

## EDUCATIONAL DILEMMA OR QUESTION

Medical malpractice litigation is a prevalent challenge for emergency physicians, as over 75% of them will be named in a medical malpractice litigation at least once during their career. However, there is little dedicated training in residency programs on this subject. As a result, when emergency physicians become the subject of a medical malpractice action, they often feel unprepared to navigate the process. These authors sought to create a medical malpractice simulation incorporating all key aspects of medical practice litigation. They collaborated with a law school to simulate a medical malpractice case against an emergency medicine (EM) resident.

### Reference

Curato, M., Shlahet, A. (2019) Report of a Collaboration Between a Law School and an emergency Medicine Residency Program for a Full-scale Medical Malpractice Litigation Simulation. *AEM Education and Training* 3(3): 295-298. doi: 10.1002/aet2.10347. <https://www.ncbi.nlm.nih.gov/pubmed/31360824>

### Why Is This Paper Relevant to Emergency Medicine Education?

This paper presents a report of a full-scale medical malpractice litigation simulation, delivered through a collaboration between a law school and an EM residency program, and provides a guide for replication of the simulation by any residency program. It also highlights the importance and relative lack of training on the subject of medical malpractice litigation in EM residency.

### Level of Evidence

N/A (Innovation Report)

### Level of Learning

Post-graduate

### Study Design and Setting

This was an innovation report. The outcomes of the innovation were not studied. Fordham University School of Law, New York, NY, in collaboration with the Emergency Medicine Residency program, St. Barnabas Hospital, Bronx, NY.

### Funding Sources

Fordham University School of Law

### Synopsis

The case used for the simulation was that of a middle-aged man with chest pain, who was discharged from the Emergency Department only to return hours later with an ST-elevation MI. There was deliberate clinical uncertainty associated with the scenario so that both the defendant and plaintiff could make reasonable arguments. A professional actor was hired to act as the plaintiff, an EM resident served as the defendant, and two senior EM faculty members served as expert witnesses.

The simulation commenced with an initial plaintiff/client interview between the actor and the law students assigned to the plaintiff team, who then drafted a complaint that was served to the defendant during one of his clinical shifts. Word spread through the department that a resident was being sued in a mock malpractice case, stimulating an emotional

### Synopsis (continued)

and social response to litigation. There was then a defense/client meeting between the EM resident and the law students assigned to the defense team. The residency program held weekly learning sessions for the residents where they explored the components of malpractice litigation and common mistakes made in the process. The simulation culminated with a trial before a judge and jury in a simulated courtroom in the law school, which all residents observed from the gallery.

The goal of the simulation was for residents to understand the components of a medical malpractice action, be aware of mistakes physicians commonly make during the process, and learn to deal with the emotional reaction to litigation within themselves and amongst their colleagues. Although the authors did not seek to measure these outcomes, they received feedback from residents indicating that the experience successfully elucidated the process of a medical malpractice action and how to navigate it. The authors comment that while this exercise may be helpful annually for law students, there would be less utility for the whole EM faculty to engage in the exercise that often. Instead they propose that the curriculum repeats every 3-4 years with smaller engagements with the law faculty in the interim.

### BOTTOM LINE

The authors report a novel simulation experience, created in collaboration with a law school, to prepare EM residents for medical malpractice litigation - a topic to which there tends to be minimal exposure during residency. The paper provides a guide for replication of the simulation by any residency program.