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# How concerns and experiences with medical malpractice affect dermatopathologists' perceptions of their diagnostic practices when interpreting cutaneous melanocytic lesions

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**Objective:** We sought to identify characteristics associated with past malpractice lawsuits and how malpractice concerns may affect interpretive practices.

**Methods:** We surveyed 207 of 301 (68.8%) eligible dermatopathologists who interpret melanocytic skin lesions in 10 states. The survey assessed dermatopathologists' demographic and clinical practice characteristics, perceptions of how medical malpractice concerns could influence their interpretive practices, and past malpractice lawsuits.

**Results:** Of dermatopathologists, 33% reported past malpractice experiences. Factors associated with being sued included older age (57 vs 48 years,  $P < .001$ ), lack of board certification or fellowship training in dermatopathology (76.5% vs 53.2%,  $P = .001$ ), and greater number of years interpreting melanocytic lesions ( $>20$  years: 52.9% vs 20.1%,  $P < .001$ ). Of participants, 64% reported being moderately or extremely confident in their melanocytic interpretations. Although most dermatopathologists believed that malpractice concerns increased their likelihood of ordering specialized pathology tests, obtaining recuts, and seeking a second opinion, none of these practices were associated with past malpractice. Most dermatopathologists reported concerns about potential harms to patients that may result from their assessments of melanocytic lesions.

**Limitations:** Limitations of this study include lack of validation of and details about the malpractice suits experienced by participating dermatopathologists. In addition, the study assessed perceptions of practice rather than actual practices that might be associated with malpractice incidents.

**Conclusions:** Most dermatopathologists reported apprehension about how malpractice affects their clinical practice and are concerned about patient safety irrespective of whether they had actually experienced a medical malpractice suit. (J Am Acad Dermatol 2016;74:317-24.)

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Survey available at <http://www.jaad.org>.

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Malpractice claims related to the misdiagnosis of melanoma are not uncommon.<sup>1-5</sup> One study reported that among claims submitted to a large national malpractice carrier, 8.6% were claims against pathologists and 14.2% were claims against dermatologists related to skin cancer, melanoma, or both.<sup>2</sup> Two additional studies found that a false-negative diagnosis of melanoma was the most common cause of a malpractice pathology-related claim, representing 13% of 335 pathology-related claims.<sup>3,4</sup> Another study found that melanoma was the second most common source of malpractice litigation in the United States.<sup>5</sup> Historically, dermatologists have been at increased risk of medical malpractice compared with pathologists, but this appears to be changing, as patients are better informed about the role pathologists play in their care.<sup>6</sup>

A paper by Troxel,<sup>2</sup> published in 2003, reported recommendations from a consensus meeting on melanoma risk management. These recommendations derived from the consensus panel included but were not limited to: (1) ordering complete rather than partial excisional biopsies for all melanocytic lesions versus partial biopsies, insisting on good histologic sections (eg, not doing frozen sections on melanocytic lesions), requesting re-excision of “problem” lesions, and commenting on margins, even for benign lesions; (2) obtaining consultation from an expert dermatopathologist; and (3) ordering a panel of immunohistochemical stains to confirm or rule out the possibility of a melanoma.

The Troxel<sup>2</sup> report was published more than 10 years ago, yet we found no literature reporting on the use of the above recommendations. The purpose of this study was to assess the impact that personal experience with malpractice may have on clinical practices related to interpretation of melanocytic skin lesions and determine if dermatopathologists believe that additional testing or other activities, such as those recommended by the consensus panel, will protect them from future

## CAPSULE SUMMARY

- How concerns about medical malpractice affect pathologists' clinical behavior is unknown.
- Pathologists are concerned about both medical malpractice and patient safety. These concerns appear to result in ordering additional tests or consultations.
- Awareness of concerns may reduce the use of unnecessary tests.

lawsuits.<sup>7</sup> Understanding these issues could identify reasons for excessive use of services in patient care and variability in interpretations.

## METHODS

### Study participants

We surveyed 207 dermatopathologists regarding their practice and demographic characteristics, prior experience with malpractice, and perceptions about how malpractice concerns and experiences influence der-

matopathology practice. Study procedures included identifying, consenting, and enrolling dermatopathologists in 10 states, and completing an online survey. All procedures were the Health Insurance Portability and Accountability Act (HIPAA) compliant, and institutional review boards of the University of Washington, Seattle; Fred Hutchinson Cancer Research Center, Seattle, WA; Oregon Health and Sciences University, Portland; Rhode Island Hospital, Providence; and Dartmouth College, Lebanon, NH, all granted approval for study activities.

We identified potential participants from community and university laboratories/practices in several geographically diverse states (California, Connecticut, Hawaii, Iowa, Kentucky, Louisiana, New Jersey, New Mexico, Utah, and Washington). These states were chosen because they were likely to have significant dermatopathology practice as a result of sun exposure. Funding limited our ability to expand the study across the entire nation. A list of 864 potential participants was generated using Internet searches and the registries of professional organizations, which was updated through telephone calls to pathology laboratories/practices. Eligibility requirements included receiving pathology or dermatology training (eg, residency with or without fellowship in anatomic/clinical pathology, dermatology, or dermatopathology), interpreted melanocytic skin biopsies within the previous year, and plans to continue interpreting cutaneous melanocytic lesions for the next 2 years. Our use of the term “dermatopathologists” in this article does not indicate all were board certified in

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