Risk Management

Whatcha Gonna Do When They Come for You? Implications and Caveats for Respiratory Therapist

Disclosure Statement of Financial Interest

I, Sherri Killam DO NOT have a financial interest/arrangement or affiliation with one or more organizations that could be perceived as a real or apparent conflict of interest in the context of the subject of this presentation.

So you are called to Risk Management……

Potential Legal Actions

- Maternal arrest/hemorrhage
- Infant requires cooling
- Maternal/infant death due to sepsis
- Neonatal/Pediatric/Adult code
- Pneumothorax
- Status Asthmaticus
- Intubation/Airway Management
  - ex: esophageal tears
  - Tube Placement verification CM/X-Ray/Ausc/C02

Section 1 –

Legal Obligations of a RT

BOARD OF RESPIRATORY CARE LAWS AND RULES

chapter 459 and in accordance with protocols, policies, and procedures established by a hospital or other health care provider or the board, including the assessment, diagnostic evaluation, treatment, management, control, rehabilitation, education, and care of patients in all care settings.

(8) "Registered respiratory therapist" means any person licensed under this part who is registered by the National Board for Respiratory Care or its successor, and who is employed to deliver respiratory care services under the order of a physician licensed under chapter 458 or chapter 459, in accordance with protocols established by a hospital or other health care provider or the board, and who functions in situations of unsupervised patient contact requiring individual judgment.

(9) "Respiratory care practitioner" means any person licensed under this part who is employed to deliver respiratory care services, under direct supervision, pursuant to the order of a physician licensed under chapter 458 or chapter 459.

(10) "Respiratory care services" includes:

(a) Evaluation and disease management.

(b) Diagnostic and therapeutic use of respiratory equipment, devices, or medical gas.

(c) Administration of drugs, as duly ordered or prescribed by a physician licensed under chapter 458 or chapter 459 and in accordance with protocols, policies, and procedures established by a hospital or other health care provider or the board.

(d) Initiation, management, and maintenance of equipment to assist and support ventilation and respiration.

(e) Diagnostic procedures, research, and therapeutic treatment and procedures, including measurement of ventilatory volumes, pressures, and flows; specimen collection and analysis of blood for gas transport and acid/base determinations; pulmonary-function testing; and other related physiological monitoring of cardiopulmonary systems.

(f) Cardiopulmonary rehabilitation.

(g) Cardiopulmonary resuscitation, advanced cardiac life support, neonatal resuscitation, and pediatric advanced life support, or equivalent functions.

(h) Insertion and maintenance of artificial airways and intravascular catheters.

(i) Education of patients, families, the public, or other health care providers, including disease process and management programs and smoking prevention and cessation programs.

(j) Initiation and management of hyperbaric oxygen.

Professional Conduct

(f) Unprofessional conduct, which includes, but is not limited to, any departure from, or failure to conform to, acceptable standards related to the delivery of respiratory care services, as set forth by the board in rules adopted pursuant to this part.

(g) Engaging or attempting to engage in the possession, sale, or distribution of controlled substances, as set forth by law, for any purpose other than a legitimate purpose.

(h) Willfully failing to report any violation of this part.

(i) Violating a lawful order of the board or department previously entered in a disciplinary hearing.

(j) Engaging in the delivery of respiratory care services with a revoked, suspended, or inactive license.

(k) Permitting, aiding, assisting, procuring, or advising any person who is not licensed pursuant to this part, contrary to this part or to any rule of the department or the board.

(l) Failing to perform any statutory or legal obligation placed upon a respiratory care practitioner or respiratory therapist licensed pursuant to this part.

(m) Accepting and performing professional responsibilities which the licensee knows, or has reason to know, she or he is not competent to perform.

(n) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows, or has reason to know, that such person is not qualified by training, experience, or licensure to perform them.

(o) Gross or repeated malpractice or the failure to deliver respiratory care services with that level of care, skill, and treatment which is recognized by a reasonably prudent respiratory care practitioner or respiratory therapist with similar professional training as being acceptable under similar conditions and circumstances.

(p) Paying or receiving any commission, bonus, kickback, or rebate to or from, or engaging in any split-fee arrangement in any form whatsoever with, a person, organization, or agency, either directly or indirectly, for goods or services rendered to patients referred by or to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this paragraph shall not be construed to prevent the licensee from receiving a fee for professional consultation services.

(q) Exercising influence within a respiratory care relationship for the purpose of engaging a patient in sexual activity. A patient is presumed to be incapable of giving free, full, and informed consent to sexual activity with the patient's respiratory care practitioner or respiratory therapist.

(r) Making deceptive, untrue, or fraudulent representations in the delivery of respiratory care services or employing a trick or scheme in the delivery of respiratory care services if such a scheme or trick fails to conform to the generally prevailing standards of other licensees within the community.

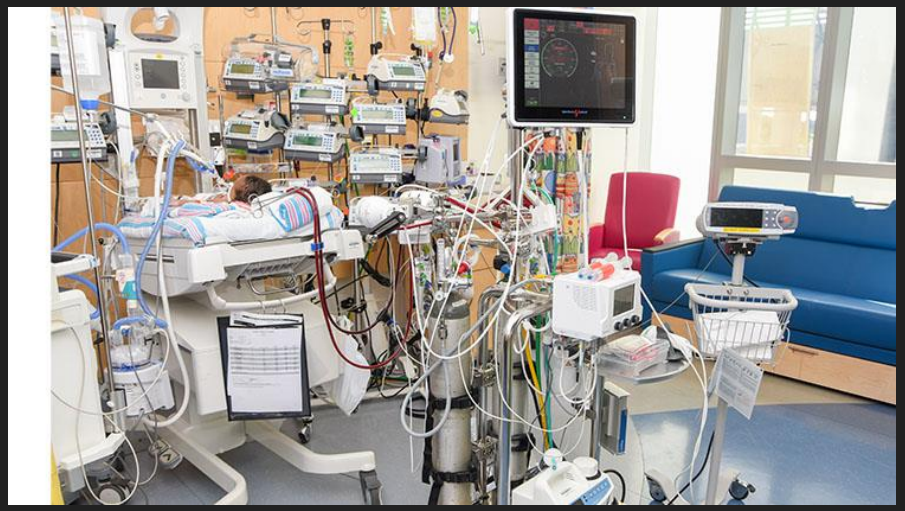
(s) Soliciting patients, either personally or through an agent, through the use of fraud, deception, or otherwise misleading statements or through the exercise of intimidation or undue influence.

(t) Failing to keep written respiratory care records justifying the reason for the action taken by the licensee.

(u) Exercising influence on the patient in such a manner as to exploit the patient for the financial gain of the licensee or a third party, which includes, but is not limited to, the promoting or selling of services, goods, appliances, or drugs.

(v) Performing professional services which have not been duly ordered by a physician licensed pursuant to chapter 458 or chapter 459 and which are not in accordance with protocols established by the hospital, other health care provider, or the board, except as provided in ss. 743.064, 766.103, and 768.13.

Bedside Report



Utilize Your Chain of Command

- a/k/a who do I talk to and when?!?
- Floor RT ➔ Department Supervisor ➔ House Supervisor/Rapid Response Team ➔ Follow up with RT Manager/Director ➔

- When to use the COC….
  - Anytime you are unsure of how to proceed (an order, documentation, action)
  - Anytime you question an order or action of a physician even after discussing the issue with that physician
  - Anytime you need more information

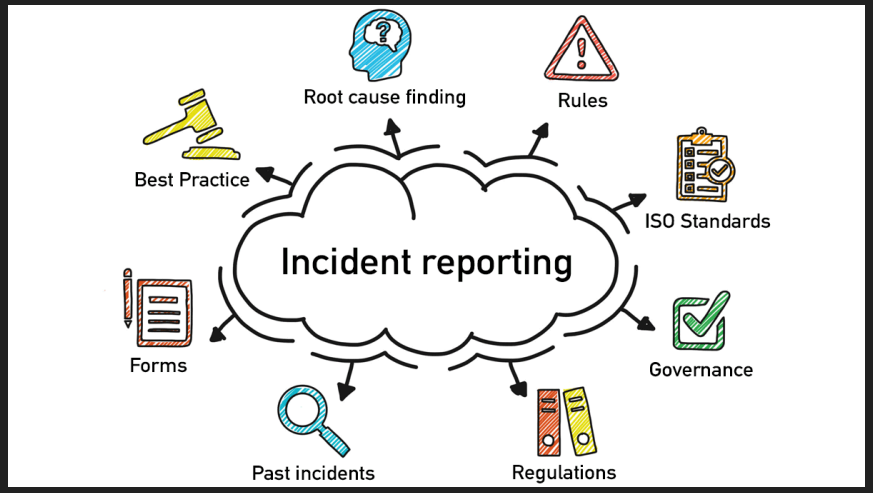
Chain of Command

- Take Away….
  - When in doubt, maintain the airway and use Chain of Command
  - Don’t create a problem where there wasn’t one especially in pediatrics!!!

Section 2 –

Documentation and Decision making

Section 5 – Incident/Occurrence Reporting



Incident Report

- Send communication throughout facility/organization to capture details
- Must be done before the end of shift

Incident/Occurrence Reporting

- Utilize the Policy and Procedure on reporting
- Anyone can submit an report.
- **When in doubt, complete the report, ask your supervisor or contact Risk Management/Patient Safety for a determination.**
- When completing the report, be as complete as possible with the who, what, why, where and how.
- …JUST THE FACTS!
- No opinions, no editorializing, no rumors and no using OR as revenge.
- In Women's Services/Pediatrics there is no place to hide. ALL bad outcomes will be investigated by lawyers. It is better to have it investigated in house first.

Incident/Occurrence Reporting

- Report or Don't Report – The Game Show
  - Patient refuses meds
  - Unattended delivery
  - Family is angry after fetal demise and breaks a chair in the room
  - Patient strikes a RT
  - Baby sent for cooling
  - NICU parents decide to withdraw life support
  - 5 vacuum pop-offs
  - Patient injured in medical procedure/test

Procedural Risks/Complications

- Utilizing outside of manufacturer recommendations
- RotaProne flip pulls ETT
- Restraining a BiPAP pt.
- Intubation Equip/Infection Control
- Vent Alarms set wide/disabled
- Bronchoscopy gone bad
- A-Line infection/site assessment A-line/Vascular Access

Critical Communication

- Blood Gas Results
- Abnormal or escalating Ventilator Parameters
- Compliance with ordered delivery device

How to disclose and document mistakes/errors

- Non-Rebreather titrated to 8L by RN for saturation range - RT documented and charged for 02 rounds
- Pt. received wrong medication (scanned sticker versus pt.)
- CMS stay with patient pre/mid/post bs/vitals
- Missed treatment timeframe or treatment began with unplanned interruption in care?
- ECMO decannulation
- Unintended Extubation

Let's have more fun!

- Ventilator settings based upon most recent order in the chart
- Extubated without order in chart pt. codes
- Intubation attempt x6
- 02 tank empty on patient transport
- Self Extubated in scanner can't find mask
- Precipitous Delivery where are airway supplies

Documentation

- Most important documentation in a chart
  - MD notifications- what to document ex: physician requested to bedside who did you talk to and what time - charting defaults to present time
  - Direct patient statements
  - pt. response to treatment
  - Orders via text
  - Personal/Facility Phone screenshots can be admissible

Documentation

- Always document –
  - Override of policy by a physician …just do it…..
  - Utilization of the Chain of Command
  - Hand off communication at shift change or for a break, including name of the RT assuming responsibility for the patient
- Remember –
  - You do not know the outcome at the time that events are occurring. Help yourself!

NICU Example

- You accompany Dr. Whoopsie, neonatologist, and RT, Ms. Righthand, to L&D OR for a STAT C.
- You are told that FHT were down and mom is being prepped.
- Delivery is timely (30 minutes decision to incision) and the baby is handed off to the NICU team looking bluish and floppy.
- APGARs are 0, 0, and 0 at 1, 5 and 10 minutes. Times are called but neonatologist continues NRP past 10 minutes. What do you do? What do you document?
- HR of 100 is established at 13 minutes of life. Dr. Whoopsie tells you that APGAR at 10 minutes was 4. You consult with Ms. Righthand who tells you to do what Dr. Whoopsie says. Now what?

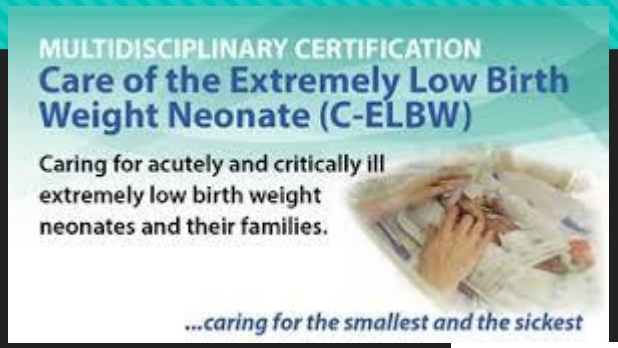
Reactions?

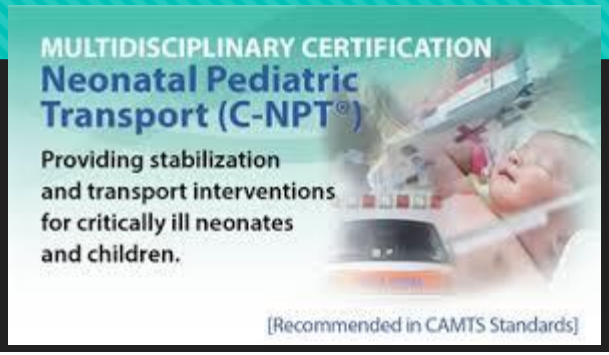
- Does anyone want to be in this position?
- Depositions like this one usually take 8-14 hours going not just page by page, but minute by minute.
- It is long and grueling and meant to break you down until you agree to absolutely anything so the questioning will end.
- Documentation is the only way to help yourself explain your care long after you no longer remember this patient's care.

Competency Questioning

- Certifications
- Continue Education
- Simulation
- Don't Be the Hero

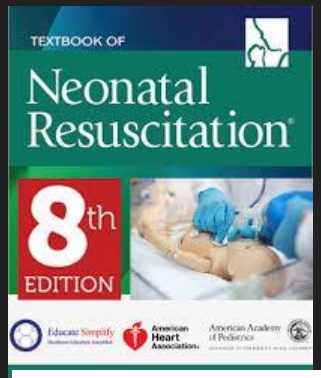
Higher Level Certifications

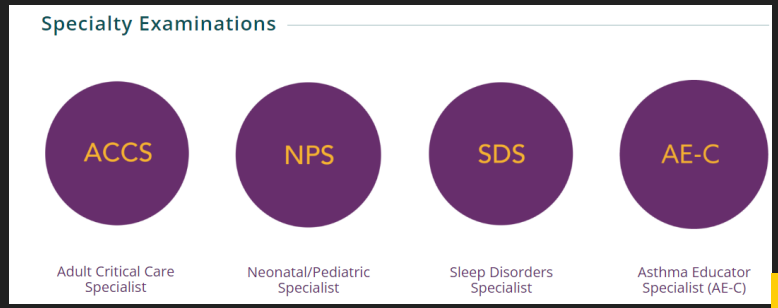




ELSO Adult ECMO Practitioner Certification (E-AEC)

- Higher level of accountability/responsibility comes with additional certifications.





THE S.T.A.B.L.E.® Program

Certified Hyperbaric Technologist

REGISTERED VASCULAR TECHNOLOGIST® (RVT®)

Section 4 –

Family and Staff Social Media/Recordings

- Work Facebook Pages
- Personal Facebook/Instagram/Snap Chat/TicTok
- Example: Family member asks to join your personal social media post contained comment about short staffing
- Example: Parent recorded their infants resuscitation in ER/NICU/LD

Section 4 –

Other Legal Issues

Mandatory Reporting of Patient Events

- Florida is a mandatory report state for HCPs and others for suspected human trafficking and/or child abuse. (Ch. 39, F.S.)
  - National Human Trafficking Hotline
  - Florida Abuse Hotline 800-96-ABUSE
- Failure to report is a 3rd degree felony

FINAL WORDS TO PROVIDE CARE BY

- When in doubt, document without any opinion or judgment
- "That's just how we do it here."
  - Will never help you with your supervisor, in litigation/deposition or before the Board of Respiratory Therapy.
  - You are responsible for your actions!
  - You are required by the state of Florida to advocate for your patient if you believe that harm will come to your patient.
- Always answer questions of the scared patient and be as understanding as possible. The ER/Critical Care/Floors are your comfort zone, not your patient's.

Questions