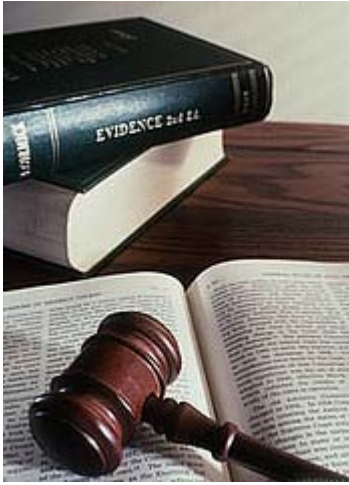


Protect yourself legally

Original article by: [Michael Tam](#)



The modern world is litigious

Whether you consider it a good thing or a bad thing is a matter of perspective, but the reality of the modern medical landscape is that it is a litigious world.

Although I do not believe that your medical practice should be focussed from a “defensive” point of view, one has to recognise that even though many threats of litigations from patients do not have merit from a “clinical negligence” standpoint, they often still have some sort of valid grievance that may have been handled better.

A special group of patients that will try to sue you are those who have a grievance with society in general. You will recognise them easily. They will complain about waiting in the Emergency Department, and typically refuse to commence the recommended treatment. Bad outcomes are not only more likely in these patients, but will always be viewed as “your fault”.

Being mindful of potential litigation is entirely compatible with good clinical practice.

In addition, be aware that the civil court system is not in your favour. Even if you win, you have already lost; it takes time to go to court, it takes time to mount a defence with your medical defence organisation, **it takes time to worry**. That is time much better spent working, sleeping, resting, anything else. In the court, your patient will paint themselves as the victim and you as the “bad doctor”. Needless to say, it is much better to avoid being sued altogether.

You can avoid most potentially litigious situations by being a good communicator. Keeping the patient and their family informed on their condition, the progress, the management and a realistic expectation of prognosis goes a long way. Being forthright about a bad prognosis, a bad outcome or a complication of treatment is equally important. After all, what is there to hide? Usually the outcome is “unavoidable” from an *a priori* sense anyway. Telling someone early when there is a bad prognosis and letting them know why that is the case is much better than your patient forming conspiracy theories on why you are withholding information. Furthermore, you should avoid the practice of acquiescing to “unreasonable” requests or demands. Unreasonable expectations should be firmly, though politely refused.

An instrumental if grotesque case that demonstrates that “good communication” and “good rapport” is protective against litigation is that of [Harold Shipman](#), a former British GP who also happened to be the most prolific serial murderer in history. Despite his incredibly “bad outcomes”, his patients continued to adore him.

DO

- spend “quality” time speaking to your patients and authorised family

members;

- explain medical terms and concepts in a “simple language” manner and avoid the use of medical jargon and terminology;
- ensure that your patient actually understands what is happening;
- use an interpreter for patients from non-English-speaking backgrounds;
- write high quality medical records;
- given patients a chance to ask questions;
- ensure that you have private medical indemnity.

DO NOT

- assume that your patient or their family are actually informed;
- ignore their questions or concerns even (especially!) if they seem ridiculous or silly;
- agree to unreasonable requests;
- openly criticise a colleague in front of a patient;
- try to cover up an error or mistake;
- use euphemisms to less the impact of a bad outcome or prognosis.