



DOCTORS



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A Letter from the Chair of the Board

Dear Colleague:

A patient comes in and explains he already knows the diagnosis "because that's what it says on the Internet." A woman calls at 2:00 a.m. wondering if she should take an antacid for her heartburn. A man in his 40s comes in asking you to check to make sure he doesn't have prostate cancer.

These are just some of the diagnostic challenges that face MEDICAL MUTUAL Insureds. This issue of Doctors RX addresses "Failure to Diagnose," a silent, but all-too-frequent cause of malpractice lawsuits.

D. Ted Lewers, M.D.

Chair of the Board

Medical Mutual Liability Insurance Society of Maryland

Failure to Diagnose: All Specialties at Risk

When busy physicians think about leading causes of malpractice risk, failure-to-diagnose seldom comes to mind. Why? Because failure-to-diagnose (FTD) claims are typically caused not by what the doctor *did*, but rather what the doctor *didn't* do!

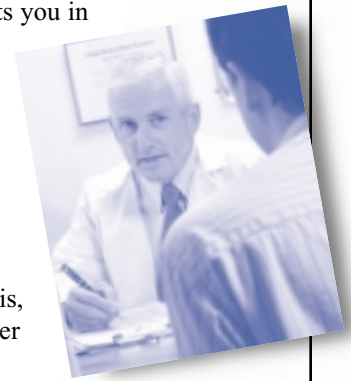
FTD is one of the few malpractice allegations that cuts across the board. Pathologists, did you know that 59% of your claims involve FTD?—that puts you in first place. Almost half—48%—of ER doctors' claims arise from FTD. Radiologists sit in third place at 42%.

About one-third of lawsuits against primary care practitioners are for FTD: family practice, 32%; and internal medicine, 28%. Appendicitis, AMI, breast cancer, and colon cancer are the main worries here.

Pediatricians—31% of cases—need to look for obscure cases of meningitis. Gynecologists, 23% of your lawsuits arise from FTD, mostly breast cancer cases.

Surgeons, don't think your specialty goes unscathed. By odd coincidence, 14% of claims against general surgeons, urologists, and ENT specialists involve FTD. Twelve percent of claims filed against orthopedists involve FTD. For ophthalmologists and psychiatrists, it's slightly less at 11%.

Did you pick out the one specialty with few FTD claims? If you picked Anesthesiology, you're right!

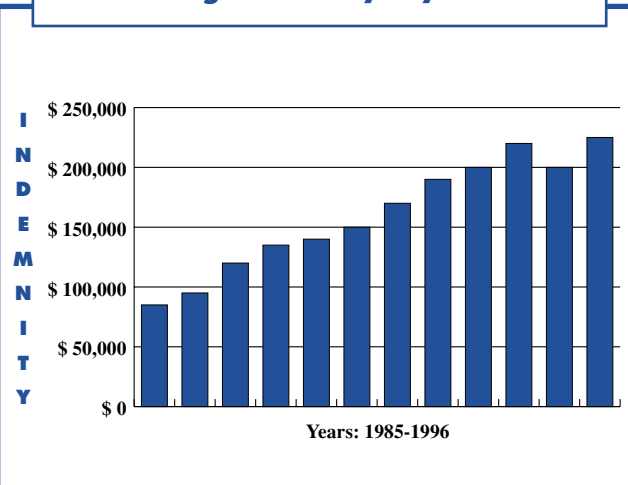


Failure to Diagnose: Just the Facts, Please

Failure-to-diagnose lawsuits represent about one in five claims for medical malpractice. Overall, this number has remained fairly stable the past 10 years, with one important exception—claims for FTD breast cancer are showing a definite upward trend.

What's really worrisome, though, is claim severity. A look at the bar chart below reveals that the average indemnity payment for these claims has climbed rapidly. According to the Physicians Insurance Association of America (PIAA), the average indemnity for FTD claims was \$85,776 in 1985. By 1996, doctor-owned insurance companies were paying out \$221,704 for the typical FTD claim.

**Growth in FTD
Average Indemnity Payments**



Doctors RX

Elizabeth A. Svoisky, J.D., *Editor*
Director of Risk Management Services

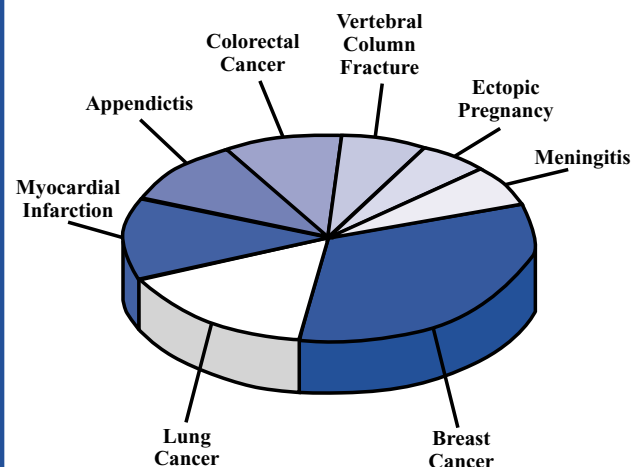
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Medical Mutual Liability Insurance Society of Maryland

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All faculty participating in continuing medical education programs sponsored by Medical Mutual are expected to disclose to the program participants any real or apparent conflict(s) of interest related to the content of their presentation(s).

Eight Leading Causes of FTD Claims



The pie chart above tells us which are the most common conditions among all FTD claims, according to the PIAA:

1. Breast cancer 33.5%
2. Lung cancer 16.9%
3. Myocardial infarction 13.1%
4. Appendicitis 10.3%
5. Colorectal cancer 9.7%
6. Vertebral column fracture 6.8%
7. Ectopic pregnancy 6.0%
8. Meningitis 3.6%

As you can see, cancer is the biggest category, with cancers of the breast, lung, and colorectal of greatest concern.

Numbers you should know!

Home Office Switchboard	410-785-0050
Toll Free	800-492-0193
Incident/Claim/ Lawsuit Reporting	ext. 228
Risk Management Seminar Info	ext. 268 or 280
Risk Management Questions	ext. 269
Main Fax	410-785-2631
Claims Department Fax	410-785-1670
Web Site	www.weinsuredocs.com

CASE STUDY

Never Forget the Lethal Diagnosis

Case Summary:

The patient is a 46-year-old married white man. He had been a patient of this doctor since 1979, and was diagnosed with hypertension in 1982.

Clinical Course:

Over a several-month period, the patient made seven visits to the primary care doctor complaining of congestion, heartburn, flatulence, and bloating.

The patient was treated empirically with Tagamet, Librax, and Bentyl. The symptoms would appear to improve, only to later return. A gallbladder series and sonogram were normal.

The nurse practitioner saw the patient at two visits, and continued the Tagamet.

Seventeen months after the symptoms began, a sigmoidoscopy was performed, and a diagnosis made of "probable irritable bowel syndrome." Two months later a gastroenterologist performed a colonoscopy, and noted a tumor in the transverse colon. Subsequent pathology report revealed adenocarcinoma. The patient died one year later.

Risk Management Recommendations:

This case is similar to many FTD colon cancer cases. The physician didn't seem to be especially concerned about the patient's symptoms, and delayed in ordering a sigmoidoscopy. The possibility of colon cancer did not appear to cross the doctor's mind—he forgot the old adage, "Never forget the diagnosis that can kill." And it was inappropriate to allow the nurse practitioner to manage a patient with undiagnosed GI symptoms.

Sigmoidoscopy alone is suitable only as a screening tool. Increasingly, colonoscopy is being viewed as the "gold standard" for the evaluation of lower GI symptoms.

14 Steps You Can Take

Follow these 14 steps to reduce your risk of a malpractice lawsuit for failure to diagnose:

Problematic Clinical Presentation:

1. Take a careful history. Remember that three out of four diagnoses come from the history. Ask open-ended questions and listen carefully.
2. Become a bulldog diagnostician. This especially applies to lower GI symptoms that may represent early stage colon cancer.
3. Reach a definite diagnosis in a timely manner. For example, new breast symptoms should be definitely diagnosed within 4-6 weeks, in most cases—not 4-6 months!

Difficult Patient:

4. Be cautious about the unlikable patient. Don't take diagnostic shortcuts with the patient who gets on your nerves.
5. Identify the underlying reason for the difficult behavior. Patients who don't get recommended diagnostic tests may have other things on their agenda.
6. Be wary of patient denial and expectations for perfection. Don't let yourself be set up.
7. Show the patient your care.

Distracted Physician:

8. Make sure you get adequate rest, sleep, and time off. A tough diagnosis requires a lot of mental focus.
9. Avoid prematurely "pigeonholing" the patient.
10. Avoid the "I can do it myself" syndrome. Consultants are available—use them!

Systems Breakdowns:

11. Have a system to assure follow-up. This is especially important for possible cancer diagnoses.
12. If you are a consultant, provide timely advice. We like to see your report dictated and in the mail within 3-5 days.
13. Assure that nurses and other staff are properly trained. Don't let an unreviewed decision by your assistant put you on the witness stand.
14. Organize your recordkeeping. Flowsheets can help organize the information you need.

We can reduce the risk of a Failure to Diagnose lawsuit!



JANUARY 2001						
SUN	MON	TUE	WED	THU	FRI	SAT
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7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

Look for our new 2001 programs!

MEDICAL MUTUAL/Professionals Advocate will mail announcements of our new Risk Management educational programs in January 2001. Review the information and register promptly to be sure you get the program, date and location of your choice. And don't forget, participants can earn CME credits and a 5% discount on a 2002 medical professional liability renewal policy.

New for 2001
Register online! It's easy, quick and secure.



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CME Test Questions

Instructions for CME Participation

CME Accreditation Statement--MEDICAL MUTUAL Liability Insurance Society, which is affiliated with Professionals Advocate, is accredited by the Accreditation Council for Continuing Medical Education to sponsor continuing medical education for physicians. Medical Mutual designates this educational activity for a maximum of one hour in category 1 credit towards the AMA Physician's Recognition Award. Each physician should claim only those hours of credit that he/she actually spent in the educational activity.

Instructions--to receive credit, please follow these instructions:

1. Read the articles contained in the newsletter and then answer the test questions.
2. Mail or fax your completed answers for grading to the address or fax number provided below:
Med•Lantic Management Services, Inc.
P.O. Box 64100
Baltimore, MD 21298-9134
FAX 410-785-2631
3. One of our goals is to assess the continuing educational needs of our readers so we may enhance the educational effectiveness of the Doctors RX. To achieve this goal, we need your help. You must complete the CME evaluation form to receive credit.
4. Completion Deadline: March 2, 2001.
5. Upon completion of the test and evaluation form, a certificate of credit will be mailed to you. Please allow three weeks to receive your certificate.

1. Failure-to-diagnose (FTD) is a condition that affects only a limited number of specialties.
A. True B. False
2. The specialty with the highest percentage of FTD claims is pathology.
A. True B. False
3. Almost one-half of lawsuits against primary care doctors involve FTD.
A. True B. False
4. Surgeons need not be concerned about FTD risk.
A. True B. False
5. Overall, about 20% of malpractice claims involve FTD.
A. True B. False
6. The number of FTD claims has been climbing steadily since 1985.
A. True B. False
7. Claim severity refers to whether the disease is among the leading causes of death.
A. True B. False
8. Claim severity for FTD has more than doubled since 1985.
A. True B. False
9. The average FTD claim now involves a payment of over \$200,000.
A. True B. False
10. Failure to diagnose ectopic pregnancy is a common cause of FTD claims among obstetricians.
A. True B. False
11. The Case Study shows that empirical treatment is an effective management strategy for the patient with undiagnosed GI symptoms.
A. True B. False
12. Sigmoidoscopy alone is considered an acceptable diagnostic tool for symptomatic patients.
A. True B. False
13. Careful history-taking is one of the most effective strategies to avoiding FTD claims.
A. True B. False
14. Difficult patients can increase FTD risk because they ask the doctor to perform too many diagnostic tests.
A. True B. False
15. Lack of adequate sleep can impede a doctor's mental ability to reach a difficult diagnosis.
A. True B. False
16. Good recordkeeping such as using flowsheets can help reduce FTD risk.
A. True B. False



CME Evaluation Form

Statement of Educational Purpose

"Doctors RX" is a newsletter sent bi-annually to the insured physicians of MEDICAL MUTUAL/Professionals Advocate. Its mission and educational purpose is to identify current health care related risk management issues and provide physicians with educational information that will enable them to reduce their malpractice liability risk.

Readers of the newsletter should be able to obtain the following educational objectives:

- 1) gain information on topics of particular importance to them as physicians,
- 2) assess the newsletter's value to them as practicing physicians, and
- 3) assess how this information may influence their own practices.

CME Objectives for Failure To Diagnose

Educational Objective: To gain an understanding of how to reduce failure to diagnose claims.

Strongly Agree	Strongly Disagree
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Part I. Educational Value:

5 4 3 2 1

I learned something new that was important.

I verified some important information.

I plan to seek more information on this topic.

This information is likely to have an impact on my practice.

Part 2. Commitment to Change: What change(s) (if any) do you plan to make in your practice as a result of reading this newsletter?

Part 3. Statement of Completion: I attest to having completed the CME activity.

Signature: _____ Date: _____

Part 4. Identifying Information: Please PRINT legibly or type the following:

Name: _____ Telephone Number: _____

Address: _____
