MÆDICA - a Journal of Clinical Medicine

JOURNAL CLUB

The Frequency and Severity of Medical Malpractice Claims: High Risk and Low Risk Specialties

Dr. Carmen CIOFU, MD, PhD

The paper (1) analyze malpractice data between 1991-2005 for 25 medical specialties in USA. It is discussed the cumulative risk among physicians in high and low risk specialties. The age of physicians was 30-70 years (for estimate the cumulative risk career malpractice risk).

The malpractice claim for all physicians was 7,4%/year and 1,6%/year of claim lead to a payments. 78% of all claim did not result in payments to plaintiffs.

The data on malpractice claims were obtained from a nationwide insurance society that provided coverage to physicians (40,916 physicians, respectively 233,738 physicians/years of coverage). Between all 50 states of USA, California was overrepresented (12,2%).

High risk medical specialties for claim/year are: Neurosurgery (19,1%), Thoracic - Cardiovascular Surgery (18,9%), General Surgery (15,3%), Orthopedic Surgery (14,8%), Plastic Surgery (13%), Obstetrics and Gynecology (12%), Urology (10,5%). Low risk specialties are: pathology, Dermatology, Family General Practice, Pediatrics, Psychiatry (mean 5%/year risk for claim).

The proportion of physicians facing a malpractice claim by the age of 65 years is the next: 75% physicians in low risk specialties and 99% in high risk specialties and by the age of 45 years of physicians, 33% of physicians in high risk specialties and 5% in low risk specialties. 80% of physicians in surgical specialties and 74% of physicians in Obstetrics and Gynecology had claim at age of 45 years.

The perceived threat of malpractice among physicians may do to three factors: the risk of claim, the probability of a claim leading to a payment and the size of payment. But there are also indirect costs of litigation as time lost, stress, added work, reputational damage. Nearly 40% of claim were not associated with medical errors.

As conclusions, nearly all physicians in high risk specialties will face at least one claim during their career. That means that is a intense pressure to practice defensive medicine, despite evidence that the scope of defensive medicine is modest !!!

In contrast with malpractice in civilian medical life, the data about the prevalence of malpractice in military health care in USA (2), are scarce. Military physicians provide high quality medical care but the conditions under with care is rendered and the volume of activities make inevitable some injuries attributable to

Comment on a paper:

Anupam B. Jena, Seth Seabury, Darius Lakdawalla, Amitabh Chandra – Malpractice risk according to physician specialty, *N. Engl. J. Med* 2011;365: 629-636.

Sandeep S Mangalmurti, Lindsey Murtagh, Michelle M. Mello – Medical malpractice in the military - *N. Engl. J. Med* 2011; 365: 664-670.

malpractice. No matter how gross the negligence or how severe the resulting injury, active duty service personal were prevented for malpractice by a judicial rule known as Feres doctrine (very controversial). Unlike civilians, service members cannot sue their health care providers for medical injuries incurred while on active duty. Feres doctrine barred malpractice claims and it may not serve the best interests of service members. All service members are entitled to compensation for permanent service-connected injuries, including medical injuries. The military program minimally compensate injuries that significantly affect person's quality of life without resulting in substantial functional deficits. Regarding the conflicts in Iraq and Afghanistan, fewer of 40% of wounded military members were satisfied of current disability evaluation system. Greater transparency would alert patients to their right to seek disability compensation while facilitating learning about medical error in military care system.