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CRIMINALIZATION OF MEDICAL NEGLIGENCE: A DETERRENT OR THREAT TO THE MEDICAL PROFESSION

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ABSTRACT

Concerns have been raised about the possibility that the criminalization of medical negligence could serve as both a threat to the medical profession and a deterrent in the healthcare industry. When a healthcare professional fails to provide patients with the expected level of care, this is known as medical negligence. Historically, civil litigation was the primary means of addressing medical negligence; however, the growing trend toward criminalizing such conduct aims to provide a more stringent accountability mechanism. Critics contend that criminalizing healthcare providers is a necessary deterrent because it ensures that they are held accountable for their actions and upholds high standards of care, increasing patient safety and trust in the medical system. Critics, on the other hand, warn that making medical negligence a criminal offense could create a climate of fear and hesitation among medical professionals, which could lead to defensive medicine and lower quality care. Open communication, professional autonomy, and existing problems like physician burnout could all be exacerbated by the threat of criminal prosecution. The ramifications of criminalizing medical negligence are examined in this abstract, with the purpose of determining whether or not it poses a threat to the integrity and well-being of the medical profession or merely serves as an effective deterrent. In order to determine whether or not this strategy is effective and fair, it is essential to strike a balance between accountability and the maintenance of professional trust.

KEYWORDS: Negligence, Medical, Harm, Professional, Liability, Care, Patient, Criminalisation

INTRODUCTION

Medical Negligence refers to the failure of a healthcare professional to provide the standard of care that is expected in their field, resulting in harm or injury to a patient. It involves acts of omission or commission where the professional's conduct deviates from what a reasonably competent provider would do in similar circumstances.

Several essential elements must be demonstrated in order to establish medical negligence legally:

Duty of Care: The healthcare provider must owe a duty of care to the patient. This means that the provider is legally obligated to act in a manner that meets established standards of care in their field.

Breach of Duty: The healthcare provider must have failed to meet the expected standard of care. This could involve errors in diagnosis, treatment, or aftercare.

Causation: There must be a direct link between the healthcare provider's breach of duty and the harm suffered by the patient. The negligence must be the cause of the injury or worsening of the patient's condition.

Harm or Injury: The patient must have suffered harm, injury, or loss as a result of the negligence. This could be physical, psychological, or financial harm.

A legal concept known as the "criminalization of medical negligence" holds that a healthcare professional is criminally liable for failing to provide the necessary level of care to a patient, resulting in significant harm or death. In the past, medical negligence was dealt with in civil court, where patients could sue for malpractice to get compensation for their losses. However, the criminalization of medical negligence introduces the possibility of criminal prosecution, where the healthcare provider may face jail time, fines, or other penalties in addition to civil liability.

The criminalization of medical negligence raises several important legal, ethical, and practical concerns and has been a subject of growing debate worldwide. Different legal systems approach the issue of criminal negligence in healthcare differently, influenced by cultural, societal, and legal contexts.

Concept of Medical Negligence

Medical negligence refers to the failure of a healthcare professional to provide the standard of care expected in their field, which results in harm or injury to a patient. It involves the breach of duty by a healthcare provider, where their actions or omissions fall below the acceptable level of care that is considered

¹ Medical negligence DRISHTI IAS, <https://www.drishtiias.com/daily-news-analysis/medical-termination-of-pregnancy-mtp-amendment-act-2021> (last visited Mar. 31, 2025).

appropriate for a given situation, leading to a patient's harm. Unlike errors or accidents, negligence specifically implies a lack of reasonable care or due diligence in providing medical services.

Elements of Medical Negligence

For medical negligence to be proven in a legal context, four essential elements must typically be demonstrated:

Duty of Care:

Definition: A healthcare provider owes a duty of care to their patient. This means that the healthcare professional must act in a way that is reasonably expected to prevent harm to the patient. A duty of care exists once a doctor-patient² relationship is established (e.g., when a doctor agrees to treat a patient).

Example: A doctor has a duty to ensure that their patient receives accurate medical assessments, proper diagnosis, and appropriate treatment. This duty is due to everyone in their care, not just the patient. Breach of Duty:

Definition: A breach of duty occurs when the healthcare provider fails to meet the established standard of care expected in the medical field. This breach can be an act of omission (failure to act) or commission (wrongful act or action).

Example: A doctor failing to diagnose a clear condition that is identifiable through standard diagnostic tests or a surgeon performing a procedure that deviates from accepted surgical practices, causing harm to the patient.

Causation:

Definition: Causation links the breach of duty to the harm suffered by the patient. It must be proven that the healthcare provider's negligence directly caused the injury or harm. This is often referred to as "proximate cause" or "causal link".

Example: If a patient develops a serious infection due to improper sterilization of surgical instruments, the healthcare provider's failure to follow sterilization protocols must be shown to have directly caused the infection.

² Medical Negligence and the New Criminal Law Codes — Healthcare Executive, HEALTHCARE EXECUTIVE, <https://www.healthcareexecutive.in/blog/medical-negligence#:~:text=Notably,%20Section%20304A%20of%20the,for%20up%20to%20two%20years.>

Harm or Injury:

Definition: The patient must have suffered actual harm, injury, or damage due to the breach of duty. This could be physical, emotional, or financial harm. Without harm, medical negligence cannot be established, even if there was a breach of duty.

Example: If a patient is misdiagnosed, but no harm results from the error (for instance, if the patient was not treated and later recovered independently), no negligence claim could arise because there was no harm or injury suffered as a result of the breach.

How Negligence Differs from Errors or Accidents in the Medical Field?

While medical negligence involves a breach of duty and causes harm due to a lack of reasonable care, errors and accidents in medicine³ refer to unintentional mistakes or outcomes that may not necessarily imply a breach of the expected standard of care. Below is a comparison of these concepts:

1. Medical Negligence versus Medical Errors:

Medical Error: A medical error is typically an unintended mistake or misstep in the course of medical treatment. It could be a mistaken diagnosis, an incorrect medication dose, or a surgical error. Medical errors do not always result in negligence unless they can be shown to fall below the expected standard of care.

Negligence: Negligence, on the other hand, involves a failure to act in accordance with accepted medical practices, resulting in harm. It's a more specific legal term implying that the healthcare provider did not meet the expected standard of care, even if they did not intend to cause harm.

Example: A doctor prescribing a drug that is contraindicated for a patient due to a lack of proper review of the patient's medical history may be deemed negligent. However, a doctor making a simple medication mistake due to a tiredness or momentary lapse might be considered an error without the element of negligence if it doesn't fall below the standard of care.

2. Medical Negligence vs. Medical Accidents:

A medical accident is an unanticipated and unintentional occurrence that results in harm to the patient. It usually does not involve negligence because it is not the result of a breach of duty. Accidents are often events outside of the control of the healthcare provider, such as an adverse reaction to a treatment that was correctly administered.

Negligence: In negligence, the provider's actions or inactions directly contribute to the harm. Negligence occurs when there is a failure to meet the required standard of care.

³ INDIAN JOURNAL OF MEDICAL ETHICS | MAIN HOME, <https://ijme.in/articles/supreme-court-judgement-on-criminal-medical-negligence-a-challenge-to-the-profession/?galley=print>

Example: If a patient experiences a rare allergic reaction to a medication, it may be an accident if all reasonable precautions were taken. However, if the patient is not properly tested for allergies before being administered a medication, and that oversight causes harm, it may be considered negligence.

Key Differences:

Intent:

Medical errors or accidents are generally unintentional and occur without any malicious intent or disregard for the patient's safety.

Negligence involves a lack of care, recklessness, or a failure to follow proper protocols, often implying a disregard for patient safety, even if unintentional.

Standard of Care:

A medical error or accident may not always breach the standard of care (e.g., unintentional error). In contrast, negligence involves a deviation from the accepted standard of care, making it an actionable claim in law.

A medical error may not always result in legal liability, especially if it was not a breach of duty or didn't result in harm.

Medical negligence, however, can lead to legal consequences, ⁴including civil lawsuits for compensation or even criminal charges in extreme cases of gross negligence.

Resulting Harm:

Errors or accidents can result in harm, but harm is not always guaranteed. A patient might not suffer harm even after an error or accident occurs.

In negligence, harm is a critical element, and the patient must prove that the negligence led to actual harm or injury.

Criminalization of Medical Negligence

The legal framework for criminal negligence (based on local, national, and international laws).

Local Legal Framework for Criminal Negligence

Local legal frameworks refer to the specific rules and statutes that apply within a particular region, such as a state or province, and they provide the basis for prosecuting criminal negligence cases at a more localized level.

⁴ INDIAN JOURNAL OF MEDICAL ETHICS | MAIN HOME, <https://ijme.in/articles/supreme-court-judgement-on-criminal-medical-negligence-a-challenge-to-the-profession/?galley=print>.

State Laws in the U.S.: In the United States, each state has its own set of laws and regulations governing criminal negligence, including those in the medical field. However, common legal principles exist across states. For instance, most states follow a common-law framework where criminal negligence involves recklessness or a gross deviation from the standard of care that a reasonable person would observe in similar circumstances. For medical malpractice cases, criminal negligence laws are incorporated into state statutes in some states. Example: In California, Penal Code Section 192(b) addresses involuntary manslaughter resulting from criminal negligence. If a healthcare provider causes a patient's death through reckless conduct or failure to exercise the standard of care, this statute may apply.

State Regulatory Bodies: In addition to criminal law, medical boards or professional regulatory bodies at the state level oversee medical negligence claims and professional conduct. These bodies can impose penalties, such as suspension or revocation of a medical license, and they may refer cases of gross negligence to criminal authorities.

Example: The Medical Board of California has the authority to investigate complaints against doctors for negligence. While the board cannot impose criminal penalties, it can refer cases of extreme misconduct to local law enforcement for criminal prosecution.

National Legal Framework for Criminal Negligence

At the national level, criminal negligence laws may be framed under broader legal systems, such as criminal codes or specific statutes related to healthcare. National laws outline the general principles of criminal negligence, and these laws provide a basis for the criminal justice system to prosecute negligent acts committed by healthcare providers.

United States Federal Law: Federal law in the United States allows for criminal prosecution of healthcare providers under certain circumstances, such as when the negligence occurs in a federal healthcare facility or involves violations of federal regulations (e.g., false claims under Medicare). While criminal negligence in healthcare is rare at the federal level, it is still a possible avenue for prosecution.

Example: 18 U.S.C. § 1347 (Healthcare Fraud) could be used to prosecute healthcare providers who engage in fraudulent practices that result in significant harm to patients.

The United Kingdom: In the UK, criminal negligence is often prosecuted under laws related to gross negligence manslaughter. Healthcare providers can be charged with manslaughter if their negligent

⁵ *New criminal code for medical negligence*, INDIAN LAW WATCH, <https://indianlawwatch.com/practice/medical-negligence-and-new-criminal-code/>

conduct leads to a patient's death. This is one of the most serious consequences in the criminal law system in the UK.

Example: The Criminal Justice Act 2009 amended the law surrounding gross negligence manslaughter, making it clearer when healthcare professionals could be prosecuted. Cases of gross negligence manslaughter may arise when a medical professional's action or inaction leads to death, such as a failure to recognize a life-threatening condition or administering the wrong treatment.

India: Indian law is guided by the Indian Penal Code (IPC), which includes provisions for criminal negligence that apply to medical professionals. The code penalizes negligent acts that cause harm, injury, or death. Section 304A of the IPC criminalizes causing death by negligence, which could apply to a medical professional if their negligent actions lead to a patient's death.

Example: A surgeon who performs a procedure incorrectly due to negligence and causes the death of the patient could be charged under Section 304A of the IPC for causing death by negligence.

Australia: In Australia, criminal negligence is addressed through national and state criminal codes. Medical professionals may be charged with manslaughter or criminal negligence causing harm if their actions lead to patient injury or death. Each state has its own laws related to criminal negligence.

Example: In New South Wales, the Criminal Code Act 1995 under Section 18 deals with manslaughter resulting from gross negligence in the medical field.

3. International Legal Framework for Criminal Negligence

Internationally, there is no single, unified legal framework for criminal negligence in healthcare, as medical negligence laws are largely governed by national and local laws. However, there are various international conventions, treaties, and standards that provide general guidance on medical practice and human rights, which may indirectly influence the criminalization of medical negligence.

World Health Organization (WHO): While the WHO does not impose criminal penalties for negligence, it provides ethical guidelines for healthcare professionals globally. These guidelines can influence national laws and regulations by promoting high standards of patient care and safety, indirectly contributing to the prosecution of gross negligence in medical practice.

International Covenant on Civil and Political Rights (ICCPR): Article 6 of the ICCPR protects a patient's right to life in the event of medical malpractice that causes their death. While the ICCPR itself does not

directly address criminal negligence in healthcare, it sets a general framework for the protection of life and may influence how governments respond to egregious medical negligence.

European Convention on Human Rights (ECHR): In Europe, the ECHR provides for the right to life and prohibits torture and inhuman or degrading treatment (Article 2 and 3). Cases of gross medical negligence that violate these principles can result in legal actions, especially where the negligence leads to serious harm or death.

Example: The European Court of Human Rights has heard cases where medical negligence, particularly involving the duty of care in detention settings or public health, has led to legal action for violations of the right to life or the prohibition of inhuman or degrading treatment.

International Case Law

Although criminal negligence laws differ widely between countries, there have been landmark international cases that have set precedents for how gross negligence in medical practice is treated.

Example: In the case of a negligent surgeon in Canada, courts have determined that the defendant must have exhibited gross ⁶negligence for criminal charges to apply, leading to a more nuanced understanding of what constitutes criminal negligence in healthcare.

CASE LAWS

Dr. Michael Swango (The Serial Killer Doctor)

The United States of America Charges: Murder, Fraud, Criminal Negligence

Verdict: Convicted of multiple counts of murder, serving a life sentence

Case Overview:

Dr. One of the most well-known instances of criminal medical negligence in American history is Michael Swango. His case was marked not only by medical malpractice but by outright criminal intent. Swango, who worked as a doctor and paramedic, was found to have intentionally killed at least 60 patients, though some experts believe the number could be higher.

⁶ Janine Collier, *When medical negligence becomes criminal*, EXPERT LEGAL SERVICES & INDEPENDENT FINANCIAL ADVICE | TEES LAW (Aug. 16, 2021), <https://www.teeslaw.com/insights/when-medical-negligence-becomes-criminal/>.

Dr. At first, Swango's actions were regarded as medical judgment errors. However, upon investigation, it became clear that his actions were deliberate, and he had intentionally poisoned his patients with lethal doses of medications like potassium chloride and other substances. As he targeted patients who were already vulnerable, his criminal negligence escalated to murder, and his actions were disguised as medical complications or natural deaths. Swango's case is a severe example where the healthcare professional's conduct was not just negligent but criminal.

Legal Outcome:

Swango was taken into custody in 2000 and charged with multiple counts of murder. He was convicted of the murder of at least three patients, and his case exemplifies how criminal negligence in healthcare can escalate into a pattern of intentional harm. The case remains one of the most notorious instances of medical malpractice turning into criminal behavior.

Dr. Harold Shipman (The English Serial Killer Doctor)

Dr. Harold Shipman, a British doctor, was one of the most notorious serial killers in the UK, with his criminal actions spanning over two decades. During his time as a general practitioner, he was liable for the deaths of at least 250 patients, the majority of whom were elderly women. His method of murder involved administering lethal doses of heroin to his victims, often under the guise of providing pain relief.

Shipman's case became widely known due to his ability to pass as a competent, trusted doctor for many years. Despite several suspicions about his practice, no one took formal action to investigate his conduct. His criminal negligence was not recognized until the late 1990s, when an investigation revealed that many of his patients had died under suspicious circumstances. Many of these deaths were initially attributed to natural causes, but later forensic analysis proved that they had been deliberately induced by Shipman.

Legal Outcome:

Shipman was arrested in 1998 and was convicted of 15 counts of murder in 2000. He was given a life sentence, and he passed away in prison in 2004, probably by suicide. His case led to widespread reforms in how death certificates and medical practices are monitored in the UK. The Shipman case highlighted how prolonged criminal negligence in the medical field could result in widespread harm ⁷over many years.

⁷ Articles @ Manupatra, ARTICLES @ MANUPATRA, <https://articles.manupatra.com/article-details/Supreme-Court-and-Medical-Negligence-Necessary-Protection-or-License-to-Kill>.

DIFFICULTY OF PROVING NEGLIGENCE IN MEDICAL CONDITIONS

1. Medical Knowledge and Expertise

Specialized Knowledge: Medical cases often involve highly specialized knowledge. For example, diagnosing a rare condition or performing a complex surgery requires expert understanding. Jurors or judges might not have the background to understand the technicalities of medical procedures.

Expert Testimony: Expert witnesses, such as physicians or specialists, are frequently required to explain the standard of care, how it was breached, and how the breach caused the patient's injury in order to demonstrate negligence. Disputes between experts can create confusion about the facts of the case.

2. Establishing the Standard of Care

What Is "Reasonable" in Medicine?: The standard of care in medicine is based on what a competent and reasonable healthcare provider would do in a similar situation. However, medicine is not an exact science, and the "right" approach can vary depending on the circumstances, patient needs, and available options.

Varying Opinions: In some cases, there might be multiple acceptable approaches to treatment, which can make it difficult to prove that one method was negligent.

3. Causation and the Complexity of Medical Conditions

Proving Causation: Even if a breach of care is established, proving that the breach directly caused the patient's injury can be very complicated. Many medical conditions have multiple potential causes, and it may be unclear whether the harm was a result of the healthcare provider's actions or due to other factors.

Pre-existing Conditions: If the patient had pre-existing health issues, it may be harder to show that the medical professional's actions caused the harm, rather than the natural progression of the patient's condition.

4. Documentation and Medical Records

Incomplete or Conflicting Records: Medical records are crucial in proving negligence, but they are not always complete, or they may contain discrepancies. In some cases, healthcare providers may not document every action or may have differing interpretations of what occurred.

Changes in Records: Sometimes, there can be issues with how or when medical records are updated, which can ⁸complicate the process of proving what actually happened during treatment.

Potential negative consequences for patients

1. Shortage of Healthcare Providers

- **Higher Premiums for Malpractice Insurance:** Healthcare professionals frequently require malpractice insurance to safeguard themselves from potential lawsuits. If the frequency of malpractice claims increases, insurance premiums can skyrocket. In some cases, providers may be forced to reduce their patient load, retire early, or stop practicing in high-risk areas, such as obstetrics or surgery, where the threat of litigation is often highest.
- **Burnout and Stress Among Providers:** Doctors, nurses, and other healthcare providers who are constantly at risk of legal action may experience burnout, stress, and mental health challenges. This may result in lower levels of job satisfaction, a decrease in the number of providers eager to enter the field, or even the complete retirement of healthcare professionals. A lack of new professionals entering the field can exacerbate the existing shortage.
- **Reluctance to Take on High-Risk Patients:** Some healthcare providers may avoid treating patients with complex conditions, particularly if there's a risk of complications, to minimize their liability exposure. This could lead to fewer specialists and healthcare providers available to treat certain conditions, reducing access to care for patients who need it the most.

2. Higher Healthcare Costs

- **Malpractice Insurance Premiums:** As mentioned, increased liability risks can lead to higher malpractice insurance premiums for healthcare providers. These added costs are often passed on to patients in the form of higher fees, co-pays, and deductibles. This can make healthcare less affordable and less accessible for many people.
- **Defensive Medicine:** To avoid lawsuits, healthcare providers may practice "defensive medicine," which involves ordering extra tests, procedures, or referrals that may not be medically necessary but are done to avoid liability. This increases the overall cost of care and may expose patients to unnecessary procedures, additional risks, and greater out-of-pocket expenses.

⁸ Medical Negligence – The Judicial Approach by Indian Courts – The Association of Surgeons of India, THE ASSOCIATION OF SURGEONS OF INDIA, <https://asiindia.org/medical-negligence-the-judicial-approach-by-indian-courts/>.

- **Hospital and Clinic Overheads:** The fear of lawsuits can also lead hospitals and clinics to adopt more stringent policies, invest in additional layers of administrative staff to handle legal issues, and create more extensive documentation systems to guard against malpractice claims. These added administrative costs can further increase the cost of care.

3. Impact on Access to Care

- **Reduced Availability of Certain Services:** If certain specialties (like obstetrics, neurosurgery, or emergency care) experience higher malpractice risks, doctors may choose to stop offering these services or even relocate to areas with lower liability concerns. This can lead to reduced availability of specialized care, particularly in rural or underserved areas.
- **Limited Treatment Options:** As healthcare providers become more cautious and selective in the cases they accept, patients may face fewer treatment options, longer wait times, or less personalized care. This can be particularly concerning for patients who require specialized treatments or have complicated medical histories.

4. Worsening of Health Outcomes

- **Delayed or Avoided Treatments:** If providers avoid taking on high-risk patients or refrain from offering necessary treatments due to the fear of litigation, patients may suffer from delays in diagnosis or treatment. For example, a surgeon may hesitate to perform a risky but necessary surgery due to the potential for complications and subsequent litigation, leading to worse outcomes for the patient.
- **Decreased Trust in the System:** A healthcare system that is overly focused on avoiding litigation rather than providing ⁹quality care can decrease patient trust. Patients may feel that healthcare professionals are more concerned with covering their backs legally than with offering the best possible treatment, leading to poorer patient-provider relationships and suboptimal care.

⁹ *Decriminalizing Medical Negligence Death or Criminalizing Medical Practice*, THE PACEMAKERS - HEALTHCARE NEWS AND MEDICAL UPDATES PORTAL, <https://thepacemakers.in/blog/decriminalizing-medical-negligence-death-or-criminalizing-medical-practice>

BALANCING ACCOUNTABILITY AND THE NEED TO PROTECT MEDICAL PROFESSIONALS

1. Clear Standards of Care and Guidelines

Establish and Maintain Clear Standards: Clear, evidence-based guidelines and protocols for medical practices are crucial. When healthcare providers follow established guidelines, it becomes easier to determine whether they acted negligently. If medical professionals adhere to well-established standards, it creates a clearer distinction between cases of genuine error and those of reckless or negligent behavior.

Continuous Education: Ongoing professional education and training on best practices, new treatments, and emerging risks can help providers stay up-to-date. This ensures that they adhere to current medical standards and reduces the likelihood of errors.

Adequate Malpractice Insurance: Healthcare providers should have access to affordable malpractice insurance to protect them from financial ruin in the event of an unjust claim. This provides peace of mind and ensures that providers can focus on patient care without the constant fear of litigation.

Legal Safe Harbors for Good Faith Actions: Legal frameworks could include "safe harbor" provisions that protect providers from criminal or civil liability if they follow certain practices, protocols, or procedures in good faith. This encourages doctors to make decisions based on their professional judgment without fear of being penalized for acting in the patient's best interest, especially in complex or high-risk situations.

2. Separate Civil and Criminal Liability

Differentiating Civil vs. Criminal Negligence: In medical cases, distinguishing between civil negligence (failure to meet the standard of care) and criminal negligence (reckless disregard for the safety of others) is crucial. Most medical malpractice claims are civil, not criminal, and should be addressed within the civil legal system. Criminal charges should only apply in cases of gross ¹⁰negligence or intentional harm, such as reckless endangerment or fraud, not in cases where a provider made an honest mistake.

Proportional Penalties: Criminal liability should be reserved for situations where there is clear evidence of intentional harm, malfeasance, or gross misconduct, rather than for unintentional mistakes or errors of judgment. The legal system should apply proportional penalties based on the severity of the conduct.

¹⁰ Medical negligence: Shifting focus from punishment to patient safety, THE HINDU, <https://www.thehindu.com/sci-tech/health/medical-negligence-shifting-focus-from-punishment-to-patient-safety/article69094991.ece>.

3. Independent and Fair Investigations

Objective Investigations: When a medical professional faces potential criminal charges, investigations should be thorough, impartial, and based on facts. It's essential to involve medical experts who can review the situation and provide expert testimony about whether the actions of the healthcare provider were within reasonable medical practice.

Third-Party Reviews: Independent medical review boards or panels could be established to assess whether a medical professional's actions were within the acceptable standard of care. This would prevent cases from being rushed to criminal court without adequate medical oversight.

Potential reforms to enhance medical standards and reduce the need for criminalization

- 1. Ongoing Education:** Implement continuous professional development programs for healthcare workers, emphasizing best practices, ethics, and patient safety. Healthcare professionals are kept up to date on the latest medical developments and ethical guidelines through regular training. High-fidelity simulation labs can be used for simulation-based training to give healthcare workers experience with dealing with complex situations, such as handling medical errors, making better decisions, and responding well under pressure.
- 2. Enhanced Standards for Credentialing and Licensing Stricter Licensing:** Ensure that healthcare providers meet rigorous standards to maintain their licenses, including periodic evaluations of their competency and adherence to ethical standards.

More Comprehensive Credentialing: Introduce more thorough background checks, including evaluations of clinical experience, communication skills, and emotional intelligence, to ensure that providers are well-rounded and fit to serve patients.

3. Promoting an Environment of Safety Promote Reporting and Transparency:

Establish non-punitive reporting systems where healthcare providers and patients can report medical errors, near-misses, or concerns without fear of criminal or legal repercussions. Encouraging transparency and learning from mistakes can prevent future harm.

Patient Safety Protocols: To cut down on the chance of mistakes, encourage the use of safety protocols and guidelines based on evidence in medical settings. A focus on prevention rather than punishment can promote safer care environments.

4. Strengthening Patient Advocacy and Empowerment

Patient Education: Provide patients with information about their rights, medical conditions, and treatment options. Educating patients helps them make informed decisions and recognize if they are not receiving proper care.

Patient Advocacy Programs: Develop stronger patient advocacy programs within healthcare systems. Advocates can help navigate the complexities of the medical system, ensure that patients' voices are heard, and support patients in holding providers accountable in non-punitive ways.

CONCLUSION

The criminalization of medical negligence is a highly contentious issue that carries both potential benefits and risks. On one hand, criminalizing negligent practices can serve as a deterrent, promoting higher standards of care, accountability, and patient safety. It could encourage healthcare professionals to be more diligent in their work, ensuring that mistakes with severe consequences are avoided. It also provides a means to hold doctors and medical practitioners accountable for gross negligence that leads to harm, potentially improving overall trust in the healthcare system.

On the other hand, criminalizing medical negligence may pose significant threats to the medical profession. Even if an error or complication is unavoidable or a part of the inherent risks of treatment, healthcare professionals may become excessively cautious or defensive in their decision-making for fear of legal repercussions. This could lead to the phenomenon of "defensive medicine," where unnecessary tests or procedures are performed to avoid lawsuits, ultimately increasing healthcare costs without improving patient outcomes. Additionally, criminalization could undermine the trust between doctors and patients, making it difficult for practitioners to provide care without fear of prosecution.

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