

Medical Responsibility (Malpractice)

Medical Malpractice

مأساة جديدة في الأردن عنوانها "الأخطاء الطبية"

15 سبتمبر 2021 - 08:00 بتوقيت أبوظبي



زياد نصيرات - عمّان - سكاي نيوز عربية

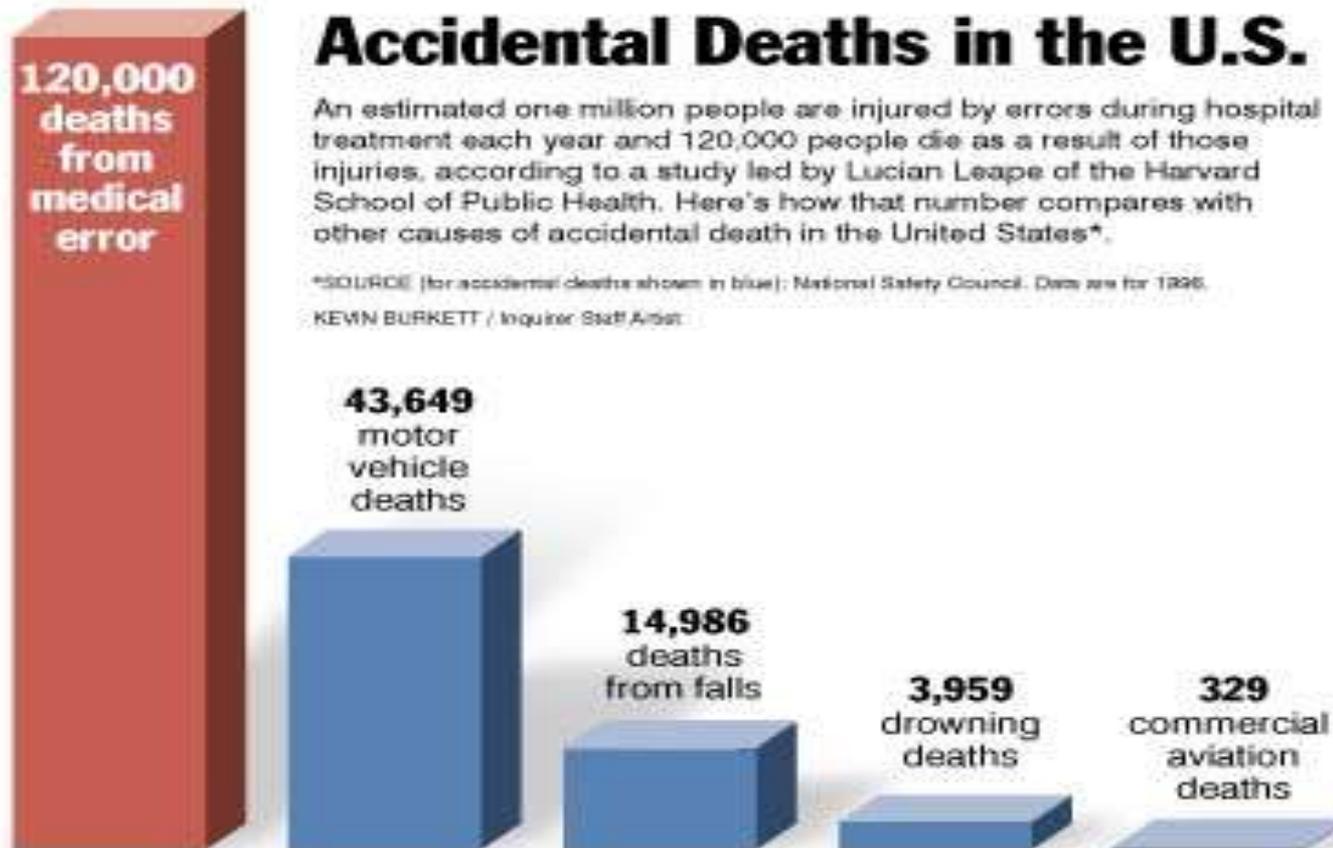
لم تكاد تنتهي صدمة الاردنيين بوفاة الطفلة لين أبو حطب، إثر خطأ طبي، حتى تم الكشف أن طفلة أخرى في العمر ذاته توفيت قبل أيام وبالطريقة نفسها.

وتتشابه القصتان كثيرا، ففي كلا الحالتين تم تشخيص الحالة بشكل خاطئ، أدى إلى وفاتهما، كما يقول ذوهما.

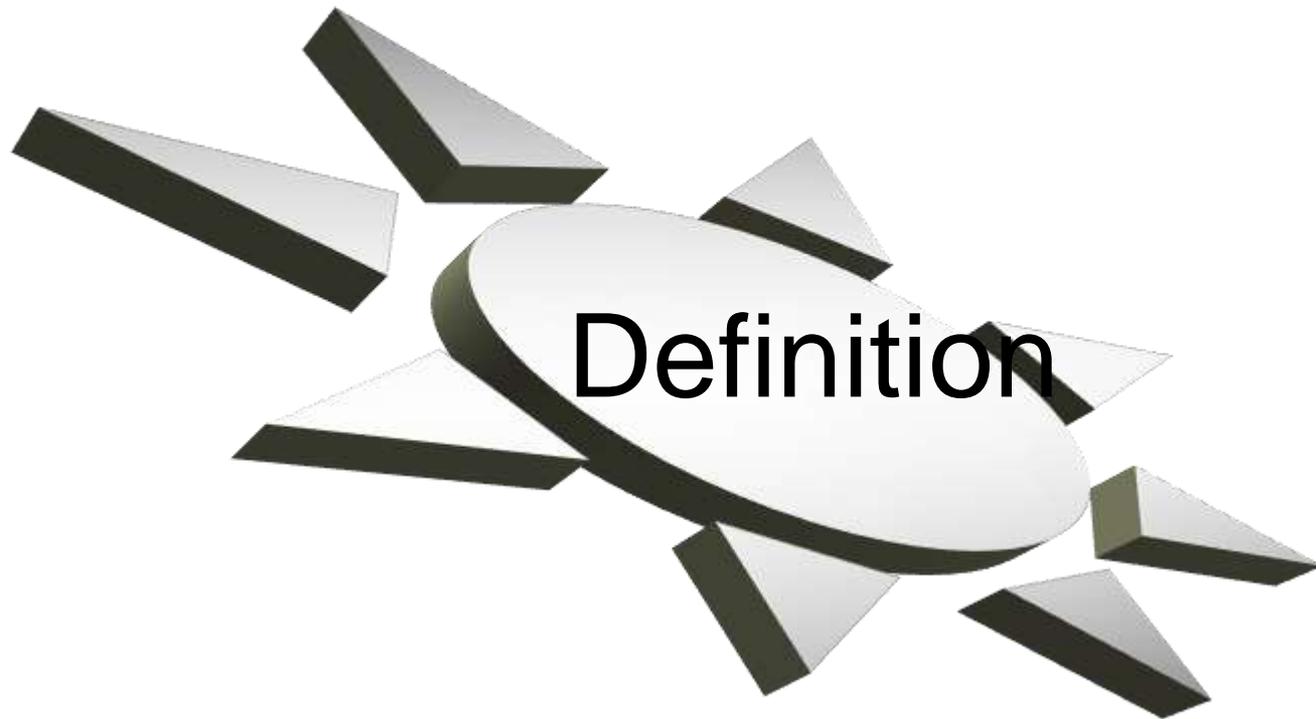
وتوفيت الطفلة لين أبو حطب في مستشفى البشير بالعاصمة عمّان، بينما توفيت الطفلة غنى بمستشفى الأميرة رحمة بمحافظة إربد شمالي الأردن.

- In health care, it is not uncommon that patients are exposed to harmful risks.
- Some risks are predictable and informed consent is obtained.
- Other risks, such as those occurring because of medical errors (ME) are in a sense unpredictable, and an informed consent cannot be obtained.
- An ME is defined as the failure of a planned action to be completed as intended. It is also defined as a preventable adverse medical offense.

Accidental Deaths in the U.S.



- Malpractice is **lack of rational degree of care and skill**. It includes all faults in medical practice leading to remaining harm or permanent infirmity.



- When a medical practitioner undertakes the care of a patient, he enters implied contract to treat the patient with **reasonable skill and care.**

So

There is a *commitment* by the physician to do his best of care and skills for the benefit of the patient.

Causes:

It may be due to:

- Negligence: lack of care.
- Incompetence: lack of skill or medical knowledge

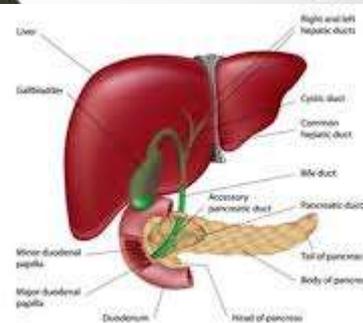
Medical Negligence:

Inadequate standard of **medical care** given to a patient.

Omission:
failure to do something.



Commission:
doing something wrong.



Contributory negligence

- patient ignores the advice of his doctor
- might lose his right (partially or totally) to claim damages if harm results

Incompetence

It means the failure of the doctor to offer necessary degree of skill resulting in injury to the patient.

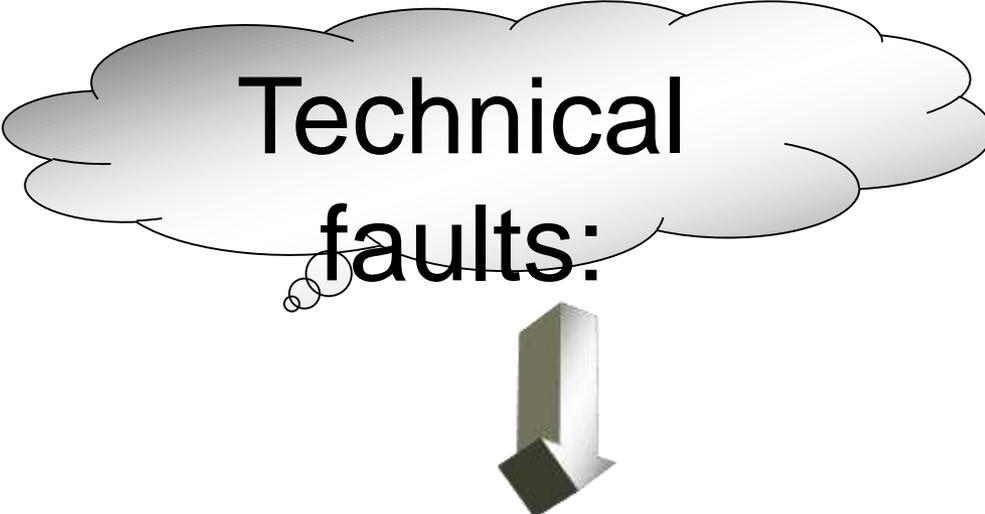


Common Causes of Medical Malpractice



- Distraction
- Fatigue
- Lack of Education and Experience
- Inadequate Attention Given to Individual Patients
- Inaccurate Medical Records

Types of malpractice



Technical
faults:

physician does not follow the **scientific basic rules** in his profession for diagnosis and treatment. These may be **major or minor faults**



Objective
mistakes:

When a surgeon **forgets any object** inside a surgical wound e.g. Towel, instrument...etc. all objective mistakes are **major malpractice**.

- Most legal actions for negligence are within the *civil law*, few undergo *criminal prosecution* of the physician for example:
- **Illegal abortion.**
- **Death of a patient resulting from gross ignorance or negligence of the physician.**

3 basic considerations in proving malpractice:

*A **mistake** has occurred by the physician*



*A **damage** or harm happened to the patient.*



*There is a **causative relation** between the **mistake** done by the physician and the **harm** that occurred to the patient.*

The basis of evaluating the malpractice

1- The professional level of the physician.

A general practitioner cannot be considered negligent just because a specialist might have served a patient better.

2- The severity of the case.

3- The time and place of the act.

The act is compared with the attitude taken by an ordinary physician with the same standard, qualification, experience, and circumstances.

The basis of evaluating the malpractice

4- A medical injury may have been caused by any one or more of the medical personnel who have treated the patient.

5- The thing speaks for itself” e.g.

- Foreign bodies and slipping instruments in surgical procedures
- Burns from heating modalities
- Injury to a portion of the patient’s body outside the field of treatment



TYPES OF MALPRACTICE

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graph TD; A[TYPES OF MALPRACTICE] --> B[In Diagnosis]; A --> C[In Treatment]; B --> D[Anesthetic Malpractice]; C --> E[Surgical Malpractice]
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In Diagnosis

In Treatment

Anesthetic Malpractice

Surgical Malpractice

Malpractice in Diagnosis

Malpractice in diagnosis:

To reach a proper diagnosis the physician should:

- 😊 Take a careful history
- 😊 Examine his patient thoroughly
- 😊 Ask for investigations (whether laboratory or radiological)
- 😊 Consult colleagues or professors if he is not sure of a diagnosis

Otherwise he may fall under *malpractice* if he misses a diagnosis due to ignorance by the basic scientific knowledge.

Liability may be proved when the physician fails to diagnose a condition which would have been diagnosed by a competent practitioner.

Malpractice in diagnosis

- **Sometimes missed diagnosis or mistake in reaching exact diagnosis is due to:**
 - inexperience
 - the disease being in its early stage.

Malpractice in Treatment

Mistakes of treatment:

The physician is free in choosing the method of treating his patient as long as he is using scientific basis agreed upon by physicians. The physician is sued for malpractice of treatment in the following conditions:

☠ *If he prescribed a wrong drug*

☠ *If he was not accurate in the dose of the drug in relation to the patient's age, sensitivity or body build.*

Surgical Malpractice

Surgical mistakes:

Surgery needs skill and concentration. Responsibility of the surgeon lies in the following stages:

- 1. Writing the first admission sheet and diagnosis of the case**
- 2. Stage of preparing for operation (examine, ask for specific investigations, be sure of fitness of patient for operation)**
- 3. An informed consent (entailing the diagnosis, surgical procedure, anesthesia and expected complications) is signed by the patient except in emergencies**

Surgical mistakes:

4. A surgical report should be filled including every detail, and any problem at the time of the operation should be mentioned
5. The surgeon should do an operation only in his specialty
6. He is responsible for sterilization of the surgical wound

7- ***In operations*** the surgeon is responsible for the actions of his team while acting under his immediate supervision (nurses and assistants).

8- Responsibility of the hospital authorities lies in the ***selection of nurses***

9- The responsibility for ***anesthesia*** belongs to the anesthetist not the surgeon.

Examples of surgical malpractice:

✘ operating on the wrong patient

✘ operating on the wrong side: limb, organ...etc

✘ leaving swabs or instruments in the surgical wound

Examples of orthopedic malpractice:

- ✘ Missed fractures
- ✘ Tissue damage from over tight plaster

Examples of obstetrician malpractice:

- ✘ Criminal abortion and complicated therapeutic abortion
- ✘ Birth injuries
- ✘ Brain damage of newborn due to hypoxia from prolonged labor
- ✘ Hysterectomy without being sure of the diagnosis (pregnancy in an old women diagnosed as a mass in the uterus and doing hysterectomy)

Anesthetic Malpractice

Anesthetic malpractice:

- **The anesthesiologist is responsible for:** *preoperative preparation of the patient, anesthesia during the operation, and follow up in recovery.*

Examples of malpractice include:

- ⊗ Brain damage from allowing hypoxia to occur
- ⊗ Neurological damage from spinal or epidural injections
- ⊗ Incorrect or excessive anesthetic agent
- ⊗ Allowing awareness of pain during anesthesia

Legal advises for malpraxis prophylaxis

1. Never *guarantee a cure*
2. Get the patient's *informed consent* for all procedures (at least all surgical procedures)
3. When in doubt ask for *consultations* (consultation protects the patient and protects yourself).
4. Do not *criticize* another practitioner
5. Do not fail to provide maximum care in the selection of *assistants*
6. Do not base an important diagnosis on a *clinical impression*, use available diagnostic aids

Legal advises for malpraxis prophylaxis

7. Keep up with the *advances of medicine*. However do not be too advanced and do not experiment on patients
8. Do not, in absence of emergency, perform any surgery without an *informed consent*
9. Good *housekeeping*: keep good medical records, full and accurate. Keep results of all tests performed on the patient.

- Records are “witnesses whose memories never die”. In the defense of malpractice suits, bad records hurt as much as good records help.