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MALPRACTICE OR COMPLICATION?



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Malpractice is one of the important concepts of medical law that is developing nowadays. Malpractice originated in the 17th century and means 'bad practice' as a word meaning. Malpractice is also often the subject of debate by doctors and jurists in the 21st century. Today, people often apply to medical science because of their aesthetic needs in addition to their health concerns. Therefore, the concept of malpractice, which draws the boundaries of the responsibility of doctors, is increasing its importance in medical science and legal fields. The definition of malpractice and the limits of the doctor's responsibility as its result are the focus of discussions.

Malpractice is the misdiagnosis made by doctors or hospital staff during treatment or the application of treatment methods. The doctor's legal responsibility arises as a result of the damages that occur. 15th Circuit of the Council of State describes malpractice as "...during the diagnosis and treatment of the patient, not having the standard practice, lack of knowledge and skills, not-application of appropriate treatment to the patient..." According to the researches doctors' risk of malpractice can be up to 20 per cent. The compensation rate for doctors as a result of malpractice is between 1 and 5 per cent. Doctors, especially those working in surgical branches, often face the risk of malpractice. One of the important points in medical law is to reveal the difference in malpractice and complication. There are two possibilities as a result of the death or harm of the patient. The first possibility is that the damage occurs as a result of malpractice, which gives rise to the doctor's liability without fault; the second possibility is that a complication occurs in a patient. In case of complications, the doctor shall not be responsible. 15th Circuit of the Council of state defines complication as "...However, this should not be the result of a lack of knowledge and skills..." It is quite possible that complications may occur during the patient's operations. In this case, the source of the damage must be carefully determined by the courts and experts.

Considering the extent of violence against doctors in our country, it is vital that the distinction between malpractice and complications is well made, those patients' damages are compensated and also doctors' responsibility is clearly determined. The risk that patients may become victims as a result of not drawing these mentioned limits is a major deficiency under Turkish law. As a result of this risk, patients' confidence in hospitals decreases, consequently it is increasingly difficult to prevent the violence occur against doctors by patients' relatives. In order to prevent this situation, patients and their relatives should be informed about the concept of malpractice and the responsibility of the doctors; in addition to that the damages that occur on patients should be compensated. In summary, the development of medical law should be closely followed and legal remedies should be applied first as a result of possible damages in hospitals.

Answers. Not theories.

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