

## DRIVING UP INSURANCE PREMIUMS

According to psychiatrist Sander Breiner, in the *Psychiatric Times*, nearly 40% of psychiatrists are sued for malpractice during the course of their career in the United States.

This can impact on general medicine. A report entitled “Medical Malpractice Insurance” published by the Insurance Information Institute states: “Many insurers have scaled back their exposure to the medical malpractice market and, in some cases, exited the market completely. Insurers that remain have imposed significant rate increases in order to cover their costs. Consequently, medical malpractice insurance premiums are rising rapidly.”<sup>1</sup>

Malpractice insurance premiums paid by doctors more than doubled in four years, and increased again from \$3.9 billion (€3 billion) in 1988 to \$6.3 billion (€4.9 billion) in 2002.<sup>2</sup> Civil suits skyrocketed from \$43 billion (€34 billion) in 1980 to \$290 billion (€228 billion) in 2005—or 574%.<sup>3</sup> Despite some states mandating limits to damage awards, over a four-year period the average jury award in medical malpractice doubled to \$1 million. (€787,835).<sup>4</sup> Medical malpractice underwriting losses—insurance claim payouts in excess of premiums paid in—soared from \$231 million (€182 million) in 1990 to a little over \$3 billion (€2.3 billion) a little over a decade later.<sup>5</sup>

Although pharmaceutical companies have withheld negative information about their products, and published studies have been exposed as biased because of pharmaceutical interests, doctors are no longer protected by the lack of information imparted to them. The following is a small sample of successful patient suits.

**Stewart v. The Johns Hopkins Hospital:** A 21-year-old student was prescribed the antidepressant Desipramine for “depression.” The doctor failed to monitor the level of the drug in her blood and she subsequently developed cardiac problems, collapsed and died. Her surviving family was awarded \$2.5 million (€1.9 million).

**Weaver v. Myers:** A 26-year-old man was awarded \$1.5 million (€1.2 million) after being prescribed an antipsychotic that caused tardive dyskinesia (a drug-induced condition marked by involuntary movements of the tongue and facial muscles), a side effect he had not been warned of.

**Muss v. Goldstein Cohen:** A 43-year-old woman was misdiagnosed with bipolar and prescribed an off-label drug resulting in Stevens-Johnson Syndrome, a severe allergic

drug reaction that resulted in epidermal necrosis (skin loss) and death. The jury determined that the doctor had failed to warn the patient of the side effect and, therefore, violated her informed consent, awarding \$3.4 million (€2.7 million) to her surviving family.

**Liss v. Doeff:** Elizabeth Liss, a 45-year-old factory worker, was diagnosed with “bipolar” disorder by psychiatrist Jan W. Doeff and prescribed the antipsychotic drug Risperdal as well as Lithium. Liss complained about side effects from the Risperdal, but Doeff insisted she continue it. Both Liss and her husband noticed and complained of Liss’s facial twitches, tightening of the facial muscles, pain in the neck and jaw area, and other similar symptoms. A neurologist confirmed Liss had developed tardive dyskinesia. Liss was awarded \$6.7 million (€5.3 million).

**Snider v. Harding Hospital:** A 35-year-old teacher was prescribed an antipsychotic drug, which caused tardive dyskinesia. The plaintiff did not sign any informed consent forms, nor did the medical records reflect any warnings. She was awarded \$800,000 (€630,269).

**Mennell v. Bradley:** California psychiatrist Cecil Bradley was found liable for failing to prevent a crime. For five years Bradley treated a patient who repeatedly expressed a compulsive desire to hurt others with his truck. California regulations require doctors and mental health professionals to notify the Department of Motor Vehicles when a patient is incapable of driving safely. Bradley did not do this even when the patient had used his truck to ram a vehicle in the psychiatrist’s parking lot. Eventually the patient drove up onto a sidewalk, killing one and severely injuring another. The jury found in favor of the surviving victim, awarding him over \$11 million (€8.7 million)—\$8.6 million (€6.8 million) of which Bradley was held responsible for.

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<sup>1</sup> Insurance Information Institute, “Medical Malpractice Insurance,” June 2003, p. 3.

<sup>2</sup> Freudenheim, Milt, “Costs of Medical Malpractice Drop After an 11-Year Climb,” 11 June 1989; *Op. cit.*, Insurance Information Institute, p. 3.

<sup>3</sup> *Op. cit.*, Insurance Information Institute, p. 14.

<sup>4</sup> *Op. cit.*, Insurance Information Institute, p. 16.

<sup>5</sup> *Op. cit.*, Insurance Information Institute, p. 13.