2023 STS Residents Symposium

- Matthew Williams, MD: Professional Comportment: How to Earn Respect from Your Work Colleagues, Staff and Fellow Trainees,

- Betsy Dexter, MD: Named in a Malpractice Lawsuit? Keep Calm, Consult with a Malpractice Lawyer, and Learn On

- Aundrea Oliver, MD: Harassment in Residency

- Irbaz Hameed, MD: A Co-resident's substance Abuse is Affecting Their Work: What Now?

Professional Comportment: How to Earn Respect from Your Work Colleagues, Staff and Fellow Trainees

Matthew Williams, MD

1/21/2023

Do Your Job Well

- Patients
- Nursing Staff
- Physician Extenders
- Perfusion
- Anesthesia
- House Staff
- Attendings

NAMED IN A MALPRACTICE LAWSUIT?
KEEP CALM
CONSULT WITH A MALPRACTICE LAWYER
AND LEARN ON

Elisabeth Dexter, MD
Associate Professor

ROSWELL PARK
COMPREHENSIVE CANCER CENTER

The views expressed in the following presentation discuss only the presenter's personal experience; they are not intended to, and do not, provide any legal advice. Individuals presented with legal issues are advised to seek the advice of appropriate legal counsel.

Disclosure

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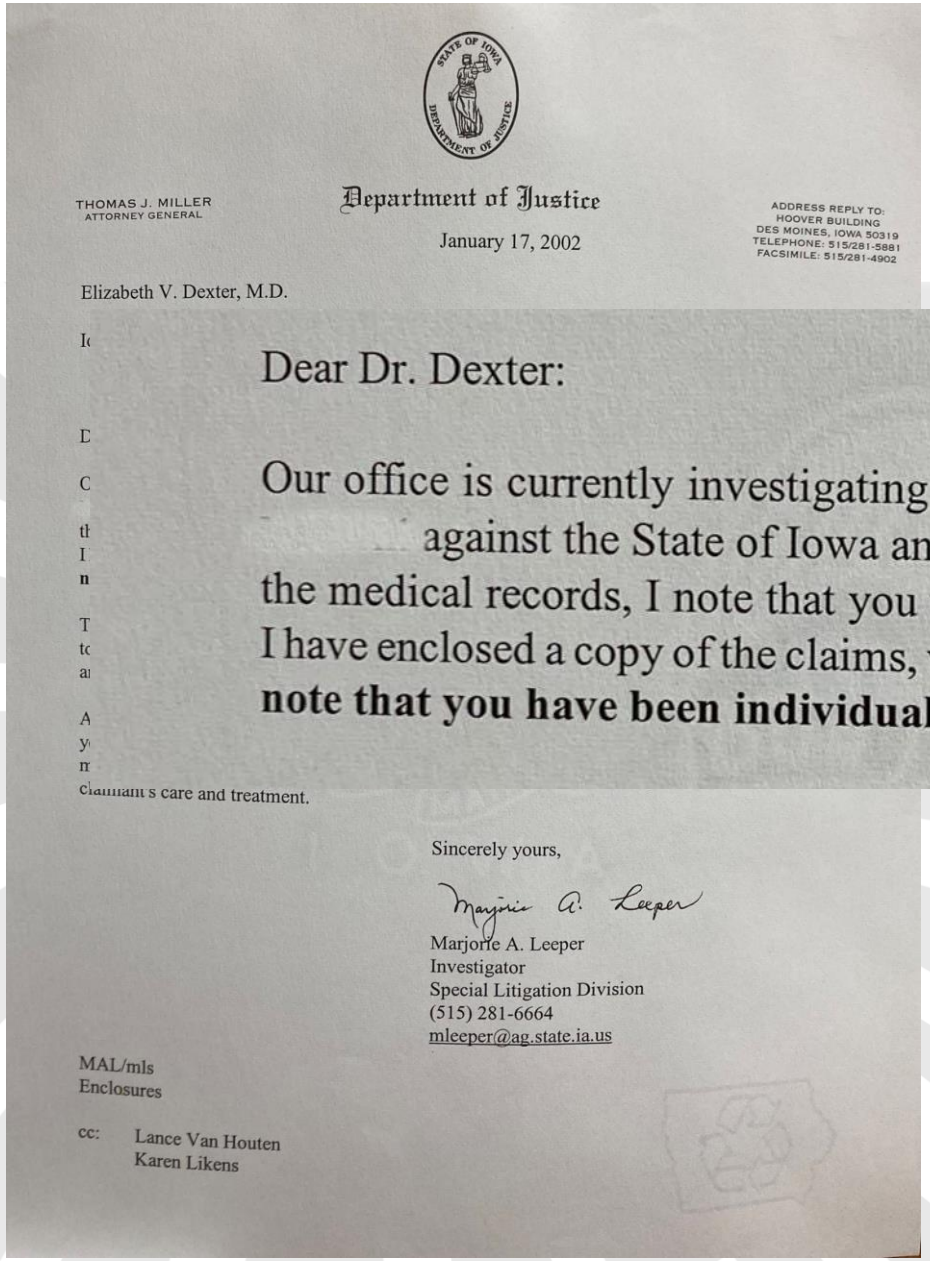
DEPARTMENT OF JUSTICE
Hoover Building
Des Moines, Iowa 50319
FIRST CLASS



THOMAS J. MILLER
ATTORNEY GENERAL

Department of Justice

January 17, 2002

ADDRESS REPLY TO:
HOOVER BUILDING
DES MOINES, IOWA 50319
TELEPHONE: 515/281-5881
FACSIMILE: 515/281-4902

Elizabeth V. Dexter, M.D.

Dear Dr. Dexter:

Our office is currently investigating the medical malpractice claims filed by [redacted] against the State of Iowa and the University of Iowa Hospitals and Clinics. In reviewing the medical records, I note that you were involved in [redacted] care and treatment at UIHC. I have enclosed a copy of the claims, which contain selected UIHC records, for your review. **Please note that you have been individually named in the claims.**

claimant's care and treatment.

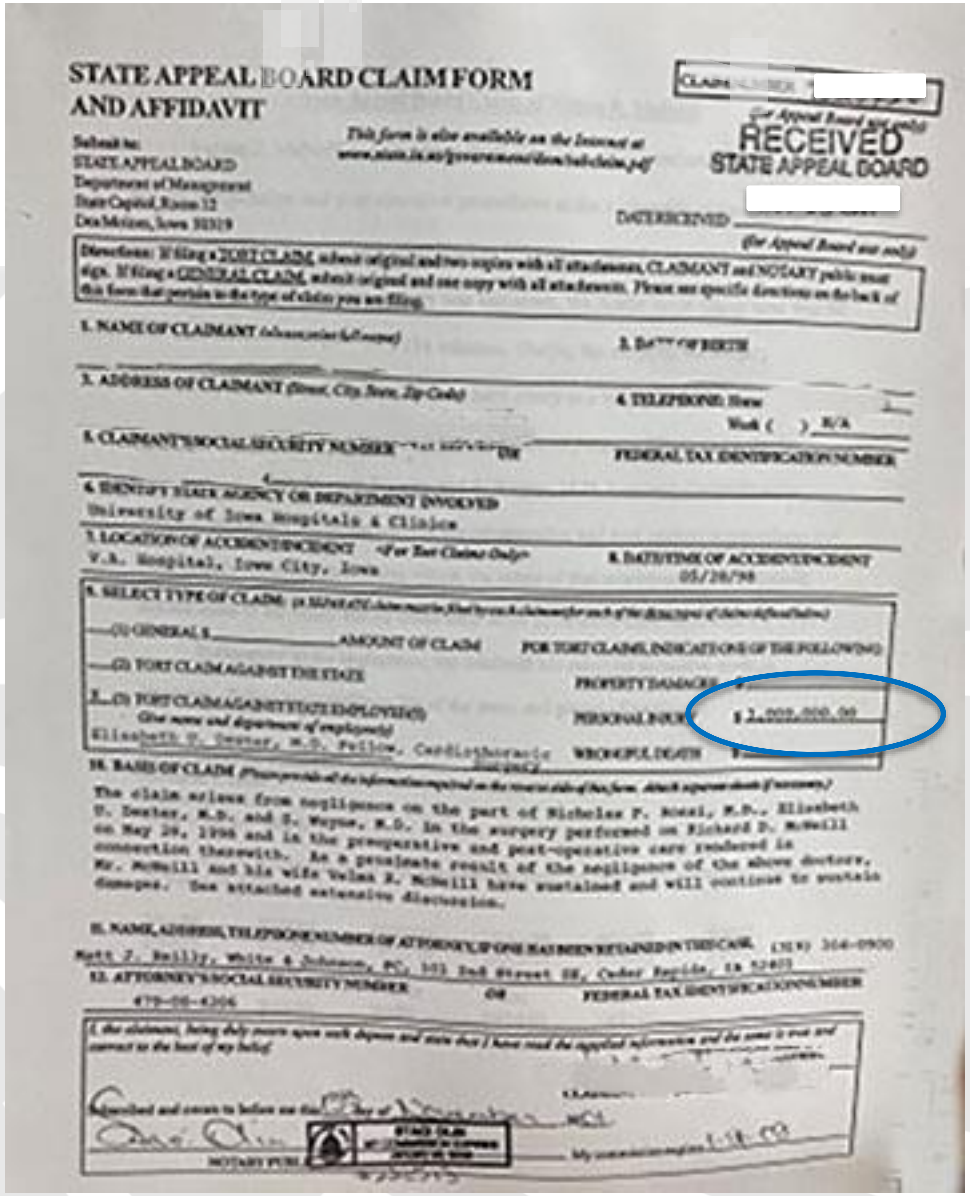
Sincerely yours,

Marjorie A. Leeper

Marjorie A. Leeper
Investigator
Special Litigation Division
(515) 281-6664
mleeper@ag.state.ia.us

MAL/mls
Enclosures

cc: Lance Van Houten
Karen Likens



First page of the lawsuit claim with a $1,000,000 injury cost

Now what???

1. Do not panic
2. Do not panic
3. Do not panic

First Steps

Promptly:

- Inform institution or hospital risk management team (but they may already know)
- Inform program director (trainee) or education dean (medical student)
- Inform medical malpractice insurance carrier- must be done in timely fashion or carrier may refuse to provide coverage

The Process

- As a trainee, you have medical malpractice coverage from your academic program or the facility that is your employer
- As a trainee, your institution or employer will provide legal services
- Consider attaining personal attorney for malpractice if you want to settle lawsuit and insurance company does not (and introduces risk for more money than you can provide)

Temptations

- Do not discuss the case with anyone except your attorney because these conversations are “discoverable”

- Do not access medical records until directed by your attorney or insurance carrier
  - may be HIPAA violation
  - will receive hard copy of medical records
  - will leave digital footprints which may raise suspicion with plaintiff attorney

- Do not alter medical records –not even with addenda

Information Gathering

- Be prepared to deal with the lawsuit for multiple years
- Your attorney will prepare you for a deposition
  - Tell the truth
  - If you don't recall something, say so
  - Answer only what you are asked
  - Be concise
  - Resist creating your own notes as they will be discoverable. Issues that plaintiff attorney has not considered may be revealed
- Depositions are not covered by attorney client privilege

Outcomes

Possible outcome of medical malpractice lawsuit

- Dismissal
- Settlement (no trial, terms reached by attorneys and insurance carrier)
- Trial with decision for Plaintiff (pt or their family)
- Trial with decision for Defense (physician or hospital)

Records

- No need to keep records after lawsuit is decided
- Keep the order granting dismissal, settlement, or summary judgement

Definition Medical Malpractice

Medical malpractice is professional negligence of a doctor.

Negligence is:

- failure to use reasonable care under the circumstances and/or
- doing something that a reasonably prudent doctor would not do under the circumstances.

Requirements of Malpractice

1. **Liability:** Was the physician responsible for the care of the patient

2. **Causation:** Did the act or omission of care cause the harm

3. **Damage:** Did the alleged malpractice cause damage to the patient
   - physical debility
   - pain and suffering
   - loss of wages
   - wrongful death

Malpractice Stats

- Medical malpractice related costs are about $60 billion annually (2-3% of healthcare spending)
- Physicians have 99% chance of having at least one medical malpractice claim filed by the time age 65
- Only 7% of medical malpractice proceed to a jury trial
- Average patient waits 16.5 months to file lawsuit

Malpractice Stats

- Average jury reward for plaintiff is approximately $800,000.
- Of those who file medical malpractice claims, about 37% will be successful at obtaining payment for their losses
- > 82% chance a physician will prevail at a medical malpractice trial

Fallout

- Many malpractice suits will be determined to be unfounded and canceled (dismissed)

- If malpractice suit is settled
  - ensure confidential and no admission of liability
  - will result in report to National Practitioner Database
  - possible increase in insurance costs or refusal for future coverage (not applicable to trainees)

Privileging and Credentialling

- Pay attention to how questions are worded
- Contact attorney to ask if any questions regarding how to answer
- Have supporting documents on hand

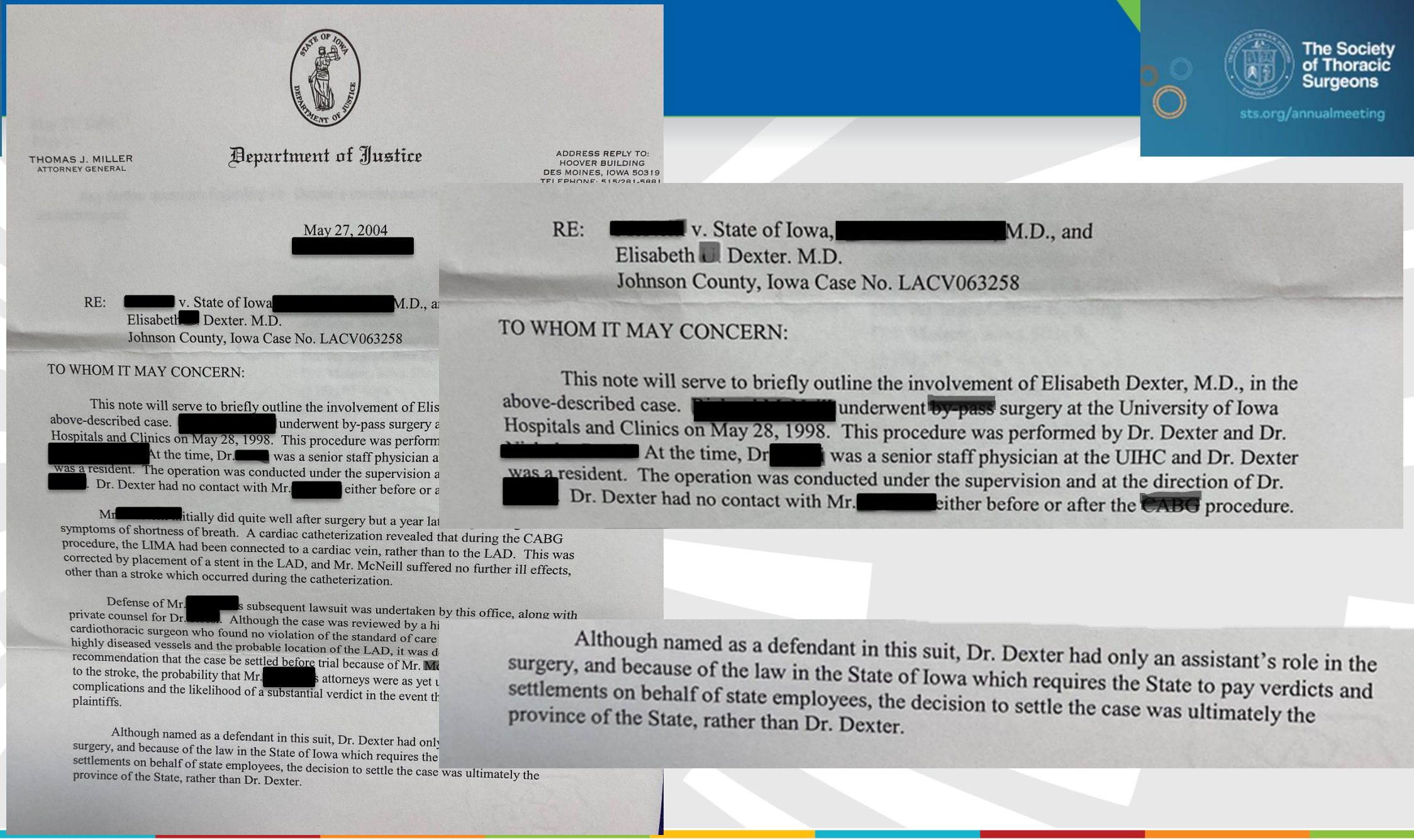
Privileging and Credentialling

	YES	NO
1. Have you ever been involved in any administrative, professional, or judicial proceedings in which professional malpractice was alleged (including cases brought, pending, settled, or decided)?	☐	☐

If you responded YES to the above items, please explain: _____/

_____

_____



THOMAS J. MILLER
ATTORNEY GENERAL

Department of Justice

ADDRESS REPLY TO:
HOOVER BUILDING
DES MOINES, IOWA 50319
TELEPHONE: 515/281-5881

May 27, 2004
[redacted]

RE: [redacted] v. State of Iowa, [redacted] M.D., and
Elisabeth [redacted] Dexter. M.D.
Johnson County, Iowa Case No. LACV063258

TO WHOM IT MAY CONCERN:

This note will serve to briefly outline the involvement of Elisabeth Dexter, M.D., in the above-described case. [redacted] underwent by-pass surgery at the University of Iowa Hospitals and Clinics on May 28, 1998. This procedure was performed by Dr. Dexter and Dr. [redacted] At the time, Dr. [redacted] was a senior staff physician at the UIHC and Dr. Dexter was a resident. The operation was conducted under the supervision and at the direction of Dr. [redacted]. Dr. Dexter had no contact with Mr. [redacted] either before or after the CABG procedure.

Mr. [redacted] initially did quite well after surgery but a year later developed symptoms of shortness of breath. A cardiac catheterization revealed that during the CABG procedure, the LIMA had been connected to a cardiac vein, rather than to the LAD. This was corrected by placement of a stent in the LAD, and Mr. McNeill suffered no further ill effects, other than a stroke which occurred during the catheterization.

Defense of Mr. [redacted]'s subsequent lawsuit was undertaken by this office, along with private counsel for Dr. [redacted]. Although the case was reviewed by a highly qualified cardiothoracic surgeon who found no violation of the standard of care in light of the highly diseased vessels and the probable location of the LAD, it was decided that recommendation that the case be settled before trial because of Mr. [redacted] to the stroke, the probability that Mr. [redacted] attorneys were as yet unaware of complications and the likelihood of a substantial verdict in the event that the plaintiffs.

Although named as a defendant in this suit, Dr. Dexter had only an assistant's role in the surgery, and because of the law in the State of Iowa which requires the State to pay verdicts and settlements on behalf of state employees, the decision to settle the case was ultimately the province of the State, rather than Dr. Dexter.

Future

- Keep providing the best care possible to patients
- If have any questions before, during or after procedure, seek opinion/help from colleague
- Keep operating
- Write clear, concurrent, concise, medical notes with attention to detail

Acknowledgement and References

Grateful appreciation to:
Michael J. Roach, Esq
Connors LLP

https://www.ncbi.nlm.nih.gov/books/NBK470573

https://www.physicianleaders.org/articles/the-verdict-surviving-medical-malpractice-trial

THANK YOU

Provider Education Series:

Risk Management/Medical Malpractice Prevention

Tuesday, January 31, 2023
5:00 PM – 6:00 PM
Hohn Lecture Hall
Informed Consent; Effective Communication and Documentation; and Managing Patient Expectations

HARASSMENT IN RESIDENCY

DR. AUNDREA OLIVER

EAST CAROLINA HEART INSTITUTE

BRODY SCHOOL OF MEDICINE AT EAST CAROLINA UNIVERSITY

ECU HEALTH MEDICAL CENTER

HARASSMENT IN RESIDENCY

- NO DISCLOSURES

HARASSMENT IN RESIDENCY

- HARASSMENT
  - ANY VERBAL OR NON-VERBAL CONDUCT THAT IS BASED ON A LEGALLY PROTECTED CHARACTERISTIC WHICH THREATENS, INTIMIDATES, OR COERCES AN INDIVIDUAL
  - UNREASONABLY INTERFERES WITH WORK PERFORMANCE
  - CREATES INTIMIDATING, OFFENSIVE OR HOSTILE WORK ENVIRONMENT
- QUID PRO QUO
  - COMPLIANCE WITH A COERCIVE REQUEST IS USED AS THE BASIS FOR EMPLOYMENT DECISIONS OR BENEFITS
  - WORKPLACE BENEFITS ARE CONTINGENT ON COMPLIANCE WITH A COERCIVE REQUEST

HARASSMENT IN RESIDENCY

- SEXUAL HARASSMENT
  - UNWELCOME SEXUAL ADVANCES
  - REQUESTS FOR SEXUAL FAVORS
  - VERBAL OR PHYSICAL CONDUCT OF A SEXUAL NATURE
- EXAMPLES
  - SEXUAL JOKES, INNUENDOES, ADVANCES OR PROPOSITIONS
  - VERBAL ABUSE OF A SEXUAL NATURE, DISPLAYS OF SEXUALLY SUGGESTIVE OBJECTS OR PICTURES
  - GRAPHIC COMMENTARY ABOUT AN INDIVIDUAL'S BODY OR SEXUAL PROWESS

HARASSMENT IN RESIDENCY

- RACIAL HARASSMENT
  - UNWELCOME VERBAL, WRITTEN, OR PHYSICAL BEHAVIOR DIRECTED AT AN INDIVIDUAL'S RACE, RELIGION, OR NATIONAL ORIGIN
- EXAMPLES
  - RACIST JOKES, INSULTS, TAUNTS, LITERATURE, GRAPHIC MATERIAL
  - UNWELCOME COMMENTS ABOUT APPEARANCE, DRESS, OR SPEECH
  - IMPLIED OR EXPLICIT THREATS
  - DISCRIMINATORY AND UNJUSTIFIED ALLOCATION OF WORK, COMPENSATION OR PERSONNEL ACTION

HARASSMENT IN RESIDENCY

- LATERAL VIOLENCE (BULLYING)
  - PEER TO PEER VERBAL OR NON-VERBAL AGGRESSION
- EXAMPLES
  - BEHAVIORS THAT HARM, INTIMIDATE, OFFEND, DEGRADE OR HUMILIATE AN INDIVIDUAL IN FRONT OF PEERS, PATIENTS, SUBORDINATES, OR OUTSIDE ENTITIES

HARASSMENT IN RESIDENCY

- OMBUDSPERSON
  - SWEDISH FOR “REPRESENTATIVE”
  - ACTS AS AN IMPARTIAL MEDIATOR FOR CONFLICT RESOLUTION
  - EACH ACADEMIC INSTITUTION HAS ITS OWN OMBUDS OFFICE, AS WELL AS ACGME HAS AN OMBUDS OFFICE TO ASSIST WITH MEDIATION BETWEEN AN INSTITUTION AND AN INDIVIDUAL

HARASSMENT IN RESIDENCY

DO

- REVIEW CONDUCT WITH CONFIDENTIAL IMPARTIAL ENTITY
- MAINTAIN PROFESSIONAL DEMEANOR BOTH IN THE MOMENT AND IN THE PROCESS
- WALK THROUGH STEPS WITH PROGRAM LEADERSHIP (PD OR APD)
- IF NECESSARY SEEK OUTSIDE SUPPORT (CHAIR, ACGME, ETC)

DON'T

- CONFRONT THE BEHAVIOR WITH RETALIATION
- DISCUSS CONDUCT OVER SOCIAL MEDIA
- CIRCUMVENT ESTABLISHED PROCESS TO OBTAIN "JUSTICE"
- RELY ON AVOIDANCE MEASURES TO DEAL WITH SITUATION

HARASSMENT IN RESIDENCY

SUMMARY

- INVOLVE PROGRAM LEADERSHIP EARLY, OFTEN ISSUES CAN BE RESOLVED WITHIN A PROGRAM OR INSTITUTION
- CHOOSE OBJECTIVE CONFIDENTIAL SOURCES OF ADVICE, WHEN IN DOUBT REACH OUT TO YOUR INSTITUTION OMBUDSPERSON
- IN THE PROCESS, ACGME RESOURCE ON WELL BEING CAN PROVIDE SUPPORT MATERIALS TO AID IN THE PERSONAL NAVIGATION OF VARIOUS DIFFICULT SITUATIONS IN TRAINING.

STS 2023
59th Annual Meeting of
The Society of Thoracic Surgeons
JANUARY 21–23 | SAN DIEGO, CALIFORNIA
San Diego Convention Center

A Co-resident's substance Abuse is Affecting Their Work: What Now?

Irbaz Hameed, MD
Integrated Cardiothoracic Surgery

Yale SCHOOL OF MEDICINE

59th Annual Meeting of
The Society of Thoracic Surgeons
JANUARY 21–23 | SAN DIEGO, CALIFORNIA
San Diego Convention Center

Disclosures

- None

The Forever Problem

- "Drug abuse is at least as prevalent among highly regarded ... as among the general public." *(Coombs RH)*
- "Wine is an insolent fellow, strong drin... And no one addicted to their company grows wise." *(Pr...)*
- "Quitting smokin... done it a hundred times." *(Siegel RK. Intoxicatio... suit of artificial paradise)*

Prevalence ≡ General population (8-13%)

Surgeons are not immune!

Dr. Robert Holbrook Smith

Cofounded Alcoholics Anonymous (AA) with Bill Wilson on June 10, 1935

"Physicians with potentially impairing conditions"

- Taking more substance than intended
- Unsuccessful efforts to cut down
- Significant time spent using
- Craving
- Failure to perform obligations
- Continued use despite disruption
- Use in hazardous situations
- Tolerance
- Withdrawal

What now?

"Fall seven times, stand up eight."
– Japanese proverb

Identification

- "Impaired" residents are not "stupid", just "impaired".
- Very difficult to identify – never late to rounds, OR
- Family -> Community -> Office -> Clinic -> Hospital

Intervention

- Discipline is important to educate safe and competent surgeons and ensure patient safety
- Complicated with the impaired resident
- Hate the sin, love the sinner

Treatment

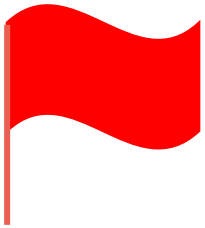
- Inpatient treatment programs initially
- Physical and emotional withdrawal by addiction medicine
- Financial or legal issues which need to be addressed?
- Expert mental health therapy to evaluate and treat underlying mood disorders or psychiatric problems

Re-entry

- Random drug screenings
- Not everyone will be kind/forgiving
- Advantage of time
- Support from program leadership and co-residents

Relapse

Approximately 50% of physicians relapse within 22 months



- *Non-compliance with treatment plan*
- *Resurfacing of denial-based thinking/behavior*
- *Evidence of substitute addictive behavior*
- *Reappearance of impairment*

Prognosis?

"Failure is a detour, not a dead-end street." – ***Zig Ziglar***

Prognosis

Prognosis for the Recovery of Surgeons From Chemi

A 5-Year Outcome S

Amanda Buhl, MPH; Michael
Michael D. Campbell, PhD; F

Table 3. Odds Ratios (ORs) for Selected Characteristics and Outcomes at 5-Year Follow-up of Surgeons vs Nonsurgeons Monitored by State Physician Health Programs for Substance Use Disorders

Variable	No. (%) Surgeons (n=144)	No. (%) Nonsurgeons (n=636)	OR (95% Confidence Interval)	*P* Value
Sex	(n = 143)	(n = 634)		
Male	127 (88.8)	543 (85.6)	1.3 (0.7-2.3)	.32
Primary substance of abuse	(n = 143)	(n = 629)		
Alcohol	89 (62.2)	295 (46.9)	1.9 (1.3-2.7)	.001
Opioids	33 (23.1)	230 (36.6)	0.5 (0.3-0.8)	.002
Intravenous drug use history	(n = 136)	(n = 590)		
Yes	11 (8.1)	85 (14.4)	0.5 (0.3-1.0)	.05
>1 Substance abused	62 (43.1)	336 (52.8)	0.7 (0.5-1.0)	.03
Prior treatment		(n = 634)		
Yes	50 (34.7)	248 (39.1)	0.8 (0.6-1.2)	.34
Enrollment status		(n = 635)		
Mandatory	89 (61.8)	353 (55.6)	1.3 (0.9-1.9)	.17
Positive drug test result[a]	(n = 143)	(n = 630)		
Yes	31 (21.7)	134 (21.3)	1.0 (0.7-1.6)	.91
Reported to state licensing board		(n = 635)		
Yes	27 (18.8)	128 (20.2)	0.9 (0.6-1.5)	.70
Monitoring program status				
Completed	90 (62.5)	414 (65.1)	0.9 (0.6-1.3)	.56
Extended	23 (16.0)	104 (16.4)	1.0 (0.6-1.6)	.91
Failed to complete	31 (21.5)	118 (18.6)	1.2 (0.7-1.9)	.41
Occupational status				
Licensed and practicing medicine	97 (67.4)	474 (74.5)	0.7 (0.5-1.0)	.10
Medical license revoked	16 (11.1)	68 (10.7)	1.0 (0.6-1.9)	.88
Died	9 (6.3)	20 (3.1)	2.1 (0.9-4.6)	.09
Did not return to medicine[b]	37 (25.7)	107 (16.8)	1.7 (1.1-2.6)	.02

Arch Surg. 2011;146(11):1286-1291

Final thoughts

- "Cunning, baffling, powerful" problem
- When untreated, leads to professional and social disintegration
- Identification followed by formal intervention are key
- Successful in 70-75% following recommended programs

With appropriate treatment and kind but determined monitoring, long and productive careers can be salvaged—one day at a time!

Thank you.

Yale SCHOOL OF MEDICINE