

Original article

Analysis of Judgments in the Practice of Cardiology Resolved on Appeal in Spain Between 1992 and 2007

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ABSTRACT

Introduction and objectives: The increase in the prosecution of health issues in Spain has increased the interest in legal claims against physicians. Our objective is to analyze the judgments issued in relation to cardiology practice in Spain in recent years.**Methods:** We analyzed the 1899 sanitary judicial sentences issued in Spain in the second instance or later during the period 1992 to 2007. The data sheet includes 25 administrative, clinical, and judicial variables. In addition to a descriptive study, comparative analysis was performed on selected variables.**Results:** There were 32 sentences in the field of cardiology, 31% decided for the plaintiff and with an award amount never exceeding 365 000 euros. The most frequent clinical diagnosis is coronary syndrome (50%). There is a significant statistical relationship ($P < .004$) between physician specialty and reason for the claim: the most frequent causes (misdiagnosis and malpractice) affected predominantly noncardiologists, while defects in information or informed consent (9.5% of cases) affected cardiologists exclusively. Patient death occurred in 75% of cases.**Conclusions:** Despite cardiology being a “low-risk discipline” compared to others, the litigant activity has increased dramatically in recent years. Causes for the claims are related to the specialty of the involved physician; misdiagnosis and/or malpractice and defects in information should be emphasized, the former for its frequency and the latter for its novelty.

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Análisis de las sentencias judiciales en la práctica de la cardiología resueltas en segunda instancia en España entre 1992 y 2007

RESUMEN

Introducción y objetivos: El incremento de la judicialización de los asuntos sanitarios ha aumentado el interés hacia las demandas contra médicos. El objetivo es analizar las sentencias relacionadas con la práctica de la cardiología en España en época reciente.**Métodos:** Se han analizado las 1.899 sentencias judiciales sanitarias emitidas en España en segunda instancia o posteriores durante el periodo de 1992 a 2007. La ficha de datos consta de 25 variables administrativas, clínicas y judiciales. Al estudio descriptivo, se añaden comparaciones estadísticas entre variables cuya posible relación se juzga de interés.**Resultados:** Existen 32 sentencias en ámbito cardiológico, y son condenatorias el 31%, con cuantías nunca superiores a los 365.000 euros. Se ha cuadruplicado el número de denuncias en 2000-2007 comparado con 1992-1999. La patología más frecuente es el síndrome coronario (50%). Hay relación estadística ($p = 0,004$) entre tipo de profesional implicado y causa de la demanda: las causas más frecuentes (error diagnóstico y/o mala praxis) afectaron a los no cardiólogos, mientras que las demandas por defecto de información (que alcanzan el 9,5%) recaen mayoritariamente en cardiólogos. El fallecimiento del paciente se produjo en el 75% de los casos.**Conclusiones:** Aunque la cardiología tiene «bajo riesgo» de demanda judicial comparada con otras especialidades, la actividad litigante aumentó notablemente en años recientes. Las causas de demanda se relacionaron con el tipo de profesional implicado, y destacan el error diagnóstico y la mala praxis por su frecuencia y el defecto de información por su novedad.

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INTRODUCTION

The increase in healthcare-related litigation in Spain has affected all specialties, whether surgical or medical, in hospital or outpatient settings. Between 1995 and 1998, 932 claims were made against the Spanish National Health System.¹ Medical errors cost the now extinct INSALUD (*Instituto Nacional de la Salud*) 4.3 million euros in payments to 95 patients (a mean of 47 000 euros per patient). By specialty, emergency medicine accounted for 23.8% of the claims, gynecology and obstetrics for 18.2%, and traumatology for 11.2%. These data are in line with a study by Torre,² of the Willis insurance company, with data from reinsurance of public health services in Spain between 2005 and 2007. A study of the British National Health Service found that between 1999 and 2000, 3254 claims were filed, with a cost of 462 million euros.³

An immediate consequence of these claims could be the systematic practice of defensive medicine. Such an approach is far from the ideal of a fluid relationship between doctor and patient, based on mutual trust and with a bioethical focus that enhances patient autonomy. However, an analysis of the factors that drive the filing of a claim and knowledge of the factors that influence the outcomes of legal action could help cardiology specialists to assess certain clinical practices, with particular care warranted in situations that could give rise to a legal claim.

In this article, we aim to determine the characteristics of condemnatory sentences against physicians in cardiology-related cases, taking into account all variables that might have an influence both on whether a claim is made as well as the final sentence. The objective is therefore to establish the main characteristics from the medical-legal point of view, particularly when the sentence is condemnatory in some form, and the sum of that compensation. The findings could ensure safer medical practice within the specialty, both for the patient and for the physician, as there are certain characteristics of the specialty that should be highlighted, particularly as these characteristics may lead to professional liability.

Finally, we would like to highlight that there are no similar studies that make specific reference to cardiology in Spain in the literature in recent years.

METHODS

Source Material and Inclusion Criteria

For its source material, the present study used the archive of health-related sentences of the School of Legal Medicine of the Complutense University in Madrid, Spain. This archive contains 1899 sentences of first or higher appeal courts (taken from a total list of 6300) referring to health activities and issued within civil, criminal and administrative jurisdictions between January 1992 and June 2007. The source of this archive is sentences published by the Westlaw Aranzadi database, which collated all initial verdict or higher appeal sentences in the study period. The following search terms were used: *professional liability, malpractice, negligence, health, claim, bodily harm, accusation, complaint, medical error, or imprudence*. We should clarify that the hierarchy of the Spanish courts is based on their procedural function. Thus, we have the plea courts, which issue an initial verdict. Sometimes, however, a new legal procedure is initiated before a higher court. The progressive hierarchy of these courts is as follows: provincial high court (highest court in the province), regional high court (highest court in the autonomous region), national court (highest court in Spain), and Supreme Court (which deals with state affairs such as terrorism, organized crime, arms dealing, drug trafficking, etc.).

The sentences of the plea courts are not systematically published in any databases. The parties proceed to an appeal court when they are not in agreement with the initial verdict. There is an exception for administrative claims, as they can go directly to the regional high court without passing through a plea court.

The archive includes 32 sentences that were included in this study. The following inclusion criteria were applied: *a)* sentence referring to a physician specialized in cardiology, who was exercising his or her specialty, or a sentence referring to a physician in which his or her specialty is not recorded, but in which the incident object of the claim corresponds to cardiology, according to the definition of actions included in the annex to order SCO/1259/2007, dated April 13, whereby the training program for the cardiology specialty was approved and published, and *b)* text of the sentence in which the treatment object of the claim, the circumstances and the place where they occurred, their consequences, and the legal decision are given.

Variables Collected

The data collection sheet included the following variables, classified according to the field to which they correspond:

- *Administrative variables:* identification key in the Aranzadi database (reference); court (civil, criminal, or administrative) in which the claim takes place; date of sentencing; autonomous region where the claim occurred; court that issued the sentence; and field of activity of the respondent.

- *Clinical variables:* age of patient, sex of patient, main presenting complaint, and disease diagnosed.

- *Legal variables:* number of respondents; whether a cardiologist was involved or not; type of professional (cardiologist or noncardiologist specialist or staff), grounds for the claim; outcome of the damage claimed; sum of the claim; sum of the award in the event of a condemnatory sentence; and whether there was a condemnatory sentence.

Statistical Analysis

First, a simple descriptive study of the variables collected was undertaken, using percentages. With regard to autonomous regions and the area of activity of the professional accused, in order to “normalize” in some way the number of sentences with regard to the medical activity performed, the number of hospital beds available according to data from the Spanish Ministry of Health, Social Policy, and Equality, updated in January 2011, was used. This allowed the rate of sentences per 100 000 hospital beds to be calculated (Table 1). For sets of 2 variables whose distribution could be related, and this relationship could be of interest, variables were compared with contingency tables using the chi-square test. These tests were performed using the SPSS 19 statistical program.

RESULTS

Descriptive Study

Table 1 shows the administrative variables. Most of the sentences were issued in civil courts (75%). Over the years, an increase in the number of sentences can be appreciated. In the last 8 years (2000 to 2007), 26 sentences were issued, representing an increase of 430% compared to the 6 sentences issued in the first 8 years of the study (1992 to 1999). Sentences were issued in 9 of the 17 autonomous regions. Although the largest absolute number of sentences is in Catalonia and Community of Madrid, the rate of

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