



Healthcare

Diagnostic Sonography — Understanding Malpractice Risk

As background for this bulletin, two reviews, one Canadian and one American, have been consulted. In 2013, the Ontario Ministry of Health and Long Term Care conducted a jurisprudence review¹ of cases relevant to the practice of diagnostic sonography (the original review was performed in 2011 and updated in 2013). The American review surveyed cases against sonographers from 1974–2003.² Both reviews concluded that cases against diagnostic sonographers were rare, as the reviewing physician is typically considered responsible for the interpretation of the study. Nevertheless, litigation related to the performance of the study, rather than the interpretation, may result in a lawsuit against a sonographer. Litigation issues relating to sonographers may include, among others, poor film quality, allowing a patient to fall, and patient molestation.

Understanding Malpractice Liability

Malpractice litigation is generated by adverse outcomes and significant patient injury or death. Cases are built by identifying inadequate patient care, deficiencies in charting and documentation, detrimental testimony, and potentially inflammatory issues. The primary sources of evidence are the medical record, policies, protocols, guidelines and training materials. Medical malpractice is asserted in many different types of patient care situations, including negligence, errors or omissions in treating the patient, failure to inform the patient of risk of a procedure or medication, failure to obtain and document informed consent to the treatment or procedure, unprofessional conduct, patient abuse, inadequate record keeping, over-medication and practicing medicine without a license. Sonographers also may find themselves cited in a liability action, especially if they provided a preliminary diagnosis to a patient or a preliminary report to a party other than the interpreting physician.

¹ Health Professions Regulatory Advisory Council. *Diagnostic Sonographers: A Jurisprudence Review*, Ontario, April 2013.

² Sanders, Roger C. *Ultrasound-Related Litigation A Historical Survey*, J Ultrasound Med 22:1009–1015, 2003.

Protecting Your Reputation and Credentials/License

It is important that sonographers have a basic understanding of healthcare liability issues. They must understand their roles, as well as those of other healthcare providers in the process. Sonographers also should be able to identify sources of potential liability and develop practical skills to reduce the exposures that may arise.

Diagnostic sonographers should be conversant with and comply with the following tools to manage and reduce their liability risk:

- Scope of practice and its limitations
- Code of ethics and by-laws of regulatory body, where applicable
- Regulations and legislation
- Cultural sensitivity (e.g., retouching);
- Practice standards;
- As Low As Reasonably Achievable (ALARA) principle to minimize patient exposure to soundwaves;

- Documentation
- Confidentiality and privacy
- Facility policies and procedures
- Documentation of patient consent
- Adequate healthcare information record documentation
- Infection control
- Harassment and abuse policy (e.g., by not asking patient to remove clothing unnecessarily, must touch patients only in those areas needed to facilitate carrying out the procedure)
- Professional liability insurance

By understanding the vulnerabilities that sonographers may encounter in their professional practice, and applying the strategies recommended in this article, they can help to reduce potential liability exposure and ensure quality patient care.

Please visit www.cnacanada.com.ca.