

Misconduct Experiences from the Field

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As the acupuncture profession grows in numbers and acceptance by the American public, the problem of the profession policing itself also grows. Formal complaints and disciplinary actions against acupuncturists have been increasing at an alarming rate a sort time ago and continue to be a problem.

In 1996, after 12 years as a practitioner in the field, I become the recipient of a misconduct complaint filed by a non-patient, which indeed caused a dramatic and expensive change in my life. Since then, however, through an arduous, painful and expensive process, I have found that receiving such a claim is not the ultimate disgrace a practitioner may face. This observation is due to several factors:

1. Anyone, including the patient's former girlfriend, may file a complaint.
2. Some people with unstable personalities are prone to complaint filing.
3. Vindictiveness on the part of the person making the complaint is sometimes a motivating factor.
4. Misunderstandings are often contributing factors in these types of cases.
5. Erroneous a belief as it may be, a monetary settlement may be sought by trying to turn a misconduct case into a malpractice case.

There are, of course, legitimate complaints, and the entire profession needs to be aware of them. All practitioners, for instance, should become knowledgeable concerning their patients' psychological backgrounds and report any patient who exhibits signs of sexual or physical misconduct. These reports should be documented in the patient's chart and reported to immediate office personnel. They should also be discussed with the patient if his actions have been minor in nature. These steps must be taken to protect the practitioner, and to document any aberrant behavior prior to it escalating to a dangerous level. Any extremely offensive behavior on the part of the patient necessitates not only a report to office personnel, but to local law enforcement authorities. Treatment on such patients should cease immediately.

In spite of all efforts, misconduct reports may still be filed against practitioners. Under such circumstances, immediately obtaining an attorney is an absolute necessity. Practitioners are allotted 10 days to answer any letters from the Department of Consumer Affairs informing them of a complaint.

Choosing an attorney knowledgeable in misconduct claims can be time-consuming. Unfortunately, there is no safety net for the practitioner in these situations. As assistance group set up by the profession for legal referrals and direction could be very helpful.

Malpractice insurance does not cover misconduct incidents, meaning that practitioners must pay their own attorney fees. In addition, some IPAs will not allow practitioners to participate in their networks while such a case is pending. The practitioner will then lose income until the case is settled. If the case is settled in the practitioner's favor or dropped, the practitioner may rejoin the IPA if they so choose.

Going through an investigation process and the accompanying financial loss is no fun, and can be quite

stressful. The practitioner's best defense is to avoid allowing patients the opportunity for filing a complaint of any type wherever possible. Most practitioners feel complaints will not be filed against them and are quite surprised and unprepared when such an event occurs. As the old saying goes: forewarned is forearmed.

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