

ATTENDEE HANDOUT

POINTING TO SAFETY PANEL SERIES

Panel 1: Understanding how malpractice claims happen



Pointing to Safety Expert Panel Webinar Series

Panel 1: Understanding How Malpractice Claims Happen - May 15th

Panel 2: Risk Management for Acupuncture Clinics - June 12th

Panel 3: Risk Management with Herbal Prescribing - July TBD

For more information and to register for other panels go to

<https://www.miec.com/acusafetypanels/>

Understanding How Malpractice Claims Happen

Injuries, accidents, and adverse reactions happen, despite the best intentions. They are a part of medical practice.

Most acupuncture-related claims

1. Burns (heat lamps, moxibustion)
2. Needle injury (pneumothorax, etc)
3. Adverse reaction to treatment
4. Failure to make timely referral

Factors that drive claims and lawsuits:

Unanticipated costs that drive claims: medical expenses, lost wages, other costs.

When to report an adverse event or claim to your insurer

General recommendations (may not match what your insurance carrier states is required. See below.)

- Verbal or written claim or demand for payment
 - Report anything in writing from a pt or their representative (text, email, letter).
- Legal Document (subpoena, summons, etc.)
- Adverse outcome that caused injury to patient

Check your malpractice policy - Familiarize yourself with your policy and its requirements, including the process of reporting.

Responding to patient complaints

- Approach professionally and calmly. Focus on active listening to their concerns in a neutral manner. Collect information and document the conversation.

This component of patient interactions and claims mitigation will be a focus of the July panel.

What is malpractice?

Sub-standard or deviant care that results in harm

Four elements required to prove malpractice

1. Duty of care breached
2. Negligence = deviation from community Standard of Care
3. Causation = substantial factor in causing injury
4. Damages - measurable physical, emotional, and/or financial damages

How are cases resolved?

- Dismissal
- Motion for dismissal or judgment before trial
- Settlement
- Trial
- Arbitration

Defending Claims

3 primary contributing factors affecting the defensibility of claims:

- **Communication** with patients and other providers
- **Patient education** and informed consent
- **Documentation** practices and standard clinic processes/procedures

This won't necessarily prevent litigation, but will assist in legal defense

Take a positive proactive approach

Cultivating a positive mindset and proactively implementing safety and risk management strategies and processes goes a long way in....

- Building trust and connection with patients
- Increasing your confidence as a practitioner
- Giving you peace-of-mind that you are accounting for most situations
- Protecting you and your patients

Safety & Ethics from Anthony Von der Muhll, LAc, AOM Professional

Content from upcoming webinar Avoiding Lawsuits Safety and Ethics for Acupuncture Clinics

<https://www.aomprofessional.com/avoiding-lawsuits-safety-ethics-for-acupuncture-clinics/>

Amy through September

Common myths and misconceptions

- “If I practice safely, I’ll never give anyone cause to sue or file a complaint.”
- “Likelihood of suits/complaints is proportionate to the seriousness of injury.”
- “AIM modalities are safe, and the teachers in my entry-level degree program taught me everything I need to know about safety.”
- “My risks will automatically decrease as I gain experience, skills, and competence.”
- “My “favorite” patients, employees, friends, family that I treat would never file a suit or complaint against me.”
- “If I treat all my patients like friends and family, I won’t get sued.”
- “It’s important stand up to patients and not give in to demands that seem unreasonable to me.”
- “If one does injure a patient, it’s best not to admit it, and withdraw from contact.”
- “Fear of suits and carrying malpractice insurance is “negative energy” that attracts predators and complaints; all I have to do is stay positive and I’ll never be sued.”

Denial, Avoidance, and Wishful Thinking increases risks instead of reducing it.

Preparation is Prevention!

Standard of Care

The Standard of Care requires that providers exercise, in diagnosis and treatment, a reasonable degree of knowledge and skill ordinarily possessed and exercised by members of their medical profession.

What/Who defines the “Standard of Care”

- “What a reasonable acupuncturist trained according to professional standards would do” in the given scenario.
- Locale-specific
- An combination of many sources: laws and regulations, ethical codes and “common sense,” textbooks and journals, published professional guidelines, accredited instruction from schools and continuing education training, expert opinions and judgements in legal cases, legal contracts (e.g. w/insurers, employers), and industry guidelines.

NOTE: Malpractice insurance carriers do not set nor evaluate the standard of care.

Example of determining whether the acupuncture standard of care has been followed,

- Read “Interview of an Patient Alleging Injury from Acupuncture Care” document provided with this webinar

Comprehensive training on Standard of Care is covered in Anthony’s Avoiding Lawsuits webinar series (see link above). Not found anywhere else. Highly encouraged!

OBTAIN YOUR CONTINUING EDUCATION CREDITS

Fill out this form

<https://www.miec.com/acusafetypanels/attendance-form/>

LIVE CREDITS ONLY.

DISTANCE CREDITS ARE NOT AVAILABLE/APPROVED.

NCCAOM PDAs will be reported directly to them

California Acupuncture Board CEU certificates will be emailed to you within one week.

Email info@miec.com attention Ann Marie if you need assistance.

ADDITIONAL LEARNING OPPORTUNITIES

Upcoming AOM Profession Webinar Series: May thru Sept 2024

Avoiding Lawsuits: Safety & Ethics for Acupuncture Clinics

4-part live webinar series to keep your practice and your patients safe

CA CEUs and NCCAOM PDAs available

Instructor Anthony Von der Muhll, LAc, DAOM, DNBAO, FAIPM

Register: <https://www.aomprofessional.com/avoiding-lawsuits-safety-ethics-for-acupuncture-clinics/>

SPECIAL OFFER: Use discount code: [MIEC51523](#) for 15% off one-time purchase

- **Avoiding Lawsuits I: Essential Principles & Practices**
Thu May 30th 5-7pm Pacific Time
2 distance learning NCCAOM Safety PDAs and CAB Category 1 CEUs approved
- **Avoiding Lawsuits II: Clarifying Gray Areas in Scope of Practice & Consent**
Thu June 20th 5-7pm Pacific Time
2 live CAB Category 1 CEUs approved; NCCAOM Safety PDAs pending
- **Avoiding Lawsuits III: Standard of Care, Safety, & Documentation**
Thu Aug 8th 5-7pm Pacific Time
2 live CAB Category 1 CEUs approved; NCCAOM Safety PDAs pending
- **Avoiding Lawsuits IV: Ethics & Laws in Marketing & Billing**
Thu Sept 5th 5-7pm Pacific Time
2 live CAB Category 1 CEUs approved; NCCAOM Safety PDAs pending

E-BOOK

Included with purchase of *Avoiding Lawsuits* course above. Can be purchased separately.

<https://www.aomprofessional.com/avoiding-lawsuits-safety-ethics-for-acupuncture-clinics/>

On-Demand POCA Tech CEU Courses

POCA Tech offers affordable online safety and ethics CEUs, as well as CEUs related to community acupuncture. Learn more: <https://ceu.pocatech.org/>

Key Safety Courses:

- Trauma-Informed Care
- Acupuncture Safety - POCA Adverse Events Reporting Database
- Addressing Common Safety Issues (improving acupuncture safety practices)
- POCA Safety Manual - POCA Safety manual, quality control, and best practices

On-Demand Bullet Proof Documentation Classes

General and State specific classes for billing and proper documentation

5 NCCAOM PDAs; CA CAB 5 CEUs approved

<https://www.moriwestseminars.com/webinars/>