Review Article

Ophthalmology Malpractice: Navigating Legal Challenges while Prioritizing Patient Care

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Abstract

The legal and ethical aspects of modern medicine have significantly impacted the ophthalmic practice in recent decades. This review examines common aspects of malpractice claims related to ophthalmic practice, providing an overview of the legal process. We discuss practical recommendations for enhancing communication, documentation, and informed consent practices, as well as strategies to improve patient safety to avoid legal challenges. Additionally, advanced risk management approaches are examined, including complication management, alternative dispute resolution, liability insurance, and organizational learning environments that shift focus away from individual blame. By utilizing these proactive risk-reduction measures, ophthalmologists can limit the legal risks and reduce the burden of defensive medicine in their daily practice, and remain focused on delivering optimal patient care. This review might serve as a basic resource for ophthalmologists navigating the legal and ethical complexities of contemporary medical practice.

Keywords: Ophthalmology; Malpractice; Legal; Patient Care; Iran.

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Introduction

Ophthalmology, like many surgical specialties, is a legally complex field and the use of new technologies has raised patient expectations. Legal liability requires ophthalmologists to provide patient care in line with accepted professional standards. Failure to meet these standards may result in legal challenges, which can significantly impact the financial and emotional well-being of ophthalmologists, their patients and, more importantly, their daily clinical practice [1,2].

The current legal environment often amplifies the practice of defensive medicine. In an effort to minimize the risk of legal burden, ophthalmologists may alter their clinical practices, often in ways that prioritize protection against legal complaints over optimal care [2]. This can lead to unnecessary testing procedures, increased financial burdens on patients, and a decline in the overall quality of care [3].

To overcome these challenges, ophthalmologists must establish robust risk management practices and gain a thorough understanding of the legal aspects of their profession. Effective communication, exact documentation, and following the evidence-based practice guidelines can help reduce legal risks. Additionally, employing alternative dispute resolution methods and using legal counsel when necessary can better protect both patients and healthcare providers [4].

Improvements in education and organizational protocols related to legal and ethical issues are essential for training and supporting legally informed ophthalmologists [5]. Moreover, promoting a cultural shift from blame to learning is essential for reducing malpractice incidents and medical errors [6].

This review article aims to discuss some important aspects of the malpractice process in ophthalmology by examining common causes of litigation and its key aspects. Our goal is to present ophthalmologists with some of the information needed to manage legal risks while increasing patient safety. By adopting a knowledgeable approach to risk management, ophthalmologists can more confidently approach the legal aspects of their practice and remain focused on delivering better care for their patients.

Anatomy of an Ophthalmology Malpractice Claim

Medical malpractice cases continue to disrupt physician practice patterns and escalate insurance costs [7,8]. It is estimated that medical malpractice expenditures in the United States total $56 billion dollars in healthcare spending annually [9]. These lawsuits are also financially troubling on an individual and organizational level, with direct costs for surgeons or hospitals and indirect costs related to lost clinical practice time [10].

Despite efforts to reduce the number of wrong claims against healthcare providers, malpractice litigation remains a significant driver of healthcare costs [11]. Such claims have serious implications for healthcare providers, including financial burden and potential effects on professional licensure. Surgeons, in particular, face higher rates of malpractice claims compared to nonsurgical providers [12]. Unfortunately, many healthcare providers lack enough understanding of the legal process surrounding malpractice claims, putting them in a vulnerable position when facing these challenges.

A malpractice claim is ignited when patients perceive their injury might have been caused by probable ophthalmologist's negligence or lack of proper knowledge. Such claims

often arise from one or more of the following factors: inaccurate diagnosis, surgical error, inappropriate medication prescription, lack of informed consent, or inadequate follow-up [13].

Common Causes of Malpractice Claims in Ophthalmology

The most common causes of malpractice claims in ophthalmology include cases of laser assisted refractive surgeries including laser-assisted in situ keratomileusis (LASIK) and photorefractive keratectomy (PRK), radial keratotomy, glaucoma, and cataract surgeries [1]. One other important area is the failure to identify pediatric vision problems like amblyopia. Many of these claims might be caused by dissatisfaction with outcomes of treatments and not the malpractice itself.

Cases of misdiagnosis or delayed diagnosis are also a significant aspect of malpractice claims in ophthalmology. These issues are specially common in cases involving glaucoma, retinal detachments, and pediatric visual problems [1,14]. While a substantial portion of malpractice claims arise after surgical procedures, medication errors such as inaccurate dosages, unsuitable prescriptions, or failure to account for patient-specific contraindications like drug allergies are also a serious concern [15]. Informed consent plays a critical role in mitigating these risks. Patients should be adequately informed about the benefits, potential risks, and alternatives of any proposed treatment regimen [16].

Refractive surgery represents one of the most significant medicolegal issues in ophthalmology due to its high procedural volume and elective nature. As these procedures are often associated with higher out-of-pocket expenses, patients tend to have higher expectations for optimal results [17,18].

Pediatric ophthalmology faces unique challenges related to visual maturation in addition to the common legal issues in ophthalmology. A study by Engelhard et al., [19] showed that pediatric ophthalmology lawsuits are often resolved in favor of the plaintiff and are associated with higher monetary awards.

Further research by Engelhard et al., [20] in other ophthalmic subspecialties found increased verdicts favoring plaintiffs in cases involving ocular trauma, where inadequate treatment was the most commonly cited cause. Another study by the same author highlighted a comparable rate of plaintiff-favorable verdicts in glaucoma subspecialty cases [14]. Similar findings have been reported in rare ocular oncology cases [21].

Understanding the Litigation Process in Ophthalmology Malpractice Cases

When a patient suspects negligence, the legal claim process begins with the submission of a formal complaint by the patient or their representative, summarizing the allegation against the physician and their explanation of the fault. If the case is referred to court, both parties should present evidence and expert witness statements to support their arguments. This evidence often includes opinions from other experienced physicians within the same specialty to determine if the original physician's actions related to diagnosis and treatment is in line with the accepted standard of care in that specific field [22].

For a medical malpractice lawsuit to be considered it must establish that a patient-physician relationship was in place, include a proximate cause linking the physician's actions to the harm to the patient, and show that a negligence of the standards of care has occurred [9].

In some instances, the involved individuals

may choose a settlement, which can be preferable because of the time-consuming and costly nature of a trial. However, the legal process for ophthalmology malpractice cases remains particularly complex and challenging for all parties involved due to the diversity of treatment methods and the complexity of predicting the exact outcomes.

Ophthalmologists must be aware of these intricacies and take appropriate measures to protect themselves legally [23].

Building a Defense: Strategies for Minimizing Risk

In the fast improving world of ophthalmology practice rapid technological advancements have resulted in increasing patient expectations which necessitates proactive risk management [24]. Addressing potential risks not only helps safeguarding the physician against legal challenges but also supports the mental well-being of the ophthalmologist and the patients and the delivery of optimal care for patients [1].

Effective communication is an important aspect of legal risk management in ophthalmology. While providing accurate information is essential, building trust the physician and patients is equally important. This involves listening carefully to the patient, showing utmost empathy, and offering clear, straightforward explanations regarding the nature of their disease the treatment options and the probable end results. Together, these elements help reduce misunderstandings and align patient expectations with the reality [1].

Ophthalmologists must also carefully define the instances in which they provide formal and informal medical advice, establish clear boundaries regarding the surgical procedures they can and cannot perform, and ensure that patients receive appropriate care [9].

Another critical aspect of communication is discussing insurance coverage and out-of-pocket expenses, such as premium intraocular lenses (IOL) and advanced procedures like femtosecond laser treatments. These conversations should be thoroughly documented to avoid potential disputes [25, 26].

Studies have shown that a positive attitude, effective communication, and sufficient preoperative time with patients; particularly in elective procedures like refractive surgeries; are vital for reducing the likelihood of malpractice lawsuits [27-29].

A unique challenge in the medicolegal landscape of ophthalmology involves the use of compounded medications. Since physicians are ultimately responsible for all medications they administer, ophthalmologists must exercise caution when selecting pharmacies for compounded medications to ensure quality and safety [25].

Documentation: A Critical Defense

Effective documentation is a cornerstone of risk management in ophthalmology. It should clearly record patient interactions, clinical decisions, and discussions regarding informed consent. Accurate and timely documentation not only protects ophthalmologists against potential claims but also reflects a commitment to quality care [30].

Studies indicate a relatively high incidence of poor or altered documentation, particularly in cases involving surgical complications, which often lead to successful malpractice claims [13, 31].

An important consideration in ophthalmic surgery is the documentation related to second-eye surgeries. When both eyes are scheduled for surgery, it is essential to

document the examinations and informed consent thoroughly [25]. For instance, Lee [25] reported a cataract surgery claim where the patient complained about insufficient preoperative informed consent due to the not giving information about the use of Tamsulosin and its side effects. This case highlights the importance of documenting the details of informed consent, including patient-specific risk factors, to reduse the legal risks.

Ophthalmologists must also consider the importance of appropriate postoperative follow-ups and comprehensive documentation of findings during these sessions. Failure to identify and address complications in a timely manner can be particularly difficult to defend in malpractice lawsuits [4].

Informed consent is a main component of ethical patient care. It requires that patients be provided with all information relevant to their treatment methods and probable treatment outcomes to make informed decisions about their treatment procedures with the help of their physician. Through this process, ophthalmologists can prevent misunderstandings and protect themselves from allegations of negligence by ensuring patients fully comprehend their diagnosis, proposed treatments, associated risks and benefits, available alternatives, and the consequences of refusing treatment [18, 30].

Proper documentation of physician-patient interactions, including informed consent or refusal of treatment, is crucial for avoiding malpractice claims. Some experts even recommend video recording the consent process for high-risk patients as an additional safeguard [28].

Patient Safety Protocols

The establishment and adherence to safety protocols are essential for reducing medical errors and fostering a culture of safety within ophthalmology practices. Standardizing procedures through meticulous research, implementing evidence-based protocols, and utilizing checklists in both clinic and operating room settings significantly enhance patient outcomes in ophthalmic care [32, 33].

In operating rooms, safety protocols should prioritize operating on the correct patient and the correct eye to prevent one of the most critical "never events" in ophthalmic surgery. Additionally, protocols must address the placement of the correct type and power of intraocular lenses in cataract surgery patients. Recommended practices include conducting "timeouts" and performing cross-checks, such as verifying two identifiers for patient identity and intraocular lens (IOL) power [4, 25, 26, 34].

In refractive surgeries, perioperative care demands well-planned protocols. Most complaints in this area stem from overlooked contraindications and patient dissatisfaction. A thorough preoperative evaluation and sufficient preoperative chair time with patients are crucial for mitigating malpractice risks [17].

With advancements in modern technologies, high-volume refractive procedures have become increasingly common. However, studies indicate that high-volume practices might lead to higher risk of malpractice claims and lawsuits [17, 18].

Managing Complications in Ophthalmology

Even with the best decision-making and care, complications can still arise in clinical practice. How these situations are handled greatly influences both patient outcomes and legal consequences. Ophthalmologists must address and manage complications

appropriately while maintaining open and honest communication with patients. It is essential to provide patients with all necessary information regarding their current condition, the risks and benefits of proposed treatments, and the potential consequences of refusing treatment. By addressing concerns transparently and ensuring clear communication, ophthalmologists can reduce misunderstandings and significantly lower the risk of negligence or malpractice claims [28, 35-37].

Brick et al., [4] in a review of 168 cataract surgeries, reported that approximately 50% of surgical complications went unnoticed in the operating room. The study also highlighted that documentation of postoperative notes after recognizing a complication often appears defensive, making legal defense more challenging [4]. Furthermore, it found that endophthalmitis lawsuits result in the highest payouts compared to other cataract surgery complications and recommended obtaining a second opinion at the time of diagnosis as a helpful strategy for legal defense [4].

A study by Vincent et al., [37] revealed that patients most commonly expect an apology and corrective actions following complications to prevent legal action. Similarly, research by Kachalia et al.,[38] showed that full disclosure of medical errors accompanied by an offer of compensation did not lead to an increase in claims or legal costs.

Alternative Dispute Resolution (ADR)

Mediation and arbitration are two forms of alternative dispute resolution (ADR) which offer less combative and often more effective methods for conflict resolution between the physician and patients [39-41].

Mediation should include a knowledgeable neutral third party who manages the discussion between the involved parties, helping them to better understand the other party positions and reach a resolution through compromise. Arbitration, on the other hand, requires an impartial third party to evaluate the evidence and arguments presented by both sides and be relied upon to give a binding decision accepted by both parties.

ADR offers several benefits. It is typically less expensive and faster than traditional legal procedures, providing cost and time efficiency. Additionally, ADR allows the parties greater influence over the resolution process, enhancing their sense of control. The collaborative atmosphere caused by ADR encourages mutual understanding and cooperation. Furthermore, ADR's flexibility often leads to creative solutions that are not typically achieved through litigation [40, 42].

By understanding and utilizing ADR options, ophthalmologists can resolve disputes more efficiently and amicably, minimizing the stress and costs associated with traditional legal proceedings.

Defensive Medicine in Ophthalmology

Defensive medicine is an increasing concern in healthcare worldwide, leading to increased cost of healthcare due to fear of legal challenges. In ophthalmology, defensive medicine often manifests as performing unnecessary tests, excessive treatments, or the avoidance of higher-risk procedures by the physician [2].

Several factors have increased the chance of defensive medicine practices in ophthalmology. Fear of legal challenges, frequent occurrence of malpractice lawsuits and rising malpractice insurance premiums create pressure for ophthalmologists to protect themselves from potential legal issues by always trying to be in the safe side [43]. High patient expectations

have further exacerbated the issue in recent decades compelling ophthalmologists to adopt a defensive mindset to avoid dissatisfaction or legal disputes [44]. Technological advancements also play a role. The expanding diagnostic and treatment options in ophthalmology, while improving care and outcomes, can encourage excessive testing and procedures, contributing to defensive practices and causing higher expenditure per patient [45].

Additionally, the "individual blame logic" in healthcare organizations fosters a punitive culture. When adverse events occur, there is often an immediate focus on identifying and blaming individuals rather than examining the broader organizational context [46]. This approach, reminiscent of criminal law, discourages incident reporting and organizational learning [47]. Efforts to identify a "guilty party" fail to address systemic issues and perpetuate defensive behaviors. As Benn et al., [48] note, healthcare organizations should shift from retrospective blame to proactive processes that anticipate and mitigate vulnerabilities in the system. A resilient organization detects risks early and adapts to prevent serious harm [49]. Achieving this requires a cultural transformation to encourage error reporting and organizational learning while reducing defensive practices.

Defensive medicine can have several negative consequences. Unnecessary or overpriced testing and treatment methods can lead to risk of worse outcomes for the patients without significant benefits. Additionally, ordering unnecessary tests increases the financial burden on healthcare systems, patients, and insurers. The constant anxiety about legal action by the patients can also have serious effects on the psychological well-being of ophthalmologists, leading to stress which might negatively impact their professional and personal lives [50].

Limiting the use of defensive medicine in ophthalmology can be achieved by facilitating shared decision-making between the patient and caregiver. Providing clear information about risks, benefits, and alternatives helps build trust and reduces the inclination toward defensive practices [51]. Enhancing communication skills, starting in medical education, allows ophthalmologists to establish productive relationships with patients and reduce miscommunication [52]. Finally, adhering to culture of openness encourages the reporting and discussion of errors, enabling healthcare systems to learn and improve. A blame-focused culture, in contrast, focuses on individuals and discourages reporting, causing defensive behaviors [53].

Discussion

In the constantly evolving environment of ophthalmology practice, addressing legal risks is crucial to improve the patient care-giver relation and reduce the cost of healthcare. Ophthalmologists must also be familiar with the negative aspects of defensive medical practices, and try to limit these practices.

This review has tried to explore these issues, providing insights and strategies to help ophthalmologists improve their practices while minimizing the impact of legal challenges. By implementing the risk management strategies discussed, ophthalmologists can improve communication leading to stronger patient-physician relationships, and reduce the likelihood of legal disputes, and at the same time enhancing the quality of care they provide.

Additionally, having the knowledge and experience to identify legal complications, manage them effectively, and utilize alternative

legal procedures such as alternative dispute resolution (ADR) can significantly reduce stress during conflict resolution for both physicians and patients.

Conclusion

Adopting proactive risk management measures not only reduces the risk of lawsuits but also develops an environment where exceptional patient care can thrive without the shadow of fear. By integrating the strategies outlined in this review, ophthalmologists might be able to enhance patient safety, maintain the integrity of their practices, and focus on delivering superior care with confidence.

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Footnotes and Financial Disclosures

Conflict of interest:

The authors have no conflict of interest with the subject matter of the present manuscript.