

Chronic Pain Malpractice Claims Continue to Rise

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The American Society of Anesthesiologists' Closed Claims database shows that in the decades since its start, in 1985, malpractice claims for surgical anesthesia have fallen while those for chronic pain management have increased, accounting for 18% of all claims in the 21st century [Metzner J et al. *Best Pract Res Clin Anaesthesiol.* 2011]. Kelly A. Pollak, MD, University of Washington Medical Center, Seattle, Washington, USA, presented findings from an analysis of overall trends in claims for chronic pain management malpractice from 1980 to 2012.

The goal of the study was to examine trends in pain medicine malpractice claims and associated treatment modalities and outcomes. Dr Pollak and colleagues analyzed 10 367 anesthesia malpractice claims during that time. They compared trends in the number of pain medicine malpractice claims to the number of pain anesthesiologists (via American Medical Association surveys) and to the number of pain procedures performed (via the National Anesthesia Clinical Outcomes Registry database).

Their analysis identified 1037 chronic pain claims and 8545 surgical, obstetric, and acute pain claims for care delivered from 1980 to 2012. Data came from the Anesthesia Closed Claims Project Database, which included 10 093 claims. Logistic regression on year, Fisher exact test, and chi-squared analysis were used to analyze trends in chronic pain claims over time.

Chronic pain management claims increased as a proportion of anesthesia malpractice claims from 1980 to 2012 (OR, 1.092; 95% CI, 1.081 to 1.103; $P < .001$), constituting 3% of anesthesia malpractice claims in the 1980s and about 18% in the period from 2000 to 2012. Furthermore, the increase in the number of pain claims (6.3% increase per 10 years) was significantly greater ($P < .001$) than the increase in the number of pain anesthesiologists (2% per 10 years). The types of management associated with claims also changed over time. Medication management accounted for 2% of all chronic pain claims in the 1980s and 18% after 2000 ($P < .001$). Claims related to cervical injections were significantly greater in the 21st century as compared with the 2 earlier decades, composing one-third of all chronic pain claims ($P < .001$). Implantation, removal, and maintenance of devices were also significantly higher in the 21st century as compared with previous decades.

Complications associated with chronic pain claims changed over time. Death, severe nerve injury, and temporary minor injuries all accounted for a significantly higher percentage of pain medicine claims in the 21st century as compared with the 2 earlier decades ($P < .001$). More recent claims (48%) were associated with permanent disabling injuries or death.

Potential factors associated with changes in the frequency and severity of adverse outcomes include an overall increase in chronic pain care provided by anesthesiologists or changes in the types of treatments being provided.

Since the establishment of formal pain medicine training programs and subspecialty certification in the early 1990s, the relative proportion of claims has grown out of proportion to the number of pain anesthesiologists. Patients need to be aware of these changes and consider pain management options with a higher degree of suspicion.

With the rise in malpractice claims associated with chronic pain management, anesthesiologists who prescribe opioid medications and those who perform cervical injections should take into account the increase in severe adverse outcomes [Rathmell JP et al. *Anesthesiology.* 2011; Fitzgibbon DR et al. *Anesthesiology.* 2010].

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