



State appellant cases for testicular torsion: Case review from 1985 to 2015



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Summary

Objective

Testicular torsion is one of the most common diagnoses involved in lawsuits in the pediatric patient. Missed diagnosis and diagnostic delays put patients at risk for testicular loss and have resulted in malpractice litigation. Using a national database, we sought to describe testicular torsion malpractice cases tried at the state and federal level and investigate factors associated with successful defense by the provider.

Method

We reviewed the Lexis Nexis academic legal database. We searched all cases using the terms "testicular torsion" and "medical malpractice" from 1985 to 2015. From this search, we compiled various medical and legal aspects of the case including the outcome of the trial. We performed multivariate logistic regression to determine which factors were associated with successful defense at the state level.

Results

Fifty-three malpractice cases of testicular torsion were included. State appeals were in favor of

providers in 26 (50%) of cases. The average time between initial presentation of the patient and the state verdict decision was 5 years. Emergency room (ER) physicians were the most common provider sued (35%). Approximately half of the patients (26, 51%) first presented to the ER, and atypical presentations were common, as 16 (31%) presented with abdominal pain only. The proportion of patients with false-negative ultrasounds was 16 of 25 (64%). If the patient first presented to the ER, the doctor was less likely to have a successful defense (OR = 0.23; 95% CI 0.06–0.79). Most verdicts (8/9, 89%) were in favor of urologists. One urologist lost at the state level because of delayed time to the operating room.

Conclusions

Atypical clinical presentations and false-negative ultrasound findings are common in testicular torsion malpractice litigation at the state and federal level. Providers who used ultrasound were not more likely to win the state appeal, and providers whose patients presented to the ER were less likely to have a successful defense. Although 50% of providers won the state appeal, the time from initial patient presentation and final state verdict decision was substantial.

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Keywords

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Table State cases for testicular torsion by US census regions.

Region	Cases, <i>N</i> (%)	Years to final verdict, mean (SD)
Northeast	14 (26.4)	6.0 (4.1)
Midwest	7 (13.2)	3.6 (1.6)
South	23 (43.4)	4.9 (2.3)
West	9 (17.0)	4.5 (1.9)

Introduction

Testicular torsion is a common urological emergency with an incidence rate of 3.8 per 100,000 person-years [1]. Unfortunately, the morbidity due to testicular torsion is quite severe, as estimates for testicular loss range from 31.9% to 41.9% [1,2]. Misdiagnosis of testicular torsion may lead to treatment delay and subsequent testicular loss. Such patients with testicular loss because of misdiagnosis have proceeded to successful medical litigation [3]. In fact, testicular torsion is one of four emergency diagnoses that are most common for litigation among the pediatric patient population [4,5]. Studying malpractice litigation may improve patient safety, although views of this issue are mixed [6].

Although litigation for testicular torsion is common, very few studies have addressed this issue in detail. To date, only two studies have explored testicular torsion malpractice cases, each exploring different levels of the US judicial system (county versus state) [7,8]. One study found that litigation focused mostly against urologists at the county level [7]. A more recent study found litigation focused mostly against emergency room physicians at the state level [8]. Although these studies are informative, they are mostly descriptive. Additional models are needed in order to best inform physicians, in particular urologists and ER physicians, which practices are most defensible. Prevention of successful litigation, as well as defensible medicine, are often indicators of good medical practice [9].

Thus, we aim to review state and federal malpractice litigation for testicular torsion. In particular, we seek to discover which factors around testicular torsion litigation are protective for physicians, and thus allow for a successful appeal at the state and federal level. The ultimate goal of this study is to help providers identify and avoid events that often lead to malpractice claims while simultaneously emphasizing best practices for patients with testicular torsion.

Materials and methods

We used the LexisNexis *Academic* legal search database, which contains all state and federal cases from January 1790 to today. The database contains source material as case law and reviews from all US Supreme Court decisions and state court decisions from all 50 states [10]. Cases of malpractice usually present at a county level court. If one party in the lawsuit (plaintiff or defendant) appeals the court's decision, these cases then move to a state-level court, which is then captured in the LexisNexis database [10]. Surgical outcomes from malpractice litigation using the LexisNexis *Academic* legal database have been described elsewhere [9].

We searched the database for cases using the term "testicular torsion." Each case was individually reviewed. Only cases that were against a medical provider were included. Cases that were for worker's compensation, disability, or against another person or institution other than a hospital were excluded from the analysis. Each case was independently reviewed for several factors, including

Table 1 Testicular torsion malpractice cases from 1985 to 2015.

	Cases (n = 53)
Age of patient, mean (range)	15.4 (2–47)
Who sued	
Patient only	28 (54%)
Patient and parents	24 (46%)
Average number of providers sued per case, mean (range)	1.4 (1–4)
Type of practitioner sued	
Emergency room physician	25 (35%)
Urologist	9 (13%)
Pediatrician	4 (6%)
Family practitioner	12 (17%)
Radiologist	7 (10%)
General surgeon	5 (7%)
Nurse	10 (14%)
Hospital sued	
Yes	20 (28%)
No	33 (62%)
County verdicts in favor of	
Plaintiff	11 (26%)
Defendant	31 (74%)
State appeal in favor of	
Plaintiff	26 (50%)
Defendant	26 (50%)
Plaintiff	9 (27%)
Defendant	24 (73%)
Total awards/settlement	\$491,421 (\$305,678)
Claim for malpractice	
Missed diagnosis/negligence	52 (98%)
Improper surgery	1 (2%)

Note. Missing data are excluded from the table.

age of patient, parental involvement as the plaintiff, the type of hospital sued (community or academic), number of providers being sued, type of provider sued, as well as the date of presentation and date of the verdict. Medical aspects of each case were reviewed for place of initial presentation, other presumed diagnosis, whether an initial ultrasound or computed tomography (CT) were performed, and the claimed error in medical practice usually provided by expert medical witnesses. False-negative ultrasound results correspond to documented blood flow in the presence of a presumed testicular torsion event. The cases were also reviewed for whether the state and federal verdict was in favor of the plaintiff or the defendant. Although cases were in a uniform format, each case varied in how much detail was provided.

Summary statistics were performed using frequencies and proportions. Unadjusted associations were tested between predictor variables and the outcome variable (successful defense by provider) using univariate logistic regression. We performed multivariate logistic regression to identify factors associated with successful defense of the provider. Covariates with $p < 0.20$ were included in the final model. All analyses were completed in Stata, version 13.1.

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