

THE CHEERFUL ONCOLOGIST

Fifteen Ways to Attract Malpractice Lawsuits: A Free Guide

By Craig R. Hildreth, MD | 2013
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According to a 2011 *New England Journal of Medicine* [review](#) from Harvard Medical School, from 1991 to 2005, 9% of US oncologists faced a malpractice claim annually, slightly above the national average of 7.4% for all physicians during this time. Here's a fun fact from that study: most doctors will be sued at least once during their career. Physicians in high-risk specialties such as surgery have a 99% chance of being sued by age 65; even low-risk specialists have a 75% probability.

In my case, I didn't even make it out of residency before I was named in a lawsuit. We certainly all agree that the most efficient way to expunge medical malpractice is to ensure that our patients never experience a bad outcome. Since this would require talent commensurate with omnipotence, it is with regret that we announce to our charges that the practice of the art and science of medicine by mere mortals sometimes produces unsatisfactory results.



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If a bad outcome is directly due to willful and gross negligence it cries out for reparation, but how should we respond when, despite decent care, a loved one suffers an unforeseen disaster? When bad things happen to good people sometimes the situation is reconciled and sometimes it ignites legal action. In the calamitous 21st century is it possible to provide patient care in a way that, even in the face of misfortune, minimizes the chances of being sued? (I must think so or I wouldn't be writing this). With your permission, therefore, may I draw on experience to offer a few helpful hints?

I might, but it's much more fun to list the antitheses of insipid suggestions. Rather than a how-to guide, let's instead explore some ways doctors can increase their likelihood of facing malpractice.

1. Always fail to appreciate the unique privilege you have been given. Patients are a dime a dozen. Don't waste precious time treating them like royalty.

- 2.** Spend no effort in making a good first impression. Never introduce yourself by your full name, avoid shaking hands, and by all means do not learn the identities of the folks who came with the patient today. Avoid eye contact and remain standing—makes it easier to slip out of the room.
- 3.** In times of sadness, never express remorse or sorrow to anyone. Keep your emotions buried.
- 4.** If faced with a confrontation, don't let anybody push you around! You are the boss, see, and you have every right to bristle, blow your top, yell, and walk out of a situation that is beneath your dignity.
- 5.** Get into the habit of delegating all tasks to your staff. Try to avoid getting trapped performing mundane tasks like reviewing records, checking x-rays, etc. The minute patients are not in your sight, forget about them.
- 6.** Don't return patient phone calls personally, even if requested to do so.
- 7.** When given a choice, always take the path of least resistance. Nobody gives you any extra credit if you work harder than the minimum. Play it smart and take the easy way.
- 8.** Keep your knowledge base stagnant. You don't get paid for being any smarter than you were last year, so why bother learning?
- 9.** Always follow consistently rigid rules of conduct and engagement with patients and families. Only insecure weaklings question their own judgment. Only flibbertigibbets joke around with patients. You always have the final say and you are always right.
- 10.** Never “think outside the box.” Always assume that your patients are not that sick, that all will be well if they would just leave you alone. When encountering a new problem your first reaction should always be to downplay it.
- 11.** Assume that everyone in the room has a decent command of medical jargon.
- 12.** Try to convey information with absolutely no hint of empathy. Remember to keep your distance!
- 13.** Learn to fear the truth, and use that fear to avoid accurate, direct explanations of situations.
- 14.** Your time is so precious—try not to waste it on long counseling sessions with patients and their families.
- 15.** Let other doctors be the bearer of bad news. You don't need all that extra stress on your shoulders, do you?

Oh, and here is one final bonus tip: always approach each case, each medical decision, each interaction with patients and families with your ego blazing and with your favorite motto—“It's my way or the highway!”