

The status of medical malpractice litigations in Saudi Arabia: Analysis of the annual report

ABSTRACT

Context: Medical malpractice is a leading cause of morbidity and mortality worldwide. Analyzing the current number of lawsuits and comparing it to previous years will help assess the status of medical malpractice litigations in Saudi Arabia.

Subjects and Methods: A review and analysis of the annual statistics book of the Medico-Legal Committees (MLCs) in Saudi Arabia over the years (1437–1439 H) was conducted.

Results: Over the 3-year study period, the total number of lawsuits was 3,684. The percentage of increase of malpractice lawsuits from 1437 until 1439 Hijri (2016–2018) was 26% (1,097–1,379 lawsuits). Obstetrics and Gynecology consistently had the highest number lawsuits compared to other specialties (25.6%), followed by dentistry (13.5%). Similarly, the rate of compensation after a lawsuit was highest in Obstetrics and Gynecology claims (62.7%), followed by dentistry (60%). The private healthcare sector consistently showed the highest number of lawsuits when compared to other healthcare providers, with a 73% increase over 3 years. The Ministry of Health showed an overall reduction in the number of lawsuits by 6.6% over the course of the study period.

Conclusions: The number of lawsuits in Saudi Arabia is increasing rapidly. Understanding the reason for this is very important especially given the high rates of lawsuits for certain specialties and healthcare sectors. A root cause analysis cannot be conducted without a detailed reporting system for malpractice lawsuits; the development of which would help in research and the generation of solutions in this field.

Key words: Lawsuit; medical errors; medical malpractice; Medico-legal committees; Saudi Arabia

Introduction


Medical malpractice is a major cause of morbidity and mortality globally. In the United States (US), it is the third leading cause of death after cardiovascular diseases and cancer.^[1] In 2008, the cost of medical errors in the United States was around USD 20 billion. If Quality Life Adjusted Years (QALY) is applied to this cost, the cost is estimated to

increase up to USD 1 trillion.^[2] Furthermore, in the United Kingdom (UK), the cost of compensations paid to patients and their families in 2016 was around USD 65 billion.^[3] Moreover, a study that included over 25,000 surgeons showed that malpractice lawsuits were strongly related to burnout, depression, and thoughts of suicide.^[4]

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In Saudi Arabia, studies and reports of malpractice are lacking. Thus, estimating the incidence of medical malpractice is a difficult task, according to the Saudi Central Board for Accreditation of Healthcare Institutions.^[5] Samarkandi reviewed all medical malpractice lawsuits in Saudi Arabia through the years 1420–1424 Hijri (April 1999 to February 2004). He showed there was an annual increase in the number of lawsuits.^[6] The reason for this steady increase is not clear and cannot be explained by population growth only.

To control and regulate the increasing number of litigations, rules, and a specific process for litigations were introduced by the Ministry of Health (MOH). The law of practicing healthcare professions was introduced in 2005, mainly to improve the quality of healthcare and increase patient safety.^[7] Despite this, the process of filing malpractice litigation until reaching a ruling is long and might take years.

Our objective is to assess the present status of medical malpractice lawsuits in Saudi Arabia through the annual statistics book provided by the MOH and compare it to previous years. This might help in generating solutions to existing problems.

Subjects and Methods

Data on medical malpractice litigations were retrieved from the annual statistics books of the MLCs for the years 1437–1439 Hijri (October 2015–September 2018) and reviewed retrospectively. Lawsuits were classified by year of the report as well as by the following categories: Specialty and healthcare sector. The outcome of lawsuits, that is, whether the patient was compensated or not, was reported and classified by specialty as well. This analysis took into account the frequency of the variables mentioned earlier. The number of cases included in this study does not represent all cases, as out-of-court settlements were not included in the report. No bias was appreciated in this study.

The approval to extract and report the data in the annual statistics books was obtained from the secretary general of the medicolegal committees. Institutional review board's ethical approval has been obtained.

Results

Over the reviewed 3-year period there was a steady increase in the number of lawsuits per year [Figure 1], resulting in a total of 3,648 lawsuits. There was a 26% increase in the number of malpractice lawsuits between 2016 and 2018, from 1,097

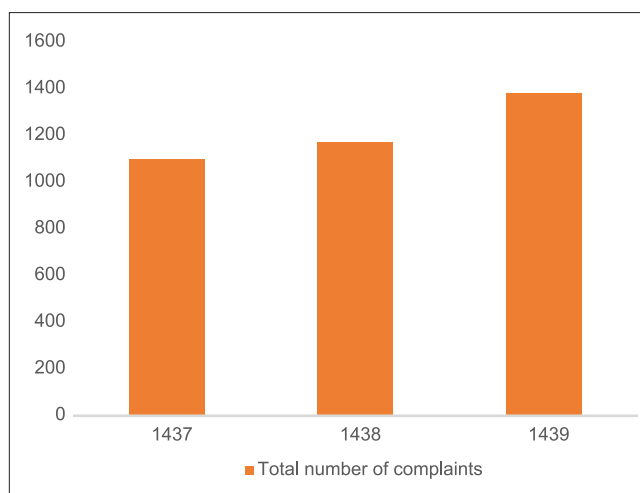


Figure 1: Total number of lawsuits for the years 2016-2018

to 1,379, respectively. Obstetrics and Gynecology (OBGYN) had the highest number of lawsuits (25.9%), followed by Dentistry (13.5%), Internal Medicine (IM) (10.55%), General Surgery (GS) (9.9%), Pediatrics (8.5%), Orthopedics (7.9%), Otolaryngology (4.1%), Ophthalmology (3.3%), Neurosurgery (2.4%), and Urology (2.2%). Conversely, Anesthesia and Intensive Care (Anesthesia and ICU) had the lowest number of lawsuits (2%) [Figure 2].

Lawsuits against the MOH and private healthcare providers were more common. Lawsuits against the MOH decreased by 6.6%, from 557 to 520. On the contrary, lawsuits filed against private healthcare providers increased by 73%, from 437 to 756. The distribution of lawsuits against healthcare providers is shown in Table 1.

Regarding the outcome of lawsuits (whether the patient was compensated or not), OBGYN had the highest compensation rate (62.7%), followed by Dentistry (60%). In contrast, Neurosurgery had the lowest compensation rate [34.1%; see Figure 3].

Discussion

Medical errors are a major cause of morbidity and mortality. In comparison to what has been reported by Samarkandi, there has been an increase in the number of malpractice lawsuits in Saudi Arabia. In 1422H (March 2001 to March 2002) there were only 569 lawsuits,^[6] while in 1439 (September 2017 to September 2018) there were 1,379 lawsuits, marking a substantial increase of 242% over 17 years. The cause of such an increase is unknown but can be attributed to multiple factors, such as the increase of the Saudi population as well as the number of healthcare providers. In addition to this, the increase in the frequency of lawsuits could be owed

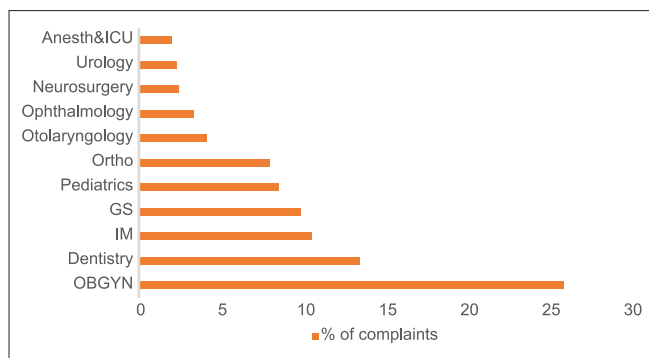


Figure 2: Percentage of lawsuits against different specialties

Table 1: Total number of lawsuits over three years, classified by the health care provider

Healthcare Service	Year		
	1437	1438	1439
MOH	557	526	520
Military	75	58	75
Universities	7	10	13
Private sector	437	557	756
Other	21	21	15

to a decrease of trust from patients driven by the negative depiction of the healthcare sector in the news and on social media.

A potential solution is to adopt a malpractice reform system similar to Communication and Resolution Programs (CRPs) which have been implemented in multiple healthcare services in the United States. Malpractice lawsuits were studied before and after the implementation of the system. The process from the filing of a lawsuit until the verdict lasted around 4 months. Through the adoption of CRPs, there has also been a decrease in the defense cost, settlement cost, and total liability. What is worth mentioning, is that up to 43% of events with injury for medical errors were resolved with an apology only.^[8]

The review showed the number of lawsuits against the private sector was high and continuously increasing. Lawsuits filed against the private sector averaged around 47% of the total lawsuits. The cause of this is unknown but could be, in part, because of different social and cultural class of patients with different expectations.^[9] Another possible contributing factor is the expansion of the private health sector in the last few years.

In line with Samarkandi's 2006 report,^[6] the present study showed OBGYN physicians in Saudi Arabia had the highest percentage of lawsuits filed against them. The cause for this is unknown and deserves further analysis by the MOH. A similar

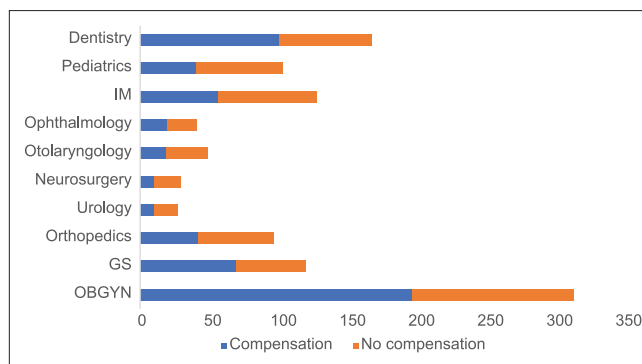


Figure 3: lawsuit outcome based on specialty

trend was reported in Turkey and Iran.^[10,11] However, in the US, OBGYN physicians were ranked the 7th highest by the number of malpractice claims; in contrast, neurosurgeons had the highest number of lawsuits filed against them, followed by cardiothoracic surgeons.^[12]

A considerable number of lawsuits resulted in no compensation. A similar trend was observed in a study that included 12 years of malpractice lawsuits in Taiwan which showed most lawsuits resulted in no compensation.^[13] Similarly, the aforementioned systematic review undertaken in Iran showed OBGYN physicians had the majority of claims filed against them, however, only 29% were liable.^[11]

Having a high number of lawsuits with no compensation increases expenses for the MOH and exhausts physicians. Demanding a fee for each lawsuit filled (which is refunded) if the lawsuit was judged to be legitimate could be more cost-effective. Another solution is the development of independent healthcare legal consultation firms to prepare and filter lawsuits. These solutions could potentially decrease the chances of filing false lawsuits.

A systematic review, which included 34 studies from the US, UK, Australia, Canada, and France, concluded that the most common medical misadventure leading to lawsuits was a failure or delay in diagnosis.^[14] These data are not available in Saudi Arabia because of the lack of a detailed reporting system.

The number of lawsuits in Saudi Arabia is increasing rapidly. Research in the cause of this is very important especially for high rate specialties and healthcare sectors. Root cause analysis can't be done without a detailed reporting system of lawsuits. Adopting a detailed reporting system will help in the detection of problems and the generation of solutions; which will improve the health care system.

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Nil.

Conflicts of interest

There are no conflicts of interest.

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