

Managing Medical Malpractice Stress

Page 3: Specific Do's and Don't's

Do share the burden:

With your medical malpractice carrier

- (a) Notify them of any potential claim, in accordance with your policy.
- (b) Notify immediately of any subpoena, contact by an attorney, or request for records or review of a case in which you participated.

With your attorney

- (a) Know the case thoroughly, and provide all the details you can from the outset.
- (b) Don't conceal anything, and **DON'T CHANGE ANYTHING** in the documentation - it is a surefire way to lose your case.
- (c) Ask the attorney questions about his/her deposition and trial tactics, and those they anticipate from the plaintiff.
- (d) Insist on careful preparation before deposition and testimony.
- (e) Insist on obtaining the best witnesses on your behalf.
- (f) Attend as many depositions and courtroom proceedings as your attorney allows, so that you will be informed, show your concern, and remind the plaintiff that you are concerned and monitoring their truthfulness.
- (g) Answer your own interrogatories (with the help of your attorney); read before you sign all documents; and request and retain copies of all documents and correspondence.

With your family

- (a) Tell them you've been sued.
- (b) Share your pain and feelings, and ask them for support through the ordeal.
- (c) Ask them for their suggestions for dealing with the stress involved, and for remaining close during the process. If you have been emotionally unavailable prior to the initiation of the suit, ask for forgiveness and work at fostering intimacy. Recommitting yourself to your family can become a gift from this trauma.

Don't share with others outside this circle.

Avoid the temptation to speak to others (about the specifics of the case) involved in the case, no matter how peripheral. Nearly every discussion you have about the case is discoverable (you must reveal it in court) unless privileged (see below).

NEVER answer questions made by phone, or posed by anyone associated with the plaintiff: family, attorney, or medical malpractice company.

Do strongly consider sharing

Feelings with a counselor - legally protected/privileged communications are possible with lawyer, clergy, physician, professional counselor or therapist.

Feelings with your journal or tape recorder, a support group, or via art or writing.

Do consider hiring your own attorney/co-counsel:

If your attorney advises that a settlement or award might go beyond the policy limits.

For a second opinion if you feel that your attorney is not prepared to deal with your case effectively, or does not have credentials in medical malpractice defense.

If you feel that your counsel doesn't hear your concerns, prepare you adequately for deposition or trial, or clearly explain in response to your questions.

The Mantra for Medical Malpractice Stress

By caring for yourself throughout this crisis, which is a predictable event in the career of any practicing physician in our time, you will become a stronger person, and a model for colleagues who will endure similar stress in the future.

Homework

- Write down as many reasons as you can why you (or others who honestly know you) know you are conscientious, competent, compassionate, and a fallible human being.
- Verbalize aloud, in a private space, why absolutely no one can take away your achievements.
- Affirm that you are a survivor. Affirm your positive qualities. It is now permissible to connect with your survivorship qualities.
- Please share with others and let us know of further steps that help you personally to counteract the distress of the litigation experience.
- As you acknowledge and then transcend the ordeal, consider helping others as a peer counselor.

Author:

Louise Andrew, MD, JD
John-Henry Pfifferling, PhD
Center for Professional Well-Being
Durham, NC
919-489-9167
www.cpw.org
mail@mdmentor.com
www.mdmentor.com

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