District I Liability Lowdown

Overview of the 2015 ACOG Survey on Professional Liability

The 2015 Survey on Professional Liability is the twelfth survey conducted since 1983 to assess the effects of professional liability litigation and related liability insurance issues on the practice of obstetrics and gynecology. The entire population of ACOG Fellows and Junior Fellows in practice in the 50 states, the District of Columbia, and Puerto Rico were surveyed and, as was the case in 2012, the questionnaire was available exclusively online. Junior Fellows still in residency and fellowship (subspecialty) training, Founding Fellows, Life Fellows, members of the Armed Forces District and members living outside the 50 states, the District of Columbia, and Puerto Rico were excluded from the survey.

The survey questionnaire was developed and tested with select ACOG Fellows and staff members. The questionnaire included segments on demographics, patient care, liability claims experience, and practice changes associated with the cost of liability insurance and the fear of litigation. In total, 32,425 Fellows and Junior Fellows in practice were surveyed. The final 4,294 completed surveys were coded and analyzed using Statistical Package for Social Sciences (SPSS). Data analysis yielded frequency distributions and percentages for each of the survey questions. The final data represents only those 4,294 ob-gyns who responded to the survey.

Similar to the eleven previous ACOG national surveys (1983, 1985, 1987, 1990, 1992, 1996, 1999, 2003, 2006, 2009, and 2012), this survey addresses the impact of professional liability on the practice of obstetrics and gynecology. It provides continuing trend data about ob-gyns’ professional liability experiences and changes in their practice patterns. For all purposes, except analysis of claims, the survey interval is January 1, 2012 through December 31, 2014. Claims themselves may have a duration which extends beyond the survey interval. Similar to the previous surveys, the 2015 survey includes data on professional liability claims in both obstetrics and gynecology, although these claims have been limited to those opened and/or closed between January 1, 2012 and December 31, 2014.

The data reported in this Liability Lowdown pertains only to District I unless otherwise noted. For purposes of this survey, the following states are included in District I: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.

Physicians' Demographics

The majority of District I survey respondents were female (61.4%).

The average age of District I respondents was 51.3 years, compared to the national average of 51.4 years.

Patient Care

District I respondents reported providing the following type of patient care:

<table>
<thead>
<tr>
<th>Type of Care</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Obstetric and gynecologic care</td>
<td>67.5%</td>
</tr>
<tr>
<td>Obstetric care only</td>
<td>6.1%</td>
</tr>
<tr>
<td>Gynecologic care only</td>
<td>25.8%</td>
</tr>
<tr>
<td>Previously offered obstetric care</td>
<td>76.3%</td>
</tr>
</tbody>
</table>

On an annual average basis, District I respondents reported performing the following types of procedures:

<table>
<thead>
<tr>
<th>Type of Procedure</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total deliveries</td>
<td>106</td>
</tr>
<tr>
<td>Vaginal</td>
<td>66</td>
</tr>
<tr>
<td>Cesarean</td>
<td>34</td>
</tr>
<tr>
<td>VBAC</td>
<td>6</td>
</tr>
<tr>
<td>Hysterectomies</td>
<td>17</td>
</tr>
<tr>
<td>Other surgical procedures</td>
<td>49</td>
</tr>
<tr>
<td>Surgical Assists</td>
<td>19</td>
</tr>
</tbody>
</table>

Professional Liability Insurance

96.6% of District I ob-gyns reported being covered by professional liability insurance:

<table>
<thead>
<tr>
<th>Type of Coverage</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Claims-made coverage</td>
<td>50.5%</td>
</tr>
<tr>
<td>Occurrence coverage</td>
<td>43.9%</td>
</tr>
<tr>
<td>Another type or self-insured</td>
<td>5.6%</td>
</tr>
</tbody>
</table>
Changes in Practice as a Result of the Affordability and Availability of Professional Liability Insurance

The 2015 Survey on Professional Liability asked whether ob-gyns had made any practice changes since January 2012 because of the affordability and/or availability of professional liability insurance.

In District I, 42.0% of ob-gyns reported having made one or more of the following changes to their practice:

Obstetric Practice Changes
- Decreased number of high-risk obstetric patients: 8.5%
- Increased number of cesarean deliveries: 7.1%
- Decreased number of total deliveries: 5.4%
- Stopped offering/performing VBAC: 4.1%
- Stopped practicing obstetrics: 4.1%

Gynecologic Practice Changes
- Decreased gynecologic surgical procedures: 12.2%
- Stopped performing major gynecologic surgery: 7.5%
- Stopped all surgery: 3.7%

Retirement
- Retired from medical practice: 0.3%

In addition to the changes shown above, 1.4% of ob-gyns in District I reported they had liquidated holdings, accessed savings, or secured a loan to fund liability insurance premium increases.

Professional Liability Claims Experience

In 2015, 78.0% of District I respondents indicated they had at least one professional liability claim filed against them during their careers.

The average number of claims filed against District I survey respondents during their careers was 2.32 compared to the national average of 2.59.

One claim: 32.2%
Two claims: 27.4%
Three claims: 16.5%
Four or more claims: 23.9%

In 2015, 36.5% of District I ob-gyns reported that they had at least one professional liability claim filed against them as a result of care rendered during their residency.

Claims Experience January 1, 2012 through December 31, 2014

Respondents to the 2015 survey were asked a series of questions on claims that were opened and/or closed during the interval January 1, 2012 through December 31, 2014. Of the ob-gyns who responded from District I, 41.3% reported from one or more such claims during that period:

- One claim: 34.8%
- Two claims: 6.1%
- Three claims: 0.4%
- Four or more claims: 0.0%

Of those claims, 63.9% involved obstetric care, and 36.1% were related to gynecologic care.

Obstetric Claims

District I survey respondents reported on a total of 69 obstetric claims. The most frequent primary allegations included:

- Neurologically impaired infant: 31.9%
- Stillbirth/neonatal death: 21.7%
- Other infant injury – major: 10.1%
- Other infant injury – minor: 10.1%

Other Obstetric Factors

Respondents were asked to identify other factors that applied to their claims. The most frequent factors that applied to obstetric claims included:

- Electronic fetal monitoring: 26.1%
- Shoulder dystocia/brachial plexus injury: 17.4%
- Actions of ob-gyn residents: 15.9%
- Lack of communication among providers: 11.6%
- Ultrasound: 10.1%
- Other (not specified): 34.8%

Gynecologic Claims

Survey respondents reported on a total of 39 gynecologic claims. The most frequent primary allegations included:

- Delay in or failure to diagnose: 30.8%
- Patient injury – major: 23.1%
- Patient injury – minor: 23.1%
- Other (not specified): 10.3%

Other Gynecologic Factors

District I respondents were asked to identify other factors that applied to their claims. The most frequent factors that applied to gynecologic claims included:

- Surgical complications: 35.9%
- Laparoscopic procedure: 33.3%
### Claim Outcomes

District I respondents reported on the outcomes of all obstetrics and gynecology claims closed during the survey interval. These included:

<table>
<thead>
<tr>
<th>Description</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dropped or settled without any payment on behalf of the ob-gyn</td>
<td>41.2%</td>
</tr>
<tr>
<td>Settled with payment on behalf of the ob-gyn</td>
<td>35.3%</td>
</tr>
<tr>
<td>Closed by way of a jury or court verdict</td>
<td>16.2%</td>
</tr>
<tr>
<td>Closed through arbitration or other alternative dispute resolution mechanism</td>
<td>7.4%</td>
</tr>
</tbody>
</table>

### Changes in Practice as a Result of the Risk or Fear of Professional Liability Claims or Litigation

In District I, 49.5% of ob-gyns reported having made one or more of the following changes to their practice due to the risk or fear of medical professional liability claims or litigation:

#### Obstetric Practice Changes

- Decreased number of high risk obstetric patients: 17.3%
- Increased number of cesarean deliveries: 11.5%
- Decreased number of total deliveries: 7.1%
- Stopped offering/performing VBAC: 6.4%
- Stopped practicing obstetrics: 5.8%

#### Gynecologic Practice Changes

- Decreased gyn surgical procedures: 17.3%
- Stopped performing major gyn surgery: 10.8%
- Stopped all surgery: 4.1%

#### Retirement

- Retired from medical practice: 0.7%

### Conclusion

- Almost half (49.5%) of ob-gyns have made one or more changes to their practice as a result of the risk or fear of professional liability claims or litigation.
- 42.0% of ob-gyns have made one or more changes to their practice as a result of the affordability and/or availability of professional liability insurance.