Physicians and medical malpractice: Why does fear persist in spite of medical malpractice tort-reform?
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Introduction/objectives:
Physicians are concerned about medical malpractice. Research has shown that physicians remain concerned even when they practice in states that have enacted tort reform measures such as caps on non-economic damages. Two research questions were posed: (1) how do Texas doctors make sense of medical malpractice in Texas and what are their coping strategies? and (2) what sources do physicians identify as influencing their medical malpractice knowledge?

Methods:
To understand how doctors in a state with substantial tort-reform measures (Texas) understood and dealt with their medical malpractice concerns, thirteen semi-structured interviews were conducted and analyzed (six obstetrics/gynecology physicians and seven internal medicine physicians). The author conducted a thematic analysis of the data using the constant comparison method. The theoretical concepts of legal consciousness and sensemaking were used to analyze the data.

Results:
Participants expressed concern about medical malpractice even though they were practicing in a state with tort reform. Analysis of the interviews revealed four dominant themes related to the first research question: 1) participants had knowledge of tort reform specifically and the legal system generally; 2) participants conducted personal risk assessments; 3) participants employed risk reduction techniques; and 4) participants used coping mechanisms. In response to research question two, participants cited the following influences: 1) memorable personal experiences; 2) medical training and experience; 3) information from external organizations; and 4) information from unspecified sources.

Discussion/implications:
The study included two important findings and associated implications. First, the participants’ knowledge of medical malpractice came from their personal experiences and word-of-mouth rather than any formal training or legal resources. The participants generally did not recall medical malpractice information from formal courses during medical school or training sessions they attended post-medical school. But they did recall personal discussions with more senior physicians regarding legal issues, which could be considered part of the “unofficial” or “hidden” curriculum of medical school. These findings imply that the curriculum regarding medical malpractice (in medical school and in continuing medical education) should be revised. Second, many participants expressed an “against the law” orientation that required them to develop coping strategies. Although the participants expressed varying levels of risk and coping mechanisms, a common method for coping with medical malpractice risk was practicing within a large organization. Several participants expressed a feeling of protection by working in a large organization that employed its own legal team. This finding implies that insulation from legal disputes could entice doctors to move from smaller, private practices to larger institutions.