



A survey of liability claims against obstetric providers highlights major areas of contention

↘ Communication breakdowns and treatment delays are frequent sources of malpractice claims

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An analysis of 882 obstetric claims closed between 2007 and 2014 highlighted 3 common allegations by patients¹:

- **a delay in the treatment of fetal distress** (22%). The term “fetal distress” remains a common allegation in malpractice claims. Cases in this category most often reflected a delay or failure to act in the face of Category II or III fetal heart-rate tracings.
- **improper performance of vaginal delivery** (20%). Almost half of the cases in this category involved brachial plexus injuries linked to shoulder dystocia. Patients alleged that improper maneuvers were used to resolve the dystocia. The remainder of cases in this category involved forceps and vacuum extraction deliveries.
- **improper management of pregnancy** (17%). Among the allegations were a failure to test for fetal abnormalities, failure to recognize complications of pregnancy, and failure to address abnormal findings.

Together, these 3 allegations accounted for 59% of claims. Other allegations included diagnosis-related claims, delay in delivery, improper performance of operative delivery, retained foreign bodies, and improper choice of delivery method.¹

The Obstetrics Closed Claims Study findings were released earlier this spring by the

Napa, California–based Doctors Company, the nation’s largest physician-owned medical malpractice insurer.¹ Susan Mann, MD,

Tips for reducing malpractice claims in obstetrics¹

The Obstetrics Closed Claim Study identified a number of “underlying vulnerabilities” that place patients at risk and increase liability for clinicians. The Doctors Company offers the following tips to help reduce these claims:

Require periodic training and certification for physicians and nurses to maintain competency and facilitate conversations about fetal heart-rate (FHR) tracing interpretation. Both parties should use the same terminology when discussing the strips.

Use technology that allows physicians to review FHR patterns from remote locations so that physicians and nurses are able to see the same information when discussing next steps.

When operative vaginal delivery is attempted in the face of a Category III FHR tracing, a contingency team should be available for possible emergent cesarean delivery.

Foster a culture in which caregivers feel comfortable speaking up if they have a concern. Ensure that the organization has a well-defined escalation guideline.

Where are the really big malpractice awards?

Everything may be bigger in Texas, but New York is the biggest in at least 1 area: large medical malpractice payments. New York had more than 3 times as many \$1 million-plus malpractice awards as any other state in 2014, according to data from the National Practitioner Data Bank (NPDB).¹

New York physicians had 210 malpractice payments of \$1 million or more reported to the NPDB last year, compared with 61 for Illinois, the next-highest state. Rounding out the top 5 were Massachusetts with 49, followed by California with 43, and New Jersey with 41, the NPDB data show.

After taking population into account, New York was still the leader with 10.66 large awards per million residents. Next in this category was the New England trio of Rhode Island, which had 9.42 such payments per 1 million population; Massachusetts (7.26); and Connecticut (6.39).

In 2014, there were 4 states that had no malpractice payments of at least \$1 million reported to the NPDB: Alaska, Kansas, North Dakota, and Nebraska, with Kansas having the largest population. In states with at least one \$1 million-plus malpractice payment, Texas physicians had the lowest rate per million population, 0.22—just 6 awards from a population of 27 million.

Reference

1. NPDB Research Statistics. National Practitioner Data Bank. <http://www.npdb.hrsa.gov/resources/npdbstats/npdbStatistics.jsp>. Accessed July 17, 2015.

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a spokesperson for the company, provided expert commentary on the study at the 2015 Annual Clinical Meeting of the American College of Obstetricians and Gynecologists in San Francisco (see “Frequent sources of malpractice claims” on page 42).

Top 7 factors contributing to patient injury

The Doctors Company identified specific factors that contributed to patient injury in the closed claims¹:

1. **Selection and management of therapy** (34%). Among the issues here were decisions involving augmentation of labor, route of delivery, and the timing of interventions. This factor also related to medications—for example, a failure to order antibiotics for Group A and Group B strep, a failure to order Rho(D) immune globulin for Rh-negative mothers, and a failure to provide magnesium sulfate for women with eclampsia.
2. **Patient-assessment issues** (32%). The Doctors Company reviewers found that physicians frequently failed to consider information that was available, or overlooked abnormal findings.

3. **Technical performance** (18%). This factor involved problems associated with known risks of various procedures, such as postpartum hemorrhage and brachial plexus injuries. It also included poor technique.
4. **Communication problems among providers** (17%).
5. **Patient factors** (16%). These factors included a failure to comply with therapy or to show up for appointments.
6. **Insufficient notes or a lack of documentation** (14%).
7. **Communication problems between patient/family and provider** (14%).

“Studying obstetrical medical malpractice claims sheds light on the wide array of problems that may arise during pregnancy and in labor and delivery,” the study authors conclude. “Many of these cases reflect unusual maternal or neonatal conditions that can be diagnosed only with vigilance. Examples include protein deficiencies, clotting abnormalities, placental abruptions, infections, and genetic abnormalities. More common conditions should be identified with close attention to vital signs, laboratory studies, changes to maternal and neonatal conditions, and patient complaints.”¹ See “Tips for



Frequent sources of malpractice claims



Communication breakdowns and treatment delays are frequent sources of malpractice claims. Susan Mann, MD, spokesperson for The Doctors Company, the nation's largest physician-owned medical malpractice insurer, discusses the underlying practice vulnerabilities revealed by the Obstetrics Closed Claims Study.

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◀ Use this QR code* to listen to Dr. Mann's audiocast or access the audiocast, "A survey of liability claims against obstetric providers highlights major areas of contention," at obgmanagement.com

*Free QR readers are available for Smartphones at the iPhone App Store, Android Market, and BlackBerry App World.

reducing malpractice claims in obstetrics" on page 40.

"Obstetric departments must plan for clinical emergencies by developing and maintaining physician and staff competencies through mock drills and simulations that reduce the likelihood of injuries to mothers and their infants," the study authors conclude.¹ 🚫

Reference

1. The Doctors Company. Obstetrics Closed Claim Study. http://www.thedoctors.com/KnowledgeCenter/PatientSafety/articles/CON_ID_011803. Published April 2015. Accessed May 6, 2015.

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