

Malpractice Complaints against Ophthalmologists Referred to the State of Legal Medicine Organization in Iran

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Abstract

Purpose: Nowadays despite attempts having made by the medical society, health and therapeutic personnel as well as advancements in the therapeutic technology, yet the rate of non-satisfaction and actions by patients continue to increase. The aim of this study was to investigate malpractice complaints against ophthalmologists referred to the state of legal medicine organization.

Methods: This is a cross-sectional descriptive study on medical complaints cases against malpractice in the field of ophthalmology referred to the State of Legal Medicine Organization Medical Commission for consideration between 2003 and 2005. SPSS software was used for data analysis.

Results: Total medical negligence complaints considered in the medical commission during 3 years was 1581 cases, of them 147 (9.29%) cases were related to the field of ophthalmology. Out of total 147 cases set forth in the commission, in 31 cases it was established that a medical negligence has been occurred. Legally, the most common type of negligence was found to be of type of lack of expertise and in the next rank, carelessness. Among total cases considered in the present study, the majority was allotted to the actions brought against private sector health centers. Out of total approved cases as negligence in consideration, the rate of negligence allotted to the university centers was less than other therapeutic centers. The highest rate of filed complaints was related to the cataract surgery (92 cases), followed by LASIK procedure (21 cases).

Conclusion: Ophthalmologists are advised, while establishing a good communication and behavior with patients and their companions, to be careful that prior to committing any kind of procedure, to inform patients of probable and unpredictable complications of the treatment and also to have necessary medical consultations plus to apply pre- and post-operative cares. Furthermore, physicians shall be educated about legal issues.

Keywords: medical negligence, ophthalmology, legal medicine

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Introduction

Nowadays, specialization of medical affairs in and emergence of financial and social problems have resulted in elimination of common traditional relationship between physician and patient. Although, population growth and ever increasing insured individuals and also promotion of awareness of people of their own rights can itself be considered as of the reasons for increasing giving petitions against physicians over the recent years, but physicians' failure in establishing a proper relation with their patients are assumed to be the principal cause of such actions against them regarding medical affairs. Despite attempts made by physicians and medical team in rendering services to patients and also in spite of special holiness of this profession, but unfortunately, these complaints continue to increase, so much that this entity, in the no longer far future, might be considered by one as a special record in the sector of services by this specialist social class.^{1,2}

Physicians are responsible for their own mistakes and hence whenever this carelessness, malpractice, lack of expertise or negligence in treatment and or lack of observation of governmental disciplines or medical rules lead to accrue some physical damage or financial loss to patients then they shall compensate it and it is true for instance that those physicians are not aware of rights of patients or themselves.³

Surgery has been always associated with risk and the surgeon is aware of this matter that achieving an optimal operation result even by applying the most expertise hands, is not exactly assumed to be an achievable goal in all instances. Nevertheless, patient is not always aware of this notion. Unsatisfactory results – whether from patient's viewpoint or that it being actually such – leads to submitting petitions against a considerable percents of physicians over their whole life of profession. Taken into consideration the invasive nature of medical measures, the medical team is always targeted as the principal aim of these medical actions.

A negligence can be established in the field of medicine only if there are 3 conditions:

1. The individual must be the patient treated by the physician and the physician had

accepted the responsibility of caring him or her in terms of medical care and treatment.

2. The physician shall had performed some measures which are not compatible with or approved by medical criteria and or as more frequently seen the physician had not performed those measures should be routinely done as accepted in medicine.
3. Patient has been undergone physical damage as a result of those procedures should not be performed and done or due to lacking performance of works that should be carried out.^{4,5}

For confirmation of a negligence presence of these 3 conditions is mandatory. For example if two of the first 3 conditions existed but the individual has not loss or damage then the case is not subject of prosecution.

In our country and during the recent years numerous complaints against physicians particularly against surgeons including ophthalmologists have been submitted to the courts. These events not only cause weakening of reliance of publics towards medical society but also bear time wasting to people, physicians and legal references. The aim of this study was to investigate complaints from ophthalmologists with focus on causes of these actions, because recognition of the reasons can help us with lowering rate of these complaints.

Methods

This cross-sectional descriptive study was carried out between 2003-2004 on cases of complaints about medical negligence by ophthalmologists referred to and considered by the Legal Medicine Organization Medical Commission. Data gathering was carried out according to the information derived from the medical negligence cases in the field of ophthalmology referred to the medical commission. SPSS software was used for data analysis.

Results

Total medical negligence cases brought in Legal Medicine Organization Medical Commission were 1581 over 3 years (2003-2005), that out of them 147 (9.29%) cases were in the field of ophthalmology. Out of 147 cases considered in the commission 31 cases was approved as medical negligence that of

which 6 were about 2003 and 11 cases were about the year 2004 and 14 cases were about the year 2005.

Of total under considered ophthalmology cases the highest number of negligence was related to attending ophthalmologists, it means that the chief complaint was against the attending physicians, not against hospital or not-physicians therapeutic personnel. Legally, in the 31 cases of approved negligence, 19 cases with one type of negligence and 12 cases with more than one negligence were recognized. The most common approved negligence was reported as lack of attention behavior in 18 cases, and in the next rank, 15 cases with lack of expertise and 10 cases with carelessness and in the 4th rank lack of observation of governmental disciplines and criteria with 8 cases was evident.

The least rate of complaints were related to the university centers, however, this rate continued to decline considerably between 2004 and 2005 as well as between 2003 and 2004, correspondingly.

The highest rate of complaints were about private health centers, however, this rate continued to increase considerably between 2004 and 2005 as well as between 2003 and 2004, correspondingly.

In this study, the rates of negligence by non-university governmental centers and private sector health centers were nearly identical. The most common disease leading to petition and taking action was related to surgical operations done for cataract, such that of total 147 cases of actions filed against ophthalmologists during 2003 to 2005, 92 cases were related to the complaints for cataract treatment that of which 22 cases were approved as medical negligence and the remaining were recognized as predictable and known adverse effects that in the latter attending physicians and health team were acquitted. In the next rank, the correction of refractory errors was reported with 21 actions and 6 cases of establishment of negligence. In the present research, deficit in technical factors and equipment contributed in producing lesions for 5 cases.

Underlying problems like diabetes in patients undergoing cataract surgery in order to correct visual acuity were found as reasons for bringing actions against ophthalmologists,

whereas in those individuals who had undergone LASIK procedures for refractory errors correction it revealed that after complete correction of visual acuity of the patient, the main complaints were due to corneal inflammation and degenerative retinal lesions.

Finally, of 147 considered cases of ophthalmology complaints, 31 (21%) cases were approved as ophthalmology negligence, and 116 (78.91%) cases were acquitted. About verdicts of guilty issued for physicians the maximum punishment was paying a sum equal to 1/2 complete blood money. The blood money for a male Muslim person in 2006 has been set, calculated and communicated RIs. 262,500,000.

In the present research, many complaints although indicated a definite cause (such as creation of predicted or non-predicted adverse effects), but the main reason for complaint against physicians was due to unsatisfactory communication between physician and patient and physician had not attempted towards establishment of a good relation with the patient. In 114 out of 147 cases filed against ophthalmologists, the non-satisfaction of patient respecting physician's relationship was evident in the context of the petitions (77.55%).

Discussion

In this study, of 147 cases of complaints out of total 1581 complaints from attending physicians during 2003 to 2005, only 31 (21%) cases were approved as medical negligence in the Legal Medicine Organization Medical Commission that the majority of which was related to those category of patients that have undergone cataract surgery with hospitalization in hospital ophthalmologic wards. The main reason of this frequency is that this kind of operation is the most common one performed among other ophthalmologic surgeries due to highest request, and usually the surgeons in each scientific rank they were, they do it. It should be pointed out that the most causes of complaint regarding individuals having undergone cataract surgery were of the predictable and known complications of such procedures (including those with having underlying diseases such as diabetes and diabetic retinopathy causing flare-up of the complications). In these

instances it is necessary that the ophthalmologist explain the probable complications of the operation to the patient and to attempt operation under patient's awareness and consent. In the next rank there stood the majority of complaints relating results obtained from refractory error correction operations (LASIK) that the related reasons in this regard are numerous including that this operation are performed in the private sector health centers more than governmental centers, and since private centers having less insurance contracts with insurance companies then there is less insurance supportive levers in this circumstances and taking into account high expenses of treatment and more prolonged operation duration then patients have more much expectations in case of occurring the least consequent lesion or complication and then commit to actions against the attending physicians. On the other hand, many complications like diffuse corneal opacity (DLK) which is of unknown cause may reveal after such operations and it is an unpredictable event. Meanwhile, we do consider the importance of functional and operational intactness of medical equipment plus this point that even reversal of even a minimal value of the previously existed refractory error that can be contribute in a motivation for the patient to bring an action against physicians and all of these notions are resolvable by talking of ophthalmologist with patient, obtaining an informed consent from the patient.

One of the reason of this point that the ophthalmologist surgeons doing ophthalmic surgeries in the private health centers are more subjected to taking actions against is higher therapeutic costs compared with those in the governmental university health centers and hence it is the financial relationship between patient and physicians that leads to complaints originated from not satisfying patient's idealistic expectations, and in other word, university centers apply much more medical standard cares with precise and proper scientific and legal observation, such as obtaining informed consent and pre- and post-operative monitoring and care and finally adhering other standard medical considerations.

In a study by Marroforou et al. on ophthalmologic complaints, the majority of complaints having brought following refractory errors correction and cataract surgeries and also some were related to diabetic retinopathy cases, treatment of glaucoma and delay diagnosis of cerebral tumors and retinal detachment cases.⁶

In a study conducted on the medical complaint files referred to the State of Legal Medicine Organization during 1999, the number of complaints against surgical team was reported 7 times more than those against other specialists.⁷

It is clear that the final goal is confrontation with the medical malpractice or negligence, increasing safety coefficient in therapeutic health centers and promotion of effectiveness of medical services. In this line, the quantity of performance of considering systems over medical negligence actions will have a crucial role.

One of the most important factor in evaluation of the capacity of considering system over medical negligence or malpractice – towards compensation of patients losses plus creating a controlling mechanism regarding their loss or damage – is determination of contributing factors in the final result of such actions and the final verdict shall indicate negligence or acquittal of the defendant, so that the considering system become complete.⁸

Conclusion

In this research, one of the most important causes of actions against physicians was unsatisfactory communication between physician and patient and lack of success of physician in establishment of a proper relation with the patient.

Also, in one research carried out in Mexico during 1996-2001, lack of success in establishment of an appropriate physician-patient relation was shown to play a core role in petitions in about 76% of cases.⁹

Suggestions:

Ophthalmologists shall notice the factors lowering the rate of actions against them, including:

1. Awareness of ophthalmologist of currently applicable medical rules and laws

2. Giving respect to patient's personality and rank
3. Informing patients and relatives of probable and even non-predictable complications prior to any kind of therapeutic measure
4. Considering patients' economical status before doing any therapeutic measure
5. Having an appropriate and admirable communication with patients and relatives at critical mental instances of the patients particularly when a desirable result had not achieved.
6. Lack of interference into other disciplines irrelevant to their specialty and performing necessary medical consultations and cares
7. Preservation of social class and giving respect to other colleagues before patients and his or her relatives
8. Proper patient selection and completion of the medical file and surgical report sheets, taking a complete examination and history.
9. Continuous study and having modern and up-to-date medical knowledge

and also we recommend:

- Education, control and proper supervision over performance of youth physicians and non-physicians personnel in doing surgical procedures on high-risk patients that these shall be carried out under supervision of expert professors.
- Continues participation in educational seminars and panels holding on physician issues and laws and taking important notions there regarding forensic issues are set forth regarding profession of ophthalmology for young physicians in this field.
- Alteration and change in medical education structure and informing medical students from the initial years of medical mistakes and malpractice and handling them.

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