

Medical Jurisprudence

Defense Strategies in Medical Malpractice Complaints

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Introduction

One of the most significant challenges encountered by healthcare professionals, particularly physicians, is managing medical malpractice complaints. This issue not only causes considerable psychological stress but can also jeopardize an individual's professional, personal, and social life. Therefore, it is essential for healthcare providers to be well-versed in effective defense strategies when confronted with such allegations.

Two key points warrant particular emphasis:

First, when discussing defense, we refer to a legitimate and legally grounded strategy employed in situations where we believe no fault has occurred or, at the very least, where we are unaware of any mistakes on our part. However, it is crucial to acknowledge that if we do recognize any errors we have made, attempting to defend ourselves in this context

may deteriorate into deception or obfuscation of the truth, thereby exacerbating the original mistake.

Second, in accordance with sound professional practices, we must prioritize prevention over reaction. It is essential to identify the root causes of errors and take proactive measures to eliminate them. Our objective should be to prevent mistakes from occurring; when they do, our focus should shift toward mitigating any resulting harm. Once damage has occurred, we should strive to provide the patient and their family with comfort through transparency, empathy, and compassion. These considerations undoubtedly hold greater importance than any defensive arguments we might formulate in response to a complaint.

Dimensions of Defense

Defense strategies can be categorized into substantive and procedural aspects, which are briefly summarized as below:

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A) Substantive Defense:

To effectively address a substantive defense, one must first analyze the fundamental elements of negligence. Negligence comprises the following four essential components:

- 1- Responsibility
- 2- Breach of Standard
- 3- Direct Causation
- 4- Harm

These four elements can be conveniently summarized by the acronym "4D," which stands for Duty, Dereliction, Direction, and Damage.

Responsibility refers to the duties an individual may voluntarily assume or those imposed upon them involuntarily.

A breach of standards signifies a deviation from the minimum expectations established by scientific, technical, and regulatory guidelines.

Direct causation refers to the clear and immediate connection between the breach of duty and the harm sustained by the patient.

Harm includes the physical, emotional, and financial damages experienced by the patient in both legal and criminal contexts, as well as the consequences for the medical community and profession resulting from the negligent party's actions in disciplinary cases.

A study conducted by our research team analyzed defense statements made by physicians facing complaints. The findings indicate that most respondents tend to focus on the first and fourth elements of negligence in their attempts to absolve themselves of accusations. They frequently challenge established discussions regarding responsibility and the nature of damages. For instance, concerning responsibility, it is common to observe attempts to deny duty, shift accountability to another individual or entity, or place the onus on the patient and their companions. Typical assertions include, "They were not my patient," "I only provided a consultative opinion," "The supplier

responsible for the prosthesis is to blame," and "I advised the patient to take a particular action, but they declined," among similar claims. In conclusion, a nuanced understanding of these defense strategies and the integral framework of negligence is essential for healthcare professionals as they navigate the complexities inherent in medical malpractice claims.

By emphasizing ethical practices and focusing on preventive measures, we can better protect ourselves and our patients while fostering a culture of accountability and transparency within the medical field. In cases of medical malpractice, healthcare professionals, particularly those facing complaints, often dispute the damages claimed by patients.

Colleagues often dispute the existence of harm by attributing injuries to pre-existing conditions, minimizing their significance, asserting that they result from the natural progression of the illness, or claiming they are related to accepted medical complications. A common defense strategy among physicians facing allegations is to characterize damages as complications rather than errors.

Understanding the medical definition of "complication" is essential, as it includes specific predisposing and contributing factors. Timely diagnosis and management of complications are crucial, and healthcare providers are responsible for diagnosing and treating the patient, as well as managing any complications that arise from their care.

Furthermore, the incidence or frequency of similar complications in other patients treated by the physician in question will be a critical factor for any adjudicating body to consider.

Additionally, two other elements of negligence—namely, the "breach of standard" and the direct causal link between such a breach and the resulting harm—are often inadequately emphasized in defenses.

A robust and principled defense should focus on demonstrating to the reviewing panel that the physician operated within the established minimum standards of care (the

second element of negligence). If a deviation occurred, it must be shown that the resulting harm was not directly caused by that deviation (the third element).

As medical professionals, it is imperative not only to master the scientific and technical aspects of our field but also to have a comprehensive understanding of legal considerations. Today, such knowledge is a fundamental requirement for professional practice.

B) Procedural Defense

When presenting a procedural defense, factors such as professional reputation, scientific competence, the absence of prior disciplinary actions, and the challenging nature of working conditions are relevant. However, it is essential to approach this domain with caution to avoid common pitfalls, including excessive self-promotion, inflated personal titles, tangential discussions, unnecessary requests to attend hearings, and unprofessional language directed at plaintiffs and the judiciary.

Complaints against physicians generally fall into two categories: professional and non-professional, corresponding to administrative and criminal complaints, respectively. Administrative complaints originate from the Medical Council's prosecutor's office and follow specific protocols, with potential penalties outlined in Note 1 of Article 28 of the Medical System Law.

Conversely, criminal complaints are initiated through public and revolutionary prosecutor's offices. The nature of negligence, as defined in Article 145 of the Islamic Penal Code ratified in 2013, must first be established, encompassing both lack of caution and carelessness. Terms such as negligence, inattentiveness, lack of skill, and non-compliance with regulations exemplify carelessness.

Following the determination of negligence, except in cases of death, the defendant may be liable for compensation (diyah) or civil damages (arsh), depending on the nature of

the injury and subsequent complications (Articles 448 to 728 of the Islamic Penal Code). In cases resulting in death, Article 616 of the Penal Code, ratified in 1996, prescribes potential prison sentences alongside financial penalties, with judges often opting for fines for first-time offenders.

When confronted with a medical negligence complaint, it is essential to remain emotionally composed, thoroughly understand the details of the complaint and the accompanying indictment, and carefully review all relevant files and documents. It is also critical to engage in necessary consultations concerning both the scientific and legal aspects of the case. Gaining a clear understanding of the nature of the complaint is of utmost importance.

In cases involving criminal complaints, it is advisable to formally notify your professional liability insurance provider in writing. Although some defendants may question the necessity of formal legal representation, it is generally prudent to seek experienced legal counsel, particularly in criminal matters, especially for those who lack the time or inclination to navigate court proceedings independently.

When formulating your defense statement, ensure it is articulated clearly, respectfully, and with composure, and confirm that it is properly documented.

Every complaint presents an opportunity for growth and introspection; it can prompt us to reassess our beliefs, thoughts, awareness, and practices. Therefore, adopting this perspective can be highly beneficial in our professional journeys.

In conclusion, I extend my best wishes to all dedicated healthcare professionals for a career characterized by tranquility and meaningful contributions to the well-being of those they serve, free from the burden of complaints.