POLICY BRIEF

PAFP Recommendation on Malpractice in the Physicians' Act of 2022

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Policy Question

In primary care, how should malpractice be regulated? Should it be by civil or criminal courts, self-regulation by physicians' organization or a combination?

Methods to Answer the Policy Question

To answer the research question, the PAFP Health Policy Analysis Committee conducted a literature search using the terms "primary care" AND "malpractice" AND (regulation OR administration). The committee also conducted discussion of the available summary of evidence to develop its recommendations. Below are excerpts from the reviewed evidence.

PAFP Recommendations

- Medical malpractice presents a significant societal burden socially and economically. It resulted int the practice of defensive medicine that increased the cost of care but did not necessarily decrease malpractice.
- Cases on medical malpractice should be regulated first within the physicians' organizations to better address through evidence-based facts and several clinical practice guidelines to show compliance to standard of care being delivered in the primary care level.
- There is a need to change the framework of addressing malpractice with the following policies:
 - Counteracting defensive medicine can be accomplished through decriminalizing malpractice, leaving physician oversight up to state medical boards and hospital claims management committees.
 - Malpractice peer review committees at hospitals and specialty boards may help inform medico-legal departments.
 - Medical malpractice reforms should be developed in accordance with the rapidly changing healthcare system.

- Malpractice should be seen as an organizational accountability, coupled with strong risk management, medical error communication and resolution programs, provides the legal framework necessary for the patientcentered practice of medicine.
- Patient involvement is necessary to increase clinicianpatient trust and improve patient independence in the shared decision-making process of their treatment.
- Maintenance of an effective communication between a multidisciplinary care team and the patient is critical for patient satisfaction, positive outcomes of care and malpractice prevention.
- Civil liability takes its most familiar form in the legal duty of care owed by healthcare professionals and workers to patients.
- o Criminal malpractice should only be considered when after committee review, there is willful neglect or illtreatment of a patient or highly culpable mistreatment of others that can be committed by any healthcare organization or worker is warranted.

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