Malpractice Litigation in Brain Tumor Surgery: A 31-Year Analysis of Causative Factors in the United States

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Introduction

Medical malpractice litigation is an issue of major concern in neurosurgical practice, with 19.1% of neurosurgeons facing a claim annually. Neurosurgery possesses the greatest cumulative risk of malpractice of any specialty, likely due to the highly complex clinical environment and severity of disease. Despite the significant threat of malpractice, few studies have analyzed litigation related to the management of brain tumors. In this study, the authors characterize such litigation to determine common factors that compel plaintiffs to file these claims.

Methods

WestLawNext, an online legal database, was utilized to identify all medical malpractice cases from 1985 to 2016 related to brain tumors. In total, 193 cases were identified and each was analyzed for cause of litigation (multiple causes were permitted). Since many have >1 ground for litigation, reported percentages were based on total counts of litigation rather than on number of cases. Additional demographic information was collected on each case including location (state), tumor type, and physician specialty.

Results

The cases were distributed across 36 states: California (n=38, 21%) and New York (n=25, 14%) had the highest number of malpractice cases. The top reasons for litigation were: failure to diagnose in a timely manner (n=93, 26%), failure to treat (n=58, 16%), procedural error (n=55, 15%), and failure to refer diagnostic tests (n=50, 14%). The most common classification of brain tumor diagnoses included: pituitary adenoma (n=28, 15%), acoustic neuroma (n=27, 14%), meningioma (n=23, 12%), and other/not specified (n=64, 33%). Neurosurgery (n=74,33%), Neurology (n=27, 12%), and Family Medicine (n=25, 11%) were the most common defendant physician specialties.

Conclusions

Malpractice litigation remains a challenge for all neurosurgeons; it contributes to high overhead and physician burnout while also escalating cost of patient care through defensive medicine. Analysis of the causes of litigation are important to address this crisis. This study reveals that the brain tumor litigation profile is not intuitive as benign brain tumors are the most common in litigation and that surgical issues accounted for only a small percentage. Unlike in other studies of litigation patterns, these results do not suggest an easy remedy for addressing these types of cases.

Learning Objectives To elucidate the causative factors of litigation related to the management of brain tumors.