

Tort Reform Should Go Beyond Damage Caps

BY MARY ELLEN SCHNEIDER
Senior Writer

ALEXANDRIA, VA. — Traditional tort reform measures like damage caps won't address some of the fundamental problems with the medical liability system, experts said at a meeting on patient safety and medical liability sponsored by the Joint Commission on Accreditation of Healthcare Organizations.

To deal with the current malpractice situation, the medical community needs to address the reasons why people sue—injuries, unmet expenses, and anger, said Lucian L. Leape, M.D., of the department of health policy and management at the Harvard School of Public Health, Boston.

"The main reason most people sue is because they are angry at the physician," Dr. Leape said.

But the current system and the most commonly proposed reforms, such as damage caps, don't address the need to increase disclosure of errors to patients or incentivize physicians to offer apologies, he said.

Traditional reform measures such as damage caps would undercompensate seriously injured patients and increase administrative costs, Michelle M. Mello, Ph.D., of Harvard School of Public

Health, Boston, said. And they would not help deter medical malpractice.

Damage caps also fail to address the poor correlation between medical injury and malpractice claims, she said. Instead of focusing on caps, the medical community needs to consider an administrative compensation system to replace torts.

Physicians also have to realize that reporting patient injury is part of their professional responsibility, despite fear of a possible lawsuit.

The medical malpractice system is "blocking efforts at patient safety," said Troyen A. Brennan, M.D., professor of medicine at Harvard Medical School, Boston, and professor of law and public health at the Harvard School of Public Health. A new medical malpractice system should be established to separate compensation for injuries from deterrence, Dr. Brennan said.

For that to happen, liability for negligence has to be eliminated, and reporting has to be made based on injuries to the patient. "You have to enable open and honest reporting," he added.

Physicians also have to realize that reporting patient injury is part of their professional responsibility, he said.

Currently, some physicians do not disclose medical errors or injuries. That may be a rational economic response to physicians' rising premiums and fear of facing a lawsuit, Dr. Brennan said, but it definitely is not an ethical response. ■

Patients in Survey Not So Quick To Click E-Mail to Physicians

BY SHERRY BOSCHERT
San Francisco Bureau

SAN FRANCISCO — Not many patients e-mail their physicians, and of those who do, the majority click "send" less than once a month, an online survey of 1,881 people suggests.

Fewer than 17% of respondents reported recently e-mailing their physicians, Thomas K. Houston, M.D., said at the triennial congress of the International Medical Informatics Association. The survey recruited respondents mainly from the Aetna IntelliHealth Web site (www.intelihealth.com); some were recruited from patient e-mail portals operated by Harvard Medical School, Boston.

In-depth phone interviews with 56 of the 311 respondents who had e-mailed their physicians revealed that 30 did so less than once a month, 12 e-mailed about once per month, and 14 e-mailed their physicians more frequently, said Dr. Houston of the University of Alabama, Birmingham.

"Certainly, one of the concerns that physicians have had is being overwhelmed by e-mail" if they offer that option to patients, he said. These results suggest that this is not a problem, but that conclusion could change if more patients begin e-mailing, he added.

E-mail messages were mostly requests for prescription renewals or lab results, but some patients tried to use e-mail to com-

municate urgent problems such as chest pains. "That is a big concern," and suggests the need for patient education about e-mail use, he said.

Half the e-mail messages went to general internists, about 25% went to subspecialty internists, and the rest went to family physicians, ob.gyns., surgeons, pediatricians, and other specialists.

Some patients worry they will not get a reply, or that physicians are too busy to read e-mail, but they did not express concern about e-mail privacy issues.

These "early adopters" of e-mail communication with physicians liked the efficiency of e-mail and the ability to communicate without a face-to-face appointment, Dr. Houston said. Some patients said they felt more comfortable communicating things that they might not have been able to talk about in person.

On the other hand, they sometimes worried that they would not get a reply,

and they were concerned about bugging their physicians with too many e-mails. Patients were less concerned about privacy issues, he noted.

Although getting e-mail responses from their physicians made patients feel that physicians cared more about them, they complained of a lack of empathy in each individual e-mail.

Most patients were willing to pay \$3 per e-mail response from a physician.

The patients interviewed were mostly white women and tended to be better educated than the general population, Dr. Houston said. ■

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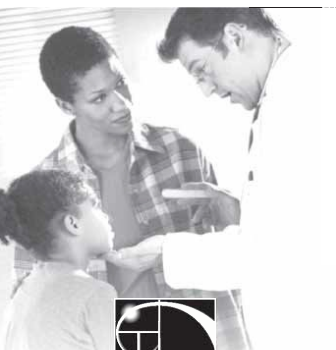
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