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MALPRACTICE LITIGATION: THE UNMEASURED COMPLICATION

To the Editor:

We read with great interest the article by Palaniappan and colleagues¹ on their study using the Westlaw legal database to examine medical malpractice litigations involving aortic dissections in the United States over a 25-year period. With up to 20% of cardiothoracic surgeons facing a medical malpractice claim annually,² it behooves us to understand the factors associated with litigation.³

From the perspectives of a cardiothoracic surgeon with a law degree, and a current cardiovascular surgery resident master of law degree candidate, we advocate that having an understanding of medical law can enhance and even enrich one's clinical practice. Martin McKneally, a thoracic surgeon and ethicist, said, "Surgeons are practicing ethicists." We congratulate Palaniappan and colleagues¹ for raising awareness of the reasons for litigation in our patient population as well as identifying factors associated with defendant versus plaintiff verdicts. Only by promoting awareness of our legal and ethical obligations as physicians as an intrinsic part of clinical decision making, can we recognize and avoid potential legal ethical problems, and most importantly, adverse patient outcomes.

The importance of ensuring optimal patient outcomes, improving clinical standards, and meeting patient standards of care is key to our practice, and we propose, can be facilitated through embracing the intersection of medicine, ethics, and law. In this way, we can better understand and address legal and ethical questions that are fundamental to the practice of medicine and surgery; offer an invaluable perspective on health care, public policy, hospital administration, and the intersection

of health care law; have an enhanced awareness of health policies and be more effective in public discourse about health care delivery; and be uniquely positioned to better navigate the challenges of the complex health care landscape of today and tomorrow.

As Warren Buffett has said, "It's good to learn from your mistakes. It's better to learn from other people's mistakes."⁴ This study sheds light on the potential for utilization of medicolegal databases and previous litigation in our specialty area to learn what drives patient and caregiver dissatisfaction to better meet the needs of patients and their families.⁵ Simultaneously, it highlights the limitations of and potential for improvement in medicolegal databases to capture clinical factors and important variables in court documents of medical malpractice cases to better facilitate subsequent analysis. The Westlaw database is limited to federal court cases, with limited availability of access to settled malpractice claims and state case law,^{1,2} which represents a large volume of cases that may be more broadly applicable to cardiothoracic surgeons.

Ultimately, this article sets the bar for future medicolegal research, and the value a law background and perspective can add to one's cardiac surgery practice—for both patient and caregiver satisfaction and outcomes. As we meticulously scrutinize and evaluate patient outcomes, so too should we collect data on malpractice litigations and act on it to improve and reduce future litigations in our specialty.

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