

Legal Landmines for Cardiologists

How to Mitigate Risks

Indiana ACC

Annual Meeting

Indianapolis, Indiana

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Michael B. McMains, R.Ph., J.D.

Physician Legal Risks: Malpractice in Perspective

1. The practice of medicine is the most highly regulated business in the United States
Training, Services, Documentation, Pricing, Investments, Referrals
2. As a result, physicians have considerable legal risks
3. Medical Malpractice - only one of several types of physician legal risks
4. Cyber Security – an emerging legal risk

Common Physician Legal Risks

**Malpractice
Suit**
Emotional

**Employment
Agreement**
Non-compete

**Professional
Reputation**
National data bank

**Hospital
Privileges**
Peer review

**Food
And Drug
Law**

**Medical
Licensing
Board**

**Business
Investment**
Stark Laws

Billing
Fraud
And Abuse

Privacy
Cyber Security
Emerging

How to Avoid Malpractice Suits

1. **Patients Do Not Sue Doctors That They Like**

Good communication with the patient is the key

2. Practice Conservative Medicine

Know and follow ACC/AHA Guidelines

Applying Classification of Recommendations and Level of Evidence

Class I	Class IIa	Class IIb	Class III
<i>Benefit >>> Risk</i>	<i>Benefit >> Risk Additional studies with focused objectives needed</i>	<i>Benefit ≥ Risk Additional studies with broad objectives needed; Additional registry data would be helpful</i>	<i>Risk ≥ Benefit No additional studies needed</i>
Procedure/ Treatment SHOULD be performed/ administered	IT IS REASONABLE to perform procedure/administer treatment	Procedure/Treatment MAY BE CONSIDERED	Procedure/Treatment should NOT be performed/administered SINCE IT IS NOT HELPFUL AND MAY BE HARMFUL

Level of Evidence:

Level A:	Data derived from multiple randomized clinical trials or meta-analyses Multiple populations evaluated
Level B:	Data derived from a single randomized trial or nonrandomized studies Limited populations evaluated
Level C:	Only consensus of experts opinion, case studies, or standard of care Very limited populations evaluated

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2. **Practice Conservative Medicine**
Know and follow ACC/AHA Guidelines
3. **Document Thoroughly**
4. **Don't Hesitate To Seek Consultations**
5. **Keep CME Up To Date**
6. **Follow AMA's Principles of Medical Ethics**

How You Should Think About Malpractice Risk

1. Don't take it personally or be embarrassed
2. Expect to be sued, most will be frivolous
3. Expect to make mistakes, you are human and that is why you will carry insurance
4. For all professionals, malpractice risk is simply a cost of doing business
5. If sued, continue practicing good medicine and let the lawyers handle the lawsuit

What to Do When A Problem Arises

1. ***Always Take Care Of The Patient First***
2. Continue to Engage the Patient and Family
3. Notify Malpractice Insurer
4. Never Lie or Falsify Records
5. ***It is OK not to speak; it is never OK to lie***

Legal and Ethical Obligations to Speak the Truth

AMA - A physician shall... be honest in all professional interactions....

Sworn Testimony – If you choose to answer, you must speak the truth; if not, perjury

Federal Law – USC 18-1-47 § 1001

Unlawful to make false, fictitious or fraudulent statement to federal official

Martha Stewart knows about this one

Rule: OK not to speak; never OK to lie

What to Do When A Problem Arises

1. *Always Take Care Of The Patient First*
2. Continue to Engage the Patient and Family
3. Never Lie or Falsify Records
4. *It is OK not to speak; it is never OK to lie*
5. Everything you say, put in writing, emails, text messages and that has been on a computer hard drive, can always be retrieved
6. Hire Specialized Legal Counsel

Common Physician Legal Risks

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Hypothetical Physician Dilemmas

1. Off label prescribing of medication
2. Best drug for treatment is not approved in US
3. Violation of a non-compete
4. Waiving a Medicaid copayment
5. Patient has recoverable condition but DNR
6. You notice interventionist has alcohol on breath when entering the cath lab

Summary:

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Cyber Security: Emerging Legal Risk

1. EMR are not very secure
2. Patients have expectation of privacy
3. Nothing electronic is truly private
4. EMR, email, text, cell phones, web sites
5. Leading method of cyber penetration: **email**
6. Click on that email web link and they are in



Mike McMains

Peace be unto you my good friend

1 message

Khan Ocalan <khoclan@hotmail.com>
Reply-To: k_ocalan@yahoo.com

Mon, Sep 22, 2014 at 12:06 PM

Khan Y. Ocalan.

EMAIL: khanocaln@yahoo.com.hk

How are you today?

Peace be unto you my good friend. I am the only surviving child of Abdullah Ocalan, The leader of the Kurdistan Workers Party (PKK). My father actively fought for the liberation and unification of our people (The Kurds) under one sovereign nation which earned him the support of many and being branded a rebel by others. He amassed a lot of money gathered from supporters and sympathizers alike from which he kept quite a lot for his family's use.

Before his sudden arrest in 1999, he confided in me the where about of this money which is (\$45M) Forty five Million United State Dollars and instructed me to find means of investing the funds far away from the reach of the Turkish government who have frozen most of the accounts and assets of the PKK. I need you to invest this money for the benefit of my Five year old son Hassan. He is all that is left of the Ocalan family. A few months ago I was diagnosed with cancer and was told by doctors that I have no long time to live.

My dear father will not be released by the Turkish government any time soon. All I ask of you is to assist in the transfer and investment of the funds in a neutral country on behalf of my son Hassan until he is of age. I want you to send to me your contact address, your phone number, your Occupation and your Age. Once you get back to me,

I will tell you on how you can contact the bank where the money is deposited. Right now I am in the hospital where I am taking treatment. click the website : http://en.wikipedia.org/wiki/Abdullah_%C3%96calan and Read more story about my father. Please I need your help urgently.

Regards,

Khan Y. Ocalan.

Please make sure you send your reply here:

khanocaln@yahoo.com.hk



Mike McMains <

Jobs Open 5 Miles Away: \$18/Hr

1 message

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Tue, Sep 9, 2014 at 10:33 AM

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Reply-To: Support@megaclickageweb.com

To: _____

Wed, Sep 24, 2014 at 5:20 AM

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"Medicine Is The Noblest Of Professions"

Enjoy your medical practice,
take care of your patients
and the legal issues will
take care of themselves.

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