

# Litigation

The conduct of a [lawsuit](#) is called litigation.

[Neurosurgeons](#) have the highest exposure to litigation of all medical and surgical specialties.

The PIAA Data Sharing Project was queried for all claims involving a neurosurgeon with an incident date during calendar year 2006. Data were compared to the AANS National Neurosurgical Procedural Statistics 2006 Survey. Statistical analysis was performed using the chi-square test and Fisher's exact test as appropriate.

Claims were most common after spine surgery, followed by medical management and cranial surgery. Compared to spine surgery, cranial surgery was significantly less likely to result in a claim ( $p < 0.0001$ , relative risk = 0.45). However, average indemnity for spine surgery was \$278,362 versus \$423,539 for medical management and \$438,183 for cranial surgery. The most common alleged factors in spine surgery were improper performance, wrong level, and unindicated procedure. The most common alleged factors in medical management were errors in diagnosis and failure to monitor a patient. The most common alleged factors in cranial surgery were errors in diagnosis and improper performance. For all claims, the most common clinical outcomes were paraplegia, infection, other unspecified complications, and cauda equina syndrome.

Claims are statistically less likely to occur after cranial surgery. However, indemnity is higher in cranial and medical management cases than in spine surgery. Non-surgical treatment is a common source of liability in neurosurgical practice <sup>1)</sup>.

Spinal surgery carries the highest litigation risk versus cranial and peripheral nerve surgery. Claims are most commonly against faulty surgical technique and delayed diagnosis/misdiagnosis, which have the highest success rates and payouts. In spinal surgery, the most common cause of claims is faulty surgical technique. In cranial surgery, the most common cause is lack of information. Claims may occur years after the clinical event, necessitating thorough contemporaneous documentation for adequate future defence. We emphasise thorough patient consultation and meticulous surgical technique to minimise litigation in neurosurgical practice <sup>2)</sup>.

## Malpractice litigation

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<sup>1)</sup>

Taylor CL. Neurosurgical Practice Liability: Relative Risk by Procedure Type. Neurosurgery. 2014 Aug 25. [Epub ahead of print] PubMed PMID: 25161006.

<sup>2)</sup>

Mukherjee S, Pringle C, Crocker M. A nine-year review of medicolegal claims in neurosurgery. Ann R Coll Surg Engl. 2014 May;96(4):266-70. doi: 10.1308/003588414x13814021679834. PubMed PMID: 24780016.

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