

What to do if you get sued

You should *immediately* notify your professional malpractice insurance carrier when you receive notice of a lawsuit.

What should you do - and not do - after notifying your insurance carrier?

Do:

- ✓ Set up a separate correspondence file for all communication with your malpractice liability carrier and your defense attorney. This information is confidential and should not be kept with the patient's medical record. It should not be released to anyone without the approval of your insurer or your defense attorney.
- ✓ Cooperate fully with your insurer and your defense attorney in handling your claim or lawsuit. Your best possible defense depends upon your willingness to aid in the investigation and preparation of the case.

Do Not:

- ✓ Alter, "clarify", or supplement the medical record for any reason once notice of a claim or lawsuit has been received. Changes in the record may make it appear that fraudulent attempts to "doctor" evidence have occurred.
- ✓ Make any entry in the medical record referring to your malpractice insurer. The record is likely to be reviewed by a jury if a claim goes to trial; a reference to the existence of malpractice insurance may jeopardize the outcome of the claim.
- ✓ Discuss the facts or details of the claim or lawsuit with anyone other than a representative of your malpractice insurer or your defense attorney. In particular, do not talk to the patient/plaintiff or the plaintiff's attorney about the case. Anything you say, however innocent or well-intended, may be misunderstood or misused and provide exactly the kind of damaging evidence the plaintiff needs to win the case.