

Health Law: Quality & Liability

Prof. Thaddeus Pope

Hospital Liability -
Direct



2 categories of
hospital liability:

1. Vicarious
2. Direct



3 vicarious theories



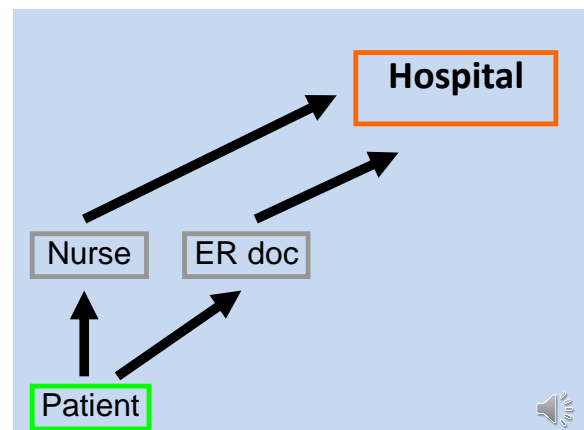
Respondeat superior

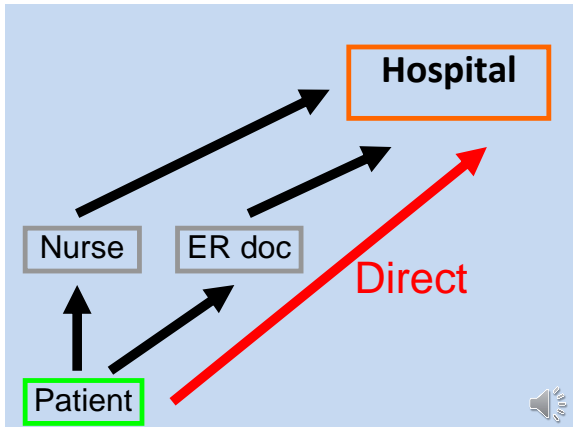
Ostensible agency

Nondelegable duty



Direct Liability





Direct liability
aka
Corporate liability




Mary Brainerd
President and Chief Executive Officer
B.A., University of Minnesota
M.B.A., University of St. Thomas

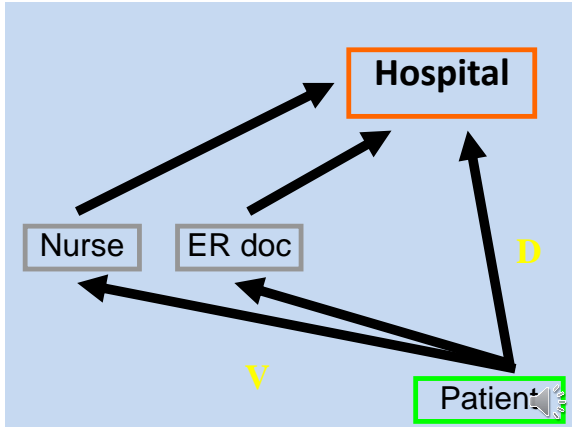



Kathryn Correia
President and CEO
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Rulon Stacey
President and CEO
B.S. - BYU
M.H.A. - BYU
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PTF can make
pursue **both**
vicarious & direct
theories



4 direct theories

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- Negligent selection
 - Negligent retention
 - Negligent P&P
 - Equipment, facilities
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- Duty**
What would reasonable H have done
 - Breach**
 - Injury**
 - Causation**
Without breach PTF would not be injured
- A blue box containing a list of four legal concepts. A small speaker icon is in the bottom right corner.



1

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Negligent selection



Hospital does “**credentialing**” to assess of applicant physician is competent to be on its “**medical staff**”



- License
- Board certification
- Training
- Prior privileges
 - Scope
 - Suspension
- Malpractice history



2



Negligent retention



Just like selection, except physician is **already** on staff



Check every two years:

- Still licensed
- Malpractice actions
- Loss of privileges elsewhere
- Peer reviews
- Error rates



Might **originally** sued on vicarious liability

And later **amend** complaint after discovery reveals negligent credentialing



3



Negligent P&P



- Training
- Supervision
- Protocols



The Ratios

Intensive/Critical Care	1:2
Neo-natal Intensive Care	1:2
Operating Room	1:1
Post-anesthesia Recovery	1:2
Labor and Delivery	1:2
Antepartum	1:4
Postpartum couplets	1:4
Postpartum women only	1:6
Pediatrics	1:4
Emergency Room	1:4
ICU patients in the ER	1:2
Trauma patients in the ER	1:1
Step Down *	1:3
Telemetry *	1:4
Medical/Surgical	1:5
Other Specialty Care *	1:4
Psychiatric	1:1



4



Negligent Equipment

