

# Medmal Reform and Physicians in High Risk Specialties

Jonathan Klick

Jeffrey A. Stoops Professor of Law  
Florida State University

Thomas Stratmann

Professor of Economics  
George Mason University

# Is There a Medmal Crisis?

The medical malpractice crisis is “threatening access to care for patients in states without liability reforms”

-AMA

“Despite the periodic complaints, no one has ever documented in systematic research that malpractice lawsuits prevent people from getting the medical care that they need”

-Tom Baker

*The Medical Malpractice Myth*

# What Do We Know About the Relationship Between Malpractice Litigation and Healthcare Markets?

Significant data limitations for state-level liability metrics

Single state studies (TX: Black; FL & IL: Vidmar) potentially misleading

Even national studies are tricky (Baicker & Chandra)

# Indirect Tests: Focus on Doctor Location

Klick & Stratmann: First to examine the effect of individual medmal reforms on location

Kessler (JAMA): Examine direct/indirect reforms on location

Mello: Examine liability exposure and doctors' subjective expectations

# Problems with Indirect Studies

Worries about endogeneity

Political Economy Story

Healthcare Demand Story

Klick and Stratmann make progress with IV estimates though it is difficult to instrument multiple reforms

## Better “Experiment”

In principle, not all specialties should be sensitive to medmal reforms

Examine behavior of high risk specialists using low risk specialists as control group

Control group captures healthcare demand effects and most plausible political effects

# Triple Differences Model

Examine effect of medmal reforms on high risk specialists net of contemporaneous within state effects on low risk specialists, controlling for contemporaneous net effect in non-reform states

Identification strategy “works” as long as effect on low risk specialists is zero; bias runs against finding an effect if low risk specialists react in same way as high risk specialists

Problem occurs if reaction is opposite between groups

# Model

DV: Number of physicians in specialty  $i$  in state  $s$  during year  $t$  per 100,000 state  $s$  residents

Treatment Variables: 1 for high risk specialties if state has reform in place; 0 otherwise

Control:

State-Specialty Fixed Effects

Specialty-Year Dummies

State-Year Dummies

# Specialties

## High Risk Specialties:

Neuro Surgery  
Thoracic Surgery  
Obstetrics  
General Practice  
Emergency Room

## Low Risk Specialties:

Diabetes  
Neoplastic Diseases  
Oncology  
Public Health  
Psychiatry

# Reforms

Non-Economic Damage Caps

Total Damage Caps

Collateral Source Reform

Abolishing Joint and Several Liability

Contingency Fee Caps

Mandatory Periodic Payments

No Fault Victims' Funds

# Results: Table 3

## Positive Statistically Significant Effects

Non-Economic Damage Caps ( $p = 0.03$ )

Total Damage Caps ( $p = 0.01$ )

\*\*Collateral Source Reform ( $p = 0.01$ )

\*\*Contingency Fee Caps ( $p = 0.01$ )

Gross Increase => +11%

## Negative Statistically Significant Effects

Joint and Several ( $p = 0.02$ )

Periodic Payments ( $p = 0.00$ )

\*Victims' Fund ( $p = 0.01$ )

Gross Decrease => -8%

# Does It Matter?

This is the great unexplored question

Klick & Stratmann: infant mortality rates

Dubay, et al: prenatal care

Rubin & Shepherd: accidental death rates

Kessler & McClellan: defensive medicine

# Conclusions

Some doctors appear to be very sensitive to some reforms (effect comparable to 40% wage hike)

Medical malpractice reforms may affect access to care

However, effect is likely to be concentrated geographically (rural, minority areas) and by specialty

Targeted reforms may be more useful than broad medical reform