

Revisited: The scope of medical litigations in Saudi Arabia – Analysis of closed claims over 15 years

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ABSTRACT

Background: This is an analysis of medical litigations in Saudi Arabia from closed medical claims referred to the Legal Health Organization (LHO) from various provinces of the Kingdom.

Methods: A pre-designed data collection sheet from the annual official reports of the LHO over the period of 1999–2013 was used. Data were analysed to study the trend of parameters simultaneously, along with a comparison of incidence in different medical specialties and facilities.

Results: This showed a substantial increase in the number of claims over the study period of 15 years (1999–2013). The final findings of guilt, on the contrary, showed a decreasing trend despite increased number of claims.

Conclusion: Quality of care for patients has definite international standards, which when implemented effectively will alleviate the incidence of medical malpractice to a great extent, thereby improving Medical Professional Liability.

Keywords: Closed claims, medical mistake, medico legal

INTRODUCTION

Medical error is defined as an unintended injury that is caused by medical management resulting in measurable disability;^[1] whereas, negligence is defined as failure to meet the standard of care reasonably expected of an average physician qualified to take care of the patient in question.^[2]

A 'medical liability claim' is a claim or a course of action alleging treatment or lack of treatment that deviates from accepted standards of medical care, which results in injury or death of a patient.^[3]

Legal Health Organization (LHO) committees have increased in number over the past few years, reaching to 21 committees in 2014 covering all provinces of the Kingdom of Saudi Arabia. It had been also taken into consideration that the distribution of healthcare centres in different regions match the number of committees in each region.

Despite the fact that medical care in Saudi Arabia has shown a remarkable improvement over the past years, based upon international standards in the setting up of medical facilities in addition to a well-organised training system for medical practitioners with tracing and authentication of qualifications, the adverse events of medical practice are inevitable.

The current study has been conducted by a member of the LHO, who shared in multiple investigations of medical claims in different medical fields, aimed at updating the analysis for the scope of medical litigations in Saudi Arabia over the past 15 years (1999–2013).

METHODS

Annual reports from LHO covering the period from 1999 to 2013 were statistically analysed to give mean figures and percentages in each annual report and then

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presented as a whole to run the differential analysis with the trends along the same periods.

Different variables were included within the data of the annual reports such as the nationality of the accused medical staff, gender, qualification, job title; also whether the claim includes technicians and/or nursing and the number of sessions conducted within each subcommittee to investigate the claims. However, the author concentrated on definite aspects, which would provide the magnitude of litigations and its specification in relation to the sector of health service, as well as the specialties of medical practice involved in the claim.

In the present study, statistical analyses were performed on the following data:

- Annual total number of claims presented to all committees
- Annual number of verdicts with accusation
- Distribution of verdicts emanating from different health sectors
- Distribution of all final verdicts with accusation claims coming from different medical specialties.

RESULTS

Data analysis showed an escalating trend for the total number of claims over the study period, starting with 440 cases in 1999 and ending with 2,413 cases by the year 2013 [Figure 1].

The annual percentage of the verdicts based on claims compared to the total number of claims presented to all committees showed a decreasing trend from 60.2% in 1999 down to 35.8% in 2013, in spite of the increasing trend in number of claims as demonstrates in Table 1.

The distribution of final verdicts amongst different clinical specialties showed that surgical specialties contributed the highest number of claims with the percentage of total claims reaching 36.3% [Figure 2].

The healthcare service sector showed a significant variation in relation to the mean number of guilty

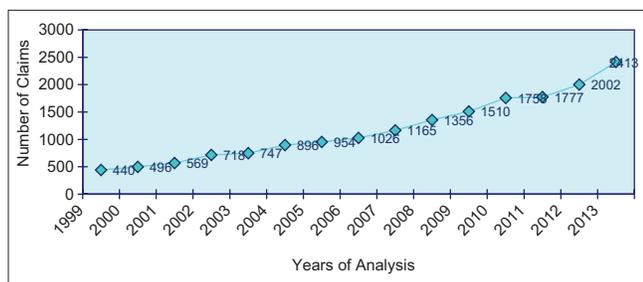


Figure 1: Trend analysis for the total number of claims presented to Legal Health Organization Committees all over the Kingdom (21 committees)

verdicts during the study period, revealing the highest number of claims in the Ministry of Health (MOH) sector, followed by the private sector. Military healthcare services showed a significantly lower number of claims in relation to all sectors while the lowest number was seen in the university healthcare service hospitals [Figure 3].

DISCUSSION

The process of medical litigation in Saudi Arabia, despite following international standards to investigate adverse events and its consequences, complies with the Islamic Shariah law in the final verdict with a claim. In addition, the final verdict could be supplemented with administrative action as well.

The Medico-Legal Committee headed by a judge includes three physicians (one medical teaching staff from a medical school and two physicians from the MOH), as well as a legal expert. In the case of a malpractice suit against a pharmacist, the committee also has two pharmacists, one of whom is a teaching staff of a pharmacy college and the other a pharmacist nominated by the MOH. The committee is allowed to consult any expert in the field or specialties related to the case under scrutiny. The committee looks into all cases in which there is a claim for compensation (indemnity) because of death (blood money or Diah) or loss of an organ (indemnity). Blood money is the highest compensation paid only in the event of death, whereas other categories of compensations for the loss of an organ and/or its functions. The committee makes its decision on majority votes provided that the judge is a part of this majority. The decision of this committee

Table 1: Percentage of the final verdict with accusation in relation to the total number of claims presented to all committees of Legal Health Organization

Years	Data		
	Total number of presented claims	Final verdict of accusation	Percentage
1999	440	265	60.2
2000	496	255	51.4
2001	569	271	47.6
2002	718	393	54.7
2003	747	353	47.2
2004	896	428	47.7
2005	954	480	50.3
2006	1026	480	46.7
2007	1165	531	45.5
2008	1356	650	47.9
2009	1510	670	44.3
2010	1758	735	41.8
2011	1777	734	41.3
2012	2002	672	33.5
2013	2413	864	35.8

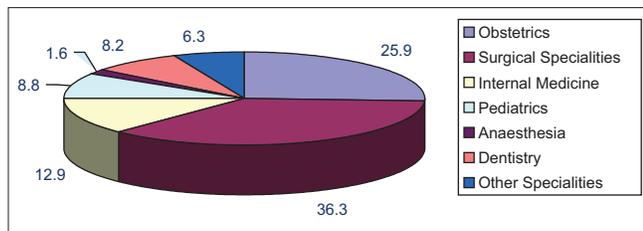


Figure 2: Mean percentage distribution of final verdict claims with accusation in different clinical specialties

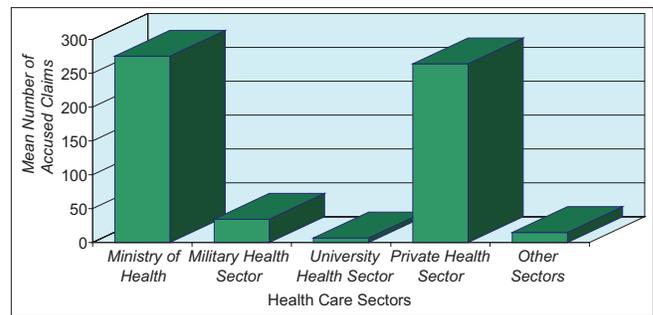


Figure 3: Mean number of final verdict claims with accusation in different health sectors

is independent, final and can only be appealed through the Council of Governance within 60 days of its issue.^[4]

One cornerstone of Islamic Shariah law is that it compensates for any disability, morbidity or mortality resulting from proved negligence or malpractice of medical intervention provided that the medical staff indulged is qualified, licensed and experienced to perform such an intervention. The essence of the matter is not just the occurrence of a complication, but how proactively and professionally it was managed.

Importantly, it is widely accepted that the rise in litigation is not due to an increasing incidence of clinical negligence, but rather ‘the increasing tendency of patients seeking legal redress and the rising costs of such legal settlements’. However, the fact of increased litigations stems from people who have become more aware of standard medical care and demand for it as well.^[5]

Another aspect of data analysis was targeted towards the incidence of claims by clinical specialties, which showed that claims for surgical specialties were generally significantly higher than other medical specialties; this could be explained by the extent of procedural intervention that is required in the surgical field as compared to other medical fields, which lowers the incidence for complications.^[6]

Following international standards could restrict the magnitude of medical errors, which have been classified by the Agency for Health Research and Quality into diagnostic error, equipment error, misinterpretation of medical orders or data; and finally mismanagement with resultant morbidity such as postoperative infections or mismatched blood transfusion.^[5]

The medical facility plays an important role in the increased incidence for litigations. Data analysis revealed that the MOH and private sectors both contributed to more than 90% of the total number of claims referred to the LHO. The MOH remote hospitals or small clinics cover most of the small cities and most of these facilities are understaffed and/or run by

undertrained physicians with inadequate equipment and supplies, a fact, which renders such facilities more prone to malpractice and litigations. Despite the fact that the private sector is mostly well equipped and staffed with qualified and experienced practitioners, the patients going to this expensive sector, considering their culture and social class are more demanding for quality healthcare service.^[6]

In general, malpractice litigation has three social goals: To deter unsafe practices, to compensate individuals injured due to negligence and to execute corrective justice. Medical malpractice lawsuits intend to deter physicians from providing substandard care by reminding them that safe practice and effective medicine are necessary to avoid the emotional and financial costs of litigation. With respect to compensation, it seems reasonable that the party at fault for an injury should bear the associated costs, including lost earnings, medical bills and costs associated with ‘pain and suffering’.^[7]

Risk management bodies have settled some recommendations to help avoid being subjected to malpractice lawsuits.^[8]

- Communicate with patients and colleagues. Clear and complete communication with patients, staff and colleagues is a must if errors and misunderstandings are to be avoided. It has been shown that patients are reluctant to sue a doctor who takes the time to explain medical issues and answers all of their questions
- When in doubt, get a second opinion. Risk management specialists say that one of the major causes of malpractice litigation is a misdiagnosis. A second opinion should be sought from a respected colleague who has a wider experience in the type of case being evaluated
- Do not withhold management for any reason whether administrative social or even financial, especially in the private sector facilities

- Obtain a thorough detailed and informed patient consent that explains the definite diagnosis reached, the plan for management and the expected complications, which might be encountered
- Document all medical decisions, communications and even recommendations related to any case in a detailed timely manner.

CONCLUSION

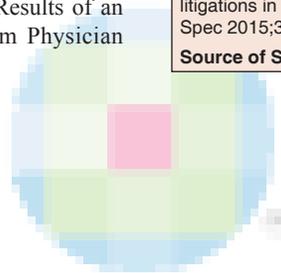
The study analysed the official presentable data on medical litigations in Saudi Arabia over the past 15 years (1999–2013), to demonstrate the actual size of Medical Professional Liability whether amongst medical specialties or medical facilities. Sticking to the solid recommendations of the international standards and protocols of management in medical practice will alleviate the incidence of medical malpractice and improve patient care, which is the ultimate goal for any medical practitioner.

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