

Letter to the Editor

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TO THE EDITOR:

Psychiatrists who have legal difficulties by lawsuit are a legitimate area of interest for the profession. It is a difficult area with few empirical studies. I attempted to identify the more recent empirical data in this area. A literature search using Pub Med was performed to identify studies of malpractice lawsuits between the years 1990 and 2005. Studies were selected that had a representative sample base, empirical measures and at least 50 psychiatrists studied. A literature review yielding two empirical studies meeting review criteria (1,2) is summarized in Table 1. The major finding of course is the lack of empirical research in this important area. The findings are of course limited by the small number of studies. However, many of the patients

who sue or complain have significant psychiatric illness. Major area of legal difficulty include: incorrect treatment (including medication), suicide, failure to diagnose a medical condition and inappropriate sexual advances/contact. It appears that further empirical research in this area would be an aid to the field.

REFERENCES

1. Slawson PF. Psychiatric malpractice: recent clinical loss experience in the United States. *Medicine and Law*. 1991;10:129–138.
2. Morlock LL, Malitz FE, Frank RG. Psychiatric malpractice claims in Maryland. *International Journal of Law and Psychiatry*. 1991;14:331–346.

Table 1 Empirical Studies of Psychiatrist Legal Difficulties

Study	Population	Design	Major Findings	Legal/Financial Outcomes
Slawson, PF, 1991	Psychiatrists N = 800, 22% female	Closed claim study from APA insurance period 1984–1990	Claims of ineffective or incorrect treatment 50% of cases (medication a major aspect of this). Incorrect diagnosis about 10%. Improper detention in hospital 9%. Female psychiatrists underrepresented in proportion of claims. 55% of patients were female, most frequent diagnosis depression. Patients tended to have significant illness.	Complaints actually filed in two thirds of the cases, 21% settled, Summary judgment 6% and 2% of cases actually tried. Most costly claims were undue familiarity followed by suicide.
Morlock LL, Malitz FE & Frank RG, 1991	Psychiatrists, State of Maryland, psychiatrists (psychiatrists and psychiatric institutions)	All claims files by the Health Claims Arbitration Office (HCOA) between 1978–1985.	55% of incidents at hospital and 25% at physician’s office. 41% alleged emotional damage only, 20% temporary injury, 24% death. Claimants more likely to be teenagers or young adults than non psychiatric claims. Patient diagnoses were schizophrenia/psychosis 20%, depression/affective disorders 24%, alcohol substance 13% and Anxiety/personality (“neuroses”) 11%. Suicide attempt or completion in 43%. Alleged cause of injury: Inadequate supervision 30%, failure to diagnose 24%, medication problems 20%, Sexual relations 20%, failure to adequately treat, improper treatment 22%.	27% of claims filed at HCOA were dismissed 35% settled privately and 38% required a formal hearing. 47% of the claims at formal hearing were found in favor of the plaintiff. The most expensive case was failure to supervise in a suicide case, the next most expensive were failure to diagnose and treat medical problems followed by sexual misconduct and misdiagnosis/failure to adequately treat.

