

Medico-Legal Aspects of Medical Negligence amongst Medical Students

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ABSTRACT

With the temperament of the country, that God can still make mistakes, but medical professionals must not, doctors have had their share of being dragged to the court. The weight of preventing medico-legal issues in clinical practice which isn't handled so gracefully by the professionals, often results in medical negligence.

Medical negligence expresses itself in the form of lack of standardized duty of care by the healthcare professional with medico-legal perspectives providing rights and justice to both, patients, as well as professionals.

The lack of knowledge about the medico-legal aspects is scarce, not only amongst the commoners and non-medicos, but embarrassingly amongst the medical students and medical practitioners as well and though this seems to be a topic of little discussion and awareness, it has become a huge conundrum, which gives rise to mortality due to violation of ethics and basic human rights.

To combat the hurdles faced by the professionals and to provide justice to the patients, exploring medico-legal aspects from all angles comes to the rescue. From really filling that 'communication gap' to inculcating values like empathy and compassion one can contribute in highlighting and bringing into practice, the simple, yet powerful principle of Hippocrates, 'primum non nocere' which translates to 'first, do no harm'.

It is the need of the hour for an Indian Medical Graduate as well as all the medical students to be well versed about the application of law in healthcare as it would immensely improve the functioning of hospitals and would avoid inadequacies and malpractices.

Key words: Medical negligence, Medico-legal aspects, Medical malpractice

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INTRODUCTION

Medical study of law which is called as Medical jurisprudence is a field of medicine and law, and the issues under it are examples of medico-legal issues [1]. Negligence means what a reasonable man won't do, or failure to do something which a reasonable man would do, which results in lack of care. Professional negligence (malpractice/mala praxis) means lack of reasonable degree of care and skill, or negligence on part of a medical practitioner during his professional practice, which usually results in bodily harm, ill health or death of the patient.

Medical malpractices can be categorized generally, into 5 types:

Criminal: Which is the manipulation of medical records?

Civil: Which can be compensated by money, it doesn't demand legal punishment.

Ethical: Breach of ethics, may debar the physician.

Corporate: Nonfunctioning equipment, insufficient accommodation, incompetent staff.

Contributory: Unreasonable conduct/negligence on the part of patient that caused the damage.

Hospital errors, behind cardiovascular disease and neoplasms, are now the third biggest cause of death in the United States, with nearly 440,000 deaths per year; according to a study published in the Journal of Patient Safety. According to a research published in the Journal of Patient Safety, hospital errors are now the third leading cause of death in the United States, behind cardiovascular disease and neoplasms, with almost 440,000 deaths each year.

The most common medical errors (which, of course, could have been avoided) that result in medical malpractice includes the following:

A misdiagnosis is a situation where a person is given the wrong diagnosis. A common medical blunder is failing to diagnose an ailment beforehand. Cardiovascular disease and neoplasms are the most frequently misdiagnosed ailments.

Mistakes made during surgery: Whether instruments or sponges were left within the body by the surgical team throughout surgery, the outcome was the same.

Treatment failure: When a clinician correctly identifies an illness but fails to treat it according to the recognised standard of care for that condition, this is known as a diagnostic mistake. Discharging a patient too soon, or failing to follow up on their care, might exacerbate their disease and lead to damage.

Birth-related injuries: Medical malpractice claims against OBGYNs for childbirth-related medical blunders account for a considerable fraction of all medical malpractice claims. Shoulder dystocia, spinal cord damage, cerebral palsy, and cephalohematoma are all common birth complications that could be the result of medical mistakes.

Drug prescription errors: Doctors make mistakes by prescribing the wrong medication, dosing incorrectly, and administering prescription drugs incorrectly. Prescriptions for pharmaceuticals that interact with one another and cause harm to the patient are examples of other drug mistakes [2].

Duty, dereliction (negligence or divergence from the standard of care), damages, and direct causation are the four D's of medical malpractice. For malpractice to be determined, each of these four factors must be proven to be present by a preponderance of the evidence [3].

Duty of care

To begin, it's important to recognize that not all doctors have a duty of care to all of their patients. For the duty of care to develop, there must be some type of relationship between the doctor and the patient. Because no such tie exists, a doctor does not have a duty of care if she is out dining at a restaurant and someone at a neighboring table begins to choke. A doctor owes a duty of "care and treatment with the degree of skill, care, and diligence as possessed by or expected of a reasonably competent physician under the same or similar conditions" in a doctor-patient relationship.

Dereliction or failure to fulfill the duty

Dereliction of duty refers to a medical professional's failure to meet the above-mentioned duty of care. In other words, the doctor failed to give the patient the same or equivalent level of care and treatment that a reasonably trained doctor would have given in the same or similar circumstances. A "breach of duty" is a type of failure or dereliction of duty. This court hears the majority of

medical malpractice cases, which can be challenging for patients because doctors are typically hesitant to criticise, much less testify against, their peers.

Direct causation

The patient must demonstrate that the medical professional's breach of duty of care directly resulted in the patient's damages. Although showing this is generally simple, it is possible that it will become another point of contention for both sides.

Damages

Finally, the patient must show strongly against the defendant that they have been physically, or psychologically, or both in both states physically and psychologically harmed. To illustrate this, medical documentation, drugs, and/or testimony are routinely employed [4].

Basic medical malpractice claims requirements

You must be able to show all of the following to show or establish that medical negligence or misconduct occurred:

There was an presuming doctor and patient interaction. You must establish that you and the doctor you're suing had a physician-patient connection, which means you had appointed the doctor and the doctor agreed to appoint.

The doctor was irresponsible. In relation to your diagnosis or treatment, the doctor must have made a mistake. To sue or fight against negligence, you must be able to demonstrate that the doctor harmed you in any ways that a mindful and common sensual doctor would not have done under the identical circumstances. The care of a doctor does not have to be perfect, but it must be "reasonably skillful and careful." A medical malpractice claim frequently revolves around whether or whether the clinician was properly skilled and cautious.

The doctor's carelessness was to blame for the harm. Because many malpractice lawsuits involve patients who are already ill or injured, the question of whether the doctor's conduct, whether negligent or not, caused the harm is frequently contested. If a patient surrenders to death after undergoing lung cancer treatment and the doctor was careless, showing that the doctor's actions is the main causative factor of the death instead of the diseases may be challenging. The patient must show that the doctor's incompetence was "more likely than not" to blame for the harm. Typically, the patient should have an experienced medical to give evidence that the doctor's ignorance caused the harm [5].

The party bringing a suit in civil law against a defendant, must show the defendant's duty of care to the plaintiff, the standard care that the defendant should supply, and the doctor's legal gap of that care to the plaintiff to establish negligence. The duty of care owed by a medical professional is to prevent causing foreseeable and predictable physical harm.

A questionnaire survey of medical students at Banaras Hindu University was conducted to see how knowledgeable they are about medico-legal issues.

The study was conducted among 50 medical students at BHU's IMS.

There were 35 male pupils and 15 female students in the class. The age range was 21 to 25 years old.

The following questions dealt with medico-legal issues

Only 20% of those polled said they were aware of the law on consent.

'Do you know of any laws that protect you?' Only 2% of those polled said yes.

What is medical malpractice? Only 10% of pupils correctly defined it.

Only 40% of those who were asked if they had heard of litigation replied yes.

5% thought the judiciary would be sympathetic if there was a lawsuit.

Surprisingly, 20% of respondents replied yes to the question, "Do they (legal team) comprehend our concerns (are they qualified enough to recognize constraints in medicine?)."

Thirty percent of the students believed that trust between doctors and patients has eroded in recent years.

DISCUSSION

This research demonstrates a lack of understanding and the need for a course/curriculum in the Medical Students' curriculum.

Medical jurisprudence should be included in the curriculum for postgraduate teaching, with an emphasis on record keeping and communication skills [6].

Legal liability avoidance strategies

In the healthcare system, there are numerous ways for avoiding legal responsibilities. A centuries-old guiding guideline for health workers is *primum non nocere*, which means "first do no harm." This axiom will assist practitioners in acting legally. Patient privacy and confidentiality should be closely preserved [7].

Clinical recommendations

Following up with the clinical guidelines is a good way to improve the quality of care and cut down on variation.

Always give it your all

Fatigue or anything else should not prevent you from executing your job as a treating doctor.

Keep track of everything

It is difficult to prove that something happened if the current existing doctor does not record or properly document it. Understanding what exactly occurred to

the patient can be aided by precisely and thoroughly charting.

Keeping up with the times

While most physicians keep up to current on the newest continuing medical education programs/conferences/workshops/symposia, the importance of knowing what's going on in the field of medicine is growing.

Consent with knowledge

The famous but overlooked term which is informed consent refers to a patient's explicit permission to a medical procedure. The patient must be informed of any risks and consequences that could conceivably occur during the surgery, no matter how slight they may be. Failure to get informed permission can be construed as medical malpractice or as a basis for a medical battery claim [8].

Communication problems are the most common source of malpractice claims. If your bedside manner is always causing conflict between you and your patients, it doesn't matter how talented, educated, or experienced you are as a doctor. Always be nice. Pose inquiries to your patient. Listen to what they have to say and give honest comments [9].

Negligence can be greatly and efficiently avoided by adopting great risk management, which is based on the famous four of the Four Cs: compassion, healthy communication, complete competence, and regular charting.

Compassion is an essential component of effective interactions, especially those between caregivers and patients. You acquire better knowledge and record, information and build and thrive a trustful relationship with your patient when you listen carefully and really try to comprehend what the patient is trying to explain. When a patient realizes you care, you become a person, not merely a source of insurance funds in the case of a major medical crisis. The notion that the doctor wasn't totally truthful with the patient, or was generally harsh or rude, was a prevalent underlying motivator for patients and families who pursued lawsuits, according to various records of patients and their families who pursued a lawsuit conduct.

Mistakes in communication are at the soul of the majority of wrong instances. Missed or late and pending diagnosis claims are frequently the result of a piece of important data not being supplied where or when it was required. Incorrect information or patient identification might lead to medication and treatment errors. To respond effectively to a change in circumstance, you must first have the information required to notice the change.

Competence your lengthy education, hard and tedious training that you had to go through over several years of your life, and pious experience that you gained together do not equal competency. It mandates that you to be well versed about the current affairs and latest research and guidance in your field. It requires you to stay current on

technological developments and their effects or result for care of the defendant and proper recording. It also demands humility, which is the ability to recognize when a situation has exceeded your talents and to seek help and support.

Charting is critical in providing good healthcare and providing the best evidence of it in court. Memories surely do faint with the ongoing never ending and very punctual and disciplined time, regular habits can be inconsistent, and vital details might be lost. A patient-specific, contemporaneously recorded notation in a medical record provides excellent evidence of a reality. The medical record provides the story when plaintiff attorneys assess a medical outcome in order to explore litigation [10].

Importance of empathy and compassion in Healthcare

Empathy and compassion are critical in healthcare.

As a result, the issue arises: how can humanism be advanced in healthcare? It can be expressed as a genuine regard and interaction which is full of compassion between doctors and, members of the healthcare system and team, and their dear patients," according to the Arnold P. Gold Foundation.

"The ability of an individual to become aware and share and communicate the feelings" according to the definition. It recognizes and affirms the fear, anxiety, pain, and worry that a patient is experiencing.

When a patient visits the doctor, his or her medical condition, whether it's a major illness or accident, a chronic disease, or a normal check-up, can induce anxiety, fear, and uncertainty. Patients want to know they're getting the best treatment available, and when their care team is sympathetic and compassionate, this is communicated [11-17].

CONCLUSION

Medical negligence is an inevitable conundrum which is being faced by the healthcare professionals and the patients, both being the causative factors facing their own consequences.

Lack of knowledge, aptitude and perception about the medico-legal aspects amongst medical students persists and there is an urgent need to impart light on this less discussed and talked about topic. Medico-legal aspects, the consequences and preventive measures, building relationship with the patient, inculcating empathy and compassion from earlier on, should be curriculum inclusive for students so as to prevent negligence which is generally due to lack of knowledge. Spreading awareness and a change of attitude is crucial for a better performing healthcare system.

Keeping in mind the preventive measures, like proper documentation, being well versed about all the laws and legal aspects applicable in healthcare, improving and bridging the gaps of communication, truly imbibing

values like empathy and compassion and executing them in practice, one can keep the courts at bay.

Healthcare has been poorly corporatized, making it similar to other types of profitable business, and the medical profession is now driven more by surplus reasons than by service motives. Improving and building the doctor-patient relationship based on the foundation of trust, humanism, communication and empathy, which is diminishing nowadays is truly the panacea.

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