

Hospital Nightmare

Introduction:

After an incident where a patient developed a life-threatening staph infection following surgery at the hospital, a negligence lawsuit was filed against Bright Road Health System. As the Hospital Administrator, you will gather information about the incident from the parties involved, and work with Bright Road's General Counsel to determine the Hospital's liability. You will need to consider:

- Whether a duty to care was established
- Whether the duty was breached
- Whether there was an injury
- Whether the cause of the patient's injury was due to negligence
- Whether the concept of Respondeat superior applies in the case
- Whether to file an indemnification against any of the staff members involved

You will then submit an analysis to Bright Road's General Counsel, with your thoughts regarding the hospital's liability.

Characters:

1. **Jeff Passmore**, General Counsel at Bright Road Health System
2. **Jennifer Brainard**, RN in post-surgical unit at Bright Road
3. **George Paltrow**, Hospital employed Chief of Surgery (not independent contractor) at Bright Road
4. **Holly Brigham**, Pulmonologist, Bright Road

Locations:

1. Student's Office
2. General Counsel's Office
3. Hospital Conference Room
4. Coffee Shop

Scene 1: Meeting with Mentor

In this opening scene, the Student meets with mentor figure and Chief Counsel for Bright Road, Jeff Passmore. Jeff asks for help on this new negligence suit, and offers suggestions about who to talk to. The student is asked to gather sufficient information to form a conclusion on whether the hospital is liable or not.

Location	Chief Counsel's Office
Scene setup	Student faces Jeff who sits behind his desk.
On-screen characters	Jeff Passmore
Off-screen characters	None

On-screen text: Chief Counsel for Bright Road, Jeff Passmore, calls you into his office today . . .

JEFF Glad you could come by. Did you hear about the new negligence suit that just came in?

STUDENT No. What's the case?

JEFF Well, there's a Mrs. Smith who claims to have received a deadly infection due to negligence on the hospital's part. While she recovered from this infection, she's also claiming that an autoimmune disease she contracted shortly after the incident was due to complications caused by the infection.

Student can click on any of these options to proceed. Student must click all eventually.

STUDENT CHOICE 1 How is she claiming she got this infection?

STUDENT CHOICE 2 In what way can I help you with this?

STUDENT CHOICE 3 Can I talk to the parties involved?

JEFF RESPONSE 1 Mrs. Smith claims, when conducting routine exams the day after her surgery, the Chief of Surgery didn't change gloves when examining patients in her room. She was the last to be examined. She allegedly contracted a staph infection from another patient in the room during the examination process.

JEFF RESPONSE 2 I need you to gather all of the information about this case so we can determine Bright Road's liability, if any.

JEFF RESPONSE 3 It's not prudent at this point to talk with Mrs. Smith or her representative or family, but you can talk with anyone on our side of the fence.

STUDENT Do you have names and titles?

On-screen text: You might want to take notes on paper as you go. They could help you form your recommendation at the end.

JEFF Yes, Dr. George Paltrow is the Chief of Surgery and Dr. Holly Brigham is the pulmonologist who saw Mrs. Smith.

Student must choose both options to continue.

STUDENT CHOICE 1 What about a nurse who was there in the room that day?

STUDENT CHOICE 2 Not changing gloves? I'm shocked that happens.

JEFF RESPONSE 1 I'll email Ken Bloom, our Chief Nursing Officer, to see if he can get you a name of a nurse to talk to.

JEFF RESPONSE 2 Right. It seems that history keeps repeating itself because no one seems to want to learn from it. I was just reading earlier how, in 1847, there were an alarming number of deaths from puerperal fever, because medical students and physicians were coming directly from the dissecting room and then treating maternity patients. It's staggering we're still making the same mistakes.

STUDENT So, what type of information do I need to gather for this suit?

JEFF First, let's determine if a duty to care was established, and then whether the duty was breached or not. We'll need to conclude whether or not the patient was injured due to negligence and whether the concept of *Respondeat Superior* applies in this case. Last, we'll have to decide if we should file an indemnification against any of the staff members involved.

Student can click on any option to proceed. Student must choose all options eventually.

STUDENT CHOICE 1 I assume a duty to care is always understood.

STUDENT CHOICE 2 I doubt anyone will admit negligence.

STUDENT CHOICE 3 It's been a while since I've used it... remind me what *Respondeat Superior* means.

JEFF RESPONSE 1 Well, as you know, the plaintiff must prove the existence of a legal relationship between him or herself and the defendant. Duty to care is defined as a legal obligation of care, performance, or observance imposed on one to safeguard the rights of others. A physician-patient relationship is a prime example. Duty to care can arise from a simple telephone conversation or out of a physician's voluntary act of assuming the care of a patient. Although, establishing when a legal relationship begins between a physician and patient is not always clear-cut

or clearly established, for example, in cases where injured people are in transit to the hospital by a private ambulance service.

JEFF RESPONSE 2 That's why your idea of talking with a nurse on duty that day is a good one. We need unbiased eyewitnesses to the events that took place.

JEFF RESPONSE 3 Respondeat Superior translates to "let the master respond" and it's a legal doctrine holding employers liable in certain cases for the wrongful acts of their agents or employees. This doctrine has also been referred to as vicarious liability, where an employer is answerable for the wrongful acts committed by its employees.

Student can choose either option.

STUDENT CHOICE 1 It sounds like employees could take advantage of Respondeat Superior.

STUDENT CHOICE 2 Thanks. I'll get started on this right away.

JEFF Perfect. Just let me know if you run into any trouble, or if you have any questions. I appreciate your help with this.

Scene 2: Discussion with RN

The student meets with the nurse from the post-surgical unit, Jennifer Brainard, who was on duty the day of the incident. Jennifer provides important first-hand information.

Location	Student's Office
Scene setup	The Student faces Jennifer who sits on the other side of the desk.
On-screen characters	Jennifer Brainard
Off-screen characters	None.

On-screen text: Meeting with post-surgical nurse, Jennifer Brainard . . .

JENNIFER I hate to start this way, but is it okay if we keep this brief? I have to be on shift in fifteen minutes.

STUDENT That's no problem at all. I'm happy with whatever time you can give.

JENNIFER When Ken said you wanted to talk about the Mrs. Smith incident, honestly, I was torn. I still have very mixed feelings about that whole situation.

Student can click on any of the three options to continue, but must choose all eventually.

STUDENT CHOICE 1 Why do you have mixed feelings?

STUDENT CHOICE 2 Can you tell me what you saw that day?

STUDENT CHOICE 3 Were you surprised by what happened with Mrs. Smith?

JENNIFER RESPONSE 1 Look, whatever my feelings for Dr. Paltrow personally, I don't necessarily want to see his whole career go down the drain, his life ruined. People make mistakes, and he, especially, is normally very careful.

JENNIFER RESPONSE 2 I know he was preoccupied. There's really no other explanation. Basically, this is what happened: After surgery and discharge from the recovery room, Mrs. Smith was placed in a room in the post-surgery patient care unit with four other patients. When Dr. Paltrow came in with the residents, neither he nor the residents changed their gloves as they progressed from one patient to the next. And, Mrs. Smith was the last patient examined.

JENNIFER RESPONSE 3 Yes and no. Like I said, Dr. Paltrow is normally very particular and goes by the book. He prides himself in it and, believe me, he lets everyone know. But, here's the thing. There is not always adherence to policy and procedures, especially in that unit, to prevent or control infections. Frankly, I always thought it was a matter of time before something like this happened. You would think that a

post-surgery patient care unit like this one would be given a lot more housekeeping attention than it was.

Student can click either option to proceed, but must choose both eventually.

STUDENT CHOICE 1 You said, “there is not always adherence to policies and procedures.” Does that mean policies and procedures for infection prevention and control were in place but not always practiced?

STUDENT CHOICE 2 Can you summarize the importance of changing gloves between patients?

JENNIFER RESPONSE 1 I think the Mrs. Smith incident was a bit of a wake-up call. I mean, really, we’re lucky she didn’t die. The staph infection spread so quickly. It was a good thing that the pulmonologist was called in and the infectious disease specialist placed Mrs. Smith on an aggressive antibiotic regimen when she did. So, yes, after that, we now have improved training, along with clearer hand hygiene signage as well as visual reminders for both staff and visitors throughout the hospital on how to keep a clean environment and how to protect patients from hospital-acquired infections.

JENNIFER RESPONSE 2 Even if you think your gloves are clean, they harbor disease. Deadly microbes and bacteria aren’t visible to the naked eye. In Mrs. Smith’s case, the patient in the first bed had had a leg amputated for gangrene. Dr. Paltrow examined this patient first. Bacteriology testing confirmed the amputee had a staph infection.

STUDENT Did the other patients in the room besides Mrs. Smith get the staph infection as well?

JENNIFER I believe they all got a staff infection. Sometimes you can get a staph infection and it stays dormant in you until your system is weakened or compromised in another way. Then, it presents itself. All I know is that Dr. Paltrow and the residents were changing dressings, examining each patient and none of them changed gloves. None of them washed their hands until the end, when they threw the gloves in Mrs. Smith’s wastebasket and then washed their hands at her sink literally five feet from her bed.

Student can click on either option. Both options must be chosen eventually.

STUDENT CHOICE 1 Did you say anything to Dr. Paltrow at the time?

STUDENT CHOICE 2 It sounds like the staff was not as reactive as they could’ve been when they found out Mrs. Smith had the staph infection. Why?

JENNIFER RESPONSE 1 Are you kidding? The quickest way to get fired is to challenge someone of his stature, especially in front of a patient. I tried to find him in the hallway afterwards, but he took off before I could catch him. He was on a ski trip. So, all I could do was watch and wait, and hope nothing bad would happen.

JENNIFER RESPONSE 2 Well, off the record, I'll tell you it's because no one wants it to be true and they don't want to get fired. There were only two of us on duty that day, because it was the weekend. I remember Kyle Jones was the other nurse. We talked about her condition and the attending physician knew about it, too. Mr. Smith was very concerned about his wife so he demanded that a special duty nurse be brought in to take care of his wife. He even got hold of the CEO to get some results. I think when I asked Mrs. Smith if she wanted to have a priest visit her it really shook him up.

STUDENT You called a priest? You must have thought it was serious, then.

JENNIFER Well, you never know how these things can turn out. I wanted to be proactive.

STUDENT But, you didn't think a specialist, someone from infectious disease should be called in?

JENNIFER Don't get me wrong. I may have thought that, but there was nothing I could do. It's not my decision. Thankfully, the husband got through to the CEO and he had both an infectious disease specialist and a pulmonary specialist examine Mrs. Smith.

STUDENT So, it seems clear that the duty to care was breached, then, since Mrs. Smith should have promptly been administered antibiotics and provided a clean, sterile environment. This was not provided?

JENNIFER Yes, certainly a sterile environment. But, isn't it the hospital's duty to make sure the physicians that attend their patients are competent and trained properly too? Think about it. Her temperature nearly reached 106 degrees, a clear sign of infection.

STUDENT Good point. Thanks for your time, Jennifer. I don't want to keep you any longer.

JENNIFER I appreciate it.

Scene 3: First Meeting with Chief Surgeon

Next, the student meets with Dr. George Paltrow, but the meeting is cut short. Discouraged, the Student calls on Jeff for guidance.

Location	Hospital Conference Room
Scene setup	Student faces George on the right side of the table.
On-screen characters	Dr. George Paltrow, Jeff Passmore (on phone)
Off-screen characters	None

On-screen text: You meet next with Chief Surgeon, Dr. George Paltrow . . .

GEORGE Before we start, I thought I would just let you know, I have a patient of mine that is in critical condition, and, at any moment, I may have to cut our meeting short.

Student can click on any option to proceed, but must choose all three eventually.

STUDENT CHOICE 1 Can you tell me what you've heard about the lawsuit involving Mrs. Smith already?

STUDENT CHOICE 2 What are your thoughts about the case with Mrs. Smith?

STUDENT CHOICE 3 Can you tell me what you remember about the day you examined Mrs. Smith after her surgery?

GEORGE RESPONSE 1 I haven't heard too much, honestly. I am very busy when I'm not traveling and conducting my lecture series at universities. I know she contracted a staph infection, which is an unfortunate reality we face in our hospitals today.

GEORGE RESPONSE 2 I'm not sure exactly what you're asking, but I think it's a good thing that she was given the right attention and that the infection was eventually aggressively treated. As far as claims that this has some sort of impact on her future health situation, I don't see any connection. Sometimes laymen make conclusions that are outside of their realm of knowledge and it's usually to pad the settlement, if you know what I mean.

GEORGE RESPONSE 3 It was such a long time ago, I honestly can't recall. I mean, I know I examined Mrs. Smith after surgery when she was in the post surgery patient care unit and she was fine at the time. Beyond that, nothing out of the ordinary presented itself.

Student must choose both options to proceed.

STUDENT CHOICE 1 You don't remember anything about the examination in particular?

STUDENT CHOICE 2 What do you think caused the staph infection?

GEORGE RESPONSE 1 Like I already told you, there was nothing out of the ordinary. It was all very routine, as I recall.

GEORGE RESPONSE 2 Look, these things are more common than people think. It could've been ANYTHING. Airborne infections in hospitals can easily spread between patients especially when they share the same room. Hospitals are a breeding ground for the spread of infections . . . I mean, I've said for years that we need to improve that situation.

<looks at his cell phone>

Excuse me for a moment.

I'm sorry. It looks like that patient I mentioned needs my attention. I have to go. Oh before I leave, could you ask engineering or whoever, to clean the filthy vents? They appear to have some black and green mold growing on them, especially in the bathrooms. Oh, and those wet ceiling tiles should be replaced. They are growing mold. Need I go on? (sighs) I have to go.

STUDENT Dr. Paltrow, before you go. Can we set up a time to talk again?

GEORGE I'm sorry, I need to be on my way. Check my calendar and set up an appointment.

On-screen text: Discouraged, you decide to call Jeff for guidance.

NOTE: The Student's phone appears, dialing Jeff Passmore's number. Jeff answers and a call ensues.

STUDENT Jeff, sorry to bother you. Do you have a minute to talk?

JEFF (on phone) Sure. This is a good time, actually. What's going on?

STUDENT I could use a little guidance. I feel like I got stonewalled by Dr. Paltrow.

JEFF (on phone) Let me guess, he said "I don't recall" a lot and tried to divert your attention to other things? Then, he had a convenient message come through to get him out of the room in a hurry?

Student can choose either option to continue.

****STUDENT CHOICE 1** How did you know? I don't think I'm going to get him to admit anything.

STUDENT CHOICE 2 I don't know what to do from here.

JEFF I should've warned you that your first meeting might not go so well. Here's what you can do: First, you can talk to the pulmonologist who worked with Mrs. Smith after she was diagnosed with the staph infection. This will give you more concrete information. You can also take some of the pressure off of Dr. Paltrow by discussing the concept of Respondeat Superior with him first or putting the focus on the hospital, not him.

Student must choose both options before they can continue.

STUDENT CHOICE 1 Should I have mentioned that I have a nurse who actually saw that he didn't change gloves? I didn't want to be confrontational or jeopardize that nurse's job.

STUDENT CHOICE 2 Will the pulmonologist be just as defensive?

JEFF RESPONSE 1 Yes, you can mention this when you meet him again without mentioning any names. Just tell him he was observed not changing gloves between patients. Plus, if you explain to Dr. Paltrow that he is a hospital employee, not an independent contractor, you may get him to concede to not changing gloves.

JEFF RESPONSE 2 No, not at all. Dr. Holly Brigham is very conscientious, and besides, she was called in on the case after Mrs. Smith contracted the staff infection, to clean up the mess caused by others. I already notified her that you would be contacting her, and she said she'd be happy to talk to you.

STUDENT Thanks, Jeff. I appreciate your help!

JEFF Sure. Call any time.

Scene 4: Discussion with Pulmonologist

The student meets with pulmonologist, Holly Brigham, to establish that injury was in fact verified, and that the causation can be traced to the failure of some staff to follow proper hand hygiene protocols.

Location	Coffee Shop
Scene setup	Holly sits across the table from the Student.
On-screen characters	Holly Brigham
Off-screen characters	None

On-screen text: Dr. Holly Brigham meets you at the coffee shop the next day . . .

HOLLY Tough situation, huh? I really don't envy your job.

STUDENT Well, it's Mrs. Smith's position that I don't envy.

HOLLY Well, no one's perfect, and mistakes happen. But if you don't enforce the policies and the procedures already in place, you are negligent.

Student may click on any option to continue, but must choose all eventually.

STUDENT CHOICE 1 So, you think the physician and hospital are at fault here?

STUDENT CHOICE 2 Is it clear that it was negligence in this case?

STUDENT CHOICE 3 What do you think caused the staph infection?

HOLLY RESPONSE 1 I'm not sure exactly who's at fault, the hospital or the doctors involved. I just know that Mrs. Smith should've been examined with a clean set of gloves. Gloves need to be changed between patients.

HOLLY RESPONSE 2 Yes, I think it was clearly negligence. Now there is definitely a standard of care that was not met by hospital staff.

HOLLY RESPONSE 3 I'm confident that Mrs. Smith caught the staph infection as a result of the physicians not changing their gloves between patients in the room that day. In fact, I'm pretty sure that the patient in the first bed was diagnosed with a staph infection as well. This person was examined first and the infection spread to all of the others in the room, including Mrs. Smith.

Student must choose both options.

STUDENT CHOICE 1 Can you tell me what happened next?

STUDENT CHOICE 2 Dr. Paltrow said that the staph infection could've been contracted through the air. Is that likely?

HOLLY RESPONSE 1 Well, the staph infection entered Mrs. Smith's bloodstream and spread to her left lung, resulting in empyema. This basically means there was a build-up of pus in her pleural space, caused by the massive infection. I began to drain the fluid from the pleural space. And at the same time, the infectious disease specialist began an aggressive antibiotic treatment regimen. I believe Mrs. Smith ended up staying in the hospital 30 days instead of 5 days.

HOLLY RESPONSE 2 That's ridiculous. Look I'm sorry, but if it was confirmed that the first patient had a staph infection and that the same gloves were used during an examination of Mrs. Smith's surgical site, there's no doubt that it was spread through contact made with those gloves, not through the air. The fact that it made it to her lungs doesn't mean that it started there as a result of breathing it in. No, it entered the blood stream through direct contact with contaminated gloves and spread throughout her body.

Student must choose each option to proceed.

STUDENT CHOICE 1 Did the nurses wait too long to contact you and the infectious disease control specialist?

STUDENT CHOICE 2 What about the long-term effects of the incident? Could they have led to Mrs. Smith contracting the autoimmune disease later in life?

STUDENT CHOICE 3 Are there any other factors or details that I should know about?

HOLLY RESPONSE 1 Yes, reaction time was far too slow. I think they said, at first, that they didn't want to bother Dr. Paltrow who had left on vacation. I still can't believe that. I mean, I know they were understaffed that day, but clearly, time was of the essence. I know the patient's husband was very vocal and would not let up about her getting the help she needed. In my opinion, he saved his wife's life.

HOLLY RESPONSE 2 The treatment left Mrs. Smith with a permanent pocket of sterile, encapsulated fluid in her pleural space when she left the hospital. As strange as that sounds, it's not uncommon. I am fairly certain that this pocket was not drained because they wanted to ensure that the infection wouldn't return. I couldn't tell you whether or not this led to the future illness, though.

HOLLY RESPONSE 3 There was an infection control committee in place at the time of the incident. The key problem in hospitals is not so much having policies and procedures, it is having polices and procedures that are clearly written, communicated, and strictly enforced.

- STUDENT** Isn't it common knowledge, like you said, that doctors should change their gloves between patients?
- HOLLY** Yes, and wash their hands, but the question is whether or not the liability falls with the hospital or the doctor. I'm not too sure how that works.
- STUDENT** Well, you've definitely have given me a lot to think about and look into. Thank you, Holly.
- HOLLY** You're welcome.

Scene 5: 2nd Meeting with Chief Surgeon

The student meets with Doctor Paltrow again. The Student is able to set the doctor at ease and then gain more insight into the events and how to proceed by focusing on positive changes the hospital can make to reduce the number of hospital acquired infections and prevent the spread of infections between patients.

Location	Hospital Conference Room
Scene setup	George Paltrow sits on the left side of the table.
On-screen characters	George Paltrow
Off-screen characters	None

On-screen text: You meet once more with Dr. George Paltrow . . .

Student must choose the correct option (1) in order to proceed.

STUDENT CHOICE 1 (correct) I do appreciate you making time to talk, Dr. Paltrow. And, I actually hope to focus our efforts on how improvements can be made to the hospital's infection control program and its policies and procedures this time.

STUDENT CHOICE 2 Thanks for meeting with me again, Dr. Paltrow. I've pretty much confirmed, since our last talk, that the staph infection was caused due to failure to change gloves between patients.

GEORGE RESPONSE 1 Well, okay. I will certainly do all I can to help you in this area.

Response 1 allows the Student to proceed.

GEORGE RESPONSE 2 I didn't know you were still bent on blaming me. I really don't have time for this.

Response 2 kicks the Student back to options.

Student can choose either response to proceed.

STUDENT CHOICE 1 First of all, I've heard that the hospital did not have a clean environment as a priority in the past. Do you feel that's true?

****STUDENT CHOICE 2** How can the hospital improve its clean environment policies?

GEORGE I definitely believe a commitment to a clean environment has been seriously lacking in the past. Staff training has been inadequate and there seems to be a shortage of housekeeping staff. Basically, the hospital did not make infection control practices and training a high priority. Policies and procedures were not

effectively communicated to the staff. But, above all, it takes cooperation by all staff in all departments to help prevent hospital-acquired infections.

Student can choose either branching option. Both must be chosen eventually.

STUDENT CHOICE 1 **[BRANCHING 1]** Can you give me specifics regarding how all this related to Mrs. Smith's case?

STUDENT CHOICE 2 **[BRANCHING 2]** What about the nurses' failure to notify you of the infection?

GEORGE RESPONSE 1 As I've told you before, her case in particular is hazy to me, but I can talk about the hospital conditions in general.

GEORGE RESPONSE 2 Yes, this was unacceptable. Vacation or not, I should have been called immediately.

BRANCHING 1

Student must choose both options.

B1: STUDENT CHOICE 1 Can you talk to me about hand-washing protocols, then?

B1: STUDENT CHOICE 2 What about cross-contamination?

B1: GEORGE RESPONSE 1 Now, you see posters highlighting the preferred hand hygiene protocol consistently placed in patient rooms. But, these are fairly recent, within the last few months. They say you must wash your hands outside of the patient's room, but it is often very inconvenient for you to do so because the sinks are often far from the patients' rooms.

B1: GEORGE RESPONSE 2 Of course this is a danger. But, again, the hospital never had boxes of gloves in every patient room and biohazard waste bins to deposit used gloves safely. Now they do, of course, since they're worried about being hit with a huge settlement in this case.

Student goes back to the top of the branch. If other branch already selected, the conversation continues on next page.

BRANCHING 2

Student can choose either option.

B2: STUDENT CHOICE 1 Does this mean the nurses were incompetent or that the hospital did not train them properly in this area?

B2: STUDENT CHOICE 2 How can this be improved?

B1: GEORGE: I won't say that whoever was on duty that day was incompetent. I've heard of some cases where nurses did not know that a post-surgical infection was something of significant concern, or that a staff infection was life threatening. Staph infections are very dangerous.

B2: GEORGE: I think a little training for all caregivers in this area can go a long way. Sometimes staff members are so rushed with a plethora of things to do that they just simply forget or cut corners.

Back to top of branch if other branch option not yet selected, otherwise continue below.

The conversation continues. Student can click on either, but must choose both options eventually to proceed.

STUDENT CHOICE 1 What about improvements to hospital procedures?

STUDENT CHOICE 2 Why do you think it took the husband calling the hospital CEO himself, in the case of Mrs. Smith, to finally get some serious attention?

GEORGE RESPONSE 1 Yes, improvements are needed, too. For example, the minute a patient tests positive for a staph infection, the patient should be placed in an isolation room and an infectious disease specialist consulted with when necessary. The hospital's policy should be based on the Centers for Disease control hand hygiene guideline, and should be strictly adhered to by all staff. Along with that, it should be standard procedure to have the patient's surgeon notified immediately when an infection is suspected.

GEORGE RESPONSE 2 Again, the proper procedures were not in place. The standard of care that was required once the staph infection was discovered was much higher than where the hospital had been operating.

STUDENT So, it seems that the hospital did not meet its obligation to provide the necessary level of care to Mrs. Smith, and can be held liable for this.

GEORGE Yes, that's safe to say. I know it's not easy to hear, but if it helps save lives in the future, hard knocks like this are necessary.

STUDENT I definitely agree. Thanks for your help, Dr. Paltrow.

GEORGE You're welcome.

Scene 6: Review with Mentor

In this scene, the Student meets with Jeff to review the information they've discovered. Jeff will ask questions to help the Student analyze and prepare for writing a recommendation on the liability issues in the case of Mrs. Smith.

Location Chief Counsel's Office
Scene setup Student faces Jeff who sits at his desk.
On-screen characters Jeff Passmore
Off-screen characters None

On-screen text: Reviewing your notes with Jeff . . .

JEFF So, how did it go with Dr. Paltrow the second time?

STUDENT Much better, thanks. Taking the pressure off and making it more about the hospital helped a lot.

JEFF So, are you ready to put the pieces together on this case and help me make a decision on liability?

STUDENT Can we go through some of the details before I make a final call?

JEFF Of course! What have you got?

Student can click on any option to proceed. Student must choose all eventually.

STUDENT CHOICE 1 **[BRANCHING 1]** I'm sure that a duty to care was established and was breached.

STUDENT CHOICE 2 **[BRANCHING 2]** The injury to the patient has been verified, as well as causation.

STUDENT CHOICE 3 **[BRANCHING 3]** I have an opinion about whether Respondeat Superior applies in this case, but I'm not 100% sure.

BRANCHING 1

Student must click all options to proceed.

JEFF RESPONSE 1 How did you determine this?

STUDENT CHOICE 1 The patient was admitted to the hospital for surgery and post-surgical care.

STUDENT CHOICE 2 The hospital is required to provide the highest level of care, both with its staff members and with its policies and procedures.

STUDENT CHOICE 3 The fact that the patient not only contracted a staph infection, but had such a prolonged harrowing experience is proof that the duty to care was breached.

JEFF RESPONSE 1 Yes, that is enough to establish the duty to care. Good work!

JEFF RESPONSE 2 Yes, and this is supported by prior cases like *McKowan vs Bentley*, which solidified the hospital's requirement to have best practices in place. Or *Helmann vs. Sacred Heart Hospital*, which sets a precedent for the hospital's responsibility to prevent cross-contamination.

JEFF RESPONSE 3 Yes, there's no denying the staph infection was contracted by every patient in the room, including Mrs. Smith. Then, you have the lack of timely response by the nurses and staff, which led to more serious complications. I agree.

Student goes back to the top of the main branch. If other branches already selected, the conversation continues.

BRANCHING 2

JEFF RESPONSE B2 Right, there's no doubt about the injury. But, causation is the tricky point here.

Student must choose both options to proceed.

STUDENT CHOICE 1 We have the eyewitness report of the nurse, Jennifer Brainard, who witnessed Dr. Paltrow using the same gloves on each patient, and then washing his hands in Mrs. Smith's sink.

STUDENT CHOICE 2 Dr. Holly Brigham, the pulmonologist, says that there is no doubt the infection was caused by shared contact between patients.

JEFF RESPONSE 1 Yes, and we have Mr. and Mrs. Smith as witnesses, as well. Although, they probably can't testify fully to whether Dr. Paltrow changed his gloves before coming to Mrs. Smith's bedside. They can attest to him washing his hands in the sink next to Mrs. Smith's bed.

JEFF RESPONSE 2 Remember, the plaintiff does not have the full burden of proof as they would in a criminal case, where proof has to be "beyond a reasonable doubt." All they have to do is make sure their evidence outweighs that of the defendant in proving fault, and I think you're right. It clearly does in this case.

Student goes back to the top of the main branch. If other branches already selected, the conversation continues.

BRANCHING 3

Student must click all options to proceed.

- JEFF RESPONSE B3** Okay, let's break it down, then. What are the key points in Respondeat Superior?
- STUDENT CHOICE 1** The question is whether Bright Road can be held liable for the actions of its employees.
- STUDENT CHOICE 2** Well, since the hospital can enforce policies or procedures on their employees, they are held liable for their actions, right?
- STUDENT CHOICE 3** In this case, all parties involved have stated the right policies and procedures were in place but not consistently practiced, which could have prevented the patient's injury, so I think Respondeat Superior applies here.
- JEFF RESPONSE 1** Right, and you're correct in using the term "employees." If it was an independent contractor, then there is a lot more grey area, and in many cases the hospital can escape liability. But, in our case, these are all employees involved.
- JEFF RESPONSE 2** Yes, you're right. Remember, supervision is an important factor, here, too. Hospitals are responsible for supervising their employees. Independent contractors, however, are responsible for their own acts of negligence. So any negligence on their part is generally not made the fault of the hospital they were working at, as in the case of *Hoffman vs Moore Regional Hospital*.
- JEFF RESPONSE 3** Can you outline these specifically? These are important details in determining liability.

Student goes back to the top of the main branch. If other branches already selected, the conversation continues below.

Conversation continues.

STUDENT Yes, from lack of training and signage, to an inadequate supply of gloves in the room or a convenient washing station outside the room, I have enough on this, I think.

JEFF Okay. I actually have a meeting in a few minutes, so could you put your recommendation in an email, so I can review it later? The last thing I want you to consider, and we haven't discussed this too much, is indemnification. The board of Bright Road is required by law to provide a healthy and sanitary environment for its patients, as well as adequate staffing, and both areas were clearly seriously lacking in this case. That said, we should still consider whether any of the parties involved followed the standard practice required at the hospital. Also, did they neglect professional and ethical requirements as well?

STUDENT Well, Dr. Brigham thinks it's common sense that you change gloves between each patient in a room, and the nurses did say that Dr. Paltrow was distracted due to problems with his trip. He did finally admit to remembering trip complications.

JEFF Well, why don't you think about it a little more. Let me know what you think in your email later.

Scene 7: Assessment

If all previous scenes have been completed, a 10-question assessment is presented to the student.

Answer the following 10 questions to show what you know about health care ethics for equipment purchasing. Good luck!

The student answers the questions and then sees the assessment results.

Assessment Results

Here are your results. Click Continue if you are satisfied with the result. Or you can click Try Again if you want to try and improve your score.

NOTE: The student can retry the assessment by clicking the Try Again button, or can continue to final scene by clicking the Continue button.

Scene 8: Making Your Recommendation

In this scene, the Student will write an email to Jeff Passmore with a recommendation on Mrs. Smith's case. The recommendation will include details from the previous conversations to support the Student's position.

Location	Student's Office
Scene setup	Student is sitting at their desk.
On-screen characters	None
Off-screen characters	None

On-screen text: It is time to make your recommendation on Mrs. Smith's case to the Chief Counsel.

On-screen text: Type your recommendation on Mrs. Smith's case to the Chief Counsel. Your response should be 250-500 words in length. Don't forget, you can use the notes you've taken throughout your

interviews. Be sure to use details and cover duty to care, breach of duty, verification of injury, causation, negligence liability and indemnification. Click Send when you are ready to submit your recommendation.

To:	<i>Jeff Passmore, Chief Counsel, Bright Road</i>
Re:	<i>CONFIDENTIAL: Recommendation on Mrs. Smith's case</i>
Body of Email:	<i>Jeff Passmore,</i> <i>[INSTRUCTION TEXT]</i> <i>Type your recommendations here.</i>

NOTE: The student will be given an option to "Send" the email after writing the recommendation. After the student submits the email, the computer screen fades to the previous view of the student's office.

On-screen text: Congratulations! Your recommendation to Jeff Passmore has been sent! Nice work!

THE END