

The Effect of Malpractice Reform on Emergency Department Care

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BACKGROUND

Many believe that fear of malpractice lawsuits drives physicians to order otherwise unnecessary care and that legal reforms could reduce such wasteful spending. Emergency physicians practice in an information-poor, resource-rich environment that may lend itself to costly defensive practice. Three states, Texas (in 2003), Georgia (in 2005), and South Carolina (in 2005), enacted legislation that changed the malpractice standard for emergency care to gross negligence. We investigated whether these substantial reforms changed practice.

METHODS

Using a 5% random sample of Medicare fee-for-service beneficiaries, we identified all emergency department visits to hospitals in the three reform states and in neighboring (control) states from 1997 through 2011. Using a quasi-experimental design, we compared patient-level outcomes, before and after legislation, in reform states and control states. We controlled for characteristics of the patients, time-invariant hospital characteristics, and temporal trends. Outcomes were policy-attributable changes in the use of computed tomography (CT) or magnetic resonance imaging (MRI), per-visit emergency department charges, and the rate of hospital admissions.

RESULTS

For eight of the nine state-outcome combinations tested, no policy-attributable reduction in the intensity of care was detected. We found no reduction in the rates of CT or MRI utilization or hospital admission in any of the three reform states and no reduction in charges in Texas or South Carolina. In Georgia, reform was associated with a 3.6% reduction (95% confidence interval, 0.9 to 6.2) in per-visit emergency department charges.

CONCLUSIONS

Legislation that substantially changed the malpractice standard for emergency physicians in three states had little effect on the intensity of practice, as measured by imaging rates, average charges, or hospital admission rates. (Funded by the Veterans Affairs Office of Academic Affiliations and others.)

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[Disclosure forms](#) provided by the authors are available with the full text of this article at [NEJM.org](#).

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SOURCE INFORMATION

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