DOCUMENTATION PITFALLS: *NURSING DOCUMENTATION AND THE LEGAL PROCESS*

Lee A. Williams and Elizabeth M. Polit

B|B BRENNAN BURTKER

TOPIC #1:

WHAT IS A LAWSUIT AND WHY DOES CHARTING MATTER?

THE PARTIES

- The Plaintiff (*Patient or Patient's Representative/Family*)
- Defendant (*Person Sued*)
- Fact or Material Witness (*Personal Knowledgeable about Allegations and Circumstances of the Lawsuit*)
- Expert Witnesses

B|B BRENNAN BURTKER

ANATOMY OF A LAWSUIT

- Service of Summons/Complaint
- Written Discovery (Interrogatories and Production Requests)
- Oral Fact Discovery (Depositions)
- Trial

BB BRENNAN BURTKER

BURDEN OF PROOF

- Duty to the Patient Existed
- Breach of Duty Occurred
- Injury to the Patient
- Injury to the Patient Directly Caused by the Breach of Duty

B|B BRENNAN BURTKER

WHY CHARTING MATTERS

- Plaintiff will look at the medical record to prove his or her case.
- Notes that are sloppy, incomplete, inconsistent, illegible or have gaps will be used to undermine your credibility before a jury.

WAYS TO PROTECT YOURSELF FROM LITIGATION

- Accurate Nursing Documentation
  - Medical Record – The Plaintiff's attorney and her expert will look for documentation mistakes.
  - Documentation MUST be: (i) timely; (ii) accurate; and (iii) complete.

B|B BRENNAN BURTKER

BASIC GOALS OF DOCUMENTATION

- Communication with other Healthcare Providers
- Memorialize what was observed and done (“reasonable care”)
- “Not documented, not done.”
- Tell a story

B|B BRENNAN BURTKER

TOPIC #2:

CHARTING DO'S

B|B BRENNAN BURTKER

CHARTING DO'S

- Document facts, not subjective opinions.
- Remain objective by performing assessments using your senses of touch, sight, hearing and smell.
- Avoid bias.
- Chart all changes in the patient's condition, interventions and patient's response.

B|B BRENNAN BURTKER

CHARTING DO'S: CONTINUED

- ALWAYS document when a patient refuses care and include the following:
  - (i) document the refusal, including the patient's stated reason, if provided; and
  - (ii) your actions.
- If checking boxes, make sure they are accurate.
- Sign, date and time every entry.
- Follow the hospital's policies and procedures

TOPIC #3:

CHARTING DON'TS

BB BRENNAN BURTKER

CHARTING DON'TS

- DON'T chart in blocks of time (i.e., 0700-1500).
- DON'T chart ahead in time.
- DON'T point fingers.
- DON'T render a diagnosis.

CHARTING DON'TS: CONTINUED

- DON'T document "incident report completed" or "quality assurance meeting to be held."
- DON'T alter a patient's record.
- DON'T use labels to describe a patient.
- DON'T use words such as "by mistake", "accidentally", "miscalculated" or "confusing".

EXAMPLES OF INAPPROPRIATE NURSING DOCUMENTATION

- Patient alert and oriented but acting ***goofy*** today.
- Doctor was informed about patient's ***goofy*** behavior.
- It ***appears*** patient was started on 50 mcg/min of nitroglycerin.
- ***Took one for the team*** and spoke to the family.

TOPIC #4

LEGAL ISSUES AND ELECTRONIC MEDICAL RECORDS

ELECTRONIC MEDICAL RECORD: GOOD PRACTICE

- Always review your entries.
- Do not point and click.
- Do not cut and paste.
- Do not go back and inspect the record after learning of the lawsuit – this is seen in the audit trail of the record.

B|B BRENNAN BURTKER

BEWARE OF DROPDOWN MENUS

- The call bell was within reach of a woman with contracted arms and who was in a coma.
- The nurse recorded she gave hair care to a man who was bald.
- A nurse documented a man, who was paraplegic, ambulated in the hall.
- A nurse documented a woman who was NPO ate 100% of her breakfast.
- A nurse documented a patient who was incontinent was voiding without difficulty.
- A physician documented he explained to a patient that she should call the office if she developed fever, redness on her incision or death.

TOPIC #5

COMMON CHARTING MISTAKES

B|B BRENNAN BURTKER

COMMON CHARTING MISTAKES: FAILING TO CHART COMPLETELY

- Failure to chart pertinent health or drug information.
- Failure to record nursing observations and actions.
- Failure to record that medication has been given.
- Recording on the wrong chart.
- Failure to document a discontinued medication.
- Failure to record drug reactions or changes in the patient's condition.
- Failure to document refusal of test.

COMMON CHARTING MISTAKES: NOT CHARTING OUTCOMES

- Example:
  - **Pain:** 10:00 a.m., patient complains of left knee pain (7/10), dull and throbbing, facial grimacing and moaning with movement.
  - **Treatment:** 10:10 a.m., Tylenol #3, given p.o., per order and pillow placed between patient's knees.
  - **Response:** 11:00 a.m., patient reports left knee pain is improved, dull ache (2/10).

B|B BRENNAN BURTKER

COMMON CHARTING MISTAKES: THE PITFALLS OF FALLS

- Patients who are on strict fall precautions – take the MOST cautious approach.
- Take your time in charting.
- Follow protocol and document findings.

TOPIC #6:

POLICIES AND PROCEDURES

BRENNAN BURTKER

POLICIES AND PROCEDURES

- Hospital policies are guidelines.
- Hospital policies do NOT replace clinical judgment.
- Hospital policies are NOT the standard of care.

B|B BRENNAN BURTKER

DEPOSITIONS – COMMON TOPICS

- Policies and Procedures to establish standard of care.
- If it is not charted, it NEVER happened.
- If it was charted, you better chart it correctly.

B|B BRENNAN BURTKER

DEPOSITIONS – POLICIES AND PROCEDURES

- Plaintiff - Policies and Procedures to Establish Standard of Care and Failure to Adhere to Same
- Defense – Policies and Procedures are Guidelines that do not Replace Clinical Judgment

BB BRENNAN BURTKER

DEPOSITIONS – CHARTING

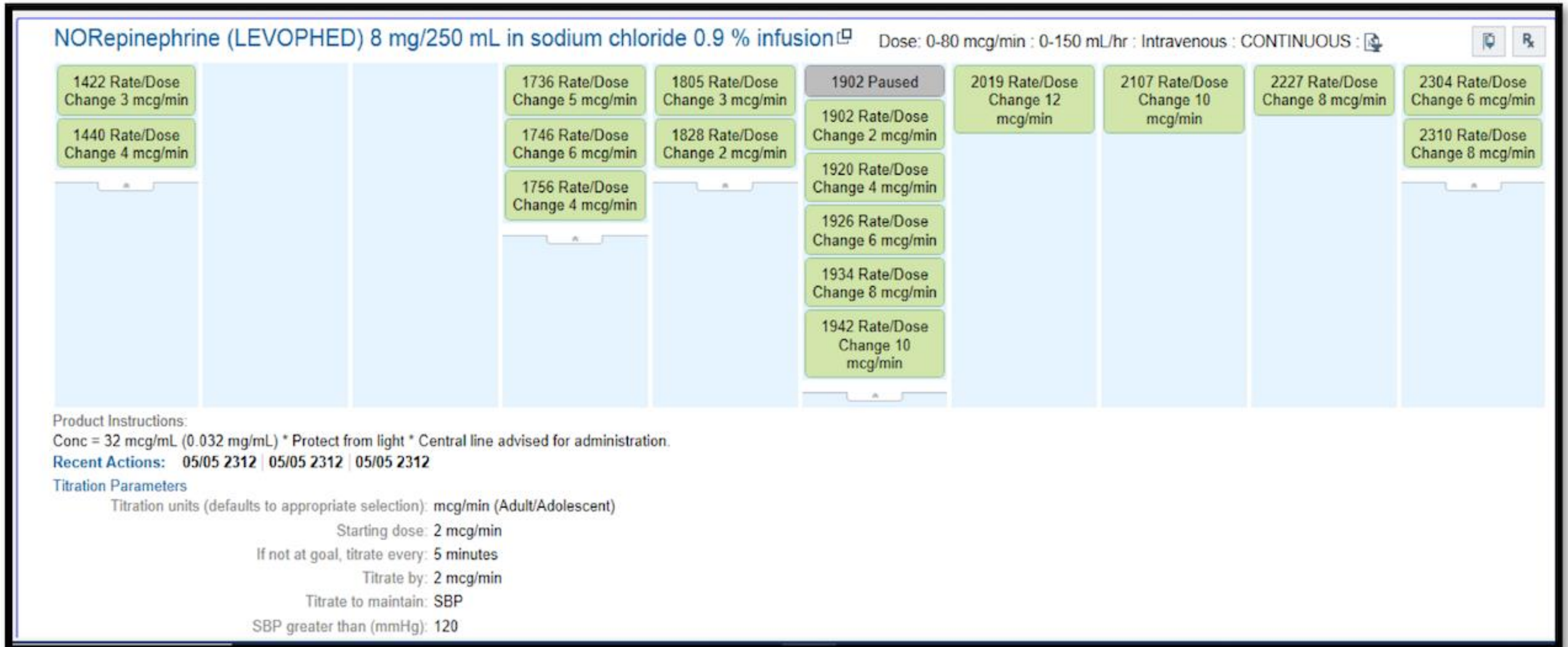
- Plaintiff – If it was not Charted, it NEVER Happened

BB BRENNAN BURTKER

Original order for Norepinephrine (Levophed)

Starting dose: 2 micrograms(mcg)/minute

Titration Parameters: 2 mcg/min every 5 minutes to maintain goal of Systelic blood pressure of 120mmHg



Time	Levo Titration	Time Interval	Parameter SBP 120	
19:20	4mcg			
19:26	6mcg	6min	1925 115/32	
19:34	8mcg	8min	no SBP	
19:42	10mcg	6min	2000 120/32	
20:19	12mcg	37min	no SBP	
21:07	10mcg	48min	2100 126/34	
22:27	8mcg	20min	2200 129/37	
23:04	6mcg	37min	2300 137/39	
23:10	8mcg	6min	no SBP	
0:08	7mcg	58min	0000 136/40	incorrect titration (can only titrate by 2mcg)
0:33	10mcg	25min	no SBP	
0:35	9mcg	2min	no SBP	too soon & incorrect titration (can only titrate by 2mcg)
1:33	10mcg	58min	0100 129/37	
			0200 121/32	
3:42	8mcg	ok	0300 133/37	
3:45	6mcg	3min	no SBP	too soon
3:50	8mcg	5min	no SBP	
3:52	10mcg	2min	0400 114/32	too soon
4:08	8mcg	10min	no SBP	
4:11	7mcg	3min	no SBP	too soon & incorrect titration (can only titrate by 2mcg)
4:15	6mcg	4min	no SBP	too soon
4:19	4mcg	4min	no SBP	too soon
5:19	6mcg	ok	0500 114/28	
5:24	8mcg	5min	no SBP	
5:29	10mcg	4min	no SBP	too soon
6:20	8mcg	ok	0600 132/33	
6:29	7mcg	9min	no SBP	incorrect titration (can only titrate by 2mcg)

TAKEAWAYS

- Attack Credibility
- Not Following Patient Closely
- Always Best to Document Accurately

BRENNAN BURTKER

Time	Levo Titration	Time Interval	Parameter SBP 120	
19:20	4mcg			
19:26	6mcg	6min	1925 115/32	
19:34	8mcg	8min	no SBP	
19:42	10mcg	6min	2000 120/32	
20:19	12mcg	37min	no SBP	
21:07	10mcg	48min	2100 126/34	
22:27	8mcg	20min	2200 129/37	
23:04	6mcg	37min	2300 137/39	
23:10	8mcg	6min	no SBP	
0:08	7mcg	58min	0000 136/40	incorrect titration (can only titrate by 2mcg)
0:33	10mcg	25min	no SBP	
0:35	9mcg	2min	no SBP	too soon & incorrect titration (can only titrate by 2mcg)
1:33	10mcg	58min	0100 129/37	
			0200 121/32	
3:42	8mcg	ok	0300 133/37	
3:45	6mcg	3min	no SBP	too soon
3:50	8mcg	5min	no SBP	
3:52	10mcg	2min	0400 114/32	too soon
4:08	8mcg	10min	no SBP	
4:11	7mcg	3min	no SBP	too soon & incorrect titration (can only titrate by 2mcg)
4:15	6mcg	4min	no SBP	too soon
4:19	4mcg	4min	no SBP	too soon
5:19	6mcg	ok	0500 114/28	
5:24	8mcg	5min	no SBP	
5:29	10mcg	4min	no SBP	too soon
6:20	8mcg	ok	0600 132/33	
6:29	7mcg	9min	no SBP	incorrect titration (can only titrate by 2mcg)

TAKEAWAYS

- Your best defense to a lawsuit is TIMELY, ACCURATE and COMPLETE documentation.
- Think like a jury!
- Treat your patients how you would want your family members to be treated and let your documentation be the evidence of that!

THANK YOU!

ANY QUESTIONS?

BB BRENNAN BURTKER