MEDICAL LITIGATIONS IN ANESTHETIC PRACTICE IN SAUDI ARABIA THE WHOLE PICTURE AND THE DILEMMA OF THE SPECIALTY

- Administrative Prospectives -

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Recently an article caught my attention by Dr. Ahmed Alsaddique entitled "Medical Liability"- The dilemma of litigations[1]. This article represents the true picture of litigations against various medical specialties in the health care system in Saudi Arabia. It is to be noted that the speciality of anesthesia ranked seventh in the number cases submitted for litigation, and revives memories of a once serial articles entitled, "Dilemma of Anaesthesiologist working in Saudi Arabia"[2-5].

The authors of those articles[2-5] illustrated the daunting facts existant in the absence of guidelines on standard of care and proper monitoring, non-existent policy and procedures, the appalling working facilities in peripheral hospitals, single handed working anesthesiologist, the unhelpful attitude of administration, who can order any physician to perform certain tasks beyond their capabilities and the psychological torture, frustration and agony of being involved in a legal case and being convicted without a fair trial. etc[2-5].

Those series of articles[2-5] appeared 14 years ahead of the recent Dr. Alsaddique article[1]. It pointed out that the dilemma is a multi-disciplinary one and is shared by three components: The Ministry of Health (the governing body), the Saudi Anaesthetic Association (SAA) and the

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Specialist (The practitioner).

The authors of those articles[2-5] stipulated all problems encountered by colleagues in their daily work and the cases of malpractice submitted against some members of the specialty. They gathered all necessary and essential information and were advisories to the legal medical court and gave their opinion on several occasions. The authors insist every time that they attended these medical legal court procedures or gave written consultation that a postmortem should be a mandatory part of the investigating procedure. This will provide the ultimate diagnoses and allows fairness to the specialty, the plaintiff and the defendent. The authors indicate that western countries are using postmortem to reach the accurate cause of death in obscure illness or unexpected death in a litigation case.

In the past litigation discussion took place in one central court where all cases were dealt with. The procedure was long and daunting. Some times it took between two-three years or longer before a verdict was reached. During this period the defendent could not travel, received less salary and was not allowed to practice anesthesia at all. Once the verdict was handed down and the blood money paid, the defendent had to leave the country. Two anesthesiologists who were subjected to this ordeal suffered heart attacks and died during or after their conviction due to the overwhelming stress of the enquiry. In view of the above the authors ended with these recommendations:

I. Role of the Governing Body (GB), (The Establishment)

The authors[2-5] gathered statistics of anesthetics performed, the number of anesthetists working in Ministry of Health (MOH) and Private Sector (PS) and Other Government Hospitals (OGH) The authors found out that both the MOH and the PS anesthetists have, more work load per year, they are less qualified carrying lower degrees, and are not insured when compared with anesthetists working in the OGH. In addition they were more involved in litigations and convictions than anesthetists working in OGH.

Statistics indicate that the MOH controls about 82% of the health care delivery system in Saudi Arabia and that they have medico-legal litigations submitted against them. From the above findings we ask ourselves. Does MOH have any roles? As the MOH is considered to be the governing body or the guardian of the health care delivery system in the Kingdom, doubtless it has major roles to play toward members of the specialty.

The authors[2-5] targeted the MOH with specific recommendations aimed at improving the service in the specialty of anesthesia; the recruitment policy and procedures that have to be implemented and enforced, the provision of better salaries for Saudi and expatriates specialists with the purpose of attracting top class-personnel, implementing the national standard of care monitoring created by the Saudi Anaesthetic Association (SAA) and establishing detailed policies and procedures for the specialty be it administrative, professional or educational. The above mentioned sets of criteria are urged to be implemented and enforced. This also must be coupled with an excellent biomedical department.

Mandatory requirement of an ongoing education was indicated by His Excellency Dr. Ghazy alQusabi, the former Minister of Health. All members of the specialty and other health providers must be allowed to attend symposia, courses and workshops in order to improve their knowledge and skills with the objective of promoting the quality of medical services to patients. These objectives, however, were never implemented by health authorities in both the MOH and the private sector. Needles to ad that all hospitals should have proper computerized monitoring in order to reduce or even prevent poor documentation.

II. Role of the Saudi Anaesthetic Association

The newly established Saudi Anaesthetic Association (SAA) had invited top consultants and academicians in order to propose recommendations for the anesthetic services in the Kingdom as a whole. The main objective was to update the system and improve the services in

our specialty to become commensurate to western associations who have actually become guardians of the specialty.

Western societies have set standards of care monitoring and policy and procedures that have been applied through out the health care system world wide. Anesthetists all around the world are using the American Society of Anesthesiologists (ASA) classification and standard of care. It is felt that there is need to develop a KSA standard of care with local application similar to ASA standards.

Our recommendations to the SAA consists of the following procedures:

1 - To have a long term national survey on the anesthesia services in the Kingdom.

2 – To establish national standards of care and monitoring that have been applied in the university hospital but unfortunately not applied by the majority of hospitals. These recommendations were published in two parts in the Newsletter of the SAA vol. 1, no. 3 and 4 May and July 1990.

3 – To put forward the approved policies and procedures for the anesthesia services in the Ministry and private sector hospitals.

4 – Provide continuous medical education: regular scientific meetings and courses for updating the knowledge and the skills of the working anesthetists.

5 – To provide top class library.

6 – To provide malpractice insurance known as Al-takaful el-ejtemaei. This system requests each member of the department to deposit S.R. 2000. The proceeds can be used to pay the blood money for conviction of any member of the department. One advantage of this insurance coverage is that each member can withdraw the sum of money belonging to him or donated to SAA when he/she finish their work in the department, applicable only if blood money has not been paid. This insurance coverage was first initiated by the SAA in the Anaesthetic Department of the University Hospitals and later was offered to all members of the Association even to every anesthetist working in the Kingdom[6]. Unfortunately, higher authorities in the health care delivery

system had never advised their staff to join in. The MOH still has the same lack of interest toward the specialty.

III. The Practitioner (Specialist)

It is advised that the specialist practitioners be forearmed with the following important virtues promoting competent anaesthetists. Ten commandments are presented[7,8]: Be safe, punctual, diligent and tactful to all, vigilant, and able to perform a wide varieties of anesthesia harmlessly, never leave the patient unattended, be able to solve problems, expect the unexpected, admit self-limitation and seek advice, carry out immediate documentation, proper charting, accompany patients to the recovery room and see that discharge orders are prescribed, signed and approved by him all the time, and attend scientific meetings regularly, and be a holder of a valid certificate in BLS and ACLS.

What Has Been Implemented and Achieved?

As the only Professor of Anesthesiology in the Kingdom and the Chairman of the newly established Department of Anaesthesia in the Medical College of King Saud University (KSU) and the University Hospitals and President of the SAA, I took the liberty of defending the specialty by writing several memos to His Excellency, the previous Minister of Health, Professor Osama Shubokshi in which I detailed the status of the anesthesia service and CPR in the Kingdom. Furthermore, I also had the honor of an audience with His Royal Highness Prince Naif Ben Abdulaziz Minister of Interior at which time I submitted to him the critical and important recommendations that were issued and circulated to the health care system in the Kingdom with the objective of presenting an actual and clear picture of anesthetic practice and its pitfalls, in the Kingdom..

My efforts ultimately resulted in two meetings between several health authorities in the Kingdom, mainly representatives of the MOH, the Saudi Council For Health Specialty (SCFHS) and the SAA. In

addition a further report was submitted to His Royal Highness Prince Naif on the outcome of these meetings including future recommendations and measures that have been adopted to improve the service. Suggestions were also raised to promote income in order to encourage recruitment of new Saudi and expatriates anesthetists.

Parallel to these accomplishments the AAS has initiated regular annual scientific and monthly club meetings and most recently, started new venture of outreach programs. All these activities have been accredited by the SCFHS as Continuous Medical Education (CME).

The Future

Pending issues yet to be resolved in the Kingdom:

I. The formation of the medico-legal courts

a. Are there a set of rules and regulations governing the formation of the various regional courts?
b. Who are the members of the medico legal courts?
c. Are there any differences between regions?
d. Are there any differences between the Kingdom's medico legal courts and other countries? (Overseas medical courts allow lawyers to defend the accused. This is not applied in SA courts).

2. The application of postmortem as a diagnostic tool

In SA, postmortem is only sometimes used, as the ultimate diagnostic tool in a criminal act. Whereas it should be made should mandatory in all cases in order to protect the specialty, the plaintiff and the defendent and that no legal proceedings should start without a post mortem. When implemented, the widely used conviction based on speculations will be a abolished in the country. Most of the time, members of the courts call on their medical expertise to read file notes in

order to solve the medical puzzles they are facing, and most members use "the magic crystal ball", in order to reach the right judgment. This practice is not fair for either the plaintiff, the defendent. or the specialty.

3. Other measures

Measures yet to be enforced on the Ministry and private hospitals.

a. Approved detailed policies and procedures (P.P.). Medical professionals cannot be prosecuted unless he/she receive the approved policies and procedures of the Department on which he/she is expected to fully comply with. Most of the MOH and private sector hospitals have no P.P. and without P.P. the governing body cannot condemn the specialist and simply "release the guillotine".

b. Application of the newly recommended policies to recruit top class expatriate professionals.

c. Request highest authority in the Kingdom to approve a different and new scale of salaries for physicians carrying rare specialties and subspecialties a procedure already achieved in the western world.

A question poses itself as to why is it that some specialties who work only day duty, are on call at homes and hardly, or never, attend, serious and life threatening cases during their call duty, collect the same salaries as those (anesthetists) working the same day duty plus nights and week ends and are actually dealing with life threatening emergencies?

d. Enforcement of an on-going CME credit hours on all medical professionals: attending regularly symposia, conferences, and workshops to collect the necessary credit hours needed to obtain the license to practice medicine in the Kingdom.

e. Computerized documentation. Modern technology is available and should be an integral part of practice in monitoring anesthetized patients all the time and any where in all hospitals. This will reduce or prevent the likelihood of fabrication of charts in patient's file, lying or shifting responsibilities onto other innocent staff.

f. Adopting the national standards of care and monitoring in all hospitals are the responsibilities of The Ministry and the private sector. This national standard of care and monitoring was established by the SAA and implemented in most of the referral of other government hospitals.

g. All major and referral hospitals of the Ministry of Health should submit for accreditation by the Saudi Board of Anesthesia and Intensive Care residency training program. The aim is to qualify these hospitals with the standard required by the board of SCFHS and have Saudi residents joining the specialty become the future specialists responsible to manage supervise and/or be in charge of running the daily routine work in the departments after graduation.

These important measures will ultimately make the difference between lower and upper class of standard of care in medical practice in the Kingdom.

Personal Reflections

In the seventies, anesthesia practice was till in its beginnings. Most hospitals had limited facilities when compared to facilities in the western world where we trained and practiced. Then I was the only practicing Saudi anesthetist, in the medical school and university hospitals of King Saud University.

The task of introducing modern practice of anesthesia to the Kingdom was huge and daunting one. The country was short of specialists in our field. A colleague ahead of me, in an attempt to increase the work force in anesthesia, had introduced a technician training program to produce technician graduates and established a technician diploma degree in order to cover gaps in the service in the specialty.

In the eighties, few colleagues after having obtained high degrees in the specialty returned to the Kingdom from England, Germany and Canada. They were the new and badly needed work force.

The nineties initiated the golden era of the specialty. Three higher

degrees were established in the Kingdom starting with Fellowship in King Saud 1989, The Arab Board in 1993 and the Saudi Board 1998. The Saudi Board was established to have a four year residency training program based on the Canadian system of training, and the modern arts of anesthesia teaching can be said to have been introduced to the country.

At the beginning residency training program was not popular to medical graduates as the specialty became known as the specialty of "Unknown Soldier". Only few residents joined the program who graduated earning one or all three degrees.

For the last 2 years, however, more than 20 new residents per year have joined the training program and the new graduates occupied leading posts in different hospitals of the country. In the mean time several overseas graduates returned which facilitated an advanced competency in the practice of anesthesia. With the establishment of the Saudi Anaesthetic Association (SAA) in 1989 a vast and immeasurable difference to the specialty was affected. The number of Saudi anesthetists increased 100 times during the last 20 years to reach 200. Over 80 carry high degree and 120 are residents (98 residents are in the local residency training program, while the rest are in overseas scholarship).

The new century witnessed further advances in the development of higher degrees in the following fellowships:

a. Cardiac anesthesia.

b. Critical care medicine.

c. Pediatric anesthesia. Recently and approved by the Saudi Board of Anesthesia and Intensive Care.

d. Pain management (Under preparation).

These fellowships consist of intensive training programs. A candidate spends two years in a specific sub-specialty, following which the candidate obtains the fellowship degree.

The SCFHS had great impact on the medical field by taking over the major role from post graduate department of the medical schools that started these resident training programs earlier in the eighties. The

SCOHS developed a wider spectrum of higher degrees in other specialties, and introduced the ruling that no one can practice medicine in the Kingdom without having his/her degree recognized and equalized, and imposed a mandatory CME credit hours in order to obtain the Saudi license to practice in the Kingdom.

Finally I an not alone in the specialty anymore. I am honored to have been the first anesthetist and proud with what I have started, implemented and accomplished throughout my career during the past thirty years. I am sure and confident that the new graduates are up to the challenges facing them. I hand them the banner to carry on the good work expected of them.

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