PERIODIC SURVEY OF FELLOWS
Division of Child Health Research
American Academy of Pediatrics

EXECUTIVE SUMMARY

PERIODIC SURVEY OF FELLOWS
Division of Child Health Research
American Academy of Pediatrics

EXECUTIVE SUMMARY

Periodic Survey #29

MEDICAL LIABILITY EXPERIENCES OF PEDIATRICIANS

The American Academy of Pediatrics (AAP) Committee on Medical Liability (COML) initiated Periodic Survey of Fellows #29 to track trends in pediatricians' experiences with medical liability claims and suits. Most of the questions replicate those on Periodic Surveys conducted in 1987, 1990, and 1992. Findings across years that are significantly different at the .05 level or less are noted in the text; otherwise comparisons are not statistically significant (ns).

PS#29 was an eight-page self-administered questionnaire sent to a random sample of 1,612 active US FAAPs. The original mailing and four follow-up mailings to recontact nonrespondents were conducted from April to July 1995. After five mailings we received a total of 1,189 completed questionnaires for a response rate of 76.1%. The questions regarding medical liability experiences exclude current residents and all claims that occurred during residency unless otherwise noted.

Experiences with Liability Claims, 1987 - 1995

Overall there has been little or no change in the frequency or nature of pediatricians' experiences with medical liability claims/suits over the past eight years:

- **EVER SUED:** The proportion of pediatricians who have ever had a claim or suit brought against them (excluding claims during residency) in 1995 is similar to that reported in 1992 and 1990 (28%, 30%, 28%, respectively; ns; data not available for 1987). The proportion of pediatricians who were party to a claim or suit while a resident has also remained the same during this time: 10% (1995), 8% (1992), 10% (1990), ns.

- **WHO IS SUED:** The average number of years in practice among pediatricians who have been sued is nearly the same at all four points in time (18.6, 18.6, 18.0, 17.6, ns). The mean number of times sued remained the same over time: 1.6 for each year. Male pediatricians are more likely to report having had a malpractice claim against them than females: 36% v. 17%, 1995; 36% v. 18%, 1992; 35% v. 16%, 1990; 30% v. 18%, 1987, p<.01, for each year.

- **DISPOSITION OF LAWSUIT:** The proportion of cases that were settled out of court (31%, 1995; 29%, 1992; 31%, 1990; 37%, 1987, ns) and those dropped by the plaintiff (37%, 35%, 30%, 36%, ns) did not significantly differ over the four time periods. In 1995, as in 1992 and 1990, the percentage of pediatricians who reported the plaintiff lost the case increased significantly from that reported in 1987


In 1995 and 1992, 2% of pediatricians said the plaintiff won the case compared to 0% and .1% in 1990 and 1987, respectively, (p<.05). The remainder of the respondents said their first claim or suit was still in process.

- In 1995 only, pediatricians were asked about pressures to settle claims. Nearly two-thirds of pediatricians with claims or suits against them (63%) reported experiencing little or no pressure to settle out of court by their employer or insurance carrier; 25% experienced some pressure, while only 12% said there was a great deal of pressure to settle. Where an out of court settlement was reached, 10% of those pediatricians reported using alternative dispute resolution (ADR) mediation. One-third of pediatricians reported claims were filed before the National Practitioner Data Bank reporting requirement (NPDB) began; among those who said their most recent claim was filed after the NPDB began (September 1990), 59% said the NPDB did not influence the decision to bring the claim to court or to settle out of court, 10% said it was an influence, 27% said they didn't know, and 3% were not aware of the NPDB reporting requirement.

- **PATIENT INSURANCE STATUS:** In 1995 only, pediatricians were asked to identify the source of payment for suits won or settled out of court: 76.5% were paid by a commercial insurance carrier, 21.0% were paid by a self-insured institution, the remainder did not know. In 1995, as in 1992, 1990, and 1987, there were no significant differences in the proportion of pediatricians reporting type of health insurance for patients filing a claim or suit. A similar majority of pediatricians said the plaintiffs were privately insured (59%, 66%, 63%, 67%, ns). In 1995, 25% of plaintiffs had government-purchased (ie, Medicaid) health insurance; this was similar to previous years (20% in 1992, 18% in 1990, 18% in 1987, ns). The remainder of plaintiffs (16%, 14%, 20%, 15%, ns) were not insured. Similar to 1992, 1990, and 1987, the majority of pediatricians in 1995 reported the plaintiff was a patient who was not seen regularly by them (52%, 55%, 53%, 58%, ns); at all four points in time, about one-third of pediatricians said the claim involved a coverage situation (32%, 32%, 33%, 27%, ns).

- **CHANGES DUE TO SUIT:** In 1995, as in 1992, pediatricians were asked if, in retrospect, there was anything they could have done to lessen the chance of a suit being filed: 20% in 1995 thought there was, while 26% so reported in 1992 (ns). In 1995, 1992, and 1990, few pediatricians who do not participate in community activities said fear of malpractice was a reason for not participating (10%, 11%, 15%, ns); however, 5%, 3% and 2%, respectively, of nonparticipating pediatricians reported they were unable to get malpractice coverage for community-based activities (p<.05, 1995 v. 1990). In 1995 only, an overwhelming majority of pediatricians who have had a claim or suit brought against them (92%) said that being sued did not change the amount of time they spend directly caring for patients.

K.O’Connor  
10/27/95