

Anatomy of a Malpractice Suit

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The potential for malpractice among dietitians and other [allied healthcare professionals](#) has become a growing concern. Dietitians, in particular, are accepting more responsibility through increased expertise, exposure and responsibility, which tends to make these healthcare professionals more vulnerable.

Specifically, dietitians are expanding further into areas of private practice and are not directly employed by a physician or institution, where certain doctrines related to the practice do not generally apply. For example, if a dietitian in private practice follows through on a diet order from a referring physician that she thinks is erroneous, the courts might hold the dietitian negligent in executing it rather than trying to correct it.

Unless you have been involved in a lawsuit it is difficult to know what to expect.

Steps to Follow in a Malpractice Suit:

- Lawsuits typically begin with a conversation with a disgruntled patient who claims that under your care he was injured. The first formal step is when a patient files a complaint backing it up with factual statements. Immediately [contact](#) your allied health professional liability insurance carrier when you sense that a malpractice insurance claim is a possibility. If you work in an institution, you will want to take it to your facility's risk manager.
- In communicating with your professional liability insurance carrier regarding an incident, you must give a written description of the event. Include with this the time, place and circumstances concerning the incident. As much as possible, list the names and addresses of the injured party or parties and any witnesses.
- Your patient is now a plaintiff. Your relationship, while it may have once been built on considerable rapport, now has an adversarial quality. Do not expect that you can talk the patient out of the decision. In fact, you should probably avoid the plaintiff as much as possible, keep detailed notes of conversations should they occur, and follow the instructions of your insurance carrier.
- Under some conditions, you may continue to treat the patient and/or his family. When concerns come up in this regard your best approach is to seek legal advice.
- Most states require that a malpractice suit be brought within a specified period of time of the injury. Such legal rules are called statutes of limitations. In most states this period is within two or three years or, in cases where the injury cannot be discovered easily, within six months to three

years after the injury is discovered.

It is always best to know what is covered under your professional liability insurance policy before an incident takes place. Engaging in the act of providing the best healthcare also means educating yourself on what happens when a fault occurs – whether it remains a fault, or becomes a major earthquake – is up to you.