

In practicing medicine, offense wins championships

VICTOR WATERS, MD, JD / PHYSICIAN | JULY 3, 2014

It's not surprising that physicians fear lawsuits, as more than 61 percent of doctors older than 55 have been sued at least once, according to the American Medical Association.

But is this fear completely justified? I believe that the media tends to sensationalize malpractice with stories about high judgments and horrific cases.

The facts are this:

- Physicians often win malpractice lawsuits, according to a 2011 [study appearing in the New England Journal of Medicine](#).
- Malpractice payouts are costing less and have declined for the past 10 years, according to a study by Diederich Healthcare.
- Most payouts are due to settlements, not judgments, also according to the Diederich study.

Despite these facts, many doctors are practicing defensive medicine, erroneously thinking that ordering unnecessary tests and procedures will shield them against lawsuits. In reality, all this does is provide a false sense of security.

To me, it's common sense to assume that physicians cannot have truly fulfilling careers in medicine when afraid of patients by viewing them as potential plaintiffs.

The phrase "defense wins championships" has fallen out of favor in sports, as the focus of many teams is now on offense. I assert that this is also true in practicing medicine: a good offense creates championship practices. Defensive medicine is simply not enough to make us "winners" against tort liability.

Developing an offensive game plan in practicing medicine should include an analysis of:

- **How we communicate with patients and staff.** We need to dissect scenarios where we failed to properly communicate with patients or staff. Be clear and concise in talking with patients and make sure they understand your messages.
- **How patient communication is delegated.** For example, should a nurse call the patient with test results, or should the physician handle that communication to make sure the patient fully understands everything? Consider what is appropriate to delegate and what results warrant extra clarification from the physician.

- **How painful procedures impact a patient's satisfaction of care.** Patients may measure the quality of service by their comfort through painful procedures. You could be the best doctor in the world, but insensitivity to a patient's pain tolerances may make them perceive you otherwise.
- **How you listen to complaints.** As painful as it is to get negative feedback, carefully listening to comments can help tremendously. Ignoring or being dismissive of patient concerns or complaints could eventually lead to a tort claim.
- **How you follow your intuition.** This is not defensive medicine. Intuition can lead to healing and saving lives—not ordering expensive and unnecessary tests.

Be proactive and vigilant in your daily clinical practice, and open to feedback that leads to reflection and improvement. As doctors, we must be committed to learning—not only about new advances in medicine, but about communication and leadership. Leading change has a positive effect on everyone.

That's how championship practices are created.

Victor Waters is an internal medicine physician and an attorney. He is founder, Law-4-Docs.com.