
PS#69 – Experiences with Medical Liability

This report presents findings from Periodic Survey of Fellows #69 on medical liability. The survey was initiated by the Committee on Medical Liability and Risk Management (COMLRM) to track trends in pediatricians' experiences with medical liability claims and suits.

PS#69 was an eight-page self-administered questionnaire sent to a random sample of 1,605 active U.S. members of the AAP. The original mailing and six follow-up mailings to recontact nonrespondents were conducted from March to August 2007. After seven mailings we received a total of 919 completed questionnaires for a response rate of 57.3%.

This report compares 2007 findings with data collected on similar surveys conducted in 2001 (PS#48, N=1622, response=64%) and in 1987 (PS#2, N=1000, response=80%). Findings across years that are significantly different at the .05 level or less are noted; otherwise comparisons are not statistically significant. The questions regarding medical liability experiences in 2007 and 2001 exclude current residents.

Experiences with Liability Claims, 1987, 2001, 2007

EVER SUED:

- A similar proportion of pediatricians in 2007 as in 2001 report ever having had a claim or suit brought against them (including claims during residency) (31%, 28%); however, this represents a statistically significant increase from 1987 in claims/suits reported (31% vs 27%, $p<.05$).
- The mean number of times sued in 2007 (1.5) has decreased from that reported in 2001 (1.7, $p<.05$); however it is similar to that reported in 1987 (1.6).

WHO IS SUED:

- Nearly all pediatricians in 2007, 2001 and 1987 who have had a claim or suit filed against them were employed full-time at the time of the incident (94%, 96%, 95%).
- In 2007 and 2001, most of the pediatricians who had a claim/suit filed against them are general practitioners (70%, 63%). About half of those sued are self-employed (57%, 50%); 31% and 38%, respectively, provide patient care but are not self-employed. (Data are not available for 1987).
- In 2007, 2001, and 1987 more males than females report being sued (39% vs 18%; 35% vs 16%; 30% vs 18%, $p<.01$ for each year); however, there was no significant difference between the proportion of males (or females) who reported claims/suits in 2007 compared to 2001 or 1987.

DISPOSITION OF LAWSUIT:

- In 2007 compared to 2001, significantly more pediatricians report their most recent claim/suit was dropped by the plaintiff (46% vs 33%, $p<.01$); this is also an increase from that reported in 1987 (46% vs 36%, $p<.05$). About one-third of pediatricians in each survey year say their most recent claim or suit was settled out of court (35%, 36%, 37%). Similar proportions in 2007 and 2001 report the plaintiff lost the suit (8%, 9%); this represents an increase from that reported in 1987 (0.5%, $<.001$). A similar proportion of pediatricians report the plaintiff won the suit in each survey year (1.8, 2.7, 1.9). Fewer pediatricians in 2007 say their most recent claim/suit is still in progress (10% v 19% in 2001, $p<.01$; 10% v 25% in 1987, $p<.001$).
- The majority of pediatricians in each year who either lost their most recent claim or suit or settled it out of court say it was paid by a commercial insurance carrier (73%, 74%, 77%) who paid less than \$115,001 on their behalf.

- Regardless of the outcome of the most recent claim/suit, about 6 out of 10 pediatricians in both 2007 and 2001 say they were **not** pressured by their insurance carrier or employer to settle the suit out of court. (Data not available for 1987).

PATIENTS' HEALTH INSURANCE AND SITE OF CLAIMS/SUITS:

- The majority of pediatricians in both 2007 and 2001 report that the patients filing claims/suits have private health insurance (57%, 64%); the proportion of pediatricians so reporting in 2007 has significantly decreased from 1987 (57% vs 67%, $p < .01$). The proportion of pediatricians in 2007 reporting malpractice claims or suits filed by patients with public health insurance has increased significantly from 2001 and from 1987 (40% in 2007 vs 28% in 2001, $p < .01$; 40% vs 20%, $p < .05$). The proportion of pediatricians reporting claims/suits filed by patients with no health insurance has decreased across years (3% in 2007 vs 9% in 2001, $p < .05$; 3% vs 15% in 1987, $p < .01$).
- A similar proportion of pediatricians in 2007 compared to 2001 and 1987 say the plaintiffs/claimants are not regular patients (59%, 53%, 58%) and involve a coverage situation (32%, 31%, 27%).
- Fewer pediatricians in 2007 than in 2001 or 1987 say the hospital was the site of the alleged malpractice (57% vs 64%, $p < .01$; 57% vs 70%, $p < .01$), while similar proportions reported the office as the site (31%, 28%) (comparisons with 1987 were not performed due to difference in question wording).
- A similar proportion of pediatricians in 2007 and 2001 others were named in their most recent liability claim/suit (52% and 56%, respectively say the hospital was named, 37% and 44% say another pediatrician was named, 46% and 45% say another physician was named, and 12% and 15% say nonphysician medical staff was named). The proportion of pediatricians naming others involved in their claim/suit has decreased from 1987 to 2007: 61% vs 52% named the hospital ($p < .05$); 60% vs 37% named other pediatricians ($p < .01$) and 23% vs 12% named nonphysician medical staff ($p < .01$); those naming another physician were similar in 1987 as in 2007 (51%, 46%).

Medical Liability Insurance, 2007

- Asked only in 2007, pediatricians report the average annual premium for basic professional medical liability insurance coverage increased from 2006 (\$33,358 compared to \$19,560).
- In 2007, 76% of pediatricians report making no changes in their practice during the past 2 years. However, among those who have made changes (24% of respondents), 65% say medical liability issues were somewhat or very important in their decision to begin or increase referrals of complex cases, and 51% say medical liability was important in their decision to stop providing certain services. Medical liability issues were not named as important in any other practice change listed.