



Stepping Carefully...

Here's how to prevent malpractice claims in your podiatry practice.

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As a healthcare provider, the possibility of facing a malpractice lawsuit is not an irrational fear. In fact, a study published in the *New England Journal of Medicine* found that an estimated 75 percent of physicians in low to moderate risk specialties such as podiatry, and a whopping 99 percent of physicians in high-risk specialties, would face a malpractice claim by the age of 65. And Medical Economics stated that avoiding liability is one of the top 15 challenges facing physicians.

Successful podiatric care requires ongoing collaboration between patients and providers, a partnership which must be based on trust. The patient-physician relationship is the cornerstone of this trust. Many lawsuits are caused not by medical errors, but by poor communication and misunderstanding. The rising malpractice environment is caused less by quality-driven features than by failure of

the patient-physician relationship, especially a relationship built around effective communication.

Patient satisfaction and the risk of malpractice lawsuits obviously have a direct relationship. While outcomes and results are important, equally as important is rapport. Patients are more likely to remember how you made

During the patient encounter, healthcare providers must be prepared and personal. Take the time to review your patient's charts before the visit, which allows you to be more precise in your next steps. Use your EHRs to help establish good relationships by making notes about the patient's family, hobbies, etc. Such personalization goes a

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them feel rather than what you did. Developing trustworthiness and good patient rapport involves many characteristics that are common sense, such as direct eye contact, not making the patient feel rushed, and not turning your back as you enter notes into your EHR. While some of these acts may seem minor, they often make a patient feel devalued and lead to the top mistakes precipitating lawsuits.

long way in developing rapport. And remember that EHRs generally contain a timestamp showing when you reviewed the patient's chart and for how long. This timestamp becomes part of the medical record and could be an important part of your defense in the event of a lawsuit. Conversely, finalizing a patient's chart note weeks after their visit could compromise your defense.

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Aside from the attributes that help create rapport and decrease the risk of malpractice claims, there are additional systems and protocols that a practice should employ. For example, practices that have protocols in place to ensure that there is follow-up regarding missed appointments and tests are less likely to be sued for allegations such as delayed diagnosis.

Naturally, effective communication is essential. While there might be a limit on how much information a patient is capable of understanding during their appointment, you can never communicate and educate too much when it comes to patient education materials covering a wide range of topics that patients can access after their appointment. Many patients are visual learners and not auditory learners. EHRs can be helpful to automate

a practice in identifying areas for improvement, enhancing quality of care, improving outcomes, and reducing malpractice claims.

Terminating a Patient

There are times when a patient-physician relationship becomes so difficult that a physician deems it necessary to end the relationship.

You should document the reasons for termination, including the specific incidents or behavior patterns that led to this decision. This documentation should be as objective and factual as possible.

The Termination Steps

Prepare a formal letter of notification for the patient, being certain to

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that process by delivering patient education information to patient portals for easy patient access.

Patient Satisfaction and Surveys

In a study performed by the *Journal of the American Medical Association*, the degree of satisfaction a patient experienced with their healthcare provider was highly correlated with malpractice litigation. Common sense would tell us that patients who are satisfied with their physicians rarely sue. And the same study found that the most common complaints from patients who sued were that their physicians neither listened nor offered information. Patients were highly critical of the human aspects of care such as the lack of interpersonal skills and empathy.

Patient satisfaction surveys can provide valuable insight into patient experiences. Periodic and consistent surveying of patients can assist

nuity of care for the patient and avoid allegations of patient abandonment. As with other potential “land mines” that can create litigation, it might be wise to consult with your malpractice carrier before taking termination steps. To avoid allegations of abandonment, patients should be medically stable and no longer in the acute or post-operative stages of treatment.

Terminating a patient relationship is a complex process that should be handled with professionalism, empathy, and foresight to minimize the risk of patient abandonment lawsuits. Before making any decision, you should thoroughly review the patient’s case to determine if termination is actually necessary. Your review should include an assessment of the patient’s urgency for follow-up care, for example, post-operative concerns. Again, it might be wise to consult with a healthcare lawyer or with your malpractice carrier before proceeding.

give them adequate notice, usually 30 days, to find a new podiatrist. During this period, you should continue to provide necessary medical care. You might even offer assistance in finding a new provider by providing information about local medical resources.

The termination letter should be formal, clear, and concise. It should be marked “confidential” and sent via certified mail with a return receipt requested, to ensure that the patient has received it. You should keep the original mail receipt and the original mail return receipt even if the patient refuses to sign the certified letter.

Lastly, confirm that your practice staff is aware of the termination and its effective dates to avoid making an appointment after the termination.

Keeping your practice safe from litigation often involves common sense, a rational and empathic approach, and consultation from healthcare attorneys when in doubt. **PM**



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