

# Malpractice Trends in the Setting of Prostate Cancer Screening

Peter L. Sunaryo<sup>1</sup>, Christine Liaw<sup>1</sup>, Eric Bortnick<sup>1</sup>, Gregory Mullen<sup>1</sup>, Andrew W. Tam<sup>1</sup>, Andrew B. Katims<sup>1</sup>, Jay A. Motola<sup>1</sup>

<sup>1</sup> Department of Urology, Icahn School of Medicine at Mount Sinai, NY

## INTRODUCTION

- Medical malpractice (MP) remains a very important issue in our country.
- There has been controversy surrounding PSA testing and prostate cancer screening, specifically the United States Preventive Services Task Force (USPSTF) whose 2012 guidelines advised against PSA testing that were later modified in 2018.

## OBJECTIVES

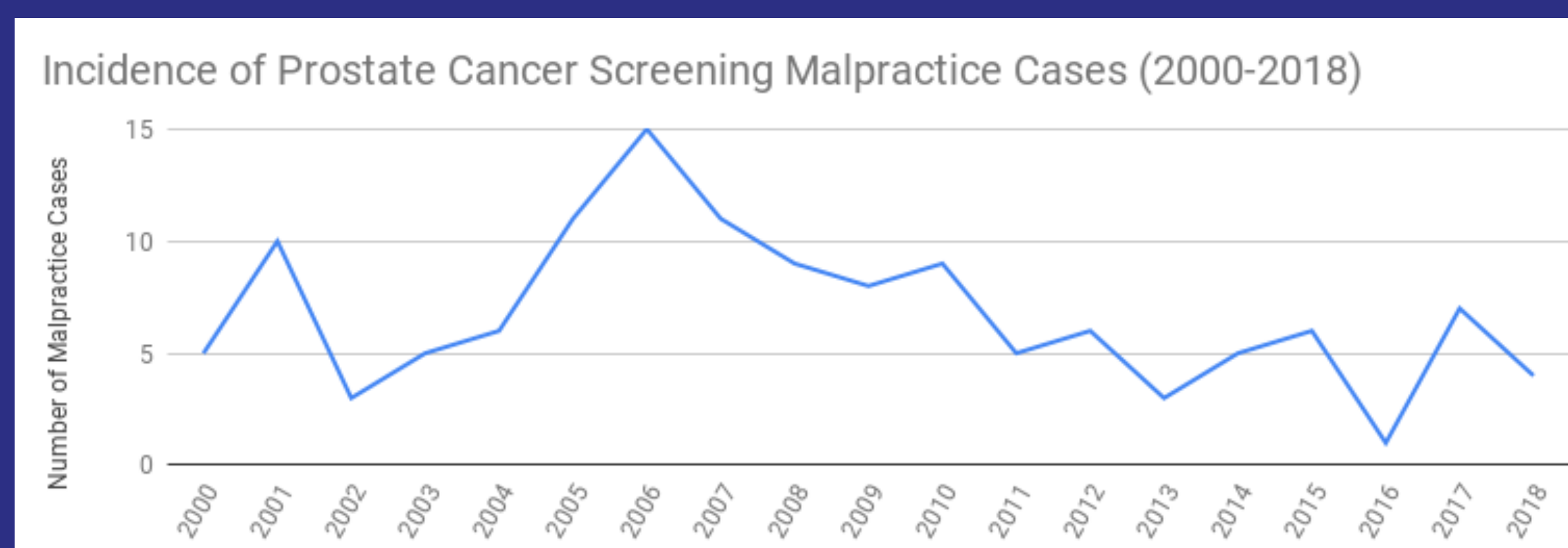
- The purpose of this study is to identify factors leading to litigation and recent trends related to the screening of prostate cancer.
- Additionally, the question of whether the 2012 guidelines led to a change in MP cases will be addressed

## MATERIALS AND METHODS

- The Westlaw database was used to search for jury verdicts ranging from January 2000 to December 2018. Each case was examined for year of trial, patient age, specialty of defendant, alleged cause of MP, and the case outcome
- The Student t-test was used to compare normally (symmetrical) distributed continuous data and the Mann-Whitney U-test was used for nonparametric (asymmetrical) continuous data. Statistical significance was considered at  $p < 0.05$ . SPSS, version 20 was used for statistical analysis.

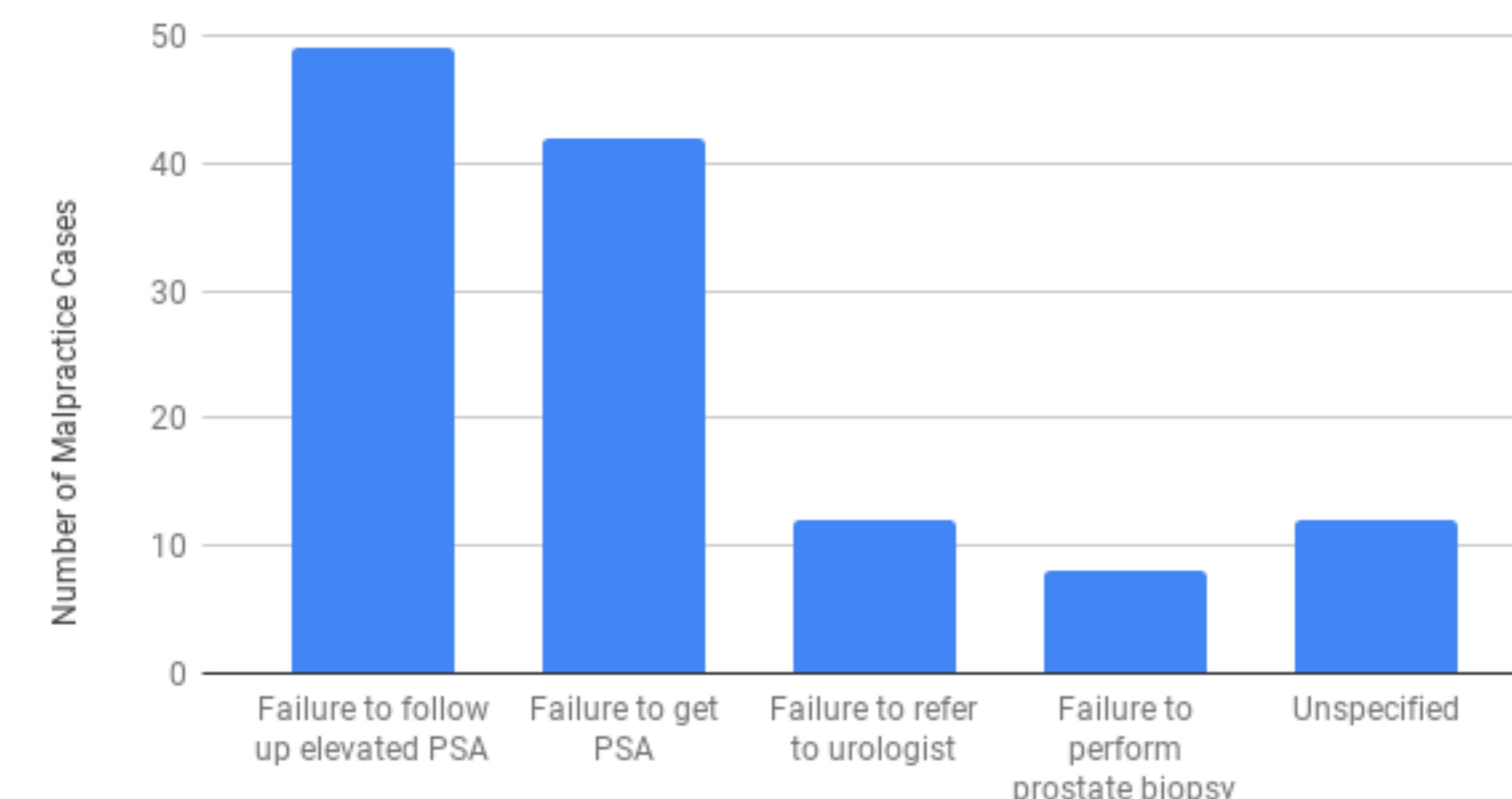
## RESULTS

- Of 129 examined cases, 66% went to trial and of those, 69% were decided for the defendant.
- The mean settlement was \$967,000, while the mean verdict was \$2.0 million. Primary care physicians (PCP) (73.7%) were the most cited defendant followed by urologists (U) (21.2%).
- There was no significant differences between the mean verdict or settlement amount between U and PCP (\$1.1M vs. \$2.2M,  $p=0.23$ ; \$803K vs. \$1.0M,  $p=0.47$ ).
- The most common cause was failure to follow-up for an elevated PSA (37%) followed by failing to get an initial PSA (31%). Lack of follow-up for an elevated PSA led to significantly higher settlements when compared to failing to get an initial PSA (\$1.0M vs. \$240K,  $p=0.007$ ), but verdicts were not significantly different (\$1.8M vs. \$970K,  $p=0.12$ ).
- There was significantly fewer MP cases per year after the USPSTF recommendations (7.9 vs. 4.3,  $p=0.03$ ). There were no differences between the mean settlement and mean plaintiff award before and after the guidelines (\$970K vs. \$970K,  $p=0.99$ , and \$2.1M vs. \$2.6M,  $p=0.44$ , respectively).



## RESULTS

Proximate Causes for Malpractice Suit



## CONCLUSION

- PSA testing is commonly cited in MP. There was a lower incidence of MP since the introduction of the 2012 USPSTF guideline may be a result of less prostate cancer being detected given the decrease in PSA testing – the fear is that there may be a significant increase of MP cases in the future when patients could possibly present with more advanced disease.
- Limitations on testing which occur due to the guideline may have future consequences and need to be monitored. Both PCP and U must continue to be diligent with regards to patient management and to remember that despite guidelines, MP may still be an issue.
- PSA testing should continue in the appropriate patients. If this is undertaken, appropriate action should occur with either a follow-up assessment, a referral from a PCP to a U, and the need to biopsy those truly in need.