

Medico Legal Aspects of Ocular Trauma

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Introduction

Basic nature of mechanical injuries is either accidental suicidal or homicidal so they are always associated with legal problems. Many such cases may end up in consumer court or in criminal court. Therefore a doctor who has examined and treated such patients will be called to give evidence as expert witness. Negligence suit may be filed against the doctor if he fails to carry out the medico legal duties in an accepted way. Every doctor must be familiar with the procedure of examination and recording of data.

Important aspects

During examination note the type, location, direction, dimensions and presence or absence of foreign bodies in the wound. Measurement should be accurate (as far as possible) and terms like 'about' 'approximately' must be avoided. If possible take photographs or draw simple sketches of the injury. Next important medico legal duty is to fill up the 'Accident cum wound certificate' carefully. Certificate format must be readily available in all hospitals, where there is permission to treat medico legal cases. It is to be prepared in duplicate by taking a carbon copy. Original of this wound certificate must be submitted to the police as a confidential report. Duplicate (Carbon copy) must be kept under safe custody either by the doctor or the institution. After that doctor has to decide about the procedure to be performed for each case. Before doing any procedure an informed written consent has to be signed.

Consent: It is defined as "Voluntary agreement, compliance, or permission for specified act or purpose". The Indian contract Act Section 13, states "two or more persons are said to consent when they agree up on the same thing in the same sense". Medical practitioners should sign consent before examination and treatment. If they treat or operate without consent will be considered as an internal interference with the patient's body without legal sanction. This in turn is equivalent to assault for which patient can legally claim for damage. Consent is to be obtained from conscious, mentally sound adults, or from the parent of a child who is less than 12 years of age. Consent is not necessary if the patient is in coma and need emergency treatment. A medico legal case referred by a court of law for examination also doesn't need consent.

Police intimation: A government doctor must intimate all wounded cases, irrespective of the manner and nature of the injury to the nearest police station. A private doctor can abstain from such intimation if the patient does not give

consent for the same.

If a medical practitioner complete all those processes like writing 'wound certificate' make a 'written consent' with the patient for examination and treatment, and 'if the matter is intimated to police', his medicolegal duties can be considered as satisfactory. Then he can effectively execute the treatment utilizing his basic knowledge in the concerned branch of medicine. If he fails to perform those medicolegal duties, a negligence suit may be filed against him in a court of law.

Professional negligence

"Negligence can be defined as doing something which a prudent and reasonable man would not do, or the omission to do something which a reasonable man would do. Negligence may be either due to lack of knowledge and skill or failure to provide due care during a procedure. Every medical practitioner should have basic reasonable knowledge but it doesn't mean that he should possess the highest degree of skill and knowledge. No doctor is expected to possess all currently available medical knowledge, and need not apply all known diagnostic and therapeutic technique.

Elements negligence: There are three cardinal elements in negligence.

1. Duty of care
2. Failure to exercise duty of care (Dereliction)
3. Causation of damage to the patient on account of dereliction.

Duty of care: A doctor charged with negligence must be under a 'duty of care' to the person complaining of negligence. If the doctor was not under duty of care, he can not be charged for negligence even though there is damage to the complaining party. In an emergency care if at all patients is unconscious, if the doctor attend the case it will be considered as duty of care. Duty of care doesn't exist while attending an injured person on road side following accident. No duty of care exists in medicolegal examination for issuing medical certificate for disability and drunkenness.

Dereliction of duty: It is defined as failure of a doctor to honour his duty that is owed to his patient. Such breach of duty may be an act of commission or an act of omission. Example for commission intravitreal injection in normal eye for the affected other eye. Example for omission is failure to give antitetanus prophylaxis when it is indicated.

Damage: It is the injury or disability suffered by the patient due to dereliction of duty. However negligence a doctor might

be, a patient cannot sue him for negligence if no damage has occurred. It should be proved that the breach of duty was the real cause of damage. Example for damage is enucleation of an eye for a retained intraocular foreign body, which was not diagnosed and treated in the initial stage.

Preventive measures against Negligence

Prevention is better than cure. If all the medical practitioners function as per the following guidelines the excessive number of negligence suits can be reduced.

1. Do not criticize another doctor: One of the most common cause of negligence arise out of criticism from another doctor, without knowing full facts. Some times patients go from doctor to doctor asking for an opinion. In most of such cases patients wish to have some psychological reassurance. A casual bad remark by another doctor can create problems by shaking the patient's confidence in the doctor whom he has originally consulted.
2. Employ qualified staff and associate with good partners: Doctors will be responsible for the act of commission or omission of his assistants, non-technical staff, and partners in the course of treating a patient.
3. Update the knowledge: Doctor must be exposed to the latest developments in the concerned field by attending local, national and international conferences.
4. Keep accurate and complete records: An accurate case record should contain history, present illness, physical examination, investigations, impression about the case, treatment adopted, any cross consultations and any refused from the side of patient for any investigations and treatment.
5. Valid consent: Consent must be obtained before starting an examination, diagnostic or investigative procedure or

treatment. For the consent to be valid it must be informed, with patient being informed of relevant facts regarding procedure.

6. Ensure reasonable skill and care: Doctor should use reasonable skill and care in both diagnosis and treatment. When in doubt, it is good to take a second opinion. A doctor must ensure that all the instruments used by him are maintained well and sterilized.

7. Guard against therapeutic hazards: Before starting treatment doctor should enquire about the past history of any adverse drug reactions. All the facilities to manage a case of drug reaction must be available.

Conclusion

Even though the primary duty of a doctor is patient care, the medicolegal aspects associated with all cases of trauma should get adequate care before the execution of treatment. Record keeping must be accurate, perfect and safe because surgeon may forgot the facts in the due course, but the records will remain as such which can be effectively utilized in a court of law. Your patients may die, but the records will never die, it will speak in its own. Patients must be treated, and the surgeon must be legally protected, for that every body should follow the guidelines mentioned above.

References

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