

Malpractice lawsuits

Medscape Cardiologist Malpractice Report 2019

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Have You Ever Been Named in a Malpractice Lawsuit?



Nearly two thirds of cardiologists have been named in at least one malpractice suit, more than the percentage of physicians overall (59%). Eighteen percent were the only parties sued, similar to the replies of [physicians overall](#) (14%). (Respondents were allowed to select both "yes" categories if they were named in multiple lawsuits.)

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What Ultimately Happened With the Lawsuit?

It was settled before trial	30%	The case is ongoing/in process	6%
The judge/jury returned a verdict in my favor	17%	It was voluntarily dismissed by the plaintiff prior to trial	5%
I was/we were dismissed from the suit within the first few months	11%	The judge/jury returned a verdict in the plaintiff's favor	3%
I was/we were dismissed from the suit prior to settling	9%	It was settled at trial	1%
It was dismissed by the court	7%	I was/we were dismissed from the suit prior to trial	1%
		Other	9%

Nearly one third of cardiologists who have faced a lawsuit said the case was settled before trial. Of cardiologists whose cases went to trial, nearly one fifth said a judge or jury returned a verdict in their favor, while a small percentage said the case was ruled in favor of the plaintiff.

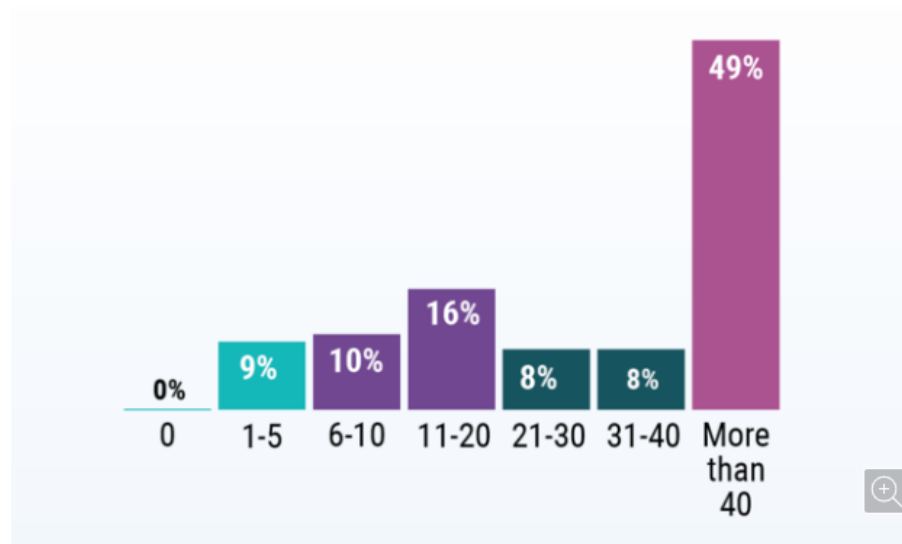
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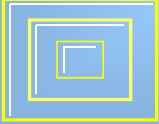
How Many Hours Did You Spend on Your Defense?



Nearly half of cardiologists who were sued reported spending more than 40 hours on their defense. Associated tasks include gathering records, meeting with attorneys, and preparing for depositions.

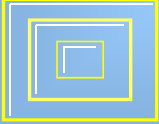
Malpractice lawsuits

- If you have a busy practice expect a lawsuit every 5 years
- If you haven't had a lawsuit in 15 years, expect to have three lawsuits in the near future
- Being sued is a real drag. Its expensive but you don't usually have to worry about that. For you, its mostly EMOTIONAL and VERY time consuming.
- Oddly, most of the time when you get sued you really didn't do anything wrong...you generally get sued for a bad outcome in a patient who has good earning potential, ie a younger, employed patient.
- I don't have data on this, but my impression is you are more likely to get sued if a patient needs long term support than if the patient dies.
- Your enemy is not really the patient/family. Your enemy is the physician expert they are using against you. Their "expert" is rarely someone highly thought of by the medical community. They can say pretty much anything. My favorite example:
 - My lawyer to the patient's expert: "Isn't it true doctor, that most cardiologists in this country would treat a patient like this with stents?"
 - "The expert's answer: "Yes, and everyone drives 70 mph on the freeway but that doesn't make it right."
- If you have a complication, DO NOT HIDE. Be present, see the patient daily, speak to the family daily. WARNING: COVID-19 has made this much harder – your access to family and family's access to patient is harder.
- Your post complication involvement with the patient's care probably can help avoid some lawsuits, but if the settlement value is high enough you will still get sued. I really don't think saying "I'm sorry" will avoid a lawsuit.
- Informed consent will ALWAYS be a big part of their allegations against you. Mention the ALTERNATIVES. Since the family is often driving the lawsuit, be sure the family is involved in the consenting process. Covid-19 has made this challenging. – Tell story of patient suing despite signing 20 page research consent.
- Get over it! Its unfair, its burdensome, its unsettling. But a) you will likely be acquitted b) you will learn a lot and c) years from now, you will probably have some really good legal stories to tell.



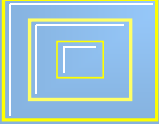
In the Courtrom

- **The jury is your “audience.” Look at them when you answer a lawyers question...especial the plaintiff’s lawyer**
- **When the plaintiff’s lawyer (or defense lawyer if you are an expert witness for the patient) asks questions and tries to trick you, just turn to the jury and say...”Let me tell you how this works...”**
- **If you feel your stomach coming up into your chest...don’t answer...push your stomach down...wait till its down...then answer**



Final Thoughts about Complications

- Get “buy in” from your colleagues BEFORE you do a challenging procedure...especially if you are new to the hospital and the practice.
- Learn how to give informed consent, for example, “Due to your particular anatomy, the chances of something horrible happening like a heart attack, stroke or death are about 3 in a hundred. 3% may sound low but for the typical stent procedure, the risk is more like 1%, so your procedure is 3x the usual risk. Its important you know this. But the chance things will go well are more than 95%.”
- If a patient is higher than usual risk, be sure your referring doctor knows this.
- The lawyers can always find an expert who will say you should have sent the patient to open chest surgery or should have used medical therapy alone so, make sure the patent/family understand there are alternatives.
- Have quick access to Impella and ECMO. Its very hard to do complex PCI during CPR. Scripps has perfusionist in control room for EVERY PCI!
- Do more IVUS/OCT. You dont always have to eyeball the vessel size. A perforation will ruin your day.
- Have Papyrus (throw the Graftmasters out) and a coil cart on wheels in your cath lab.
- Recognize early on when things are starting to go bad and call for help. Call for a circulator. Call for your colleagues.
- Have a low threshold to call for a) anesthesia b) an echo c) the help of your colleagues (especially someone who is experienced who can remain unemotional).



Keep learning. You will get better.

*“Good judgment comes from experience...
and experience comes from bad judgment.”*

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