

# What happens to claim-prone physicians?

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Researchers at Stanford University released findings of a study examining what happens to physicians who experience multiple malpractice claims. Where do physicians with poor malpractice liability records go? Where do they practice? Who would hire them? Stanford professors David Studdert and Michelle Mello wanted to know.

The answers to these questions are described in a new study released March 27 in the *New England Journal of Medicine*. After reviewing more than a decade's worth of data from nearly half a million physicians, Studdert and Mello found that physicians who were sued repeatedly were no more likely to relocate their [clinical practices](#) than colleagues who had no claims. However, they were more likely to either cease practice or, if they continued to practice, to shift to smaller practice groups or solo practice.

"There is an emerging awareness that a small group of 'frequent flyers' accounts for an impressively large share of all malpractice lawsuits," said Studdert, the lead researcher and professor at both Stanford Law School and Stanford University School of Medicine. "This study confirms that, and begins to shed light on the professional trajectories of these physicians."

In a 2016 study, also published in the *New England Journal of Medicine*, Studdert and Mello examined demographic characteristics of claim-prone physicians. "When we presented that work, people kept asking us questions about this group that we couldn't answer, like who would ever hire or insure them," Studdert said. "Now we have a better idea."

## **A small group with many lawsuits**

The research team reviewed data from 480,894 physicians who had 68,956 claims paid against them between 2003 and 2015. The researchers estimated that 2 percent of practicing physicians had two or more paid malpractice claims. Those physicians account for nearly 40 percent of all paid claims, confirming results from their earlier study.

"Our main goal was to follow these multi-claim practitioners over time as they accumulated claims and see where they went and what kind of changes they made to their practices," said Mello, professor of law and

professor of health research and medicine at Stanford and a co-author of the study. "One surprising result was that they were no more likely to relocate than their colleagues."

In the late 1980s, widespread concerns that physicians with poor liability records were moving interstate to put their reputations behind them led Congress to establish the National Practitioner Data Bank. When a malpractice claim is paid on behalf of a health practitioner, or the practitioner is subjected to certain forms of disciplinary action, the information must be reported to the Data Bank. Employers, such as hospitals, are then required to check the Data Bank.

"Given the policy history here, it was gratifying to find that physicians prone to malpractice claims were not flight risks," Mello said, noting that it is clearly harder for physicians with bad records to escape their past than it once was.

## **They don't move, but many go solo**

The study also found that claim-prone physicians were more likely than their peers to quit practicing. Nonetheless, more than 90 percent of physicians who racked up five or more paid claims continued to practice medicine.

The study also showed that claim-prone physicians were much more likely than their peers to shift into smaller practice settings. For example, physicians with five or more claims were more than twice as likely as physicians with no claims to switch to solo practice.

"Compared to practicing in large group practices or hospitals, physicians in small or solo practices are subject to less oversight from administrators and peers," Mello said. "Quality problems with solo practitioner may be more difficult to detect and report. From a patient

safety standpoint, this is the study's most troubling finding. Frankly, solo [practice](#) is the last place we want practitioners who pose patient safety risks to be working."

While a single [malpractice claim](#) is a [weak signal](#) that there's a quality problem, when there are repeated paid claims over a relatively short period of time, that sends an important signal about patient safety risk, Studdert said.

"We think the study's main message is that regulators and the companies that provide physicians with liability insurance should be paying closer attention to this signal," Studdert said. "I wouldn't want my family members to be treated by a [physician](#) who had paid out six [malpractice claims](#) in the past few years. Who would?"

**More information:** David M. Studdert et al. Changes in Practice among Physicians with Malpractice Claims, *New England Journal of Medicine* (2019). [DOI: 10.1056/NEJMsa1809981](https://doi.org/10.1056/NEJMsa1809981)

David M. Studdert et al. Prevalence and Characteristics of Physicians Prone to Malpractice Claims, *New England Journal of Medicine* (2016). [DOI: 10.1056/NEJMsa1506137](https://doi.org/10.1056/NEJMsa1506137)

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