Malpractice Payment Rates Down for All Specialties

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The overall rate of paid medical malpractice claims made on behalf of US physicians fell by more than half between 1992 and 2014, a new study shows. However, the median amount per claim increased during the same period.

Adam C. Schaffer, MD, from Brigham and Women's Hospital and Harvard Medical School, Boston, Massachusetts, and colleagues published the results of their study online March 27 in *JAMA Internal Medicine*.

"By linking NPDB [National Practitioner Data Bank] claims data with physician specialty, we found that the rate of claims paid on behalf of all physicians declined by 55.7% from 1992 to 2014, with considerable variation by specialty," the authors write. "Pediatricians had the largest decline (75.8%); cardiologists had the smallest (13.5%)."

Physicians have substantial concerns about malpractice litigation that can affect their clinical decision making. Although information about the rate of claims by specialty could improve physicians' understanding of their specific risk, studies in this area are lacking.

Dr Schaffer and colleagues therefore investigated the trends in paid medical malpractice claims for US physicians, as well as whether they vary by specialty. They linked all NPDB claims data from 1992 to 2014 to physician specialty, analyzing a total of 280,368 malpractice claims for 175,667 physicians.

"The rate of paid malpractice claims for all physicians declined by 55.7%, from 20.1 per 1000 physician-years during 1992-1996, to 8.9 per 1000 physician-years during 2009-2014 ($P < .001$)," the authors write.

However, when analyzed by specialty, the researchers found that the magnitude of the decline varied widely by specialty and was significant in each specialty except cardiology.

Pediatrics had the largest decrease in paid claims, at 75.8% (from 9.9 to 2.4 per 1000 physician-years; $P < .001$), and cardiology had the smallest, at 13.5% (from 15.6 to 13.5 per 1000 physician-years; $P = .15$).

Among the 280,368 claims paid from 1992 to 2014, the mean payment across all periods was $329,565 (all payments adjusted to 2014 dollars). The mean payment increased by 23.3% between 1992-1996 and 2009-2014, rising from $286,751 to $353,473 ($P < .001$). According to the researchers, the increases ranged from $17,431 in general practice ($P = .36$) to $114,410 in gastroenterology ($P < .001$) and $138,708 in pathology ($P = .005$).

Overall, 21,271 (7.6%) claims exceeded $1 million. The percentage of catastrophic claims showed a numerical increase during the study period in 23 of the 24 specialties analyzed, but was statistically significant in only 13 of them.

Neurosurgery had the highest proportion of catastrophic payments, at 13.0% (838 of 6468), followed by obstetrics and gynecology, at 12.4% (4946 of 39,897), and neurology, at 11.8% (353 of 2986); plastic surgery had the lowest proportion, at 2.7% (198 of 7352).

The researchers also analyzed 109,865 paid claims from 2004 (when severity-of-injury outcomes were first included in the NPDB malpractice payment reports) to 2014, and found that 32.1% (35,293) involved a patient death. This rate ranged from 2.7% (68 of 2481) for ophthalmologists to 64.8% (636 of 981) for pulmonologists.

Diagnostic error was the most common type of allegation involved in paid malpractice claims, the authors note. They analyzed 111,066 paid claims from 2004 (when allegation type categories were also first included in malpractice payment reports) to 2014, and found that diagnostic error accounted for 31.8% (35,349) of these claims.

The proportion of paid claims attributable to diagnostic errors also varied markedly among specialties, ranging from 3.5% in anesthesiology (153 of 4317) to 87.0% in pathology (915 of 1052).

The researchers also showed that a small group of physicians in each specialty accounted for a disproportionate share of paid claims. The top 1% of physicians with the highest number of paid claims accounted for 7.6% of all paid claims (21,308 of 280,368 claims).

This also varied across specialties. Dermatology had the highest concentrations of paid claims, with the top 1% of physicians accounting for 14.4% of all paid claims. Pathology and emergency medicine had the lowest concentrations of paid claims, with the top 1% of physicians incurring less than 5% of all paid claims.

Although the drop in the rate of malpractice payments shown in this study is consistent with findings from previous studies, the authors note that specialty-specific information about paid claims may help guide physicians' decision making.

"A better understanding of the causes of variation among specialties in paid malpractice claims may help reduce patient injury and physicians' risk of liability," they conclude.

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