



Medical Malpractice



Objectives

- Define medical errors and malpractice
- How often medical errors happen?
- The different types of medical errors
- How we should disclose and solve medical errors and malpractice



مأساة جديدة في الأردن عنوانها "الأخطاء الطبية"

15 سبتمبر 2021 - 08:00 بتوقيت أبوظبي



زياد نصيرات - عمّان - سكاي نيوز عربية

لم تكاد تنتهي صدمة الاردنيين بوفاة الطفلة لين أبو حطب، إثر خطأ طبي، حتى تم الكشف أن طفلة أخرى في العمر ذاته توفيت قبل أيام وبالطريقة نفسها.

وتتشابه القصتان كثيرا، ففي كلا الحالتين تم تشخيص الحالة بشكل خاطئ، أدى إلى وفاتهما، كما يقول ذوهما.

وتوفيت الطفلة لين أبو حطب في مستشفى البشير بالعاصمة عمّان، بينما توفيت الطفلة غنى بمستشفى الأميرة رحمة بمحافظة إربد شمالي الأردن.



Case scenario 1

- A 23-year-old medical student was in his last year of medical school. He was asked to perform a procedure he hadn't done before. His mentor was called away from the operating room about an urgent matter and the young student made a mistake, which led to a complication that caused the woman patient to lose her life.


A decorative graphic on the left side of the slide features three balloons: a light green one at the top, a light blue one in the middle, and a light purple one at the bottom. Each balloon is attached to a thin, wavy streamer. Small yellow triangular shapes are scattered around the balloons, resembling confetti or streamer details.

Case scenario 2

- A 30-year-old female patient went through an aggressive chemotherapy session and hysterectomy after she was diagnosed with a rare form of cancer. Later, her oncologist told her she had been mistakenly diagnosed.



Definition :

- In health care, it is common that patients are exposed to harmful risks.
 - Some risks are predictable and informed consent is obtained.
 - Other risks, such as those occurring because of medical errors (ME) are in a sense unpredictable, and an informed consent cannot be obtained.
 - An ME is defined as the failure of a planned action to be completed as intended.
- 

| Aspect | Appendectomy Complication | Medical Malpractice During/After Appendectomy |
|-------------------------------------|--|---|
| Cause | result from known surgical risks, | Results from preventable errors, |
| Relation to Standard of Care | Occurs even when the surgeon and healthcare team follow proper protocols and guidelines. | Occurs because the healthcare provider deviated from accepted medical standards. |
| Predictability | Predictable | Unpredictable. |
| Examples | Mild postoperative infection despite sterile technique, temporary ileus, adhesions, anesthesia reaction, minor bleeding. | Operating on the wrong patient/site, leaving surgical instruments inside abdomen, delayed diagnosis of perforation due to negligence, medication overdose, failure to monitor postoperative sepsis. |
| Informed Consent | Included | Can not be included |

Accidental Deaths in the U.S.



Accidental Deaths in the U.S.

An estimated one million people are injured by errors during hospital treatment each year and 120,000 people die as a result of those injuries, according to a study led by Lucian Leape of the Harvard School of Public Health. Here's how that number compares with other causes of accidental death in the United States*.

*SOURCE (for accidental deaths shown in blue): National Safety Council. Data are for 1996.

KEVIN BURKETT / Inquirer Staff Artist

- Malpractice is **lack of rational degree of care and skill**. It includes all faults in medical practice leading to remaining harm or permanent infirmity.



Definition

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



So

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



Causes:

It may be due to:

- Negligence: lack of care.
 - Incompetence: lack of skill or medical knowledge
- 
- 

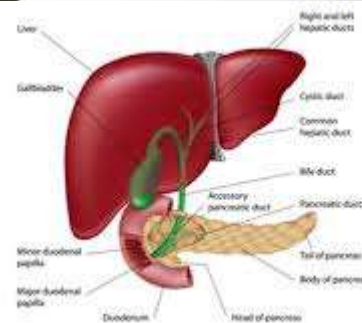
Medical Negligence:

Inadequate standard of medical care given to a patient.

Omission:
failure to do something.



Commission:
doing something wrong.



Incompetence

It means the failure of the doctor to offer necessary degree of **skill** resulting in injury to the patient.





Contributory negligence

- patient ignores the advice of his doctor
- might lose his right (partially or totally) to claim damages if harm results

Common Causes of Medical Malpractice



- Distraction
- Fatigue
- Lack of Education and Experience
- Inadequate Attention Given to Individual Patients
- Inaccurate Medical Records

Types of malpractice

Technical faults:

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.**



- Most legal actions for negligence are within the ***civil law***, few undergo ***criminal prosecution*** of the physician for example:
 - **Illegal abortion.**
 - **Death of a patient resulting from gross ignorance or negligence of the physician.**

3 basic considerations in proving malpractice:

A **mistake**
has occurred
by the
physician



A **damage** or
harm happened to
the patient.



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

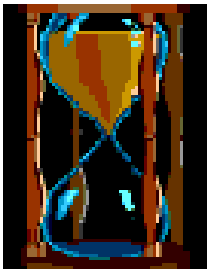
The basis of evaluating the malpractice

1- The professional level of the physician.

2- The severity of the case.

3- The time and place of the act.

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

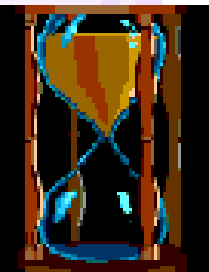


The basis of evaluating the malpractice

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



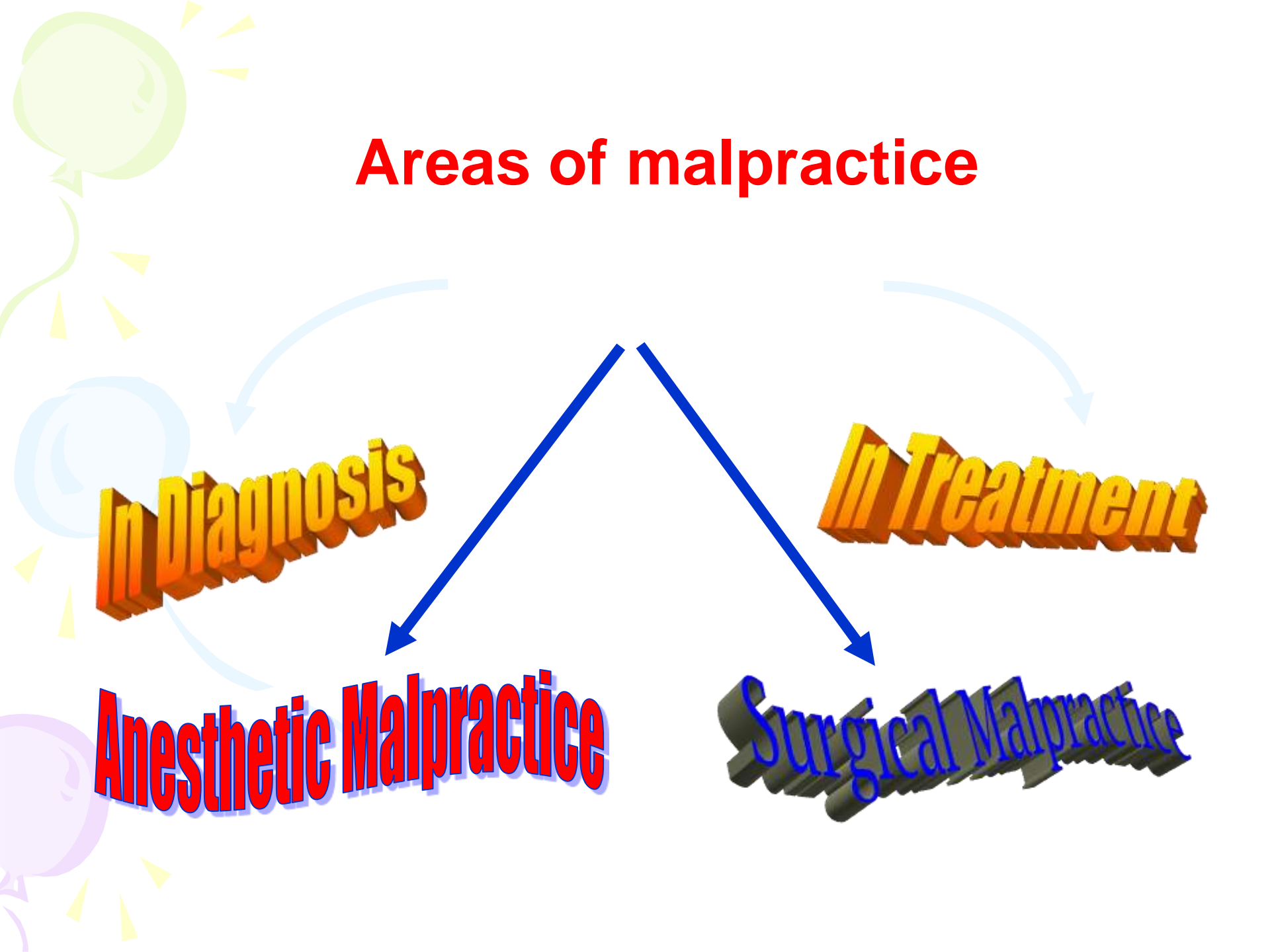
Areas of malpractice

In Diagnosis

In Treatment

Anesthetic Malpractice

Surgical Malpractice



A decorative graphic on the left side of the slide features three balloons: a green one at the top, a light blue one in the middle, and a purple one at the bottom. Each balloon is attached to a streamer and has several yellow triangular shapes radiating from it, resembling a sun or a burst of light.

Malpractice in Diagnosis

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)
- ☺ 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.



Malpractice in diagnosis

- **Sometimes missed diagnosis or mistake in reaching exact diagnosis is due to:**
 - inexperience
 - the disease being in its early stage.

A decorative graphic on the left side of the slide features three balloons: a light green one at the top, a light blue one in the middle, and a light purple one at the bottom. Each balloon is attached to a streamer and has several small yellow triangular shapes around it, resembling confetti or streamer ends.

Malpractice in Treatment

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.*

A decorative graphic on the left side of the slide features three balloons in shades of green, light blue, and purple, each with a streamer and surrounded by yellow triangular confetti.

Surgical Malpractice

Surgical Malpractice



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



Surgical mistakes:

4. A surgical report should be filled including every 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

Examples of orthopedic malpractice:

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

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)

A decorative graphic on the left side of the slide features three balloons: a green one at the top, a light blue one in the middle, and a purple one at the bottom. Each balloon is attached to a streamer and has several small yellow triangular shapes around it, resembling confetti or streamer tassels.

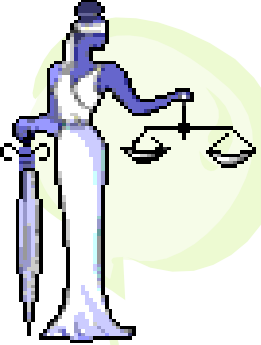
Anesthetic Malpractice

Anesthetic malpractice:

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

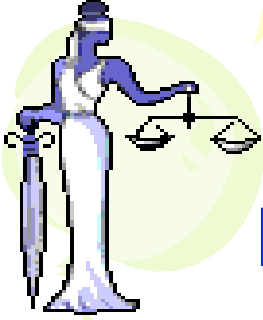
Examples of malpractice include:

- ⊗ 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



Legal advises for malpractice prophylaxis

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 fail to provide maximum care in the selection of assistants*
5. *Do not base an important diagnosis on a clinical impression, use available diagnostic aids*



Legal advises for malpractice prophylaxis

7. *Keep up with the **advances of medicine**. However, do not be too advanced and do not experiment on patients*

8. *Do not, in absence of emergency, perform any surgery without an **informed consent***

9. *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.*

Case 1

- For the first case, which is about Barack, the student who made a mistake:
- 1. The senior should not have left the student alone and he should have told him to wait for him to return.
- 2. The student should have not have continued by himself; he should have called another senior.
- 3. We should educate our students to know their limitations, in both knowledge and skills.
- 4. We should disclose any case immediately to the higher authorities for compensation.
- 5. The family of a patient should be informed immediately and according to law they should be compensated.



Case 2

1. We should support the patient's right for compensation and an apology.
 2. We should explain what happened.
 3. There was a problem with the diagnosis, so the physician and the lab specialist should re-check the result again and again before they take any action with the patient.
 4. According to the law, the physician should be questioned about this case.
- 



Thank You