

Malpractice litigation

Medical malpractice litigation is an issue of major concern in neurosurgery, with 19.1% of neurosurgeons facing a claim annually. Neurosurgery possesses the greatest risk of malpractice of any specialty, likely owing to the complex clinical environment and disease severity. In the present study, we have characterized such litigation to determine the common factors that compel plaintiffs to file these claims.

Methods: WestLawNext, a prominent legal database, was used to identify all cases from 1985 to 2016 related to brain tumors. A total of 225 cases were identified, and each was analyzed for the cause of litigation (multiple causes were permitted). Because many had >1 ground for litigation, the reported percentages were based on the total counts of litigation rather than the number of cases. Additional information was collected from each case, including location, tumor type, and physician specialty.

Results: The cases were distributed across 36 states and U.S. territories: California (n = 42; 20%) and New York (n = 28; 13%) had the greatest number of cases. The top reasons for litigation were failure to diagnose (n = 109; 28%), failure to treat (n = 72; 18%), procedural error (n = 63; 16%), and failure to refer for diagnostic tests (n = 55; 14%). The most common diagnoses included pituitary adenoma (n = 26; 12%), acoustic neuroma (n = 27; 12%), and meningioma (n = 23; 10%).

Conclusions: Malpractice litigation contributes to high overhead and physician burnout and escalates the cost of patient care. We found that benign brain tumors were the most common in litigation and that surgical issues accounted for only a small percentage ¹⁾.

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Kessler RA, Benzil DL, Loewenstern J, Chen S, Bhammar A, Kohli KM, Hadjipanayis CG, Scarrow A, Bederson J, Shrivastava RK. Malpractice Litigation in Brain Tumor Surgery: A 31-Year Analysis of Causative Factors in the United States from the Westlaw Database. *World Neurosurg*. 2019 Feb;122:e1570-e1577. doi: 10.1016/j.wneu.2018.11.112. Epub 2018 Nov 23. PMID: 30476665.

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