

## SHORT COMMUNICATION

# MALPRACTICE CLAIMS: A PRELIMINARY STUDY IN TEHRAN

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### Introduction

Filing a malpractice claim against medical service providers, especially physicians, is the end point of patients' dissatisfaction with medical services. It is estimated that from 400 dissatisfied patients, one will result in filing a malpractice claim against the provider. And about 60-70% of the patients are in some way dissatisfied with the medical services they receive.<sup>1</sup>

Recently, a growing trend in filing malpractice claims against medical service providers is evident and this preliminary study was designed to investigate the overall subjective reasons mentioned by dissatisfied patients for their claims.

### Materials and Methods

In a 5-year period, all claims filed at the Iranian Medical Council against physicians were reviewed and plaintiffs residing in Tehran were included in this study. We excluded those cases for whom the court had already decided and/or were not accessible by telephone.

A questionnaire about patients' demographic and socioeconomic status, reason for his or her claim and his relationship with medical service providers was designed and five graduate sociology students were assigned to contact the plaintiffs and complete the questionnaire.

Descriptive statistics was used to present data. SPSS was used for the data analysis.

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### Results

A total of 141 individuals were interviewed in this study; 43 (30.5%) filed the claim for themselves, 86 (61%) filed on behalf of a parent, spouse or child and 12 didn't respond. The median for patients' formal education was 12 years (high school diploma).

Most of the complaints were lodged against obstetrics (21.3%), orthopedics (12.8%) and dentistry (9.2%) specialties. Most of the cases (41.1%) were hospitalized in private hospitals and about two-third (61.7%) were covered by insurance.

The most common motives for patients' claims are listed in Table 1. As shown in this table, the most common reasons for filing a complaint were failure of treatment modalities (34.7%), physical injuries (27%), physician's negligence (23.4%) and death of the patient (22%). In Table 2, the motives for filing the claim are presented and it is evident that the plaintiff intended to prevent future malpractice (32.6%) and to receive proper compensation for damages (21.3%). Plaintiffs were almost always prompted to take action against the health care providers in charge. Those who prompted plaintiffs were other physicians (34.8%) or relatives of the patient (24.8%).

Patients stated that they would have not complained in about a third of cases (27.7%) if the physician apologized for his or her malpractice and acknowledged responsibility. In 20% of cases, the plaintiff intended to file the claim regardless and the reaction of the physician would not affect their decision. Some expected to be reimbursed for the

**Table 1.** Reasons for filing medical malpractice claims (multiple reasons were also accepted).

| Reason for plaintiffs' claim   | Frequency (%) |
|--------------------------------|---------------|
| Physical damage, complications | 38 (27)       |
| Physician negligence           | 33 (23.4)     |
| Patient's death                | 31 (22)       |
| Failure in surgical treatment  | 26 (18.4)     |
| Failure in medical treatment   | 23 (16.3)     |
| Misdiagnosis                   | 15 (10.6)     |
| Hospital personnel negligence  | 14 (9.9)      |
| Disrespectful behavior         | 13 (9.2)      |
| Aggravation of disease         | 13 (9.2)      |
| Neonatal complications, death  | 11 (7.8)      |
| Excessive financial burden     | 11 (7.8)      |
| Need for repeated surgery      | 8 (5.7)       |

damages or receive further treatment or referral until complete recovery. Another adequately important finding was that only 11 (7.8%) patients were informed about the poor outcome of the disease or potential complications of procedures and were shocked by the treatment results.

The compensation that plaintiffs expected was not defined in most cases (46.1%) and they would respect the decision of the court. In 19.1% of plaintiffs, they expected to receive a proper reimbursement for the damages and in 7.1%, they expected no compensation.

## Discussion

Entman et al showed that there is no significant difference in the practice of gynecologists who are litigated against and those who are not.<sup>2</sup> Studies have shown that low quality of medical services is not the cause for litigation<sup>3</sup> and other causes should be considered.

A study in New York showed that one percent of patients suffered from medical negligence.<sup>3</sup> At Harvard University, Lea et al<sup>4</sup> found that about half of medical and surgical complications resulted from some kind of medical negligence. In

**Table 2.** Motives for filing claims against physicians (multiple motives were also accepted).

| Motives for filing the claims    | Frequency (%) |
|----------------------------------|---------------|
| Prevention of further negligence | 46 (32.6)     |
| Reimbursement                    | 30 (21.3)     |
| Penalizing the physician         | 20 (14.2)     |
| Recognition of the right         | 17 (12.1)     |
| Legal follow-up                  | 8 (5.7)       |
| Repeated treatment               | 5 (3.5)       |

Hickson's study<sup>5</sup>, one-third of the complaints were due to lack of proper communication between physician and patient. In recent decades in Europe and USA, receiving financial settlements has become one of the major reasons for filing claims<sup>6</sup> and we observed a similar trend in our study.

Malpractice alone is not assumed to be the primary factor for patient claims; and negligence, financial compensations and most importantly lack of proper communication between doctor and patient are considered to play a major role. When the physician does not attend to patient's personal needs and does not respect him or her properly, the patient is more likely to search for possible negligence and to suspect the doctor's liability. It is, therefore, strongly recommended that physicians pay close attention to their patients' needs and to communicate with them and their relatives about the disease and its outcome. Disclosing information with patient does prevent patient's dissatisfaction and helps doctors to be more successful in their practice.

Physicians should also be more attentive to patients' medical problems and consult issues of uncertainty to avoid malpractice and negligence. Participating in CME courses is highly recommended for updating basic and clinical knowledge about medical conditions.

## References

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