

# Malpractice: Nurse Practitioners and Claims Reported to the National Practitioner Data Bank

Kenneth P. Miller, CFNP



## ABSTRACT

The purpose of this manuscript is to review the past 4 years of malpractice allegations against nurse practitioners. Specifically, the article covers 5 areas: states with the highest litigation rates, top 5 allegation groups, specific malpractice allegations, severity of injury as a result of alleged malpractice, and mechanism of payment. The data for this study were derived from the National Practitioner Data Bank as of December 2010.

**Keywords:** judgment, malpractice allegations, National Practitioner Data Bank, settlement, severity of injury

© 2011 American College of Nurse Practitioners

Over the years there has been a steady increase in the number of malpractice allegations against nurse practitioners (NPs). [Figure 1](#) clearly shows that the number of cases is on the rise.<sup>1</sup> In the past 4 years there has been an 18% (270/327) increase in the specific allegations against NPs. In part this increase might be related to the increasing number of practicing NPs in the workforce. Data from the American Association of Colleges of Nursing (AACN) shows that there has been a 28% increase in the number of NPs graduating from 2007 to 2010.<sup>2</sup> During this period the NP graduates increased from 6,911 to 9,638.<sup>2</sup>

But numbers alone don't tell the whole story. Others have noted that changes in autonomy, changes in NP scope of practice, poor litigation laws, and fewer malpractice carriers have all contributed to the current malpractice crisis.<sup>3-7</sup> The purpose of this article is 2-fold: first, to compare the past 4 years of litigation by reviewing data from the National Practitioner Data Bank (NPDB) as of December 2010,<sup>1</sup> and second, to offer a potential rationale for some of these data trends. The manuscript covers 5 specific areas:

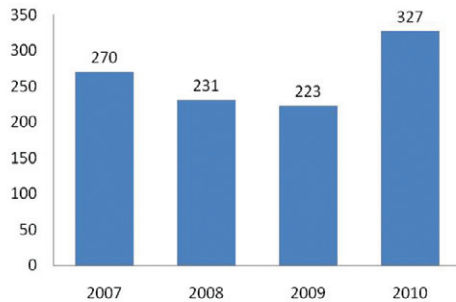
1. States with the highest litigation rates
2. Top allegation groups
3. Specific malpractice allegations
4. Severity of injury due to alleged malpractice
5. Mechanism of payment

## STATE LITIGATION RANKING

A review of the data in [Table 1](#) shows that the ranking of the most litigious states has remained stable for the past 4 years. At least 4 of those 5 states—specifically, Florida, New York, California, and Massachusetts—have held their positions for the past 4 years. These data are congruent with the CNA study that reviewed malpractice cases from 1994–2004.<sup>8</sup> There are multiple reasons why the top litigious states have remained stable over time. Most of these states have very large populations of NPs, thus making them more visible when lawyers use a “shotgun approach” in seeking recompense for their clients. In the “shotgun approach” attorneys frequently name as defendants all parties that have been involved in the care of the patient under consideration.

Other potential reasons could be that the population being cared for in a particular geographic region may have multiple chronic health problems that complicate their diagnoses and vulnerability to injury and thus increases provider liability. Differences in scope of practice or autonomy and in the laws of the states affecting the ease with which suits are initiated or rates of recompense for plaintiffs could also contribute to this phenomenon. For example, in an attempt to decrease their rate of malpractice suits, the state of Florida enacted legislation that mandates mediation and a mandatory settlement conference in medical negligence actions.<sup>9</sup> A

**Figure 1.** Number of Malpractice Allegations Against Nurse Practitioners by Year



Adapted from NPDB, Public Use Data File, SPSS Version, Updated May 10, 2011. Available at: <http://www.npdb-hipdb.hrsa.gov/servlet/PublicUseFileServlet>

critical examination based on verifiable data as to why these states are so litigious needs to be explored more fully before any definitive patterns can be identified.

### MALPRACTICE ALLEGATION GROUPS

Table 2 delineates the top 5 malpractice allegation groups as gleaned from the NPDB.<sup>1</sup> Approximately 44% of the cases (212/501) center around diagnosis, treatment, and medication-related incidents. The ranking of these allegation groups has not changed in the past 4 years.

Obstetrics and monitoring incidents, while relatively low in terms of the number of incidents, still rank within the top 5 groups. The emotional component associated with obstetric accidents, especially if associated with known complications related to the birth of an infant, makes it especially amenable to litigation. A contributing factor to suit filings in obstetrics could also be the high awards. Invariably there is neurological damage to the infant, which will entail lifetime care for medical expenses and potential lost wages. Monitoring incidents, on the other hand, are frequently associated with failure to timely diagnose and detect an untoward outcome.

The data associated with these allegation groups would suggest that greater emphasis needs to be directed at attention to detail. For example, since the majority of litigious incidents are focused on diagnosis and treatment, it would suggest that documenting both the rationale for the primary diagnosis, and the exclusionary differentials that could lead to negative outcomes, would provide a substantive rationale that may decrease litigation. The more thorough the documentation at the time of the incident, the less likely the defendant will have to rely on memory of a long past event.

**Table 1. Top 5 States in Which Malpractice Was Litigated by Year**

2007-2008 (N = 501)		2009-2010 (N = 550)	
• Florida	(N = 26)	• Florida	(N = 32)
• Alabama	(N = 24)	• Washington	(N = 26)
• New York	(N = 23)	• California	(N = 17)
• California	(N = 19)	• New York	(N = 14)
• Massachusetts	(N = 16)	• Massachusetts	(N = 13)

Adapted from NPDB, Public Use Data File, SPSS Version, Updated May 10, 2011. Available at: <http://www.npdb-hipdb.hrsa.gov/servlet/PublicUseFileServlet>.

**Table 2. Top 5 Malpractice Allegation Groups for Nurse Practitioner Incidents by Year**

2007-2008 (N = 501)		2009-2010 (N = 550)	
• Diagnosis-Related	(N = 112)	• Diagnosis-Related	(N = 115)
• Treatment-Related	(N = 80)	• Treatment-Related	(N = 84)
• Medication-Related	(N = 20)	• Medication-Related	(N = 36)
• Obstetrics-Related	(N = 11)	• Obstetrics-Related	(N = 12)
• Monitoring-Related	(N = 11)	• Monitoring-Related	(N = 10)

Adapted from NPDB, Public Use Data File, SPSS Version, Updated May 10, 2011. Available at: <http://www.npdb-hipdb.hrsa.gov/servlet/PublicUseFileServlet>.

**Table 3. Top 5 Specific Malpractice Allegations Against Nurse Practitioners by Year**

2007-2008 (N = 501)		2009-2010 (N = 550)	
• Failure to Diagnose	(N = 72)	• Failure to Diagnose	(N = 80)
• Delay in Diagnosis	(N = 28)	• Delay in Diagnosis	(N = 26)
• Improper Perf.	(N = 15)	• Improper Mgmt.	(N = 24)
• Failure to Recognize a Complication	(N = 14)	• Improper Perf.	(N = 13)
• Wrong or Misdiagnosis	(N = 13)	• Wrong Medication	(N = 12)
• Failure to Monitor	(N = 13)		

Adapted from NPDB, Public Use Data File, SPSS Version, Updated May 10, 2011. Available at: <http://www.npdb-hipdb.hrsa.gov/servlet/PublicUseFileServlet>.

### SPECIFIC MALPRACTICE ALLEGATIONS

Table 3, also mined from the NPDB, lists the specific malpractice allegations levied against NPs. In 2007 and 2008,

Download English Version:

<https://daneshyari.com/en/article/2664076>

Download Persian Version:

<https://daneshyari.com/article/2664076>

[Daneshyari.com](https://daneshyari.com)