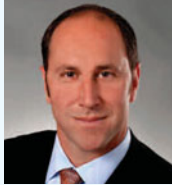




# The Hidden Costs of the Professional Liability Crisis



Much attention has been paid to analyzing the cost of professional liability. Most of the focus to date has been on the financial impact of the liability crisis, including an assessment of the true dollar cost of malpractice premiums, defensive practice, and overall healthcare costs. We have seen studies that demonstrate how the fear of liability can lead to overutilization of advanced diagnostics, higher rates of specialty referral, and unnecessary procedures. We have seen high-risk specialties fleeing areas of the country subject to high premiums and a lack of real tort reform. We have watched overall job satisfaction decrease, occupational stressors increase and more physicians consider early retirement. It's a pretty bleak picture for sure, but the discussion to date has probably underestimated the impact on the profession while oversimplifying the specific reasons for much of the decline in overall job satisfaction.

In order to better appreciate the potential impact on the profession of liability and the trickle-down impact on patient care, we should explore the subject on a more deeply psychological level. How does chronic fear change a physician over time? What about the loss of control? How do these and other factors change a physician's psyche over time? How does fear affect the intellectual process of clinical decision making? Might we see an almost evolutionary change in the psychological profile of the modern physician? And finally, how might that impact patient care?

Research has clearly shown a link between chronic stress and fear and overall health. Long-term excitation of the adrenal glands leads to depletion of several neurotransmitters and also disrupts the HPA axis, leading to mental and physical health conditions like depression, addiction, and chronic pain. While the medical profession was already under the daily pressure of life-and-death decision-making and fraud and abuse fears, the additional fear of liability just may be the tipping point for chronically overstressed physicians.

Fear of liability has dramatically changed the feeling of control that the profession once enjoyed. Despite the risk and uncertainty so intimately connected with the decision making process, the physician historically has controlled the process through the mostly objective interpretation of clinical data.

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Clinical investigations were driven by a critical analysis of known facts, pre-test probabilities and risk stratification. While inherently imperfect and challenging, the process was mentally stimulating and scientific. Now, every conclusion is tainted, every decision questioned by the mere potential of bad outcome and liability. Decisions are made, not based on evidence, but rather, driven by fear. The physician has, essentially, lost control of the entire decision-making process itself. Might this change the neurologic profile of the physician mind? Might we evolve away from the rich and complex processing of information in the way traditionally taught in medical school? It is too soon to quantify the long-term effects, but the potential implications for negatively impacting the quality of physician judgment—and, by extension, the quality of patient care—are worrisome.

It is far easier to assess the immediate, short-term economic impact of the liability crisis. In fact, most of the attention to date has focused on analysis of the direct costs associated with the current liability climate. Much less is known about the psychological impact on a profession that has watched helplessly while others have robbed it of the joy of practice and hijacked the decision-making process. The long-term consequences are yet to be known, but the uncertainty fills me with deep skepticism and sadness about the future of our profession. ■

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