

PRACTICAL TIPS...

THREE STEPS TO LIMITING LIABILITY TO FACILITY-ACQUIRED PRESSURE ULCERS

By Scott Buchholz, Esq. and Michael Wong, JD

The Braden scale is the most widely used measurement for determining a patient's risk of developing a pressure ulcer. However, a recent study analyzed the electronic health records of almost eight thousand patients, and found the Braden scale was not accurate in evaluating ICU patients.

Brenda Vermillion, DNP, RN was one of the researchers at Ohio State University Wexner Medical Center. In commenting on the study, she said:

The scale told us that every single patient in the ICU was at high risk for a pressure ulcer. But we knew that not every single patient went on to get an ulcer. Going by the score means that most ICU patients would either be under - or over treated for ulcer prevention - and neither is optimal.

According to the [US Department of Health & Human Services](#), more than 2.5 million people annually in the United States will develop pressure ulcers. Pressure ulcers have been defined by the National Pressure Ulcer Advisory Panel (NPUAP) in conjunction with the European Pressure Ulcer Advisory Panel (EPUAP) as a "localized injury to the skin and/or underlying tissue usually over a bony prominence, as a result of pressure, or pressure in combination with shear."

Research shows that pressure ulcers cost the US healthcare system more than \$11 billion a year. More than 17,000 pressure ulcer-related lawsuits are filed annually. Of these, nearly 15,000 result in settlements or verdicts favoring the patient. The average settlement is \$250,000. The largest single damage award is \$312 million.

In the face of the possible inaccuracy in the Braden scale in evaluating ICU patients for pressure ulcers, what should clinicians do?

Because of the potentially high financial liability exposure, hospitals should consider these three key steps to minimize exposure and ensure that they are consistently applying standards for each and every patient under their care:

Step 1 - Observe Protocols

The Joint Commission recommends a pro-active approach:

- Take action to address any identified risks to the patient or resident for pressure ulcers, including the following:
 - Preventing injury to patients and residents by maintaining and improving tissue tolerance to pressure in order to prevent injury

- Protecting against the adverse effects of external mechanical forces

Preventing injury means turning and repositioning patients every two hours. As stated by the Institute for Healthcare Improvement:

The aim of turning/repositioning the patient is to reduce or eliminate pressure, thereby maintaining circulation to areas of the body at risk for pressure ulcers. The literature does not suggest how often patients should be turned to prevent ischemia of soft tissue, but two hours in a single position is the maximum duration of time recommended for patients with normal circulatory capacity. Turning patients every two hours is a foundational element in most pressure ulcer prevention protocols. The turning, or repositioning, of the at-risk patient temporarily shifts or relieves the pressure on the susceptible areas, diminishing the risk of pressure ulcer development.

As the IHI points out, successful hospitals have instituted "turn clocks". Hospitals may improve patient outcomes by using devices that can assist caregivers in making sure the turn protocol is observed.

Protecting against adverse effects includes using pressure-relieving surfaces:

Specialized support surfaces (such as mattresses, beds, and cushions) reduce or even relieve the pressure that the patient's body weight exerts on the skin and subcutaneous tissues.

Step 2 - Ensure Documentation is Complete

If the hospital ever finds itself in a legal dispute over what it did or did not do to prevent pressure ulcers, what was not documented, was not done. As the consensus paper from the [International Wound Care Advisory Panel](#) states:

From the legal perspective the chart should note every time the patient was turned, his wound cleaned, the patient instructed on wound care, and so on. The notion that every such event can be accurately and fully documented removes the focus from patient care and puts it on creating perfect paperwork.

Using "turn clocks" that have been automated to record these actions into the patient's records would relieve caregivers of the laborious task of documenting observation of turn protocols. As the [International Wound Care Advisory Panel](#) observes:

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Documentation must be balanced with patient care. Good documentation must be comprehensive, consistent, concise, chronological, continuing and also reasonably complete. This means documenting regular skin assessments, pressure ulcer measurements, turning, the use of any special products such as a support mattress or devices and conversations with the patient or family relating to the pressure ulcer.

Step 3 – Communicate

Consider how you will communicate with patients and their families if the patient is at risk of a pressure ulcer or if the patient's skin deteriorates. Think about whether new processes are needed and, if so, what they will be. You may want to obtain or develop general informational materials for patients about the risks and potential consequences of pressure ulcers.

As well, ensure that patients and their families are given pressure ulcer information on admission, and that they are notified if skin conditions or risk of pressure ulcer changes.

Should a pressure ulcer develop upon admission and become a Stage 3 or Stage 4, here are some useful actions to take:

- Initiate the communication process as soon as possible after the development of this type of pressure ulcer
- Determine how much information the patient wants to know, or whether the patient prefers that someone else receive the information
- Speak in simple language, not medical jargon
- Be straightforward, truthful, concise and respectful
- Invite and answer all questions as honestly as possible
- Advise the patient how his or her care will be managed from now on
- Express empathy with the patient/family, sympathy for the pain and suffering
- Remain available to answer future questions
- Document meeting including those in attendance and next steps
- Plan to follow-up with the patient/family

Despite best efforts and practices, pressure ulcers can occur. Simply because a pressure ulcer occurs it does not necessarily mean a hospital and/or its staff is going to be held liable in a professional liability lawsuit. However, when a pressure does occur, it should be addressed with the patient and the family.

Conclusion

Preventing pressure ulcers not only provides better patient care, but also improves hospital risk management. Automating protocols that, for example remind staff to turn patients and document this into the patient's medical records, ensure care is provided and demonstrate that protocols have been observed. Moreover, if despite the observance of protocols, a patient develops pressure ulcers, communicating with the patient and his/her family can help improve patient satisfaction and minimize information-gathering lawsuits.

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Scott Buchholz is a partner in the California law firm of Dummit, Buchholz & Trapp, having offices in San Diego, Los Angeles, Sacramento and within the Inland Empire. Mr. Buchholz's practice includes the representation of healthcare clients in their medical malpractice and other civil litigation. His clients include hospitals, physicians, pharmacies, ambulatory care centers, rehabilitation facilities and skilled nursing facilities as well as non-physician licensed personnel. He is the former president of the San Diego Association of Healthcare Risk Management and a Certified Professional in Healthcare Risk Management by the American Hospital Association.

He received his undergraduate degree from Bucknell University (1981), a graduate degree in economics from the Temple University School of Business Administration (1985) and a law degree from the Rutgers University School of Law (1984).

His firm was started in 1975 specifically to serve the legal needs of California acute care and specialty hospitals. The firm is privileged to handle a variety of litigation matters on behalf of 80+ in California, as well as allied health professionals.

Michael Wong is a recognized healthcare and patient safety expert. He has been at the forefront in driving practical solutions that reduce healthcare costs, decrease medical errors, and improve patient health outcomes

Wong is the driving force behind the Physician-Patient Alliance for Health & Safety (PPAHS), an advocacy group of physicians, patient advocates, and healthcare organizations. Supporters of and commenters for PPAHS include some of the most highly respected physicians and healthcare organizations, including The Joint Commission, Anesthesia Patient Safety Foundation, Anesthesia Quality Institute, Johns Hopkins School of Medicine, Harvard Medical School, Stanford University School of Medicine, and Cleveland Clinic.

A graduate of Johns Hopkins University and a former practicing attorney, Wong is on the editorial board of the Journal of Patient Compliance (JPC), the only peer reviewed journal devoted to helping patient's take their medication as physician recommended. Published in London, England, JPC looks into the ideal way in which patient compliance could be enhanced.