


PATRICK MALONE & ASSOCIATES, P.C.

From Tragedy To Justice - Attorneys For The Injured



We win exceptional verdicts and settlements for our clients in cases of brain injury, medical malpractice, wrongful death and other severe injuries.

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from Patrick Malone's book:

The Life You Save: Nine Steps to Finding the Best Medical Care -- and Avoiding the Worst

When Hospital Errors Follow You Home, and Into Your Soul

Dear Patrick,

An estimated 1 million hospital patients every year experience some kind of medical or nursing mistake. Some consequences are minor, others are fatal. "But even if patients are lucky enough to physically heal," says ProPublica, the public interest investigative news site, "their lives may never be the same. Sleep becomes elusive, relationships break apart and a wall of silence appears between patients and the doctors they trusted."

In an article called "[When Harm in the Hospital Follows You Home.](#)" ProPublica.org offers insight about how the harms of hospital errors can endure well beyond the inpatient experience.

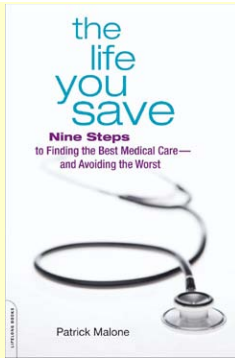
This month we excerpt a conversation between more than 1,500 members of ProPublica's [Patient Harm Facebook community](#) and Dr. Gerald Monk, a professor at San Diego State University who specializes in the aftermath of patient harm for both patients and providers.

This is all too familiar terrain for lawyers like me who work for families of victims of medical error. But there are lessons for all of us in what follows.

What Survivors of Patient Harm Can Expect

Dr. Gerald Monk: The psychological symptoms are similar to those people suffer when exposed to physical, sexual and psychological violence. What all these things have in common is that they take place in settings where we reasonably anticipate that we will be safe and secure. We tend to believe the maxim that the doctor will do no harm.

The symptoms can be physical, such as headaches and



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sleeplessness; or psychological, like depression, anger, guilt and being vulnerable to drug abuse. Patients can even blame themselves.

ProPublica: Many patients say they encounter a "wall of silence"-- providers are unwilling to discuss what happened and that hinders the healing process.

GM: The health-care environment is still dominated by the culture of "deny and defend." Most physicians have been trained not to apologize when things go wrong and warned by their mentors that it can lead to a lawsuit. Actually, the opposite is true. Harmed patients who do not receive an apology and an open and transparent investigation about what went wrong are often left with a strong desire for justice. These feelings of injustice drive them toward a lawsuit.

But legal action can make things worse for the patient. It seldom produces any sense of justice and healing and often leads to even more trauma. In contrast, an open and heartfelt acknowledgment of an actual or perceived medical error could lead to psychological healing. [See our blog, "[Hospitals Accept Responsibility for Patient Harm and How to Resolve It.](#)"]

Another distressing part of this "deny and defend" culture is that many doctors and nurses actually want to apologize when things have gone wrong. Many providers went into medicine because they want to be healers and bring good to people's lives. When things go wrong, it can have catastrophic consequences for providers. They often suffer what is called "second survivor" syndrome. They are traumatized by causing the patient harm and they are isolated and trapped with secret knowledge about what really happened.

Fortunately, a growing trend is changing the culture of deny and defend. For example, large health-care systems within California, Illinois, Maryland, Missouri, Massachusetts and Virginia are trying to overcome the barriers in the health-care environment to open, honest disclosures and encourage apologies when things go wrong. Some doctors are doing the same: disclosing medical errors and making heartfelt apologies. These conversations can be restorative for providers, patients and their families.

How a Hospital Error Hurts the Emotional Healing Process

GM: There are no societal rituals about how to grieve the losses that come from serious medical error in a socially acceptable way.

While people can be kind and compassionate in their efforts to help, eventually there may be a growing sense that "enough is enough" and survivors need to put this behind them and move on with their lives.

When family and friends tell the survivor of patient harm to move on, or suggest they are psychologically unwell, this can add feelings of shame and guilt to the grief they already feel, which may actually make the healing process longer.

PP: Some survivors find the struggle to find acceptance or forgiveness an impediment to moving on with their lives.

GM: The desire for revenge can be a common reaction among patients who have survived a terrible medical error or for families who have had a loved one die because of a medical mistake. This is compounded when the expected legal punishment falls far short of expectations.

Survivors of serious medical error can feel shocked and horrified by the intensity of their own vengeful impulses when they have recovered sufficiently to have those feelings. They may even withdraw from community support because they feel ashamed of wanting revenge.

In many Western cultures, the desire for vengeance is taboo, and society instead pressures victims of harm to "turn the other cheek" and forgive the perpetrator. But misplaced efforts to encourage forgiveness before the victim is ready can just cause more shame and distress.

Victims of an error need somebody who can acknowledge, accept and support them around intense displays of emotion and not withdraw from them but rather step toward them. Harmed patients at this time can benefit from working with a counselor who is not frightened by powerful feelings of rage and revenge.

Counselors trained in dealing with trauma can help survivors speak openly about their experiences without being brushed aside or have the topic changed. This helps a harmed patient begin their own emotional repair. An overarching desire for many harmed patients is to want to move beyond the terrible emotional scars that may accompany the physical ones. Physical injuries may never be healed. Thankfully, with qualified help, emotional injuries can be.

Postscript from Patrick Malone:

Reading about patients' pain and sense of betrayal harkens me back to what I wrote in the opening page of my book, *The Life You Save*. I said:

The sound patients make when they fall off the earth is so quiet that hardly anyone can hear it. For one of my clients, Richard Semsler, a forty-six-year-old attorney, the sound was a thin rustle, as his internist handed him a sheet of paper that told him his life was ruined for no good reason.

You can read [details about the Semsler case we prosecuted](#) for Richard's family, and peruse my closing argument, on our website.

[Learn More About Your Rights and How to Reduce the Harms of Medical Errors](#)

To learn more about medical injuries and potential legal remedies, read our [Fact Kit for Injury Victims](#) from our website. This includes: eleven questions to ask before hiring an attorney for your injury case, plus, starting on page 7 of the kit, my article, "Is It Malpractice?" This will guide you through the process of figuring out if the medical mistake that happened to you or a loved one amounts to medical malpractice, and what you can do about it.

To join ProPublica's Patient Harm Community, where patients, medical professionals, regulators, health-care executives and others who are interested in discussing the causes of and solutions to patient harm meet, [link here](#). You'll find Q&As with experts and links to the latest reports, research and policy proposals.

If you would like to share your experience of a medical misadventure, fill out ProPublica's [patient harm questionnaire](#).

Recent Health Care Blog Posts

Here are some recent posts on our patient safety blog that might interest you.

- [Misdiagnosis is the most common and dangerous medical error](#).
- Egregious [fraud and deception still happen regularly in the advertising of health products to consumers](#). Read about it in the Federal Trade Commission's annual report.
- [Medical devices need better testing](#) before they're placed permanently inside patients' bodies. The current scandals involving vaginal mesh products and metal-on-metal hip replacements are only the tip of the iceberg. Consumers Union is calling for changes in the law.

Past issues of this newsletter:

Here is a quick [index of past issues of our Better Health Care newsletter](#), most recent first.

To your continued health!

Sincerely,



Patrick Malone
Patrick Malone & Associates