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Medicolegal Issues in Oral and Maxillofacial Surgery: A Review

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ABSTRACT

Oral and maxillofacial surgery remains open to medicolegal considerations due to the complex procedures performed about the mouth, jaws, and face. This review points out medicolegal issues related to OMFS practices with emphasis on informed consent, detailed documentation, and adherence to legal and ethical standards. Informed consent is paramount; that the risks, benefits, and alternatives of surgical procedures are brought to the full knowledge of the patient. Legal classifications of injuries under the Indian Penal Code differentiate between simple and grievous injuries, while medico-legal classifications further classify them as accidental, suicidal, homicidal, or fabricated. Notable medicolegal cases bring out how negligence, insufficient consent, and faulty procedures have made a dent, thereby pointing out the necessities of proper documentation and following professional standards. It is evident that the trends in litigation, with the steady increase in OMFS-related claims, are due to complication. The dentist and maxillofacial surgeon has a very important role as an expert witness with testimony that must be objective and factual. A breach of the duty of care can have serious legal implications for the practitioner concerning civil and criminal liabilities. Such medicolegal issues are important in assisting OMFS practitioners in their duty to take steps for risk minimization and to improve patient care. Adequate education, combined with adherence to ethical and legal parameters, is thus of key importance if malpractice claims are going to be minimized and the standard of surgical outcomes kept high.

Keywords: Oral and Maxillofacial Surgery, Medicolegal Issues, Informed Consent, Legal Classification of Injuries, Medical Negligence.

Introduction

Oral and maxillofacial surgeons (OMFS) are healthcare professionals who perform surgical procedures on the mouth, jaws, face, and related structures. The complexity of these procedures, combined with the critical anatomical regions involved, makes OMFS a field prone to medicolegal issues. Surgeons must navigate a web of legal obligations, including informed consent, standard of care, documentation, and managing complications.[1] Informed consent is a cornerstone of medical ethics and legal practice. In Indian criminal law, the term "injury" encompasses any harm inflicted on a person, whether physical, mental, reputational, or property-related, as defined under Section 44 of the Indian Penal Code (IPC). Injuries are categorized into legal and medico-legal classifications. Legally, they are divided into simple and grievous injuries, with grievous injuries further specified in Section 320 of the IPC. Medico-legally, injuries are classified as accidental, suicidal, homicidal, or fabricated.[2] Grevious injuries include emasculation, permanent loss of sight or hearing, loss or impairment of limbs, disfigurement of the head or face, fractures or dislocations, and injuries that endanger life or cause severe pain or inability to perform daily activities for twenty days. Accurate medico-legal evaluation is crucial, as it influences legal proceedings and potential sentencing. Every injury, regardless of its apparent severity, is significant in medico-legal contexts, as even minor injuries can provide critical evidence in criminal investigations. Proper documentation and interpretation of injury types and causes are essential for determining whether an injury is accidental, suicidal, or homicidal, ensuring the correct legal course of action is pursued.[3] This comprehensive approach helps safeguard patient autonomy and reduces the risk of legal challenges. Beyond legal obligations, OMFS practitioners must also navigate ethical dilemmas. These include decisions about patient autonomy, end-of-life care, and the balance between beneficence and non-maleficence. Ethical considerations often intersect with legal issues, complicating decision-making in clinical practice.[4] This review highlights the key medicolegal issues and provides an overview of the legal landscape surrounding OMFS.

Informed Consent

Informed consent is a fundamental principle in oral and maxillofacial surgery, ensuring that patients are thoroughly informed and understand their options before undergoing any procedure. This principle requires that patients receive sufficient information to make independent decisions about their surgical care. For oral and maxillofacial surgeons, informed consent involves several crucial elements: Patients must possess the mental capacity to comprehend and decide on their treatment.[5] Surgeons must evaluate whether patients understand the provided information and can make an informed decision. The

consent process must be documented, either through written forms or detailed verbal agreements, to verify that the patient has been adequately informed and consents to the proposed procedure. Surgeons are responsible for delivering detailed information about the procedure, including its risks, benefits, alternatives, and expected outcomes, to ensure that patients are fully aware of what the surgery entails. Patients must be competent to give consent, meaning they should be able to grasp the information and make a rational decision. If a patient is not competent, a legally authorized representative must provide consent. In oral and maxillofacial surgery, explicit consent is often necessary for complex or high-risk procedures, and this consent can be either oral or written, based on the procedure's complexity and institutional policies. Implied consent may apply to routine or less invasive treatments where the patient's agreement is inferred from their actions, though this is less common in surgical settings due to the nature of the procedures. Properly obtaining and documenting informed consent is essential for safeguarding patient autonomy and upholding ethical medical practices.[6]

Overview of Litigation and Challenges in Oral and Maxillofacial Surgery

Litigation in oral and maxillofacial surgery (OMFS) has been rising, with compensation claims increasing, although the average payout per claim remains lower compared to other surgical specialties. From 1995 to 2010, the NHS Litigation Authority registered 318 OMFS claims totaling £5 million in compensation. Commonly litigated procedures include third molar extractions, dental implant surgeries, and orthognathic surgeries, with complications such as nerve damage, infections, and poor aesthetic results frequently cited. Factors influencing complications include patient age, medical history, oral hygiene, and surgical technique. Trauma cases often involve complex assessments of facial fractures and temporomandibular joint (TMJ) issues, which can be difficult to diagnose but are crucial for preventing long-term effects. The prevalence of dental and facial injuries in children has increased, raising challenges in treatment and assessment, particularly for non-accidental injuries. Claims related to head and neck cancers are rare but costly, often arising from missed or delayed diagnoses.[7] Despite the risk of litigation, OMFS specialists are advised to conduct thorough patient assessments, provide clear risk explanations, and refer to more experienced professionals when needed to minimize potential claims.[7,8]

Medico-Legal Aspects of Various Types of Injuries

Abrasions are superficial injuries caused by friction or pressure, categorized into scratch, graze, pressure, and patterned types; they generally heal quickly but can sometimes indicate serious underlying injuries. Bruises result from blunt force trauma, causing bleeding into tissues without skin disruption, and can reveal the type of weapon used and the nature of the force applied, with patterned bruises helping in weapon identification. Lacerations, caused by blunt force, present as irregular, ragged wounds and are commonly accidental or homicidal, often containing foreign matter. Incised wounds are produced by sharp-edged weapons, characterized by well-defined margins and greater length than depth, indicating the weapon type and the direction of force. Stab wounds, resulting from pointed instruments, penetrate deeper than their external length and are rarely self-inflicted except in specific cases, with the shape and depth revealing details about the weapon and force used. Fabricated wounds, intentionally inflicted to support false claims, are usually superficial and multiple. Accurate documentation, timely reporting, and detailed examination are essential in medico-legal cases, as is adherence to court summons and provision of clear, factual testimony. Failure to comply with legal requirements or provide accurate information can lead to legal consequences, emphasizing the need for meticulous documentation and adherence to legal protocols.[9]

Role and Duties of Dentists and Maxillofacial Surgeons as Expert Witnesses

Dentists and maxillofacial surgeons frequently serve as expert witnesses in civil and criminal cases, providing crucial forensic evidence. In India, their expertise has been pivotal in high-profile cases such as the Rajiv Gandhi assassination. They are often called upon to evaluate disability resulting from dental or maxillofacial injuries and to offer opinions on procedures performed by other professionals in cases of alleged negligence. When summoned, expert witnesses must present themselves before the court at the designated time and provide clear, factual testimony. They may be questioned by various parties, including the prosecution, defense, or insurance companies, regarding the nature of injuries and the extent of disability. Surgeons are expected to provide objective opinions and refer to any wound certificates if issued. They should avoid discussing legal aspects and focus on their medical observations. In India, disability criteria for dental and maxillofacial impairments are somewhat limited but include guidelines from sources such as the Manual for Permanent Disability and recommendations from Paul G and Thomas S. Examples of grievous injuries include fractures, tooth loss, extensive soft-tissue damage, neurosensory or motor disturbances, and restricted oral function. Expert witnesses must appear in court as required, and failure to do so without valid reasons can result in contempt of court. Providing exaggerated or false statements under oath is unethical and can lead to legal penalties under sections 181 and 193.[4,10,11]

Medical Negligence in Maxillofacial Surgery

Medical negligence in maxillofacial surgery involves failing to meet the standard of care expected of a competent professional, which can result in various liabilities, including civil, criminal, and statutory repercussions. Negligence, defined as the failure to act with the care a reasonable person would exercise, becomes actionable if the surgeon breaches a duty of care, causing harm. In India, negligence is categorized under tortious, contractual, criminal, and vicarious liability. Key concepts include the Bolam test, which evaluates negligence based on accepted practices, and the Bolitho test, which considers the logical scrutiny of practices. The legal framework for addressing negligence includes the Civil Procedure Code, Criminal Procedure Code, and the Indian Evidence Act, which guide the presentation and burden of proof. Remedies for negligence can involve damages for civil wrongs, specific performance for breaches of contract, and punitive measures under criminal law for severe cases. Statutory liabilities also arise from non-compliance

with laws such as the Clinical Establishment Act. Contributory negligence, where the patient's own actions contribute to the harm, can also affect liability. Legal procedures involve understanding evidence laws, the limitation period for filing claims, and court fees applicable for litigation. Overall, medical negligence cases require careful legal and procedural navigation to ensure just outcomes and adherence to professional standards.[11,12,13]

Review of Medicolegal Cases in Oral and Maxillofacial Surgery

In oral and maxillofacial surgery, there are many medicolegal cases that set precedents regarding informed consent, diagnosis, and ethics.In the case of Dr. Mohan Dhawan vs Mrs. Gertrude D'souza (August 2017, Chandigarh), the surgeon faced charges of cheating and forgery for performing dental implant surgery without adequate consent, following complications and patient neglect.[14] Similarly, Dr. Jayesh Dube vs Saroj Cheda (October 2015, Mumbai) highlighted the consequences of incomplete and faulty dental procedures, leading to a legal ruling against the dentist based on expert opinions of negligence.[15] Dr. Naveen Ram vs Abhiram (May 2017, Kolar) revealed the critical need for proper qualifications and accurate diagnoses, as negligence by an inadequately qualified dentist resulted in a patient's death.[16] In another case, a dentist in Delhi (November 2016) was fined for substandard root canal and crown treatments after expert reviews confirmed faulty work.[17] Dr. (Captain) Jabir Singh Dhody and Dr. Raman Gambhir vs Lt Colonel Indergit Singh Cheema (January 2015, Chandigarh) showcased the impact of unethical practices, as doctors were held accountable for a failed dental implant, leading to a refund and compensation order[18]. On the other hand, cases demonstrating careful and ethical practice include Dr. Jyoti Oberoi vs Avatar Kaur (January 2018, Mumbai), where the dentist was cleared of negligence after thorough documentation and a successful defense, and Dr. Veeresh Magalad vs Abdul Khader Bagalkot (December 2017, Hubballi), where the dentist was not found guilty due to the patient's undisclosed systemic condition, despite the severe outcome of the procedure.[19,20] The introduction of the "Medical Criteria for Determining the Severity of Harm to Human Health" into Russian legislation via Order No. 194n on April 24, 2008, aimed to improve the assessment of injuries, including those in the maxillofacial area. Clauses 6.2.7 and 25 provide a framework for evaluating life-threatening conditions and failures in medical care but lack specific guidance on acute inflammatory processes in the maxillofacial and neck regions. This gap is illustrated by two clinical cases. In Case 1, a 37-year-old male with a stab wound to the neck experienced inadequate initial treatment, including a lack of comprehensive diagnostic procedures and failure to address complications such as tracheal and esophageal injuries. This led to severe infections like mediastinitis and leptomeningitis, resulting in the patient's death. In Case 2, a 35-year-old male with a mandibular fracture and subsequent cellulitis suffered from severe complications, including purulent pharyngotracheitis and bronchopneumonia, due to delayed and insufficient treatment of oral infections. These cases underscore the critical need for detailed guidelines and stringent standards in managing severe maxillofacial injuries to prevent complications and improve patient outcomes, highlighting significant areas where existing medical criteria may be insufficient. In Robinson v Ng (2014), a general dentist's failure to recognize the risks of continuing an extraction procedure, leading to Bell's palsy and other complications, resulted in a negligence claim with damages awarded. Banerjee v Shah (2012) involved admitted negligence by a general dentist in implant procedures, focusing on the assessment of damages. In Delphin v Martin (2012), a general dentist was found negligent for not taking preoperative radiographs and for excessive force during extraction, resulting in permanent nerve damage. Donmez v Neissa (2012) centered on procedural delays and whether the patient could bring a claim due to limitations statutes. Becke v Nguyen (2011) found no negligence in a case where a patient claimed excessive force and inadequate preoperative care during molar extractions. Hookey v Paterno (2009) involved an oral and maxillofacial surgeon found negligent for not warning about the risks of non-union and nerve damage post-surgery. Wilson v Tier (2008) concluded no negligence for failing to promptly diagnose an infection, while Mulcahy v Monsour (2005) was struck out due to procedural delays. Hyland v Huen (2004) had the Court of Appeal set aside a trial judge's decision on negligence involving a temporomandibular joint injury, suggesting settlement outside court. Royal Dental Hospital of Melbourne v Akbulut (2002) involved a trainee oral surgeon found negligent for improper technique and failure to advise on nerve damage. Rosenberg v Percival (2001) saw no negligence for temporomandibular joint complications as causation was not established. In Jung v Son (1998), the Court of Appeal found an error in the trial judge's reasoning about preoperative radiographs. McKellar v Blake (1998) and Anderson v Bowden (1997) found no negligence in cases of nerve damage due to lack of documented risk warnings. Finally, Hribar v Wells (1995) saw an oral and maxillofacial surgeon found negligent for not warning about the risks of nerve damage from orthognathic surgery, with a modest award for damages.[21,22]

Conclusion

Understanding the medicolegal landscape is essential for OMFS practitioners to protect themselves and their patients. By prioritizing informed consent, maintaining thorough documentation, and staying updated on legal developments, surgeons can minimize the risk of malpractice claims and provide high-quality care. Continuous education, thorough documentation, and ethical decision-making are crucial components of a risk management strategy that protects both the patient and the surgeon.

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