

The Role of Psychology in a Lawsuit

Sometimes physicians are so traumatically affected by the stress of a lawsuit, it becomes almost impossible for them to continue practicing or even assist in the defense of the case.

We interviewed Robert M. Gordon, Ph.D., ABPP, about the role psychology plays in the defense of a malpractice case and asked him to offer doctors suggestions for their practice risk management.

PSIC: Doctors understandably have feelings of anger and frustration when being confronted with an allegation of malpractice. Is this reaction common across all professions?

Dr. Gordon: I empathize with doctors who feel this way. They believe a malpractice allegation is a personal attack on their integrity, skills and competency, especially if the patient is one they went the extra mile for.

This thought process is prevalent among people working in the helping professions. Health care professionals often have a noble, but naive, outlook on life. They feel that as long as they act professionally, competently and ethically, they won't be sued.

Though logically they know better, many times their lives have validated the perception of life as "fair." They worked hard to get through school, pass their boards and build their careers, and these efforts have been rewarded. So, while intellectually they know that anyone can be sued, emotionally they perceive it won't happen to them as long as they do everything right. In contrast, attorneys, perhaps not surprisingly, tend to be much more matter-of-fact in their acceptance that lawsuits come with the territory. They tend to take being sued less personally than those in the helping professions.

PSIC: What are some of the reasons patients sue their doctors even when they clinically showed improvement?

Dr. Gordon: It's important to remember that some patients sue even when the doctor did nothing wrong. They sue for psychological reasons. They look for someone to blame simply because they're unhappy. For example, some patients subconsciously place their doctor in a parental role and want to hold the doctor accountable for what's wrong in their lives.

Another personality doctors need to be aware of is the person looking for someone to sue just for the money. Unfortunately, there are entire cottage industries based on attorneys in cahoots with patients looking for doctors to sue.

With a certain percent of the population predisposed to sue, there is a high probability that doctors who treat many patients over the years will eventually face a malpractice allegation of some sort.

PSIC: Instead of feeling frustrated that a lawsuit may occur in spite of their best efforts, is there anything doctors should do?

Dr. Gordon: It can be a good reminder to remember that, much like being a parent, doctors are not in the profession to be thanked. And even for the best doctors, lawsuits can occur simply because they made an honest mistake.

So, the take-away message for doctors is to be realistic, and always apply good risk management practices. Unfortunately, many doctors think a lawsuit will never happen to them, so they don't take the proper precautions (e.g., documentation) that would assist in their defense in the event of a lawsuit.

PSIC: What are some ways doctors can overcome the initial shock of being sued and begin to take productive steps to get on with their lives?

Dr. Gordon: When I work with doctors experiencing extreme feelings of vulnerability, I use a number of techniques including:

External—encouraging doctors to get past the shame of being sued and ask for the support of their network of family and friends. Many times, doctors will find what they're going through is not that unusual. Being able to talk through their feelings (without getting into details about the case) with people they trust can be invaluable.

Internal—It cannot be overstated the benefit of learning how to “self-soothe” with non-drug intervention. (Sometimes drug intervention may be necessary, but this is a last resort.) Some people use meditation or prayer, get involved with hobbies/activities or take a few days to get away.

PSIC: Can you explain why some doctors are, for the most part, able to put a lawsuit into perspective while others become so obsessed with the case that they neglect other aspects of their lives, or they become so demoralized they go into a shell?

Dr. Gordon: All people have some kind of stress reaction to traumatic situations. Some people have deeper and longer reactions. For example, consider that only 10-20 percent of war veterans experience Post Traumatic Stress Disorder.

One of the reasons for this is how we store emotions. We all have things we “put on a shelf” to avoid dealing with (e.g., marital, family or financial issues). Generally, we may not even be consciously aware of these stored stresses. However, if there are too many areas of unaddressed anxiety, the added stress of a lawsuit can create the perfect emotional storm.

When a doctor's emotions are so raw and extreme that he or she loses perspective, it may be necessary to address the underlying issues along with the trauma of the lawsuit itself.

PSIC: Any advice for doctors facing a lawsuit?

Dr. Gordon: If you're facing a lawsuit, remember that being sued doesn't mean you're not a good doctor. Find ways to self-soothe and get support. Then, it will be easier to problem-solve with your attorney and participate in your defense. You owe it to yourself and your patients to not let one case ruin your career.

Also, whether or not you ever face a lawsuit, you should feel good about being with Professional Solutions Insurance Company. I've never seen a company that cares so much about its clients—not just about the bottom line and winning cases.

Robert M. Gordon, Ph.D., ABPP, is a Diplomate of Clinical Psychology and a Diplomate of Psychoanalysis in Psychology, as well as Fellow of the Division of Psychoanalysis, and served on the governing council of the American Psychological Association. He was president of the Pennsylvania Psychological Association and received its Distinguished Service Award. He authored many scholarly articles and books in the areas of psychotherapy, relationships, forensic psychology, ethics and the MMPI-2. He has a private practice in Allentown, Pennsylvania.

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If a malpractice action does occur, PSIC's claim representatives work with you to get your involvement with the case. By understanding what is taking place and playing an active role in the strategy of the case, doctors typically become more at ease with the process. This can significantly reduce the level of stress associated with a lawsuit.

Involving doctors, to the extent they want to participate, is one of the things that sets PSIC apart from other companies that offer medical malpractice insurance. We go above and beyond for our doctors before, during and after a lawsuit.

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