Coping with medical malpractice litigation

by Catherine A. Martin, M.D. and John Wilson, Ph.D.

The psychological sequelae to malpractice have been described. (See "Malpractice: Physician stress reaction," in The Physicians' Advocate, January, 1987.)

Beyond the description of the actual psychological sequelae of malpractice, it is important to try to understand those physicians who appear to cope more successfully than those who do not. In her articles about physicians' reactions to litigation, Sara C. Charles, M.D., found that one group of physicians reported litigation was the most stressful life event because: the plaintiff was a personal friend or a patient of long standing; feelings of low self-esteem, humiliation or self-doubts about competence were aroused in some situations at least in part due to wide media attention; or the physician had feelings of being overwhelmingly betrayed, angered, frustrated and devastated. This group of physicians mobilized emotion-focused coping strategies such as taking one day at a time, rationalizing, and developing a passive attitude.

In contrast to this group, a second physician group identified another life event as more stressful, such as death of a family member or patient, life-threatening personal illness. These physicians mobilized problem-focused coping strategies. They dealt with it, restructured their lives and practices, or did what their lawyers told them to do. This problem-focused group of physicians had fewer symptoms of depression or anger, but reported experiencing more major life stressors — divorce, death of a child or spouse. Charles et al (1988) comment on how directly responding to an event contributes to feelings of being in control, increases self-esteem and may help eliminate the source of stress.

We reviewed data from our original study (January 1987) for variables that tended to increase the seriousness of the psychological sequelae. The following were identified as important variables.

Litigation status

Physicians who have been sued report greater distress than physicians who have never been sued. Symptoms include feelings of traumatization, anxiety, depression, use of medication, anger, bitterness, and having a more negative attitude toward the legal profession. Sued physicians also report more active coping efforts such as talking to others or trying to make some good come from it and practicing defensively.

Lawsuit stage

Physicians with a pending case are the most symptomatic group. Physicians who have settled out of court are as distressed as case-pending physicians, but not as bitter or angry, also they have more self-doubt. Physicians who have won show the fewest effects of malpractice in terms of distress, anger, and defensive medicine, but still have higher scores than the nonsued physicians on trauma, anxiety, and depression, and are the lowest on feelings of shame. Physicians in the case-won and the case-pending groups are more likely to endorse a "fight back" strategy.

Time since lawsuit

Physicians who have been sued recently show significantly more symptoms of being traumatized and altered attitudes about malpractice. Physicians who have been sued more than two years ago show intermediate levels of distress and attitude changes.

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Physician demographics

Physicians over 40 report less distress than physicians under 40, regardless of their malpractice experience. Younger physicians are more discouraged, fearful and afraid of losing everything, regardless of their malpractice experience. Younger physicians are especially vulnerable during the early phases of a malpractice experience and they are more bitter, more vindictive and feel more used. Older physicians, regardless of the time since malpractice, are more likely to report the practice of defensive medicine than their never-sued colleagues. In contrast, younger physicians who have been sued are more likely to be practicing defensive medicine only if they have been sued recently.

A higher percentage of male physicians are sued than female physicians. Female physicians are less likely than males to report practicing defensive medicine if they have not been sued, but are more likely to report practicing defensive medicine if they have been sued. Female physicians report lower levels of distress than male physicians, regardless of malpractice experience. Sued female physicians are less bitter, have fewer negative attitudes toward the legal system, are more eager to help other sued physicians and want to fight back. Sued female physicians are more likely to adopt a positive coping attitude, reflected in greater feelings that they have done their best and in feeling that they have made something good come from the experience.

Coping strategies

It appears that some physicians may be better able to mobilize positive coping strategies when dealing with malpractice litigation. Winning the case in court leads to a more positive resolution of the trauma. The older physician, who is able to cope more positively, may accept adversity as a part of life and mobilize efforts to deal with it, while the younger physicians may be more indignant, personally wounded and less able to utilize positive coping strategies.

The female physician may be better able to handle the litigation experience for several reasons. Women in medicine are usually going against what tradition dictates is best for a woman while men are fulfilling the male role ideal. It may be easier for women to incorporate experiences that injure the ideal picture they and others may have. Also, women may be more comfortable in mobilizing social support during difficult times. Female physicians may evaluate their self-worth from a broader base. If there is a disappointment in a woman’s medical career, she may have a stronger sense that there is more to her “self” than medicine, such as family commitments. In contrast, a large part of a male physician’s self-esteem may be tied up in his perception of his “success” as a doctor.

These findings suggest that several coping strategies can be

Coping strategies:

- Mastery
- Family support
- Colleagues’ support (networks)
- Healthier balance of career and other interests

Physicians in high risk stress groups:

- Were male
- Were under 40 years
- Have a case pending
- Had a lawsuit recently

mobilized. Mastery appears to be vital. The physician must take an active role in the litigation process as possible by converting worries into planning and action. Older physicians can help younger physicians put the experience in perspective.

Formal and informal networks should be mobilized to facilitate this. This networking should be combined with social support from colleagues, friends and loved ones. All physicians need to examine the changing role of physicians. We must question the old ideal of “marriage” to medicine. Physicians must be aware that they may be attacked instead of having “open trust” that this will not happen to them. A medical career should be put into healthier perspective and balanced with a full private life, then when the attack comes, self-esteem is less vulnerable.

The psychological sequelae to malpractice litigation are real; however, there appear to be variables that lead to more successful coping. We need to learn more about these effective coping strategies and formalize how all physicians can learn and implement them successfully.

The authors

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For more information

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Related articles

The following articles by Sara C. Charles, M.D., were referred to in “Coping with medical malpractice litigation.”

