

# Medical Legal Forum: Systematic Review Examines Medicolegal Claims and Complaints Involving Neonates

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Medical malpractice is a global issue, not just limited to the United States. Indeed, many other countries with national health care systems often have much clearer data on the financial impact of medical malpractice litigation. The United Kingdom's (UK) National Health Service, for example, reported malpractice costs of £8.3 billion (\$11.2 Billion in current US dollars) in 2019/2020. The NHS notes that due to increasing claims values, birth injury claims represented close to 50% of the total claim value despite accounting for less than 10% of the number of claims filed. These claims may involve the neonatal team in addition to the obstetric team, generally concerning the resuscitation and post-resuscitation care of the newborn. They continue to improve safety culture in maternity and neonatal units across the UK.

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This focus, in part, led researchers in the UK to conduct and publish a “[s]ystematic review of medical literature for medico-legal claims and complaints involving neonates.” (BMJ Paediatrics Open 2021;5: e001177) As there is relatively little literature focusing on neonatal malpractice, it is worthwhile to examine their findings. The authors performed a structured search in multiple databases and then examined 378 articles. Twelve articles were selected for inclusion in the systematic review and underwent a detailed thematic analysis. A unique aspect of this work is that multiple countries were included in the review.

The authors determined that there were the following ten major

categories of complaints:

- Delay or incorrect diagnosis
- Delay in or incorrect treatment [not including resuscitation]
- Delay in resuscitation/emergency drugs
- Inappropriate initiation/continuation of resuscitation
- Communication issue
- Medication error
- General improper care
- Equipment issue
- Service issue (includes data / medical records loss)
- Procedural complications

As some complaints ‘fit’ in more than one category and studies did not all use the exact same categories, the listed categories were not quantified or ranked. However, delayed/incorrect diagnosis and delayed/incorrect treatment were cited as the two most frequent categories.

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Understanding the types of claims is certainly relevant when considering neonatal malpractice, but perhaps more important is considering potentially modifiable factors that led to those claims. In the systematic review, the authors listed the following “[f]actors implicated for complaint against neonatal units”:

- Inadequate supervision of junior colleagues in resuscitation setting – delay in senior arriving
- Lack of training of junior doctors in resuscitation
- Culture of work and hierarchy resulting in fear of asking for help
- Errors due to lack of adequate on-site expert medical assistance
- Not adequately listening to maternal or family concerns
- Reduced access to proper equipment in a timely fashion
- System failures (Example: lack of available NICU bed leading to phototherapy delay)
- Lack of training in Communication

- Staff shortage and high workload
- Human factors (Example: fatigue)

The authors appropriately note the study's limitations, including restricting searches to the English language and excluding case reports. They are to be commended for a thorough review of the available literature and a concise but comprehensive thematic analysis. As noted in the review, the ultimate goal is to use this information to "optimize patient outcomes and improve the experience for families requiring neonatal care."

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**References:**

1. *National Health Service. NHS Resolution's Annual report and accounts 2019/20, 2020.*
2. *Aiyengar A, Morris T, Bagshaw K, et al. Systematic review of medical literature for medicolegal claims and complaints involving neonates. BMJ Paediatrics Open 2021;5:e001177. doi:10.1136/bmjpo-2021-001177*

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**Disclaimer:**

**This column does not give specific legal advice, but rather is intended to provide general information on medicolegal issues. As always, it is important to recognize that laws vary state-to-state and legal decisions are dependent on the particular facts at hand. It is important to consult a qualified attorney for legal issues affecting your practice.**

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