



Guest editorial

Minimizing medical negligence

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The ophthalmologists together with all other health care providers are today under greater scrutiny than before as the public we serve is more literate, more educated and has easy access to infinite online information. In other words, the public is more aware of possible medical negligence. The days are gone when the doctor was considered next to the Supreme Being. In spite of super specialization in the subject and our best efforts, there could be many allegations of medical negligence, mainly due to the dramatic increase in the public awareness of medico-legal aspects the medical profession needs to fulfil in providing its services.

The public justly expects us to serve the community and puts its priorities above ours. That goes along with the duties of the doctors to help, cure and protect the patient's health and life. In addition, protecting privacy and confidentiality are our other prime duties. However, at the dawn of this new century, our genuine medical professionalism is in peril. People are considering our profession more of a trade or business profession than as one of service to alleviating the suffering of the patients and trying to improve the health of the community as a whole.

It is very important that patients have confidence in their health care professionals and that they can trust them to keep matters to themselves.

This kind of code dates back to the time of the ancient Greeks and Romans, when Hippocrates set out the 'Hippocratic Oath'. This oath has been enlarged upon by the Declaration of Geneva. Of historic and traditional value, the oath is considered a rite of passage for medical practitioners the world over, although nowadays the modernized version of the text varies, with different countries and medical schools having their own modified version of the oath. The Hippocratic Oath requires a physician to swear upon a number of healing gods that he will uphold a number of professional ethical standards. The Nepal Medical Council has also, in accordance with the Nepal Medical Council Act 1964, passed a medical Code of Ethics, which all doctors registered under it are to abide by. However, I feel that most of us medical doctors have forgotten the essence of these oaths and codes that we swore upon, and that, slowly, with the passage of time, our prime interests have become status, fame and finance.

Cases of medical negligence are on the rise all over the world. Some of the reasons for these are our inability to provide accurate documentation of all the services we provide: of informed consent, the history taking and all the following medical examinations and investigations done. We also tend to criticize our colleagues in their clinical decisions without adequate information to base our opinions upon. This is because we lack an adequate and efficient 'professional' communication network among ourselves and tend to act alone without the necessary colleague-consultation.

According to a study in the UK (Tompkins, 2006), cataract surgery accounted for over a third of settled claims in the specialty. Common causes of claims from cataract surgery included technical



and surgical errors, postoperative infection, wrong power, the incorrect size or type of intraocular lens used, and inadequate - meaning, not exhaustively informed - consent. Failure or delay in diagnosing, treating and monitoring glaucoma accounts for approximately one-half of the medical negligence claims in ophthalmology in the UK.

However, there are definite ways to improve the service we provide and to try to minimize the possibility of medical negligence allegations. All of us must seek an informed written consent prior to performing a diagnostic or treatment procedure. Consent should be taken from the patient she/he is above sixteen years, but in the case of minors, it can be taken from the guardian. If there is an emergency and nobody is available to sign the consent on behalf of the patient, it becomes entirely the responsibility of the physician to initiate the treatment and explain the nature of the procedure and the expected result to the family members as soon after the emergency as possible.

It is essential for good and safe patient care that doctors work effectively with colleagues from other health and social care disciplines, both within and between teams and organizations. Whatever the composition of the teams we work in, we must respect and value each person's skills and contributions.

Having a good communication and rapport with patients, colleagues and team members is the first step in minimizing possible medical negligence cases and claims.

Proper practice has to be based on evidence, which is determined by systematic methods and based on literature review with critical appraisal. Evidence-based clinical guidelines improve the quality of clinical decisions, help replace outdated practices, provide a centre for audit of clinical practice, and focus for clinical governance. Each step of such guidelines must be followed. We should also act within our limitations and never undertake a task that is beyond our competence. We should always make a habit of seeking a second or a third opinion in difficult situations.

Let us never forget that according to Bolam's test (1957) 'A Doctor is not guilty of negligence if he has acted in accordance with a practice accepted as proper by a responsible body of medical men skilled in that particular art'.

Finally, there should be national clinical guidelines for disease specific treatments. Defending bodies for ophthalmologists, as for all other medical specialist groups, in cases of untoward incidents have become prerequisites to the professional security and service motivation of all health care providers. It is indeed high time that the concept of medical insurance and indemnity for all medical professionals in cases of allegations of medical negligence be explored, concretized and implemented as soon as possible.

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Guest editorial

Ethical issues in ophthalmic practice and the ways to monitor ethics

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Ethics are inspirational model standards of exemplary professional conduct for all medical doctors - general practitioners and specialists of any category. Ethics addresses conduct and relates to what behaviour is appropriate or inappropriate, as reasonably determined by a committee of experienced and qualified doctors of the specialty.

The ethical principles that apply in clinical practice are autonomy, beneficence, non-maleficance and justice (Tay and Au Eong, 2010). Autonomy or self-determination is the right of the individuals to make their own decisions regarding their medical treatment on the basis of informed consent (e.g: wearing contact lenses or undergoing refractive corneal surgery). The principle of beneficence obliges a doctor to abstain from injuring others, and to help their legitimate interests by preventing or removing harms. The principle of non-maleficance is the doctor's duty to do no harm to their patients. Justice means the notions of equity and the fair distribution of benefits and burdens (e.g: services designed to help people of a certain class must be made available to all other people). An ethical doctor with the following qualities would gain the trust and confidence of patients, thereby maintaining effective relationships and avoiding breaches of ethical responsibilities: privacy and confidentiality, veracity (truthfulness and honesty), fidelity (trustworthiness and integrity), compassion (sensitivity to a patient needs, humaneness), and good communication to patients and relatives (Tay and Au Eong, 2010).

A set of standards including general principles (patient care, professional practice, professional community, research, social and commercial standards) have been published by the International Council of Ophthalmology (2006), from which the related standards evolve. The standards are intended to represent comprehensive guidelines to which practitioners might refer to when confronted with professional or ethical dilemmas, and these act as a benchmark by which to judge the ophthalmologists' behaviour in professional matters. In order to practice the general principles of standards, the ophthalmologist ought (1) to ensure that the patients are treated with dignity, honesty and integrity, and act in the best interests of the patient at all times; (2) to ensure that ophthalmic care is the highest quality possible; (3) to be a responsible member of their professional community by maintaining standards, avoiding conduct that would bring the community and its members into dispute; (4) to be conscious of and observe the ethical, legal and scientific criteria for medical research; (5) to ensure that communications to the public reflect their social responsibilities, and reflect the highest level of probity; (6) to ensure that fees for ophthalmological services do not exploit patients or others who pay for the services, that economic and non-economic conflicts of interest do not interfere with the delivery of the highest quality care; and that the advertising should reflect information and not commercial criteria.

Ethical issues concern the competence of the doctor, evaluation and communication to the patient, treatment and informed consent, confidentiality of information, relationship with colleagues, information to the public, expert testimony, clinical research and conflict of interest, etc. (American



Academy of Ophthalmology). Civil, or criminal, or disciplinary action may be taken by patients, colleagues, employers or professional associations against the doctors who breach ethical principles with unprofessional conduct.

Ethical issues will arise when an ophthalmologist does the following act/s during her/his daily practice.

1. Does not provide life saving measures when endangered by the disease.
2. Treats a patient with prejudice based on race, religion, gender, age, or political beliefs.
3. Does not maintain the confidentiality in all aspects of the patient's disease (diagnosis, treatment or complications).
4. Performs a procedure in which she/he is not competent by virtue of specific training or experience.
5. Practices surgery when she/he is physically, or mentally impaired.
6. Does not do complete evaluation of a patient and the findings are not accurately documented.
7. Recommends unnecessary treatment or withholds necessary treatment.
8. Orders unnecessary laboratory investigations/procedures/optical devices or withholds necessary procedures or materials.
9. Does not inform the pros and cons of a procedure properly before taking an informed consent for an operation.
10. Delegates to the auxillary staff (not qualified or adequately supervised) the aspects of eye care which is not permitted by law (e.g: post-operative care following cataract surgery).
11. Does not oblige the request of the patient for referral to another ophthalmologist for a second opinion, when the patient is not improving with the treatment given by the doctor.
12. Does not respect the referring colleague and criticises about his /her knowledge or experience in front of the patient.
13. Communicates to the colleagues with inaccurate/false findings in the referral letter.
14. Conveys false, untrue, deceptive, or misleading information through statements, testimonials, photographs, graphics or other means to the community.
15. Misrepresents the credentials, training, experience, or results.
16. Advertises the services available in her/his clinic or hospital with criticism of other techniques/ machines or of fellow colleagues.
17. Advertises the available services for marketing purposes and not for the patient's information.
18. Does not follow the law and ethical guidelines in the use of donor cornea.
19. Gives false, deceptive or misleading expert testimony in court.
20. Accepts compensation that is contingent upon the outcome of litigation.
21. Does not disclose the conflicts of interest to the ethics committee in research projects.
22. Does not inform the research subjects about the nature of the investigations or treatments in



the research project and does not obtain a special informed consent.

23. Reports false and inaccurate results of the research done.
24. Does not allow appropriate review mechanisms of clinical research in view of his academic or professional position and financial interest following the outcome of the research.

All the codes of ethics have to be respected by all the practicing ophthalmologists in any country. As long as there is no complaint against a particular doctor by patients or colleagues or employer to the professional association, the doctor escapes even if she/he has done something wrong. The ophthalmological society of the country should take steps to make all the practicing ophthalmologists irrespective of their seniority in the profession aware of the code of ethics. In order to prepare the code of ethics, the ophthalmology society of the country should form a “National Ethics Committee” comprising of practitioners, academic persons of all levels (senior, intermediate and junior) and finalise the code of ethics taking into considerations the expectations of eye care services by the public or community. The printed copy of this should be communicated to all the members of the society and a copy of the same should be made available on the web site of the society.

If an incident occurs, this committee should thoroughly investigate all the relevant aspects of the incident and render professional help to the doctor if the findings of the investigation lead to the conclusion that the doctor had taken all the necessary steps and that the incident was unavoidable. If there are any incidents about disciplinary action or court cases, they should be communicated to all the members of the society with the outcomes so that they will form the guidelines for not committing the same mistakes in future by the other members. A seminar/symposium can be conducted by the experts in this field during the annual conference of the national ophthalmic society or state ophthalmic society for the benefit of the members. The code of ethics can also be introduced into the training program of the ophthalmology residents so that they will be thoroughly aware of it before they begin their practice in the future.

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