



Negligence in the Dental Profession and Its Liabilities in Afghanistan

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A dentist is a healthcare professional who provides care to patients, similar to a physician. Dentistry also involves the technology of creating various devices and placing artificial materials to replace or enhance lost teeth and surrounding structures. Additionally, it holds a medical responsibility for treating patients with oral cavity diseases. Clearly, the dentist has a responsibility to deliver dental care with a specific standard. If a dentist ignores this standard of care and injures the patient, they are guilty of neglect. Negligence in dentistry can take many forms, including practicing without the appropriate license, making a false diagnosis, not adhering to infection control procedures, not getting informed consent, administering inappropriate treatment, and ignoring the ethical and legal duties of dental professionals. While there is no specific law for medical malpractice in Afghanistan, such cases are resolved here according to the Medical Ethics Code of Afghanistan, which provides a framework for accountability. The goal of this review is to provide dental practitioners with general information on different types of dental negligence and the legal actions (liability frameworks of Afghanistan).

Keywords: Dental Profession, Dental Negligence, Ethical Principles, Liability, Legal Actions\

Introduction

Throughout history, it has been understood that the medical profession, which serves the public good and is rooted in noble principles, can only thrive through adherence to specific ethical, moral, legal, and social guidelines [1]. Dental professionals must work together to improve oral health in society, and professionalism includes the abilities, morals, practices, and standards expected of a professional [2]. Similar to a doctor, a dentist is a medical practitioner who treats people [3]. There is an inherent duty for dentists to practice dentistry according to a certain standard of care [1]. Unfortunately, instances of negligence can occasionally result in irreversible harm to patients [4]. If someone breaches this duty and causes patient injury, they are considered negligent, which can lead to a lawsuit against the dentist [5]. Dental practitioners must be mindful of the legal aspects, as there is an increased likelihood of encountering such cases, especially with the rise of patient empowerment and a growing demand for enhanced personal appearance [1].

The doctor must attribute any resulting damage solely to negligence and not to other factors and be responsible for proving their lack of knowledge if they claim ignorance [6]. Dental professionals must be skilled in diagnosis, stay updated with the latest treatments, and refer patients when appropriate, because a dentist's role is to alleviate pain, but never to harm the patient [7]. The appropriate authority imposes the law as a societal obligation, and failure to comply can result in penalties, including fines or imprisonment [8].



Afghanistan does not yet have a comprehensive medical and dental negligence statute or law that focuses exclusively on medical negligence [9]. Nonetheless, there are statutes (generic laws, rules, or provisions under the larger legal system) that address medical malpractice, carelessness, and responsibility in Afghanistan's healthcare system [10].

On October 11, 2020, the Medical Ethics Code was enacted in conformity with Public Health Act Article 33. In resolving conflicts, it tries to preserve the rights of doctors, patients, and medical professionals [11]. The rule only addresses careless behavior; it is not intended to penalize medical personnel who injure patients [12].

The frequency of patient complaints against physicians and institutions for medical malpractice has steadily increased in recent years [8]. While some are genuine, others are designed to swindle doctors and hospitals out of their quick money [8].

This review will inform dental practitioners about the negligence and its different types, the legal actions (liability frameworks of Afghanistan), and treatment patterns that could be vulnerable to legal claims so they can take precautions to prevent them.

Negligence and Liability

Negligence, derived from the Latin *neglego*, meaning neglect, denotes, lack of proper care and attention, culpable carelessness [3]. It has been characterized as disregarding, failing to care for, failing to pay attention to, or ignoring the necessity [4].

Liability describes the legal accountability of medical personnel, facilities, or organizations for any harm, injury, or damage a patient may sustain as a result of their conduct, carelessness, or failure to provide the necessary level of care [32]. Numerous claims may arise from medical responsibility, including:

1. Malpractice: When a medical professional fails to carry out their responsibilities in accordance with the recognized standard of care, it can cause injury to patients.
2. Negligence is when a healthcare professional does not act with the anticipated level of care, which could cause harm to a patient.
3. Product Liability: When medications or medical equipment malfunctions and injures patients [29].

Dental Negligence: Dental negligence is defined as when a dentist treats a patient improperly, resulting in patient injury [5]. Medical negligence includes dental carelessness as well [29]. Negligent dental practices include some of the following types and their liabilities in Afghanistan:

1. Practicing without registration (unregistered practitioners): A dentist who has not completed the required education or passed licensing exams yet and continues to perform dental procedures (extractions, fillings, or root canals) or, provides dental services without properly licensing or registering with the appropriate regulatory authority, uses a false license, or continues to practice after the authority revokes or expires their registration [12]. This is considered a form of negligence in dentistry because it violates legal and professional standards, putting patients at risk and undermining public trust in healthcare practices [13].



Liability: According to Article 3, Section 1 of the Medical Ethics Code of Afghanistan, a doctor is a person who has graduated from any (internal or external) higher educational institutes that are acceptable to the government of Afghanistan and passed the Afghanistan medical license exam [11]. Depending on the seriousness of the infraction and the harm caused, a dentist who violates Afghan medical ethics and injures a patient may be held negligent and face fines, loss of professional privileges, or even criminal charges [14, 13].

2. Misdiagnosis: The issue develops and requires more involved and expensive treatments if a dentist is unable to identify a cavity, an infection, or a dangerous condition like oral cancer [15].

Liability: A dentist may be held accountable under Article 7, Section 9 of the Medical Ethics Code of Afghanistan if they neglect to perform the necessary examinations or do not diagnose the patient's condition in accordance with the proper protocols, which may result in severe complications and increased accountability for the harm caused [11].

3. Failure to Follow Infection Control Standards: Healthcare providers shouldn't be the only ones responsible for preventing infections [27]. It is the duty of dentists to keep patients from becoming infected with one another [44]. Putting other patients' health or lives at risk (even without causing injury) can lead to charges of criminal negligence [27]. If a dentist disregards hygiene precautions or improperly sterilizes equipment, a patient may get HIV, Hepatitis B, or Hepatitis C [25].

Liability: Dentists must uphold strict infection control guidelines in accordance with Article 7, Sections 5, 6, and 7 of the Medical Ethics Code of Afghanistan [11].

Serious repercussions could arise from neglecting to do so, and the dentist could be held accountable for any illnesses they cause [26].

4. Failure to Obtain Informed Consent: If a procedure has possible complications or unexpected outcomes that a typical patient wouldn't expect, getting informed consent is important. Without it, there could be malpractice claims and accusations of harming the patient, either physically or emotionally. The consent process should include: Clear understanding of the diagnosis.

- A full explanation of the proposed treatment and any alternative options.
- Acknowledgment that no warranties or guarantees can be made.
- Authorization for adjustments to the plan if unforeseen circumstances arise.
- A discussion of all possible side effects and consequences of the proposed or current treatment plan [24].

Liability: All patients are entitled to information regarding the procedure and its possible consequences, as stated in Article 3, Section 6 of the Medical Ethics Code of Afghanistan [11]. Failure to provide this information may be viewed as negligence, although it may not be required in emergency situations [23].

5. Improper Treatment

5.1. In endodontic (operative dentistry): During endodontic procedures, dental negligence may involve actions such as causing injury to the patient, having a guilty mindset, treating the wrong tooth or missing canals, and causing prolonged post-operative paresthesia [16].



Coughing, problems, and trouble getting the tools were caused by accidentally swallowing foreign objects like teeth, dental materials, and K-files, which could also be seen as neglect [17]. A dentist may be held accountable if they neglect to recommend a crown for a tooth that has had a root canal and has suffered a significant loss of tooth structure, resulting in a fracture [18]. Dentists should follow accepted practices (based on evidence-based dentistry), not traditional practices (anecdotal) [17]. The use of arsenic was once customary in traditional practices, and it is no longer considered in modern endodontic practice due to its potential complications [16]. If a complication arises from the use of arsenic, it could be considered negligence [18].

5.2. In prosthodontic: In prosthodontic rehabilitation, especially in advanced and complex cases, meticulous planning, strong clinical skills, and high technical standards are required [19]. During prosthodontic treatment, complications, injuries, dissatisfaction, or failure may arise [3]. When these issues result from negligence or violations of the standard of care, they are considered malpractice and can lead to ethical and medico legal complications. Similarly, creating defective dentures is considered a negligent act [4].

5.3. In Oral Surgery: An important source of malpractice claims against oral and maxillofacial surgeons is the possibility of anaphylaxis, serious physical or psychological harm, associated risks, or even death in patients who have had their teeth extracted from the wrong side or who have received local anesthesia without a test dose [20].

However, when a wrong-side tooth extraction occurs, immediate re-implantation, followed by endodontic treatment, can help preserve the tooth [3]. Clear referral forms, a pre-operative checklist, and an educational program can all help prevent and reduce these situations [19].

The extraction of the third molar, which is more prone to causing problems than other extractions, is another form of surgical malpractice [21].

Liability: According to Article 8, Sections 1, 2, 10, 11, and 13 of the Medical Ethics Code of Afghanistan, a dentist can be held liable for performing an inappropriate or substandard procedure that may cause long-term harm to the patient [11]. According to the standard of care, dentists must use proper methods and tools (like rubber dams with flexible frames, electronic apex locators, and rotary instruments) to prevent swallowing files. Failing to do so could lead to malpractice [16]. To avoid harming the nerves near the lower jaw and tongue during wisdom tooth removal, dentists should use up-to-date, clear panoramic X-rays and receive training on how to manage risks [21].

6. Negligence in Dentistry Due to an Unclear Prescription: A dentist can be considered negligent for performing a tooth extraction on a patient with valvular heart disease without administering antibiotics to prevent endocarditis (even if the patient does not develop the condition) or if the prescriptions are unclear or lack proper instructions [3]. It also neglects if the dentist gives the prescription but fails to include critical instructions, such as the dosage schedule, whether the medication should be taken with food, or any warnings about potential side effects, possible drug interactions, or the risks of overuse [25].

Liability: According to Article 8, Section 7, and Article 9, Section 1 of the Afghan Medical Ethics Law, dentists are not allowed to provide health services that violate established guidelines and standards [11]. They must not misuse their professional or medical authority, nor prescribe unnecessary tests or medications [26].



Dentists must avoid causing harm to patients in physical, psychological, economic, or social aspects [26]. In cases of medical negligence, failure to fulfill duties, carelessness, recklessness, or failure to adhere to medical regulations that cause physical or mental harm to the patient, such actions are prohibited [26]. If a dentist writes a prescription but misinterprets the instructions, the patient may end up taking more medication than prescribed, believing that if one dose helps, more will be even more effective. In such cases, a dentist can be considered negligent [25].

7. Failing to refer to specialists when needed: General dentists who attempt to treat cases beyond their area of expertise and neglect to refer patients to the proper specialist are also frequently found to be negligent [28]. For example, a patient complaining of extreme dental pain and sensitivity is being treated by a general dentist [3]. The dentist determines that the issue is a cavity and suggests a filling following a basic examination and standard X-rays [20]. But the dentist ignores the symptoms of a deeper, more serious problem, like an abscess or root canal infection that needs to be treated by an endodontist [17]. Insufficient for the patient's situation, the dentist begins with a normal filling [18]. If the issue had been referred to a professional sooner, the infection could have been prevented from worsening over time, resulting in excruciating pain, swelling, and potentially the need for a tooth extraction [28].

Liability: The Medical Ethics Code of Afghanistan states that dentists must treat patients within their areas of expertise in accordance with Article 7, Section 5, and Article 8, Section 13 [11]. They must refer the patient to a specialist who is more qualified to diagnose and treat the problem when a scenario emerges that is beyond their area of expertise or competence [26].

8. Delayed or Inadequate Follow-Up Care: After a dental procedure, the dentist fails to properly monitor or follow up with the patient to ensure proper healing or address any complications, such as infection or discomfort [17].

Liability: "According to Article 8, Sections 8 and 9 of the Medical Ethics Code of Afghanistan, dentists have a duty to ensure that patients receive appropriate follow-up care after procedures [11]. Neglecting this responsibility can lead to complications that might have been avoidable with proper attention [26].

Components of Carelessness (Negligence)

The primary route for seeking compensation is through a medical malpractice claim tort (civil wrong) [29], for which the patient must prove the following component:

1. The dentist owed a duty of care to the patient.
2. The dentist breached that duty by failing to meet the accepted standard of care.
3. The breach caused harm or injury to the patient.
4. The patient suffered damages (additional medical costs, pain and suffering, lost wages) [30].

Liability of dental practitioner

How Do Dental Practitioners Face Negligence Liability? [29,32].

Four categories apply to dental practitioners' liability.



1. Civil (Tortious) Liability
2. Contractual liability
3. Criminal Liability
4. Statutory Liability

1. Civil (Tortious) Liability (unintentional tort claim)

It could be of two kinds.

- a. Primary liability
- b. Vicarious liability

a. Primary liability: Primary liability occurs when a dentist bears direct responsibility for negligent conduct that occurs in their office or hospital. Primary liability in this situation refers to the dentist's personal responsibility for any acts or inactions that cause the patient direct injury [3]. Since the patient's injury or suffering is the result of the dentist's own failure to uphold the standard of care, the majority of dental negligence claims fall under this category [31].

b. Vicarious Liability: Employer Responsibility: If a dentist acts in the course of their employment while working for a clinic, hospital, or government agency, the employer could be held vicariously accountable for the dentist's activities [3]. For instance, the government or health agency may be held accountable for the injury caused if a dentist employed by a public health facility makes a mistake while providing treatment [31].

2. Contractual Liability

Dental practitioners must continue the treatment and not stop until the patient is completely symptomless or the patient does not want to continue treatment, because improper termination of treatment can lead to contractual liability [32].

3. Criminal Liability: Criminal liability is a penal offense that carries penalties such as fines, imprisonment, or both [32]. A dentist may be held criminally liable if their conduct is determined to be egregiously negligent or intentional, even though criminal charges are uncommon in dental negligence cases [27]. Criminal charges for jeopardizing patient safety, for instance, may result from serious infection control violations, such as reusing needles or instruments on several patients [18].

4. Statutory Liability: When a doctor has any infringement of statutes (specific laws or regulations), he is liable and answerable to a statutory body [32]. The type of infringement and the statutory provisions to be addressed determine the liability [31].

Conclusion

In conclusion, Dental practitioners, similar to curative professionals, have the responsibility to perform their work according to established standards to safeguard patient care and belief.

Various forms of negligence, such as practicing without license, incorrect diagnosis, improper infection control, failure to obtain patient consent, and improper treatment, can have serious legal and professional consequences.



Although there isn't a specific law in Afghanistan that addresses medical and dental negligence, the Medical Ethics Code and other legal frameworks provide instructions on culpability for careless conduct.

To mitigate risks, dentists must prioritize evidence-based practices, follow continuous dental education (CDE), and strict compliance with ethical guidelines. Ultimately, proactive reforms in policy, professional accountability, and public trust-building are essential to align Afghanistan's dental care system with global standards and ensure justice for patients harmed by negligence.

Suggestions

Afghanistan's reliance on general laws and the Medical Ethics Code, though a step forward, underscores the urgent need for comprehensive dental negligence legislation to address evolving healthcare challenges, patient rights, and modern clinical standards.

1. Strengthening regulatory oversight,
2. Enhancing patient awareness,
3. Fostering collaboration between legal and healthcare sectors

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