

American Medical Association Survey Finds Nearly One in Three Physicians Have Been Sued During Their Careers

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Nearly one in three physicians have been sued for medical malpractice throughout their careers, although the risk varies based on several factors, including specialty, gender, and age. This was one of the main findings of a report analyzing data from the American Medical Association (AMA) 2016-2022 Benchmark Survey published earlier this month. The report "Medical Liability Claim Frequency Among U.S. Physicians" was authored by Jose R. Guardado, a senior economist for the AMA. The survey, which looks at many issues besides liability, is a nationally representative sample of clinical physicians (> 20 hours of patient care per week) who have finished their residency. It is important to note that the liability questions focused on whether the physician had been sued, not the lawsuit's outcome, or whether the lawsuit had any merit.

"The longer a physician has been practicing, the greater the malpractice risk. Approximately half (47%) of physicians age 55 and older had faced at least one lawsuit compared to less than ten percent (9.5%) for younger physicians under age forty."

Not surprisingly, age has a significant impact on the risk of having ever been sued. The longer a physician has been practicing, the greater the malpractice risk. Approximately half (47%) of physicians age 55 and older had faced at least one lawsuit compared to less than ten percent (9.5%) for younger physicians under age forty. Overall in 2022, 31.2 percent of physicians had been sued during their professional careers. This rate is a decline from 34 percent in 2016, although the impact of the COVID-19 pandemic is unclear.

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Women are less likely to have been sued than men. This finding was also reported in the American Academy of Pediatrics (AAP) Periodic Survey of Fellows. Many factors, such as age and choice of specialty, may help explain the gender differential, but even after adjusting for known relevant factors in the AMA survey, women

were 7.2% less likely than men to face a malpractice lawsuit.

Not surprisingly, the greatest contribution to liability risk is the choice of specialty. The specialties with the highest risk of being sued are Obstetrician-Gynecologists (OB/GYN) and General Surgeons. Indeed, 76.2% of OB/GYNs over 55 have been sued, compared to 27.7% of Pediatricians. Neonatologists are, however, at higher risk of being sued than many Pediatricians. This trend was seen in the AAP survey, which found that hospital-based subspecialties such as neonatology were associated with higher malpractice claim risk than outpatient-based specialties. Second, many birth injury lawsuits allege negligence against obstetric care during labor, neonatal resuscitation, and post-delivery care.

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The AMA report is available at the link below. While this column often focuses on the impact of individual court decisions, periodic surveys can provide a big-picture overview of malpractice risk factors and trends over time.

References:

1. Guardado, JR. American Medical Association Policy Research Perspectives: Medical Liability Claim Frequency Among U.S. Physicians. Available at <https://www.ama-assn.org/system/files/policy-research-perspective-medical-liability-claim-frequency.pdf>
2. Bondi SA, Tang SS, Altman RL, et al. Trends in Pediatric Malpractice Claims 1987–2015: Results From the Periodic Survey of Fellows. *Pediatrics*. 2020;145(4):e20190711

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