

Chapter 2 Anatomy of a Lawsuit

MULTIPLE CHOICE. Choose the one alternative that best completes the statement or answers the question.

1)

A lawsuit has been filed against the hospital for terminating an employee for excessive tardiness and absenteeism. The defendant's attorney has contacted nurses who worked with this employee to testify in the case. Which statements would best support the defendant's case?

Note Credit will be given only if all correct choices and no incorrect choices are selected.

Select all that apply.

1)

A)

"The employee called in sick on several consecutive Fridays."

B)

"I didn't work the same shift."

C)

"She was never late or absent during the 6 months I worked with her."

D)

"Her absences affected the work flow on our unit."

E)

"She often asked me to cover for her while she took her kids to school."

2)

A nurse is served with a summons alerting him that he has been named in a malpractice lawsuit. What information can the nurse learn from this summons?

Note Credit will be given only if all correct choices and no incorrect choices are selected.

Select all that apply.

2)

A)

Expected length of the trial

B)

Names of any other defendants in the case

C)

Breaches in standards of care, injuries, or damages alleged by the defendant

D)

Name of the plaintiff in the case

E)

Date to appear before the court

3)

A lawsuit is filed against a nurse's action in the clinical setting. In which case might a default judgment be entered?

3)

A)

The plaintiff did not respond to the complaint.

B)

The defendant did not respond to the complaint and would otherwise have been shown to have liability.

C)

The defendant did not respond to the complaint.

D)

The plaintiff did not respond to the complaint and would otherwise have been shown to have liability.

4)

The attorney for a nurse named in a malpractice case recommends that the case go to a prelitigation panel. What rationale would the attorney offer the nurse for this recommendation?

4)

A)

Questioning of witnesses is not conducted under oath and is more informal.

B)

These panels ensure that there is a controversy or fact question for the court.

C)

Using such a panel negates the need for a full jury trial.

D)

Such panels shorten the time between filing and conclusion of the lawsuit.

5)

A nurse named in a malpractice case may wish to avoid the expense of a trial by going to arbitration. What is another rationale for the nurse to use this process?

5)

A)

Arbitration is not binding, so if the parties do not like the outcome, nothing is lost.

B)

Witnesses do not testify under oath and are easier to obtain.

C)

There is no formal record made of the arbitration process.

D)

There is no need to have attorney representation.

6)

Depositions will be taken of witnesses in a wrongful termination suit filed against the hospital by a former employee. Which information should the attorneys provide to the witnesses that will be deposed?

Note Credit will be given only if all correct choices and no incorrect choices are selected.

Select all that apply.

6)

A)

The deposition will be taken in a courtroom with a judge in attendance.

B)

The witness may refer to notes during the deposition.

C)

The testimony provided is sworn testimony.

D)

Once the testimony is recorded, no changes can be made to the record.

E)

Witnesses being deposed will be questioned by their attorney.

7)

A nurse has agreed to participate in a videotaped deposition in a malpractice case. What is the impact of this nurse's agreement?

7)

A)

The nurse's testimony can be presented in court, even though the nurse is unavailable for the trial date.

B)

The plaintiff's attorney believes the nurse is a liability for personal trial appearance, but will be credible on tape.

C)

The nurse is testifying as an expert witness.

D)

The nurse states that testimony will adversely affect employment opportunities.

8)

Which person would **best** qualify as an expert in a nursing malpractice case filed because of failure of a postanesthesia care unit nurse to recognize the early signs and symptoms of respiratory arrest?

8)

A)

The director of nursing at the hospital who holds an MSN in nursing administration

B)

The director of clinical pharmacy who holds a doctoral degree in clinical pharmacology

C)

A staff nurse who works on the general medical unit and has recently earned a BS in nursing

D)

A critical care nurse who holds a BS in nursing and certification from the American Association of Critical Care Nurses (AACN)

9)

Which statement best describes the rule regarding expert testimony in nursing malpractice cases?

9)

A)

Expert testimony is always required in nursing malpractice suits, and the injured party cannot win his or her case without expert testimony being presented.

B)

Whether expert testimony is needed is decided on a case-by-case basis after analyzing the facts of the case.

C)

The jury is permitted to decide, based on all the evidence submitted, whether expert testimony is needed.

D)

Expert testimony should be presented whenever there is reason to suspect that the jury will decide in favor of the injured party if expert testimony is not presented.

10)

A nurse has been called as a lay witness in a malpractice lawsuit. What information should be provided to the nurse regarding this testimony?

Note Credit will be given only if all correct choices and no incorrect choices are selected.

Select all that apply.

10)

- _____ A)
The testimony should include opinion on the appropriateness of care provided.
- B)
The lay witness must have a direct connection to the case.
- C)
These witnesses tell only what has transpired from their perspective.
- D)
Lay witnesses may answer hypothetical questions for the jury.
- E)
Lay witnesses testify to what others have said about the incident under question.

11)

The nurse is involved as an expert witness in a civil court case where life support was withdrawn and the patient expired. Which level of evidence is expected for this case?

11)

- _____ A)
Preponderance of evidence
- B)
Clear and convincing evidence
- C)
Voiur dire evidence
- D)
Evidence beyond a reasonable doubt

12)

Criminal charges have been brought against a nurse who made a medication error that resulted in a child's death. Which level of evidence is expected in this case?

12)

- _____ A)
Clear and convincing evidence

B)

Preponderance of evidence

C)

Evidence beyond a reasonable doubt

D)

Discovery evidence

13)

A nurse has been called to testify in a malpractice lawsuit. Which information should the attorney provide to the nurse about the process of cross-examination?

13)

A)

Cross-examination allows the nurse to ask questions of the opposing counsel.

B)

This process allows opposing counsel to explain the meaning of the nurse's testimony.

C)

Cross-examination is a process to ensure that both attorneys question all witnesses.

D)

During this process, opposing counsel will try to refute the nurse's testimony.

14)

A patient has filed a lawsuit alleging that negligence by a nurse resulted in permanent injury to his legs. At trial what is this person's burden of proof?

Note Credit will be given only if all correct choices and no incorrect choices are selected.

Select all that apply.

14)

A)

That the nurse intended to injure the patient

B)

That the incident caused the plaintiff's injury

C)

That the plaintiff recognized the injury within days of discharge

D)

That the alleged incident actually occurred

E)

That the nurse being charged was improperly trained and supervised

15)

A nurse has agreed to serve as an expert witness in a jury trial. What is this nurse's major ethical concern?

15)

A)

To make a logical and fair decision at trial

B)

Ability to stay objective and unbiased during court proceedings

C)

Fulfilling the obligation to "fill in the blanks" in the medical record

D)

To explain that unexpected outcomes sometimes occur in health care

1)

A, D, E

2)

B, D, E

3)

C

4)

B

5)

C

6)

B, C

7)

A

8)

D

9)

B

10)

B, C

11)

B

12)

C

13)

D

14)

B, D

15)

B