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Five Ways to Avoid Being Sued for Malpractice

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One of the greatest challenges physicians face today is the threat of losing their assets to a practice lawsuit. Unfortunately, if you perform any type of surgery the probability that you will be sued at some point in your career is almost 100 percent – even if the suit might be considered frivolous from a technical standpoint. As a matter of fact, Larry Smarr, president, Physicians Insurance Association of America, stated in the Jan. 16, 2003 edition of *Online NewsHour* with Jim Lehrer, “Over 70 percent of all claims made against physicians are without merit and do not have an indemnity payment. When a doctor goes to trial, the doctor wins 80 percent of the time. But our studies show that 50 percent of all the money available to pay claims goes to fund the lawyers’ lottery system.” Hopefully, this article will help you avoid becoming the victim of a malpractice lawsuit.

Keep Good Records and Make them Legible

If you can't write legibly, consider dictating or typing your notes. Having a clean legible record makes it that much easier for an attorney and an expert to confirm what you did. If no one can read your handwriting, you might get dragged into a case just so you can read your notes into a court record.

Don't let your junior resident dictate your note and don't rely on the resident to include key information that you know has to go into your operative or office note. Take the extra minute to record it yourself.

If you examined the patient with the resident present, write your own note. Don't simply countersign a resident's note. Your countersignature doesn't tell anyone that you

were there, or that you examined the patient. It only indicates that you signed your name at some later time. Countersigning a note is a lazy man's way of saying “Yeah, yeah... whatever you wrote I accept... just show me where to sign.”

Keep the Lines of Communication Open with Your Patient and their Family

If the family pages you constantly during the day and you ignore them, they'll feel like you're hiding something from them. Tell the patient and the family what's going on. Bring them into the fold and enlighten them. They're worried and are starved for information.

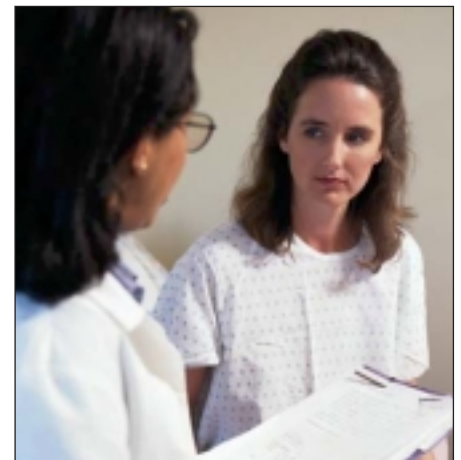
Don't be Afraid to Say “I'm Sorry.”

Many defense firms would find this statement to be terrifying and tantamount to sacrificing yourself at the altar. On the other hand, there are many who believe that *if* you are a human being, *and* accept that humans do make mistakes, that taking responsibility for your mistakes is a better approach. Apologize and try to find a way to make it better.

The Veterans Administration has an ‘open door’ policy where doctors and nurses are urged to fess up and tell patients about mistakes they've made that caused injury. The VA has found that this reduces the overall number of claims made against the doctors and the hospitals.

Don't Point a Finger at Another Doctor When You Don't Know All the Facts

What do we mean? Mrs. Discontent comes to you after having a Mohs procedure. You examine her and casually remark “What a horrible job! Who did this to you, a butcher?” This type of unwarranted comment tells the patient that the treatment rendered to her in



the first place was substandard and almost encourages them to seek out a lawyer to justify your comment.

The patient asks you point blank “Do you think what my other doctor did was appropriate?” In all probability it wasn't, but is it really necessary to tell the patient this information? Are you going to be the incendiary device that sets the patient off in search of a malpractice lawyer? The better approach is to say “I can't tell one way or the other, but what I can tell you is that we need to address your current problem now. Here's what I propose...”

Don't Hide

Not behind your notes, not behind your operative reports, another doctor's actions, or your own. Stand up for what you believe in, and what was done appropriately. Explain to your patient that it was a medical judgment call to try and freeze the suspicious area. If that didn't work then you'd surgically excise it. Explain that there was no need to get a plastic surgeon to remove half the skin on her arm when a simple excisional biopsy would suffice.

Explain away the patient's fears, regardless of whether they were justified or not.

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DermSource: Solutions for Work. Solutions for Life.

As you begin your career in dermatology you may be thinking about starting your own practice, finding a position in a group practice, or the kinds of insurance you may need, regardless of your future plans, let the American Academy of Dermatology be your source for solutions for work and for life.

The Academy has partnered with some of the most prestigious and well-respected companies in a variety of areas to bring our members practical, money-saving solutions for personal and professional stability. From discounts on medical, surgical, and front office supplies, to personal and financial protection, DermSource is designed to fit every lifestyle. The Academy has negotiated special discounts and offerings exclusively for Academy members.

The DermSource programs include AAD Advantage, AADCareerCompass.org, AAD Insurance, AAD Financial Connection, AAD's Platinum MasterCard, Members Online, MedjetAssistSM, AAD Apparel, and Car Rental Discounts.

AAD Advantage

AAD Advantage offers dermatologists substantial savings on all medical, surgical, and front-office supplies, including generic and brand-name pharmaceuticals. The Academy has partnered with Henry Schein, Inc., and Caligor Medical, the largest distributor of healthcare products to office-based physicians, to bring dermatologists this member buying program.

AADCareerCompass.org

AADCareerCompass.org is the official online career center of the American Academy of Dermatology. By linking the employment

opportunities of the dermatologic community, the AAD has simplified as well as enhanced the position search process. Our new online career center, AADCareerCompass.org, can help you find a job, or locate dermatologists and dermatology nurses. Academy members can post a resume free of charge or post a position and receive member pricing.

AAD Insurance

The Academy has custom designed insurance programs to help protect your future and the future of your family. Through a partnership with JLT Services, Academy members can receive Group Term Life Insurance, Disability Income Insurance, Practice Overhead Expense Insurance, Accidental Death and Dismemberment (AD&D) Insurance, Long Term Care Insurance, Medical Malpractice Insurance, a Business Office Package, Employment Practices Liability Insurance, and Health Savings Account (HAS) – Qualified Health Insurance Plans.

Due to underwriting limitations, insurance is only available to U.S. members. Plans may vary and may not be available in all states.

AAD Financial Connection

Help lower your practice expenses and achieve cost savings with AAD Financial Connection. AAD Financial Connection is offered through a partnership with Henry Schein Financial Services to help dermatologist lower their practice expenses by offering significantly reduced rates on equipment leasing, financing, and credit card processing.

AAD's Platinum MasterCard

Receive special rates and a credit line up to \$100,000 with credit cards offered by MBNA America to Academy members.



Members Online – Web Site Development

Get your practice online today! The Academy has partnered with Members Online to provide simple and affordable Web site development and hosting. Promote your practice and its services via the Internet – Members Online handles all the technical details.

MedjetAssistSM

No matter where an emergency might occur, MedjetAssist is the leader in both domestic and international emergency evacuations. As such, if you or your family is ever hospitalized while traveling more than 150 miles from home, MedjetAssist will bring you back the hospital of your choice at no cost.

AAD Apparel

Show patients, friends, and colleagues that you belong to the most prestigious organization for dermatologists. Order lab coats, scrubs, caps, and shirts embroidered with the AAD logo. All items can be personalized with our custom embroidery service.

Rental Car Discounts

As a member of the Academy, you qualify for discounts when renting a vehicle from Avis, Hertz, or National Car Rental.

To learn more about the DermSource program please visit the Marketplace section of the Academy's Web site at www.aad.org or call the MRC at 866-503-SKIN (7546). ☎

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Remember, there will always be someone who is unhappy no matter what you do for them. Avoid those patients whenever possible. For all the others, don't be so arrogant that you don't have time to explain. If you don't have time to explain, tell the patient or their family that you'll call them late that night – and do it. The family will love you for it.

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