



Review

Clinical judicial syndrome: The impact of judicial proceedings on physician[☆]



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ABSTRACT

Complaints of alleged malpractice are a concern for doctors, however the impact these complaints have on them receives little attention. We present a systematic review of the scientific literature by searching the MEDLINE database, without no time limit, of manuscripts on doctors' reaction to a malpractice claim, carried out in Spanish, English and French. Their methodological quality was evaluated, and the results were analyzed. The search identified a total of 18 articles, mostly without empirical sample analysis, which described the clinical judicial syndrome construct, its symptomatology, prevalence, etiopathogenesis and issues of prevention and approach. The literature on this subject is very scarce and has poor empirical foundation. However, the available data underscored the relevance of the impact that these complaints have on doctors and highlight the need to establish preventive measures and approaches to the so-called clinical judicial syndrome.

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El síndrome clínico judicial: el impacto de los procedimientos judiciales en los médicos

RESUMEN

Las reclamaciones por presunto defecto de praxis resultan una preocupación relevante para los facultativos, sin embargo, el impacto que las mismas tienen sobre estos recibe escasa atención. Se presenta una revisión sistemática de la literatura científica mediante la búsqueda en la base de datos MEDLINE, sin límite temporal, de manuscritos en castellano, inglés o francés, sobre la reacción de los facultativos ante una reclamación por negligencia. Se evaluó su calidad metodológica y analizaron sus resultados. La búsqueda identificó un total de 18 artículos, en su mayoría sin análisis de muestra empírica, que describían la sintomatología, el constructo de síndrome clínico judicial, su prevalencia, etiopatogenia y aspectos de prevención y abordaje. La literatura médica al respecto resulta muy escasa y con una pobre fundamentación empírica. Sin embargo, los datos disponibles subrayan la relevancia del impacto de las reclamaciones sobre los facultativos y urgen a instaurar medidas de prevención y abordaje del denominado síndrome clínico judicial.

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Palabras clave:

Síndrome clínico judicial

Síndrome de estrés por mala praxis

Estrés por litigio

Negligencia

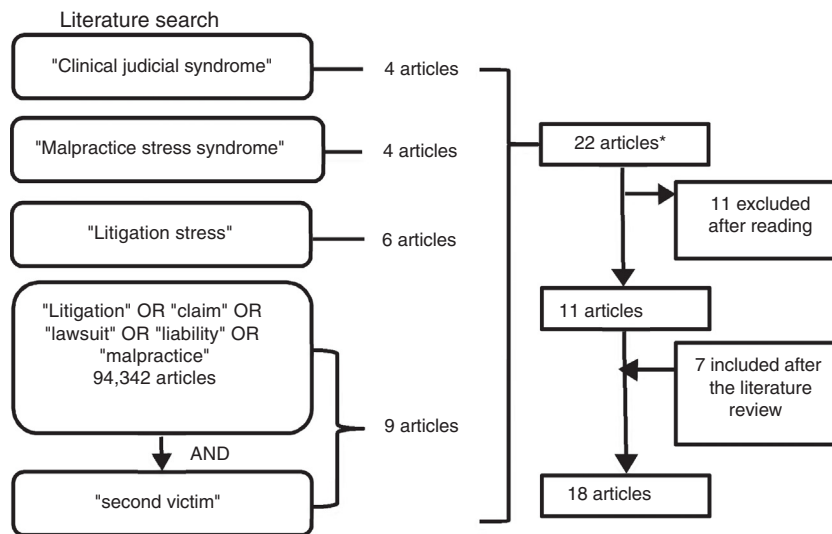
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Introduction

Claims for alleged malpractice are a concern for doctors.¹ Litigation is extremely stressful and entails an inevitable physical, emotional and behavioral response.^{2,3} This subject has been dealt with in the medical literature, although scarcely, with different denominations and from different perspectives, however it is little known in our environment and lacks empirical data. So far,



*The same article is present in two of the searches carried out.

Figure 1. Sample selection. *The same article was present in two of the searches carried out.

medical, political and judicial corporations, as well as professional or patient associations, the media or society in general, have not shown sufficient interest in this issue despite the distress that these alleged malpractice claims produce in health professionals.⁴ In an international context of increased claims, some people point to an epidemic of this syndrome among professionals in the coming years.⁴

The present manuscript aims to address the concepts related to the construct of the clinical judicial syndrome (CJS), its etiopathogenesis, clinical characteristics, prevalence, prevention and approach through a systematic review of the medical literature.

Methodology

A literature search was carried out in the PubMed digital repository during the month of November 2017 with the terms “clinical judicial syndrome”, “malpractice stress syndrome” and “litigation stress”, as well as a complementary search that combined the term “second victim” and different terms related to the claims for alleged medical professional responsibility, yielding the results shown in Fig. 1.

The articles located by means of this literature search were reviewed, those that did not provide information on CJS were discarded and new manuscripts of interest were identified among the references of those selected, constituting a final sample of 18 documents (Fig. 1).

Results

History of the concept

Litigation was identified as a factor of stress for doctors in the USA at the end of the 1980s.⁵ In 1993, the Argentine Medical Association group, led by professor Elías Hurtado-Hoyo, coined the term “clinical judicial syndrome” in reference to all the alterations that modify the state of health of an individual who is subjected to judicial proceedings from inception (citation, legal claim), during its different stages (conciliation-mediation, court case, sentence) and/or after having completed it, encompassing all the physical, psychological and moral impact that may occur. This construct uses the term “syndrome” as a clinical condition, symptomatic

set or pathological state; the term “clinical” to emphasize that it is triggered without physical or traumatological violence, exclusively psychological violence; and the term “judicial” in reference to the fact that it is generated through different harmful agents, all of them related to judicial proceedings as the specific harmful agent.⁶

The judicial proceedings as a stressor

Judicial proceedings are painful, costly and damaging on a personal level, as well as a cause of emotional, personal and physical distress for the family of the defendant.⁴ Doctors who are taken to court may perceive the judicial process as a threat to their integrity and react dysfunctionally,⁷ as it happens in other health-related professions.⁸

The diagnosis of CJS requires the history of having received a legal claim⁹ and the judicial process itself is the harmful agent that generates the symptomatology, regardless of whether there is a court trial and the lawsuit’s outcome.⁵ From the moment he receives the legal claim, the doctor loses control over the situation, does not have the training or experience to take on the situation and must delegate his defence to his lawyer, with the different dynamics that can develop between both.¹⁰ Legal action is the triggering factor, and several specific moments of the process are especially worth mentioning:

- Its onset, with the unexpected and sudden arrival at the doctor’s home of the notification of the legal claim or initiation of judicial proceedings and the categorical and aggressive language normally used by the patient’s legal representatives.^{4–6} Certain expressions, such as negligent or culpable homicide, paralyze the doctor, although rationally speaking, they express the idea that there was no willingness to kill.⁹ A particularly negative effect has been described in connection with unfounded allegations, negative details without clinical relevance, offensive and irrational assertions, claims without a scientific basis or disproportionate economic claims.^{4,6} Misused words are not inoffensive, since they can have a harmful effect on health, transforming themselves into an aggressor.⁶
- The process of investigating what happened is at times very inquisitive, with interrogations and statements. The necessary

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