



Medical malpractice trends in spinal surgery

Dr Ajay Aggarwal, healthcare underwriter and risk analyst at Allied World, looks at current trends in medical malpractice and the risk management strategies that could help move towards safer practice



An orthopaedic surgeon will probably face at least one malpractice claim during their career. Once an orthopaedic surgeon has had one complaint, there is a higher chance of him/her facing another claim compared with physicians practicing in other fields [1].

Furthermore,

neurosurgeons have the highest rate of malpractice claims compared with any medical specialty, with 19.1 per cent facing a claim per year [2,3]. On account of this, it is important that spinal surgeons understand some of the risk factors for litigation against them.

A study carried out in the USA last year attempted to identify the most frequent causes of alleged malpractice in spinal surgery. 28.2 per cent of cases were catastrophic, which included anoxic/hypoxic brain injury, spinal cord injury and death. The others, the non-catastrophic cases, included complications such as nerve root damage, malpositioned instruments, incorrect surgical sites and other perioperative or anaesthetic complications [4].

55 per cent of the cases resulted in a verdict in favour of the surgeon. This was lower than the reported 75 per cent national average for physicians. This may be due to the catastrophic nature of some of the spinal complications. Additionally, the average award granted for claimant verdicts was significantly greater than the amount awarded in settlement cases. As one might expect, in cases in which there were catastrophic complications, the surgeons were more likely to lose and to settle out of court (67 per cent vs 38 per cent; 33.3 per cent vs 14.3 per cent respectively) [4].

However, strikingly, delays in diagnosis and treatment of complications were more likely to result in plaintiff ruling (72.7 per cent vs 42.9 per cent; 68.4 per cent vs 43.7 per cent respectively). In addition, a smaller study carried out at St George's Hospital, London, found that the most common cause of claims was faulty surgical technique. Over a quarter of these cases were due to wrong site surgery [3].

These findings should encourage spinal surgeons to pay particular attention to complications, caused by delayed

diagnosis and treatment, and wrong site surgery. Risk management strategies could help move towards safer practice:

- Adequate use of intraoperative imaging
- Preoperative time-outs
- Prompt and effective post-operative care
- Ensuring adequate follow up
- Proficient communication skills

Further Information

Bespoke Medical Indemnity work closely with EUNA underwriting, to provide contract certain insurance for spinal surgeons. For further information, please contact Andy Foley, Bespoke Medical Indemnity, call 07747624080 or email andy@medmal.co.uk

Disclaimer

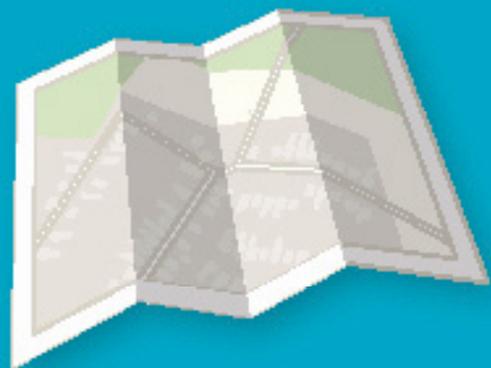
The information contained in this article is intended solely to provide general information for the personal use of the reader, who accepts full responsibility for the use of any of the information provided. While every effort has been made to ensure that the information contained in this article has been obtained from reliable sources, Euna Underwriting Limited is not responsible for any errors, omissions or inaccuracies. Accordingly, the information is provided on the understanding that Euna Underwriting Limited are not providing any professional advice. Euna Underwriting Limited is also not responsible for any results or for any loss occasioned as a result of the use of the information contained in this article.

No part of this article may be used, reproduced, stored in a retrieval system or transmitted in any form or by any means, without the prior permission of Euna Underwriting Limited.

References and further reading

1. ECRI Institute. An overview of liability risks in orthopedic surgery. Healthcare Risk Control. 2016 Nov 10. <https://www.ecri.org/components/HRC/Pages/SurgAn27.aspx>
2. Jena AB et al. Malpractice risk according to physician specialty. *N Engl J Med* 365: 629-636, 2011
3. Mukherjee S, Pringle C, Crockner M: A nine-year review of medicolegal claims in neurosurgery. *Ann R Coll Engl* 26: 266-270, 2014
4. Daniels A et al. Malpractice litigation following spine surgery. *J Neurosurg Spine* 27: 470-475, 2017

The same, just better.



VS.



Bespoke Medical Indemnity provides the best and most up-to-date solutions for your Medical Indemnity Insurance.

Fully insurance backed and contract certain coverage,
which is clear and unambiguous.

Protecting your assets and reputation.



**Bespoke
Medical
Indemnity**

Bespoke Medical Indemnity / 105 Piccadilly / London / W1J 7NJ

Tel: 020 7998 3424

www.bespokemedicalindemnity.co.uk