



The American College of  
Obstetricians and Gynecologists  
WOMEN'S HEALTH CARE PHYSICIANS

# COMMITTEE OPINION

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(Reaffirmed 2016. Replaces Committee Opinion Number 497, August 2011)

## Committee on Professional Liability

*This document provides risk management information that is current as of the date issued and is subject to change. This document does not define a standard of care nor should it be interpreted as legal advice.*

## Coping With the Stress of Medical Professional Liability Litigation

**ABSTRACT:** Obstetrician–gynecologists should recognize that being a defendant in a medical professional liability lawsuit can be one of life's most stressful experiences. Negative emotions in response to a lawsuit are normal, and physicians may need help from family members, peers, or professionals to cope with this stress. Open communication will assist in reducing emotional isolation and self-blame. However, pertinent legal and clinical aspects of a case must be kept confidential, except for disclosure within the confines of a protected counselor–patient relationship as determined by state law.

The American Congress of Obstetricians and Gynecologists (ACOG) is concerned about the psychologic and emotional effects of medical professional liability litigation on physicians, especially because of the high rate of claims experienced by obstetrician–gynecologists. According to a recent ACOG survey, 77.3% of ACOG Fellows have been sued, and 41.9% of this group have experienced at least one claim resulting from care provided during residency. Defendant physicians may experience a wide range of distressing emotions and increased stress, which can disrupt their personal lives and the lives of their families, their relationships with patients, and their medical practices. Because a medical professional liability case in obstetrics and gynecology usually takes several years to resolve, this stressful period can seem interminable.

Embedded in most liability litigation is a “bad outcome,” which, with or without actual medical error, profoundly affects physicians. A 2008 national survey indicated that 75% of obstetricians felt that caring for a patient with a stillbirth took a large toll on them, with almost 10% seriously considering giving up obstetric practice (1). When medical error is involved, many physicians experience increased somatic and psychologic distress (2, 3).

Guilt and shame typically are the primary feelings that should be recognized and addressed during and following liability litigation. Deep shame and a reduced sense of self-worth may be felt in response to litigation

because of a fear of public exposure and doubts about one's professional competence. Anxiety is the usual reaction to these threats to one's integrity, self-confidence, and well-being. Whether consciously experienced or not, depressive reactions and a sense of diminished self-worth commonly follow guilt. When a lawsuit is completely unexpected, its effect may be traumatic, resulting in shock and numbness, alternating with a hyperarousal state, including sleeplessness and tension. An institution's rapid intervention to emotionally support clinicians may offer sufficient help to health care providers involved in adverse events; however, the grinding, drawn-out repercussions of a prolonged lawsuit frequently require more extensive support, including professional mental health resources (4).

Claims managers and defense attorneys often advise physicians not to speak to anyone regarding any aspect of a medical liability case. Nevertheless, physicians need to express their emotional responses to being sued. Literal adherence to the advice to speak to no one can result in isolation, increased stress, and dysfunctional behavior. Such behavior may jeopardize family and work relationships. The ability to function professionally and to represent oneself appropriately and effectively during pretrial discovery and trial also may be adversely affected. Thus, physicians are encouraged to inform family members of the lawsuit, the allegations, the potential for publicity, and any expected testimony, while maintaining confi-

dentiality about the specifics of the case. Children should be told about the lawsuit and their questions honestly answered, commensurate with their age and ability to understand the information. Open communication with family members will assist in reducing emotional isolation and self-blame (5).

Material legal and clinical aspects of a case certainly must be kept confidential, except for disclosure within the confines of a protected counselor–patient relationship. For the most part, state laws determine whether communication with clergy, psychiatrists, or other mental health professionals will be afforded legal protection against disclosure.\* Moreover, that privilege may be deemed waived if third parties are present when such communication occurs.

Despite the anxiety and stress caused by the demands of the litigation process, the opportunity for critical learning and professional development to facilitate dealing with future adverse outcomes should not be overlooked. By maintaining honest, collaborative, caring communication with patients, physicians may prevent a breakdown in the doctor–patient relationship, which frequently contributes to litigation (6, 7). Moreover, within the context of a patient-centered risk management program, disclosure, apology, and, when appropriate, offers of restitution may result in diminished litigation and associated litigation-related stress (8–10). Of course, despite the best communication skills and patient-centered risk management programs, some adverse outcomes may still lead to litigation.

In coping with medical error, it may be necessary for some physicians to develop a more realistic, less idealized, and more forgiving sense of personal identity, competence, and self-confidence. Errors in decision making cannot be avoided throughout one's career. One of the healthiest responses is recognition of the error and the development of a plan to decrease the likelihood of future similar occurrences. This activity often provides comfort and healing to the physician.

Obstetrician–gynecologists should recognize that being a defendant in a medical professional liability lawsuit can be one of life's most stressful experiences. Negative emotions in response to a lawsuit are normal and physicians may need help from professionals or peers to cope with this stress. Residents, as young physicians in training, may be particularly vulnerable to the psychologic and emotional upheaval that often occurs when named in a medical liability claim. State or local medical societies and medical liability insurance carriers often sponsor support groups for defendant physicians

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\*In courts, the doctrine of privilege affords protection against compulsory disclosure of confidential communication between persons such as physician and patient, psychotherapist and client, lawyer and client, confessor and penitent, and husband and wife. Whether or not such a privilege exists in a particular judicial venue is determined by federal law and the statutory and common law of the jurisdiction.

and their families. Support mechanisms for residents also may be available through residency program directors, department chairs, departments of risk management, or mentors. In the absence of such services, individual professional counseling can be of great benefit. Rapid intervention facilitates healthier coping strategies and can restore a sense of equilibrium and self-esteem during an unpredictable time.

## Resources

### ACOG Resources

American College of Obstetricians and Gynecologists. From exam room to courtroom: navigating litigation and coping with stress [CD-ROM]. Washington, DC: ACOG; 2006.

American Congress of Obstetricians and Gynecologists. Healing our own: adverse events in obstetrics and gynecology. Washington, DC: ACOG; 2012. Available at <http://www.acog.org/adverse-events>. Retrieved August 1, 2012.

### Additional Resources

*The following resources are for informational purposes only. Referral to these sources and web sites does not imply the endorsement of the American College of Obstetricians and Gynecologists. This list is not meant to be comprehensive. The exclusion of a source or web site does not reflect the quality of that source or web site. Please note that web sites are subject to change without notice.*

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