

# Diagnostic physicians at increased risk for medical malpractice claims due to communication failures

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Because clinical evaluation often depends on diagnostic tests, diagnostic physicians have a responsibility to notify referring clinicians when test results reveal urgent or unexpected findings. According to an article selected as the "CME Activity of the Month" in the most recent edition of the *Journal of the American College of Radiology (JACR)*, the rapid growth of diagnostic testing appears to be placing physicians at greater risk for medical malpractice claims for test communication failures.

In their article, Brian D. Gale, MD, MBA, assistant professor of radiology at SUNY Downstate Medical Center in Brooklyn, and colleagues note that during the past decade clinicians have ordered dramatically greater numbers of diagnostic examinations. They also cite a study demonstrating that between 1996 and 2003, malpractice payments related to diagnosis increased by approximately 40 percent.

Contributing factors in malpractice cases associated with communication failures include, for example, failure of physicians and patients to receive results; delays in report findings; and lengthy turnaround time.

Using data from the National Practitioner Data Bank (NPDB), the authors found that the total indemnity payout across all medical specialties for U.S. claims related to the three types of communication failures they studied increased from \$21.7 million in 1991 to \$91 million in 2010. Linear regression analysis of data from 1991 to 2009 indicated

that communications related claims payments increased at the national level by an average of \$4.67 million annually.

Over the same period, NPDB data showed that communication failure awards accounted for an increasing proportion of total U.S. malpractice awards for all providers. The proportion increased by a factor of 1.7, from 0.93 percent in 1991 to 2.31 percent in 2009.

Dr. Gale and his co-authors write that the advent of semi-automated critical test result management systems may improve notification reliability, improve work flow and patient safety, and, when necessary, provide legal documentation. Dr. Gale recommends that when reportable test results arise, healthcare organizations need clear policies that define the responsibility of reporting and referring providers to ensure patient follow-up.

Provided by SUNY Downstate Medical Center

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