

Help Reduce the Incidence of Medical Malpractice Lawsuits

Given the overly burdened healthcare system, many physicians don't take the time to fully educate a patient and explain all the facts. However, failure to explain the material facts to patients is an element in many malpractice suits.¹ When doctors diagnose a chronic disease, for example, they disclose the major treatment alternatives in only about 20 percent of the cases.¹ Another recent study found that only nine percent of all decisions met the criteria for completeness of informed decision making. Most often omitted were considerations of alternatives, pros and cons, and uncertainties.³

Results of one study revealed that doctors imparted information to patients for an average of little more than a minute during interviews that lasted an average of more than 20 minutes. When asked how much time they spent on patient education, the physicians overestimated by a factor of nine. The study also found that, in 65 percent of the cases, physicians thought patients wanted less information than they actually did.¹

The Physician Insurers Association of America (PIAA), which has collected data on 96,000 malpractice claims, estimates that up to 30 percent charge a lack of informed consent or failure to instruct the patient properly.

A University of Rochester study of 140 depositions in malpractice suits at Highland Hospital in New York determined that "failure to provide an explanation" was cited in 35 percent of them.¹ According to another PIAA study, 18 percent of 393 drug-related malpractice claims stemmed from communication failure between doctor and patient.⁴

The burden of medical malpractice claims on the health care system is substantial. The median malpractice award has climbed 60% between 1993 and 1999 to \$800,000. Similarly, the median malpractice settlement has also climbed 63% between 1993 and 1999 to \$650,000.² As a result, the majority of liability insurers plan to raise their rates in 2001. Increases are expected to range anywhere from 6% to 50.8%. The average increase is expected to be 14.6%.³

Perhaps more and better methods of patient education would reduce the incidence of medical malpractice. Because of the overburdened health care system and a shortage of health care professionals, doctors and nurses simply don't have ample time to fully educate patients. As a result patients need to take a more proactive role in managing their own health care and informing themselves. To this end, health care providers need to assist patients in their quest for information. Computerized teaching may play a large role in achieving this goal.

References:

1. Terry K. (July 25, 1994). *Telling patients will save you more: explaining the risks and benefits of treatment options prevents confusion, improves compliance, and lessens the chance of a lawsuit*. Medical Economics. 71(14):40-52.
2. American Federation of State, County and Municipal Employees (April 2001).
3. Braddock III CH, Edwards KA, Hansenberg NM, Laidley TL, Levinson W. (1999). *Informed decision-making in outpatient practice: time to get back to basics*. Journal of the American Medical Association. 282:2313-2320, 2356-2357.
4. Physician Insurers Association of America (November 22, 1993). *The medication errors that get doctors sued*.