

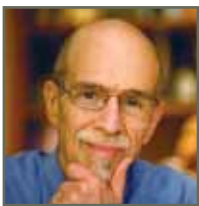
"In some cases, defensive medicine has become the standard of care. It's an automatic thing."

# WEIGHING THE RISK OF DEFENSIVE MEDICINE

Is this rising practice really necessary? According to radiologists, yes and no.

BY MARY ROBERTS HENDERSON

“In some cases, defensive medicine has become the standard of care,” says Leonard Berlin, M.D., FACR, professor of radiology at Rush University Medical Center in Chicago, vice chair, department of radiology at North Shore University Health System in Skokie, Ill., and author of *Malpractice Issues in Radiology*.<sup>1</sup> “It’s an automatic thing.” In fact, respondents in a survey conducted by the Massachusetts Medical Society reported that a quarter of all imaging tests were performed for defensive reasons.<sup>2</sup>

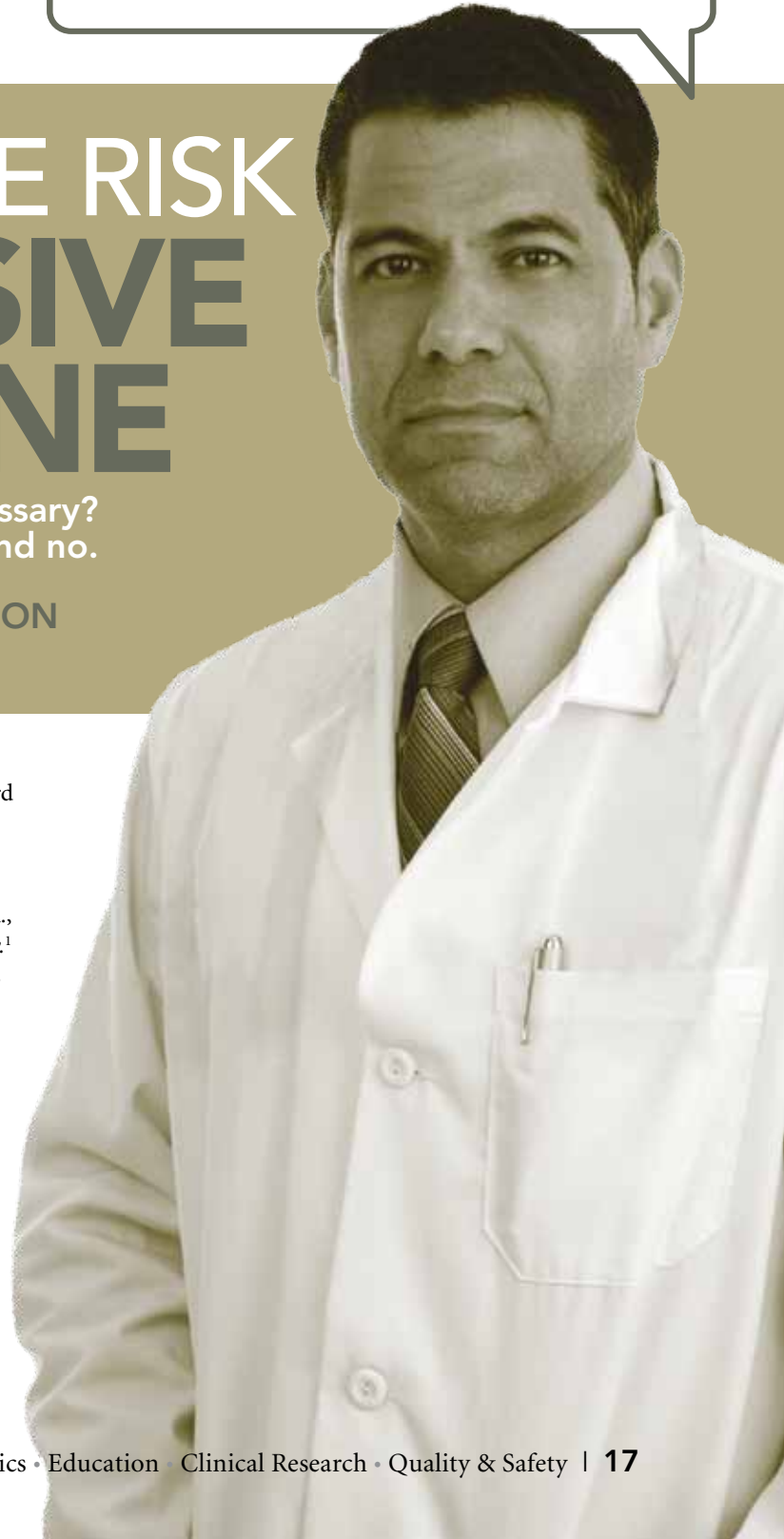


Leonard Berlin, M.D., FACR



James H. Thrall, M.D., FACR

“Defensive medicine is a substantial cost driver in the United States health-care system,” says James H. Thrall, M.D., FACR, chair, department of radiology, Massachusetts General Hospital in Boston and ACR president. “Analytic models suggest [defensive medicine] represents as much as 5 to 8 percent of health-care expenses.”



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## Reality of Malpractice

While defensive medicine may increase health-care costs, Christopher L. Sistrom, M.D., M.P.H., associate chair of radiology at the University of Florida in Gainesville, believes the practice of defensive medicine is based more on myth than reality. "Defensive



Christopher L. Sistrom, M.D., M.P.H.

medicine is a response to perceived risk," says Sistrom. "There's all this fear, but most doctors don't get sued, and the actual risk is rather low."

Radiologists' fear of legal action

is about four times greater than the actual rate of malpractice suits, says Berlin. In reality, one in seven physicians is sued each year,<sup>3</sup> and claims that do not include errors typically go unpaid.<sup>4</sup> "The good news is the number of frivolous lawsuits filed is down," says Berlin. "But the bad news is more of the suits filed have merit."

Rather than practicing defensively, Mark A. Bisesi, M.D., president of Southern Indiana Radiological Associates Inc. in Bloomington, says his group focuses on quality. "We try to follow the guidelines, such as the ACR's Practice Guidelines and Technical Standards, as well as *BI-RADS*<sup>®</sup>,



Mark A. Bisesi, M.D.

from start to finish," he says. Practicing in Indiana, which has instituted caps on malpractice awards and medical review panels, lessens the pressure on radiologists in the state, Bisesi

adds. "But there's not a day that goes by that I don't think about getting sued. It's an unpleasant awareness."

## Diagnostic Testing

Unnecessary tests performed to reduce a physician's future liability are the crux of defensive medicine. Advanced-imaging technology, which has increased

the number of incidental and unexpected findings that often lead to additional, more invasive — and sometimes unnecessary — procedures, has exacerbated the problem. "Medical school curriculum does not emphasize the biggest problem with testing: the false-positive result and the uncertainty and anxiety it brings to patients and their families," says Kimberly E. Applegate, M.D., M.S., FACR, professor of radiology at Emory



Kimberly E. Applegate, M.D., M.S., FACR

University School of Medicine in Atlanta and ACR vice chair of quality and safety.

And for referring physicians, imaging can sometimes provide information overload. "One CT study may reveal that every organ is somehow affected," says Bisesi. Imaging, adds Sistrom, isn't the be-all, end-all; in many cases, it only buys the patient an incremental improvement in outcome. He agrees with the theory that the defensive use of diagnostic testing decreases its utility for patients because it deviates from a treatment decision based on a particular patient and established standards of care.<sup>5</sup>

"There's no such thing as free information [provided by diagnostic imaging]," Sistrom explains. "There are a lot of useful tests, but some aren't doing anyone any good except

for the person who's charging for the test."

Regardless of the reasons, there is no disputing the increase in demand for imaging. "Imaging tests have become like a CBC," says Bisesi. "And it seems everything is stat. There's a relentless drive to produce more."

Berlin says not only are patients used to getting CT scans, but physicians in training today have grown up in an imaging environment. "It used to be that you'd perform a physical exam to see if the liver or spleen was enlarged," says Berlin. "Now you do a CT."

## Stemming the Tide

Of course, it's the referring physician — not the radiologist — who has the most direct control over imaging tests prescribed for patients. But C. Craig Blackmore, M.D., M.P.H., believes radiologists should play the role of gatekeeper when it comes to requests for inappropriate imaging. Still, he acknowledges that can be a difficult task.

"[Ordering] needs to be done systematically, as an institution or a region, where everyone agrees on the best evidence-based criteria," says Blackmore, scientific director, Center for Healthcare Solutions at Virginia Mason Medical Center in Seattle. Integrating evidence-based criteria into an order-entry system to ensure the appropriateness of imaging tests has not only decreased use of imaging tests at his

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C. Craige Blackmore, M.D., M.P.H.

institution but has also provided a level of assurance for its physicians.

Applegate believes having the ACR Appropriateness Criteria® embed-

ded in order-entry systems would help physicians make better decisions. A recent study reveals that the majority of physicians aren't using the criteria in their current form.<sup>6</sup> "I'm hopeful that the ACR criteria will be more widely adopted, and that when they are used, physicians will be judged as having done their due diligence," adds Siström. Of course, being able to withstand legal and bureaucratic challenges would make the criteria even more invaluable.

To minimize risk, Thrall recommends not only meticulous, systematic readings but also treating patients with the utmost respect. "Anecdotal information suggests patients will accept the fact that a doctor is not perfect if they have been treated in a respectful manner," says Thrall. "If they feel the doctor has cut corners or hasn't respected them as human beings, the likelihood that patients will sue skyrockets." Applegate agrees that patients who like a physician — as based on factors such as tone of voice or the amount of time spent with a patient — are less likely to sue.

Thrall also advises radiologists to practice within the boundaries of their training and experience. "We see lawsuits when people try to read studies from all systems in the body, but imaging has become too

complex for a radiologist to be an expert on every organ system," he says.

### What About Patients?

Just where does the practice of defensive medicine leave patients? "They can end up shortchanged," says Berlin. But not all patients can be held harmless. Some often demand a CT or comparable imaging test — and it can be easier for physicians to order the test than convince patients otherwise.<sup>7</sup> "It's the conundrum of our consumer-focused health-care market," says Siström.

The bottom line, says Berlin, is that patients expect — and deserve — good care. Unfortunately, they may also expect perfection and someone to hold responsible if something goes wrong. "Bad outcomes aren't necessarily the fault of the provider but a fact of life," says Siström. "The ideal system wouldn't penalize the patient either. It all requires a degree of cooperation and acknowledgement that we're in this together." //

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### ENDNOTES

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## PROTECT YOUR CHOICES

Defensive medicine has increased the need for evidence-based support to verify your imaging orders and validate that you make patient care a priority. Since the 1990s, the ACR has recognized this need to set forth a distinct set of criteria to evaluate your choices. This led to the creation of the ACR Appropriateness Criteria® — a valuable means to eliminate unnecessary imaging orders within the specialty. Developed by expert panels, these guidelines cover more than 167 topics, and can be a useful tool for radiologists, radiation oncologists, and interventional radiologists.

Now, with the Anytime, Anywhere™ Application for Handheld Electronic Devices, (see page 5), verifying your imaging orders is even easier through download to your iPhone, Blackberry, Palm, or other PDA or smart phone. For more general information about the criteria, visit [www.acr.org/ac](http://www.acr.org/ac).