

Research Brief

Rapid Scoping Review of Medical Malpractice Policies/Models/Frameworks

Summary

The medical community, specifically the specialty of obstetrics, and health systems are facing a malpractice crisis with increasing litigation costs and unnecessary tests and procedures. We conducted a rapid scoping review to identify medical malpractice policies and programs found to reduce legal damages. Despite the enormous costs associated with medical malpractice litigations, very few papers described such models. Most of the literature is from the United States, which is likely because of the large number of medical malpractice claims that occur per year. None of the included papers originated from low to middle income economy countries. Most reports were informal discussion papers without formal evaluation. Favourable outcomes have been reported for no-fault compensation of severe birth-related injuries, patient safety programs and apology laws.

Implications

A number of medical malpractice models for reducing litigation costs, specifically in the obstetrics medical specialty, were identified. However, many were reported in discussion papers without a systematic evaluation of program and policy outcomes. Only 10 formal evaluations were identified. Further research in this area is warranted.

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What is the current situation?

- Current medical malpractice systems are costly and inefficient. Litigation costs can range from 2.4% to 10% of health care spending, while unnecessary tests and procedures (e.g., cesarean sections) are adding further to the cost.
- The clinical specialty of obstetrics is under particular scrutiny for paying amongst the highest litigation rates, where 75% of obstetricians are said to be sued at least once in their lifetime.

Objective

- The objective of our study was to complete a rapid scoping review to map all available evidence in the literature regarding medical malpractice models/frameworks/policies to control damages in obstetrical procedures across all countries.

How was the study conducted?

- A rapid scoping review framework, including the following 5 stages, was followed: 1) identifying the research question, 2) identifying relevant studies, 3) selecting studies, 4) charting the data, and 5) synthesizing and reporting the results.
- MEDLINE (OVID interface), EMBASE (OVID interface), LexisNexis Academic, the Legal Scholarship Network, Justis, LegalTrac, QuickLaw and HeinOnline were searched for publications in English from 2004 until June of 2015.
- We included articles that described medical malpractice policies, frameworks, or models in the context of obstetrics with possible solutions for cost containment and settlement of litigations. All levels of screening and data collection were done in duplicate.

What did the study find?

- Forty-three articles met our eligibility criteria. The majority (n=31) of the reports were focused on the United States, 8 reports were based on Canada, Italy, Japan, Denmark, United Kingdom, and 4 included models that were implemented across various countries
- A number of initiatives for improving medical malpractice approaches were reported: (1) no-fault compensation system for defined medical injuries; (2) safety program and practice guidelines for reduction and mitigation of medical risks and errors; (3) specialized courts and alternative claim resolution for handling medical malpractice claims using a non-judicial system; (4) communication and resolution strategies to reach a mutual agreement on dispute and fair compensation outside the court-room; (5) caps on compensation and attorney fees; (6) alternative payment system and liabilities to reduce the burden of liability pressure and financial burden of claims payment; (7) limitations on litigation to control the type and amount of medical malpractice claims entering the system, and; (8) multi-component models that include to a combination of the aforementioned strategies.
- Only 10 formal evaluations were identified. No-fault systems for severe birth-related injury in Florida and Virginia were reported to reduce tort premiums; apology laws as a communication and resolution strategy were found to decrease compensation payments by 47%, while many of the patient safety and practice guidelines reduced medical errors and malpractice claims. Caps on compensation and attorney fees had inconclusive results.

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