



NAVIGATING MEDICAL NEGLIGENCE: BALANCING LEGAL RISKS AND COMPASSIONATE CARE IN MODERN HEALTHCARE

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ABSTRACT

Medical negligence, a critical issue highlighted by Arthur Conan Doyle's observation on the trust placed in doctors, has significant repercussions for both patients and the healthcare system. This paper examines the increasing trend of medical negligence litigations and the consequent rise of defensive medical practices. It identifies key factors driving these litigations, including public awareness and systemic issues like understaffing and inadequate training. The adoption of defensive medicine, while reducing legal risks for doctors, often leads to overdiagnosis, unnecessary treatments, and higher healthcare costs, detracting from patient-centred care. This paper proposes methods to balance legal risk management with compassionate, high-quality care, such as enhanced communication, standardised protocols, ongoing education, and robust documentation. Additionally, it outlines common complaints in medical negligence and the obligations of healthcare providers. The discussion includes an overview of remedial and punitive measures that address medical negligence, ensuring patient care and accountability within the healthcare system. Through these strategies, the healthcare sector can better navigate legal challenges while prioritising patient safety and trust.

Keywords: Medical Negligence, Defensive Medical Practices, Legal Risk Management.

INTRODUCTION

“When a doctor does go wrong, he is the first of criminals. He has nerve and he has knowledge.”

- Arthur Conan Doyle

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This underscores the critical trust placed in medical professionals. This trust is vital as doctors make life-altering decisions. However, breaches due to medical negligence can have severe repercussions for both patients and the healthcare system. Recently, there has been a significant rise in medical negligence litigations, reflecting greater public awareness of patient rights and care standards. This has highlighted issues like understaffing and inadequate training in healthcare. As a result, many doctors now practice defensive medicine, conducting extra tests and procedures to avoid lawsuits. While this reduces legal risks, it often leads to overdiagnosis, unnecessary treatments, and higher costs, detracting from patient-centred care. This article explores the rise in medical negligence lawsuits and defensive medical practices, examining their impact on healthcare and potential strategies to balance legal risk management with compassionate, high-quality care.

METHODS TO BALANCE LEGAL RISK MANAGEMENT WITH THE DELIVERY OF HIGH-QUALITY COMPASSIONATE MEDICAL CARE

Enhanced Communication and Informed Consent: Ensuring clear, transparent, and empathetic communication with patients about their conditions, treatment options, and potential risks can build trust and reduce the likelihood of misunderstandings that lead to litigation. Thorough informed consent should be obtained by educating patients about the benefits and risks of procedures and treatments, enabling them to make well-informed decisions.¹

Continuing Education and Training: Providing ongoing education and training for healthcare professionals to keep them updated on the latest medical advancements, technologies, and legal requirements and Emphasising areas such as patient safety, risk management, and effective communication skills can enhance the quality of care and reduce the risks.

Peer Review and Auditing: Conducting regular peer reviews and audits of medical practices can help identify potential issues before they lead to adverse events, and creating a non-punitive environment for these reviews encourages honest feedback and continuous improvement.

¹ R.K.BAG, Law of Medical Negligence and Compensation Covering the Rights Liabilities Under The Consumer Protection Act, 1986, Pg No 131-133, (Eastern Law House), 2nd edition

Robust Documentation: Maintaining detailed and accurate medical records can provide a clear account of patient care, which is crucial in the event of a legal dispute and ensures that all interactions, decisions, and patient instructions are thoroughly documented.

Patient Safety Programs: Implementing comprehensive patient safety programs that focus on identifying and mitigating risks can significantly reduce medical errors and encourage a culture of safety where all team members are empowered to speak up about potential issues.

Use of Technology: Leveraging electronic health records (EHRs) to improve accuracy and accessibility of patient information and utilising decision support systems to assist in making evidence-based clinical decisions.

Malpractice Insurance and Legal Support: By ensuring that healthcare providers have adequate malpractice insurance coverage, and providing access to legal support and resources to help navigate potential legal challenges.

Patient Feedback and Engagement: Actively seeking and incorporating patient feedback to improve care delivery and address concerns promptly, while engaging patients and their families in care planning and decision-making processes to promote collaboration and enhance healthcare outcomes.

Risk Management Committees: Establishing risk management committees within healthcare institutions to regularly review incidents, analyse trends, and develop strategies to minimise risks.² By implementing these methods, healthcare providers can enhance patient care while effectively managing legal risks, ultimately leading to better outcomes for both patients and practitioners.

COMMON COMPLAINTS IN MEDICAL NEGLIGENCE

Misdiagnosis or Delayed Diagnosis: Incorrect diagnosis or a significant delay in diagnosing a condition can lead to improper treatment or a lack of necessary treatment, exacerbating the patient's condition.

² John Andrade v. P.D Hinduja National Hospital & Medical Research Center 1998 (1) CPR 579 (Born)

Surgical Errors: Mistakes during surgery, such as operating on the wrong site, leaving surgical instruments inside the body, or causing unintended damage to organs, nerves, or tissues.³

Medication Errors: Errors in prescribing, dispensing, or administering medication, including incorrect dosage, wrong medication, or failure to consider drug interactions and allergies.

Lack of Informed Consent: Failing to inform patients adequately about the risks, benefits, and alternatives of a proposed treatment or procedure results in patients making uninformed decisions.

Neglect of Patient Needs: Failing to attend to a patient's needs promptly, resulting in harm, such as pressure sores in bedridden patients or worsening of a condition due to lack of timely intervention.

HEALTHCARE PROVIDER'S OBLIGATIONS IN MEDICAL NEGLIGENCE

Duty of Care: Healthcare providers must provide a standard of care that is consistent with what is reasonably expected from professionals in their field. This includes accurate diagnosis, appropriate treatment, and ongoing patient monitoring.

Duty to Obtain Informed Consent: Providers must ensure that patients understand the nature of their condition, the proposed treatment, potential risks, and alternative options before proceeding.

Duty to Maintain Confidentiality: Providers must protect patients' personal and medical information, disclosing it only with patient consent or as legally required.

Duty to Document: Accurate and thorough documentation of all patient interactions, diagnoses, treatments, and outcomes is essential. This helps in ensuring continuity of care and serves as evidence in case of legal disputes.

³ V.Vassanda Courmary v. Dr. T. Ramachandrudu 1998 (3) CPR 227 (Pondicherry)

REMEDIAL STATUTES AND PENAL STATUTES

Remedial Acts –

Consumer Protection Act, 2019: It provides a framework for patients to file complaints against healthcare providers for deficiencies in services, including medical negligence.

Consumer Disputes Redressal Commissions (CDRCs): It enables consumers to seek compensation and remedies through District, State, and National Commissions.

Clinical Establishments (Registration and Regulation) Act, 2010: It regulates clinical establishments to ensure the quality of healthcare services and establishes standards for registration and oversight of healthcare facilities.

Medical Council of India (MCI) Regulations (Now National Medical Commission), Code of Medical Ethics Regulations, 2002: It provides guidelines for professional conduct, etiquette, and ethics for registered medical practitioners.

Right to Information Act, 2005 (RTI): It allows patients to access information about their treatment and medical records, promoting transparency and accountability in healthcare services.

Human Rights Act, 1993: The National Human Rights Commission (NHRC) can investigate violations of human rights, including those resulting from medical negligence.

Mental Healthcare Act, 2017: It protects the rights of persons with mental illness and ensures they receive appropriate and humane treatment.

Transplantation of Human Organs and Tissues Act, 1994: It regulates the removal, storage, and transplantation of human organs and tissues.

Biomedical Waste Management Rules, 2016: It ensures safe and proper management of biomedical waste to prevent health hazards and negligence in waste handling.

Legal Services Authorities Act, 1987: Provides free legal services to eligible persons, enabling them to seek redressal for grievances, including medical negligence.

Punishment Acts –

Indian Penal Code, 1860 (IPC): Section 304A includes death caused by negligence; punishable with imprisonment or fine, or both and Sections 336, 337, and 338 deal with the acts endangering life or personal safety of others, causing hurt or grievous hurt by acts endangering life or personal safety of others.

Consumer Protection Act, 2019: It allows for punitive damages and other penalties for deficiency in services, including medical negligence.

Medical Council of India (MCI) Regulations (Now National Medical Commission): It includes the disciplinary actions such as suspension or revocation of medical licenses for professional misconduct.

Drugs and Cosmetics Act, 1940: It addresses medication errors and quality of drugs, with penalties for non-compliance.

National Medical Commission Act, 2019: It establishes the National Medical Commission to regulate medical education and practice, with the authority to take punitive actions against malpractices.

These acts collectively provide a robust framework for addressing and mitigating medical negligence, ensuring that patients receive proper care and compensation while holding healthcare providers accountable for their actions.

CONCLUSION

Addressing medical negligence requires a balanced approach that ensures patient safety while supporting healthcare providers. The rise in litigations has highlighted the need for clear communication, adherence to medical standards, and ongoing education. By implementing robust documentation, patient safety programs, and alternative dispute resolutions, healthcare providers can mitigate legal risks and focus on delivering high-quality care. Remedial and punitive acts serve as essential frameworks to maintain accountability and trust within the healthcare system. Ultimately, fostering a culture of transparency, continuous improvement, and patient engagement will lead to better outcomes for both patients and practitioners.

REFERENCES

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