

PHYSICIAN SUICIDE

According to *A Tragedy of the Profession: Medscape Physicians Suicide Report 2022*, 9% of the 13,000 physicians surveyed reported having had thoughts of suicide, and an additional 1% reported having attempted suicide. The prevalence of suicidal thoughts among specialties varied from 2% in nephrology to 13% in pathology, with psychiatry coming in at 10%. This article presents commentary on just one of the many drivers of physician suicide - stress related to being sued. While the number of litigation stress-related physician suicides is not high, one is too many. Accurate information about the litigation process and psychiatrists' true professional liability risk can help to mitigate litigation-related stress.

Psychiatry is the least often sued medical specialty. Even if sued, psychiatrists, as well as physicians in other specialties, prevail in the vast majority of lawsuits. Data from our insurance program for psychiatrists show that over the past six years, 75% of our Program's claims and lawsuits are closed with no indemnity paid to the plaintiff. For those cases with indemnity paid to the plaintiff (usually from a settlement agreement), the average payment was \$248,873.

But what if you are sued? Are you going to remember that the average payout is well within your insurance policy limits? No – it is understandable that a physician who receives notice of a lawsuit automatically becomes terrified of a jury verdict in excess of their insurance policy limits, which then leads to thoughts of losing their home, their savings, and all their other assets. Fortunately, the reality is we do not see these types of verdicts in psychiatry.

We know that the more we dread something, the more anxious we get, and the more anxious we get, the less precisely we calculate the odds of that something actually happening. We often worry about mere possibilities without considering probabilities. However, the stress induced by reading a complaint in a lawsuit filed against you, in which you are accused of terrible acts of negligence, can be gut-wrenching. And there are some unfortunate truths. For example, non-negligent physicians get sued, and plaintiffs may be able to find an expert witness to offer an opinion that there was negligence where there was none. However, that expert witness will be challenged by the defense and defense experts, if the case even gets that far.

To keep your true risk in perspective, there are many fortunate truths that need to be kept in mind. The reality is that the vast majority of malpractice claims are dropped by the plaintiff, dismissed by the court, or settled within policy limits prior to trial. For those cases that do go to trial, only a very small percent result in a plaintiff's verdict. For those rare cases where there is a plaintiff's verdict against a psychiatrist, the amount awarded by the jury is often higher than that which the court orders the defendant psychiatrist to pay, and final judgments are usually within insurance policy limits.

Another fortunate truth is that you are not alone. You have a team working for you – a claims examiner at your insurance company and your appointed defense attorney who, though paid by the insurer, works for you. You also will have an expert witness who will testify on your behalf and support the care you provided.

Upon receipt of notice of a lawsuit, there are many do's and don'ts:

- DO notify your liability insurer ASAP
- DO limit your discussions about the lawsuit / incident
 - Discussions about the case may be discoverable and used against you
- DO collaborate and cooperate with your attorney
- DO understand potential stressors and how to best manage them – both professional and personal

- DO put your energy to good use – be involved:
 - Educate your attorney on the medicine
 - Be available for your attorney’s questions
 - Find and forward medical literature
- DO NOT respond yourself – no matter how meritless the allegations are
- DO NOT ignore it – you risk a default judgment for the plaintiff
- DO NOT contact the patient
- DO NOT contact the attorney / agency / etc. that filed the case
- DO NOT talk to anyone about the specifics of case (other than your insurer and attorney) without the approval of your attorney
- DO NOT hesitate to establish a confidential treatment relationship to deal with your own emotions
 - DO NOT share confidential patient information

While we cannot totally eliminate litigation-related stress, remembering the information presented here can reduce it. The odds in any lawsuit greatly favor the psychiatrist. If litigation-related stress is troubling you, take care of yourself. Talk to the attorney assigned to your case and seek or reach out to your own treatment provider for support.

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