



EPISODE 51 Coping With a Malpractice Suit From One Who Knows with Guest Dr. Stacia Dearmin

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SD: “When we find ourselves in these situations, it's easy for us to say I have ended up in this situation because I'm a bad physician. Really the truth is you've ended up in this situation because you're courageous enough to be a physician”.

HF: Welcome to The Doctor's Crossing Carpe Diem podcast. Welcome to The Doctor's Crossing Carpe Diem podcast. If you're questioning your career in medicine, you've come to the right place. I'm Heather Fork, a former dermatologist and founder of The Doctor's Crossing. As a master certified coach, I've helped hundreds of physicians find greater happiness in their career, whether in medicine, a nonclinical job, or something else. I started this podcast to help you discover the career path that's best for you and give you some resources and encouragement to make it happen. You don't need to get stuck at the white coat crossroads. So pull up a chair, my friend, and let's carpe that diem.

Hello, hello and welcome back to the Doctor's Crossing Carpe Diem podcast. You are listening to episode number 51. When we go into medicine, we are not likely thinking too much about how we could cope with a malpractice suit. We know it's a possibility, but we're focused on learning and caring for patients. And how do you prepare for something that's theoretical, but then it can happen.

A patient has an adverse outcome. We get named in a lawsuit. What happens next depends on a lot of factors, but it could be the beginning of one of the hardest and darkest times any of us will ever experience.

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It is known that going through a malpractice lawsuit usually creates anxiety. For some, it can bring on depression, lead to substance abuse, compromise relationships, prompt us to leave medicine or even cause us to take our own life.

When I talk with a client who is sued or is going through litigation, almost all of them say that the practice medicine doesn't feel the same anymore. A lot of the enjoyment is gone and they often see every patient as another potential lawsuit.

I feel the pain of their experience and always wish that I could wave a wand and make it go away. The care for patients is to put yourself on the line every day. The expectation is that you are on a mission and perfectly almost godlike, and when you're not, and none of us are, you can suffer deeply.

To provide some effective strategies for lessening the strain of facing a difficult patient outcome or going through a malpractice suit, I have a most amazing guest joining me today. Her name is Dr. Stacia Dearmin.

She is a physician who after 15 years of successful clinical practice was faced with a heart-wrenching patient outcome and malpractice suit. It was during the incredible emotional challenge of her trial that she made the decision to help other physicians facing similar circumstances.

She started a company called Thrive to support physicians who face hard outcomes and litigation. She also was a thought after speaker on this topic, going to physician's one-on-one and working as a consultant to defense attorneys and companies working to improve healthcare quality.

Dr. Dearmin is here today to share a story and offer some specific strategies for coping with an adverse patient outcome or a malpractice suit. I am truly honored and incredibly



grateful to be able to welcome Dr. Stacia Dearmin to the podcast. Hi Stacia. How are you?

SD: I am well, thank you so much for having me.

HF: I am truly, truly honored. I can't tell you because it's hard to tell this story and it takes a lot of courage and I want to create a sacred space here for you to do that, and really just extend my gratitude that you're willing to do this to help other physicians.

SD: Thank you. Thank you. Yeah, it is a hard story. And I like the idea of a sacred space to tell it. Some of our hardest stories deserve a little bit of a sacred space, don't they?

HF: They do. And I think just the work that we do, caring for patients and putting everything on the line deserves that sacred space to hold what we do and the patient experience.

SD: Yeah. Yeah.

HF: Now where would you like to begin? You can say a little bit to introduce yourself. You can start with a story, what feels right to you.

SD: I am a physician who's mostly practiced in the world of pediatric emergency medicine. I graduated from medical school about 26 years ago. And the events we're going to talk about began eight or nine years ago.

What really led me into this work started with an event that was for me one of the most difficult, maybe the most difficult event I had experienced in my life. More difficult than medical school or residency certainly.

I was in the midst of practice in the emergency department, the pediatric emergency department of a community hospital in a large metropolitan area. And one Friday

afternoon saw a young lady in her late teens or 20, took care of her over the course of several hours and felt comfortable discharging her home. I did at about 05:00 or 6:00 PM, sent her home to follow up with her doctor on Monday.

The next day I came back to work. So now it's Saturday evening, I'm coming in at 5:00 PM to a busy sort of late winter pediatric emergency department. And shortly after I arrived there, a specialist from another part of the hospital approached me to tell me that one of my patients was now in the ICU. It turned out it was this young lady. And that afternoon, the day after I discharged her, she had arrested at home. I was absolutely stunned when I learned this information. I did not anticipate that, or I never would have sent her home obviously.

HF: Oh my gosh. It's unfathomable. I mean, you probably thought, "Did I even hear this right? Did this really happen? They must be talking about somebody else". It's just too mind-blowing.

SD: It is mind-blowing. And I did, the thought went through my head, "Is he joking? Is he pulling my leg?" And then I thought, "Well, no. I mean, how would he know who I saw yesterday? And why would he do that to me?"

HF: Right, right. It's a horrible cruel joke. You just don't do that.

SD: Right, right. She had arrested, she has been transferred by local ambulance to a freestanding ER in her nearby community. The EMT said they have not been able to secure an airway. The people, very competent people at this freestanding ER, were not able to secure an airway. She was flown to our ICU where this specialist who was an EMT had secured an airway.

But as you can imagine, quite a bit of time had elapsed. And when I heard what had happened, I knew immediately that her prognosis was not good. Her prognosis is not



good. And in fact, over the next few days, she remained on a ventilator for a few days, but she passed several days after I saw her.

For me, that was the beginning of a long path. I struggled mightily for quite some time with all kinds of questions about my own competency as a physician, whether I belonged in medicine at all, whether I chose the wrong career to begin with.

I struggled with questions around my own culpability, whether I was in some way responsible for the death of a young person and like most people who go into medicine and I would say, especially, this is true in pediatrics. We go there out of love for our patients. I love babies, children, and young adults. That's why I chose the path of pediatrics. And I love resolving their pain, improving their condition, and promoting them in their journey through life.

This was really quite devastating for me. And I struggled with all the feelings that I now know are just so typical for people in my situation. From shame, to guilt, to sleepless nights, some fear, some anger, lots of things.

About a year after she died, not surprisingly, a lawsuit was filed against me. And that process extended over a period of about two and a half years, at the end of which I went to trial for three weeks. Now we're three and a half years beyond the time of her passing. I went to trial for three weeks.

And along the way there, quite by chance or serendipity or divine intervention, I don't know, I stumbled across a TED talk on the topic of physician suicide. The title did not give away that that was a subject or I never would have watched it in the middle of my trial. But I watched this TED talk and was stunned to learn how high the numbers are. This speaker said that we lose the equivalent of one medical school every year in the United States.



HF: Every one medical school class. Yes. Yes.

SD: No, one medical school because it's like 400 physicians.

HF: Oh, yeah.

SD: If you think there are like a hundred in a class. A whole school every year. And the next day I found myself in the elevator with my two lawyers saying, "I don't know why so many physicians are committing suicide, but I promise you that what I'm going through is one reason".

And at that point I decided that I was going to take this very difficult, ugly experience and try to make something beautiful out of it. Right then before the trial was even over, I think life put me on the path that I'm on today. Ultimately, the jury rendered a verdict unanimously in my favor but that did not erase the pain and the strain that I had felt. And certainly, it wasn't as though that stress and need for healing was behind me when the verdict came in. There was still a path to be walked to heal.

HF: I wanted to read something that you wrote in this amazing story where you captured this whole experience. And I will link to it because it's beautifully written. There are so many incredible points for anybody going through this experience, but this is what you wrote shortly after you got the news that the patient had passed.

You wrote: "Nurses and social workers sensed my distress and surrounded me over the days to come with warmth and support. Reminders of how highly they thought of me and their concern. I continued to do my work, but they knew me well and could read my confusion and my heartache, even though I had a stoic exterior.



One nurse, a religious person, took me aside and tenderly asked ‘You remember that you don't get to choose who lives and dies, right?’ That took me aback and sent me down in that tiny little place we each actually inhabit.

My mentor friend after hearing the whole story said, ‘Stacia, you know that you are an excellent doctor, don't you?’ At that moment, I generally did not know that, but it helped that she thought so”.

When I read this, it brought tears to my eyes. I just could feel in my gut, the wrenching experience of you being in this place. In my mind I keep asking, how do you deal with the emotions of going through this? This might be a place to share some of your own strategies with physicians.

SD: Well, I think the first thing that the part that you chose to read highlights is that we need support. It is a dark hour. There are many physicians who will refer to these types of experiences as a dark night of the soul. And what we need in those places is support. It's got to come from somewhere.

Now you may want to be choiceful for legal reasons about who you choose to share the medical details of the case with, but that is no reason why you can't talk to people you trust about how you're feeling, how much it hurts to have lost a patient or to have performed a surgery and have it gone wrong, or simply to have not anticipated how things were going to go.

I would say I would encourage people not to hesitate to find that support and it can come from a lot of places. It can come from colleagues. It can come from nurses and other coworkers who you know and trust. It can come from a former medical school classmate who you were close with and haven't seen in five years.



It may come from somebody like your risk manager or case manager at your malpractice insurance carrier. It may come from your parents, your siblings, your dearest friends, certainly a spouse.

I would say don't leave yourself alone any more than you would want to leave someone you love who is going through a dark night of the soul alone. Love yourself by finding that support.

There is actually research that shows that in the face of really devastating adverse outcomes, when those outcomes even injure us, it is social support that determines how well people do in the long run.

HF: And you can be that support too. You have physicians who are going through litigation, reaching out to you or who are having an adverse event.

SD: Right. Yeah. One of the ways that I have discovered where I can provide support is through a coaching relationship. A confidential professional coaching relationship. Part of the path I've followed over the last few years was to become a certified professional coach and meet with people one-on-one to support them through these events.

HF: Getting support, not isolating yourself is so key. And unfortunately, one of the first things they do is tell you don't speak with anyone. You're going through the hardest thing potentially of your life and you're told not to speak with anybody. And what you're saying is you can share how you feel, what you're experiencing. You just don't share details of the case.

SD: Right. Now, there are moments when it's appropriate to share the details. If you're still in the midst of an unfolding clinical situation that is challenging, speak to your colleagues to put heads together, get them to offer you their 2 cents or to support you in a situation that is confusing. No one is ever going to look askance at that.

Certainly, after my patient had her arrest, I turned to my medical director. I felt that he had to know what had happened. And I turned to one particular colleague who I trusted implicitly and felt like I wanted her input on whether there was anything she would have done differently.

I think you can move through clinical care in that immediate aftermath in a high integrity way and down the road that can be explained if it needs to be explained. But then beyond that, you don't want to have everybody and their brother weighing in on the clinical details. You want to just be really choiceful while you share those.

Morbidity and mortality conferences and root cause analyses, peer reviews, those kinds of things, in most states, are legally protected from discovery. Those are also places where you can talk about medical details. But you want to just be aware that you want to be choiceful about how you share that information and which information you share.

To give a very concrete example, I've told you my story about what happened to my patient, and you've drawn a lot of very accurate inferences about how I must have felt without actually telling you any medical details about her case.

HF: True, true.

SD: The nurse had no idea whether she had chronic conditions or not, or why she arrested or whether I now know why she arrested, which I actually don't. We can talk about the feelings without talking about medical decision-making.

HF: Yes. That's a great point. And it's true because just preparing for this podcast, I felt teary-eyed, it brings up a lot of emotion and that's something I wanted to address next is dealing with emotion. And that story that you wrote. You had this powerful metaphor of how you felt from a scene in Star Wars. Do you want to explain that? Because it really created that physical and visceral and emotional feeling that I was projecting on you.

SD: Yeah. Yeah. To really understand this, you have to know that I was probably 12 or 13 when the very first Star Wars movie came out. Now I'm sort of dating myself, right? The one that is now like number four in the series, but was the very first one to ever come out. We called it Star Wars at the time. And so, it made a big impression on me and images from it stuck in my head.

When I found myself at trial and at least twice a day, if not more often, I was going up and down to the 17th floor of the justice center in this elevator with my lawyers. I repeatedly kept having this mental image of Han Solo, Luke Skywalker, Princess Leia, and Chewbacca in that giant trash compactor. And there's some kind of giant serpent-like creature in there. They're surrounded by trash. The walls are closing in and you're feeling like, how are they going to get out of there? There is no way they are going to survive this other than by the dint of their wits and their tenacity.

HF: Yes, Deus ex machina.

SD: That's exactly how it felt at trial. Like we were in a giant trash compactor. The walls were closing in on me. And how were we going to get out?

HF: Because when I think about what you experienced, like getting this news and this reality of it, I feel like I would come out of my skin, that I would go out of my body because I could not hold this truth. How, over time, especially, did you learn to manage these feelings when it's not over in a week, in a month, even in a year?

SD: I would say, first of all, I wouldn't argue that I always managed them with absolute grace. Sometimes the feelings can be overwhelming, and I don't want anyone to beat themselves up if they feel very strong feelings in the midst of all of this. I don't want them to think less of themselves for having all these strong emotions which are very normal.

I would say as far as the mental management of those emotions, for me, I just had to focus on putting one foot in front of the other and looking towards what is the next step that I can take. And if there was no next step, then I had to try to turn my attention elsewhere. And that becomes a repeated practice because the thoughts will come back up and you have to try again to turn your attention elsewhere.

But the legal world moves much more slowly than we're accustomed to in the medical world. Sometimes there are lags of several months when you don't know what's going to happen next. And you just have to wait.

I think once it came to trial, but even in the three and a half years leading up to trial, for me personally, physical walking, not just mentally putting one foot in front of the other, but physically putting one foot in front of the other was extremely helpful to me. Something about movement just benefited me. And we know in fact that movement particularly out in nature is a useful tool for processing all kinds of traumatic experiences.

I think that's why I fell back on it the way I did. Even at trial, I dressed in such a way that I could change into sneakers at lunchtime and walk downtown over the lunch break. I would eat a quick sandwich that I had brought with me and get out there and walk. And certainly, at the end of the day and on weekends, I walked and walked and walked.

I would say for those who can walk, walking is awfully good stress reduction. For those who can't walk, being in a wheelchair is good for stress reduction. Any physical activity is beneficial.

HF: You said focus on the next step that you need to do. Don't keep going off into the future, "what if" thinking, but just stay present. And if there isn't a next step, to see what maybe comes naturally for you. And for you, it was walking and movement. And that



makes a lot of sense because exercise is the number one thing that helps us off-gas, all that stressful emotion that we build up, it has to move through us or it gets trapped. I think that's an excellent point.

We're talking about emotions and feelings that are so difficult and it's natural for us to beat ourselves up to blame, to feel guilty, to go into that shame cave. And we're persistent. We can keep doing this over and over to ourselves even for 15 years.

SD: Yes.

HF: How would you advise a physician who is doing this to him or herself? What is a way out, Stacia?

SD: I would say if you're looking at recovering from a bad outcome or surviving litigation, which is frequently a long arduous process full of twists and turns, what I want you to know about yourself is that the very qualities that drew you into medicine to begin with are the qualities you need to get through this process.

If we look at the research around what makes a strong physician, it is not high standardized test scores, although medical schools select for that. What makes a strong physician is this combination of qualities that include compassion, diligence, self-reflectiveness, humility, some degree of self-competence, and yes, some intelligence.

Those are the qualities you need to bring to litigation. It will feel to you like the lawyers are playing games because the law is structured that way. It feels like there's gamesmanship in it. That does not mean that you need to become a game player. You need to remain grounded in yourself.



Go into interactions with your lawyer from a place of the highest truthfulness and integrity and apply yourself to learning everything they want to teach you about what the process is going to involve, how to perform best at deposition, how to testify at trial if you're one of that one in 10 who ended up at trial.

Come into a deposition or into a courtroom just from that place of very high compassion, calm, humility, and let all of those qualities show. And you're much more likely to have success.

HF: That is brilliant because it's basically just saying honor who you really are and don't let any lies and false beliefs in your head or voices that are telling you differently. It's really a deep trust in yourself, a grounding, which I'm sure you have to keep repeatedly doing to stay rooted in that place.

But it's the truth of you. It's why you're here in the first place, because you went into medicine because you care. And like you said, you loved helping patients. Keep reminding yourself that that is who you are in your fabric, in your core. And other people doing these things like this gamesmanship is what they're doing. It's an act. It's not any statement about you.

SD: That's right. And I think it's important to remember that when we find ourselves in these situations, it's easy for us to say, "I have ended up in this situation because I'm a bad physician". Really the truth is you've ended up in this situation because you're courageous enough to be a physician.

HF: Can you please say that again? Because it is so true.

SD: Right. That you've ended up there because you're courageous enough to get in the trenches and take care of real human beings. You're courageous enough to be a human being who cares for the physiology of other human beings in the face of all sorts of



unknowns and limited knowledge. We don't fully understand the human body yet. We never will. But you're getting in there and you're taking care of people. Having that courage to get in there and do that is what set you up for taking the risk that something would run amuck, right?

HF: You have to give yourself a lot of grace because you were willing to do this.

SD: Yeah. Yeah.

HF: That's grace.

SD: Right.

HF: Now, we're getting close to the end here and I would love to keep you forever. But I'm wondering since you do work with physicians and help them in this space, are there any themes you want to share or even a de-identified story of how you've seen physicians move through this process and transform their own lives?

SD: Well, I think just finding a space to talk with someone in a safe way about what you're going through, I've seen that to be very powerful for people. And it's not just my imagination. That is grounded in research as well. That what physicians, nurses and others need after a difficult outcome or in the face of litigation is the safe space where they receive support ideally from somebody who understands what they're going through.

I think many physicians have had the experience of receiving some support from a mental health professional, but feeling like there was a little bit of a gap in that person's professional understanding of what it was like to go through a lawsuit. They're complimentary resources, so to speak.

I've definitely seen that. I think getting through it in a way that allows you to come out on the other side, feeling that no matter what the series of events that started this off, I have come through with integrity is very empowering. Holding very, very tight to the idea that no matter what fear drives you to want to do, you should hold tight to the fact that you want to respect yourself when all is said and done, I would say is key.

HF: And do you see physicians going back into practice, who were maybe wanting to leave, or finding their heart again, after a traumatic experience like this?

SD: Yes, absolutely. Absolutely. Yes. Yes. I think it's a traumatic experience and it needs space for processing. And then once it's processed, if people can understand for themselves that I do in fact a lot of my patients. I was hurting because I love my patients. That can open the door for that love to bubble back up to the top.

HF: Yeah. I'm just going to review some of the strategies that you mentioned that initially - you said get support, don't isolate yourself and tell people about how you feel. There are certain people you can share information with and process your story. You can also really ground yourself in the qualities that make you a great physician and were reasons why you went into this in the first place. And also hold tight to your integrity and use that to guide your actions and also guide how you see yourself. I think part of that integrity is having a respectful relationship with yourself and not becoming your worst enemy and abusing yourself.

Lastly, I'd love to have you share a bit more about what you offer and how folks can get in touch with you Stacia.

SD: Oh, all right. Probably the easiest place to find me is through my website, which is www.thrivephysician.com. All one word.



HF: And I will link to all of this so you don't have to remember it or write it down. It will be on the Doctors Crossing website.

SD: All right. There people can find me certainly for public speaking engagements, but also that's an easy place to reach out to me. If you want to explore the possibility of coaching, if you'd like to have a first conversation about what coaching looks like and whether it's a good fit for your needs, we can do that.

And then third of all, I have a CME course, an online CME course that is entirely streamable. There is no direct contact with me in the course of taking it, which I think to some people is appealing because they really want privacy. This course is designed to orient physicians or other healthcare providers to the nature of malpractice litigation, and particularly to prepare them for their deposition. Because the deposition is frequently a fulcrum on which the outcome of a malpractice lawsuit will rest.

Malpractice defense lawyers like to say that many cases are won or lost at deposition. This course is three hours and is designed to help you make the most of the preparatory work that you do with your lawyer, go in feeling calm and confident and really give an excellent deposition. They'll find access to all those things there.

HF: Those are incredible resources. I was so excited when I found you on LinkedIn. I was searching on my alumni network for Oberlin College. And that's how I found you.

SD: Oh, wow.

HF: Yes, yes. As soon as I saw you on what you did, I said, we need you and you granted my wish to come on the podcast. Thank you so much, Stacia.

SD: You're making me feel like a fairy godmother that can help.



HF: You are. Now going back to your trash compactor metaphor, you made it out of the trash compactor and you also have recycled the garbage, the trash. You have recycled the trash into a treasure of healing and transformation and bringing it out into the world. Again, thank you for coming on here. I know this is a hard thing to do, and I feel really blessed to have you here. Thank you.

SD: Thank you. It's been my pleasure.

HF: Guys, please feel free to check out the resources on The Doctor's Crossing website. Get in touch with Stacia if you need her. And don't forget to carpe that diem and believe in yourself. Thank you. I'll see you in the next episode. Bye for now.

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Podcast details

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