How I Best Prevent Malpractice Cases

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By Deborah Winiger, MD [4]

Deborah Winiger, MD, says spending time with patients, taking the time to listen, and building relationships are the best ways to prevent a lawsuit.

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Malpractice is a topic no one wants to discuss since it serves as an added stress and cost to medical practices. However, it is inherent in every physician's career. The thought of an agent of the court coming to your office with notification of a malpractice lawsuit is a nightmare for anyone. Practicing good medicine should be the best way to prevent a lawsuit but a few extra tips always help.

In my opinion, spending time with patients, taking the time to listen, and building relationships are the best way to prevent a lawsuit. You are less likely to miss an important detail, your patients feel cared for, and they are willing to believe that you tried your best — even if there is a bad outcome that is out of your control. This includes your staff who are front line to the patients and can make or break a patient's good opinion.

Another point I find helpful is to ask the patient what they are worried about when they present with multiple complaints. You can spend a great deal of time performing tests and follow up, when all the patient* really needs* is reassurance that they don't have a certain condition that a friend or family member told them about (one that likely isn't even in your differential diagnosis.)

Giving patients reassurance along with specific follow-up instructions if they don't improve is also important. Written instructions help the patient to understand and remember, and can also serve as documentation if there is ever a future recurrence.

I also find that if a patient insists on seeing a specialist or having a certain test done — even if you don't feel it is necessary — it is sometimes best to acquiesce and comply. You never want to hear a patient say later that they saw a specialist and she made a diagnosis that you missed (or refused to provide the referral.)

Discharging a patient from your practice can also be difficult; even when a patient is noncompliant or does not pay his bills. This must be done correctly by giving the patient 30 days of care and making sure there isn't some other issue that you are not aware of. Not having all the facts prior to patient dismissal may cause a lawsuit to be filed.

Also, you should choose your words wisely. Sometimes saying too much, even if you are trying to be helpful, can be a problem. Be cautious when interacting with patients outside of the office — at the store or a restaurant for instance. I had a case where I saw a patient in a setting outside the office and she mentioned some health issues she was experiencing. I just listened and acknowledged the issues. But, low and behold, this conversation was mentioned in a malpractice case she later filed! Luckily it was dropped right away. Be forewarned: These casual conversations can be construed as advice or an opinion and may be used against you.

Finally, trusting your instincts is important. If you think there is something wrong, even though your tests don't prove it, pursue the issue further until you make a diagnosis. Instinct rarely fails us.

Deborah Winiger, MD, *practices family medicine at North Suburban Family Healthcare in Vernon Hill,*
Ill., and is a member of the Physicians Practice Physician Advisory Board. How do you help prevent a lawsuit against you and your practice? Tell us at editor@physicianspractice.com. Unless you say otherwise, we'll assume that we're free to publish your comments in upcoming issues of Physicians Practice, in print and online. This article originally appeared in the March 2014 issue of Physicians Practice.

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