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ORIGINAL ARTICLE

Physicians as second victims after a malpractice claim: An important issue in need of attention

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Abstract
Objective: Being sued for malpractice is extremely stressful and potentially traumatizing. We aim to identify claims' consequences on the physicians' well-being and medical practice.
Material and methods: We administered a confidential telephonic survey to those physicians with a claim closed during 2014, among those insured by the main professional liability insurance company in the region. The questionnaire addressed several topics: symptoms and well-being changes, needs, impairments and practice changes. We used descriptive statistics as well as Chi-square and *T*-Student tests.
Results: A total of 99 physicians responded to the questionnaire (response rate of 64.7%). Most of them (80.8%) acknowledged having suffered a significant emotional distress, no matter the claim's outcome ($p = 0.958$) or the kind of procedure ($p = 0.928$). Anger and mood cluster of symptoms were frequent, and the experience frequently affected their personal, family or social life and professional conduct. Practice changes correlated significantly and positively with the number of symptoms reported ($p = 0.010$), but not with the outcome of the claim ($p = 0.338$) or the kind of procedure ($p = 0.552$).
Conclusions: Most claimed physicians suffer a significant emotional distress after a malpractice claim, which affects their professional performance. According to our results, they should be assessed and assisted in order to minimize the negative consequences on their well-being and their praxis.

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PALABRAS CLAVE
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Revisión de reclamaciones;
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Los médicos como segunda víctima tras una reclamación por malapraxis

Resumen
Objetivo: Ser reclamado por presunta malapraxis es una vivencia sumamente estresante. El presente trabajo estudia las consecuencias de estas reclamaciones en el bienestar de los profesionales y su praxis.
Material y método: Administramos una encuesta telefónica confidencial a médicos con reclamaciones cerradas durante 2014, entre aquellos asegurados por la principal compañía de responsabilidad profesional en Cataluña. El cuestionario abordaba variables sobre sintomatología y cambios en el bienestar de los facultativos, necesidades, deterioro y cambios en la conducta profesional. Se realizó el estudio descriptivo así como el estudio analítico mediante las pruebas de Chi-cuadrado y la t de Student.
Resultados: Un total de 99 facultativos respondieron el cuestionario (tasa de respuesta del 64,7%). La mayoría de facultativos (80,8%) reconoció una reacción emocional significativa tras la reclamación. Los síntomas de ansiedad o estado de ánimo fueron frecuentes y la experiencia con frecuencia afectó a su vida personal, familiar, social y su conducta profesional. La identificación de cambios en la praxis correlacionó significativa y positivamente con el número de síntomas sufridos (p = 0,010), pero no con la concurrencia de responsabilidad profesional (p = 0,338) o el tipo de procedimiento (p = 0,552).
Conclusiones: La mayoría de médicos reclamados sufren una afectación emocional significativa tras una reclamación, lo que afecta a su desempeño profesional. De acuerdo con nuestros resultados, los médicos reclamados deben ser evaluados y atendidos con el objetivo de minimizar las consecuencias negativas en su bienestar y en su praxis.

Introduction

The second victim phenomenon regarding adverse events in Medicine was first described by Wu in 2000[1] and a detailed definition was lately provided.[2] Its prevalence ranges from 10.4%[3] to 43.3%.[4] The second victim can have continued emotional distress and can develop post-traumatic stress disorder.[5] The emotional response is significantly related to reported changes in practices.[6,7]

Furthermore, an adverse event may result in litigation, which is extremely stressful, and results in a number of physical, emotional, and behavioral responses, the so-called ''Síndrome Clínico Judicial''.[8,9] During lawsuits, more than 95% of physicians suffer from adjustment disorder (20%–53%), major depressive disorder (27%–39%) or the exacerbation or onset of physical illnesses (2%–15%).[10] Some of them may develop a Medical Malpractice Stress Syndrome (MMSS).[11] Moreover, significant changes in medical practice have been described after a liability claim.[12]

Despite its importance, research on physician's reactions after a claim is limited. Hereby we perform a survey regarding the consequences of professional liability claims on the well-being and medical practice of physicians.

Methods

The claims-database of the Professional Liability Department (PLD) of the Council of Medical Colleges of Catalonia (CCMC) collects information from the main physician's professional liability insurance company in Catalonia (more than 25,000 physicians), with more than 9000 claims since 1986.[13] The census questionnaire was carried out during April 2015 by a qualified psychologist, obtaining data from primary sources. No sampling was performed. Every physician with a claim closed during year 2014 was invited to confidentially respond to a telephonic questionnaire which explored the personal experience of being claimed and how you cope with the event. The questionnaire derived from previously published experiences on psychic and physic responses to a claim, as well as changes in personal and professional behavior. Several topics were addressed: symptoms and well-being changes, needs, impairments and practice changes. The tables below contain questionnaire items of each topic group (see results section). Content/face validity was assessed through interviews with experts and physicians involved in liability procedures in order to check that meaningful aspect were included. Potential bias of the questionnaire were analyzed before it was administered, interviewer training was provided[14] and the interviewer had a series of practice role play interviews and was accompanied during the first interviews.

Analysis of the frequency of variables was conducted using descriptive statistics and Chi-square and *T*-student test were performed.

Data was collected and held confidentially and the survey received the approval of the Research Ethics Committee of Barcelona's College of Physicians.

Results

A total of 99 out of 153 physicians responded to the questionnaire – response rate of 64.7%. No differences were found

Table 1 Symptoms and well-being changes after a professional liability claim.

Symptom or wellbeing changes		Concurrence of Professional Liability ($n = 37$)	Association symptom-professional liability (significance)	Kind of procedure		Relation with the kind of procedure (significance)
				Judicial procedures ($n = 11$)	Out of court procedures ($n = 88$)	
Emotional reaction	80 (80.8%)	30 (81.1%)	0.958	9 (81.8%)	71 (80.7%)	0.928
Concern	77 (77.8%)	29 (80.6%)	0.826	7 (70.0%)	70 (80.5%)	0.439
Disappointment	77 (77.8%)	29 (78.4%)	0.971	8 (80.0%)	69 (78.4%)	0.908
Indignation	67 (67.7%)	20 (54.1%)	0.018	8 (80.0%)	59 (67.0%)	0.404
Anxiety/ Restless	52 (52.5%)	20 (55.6%)	0.768	4 (40.0%)	48 (55.2%)	0.362
Suspicion	52 (52.5%)	18 (48.6%)	0.442	5 (50.0%)	47 (54.0%)	0.809
Low mood	47 (47.5%)	17 (47.2%)	0.792	5 (50.0%)	42 (48.8%)	0.944
Frustration	46 (46.5%)	18 (48.6%)	0.792	3 (30.0%)	43 (48.9%)	0.257
Insomnia	38 (38.4%)	14 (38.9%)	0.914	3 (30.0%)	35 (40.7%)	0.513
Irritability	33 (33.3%)	12 (33.3%)	0.913	1 (10.0%)	32 (36.8%)	0.090
Decreased Self-esteem	27 (27.3%)	12 (33.3%)	0.379	2 (20.0%)	25 (29.1%)	0.546
Re-experimentation	26 (26.3%)	11 (30.6%)	0.522	2 (20.0%)	24 (27.6%)	0.608
Loneliness	19 (19.2%)	7 (19.4%)	0.947	1 (10.0%)	18 (20.9%)	0.412
Apathy	18 (18.2%)	4 (11.1%)	0.137	2 (20.0%)	16 (18.6%)	0.915
Concentration	16 (16.2%)	8 (22.2%)	0.258	1 (10.0%)	15 (17.4%)	0.550
Fatigue	16 (16.2%)	6 (16.7%)	0.972	3 (30.0%)	13 (15.3%)	0.240
Humiliation	15 (15.1%)	4 (11.1%)	0.362	1 (10.0%)	14 (16.1%)	0.614
Guilty feelings	12 (12.1%)	9 (25.0%)	0.004	0 (0.0%)	12 (14.0%)	0.207
Competence	12 (12.1%)	5 (13.9%)	0.750	3 (30.0%)	9 (10.5%)	0.077
Nightmares	11 (11.1%)	4 (11.1%)	0.623	1 (10.0%)	10 (12.3%)	0.692
Shame	9 (9.1%)	4 (11.1%)	0.633	1 (10.0%)	8 (9.2%)	0.932
Incapacity Feelings	8 (8.1%)	4 (11.1%)	0.461	2 (20.0%)	6 (7.1%)	0.163
Weight loss	7 (7.1%)	1 (2.8%)	0.168	0 (0.0%)	7 (8.4%)	0.340
Isolation	6 (6.1%)	1 (2.8%)	0.276	1 (10.0%)	5 (5.8%)	0.605
Hopelessness	6 (6.1%)	1 (2.8%)	0.268	1 (10.0%)	5 (5.9%)	0.613
Gastrointestinal symptoms	6 (6.1%)	3 (8.3%)	0.528	1 (10.0%)	5 (5.9%)	0.613
New pathology	5 (5.0%)	0 (0.0%)	0.069	1 (10.0%)	4 (4.9%)	0.508
Aggravation of pre-existing disease	3 (3.0%)	1 (2.8%)	0.834	0 (0.0%)	3 (3.7%)	0.539
Substance consumption	3 (3.0%)	1 (2.7%)	0.873	0 (0.0%)	3 (3.4%)	0.553
Headache	2 (2.0%)	0 (0.0%)	0.264	1 (10.0%)	1 (1.2%)	0.066
Psychomotor retardation	1 (1.0%)	1 (2.9%)	0.196	0 (0.0%)	1 (1.2%)	0.727
Suicidal thoughts	1 (1.0%)	0 (0.0%)	0.428	1 (10.0%)	0 (0.0%)	0.004

between responders and no responders in terms of professional liability ($p = 0.980$) or kind of procedure (0.6075).

Respondents comprised 79 men (79.8%) and 20 women (20.2%). The mean age was 55.4 years. Most physicians had been involved in an out-of-court procedure (88 cases, 88.8%). Only 11 physicians went through a judicial procedure. Most claims ended up without a payout (62, 62.6%).

Physicians were requested to report the feelings experienced in relation to the event among those listed in the questionnaire (Table 1). Most of them acknowledged having suffered significant emotional reaction after the claim (80.8%), no matter the outcome of the claim ($p = 0.958$) or the kind of procedure ($p = 0.928$). Table 2 reflects the consequences malpractice litigation had on their personal/family/social life and professional practice. Those who acknowledged practice changes reported a media of 9.9 symptoms, whilst the media among those who did not change their practice was of 6.9 symptoms. The acknowledgment of practice changes was significantly and positively correlated with the number of symptoms reported ($p = 0.010$), but not with the outcome of the claims ($p = 0.338$) or the kind of procedure ($p = 0.552$).

Discussion

Professional liability is a disturbing worldwide concern.[13,15–17] Our study confirms that most physicians involved in professional liability claims suffer from psychological and physical symptoms related to the traumatic event (80.8%). Empirical studies regarding this issue are scarce, of long ago and performed abroad. The rate and range of symptoms in our sample, although worrying, was somehow softer than previously reported,[18] which could be related with our specific malpractice scenario[13] or with a temporal issue. Sole defendants were more frequent before and being accused as one of a group may dilute the feelings reported in earlier studies.[18] The attitude of physicians has changed and nowadays, it could be commonly accepted that highly competent physicians are claimed.[19]

Symptoms from the anger and mood cluster of symptoms were frequent, including symptoms described in the MMSS.[8] The stress of receiving a claim, the initial reactions, the attention and lengthy times required to follow the proceedings and the constant rumination over the event is added to the intensive strain specific to the medical profession.[19,20]

Even though in our sample the litigation was most frequently solved by an out-of-court procedure (88.8%) and most physicians were acquitted (62.6%), our figures are alarming. Symptoms were more frequent among cases that resulted in a payout, without significant differences, except for indignation and guilty feelings. According to certain doctrine issues, a verdict in favor of the plaintiff does not necessarily mean you were negligent. On the other hand, a dismissal does not necessarily remove the stigma or stress of being sued. The impact on physicians' well-being was slightly more important among those who had been involved in a law-suit (both criminal and civil law-suits). The absence of statistically significantly differences was previously reported by Charles.[10]

Concerns about being sued are significantly higher among those who have already been involved in malpractice

Table 2 Needs, impairments and practice changes.

Need of/ impairment of/ adoption of		Professional liability cases ($n = 37$)	Correlation symptom-professional liability (significance)	Kind of procedure		Relation with the kind of procedure
				Judicial Procedures ($n = 11$)	Out-of-court procedures ($n = 88$)	
Psychotherapy	4 (4.0%)	2 (5.4%)	0.594	1 (10.0%)	3 (3.4%)	0.367
Psychopharmacological treatment	7 (7.1%)	3 (8.1%)	0.756	1 (10.0%)	6 (6.8%)	0.782
Personal life	21 (21.2%)	7 (18.9%)	0.637	2 (20.0%)	19 (21.6%)	0.908
Family life	20 (20.2%)	8 (21.6%)	0.816	2 (20.0%)	18 (20.5%)	0.973
Social life	10 (10.1%)	4 (10.8%)	0.920	2 (20.0%)	8 (9.3%)	0.295
Increased attention to records	51 (51.5%)	19 (51.4%)	0.849	6 (60.0%)	45 (51.7%)	0.620
Search for medico-legal education	24 (24.2%)	6 (16.2%)	0.126	4 (40.0%)	20 (23.0%)	0.238
Practice changes	40 (40.4%)	13(35.1%)	0.338	5 (50.0%)	35 (40.2%)	0.552
Further examinations	10 (10.1%)	2 (5.4%)	0.212	3 (30.0%)	7 (8.0%)	0.031
Avoid patients	33 (33.3%)	11 (29.7%)	0.484	1 (10.0%)	32 (36.8%)	0.090
Avoid procedures	6 (6.1%)	2 (5.4%)	0.802	0 (0.0%)	6 (6.9%)	0.391
Hypervigilance	14 (14.1%)	5 (13.5%)	0.814	3 (30.0%)	11 (12.8%)	0.144

litigation.[19] A 24.2% of the physicians searched for medico-legal education after the claim and most of them became more concerned about their records (51.5%). These changes could lead to a better understanding of the facts in case of a claim, but, if recording tends toward an obsession, time directly dedicated to the patient could diminish.

Furthermore, many physicians reported practice changes (40%). The experience of being claimed could lead physicians to adopt defensive medicine practices, leading to the systematically ordering of further examinations.[19] Nevertheless, in our sample only a 10.3% reported ordering more frequently further examinations.[18] This could be related with the specifics of our professional liability scenario, with a lower general risk of malpractice litigation and lower malpractice premiums.[13,21]

The number of symptoms physicians suffered significantly correlated to practice changes after the claim in our sample ($p = 0.020$). It has been previously reported that the well-being of professionals is important in determining the quality of care delivered by them.[22] In that sense, lowering the risk of important symptoms by the out-of-court management of claims could help mitigate the effect on the future quality of the care they provide. The percentage of practice changes was lower among out-of-court procedures, and the request of further examinations was significantly higher among court procedures. This should be highlighted together with other advantages previously reported of out-of-court procedures.[13,23,24]

Literature on this topic belongs to early times, specific specialties and foreign countries, so our data should be considered original and updated. Nevertheless, our study has several limitations worth noting: caution is required with cross-sectional studies, our sample size was relatively small, results cannot be directly generalized to other scenarios, which may have different malpractice environments, and any other survey bias could apply.[25]

However, our results confirm a high prevalence of symptoms after a claim and such a relevant problem needs specific attention. Actions to lower the impact of claims, such as out-of-court resolution, as well as active interventions to address symptoms, could potentially improve the quality of future healthcare delivered by claimed professionals. The effectiveness of support programs for the second victim has been previously highlighted.[26]

As the possibility of effectively coping with any stressful event is directly related to awareness of the problem, research on second victim should be enhanced. Our results help to shed light on the topic and should guide specific actions regarding physicians' health after a claim and the potential impact on the care they provide. We hope our data helps the healthcare community come to recognize a need to deal with and reduce the negative emotional consequences of litigation.

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Conflicts of interest

The authors declare no conflict of interests.

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