

Legal Liability Associated with Elective Spine Surgery

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Introduction

Approximately 88% of neurosurgeons will be named in a suit by the age of 45 years, and the number increases to 99% by the age of 65. A substantial portion of these suits are due to spine surgery; recent investigations have found that 55-65% of litigation against neurosurgeons was due to spine surgery. In this investigation we aimed to quantify the outcomes and costs associated with lawsuits centered on elective spine procedures.

Methods

Publically-available jury verdict and settlement reports regarding cases involving elective spine surgery from 2000 to 2014 were searched in January 2015 using the Westlaw online legal database.

Results

9 cases were included for analysis; mean age 57.2 years (range 33-79 years) and 67% were male. Procedures included elective spine procedures involving decompression with or without instrumentation or fusion. Neurosurgeons, orthopedic surgeons, and anesthesiologists were represented equally in our sample at 33.3% of cases each. The specialty of the named defendant was not associated with litigation outcome (p = 1.00). Reasons for litigation included lack of informed consent (11%), unnecessary surgery (22%), failure to treat symptoms (44%), and failure to recognize injury in a timely manner (66%). Fifty-five percent of cases were decided in court in favor of the plaintiff, 22% were decided in court in favor of the defendant, and 22% were settled out of court. Among the cases that were settled or decided in favor of the plaintiff, the overall mean payment was \$1.95 million (range \$439,819 to \$4,064,888). There was no statistically significant difference in payments for plaintiff decisions compared to settlements (p = 0.73).

Conclusions

Neurosurgeons are commonly sued for elective spine surgery. In our sample, the majority of decisions were in favor of the plaintiff with large payments. However, no difference in payment was seen between settlements and decisions for the plaintiff.

Learning Objectives

1. Identify the frequency of litigation faced by neurosurgeons during their career.
2. Discuss the typical causes of litigations in elective spine surgery cases.
3. Understand the outcomes of litigation of elective spine surgery.