

Urological Malpractice: Claim Trend Analysis and Severity of Injury

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Abstract

Introduction: In the current malpractice environment all urologists are at risk. Claim trend data on costs, types of urological errors and severity of injury in urological surgery malpractice claims are lacking.

Methods: We analyzed physician level claim data from a large professional liability insurer with a nationwide client base. Available data included records on closed malpractice claims from 1985 to 2013. We evaluated insured demographics, total number of closed claims, costs of indemnity payments, costs of defense, types of errors resulting in closed claims and severity of injury in urological claims.

Results: Compared to other medical specialties urology ranks 13th in total claims and 15th in average cost of indemnity payments in the last decade. Most urological claims are dropped, dismissed or withdrawn without indemnity payment. Of closed urological claims 27.2% result in an indemnity payment to the plaintiff. Adjusting for inflation, urological indemnity payments have increased by 60% since the 1980s and average payouts are now greater than \$350,000. Improper performance of a procedure is the most prevalent urological error resulting in closed claims (875 closed claims in the last decade). Procedures involving the kidney (245 closed claims) and prostate (244 closed claims) are most frequently implicated. The majority of urological errors result in temporary or minor permanent injury. Errors resulting in grave injury are the most costly, with average indemnity payments of \$514,844.

Conclusions: Awareness of claim trends and errors implicated can help urologists better understand the current malpractice environment.

Key Words: urology, malpractice, medical errors, insurance, wounds and injuries

Abbreviations and Acronyms

PIAA = Physician Insurers Association of America

OB/GYN = obstetrics/gynecology

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institutional animal care and use committee approval; all human subjects provided written informed consent with guarantees of confidentiality; IRB approved protocol number; animal approved project number.

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Urological surgeons, on average, face more than 2 malpractice claims during their careers.¹⁻³ Navigating the current medical malpractice environment can be stressful, isolating and expensive. Previous studies have shown that urologists implicated in malpractice claims develop altered practice patterns and are more likely to practice defensive medicine.^{2,4} Despite having a potential impact on the careers of practicing urologists, specific details about urological malpractice claims are lacking in the current literature.

Historical overviews of malpractice in urology evaluating the relationship of costs, practice patterns and legislative reform have previously been published and can be found elsewhere.^{1,5} Although the National Practitioner Data Bank is the most frequently cited source of malpractice claims, it does not report the specific specialties of insured physicians and fails to capture data from claims that do not result in an indemnity payment. We seek to provide a more detailed analysis of the current urological malpractice environment, and raise awareness of the costs and most likely outcomes associated with urological claims by analyzing urology specific malpractice data from the Physician Insurers Association of America. The PIAA is the largest professional liability insurer in the country, representing 24 member companies throughout the United States.

Methods

We obtained physician level malpractice claim data from the PIAA, a physician owned professional liability insurer with member companies covering more than two-thirds of America's private practice physicians in 26 specialties. Available data included records on closed malpractice claims from 1985 to 2013. Across specialties, claims were available for all years during which a physician was insured by a member company. All closed claims were available for review, including those with indemnity payments associated with a settlement or jury verdict.

Although data have been available since 1985, we focused our analysis on data from the last decade (2004 to 2013) to better reflect the current climate of the malpractice environment. We did not include data from 2014 or 2015 as claims filed during this period may not yet be closed and these data have not yet been made available by the PIAA. Data were collected in an anonymized format and submitted using the ICD-9. All available claims were closed (resolved with or without payment) or paid (resulting in indemnity payment to the plaintiff).

A subanalysis of urologist specific physician level data was performed to determine insured demographics, total number of closed claims, total and average indemnity

payments, paid-to-close ratios, costs of defense, types of errors/conditions/procedures resulting in closed claims and severity of injury in urological claims. Payment values were normalized to 2013 dollars to account for inflation. We also compared malpractice payments in urology to those in all other medical specialties represented.

Results

Since 2004 urology (2,357 closed claims) has ranked 13th of 26 in total closed claims compared to other medical specialties (fig. 1). Of these claims 642 (27%) resulted in indemnity payments to the plaintiff, totaling nearly \$205 million in indemnity.

Urological claims involved urologists with full-time employment status 97.8% of the time. Of these urologists 54.0% worked in a group practice, 40.0% worked in a hospital based practice and 3.3% worked in solo practice. More than 60% of paid claims occurred in a hospital setting while 30% occurred in an office setting.

The average indemnity payment in urological surgery from 2004 to 2013 was \$319,122 (ranking 15th compared to other medical specialties) (fig. 2). The average indemnity for all other medical specialties during this time was \$329 million. The largest payment in urological surgery in the last decade was \$3.2 million and the largest payment in any specialty was \$13 million (OB/GYN surgery).

Average indemnity payments in urological surgery increased by 60% from 1989 to 2004, reaching approximately \$350,000 in 2004, but have stabilized in the last

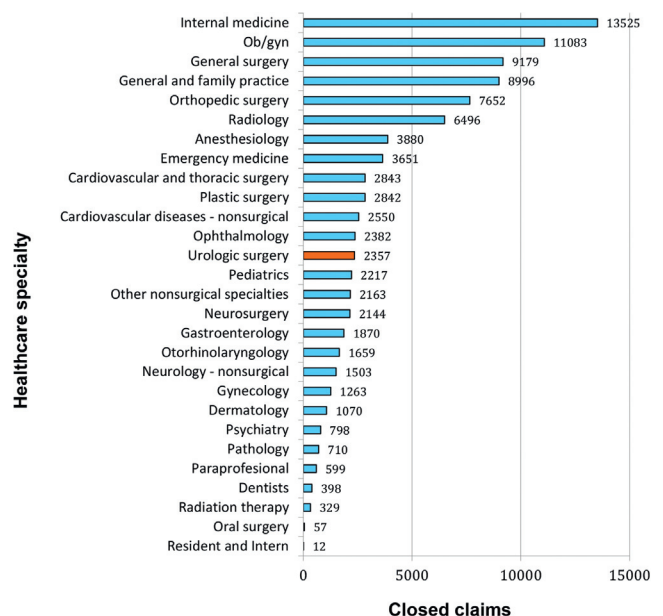


Figure 1. Total closed claims by health care specialty, 2004 to 2013

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