,829
- Total Expenses: $2,311,847
- Total Incurred: $14,208,676
- Average indemnity: $223,149

*MPLA Average Indemnity for APP: $228,547

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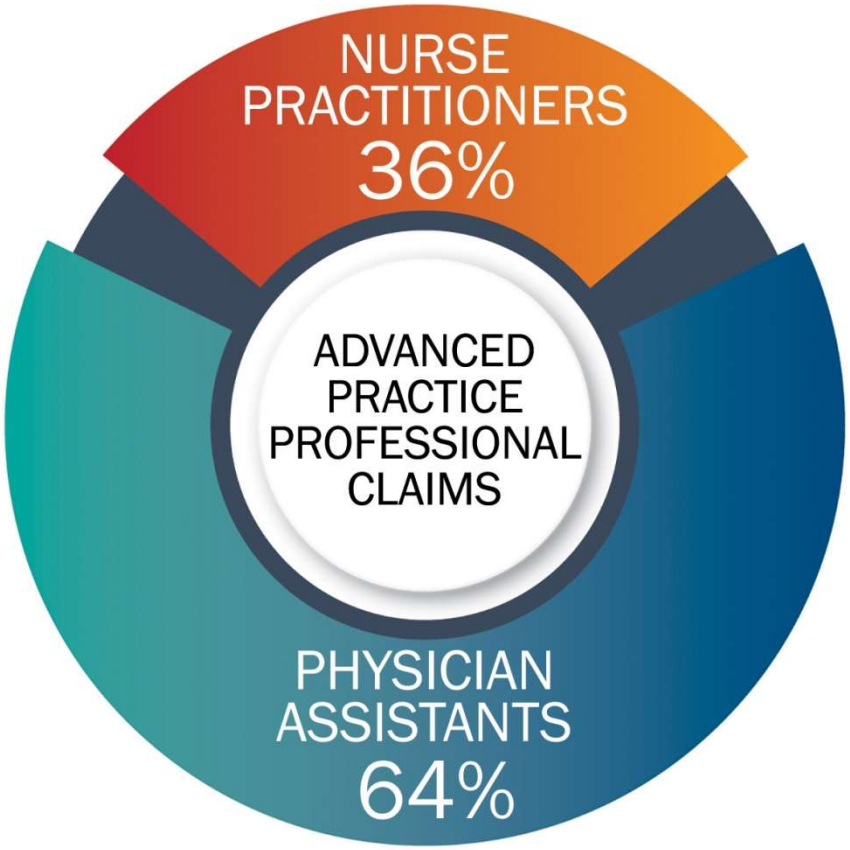
Claims Frequency



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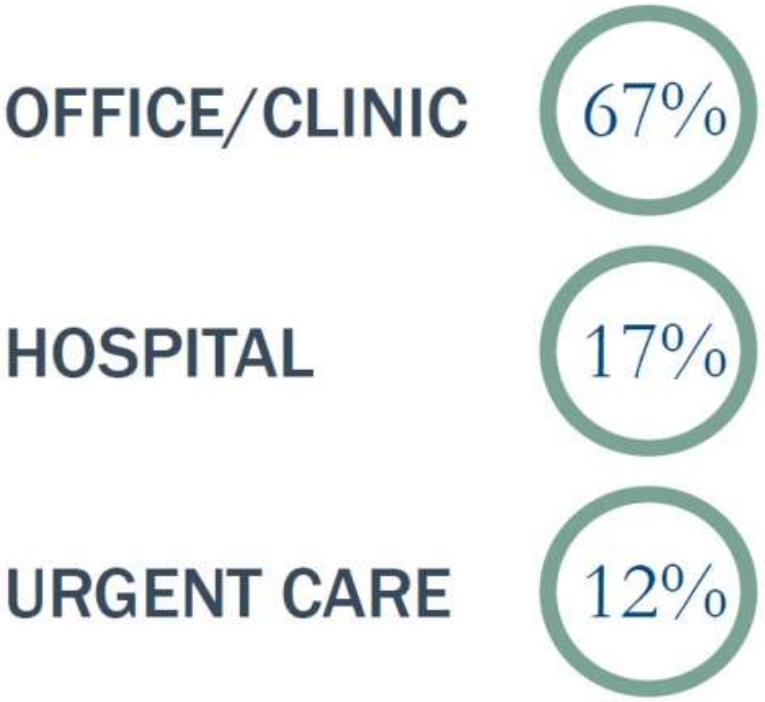
Location

Claims Based on Location



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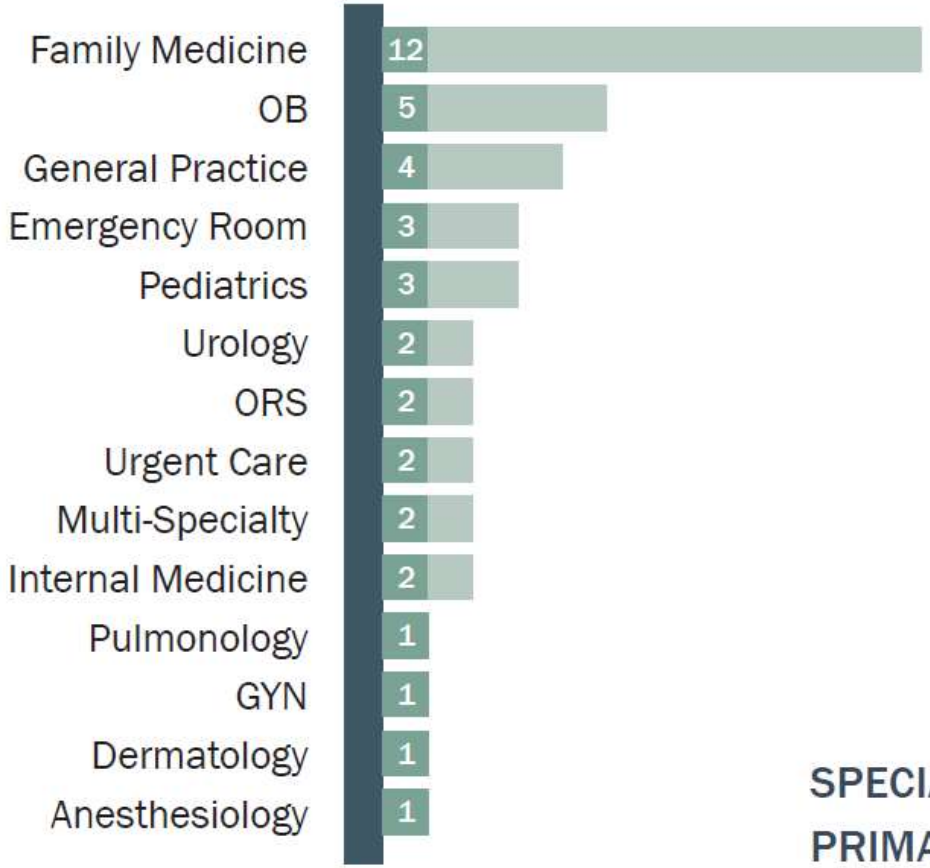
Specialty

Claims Based on Specialty



SPECIALIST 50%

PRIMARY CARE 50%

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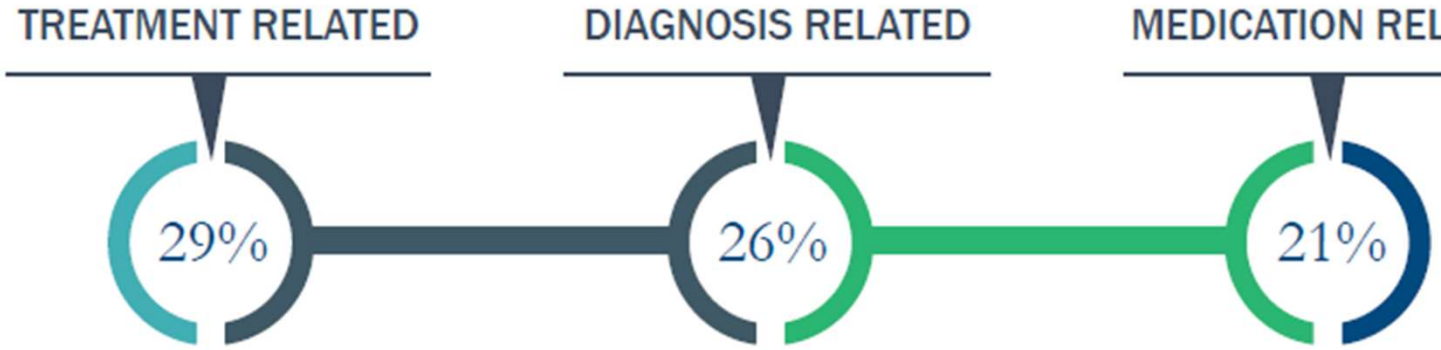
Top 3 Allegation Categories



- Most common patient allegations:
  - Improper Management of Course of Treatment
  - Failure to Refer/Seek Consultation
  - Failure to Manage Pregnancy
- Most common patient allegation:
  - Failure to Diagnose
- Most common patient allegation:
  - Improper Management of Medication Regime

Of the 42 cases reviewed, the top 5 patient allegations (listed above) made up nearly half (47%) of the claims. Except for Failure to Manage Pregnancy, these patient allegations appeared most often in cases where patients were later diagnosed or treated for infections or fractures.

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Contributing Factors

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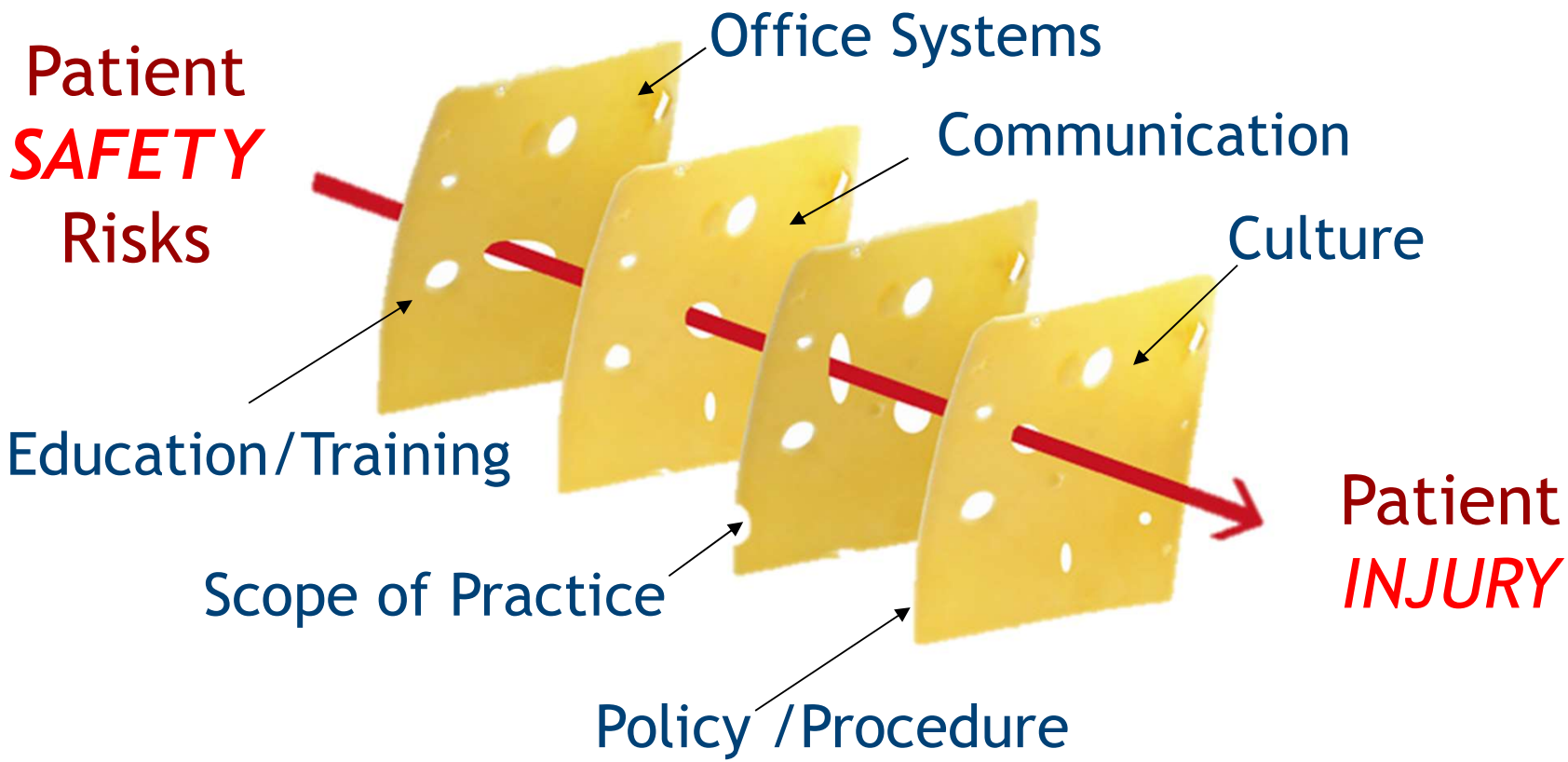
Understanding Error



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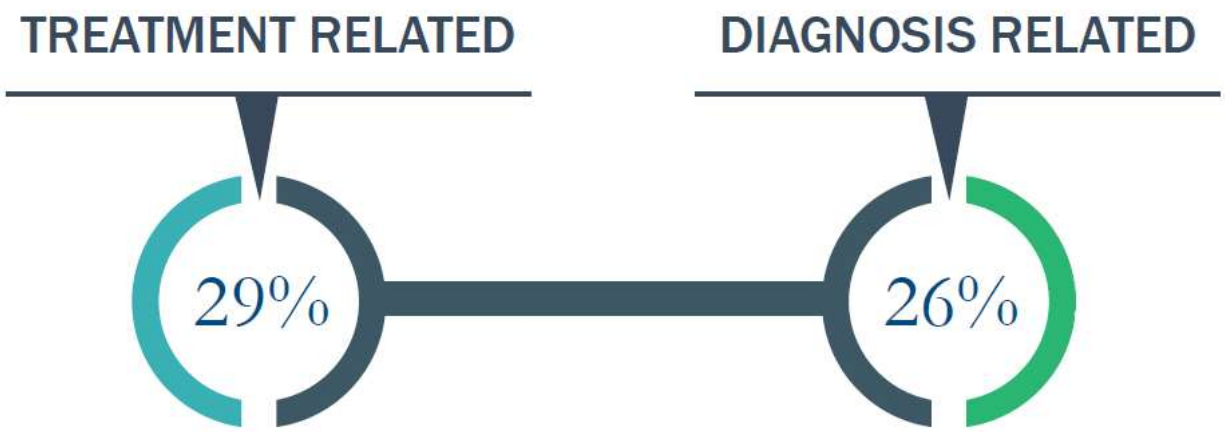
Allegation Categories



- Most common patient allegations:
  - Improper Management of Course of Treatment
  - Failure to Refer/Seek Consultation
  - Failure to Manage Pregnancy

- Most common patient allegation:
  - Failure to Diagnose

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Case 1: Summary

- 57 y/o diabetic male presented to an urgent care clinic with complaints of right foot pain, tenderness, swelling, and inability to bear weight
- Treated with NSAIDs, Vicodin, cold pack, crutches, open-toed shoe
- Instructed to elevate leg & return in 2 days
- 2 days later, MD diagnosed severe cellulitis with lymphangitis

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Case 1: Injury

- Extended hospital stay, several debridement and skin-grafting surgeries
- Wears a foot brace and orthotic shoes
- Uses a cane to walk
- Disabled and unable to work

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Case 1: Allegation

- Delay in Diagnosis and Treatment

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Case 1: What Went Wrong?

Communication Failure:

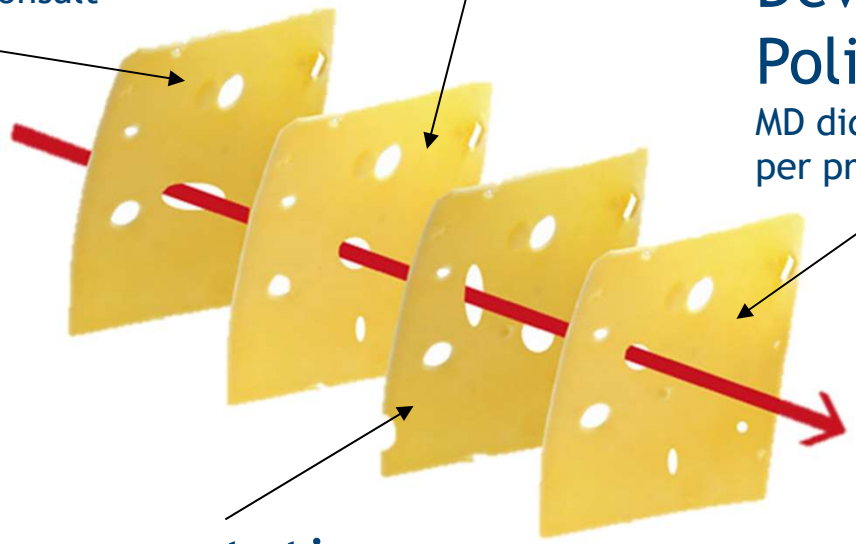
APP did not read H&P, nor inquire about DM complications; No written follow-up instructions given to patient to return if symptoms worsened; APP did not consult with MD.

Poor Clinical Judgement:

Exam limited to related injury, did not address skin appearance or integrity; No test for peripheral neuropathy; Didn't appreciate DM's increased risk for cellulitis and vasculopathy; Did not prescribe prophylactic antibiotics.

Deviation from Policy/Procedure:

MD did not examine patient first per protocol.



Deficient Documentation:

No mention of diabetes in visit progress note; No temp recorded; EHR auto-filled MD diagnosis into APP note.

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Case 1: Risk Management and Patient Safety Strategies

- ✓ Review H&P and address abnormal
- ✓ Take full set of vital sign, document
- ✓ Order necessary diagnostic tests to confirm or eliminate diagnoses
- ✓ Discuss proposed treatment and provide patient with written educational materials and follow-up instructions
- ✓ Adhere to protocols and collaborate with supervising physician
- ✓ Contemporaneously document clinical findings, provider actions, and patient discussions/responses to care
- ✓ Never leave blanks or unfilled data spaces in the EHR/medical record

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Allegation Categories

MEDICATION RELATED

- Most common patient allegation:
  - Improper Management of Medication Regime

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Case 2: Summary

- 28 year old male presents to APP at FM office complaining of psychological symptoms
- Worsening symptoms of muscle and joint pain, migraines, “brain fog” over the last year
- Western Blot test positive. Babesia test borderline. Patient diagnosed with Lyme Disease and Babesia
- Treated with antibiotics (amoxicillin, Flagyl, Rifampin, doxycycline), antifungals (Nystatin, Malarone), anti-parasitics (Artemisinin, Malarone) and lumbrokinase.
- Larium (anti-parasitic) added

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Case 2: Patient injury

- Psychosis
- Assaulted girlfriend and was incarcerated for 3 years
- Treated for mental issues
- Registered sex-offender

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Case 2: Allegations

- Improper medication management: Wrong dosage of Malarone and Larium administered
- Lack of informed consent regarding psychological side effects

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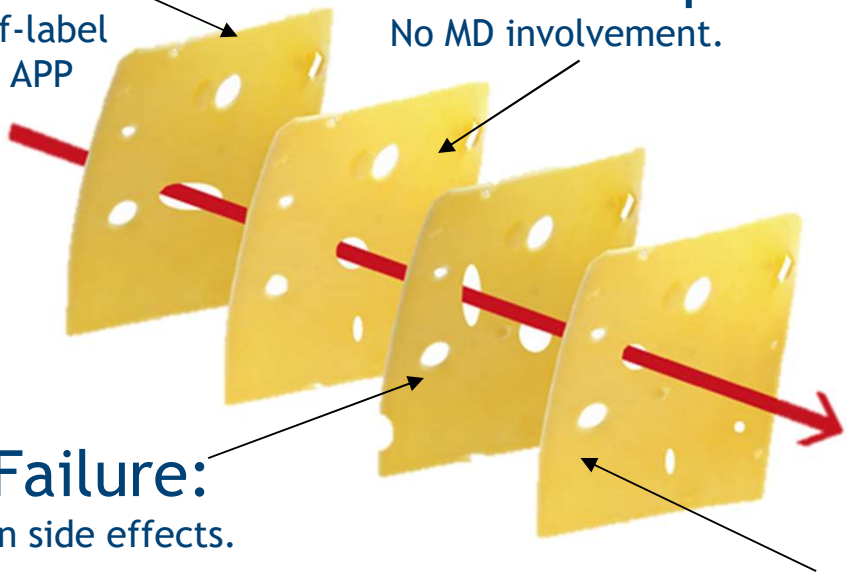
Case 2: What Went Wrong?

Poor Clinical Judgement:

No definitive clinical presentation; Marginal tests results; High doses of Malarone & Larium prescribed in off-label manner; Unconventional treatment; APP unaware of increased risk for psych.

Lack of Supervision:

No MD involvement.



Communication Failure:

No Consent about medication side effects.

Failure to Consult/Refer:

No formal referral to Psychiatrist.

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Case 2: Risk Management and Patient Safety Strategies

- ✓ Determine appropriate patient assignments for APP
- ✓ List authorized prescribing formularies in SPP/Practice Agreement
- ✓ Maintain current drug reference materials and resources
- ✓ Ensure consultation with supervising physician and pharmacist
- ✓ Supervise APP patient care and prescribing practices
- ✓ Refer patient to other specialists for their input and expertise
- ✓ Provide verbal and written patient education about all medications, side effects, follow-up requirements
- ✓ Develop tracking and recall procedures for referrals, follow-up care, no-shows

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APPs in Your Medical Practice

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Employment

- Consider their education, training, clinical experience
- Evaluate credentials
- Perform background checks, including criminal and professional board actions
- Verify professional liability coverage
- Investigate malpractice claims
- Contact all references

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Education and Training

- Determine areas of competency and deficiencies.
- Provide on-the-job training
- Support professional growth and need for continuing education

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Nurse Practitioner Scope of Practice

- Nursing care
- Diagnosis
- Psycho-social assessments
- Medical management of primary health care patients
- Furnish drugs, including Schedule 2-5 Controlled Substances, with CE course
- Disability/WC Certification
- Durable Medical Equipment & Devices
- Home/Long Term Care
- Telemedicine
- Supervise MAs

NO Chiropractic

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Physician Assistant Scope of Practice

- Medical services describe in Practice Agreement
- Furnish drugs, including Schedule 2-5 Controlled Substances, with CE course
- Disability/WC Certification
- Durable Medical Equipment & Devices
- Home Health Services
- Telemedicine
- Supervise MAs

NO Optometry, Dentistry or dental hygiene/auxiliary, Acupuncture

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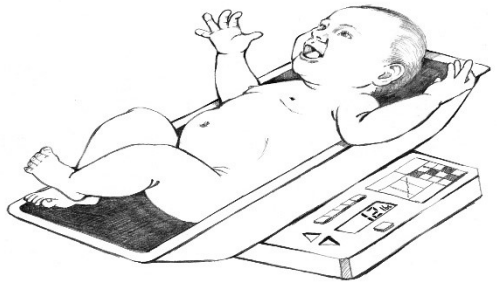
Case 3: Summary



- 39 year old G1 female with diabetes
- Followed by APP during prenatal period
- Vaginal delivery with forceps and vacuum of 11 lb. 2 oz. infant

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Case 3: Patient Injury

- Shoulder Dystocia
- Severe nerve damage to the right arm of the infant

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Case 3: Allegations

- Failure to Manage Pregnancy
- Negligent Supervision

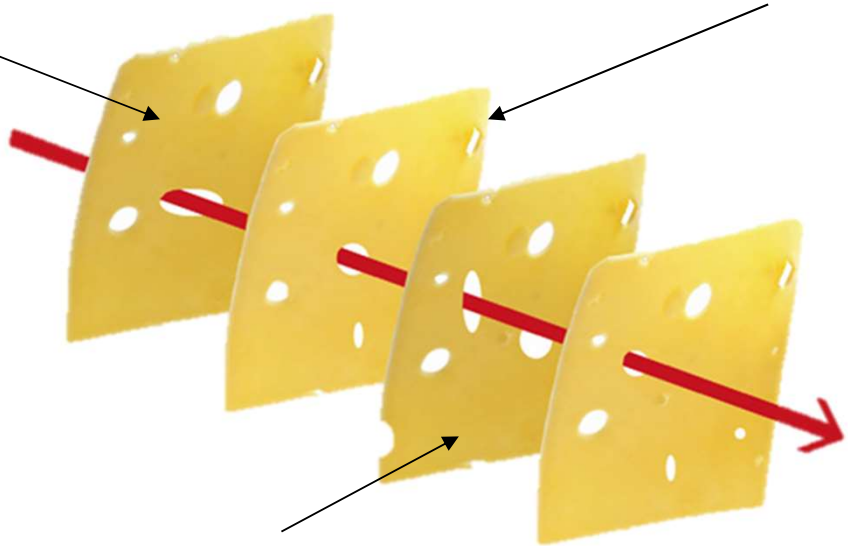
Case 3: What Went Wrong?

No Policy and Procedures:

No "Standardized Procedure" defining NP's Scope of Practice.

Poor Clinical Judgement:

Infant at increased risk for Macrosomia; No late term ultrasound or scheduled C-Section



Lack of Supervision:

No MD involvement in prenatal course.

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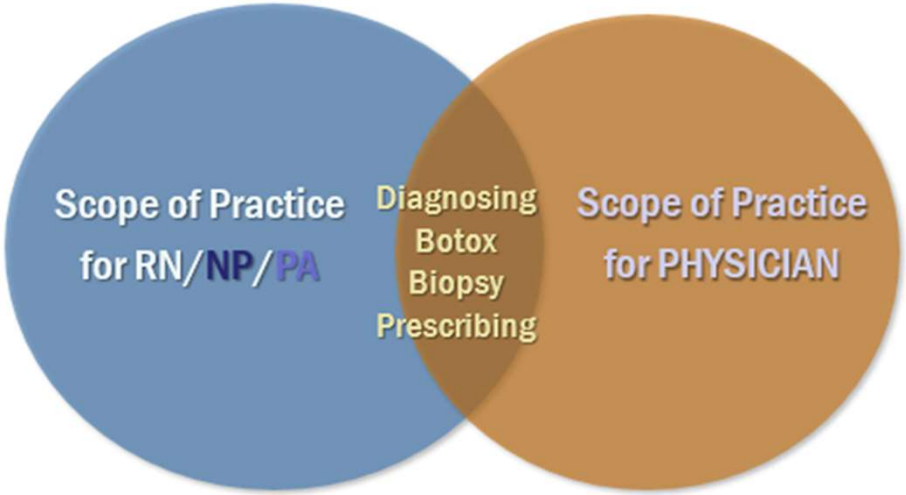
Comprehensive Written Protocols

- Standardized Procedures and Protocols (NP) and Practice Agreement (PA)
- Define role in written job description
- Define scope of practice
- Requirements for consultation with a physician and referral to a specialist
- Signed by the APP and one or more supervising physicians



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APP Supervision

- Understand state laws and regulations
- Conduct frequent meetings.
- Maintain records
- Document all consultations

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California Laws and Regulations

Nurse Practitioners

- Physician can supervise no more than 4 *total*, if they furnish drugs*
- Be available in person, phone, electronic
- Must have Standardized Procedures & Protocols
- No requirement of MD to countersign charts

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California Laws and Regulations

Physician Assistants

- 1 or more physicians/surgeons can supervise PA
- MD can supervise no more than 4 *total* (1:4) at a time, if they furnish drugs*
- Scope limited by his/her supervising physician
- MD be available by person, phone, electronic
- Must have Practice Agreement, DSA prior to 1/1/20 still in effect
- Need not indicate MD supervisor name or have their countersignature in medical record

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Collaborative Relationships

- Create a “culture of safety”
- Prioritize provider well-being and participation in quality improvement and workplace changes

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Your patients' lives depend on teamwork!

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Resources

- Cooperative of American Physicians: www.capphysicians.com
- https://www.capphysicians.com/articles/new-data-dive-study-leveraging-data-focused-review-advanced-practice-professionals
- CA Board of Registered Nursing: www.rn.ca.gov
- CA Physician Assistant Board: *www.pac.ca.gov*
- CA Medical Board: *www.mbc.ca.gov*
- National Practitioner Data Bank: *www.npdb.hrsa.gov*

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References

- Medical Board of California
- CA Board of Registered Nursing
- CA Physician Assistant Board
- California Medical Association
- ECRI Institute
- Medical Professional Liability Association
- CRICO-Harvard Medical Institutions Inc.
- Outcome Engineering: *The Just Culture Algorithm*
- CSHRM
- California Health Report
- American Association of Nurse Practitioners (AANP)
- American Association of Physician Assistants (AAPA)
- CA Laws & Regulations
- Bureau of Labor Statistics

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Q&A Session

- Any Questions??
- Additional questions/comments, email:
  - AMcLain@CAPPhysicians.com
  - RiskManagement@CAPPhysicians.com

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