

Charting with a Jury in Mind



Objectives

- Identify common charting errors that can make you legally vulnerable
- Describe proper charting techniques to show that you've learned to think “litigation”
- Differentiate between the functions of an expert witness and other witnesses
- Describe the preparation necessary to prepare for testimony as an expert witness

Duty of Nurse

In performing professional services for a patient a nurse must use that degree of skill and learning which is normally possessed and used by nurses in good standing in similar practice in similar communities and under like circumstances. In the application of this skill and learning, the nurse must also use reasonable care. The fact that a good result may not have followed from the services by the defendant is not evidence of negligence or unskilled care. The fact that a nurse may have followed standing orders of a physician does not relieve her of the duty to use reasonable care.

Malpractice Cases

- Jury must decide whether the nurse met or fell short of the expected standard of care
- First the jury must decide what the standard of care is,
- Decision as to whether nurse met standard
- Jurors must reconstruct incident that gave rise to lawsuit



Constitutional Issues

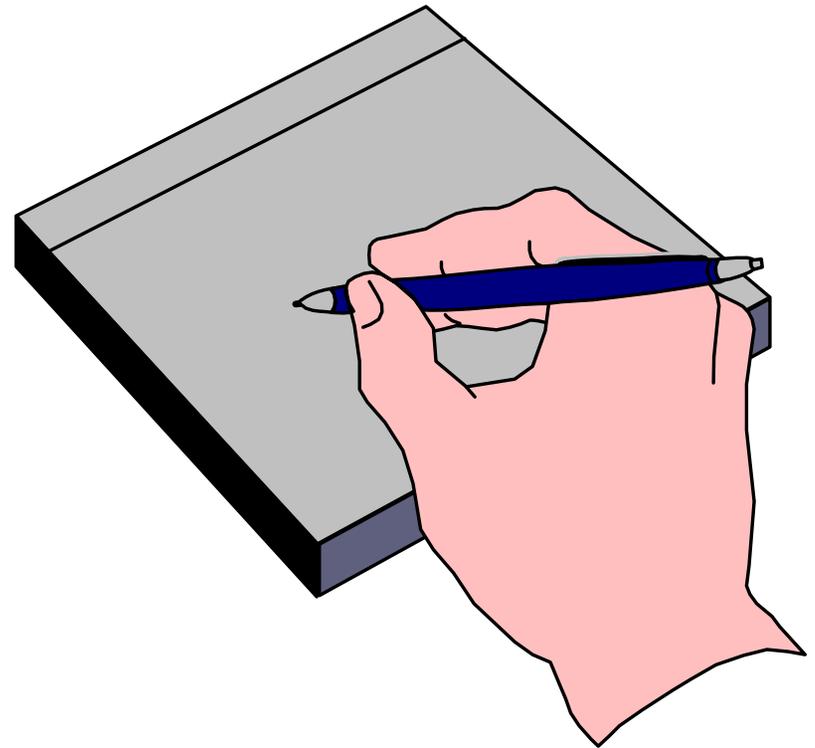
What is the Standard of Care

- Estelle vs. Gamble
- Standard of Care is the Community Standard of Care

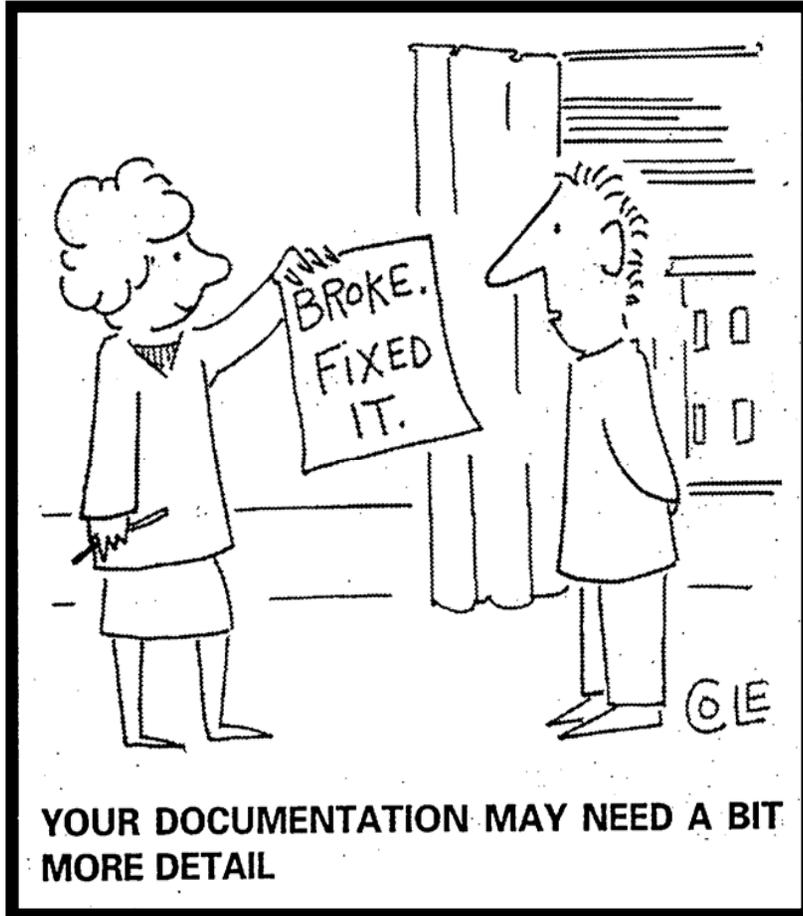


Chart usually submitted as evidence

- What is documented
- How it is documented
- \What is not documented
- Inferences that jury makes will weigh heavily on outcome



Charting with a Jury in mind



Protecting patient's
welfare versus

Protecting yourself and
your facility from
unwarranted lawsuits

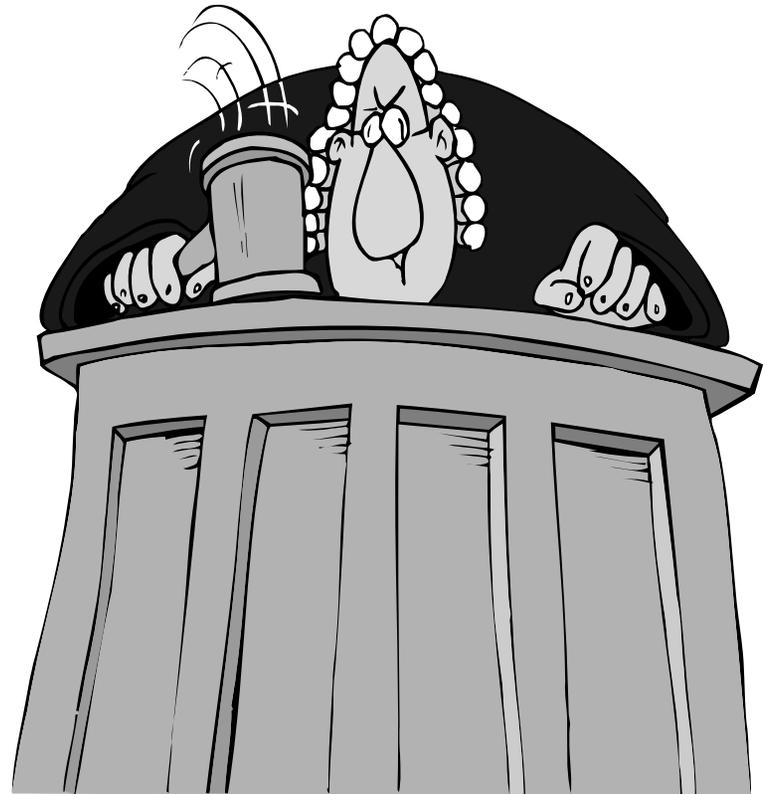
Jurors Perspective

- Jurors are skeptical off good memories
 - ⇒ recall of events
 - ⇒ self-serving interest



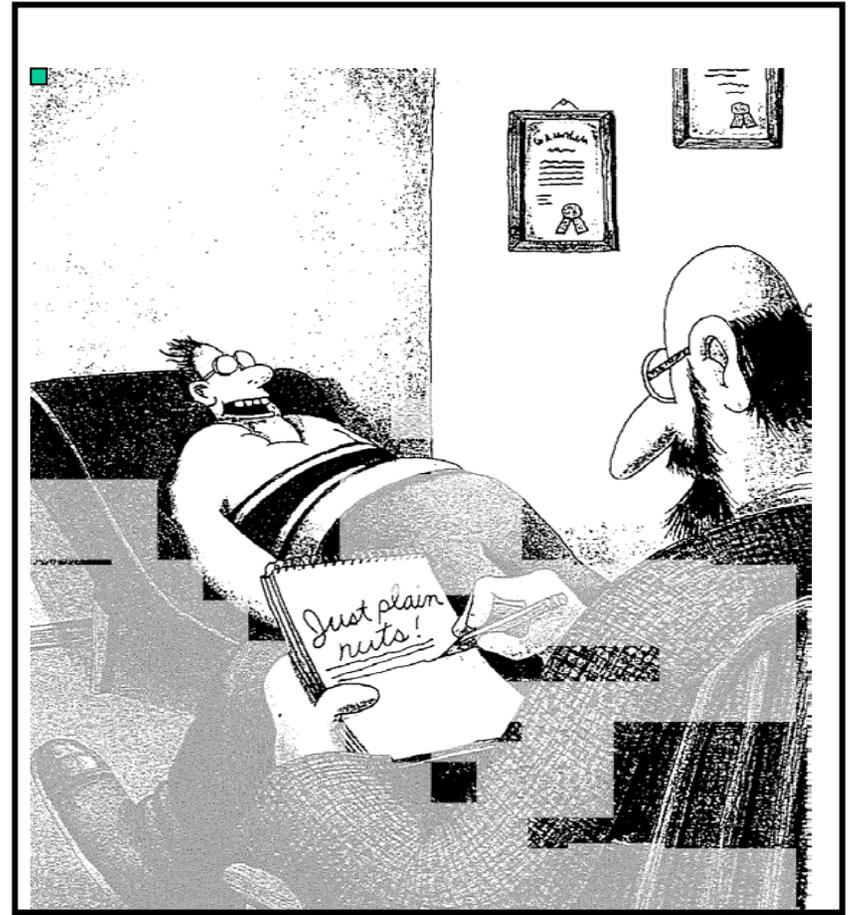
Charting Practices

- Sins of Omission
 - ⇒ don't omit obvious e.g. failure to make an entry
- Shadow of a doubt
 - ⇒ don't allow inaccuracies
- Tampering with the evidence
 - ⇒ don't obliterate an entry



Charting Practices

- Relying on recall
 - Don't wait to chart
- Just the facts mam
- Don't chart conclusions
- Record only what you see and hear
- Describe don't label events and behavior



Charting Practices

- Don't get personal
- Neatness counts
- Chronology of Events all entries on a different page
- Failure to communicate
 - What you don't say may hurt the patient
- Juries can't read minds
 - Document intermediate steps
- The appearance of error
 - being versus appearing to be at fault



Medication Errors

- Wrong Drug
- Wrong Amount
- Wrong Time
- Wrong Patient
- Wrong Day
- No Order
- No Signature
- Charting after or before the Fact



Continuity of Care

- Transfer of Health Information to hospital or specialty
- Transfer of Health Information to other prisons or jails
- Discharge summary from Hospital

Do's and Don't of Daily Charting

- Do read the nurses notes on him before charting and before charting and providing care
- Record the juveniles name and ID # on each sheet
- Do use concise phrases
- Check the name on the patient's chart
- Always use ink not pencil
- Don't backdate, tamper with or add to notes written

Do's and Don't of Daily Charting

- Do make entries in order of consecutive shifts and days. Write the complete date and time of each entry.
- Do sign each entry with your title
- Do indicate patient non-compliance
- Don't write relative statement e.g. wound is healing but describe wound
- Make sure you know meaning of all terms you use
- Don't chart procedures in advance

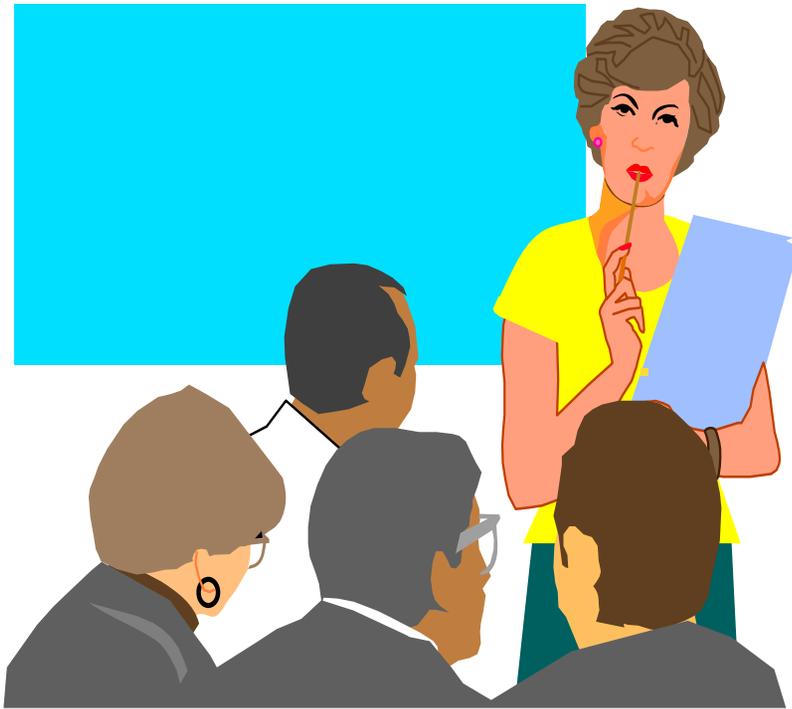
Do's and Don't of Daily Charting

- Do use direct patient quotes when appropriate
- Do be accurate, factual, timely and complete
- Do use accepted medical abbreviations
- Don't wait until end of shift to chart
- Don't chart for someone else
- Don't throw away notes with errors on them, mark the error and include the sheet

Do's and Don't of Daily Charting

- Do document all nursing actions taken
- Don't erase, obliterate or write in margins
- Don't skip lines between entries
- Don't leave a space before your signature
- Don't make derogatory remarks about the patient

Do's and Don't of Daily Charting



- Don't appear contrived or self-serving
- Don't write incident report filed

If you are Deposed



- Be truthful don't conceal
- Don't overstate your position
- You may use your notes
- Speak slowly and clearly
- Don't be hyper technical

If you are Deposed



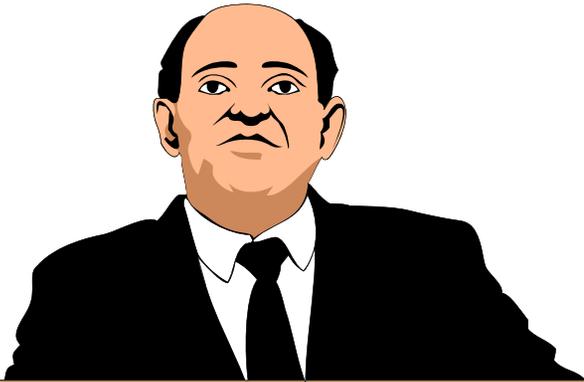
- Don't play lawyer
- Avoid annoying mannerisms e.g. yes counselor
- Freely admit to discussing case with your attorney
- If attorney interrupts prior to your answer say so

If you are Deposed



- If possible answer yes or no, not uh huh
- Qualify if your not sure such as in my best judgement or approximately
- Know the name of texts and other materials you have referenced

If you are Deposed



- Don't greet angry or hostile
- Never argue with the counsel or the judge
- Never volunteer information
- Be familiar with the medical record and documents of the case
- Wait until the question is completed

Guidelines on Negligence

GUIDELINES ON NEGLIGENCE PROFESSIONAL NEGLIGENCE IS MALPRACTICE

ELEMENTS OF LIABILITY	EXPLANATION	EXAMPLE GIVING MEDICATION
1. Duty to use due care defined by the standard of care)	The care which should be given under the circumstances (what the reasonably prudent nurse would have done)	A nurse should give medications: <ul style="list-style-type: none"> • accurately and • completely and • on time
2. Failure to meet standard of care (breach of duty)	Not giving the care which should be given under the circumstances	A nurse fails to give medications: <ul style="list-style-type: none"> • accurately or • completely or • on time
3. Foreseeability of harm	Knowledge that not meeting the standard of care will cause harm to the patient	Giving the wrong medication or the wrong dosage or not on schedule will probably cause harm to the patient
4. Failure to meet standard of care (breach) causes injury	Patient is harmed because proper care is not given	Wrong medication causes patient to have a convulsion
5. Injury	Actual harm results to patient	Convulsion or other serious complication