NORA ADVERSE EVENTS:
OUT OF THE OPERATING ROOM, INTO THE COURTROOM
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Of the last 200 closed claims resulting in an indemnity payment, 14% involved a NORA procedure, including:

- Endoscopy
- Cardiac Catheterization
- IR & Imaging
- Office Based Surgery
- Electroconvulsive Therapy

PPM CLOSED CLAIMS DATA

1/1/2010 to 9/1/2022
PPM CLOSED CLAIMS DATA

AVERAGE INDEMNITY PAYMENT

1/1/2010 to 9/1/2022

- OR Procedures: $398,899.40
- NORA Procedures: $716,482.14
- Other Non-OR Procedures: $412,857.14
Increased number of claims and lawsuits arising from complications during endoscopic procedures; many resulting in catastrophic injuries, such as brain damage and death

12 closed claims with payments in the last 10 years (11 deaths, 1 brain injury):
- Indemnity payments = $8,576,500
- Defense costs = $972,579

4 pending lawsuits alleging patient death or brain injury during elective endoscopic procedure:
- Indemnity reserves = $2,450,000
64-year-old male, ASA III d/t morbid obesity (5’10, 140 Kg, BMI 44), suspected OSA, DM, HTN, and diverticulitis presented for elective colonoscopy

MAC w/ sedation (propofol and lidocaine) O2 nasal cannula at 4L/min

During procedure, gastroenterologist noted irregular heart rhythm and hypotension followed by bradycardia

When lights turned back on, patient was noted to be cyanotic

O2 SAT was 75% and HR 49; mask ventilation started, O2 SAT 43%, bradycardia to asystole

Code called, patient resuscitated but never woke up; family removed supportive measures and the patient expired four days post-op

COD - hypercarbia, cardiac arrest, and anoxic brain damage
**ENDOSCOPIC SENTINEL EVENTS – EXPERT CRITICISMS**

- Failure to secure airway with LMA or intubate due to high risk
- Failure to use capnography or chart ETCO2
- Failure to recognize and treat hypoventilation
- Lack of vigilance
- Gastroenterologist’s anticipated deposition testimony: MDA was “not paying attention, talking too much, showing pictures of his grandchildren on his cell phone”
NORA ADVERSE EVENTS

COMMON ALLEGATIONS

- Inappropriate patient selection for planned procedure at the facility
- Inadequate preanesthesia assessment
- Lack of or insufficient supply of necessary equipment (e.g., monitoring devices, video laryngoscope, etc.), medication, support staff, familiarity with specialized facility, proceduralist, and staff
- Failure to communicate with proceduralist and other staff
- Distractions (e.g., PEDs, music, loud environment, etc.)
- Lack of vigilance
NORA ADVERSE EVENTS – DEFENSE CHALLENGES

- Substandard care (e.g., distractions from non-clinical PED use, lack of vigilance, etc.)
- Metadata evidence
- Lack of expert support
- Finger-pointing by other staff members
- Potential jurors’ perception that these cases are “safe” or “low-risk”
- Increased risk of significant jury verdicts; possibly exceeding available insurance policy limits
NORA ADVERSE EVENTS – HOW CAN PROFESSIONAL LIABILITY INSURANCE COMPANIES HELP?

- Underwriting
- Identify loss trends
- Work with anesthesia professionals and facilities to develop and implement appropriate policies and protocols
- Focused risk management resources and strategies
THANK YOU!

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