

SJR 35: Study of Health Care

Defensive Medicine: Recent Study Results

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Background

Health care reform discussions often focus on the need to control costs, including the costs of so-called "defensive medicine."

In general, health care practices that are prompted by a provider's concerns about potential malpractice claims are considered to be defensive in nature — particularly if they have a relatively high cost and low health benefit for a patient. Researchers classify these practices as:

- "positive" defensive medicine, which occurs when doctors try to reduce their exposure to lawsuits by ordering tests or treatment; and
- "negative" defensive medicine, which occurs when doctors refuse to accept or treat patients they believe are likely to file lawsuits.

Research often focuses on positive defensive medicine because it involves potentially unnecessary testing or procedures that increase health care cost.

Calculating the Costs

Many factors enter into a doctor's decision to order a test or procedure. For example, a "worried well" patient may insist on having a new test that's been in the news. A doctor may be worried about being sued. A health care provider may have invested in expensive technology and will benefit financially from its use. Those factors and others can make it difficult to pin down the costs of defensive medicine.

Following are brief summaries of recent studies that have looked at the issue.

- A February 2010 report said a telephone survey of 426 physicians found that the doctors attributed 26% of overall health care costs to the practice of defensive medicine. The Gallup/Jackson Healthcare poll surveyed randomly selected physicians across the country in December 2009 and January 2010. Of those surveyed, 73% said they had practiced some form of defensive medicine in the past year. Those physicians also said that 21% of their practice of medicine was defensive in nature.

The poll grew out of an online survey by Jackson Healthcare in December 2009 that drew more than 3,000 responses from the 138,686 doctors who had access to the survey. Nine out of 10 respondents said they practiced defensive medicine and estimated that the practice represented 34% of overall health care costs.

Jackson Healthcare is the parent company of several businesses that operate hospitals, provide healthcare staffing, and offer health information technology.

- Based on several recent studies, the nonpartisan Congressional Budget Office concluded in 2009 that a package of several tort reforms could prompt doctors to reduce their use of tests and other health care services. CBO estimated the reduction in services would save an additional 0.3% in national health care spending. The tort reforms also were expected to reduce malpractice premiums slightly. CBO estimated the two reductions combined would equal \$11 billion in 2009.
- The Massachusetts Medical Society surveyed practicing physicians in eight specialties over a five-month period in 2007 and 2008. Eighty-three percent of the respondents said they practiced defensive medicine. In general, they said about one-fourth of the X-rays, imaging studies, or specialty referrals they ordered were for defensive purposes. A smaller percentage of laboratory tests (18%) and hospital admissions (13%) were for defensive reasons. The Medical Society's report noted that the potential costs of the additional imaging, testing, and consultations was \$281 million, while the estimated costs of the additional hospital admissions was \$1.1 billion.

However, the Medical Society also noted that the study results were limited by a low response rate and the fact that physicians were self-reporting on their use of defensive medicine. The survey had a 23.6% response rate, with 838 of the 3,650 doctors returning the mail surveys.

- Three researchers with the Center for the Evaluative Clinical Sciences at Dartmouth Medical School reviewed medical malpractice claims and Medicare spending from 1993 to 2001. In a report issued in 2007, they found that higher medical malpractice awards and premiums were associated with higher Medicare spending, particularly on imaging services. The researchers concluded that the 60% increase in malpractice premiums between 2000 and 2003 may have increased total Medicare spending by more than \$15 billion.

Researchers also note that the practice of defensive medicine carries more than a financial cost. Some tests and procedures may unnecessarily expose patients to radiation, infection, or other health risks.

Sources

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"Investigation of Defensive Medicine in Massachusetts," *Massachusetts Medical Society*, November 2008.

Letter to Sen. Orrin G. Hatch from Congressional Budget Office Director Douglas W. Elmendorf, Oct. 9, 2009.

Katherine Baicker, Elliott S. Fisher, and Amitabh Chandra, "Malpractice Liability Costs and the Practice of Medicine in the Medicare Program," *Health Affairs*, 2007.

"About Jackson Healthcare," Jackson Healthcare Web site, www.jacksonhealthcare.com.