Medical practice in Saudi Arabia: the medico-legal aspect

Muhammad S. Al-Hajjaj, FRCP (C) FCCP

Abstract Over the last two decades, medical services in Saudi Arabia have witnessed a great improvement due to excellent primary health care programs, well-equipped hospitals, and a thriving private sector. Increased public awareness regarding health matters and concern over quality of care have increased the number of formal complaints against physicians. To keep up with such developments, it was found necessary to formulate local regulations for the practice of medicine and appoint a number of medico-legal committees to look into such complaints. This article explains some of the relevant rules and how these committees work. Finally, a set of useful guidelines are offered to help physicians in their daily work.

Keywords: Medico-legal, liability, consent, malpractice

Health care in the Kingdom of Saudi Arabia has witnessed over the past two decades great changes and developments with an excellent primary health care system, well-equipped hospitals and health centres and a successful vaccination programme - in addition to extended health services provided by the private sector.

As one would expect, because of these vast developments in health services both governmental and in the private sector, the number of iatrogenic complications and malpractices have relatively increased over the past few years. This factor along with increased public awareness regarding health matters have accordingly increased the number of complaints against physicians.

To keep up with such developments, it was found necessary to formulate a set of regulations that determine the responsibilities of medical practitioners and regulate their relations with their patients. These objectives were accomplished by the “Regulations for the Practice of Medicine and Dentistry,” enacted by the Royal Decree M/3 dated 21/02/1409 H.

The body charged with investigating professional malpractice is called the “Medico-Legal Committee.” There are six such committees throughout the Kingdom. They hold their sessions in the Ministry of Health or the Directorate of Health in the region. These committees are formed of judges from the Ministry of Justice and doctors from the MOH and Faculties of Medicine. Therefore, doctors do not have to go to the Civil Courts for hearing of malpractice claims.

The Medico-legal committees

The Medico-Legal Committees receive complaints of cases of death or “loss of function” of any part or organ of the body. The patient is allowed to prove a justified claim and the physician to reject unfounded accusations made against him. A decision is reached by the committee members after interviewing both plaintiff and defendant(s) and reviewing medical files and other relevant data. The decision of the committee can be appealed to the Board of Grievances within 60 days of the verdict.

I shall review briefly in the coming paragraphs some of the medico-legal aspects of the “Regulations of Medical Practice” with the emphasis that these rules and regulations are aimed to make physicians more informed and well aware of their rights and duties and by no means intended to discourage them or to interfere with their work.

Professional liability

Rules and regulations of the practice of medicine in Saudi Arabia have
divided professional liability into three categories: civil liability, punitive liability and disciplinary liability.

**Civil liability** This means the responsibility of a physician towards his/her patients should harm be inflicted as a result of a direct action of the physician. If proven negligent, the physician is then liable for payment of compensation, the amount of which is determined by the medico-legal committee according to the Islamic “Shariah.”

Examples of such include:

1. Error of treatment or lack of follow-up.
2. Lack of knowledge of technical matters normally known to physicians of similar specialty.
3. Use of medical devices or equipment without proper knowledge of methods of use or without taking adequate precautions to prevent harm which may result from their use.
4. Remissness in control and supervision of subordinates and assistants.
5. Failure to consult with other physician(s) when the patient’s condition so warrants.
6. Conducting unapproved scientific research or experimental drugs on a patient.

Although the majority of complaints are unfounded, impossible to prove, and based on unrealistic expectations of the patient, real errors of diagnosis and treatment do occur. Some physicians lack experience and do not bother to consult other physicians. Others do not use the available facilities for investigations or they may request such investigations and then overlook their results or fail to correctly interpret them.

No matter how minor a procedure is, routine precautions should always be followed. A common source of problem for physicians is the total dependence on residents or registrars for very important clinical tasks without proper supervision.

**Punitive liability** Punitive liability deals with physicians who violate rules and regulations put up by the Ministry of Health (MOH) for the practice of medicine in the Kingdom even if patients suffer no harm. Penalty includes a fine of up to SR 50,000 and/or up to 6 months imprisonment. Any harm to a patient as a result of such action is additionally dealt with as described in civil liability. Examples include:

1. Practicing scientifically unrecognized diagnostic or treatment methods.
2. Failure to notify security or health authorities concerned upon examination of a patient suspected of suffering criminally inflicted injuries or affected with a contagious disease.
3. Refusal to treat a patient without a justifiable reason.
4. Perform abortion of a pregnant woman unless abortion is deemed (by a committee) as the only course of action that is liable to save her life.

Furthermore, a fine of up to SR 20,000 is applied to any physician who:

1. Uses a scientific title or specialty for which he/she is not duly qualified.
2. Solicit, accept or obtain commission, reward, or any other benefit in consideration for promotion of a particular pharmaceutical product or specific medical equipment.
3. Direct patients to a particular pharmacy, hospital, or laboratory.
4. Sells medicines or pharmaceutical samples to patients.

Physicians have to abide by all MOH regulations to avoid any consequences. All rules here are applied to all physicians practicing in the Kingdom even if they are working in non-MOH Hospitals. Physicians who do not observe these rules are exposed to the authority either after a complaint by a patient or less commonly by the local press. A disciplinary action can then be applied even if the physician is unaware of these rules and regulations and even if no harm has been inflicted on a patient.

**Disciplinary liability** A physician is also subject to disciplinary liability in cases of failure to fulfil his/her general obligations, in cases of breach of professional standards or if his/her actions are deemed contrary to professional requirements and ethics. Penalties that may be applied here are: warning, a fine of up to SR 10,000 or revoking of licence to practice and removal of name from the list of licensees. The physician is prohibited from malicious deception of his colleagues or undermining their scientific status or ethics or spreading rumors that distorts their
reputation. He is also prohibited from attempting to attract patients who are receiving treatment from another colleague.

Proof of doctor's responsibility To decide that a doctor is responsible for any harm to a patient, it has to be proven clearly and beyond any doubt that:

1. the doctor has deviated from established known and conventional methods of patient care, diagnosis and treatment.
2. harm has resulted directly from his action which deviated from regular medical practices.

A doctor cannot be held responsible if he/she is found to have followed the usual methods of medical practice and has given maximum effort in diagnosis and treatment with no proven negligence.5

Abu Guddah (a known author in religious studies) has stated that there is total agreement among religious scholars that a doctor is not responsible for any complications resulting from his action provided that:

- formal procedures and documents for his/her appointment were correct.
- treatment was carried out with good intention of helping the patient.
- current and conventional methods of practice were followed.
- an informed consent was obtained.6

Consent An informed consent means that the treating doctor has to obtain a signature of acceptance by the patient in the presence of witnesses authorizing the doctor to perform the intended procedure after adequate explanation. If legally competent, the patient, whether male or female, has to sign personally on the consent form. A representative can sign only if the patient's judgement is obscured. In emergency situations, medical treatment has to be delivered without waiting to obtain a consent, if delay in obtaining such a consent endangers the patient's life or causes any serious harm.7

Recommendations to avoid malpractice suits Lack of communication between the patient or relatives and the treating doctor is a common reason for complaint should any problem arise. Improvement in the communicative, diagnostic and therapeutic skills of doctors would certainly minimize these complaints.8 The following are some of the guidelines to help avoid falling into the endless problem of legal suits:

1. Be yourself, know your limitations, and if in doubt discuss with your colleagues.
2. Do not practice defensive medicine and avoid passive attitude. Some complaints occur because of lack of proper action at the right time.
3. If you are not sure, refer to a senior colleague or other hospital. If appropriate, refer to another specialty.
4. Always involve patients and relatives with all aspects of medical care and explain your chosen methods of diagnosis and treatment.
5. During rounds: DO NOT ignore patients, show respect to them, listen to their complaints, avoid jokes with colleagues, and leave lengthy discussions to outside patient's room.
6. Document by legible handwriting and signature with date and time, significant events or changes in patient's condition.
7. Avoid full dependence on residents, assistants or other members of your team on matters that are your own responsibility.
8. As there is no trivial procedure in medicine, pay full attention and make use of every facility available and indicated, regardless of how minor the procedure is or how short a time it might take.
9. Obtain an informed consent before you perform any procedure.

Acknowledgment The author wishes to express his gratitude to Dr. Hassan Abu-Aisha for his helpful critique and Mrs. Ofelia Gurrea-Villamil for her secretarial work.

References

4. Rules of implementation for regulation of the practice of...
ملخص:

شهدت الخدمات الطبية في المملكة العربية السعودية على مدى العقود الماضية تطوراً كبيراً ومتسارعاً، حيث كان لبرامج الرعاية الصحية الأولية والتوسع في إقامة المستشفيات المهжеة وتشجيع القطاع الخاص أثر كبير في هذا التقدم البارز.

ومع ارتفاع مستوى الرعاي الصحي لدى المرضى وذويهم، والإمام بالطرق العلاجية الحديثة، واهتمام بموضوعية الخدمات الطبية، فقد بدأت الشكاوى ضد الأطباء تزداد مما أوجب ضرورة لتجديد نظام معاولة المبنة الطبية وتشكيل لجان طبية شرعية للفصل في هذه القضايا.

ويشرح المقال ما يهم الطبيب معرفته من اللوائح المنظمة للعمل الطبي وكيفية عمل اللجان الطبية ويшимت المقال ببعض الإرشادات المفيدة للطبيب الممارس.

د. محمد صالح الحجاج

ملف الكلمات: برامج الرعاية الصحية الأولية، المملكة العربية السعودية.