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Legal Issues for ED nurse managers: a recipe for successful leaders

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Your legal requirements

That you meet the emergency health needs of the public who come to ED
...while...
balancing their various priorities with the available staff, skill sets, resources, time, safety and the duty to provide reasonable care

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Why does this take leaders?

Because leaders:

- - facilitate the needs of others
- - plan ahead and pre-empt problems
- - recognise problems when they occur
- - encourage/find solutions for problems
- - help others to think actively about potential problems and solutions


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What law should you know of?

1. Accident Compensation Act 2001 = *pts' injury cover & scheme 'no fault'*
2. Health Practitioners Competence Assurance Act 2003 = *regulates HP's*
3. Health & Disability Commissioner Act 1994 = *assesses and investigates complaints and provides Code of patient rights*


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How do you apply this law?

- Have good systems in place and check that they work e.g. ACC forms, emergency consent policy, documenting ED care, communicating with doctors re ED care
- Support your staff to use the systems
- Encourage collegial/peer auditing of each other's practice in ED
- Reward your staff who actively review


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ACC legislation

- Do you have good systems for claims?
- Cover decisions rely on medical evidence of accident details, assessment, diagnosis and treatment
- Be aware of potential treatment injury claims that may present in ED (HDC case 07HDC10767 re-presented at ED w/ undiagnosed subdural haematoma)

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HPCA legislation- competence

- As a health practitioner you may write to the NCNZ (or MCNZ) if you have reason to believe another health practitioner may pose a risk of harm to the public by practising below the required standard of competence
- Employer must write if HP resigns or is dismissed due to competence reasons

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HPCA legislation- health

- As a health practitioner you must write to the NCNZ (or MCNZ) if you have reason to believe another HP is unable to perform the functions of his/her profession because of some mental or physical condition (ETOH, MH)
- No risk of civil or disciplinary proceedings if notify in good faith


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Health conditions on practice

- As an ED nurse leader you may be involved in the ongoing supervision and support of a nurse who is being monitored by the Nursing Council health committee
- The nurse may have conditions on their practice for a period of time


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HPCA legislation - conduct

- Any health practitioner/person can make a complaint about another health practitioner's conduct to the relevant registration authority
- If a nurse receives a conviction (e.g. drink driving) the courts will notify the registration authority


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HDC legislation

- Any person can make a complaint about a health practitioner's conduct to the Health and Disability Commissioner if the conduct or practice is alleged to have affected a health consumer
- If HDC decides no affect on consumer can refer conduct complaint to NCNZ


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HDC investigations & reports

- Many valuable lessons to be learned from reading these
- HDC reports that involve patient care in ED situations mainly highlight DHB systems issues that have caused patients' rights under the Code to be breached, such as staffing levels, overcrowding, & recording systems


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HDC case 1

- HVDHB case 07HDC10767- 67 yo man attacked while walking his dog-
- ED Rx and f/up - facial #'s re-presented 2x -dx subdural haematoma
- Dr in breach - no initial CT scan
- DHB in breach poor (whiteboard) handover system, e- record fields limiting for EDS, low staff levels


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HDC case 2

- HVDHB case 08HDC10486 35 yo man with cerebral palsy in IHC flat to ED with abdominal pain 0900- S/B surgical registrar 2130 -in ED 15hours
- Abdominal surgery next day, died broncho-pneumonia 7 days later
- DHB breach- ED overcrowding, EDS for notes, informed consent re IHC pt


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Lessons from HDC case 2

- Informed consent issue highlighted as pt - severe disability w/ no next of kin/guardian or 'power of attorney'
- Right 7 (4) of the Code outlines process DHB may provide services (a) best interests & (b) reasonable steps to ascertain views, or (c) if unable to-ascertain then views of suitable person


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HDC case 3

- MCDHB 03HDC14692, 91 yo, alert woman to ED for ? LRTI, CXR normal
- For antibiotics and discharge, stayed o'night – her bradma put on another patient's medchart - given MS in error –deteriorated, error continued x 4 days
- Died in hosp 2 wks later- pulm oedema 2ndary to cardiac failure & pneumonia


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Lessons from HDC case 3

- DHB breach- systems issues enabled error to occur and continue- ID label and chart storage inadequate, poor continuity and handover by staff under pressure in ED
- In 2002 ACC cover for medical error -4 DHB dr's found in medical error and 3 upheld in error at indepd't ACC review


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HDC cases 4

- Whanganui DHB case 07HDC17769
- 19yo snowboarder fell 5m onto back neuro s & s - heli to ED – Xray no #
- Pain med script - for discharge when mobilised- nurse called away – pt left
- Pt deterior'd next day- paralysis, pain to ED- burst T3 #- CT scan, OT T1-5


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Lessons from HDC case 4

- DHB in breach – overloaded ED, poor layout of ED, staff shortages, poor documentation including nursing notes
- Commissioner - DHB responsible for quality of documentation by medical and nursing staff
- 2 ED drs in breach – overloaded w/ work does not mitigate duty of care


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Further HDC case references

- Whanganui DHB 09HDC01190- baby in ED w/ meningococcal septicaemia
- No breach- good practice
- Canterbury DHB 07HDC14539- 25yo with back pain – died next am epidural abscess- DHB breach staff resources

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Recipe for leaders in ED

- Facilitate needs of staff
- Plan ahead
- Pre-empt, recognise, & solve problems
- Have good systems
- Support staff
- Peer review & audit
- Reward effective staff

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