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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Six Sigma Greenbelt in Healthcare, Director of Patient Safety Quality Improvement for GME
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RISK MANAGEMENT AND MALPRACTICE ...

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.

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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

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OPPORTUNITIES

- 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

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

- 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.

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SOME KEY FACTORS IN PLAY

- 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 5th vital sign)

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NOW LET’S WATCH SOME EXCERPTS

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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

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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

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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
REFERENCES:

- [http://wrightstatephysicians.org/training](http://wrightstatephysicians.org/training)
- Freund, Freeze and Arnold Law Firm
- Premier Health Risk Management Team
- Boonshoft School of Medicine [https://medicine.wright.edu](https://medicine.wright.edu)
REFERENCES


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