

**Medical Responsibility
(Malpractice)**

الإهمال

المسؤولية الطبية

Learning Objectives

- ? **Define scientific terms**
- ? **Know how to basically prove a malpractice claim**
- ? **Classify different types of malpractice**
- ? **Be aware of basis of its evaluation**
- ? **Be familiar with examples of different types of malpractice**
- ? **List legal advises for prophylaxis against malpractice**

When a medical practitioner undertakes the care of a patient, he enters into implied contract to treat the patient with **reasonable skill and care.**

So

التزام
↑

العقد الاجتماعي للطبيب و المهني أن
تقدم للمريض الخدمة المعقولة و الاهتمام
المعقول أو أفضل ما عندك من علم أو

There is a *commitment* by the physician to do his best of knowledge and skills for the benefit of the patient.

التزام بين الطبيب و المريض لتقديم

Malpractice

Malpractice (malpraxis) is defined as the **absence** of a reasonable degree of **skill and attention** on the part of the attending practitioner whereby the **health** of the patient is **endangered**.

الاهمال الذي يسبب ضرر للمريض

Negligence unproductive of damage will not give the right to an action, but negligence causing damage will do. If there is any doubt of **negligence**, the patient can **sue** the physician for malpractice.

يلجأ: Sue

في حال اثبات الاهمال الطبي يمكن للمريض أن يلجأ للقضاء ضد الطبيب و يتهمه بالاهمال

الاهمال.

Negligence may be defined as the omission to do something which a reasonable man would do, or doing something which a reasonable man would not do(**act of omission or commission**) .

ماذا يعني
متعمد ؟
يعني ان-
لطبیب لم يطبق
الاهمال

العقوبة تبدأ من-
أخذ تعويض من
الطبيب لغاية سحب
رخصة العمل و لغاية

إهمال غير مقصود: omission

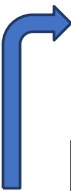
When a patient can prove that he has suffered harm as a result of a physician's failure to provide a reasonable standard of care, which any ordinary physician in his position

متعم

would take, he has the right to receive **financial compensation.**

إذا استطاع المريض إثبات أنه تعرّض لأذى نتيجة (physion failure) فإنه يرفع دعوة

Most legal actions for negligence are within the **civil law**, few undergo **criminal prosecution** of the physician for example:



1) Illegal abortion.

إجهاض

2) Death of a patient resulting from gross ignorance or negligence of the physician.

أغلب قضايا الإهمال تحل وديًا طالما ما تعرّض المريض لأذى شديد إلا في حالتين

في حال الاعتراض
كيف يمكن اثبات الخطأ
تست لأذى يحق اللجوء للقضاء لكلا الطرفين ولا يحق لكلاهما

malpractice:

1- **A mistake has occurred by the**

physician

2- A damage or harm happened to the patient.

إذا لم يحصل للمريض إذى و كان الفعل اجرامى وتم كشف الاهمال يتم اللجوء الى القضاء و إن لم تتم الشكوى من المريض أو لو مات المريض و لم يشتكى احد

3- There is a causative relation between the mistake done by the physician and the harm that occurred to the patient .

إذا نسي الجراح فوطة (قطعة قماش) في بطن المريض - (mistake from surgem)
فوطة (قطعة قماش) بعد بضعة أيام احدثت ضرر- (damage to patient)
العلاقة بينهما وجود فوطة (قطعة قماش) في بطن المريض -
Towel = فوطة

خطأ بإجراءات الطبيب و مهاراته و أنه لم يستطع اتباع القواعد المحددة سواء في التشخيص أو العلاج

Types of malpractice

Technical faults:

When the physician does not follow the scientific basic rules in his profession for diagnosis and treatment. These may be major or minor faults.

Objective mistakes:

When a surgeon forgets any object inside a surgical wound e.g. Towel, instrument...etc. all objective mistakes are major malpractice.

إعطاء المريض جرعة خطأ- (minor fault)
تأخر الطبيب بالتشخيص أو خطأ بالتشخيص -
إذا حدث نتيجة ذلك مثلا ورم و استفحل و عمل (ورم خبيث)-metastasis
هنا يصبح major

ما هي القواعد
التي سيقوم بها
القضاء الاذى
الذي حدث

The basis of evaluating the malpractice

1- The professional level of the physician.

A general practitioner cannot be considered negligent just because a specialist might have served a patient better.

البداية بتقرير
من الطبيب

2- The severity of the case.

3- The time and place of the act.

امكانيات المكان

The act is compared with the attitude taken by an ordinary physician with the same standard, qualification, experience, and circumstances.

تقييم و مقارنة مستوى الطبيب مع طبيب آخر بنفس الظروف و المستوى العلمي
و المستشفى و الامكانيات و سؤال الطبيب الآخر عن الحل الممكن إذا كان مكان
الطبيب المتهم بالخطأ

The basis of evaluating the malpractice

4- A medical injury may have been caused by any one or more of the medical personnel who have treated the patient.

5- The thing speaks for itself” e.g.

- ?** Foreign bodies and slipping instruments in surgical procedures
- ?** Burns from heating modalities
- ?** Injury to a portion of the patient’s body outside the field

of treatment

تأخير التشخيص مشكلة كبيرة

Malpractice in diagnosis:

To reach a proper diagnosis the physician should:

Take a careful **history**

Examine his patient thoroughly

Ask for **investigations** (whether laboratory or radiological)

استشارة

Consult colleagues or professors if he is not sure of a diagnosis

Otherwise he may fall under *malpractice* if he misses a diagnosis due to ignorance by the basic scientific knowledge.

المسؤولية الجنائية أو القانونية

Liability may be proved when the physician fails to diagnose a condition which would have been diagnosed by a competent practitioner.

-any defect in the report in hospital and occur problem to the patient - <physican my accuse in ignorance and Malpractic

يقع الطبيب تحت طائلة القانون

Malpractice in diagnosis

Sometimes missed diagnosis or mistake in reaching exact diagnosis is due to

- **Inexperience** No skill

the disease being in its early stage.

Mistakes of treatment:

The physician is free in choosing the method of treating his patient as long as he is using scientific basis agreed upon by physicians. The physician is sued for malpractice of treatment in the following conditions:

- ❓ If he prescribed a **wrong drug**
- ❓ If he was not accurate in the **dose of the drug in relation to the patient's age, sensitivity or body build.**

إذا كان المريض لديه حساسية من دواء معين أو زيادة الجرعة

Surgical mistakes:

Surgery needs skill and concentration.
Responsibility of the surgeon lies in the

following stages:

1. **Writing the first admission sheet and diagnosis of the case**
 1. **Stage of preparing for operation** (examine, ask for specific investigations, be sure of fitness of patient for operation)
 2. **An informed consent** (entailing the diagnosis, surgical procedure, anesthesia and expected complications) is signed by the patient except in emergencies

Surgical mistakes:

A surgeon is responsible for attitude of medical staff only

4. A surgical report **very detail,** and any problem at the time of the operation should be mentioned

5. The surgeon should do an operation only in his specialty

6. He is responsible for sterilization of the surgical wound

7- In operations the surgeon is responsible for the actions of his team while acting under his immediate supervision (nurses and assistants).

8- Responsibility of the hospital authorities lies in the selection of nurses

9- The responsibility for *anesthesia* belongs to the anesthetist not the surgeon.

Examples of surgical malpractice:

- ? operating on the wrong patient
- ? operating on the wrong side: limb, organ...etc.
- ? leaving swabs or instruments in the surgical wound

Cutting of artery is surgeon's wrong but his work after that is judged (يحكم عليه)

Examples of orthopedic malpractice:

- ? Missed fractures
- ? Tissue damage from over tight plaster

طبيب توليد

Examples of obstetrician malpractice:

- ? Criminal abortion and complicated therapeutic abortion
- ? Birth injuries
- ? Brain damage of newborn due to hypoxia from prolonged labor
- ? Hysterectomy without being sure of the diagnosis(pregnancy in an old women diagnosed as a mass in the uterus and

doing hysterectomy)

Anesthetic malpractice:

The anesthesiologist is responsible for:
preoperative preparation of the patient, anesthesia during the operation, and follow up in recovery.

Examples of malpractice include:

- ?** Brain damage from allowing hypoxia to occur
- ?** Neurological damage from spinal or epidural injections
- ?** Incorrect or excessive anesthetic agent
- ?** Allowing awareness of pain during anesthesia

1. **Never guarantee a cure**
2. **Get the patient's informed consent for all procedures (at least all surgical procedures)**
3. **When in doubt ask for consultations (consultation protects the patient and protects yourself).**
4. **Do not criticize another practitioner**
5. **Do not fail to provide maximum care in the selection of assistants**
6. **Do not base an important diagnosis on a clinical impression, use available diagnostic aids**

The correct report is physiciain's dielinerance

التقارير هي الشهود التي لاتموت



Legal advises for malpraxis prophylaxis

1. *Keep up with the **advances of medicine**. However do not be too advanced and do not experiment on patients*
2. *Do not, in absence of emergency, perform any surgery without an **informed consent***
3. *Good housekeeping: keep good medical **records**, full and accurate. Keep results of all tests performed on the patient.*

Records are “witnesses whose memories never die”. In the defense of malpractice suits, bad records hurt as much as good records help.

Problems in **MALPRACTICE**

An anesthesiologist ran out of oxygen before the operation was completed, causing the patient to suffer a fatal

cardiac arrest.

Is this a case of malpractice or negligence?

What are the responsibilities of the anesthesiologist?

Do you think this case should be presented in a civil or criminal court?

What are the possible forms of punishment that the doctor would undergo?

Is this a case of malpractice or negligence?

.....both negligence and a major form of anesthetic malpractice

.....

What are the responsibilities of the anesthesiologist?

- The anesthesiologist is responsible for:*
- Preoperative preparation of the patient,*
- Anesthesia during the operation,*
- Follow up in recovery*

Do you think this case should be presented in a civil or criminal court? Why?

.....criminal court, this is considered an objective mistake which proves gross ignorance and negligence on part of the anesthesiologist as he should have checked his instruments before operation.....

What are the possible forms of punishment that the doctor would undergo?

.....criminal prosecution usually means a jail sentence (which could be carried out or not) and erasure from the medical syndicate

Is this a case of malpractice?

.....yes

.....

.....

If so, what is the type of malpractice in this case?

.....anesthetic malpractice

Should the patient receive financial compensation?

.....yes

.....

.....

Knowing that this patient was a well known athlete; would this make any difference in the value of compensation?

.....more compensation