Protecting Yourself during a Malpractice Lawsuit

Protect Yourself Legally
- Don’t discuss the case with anyone outside of designated personnel within your massage therapy practice, including your client.
- Consult with your insurance representative and attorney and follow their advice. Your insurer may provide an attorney experienced in malpractice.
- Don’t attempt to correct or alter the client’s chart; such falsification of documents can place your massage therapy license or your ability to practice in serious jeopardy, even if no lawsuit results. Late entries are acceptable when necessary for the client’s continuing care or well-being but make sure to follow your practice’s policy and procedure regarding them.
- Do not sign or accept any document related to the claim from any party without obtaining approval from your attorney.
- Avoid discussing, commenting upon, or taking issue with any information you receive regarding judicial or administrative proceedings.
- Be sure you do not admit liability, consent to any arbitration or judgment, or agree to any settlement proposal. Report any such demands to your attorney.
- Report immediately to your attorney any communication you receive from your client, client’s attorney or any state or federal administrative agency, licensing or regulatory authority.
- Don’t speak to any other attorney (including your employer’s attorney) without contacting your attorney first. Your attorney may need to be present to protect your interests. Once you’re represented by an attorney, an attempt by another attorney to contact you may be unethical.
- Don’t talk about the case with reporters, clients or staff without first consulting your attorney.

Make Time for Self-care
- Make time to exercise your mind and body. Engage in aerobics, relaxation, yoga or other activities that can enhance your well-being.
- Spend time with your family, but don’t discuss the litigation.
- Be mindful of maintaining good, healthy nutrition.
- In the days prior to officially answering questions or giving testimony, make a special effort to maintain your equilibrium so you won’t be overly exhausted, scattered or anxious when the time comes.
- Don’t obsess. Keep the case “off limits” except when you’re actively engaged in working on it.
- If you have to appear in court, go there ahead of time.
  - Is the courtroom being used? Stay and watch the proceeding.
  - Is it empty? Get a feel for sitting in the witness box.
- Don’t allow the allegations to tarnish your sense of self-worth, either personally or professionally.

Take Steps to Protect Yourself
- Acknowledge that you may be under sufficient stress to compromise your massage therapy practice; if possible, take steps to compensate for this, such as taking time off.
- Notify your employer. Even if you have your own professional liability coverage, your employer will most likely need to notify his or her carrier if the incident happened while you represented the facility as an employee. Your employer may also be named in the lawsuit. There is also a possibility that your employer may have assistance programs to support you emotionally and financially.
- Realize that your employer and colleagues, even when they want to be supportive, may have interests that conflict with yours if they’re codefendants.