



If a patient sues you for malpractice, don't suffer alone

Psychiatrist exhorts ophthalmologists to seek help for lawsuit-induced stress

Sara Charles, MD, knows what it feels like when a patient sues. Thirty years ago, a former patient of the American psychiatrist sued her for malpractice. The patient accused Dr Charles of prescribing a drug that caused her to leap out of a window – and end up a paraplegic.

When the case finally did make it to trial five years later, the court acquitted Dr Charles of malpractice after it learned not only that another psychiatrist had prescribed the medication but also that the patient's underlying personality disorder – and not the drug – caused the women to jump out the window.

"I was totally exonerated," Dr. Charles recalls. "But it was a stressful time."

physicians' self-reported reactions to malpractice litigation."

Lawsuit is a major life event

Both studies confirmed what Dr Charles knew already from her own experience: malpractice lawsuits significantly affect the lives of physicians as much as a divorce or family death.

Two decades and dozens of research papers later, Dr Charles is still convinced that lawsuits continue to traumatise and isolate physicians.

"Things have not changed that much in the 25 years that I have been working in this field except that there has been a

gradual increase in the perception of the problems in the mind of the public."

One reason that the American public is more aware of the problem is that doctors there have been campaigning for reforms of the law governing malpractice lawsuits. But that's not the only reason. Increasing numbers of society's decision-makers and professionals, too, are finding themselves at the wrong end of a negligence lawsuit.

Doctors not alone

Dr Charles points to research indicating that lawyers, architects, and even journalists react to negligence lawsuits in

the same way as physicians. She recalls an interview with a famous American TV journalist, Mike Wallace, who faced a libel lawsuit after he reported that the one-time commander-in-chief of US forces during the Vietnam War, William Westmoreland, conspired to suppress military intelligence that could have altered the course of the war.

"We have our credibility; we have our integrity; and all of the sudden you're being called thief, cheat, liar, fraud," Mr Wallace told Dr Charles. "It goes to your gut. If you're a doctor it's the centre of your soul. It's the centre of your life. If you're a doctor you're a healer and

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Legal vindication exacts high emotional price

Her legal vindication came at a frightful price. Throughout her five years of fighting her case, feelings of anger, isolation, and depression dogged her personal and professional life. Only the help of her husband and defence lawyers kept her going.

When her legal odyssey ended, Dr Charles embarked on a new mission: to understand and help other physicians sued for malpractice.

The first thing she found was how little sued physicians talked about their predicament.

"I found that there were doctors I was working with every day who had been sued too, but nobody was talking about it," she remembers. "Just by asking them about the impact of litigation on their lives and I got all kinds of responses."

Intrigued by those initial responses, Dr Charles began surveying American physicians about the impact of lawsuits on their lives. That research led to a seminal study in the field titled, "Physicians' self-reports of reactions to malpractice litigation." That study, which the American Journal of Psychiatry published in 1984 laid the foundation for a follow-up study the following year in the same journal under the title of "Sued and non-sued

Any ophthalmologists who find themselves sued by their patients should not take the lawsuit sitting down, says psychiatrist Sara Charles MD. Dr Charles suggests a few strategies to help ophthalmologists get through such a stressful time. Those strategies include:

Find Social Support

- Discuss your feelings with a trusted person—your lawyer, another physician, a family member, or a friend;
- If the above are unavailable, contact your local medical or specialty society for referral to an available peer or support group.

Participate in your Defence

- Ask your lawyers to describe your role in each step of the process;
- Ask your lawyers about the anticipated length of time required to process the case;
- Make sure you feel comfortable with your appointed lawyers and request a change, if necessary;
- Help choose your experts;

Tips for coping with a lawsuit

- Prepare yourself for the unpredictability of the process – the rules, the lawyers, the judge, and the experts;
- Take an active role with your lawyers in the defense of the case.

Restore Self-Esteem

- Identify areas of clinical practice that cause anxiety or feelings of "loss of control" and find ways to diminish them;
- Do not participate in practice situations that demand compromises to your professional standards;
- Engage in activities that will increase your competence: courses, accreditation activities, teaching, or hospital or clinic committee work.

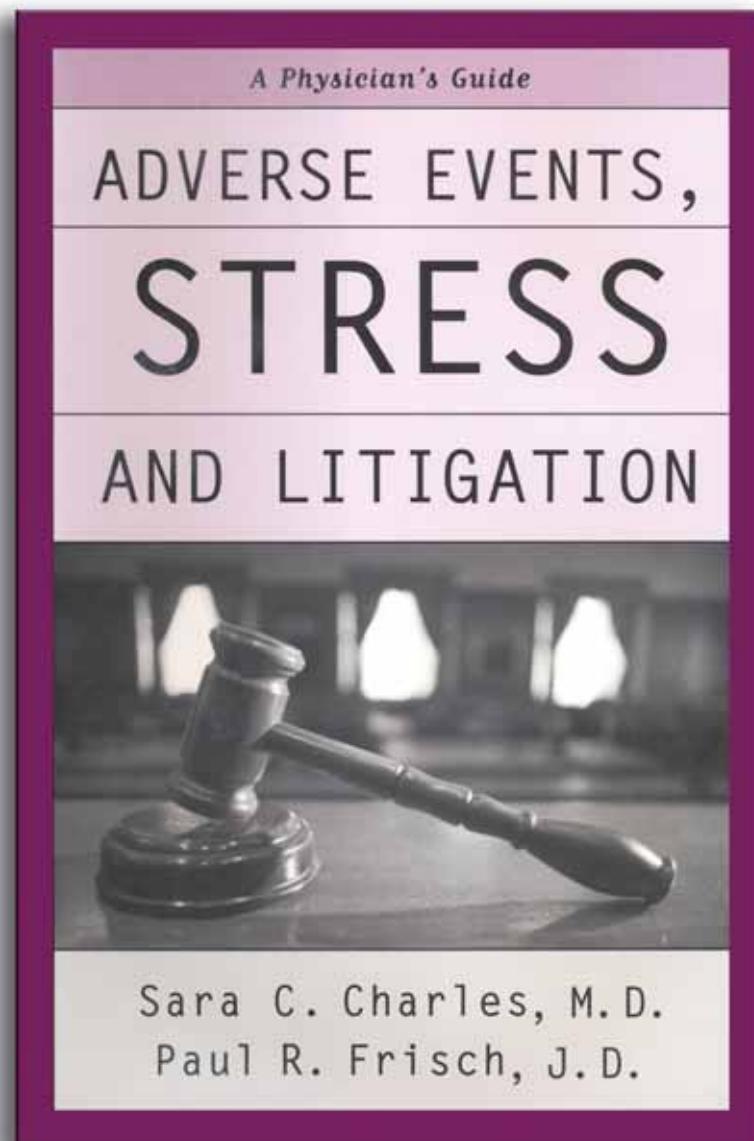
Master Personal Time

- Review the amount of time you devote to family and professional activities and make the necessary changes;
- Attend to financial and estate planning;
- Take time away from practice;

- Participate regularly in active sports, workouts, or other leisure activities;
- Schedule the necessary preparation time for participating in the court case;
- Do not try to "fit patients in" during the trial; being on trial is a full-time job.

Change the Meaning of the Event

- Because the patient has alleged that you were incompetent and thus a "bad" doctor; work on ways to bolster your perceptions of yourself as a "good" doctor by review your career objectively and realising that you do function well and competently;
- Reflect on the input of lawyers about the case and work to acknowledge the "truth" about the events in question;
- Seek trustworthy consultation with family and professionals about the effects of the case;
- Be kind to yourself, even when being objective.



The book explains not only how physicians make common errors, but also offers an insight into why patients sue and how sued physicians can keep their lives and careers from falling apart.

somebody is accusing you not of healing but of hurting."

Drawing on her studies and such interviews, Dr Charles and the chief lawyer of the Oregon Medical Association, Paul Frisch, have produced a landmark self-help book, *Adverse Events, Stress, and Litigation: A Physician's Guide*.

Throughout the book, Dr Charles and Mr Frisch deal with virtually every aspect of medical errors and the malpractice lawsuits that can follow them. The book, which the Oxford University Press published late last year, explains not only how physicians make common errors, but also offers an insight into why patients sue and how sued physicians can keep their lives and careers from falling apart. It is also a poignant fact about such lawsuits that the physicians who face such lawsuits -- and who experience such life-wrenching psychological trauma as a result -- are vindicated in 70% of cases.

Emotional distress follows lawsuit

According to Dr Charles's research, more than 95% of sued physicians experience periods of emotional distress during some portion of the litigation process. Such reactions mimic those experienced generally by people faced with such major life events as divorce or the death of a close family member. Among physicians who are sued, up to 39% report symptoms of major depressive disorder, 53% report symptoms of adjustment disorder and up to 15% report the onset or exacerbation of a physical illness.

Dr Charles recalled the story of the internal medicine physician who awoke with his first episode of atrial fibrillation on the morning after he learned that the family of a deceased patient had sued him for malpractice. Some two years later, the physical and emotional effects of the lawsuit led him to settle the case and to retire early.

Using the book and such case histories as a touchstone, Dr Charles and her co-author teamed up with an obstetrician, a second lawyer, and a risk manager to launch non-profit foundation to run a website to help doctors who are sued.

Website offers guidance

The website, known as the "Physician Litigation Stress Resource Center" provides ophthalmologists and other physicians with resources they may need if their patients sue them for malpractice. The not-for-profit site directs practitioners to articles, books, and websites addressing the process of litigation; suggests strategies for coping with the stress of litigation; and lists resources that may provide support for physicians and other health care practitioners throughout the ordeal of litigation.

European ophthalmologists can benefit from the website and book, too, Dr Charles insists. Legal jurisdictions do not -- and cannot -- circumscribe the emotions and needs that an ophthalmologist or any other physician experience when a patient sues for negligence. A French, German, or Italian ophthalmologist who faces a negligence lawsuit can certainly experience the same anger, anxiety, and depression as an American colleague.

"The toll medical malpractice litigation takes on the physician and other health care professionals is the untold story in many medical malpractice cases," the Resource Center website explains. "As the media describe the plight of patient-plaintiffs and decry the escalating costs of litigation, the involved practitioners are left to cope with emotions that may range from pain and sorrow to shame and hopelessness."

"Some physicians named in medical malpractice suits have left or contemplated leaving the profession of medicine, some have found solace in drugs and alcohol, and some have contemplated suicide as an escape from the isolation they experience," the website explains. "Those most at risk are those who try to navigate the waters of a malpractice suit without support."

Support for sued ophthalmologists, of course, is not the exclusive domain of the website and may be closer than an ophthalmologist believes, Dr Charles points out. No matter how vulnerable they may feel, ophthalmologists should seek support as soon as they learn of a lawsuit.

They should consider beginning with their own personal physicians, Dr Charles suggests. Because a personal physician knows the ophthalmologist as a patient,

the physician can serve as an important resource, from taking a complete history and performing a physical examination to initiating appropriate treatment and making necessary referrals.

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Ophthalmologists can also talk directly to colleagues who are psychiatrists or psychologists, she adds. Family members, friends, and colleagues, can also play a valuable role based on their own personal experience with mental health treatment.

One-on-one professional counselling may also be necessary in certain circumstances, Dr Charles notes. In particular, sued ophthalmologists should seek professional counseling if they notice one of a number of signs:

- When feelings of anxiety and distress interfere with daily work and relationships.
- When they self-medicate or rely too heavily on alcohol or other drugs to dampen anxiety or to get a good night's sleep.
- When friends or family share observations about changes in behavior.
- When the quality of life and work seem significantly compromised.
- When they experience symptoms from a newly developed or previously experienced physical or emotional condition.

Whatever the circumstances surrounding a malpractice lawsuit, Dr Charles is adamant that ophthalmologists seek support.

"When physicians are accused of malpractice, it is a very isolating experience. They feel like they are the only ones who have ever been sued," she says. "But if you look for understanding from your peers you will find it -- and that's a big help."

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Physician Litigation Stress Resource Center
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