

# Role of Healthcare Risk Managers in Litigation

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Hey, this is the OR ...

- We just had a little problem
- Dr. Pierce was doing a BKA
- Circulator got confused
- Draped the wrong leg
- Surgeon amputated the wrong leg

What do we need to do?

# RISK MANAGEMENT CONNECTION TO LITIGATION

(or how you can affect the lawsuit)

## *Roles in 3 Stages*

- Right After the Event
- Investigation Stage
- Lawsuit Filed

# Immediately after the event

*TAKE-AWAY: Things can come back to bite you*



## *Basic Risk Management*

- Use your “Critical Event Response” To-Do list

## *Considerations for Litigation*

- Communications with Patient/Family
  - S.C. Code Ann 19-1-190 (“Apology Statute”)
  - Written and Verbal
- Statements or interviews? Other evidence?
  - Peer Review vs Work Product vs Factual Evidence
- Chart Considerations
- Reporting Considerations (Carriers, DHEC)

# Investigation following the event

## *TAKE-AWAY: Control the Flow of Information*

### *Basic Risk Management*

- Run a Root Cause Analysis (RCA)

### *Considerations for Litigation*

- Understand the 2012 Peer Review Statute
  - S.C. Code Ann. 44-7-392
- The Folder
- Emails
- Presenting the RCA Findings
- Risk Management vs Medical Staff Action



# Suit is Filed



*TAKE-AWAY: Help your lawyers!*

## *Basic Risk Management*

- Let defense counsel handle the lawsuit

## *Considerations for Litigation*

- Delays will get you in trouble
- Complete Medical Records
- Witnesses ID'd
- Discovery Issues
  - Interrogatories and Production
  - Peer Review Files
  - Audit Queries
- Resolution and Management of the Litigation

QUESTIONS?