Small number of physicians linked to many malpractice claims, researchers say

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Credit: Petr Kratochvil/public domain

A substantial share of all malpractice claims in the United States is attributable to a small number of physicians, according to a study led by researchers at Stanford University and the University of Melbourne.

The team found that just 1 percent of practicing physicians accounted

for 32 percent of paid malpractice claims over a decade. The study also found that claim-prone physicians had a number of distinctive characteristics.

"The fact that these frequent flyers looked quite different from their colleagues—in terms of specialty, gender, age and several other characteristics—was the most exciting finding," said David Studdert, LLB, ScD, MPH, professor of medicine and of law at Stanford. "It suggests that it may be possible to identify high-risk physicians before they accumulate troubling track records, and then do something to stop that happening."

Studdert, who is also a core faculty member at Stanford Health Policy, is the lead author of the study, which will be published Jan. 28 in *The New England Journal of Medicine*.

'Concentrated among a small group'

"The degree to which the claims were concentrated among a small group of physicians was really striking," added Studdert, an expert in the fields of health law and empirical legal research.

The researchers analyzed information from the U.S. National Practitioner Data Bank, a data repository established by Congress in 1986 to improve health-care quality. Their study covered 66,426 malpractice claims paid against 54,099 physicians between January 2005 and December 2014.

Almost one-third of the claims related to patient deaths; another 54 percent related to serious physical injury. Only 3 percent of the claims were litigated to verdicts for the plaintiff. The remainder resulted in out-of-court settlements. Settlements and court-ordered payments averaged $371,054.

"The concentration of malpractice claims among physicians we observed is larger than has been found in the few previous studies that have looked at this distributional question," said Michelle Mello, JD, PhD, MPhil, a co-author of the study and professor of law and of health research and policy at Stanford.

"It's difficult to say why that is," Mello added. "The earlier estimates come from studies of single insurers or single states, whereas ours is national in scope. Also, the earlier numbers are more than 25 years old now, and claim-prone physicians may be a bigger problem today than they were then."

Encouraging greater awareness

The authors recommend that all institutions that handle large numbers of patient complaints and claims develop a greater awareness of how these events are distributed among clinicians.

"In our experience, few do," they write in the paper. "With notable exceptions, fewer still systematically identify and intervene with practitioners who are at high risk for future claims."

The most important predictor of incurring repeated claims was a physician's claim history. Compared to physicians with only one prior paid claim, physicians who had two paid claims had almost twice the risk of another one; physicians with three paid claims had three times the risk of recurrence; and physicians with six or more paid claims had more than 12 times the risk of recurrence.

"Risk also varied widely according to specialty," the authors noted. "As compared with the risk of recurrence among internal medicine physicians, the risk of recurrence was approximately double among neurosurgeons, orthopedic surgeons, general surgeons, plastic surgeons

and obstetrician-gynecologists."

The lowest risks of recurrence occurred among psychiatrists and pediatricians.

Male physicians had a 40 percent higher risk of recurrence than female physicians, and the risk of recurrence among physicians younger than 35 was about one-third the risk among their older colleagues, the study found.

"If it turns out to be feasible to predict accurately which physicians are going to become frequent flyers, that is something liability insurers and hospitals would be very interested in doing," Studdert said.

"But institutions will then face a choice," he added. "One option is to kick out the high-risk clinicians, essentially making them someone else's problem. Our hope is that the knowledge would be used in a more constructive way, to target measures like peer counseling, retraining, and enhanced supervision. These are interventions that have real potential both to protect patients and reduce litigation risks."

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