

## A Study on Medical Malpractices of Doctors and Medical Specialist

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**Justification:** Any significant study regarding medical malpractices and negligence hasn't been done in recent years in our country. Therefore, there is a necessity to study the cases which have been considered as medical malpractice and negligence by legislative agencies to identify the root cause of the negligence of liability and suggest a solution to ensuring the right of patients to protect their wellbeing and improving the medical assistance and service capabilities and sufficiency.

Medical law is a legal concept that consists of constitutional, administrative, civil, criminal, and labor laws aimed at regulating social relations related to hospitals. Medical malpractices are a record that registers the cases of medical breaches and negligence. Medical malpractices and negligence are defined as follows, qualified and licensed physicians and medical professionals failed to exercise treatment, nursing, prescription of medication, obstetrics, and rehabilitation during treatment in certain level intentionally, carelessly, and failed to fulfill his or her duties under decreed code of conduct and which resulted in injury and even loss to patient health.

Ever since the concept of "Medical care law" was mentioned for the first time in Mongolia on "Glossary of Legal Terms" in 2018, the medical malpractices have been raised. The research examined the current situation and root causes of medical liability breaches in the health sector in connection with the implementation of the revised version of the Criminal Code of Mongolia, and as a foundation study, it has been considered as an innovative by aiming at further improving the legal education of medical professionals.

**Objective:** Study the root causes and legal status of medical violations registered by Mongolian legal agencies.

**Aim:** 1. Study the medical malpractices and negligence registered in Mongolian legal agencies between 2002 and 2017.

2. Investigate professional specific analyst's analysis and conclusions, and determine the root causes of medical malpractices and negligence.

**Research sample:** The lawsuits, judicial decisions, decrees, and probabilities filed against the doctors and medical professionals founded from the data archive of School of Law, National University of Mongolia, the School of Biomedicine, National University Medical Sciences, the Mongolian Bar Association, the Central Archives of Criminal Cases under the General Prosecutor's Office, the archives of the Prosecutor's Offices of 9 districts and 21 provinces had been analyzed using quantitative document research methodology during the study.

**The Result of the research:** From 2002 to 2017, 106 doctors and medical professionals were prosecuted in 68 lawsuits cases in 21 provinces of Mongolia, and 98 doctors and medical professionals were prosecuted in 34 cases in Ulaanbaatar. 1.0% in 2002, 1.0% in 2003, 2.0% in 2004, 4.9% in 2005, 1.0% in 2006, 5.9% in 2007, 2.9% in 2008, 10.8% in 2009, 4.9% in 2010, 9.8% in 2011, In 2012, 11.8%, in 2013, 20.6%, in 2014, 12.7%, in 2015, 6.9%, in 2016, 2.9%, and in 2017, 1.0%, cases were registered respectively.

If we categorize the provinces and districts of Ulaanbaatar by most investigated for medical malpractice and negligence cases, Uvurkhangai is accounted for 11.8%, Arkhangai is 11.8%, Orkhon is 6.9% respectively, whereas for districts, Sukhbaatar 38.2%, Bayanzurkh 23.5%, Bayangol and Nalaikh 14.7% respectively.

In terms of medical branches, obstetrics and gynecology accounted for 44.1%, emergency and intensive care for 12.7% and surgery for 9.8%. In terms of severity, 14.7% of injuries, 17.6% of serious injuries and 67.6% of deaths were registered. A total of 204 doctors and medical professionals were examined in the above 102 cases, of which 79.4% were the case of licensed and certified medical professionals.

In terms of occupations, 74.5% of medical professionals do not have a professional degree or have worked for 1-8 years. Medical negligence was registered respectively as follows, 52.9% at provinces and regional central diagnostic hospitals, 18.6% at specialized central hospitals, 12.7% at soum hospitals, 9.8% at district general hospitals, and 2.0% at first stage hospitals and private hospitals with beds.

In terms of root causes of medical crime, unfortunate cases accounted for 34.3%. Moreover, liability breach cases were 36.3% and 7.8% of cases were failure to follow standards of care, and relevant rules and regulations In terms of age, 42.5% of doctors aged between 40-49 were accused of medical malpractice cases.

### **Conclusion**

1. 102 criminal cases in a total were issued and investigated by law enforcement agencies in Mongolia between 2002 and 2017. 34.3% of those cases were defined as unfortunate cases or medical professionals were proven as innocent.

2. The above criminal cases were classified as Criminal Code of Article 106.1 (14.7%) and Article 106.2 (85.3%) respectively.

### **Advice**

To sum up our research, the number of medical malpractice and negligence cases in Mongolia is under a tendency to be increased yearly basis. Therefore, in order to reduce those violations and breaches in the medicals sector of Mongolia, it is necessary to develop the medical sector consolidated policy and improve the legal regulation in the following areas:

1. Organize regular inspections at medical institutions by external the same professional specialists and upgrade the professional knowledge and skills of employees.
2. Enlarge the professional ethical knowledge of medical professionals and improve communication skills and attitudes.
3. Ensure the medical professionals to have medical care law knowledge to distinguish the difference of medical violations regarding the negligence and malpractice.
4. To ensure Enrollment in professional liability insurance.
5. Further detailed research in criminal and civil law is required.

**Keywords:** medical care law violation (medical malpractices), medical crime.