

# You Are Not Alone: Ten Strategies for Surviving a Malpractice Lawsuit

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I wasn't even scheduled to work that morning; I had just gone into the office for a meeting. Chatting with coworkers on my way out the door, I was told there was someone asking for me at the reception desk. So it was there, in front of a waiting room full of patients, that I received the papers notifying me of the lawsuit. "Have a nice day," the woman called out to me as she left.

Over the next months, as the legalities played out, I struggled to keep moving. My confidence evaporated. I'd been taught that physicians who build good relationships are less likely to be sued, so I had obviously failed. I didn't know how I could face my patients—I felt like a fraud. I couldn't sleep. I lost my appetite. Sometimes my experience felt surreal, especially when my attorney told me: "This case will not affect your life in any way."

I wondered if I would lose my job, my license, my home. Even worse, I wondered if I had lost the trust of my colleagues.

I met a coworker who had survived a lawsuit; she had been as stressed as I was, and knowing that my reaction was not abnormal reassured me. I began to practice strategies to help myself cope, and life slowly improved.

As much as we hate to think about it, most physicians, about 60%, will be sued at some point in their career.<sup>1</sup> Not everyone will be as unnerved as I was, but physicians typically do feel intense strain when faced with a lawsuit. Our trust in ourselves and in our patients is shaken. We practice more defensively. We are more likely to suffer depression and burnout. We may feel anxious, depressed, angry, and afraid. Here I offer ten techniques for coping that really work.

## RESIST ISOLATION

Asking for help can be tough for physicians; we're used to being the ones people come to for help, not the ones who need help. You will be advised not to talk with anyone about the case, but you've got to know that you're not alone. Conversations with certain people are protected from discovery. Ask your attorney for advice here, but typically it is acceptable to talk to family members, counselors, and your personal physician. And you can generally feel safe discussing your emotions while avoiding the medical details of the case.

Some liability insurance providers cover psychological counseling costs, so make sure to ask about this option. If you think you might benefit from talking to someone who has had a similar experience, check to see if your organization or insurance provider offers a peer support team.

It's common for physicians undergoing litigation to contemplate suicide.<sup>2</sup> If you're having thoughts of suicide, pick up the phone and call someone immediately: 911, your physician, a counselor, your spiritual advisor, or a friend or family member. Don't do anything until you've spoken with someone. Keep a list in your phone of people you can call for support.

If you are so depressed or anxious that you can't stop the negative thoughts, if you're not eating or not sleeping, or if you feel overwhelmed, medication may be helpful. Do not prescribe for yourself; talk to a physician you can trust. It could save your life.

## USE YOUR STRENGTHS

We all developed skills for managing stress as we made our way through college, medical school, and residency. Remind yourself that you have these tools, and turn

to them now. Focus, persistence, preparation, not taking things personally—we know how to do these things.

## RETRAIN YOUR BRAIN

We all have habitual thought patterns, places our minds go when under stress. But you can create new patterns for yourself. Use your rational mind to respond to the sometimes overwhelming fears that come up; this is a technique that clinicians tend to practice a lot. When the ugly thoughts begin to spiral, and you start thinking that you're obviously a fraud, and no one should trust you to care for them, stop and remind yourself of the patients you've helped, the procedures that went well, and the successes you've had. These new neural pathways will become more ingrained as you continue to practice them.

Research by Martin Seligman, MD, shows that a simple gratitude exercise increases happiness and resilience (read his book *Flourish*<sup>3</sup> or go to <http://ggia.berkeley.edu/practice/three-good-things>). Take a few moments each evening to consider what went well and write it down. At first all you may be able to come up with is that you have clean sheets, or that you had a really great piece of chocolate for dessert. But as you begin to look for the good, you see it more, even when life seems bleak. I look forward to this "what went well" exercise at the end of my day.

## TAKE CARE OF YOURSELF

It's important to make room in your hectic schedule for some downtime. Staying busy can make you feel more in control. It can distract you and keep you from fixating on the case. But you need all your strength right now, so you've got to preserve that. Sleep is crucial, to give your

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brain time to recover from the stress of each day. Exercise helps release stress. Eating well fuels your body and brain (but give yourself enough slack to turn to comfort food when you most need it—I might not have survived without mint Newman-O's). Take some relaxation time, whether it's for a massage, bedtime reading to your kids, a hot bath, yoga, or meditation (research has shown the effectiveness of Jon Kabat-Zinn, MD's mindfulness-based stress-reduction program, for example). Just be careful about using alcohol or drugs to check out—they can quickly cause more problems than they solve when used to self-medicate.

### GIVE YOURSELF A BREAK

Physicians tend to be perfectionists, and being sued seems only to reinforce the expectation to be perfect. Much of the time we are our own worst critics, and we say things to ourselves that we'd never say to a colleague. Show yourself the same compassion you'd show your child, patient, or best friend. Read Kristin Neff, MD's work for more information on self-compassion (<http://self-compassion.org/>).

### SET PRIORITIES

It's important to do things that make you feel like you're living in line with your values: be a great parent to your kids, volunteer to do work you care about, spend time with your religious community. Find some activities that engage you enough to distract you from your worries and that feed your soul.

### APPROACH LAW AS A FOREIGN CULTURE

As physicians we're used to having time pressures. Review the stat labs now! Call the patient before you go home! Get to the OR immediately! Things move much differently in the legal world. Scheduling a meeting may take days, weeks, or even months. Phone calls may not be returned the same day. It can be frustrating to just wait when you're used to taking care of things quickly.

Your attorney is there to help you navigate. But just as a patient may be surprised

to find out that they need an IV to have surgery whereas you take it for granted, you may find the legal process confusing and your attorney unaware of your uneasiness. So ask questions, and ask for preparation. If you've never given a deposition before, ask to have the process explained in detail. Again, use your strengths and prepare as you would prepare for oral board exams. You can even do a practice run, answering questions in front of a video camera. If you think that might help you, ask your attorney to arrange it.

There will be times of relative quiet, and then a period that is acutely stressful, like the deposition. I realized that I needed to approach those episodes the way I would a crash C-section—push aside the emotions and just do it.

The case will require your time and energy, but be reassured that generally your liability insurance will cover the financial aspects.

### REGAIN PERSPECTIVE

Almost every day in my work, and every time I do my volunteer shift with people living on the streets, I am reminded of the relative ease of my life. My problems still feel big to me, but not insurmountable.

### USE DISTRACTION

If your thoughts are stuck in a negative spiral, use distraction to pull yourself out of the descent: movies, audiobooks, printed books, intense exercise, time with your kids, a hobby that engages you, a call to a friend; find something that works for you. I learned to queue up an audiobook for my drive to work, so that I didn't start my day in worry, and to listen to a guided meditation if I woke up feeling anxious during the night.

### FOCUS ON WHAT YOU CAN CONTROL

In the legal process, as in life generally, there are some things you can control but many more things you cannot. As physicians we tend to believe that we're in charge, so it can be hard for us to accept that there are things we can't control. But acceptance can bring relief. After one very long and frustrating day, my attorney said

to me, "We gotta focus on what we can control." And he's right: stressing and obsessing about what someone else may do doesn't help. We've all heard the Serenity Prayer: "God, grant me the serenity to accept the things I cannot change, the courage to change the things I can, and the wisdom to know the difference." Make this your mantra.

I encourage you to experiment to see what works for you. None of these strategies will make the lawsuit, or the stress, disappear. For me, they took the edge off and made the situation bearable when I wasn't sure that bearing it was possible. My case is over now, and I wish I could tell you that there was a nice, neat ending—but there wasn't; it was messy and lasted much longer than I had hoped. The unexpected good news is that I feel more engaged now with my work than ever. I'm more clear about the help and healing that I have to offer my patients. I have confidence that I can survive what I thought was the worst thing that could happen to me in my career. Stress, both personal and professional, is inevitable. These techniques help me cope. ❖

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