

## **Citation**

Fitzgibbon DR, Michna E, Rathmell JP, Stephens LS, Domino KB. Medication Management in Chronic Pain Malpractice Claims. *Anesthesiology*, A-1605, 2009

## **Abstract**

### **Introduction**

Previous investigation of trends in anesthesia chronic pain liability showed an increase in claims related to medication management between 1984-94 and 1995-2004 (2% to 8%).<sup>1</sup> Because of this increase, we investigated characteristics of medication management claims from the ASA Closed Claims Project.

### **Methods**

After IRB approval, a revised form to collect specific data on chronic pain management was adopted for review of closed anesthesia malpractice claims. We compared medication management claims to other chronic pain claims collected from 2005 through 2008 from the ASA Closed Claims Database of 8,962 claims. Payments were adjusted to 2007 dollar amounts. Findings were compared by chi square analysis, Fisher's exact test, t-test and Kolmogorov-Smirnov test with  $p < 0.05$  for statistical significance.

### **Results**

There were 51 claims for medication management (17%) among 294 chronic pain claims. The majority (82%) of medication management claims occurred from 2000-2006. Compared to other chronic pain claims, patients tended to be younger and male ( $p < 0.01$ , Fig.). Back pain was the presenting primary chronic pain diagnosis in 61% of medication management claims. Death was the most common outcome (55%, Fig.). [figure1] Patient or patient's family claims of alleged addiction from prescribed opioids was an issue in 24% of medication management claims. Most medication management claims involved two main issues: patients did not cooperate in their care (69%) or there was evidence of inappropriate medication management by physicians (57%). Both issues occurred in 45% of medication management claims. In 39% of medication management claims, opioids were the only medication involved; another 29% involved opioids plus some other psychoactive medication. In 63% of claims, medication management patients had at least one known risk behavior for medication misuse, with 27% showing  $\geq 3$  behaviors. The most common known risk behaviors were obtaining pain medications from multiple providers, a past history of alcohol or drug problems, and depression. In 83% of opioid management claims, patients exhibited  $\geq 1$  risk behavior compared to 19% in non opioid claims ( $p < 0.01$ ). Medication management claims did not differ from other chronic pain claims in appropriateness of care, preventability of complications, or payments (Fig).

### **Conclusions**

Increases in abuse of opioids is a growing public health problem.<sup>2</sup> Most anesthesia malpractice claims for medication management problems involved chronic pain patients with a history of risk

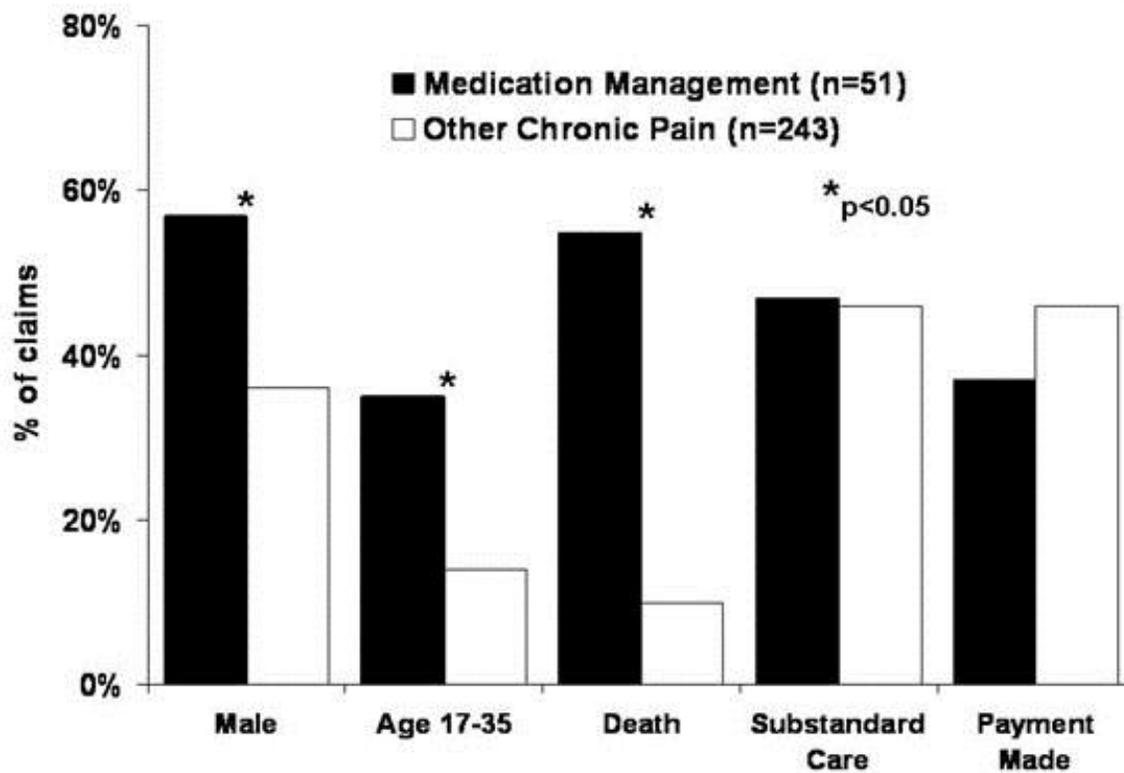
behaviors commonly associated with addiction or medication misuse. Malpractice claims arising from medication management had a high proportion of deaths with both patient and physician contributions to the outcome.

1. Liao DW: Anesthesiology 2007; 107:A1892.
2. Gilson AM: J Pain Symptom Manage 2004; 28:176.

From Proceedings of the 2009 Annual Meeting of the American Society Anesthesiologists.

Figure 1

## Chronic Pain Medication Management Liability



Median Payment: Medication Management \$173,000 Other \$288,000