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Chronic Pain Management: A Closed Claims Update

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Background: Formal pain medicine training programs and subspecialty certification were established in the early 1990s. Since that time, there has been a steady rise in the number of pain specialists in practice and a movement toward use of more potent analgesics and interventional techniques (1). At the same time, the frequency of malpractice claims associated with chronic pain management has increased substantially (2). Many claims involved epidural steroid injections where most injuries were temporary and minor (2). However, more recent closed claims analyses have demonstrated an increase in major adverse outcomes, including deaths from medication overdose and major neurologic injuries associated with pain treatment (3,4). This study analyzed overall trends in chronic pain management malpractice claims from 1980-2011, including types of care provided and complications.

Methods: After IRB approval, we identified 981 chronic pain claims and 8,339 surgical, obstetric, and acute pain claims where care occurred in the year 1980 or later from the Anesthesia Closed Claims Project Database of 10,093 claims. Logistic regression on year, Fisher's exact test, & chi-square analysis were used to analyze trends in chronic pain claims over time with $p < 0.05$ for statistical significance.

Results: Chronic pain management claims increased as a proportion of anesthesia malpractice claims from 1980 - 2011 (OR=1.092, 95% CI=1.081-1.103, $p < 0.001$), comprising 3% of anesthesia malpractice claims in the 1980s and 18% in 2000-2011. The types of management associated with claims also changed over time. Medication management accounted for 2% of all chronic pain claims in the 1980s and 18% of all chronic pain claims after 2000 ($p < 0.001$, Fig.). Cervical neuraxial injections accounted for 6% of chronic pain claims in the 1980s and 33% after 2000 ($p < 0.001$). Implantation, removal, and maintenance of devices accounted for 3% in the 1980s and 16% after 2000 ($p = 0.003$). In the 1980s, there were no claims involving facet injections, but after 2000 facet injections accounted for 6% of chronic pain claims ($p < 0.033$). Stellate ganglion blocks accounted for 12% of chronic pain claims in the 1980s and 2% after 2000 ($p < 0.001$). Complications associated with chronic pain claims also changed over time. Death occurred in 6% and severe nerve injury in 6% of chronic pain claims in the 1980s compared to 20% and 28% respectively after 2000 ($p < 0.001$, Fig.).
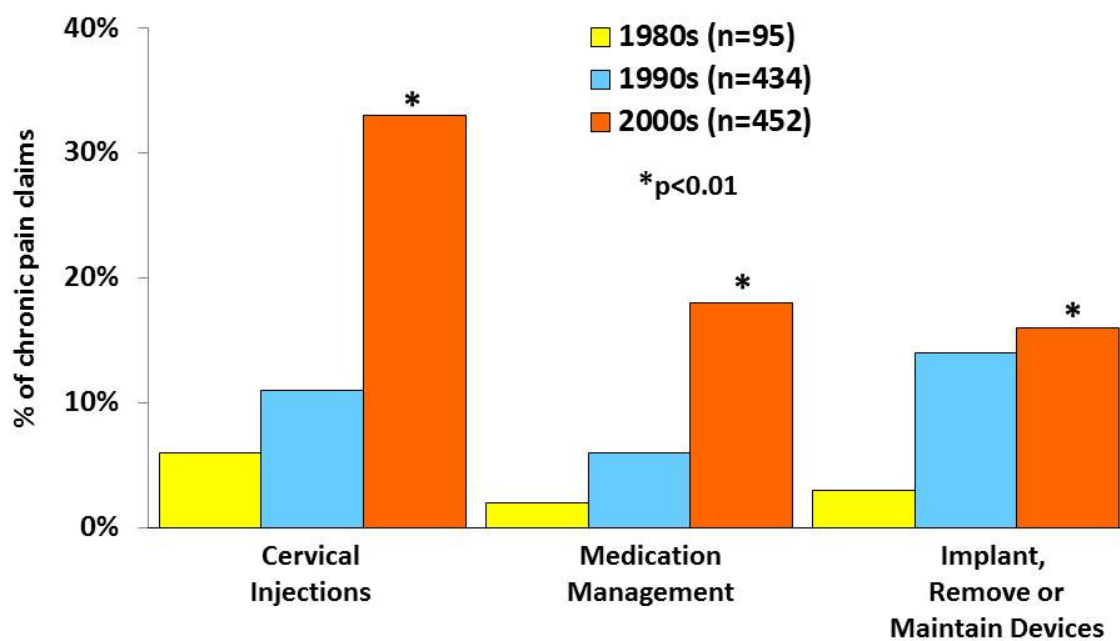
Conclusions: The proportion of anesthesiology malpractice claims associated with chronic pain management has increased from 1980 to 2011. An alarming proportion of the more recent claims (48%) were associated with permanent disabling injuries or death. Anesthesiologists prescribing opioid medications and those performing cervical neuraxial injections need to be particularly aware of the increase in severe adverse outcomes (3,4). The factors associated with the shift in frequency and severity of adverse outcomes appearing in chronic pain malpractice claims have not yet been identified. Potential factors include an overall increase in chronic pain care provided by anesthesiologists; an actual increase in the frequency of death and severe nerve injury; or changes in type of treatments being provided.

References:

1. Paulozzi LJ. Am J Prev Med 2006, 505

2. Fitzgibbon DR. Anesthesiology 2004, 98

3. Rathmell JP. Anesthesiology 2011, 918

4. Fitzgibbon DR. Anesthesiology 2010, 948

Figure 1

Trends in Procedures in Chronic Pain Malpractice Claims

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