



# Medical Record Errors and Other Common Sources of Lawsuits

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Matt Groves  
General Counsel – Copic

[mgroves@copic.com](mailto:mgroves@copic.com)  
720-530-6427(c)

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## **For nursing the number of credits designated is the number of credits awarded**

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# Process for Claiming Credit

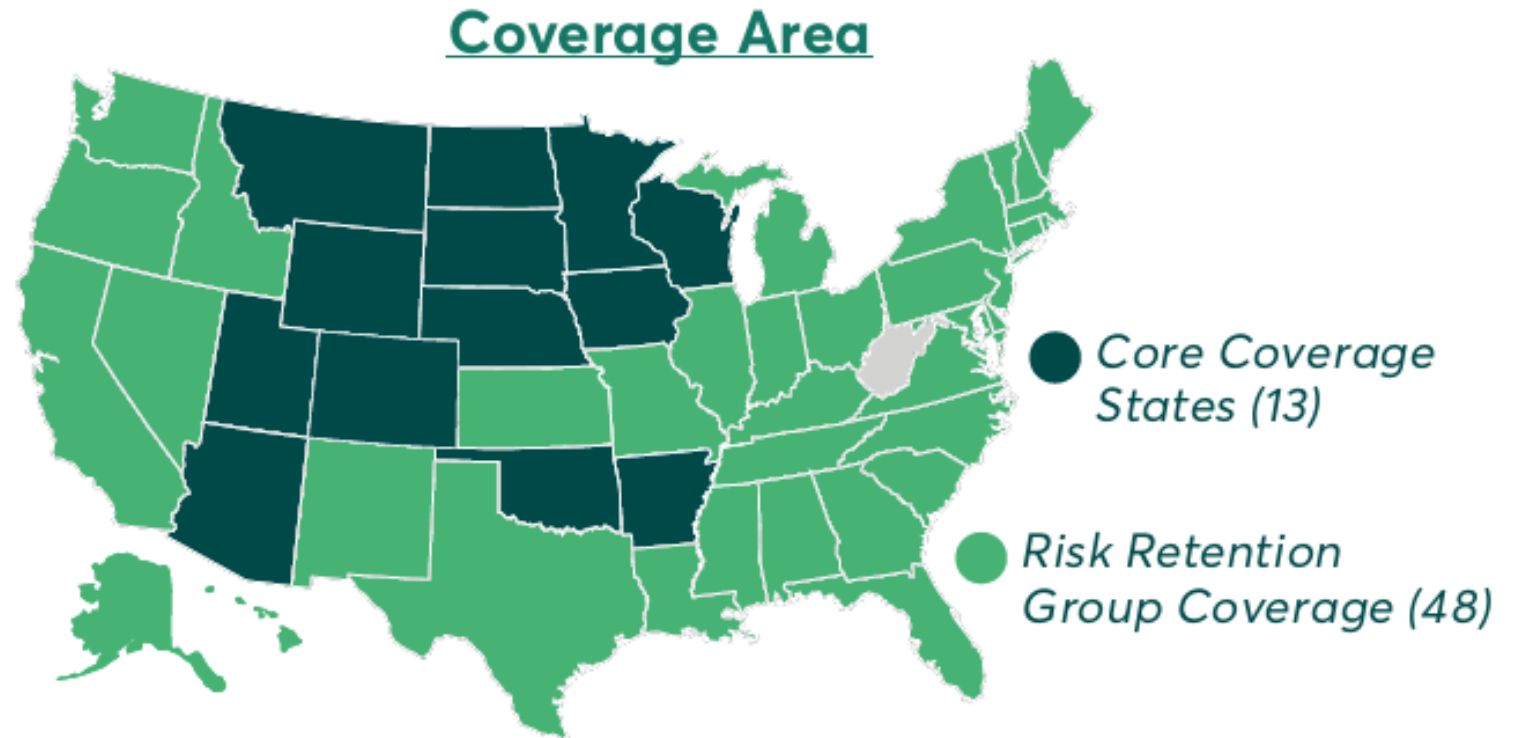
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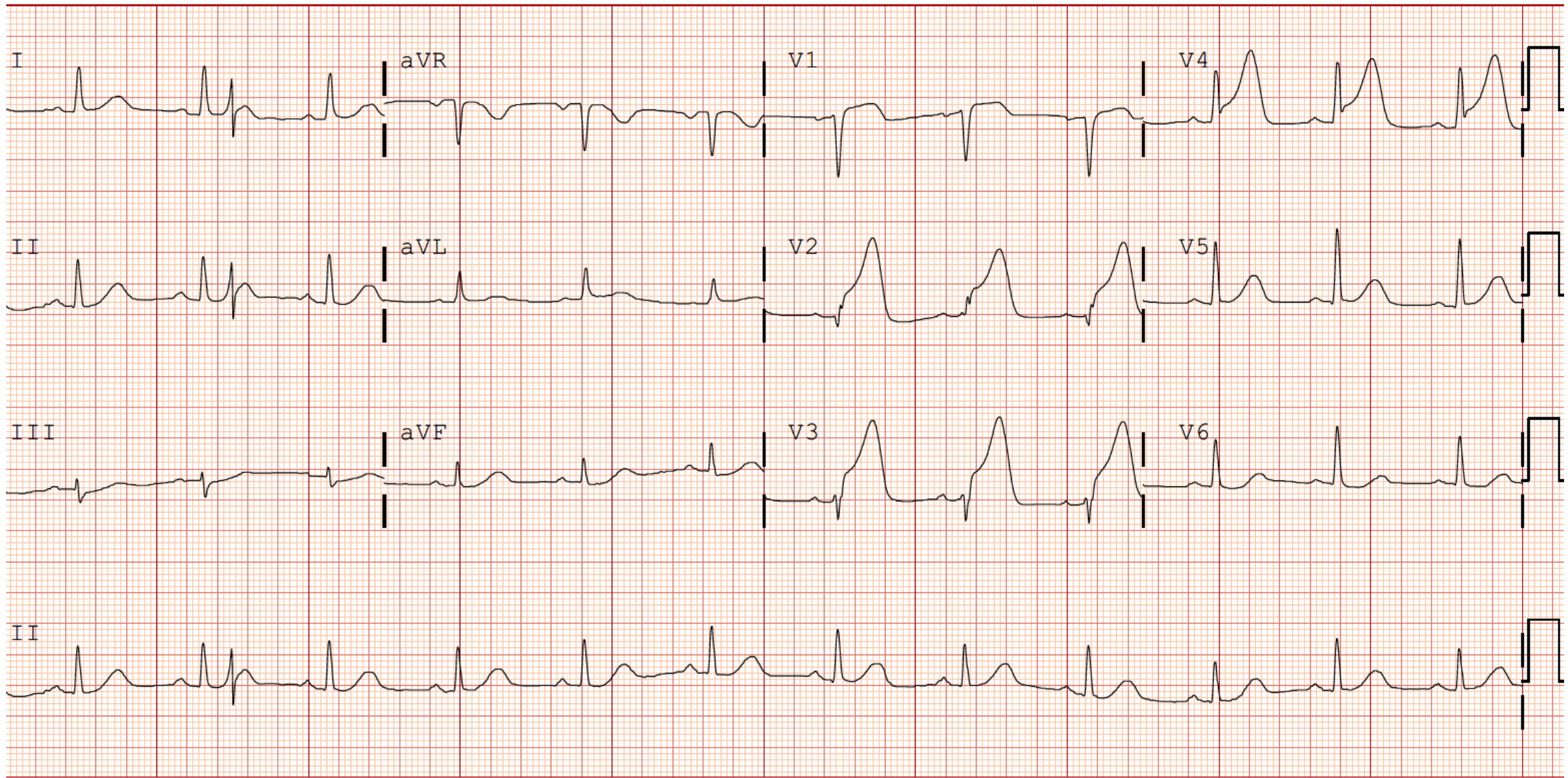
## **Process for Completing the Activity:**

1. Read the target audience, learning objectives, and financial disclosures.
2. Complete the LIVE educational activity.
3. Complete the activity evaluation on Copic's LMS platform and/or Survey Monkey

It is estimated that this activity will take approximately **1 hours** to complete.

- 42 years
- Medical Only
- ~30,000/~8,000/ ~400
- ~160,000 Occurrences
- ~12,000 Lawsuits





# One Minute Malpractice

- **DUTY**

- What Would A Provider In The Same Specialty Do Or Not Do Under The Same Or Similar Circumstances?
- “Standard of Care”

- **BREACH**

- **CAUSATION**

- **DAMAGES**



# 15:4 No Implied Warranty of Successful Outcome

- Unless a [physician] [nurse] states or agrees otherwise, a [physician] [nurse] does not guarantee or promise a successful outcome by simply treating or agreeing to treat a patient.
- An unsuccessful outcome does not, by itself, mean that a [physician] [nurse] was negligent.
- An exercise of judgment that results in an unsuccessful outcome does not, by itself, mean that a [physician] [nurse] was negligent.

# Injury and Damages

- Money is the Goal: **40% Fee**
- **Non-economic damages**
  - Pain and suffering
  - Impairment or disfigurement
- **Economic damages**
  - Medical bills
  - Future care costs
  - Past and future lost wages



# Winning Your Case with Electronic Medical Records Webcast



OVERVIEW

AGENDA

FACULTY

REGISTRATION INFORMATION

Wednesday, May 27, 2026

11:00 AM - 2:00 PM

### Live Session

Welcome Announcements

AI in Medical Malpractice Cases

- New rules of evidence related to machine-generated output

Sharing the Healthcare IT System Perspective: AI is Nothing New

- How alerts work, why they are prompted
- Epic, Meditech, Cerner - all unique systems
- Difference between what we see in PDF and what users see on the screens, the recreate clause use in trial

Break

Different Types of AI Tools

AI in Nursing Home Software

Questions and Answers Session

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# How Do Charting Issues Affect Lawsuits?

- Odds of needing to make payment increase 140%\*
- Severity: Average payment is 54% higher\*.
- Nursing\*:
  - 30% of all cases arise from documentation failures
  - 65% of documentation cases require payment

• \*Source: 2024 Crico-Candello Documentation Liability Report

# EDUCATE RE: UNIVERSE OF CONSEQUENCES

- **MEDICAL AND NURSING BOARDS**
  - NURSING BOARD > LAWSUITS\*
- **~14% OF CLAIMS AGAINST NURSING SUPERVISORS\***
- **MONEY:**
  - SIR/DEDUCTIBLE/PREMIUMS
  - CMS REIMBURSEMENT
  - INSURER PANELS
- **TJC ACCREDITATION**
- **REPUTATION/SOCIAL MEDIA**

• \*Source: CNA Nurse Liability Claim Report: 5<sup>th</sup> Edition 2025

# LATE CHARTING

# CURES ACT/INFORMATION BLOCKING RULE

- CURES REQUIRES IMMEDIATE AVAILABILITY
- PATIENTS WILL IMMEDIATELY REVIEW
  - **BEFORE YOU!**
- PATIENTS WILL IMMEDIATELY DOWNLOAD & AI SEARCH
- PATIENTS IDENTIFY 20% ERROR RATE
  - JAMA Netw Open. 2020 Jun 9;3(6):e205867. doi: 10.1001/jamanetworkopen.2020.5867

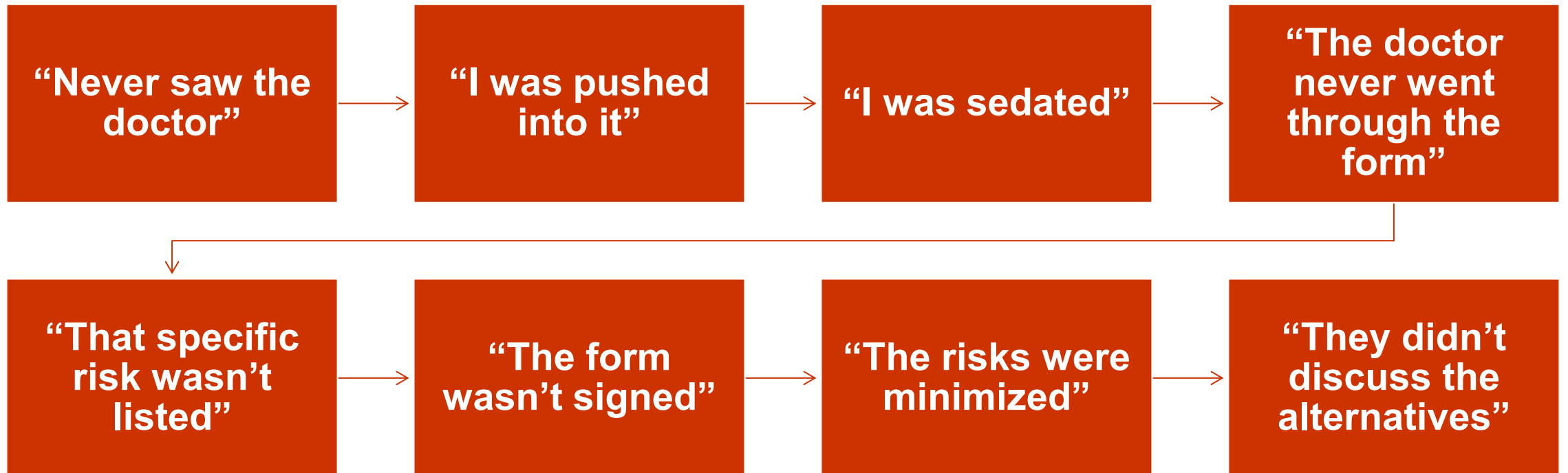
# INCOMPLETE CHARTING

# “If it wasn’t charted it wasn’t done”

- **Nursing:**
  - Document SBARs with Physicians
  - Document the referral, orders, communications, and follow up plan.
  - Document Chain of Command
  - Texting
- **Physicians:**
  - Document differential and the decision process
    - “to do” and “not to do”
  - Document exam specific to complaint
  - Use the Medical Decision Making section (Epic) to document thoroughly if EMR template limited.
- **Protect Yourself Against Charting Errors of Others.**
- **Claims May Arise Years After Care**

# CONSENT/REFUSAL

# Common Consent Allegations



# WHAT TO DO:

- **RESIST PHYSICIAN INSISTENCE ON PREOP STAFF OBTAINING CONSENTS.**
- **BEWARE TABLET CONSENTS**
- **PHYSICIAN SHOULD OBTAIN CONSENT.**

# Informed Refusal

- Document recommended procedures/treatment
- Document recommended higher level of care – ER, hospital, specialist, etc.
- Note in chart vs. form?



# WHAT NOT TO CHART

# WHAT NOT TO CHART

- **Criticisms or Insults**
  - Patient
  - Providers
- **Admissions of Fault**
- **Risk Man./Quality Assurance**
  
- **Related Issues:**
  - Texting is Not Confidential
  - HIPAA – Chart access

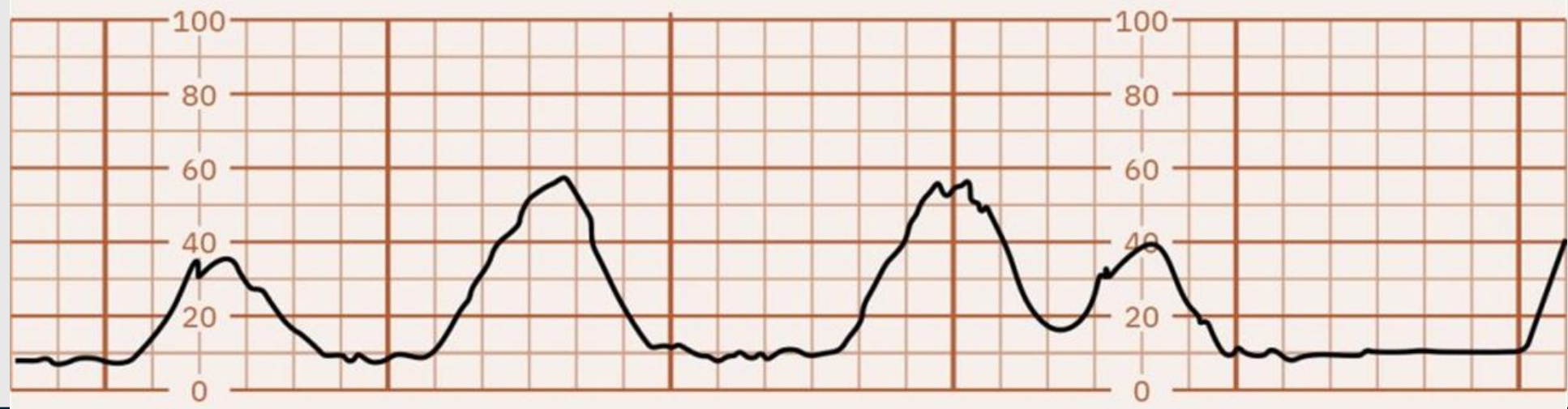


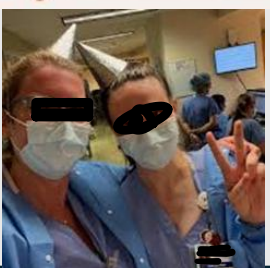
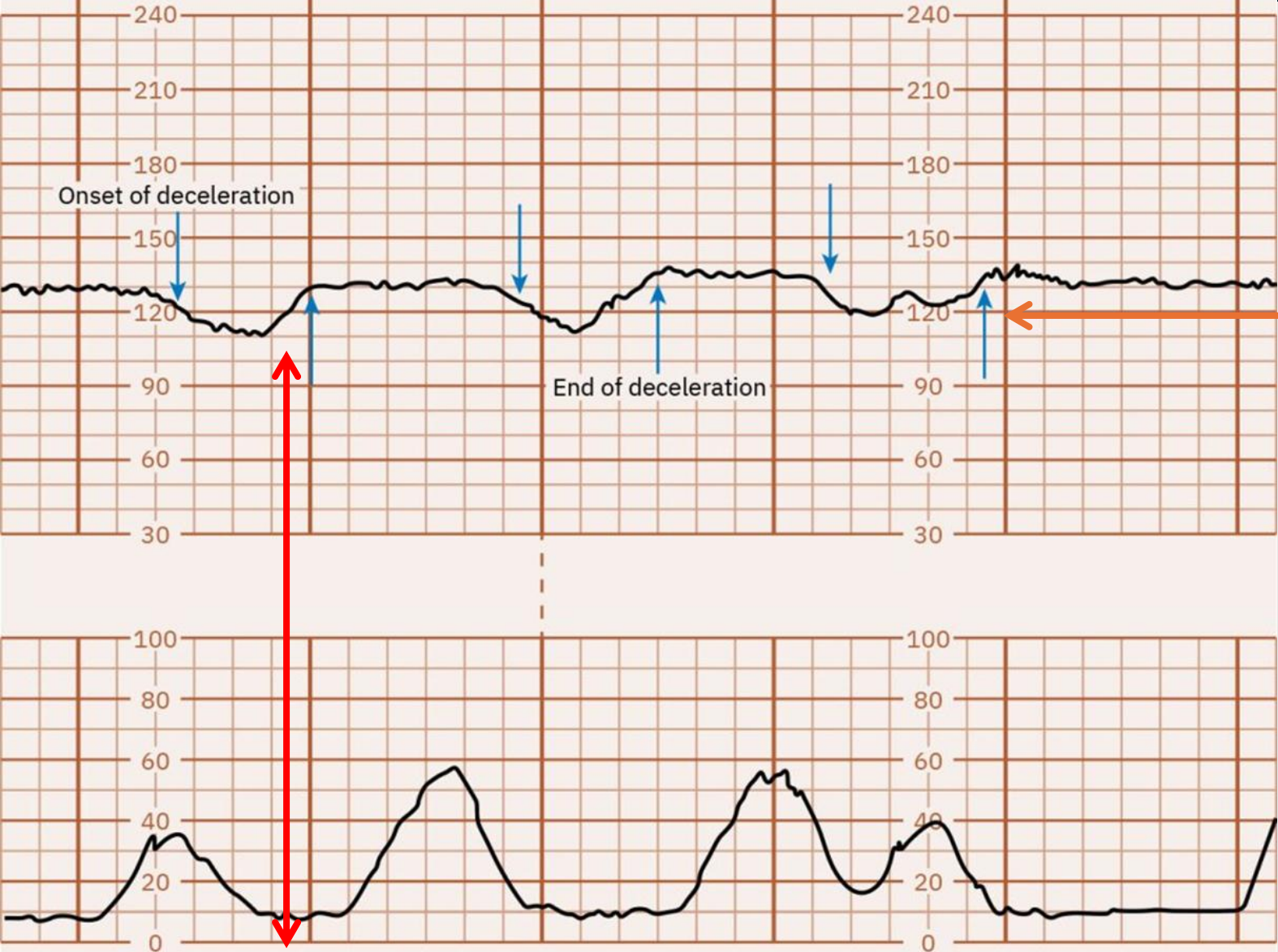
# **SOCIAL MEDIA/PHONE/TEXT**

# The Electronic Data Attack

- Chart Metadata
  - Who was in chart, when, for how long?
- Phone
- Text
- Social Media
- Real-Time Location System (RTLS)



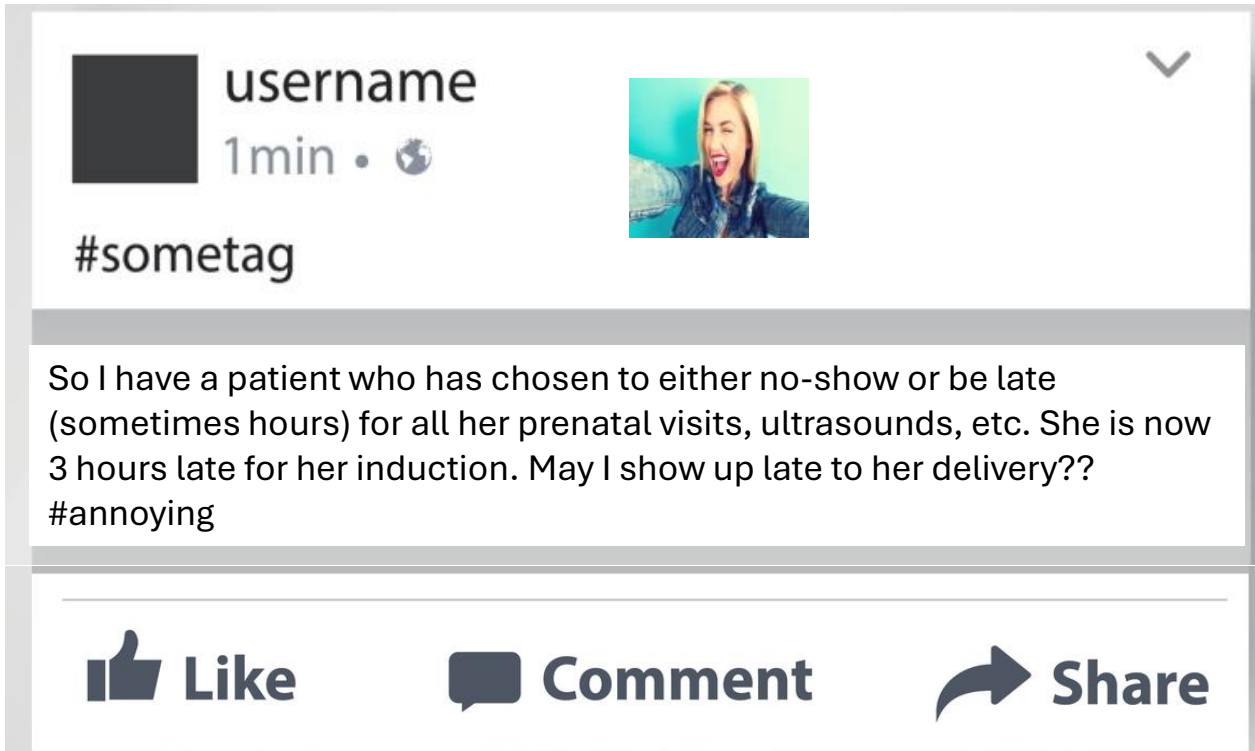




**PLAINTIFF'S EXHIBIT**

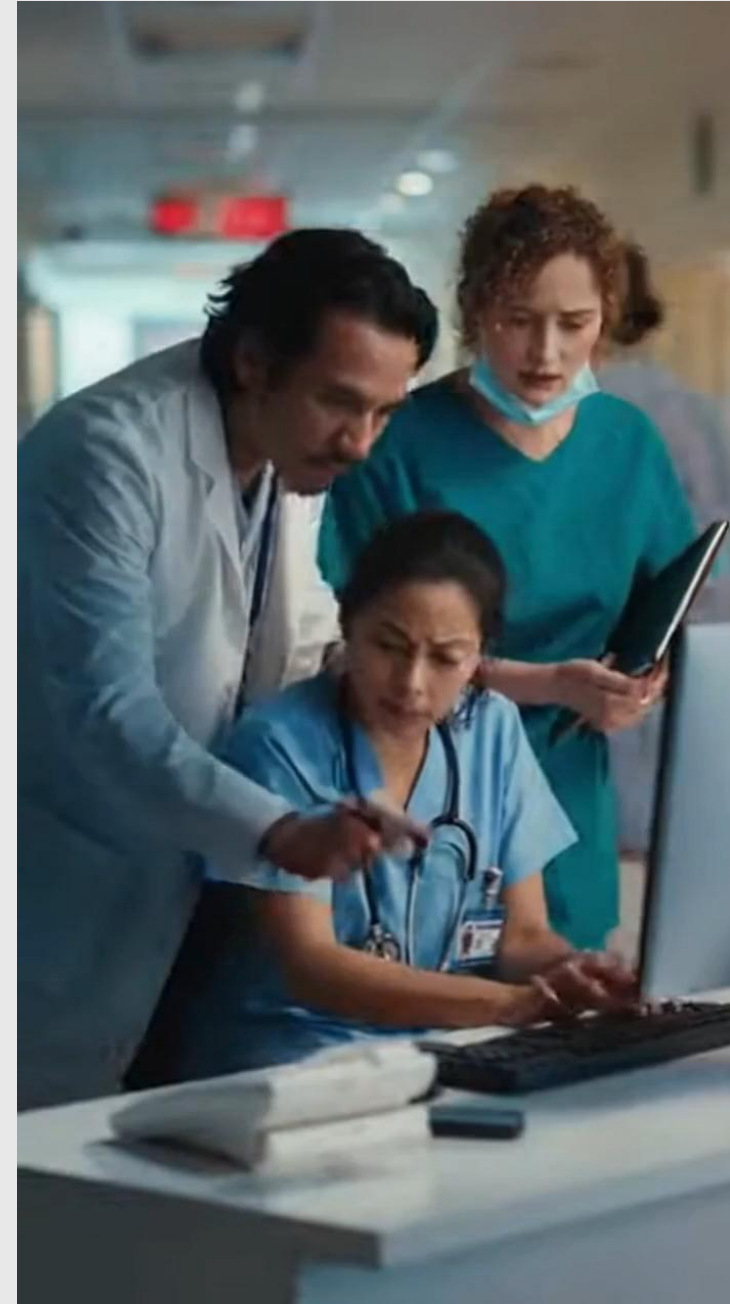
tabbies

# Social Media – NO!



**\$5.6M Award After PA Midwife Posts Botched Birth Photo Of Baby's 'Jellybean Head' On Instagram**

# AUTOFILL/DROPDOWNS

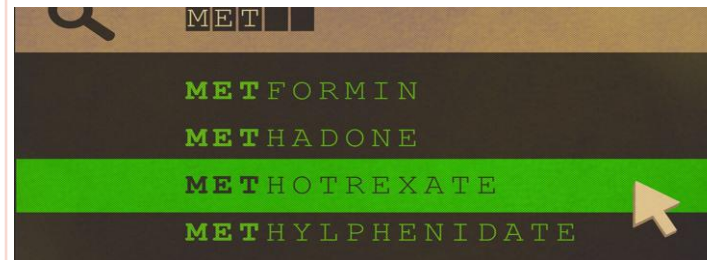


# Medication

## WRONG DOSE:

- K-Phos: 1.5 mmol vs. **15** mmol
- Common:
  - Peds
  - Warfarin

## WRONG MEDICINE:



## WRONG ORDER:

- Continue vs. discontinue
- IV v. PO

DETAIL **HISTORY**

Show Text Expand Labels



◀ ▶ y 08:00 by 23:30 by 08:00 by 20:00 by 08:00 by 20:00 by 08:00 by

Wound

Wounds

Dressing Change Patient Tolerance		Tolerated Well		Tolerated Well				
Sacrum								
Wound Picture in Patient Chart	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Premedicated Prior to Dressing Change	No	No	No					
Wound Type	Pressure Ulcer	Pressure Ulcer	Pressure Ulcer	Pressure Ulcer	Pressure Ulcer	Pressure Ulcer		Pressure Ulcer
Is This a Chronic Wound	Yes	Yes	Yes					
Wound Staging	Stage II	Stage II	Stage II	Stage II				
Wound Bed Appearance	Pink Edematous	Pink	Pink					
Wound Margins Description	Attached	Attached						
Wound Undermining Position			attached					
Wound Surrounding Tissue Appearance	Pink Edematous	Pink	Pink					
Wound Drainage Amount	None	Minimal	Minimal					
Wound Drainage Odor	None/Absent	None/Absent	None/Absent			None/Absent		
Wound Dressing Status	Dry & Intact	Dry & Intact Changed	Dry & Intact Changed			Dry & Intact		
Wound Primary Dressing Type	Adhesive Optifoam Dressing	optifoam	optifoam					
Wound Dressing Change Date	02/01/26	02/02/26						
Dressing Change Patient Tolerance	Tolerated Well	Tolerated Well	Tolerated Well					
Comment								

# Assessment Viewer

(More ▾) [Back](#)

DETAIL HISTORY

Show Text Expand Labels

01:00 by 03:00 by 05:00 by 07:00 by 09:00 by 11:00 by 13:00 by

Turn and Position

Turn and Position

Patient Repositioned	Yes	No	Yes	Yes	Yes	Yes	Yes
Position	High Fowlers		(R) Lateral	(L) Lateral	(L) Lateral	(L) Lateral	(L) Lateral
Patient Refused				No	No	No	No

	01/29/ 04:00 by	01/29/ 04:15 by	01/29/ 08:00 by	01/29/ 10:00 by	01/29/ 12:00 by	01/29/ 14:00 by
✓ Patient Rounding						
✓ Orientation						
Patient Orientation	1 x4	Oriented x4	Oriented x4	Oriented x4	Oriented x4	Oriented x4
✓ Patient Status						
Rounding	resting comfortably complaints. t within reach.	Patient resting comfortably without complaints. Call light within reach.	Patient resting comfortably without complaints. Call light within reach. Nourishment offered. Assisted patient to the restroom. Assessed patient's pain status.	Patient resting comfortably without complaints. Call light within reach. Nourishment offered. Assisted patient to the restroom. Assessed patient's pain status.	Patient resting comfortably without complaints. Call light within reach. Nourishment offered. Assisted patient to the restroom. Assessed patient's pain status.	Patient resting comfortably without complaints. Call light within reach. Nourishment offered. Assisted patient to the restroom. Assessed patient's pain status.
✓ Precautions						
Orientation To	nt	Call Light Bed	Call Light Bed Phone TV Bathroom Smoking Policy Visiting Hours Procedures Fall Risk	Call Light Bed Phone TV Bathroom Smoking Policy Visiting Hours Procedures Fall Risk	Call Light Bed Phone TV Bathroom Smoking Policy Visiting Hours Procedures Fall Risk	Call Light Bed Phone TV Bathroom Smoking Policy Visiting Hours Procedures Fall Risk
Bed Position	wlwers	Low Semi Fowlers	Side Rails Up Low Semi Fowlers	Side Rails Up Low Semi Fowlers	Side Rails Up Low Semi Fowlers	Side Rails Up Low Semi Fowlers
Heels Floated		No	No	No	No	No
Up To Chair		No	No	No	No	No
High Fall Risk		Yes	Yes	Yes	Yes	Yes
Bed Alarm On		Yes	Yes	Yes	Yes	Yes
Precautions	vention a Ulcer	Fall Prevention Pressure Ulcer	Fall Prevention	Fall Prevention Pressure Ulcer	Fall Prevention Pressure Ulcer	Fall Prevention Pressure Ulcer

# Assessment Viewer

(More ▾) [Back](#)

DETAIL HISTORY

Show Text Expand Labels



◀ ▶ 08:00 by 20:00 by 08:00 by 23:30 by 08:00 by 20:00 by 08:00 by 20:00 by

## ▼ Morse Fall Risk Assessment

### ▼ Risk Factors

History of falling; immediate or w/in 3 months	Yes	Yes	Yes	No	No	Yes	Yes
Fall during this hospitalization?	No	No	No	No	No	No	No
Secondary Diagnosis	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Ambulatory Aid	rest/nurse/assist	Crutches/cane/walker	None/bedrest/nurse/assist	None/bedrest/nurse/assist	None/bedrest/nurse/assist	None/bedrest/nurse/assist	None/bedrest/nurse/assist
IV/Saline lock	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Gait/Transferring	bedrest/immobile	Normal/bedrest/immobile	Weak	Normal/bedrest/immobile	Normal/bedrest/immobile	Normal/bedrest/immobile	Weak
Mental Status	Forgets Limitations	Oriented to own ability	Oriented to own ability	Oriented to own ability	Oriented to own ability	Oriented to own ability	Forgets Limitations
Fall Risk Score		85	60	35	35	85	75
Patient's Risk Level	High	High	High	Medium	Medium	High	High

### ▼ Fall Risk Safety Measures

- 5/3 3:00 a.m. Rounding:

Activities / Positioning.....Left Side  
.....Head of Bed Elevated  
.....Semifowler  
.....Elevate Heels Off Bed  
.....Repositions Self  
Head of Bed Elevation (degree).....30 Degrees

- 5/3 4:00 a.m. Shift Physical Assessment:

.....  
Activities / Positioning.....Supine  
.....Head of Bed Elevated  
.....Pillows Between legs  
.....Total Assistance  
.....Pulled Up in Bed  
.....Elevate Heels Off Bed  
.....Elevate Arms on Pillows

Head of Bed Elevation (degree)...30 Degrees

HOB elevation is an integral part of Ventilator Bundle which recommends elevation to be 10-45 degrees.

Positioning Ability.....Turned w/Assist of Two

- 5/3 4:00 a.m. Rounding:

Activities / Positioning.....left Side  
.....Head of Bed Elevated  
.....Semifowler  
.....Elevate Heels Off Bed  
.....Repositions Self  
Head of Bed Elevation (degree).....30 Degrees

# TEMPLATES

- KNOW THE RULES OF REVIEW OF SYSTEMS

Patient is 54 years old. Marital status: M Last menses was 06/18/2008.  
 Gravida: 2, Para: Term 2, Pre-Term 0, Abortion 0, Living 2

**Chief Complaint:** 1. Kenalog injection complains of LLQ incision still is indented. Patient does not have any complaints today.  
**Additional Complaints:** Kenalog injection.

**Vital Signs:**

Temp F	Pulse	Resp Rate	BP Systolic	BP Diastolic	Height In	Weight Lb
	76		132	86	66.00	158.00

**Physical Exam:**

General:

Tanner Stage: V.

The skin was normal, no acne, rashes or masses.

The eyes are normal, nonicteric or no conjunctivitis.

The ear, nose and throat were normal, no nasal congestion or pharyngitis.

The mouth was normal and no dentures.

The neck was normal, no adenopathy, tenderness, or masses.

The thyroid was normal and palpable, not enlarged, no masses were found.

The chest was normal, no pectus, scoliosis/kyphosis, or tenderness.

The lungs were normal, no decreased breath sounds, rales, rhonchi, or wheezing.

The heart was normal, no arrhythmia, murmur, or abnormal sounds heard.

The back was normal, no CVA tenderness, scars, scoliosis, or tenderness.

The abdomen examination found scar(s) and LUQ indented scar and injected with 3 cc of Kenalog and local mixed.

The extremities were normal, no edema, varicosities, arthritic deformity, or tenderness.

The neurologic assessment was normal, no disorientation, memory deficit, motor deficit, sensory deficit.

The right breast inspection was normal, no edema, dimpling, scar(s) or skin lesion.

The left breast inspection was normal, no edema, dimpling, scar(s) or skin lesion.

The right breast palpation exam was normal, no fibrocystic changes, mass(es), pitting, tenderness or thickening.

The left breast palpation exam was normal, no fibrocystic changes, mass(es), pitting, tenderness or thickening.

The right nipple was normal, no discharge or erythema.

The left nipple was normal, no discharge or erythema.

The right lymph nodes are normal, no tenderness and not enlarged.

The left lymph nodes are normal, no tenderness and not enlarged.



**Assessment:**

1. KELOID SCAR

Time spent with patient was 5 minutes.

**Plan:** Scar injected with steroid and local; will recheck in one mo. consider Retylane if continued indented scar.

Follow up :

Follow up for new complaints today: 1 Month

# Template Example #2

## Physical Exam

**Constitutional:** Well developed. Well nourished. No acute distress.

**Head / Face:** Facial features are symmetric. The skull is atraumatic (normalcephalic).

**Ears:** Right: Unremarkable to inspection. Canal normal in caliber, no excessive cerumen, no drainage. Normal tympanic membrane. Left: Unremarkable to inspection. Canal normal in caliber, no excessive cerumen, no drainage. Normal tympanic membrane.

**Nose / Mouth / Throat:** External Nose: is unremarkable. Right Nares: No discharge. Left Nares: No discharge. Nasal Mucosa: No mucosal abnormality. Lips/Teeth/Gums: Normal teeth and gums. Tongue: Normal tongue. Palate & Uvula: appear symmetric and normal. Oropharynx: ~~No pharyngeal erythema or exudates or mucosal lesion.~~

**Neck / Thyroid:** Inspection reveals symmetry. Palpation reveals trachea appears midline and mobile. No thyromegaly or thyroid nodules detected. No cervical adenopathy.

## Assessment/Plan

1. Asthma exacerbation (493.92)

2. Cervical lymphadenitis (289.3)

3. Thyroid mass (246.9)

4. Chronic cough (786.2)

5. Anxiety (300.00)

## Assessment/Instructions

1. Asthma exacerbation

Finish the prednisone and zpack and get back into see Dr. Wear.

Exam Narrative:

Vital Signs Reviewed

General: A0x3, no acute distress, age appropriate

HEENT: Normocephalic, hearing intact, PERRLA

Neck: Trachea Midline, normal thyroid, supple with no meningismus, no JVD

Cardio:RRR, no murmur, no gallop, no rub

Respiratory: Chest non-tender, CTABL, no distress, No wheezing, no Rhonchi

Abdomen:BSx4 and normoactive, nontender, nondistended, obese

Extremities:Tenderness to the left lower extremity, plantarflexion intact, dorsiflexion unable to execute, no pedal edema, mild edema about the left knee, no ecchymosis, no erythema, sensation is intact, no calf pain

Neuro:No lateralizing deficits, Alert and oriented

Integument: No rash, no lesions, no hives

Back: no CVA tenderness, no spinal tenderness

Psych:Normal mood and affect

Constitutional: Pleasant, cooperative, NAD, head atraumatic and normocephalic

Eyes: PERRL, EOMI, no icterus, no conjunctival injection

HEENT: pink, moist oral mucosa, normal external ears and nose

Neck: trachea midline, supple

Cardiovascular: Normal S1-S2, regular rate and rhythm, no murmurs or gallops appreciated

Respiratory: Normal effort, lungs clear to auscultation b/l, no wheezes rales or rhonchi

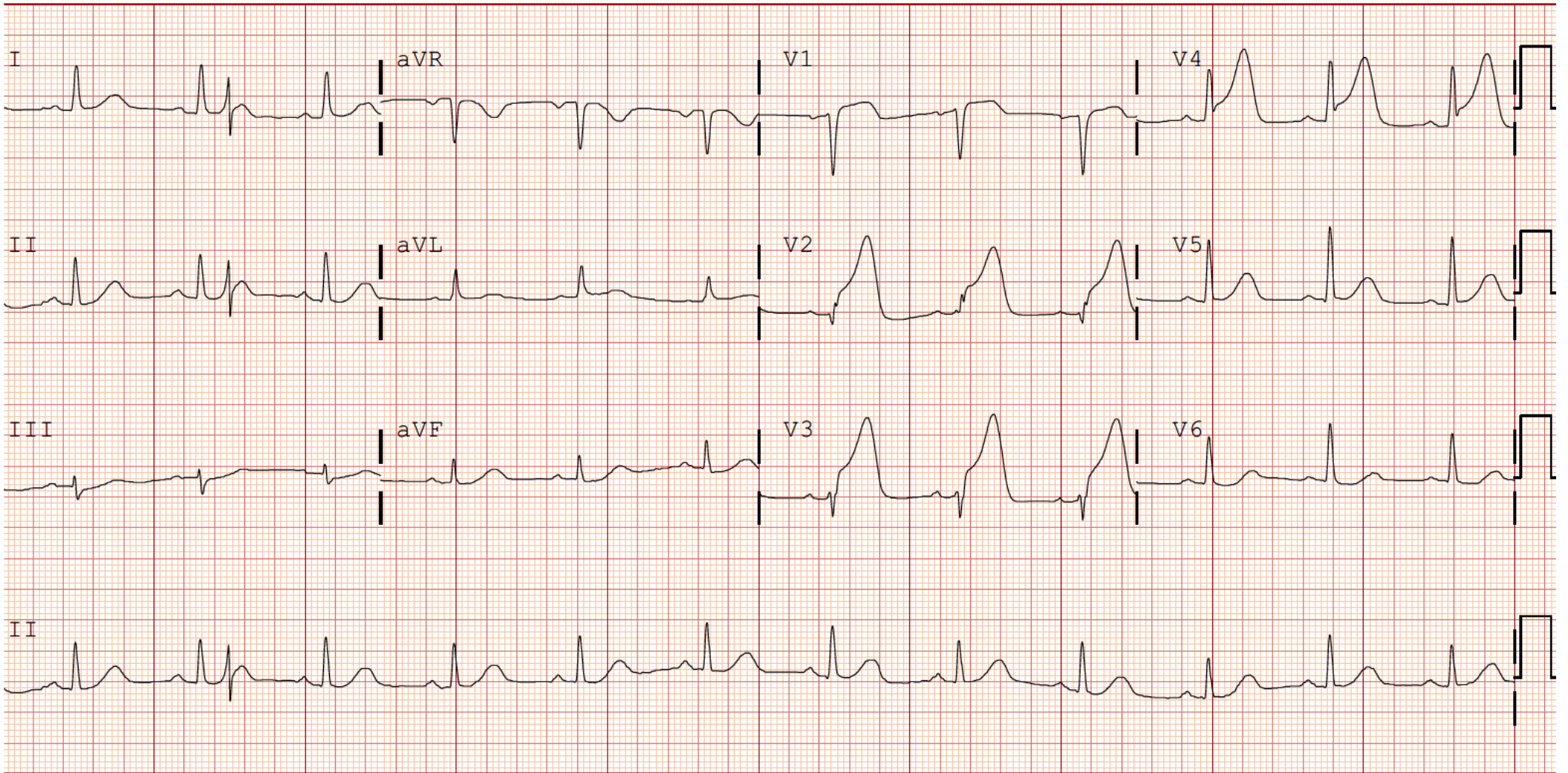
Gastrointestinal: Soft, nontender, nondistended, no rebound, no guarding, skin warm and dry, no jaundice

Neurologic: A&O x3, awake alert ,moves all extremities, cranial nerves II through XII intact

Psych: Normal mood and affect

Extremities: no b/l pitting edema, LLE neurovascularly intact

# Template Example #4



# Template Example #4 Cont. – Autofill ROS

## Physical Exam

Vitals and nursing note reviewed.

### Constitutional:

General: He is not in acute distress.

Appearance: Normal appearance. He is not ill-appearing, toxic-appearing or diaphoretic.

### HENT:

Head: Normocephalic and atraumatic.

Nose: Nose normal.

Mouth/Throat:

Mouth: Mucous membranes are moist.

### Eyes:

Pupils: Pupils are equal, round, and reactive to light.

### Cardiovascular:

Rate and Rhythm: Normal rate.

### Pulmonary:

Effort: Pulmonary effort is normal. No respiratory distress.

### Abdominal:

Palpations: Abdomen is soft.

Tenderness: There is no abdominal tenderness. There is no guarding.

### Skin:

General: Skin is warm and dry.

Capillary Refill: Capillary refill takes less than 2 seconds.

### Neurological:

Mental Status: He is alert and oriented to person, place, and time.

# Template Example #4 Cont: Actual Charting

## Medical Decision Making:

Patient is BIBA as a cardiac alert and is A&Ox4, tachycardic, normotensive, diaphoretic and with chest pain on arrival. EKG with ST elevations in anterior and lateral leads with reciprocal ST depressions consistent with STEMI. Patient given 324 of aspirin by EMS prehospital. Patient received 3 doses of nitro and morphine for pain control. No evidence of pericardial effusion on bedside ultrasound. Considered aortic dissection however with clinical presentation and EKG changes, MI is more likely. Cardiology consulted and patient taken directly to Cath Lab for PCI.

- 11:44
- 11:45
- 11:49
- 12:00
- 12:10
- 12:18
- 12:28



# Copy-Paste/Copy Forward/Cloning

# Nurse Assessment Cloning – Federal case

Skilled Nursing Visit – 03/01/2016

Patient alert and oriented x3. Lungs clear bilaterally.

No shortness of breath noted. Vitals stable.

No pain reported. Patient tolerating medications well.

No change in condition. Continue plan of care.

Skilled Nursing Visit – 03/08/2016

Patient alert and oriented x3. Lungs clear bilaterally.

No shortness of breath noted. Vitals stable.

No pain reported. Patient tolerating medications well.

No change in condition. Continue plan of care.

Skilled Nursing Visit – 03/15/2016

Patient alert and oriented x3. Lungs clear bilaterally.

No shortness of breath noted. Vitals stable.

No pain reported. Patient tolerating medications well.

No change in condition. Continue plan of care.



**2.12.15** - Mr. Smith is here today for his 3<sup>rd</sup> course of chemotherapy. He has had no significant

**2.19.15** - Mr. Smith is here today for his 3<sup>rd</sup> course of chemotherapy. He has had no significant

**2.26.15** - Mr. Smith is here today for his 3<sup>rd</sup> course of chemotherapy. He has had no significant

**3.05.15** - Mr. Smith is here today for his 3<sup>rd</sup> course of chemotherapy. He has had no significant

**3.12.15** - Mr. Smith is here today for his 3<sup>rd</sup> course of chemotherapy. He has had no significant

**3.19.15** - Mr. Smith is here today for his 3<sup>rd</sup> course of chemotherapy. He has had no significant

# DICTATION/AI

- REVIEW OF CHARTS MANDATORY
- NURSING AI IS COMING
- NO DISCLAIMERS

# EHR - Audit Trail

- Every detail is recorded and will be discovered
  - Metadata
  - Time, date, identity
  - Any alteration or addition
  - Coding/billing
- Record alteration = Fatal to the defense
  - vs. Addendum

