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Exploring the Effect of Communication Issues on Diagnostic Failure through NP Malpractice Claims

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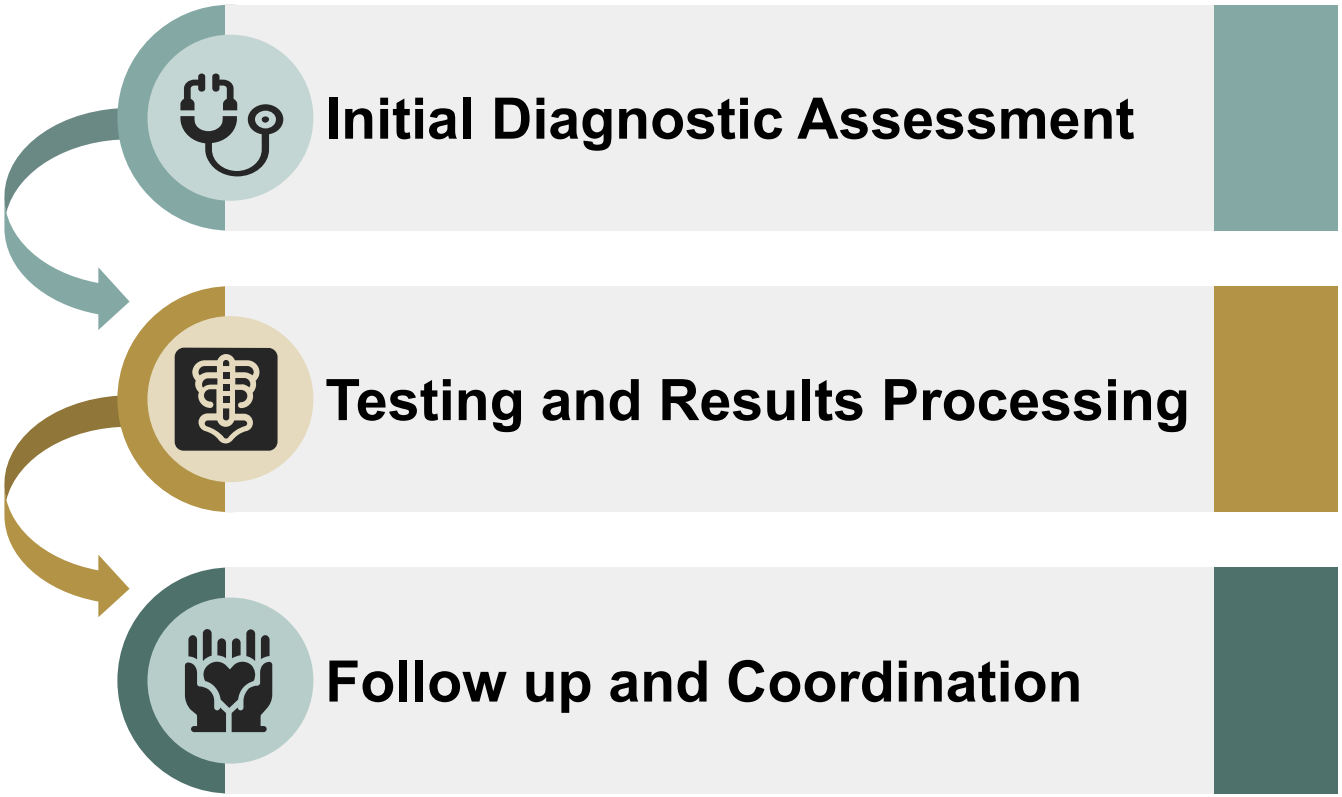
Learning Objectives

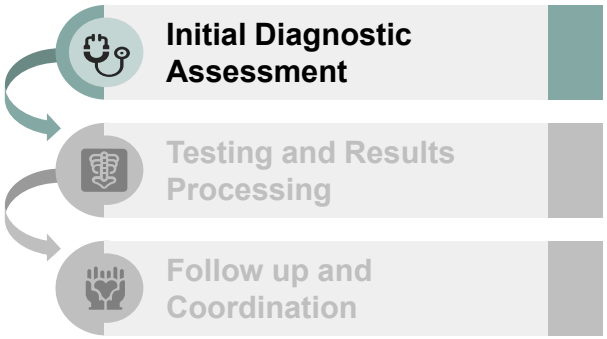
1. Define the Diagnosis-Related Process of Care Framework.
2. Recognize the contributing factors related to communication and where these occur in the Diagnosis-Related Process of Care Framework.
3. Summarize risk mitigation strategies related to NP communication with other providers and between the NP and the patient/family.

Diagnosis-Related Process of Care Framework



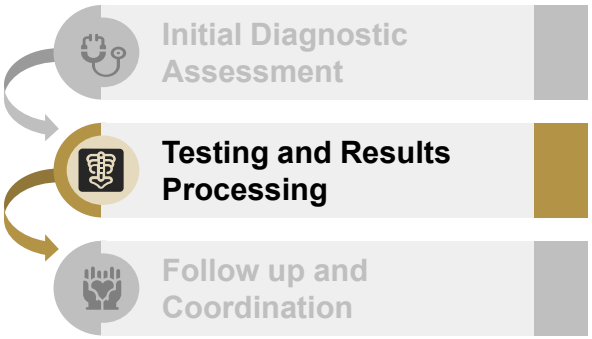
Diagnosis-Related Process of Care. Used with Permission. Candello. © 2020 Candello, established as a division of the Risk Management Foundation of the Harvard Medical Institutions Incorporated and CRICO, pools medical malpractice data and expertise from captive and commercial professional liability insurers across the country to provide clinical risk intelligence products and solutions

Initial Diagnostic Assessment



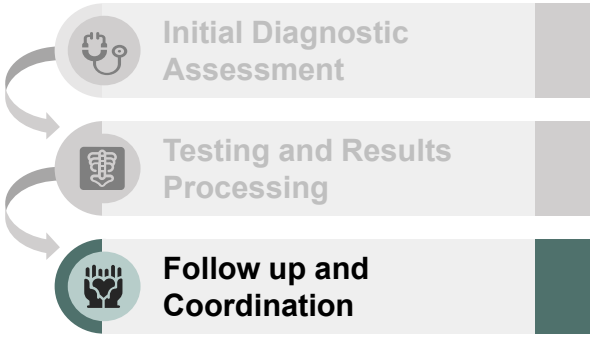
Step		% of Claims
1	Patient notes problem and seeks care	3%
2	History and Physical	19%
3	Patient assessment/evaluation of symptoms	40%
4	Diagnostic Processing	60%
5	Ordering of Diagnostic/Lab Tests	53%

Testing and Results Processing



Step		% of Claims
6	Performance of tests	7%
7	Interpretation of tests	9%
8	Receipt/transmittal of test results to patient	9%

Follow Up and Coordination



Step		% of Claims
9	Provider follow-up with patient	22%
10	Referral management	24%
11	Provider-to-provider communication	32%
12	Patient adherence with follow-up plan	22%

Diagnosis-Related Claims with Communication Factors (n=41)

54% high injury severity
- including 22% deaths

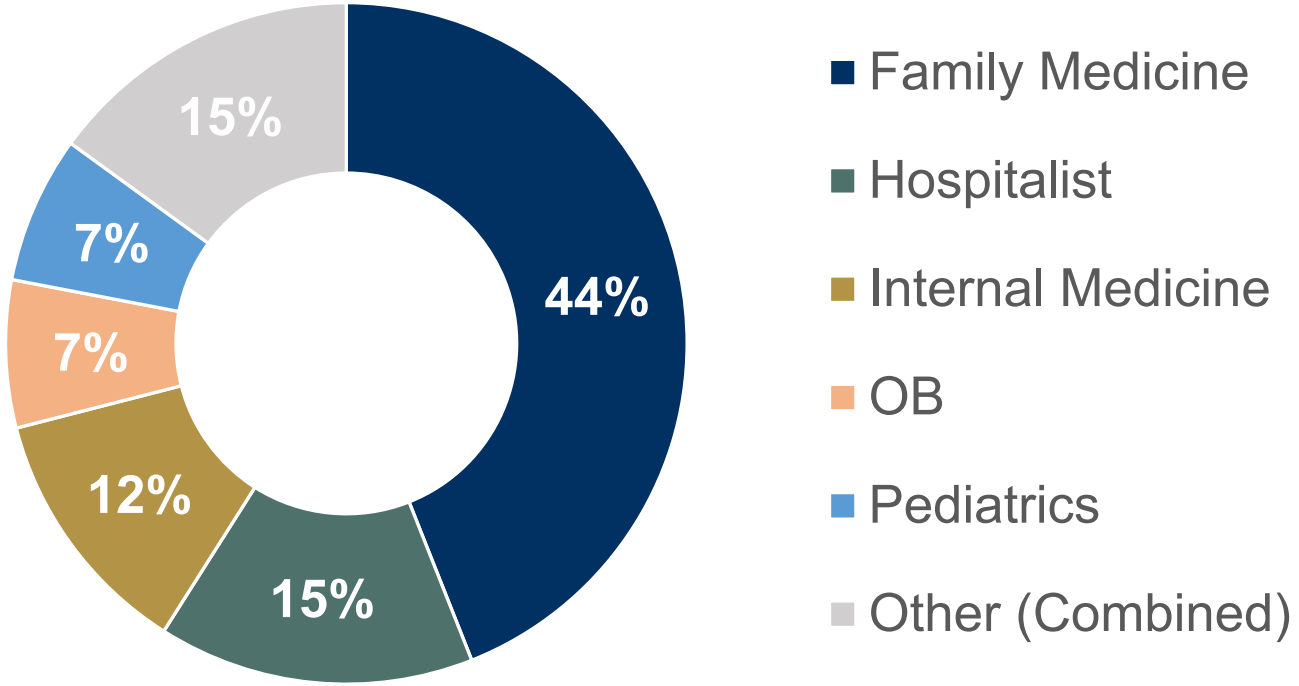
Settings:
- **78%** ambulatory settings
- **20%** inpatient settings
- **2%** Emergency Department

63.2% claims closed with indemnity paid.

$523K
average indemnity paid

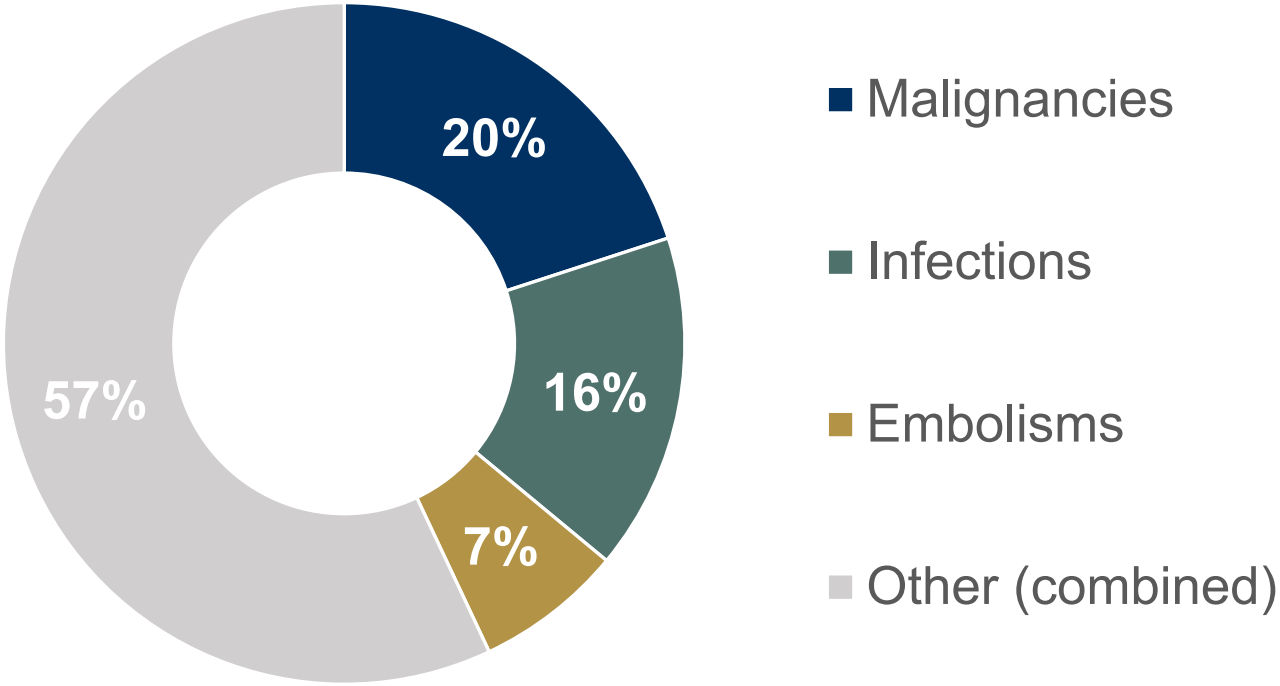
Diagnosis-Related Claims with Communication Factors cont'd.

Top Services

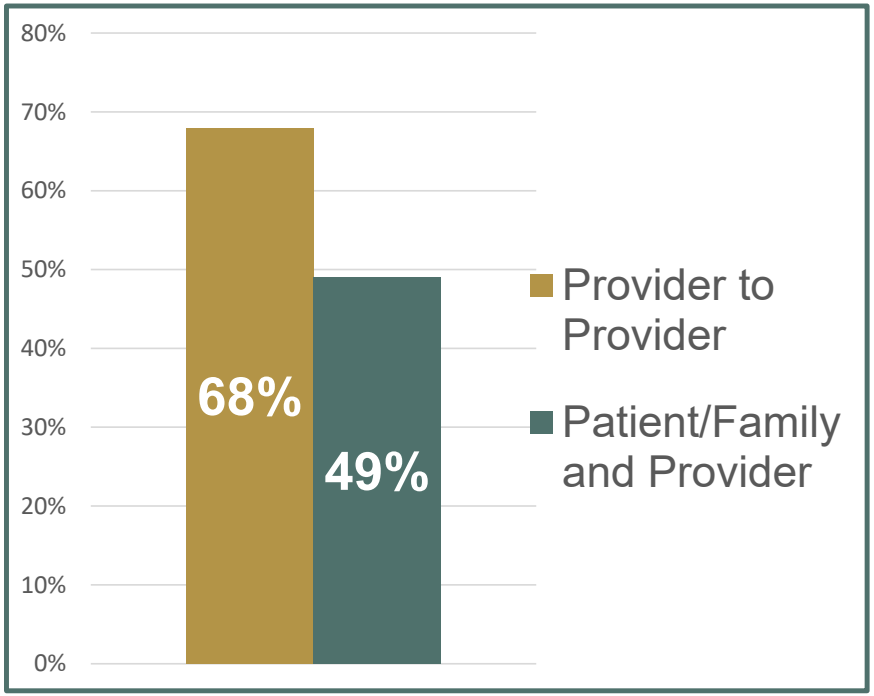


Diagnosis-Related Claims with Communication Factors cont'd.

Top missed, delayed, or wrong diagnoses



Diagnosis-Related Claims with Communication Factors cont'd.



Primary Drivers

- **39%** Communication regarding patient's condition
- **37%** Communication between patient/family & provider other
- **31%** Failure to read the medical record
- **29%** Failure or delay in obtaining a consult
- **20%** Patient did not get initial or revised test result

Case Examples Involving Communication Issues in Diagnosis-Related Malpractice Claims

Learning From the Past to Improve Patient Safety

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Primary Driver: Communication regarding patient's condition

- Elderly patient with history of CVA, HTN, a-fib and on coumadin.
- Had fall in middle of night and hit side of face. Taken to ED.
- Seen by NP (Hospitalist Service)
- Noted pupils reactive to light. Did not check visual acuity. Noted significant soft tissue swelling and bruising to left eye and cheek.
- Ordered head CT: showed left orbital and sinus wall fractures, with some bleeding in sinuses.
- Coumadin was held. NP ordered enoxaparin. Pt admitted.
- Ordered consult with ENT.

Primary Driver: Communication regarding patient's condition

- Day 1: ENT recommended ice and ophthalmology consult.
  - About 18 hours into admission the patient had increasing complaints of eye swelling and pain.
- Day 2: Over 24 hours after admission NP noted the patient's eye was swollen shut. Ordered repeat CT and ophthalmology consult.
  - Day 2 evening shift: NP called the ophthalmology for the consult. The NP did not mention the eye swelling, loss of vision or convey any urgency in need for consult.
  - NP charted ophthalmologist did not think consult was emergent.

Primary Driver: Communication regarding patient's condition

- Day 3 (morning): the ophthalmologist saw patient.
  - The patient only could see hand motion with the left eye.
  - The ophthalmologist diagnosed probable retrobulbar hemorrhage and recommended emergent transfer to another hospital for orbital decompression.
- Emergent transfer was done later that day.

Outcome: Patient lost vision in eye due to compression on optic nerve from bleeding and swelling.

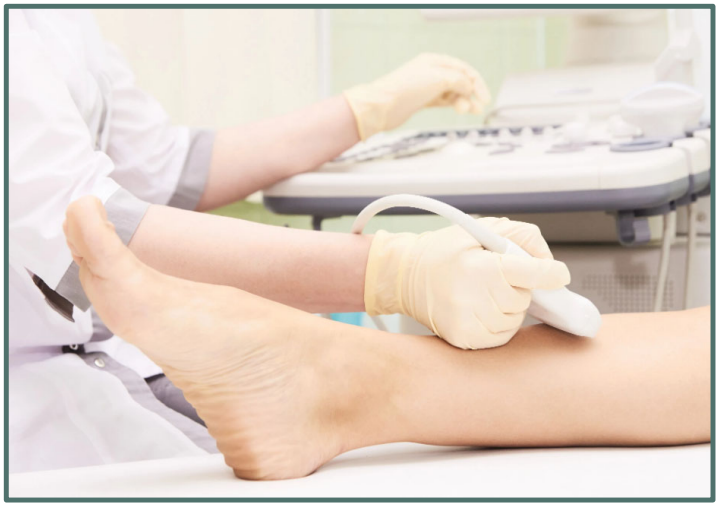
Primary Driver: Communication regarding patient's condition

The experts' opinions:

- NP failed to communicate essential information to ophthalmologist. Then NP did not chart what was relayed.
- No evaluation of visual acuity and delay in ophthalmology consult.
- The addition of enoxaparin contributed to the hemorrhage.
- Hospital staff lacked expertise to treat patient.
- Ophthalmologist dismissed from the claim.
- NP and physician hospitalist settled.

Primary Driver: Communication between patient/family & provider other

- A patient in their early 30's presented to the NP complaining of superficial swelling in right tibial area.
- The NP ordered an ultrasound (US) and venous doppler.
- The US tech noted that the patient had a palpable lump. The doppler was negative.
- The radiologist read as a 5x2x2cm hypoechoic soft tissue mass of fairly homogeneous tissue which suggested a benign lesion, but the radiologist noted that the possibility of a low-grade neoplasm such as a sarcoma could not be excluded.
- The radiologist recommended with and without contrast MRI of the calf for further evaluation.



Primary Driver: Communication between patient/family & provider other

- The NP did not order the MRIs or inform the patient of the possibility of a low-grade neoplasm.
  - Lesion diagnosed as a lipoma.
  - The NP sent the patient to Physical Therapy.
- 8 months later the patient was seen in the clinic for increasing right leg pain, and now numbness. The PA noted earlier imaging of a "lipoma".
  - The PA gave the patient a ketorolac injection and referred the patient to a physician.
  - The physician told the patient the problem was varicose veins.

Primary Driver: Communication between patient/family & provider other

- Over year later, pain continued. MRI done and showed large leg mass.
- The patient saw an orthopedic physician who did a biopsy. Diagnosed with a liposarcoma. There was no evidence of metastasis.
- The patient underwent chemotherapy and radiation, then had surgical removal.
- The patient is currently in remission.

Primary Driver: Communication between patient/family & provider other

The experts' opinions:

- The NP should have informed the patient of the possibility of neoplasm.
- The NP should have ordered the MRI.
- The delay in diagnosis did lead the growth of tumor and more extensive surgery.
- Radiologist dismissed from the case.
- NP and medical group settled.

Primary Driver: Failure to Read Medical Record

- A child hurt their nose playing outside few days earlier and the nose remained swollen. The parent took the child to urgent care. X-rays were done and showed no fracture.
- The parent and child went home prior to the final report being read by the radiologist.
- X-ray report noted a foreign body resembling a battery in nose. Handwritten report said parent told of the foreign body.
- Someone in urgent care called parent and told them to follow-up with primary care physician (PCP).
- 2 days after urgent care visit the parent came to office and saw NP. The parent told NP about the urgent care visit and stated the x-ray was normal. The NP did not have x-ray or other medical records.

Primary Driver: Failure to Read Medical Record

- The NP relied on parent's report that x-ray was normal. No documentation of any effort to obtain urgent care records.
  - Policy of the group is that a 'genuine effort' is made to obtain records and that documentation of these efforts is done.
- The NP noted swelling around eye and bridge of nose, dried blood around left nostril and upper lip.
- The NP ordered follow-up x-rays of face, skull, and orbits.
- The parent was told to get x-rays and return in 3 days, however, *did not* get any x-rays or return in 3 days.
- The patient saw the attending physician 1 week later. The attending physician failed to note the parent had not yet gotten the x-ray.

Primary Driver: Failure to Read Medical Record

- About 3 weeks later the parent returns to the same office. The child is having intermittent nose bleeds.
- The child is seen by a pediatrician who noted dried blood on left nostril. Otherwise, a normal exam.
- The pediatrician attributed this to dry weather and recommended nasal spray and Vaseline. Told parent to return in one week. The parent denied being told this.
- Two month later, the parent returned to the office complaining of purulent green drainage from both nostrils. Referred to ENT. Parent said they were unaware of referral.

Primary Driver: Failure to Read Medical Record

- Next day presented to Emergency with large nosebleed. Another referral to ENT.
- A week later insurance approved ENT referral.
- 10 days later seen by ENT. Discovered foreign body in nose.
- Taken to OR. Multiple pieces of material consistent with battery in both nostrils. Patient had large anterior nasal septal perforation.
- The battery had decomposed, leaked acid, eaten through nasal septum and part of bone.
- May need future cosmetic surgery.

Primary Driver: Failure to Read Medical Record

Experts' opinions:

- NP failed to request and read the records from urgent care.
- NP relied on parent's history that the x-rays were normal.
- Urgent care staff did not communicate the important x-ray findings to the pediatric clinic where they referred the patient to for follow-up care.
- The clinic settled.

Risk Mitigation Strategies for NP to Improve Communication

Among Nurse Practitioners and with Patients

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NP/Patient Communication: Tools & Resources

Agency for Healthcare Research and Quality

https://www.ahrq.gov/

- Be Prepared To Be Engaged
- Create a Safe Medicine List Together
- Teach-Back
- Warm Handoff

NP/Patient Communication

- **Identify yourself as an NP**: All 50 states mandate that every NP must wear a nametag clearly identifying the NP's licensure and role.
- **Orient the patient:** what to expect and the flow of a visit
- **Build rapport:** actively listen, ask engaging questions and express empathy, be aware of non-verbal communication. Patient communication should be purposeful and patient-centered.
- **Perform a thorough physical exam**, including a review of the medical history and current complaints communicated by the patient.

NP/Patient Communication: Patient Education

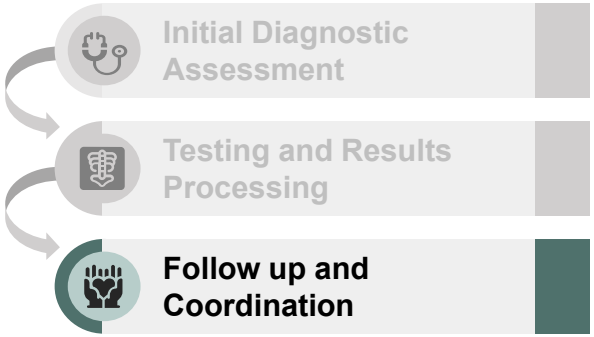
- **Speak clearly and use plain language**, avoiding medical jargon and technical terms
- **Allow time** for patient understanding and solicit questions.
- **Address any unrealistic expectations** and document attempts to clarify the information.
- **Provide a qualified medical interpreter** for situations involving language barriers
  - Family are not recommended as interpreters due to their emotional involvement and the potential for misinterpretation.

NP/Patient Communication: Documentation

- Document the patient's record with all education efforts and include copies of any materials given to the patient.
- Document any clarifications.
- If an interpreter was used, clearly document it in the patient's record with sufficient information to identify the individual.

Documenting complete findings will reduce exposure to liability while ensuring continuity of care.

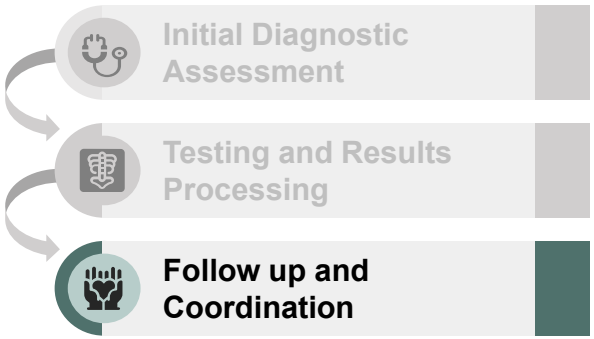
NP/Provider Communication



Situation Monitoring Tool: STEP

- **S**tatus of the patient
- **T**eam members
- **E**nvironment
- **P**rogress toward goal

NP/Provider Communication



Handoff tool: I-PASS

- **I**llness severity
- **P**atient summary
- **A**ction list
- **S**ituational awareness and
- **c**ontingency plans
- **S**ynthesis by the receiver

Key Takeaways

- **Prevent** - know and *follow* policies and documentation standards
- **Preclude** – use tools for patient assessment and *health literate* communication
- **Prevail** – provide appropriate and timely care – and *document* your care

THANK YOU

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