



Michael Setzen, MD

## Recommendations when on Trial in a Lawsuit

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As I conclude my four years as Chair of the Patient Advocacy Committee, I look back and reflect on what has been a milestone in my career. I want to thank my committee members for assisting me so ably during a period of much turmoil with respect to CPT Coding esp. Denials and unfair business practices that have been unleashed upon us by many of the insurance companies, particularly in the areas of postoperative debridements, use of image guidance, and balloon sinus catheterization.

I will continue to play a significant role on the Board of Directors in the position of Second Vice-President of the American Rhinologic Society. I have been elected as Coordinator-Elect of Practice Affairs for the American Academy of Otolaryngology, so I will continue to battle the issues with respect to practice-related matters. Furthermore, I have been asked to Chair the Professional Liability Committee in September 2009, so this will be yet another practice-related area in which I will strive to assist our membership.

I will concentrate on two topics of interest in this editorial, firstly professional liability, and secondly the importance of in-office CT, or point of service CT. When confronted with a lawsuit, in particular during the period when you are on trial, four points need to be stressed. First, do not settle unless you feel you are at fault, since every settlement is placed in a databank that can be used against you, no matter how small the settlement. Second, choose an appropriate expert witness skilled in the area related to your case. Third, select a skilled attorney, not just any attorney the insurance company assigns you. Fourthly and most importantly, during the trial you must be in attendance in the courtroom so that the jury can see that you are a compassionate physician, and even more critically, so you can assist your attorney in strategizing with respect to what has been said and what needs to be said as the trial moves forward.

As Point of service CT becomes more popular, both patients and otolaryngologists will be recommending this modality of service more and more. It is the opinion of many that point of service CT enhances patient care and, in particular, improves the quality of care that we as otolaryngologists can render. In spite of this, many radiology benefit management companies are out there to prevent us as a specialty from rendering these appropriate services and receiving the necessary reimbursement. RBM's, as they are called, would rather see a radiology-owned office perform these services. In-office CT allows the otolaryngologist to diagnose and treat the patient in one visit with full and complete documentation of the patient's sinusitis. Unnecessary antibiotics are not needed and the patient does not need additional time away from work or school to return for a CT scan. This allows for better patient care and enhances the quality of care rendered to our patients. So with this in mind we will continue to strive to battle these RBM's which are unfairly eliminating the ability of the practicing otolaryngologist to perform in-office CT in the interest of good patient care.