

# Professional Misconduct and Physician Discipline

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# What is medical malpractice?

- Malpractice- preventable adverse event due to
  - Negligence
  - Malicious intent

## 4 elements of a malpractice claim

- Assumed existence of a patient/physician relationship
- Deviation from the standard of care
- Preventable injury sustained by a patient
- Proof that the physician's actions have caused the injury
- Plaintiff has burden of proof

# Have we gone too far?

Doctors are more likely to be sued if patients feel they are rude, rush visits or fail to answer questions.



## 1994 Survey

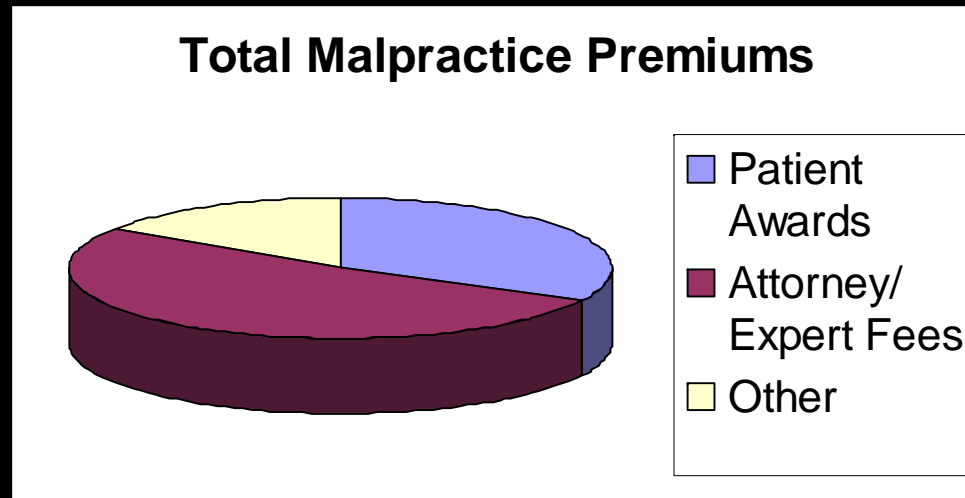
- One study found no difference in the technical care provided by doctors who had been sued and those who had not.
- “. . . a doctor might not have done anything technically wrong but generated enough misunderstanding and anger to provoke a malpractice claim,” said Dr. Gerald Hickson, an author of the study.

# Existing patient protection

- National Practitioner Databank
- Accessible legal system

# Do patients really benefit from malpractice suits?

- In 1996



- An average of 45 months to resolve a malpractice claim

# Economic burden on physicians

- High cost of liability insurance drives doctors away from the profession
- Median award for malpractice cases is 16 times higher than those for other torts and has risen 60% from 93 to 99
- 1/3 of plaintiffs' winners awarded \$1 million or more



# 2001 Top Ten Verdicts

Value	Issue	State
\$3 Billion	Tobacco	California
\$1 Billion	Land Contamination	Louisiana
\$480 Million	Private Airplane Crash	Florida
<b>\$312.8 Million</b>	<b>Nursing Home</b>	<b>Texas</b>
\$ 256 Million	Police Auto Crash	Colorado
\$116 Million	Intellectual Property Theft	Virginia
<b>\$114.9 Million</b>	<b>Medical Malpractice</b>	<b>New York</b>
\$108.2 Million	Inheritance Dispute	Texas
<b>\$107.8 Million</b>	<b>Medical Malpractice</b>	<b>New York</b>
\$94.5 Million	Real Estate	California

# 2001 Top Ten Verdicts

Value	Issue	State
\$28 Billion	Tobacco (Product Liability)	Florida
<b>\$2.2 Billion</b>	<b>Negligence (Pharmacy Mal)</b>	<b>Missouri</b>
\$270 Million	Personal Injury (Burn)	Kentucky
\$225 Million	Product Liability (Rollover)	Texas
\$150 Million	Tobacco (Product Liability)	Oregon
\$122 Million	Product Liab. (Auto Accident)	Virginia
\$97.2 Million	Business Fraud	California
<b>\$95.2 Million</b>	<b>Med Mal (Birth Injury)</b>	<b>New York</b>
<b>\$91 Million</b>	<b>Medical Malpractice</b>	<b>New York</b>
<b>\$80 Million</b>	<b>Med Mal (Birth Injury)</b>	<b>New York</b>
\$80 Million	Prod. Liab/Personal Inj. (Auto)	Missouri

# Consequences for society

- In PA, due to high premiums:
  - 13% of OBGYN's have stopped delivering babies
  - Alleghany county will lose 2 neurosurgeons a year
- In West Virginia
  - 1/2 of doctors were sued over a 5 year period

# Possible solutions

- Trying physicians before professional peers
  - New Mexico
- Capping personal injury claims
  - Texas – proposition 12

# References

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