Professional Liability

January 3, 2018

Thomas L. Claire, Administrator for Risk Management

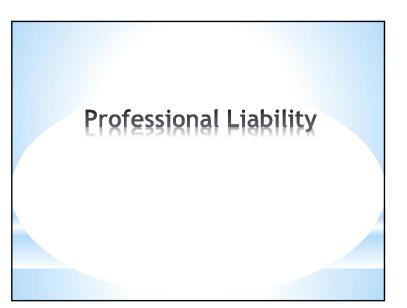
Sue Mikkonen, Legal Nurse Specialist

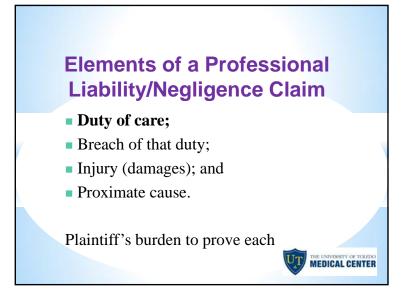
Office of Legal Affairs – HSC (4577)

Objectives

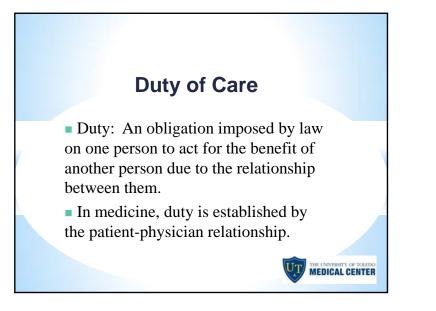
- Understand the basic elements of a professional liability claim
- Understand the standards to which you will be held as a resident physician
- Identify methods to reduce potential liability
- Know what you should do if you are named in a professional liability claim

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Elements of a Professional Liability/Negligence Claim

- Duty of care;
- Breach of that duty;
- Injury (damages); and
- Proximate cause.

Plaintiff's burden to prove each

Breach of Duty (Violation of Standard of Care)

The standard of care is the treatment and care that a physician or surgeon of ordinary skill, care and diligence would have done under like or similar conditions or circumstances.

A violation of the standard of care is the failure or omission to do some particular thing(s) that a similar physician or surgeon would have done under like or similar conditions or circumstances.



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Evidence of the Standard of Care

• During trial, whether a physician or surgeon treated a patient within the requisite standard of care must ordinarily be determined from the testimony of medical experts

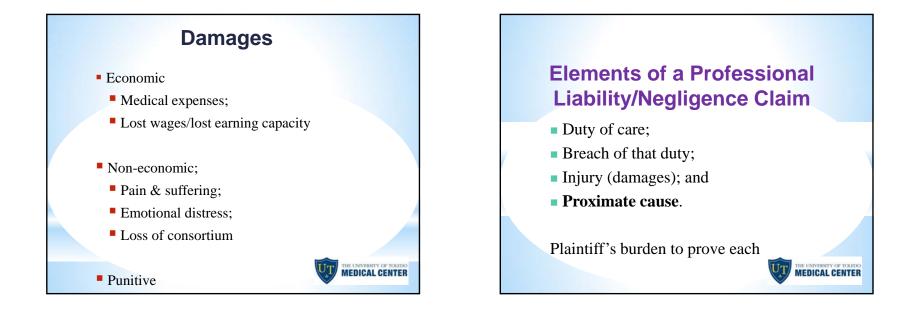
• Standard of care considered will be those in place at the time of alleged injury

MEDICAL CENTER

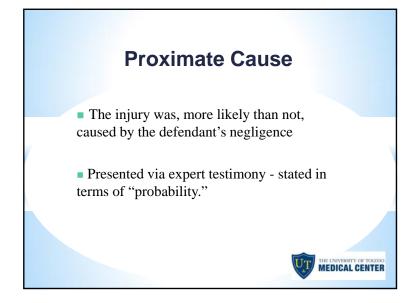
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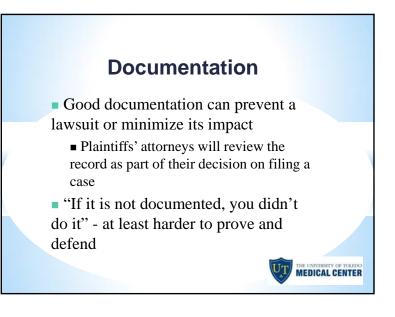
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If you are named as a Defendant or receive legal correspondence

- Call Risk Management/Legal Affairs
- You will be assigned legal counsel
- Follow all advice of counsel, be cooperative
- Do not call patient or speak with their attorney





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REALITY CHECK

The standard of care that you are expected to deliver increases as your skill and knowledge increase. This will continue to rise as your progress through residency.

The risk for professional liability associated with not meeting this standard of care is now a true reality.



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DUTY OF STATE OF OHIO (UNIVERSITY) EMPLOYEES

Work within the scope of your job or official responsibilities

Do not act with a malicious purpose, in bad faith or in a wanton and reckless

manner

LIABILITY PROTECTIONS AFFORDED UNIVERSITY EMPLOYEES

Qualified, limited immunity – if you work in the scope of employment & not malicious, wanton, etc.

Indemnification - \$1 million per occurrence/\$3 million aggregate thru UT Professional Liability Insurance Program

Legal representation – Lawsuit defense provided by Ohio AG Office

LIABILITY PROTECTION ISSUES

Moonlighting – is outside the scope of your residency employment and is not covered

Rotations need to be academically approved

- free lance experience is not covered

OHIO Appendis C. Labore 10 2014 Closed Claims ALAE and Indemnity Payments by Physician Specialty							
PHYSICIAN SPECIALTY	TOTAL CLAINS	CLAIMS With ALAE	TOTAL ALAE	AVERACE	CLADIS With INDEMNITY	TOTAL	AVERAGE
Sargery - Orthopodie	262	138	23568	12,52	9	10,09,2	\$275,571
internal Medicine	128	185	\$16,24(2)	\$29,024	15	\$187,90	\$275,167
Emergency Medicine	105	104	\$2,444,725	\$4,06	19	\$53680	\$23,86
Surgery - General	185	-	\$2,820,033	\$1,53		\$4225,000	\$41,56
Observice/Gynecology	104	*	\$4,75,26	\$10,05	21	500048	363,517
Radiology	34	-	\$2,099,007	\$27,987	12	\$1.95,5m	29,62
Family Physicians General Practiment	E		14.105.70	25076	2	E-MC-T	27.6
Cardievascalar Disease	45	29	\$2.467,590	\$6,25		\$3,306,038	\$1,61,79
Anothesiology	-	13	362,108	\$8,26		\$1,456,000	515,000
Other	409	125	\$122.63	\$25,865	~	\$1,74,291	\$29,73
TODALS and SYERAGES:	1525	1874	56-55-88	\$22,634	366	\$95,52,39	\$560.%e
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