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## Why People Sue Hospitals and Health Care Professionals

The potential for a medical malpractice lawsuit often arises when the patient or the patient's family senses that "something is not right" with the medical care provided. Many times, it is an adverse outcome that raises the suspicion of the patient/family. This moment presents both danger and opportunity for a hospital or health care professional. The "danger" for the hospital or health care professional is responding in such a way that the patient/family will feel compelled to consult an attorney and pursue legal action. The "opportunity" for the hospital or health care professional is to respond in such a way that satisfies the needs and interests of the injured patient/family and thus prevents the incident from becoming a costly medical malpractice lawsuit.

A major component to strategically and effectively managing adverse events is understanding why people sue hospitals and health care professionals and what might prevent an injured patient/family from seeking compensation through a lawsuit. Many believe that most medical malpractice lawsuits are motivated by money. However, two of the major studies conducted on this issue conclude that monetary compensation may not be the only goal of injured patients/families who file medical malpractice lawsuits. The first major study, authored by Gerald B. Hickson and others, looked at factors that prompted parents to file medical malpractice claims after a perinatal injury. The six most common reasons include: advised by knowledgeable acquaintances (33% of respondents), recognized cover-up (24%), needed money (24%), recognized that their child would have no future (23%), needed information (20%), and decided to seek revenge or protect others from harm (19%).<sup>1i</sup>

In another study, Charles Vincent and others, examined why people sue doctors. Patients and relatives rated their

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reasons according to how strongly they agreed or disagreed with 13 statements. The table below lists the results.

### Reasons for Medical Malpractice Litigation<sup>2</sup>

Why injured patients sued their doctors	Agree %
So that it would not happen to anyone else	91
I wanted an explanation	91
I wanted the doctors to realize what they had done	90
To get an admission of negligence	87
So that the doctor would know how I felt	68
My feelings were ignored	67
I wanted financial compensation	66
Because I was angry	65
So that the doctor did not get away with it	54
So that the doctor would be disciplined	48
Because it was the only way I could cope with my feelings	46
Because of the attitude of staff afterwards	43
To get back at the doctor involved	23

The study further investigated actions that might have prevented litigation. When asked if anything could have been done once the incident occurred to prevent litigation, 41.4% of respondents answered "yes." <sup>3</sup> The following table lists what actions might have prevented litigation and the percentage of respondents who mentioned each.

### Actions After the Incident That Might Have Prevented Litigation<sup>4</sup>

Actions That Might Have Prevented Litigation	% of Respondents
Explanation and apology	39
Correction of Mistake	27
Pay compensation	18
Correct treatment at the time	16
Admission of negligence	15
If listened to	5
Disciplinary action	4
Honesty	4
Investigation by hospital	3

A crucial moment for a hospital or health care professional in preventing a medical malpractice lawsuit is the period of time immediately following an incident or adverse outcome. The conventional wisdom for dealing with this kind of situation is to restrict communication with the injured patient or his or her family regarding the course of

treatment leading up to the injury and begin an internal investigation. However, the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) has implemented guidelines which require accredited hospitals and their physicians to disclose to patients and their families any adverse outcomes related to the patient's care.<sup>5</sup> Such outcomes must be explained to the patient, but there is no requirement to admit liability, if any. Hospitals and health care professionals may be well-served to employ a strategy for complying with this requirement that is responsive to the motivating factors identified in the research above and pursue a course of action designed to satisfy patient needs and interests in an effort to prevent adverse events from becoming medical malpractice lawsuits. Further, hospitals and health care professionals should note that in addition to investing in improving the quality of care and reducing medical errors, an efficient, effective, and strategic response to adverse events is useful in managing risk and preventing medical malpractice lawsuits.

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<sup>1</sup>Gerald B. Hickson et al., *Factors That Prompted Families to File Medical Malpractice Claims Following Perinatal Injuries*, 267 JAMA 1359, 1359 (1992).

<sup>2</sup>Charles Vincent, et al., *Why Do People Sue Doctors? A Study of Patients and Relatives Taking Legal Action*, 343 The Lancet 1609, 1611 (1994).

<sup>3</sup>*Id.* at 1612.

<sup>4</sup>*Id.* Adapted by author to give the percentage of respondents citing each reason.

<sup>5</sup>Joint Commission on Accreditation of Healthcare Organization's (JCAHO) Patient Rights and Organization Ethics Standard RI.1.2.2.

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