

# Mitigating Malpractice Risk Through Improved Patient Engagement

Earlier this year, a Michigan jury [awarded](#) a \$120 million medical malpractice judgment to Kirsten Drake and her son K'Jon after it found that a delayed C-section resulted in severe brain damage. When a fetal heart monitor indicated a potential problem with delivery, the plaintiffs claimed that delayed care caused harm with life-long consequences for the newborn and his mother.

Brian McKeen, one of the attorneys representing the Drake family, put the situation in stark terms in an interview with the Detroit Free Press:

*“This child will need medical and home care for the rest of his life, and while we cannot give him the quality of life he would have had but for this injury, we can only hope to give his additional therapies and services to help him deal with his disabilities and protect from the possibility of an early demise. ... This injury should never have happened. It was foreseeable and entirely preventable. We hope this verdict serves as a reminder to the obstetrical community that they should act expediently in the presence of non-reassuring fetal monitor patterns”*

Harrowing [news stories](#) and true crime [documentaries](#) often portray malpractice incidents as egregious breaches of medical ethics, moral responsibility, and the bare minimum standards of competence. However, most malpractice incidents and resulting legal action play out more like this story from Michigan.

Clinical settings are hectic, high-stakes environments where decisions must be made quickly, and the consequences can be life or death. Healthcare providers are human beings; they sometimes make mistakes like humans in any profession.

It's impossible to speculate on what non-clinical aspects of this case contributed to the family's desire to litigate. However, research shows it's not necessarily medical mistakes that prompt patients to file a lawsuit. It bears repeating that clinical environments are high-pressure and fast-paced. In fraught situations like the one described in this case, providers who excel at communication and empathy are less likely to be sued.

As research and experts have observed, malpractice lawsuits often hinge less on the number of medical mistakes and more on how patients feel they were treated. Malcolm Gladwell, in his [book](#) Blink: The Power of Thinking Without Thinking, makes a startling claim:

*“Believe it or not, the risk of being sued for malpractice has very little to do with how many mistakes a doctor makes. Analyses of malpractice lawsuits show that there are highly skilled doctors who get sued a lot and doctors who make lots of mistakes and never get sued. At the same time, the overwhelming number of people who suffer an injury due to the negligence of a doctor never file a malpractice suit at all”*

For healthcare systems, this insight offers a critical takeaway: prioritizing patient engagement at an organizational level can significantly mitigate the risk of malpractice incidents and subsequent lawsuits. By fostering a culture of empathy, communication, and patient-centered care, health systems can reduce legal exposure, build trust with their patients, and ultimately enhance the reputation of the entire organization.

When engagement becomes a system-wide priority, the benefits extend far beyond individual patient interactions. Health systems that prioritize patient-provider communication can see measurable improvements in patient satisfaction scores, compliance with treatment plans, and overall care outcomes. These improvements not only reduce the likelihood of malpractice lawsuits but also strengthen the facility's reputation and long-term financial stability.

## Understanding the Risk

Even the most proficient healthcare practitioners make the wrong decision, misread a chart, or make another medical error. The risk of a medical malpractice lawsuit is an unfortunate reality for clinicians and health systems. Often, the risk is not a matter of “if” but “when.” Statistics gathered through 2022 reveal the prevalence of medical malpractice incidents across clinical settings. According to the National Institutes of Health, avoidable errors [occur](#) in 3-15% of medical interventions. In fact, one in three clinicians will be sued [at least once](#) during their career.

The seeming inevitability of a malpractice lawsuit underscores the crucial role of clinical leaders in deploying effective risk management strategies. They will want to utilize every possible tool to mitigate the risk of medical errors and to avoid the possibility of patient harm and potential malpractice liability.

Risks related to malpractice incidents are not limited to litigation. Providers who experience a lawsuit often deal with reputational consequences. Within healthcare teams, malpractice incidents can hamper the building of trust, which

is vital to effective care delivery. A malpractice lawsuit can also impact provider confidence and influence future patient interactions and treatment decisions.

Certain specialties, particularly surgical specialties, are at an increased risk of being involved in a malpractice lawsuit. Yet, the risk is not limited to advanced medical practitioners. Clinicians across the healthcare continuum are at risk of being sued for malpractice.

Hospitals, health systems, long-term care facilities, and other clinical organizations are also at risk. While providers are frequently sued as individuals, several circumstances may also open the facility or healthcare system to litigation risk. The employment status of physicians, a patient's condition and state of consciousness during emergency treatment, and several other factors all determine the level of risk a facility or organization may have in a malpractice case.

**Most** (over 96 percent) successful malpractice claims settle out of court. And while about 80 percent of **cases that go to trial** result in verdicts in favor of defendants, the high costs in terms of both time and resources make even successful defenses an enormous risk for providers, health systems, and other care facilities.

Gladwell concludes his surprising revelation:

***“... patients don't file lawsuits because they've been harmed by shoddy medical care. Patients file lawsuits because they've been harmed by shoddy medical care and something else happened to them. What is that something else? It's how they were treated, on a personal level”***

## Patient Engagement as Risk Mitigation

Malpractice incidents are not just legal problems. They compromise patient safety and negatively impact the public perception of healthcare.

Given that the legal, financial, and reputational stakes are so high, clinical leaders are rightly concerned with how to minimize not only the risk of legal consequences but also the risk of malpractice incidents happening at all. The good news is that improved patient-provider engagement can address both concerns.

As Gladwell points out, patients often sue because they feel as if a provider or facility didn't treat them well. People mostly understand that mistakes, even significant ones, are a potential risk of receiving medical treatment. But when they feel as if a process, system, or provider has dehumanized them, neglected, or ignored their needs, patients are more likely to pursue claims based on a medical mistake.

In an Institute of Medicine **report**, interruptions were identified as likely contributors to incidents of medical error. Other **papers** have also found that interruptions and distractions often disrupt the “flow” of care and hamper providers' ability to deliver care effectively.

Distractions also negatively impact patient interactions. When a provider shifts their focus from the patient, the patient can feel deprioritized or even neglected as they seek care. Too often, technology intended to assist in care delivery can itself become a distraction, creating a barrier between providers and patients. Clumsy processes, disorganized or misplaced equipment, poor communication, and difficult-to-navigate charting systems all contribute to provider distraction, workflow disruption, and lower-quality patient engagement.

So, how does poor patient engagement correlate to malpractice risk? A National Library of Medicine **article** on malpractice risk cites personal, empathetic interaction as one of the top strategies for mitigating malpractice lawsuit risk:

***“Treat every patient as if it were your family member ... Make the patient feel that you care. ... If a patient has a problem, see and touch the patient. ... Defending a physician who cares, empathizes, and interacts with their patients is easier.”***

Engaged patients are less likely to file a malpractice claim. However, empathetic, connected care may also reduce the risk of a malpractice incident occurring at all. When patients are better engaged with their care and caregivers, they better understand their condition and treatment plan. They are more comfortable asking questions and getting clarification when they don't understand something. Engaged patients also tend to be more compliant with their treatment plan, medication regimen, and follow-up routines.

Good patient engagement creates a virtuous cycle in which care delivery and compliance continue to improve, helping to produce better outcomes and reducing the risk of a malpractice lawsuit.

## The Tools of Engagement

Technology can be a source of distraction at the patient's bedside. It can also enhance engagement by giving providers the tools and equipment they need when they need it. When providers don't have to spend time managing processes, they can focus on delivering care and interacting with patients.

It can be easy for clinicians to underestimate a medical scenario's devastating impact on patients. While providers deal with the intimate details of diagnoses and procedures daily, patients are suddenly confronted with overwhelming and difficult-to-process information that they don't fully understand. In a hectic clinical environment, overworked providers and overwhelmed patients may have difficulty

communicating in ways that foster deep engagement.

Technology can bridge that gap. Mobile charting workstations allow providers to share the most up-to-date information, so patients stay informed at every stage of their healthcare journey. Advanced telehealth carts put specialists in the same room as patients and their families, even when they're based in remote locations.

Patients who understand their diagnosis, test results, and treatment plan are more engaged in their care. Beyond encouraging compliance, excellent patient communication also forges better relationships between patients and providers. Bedside technology like tablet carts or wall-mounted EHR terminals offer an excellent opportunity for providers to share results, walk through diagnoses, and discuss the patient's care and keep that information easily accessible for the patient throughout their treatment.

When providers have immediate, convenient access to the equipment, medication, and resources they need, they can focus their attention on patients. Mobile storage and organization carts remove cognitive overhead. Providers aren't distracted by missing or misplaced items and can take more time to explain procedures to patients.

Medication carts keep track of patient dosages and administration schedules, eliminating errors as medicines are distributed and taking care of yet another detail so providers can engage with patients who have questions about their medication or treatment.

Time-tested bedside practices go a long way toward increasing engagement, improving provider-patient connection, and creating an environment that maximizes the odds of a good outcome. The right technology tools enhance and extend these critical practices and help ensure the highest standards of care. Even more importantly, these tools help providers and patients meaningfully connect in ways that help patients take part in their own care.

Beyond the practical implications, better engagement and strong relationships between patients and providers mitigate the risk of a malpractice lawsuit. Gladwell, once again:

***“What comes up again and again in malpractice cases is that patients say they were rushed or ignored or treated poorly. ‘People just don’t sue doctors they like,’ is how Alice Burkin, a leading medical malpractice lawyer, puts it. ‘In all the years I’ve been in this business, I’ve never had a potential client walk in and say, “I really like this doctor, and I feel terrible about doing it, but I want to sue him.” We’ve had people come in saying they want to sue some specialist, and we’ll say, “We don’t think that doctor was negligent. We think it’s your primary care doctor who was at fault.” And the client will say, “I don’t care what she did. I love her, and I’m not suing her.””***

Improved patient engagement is a true win-win scenario that creates better outcomes, reduces the risk of medical errors, and mitigates litigation risk when mistakes occur. For health systems, prioritizing engagement can also enhance organizational reputation, patient satisfaction scores, and long-term financial stability. The technology used in procedure rooms and patient bedsides is not only essential for better patient care but also for supporting a more resilient, efficient, and engaging healthcare system.

Capsa designs and implements scalable solutions that improve the care delivery experience for both patients and providers. From mobile equipment and medication carts that ensure critical resources are always accessible, to charting workstations that provide seamless access to patient data, our solutions empower health systems to operate with precision and empathy. By fostering a culture of patient engagement, these tools help organizations reduce risks, streamline workflows, and ultimately enhance both clinical outcomes and system-wide performance.