Bakas & Associates

REPORT TYPE: Outline
Case: Death following hernia repair
SAMPLE

Alice Barnsdale
Attorney at Law
111 East 2nd Street
Las Vegas, NV 89123

Dear Alice:

Pursuant to our discussion on July 16, 2023, my comments are intended to supplement the opinions of Dr. Draper and Dr. French.

I. ADDITIONAL POTENTIAL DEFENDANTS

A. Dr. French.

1. Failed to arrange for a cardiology consult in January, 2019 following the hernia repair.
2. Failed to impress on Mr. Miller the importance of seeing a cardiologist in the presence of left ventricular hypertrophy and T-wave abnormality in the anterolateral leads.

Note: I am unable to read Dr. French's progress notes, however it appears that he does not even document the abnormal EKG.

B. The LVN who treated Mr. Miller the evening of his death (see comments under Section V. NURSING MANAGEMENT).

C. Possibly the floor RN who responded initially to the code.

D. Dr. Slocum's assistant, if any.

II. MR. MILLER'S HISTORY

A. It will be important to establish how long Mr. Miller had been taking Tagamet, who prescribed it and the indication for said Rx (e.g. indigestion). Mrs. Miller refers to a history of ulcer, which could account for this prescription.

III. MEDICAL MANAGEMENT: DR. SLOCUM

A. H & P dictated on date of death, and appears self-serving. His many comments regarding chest x-ray (CXR), EKG and consult bear this out. It would be interesting to compare this rather thorough H & P to others he has dictated.

B. Failed to obtain a cardiology consult prior to surgery or in the alternative failed to admit Mr. Miller to the ICU or intermediate care unit (IMU) for observation postoperatively. Mr. Miller should have been in the ICU or IMU until he was seen by a cardiologist. The entry "Ans. Machine 6pm. 3/29" (looks like Dr. Slocum's handwriting) was likely added to the record after Mr. Miller's death.

C. Apparently performed surgery without reviewing the CXR first or having the benefits of the report.

D. The post-op entry in the Medical Progress Notes (p. 12) "suggesting Pulmonary Edema/infiltrate" appears to have been added later. Other squeezed-in entries may have been added later also. It will be important to establish what time Dr. Slocum wrote the admitting note, because it does not mention the EKG and CXR results.

E. The reference to the "abnormal chest X ray with suggestion of pulmonary edema and/or infiltrate" on the OR record (dictated on date of death) seems out of place. I question whether Dr. Slocum was even aware of these abnormal findings before surgery because he seems so intent on communicating that he did indeed have knowledge of these reports. The Pre-Anesthetic Record (p. 31) contradicts at least Dr. Slocum's knowledge of the CXR, because that record indicates the CXR is pending. The OR Nursing Pre-Op Assessment (p. 25) also indicates that the CXR report was not on the chart prior to surgery. It will be important to establish whether the 1:17pm time on the CXR (p. 19) represents the report time or dictation time. Also, Mrs. Miller indicates that Dr. Slocum was surprised when she mentioned the problem with Mr. Miller's heart to him after surgery. It would be interesting to compare this rather thorough OR report to others he has dictated.

IV. ANESTHESIA MANAGEMENT: DR. TREVOR

A. Misclassified anesthesia risk as 1.

V. NURSING MANAGEMENT

A. Negligently assigned a patient with significant cardiac risk to a license vocational nurse (LVN).

B. The late entry on 3/29/2019 (made by same nurse who was caring for Mr. Miller at time of death) regarding consult was probably written after Mr. Miller's death.

C. The nurses failed to respond to Mr. Miller's complaints and family requests as describe in the family narrative.

D. The 3/11/2019 notes were probably rewritten. The entries re. chest pain are clearly out of character with the rest of the chart and with the same nurse's entries on 3/29/2019. Orthopedic nurses don't routinely assess for chest pain unless there is a clear indication to do so or the patient actually complains of chest pain. It is unlikely that this nurse recognized an indication to assess for chest pain. especially since she had not done so the night before. It will be important to establish from family members and witnesses whether Mr. Miller complained of chest pain, indigestion, etc. to which the nurses failed to respond.

E. The record strongly suggests that the nurses failed to initiate CPR prior to the arrival of the code team. This is a significant departure from the standard of care.

- Mrs. Miller states that "at 6:30pm until 7:00pm they didn't give CPR or oxygen, just after 7:15pm a paramedic went to get a shock machine."
- See ER Progress Note (p. 13) which states "called to see patient at 6:45pm. On arrival patient in bed without resp, pulse, HR or neuroactivity pupils fixed or dilated. CPR begun with ambu and compressions."
- It will be important to establish with family members and other witnesses who actually started CPR.

F. The nurses failed to maintain a complete and accurate code record (e.g. vital signs (VS), time CPR started, time intubated, etc.).

G. It will be important to establish the significance, if any, of the blank "Nursing Care and Assessment" records (p. 45 and p. 51).

H. VS are not assessed a minimum of every four hours. Also, there should be a policy and procedure which calls for more frequent VS on the floor for the immediate post-op period.

VS were documented:

3/29 (3-11): One time
3/30 (11-7): One time (on graphic sheet only)
3/30 (7-3): Not documented
3/30 (3-11): One time (in nursing notes only)

VI. REQUEST FOR PRODUCTION AND INTERROGATORIES

It will be important to:

A. Obtain all policies, procedures, rules and regulations regarding consult.

B. Obtain the Nursing Care Plan.

C. Request the code EKG strip, and the name of every individual who responded to the code.

D. Establish Dr. Anderson's arrival time to the code. He apparently intubated the patient.

VII. ADDITIONAL COMMENTS

A. The defense is likely to argue that Mr. Miller was negligent for failing to see a cardiologist following the hernia repair.

If I can assist you further with this case, please let me know.

Sincerely,

Andrea Bakas, RN, FNP-C, CLNC