

**RISK MANAGEMENT:
RESIDENT & FELLOW ORIENTATION**

6-28-17

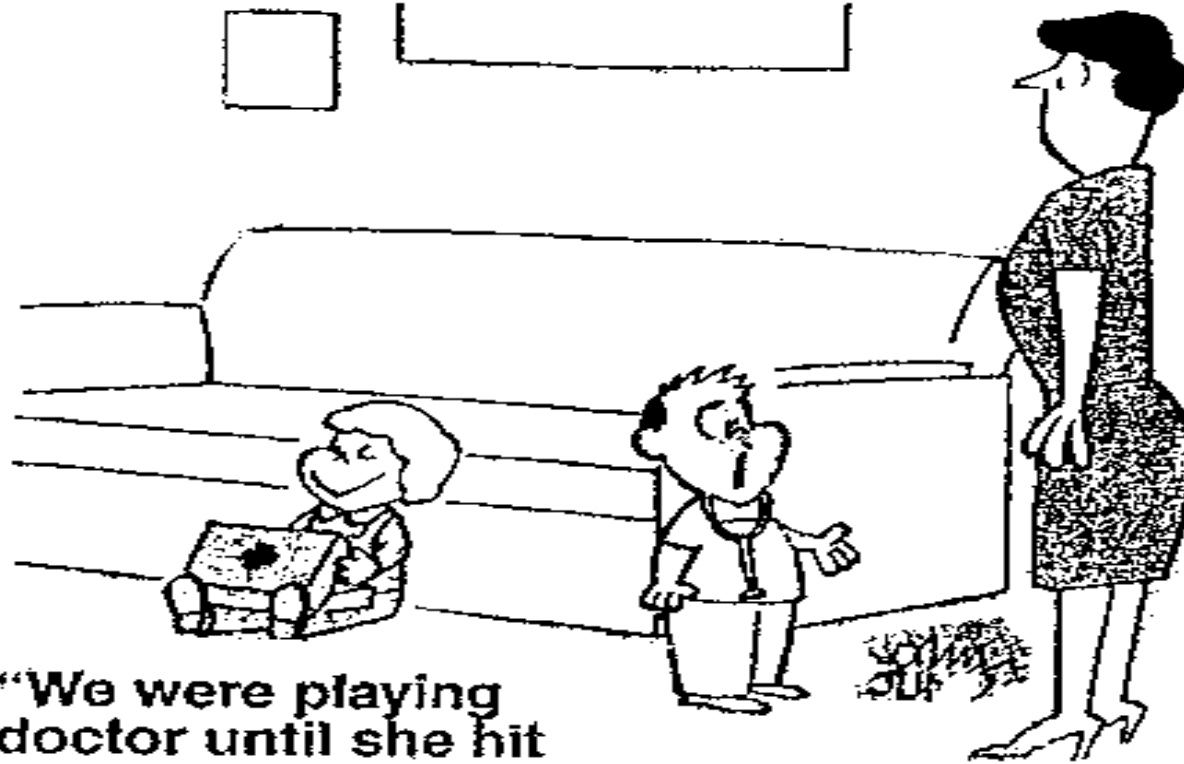
Thomas L. Claire

Administrator for Risk Management
The University of Toledo

TOPICS

- ✘ Standard of Care & Professional Negligence
- ✘ UT Residents and Fellows as State Employees: Responsibilities and Protections
- ✘ Risk Management Contacts

WOMAN'S WORLD
12/31/96



**“We were playing
doctor until she hit
me with a malpractice suit!”**

STANDARD OF CARE

WHAT IS A STANDARD OF CARE

The standard of care is the treatment and care that a physician in a similar specialty or with similar training would have done under like or similar conditions or circumstances.

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

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 you progress through residency, fellowship and into being a practicing physician.

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

LAWSUIT AND THE STANDARD OF CARE

- ✘ Residents are commonly named.
- ✘ Held to same **standard of care** as prudent resident within the same level of training in same or similar circumstances.
- ✘ The standard of care is an important element of negligence resulting in lawsuit.

PROFESSIONAL NEGLIGENCE

(1) Duty of care owed:

- ↙ Practitioner-patient relationship
- ↙ Ending the relationship

(2) Duty was breached:

- ↙ Reasonable person
- ↙ Professional standards of care

(3) Damage:

- ↙ Actual (monetary)
- ↙ Compensatory (pain & suffering, etc.)
- ↙ Punitive

(4) Causation:

- ✓ Proximate Cause
- ✓ Comparative Cause (>1 defendant)
- ✓ Contributory (pt's fault)

STATE EMPLOYMENT - LEGAL PROTECTIONS

DUTY OF STATE EMPLOYEES

Residents/Fellows = UT employees = State of Ohio 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

STATE EMPLOYEE LEGAL PROTECTIONS

- ✘ Qualified, limited immunity - not personally named, if you work in the scope of employment & not malicious, wanton, etc. Recognized only in Ohio
- ✘ Indemnification - \$1 million per occurrence/\$3 million aggregate thru UT Professional Liability Insurance Program
- ✘ Legal representation - Lawsuit defense provided by Ohio AG Office

LIMITATIONS OF LEGAL PROTECTIONS

- ✘ 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

CONTACTS

IF YOU HAVE A CONCERN

Discuss with Program Directors, Faculty or call the Risk Management Department of UTMC or TTH if you are worried that an incident may become a claim.

Risk Management - UTMC

Tom Claire (419-383-4570)

Datix Incident Reporting System

Risk Management - TTH

Molly Brixey (419-291-5446)

ORL Incident Reporting System