

Presented at the Pediatric Academic Societies (PAS) Annual Meeting, May 2009

Title: Pediatric Medical Malpractice Lawsuits: Who Sues?

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Background: It is a commonly held belief that socio-economic and health insurance status are likely determinants of medical malpractice litigation in the event of a poor outcome. The reason often cited for this is a lack of access to health care, which delays diagnosis and treatment and contributes to a less favorable outcome.

Objective: To determine the relationship between health insurance status and medical malpractice litigation directed at pediatricians over a 20 year period.

Design/Methods: Cross-sectional comparison of the American Academy of Pediatrics Periodic Survey of Fellows, conducted in 1987 (N=1000, response=80%), 1990 (N=1020, response=73%), 1992 (N=1607, response=81%), 1995 (N=1612, response=76%), 2001 (N=1622, response=64%), and 2007 (N=1605, response=57%). These national random sample mailed surveys tracked trends in the experiences of pediatricians with malpractice claims and lawsuits. Data were analyzed by T-test for differences in responses between survey years.

Results: Table 1 shows the distribution of the health insurance status of patients filing malpractice claims or suits between 1987-2007 by survey year.

Health Insurance Status of Plaintiff						
Insurance Type	1987	1990	1992	1995	2001	2007
Private ‡	67%	63%	66%	59%	64%	57%
Public †, ‡	18%	18%	20%	25%	28%	40%
None ‡, §	15%	20%	14%	16%	9%	3%

‡p<.01, 2007 v. 1987; †p<.01, 2007 v. 2001; ‡p<.05, 2007 v. 1987; §p<.05, 2007 v. 2001

In all survey years, the majority of responding pediatricians reported that patients filing claims or suits had private health insurance, although the percentage had decreased significantly in 2007 from that in 1987. Conversely, the percentage of patients filing claims or suits who had public insurance increased significantly in 2007, compared to both 1987 and 2001. Additionally, patients filing claims or suits who had no insurance fell dramatically from 1987 to 2001 and from 2001 to 2007.

Conclusions: These data seem to refute the adage that a significant number of pediatric malpractice lawsuits are filed by plaintiffs with no health insurance. Moreover, they suggest that there has been an increase in the success of enrolling patients into the public health insurance sector, such as Medicaid and S-CHIP. Finally, there may be a parallel in that access to legal care may be comparable to access to medical care.