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Malpractice Suits Against Family Physicians Declined in 2021: Survey

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More than 4 in 10 (41%) family physicians report having been involved in a malpractice lawsuit in 2021, down from 40% in 2020, according to a new [survey by Medscape](#). Attorneys who specialize in such lawsuits attributed the decline to the fact that fewer people have received healthcare in person during the COVID-19 pandemic, along with a general sense of gratitude among patients for the sacrifices healthcare workers have made throughout the past 2 years.

More family physicians were part of lawsuits that named multiple parties (33%) than individual providers (10%). The most common reasons for malpractice lawsuits were [failure to diagnose/delayed diagnosis](#) (43%), poor outcome/disease progression (23%), wrongful death (14%), complications from treatment/surgery (13%), and failure to treat/delayed treatment (11%).

The report was compiled from an online survey that included more than 4300 physicians from 29 specialties. The survey was available from May 21, 2021, to August 28, 2021, and included 402 family physicians. Almost half of respondents (48%) said they had practiced medicine for more than 25 years. Nearly half (47%) were at least 60 years old.

The largest proportion of respondents (30%) said they did not know what they paid in annual malpractice insurance premiums. Of the respondents who provided an annual malpractice premium figure, the largest proportions paid \$5000–\$9999 (27%) and \$1–\$4999 (15%). Family physicians in the Northeast tended to pay more for malpractice insurance than their counterparts elsewhere.

Nearly all family physicians (95%) who responded to the survey said that they were "very surprised" or "somewhat surprised" to be part of a malpractice suit and that they frequently felt strong emotions about the experience: "Feeling awful that someone actually thought I was responsible for their child's lifelong disabilities," as one family physician put it. The vast majority (84%) of respondents said their lawsuits weren't warranted.

Most cases were settled before trial (39%) or dismissed within a few months after the lawsuit was filed (13%). A judge rarely ruled for the plaintiffs (3% of all cases); 6% of the lawsuits were ongoing at the time of the survey.

Almost half of lawsuits against family physicians (45%) were resolved within 2 years, and 28% were concluded in less than a year. The most common monetary payment amount to plaintiffs was less than \$100,000 (47%), although 30% of plaintiffs received awards ranging from \$100,000–\$500,000, and another 15% received up to \$1 million.

Roughly half of family physicians (53%) said they believed the outcome of their lawsuit was fair. The largest proportion of respondents (43%) said they would have done nothing differently, although almost 1 in 5 (17%) said they would have conducted better chart documentation. Family physicians advised their colleagues in similar situations to "be prepared, be calm, and tell the truth" and to "document as well as you have time to do so."

Almost two thirds of family physicians (63%) said being sued did not negatively affect their careers, while 29% said they no longer trusted patients and treated them differently. "Poor outcomes can happen without any responsible party," one family physician said. Another noted, "We are trying our best with each patient and sometimes unexpectedly bad outcomes occur."

Marcus A. Banks, MA, is a journalist based in New York City who covers health news with a focus on new cancer research. His work appears in Medscape, Cancer Today, The Scientist, Gastroenterology and Endoscopy News, Slate, TCTMD, and Spectrum.

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