

Citation

Posner KL, Domino KB, Polissar NJ, Conrad DA, Cheney FW: Trends in Anesthesia Malpractice Lawsuit Payments. *Anesthesiology*, 101: A-1405, 2004.

Abstract

Introduction

Anesthesia malpractice claims for death and brain damage have decreased and fewer claims exhibit substandard care in the 1990s compared to the 1970s and 1980s.¹ We analyzed claims from the American Society of Anesthesiologists Closed Claims Project database for payment trends associated with these changes.

Methods

The Closed Claims Project contains standardized summary data on 6449 closed anesthesia malpractice claims from throughout the U.S.² Data includes year of event, severity of injury, and assessment of whether standards of anesthesia care were met. Only claims from 1975-99 in which a lawsuit was filed were included in this analysis (n=5156). Payment amounts were adjusted to 1999 dollars using the U.S. Consumer Price Index.³ Because likelihood of payment is associated with standard of care and payment amounts are associated with severity of injury,² trend analysis incorporated these factors. Claims were grouped into decades for trend analysis. Statistical comparisons were made between the 1970s and the 1990s using the Mann Whitney U test.

Results

Overall, the proportion of claims in which a payment was made declined from 74% of lawsuits in the 1970s to 58% in the 1990s ($p < 0.01$, Fig.). The proportion claims with substandard care that resulted in payment declined from 92% in 1970s to 86% in the 1990s ($p < 0.05$). Of claims in which care met standards, the proportion that resulted in payment declined from 51% in the 1970s to 40% in the 1990s ($p < 0.01$). The size of payments declined from a median of \$284,000 in the 1970s to \$153,000 in the 1990s ($p < 0.01$, Table). Median payments for permanent disabling injuries declined from \$905,000 in the 1970s to \$380,000 in the 1990s ($p < 0.01$) and median payments for death declined from \$410,000 in the 1970s to \$288,000 in the 1990s ($p < 0.01$, Table). Payments for temporary non-disabling injuries did not change significantly over time. Discussion: Overall, fewer anesthesia malpractice lawsuits resulted in payment to the plaintiff in the 1990s compared to earlier years and inflation-adjusted payment amounts were lower. These trends may partially reflect improvements in care and patient outcome. When adjusted for changes in standards of care and outcome over time, payments still exhibited significant downward trends.

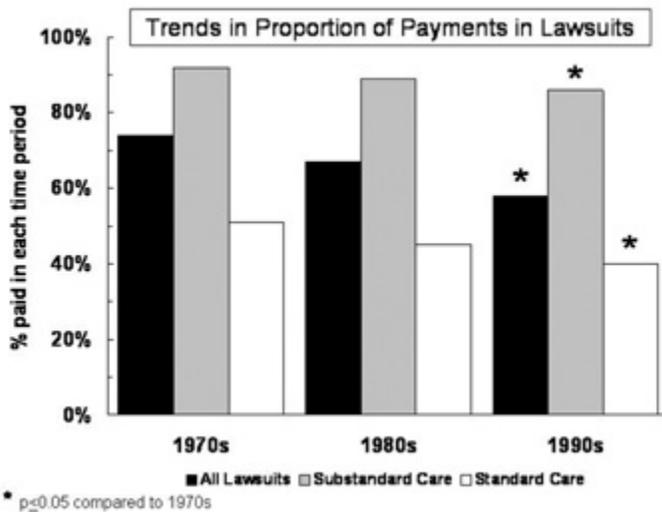
Table

Payment Trends in Anesthesia Lawsuits

Median \$	1970s	1980s	1990s
All Lawsuits (n=3088)	\$284,000	\$184,000	\$153,000*
Permanent Disabling Injuries (n=830)	\$905,000	\$868,000	\$380,000*
Death (n=1134)	\$410,000	\$348,000	\$288,000*
Temporary Non-Disabling Injuries (n=1124)	\$38,000	\$30,000	\$37,000

Payments are 1999 dollars; * $p < 0.05$ compared to 1970s (Mann-Whitney U)

Figure



References

1. Anesthesiology 1999, 91:552.
2. JAMA 1989, 261:1599.
3. U.S. Dept, Bureau of Labor Statistics Inflation Calculator, <http://data.bls.gov/cgi-bin/cpicalc.pl>

A copy of the full text can be obtained from the American Society of Anesthesiologists, 520 N. Northwest Highway, Park Ridge, Illinois 60068-2573. Reprinted with permission of [Lippincott Williams & Wilkins](#).