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# A Medical Malpractice Trial where the Residents and Faculty are the Judge and the Jury

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**Medical Malpractice Mock Trial Presentation**  
**For Wright State Medical Students, Residents, Program**  
**Directors & Faculty – *Where the audience is the Judge and the***  
***Jury...***



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# RISK MANAGEMENT AND MALPRACTICE ...

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*What every physician needs to know*

Kelly Rabah, Director of Patient Safety Quality  
Improvement for GME

# OBJECTIVES

- ❖ Name 3-5 most common reasons for a medical malpractice claim
- ❖ Describe and compare negligence, types of error, and recklessness
- ❖ Explain 3-5 steps that should be taken to minimize risk for malpractice suit
- ❖ Discuss the emotional toll of litigation and personal and professional risks that result.

# HISTORY

- ❖ Residents and fellows often unaware of behaviors that put them at greatest risk
- ❖ Unaware of the process once a claim has been made
- ❖ Unable to articulate levels of culpability
- ❖ Lack knowledge of emotional and professional toll



# OPPORTUNITIES

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- ❖ Reframe the relationship with risk management
- ❖ Implement a preemptive strategy
- ❖ Collaborate with your multi-disciplinary team
- ❖ Examine policies, procedure, and protocols often and utilize quality protected processes to improve



WHEN YOU ASK PATIENTS AND FAMILIES  
WHY THEY FILED A LAWSUIT, THEY SAY:

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- ❖ The doctor didn't care about us
- ❖ The doctor didn't listen
- ❖ The doctor knew "X" and didn't "Y"
- ❖ He or she didn't tell us ...

# MOCK TRIAL EXERCISE

- ❖ Actual case, real attorneys, residents played the defendant and the prosecution, and a program director played the expert witness.
- ❖ Exercise was sponsored by the legal firm who defends the hospital, the medical school, and the risk management department
- ❖ Almost 200 attended



# THE CASE

- ❖ Delay of diagnosis and treatment of acute compartment syndrome, (4 days), resulting in permanent loss of mobility in right leg- 53 y/o active female patient.
- ❖ First year orthopedic resident, third year EM resident, and orthopedic attending. Multiple nurse witnesses.



# SOME KEY FACTORS IN PLAY

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- ❖ Supervision
- ❖ Communication
- ❖ Documentation
- ❖ Culture of joint accountability-those concerned said little and did not engage
- ❖ Case can be made key findings may have been minimized (ex. Pain the 5<sup>th</sup> vital sign)



NOW LET'S WATCH SOME  
EXCERPTS

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Kelly Rabah, Director of Patient Safety Quality  
Improvement for GME

# DISCUSSION

- ❖ The experience from the residents' perspective
- ❖ The attorney's insight
- ❖ Was it negligence, error, or recklessness?
- ❖ What could have been done differently?
- ❖ The emotional and personal toll

# REACH

## REACTIONS FROM PARTICIPANTS AND OBSERVERS

- ❖ More powerful than Expected – “It felt real.”
- ❖ It’s not easy to decide guilt - many factors and players
- ❖ Didn’t realize these cases often go on for years
- ❖ Didn’t anticipate the scope of disruption emotionally or professionally
- ❖ Never thought about facing the plaintiff

# NEXT STEPS

**How can you use what you've learned here today in your own settings?**

- ❖ Develop your own mock trial exercise
- ❖ Utilize student legal service attorneys
- ❖ Network with community partners to co- sponsor the event
- ❖ Abbreviated “Lunch and learn” exercise

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