

Case Report

Talking About Malpractice: A Possible Future Case

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REZUMAT

Vorbind despre malpraxis: un posibil viitor caz

Malpraxisul poate fi definit ca o formă a vinovăției medicului, cauzat de lipsa prescrierii sau a ignorării rezultatului final al acțiunilor sale, deși acesta ar putea anticipat și prevenit. Malpraxisul profesional este definit ca fiind eroarea profesională săvârșită în exercitarea actului medical sau medico-farmaceutic, generatoare de prejudicii asupra pacientului, implicând răspunderea civilă a personalului medical și a furnizorului de produse și servicii medicale, sanitare sau farmaceutice. Eroarea subiectivă, constă în perceperea greșită a realității medicale determinată de slaba pregătire profesională și în aplicarea defectuoasă a tehnicilor și manevrelor de specialitate, în timp ce eroarea obiectivă apare frecvent datorită unei imperfecțiuni a științei medicale la un moment dat. Vă prezentăm cazul unui pacient în vârstă de 54 ani, cunoscut cu un accident vascular cerebral ischemic recent tratat într-un serviciu teritorial, unde a fost montată o sondă Folley autostatică, la scurt timp după internare. După aproximativ opt zile, timp în care pacientul acuză dureri pelviperineale, medicii curanți remarcă prezența unei parafimoze neglijate. Aproape o lună mai târziu, pacientul prezintă necroză de gland penian și se indică îndepărtarea chirurgicală a țesutului devitalizat. Prin acest articol am vrut să prezentăm două aspecte pe care le considerăm esențiale: să informăm și alți colegii medici despre reglementările în vigoare cu privire la malpraxisul medical și să-i avertizăm în această privință, în timp ce observăm un posibil caz de acest fel.

Cuvinte cheie: malpraxis, responsabilitate, parafimoză neglijată, necroză de gland

ABSTRACT

Malpractice can be defined as a form of doctor's guilt, as he has not prescribed or he ignored the end result of his actions, although he could anticipate and prevent it. Professional malpractice is defined as the error committed in the exercise of the medical or medical-pharmaceutical, tortious the patient, involving civil liability of medical personnel and medical products and services provider, healthcare or pharmaceutical. Subjective error lies in the misunderstanding of reality caused by poor medical training and the misapplication of specialized techniques and maneuvers, while objective error occurs frequently due to imperfections of

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medical science at a time. We present a 54 years patient with a recent transient ischemic stroke treated in a territorial service which was mounted a Foley auto static catheter, shortly after admission. After about eight days, meanwhile the patient accused pelviperineal pain, treating physicians noted the presence of a neglected paraphimosis. Nearly a month later, the patient has gland necrosis and surgical removal of devitalized tissue is recommended. We wanted to present only two issues we believe essential: to inform the medical fellows about the current regulations regarding medical malpractice and to warn, while noting a possible future case of this kind.

Key words: malpractice, liability, neglected paraphimosis, gland necrosis

Recently published medical reports presenting various cases of malpractice clearly professed desire to improve the quality of surgical services and make that diagnosis is based on real "evidence" and the treatment is supported by "therapeutic protocols".

Malpractice: definition, rules

The medical profession is certainly there for thousands of years, the first documented therapeutic methods being used since prehistoric times. Although to date there has been significant advance in this area, current treatments are not infallible, which means that in medical practice there are certain errors. Sometimes patients may interpret these errors as malpractice, accusing the physician with certain charges related to his work, or rather the lack of his work.

In terms of ethical norms, the Medical College of Physicians in Romania's Code of Ethics has been prepared in accordance with the Geneva Declaration issued in 1948 and has a complementary legislative role stated above, the purpose of regulating the fundamental principles of professional conduct for doctors. All these laws are meant to guide medical staff attitudes in clinical practice and are relevant in a medical malpractice case.

From the legal point of view, art. 642 of Law 95/2006 defines "professional malpractice as the error committed in the exercise of the medical or medical-pharmaceutical, tortious the patient, involving civil liability of medical personnel and medical products and services provider, healthcare or pharmaceutical" [1]. In other words the malpractice unprofessional behaviour is caused by negligence or incompetence during the medical act, with effects on health and physical integrity of the patient [2, 3].

Subjective error, also known as diagnostic fault, lies in the misunderstanding of reality caused by poor medical training and the misapplication of spe-

cialized techniques and maneuvers. This type of error is due to misinterpretation of the patient's signs and symptoms, medical history of the patient, ignorance, incorrect or incomplete examination of the patient, the omission of specific investigations or specialist consults, maintaining an indication regimens or even sustaining operations if they did not work or have harmed the patient's health [2, 3].

Objective error occurs frequently due to the imperfections of medical science at a time, to a particular situation of the patient or some features of the disease. Typically this type of error is that any health professional would have done the same in similar circumstances [2, 3].

Another important part contributing to shaping the professional error with the legal responsibility of the physician is the guilt. Malpractice can be defined as a form of doctor's guilt, as he has not prescribed or he ignored the end result of his actions, although he could anticipate and prevent it [1-4].

Which one is better? Private practice or state system

In the context of a malpractice the doctor's liability can exist in several forms, depending on the severity of the offense committed. So we distinguish: criminal, civil, and disciplinary liability.

Although there are still conflicting views on this subject a distinction in terms of liability is increasingly occurring between doctors working in the state system and those working in the private sector. The current trend is to consider that doctors working in the state system have a contractual liability, because they are not elected by patients on a contractual basis. Instead doctors who provide medical act in the private sector have a contractual liability. It is caused by the fact that in the private sector the patient contracts the hospital / private clinic, under which benefits from medical treatment. [1-5].

Criminal liability is the worst form of legal liability attributable to a doctor. This is considered in the case of an offense of misconduct, including negligence in service, personal injury and involuntary manslaughter. Since the Criminal Code does not specify special mentions for committing these crimes by a health professional it can be said that for the crimes described above it has no particular relevance that they were committed by a medical professional or not.[1, 2, 4, 6, 7].

The informed consent of the patient: is it absolutely necessary?

Informed consent of the patient is an agreement of intent expressed by the patient by which he gives permission for the procedures to be performed on him. According to art. 649 of Law 95/2006 the doctor is required to ask the patient for written consent each time he will undergo diagnostic methods, treatment and prevention, with a potential life risk. The doctor shall make available to the giving consent patient all the information related to the procedures to be performed. The language used by the physician should be clear, without excessive use of technical terms, so that the patient understands the diagnosis, treatment, and complications implications of his affection. The doctor has to notify the patient of possible accidents or incidents that may occur during or immediately following surgery. In turn the patient has the right to request and obtain a second opinion on his illness care [1].

A possible “future” malpractice: clinical presentation

Under these legislative auspices we present a 54 years patient with a recent transient ischemic stroke treated in a territorial service which has used a Foley autostatic catheter given its transient locomotor inability and perhaps the unexpressed and unrecorded desire of the therapists and neurologists to monitor the diuresis.

Patient has fairly treated diabetes, is hypertensive and “beneficiary” of a chronic ischemic heart disease.

The urethral catheter was mounted shortly after admission and after about eight days (meanwhile the patient accused pelvipereineal pain) treating physicians noted the presence of a neglected paraphimosis.

In this situation, with a perfectly lucid and cooperative patient we chose to seek a solution.

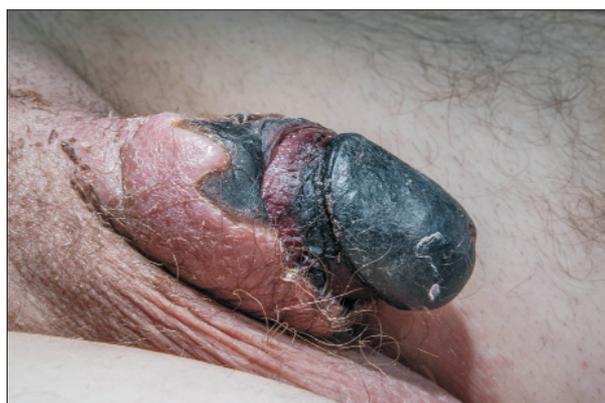
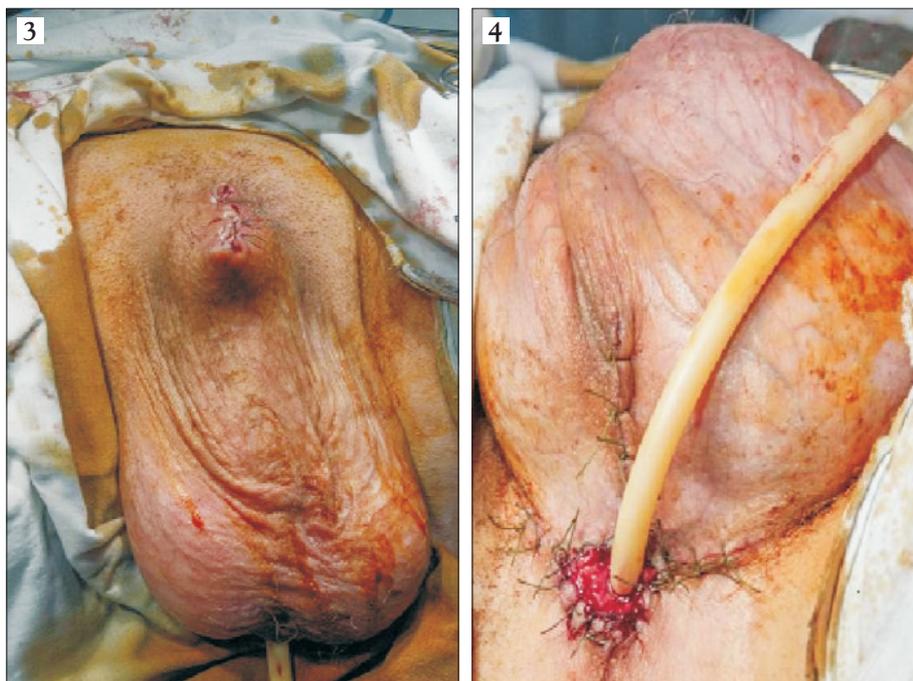


Figure 1. Preoperative appearance; dieback glans and partially necrotic and sphacelated skin areas



Figure 2. Intraoperative appearance; urethral fistula view

Figures 3, 4. Final post-operative appearance; urethral stump and definitive perineal urethra



On admission in the Urology Clinic nearly a month after, the patient has gland necrosis, obviously lacking tenderness, denuded penis body, sphacelated and necrotic skin, skin debris, palpatory endured corpus cavernosum. Plastic surgery consult supports the necrosis of the glans diagnosis and recommends surgical removal of devitalized tissue.

After obtaining the patient's written consent form necrectomy, lavage and double way drainage (cistostomy, Foley catheter) is performed. On this occasion a 6 cm long anterior urethral fistula was identified.

After limiting the infectious process the patient underwent definitive perineal urethroscopy, necrectomy and penile stump closure. The post-operative evolution was simple, the patient was satisfied with this surgical solution but still tortured by many questions...

DISCUSSIONS

We wanted to present only two issues we believe essential: to inform the medical fellows about the current regulations regarding medical malpractice and to warn, while noting a possible future case of this kind. We did not want to open the "famous Pandora's box"!

When Epimetheus the less famous brother of Prometheus opened it, all kinds of plagues escaped like hatred, disease, lying, worries, strife, sorrow, grief, envy, sorrow, disease, hunger and thirst, death, perhaps even malpractice!

We have the sincere conviction that we who practice surgery, in one way or another, we live "absolutely dangerous"!

This article began probably with what we ought to say and learn in the end: the laws and rules must be well known even for the "absolutely outstanding" doctors!

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