

# The Patient Sues

Hospitals and physicians have a problem. One out of every six U.S. doctors has been sued for malpractice. Malpractice insurance rates for some Minnesota hospitals are twice what they were in 1969. The increase has been even greater in other states. In the past five years the number of malpractice claims has risen 43%. The average award paid has jumped 200%.

The "rush to sue" phenomenon poses a threat to the delivery of health care. The causes and consequences are complex, but relate generally to the growing demand for more health care. Medicare, Medicaid, and employer-purchased health insurance have swelled the patient population and put great pressure upon the delivery system.

As hospitals and physicians have changed their methods to permit a higher volume of patient care, they have faced greater exposure to legal risks and a higher volume of suits. Hospitals are forced to rely more upon para-medical personnel. Many treatments and tests are done by machines rather than technicians. The physician has less and less time to give each patient. These changes make possible a higher volume of care, but they also increase the risk of malpractice claims.

Most malpractice suits result directly from injuries suffered by patients during diagnosis or treatment. However, studies have shown that it takes more than injury to the patient to prompt him to sue. Indirectly there are many factors that cause people to sue for something that would have been settled with a handshake a few years ago.

A principal influence in the rush to sue is the breakdown of the doctor-patient relationship. Since the physician's time is so limited, the relationship becomes more businesslike and less personal. His image is no longer that of the family doctor sitting up all night with the sick child.

A large percentage of suits are filed in reaction to high bills and impersonal tactics used to recover overdue accounts.

Another factor is the mobility of our culture. Deep neighborhood friendships and community traditions no longer develop. This impersonal environment makes people more apt to sue. In addition, the publicity given to high settlements of some malpractice claims has triggered other suits.

The growing number of malpractice suits has forced insurance companies to raise their rates. These higher costs are passed along to the patient through higher room rates and increased physicians' fees. More importantly, there is an added hidden cost to the health care system. This is due to the practice of defensive medicine.

A U.S. Senate subcommittee report found it increasingly common for the physician to order "excessive diagnostic procedures for patients" as a defense against malpractice suits. The doctor may insulate himself with x-rays, lab reports, and diagnostic tests that he might not otherwise order on the basis of medical judgement. Also hospitalization and specialized consultation are ways of lowering legal risks.

Defensive medicine is wasteful and costly. It may minimize the chance of being sued; but, at the same time, it lowers health care standards. It may provide defensive evidence for claims that do go to court; but, at the same time, it squanders precious medical resources.

The health care system cannot afford to live by either standard. Hospitals presently win only about one half of the malpractice judgements. They cannot pay the costs of the growing number of claims. Neither can they nor their patients tolerate the practice of defensive medicine.

Part of the problem is that our health care system is over-taxed. It cannot provide the vast amount of care that is demanded of it. The present system cannot be expanded fast enough to meet immediate or future needs. The malpractice problem is a social issue which may be one of the strongest factors dictating that we reform our national health care system.

*Courtesy*

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