

Citation

Kent CD, Posner KL, Cheney FW, Lee LA, Domino KB: Update on Closed Claims for Awareness during General Anesthesia. *Anesthesiology* 105: A1548, 2006.

Abstract

Background

Awareness during general anesthesia has recently commanded public and scientific attention. We reviewed the ASA Closed Claims database¹ to evaluate changes in liability for awareness and factors associated with anesthesia claims in the 1990s.

Methods

Anesthesia malpractice claims for awareness were collected from throughout the U.S. as previously described.¹ Claims for awareness were classified into awake paralysis and recall under general anesthesia. Standard of care was assessed using reasonable and prudent criteria.¹ Differences in characteristics and payments between recall and other general anesthesia (GA) claims were compared by Fisher's Exact Test with $p < 0.05$ considered significant. Payments in 1990-1994 and 1995-2001 were adjusted to 1999 dollars using the Consumer Price Index² and compared with the Mann-Whitney U test.

Results

In the 1990s, awareness claims formed 2% of claims in the ASA Closed Claims database with 56 claims for recall and 9 claims for awake paralysis. All but one of the awake paralysis claims involved succinylcholine and half were syringe swaps. In 11% of recall claims, the patient exhibited hypotension and was unable to tolerate sufficient amounts of anesthetic agents to prevent recall. In another 9%, vaporizer or ventilator malfunction contributed to light anesthesia. Nearly a quarter of recall claims involved cardiac surgery (23% vs. 6% for other GA claims, $p < 0.05$). Most recall claims involved female patients (73% vs. 52%, $p < 0.05$). Care met standards in about half of recall claims. Payment was made in approximately half of claims, but median payments were lower than other GA claims ($p < 0.05$). Payments for recall did not differ between the two time periods (Table).

	Claims 1990-1994		Claims 1995-2001	
	Recall (n=25)	All GA (n=954)	Recall (n=24)	All GA (n=780)
Payment (%)	64%	52%	40%	50%
Median Payment	\$44,025	\$158,750*	\$26,550	\$145,300*

* $p < 0.05$ compared to recall during same time period; payments are 1999 dollar amounts; missing data excluded

Discussion

Payments for recall and awake paralysis were not increased over the 1990s, and were similar to those from previous decades.³ Awake paralysis continues to be a low frequency but preventable problem as the majority of these claims are due to syringe swap errors. More claims for recall were associated with cardiac surgery than previously reported.³ The increased attention by the media of the last few years toward the problem of awareness during general anesthesia and the use of the BIS monitor in clinical practice post-dates the claims reviewed here. Any impact that those factors may have

on the recall liability burden remains to be seen.

References

1. JAMA 1989; 261:1599
2. U.S. Bureau of Labor Statistics Inflation Calculator, <http://www.dol.gov/dol/topic/statistics/inflation.htm>
3. Anesthesiology 1999; 90:1053.

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.
www.asaclosedclaims.org