

Mitigating Malpractice: Tales from the Courtroom

1 hour

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Disclosure

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Course Overview

Drawing from more than four decades of clinical practice and extensive experience serving as an expert witness in optometric malpractice cases, this course reviews common causes of malpractice claims and practical strategies to reduce risk. Through real-world case studies and courtroom experiences, attendees will learn how documentation, patient management, referral procedures, and adherence to the standard of care can help protect both patients and practitioners.

Learning Objectives

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

1. Define the optometric standard of care and its role in malpractice litigation.
 2. Identify common clinical scenarios that lead to malpractice claims.
 3. Implement documentation and referral procedures that reduce professional liability risk.
 4. Recognize when additional testing, dilation, referral, or co-management is indicated.
 5. Apply risk-management principles to improve patient outcomes and reduce exposure to litigation.
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I. Understanding Malpractice and the Standard of Care

Why This Topic Matters

- Experience as an expert witness in approximately 20 defense cases, including multiple trials.
- Lessons learned from personal malpractice experience early in practice.
- Overview of the most common causes of malpractice claims against optometrists.

Defining the Standard of Care

- What a reasonably competent optometrist with similar training would do under similar circumstances.
- How standards are established:
 - Expert testimony
 - Clinical guidelines
 - Professional policies
 - Published research

If You Are Sued

- Contact your malpractice carrier immediately.
 - Lock and preserve records.
 - Do not alter chart entries.
 - Limit discussion of the case.
 - Understand that a lawsuit does not automatically threaten licensure or livelihood.
 - Be aware of potential credentialing implications.
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II. Tip #1: Don't Miss Glaucoma

Case Review

- Patient followed annually for 15 years.
- Intraocular pressures measured at 9 mmHg OU.
- Subsequent diagnosis of glaucoma and significant vision loss.
- Malpractice action follows.

Key Clinical Lessons

- Intraocular pressure of 21 mmHg is not a reliable cutoff.
- Many glaucoma patients present with pressures below 21 mmHg.
- Screening instruments such as iCare are useful but should be confirmed with Goldmann applanation tonometry when indicated.
- Comprehensive evaluation remains critical.

Additional Case Discussion

- Misdiagnosed “pink eye” case involving glaucoma medication side effects.
- Clinical resolution following medication discontinuation and cataract surgery consultation.

Take-Home Points

- Perform complete examinations.
 - Document findings thoroughly.
 - Avoid reliance on the “magic number” of 21 mmHg.
 - Evaluate the entire clinical picture.
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III. Tip #2: Dilate, Dilate, Dilate

The Importance of Dilation

- Failure to diagnose remains one of the most common causes of malpractice claims.
- Dilation continues to represent the standard of care in many situations.
- Practitioners should not project personal concerns about dilation onto patients.

Case Example: Young Diabetic Patient

- Juvenile-onset diabetic patient with no history of comprehensive eye examinations.
- Offered retinal imaging as an alternative to dilation.
- Discussion of limitations of imaging-only approaches.

Improving Peripheral Retinal Evaluation

- Dilate adequately using appropriate agents.
- Position patients appropriately for examination.
- Utilize a 30D lens when indicated.

Case Example: Missed Retinal Detachment

- 55-year-old myope presenting for routine vision examination.
- Normal posterior pole findings through an undilated examination.
- Patient declined dilation.
- One month later developed flashes, floaters, and retinal detachment.

Key Lessons

- Dilation protects both the patient and the practitioner.
- Examination of the peripheral retina and optic nerve in stereopsis is critical.

- Documentation of dilation refusal is essential.
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IV. Tip #3: Follow Through on Referrals and Testing

Make Referrals Count

- Schedule appointments whenever possible.
- Send referral letters outlining concerns and requested testing.
- Maintain documentation of all communications.
- Verify that recommended testing is completed.

Malpractice Case Review: Ischemic Optic Neuropathy

Patient Presentation

- 56-year-old male.
- Sudden vision loss to 20/200 OD.
- Optic nerve swelling observed.

Diagnostic Considerations

Potential laboratory testing:

- CRP
- ESR
- Platelet count

Clinical Timeline

- Optometrist ordered laboratory testing and suggested carotid evaluation.
- Delays occurred between referral and test completion.
- Patient subsequently lost vision in the fellow eye.

Trial Outcome

- Eight-day trial involving expert witnesses for both sides.
- Plaintiff sought substantial damages.

- Discussion of jury deliberation and verdict.

Lessons Learned

- When serious pathology is suspected, practitioners must actively coordinate care.
 - Referrals should be documented and tracked.
 - Communication failures can become central issues in litigation.
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V. Tip #4: Know When to Refer

High-Risk Cases Require Shared Management

Corneal Infiltrate/Edema Case

Clinical progression despite treatment:

- Initial presentation: 20/25 visual acuity.
- Managed with intensive topical antibiotic therapy.
- Minimal improvement over multiple visits.
- Significant vision loss developed.

Referral Best Practices

- If staff cannot secure timely care, the doctor should personally intervene.
 - Communicate directly with referral physicians when appropriate.
 - Provide detailed referral information.
 - Include direct contact information for urgent cases.
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Summary: Four Essential Malpractice Prevention Strategies

1. **Don't miss glaucoma.**

- o Look beyond intraocular pressure alone.
- o Perform comprehensive evaluations.
- 2. **Dilate when indicated.**
 - o Dilation remains a cornerstone of quality care.
 - o Document refusals carefully.
- 3. **Own the referral process.**
 - o Schedule, communicate, document, and verify.
- 4. **Know when to ask for help.**
 - o Refer high-risk or non-responsive cases promptly.
 - o Collaborate effectively with specialists.

Final Thought

Good clinical care, thorough documentation, and active patient follow-through remain the strongest defenses against malpractice claims.