



Risk Management

Malpractice Case Reviews



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Conflicts

I have no personal or financial conflicts of interest to declare

I receive no financial support from industry sources

Outline

1. Pre-test questions
2. Three 'real life' case examples
3. Methods for malpractice prevention
4. Post-test questions



Disclaimers

Not intended as legal advice.

The cases are real.



We can learn from other's mistakes.

Pre-test Question #1



All of the following are methods to reduce your risk of being sued for medical malpractice except...

- A. sitting down at the bedside
- B. being friendly & courteous with patients
- C. avoiding unpleasant physical exam techniques/procedures
- D. minimizing distractions in the workplace
- E. avoiding tunnel vision from triage

Pre-test Question #2



Which if the following is NOT one of the top three reasons for an ED 'bounce back' (a patient return within 72-hours)?

- A. bleeding problem
- B. abdominal problem
- C. mental health problem
- D. urological problem

Pre-test Question #3



What is it called when a clinician fails to consider alternative diagnoses once they form an initial impression, even though data (including laboratory results) might contradict the initial impression?

- A. recency bias
- B. anchoring bias
- C. affect heuristic bias
- D. outcome bias

Real Cases of Malpractice Lawsuits

1

38-year-old male with knee injury

2

35-year-old male with low back pain

3

41-year-old female with dyspnea on exertion



Real Cases of Malpractice Lawsuits

1

38-year-old male with knee injury

2

3



Real Cases of Malpractice Lawsuits

1

2

35-year-old male with low back pain

3



Real Cases of Malpractice Lawsuits

1

2

3

41-year-old female with dyspnea on exertion

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- FACT: patients are much more likely to pursue litigation if they were unhappy, frustrated, or did not like the staff, *regardless of the actual outcome*
- Therefore, do not be an incompetent provider AND a jerk...
...if you're potentially incompetent clinically, at least be nice!

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The Philosophy of “YES”

- CC: possible ankle sprain
 - Pt: “can I have something stronger for pain?”
- CC: fall, hit shoulder
 - Pt: “can I get an MRI of my shoulder?”



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Return Visits (“bounce backs”):

- start all over again!

Research study: 75% of return ED visits were...

1. wrong diagnosis
2. change/progression in disease
3. poorly understood discharge instructions

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- Don't forget the basics: *look at* and *interpret* all vital signs
- Exposure: get patients *undressed!* Take diapers off
- If the facts/tests don't fit what you're seeing in the patient – stop & rethink things

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- Don't be afraid of the “do over”
 - If an unpleasant encounter with a patient: start over!
- **Never let a resting tachycardia walk out the door**

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Cognitive Biases

- **Anchoring bias:** selectively focus on info that supports initial impression
- **Confirmation bias:** once you form an opinion, you have a tendency to only notice the evidence that supports it, and you ignore contrary evidence
- **Availability/Recency bias:** judge the likelihood of a disease because of recent experience – diagnose based on the relevant examples that come to mind

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Where do we make errors?

1. Educational deficiencies
2. Tired/sleep deprived
3. Distraction with unnecessary tasks
 - interruptions from MAs, nurses, techs, etc.



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Where do we make errors?

4. Avoidance of unpleasant situations
 - rectal exam, pelvic exam, etc.

5. Cueing/Tunneling
 - from triage level
 - from pre-made documentation sheet



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Name things for what they are!

- Temp: 97.7, oral
- Pulse: 102
- Respirations: 22
- Blood pressure: 100/62
- SpO2: 92% RA

“HR is up a little bit, respirations are OK, BP is good, and Sats are OK”

VS.

“Tachycardic. Tachypneic. Hypotensive. Borderline hypoxic”

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How do patients judge the *quality* of healthcare?

- Clean
- Friendly
- Courteous
- Fast

How do patients judge the *clinical competence* of providers?

- Dress and appearance
- Listening skills
- Empathy and caring

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First Impression

The Greeting

- **ED wait time** is the most frequent complaint among patients in post care surveys
- Examples:
 - “Hi, I’m Nicole, one of the PAs. I’m sorry about your wait. We are really busy tonight”.
 - “Hi, I’m Dave, one of the PAs. I see you arrived around an hour ago, thank you so much for waiting for us today. Now I am going to give you my full attention so we can get you feeling better”.

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First Impression

- Managing Time Expectations - COMMUNICATE:

Labs	60 minutes
Ultrasound	60 minutes
X-rays	45 minutes
CT	60-90 minutes

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Perception

- Take a seat! *Sit down* at the patient's bedside
 - eliminates you towering over a patient
 - demonstrates that you *plan to be present* and listen
- Evidence that *patients perceive the provider spent more time* with them if the provider had sat down

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We can learn very much from other people's mistakes...

- but remember, “hindsight is 20/20”
- remain humble!



Post-test Question #1



All of the following are methods to reduce your risk of being sued for medical malpractice except...

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Thank you!



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