9 Emergency Medicine

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SUMMARY

This chapter reviews some general medical and legal principles, most of which are important regardless of medical specialty. They are particularly relevant to emergency physicians but are also important to physicians from other specialties who treat patients in the emergency department (ED). I then discuss some specific emergency medical conditions that often result in litigation. The topics presented are not meant to be an exhaustive list of potential liability problems, but rather a sample of some of the more common issues that confront physicians and their patients.

Key Words: Emergency; emergency medicine; emergency department; medical-legal; risk management.

INTRODUCTION

Emergency medicine is a very enjoyable specialty. Emergency physicians revel in the excitement, chaos, and challenge presented by emergency patients. Basically, we are action junkies. And we like the unknown.

Most of the time, our patients appreciate our efforts. Unfortunately, we are also appreciated by another class of people—plaintiff attorneys. They like us precisely because we practice in a hectic, somewhat

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uncontrolled environment in which we confront complex problems in a limited, and usually rushed, time frame. They like us because our patients often are either very ill or will become very ill. And they like us because they know that we cannot always predict which of our patients will become very ill or die in the near future. In short, we are often cannon fodder for our legal brethren.

Although we will be emphasizing the avoidance of liability, remember that the best defense, as is often said, is to do the right thing. Our goal is not just to avoid being sued, it is to practice the best quality medicine of which we are capable for our own sake and, most importantly, for the sake of our patients.

GENERAL PRINCIPLES: WE (SHOULD) HOLD THESE TRUTHS TO BE SELF-EVIDENT

Communication Is Crucial

Let the patient speak. Let the family speak. One of the most common complaints of patients filing lawsuits is that they felt the doctor was not really interested in them. The doctor would not let them fully present their problem, and quickly cut them off. This is a real possibility, particularly in the emergency department (ED). We are usually quite pressed for time and, as we all know, patients can be rather verbose. Many give the impression that they rather enjoy regaling doctors with their tales of woe. And patients often do not understand what is relevant to us and to their acute problems vs what is more related to their chronic conditions.

Sometimes, we have to limit the patient's free speech. However, I would suggest first giving patients 1 or 2 minutes to expound before zeroing in on the problem. Try not to interrupt too soon. Allow patients to ventilate. Usually, they are truly worried about their health, and merely discussing the problem with a caring physician is somewhat therapeutic. Besides, you never know what you'll learn! You may know more about the medical problem than they do, but they know more about their own symptoms.

Families are also important. Obviously, there are some social and/or medical conditions that demand privacy. At times, it is appropriate to ask a family member or friend to leave the room. Potential Ob/Gyn problems are typical of this situation. However, I would suggest having the family in the room when appropriate. It usually increases the patient's comfort level, especially during long waits in the sterile and somewhat intimidating environment of the examining room.