

Understanding Factors Associated with Paid Malpractice Claims in Plastic Surgery

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Background

- Plastic surgeons have an approximately 15% risk of being named in a malpractice suit each year
- Fear of facing malpractice can negatively affect practice patterns and surgeon wellbeing
- Current literature is limited in the number of claims evaluated and the availability of variables influencing these cases
- The goal of this study was to contribute to improving patient care and address preventable causes of malpractice litigation

Methods

- Data was obtained through a source of malpractice claims called Candello, including 30% of both paid and unpaid claims in the U.S.
- Retrospective analysis – 2009 to 2018
- Variables – demographics, allegation category, contributing factors, clinical severity, care setting, major injury category, procedure involved, case outcome, and indemnity payment
- A multivariable logistic regression was developed with the case result (paid or unpaid settlement) as the primary outcome variable

Results

- 2,674 malpractice cases identified between 2009 and 2018
- The majority occurred in the outpatient setting (87.1%)
- 26.8% of claims were paid
- Clinical severity was determined to be high in 8.6% of cases
- Emotional trauma was the most frequently cited major injury category (20.9%)
- Major differences between procedure groups were not observed, with consistent severity of injury across categories (Table 1)

	Breast procedures	Other skin/body contouring procedures	Other/ miscellaneous procedures	Facelift procedure	Eyelid procedures	Nasal procedures	P-value
Claims, n (%)	955 (35.7)	818 (30.6)	545 (20.4)	142 (5.3)	109 (4.1)	105 (3.9)	
Injury severity, median (IQR)	4 (3-4)	4 (3-5)	4 (1-5)	3 (1-5)	4 (3-5)	3 (1-3)	<0.0001
Cases closed with indemnity payment, n (%)	235 (24.6)	249 (30.4)	146 (26.8)	33 (23.2)	36 (33.0)	17 (16.2)	0.0046
Indemnity paid, \$, mean (SD)	136,390 (228,959)	265,563 (495,203)	253,451 (411,365)	124,069 (190,106)	146,073 (178,249)	95,115 (164,805)	0.0011

Table 1: Procedure Groups

- Factors significantly *predictive of* and *protective against* a malpractice case closing with payment (Table 2):
 - Predictive (red rows) – poor surgical technique, problems with communication among providers, inadequate informed consent, and deficient documentation
 - Protective (green rows) – issue with technical performance in surgery resulting in a known complication and patient factors (e.g. seeking other surgeons due to dissatisfaction with care or non-adherence)

Conclusions

- Both the financial and clinical severity of malpractice claims in plastic surgery are relatively low
- No substantive differences in liability risk were noted between different procedure groups
- Multiple factors were found to be associated with a malpractice case closing with an indemnity payment
- These data highlight the importance of the informed consent process and managing expectations in the clinical care of surgical patients

Factor	Odds Ratio	Lower 95%	Upper 95%	P-value
Issue with technical performance resulting in a known complication	0.67	0.55	0.81	<0.0001
Poor surgical technique	3.11	2.36	4.12	<0.0001
Problems with communication among providers	2.97	2.01	4.38	<0.0001
Inadequate informed consent	1.58	1.14	2.19	0.0064
Deficient documentation	2.51	1.96	3.20	<0.0001
Patient factors	0.50	0.41	0.62	<0.0001

Table 2: Multivariable Logistic Regression Model Predicting Paid Malpractice Claims