A Legal Database Review of Circumcision Related Litigation in the United States

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OBJECTIVE To characterize circumcision-related litigation in the United States (US) and factors predictive of lawsuit outcome. Circumcision is a common urologic procedure with medical and ethical nuances.

METHODS We reviewed the Nexis Uni legal database for state and federal cases using the term "circumcision" in combination with "medical malpractice" or "negligence" or "medical error" or "complication" or "malpractice" or "tort". Litigation primarily related to circumcision from 1939 to 2021 were reviewed for medical and legal details.

RESULTS We identified 77 unique cases. Most cases were processed in state (87%) or appellate (59%) court systems with negligent surgical performance as the most common lawsuit reason (49%). Of reported specialties, urology was the highest proportion represented among named physicians (29%) and most patients were minors at time of circumcision (64%) and lawsuit (59%). Common complications included aesthetic dissatisfaction (20%), pain (19%), impaired sexual function (17%) and surgical trauma/injury (16%). Most verdicts favored physicians (59%), but when against physicians, the median indemnity was $175,000. Lawsuits due to negligent informed consent were significantly more likely to result in verdict favoring the physician compared to those due to negligent surgical performance.

CONCLUSIONS Circumcision-related litigation in the US is rare and trial verdicts favor physicians, particularly in federal court cases or when parties allege negligent informed consent. Cases that favored plaintiffs successfully alleged negligent surgical technique. We recommend physicians performing circumcisions receive proper training, clearly communicate potential complications, and ensure appropriate indications for adult patients to reduce malpractice risk. UROLOGY 160: 94–101, 2022.
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Medical malpractice remains an issue that impacts patients, physicians, and the healthcare system. Intended to deter unsafe practice and provide justice for injured parties, medical malpractice is established by a plaintiff demonstrating that: (1) the physician had a duty to act, (2) the physician breached that duty, (3) the plaintiff suffered damages, and (4) the damages suffered were caused by the breach of duty[1]. While intended as a check against negligent care, the malpractice environment has led to rising malpractice insurance costs and physician difficulty in obtaining coverage[2]. For example, in 2003, the American Medical Association identified 44 states (with 18 at "crisis" levels) where physicians experience difficulty finding affordable coverage[3]. The malpractice environment also has implications for physician burnout and patient care. The practice of "defensive medicine" due to threat of malpractice liability may decrease physicians' quality of care, increase healthcare costs, and contribute to job dissatisfaction[4].

Prior research about malpractice litigation in urology shows that most claims against urologists are dismissed or settled before trial, and that urology is moderate- to high-risk relative to other specialties in total claims and average indemnity paid[2]. The cost of malpractice insurance, claim defense, and indemnity payments have risen in the past 2 decades[2]. While a commonly performed procedure, circumcision—surgical removal of the male foreskin—has been associated with controversies surrounding its ethical implications, posited health benefits, and potential complications[5]. Proponents argue that circumcision reduces rates of urinary tract infections, HIV/sexually transmitted infections, and penile cancer, with complications being rare[6].

Disclosure: None

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At the same time, arguments about consent in newborns, sexual/psychological harms, and the medical necessity of circumcision have persisted[7]. Urologists may frequently perform circumcisions or surgically manage its associated complications, underscoring the importance of understanding circumcision from a medical and legal perspective.

Despite the increasing rate of medical malpractice litigation and the rising controversies surrounding circumcisions (particularly pediatric), there is a paucity of literature on litigation involving circumcisions. One review found that nearly a third of pediatric surgical case litigation related to appendicitis and circumcision with no analysis of what factors may predict suit following such routine procedures[8]. Literature is particularly limited in non-pediatric patient populations. We sought to characterize circumcision-related litigation in the United States (US) as well as factors predictive of indemnity payment through a robust legal database review.

METHODS

Data Source

In the US, federal and state cases start in their respective trial courts and can be appealed up to state supreme courts or the federal Supreme Court. Medical-legal cases in state and federal court systems are archived as a matter of public record and searchable through Nexis Uni (formerly LexisNexis Academic), one of the largest legal databases in the US. The database contains over 15,000 news, legal, and business sources and includes decisions from US District Courts in all 50 US states and territories, US Circuit Courts of Appeals, and the U.S. Supreme Court since 1790[9].

Study Population

Nexis Uni was queried for medical malpractice claims related to circumcision on May 4, 2021. We used the following search terms to build our query: "circumcision" in combination with "medical malpractice" or "negligence" or "medical error" or "complication" or "malpractice" or "tort". We included all cases in which the primary lawsuit reason alleged by the plaintiff was circumcision and excluded cases where circumcision was mentioned but not central to the case (n=168). Most excluded cases were because search terms erroneously identified cases as related to circumcision. For example, an unrelated medical malpractice suit was identified in our query because it cited the opinion and relevant facts of a circumcision-related case. Formal ethical approval was not sought as all data were publicly available.

Eligible cases from 1939 to 2021 were reviewed to extract date of trial, court type (federal or state), court level (trial, appellate, or supreme), plaintiff/defendant identity (patient only, patient and partner, patient and parent(s), parent(s) on behalf of patient, state/federal prisoner, physician), physician (s)/health system named, trial date, reason for lawsuit (negligence in informed consent/surgical performance/post-operative care), patient age at time of circumcision/lawsuit, physician specialty, date of circumcision, clinical complications, verdict, and indemnity amount awarded by judge. For state court cases, regional geography was defined by American Urologic Association (AUA) region[10]. We queried state licensure registries for license status of physicians who were determined to be negligent. All extracted case details were reviewed by a medical-legal expert (JS).

Statistical Analysis

We utilized descriptive statistics including frequencies and percentages for categorical variables and median (IQR) for continuous variables after assessing for normality of distribution. Bivariate analysis was performed using chi-square, Fisher's exact, and Mann-Whitney U tests. Multivariate logistic regression was performed to explore the association between case characteristics and trial outcome (against or for physician). Candidate variables included lawsuit characteristics (court level, reason for lawsuit, patient age at circumcision, physician specialty, presence of any reported complication). Court type (federal vs state) was not a candidate variable since there was no variability in outcome across the variable levels (i.e., no federal cases were ruled against physician). Our initial model included all candidate variables. We followed a backward-stepwise approach with a stay criterion of $P < .1$ for candidate variables, which resulted in a final model containing only one variable (lawsuit reason). All analysis were performed with STATA 17.0. All P-values were 2-sided and a $P < .05$ was considered statistically significant. We followed the Strengthening the Reporting of Observational Studies in Epidemiology (STROBE) guidelines in the design and reporting of this study[11].

RESULTS

Our query yielded 245 legal cases in the Nexis Uni legal database. Of these, 77 were primarily related to circumcision and 70 were included in our final analysis after excluding duplicates. Distribution and outcomes of these cases are illustrated in Figure 1. Most cases were processed in state (61/70, 87%) or appellate (41/70, 59%) court systems (Table 1). Proceedings most heavily represented the Southeastern (13/70, 21%), North Central (11/70, 18%), and Western (10/70, 16%) AUA regions. Plaintiffs were most commonly parents suing on behalf of the patient (25/70, 36%), followed by physicians filing appeals (14/70, 20%) and the patient only (11/70, 16%). Physician(s) were usually named as defendants (53/70, 76%). Of 3-time intervals (informed consent before surgery, surgical performance during surgery, post-operative care after surgery), the most common reason for lawsuits was negligence in surgical performance (34/70, 49%).

Patients were often minors (<18 years old) at time of circumcision (44/70, 63%) and subsequent lawsuit (41/70, 59%). Notably, 2 patients sued as adults based on circumcisions performed on them as an infant. Both were unique in their exemption from standard statute of limitations (typically 10 years from circumcision) and neither resulted in a decision against the physician. 1 patient died allegedly from complications intraoperatively during his circumcision. Physicians named were most often urologists (19/70, 29%), followed by pediatricians (13/70, 20%) and obstetricians/gynecologists (15/70, 15%). Commonly reported complications included aesthetic dissatisfaction (14/70, 20%), pain (13/70, 19%), impaired sexual function (12/70, 17%), and surgical trauma/injury (11/70, 16%). Most verdicts favored physician (s) (39/70, 59%). Of the 23 verdicts against physicians, the indemnity awarded was reported for 12 cases, summarized in Table 2, resulting in a median of $175,000 (interquartile range $33,250-1,975,000). Medical licenses were located for 20 of 23 physicians with verdicts against them; 9 of 23 had inactive licenses and 11 of 23 had active license. 1 physician had prior disciplinary actions on file (untimely turnover of medical

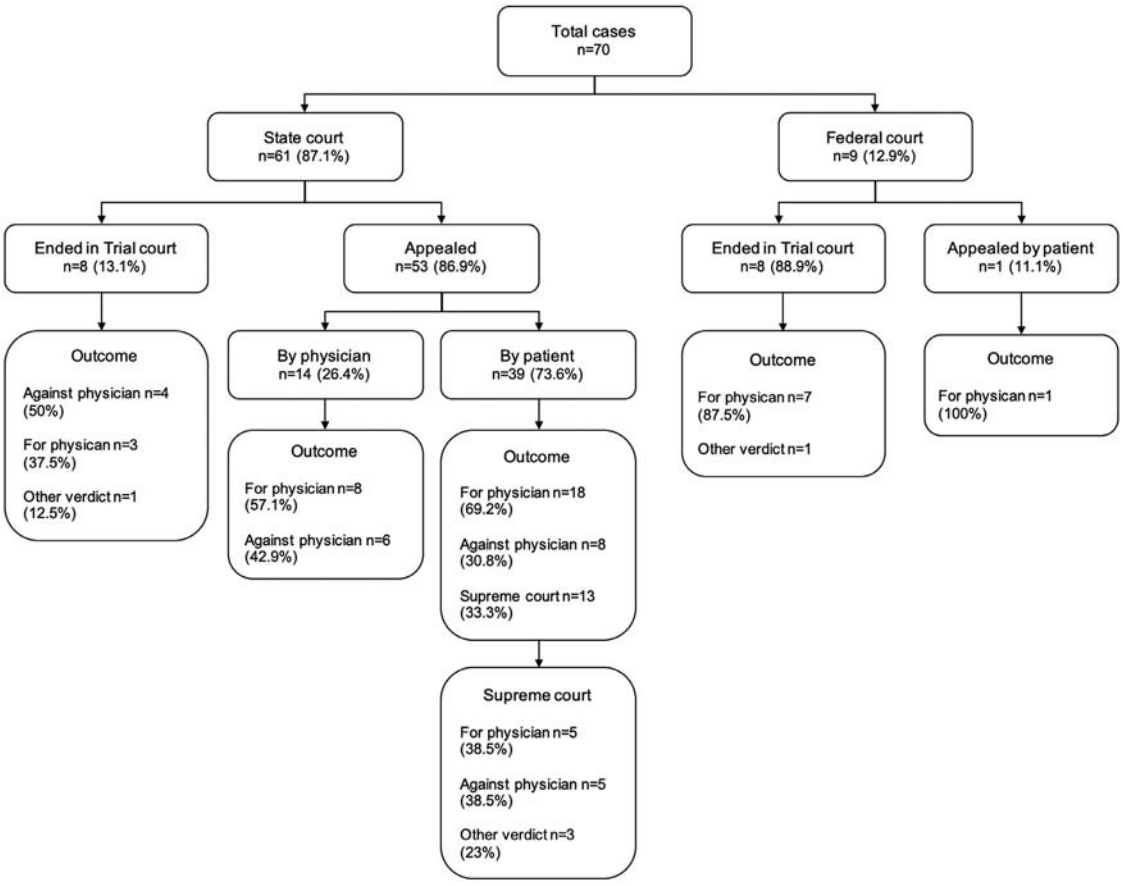

Figure 1. Flowchart of cases captured by review
See E. Figure(s): #1 (Fig. 1.png).

records, untimely signing of death certificate, and inadequate pre-operative workup).

To elucidate factors associated with trial outcomes against or for physicians, we divided trials based on outcome and performed bivariate analysis (Table 3). A significantly higher percentage of trials with decisions against the physician were lawsuits due to negligence in surgical performance (70% v. 38%, $P = .02$), whereas trials with decisions favoring the physician were more likely to be due to negligence in informed consent (38% v. 13%, $P = .034$) or post-operative care (17% v. 4%, $P = .24$). In multivariate stepwise models, lawsuit reason was the only variable left in the final model, indicating that suits brought on the basis of negligence in informed consent were significantly less likely to result in a verdict against the physician compared to lawsuits due to negligence in surgical performance (OR = 0.18, 95% CI 0.04-0.77, $P = .02$). The distribution of state versus federal cases also significantly differed between trials against and for the physician ($P=.025$), but this association did not hold when adjusted in multivariate assessment. All other factors including court type, age at circumcision/lawsuit, physician specialty (urologist or non-urologist), and reported complications did not significantly affect likelihood of a decision against physician.

DISCUSSION

Sparse research exists about circumcision-associated litigation. Our legal database review showed that most litigation proceeds through state appellate court systems and primarily relates to negligence in surgical performance. The majority of patients were minors (<18 years old) circumcised by urologists or pediatricians. Common complications included aesthetic dissatisfaction, pain, sexual dissatisfaction, and surgical trauma/injury. Trial outcomes usually favored physicians, but a notable portion were against physicians for a median indemnity of $175,000. Lawsuits due to negligence in informed consent were significantly less represented in trials decided against the physician.

Previous legal database reviews have been conducted for urologic procedures including placement of penile protheses, urethral catheter insertions, robotic surgery, vasectomy, radical prostatectomy, and surgeries leading to iatrogenic ureteral injuries[12–17]. Similar to our findings, litigation in these reviews most commonly related to negligent surgical performance and were decided in favor of the physician. When reported, median indemnity tended to be higher than what we found for circumcisions ($335,500 for penile protheses, $401,913 for vasectomies, $552,822 for iatrogenic ureteral injury), likely reflecting differences between procedures and the severity of associated complications[12,15,17]. Interestingly, Bole et al. found that inadequate workup was predictive of plaintiff victory (decision against physician), which did not align with our

Table 1. Legal and clinical characteristics of litigation involving circumcision (N = 70)

Variable	No. (%)
Total cases	70 (100)
Court type*	
State	61 (87)
Federal	9 (13)
Court level*	
Trial	16 (23)
Appellate	41 (59)
Supreme	13 (19)
AUA Region†	
Southeastern	13 (21)
North Central	11 (18)
Western	10 (16)
Mid-Atlantic	8 (13)
South Central	6 (10)
New York	5 (8)
Northeastern	4 (7)
New England	4 (7)
Lawsuit reason reported	
Negligence in surgical performance	34 (49)
Negligence in informed consent	21 (30)
Negligence in post-operative care	8 (11)
No informed consent obtained	2 (3)
Circumcision performed by an unqualified person according to religious belief	1 (1)
Negligence in diagnosis requiring circumcision	1 (1)
Unauthorized sexual contact	1 (1)
Age at circumcision	
Minor (<18)	44 (63)
Adult	22 (31)
Not reported	4 (6)
Age at case	
Minor (<18)	41 (59)
Adult	24 (34)
Not reported	5 (7)
Physician specialty	
Urology	19 (29)
Pediatrics	13 (20)
Obstetrics & gynecology	10 (15)
General Surgery	6 (9)
Family practice	3 (5)
Family practice & general surgery	1 (1)
Internal Medicine	1 (1)
Pediatric general surgery	1 (1)
Plastic surgery	1 (1)
Not reported	10 (15)
Reported complications	
Aesthetic dissatisfaction	14 (20)
Pain	13 (19)
None reported	13 (19)
Sexual dissatisfaction	12 (17)
Surgical trauma/injury	11 (16)
Inadequate skin removal	9 (13)
Infection	9 (13)
Bleeding	7 (10)
Decreased urinary function	6 (9)
Excess skin removal	4 (6)
Urethral complications (fistula, meatal stenosis)	4 (6)
Systemic/Death	4 (6)
Adhesions	2 (3)
Cicatrix	2 (3)
Loss of penile length	2 (3)
Unspecified damages	2 (3)
Epidermal inclusion cyst	1 (1)
Skin bridges	1 (1)
Emotional distress of parent(s)	1 (1)
Trial outcome	
Favors physician	42 (60)
Against physician	23 (33)
Other	5 (7)
Indemnity	
Located	12 (55)‡
Amount awarded (median, interquartile range)	175000 (33250-1975000)

* Both federal and state cases start in their respective trial courts and can be appealed up to state supreme courts or the federal Supreme Court.

† For states in multiple AUA regions, categorization was determined by hospital zip code.

‡ Indemnity denominator was 22 cases which were against the physician(s).

finding that negligence in informed consent was less likely to yield a pro-plaintiff verdict[17].

An interesting finding in this study was that nearly one third of cases were due to negligent informed consent. Among these, 10 of 21 cases were processed in federal court systems or states without statutory requirements for informed consent[18]. Lack of proper communication between the physician and the patient / patients' parent (s) may have led to under-appreciation of the potential risks of a circumcision. This could be driven by the rarity of adverse events associated with a minor surgical procedure, leading physicians to underplay the importance of a thorough conversation during consent. The value of a high quality and comprehensive consent process cannot be overstated.

Our study has important limitations to consider. An estimated 90% of cases are settled prior to trial, with confidential terms[19]. Therefore, our review of cases included in the Nexis Uni database is likely a vast underestimate of circumcision-related litigation and only represents cases where plaintiff(s) and defendant(s) did not reach a settlement and proceeded to trial which ultimately concluded in a verdict. Our median indemnity similarly does not account for outside settlements but court judgments are often higher than what is agreed at settlement[20]. Furthermore, as this was a legal database review, pertinent medical details such as method of circumcision and patients' clinical characteristics were

Table 2. Summary of cases decided against physician with indemnity

Case No.	Year	Physician specialty	Alleged malpractice	Complications experienced	Summary of clinical details	Indemnity amount
1	1986	Pediatrician	Negligence in post-operative care	Aesthetic dissatisfaction	Physician circumcised parents' infant son with Plastibell device, which required surgical removal because it failed to drop off; this left the penis discolored and ridged. Expert witness testified that physician used wrong size or pulled skin too far forward.	$200,924
2	1987	First year family practice resident under supervision of third year surgical resident	Negligence in surgical performance	Penis burned off, urethral complications	Parents' minor child had penis burned off by Valleylab Electrosurgical device during circumcision for phimosis while applying guillotine technique. Patient experienced high fever and urethral complications requiring four additional surgeries.	$2,750,000
3	1988	General surgeon	Negligence in surgical performance	Swelling, discoloration	Physician performing circumcision made the initial incision too low, which was realized after cutting three quarters around, and sutured the incision before making a second incision to complete the circumcision. The resulting swelling and discoloration required the child to be hospitalized and seek care from multiple pediatric urologists.	$22,300
4	1990	Unknown	Negligence in surgical performance	Infection, epidermal inclusion cyst	Following patient's birth, doctor performed circumcision using Gomco clamp which slipped upon removal. The wound was sutured but resulted in infection and a cyst.	$10,000
5	1991	Urologist	Negligence in surgical performance	Pulmonary edema, death	Parents requested circumcision for newborn, but procedure failed to remove entire foreskin. During subsequent second circumcision, child suffered pulmonary edema due to general anesthesia and died three days later.	$26,500
6	1994	Urologist	Negligence in informed consent	Sexual dissatisfaction, decreased urinary function, pain	Patient had motor vehicle accident resulting in vesical contusion. Patient then underwent cystoscopy and circumcision and subsequently complained of pain and issues with voiding and ejaculation. Trial court concluded that circumcision was not necessary, and that physician failed to obtain informed consent.	$150,000
7	1994	Urologist	Negligence in informed consent	Bleeding, adhesions, bleeding	Patient underwent circumcision to relieve urinary issues but developed skin chordee, which was corrected with penoplasty to free his penis from his scrotum. Patient lost three inches of length and reported sexual dissatisfaction.	$2,250,000
8	1999	General Surgeon		None		$40,000

Continued

Table 2. Continued

Case No.	Year	Physician specialty	Alleged malpractice	Complications experienced	Summary of clinical details	Indemnity amount
			Negligence in informed consent		A gastrostomy and circumcision were scheduled but consent was not obtained for the circumcision. Intraop, a nurse informed the surgeon that the parents had not signed the consent form and volunteered to consent the family. The nurse reentered the surgical suite but did not speak to the surgeon, which was interpreted as evidence of the parents' consent. Surgeon performed circumcision against parents' wishes.	
9	2000	Family Medicine	Negligence in surgical performance	Aesthetic dissatisfaction, surgical trauma/ injury.	Two circumcisions were performed on an infant child. These resulted in injuries and an "abnormal" penis. Additional details not given.	$200,000
10	2007	Urologist	Negligence in surgical performance	Aesthetic dissatisfaction, decreased urinary function, pain	Patient had undiagnosed diabetes which was not checked for prior to surgery with urinalysis, allegedly resulting in unusual protrusion, urination issues, lack of sensation, and other unusual symptoms.	$1,950,000
11	2008	Family Medicine	Negligence in surgical performance	Surgical trauma/ injury, sexual dissatisfaction, aesthetic dissatisfaction	Circumcision was performed on patient, a newborn. Patient's mother observed that Plastibell fell off post-op and presented to the ED and received antibiotic cream. On post-operative visit, patient's penis had "closed up" and could not urination. Subsequent corrective surgery allegedly resulted in scarring, aesthetic concerns, loss of length, and significant psychological distress.	$112,500
12	2009	Urologist	Negligence in surgical performance	Not specified	Patient suffered complications from an adult circumcision. Complications and further details not specified.	$2,000,000

Table 3. Factors predictive of trial outcome

Variable	Against Physician	For Physician	*P*
Federal / State			.025
Federal	0	8 (19)	
State	23 (100)	34 (81)	
Court Level			.536
Trial	4 (17)	10 (24)	
Appellate	14 (61)	27 (64)	
Supreme	5 (22)	5 (12)	
Suit reason			.029
Negligence in surgical performance	16 (70)	16 (38)	
Negligence in post-operative care	1 (4)	7 (17)	
Negligence in informed consent	3 (13)	16 (38)	
Other	3 (13)	3 (7)	
Age at circumcision			.58
Adult	6 (26.1)	16 (38)	
Child	16 (70)	23 (55)	
Not reported	1 (4)	3 (7)	
Urologist			.733
Yes	7 (35)	12 (30)	
No	11 (55)	21 (53)	
Not reported	2 (10)	7 (18)	
Any complication			.188
Yes	21 (91)	32 (76)	
No	2 (9)	10 (24)	

often not captured as they were not submitted to the court for review. Despite these limitations, our study is the first to characterize circumcision-related litigation as well as factors predictive of trial outcome through a large legal database review.

Our findings show that circumcision related litigation is relatively rare considering the prevalence of the procedure, with an estimated prevalence of 80.5% in men and boys aged 14 to 59 from 2005 to 2010 in the United States[21]. Regardless, malpractice risk remains a burden on physicians associated with direct costs through indemnity payments and indirect costs such as time, stress, added work, and reputational damage. Based on our findings, we recommend physicians performing circumcisions (1) obtain proper training in circumcision technique and post-operative care (2) communicate potential complications to patients/parents and (3) ensure proper indications for adult patients considering circumcision. Overall, circumcision is generally a safe procedure when performed by an experienced physician and malpractice is rare.

CONCLUSIONS

Circumcision-related litigation is rare and when taken to trial favors the physician, particularly when parties allege negligent informed consent. Cases that favored patients successfully alleged negligent surgical technique. We recommend physicians performing circumcisions obtain proper training, clearly communicate potential complications, and ensure appropriate indications for adult patients in particular to reduce the burden of malpractice risk.

References

1. Moffett P, Moore G. The standard of care: legal history and definitions: the bad and good news. *West J Emerg Med*. 2011;12:109–112.
2. Sherer BA, Coogan CL. The current state of medical malpractice in urology. *Urology*. 2015;86:2–9. https://doi.org/10.1016/j.urology.2015.03.004.
3. Mello MM, Studdert DM, Brennan TA. The new medical malpractice crisis. doi:10.1056/NEJMp030064 2021.
4. Studdert DM. Defensive medicine among high-risk specialist physicians in a volatile malpractice environment. *JAMA*. 2005;293:2609. https://doi.org/10.1001/jama.293.21.2609.
5. Robinson JD, Ortega G, Carrol JA, et al. Circumcision in the United States: Where Are We? *J Natl Med Assoc*. 2012;104:455–458. https://doi.org/10.1016/S0027-9684(15)30200-5.
6. American academy of pediatrics task force on circumcision. male circumcision. *Pediatrics*. 2012;130:e756–e785. https://doi.org/10.1542/peds.2012-1990.
7. Morris BJ, Moreton S, Krieger JN. Critical evaluation of arguments opposing male circumcision: A systematic review. *J Evid-Based Med*. 2019;12:263–290. https://doi.org/10.1111/jebm.12361.
8. Rich BS, Shelton K, Glick RD. Litigation involving pediatric surgical conditions. *J Pediatr Surg*. 2020;55:602–608. https://doi.org/10.1016/j.jpedsurg.2019.08.047.
9. Nexis Uni | Acad Res Tool Uni Lib. Accessed 2021. https://www.lexisnexis.com/en-us/professional/academic/nexis-uni.page.
10. AUA Sec Demograph - Am Urol Associat. Accessed 2021. https://www.auanet.org/membership/who-we-are/aua-sections-and-demographics.
11. Vandenbroucke JP, von Elm E, Altman DG, et al. Strengthening the reporting of observational studies in epidemiology (STROBE): explanation and elaboration. *Epidemiol Camb Mass*. 2007;18:805–835. https://doi.org/10.1097/EDE.0b013e3181577511.
12. Sunaryo PL, Colaco M, Terlecki R. Penile prostheses and the litigious patient: a legal database review. *J Sex Med*. 2014;11:2589–2594. https://doi.org/10.1111/jsm.12649.
13. Awad MA, Osterberg EC, Chang H, et al. Urethral catheters and medical malpractice: a legal database review from 1965 to 2015. *Transl Androl Urol*. 2016;5:762–773. https://doi.org/10.21037/tau.2016.08.02.
14. Nik-Ahd F, Souders CP, Zhao H, et al. Robotic urologic surgery: trends in litigation over the last decade. *J Robot Surg*. 2019;13:729–734. https://doi.org/10.1007/s11701-018-00905-y.
15. Blazek AJ, Belle JD, Deibert MP, Deibert CM. Legal review of vasectomy litigation and the variables impacting trial outcomes. *Urology*. 2019;131:120–124. https://doi.org/10.1016/j.urology.2019.05.035.
16. Colaco M, Sandberg J, Badlani G. Influencing factors leading to malpractice litigation in radical prostatectomy. *J Urol*. 2014;191:1770–1775. https://doi.org/10.1016/j.juro.2013.12.003.
17. Bole R, Linder BJ, Gopalakrishna A, et al. Malpractice litigation in iatrogenic ureteral injury: a legal database review. *Urology*. 2020;146:19–24. https://doi.org/10.1016/j.urology.2020.08.049.
18. Paterick TJ, Carson GV, Allen MC, Paterick TE. Medical informed consent: general considerations for physicians. *Mayo Clin Proc*. 2008;83:313–319. https://doi.org/10.4065/83.3.313.
19. Canady MR. The verdict is in: surviving a medical malpractice trial. *Physician Leadersh J*. 2016;3:14–17.

20. Vidmar N. Juries and medical malpractice claims: empirical facts versus myths. *Clin Orthop*. 2009;467:367–375. https://doi.org/10.1007/s11999-008-0608-6.
21. Circumcision rates in the united states: rising or falling? what effect might the new affirmative pediatric policy statement have? *Mayo Clin Proc*. 2014;89:677–686. https://doi.org/10.1016/j.mayocp.2014.01.001.

EDITORIAL COMMENT

The article, "A Legal Database Review of Circumcision Related Litigation in the United States," is a thorough assessment of the multitude of competing controversies surrounding the health benefits, as well as ethical considerations, of circumcision. The finding that negligent surgical performance was most egregious was curious, as circumcision is not considered a very complex procedure. What is defined as poor performance may simply be misjudged expectations by the patient or parents. This is particularly prescient given the study findings that the majority (20%) of surgical "complications" was merely poor aesthetic appearance that could have been addressed during the preoperative counseling session. Hence, we feel that the degree of negligence during preoperative counseling contributed to lawsuits may be underreported in this study.

What is more, it is important to keep in mind that the number of suits that goes to trial only represents the tip of the iceberg, as the majority is settled out of court. While the authors touch upon this in the limitations section of their paper, we believe it is not a mere limitation. Those suits that are settled out of court usually result in payment to the plaintiff and thus represent a loss to the surgeon, in time, increasing malpractice insurance premiums, and stress. If anything, this study may underrepresent the actual damages to the surgeon performing circumcision.

Urologic literature is fraught with examples of contentious lawsuits with high stakes payouts.[1–3] A more recent publication examining the litigation patterns in renal oncologic surgery showed that preoperative negligence resulted in the most claims, whereas perioperative negligence (such as vascular injury during surgery) was most likely to result in the highest average monetary payment to the plaintiff.[4] This is similar to the findings in this study, albeit with variable severity in outcome, as surgical misadventure during oncologic renal surgery was more likely to result in permanent death and disability compared to outcomes of circumcision.

The general gestalt of the literature on litigation in urologic surgery is that negligence at the time of surgery or perioperative care is most significant in resulting in physician indemnity payment. Thus, it appears obvious that the practicing urologist must adhere to careful surgical principles and postoperative wound management if he or she wishes to avoid litigation. No procedure is "too simple," and the surgeon should not fall prey to hubris and relax their surgical technique even for a procedure as "minor" as a circumcision.

Within pediatric urology, the stakes are ever higher given lack of consent from underage patients, the concerns of protective parents, and the long-term outcomes of what is not an innocuous procedure—unaesthetic appearance, hypersensitivity, pain, poor self-image, etc. We urge the pediatric and adult urologist to tread carefully with performance of circumcisions, and not downplay the risks. Being honest with oneself about one's surgical limitations not only protects the patient from a possibly disfiguring surgery, but potentially saves the urologist a bounty of paperwork and legal fees.

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References

1. Blazek AJ, Belle JD, Deibert MP, et al. Legal review of vasectomy litigation and the variables impacting trial outcomes. *Urology*. 2019;131:120.
2. Sunaryo PL, Colaco M, Terlecki R. Penile prostheses and the litigious patient: a legal database review. *J Sex Med*. 2014;11:2589.
3. Colaco M, Sandberg J, Badlani G. Influencing factors leading to malpractice litigation in radical prostatectomy. *J Urol*. 2014;191:1770.
4. Herbert AS, Hadavand MA, Ambinder D, et al. Litigation patterns in oncologic nephrectomies: a 30-year review. *J Endourol*. 2021;35:1158.

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