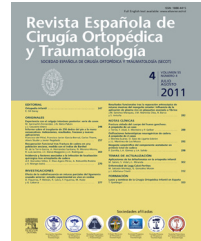




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## REVIEW ARTICLE

### Clinical safety and professional liability claims in Orthopaedic Surgery and Traumatology<sup>☆</sup>



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#### KEYWORDS

Professional liability;  
Patient safety;  
Clinical safety;  
Claims

**Abstract** The specialist in orthopaedic and traumatological surgery, like any other doctor, is subject to the current legal provisions while exercising their profession. Mandatory training in the medical–legal aspects of health care is essential. Claims against doctors are a reality, and orthopaedic and traumatological surgery holds first place in terms of frequency of claims according to the data from the General Council of Official Colleges of Doctors of Catalonia. Professionals must be aware of the fundamental aspects of medical professional liability, as well as specific aspects, such as defensive medicine and clinical safety. The understanding of these medical–legal aspects in the routine clinical practice can help to pave the way towards a satisfactory and safe professional career. The aim of this review is to contribute to this training, for the benefit of professionals and patients.

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**PALABRAS CLAVE**

Responsabilidad profesional;  
Seguridad del paciente;  
Seguridad clínica;  
Reclamaciones

## Seguridad clínica y reclamaciones por responsabilidad profesional en Cirugía Ortopédica y Traumatología

**Resumen** El especialista de cirugía ortopédica y traumatología, como cualquier facultativo, está sujeto en su ejercicio profesional a la normativa legal vigente y resulta imprescindible su formación en los aspectos médico-legales de obligado cumplimiento en la asistencia. Las reclamaciones contra los médicos son una realidad y la especialidad de cirugía ortopédica y traumatología ocupa el primer lugar en frecuencia de reclamaciones según los datos del Consejo General de Colegios de Médicos de Cataluña. Los profesionales deben conocer los aspectos fundamentales de la responsabilidad profesional médica, así como de la medicina defensiva y la seguridad clínica en su especialidad. La comprensión de estos aspectos médico-legales en la práctica clínica habitual puede ayudar a allanar el camino hacia una carrera profesional satisfactoria y segura. Con este trabajo de revisión queremos contribuir a esta formación en beneficio de profesionales y pacientes.

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## Introduction

After the 1999 publication of *"To err is human: Building a safer health system"*<sup>1</sup> by the American Institute of Medicine (USA) patient safety and the risk of claims due to malpractice have become two of the most outstanding concerns worldwide. The report alerted to adverse event rates of between 2.9% and 3.4% in hospital stay cases, of which between 53% and 58% would have been preventable. Extrapolation of results for outpatient care revealed even more alarming figures, reporting on medical care that was less safe than it should have been and arousing general interest from the public on patient safety in practical healthcare.

## Clinical safety

The importance of patient safety, defined as the absence of avoidable errors or complications resulting from the consequence of interaction between the health system and its professionals with the patient in the health care received,<sup>1</sup> has received international recognition. In 2002 the World Health Organisation (WHO) pressed for reinforcement of the basic measures in scientific knowledge to improve patient safety and the quality of health care.<sup>2</sup> The World Alliance for Patient Safety was founded in 2004, its purpose being to coordinate, disseminate and accelerate patient safety measures worldwide and serve as a vehicle for international collaboration between member states, the WHO, experts, consumers, professionals and the sector.<sup>2</sup> In Spain, Act16/2003, on the cohesion and quality of the Spanish National Health service positioned patient safety at the centre of health policies.<sup>3</sup> Patient safety, understood as the marker of health quality, seeks to reduce and prevent health service risks, thereby contributing to the excellence of the system and is reflected as such in the National Health Services Quality Management Plan.<sup>3</sup>

For two years now, scientific associations have equally intensified their actions regarding patient safety. With regards to orthopaedic and trauma surgery, the *American Academy of Orthopaedic Surgeons* (AAOS), the *European Federation of National Associations of Orthopaedics and Traumatology* (EFORT), the *Sociedad Española de Cirugía Ortopédica y Traumatología* (SEOTS) and the *Sociedad Española de Cirugía de Cadera* (SECCA) design jointly agreed instruments of clinical safety such as checklists,<sup>4</sup> protocols or medical practice guidelines. The AAOS created a Patient Safety Committee which interacts with private and governmental bodies, such as the Joint Commission (TJC), WHO and Centers for Disease Control and Prevention (CDC) to develop programmes and materials to increase patient safety in OTS.<sup>5</sup> EFORT is a member of Health First Europe (HFE), a non-profit making organisation which started out as a result of the non-commercial patient alliance of healthcare workers, health specialists, academics and representatives of the medical care industry. One of HFE's issues, which had already been introduced in 2004, is patient safety and infections associated with health care. Its collaboration with EFORT focused on this issue and in particular around the EU Joint Action on Patient Safety and Quality of Care (PaSQ), a 3-year project financed by the members states of the European Union (EU) which commenced in May 2013. The aim of this project was to consolidate a permanent safety network for EU patients through the Exchange of information and experiences, and the introduction of good clinical practices.<sup>6</sup>

SEOTS has contributed to the creation of protocols, clinical guidelines and informed consent documents (ICD) in this speciality, applying the principle of patient autonomy. ICDs have 3 necessary requisites: voluntariness, information and comprehension – i.e. the patient is freely allowed to accept the treatment offered once the procedure has been explained to them, with information about what could

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