Medical Malpractice

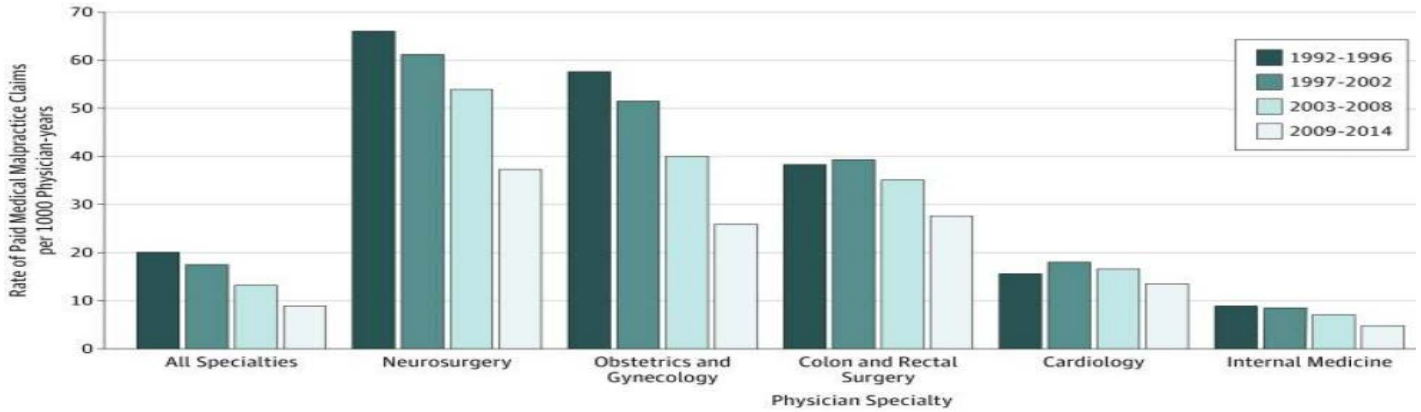
Rapid Clinical Updates
Society of Hospital Medicine

HM and Malpractice

Context: IM has fewer cases than many specialties.[1] HM has similar rates of claims (annual rate of 1.95 per 100 physician years) to other general IM physicians.[2]

Current: Payment rate for HM claims is ~30% which is similar to other IM generalists and specialists.[1]

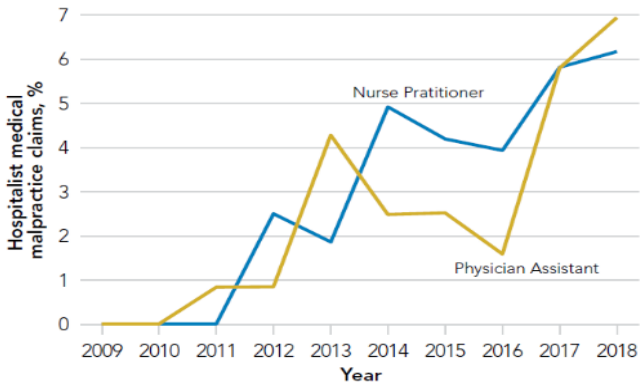
Cutting Edge: Claims rates for HM physicians may be increasing compared to other specialties.



Best Practices

Context: The volatile and unpredictable malpractice environment has led to a sense of conditioned helplessness among some physicians.

Current: Errors in clinical judgment are the strongest predictor of payment (adjusted OR 5).[2] Communication (36.4%) and documentation (19.5%) contribute to more than half of HM malpractice claims.[2] Increased supervision of advanced practice providers may be contributing to increases in HM claims.[2]



Cutting Edge: Reduce note length to avoid copy-paste errors and better express clinical reasoning. Embrace uncertainty with honesty, including charting differential diagnoses, openly discussing doubts.[3]

Disclosure Best Practice

Context: Disclosure of an adverse event to the aggrieved requires a clinician to translate the system-based, "no fault" world of QI to the framework of the aggrieved. This is usually a person-based "fault" world where errors are punished, and optimal behavior is incentivized with reward and fear.

Current: Disclosure of adverse events with a strictly fact-based transparency, via a clinician known to the aggrieved, results in fewer lawsuits and more rapid compensation for the aggrieved when compared to traditional approaches of limited disclosure. [5,6]

Cutting Edge: Disclose truthful information about an adverse event without rushing to attribute responsibility. Make a personal commitment to the aggrieved to participate in completion of all associated investigations.[4]

References:

1. Schaffer AC, et al. Liability impact of the hospitalist model of care. J Hosp Med. 2014;9(12):750-755.
2. Schaffer AC, et al. Rates and Characteristics of Paid Malpractice Claims Among US Physicians by Specialty, 1992-2014. JAMA Intern Med. 2017 May 1;177(5):710-718.
3. Schaffer AC, et al. Rates and Characteristics of Medical Malpractice Claims Against Hospitalists. J Hosp Med. 2021;16(7):390-396.
4. Butterfield S. Document to defeat malpractice suits. ACP Hospitalist. January 2020.
5. Kachalia A, et al. Liability claims and costs before and after implementation of a medical error disclosure program. Ann Intern Med. 2010;153(4):213-21.
6. Govindan M, et al. Automated detection of harm in healthcare with information technology: a systematic review. Qual Saf Health Care. 2010;19(5):e11.