

An alternative malpractice system suggestion for Turkey: Patient compensation system

It is dangerous to be right in matters where
established men are wrong

~ Voltaire ~

To the Editor,

Physicians and patients have started to realize that Turkish medical laws that enforced high medical malpractice compensation fines and sentenced physicians to imprisonment because of unintentional negligence are ruining the medical profession and healthcare system. If the present system continues on this track, physician burn out, increasing practice of defensive medicine, increasing cost of healthcare, and increasing mortality rates will be seen. In a widely referenced report, the cost of defensive medicine in USA is estimated to be USD 55.6 billion, which is equivalent to 2.4% of the health expenditure in 2008 (1). Unnecessary diagnostic tests and consultations and avoidance of high-risk patients are the most common form of defensive medicine (2). We have limited studies but some signs warn us that Turkey will face same consequences due to medical malpractice laws as long-lasting USA experience shows. It is needless to go through the same processes as USA for an additional 10–20 years in Turkey and face similar studies, discussions, high healthcare costs, and patient damages due to defensive medicine. We propose a new “patient compensation system” (PCS) for Turkey to avoid going through the same exhausting 20 years in the future.

New Patient Compensation System for Turkey:

PCS is an official administrative body formed by the Turkish Medical Chamber and Ministry of Health. Patients or their lawyers can apply to PCS to request for or demand inquisition, determination, and compensation of their damages. PCS is formed by physicians, nurses, hospital administrators, and other healthcare professionals. All medical records are evaluated by a rotational PCS board, and if a patient sustains an avoidable medical damage, PCS grants compensation and the result of the case is declared within 6–9 months. The PCS panel would use the following criteria to determine whether compensation can be granted: “Medical injury” means a personal injury or wrongful death due to medical treatment, including a missed diagnosis, wherein the provider performed a medical treatment on the applicant; the applicant suffered a medical injury with damages; and the medical treatment was the proximate cause of the damages. Based on the facts at the time of medical treatment, it may be identified whether an accepted method of medical services was not used for treatment or an accepted method of medical services was used for treatment but executed in a substandard fashion.

PCS fund for payment will be sustained by a fixed payment from all physicians regardless of the number of claims, and physicians would not need to purchase medical malpractice insurance because they could not be sued. PCS pays a fixed amount of compensation, and physician costs remain stable in contrast to medical malpractice insurance premiums. In PCS, there is no claim to defend, no depositions, no cross-examinations, no defense lawyers, and no financial losses incurred by long-lasting courtroom sessions. In PCS, all complaints would be reviewed, more patients would have access to justice, and payment would be made in months rather than in years, as is common now. In addition, the amount paid would be rational, reasonable, and predictable. Physicians would be able to speak openly and plainly about medical errors, thereby enabling safety initiatives to be implemented.

In PCS, physicians will not be required to practice defensive medicine and will be free to exercise their judgment. Human and financial resources of the healthcare system could be saved by good clinical judgment without causing harm to patients. Those who benefit from the current system will fight against the change. Legal experts who have reviewed the proposed PCS believe that a new PCS law will be constitutional and applicable.

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