

MEDICAL MALPRACTICE



Medical Ethics Medical malpractice Subject 7

**Medical
Error**

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Objectives

The students will be able to:

1. **Define** Medical errors;
2. Describe the **burden** of the Medical Errors.
3. Know the **settings** and the most **common type**.
4. Describe **factors** result in medical errors and list factors that **impact** on the occurrence of medical errors.
5. Learn **strategies for error reduction and prevention**

Definition

Medical malpractice : is professional negligence اهمال by act or omission by a health care provider in which the **treatment provided falls below the accepted standard of practice** in the medical community and **causes injury** or death to the **patient**, with most cases involving **medical error**.

Standards and regulations for medical malpractice **vary by country and Authority** within countries.



Medical professionals may obtain professional liability insurances to compensate the risk and costs of lawsuits based on medical malpractice.



“To err is Human: building a Safer Health System”

“ All doctors in all specialties make mistakes”

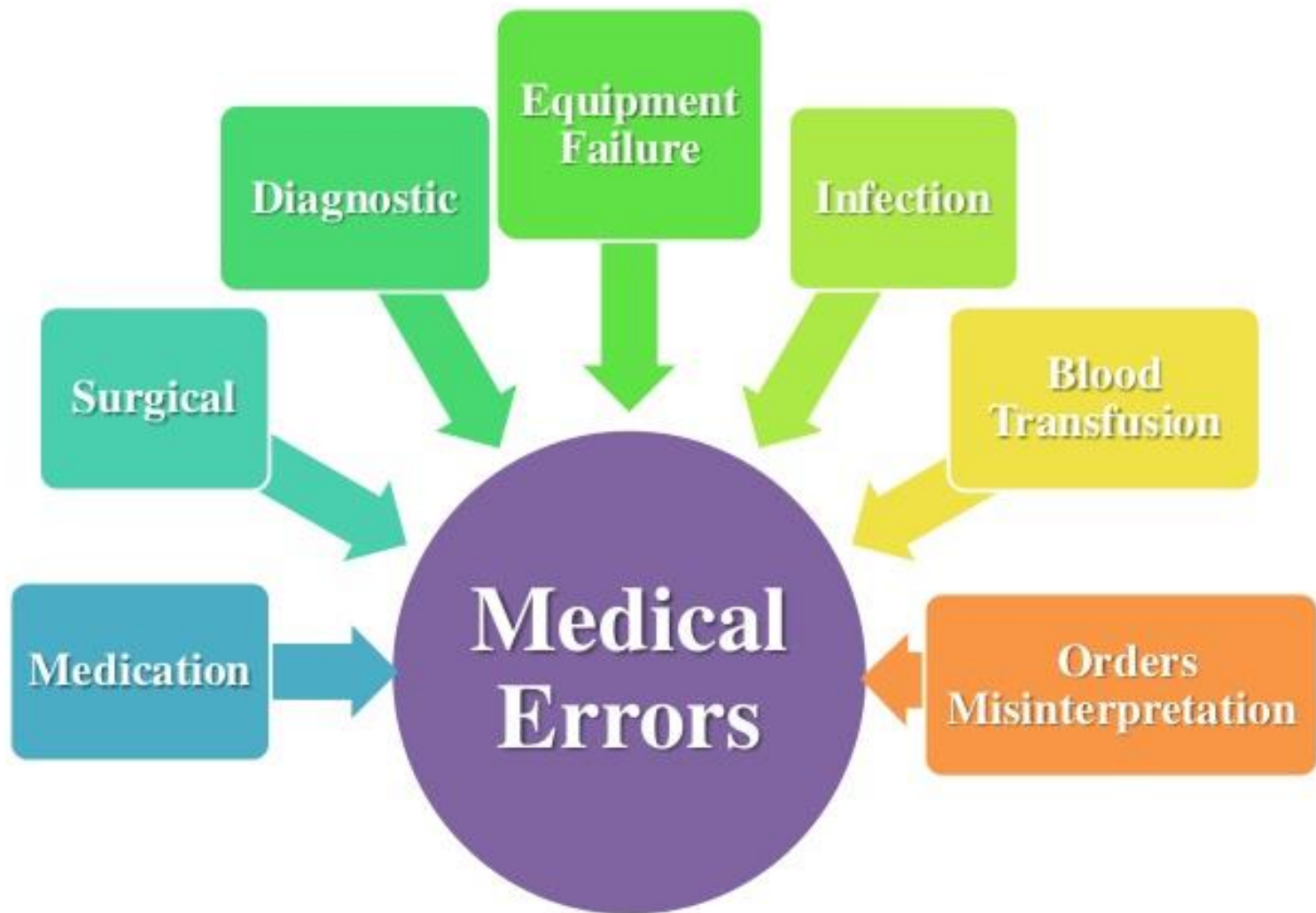
Who is at Risk?

- ❖ **All patients** –Especially older, sicker, more medications
- ❖ **All providers** –Especially trainees or those learning new techniques
- ❖ **All settings** –Especially surgery, emergency care, ICU, prolonged care

What is Medical Error ?

“...failure of a planned action to **be completed** as intended (error of (تنفيذ), implementation) or the use of a **wrong plan** to achieve an aim (error of planning)”.

- ❖ Not all errors are **intentional acts**.
- ❖ Not all errors rise to level of medical malpractice or negligence.
- ❖ Not all errors result in harm to the patient.



Adverse Events

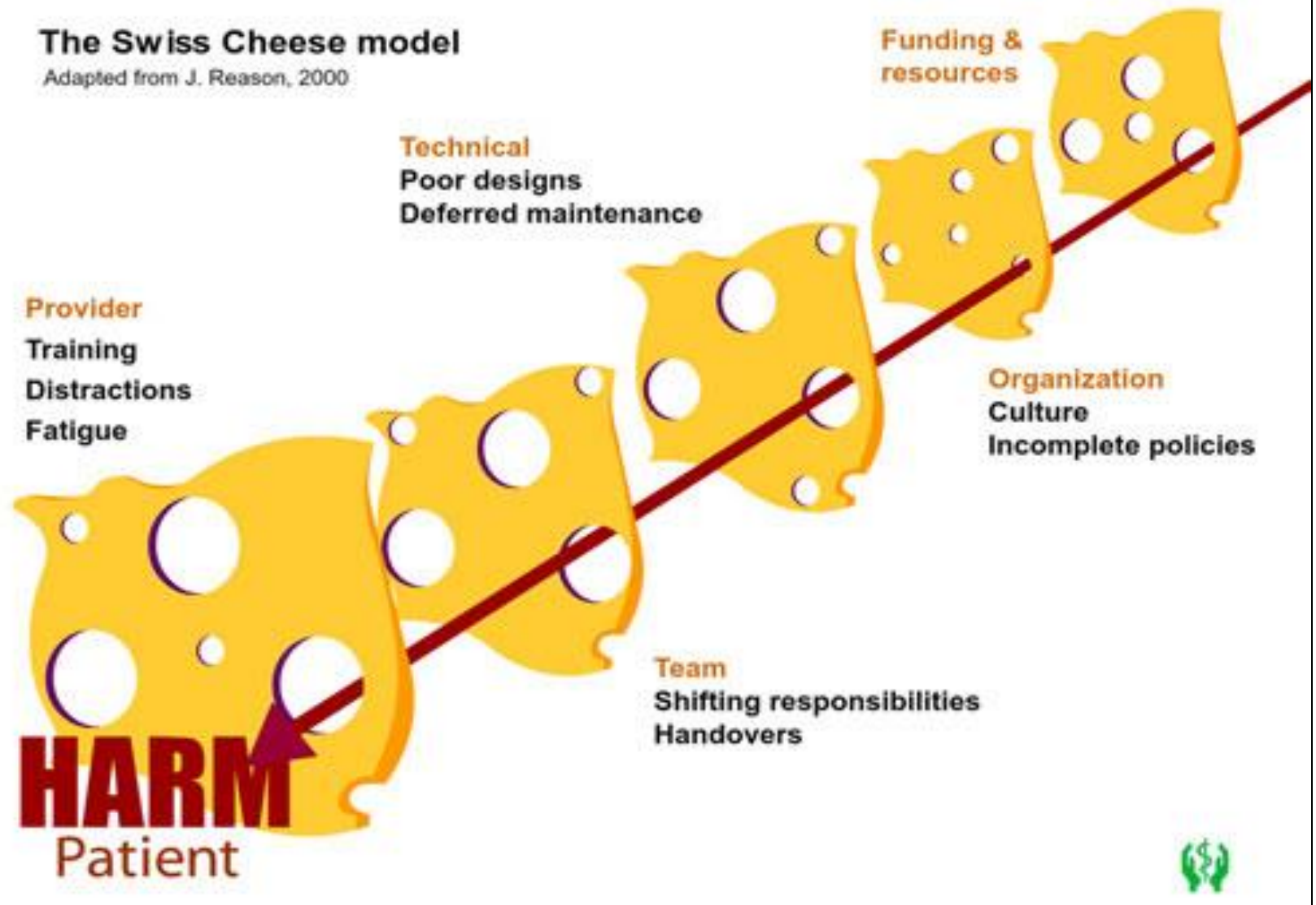
- “An injury to a patient because of medical management, in contrast to complications of disease.
- Medical management includes all aspects of care, including diagnosis and treatment, failure to diagnose or treat, and the systems and equipment used to deliver care.
- Adverse events may be preventable(error) or non-preventable.
- **Not all errors lead to adverse events. (“near misses”).**

-“Near-miss”: Serious error that has the potential to cause an adverse event but fails to do so because of chance or because it is intercepted. It is also called **potential adverse event**

-Latent errors: Errors that lay **‘dormant’** in the system and thereby render it vulnerable and unreliable. **Reason’s model** serves to demonstrate that while one gap alone (e.g., understaffing, the supply of outmoded equipment,...) may not result in an error, were all the gaps or flaws in the system to **align — even for just a moment** — then there is a **high probability** that an (**active error**) will occur

The Swiss Cheese model

Adapted from J. Reason, 2000



Epidemiology of Error

Adverse events are common:

- **In hospital**

3-17% of all hospital admissions

51-69% are due to error (**preventable**)

- **Outpatient**

- Unknown

- Fewer safeguards

- Less monitoring

The Most Common Type

- Wrong-site surgery (13.4%)
- Patient suicide (11.9%)
- Operative & postoperative complications (10.8%)
- Delay in treatment (8.6%)•
- Medication errors (8.1%)
- Patient falls (6.4%), and Burns

Causes Of Medical Errors

- **Incomplete** patient information.
- Unavailable drug information.
- **Miscommunication.**
- **Lack** of appropriate **labeling.**
- Environmental factors.

Categorization of errors:

Level	Description	Event
A	Circumstances or events occurred that had the capacity to cause error.	Harm does not reach patient
B	Error occurred but did not reach the patient.	
C	Error occurred that reached the patient but did not cause patient harm.	
D	Error occurred that reached the patient and required monitoring to preclude harm or confirm that it caused no harm.	

Categorization of errors:

E	Error occurred that may have contributed to or resulted in temporary harm & required interventions.	Harm reaches patient.
F	Error occurred that may have contributed to or resulted in harm & required an initial or prolonged hospital stay.	
G	Error occurred that contributed to or resulted in permanent patient harm	
H	Error occurred that required intervention to sustain the patient's life.	
I	Error occurred that contributed to or resulted in patient death.	

Types and Examples of Medical Errors

ERROR
Diagnosis or evaluation
Medical decision-making
Treatment
Medication
Inadequate supervision
Faulty communication
Procedural complications
Medical decision-making

Types and Examples of Medical Errors

ERROR	EXAMPLE
Diagnosis or evaluation	Missed diagnosis
Medical decision-making	Inappropriate or premature discharge
Treatment	Waiting when treatment is indicated
Medication	Incorrect dosage
Inadequate supervision	Failure to review treatment plan
Faulty communication	Failure to convey information
Procedural complications	Faulty technique
Medical decision-making	Inappropriate or premature discharge

Most of these errors are preventable

What are the 10 things that can kill a patient in the hospital?

1. Misdiagnosis:

The **most common type** of medical error. A wrong diagnosis can result in **delay in treatment**, sometimes with deadly consequences.

2. Unnecessary treatment:

Thousands of people receive unnecessary treatment that cost them their lives.

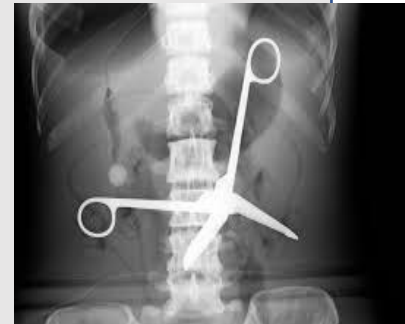
3. Unnecessary tests and deadly procedures:

Studies show that \$700 billion is spent every year on unnecessary tests and treatments, it can also be deadly.

4. Medication mistakes.

Over 60% of hospitalized patients miss their regular medication while they are in the hospital.

- Wrong medications are given to patients; allergy, wrong dose,



5. Never events”.

- Operating on wrong limb or the wrong patient.
- Food meant to go into stomach tubes go into chest tubes
- Air bubbles go into intravenous catheters, resulting in strokes.
- Sponges, wipes, and even scissors are left in people’s bodies after surgery.
- These are all “never events”, meaning that **they should never happen**, but they do, often with deadly consequences.

6. **Uncoordinated care.**

If a patient went to the hospital, chances that he won't be taken care of by his regular doctor, but by the **doctor on call.**

- He'll probably see several specialists, who writing notes in charts but **rarely coordinate with each other.**
- He may end up with **two of the same tests, or medications that interfere with each other.**
- There could be **lack of coordination** between his doctor and the nurse, which can also **result in confusion and medical error.**

7. Health care associated infections.

According to the Centers for Disease Control, **hospital-acquired infections** affect 1.7 million people every year.

- These include **pneumonias, infections around the site of surgery, urinary infections** from catheters, and **bloodstream** infections from IVs.
- Such infections often involve bacteria that are **resistant to many antibiotics**, and can be deadly, especially to those with weakened immune systems

8. Not-so-accidental “accidents”.

- Every year, 500,000 patients **fall** while in the hospital.
- As many “**accidents**” occur due to **malfunctioning medical devices**. Defibrillators don’t shock; hip implants stop working; pacemaker wires break.,.....
- They happen for 1 in 100 people. •

9. Missed warning signs.

When patients get worse, there is usually a period of minutes to hours where there are **warning signs**.

Unfortunately, these warning signs are frequently **missed**, so that by the time they are finally noticed, there could have been **irreversible damage**.

10. Going home—not so fast

Studies show that 1 in 5 Medicare patients **return to the hospital within 30 days of discharge** from the hospital.

- This could be due to patients being **discharged before they are ready**, without understanding their discharge information, without adequate follow-up, or if there are complications with their care.
- The transition from hospital to home is one of the most vulnerable times, and **miscommunication** and **misunderstanding** can kill a patient after getting home from the hospital too.

Thinking about error

Etiology -Why do errors happen?

Response -What should we, as a system or profession, do when we discover an error?

- **Two schools of thought:**

- The **person** approach

- The **system** approach

Proving Fault in Medical Malpractice Cases

Legal liability for injuries caused by medical malpractice can be established under a number of legal theories:

Negligence

Most medical malpractice cases proceed under the **theory** that a **medical professional was negligent in treating the patient.**

To establish medical negligence, an injured patient must prove (**Elements of the case**)



**MEDICAL
NEGLIGENCE**

The medical malpractice claim

mistake 

The party

1. The **applicant** is or was the **patient**, or a **legally chosen party acting on behalf of the patient**, or – in the case of a wrongful-death suit – the executor or administrator of a deceased patient's estate. الوصي او الوريث

2. The **defendant** is the **health care provider**.

Although a 'health care provider' usually refers to a **physician**, the term includes **any medical care provider**, including **dentists, nurses, and therapists**, "following orders" may not protect nurses and other non-physicians from liability when committing negligent acts.

Claims may also be brought **against hospitals, clinics, managed care organizations or medical corporations** for the mistakes of their employees.

APPROVED
MEDICAL
CLAIM



Elements of the case:

A applicant **must establish all four elements** of the tort (Harm) of negligence for a **successful medical malpractice claim**.

1. **A duty was owed**: a **legal duty exists** whenever a hospital or health care provider undertakes care or treatment of a patient.

2. **A duty was breached**: the **provider failed** to conform to the relevant standard care.

3. **The breach caused an injury**: The breach of duty was a proximate **cause of the injury**.

5. **Damage**: Without damage (**losses which may be economic or emotional**), there is no basis for a claim, regardless of whether the medical provider was negligent. Likewise, **damage can occur without negligence**, for example, when someone dies from a fatal disease.



**MEDICAL
NEGLIGENCE**

Damages

The applicant's damages may include **compensatory and punitive damages.**

Compensatory damages are both economic and non-economic.



● Economic damages include :

- financial losses such as lost wages (sometimes called lost earning capacity),
- medical expenses and
- life care expenses.



● Non-economic damages are assessed for the injury itself:

- physical and psychological harm, such as loss of vision, loss of a limb or organ,
- the reduced enjoyment of life due to a disability or loss of a loved one,
- severe pain and emotional distress.

Informed Consent

In many situations, the **failure to obtain a patient's "informed consent"** relative to a procedure or treatment is a form of medical negligence, and may even give **rise to a cause of action for battery.**

Although the specific definition of informed consent may vary from state to state, it means essentially that a physician (or other medical provider) **must tell a patient all of the potential benefits, risks, and alternatives involved in any surgical procedure, medical procedure, or other course of treatment, and must obtain the patient's written consent to proceed.**

Breach of Contract or Warranty

Although doctors very rarely promise specific results from procedures or treatments, in some cases they do, and the failure to produce the promised results may give rise to an

For example, a plastic surgeon may promise a patient a certain result, which result may be judged more easily than other types of medical results, simply by viewing the patient. Similarly, if a patient is not satisfied with the outcome of a procedure, and the physician had guaranteed or warranted a certain result, the patient may attempt to recover under a theory of breach of warranty.

The focus must not be ON BLAMING INDIVIDUALS but on LEARNING FROM PAST errors

Error prevention measures include	Examples in medical practice
Reduced reliance on memory	Checklists, flow sheets, tickler systems
Improved information access	Handheld computer, electronic medical records
Error-proofing systems.	Fail-safe to avoid prescribing two drugs that interact fatally
Standardization	Office formularies, guidelines synthesis
Training on error identification and prevention	Staff in services.

NOT ACCEPTABLE for patients to be harmed by a health care system



Thank You