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Malpractice Liability and Health Care Quality

A Review

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Key Points

Question Is greater risk of malpractice liability associated with better quality of care?

Findings In this systematic review of 37 studies of obstetrical care outcomes, patient mortality, hospital readmissions, avoidable hospitalizations, and other measures, statistically significant associations between liability risk and quality-related outcome measures were rarely observed. Most studies focused on inpatient care.

Meaning Most studies in this review found no association between greater risk of malpractice liability and health care quality.

Abstract

Importance The tort liability system is intended to serve 3 functions: compensate patients who sustain injury from negligence, provide corrective justice, and deter negligence. Deterrence, in theory, occurs because clinicians know that they may experience adverse consequences if they negligently injure patients.

Objective To review empirical findings regarding the association between malpractice liability risk (ie, the extent to which clinicians face the threat of being sued and having to pay damages) and health care quality and safety.

Data Sources and Study Selection Systematic search of multiple databases for studies published between January 1, 1990, and November 25, 2019, examining the relationship between malpractice liability risk measures and health outcomes or structural and process indicators of health care quality.

Data Extraction and Synthesis Information on the exposure and outcome measures, results, and acknowledged limitations was extracted by 2 reviewers. Meta-analytic pooling was not possible due to variations in study designs; therefore, studies were summarized descriptively and assessed qualitatively.

Main Outcomes and Measures Associations between malpractice risk measures and health care quality and safety outcomes. Exposure measures included physicians' malpractice insurance premiums, state tort reforms, frequency of paid claims, average claim payment, physicians' claims history, total malpractice payments, jury awards, the presence of an immunity from malpractice liability, the Centers for Medicare & Medicaid Services' Medicare malpractice geographic practice cost index, and composite measures combining these measures. Outcome measures included patient mortality; hospital readmissions, avoidable admissions, and prolonged length of stay; receipt of cancer screening; Agency for Healthcare Research and Quality patient safety indicators and other measures of adverse events; measures of hospital and nursing home quality; and patient satisfaction.

Results Thirty-seven studies were included; 28 examined hospital care only and 16 focused on obstetrical care. Among obstetrical care studies, 9 found no significant association between liability risk and outcomes (such as Apgar score and birth injuries) and 7 found limited evidence for an association. Among 20 studies of patient mortality in nonobstetrical care settings, 15 found no evidence of an association with liability risk and 5 found limited evidence. Among 7 studies that examined hospital readmissions and avoidable initial hospitalizations, none found evidence of an association between liability risk and outcomes. Among 12 studies of other measures (eg, patient safety indicators, process-of-care quality measures, patient satisfaction), 7 found no association between liability risk and these outcomes and 5 identified significant associations in some analyses.

Conclusions and Relevance In this systematic review, most studies found no association between measures of malpractice liability risk and health care quality and outcomes. Although gaps in the evidence remain, the available findings suggested that greater tort liability, at least in its current form, was not associated with improved quality of care.