

# Nurse Practitioners

## In General

As less expensive ways to deliver quality health care are demanded, the use of the nurse practitioner gains momentum.

- ***What is the Nurse Practitioner?*** A registered nurse with post-graduate education in specialized fields; the nurse practitioner is achieving administrative autonomy and moving into an independent practice. This move brings with it a legal liability.
- ***What is the difference between a NP and PA?*** A Physician Assistant generally are not RNs but rather have special post-graduate study programs.

## Quick Look at Nation's Medical Practices

The underserved inner-city and rural areas gave impetus to the nurse practitioner; the need for primary care is also providing impetus. The movement has been blessed by the so-called State Nurse Practice Acts and supporting regulations. The certification process is being administered by the American Nursing Association; there is also the separate governing body for the nurse anesthesiologists and the nurse mid-wives, specifically.

## American Nursing Association-Types of Nurse Practitioners

- School/College Nurse Practitioner
- Neonatal Nurse Practitioner
- Geriatric Nurse Practitioner
- Adult Health Nurse Practitioner
- Psychiatric/Mental Health Practitioner
- Family Nurse Practitioner
- Women's Health Practitioner
- Pediatric Nurse Practitioner.

## American College of Nurse Mid-Wives

- Nurse Mid-Wives

## American Association of Nurse Anesthetists

- Certified Registered Nurse Anesthesiologist

## **American Academy of Physician Assistants**

- Physician Assistant

The professional standards of care are set by the governing organizations. Physician's extenders are all master-degree level certificates.

What is of enormous significance is the authorization of direct payment for the nurse practitioner's services. This was done when the Rural Nursing Incentive Act gave direct reimbursement to nurse practitioners in rural areas and also to the nurse anesthesiologist.

*Enter the HMO.* HMOs have been very successful in using nurse practitioners; it has been cost-effective, high quality and well received. In fact, patients prefer nurse practitioners to physicians in primary and preventive care matters because they communicate better. The switch to RBRVS for physicians and DRGs for hospitals has encouraged the use of nurse practitioners for purely financial reasons.

## **Financial Advantages**

Giving care with a nurse practitioner is less costly than with a physician but there must be direct reimbursement. Big savings are possible because much of the work done by a physician may be done by a nurse practitioner.

## **Nurse Practitioner and Malpractice**

In the early days of development, insurers refused to provide malpractice insurance to nurse practitioners. Several court cases of nurse practitioner malpractice are worthy of review. In one decision, the court essentially held that to the extent the nurse practitioner has discretion to treat or advise and has the freedom and/or authority to do so, it should be accordingly held accountable.

## **Scope of Such Nurse's Practice**

Unless there is delineation of duties, there can be no accountability of actions. Such guidelines are usually clearly set forth in the statute or regulations. What the nursing association is pushing for is that the guidelines be not part of the law but, rather, part of the rules of the association. Reason: practices change too quickly to be codified. In one instance, the physicians objected to association-determined guides and sued; the court held for the nurses in that the state law did give them the right to set their own guidelines. Other instances of contests between the nurses and the physicians have resulted in the nurses being victorious.

## **What Determine Malpractice Liability**

The liability for malpractice for the nurse practitioner are generally due to the negligence of the nurse. The elements of any negligence actions are these:

- Was there a duty?
- Was that duty breached?
- Did the breach cause the damage?
- Was there an actual or real loss from the damage?

The difficulties with a nurse practitioner malpractice will be these:

- Lack of clear standards to set duty guides is often seen.
- Often there is no malpractice insurance on the nurse.
- Plaintiff may look to nurse's employer/supervisor as *deep pockets* where nurse has no liability coverage.
- As nurses have become more trained, more aggressive in duties, the courts have been holding them to higher standards as regards to duties.

## **What Are Acceptable Standards Of Care?**

Such standards track *prudent person* theories. The general practice is for the standards to be set by the state nursing boards-with input from the nurses. Where not set by statute regulation or board edict, they will be set by the courts.