When will the lawsuit come? For doctors, it’s a matter of time

MAY 19, 2023

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What’s the news: An analysis (PDF) from the AMA finds it may be just a matter of time before a physician is sued. Almost half of physicians 55 or older, 46.8%, reported in 2022 that they had been sued at some point in their careers, according to data from an AMA Physician Practice Benchmark Survey. This compares with about one-third, 31.2%, of physicians overall and less than 10% of those under 40.

In addition, physicians 55 or older had, on average, a one-to-one claim rate—meaning 100 claims per 100 physicians—compared with just 11 claims per 100 physicians for physicians under 40.

Still, despite this strong positive correlation between longer-term claim frequency and age, most claims end with no finding of fault. The report comes on the heels of news that medical liability insurance premium hikes continued for the fourth straight year.

Why it’s important: “Even the most highly qualified and competent physicians in the U.S. may face a medical liability claim in their careers,” said AMA President Jack Resneck Jr., MD. But, he noted, “getting sued is not indicative of medical errors.”

“All medical care comes with risks, yet physicians are willing to perform high-risk procedures that offer hope of relief from debilitating symptoms or life-threatening conditions,” noted Dr. Resneck, a San Francisco dermatologist. “When physicians are sued, two-thirds of civil liability claims are dropped, dismissed or withdrawn without a finding of fault. When claims proceed to trial and are decided by a verdict, the defendants prevail in nearly 9 out 10 cases.”

Even more than age, medical specialty produces the biggest variations in liability claim frequency, with surgical specialties in general at highest risk and internal medicine subspecialties at lowest risk.

Some 62% of ob-gyns and 59.3% of general surgeons had been sued to date, compared with just 7% of allergists-immunologists and 8% of hematologists-oncologists. Even before turning 55, 43.9% of general surgeons and 47.2% of ob-gyns had been sued.

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Learn more: Given the heavy cost associated with a litigious climate and the significant financial toll it takes on the nation’s health care system, the AMA continues to work with state and specialty medical associations and other stakeholders in pursuit of both traditional and innovative medical liability reforms that strike a reasonable balance between the needs of patients who have been harmed and the needs of millions of Americans who need affordable, accessible medical care.

The 2023 edition of “Medical Liability Reform NOW!” (PDF) gives physicians the facts they need to address the broken medical liability system, including updates on state laws, innovative reforms, efforts to reform the system at the federal level, and high-impact court cases at the federal and state levels.