

# Medical Malpractice: How Legal Liability Affects Medical Decisions\*

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## Abstract

In health care, overuse and underuse of medical treatments represent equally dangerous deviations from an optimal use equilibrium and arouses concerns about possible implications for patients' health, and for the healthcare system in terms of both costs and access to medical care. Medical liability plays a dominant role among the elements that can affect these deviations. Therefore, a remarkable economic literature studies how medical decisions are influenced by different levels of liability. In particular, identifying the relation between liability and treatments selection, as well as disentangling the effect of liability from other incentives that might be in place, is a task for sound empirical research. Several studies have already tried to tackle this issue, but much more needs to be done. In the present chapter, we offer an overview of the state of the art in the study of the relation between liability and treatments selection. First, we reason on the theoretical mechanisms underpinning the relationship under investigation by presenting the main empirical predictions of the related literature. Second, we provide a comprehensive summary of the existing empirical evidence and its main weaknesses. Finally, we conclude by offering guidelines for further research.

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