Malpractice Risk, by Physician Specialty

Data are lacking, by medical specialty, on the share of physicians who face malpractice claims and the size of payments and cumulative incidence of such claims. Previous studies used older data with limited geographic coverage, relied on self-reports from limited samples with low response rates, or lacked information on physician specialty or payment size.

To understand malpractice risk by specialty, Anupam B. Jena, Seth Seabury, Darius Lakdawalla, and Amitabh Chandra analyzed data from 1991 through 2005 for nearly 41,000 physicians covered by a large nationwide liability insurer. The data included at least 200 physicians in each of 24 specialties, allowing analysis of malpractice risk, by specialty. (Those in a specialty with fewer than 200 physicians were grouped in a 25th, “other specialties,” category.)

Malpractice Claims

Across specialties, 7.4 percent of physicians annually had a claim, and 1.6 percent made an indemnity payment. Among physicians in neurosurgery, 19.1 percent annually faced a claim, but just 2.6 percent in psychiatry did (Figure 1). Physician age, year, and state of practice did not affect these estimates.

Specialties with higher proportions of claims do not always incur higher proportions of payments. For example, gynecology had the 12th highest average annual share of physicians with a claim but the highest share with a payment.

Indemnity Payments

Across specialties, the mean indemnity payment was $274,887, and the median was $111,749 (Figure 2). Specialties most likely to face indemnity claims were not always those with the highest average payments.

The difference between mean and median reflects a skewed distribution toward large payments in some specialties. Obstetrics and gynecology accounted for the most payments of at least $1 million, followed by pathology, anesthesia, and pediatrics.

Career Malpractice Risk

Most physicians can expect to face at least one malpractice claim over a 30 year career. By 45 years of age, 36 percent of physicians in low-risk specialties are likely to have had at least one malpractice claim, compared to 88 percent of those in high-risk categories. By this same age, just 5 percent in low-risk specialties and 33 percent in high-risk ones are likely to have made at least one indemnity payment. By 65 years of age, 75 percent of physicians in low-risk specialties and 99 percent of those in high-risk ones are likely to have had at least one malpractice claim, and 19 percent of those in low-risk specialties and 71 percent of those in high-risk ones are likely to have had at least one indemnity payment.

Findings and Implications

These results confirm malpractice rates in many high-risk specialties found in earlier research based on self-reporting. The results indicate higher malpractice rates than previously reported...
in low-risk specialties, possibly because of the stigma of a claim in these fields.

The results also indicate that many will never have to make an indemnity payment. Nevertheless, the risk of a claim, the possibility of a claim leading to a payment, and the size of a payment contribute to high levels of perceived malpractice risk among U.S. physicians.

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