

# Mitigating your Agencies Risk Profile Relating to Medical Malpractice

Presented by Herman van Zyl  
Accu-Prof Insurance Brokers



# Our DNA

- **Accu-Prof Insurance Brokers** was established in 1995, to bridge the gap between insurers and policy holders.
- 28 Years experience in the industry.
- Specialists in niche insurance and services.
- Professional team and Industry partners at our disposal.

# Reasons Med Mal claims are on the rise.

- Increased public awareness of potential claim.
- Aggressive marketing/funding by personal injury lawyers/litigation funders.
- Decline in professionalism, impersonal relationships.
- Changes in legislation.
- Technological advances /sophistication in dealing with claims.

# Factors that lead to Nursing Negligence

- Poor patient monitoring in the form of neglecting a patient's basic needs to the point where this causes direct harm
- Failure to respond to clinical signs, medical information from doctors, patients or their family members
- Failure to follow guidelines leading to infections or worse
- Failure to administer prescribed medication or correct doses of medication
- Inadequate training.



# Mitigating your risk

- In the fast-paced staffing industry, agencies face a unique set of risks on both the client and employee sides of the business.
- On the one hand, you're responsible for ensuring the employees you hire are qualified for the potential risks they can face in the work environments where they are placed.
- The incorrect placement of an individual opens up the door to legal, reputational, and financial repercussions that can impact your bottom line.
- It is important to proactively identify, understand, and mitigate these threats to keep your business operations running smoothly.

# Candidate Screening Process

- Inadequate Candidate Screening Process
  - Agencies need to ensure that the candidate has the correct qualifications and holds the necessary experience and registration with the regulatory body.
  - Checks should include credit and criminal screening.
  - Failure to undertake the screening process is a risk to your agency and to potential clients increasing risk exposure and may lead to loss of life.

## Possible Inclusion to the screening process to mitigate risk:

- Skills Test
- Orientation and Safety Training
- Bi-annual vetting – which includes updated documentation in relation to proof of indemnity cover in a personal capacity.

## When placed.. Now... What

- Ensure the client is aware that personnel is placed within a position as per contract terms, an individual may not be placed in an alternative position without ensuring the individual has the necessary skills and experience.  
e.g. Enrolled Nurse assigned as a Registered Nurse in ICU with no experience.
- Agencies should appoint a consultant to do monthly visits to placed institutions to ensure the health and safety of placed staff.
- Provide support to placed staff in relation to information that can assist with managing risk, i.e., the importance of maintaining records and reporting incidents.
- Have a hotline for all placed staff in case of unfair working conditions or reporting of any possible matters in the placed institution.



## When placed.. Now... What

- Should placed nurses receive training from the placed institution ensure training is documented as part of the records
- Standard operating procedures and guidelines are to be provided by the institution at which the candidate is placed
- What measures are in place to monitor and manage nursing fatigue?
- How often do you as an agency meet with your client i.e., placed hospital and with the staff you placed in hospitals ?

# The Role of the nursing manager in placed institution

The nursing manager:

- Should take into account skills, competencies and knowledge when delegating tasks to agency nurses and when supervising their actions.
- It is essential that the nurse manager ensures that the agency nurse is aware of the relevant policies, procedures, resource- materials and documentation procedures.
- It is important to select staff with the appropriate skills and competencies, and it includes agency nurses.

# Examples of Negligence

## Cases of nursing negligence

A four-month-old baby admitted to a Mpumalanga hospital for diarrhea left the hospital with her arm amputated.

A man admitted to a Durban hospital for gangrene in his leg was found by his son four days later, with maggots under his upper lip.

In the case of the Esidimeni Life Scandal, a large number of psychiatric patients died of causes such as dehydration and pneumonia, to a large extent as a result of neglect.

# Examples of Negligence

## Examples of successful Nursing Negligence Claims in South Africa

In *NP v MEC, Eastern Cape*, poor nursing assessment was found to have led to the birth of a child with an avoidable physical deformity.

In *Michael v Linksfield* a nurse was found liable for incorrect operation of resuscitation equipment, which resulted in a man suffering a cardiac arrest and leaving the patient in a vegetative state.

Medical staff was found to be liable for failing to initiate emergency care for a pregnant patient whose child suffered hypoxia and asphyxia which resulted in cerebral palsy in the matter of *Ntsele v MEC for Health, Gauteng Provincial Department*.

# New Risks to consider

- Cyber and POPIA Exposures
  - For the agency – records of clients and personnel
  - Agencies need to implement the following:
    - ✓ Excellent IT Infrastructure
    - ✓ Ensure patches are up to date
    - ✓ Cyber training and awareness for all staff
    - ✓ Control access to protected information
    - ✓ Where possible multi-factor authentication and implement encryption
    - ✓ Education to staff including placed staff in relation to potential Cyber and POPIA exposures.



# Key Takeaways

- The importance of collaboration between agencies and hospitals for the provision of adequate nursing staff by the agencies is paramount to the success of the trilateral partnership – agency- agency nurse – hospitals
- Risk Management in healthcare means the difference between life and death and includes the agency and placed nurse.
- It is important to apply and implement practices that identify risk factors and apply proactive procedures to address those risks.
- Educate placed staff on the importance of:
  - Effective communication including bedside manner.
  - Record keeping and maintaining accurate records.
  - Incident reporting.

# Accu-Prof Indemnity Offering

- Comprehensive Medmal Cover for Nurses & Care Workers up to R 10 mil.
- PI / Medmal Cover to Nursing Agencies.
- Comprehensive Cyber Cover to Agencies.
- Professional advice and Assistance to all relevant parties.

Our Contact details:

[www.accuprof.co.za](http://www.accuprof.co.za)

E-mail: [info@accuprof.co.za](mailto:info@accuprof.co.za)

Tel no: 012-345 5015 / 087 700 0585