Trial Testimony

Understanding the Basics

The Process: Don't Panic!

- Usually, Risk will be contacted by the Attorney General's (AG) office
- Risk is your liaison:
 - We will coordinate schedules,
 - Communicate with the AG,
 - Prepare you to give testimony,
 - Provide you with any documents you might need, and
 - Accompany you to court

Giving Testimony: 3 Sources

- Memory
 - Independent or Refreshed Recollection
- Documentation
 - Based on what you read
- Custom & Practice
 - "I always do it this way..."

Giving Testimony: Memory

- Independent Recollection
- "Refreshed" Recollection
- NO Recollection

Giving Testimony: Memory

- To the best of your ability and recollection
- Do not speculate or guess
- Don't be afraid to admit that you don't remember
- Keep it simple: tell the truth!

Giving Testimony

- What if I can't remember anything about this patient?
- Can I look at my notes in the chart?
- What if my documentation isn't the greatest?

Giving Testimony: Documentation

- The Medical Record
- Other documents
 - Weather report
 - Newspaper
- Your own writings

Giving Testimony: Custom & Practice

- It's not written down anywhere...
- And I don't remember doing it...
- So how can I testify that it happened?
- Because I always...
 - Seclude the patient from others when asking about domestic violence;
 - Ask the admitting clerk to call the Rape Crisis
 Advocate when someone says they've been assaulted;
 - Put the head of the bed up with a patient who has a gravid abdomen;
 - Look patients in the eyes when speaking with them...

Direct Examination

- Open-ended questions, calls for complete answers...
 - "And then what did you do?"
 - "What did you mean by that?"
 - "What did you see?"

Cross Examination

- Questions which suggest the answer
- Usually designed to elicit a "Yes" or "No" response
 - "This is your handwriting, correct?"
 - "Your job is to document your findings, is that right?"
 - "If you thought the patient needed treatment, you would have called for help, wouldn't

Tips & Tricks

- Speculation
 - "I assume..."
 - "I suppose..."
 - "I guess..."
- Over-Answering
 - "Yes, I know what time I cared for the patient because I had a really bad night and was distracted by a precipitous delivery and that took 2 hours..."
 - "Well, the last time I had one of these patients, she wasn't being truthful..."
 - "I saw a 3 cm laceration and it was definitely caused by forcible penetration..."

Tips & Tricks

- Feeling the pull of allegiance to one side or another...
 - Remember: you're not on anyone's side!
- Stay focused on your professional role and don't be intimidated...
 - Don't let them make you feel like you're lying or hiding something if you can't give the answer they want!

