"Many in this chamber - particularly on the Republican side of the aisle - have long insisted that reforming our medical malpractice laws can help bring down the cost of health care."

-Barrack Obama
Medical Malpractice

Hannah Williams, Hollyn Taylor, Caitlin O'Riordan, Chanel Shulman

Malpractice:
Treatment given by a member of the medical profession that departs from a generally accepted standard of practice and results in injury to the patient, through negligence, ignorance, lack of skill, or malicious intent.

History of Malpractice
Factors Leading to the Emergence of Malpractice in 1850
1. Movement away from religion
2. Movement toward health, nutrition, and environment
3. Emerging medical field
4. Women promiscuously brush off failures
5. Desire to hold physicians responsible (Mech, 2014)
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Factors Leading to the Adoption of Malpractice in 1840

1. Movement away from religion
2. Movement toward health: nutrition and exercise
3. Emerging medical field
4. Medical promises & backlash from failures
5. Desire to hold physician responsible
   (Pesto, 2014)
Malpractice Lawsuits

Malpractice Insurance

Defensive Medicine

Rising Healthcare Costs
Malpractice Insurance

How It Affects Physicians

- Grid Risk
- Risk Avoidance

How It Affects Patients

- Medical Negligence
- Patients
- Access To Care

Prezi
How It Affects Physicians

Moral Hazard
- Insurance premiums average $100,000 (Crain, 2007)
- Externalizes Cost of Mistakes (Bernstein, 2008)
- Negative Response to Malpractice
  - Not internalizing mistakes

Risk Aversion
- Shortage of high risk specialties
- Philadelphia insurance reform (Kelly 2008)
- Breakdown of trust between physician and patient
  - Loss of information

(Bershaden, J. D. Moscoott, and B. D. Abranson, 2008)
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How It Affects Patients

First Half of the Story: Physicians
- Harvard School of Public Health and Columbia Law School
- Malpractice Crisis: Liability Costs
- 824 neurosurgeons, orthopedic surgeons, general surgeons, OB/GYN, emergency medicine physicians, radiologists
- Definitely retire (7%)
  - 32% would likely do so within two years
- Relocate out of state (4%)
  - 29% would likely do so
- Eliminate high-risk aspects of practice (42%)
  - Or will likely do so (50%)

Second half: Patients and Access To Care
- Less access to care for specialty services
  - Shortage in specialists
- Driving distances & waiting times
  - Driving distances to specialists increased by 58%
  - Waiting times for specialists or surgery increased by 83%
  - Wait time for emergency care increased by 82%
- Switching physicians
  - Number of patients who had to switch physicians increased by 89%
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(Mello, Studdert, DesRoches, Peugh, Zapert, Brennan, & Sage, 1)
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How It Affects Patients
Defensive Medicine

Overview
- Medical practices designed to lessen liability or recrimination risks
- Proactive: unnecessary treatments and procedures
- Reactive: avoiding certain patients and riskier interventions
- Optional Care (Mayo, Thomson, 2015)

Asymmetric Information
- Patients don’t know which tests are necessary
- Skill bias (Rom-Hansen 2012)
- Undesired results

Risk Aversion
- Risk averse to accept deals with uncertain payoffs
- Physician scene contingency, lower payoffs
- Negative Entrenched Medicine
- 25.3% doctors (Caetano 2009)
Overview

Defensive Medicine: Medical practices designed to lessen possibility of malpractice suits

- Positive: unnecessary treatments and procedures
- Negative: avoiding certain patients and riskier procedures
- Optimal Care (Thayer, Thomas, Ziller 2010)
Asymmetric Information

- Patients don't know which tests are necessary
  - $46 billion (Packer-Tursman 2015)
  - Underestimated?
Risk Aversion

- Reluctance to accept deal with an uncertain payoff
  - Prefer more certainty, lower payoff
- Negative Defensive Medicine
  - 26.2% doctors (Cantino 2009)
Rising Healthcare Costs
Malpractice and the Affordable Care Act

Issues
- Medical malpractice-related costs are a significant factor in the Affordable Care Act.
- Proposed reforms to reduce malpractice claims.
- Congress is discussing tort reform.

Tort Reform and the ACA
- Proposes limiting non-economic damages.
- Limits punitive damages.
- Proposes a cap on medical malpractice jury awards.
- Proposes limiting medical malpractice attorney fees.
Issues

• Medical malpractice related costs responsible for 2.4% of healthcare spending in the US
• Affordable Care Act projected to raise malpractice claims
• Estimated $126 billion could be saved yearly
• Congress discussing Tort Reform

(Rand 2014)
Tort Reform and the ACA

• Is the ACA doing anything about medical malpractice costs?
• Secretary of Labor offers up to 5 year grants to states who test and evaluate potential changes to the medical malpractice litigation system
• Requirements

(Protection, Patient, and Affordable Care Act, 866)
Malpractice and the Affordable Care Act
Malpractice and Ethics

International Code of Ethics
- Professional judgement & professional conduct
- No personal profit or unfair discrimination
- Safeguard human life
- Only share patient information with colleagues
- Dealing with the same patient
- (Based on ethics, 2011)

How does this particular malpractice suit fail to uphold human life?
Is this discrimination?
International Code of Ethics

- Professional judgement & professional conduct
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Works Cited