Rising Medical Liability Cost and Patient Access to Care in Puerto Rico: Public Survey

Norma I. Cruz, MD*; Leo Korchin, DDS, MS*; Gilberto Castro, BS†

Objective: The high cost of medical liability increases healthcare expenditure and decreases healthcare services. To understand the public perception of medical liability issues in Puerto Rico, a survey was made with the assistance of Gaither International.

Methods: Five hundred interviews were made in a representative sample of all six US Census demographic regions in Puerto Rico. Respondents were selected randomly by age, gender, socioeconomic level and region of residence. All had visited an Emergency Room in the past two years, either for their medical needs or those of a family member. This study requested information on general demographics, use of emergency medical services, insurance coverage, access to medical care, and perception of the medical liability issues. All results had a margin of error of ±4.4 with a 95% confidence level.

Results: When rating areas of concern in healthcare, "cost of health insurance and services" was greatest, followed by "difficulty finding a specialist". One-third of respondents experienced difficulty or failed to obtain a specialist, orthopedic surgeons topping the list. When asked who benefits most from lawsuits, 63% of the public believed that lawyers benefit most, while only 33% believed that the patient (plaintiff) benefits most. In the interviews, 84% of respondents supported establishing government limits on professional liability awards as part of the effort to reduce healthcare cost.

Conclusion: The public appears to be aware of how medical liability raises the cost and limits access to healthcare. [*P R Health Sci J 2011;30:116-122*]

Key words: Medical liability, Malpractice, Access to care

The detrimental effect that the rising medical liability cost might have on patient access to care is of great concern to healthcare policymakers. A hostile liability environment is not only a professional problem for doctors and hospitals but also a serious public health problem because the high liability costs impel physician specialists to leave practice or stop providing high risk services (1-2).

A study published by the Department of Health Policy and Management of the Harvard School of Public Health indicated that high risk specialists (general surgery, neurosurgery, orthopedic surgery, obstetrics, emergency medicine and radiology) tend to limit their scope of practice because of liability concerns (3). That study found that 42% of specialists reduced or eliminated the high risk aspect of their practice. Surgeons were more likely than other specialists to have already restricted their practice (56% versus 34%). Four percent of the group indicated that they would definitely relocate and 7% indicated that they would retire early because of liability concerns. Thus, the manner in which physicians respond to liability exposure is by restricting the scope of their practice. Classic examples of this behavior are the obstetrics/gynecology specialists who limit their practices to gynecology, and the orthopedic surgeons who would not see emergency or trauma cases. These practices significantly decrease the availability of specialists for management of emergencies and high risk patients, resulting in decreased patient access to health care.

A survey of 951 physicians in San Juan indicated that 70% made changes in their medical practices to decrease medical liability risks. Currently, 48% of physicians do not accept emergency cases and 50% do not manage high risk patients (4). These changes result in a net reduction of medical manpower that is difficult to measure, because the number of

*Department of Surgery, University of Puerto Rico School of Medicine, SanJuan, Puerto Rico; †Gaither International, Inc., San Juan, Puerto Rico

The authors have no conflict of interest to disclose.

Address correspondence to: Norma I. Cruz, MD, Department of Surgery, University of Puerto Rico School of Medicine, P.O. Box 365067, San Juan, Puerto Rico 00936-5067. Email: normacruz001@gmail.com

physicians appears to be adequate, but they are not providing care that would expose them to a high liability risk.

Methods

Researchers at the Medical School of the University of Puerto Rico partnered with a professional survey organization, Gaither International, Inc., to design and conduct a survey on public perception of the issues of rising medical liability cost and patient access to care. The researchers from the Medical School were responsible for the design of the study and collaborated in the creation of the questionnaire and interpretation of the data. To identify the issues pertinent to medical liability and patient access to care, a review of the literature was performed. This information was given to a panel of 11 experts, consisting of physicians of different medical specialties and Gaither International researchers, to develop the questionnaire items. The questionnaire was validated in content by gauging agreement among panelists regarding how essential a particular item was. The panel evaluated the questionnaire items as "essential", "useful, but not essential", or "not necessary". If more than 60% of the 11 panelists indicated that an item was essential the item was considered to have content validity. For a panel of 11 experts the minimum value of the content validity ratio to ensure that agreement is unlikely to be due to chance is .59. To further ensure content validity we asked 20 community members to comment on the questionnaire content and make suggestions. The resulting 24 item questionnaire requested information on general demographics, use of emergency medical services, insurance coverage, access to medical care and perception of the medical liability issues (Tables 1-A and 1-B).

All persons 18 years of age or older who had visited an emergency room in the past two years, either for their own medical needs or that of a close family member and who did not work for an advertising agency, public opinion poll company or health care industry, were eligible to participate in the survey. Excluded from the survey were minors, persons who had not used emergency medical services for the past two years, and persons who may have a bias regarding these issues such as healthcare workers, advertising agency personnel and other public opinion poll companies.

Table 1-A. Questionnaire in English (N/R is used for no response or "do not know" as response to a question)

1. Have you visited or accompanied a parent, wife or child to an emergency room in the past 2 years?

YES NO (Interview finished) N/R (Interview finished)

2. Were you referred to "Centro Médico" from your community hospital emergency room because the medical care you needed was not available there?

YES NO N/R

3. What medical insurance do you or your family have?

4. How would you rate the following health services in Puerto Rico?

	Very bad	Good	Neither	Bad	Very good	N/R
Availability of health services	❑	❑	❑	❑	❑	❑
Ease of finding a specialist	❑	❑	❑	❑	❑	❑
Availability of Emergency Rooms	❑	❑	❑	❑	❑	❑
Availability of Hospitals	❑	❑	❑	❑	❑	❑
Cost of Health Care Insurance	❑	❑	❑	❑	❑	❑
Expertise and Quality of Doctors	❑	❑	❑	❑	❑	❑

5. Have you or a family member ever been unable to find a specialist physician to take care of a medical problem?

YES NO N/R

6. In what medical specialty were you not able to find a specialist?

7. In general, do you understand the cost of medical services in PR to be?

❑ Very reasonable ❑ Reasonable ❑ Neither
❑ Unreasonable ❑ Very High ❑ Do not know

8. At what level, if any, do you understand the following affect the cost and quality of healthcare?

Reasons	Very Much	Much	Little	None	N/R
The cost of living/ the economy	❑	❑	❑	❑	❑
Law suits to doctors	❑	❑	❑	❑	❑
Cost of electricity and water (utilities)	❑	❑	❑	❑	❑
Lawyers' fees for suing physicians/hospitals	❑	❑	❑	❑	❑
Profits made by insurance companies	❑	❑	❑	❑	❑
Gasoline prices	❑	❑	❑	❑	❑
Number of people who get sick	❑	❑	❑	❑	❑
Environment pollution	❑	❑	❑	❑	❑
Doctors' malpractice insurance fees	❑	❑	❑	❑	❑

9. Which of the following do you understand we could or should do to lower healthcare cost in PR?

	Yes	No	N/R
Legislate to establish caps (limits) on legal claims made to physicians	❑	❑	❑
Legislate to place limits on lawyer's fees	❑	❑	❑
Get sick less frequently	❑	❑	❑

10. Who benefits more from malpractice claims (professional liability claims)? (Choose one)

❑ The patient who established the claim
❑ Physicians
❑ Lawyers
❑ Hospitals
❑ Family of the patient
❑ Friends
❑ Others
❑ N/R

11. On a scale of 1 to 5 (total disagreement to total agreement) would you tell us how much you disagree or agree with the following statements?

	Disagree ⇦⇨ Agree 1	2	3	4	5	N/R
The government should legislate to place caps on malpractice claims	❑	❑	❑	❑	❑	❑
The government should legislate to place limits on lawyers' fees	❑	❑	❑	❑	❑	❑
People should stop frivolous malpractice claims	❑	❑	❑	❑	❑	❑

12. Would you support legislature placing limits on malpractice claims in an effort to lower healthcare cost?

YES NO N/R

13. Would you support legislature placing limits on lawyers' fees in an effort to lower healthcare cost?

YES NO N/R

14 to **24**. Demographic information including: age, gender, location of residence, level of education, income level.

_____

Table 1-B. Questionnaire in Spanish (NS/NR indica que no sabe o no desea dar una respuesta)

1. ¿Ha visitado o acompañado a su padre/madre, esposa(o), hijo(a) a una sala de emergencia en los pasados 2 años?

SI NO (TERMINAR) NS/NR (TERMINAR)

2. ¿Alguna vez lo han referido o trasladado al Centro Médico (Río Piedras) porque no le pudieron atender en la sala de emergencia que originalmente visitara?

SI NO NS/NR

3. Que plan médico tiene usted o su familia aquí en su casa?

4. ¿Cómo calificarías los servicios de salud en Puerto Rico en cuanto a _____? (LEER OPCIONES)

	Muy buenos	Buenos	Ni buenos ni malos	Malos	Muy malos	NS/NR
Disponibilidad de servicios de salud	❑	❑	❑	❑	❑	❑
Disponibilidad de médicos especialistas	❑	❑	❑	❑	❑	❑
Disponibilidad de Salas de Emergencias	❑	❑	❑	❑	❑	❑
Disponibilidad de Hospitales	❑	❑	❑	❑	❑	❑
El costo (planes médicos)	❑	❑	❑	❑	❑	❑
El conocimiento de los doctores	❑	❑	❑	❑	❑	❑

5. ¿Alguna vez ha sufrido usted o un familiar cercano la falta de un médico especialista que le atendiera?

SI NO NS/NR

6. SI SI, para cual especialidad no consiguió quien le atendiera?

7. En general, entiendes que los costos de los servicios médicos en Puerto Rico son:

❑ Muy Razonables
❑ Razonables
❑ Ni Razonables ni Irrazonables
❑ Irrazonables
❑ Demasiado altos
❑ No sabe/No responde

8. ¿De las siguientes, A QUE NIVEL, SI ALGUNO, entiendes que estas razones afectan directamente el costo y la calidad de los servicios médicos que recibes?

Razones	Mucho	Algo	No afecta	Poco	Nada	NS/NR
El costo de la vida	❑	❑	❑	❑	❑	❑
Las demandas a los médicos	❑	❑	❑	❑	❑	❑
El costo de la electricidad y el agua	❑	❑	❑	❑	❑	❑
Los honorarios de abogados cuando demandan a los médicos y hospitales	❑	❑	❑	❑	❑	❑
Las ganancias de las aseguradoras	❑	❑	❑	❑	❑	❑
El costo de la gasolina	❑	❑	❑	❑	❑	❑
Las personas que se enferman	❑	❑	❑	❑	❑	❑
La contaminación del ambiente	❑	❑	❑	❑	❑	❑
El pago por seguros de impericia	❑	❑	❑	❑	❑	❑

9. ¿Cuál de las siguientes usted entiende pudiéramos o debiéramos hacer para controlar los costos médicos?

	Si	No	NS/NR
Que se legisle para poner un límite a la cantidad de dinero que se puede obtener en una demanda	❑	❑	❑
Que se legisle para poner un límite a la cantidad de dinero que puede cobrar el abogado	❑	❑	❑
Enfermarnos menos	❑	❑	❑

10. ¿Quien entiende usted sale más beneficiado cuando se demanda a un médico por mala práctica? Seleccionar uno.

❑ Las personas que pone las demandas
❑ Los médicos
❑ Los abogados
❑ Los hospitales
❑ Las familias
❑ Los amigos
❑ Otro
❑ NS/NR

11. ¿En una escala del 1 al 5 donde el 1 significa "en desacuerdo" y el 5 significa "de acuerdo", podría decirnos cuan de acuerdo se encuentra con lo siguiente? Cuan de acuerdo está con _____ (LEER CADA FRASE)

	En desacuerdo ⇦⇨ De acuerdo 1	2	3	4	5	NS/NR
El gobierno debe legislar para poner un tope a las demandas por mala práctica	❑	❑	❑	❑	❑	❑
El gobierno debe legislar para poner un tope a los honorarios de abogados que representan a los demandantes por mala práctica	❑	❑	❑	❑	❑	❑
Las personas deben detener las demandas frívolas	❑	❑	❑	❑	❑	❑

12. ¿Estaría usted de acuerdo en que se legislara para poner un límite a la cantidad de dinero por la que se puede demandar a un médico, a cambio de bajar los costos de los servicios médicos?

SI NO NS/NR

13. ¿Estaría usted de acuerdo en que se legislara para poner un límite a la cantidad de dinero que pueden cobrar los abogados cuando demandan a un médico, a cambio de bajar los costos de los servicios médicos?

SI NO NS/NR

14 al **20**. Información Demográfica incluyendo edad, género, lugar de residencia, nivel de educación y nivel de ingresos.

A representative sample of all six US Census demographic regions in Puerto Rico balancing the variables (region, socioeconomic segment, age and gender) was used. The sample was made based on the US census information and a random selection (using a computerized program) was performed with quotas allocated to the variables that were balanced. Trained, professional interviewers from Gaither International, Inc (San Juan, PR) visited the homes and performed all the interviews to complete the questionnaires in December 2010. Complete information was obtained from 500 households. Only one interview per household was performed to prevent duplication of information. Interviews were ended in 41 households because they did not meet the inclusion criteria and in 17 households the interviewer was unable to contact the resident of the home.

All analyses were made with the statistical software program SPSS (version 12.0: SPSS, Inc. Chicago, ILL). Descriptive statistics reported by Gaither International, Inc. have a margin of error of ±4.4 with a 95% confidence level. Comparisons among groups for categorical variables (expressed as frequencies and percentages) were assessed by the chi-square test. Differences between groups were declared to be statistically significant at $p<0.05$.

Results

The sample's gender and age distribution are shown in Table 2. The mean age was 35. Respondents' demographic and socioeconomic distribution represented that of the population of Puerto Rico, but the lower socioeconomic level was slightly under-represented (30% in our sample vs. 40% in the population) (Table 3). All interviews were distributed and completed in proportion to the number of households in each of the US Census demographic regions of Puerto Rico (Table 4).

Table 2. Age and gender distribution of the sample (N=500).

Feature	Number (%)
Gender	
Female	260 (52)
Male	240 (48)
Age group, years	
18-24	81 (16)
24-34	96 (19)
35-49	136 (27)
50-65	111 (22)
>65	76 (15)

Table 3. Socioeconomic distribution of the sample (n=500).

Socioeconomic segment	Sample %	Puerto Rico %
Segment A-B	19	15
Segment C	52	45
Segment D-E	30	40

•SEGMENT A•
-College graduate/postgraduate studies
-Upper level management/owns a business
-Many bank and credit card accounts
-Live in some luxury
-Homes are valued over $250,000

•SEGMENT B•
-College graduate/postgraduate studies
-Upper level management/owns a business
-Many bank and credit card accounts
-Live in some luxury
-Homes are valued between $125,000 and $250,000

•SEGMENT C•
-High School graduate/some college
-Full-time job/middle management
-Have a bank account/credit card
-Live comfortable/normal luxury
-Homes are valued between $40,000 and $124,000

•SEGMENT D•
-Low or no formal education
-Labor worker/no full-time job/no specialized job
-Receive government help
-No bank accounts/no credit cards
-Some common luxury
-Homes are valued under $40,000
-Do not speak or express themselves correctly

•SEGMENT E•
-Low or no formal education
-Do not work
-Receive government help
-No bank accounts/no credit cards
-Some common luxury
-Owns a home made of wood or zinc. Do not own a home
-Do not speak or express themselves correctly

Table 4. Geographical distribution of the sample (N=500).*

Region	Sample %	US Census %
Arecibo	8	8
Mayaguez	15	15
Ponce	16	16
Caguas	14	13
San Juan Sub	15	13
San Juan Metro	32	35

*All interviews were distributed and completed proportionally to the number of households in each of the US Census demographic regions in Puerto Rico.

The study indicated that 96% of those interviewed were covered by health care insurance. The government insurance for the medico-indigent population (Reforma) provided coverage for 35% or one third of respondents.

When respondents were asked to rate health care services in Puerto Rico, 60% rated services as good or very good, while only 15% rated services as bad or very bad. When rating their satisfaction with health care, the greatest area of concern was that related to the cost of health insurance and services. There was only a 31% satisfaction rate in that item, a difference that was statistically significant with a $p<0.05$ (Table 5).

The study indicated that 16% of respondents, one out of every six, claimed to have been transferred to the government managed Medical Center ("Centro Médico") from another hospital to receive treatment (Table 6). Higher transfer rates to the supra-tertiary care Medical Center were noted for males (20%) and for the 35 to 49 age group (20%). When the group was broken down by socioeconomic groups we found that lower segments

(SEG D-E) had an 18% referral rate, the middle segment (SEG C) had a 17% referral rate and the upper segments (SEG A-B) had a 10% referral rate.

Finding a specialist was a major concern among respondents. One-third of respondents said they experienced difficulty in finding a specialist or failed to obtain one. Orthopedic surgeons were, by a wide margin, at the top of the list, with 38% of respondents indicating that they experienced difficulty or could not find an orthopedic surgeon (Table 7).

Table 5. Satisfaction with health services in Puerto Rico (N=500).

Health services	Very good & good - N (%)
Availability of health services	300 (60)
Ease of finding a specialist	290 (58)
Availability of emergency rooms	315 (63)
Availability of hospitals	350 (70)
Cost of health care insurance	155 (31)
Expertise and quality of doctors	380 (76)

Table 6. Were you referred to "Centro Médico" from your community hospital emergency room because the medical care you needed was not available there? (N=500)*

Feature	%
Overall referral rate	16
Region	
San Juan metro	16
Island	15
Gender	
Male	20
Female	12
Age group, years	
18-34	15
35-49	20
50-64	12
>65	15
Socioeconomic group	
High (segment A-B)	10
Middle (segment C)	17
Low (segment D-E)	18

*The overall referral rate was 16%. When analyzed by geographical area (San Juan metro vs. island) there was no significant difference, but males had a higher referral rate than females, and the 35-49 age group had a higher rate than the other age groups. Lower socioeconomic levels are referred at a slightly higher rate.

When asked about health care cost, 43% of the respondents rated cost as unreasonable. Among the factors affecting health care cost the people indicated that the economy, the high profits made by health insurance companies, and medical liability expenses are main factors affecting health care cost (Table 8). Respondents agreed that putting a cap or some type of control on lawsuits would lower health care costs (Table 9). However, question 9 offers only three options to lower healthcare cost, two of which relate to malpractice claims and the third to getting sick less often. By limiting the options the answer on the malpractice choices could have been forced. Nevertheless, the item was not a multiple choice question, but three independent inquiries, where the respondent could answer "yes", "no" or "do not know" to each statement, without limiting other possible interventions that could possibly have lowered healthcare cost.

Table 7. In what medical specialty were you not able to find a specialist? (N=500)

Medical Specialist	N (%)
Orthopedic surgeon	190 (38)
Cardiologist	70 (14)
Gastroenterologist	50 (10)
Neurologist	45 (9)
Internist	40 (8)
Pneumologist	35 (7)
Neurosurgeon	22 (4)
Surgeon	22 (4)
Obstetrician & Gynecologist	11 (2)
Geriatrician	5 (1)
Radiologist	5 (1)
General practitioner	5 (1)

Table 8. Factors that affect health care cost in people's perception (N=500).

At what level, if any, do you understand the following affect the cost and quality of healthcare?	Very much & much N (%)
Cost of living /economy	445 (89)
Profits made by insurance companies	440 (88)
Doctors' malpractice insurance fees	435 (87)
Law suits to doctors	420 (84)
Lawyers' fees for suing physicians/hospitals	415 (83)
Cost of electricity and water (utilities)	370 (74)
Number of people who get sick	370 (74)
Environment pollution	360 (72)
Gasoline prices	330 (66)

Table 9. What people believe should be done to lower health care cost (N=500).

Statement	Yes N (%)	No N (%)	N/R N (%)
Legislate to establish caps (limits) on legal claims made to physicians	290 (58.0)	209 (41.8)	1(0.2)
Legislate to place limits on lawyer's fees	420 (84.0)	789(5.6)	2(0.4)
Get sick less frequently	175 (35.0)	324 (64.8)	1(0.2)

When questioned regarding who benefits most from lawsuits, 63% believed that lawyers benefit most while only 33% believe that the patient (plaintiff) benefits most (Table 10). In the interviews 87% of the respondents indicated that frivolous lawsuits should be stopped; 86% indicated that they favor government limits on lawyers' fees; and 60% favor that government place a cap on lawsuit amounts (Table 11). The study found that 84% of the respondents

would support establishing government limits on professional liability awards to lower healthcare cost (Table 12). The questions 12 and 13 could be lead questions because most people would want to lower healthcare cost, and the results obtained should be taken with caution. However, it remains evident that people would be willing to accept limits in liability awards in exchange for a lower healthcare cost. In the interviews, 84% supported regulating, through legislation, the lawyers' fees when suing the healthcare sector in an effort to lower cost.

Table 10. Who benefits more from malpractice claims? (N=500)

Who benefits more from a malpractice claim?	N (%)
The patient who established the claim	165 (33.0)
Lawyers	315 (63.0)
Physicians	10 (2.0)
Hospitals	1 (0.2)
Family of the patient	6 (1.2)
Friends	0 (0)
Others	3 (0.6)
N/R	0 (0)

Table 11. How Puerto Ricans feel about professional liability lawsuits; those who agree or totally agree (N=500).

Statement	Agree & totally agree N (%)
Frivolous malpractice claims should be stopped	435 (87)
Legislate to limit lawyers' fees	430 (86)
The government should legislate to place caps on malpractice claims	300 (60)

Table 12. Would you support placing limits (caps) on malpractice claims in an effort to lower healthcare cost? (N=500)

Answer	N (%)
Yes	420 (84)
No	55 (11)
Dont'know	25 (5)

Discussion

Malpractice tort law has two main purposes (5-6). First, it seeks to compensate patients injured by low quality care. Second, it seeks to deter physicians from practicing beyond their expertise and punish those who practice low quality care. However, considerable evidence suggests that the current system accomplishes neither of these objectives (7-8). Regarding the first, the tort system does not provide compensation rapidly or equitably to injured patients. On average, it takes four to five years to resolve a malpractice claim (9-10), and administrative expenses consume almost half of damage awards. In addition, only one sixth of the cases that receive compensation have positive evidence of negligent medical injury (11-12). Regarding the second purpose of tort law, we find that malpractice suits are not specific: many invalid claims are paid and may be paid in proportion to the injury suffered rather than the quality of care delivered (13). In some cases the most knowledgeable physicians have been more likely to be sued than their peers (14) because they are the ones working in large academic centers with the most critically ill patients. It is therefore not at all clear that malpractice tort law compensates victims of medical mistakes or identifies clinically incompetent physicians.

Current malpractice tort law is not only ineffective, it is very expensive. Furthermore, adverse events are about equally frequent in malpractice tort systems and less expensive "no fault" systems for compensating disabled patients (15-16). From a consumer perspective, most patients who currently have great difficulty obtaining affordable medical care may support changes to the system. Our survey indicated that only 31% of the respondents were satisfied with the cost of health insurance and services in Puerto Rico. At this time of financial recession the cost of healthcare matters.

Caps or limits on non-economic losses have been demonstrated to reduce malpractice insurance costs and even state healthcare costs (17-18). Caps have a single, practical objective: to reduce liability insurance premiums by limiting insurers' financial exposure from large claims. A study of the medical and hospital professional liability situation in Puerto Rico from 1990 to 1996 indicated that during this seven-year period 3,506 cases were closed against physicians and institutions with payments of $56.3 million dollars for that period (19). These payments become part of the cost of providing healthcare in Puerto Rico. In spite of these large compensation payments, our study indicates that 63% of the public believe that it is the lawyers that benefit most from malpractice claims; only 33% of the public believe that the patient benefits.

Recent studies have demonstrated a significant association between state level physician supply and caps on noneconomic damages in malpractice cases (20). Our survey indicated that one-third of the respondents experienced difficulty or could not find a medical specialist. In the case of the orthopedic surgeons this increased to 38%. Liability pressures are responsible for this problem. Currently in Puerto Rico, half of our physicians do not manage emergencies or high risk cases in order to limit their liability exposure (4). Efforts at locally legislating caps on non-economic damages have so far not been successful; however, our survey indicated that 84% of the public supports such effort if it lowers healthcare cost.

Clearly, there are limitations to the study. The layman may not understand well the general cost of healthcare and services and they may be referring only to their out-of-pocket expenses. Nevertheless, the fact is that as the general cost of healthcare increases the out-of-pocket expenses of the individual increase. In Puerto Rico most patients do not pay directly to the medical provider, but they have an insurance plan for which they pay monthly premiums. These premiums increase with the general cost of healthcare. The government provides free medical

insurance coverage for about 35% of the population whose income is below the poverty level and their out-of-pocket expense is minimal. However, this population group is affected by a decreased access to services. The capitation paid by the government to insure the medico-indigent population is now buying fewer services for the same amount of money as the general cost of healthcare increases.

The public is becoming aware of the manner in which medical liability raises the cost of healthcare. These costs are passed on to the patients who ultimately are the most affected. Establishing some control over medical liability expenses to lower healthcare cost, currently has 84% public support.

Acknowledgments

This study was funded by the District of San Juan of the Puerto Rico College of Physicians and Surgeons. The authors wish to express their appreciation to the physicians who reviewed the questionnaire on multiple occasions: John Pagán, Glenn Garayalde, Norma Santiago, Félix Rolón, Cándido Torres, Anibelle Altieri, Albert Suárez, Antonio Pavía, Carlos Planell, and Ana Mejías.

Resumen

Objetivo: El alto costo de la litigación médico legal aumenta el gasto en servicios de salud y disminuye los servicios médicos disponibles. Para comprender mejor la percepción pública sobre éste problema se hizo una encuesta de opinión pública con la colaboración de Gaither International. Métodos: Se realizaron un total de 500 entrevistas a una muestra representativa de las seis regiones demográficas en las cuales el Censo divide a Puerto Rico. Los participantes fueron seleccionados al azar por edad, género, nivel socioeconómico y región de residencia. Todos habían visitado o acompañado a un familiar cercano a una sala de emergencia en los pasados dos años. Se les solicitó a los entrevistados datos demográficos generales, información sobre el uso de servicios de emergencia, cubierta de seguro, acceso a cuidados médicos y percepción de los costos por litigios y reclamaciones profesionales. Los resultados tienen un margen de error de ±4.4 con un intervalo de confianza de 95%. Resultados: Al evaluar las áreas de preocupación de los entrevistados con los diferentes componentes de los servicios de salud encontramos que el "costo" es el renglón más inquietante, seguido de la dificultad para obtener especialistas. Una tercera parte de los entrevistados indicó haber sufrido la falta de un médico especialista que lo atendiera. Los ortopedas son, por amplio margen, los especialistas más difíciles de obtener en la comunidad. Al preguntar sobre quién se beneficia más de una demanda, el 63% del público opina que es el abogado, solamente el 33% opina que es el paciente. Un 84% de los entrevistados favorecerían que se legisle para poner límites a las cantidades otorgadas en litigios médico legales en un esfuerzo por bajar el costo de los servicios médicos. Conclusión: El público está consciente de cómo los litigios médico legales aumentan el costo de los servicios de salud y disminuyen su accesibilidad.

References

1. Mello MM, Studdert DM, Brennan TA. The new medical malpractice crisis. N Engl J Med 2003; 348:2281-2284.
2. Palmisano DJ. The hidden cost of medical liability litigation. Ann Thorac Surg 2004;78:9-13.
3. Mello MM, Studdert DM, DesRoches CM, Peugh J, Zapert K, Brennan TA, Sage WM. Effects of a malpractice crisis on specialist supply and patient access to care. Ann Surg 2005; 242:621-628.
4. Cruz NI. The medical liability environment in San Juan: Results of a Survey. PR Health Sci J 2010; 29:66-69.
5. Danzon PM. Medical Malpractice: Theory, Evidence and Public Policy. Cambridge, Mass; Harvard University Press, 1985.
6. Danzon PM. "Liability for Medical Malpractice," In Handbook of Health Economics, vol. 1B, ed. A.J. Culyer and J.P. Newhouse, Amsterdam; Elsevier, 2000:1339-1404. Accessed on 9/6/2010. Available at: Url: http://hc.wharton.upenn.edu/danzon/PDF%20Files/Liability%20of%20Med%20Malpr%20Ch26%202000.pdf
7. Sumner W. Health and life insurance as an alternative to malpractice tort law. BMC Health Services Research 2010; 10:150. Accessed on 9/6/2010 at http://www.biomedcentral.com/1472-6963/10/150
8. Sage WM. Medical liability and patient safety. Health Affairs 2003;22:26-36.
9. Sloan FA, Githens, PB, Clayton EW,Hickson GB, Gentile DA and Partlett DF. Suing for Medical Malpractice. Chicago, ILL: University of Chicago Press; 1993:26.
10. Kessler DP, McClellan MB. The effects of malpractice pressure and liability reforms on physicians' perceptions of medical care. JSTOR: Law and Contemporary Problems 1997; 60:81-106.
11. Studdert DM, Mello MM, Gawande AA, et all. Claims, errors, and compensation payments in medical malpractice litigation. N Engl J Med. 2006; 354:2024-2033.
12. Weiler PC, Hiatt HH, Newhouse JP, Johnson WG, Brennan TA, Leape LL. A Measure of Malpractice: Medical Injury, Malpractice Litigation, and Patient Compensation. Cambridge, Massachusetts; Harvard University Press; 1993.
13. Brennan TA, Sox CM, Burstin HR. Relation between negligent adverse events and the outcome of medical-malpractice litigation. N Engl J Med 1996;335:1963-1967.
14. Ely JW, Dawson JD, Young PR, Doebbeling BN, Goerdt CJ, Elder NC, Olick RS. Malpractice claims against family physicians, are the best doctors sued more? J Fam Pract 1999; 48:23-30.
15. Davis P, Lay-Yee R, Briant R, Scott A. Preventable in-hospital medical injury under the "no fault" system in New Zealand. Qual Saf Health Care 2003;12:251-256.
16. Pukk-Harenstam K, Ask J, Brommels M, Thor J, Penaloza RV, Gaffney FA. Analysis of 23,364 patient-generated, physician-reviewed malpractice claims from a non-tort, blame-free, national patient insurance system: lessons learned from Sweden. Qual Saf Health Care 2008;17:259-253.
17. Enciosa WE, Hellinger FJ. Have state caps on malpractice awards increased the supply of physicians? Health Aff (Millwood). May 31, 2005. Suppl Web Exclusives: W5-250-W5-258. Accessed on 09/06/2010 at http://content.healthaffairs.org/cgi/reprint/hlthaff.w5.250v1
18. Kessler DP, Sage WM, Becker DJ. Impact of malpractice reforms on the supply of physician services. JAMA 2005; 293:2618-2625.
19. Brau RH, Diaz C, Hawayek J, Lojo JJ, Malaret GE, Ramos-Barroso A, Rodríguez-Ortiz P. Medical negligence in Puerto Rico: 1990-1996. P R Health Sci J 1998;17:55-67.
20. Hellinger FJ, Enciosa WE. The impact of state laws limiting malpractice damage awards on health care expenditures. Am J Public Health 2006; 96:1375-1381.