

Looming malpractice: Waiting for claims resolution takes up more than ten per cent of the average medical career

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The average physician can expect to spend nearly 11 per cent of his or her career with a malpractice claim waiting to be resolved. Some specialists will spend nearly a third of their careers with open claims.

The length of time it takes to resolve a malpractice claim is a stress on patients, physicians and the legal system. The time spent with open claims may be even more distressing for physicians than the financial costs of [malpractice claims](#).

"We believe that the time required to resolve malpractice claims may be a significant reason that physicians are so vocal about malpractice reform, and that any attempt at malpractice reform will need to take the speed with which cases are resolved into account," said corresponding author Anupam Jena, assistant professor of health care policy at Harvard Medical School and general internist at Massachusetts General Hospital.

Using a database from a large national malpractice insurance agency, Jena, along with Seth Seabury, senior economist at RAND Corporation, analyzed the amount of time physicians spend with open claims. Claims were broken down by the specialty of the practitioner, severity of injury and on whether or not malpractice was found. The results will be reported in the January issue [Health Affairs](#), which is being released today.

Two factors contribute to the amount of time a given physician spends with pending claims: the likelihood of a claim in any given year, and the length of the legal process. The typical medical malpractice claim isn't filed until almost two years after the incident occurred, and isn't resolved until forty-three months post-incident. When dealing with open claims, physicians spend up to 70 percent of that time with claims that never result in a payment.

[Neurosurgeons](#), who on average will spend nearly 131 months— 27 percent of their careers—with an open malpractice claim ranked highest. [Psychiatrists](#) spent the least amount of their careers with an open claim at nearly 16 months, and just over 3 percent of their careers.

The study is part of a larger project to understand how malpractice works and to investigate possible improvements to the system. In a 2011 *New England Journal of Medicine* article, Jena and colleagues first published their findings about the variation of risk of malpractice among specialties.

The researchers recommend exploring policy strategies for speedier resolution, including tort reform and alternative dispute management tools that can expedite the process and help limit meritless claims.

Even cases that are dismissed before trial take a long time. In previous studies, the researchers found that dismissed cases take 18 months to two years, cases that are settled take two to three years, and cases that go to jury take approximately four years to adjudicate.

"That's a very long time for a patient or a physician to have to wait for resolution," Jena said.

The researchers noted that the stress of enduring numerous lengthy lawsuits may not only explain why malpractice reform is so staunchly

advocated by physicians but may also lead to expensive defensive medicine which contributes to high health care costs.

The best remedy would be to have a system in place where the judicial and health care system could more easily screen out cases that don't meet the legal or medical standards for malpractice, the researchers said. In cases where [malpractice](#) occurs, compensation should be fair and swift, and in cases where there is no merit to the claim, rapid dismissal of the case would prevent significant resources from being wasted.

"Our sense is that we are probably spending too long to resolve many of these cases and that lengthy time to resolution has many unanticipated costs to patients, physicians, and the [health care](#) system as a whole," said Seabury.

Provided by Harvard Medical School

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