2025 Business of Retina Meeting Fellows Seminar:
Early Career Risk Management Issues

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OMIC OPHTHALMIC MUTUAL INSURANCE COMPANY

ASRS American Society of Retina Specialists

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Disclosures

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- OMIC Vice President of Risk Management

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Learning Objectives

Upon completion of this course, participants should be able to:

Understand why patients are motivated to sue physicians

Apply ethical principles and professional standards that prioritize patient safety and mitigate the risk of claims

Create a culture of safety in their practice

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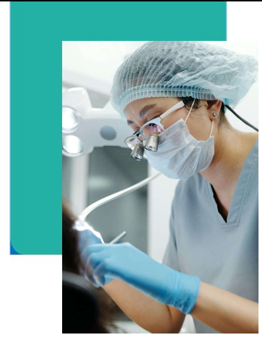

Closed case example:

Excess C3F8 Gas During Pneumatic Retinopexy

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Chronology

Initial exam	• **Referred** from ED to insured; IOP 35 OD, 13 OS • **Dx**: retinal tear and detachment OD • **Plan:** pneumatic retinopexy scheduled to occur in 2 days
Surgery #1	• **Pneumatic retinopexy with C3F8 gas** resulting in successful retinal adhesion. • Gas bubble to remain in place for several weeks.
POD 1	• **Exam**: VA=CF at 1 foot; IOP 18; retina completely attached; 70% gas fill • **Rx**: Prednisone acetate, Polymyxin B, Cyclopentolate • **Plan**: follow up in 1 week
POD2 to POD9	• **Patient seen 5 times** due to pain, nausea, blurry vision. IOPs as high as 73 • 2 gas release procedures • **Rx:** Diamox, Cosopt • **Exam by tech POD9:** VA = HM at 1 foot, IOP 23; reported to surgeon, who referred patient to 2nd ophthalmologist.

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Chronology

POD 11	• **Exam by ophthalmologist #2:** VA = HM at 6 inches**;** IOP 15 • **Patient** concerned about loss of vision • **Tx**: gas bubble placed in anterior chamber
POD 13	• **Pressure check:** IOP 13
POD 16	• **Patient seen by ophthalmologist #1 for c/o sharp pain OD** • **Exam**: Swelling cataract, which was aggravating glaucoma; corneal edema; VA still HM at 6 inches; IOP 11. • **Surgery**: lensectomy and vitrectomy; the retina remained completely attached; optic nerve normal.
POD1 (surgery #2)	• **Exam:** Cornea clearing; deep anterior chamber; no clear view of the retina or optic nerve due to 80% gas bubble in back of eye; VA = HM at 1 foot; IOP <4.

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Chronology

Over the next 2 months	• The patient returned to the insured numerous times. • The optic nerve was eventually visualized, but significant damage was noted. • VA ranged between HM at 1-4 feet, to CF at 1 foot; IOPs between 9 and 15. • ***The patient never returned to the insured.***

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Litigation

Expert opinions	**Standard of Care** • delay in scheduling pneumatic retinopexy (surgery #1) • The use of 2cc's % C3F8 gas was indefensible and exceeded the normal capacity of the eye. • substandard postop management **Causation** • the excess gas caused the IOP to increase to 73 resulting in damage to the optic nerve and a complete loss of vision OD • the damage would have occurred within 90 minutes after infusion of the excess gas
Disposition	• **The case was settled**

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Risk Management

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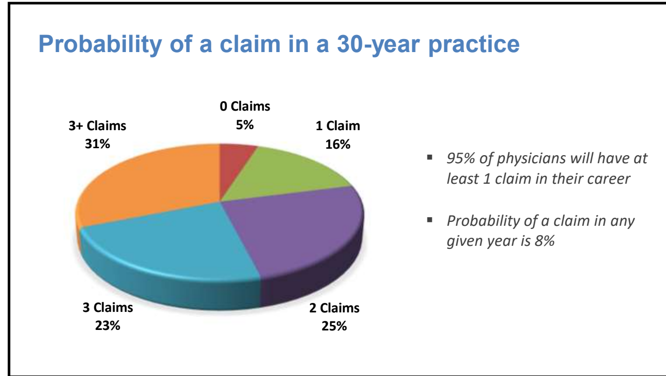

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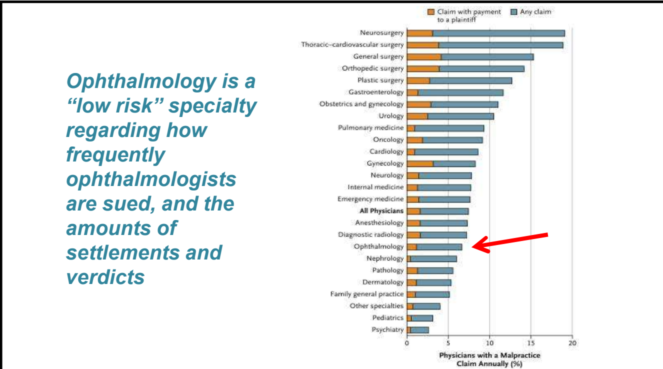

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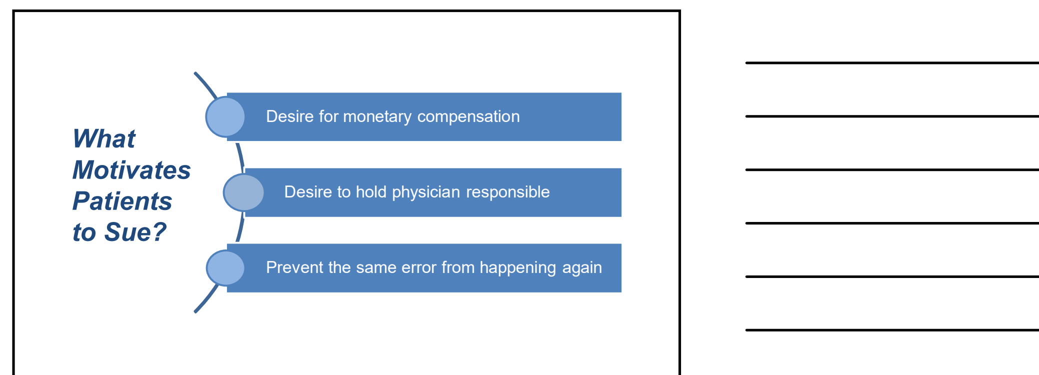

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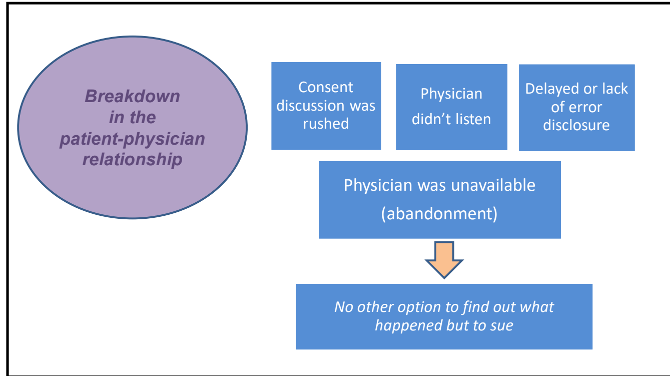

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Mitigate the Risk of Patient Harm and Malpractice Claims

- Documentation
- Informed Consent
- Follow Up
- Disclosure of Adverse Events
- Safety Protocols

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Documentation

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Documentation

Poor documentation makes good care look bad

"If it wasn't documented it didn't happen."

If you use a scribe, you are responsible for the accuracy of the record.

Many cases are *indefensible* due to incomplete or inaccurate documentation.

Amendments to the record: *late entries, addenda, corrections*

- May be necessary, and legitimate, but must be done correctly to avoid the appearance of fraud or concealment
- Such changes should be made infrequently
- Check with risk management at your carrier if in doubt about whether and how to make an amendment

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In Litigation…

Medical records scrutiny
Medical records, both paper and electronic, will be scrutinized by the plaintiff's attorney and forensics experts for any entries that suggest credibility is in question.

EHR audit trails
EHR audit trails assist plaintiffs in proving an allegation of medical records credibility.

Records alterations
Records alterations cannot be defended.

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Electronic Health Record

Watch out for known pitfalls

- Copy and paste, copy forward, cloning
- Wrong choice in pick/dropdown list
- Wrong specialty template
- Failing to update medications
- Use of "normal" defaults
- Insertion of macros that are not edited for the individual patient: "note bloat"
- Information in one part of record contradicts another
- Pre-charting or charting long after treatment

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Informed Consent

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What is Informed Consent?

- An oral agreement reached after the surgeon advises the patient of
  - » Diagnosis and proposed treatment
  - » Risks, benefits, alternatives
  - » Consequences of refusing treatment
- Informed consent discussion
  - » Document discussion in the medical record
  - » Include a procedure-specific consent form
  - » Document education materials provided
  - » Not only a signature on a form
- Assess comprehension using teach back method
- Provider's non-delegable duty

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Follow Up

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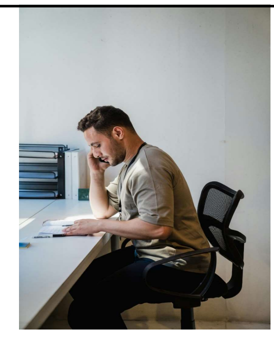
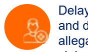


Follow-Up

Why is it a risk management concern?



Delayed diagnosis, failure to diagnose, and delayed treatment are typical allegations in medical negligence claims.

Although clinical mismanagement might have occurred, a delay in or a failure to follow up is often at the root of the problem.

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Follow-Up Strategies

1. **Explain to Patients**
   Explain recommendations, including when to obtain, the importance of compliance, and consequences to vision if treatment is delayed or declined.
2. **Document**
   Document the discussion.
3. **Implement**
   Tracking systems, safety policies and procedures

* **Terminate**
  Terminate patients as a last resort for noncompliance.

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Disclosure of Adverse Events

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Disclosure of Adverse Events

Background

- Ethically required (AAO Code of Ethics)
- Patient has a right to know
- Necessary for trust, continuity of care, and future treatment

Risk Recommendations

- Disclose to patient or family as soon as possible
- Express empathy, don't admit negligence; consider apology
- Relay the facts; don't speculate
- Don't place blame on others
- Document the disclosure, the treatment plan, and instructions to patient
- Be available and keep the patient informed

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Safety Protocols

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Create a Culture of Safety

- Most errors are not solely the result of an act of an individual.
- Most errors do involve systems or process failures.
- Lack of safety protocols--and failure to adhere to them--lead to wrong events (wrong patient, wrong eye, wrong drug, wrong procedure).
- These events can lead to serious patient harm.
- These cases cannot be defended, and will most likely result in settlement.

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In Summary…

Practice these habits to avoid malpractice claims, enhance patient safety, and develop higher patient satisfaction, which lead to better patient compliance.

- *Documentation*
- *Informed Consent*
- *Follow Up*
- *Disclosure of Adverse Events*
- *Safety Protocols*

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