

Malpractice claim

Malpractice claim risk refers to the likelihood that a **healthcare provider** or **organization** may face a **lawsuit** or legal action for medical malpractice. Medical malpractice is a term used to describe situations where a healthcare professional, such as a doctor or nurse, deviates from the **standard of care**, resulting in harm or injury to a patient.

The risk of malpractice claims can vary depending on various factors, such as the type of medical practice, the nature of the procedures performed, the experience and qualifications of the healthcare provider, and the quality of patient care provided. Healthcare providers who engage in high-risk procedures or treat patients with complex medical conditions may be at a higher risk of facing malpractice claims.

There are several steps that healthcare providers and organizations can take to minimize the risk of malpractice claims, such as ensuring that they provide high-quality patient care, maintaining accurate medical records, obtaining informed consent from patients, and regularly updating their knowledge and skills through ongoing education and training.

It's important to note that malpractice claims are a serious matter and can have significant financial and reputational implications for healthcare providers and organizations. As such, it's important for healthcare providers to take the necessary steps to minimize the risk of malpractice claims and to have appropriate insurance coverage in place to protect themselves in case of any legal action.

Neurosurgeons, especially spine surgeons, have the highest risk of facing a malpractice claim. Average verdicts in spine surgery litigation has been shown to be over USD 1,000,000/case. This systematic review aimed to clarify the impact of **tort reforms** on neurosurgical healthcare environments across the US, including patient outcomes, practice of defensive medicine, and physician supply aims.

Methods: A systematic literature search was performed using PubMed, Embase, Cochrane and Web of Science databases until 05/13/2022. Study quality was assessed using the quality assessment tool for studies reporting prevalence data.

Results: Five studies (all rated as good quality) were included. Two studies found that in higher-risk state malpractice environments, risk of postoperative complications was higher and odds of non-home discharge were larger (OR 1.1169. 95%CI 1.139-1.200). One study found that neurosurgeons reported practice of defensive medicine by ordering more imaging in a higher risk environment, while this was not shown in a study examining imaging rates in different medicolegal environments. It was observed in one study that non-economic damage caps were associated with a 3.9% increase of physician supply in high-risk specialties.

There was a suggestive association between tort reforms and less practice of defensive medicine among neurosurgeons, improvement in postoperative outcomes in spinal fusion patients, and increase in physician supply. More elaborate studies on the medicolegal environment in neurosurgical practice are needed to give more insight on the current size of the problem that litigation presents in the US and the effects tort reforms have on neurosurgical healthcare environments ¹⁾.

Many studies [report](#) that the most common cause for [malpractice](#) claims is “[diagnostic error](#) including [delayed diagnosis](#)/ [missed diagnosis](#)/ [wrong diagnosis](#)”.

To identify factors associated with severe harm and mortality in malpractice claims due to delayed/wrong diagnosis, Shahaf et al. reviewed records of malpractice claims against Clalit Health Services due to delayed/failed diagnosis in [2010-2019](#).

The study included 354 claims (60.9% males, median age: 48). [Primary care physicians](#) were involved in a third of cases. The most common correct diagnoses were [cardiovascular disease](#) (21%), [infection](#) (19%) and [cancer](#) (16%). The level of [harm](#) was moderate in 38%, and severe in 24%, while 25% died. In a [multivariable](#) analysis, factors associated with severe harm were age, cancer or cardiovascular disease, the department involved (pediatrics, internal medicine or primary care were associated with severe harm), and the physician's specialty (neurology/neurosurgery associated with severe harm). Factors associated with mortality included age, cancer or cardiovascular disease, involvement of the internal medicine department and the physician's specialty (internal medicine associated with mortality).

About half of [malpractice claims](#) involved delayed/failed diagnosis resulting in severe [harm](#) or [mortality](#). Factors associated with severe harm and mortality include age, the diagnosis and the medical specialty involved.

It is important to be familiar with delayed/failed diagnosis as a major cause of harm in health services and in malpractice claims ²⁾.

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Lebouille-Veldman AB, Singh T, Patel Y, Lassarén P, Nawabi N, Frankhauser F, Mammi M, Khawaja A, Mekary RA, Lepard JR, Smith TR. The impact of tort reforms on the neurosurgical malpractice environment: a systematic review of literature. World Neurosurg. 2023 Feb 21:S1878-8750(23)00221-8. doi: 10.1016/j.wneu.2023.02.072. Epub ahead of print. PMID: 36822400.

²⁾

Shahaf P, Imber-Shahar T, Djarasi R, Weistein O, Dreier J. [DIAGNOSTIC ERROR: PREDICTING THE SEVERITY OF HARM]. Harefuah. 2022 Mar;161(3):149-155. Hebrew. PMID: 36259399.

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Last update: **2024/06/07 02:49**

