



Obstetric and gynecologic malpractice claims in Saudi Arabia: Incidence and cause



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ABSTRACT

Introduction: The occurrence of a bad outcome, injury or death of a patient during treatment increases the chance of malpractice litigation, increases legal responsibility and leads to increased fees for malpractice insurance. Physicians practicing obstetrics and gynecology face among the highest risks of malpractice litigation, and such litigation has led to an increase in the practice of defensive medicine and has made this specialty less appealing. Previous clinical data from Saudi Arabia have shown that more malpractice litigation concerns claims in obstetrics and gynecology than claims in any other field of medicine.

Objective: To identify the main causes of obstetrics and gynecology (OBGYN) professional liability claims in Saudi Arabia to have a better understanding and management of risks.

Methods: All OBGYN claims opened in Saudi Arabia between 2008 and 2013 were analyzed to identify the most common causes of claims. The results of these claims and the times until a final judgment made were also analyzed.

Results: Out of a total of 463 malpractice claims that were closed during the study period, 114 (24.6%) claims were in obstetrics and gynecology, and 92 (80.7%) of these claims concerned complications related to delivery room events. The most common causes of obstetric malpractice litigation were shoulder dystocia (brachial plexus injury) and fetal distress (hypoxic ischemic encephalopathy). Urinary system injury was the most common cause of gynecology cases. Most cases were decided in favor of the defendants with the exception of cases for which maternal and/or fetal death was the cause of litigation; nearly all of those cases were decided against the defendants.

Conclusion: Obstetricians face a high risk of malpractice claims in Saudi Arabia, although most claims do not end in payments to plaintiffs. However, the effects of such claims on obstetric care should not be underestimated. Adherence to standards of care and careful documentation may decrease litigation and the number of indefensible malpractice claims.

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1. Introduction

Litigation is a major issue in obstetrics and gynecology (OBGYN) practice and the field of obstetrics accounts for most of the claims.^{1–3}

A recent survey conducted by the American Medical Association (AMA) of US physicians showed that 5% of respondents had faced a malpractice claim in the preceding year. A total of 34% of obstetricians had faced litigation; this was one of the highest rates for any

medical specialty.⁴ Moreover, according to a recent ACOG (American College of Obstetrics and Gynecology) survey, 42.3% reported one or more malpractice claims, and majority of these claims were related to obstetric care (63.2%).⁵ The result of such a high litigation rate on the practice of OBGYN remains unclear, but these issues have led to practicing defensive medicine, for example by having a lower threshold in performing cesarean delivery which has led to an increasing rate of cesarean deliveries; having a lower rate of instrumental delivery; and exhibiting a reluctance to assist with vaginal births after cesarean section (VBACs).^{6–8} In a survey about practicing defensive medicine among high-risk specialists, 78% of respondents answered “yes” to questions about avoidance behaviors, 46% stated that they were avoiding obstetric practice altogether, and 32% stated that they were avoiding high-risk obstetric cases.⁹

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The same ACOG survey also showed that 51% of OBGYN respondents had made one or more changes to their practices during the preceding three-year period because of the increasing cost of malpractice insurance, and almost 58% had made one or more changes to their practices to avoid professional liability claims or malpractice litigation.

Among those who practiced obstetrics, cesarean deliveries rate was 15% increased, 13.5% had avoid VBACs, 8% had decreased the number of total deliveries, and 12% of those who also practiced gynecology said that they had reduced the number of gynecological patients that they saw.¹⁰ Such claims may also contribute to the cessation of all obstetric care by some practitioners. The ACOG's recent survey showed that 5% of the respondents had stopped practicing obstetrics and that this cessation of practice had led to decrease in obstetric service in some areas in United States.^{3,11}

Most litigation against obstetrician-gynecologists relates to the management of labor and delivery. Majority of obstetric negligence claims (60%) was secondary to events that occurred during labor and delivery.^{12,13} most of the published data suggests that most of this litigation is a result of failure to deliver standard of care that has resulted in avoidable injury.^{14–18}

In Saudi Arabia, the published data suggest similar trends. A 21% increase in the number of negligence claims from 569 to 718 claims, was observed from 1999 to 2002. An analysis of the distribution of claims over different medical specialties shows that obstetrics is the highest, at 27% of all claims, followed by general surgery at 17%, internal medicine at 13%, and pediatrics at 10%.¹⁹ In Saudi Arabia, all medical claims are directed to the Medico-Legal Committee, which is responsible for receiving claims and investigating professional malpractice claims involving morbidity or mortality.

The medical litigations process starts with filing of complaint by the patient or their relative of bad outcome. The complaint is directed either to the Ministry of Health or the city government, then the claim will be directed to the Medico-Legal Committee which proceed with the process of investigation, interrogation with the medical staff involved in the event and revision of all documents together with the interview with individuals from both sides of the claim—the plaintiff and defendant(s), in order to reach a final decision on the accusation or clearance from the claim according to the “Regulations of Medical Practice, which is based on professional aspects and governed by Islamic Shariaah law”. Closure of the claim is made after the rolling or agreement between the two parties on certain settlement. Both parties have the right to appeal.

In order to reduce the liability risk, we should find the reasons that led to litigation, analyze the causes of litigation and the results of medical malpractice cases. In this study, we analyze all claims that have been made against OBGYN practitioners in Saudi Arabia over a period of five years to identify the causes and the end results of such claims.

2. Materials and methods

We calculated materials collected by the Medico-Legal Committee from 2008 to 2012. All cases that included litigation of malpractice in the specialty of OBGYN were reviewed. The sources of data consisted of medical records, recorded statements, expert reviews, deposition summaries, and results reports. The numbers of claims per year were calculated for each year of the study period. IRB approval was obtained from our hospital prior to the review.

Cases were divided into obstetrics cases and gynecology cases and were further subdivided into additional categories based on the nature of the issue or allegation. Each case was then analyzed to determine the number of people who were accused, the professions (physicians, nurses, midwives) of the accused health

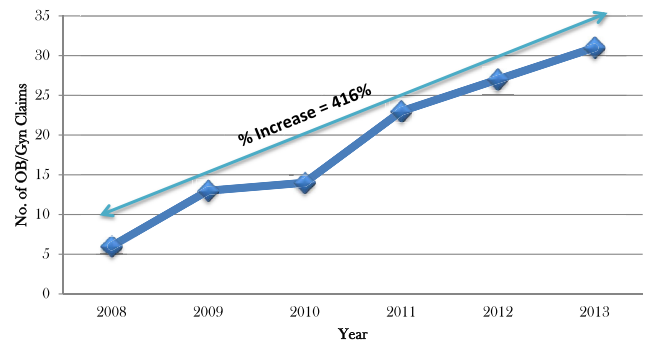


Fig. 1. Distribution of closed obstetrics and gynecology medical malpractice claim by year of claim.

professionals, the institute where the fault had happened, the total time needed to close these claims and the rolling results.

The cases were further evaluated with respect to care standards to determine whether a breach of care standards had occurred.

3. Results

There was 463 malpractice claims that were closed during the study period (2008–2013), 114 (24.6%) cases were in the fields of obstetrics and gynecology. Patients' ages ranged from 18 to 59 years in this study, with a mean age of 27 years. As shown in Fig. 1, increase in the number of medical malpractice claims between 2008 and 2013 (from 6 to 31 cases; around 416%), most claims 92 (80.7%) were related to obstetrics and most of these claims were related to complications that occurred in the labor and delivery room.

When the claims reached the Medico-Legal Committee, they were processed in between 1.6 years and 2.1 years, with a mean of 1.8 years. Table 1 shows the distribution of claims across different types of institutions; the greatest number of claims concerned care that had been received in a military hospitals, Ministry of Health has the lowest rate of claims though it provide 60% of the health-care in Saudi Arabia.

A total of 74% (84) of all obstetrics and gynecology malpractice cases placed blame on the obstetrician or gynecologist, 22% (25) placed blame on the hospital in which care had been received, and only 4% (5) placed blame only on the midwife or the attending nurse.

Analysis of the obstetrics claims and of the results of the obstetrics claims (Table 2) showed that the most common cause for malpractice claims was shoulder dystocia (brachial plexus injury). Shoulder dystocia was the cause of 63% of all claims, and most claims for shoulder dystocia were decided in favor of the plaintiff (72%).

An analysis of the gynecology (Table 3) claims showed that urinary injuries during gynecological procedures accounted for 77.3% of claims and that most of the cases were decided in favor of the defendants.

The main cause of maternal death in our review was massive hemorrhage which mostly caused by uterine rupture, uterine atony,

Table 1
Distribution of claims by medical sector.

| Claims | Military | Private | University | Ministry of health |
|--------------|-----------|-----------|------------|--------------------|
| Obstetrics | 35 | 25 | 18 | 14 |
| Gynecology | 9 | 6 | 3 | 3 |
| Total | 44 | 31 | 21 | 18 |

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