Medical Malpractice Liability and Physicians’ Behaviour: Experimental Evidence

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Abstract
While there is large anecdotal evidence on the role of malpractice liability in affecting physicians’ behaviour, the identification of its causal effect is rather difficult and, in general, the empirical evidence is still limited. In this paper we study the effect of introducing the risk of being sued for medical malpractice on the provision of physicians’ medical services in a controlled laboratory setting. In our experimental sessions both medical and non-medical students choose how many medical services to provide for heterogeneous patients and, most importantly, under different scenarios. In particular, we implement different exogenous variations in the expected probability of being sued for medical malpractice, which depends on the quantity of medical services provided, as well as in the monetary cost of being sued. Therefore, we exploit the within-subject variation in the provision of medical services to infer the causal effect of malpractice liability. Furthermore, motivated by a simple theoretical framework, we analyse the impact of malpractice liability under different pure (fee-for-service and capitation) and mixed payment methods, which allows us to discuss the interactions between medical malpractice liability and payment systems. Overall, the experimental evidence in this context seems especially important to study the influence on physicians’ behaviour, given the difficulty to infer the causal effect of malpractice liability from empirical works. Therefore, our study has the potential to offer an important contribution to the literature on physicians’ behaviour and, under the policy perspective, to the recent public debate on the role of defensive medicine in increasing the health expenditure.

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