

# Medical Specialties with Highest Percentages of Complaints in the State of Acre, Brazil

ORIGINAL

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## Abstract

**Background:** The present study had the objective of surveying the medical specialties most commonly involved in complaints reported to the Regional Medical Council (CRM) of the state of Acre, between the years 1993 and 2009.

**Method:** Data were gathered from the CRM by means of a questionnaire. This yielded 121 complaints. A deductive method was applied, with quantitative analysis. The results indicated that the specialties most susceptible to “medical errors” were general practice and gynecology.

**Findings:** The results indicated that the specialties most susceptible to “medical errors” were general practice and gynecology.

**Conclusion:** It is hoped that these data will be useful to the State Health Department for justifying greater investments in these fields of scientific knowledge and for better professional training.

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## Introduction

Mankind lives in times of uncertainty. On the one hand, advances in science and technology have evolved at an impressive pace. On the other, there is still a lack of basic means to solve health issues and, in addition, there is a deficiency of public policies with the capacity to meet the demands of the population. Brazil has a lack of hospital infrastructure and emergency health services. Moreover, the training of healthcare professionals is deficient, given that most medical schools do not meet the highest standards.

## Keywords

Acre; Complaints; Specialties; Ethics.

In this distressful scenario, healthcare professionals struggle to meet a huge demand, with the fragile technical means available. There are too many patients for too few doctors. There is also little equipment capable of aiding in making diagnoses, which can lead to a number of medical errors that result from a set of traps in which both doctors and patients are victims. Thus, all suffer from the deficient organization of the Brazilian public healthcare system.

The general consensus is that much needs to be done to change this current perspective. An important first step would be to humanize the healthcare system, especially regarding doctor/patient relationships, so that doctors make fewer mistakes regarding their patients. This equation is paramount for the success of a treatment and contributes greatly towards avoidance of harm from so-called "medical errors" or other subsequent problems.

The expression "medical error" is currently used both for doctors and for other healthcare professionals. Thus, this is the term that is most used to indicate a mistake within healthcare service provision, especially when these mistakes lead to harm.

In the midst of the immense progress in the field of technology, mankind is being increasingly abandoned. The doctor/patient relationship has weakened. Nevertheless, these agents do not talk with each other much, given that they are more attentive to tests, "devices", "technology", etc.

Moreover, patients do not understand the language of technology. In turn, doctors do not explain. The main explanation is that doctors live "in such a rush going from one hospital to another" and complain that low salaries oblige them to work in these circumstances. Nonetheless, it is undeniable that patients need attention and care. However, the time dedicated to each consultation is always less than what is actually necessary. Doctors blame the Brazilian public healthcare system and health insurance plans, which demand the greatest number of medical appointments possible, but do not provide good conditions for them to attend their patients properly.

This topic is dynamic and deserves examination, even if only partially, as provided in the present article, through considering the scenario of errors reported to the Regional Medical Council of the state of Acre, Brazil. To do so, the present study was conducted with records of the Regional Council of Medicine in the state of Acre between the years 1993 and 2009, with the objective of identifying which specialties are more weakened with regard to attending the public, which areas of training are more needy and which professionals committed more "errors" over this period of 16 years.

### **The civil responsibility resulting from medical intervention**

Civil responsibility is firstly said to come from human action and is based on the assumption of the existence of voluntary conduct and unfair harm inflicted on another person. Despite its juridical complexity, civil responsibility is, simply put, the loss of material, moral or ethical nature that an agent becomes obliged to put right, consequent to a breach of contract or when an action or omission (negligence, imprudence or malpractice) gives rise to harm to the victim. This harm may be either patrimonial or extra-patrimonial.

The word responsibility comes from the Latin *respondere*, which carries the idea of safety or guarantee of restitution or composition of an asset that has been sacrificed. Thus, its meaning is one of recomposition and an obligation to refund or compensate.

The Brazilian juridical system characterizes elements that demand reparation as: a) the existence of either action or omission; b) the harm; and c) the blame and causal link. Thus, Article 186 of the Brazilian Civil Code [1] establishes the rule of subjective civil responsibility. The agent can only be considered liable when he or she culpably did not respect the duty of care that was objectively due (i.e. the agent's conduct was illicit).

Generally speaking, subjective responsibility is that in which, in addition to the harmful act of

the agent who caused the injury and the fact that harm to the injured party is exhibited, such that a causal link between the harmful action and the damage caused has been established, the agent who caused the harm has to be culpable in this relationship. This blame is characterized either by the presence of malicious action or by simple guilt in the strictest sense, i.e. professional imprudence, negligence or malpractice.

According to Matielo [2]

*The connection between damage and responsibility is paramount for the existence of an obligation to remedy the situation, which is considered from a subjective angle.*

Therefore, doctors' civil responsibility also follows a general rule that characterizes subjective civil responsibility. Doctors need to act diligently, through applying all the proper means, towards objective care. Therefore, compensation should only be given to a person who underwent medical treatment and, because of this treatment and professional malpractice, suffered some type of loss, of either material or immaterial nature.

As stated by Croce, medical responsibility in the light of the Brazilian Civil Code [3]:

*...is encompassed both contractually and extra-contractually in what is established between the doctor and the client, in which the doctor assumes an obligation regarding the means and not regarding the result, through taking on a commitment to treat the patient with great zeal, attention and proper diligence, as well as to warn the patient regarding the risks of any therapy or surgical intervention proposed and to clarify these risks and the nature of the examinations that are recommended, such that if the patient is not healed or dies, this does not mean that the doctor did not fulfill the agreement.*

The abovementioned ideas were added to by Matielo [3], who clarified that

*...hiring a doctor does not include any obligation to cure the patient or to improve his/her quality of life, because the professional has the task of applying all possible care towards the ultimate goal (...) which is to reach a cure.*

It is unequivocal that medical professionals do not have the obligation to cure. There is no presumption of guilt for a doctor who does not achieve a given result, considering that, as mentioned previously, there is no obligation to cure. In the words of Souza [4]:

*...the doctor's culpability needs to be proven by the patient, with no presumption of blame placed on the service provider (the doctor). This assumption is characteristic of contracts within our legal order, when a contractual obligation is not fulfilled by the service provider.*

In Brazil, there are many cases of complaints due to medical errors or negligence. In both situations, there is culpability. One example of this is shown in the statistical data presented in this short article. These data show that in the state of Acre, between the years 1993 and 2009, there were 121 complaints against Brazilian and foreign doctors.

In fact, a large proportion of such complaints are based on the allegation that the professional did not inform, guide or provide care with adequate zeal and attention. Such conduct is condemned by the Code of Medical Ethics [5]. This document establishes that conversation and information are indispensable for reaching good results. It is important that patients should receive adequate clarifications regarding the risks and diagnoses of their treatments. When necessary, there should be an

informed consent statement. Moreover, the medical professional should be well prepared and structured to practice medicine.

Therefore, doctors' civil responsibility based on the Consumer Defense Code is founded on culpability and is defined as "subjective". Moreover, a medium obligation is established between doctor and patient, which entails the need to use adequate methods, attention and zeal, but with no guarantee of cure.

Doctors can only be held accountable if they act imprudently or negligently, or if they commit malpractice, bearing in mind that in all cases that the science of medicine is not exact. Thus, the significant increase in judicial petitions relating to "medical errors", throughout Brazil, demonstrates that there is a need for greater information, from both doctors and patients. The conversational relationship between the two parties is extremely important and should be permeated by trust, conversation and exhaustive precise explanations of the patient's condition, who needs to be kept well-informed about his/her disease, its medical behavior, the care required, etc.

There is a consensus among theorists that patients have full right to know about the risks and possible consequences to which they may be subjected during a given procedure. The doctor, on the other hand, has the right to protection, for example through a proper informed consent statement. Thus, the doctor/patient relationship needs to be clear and objective, such that both parties have their rights fulfilled.

### Medical error

There are records from ancient times of medical malpractice and its commination, which can be found in historical writings. According to article 215 of the Code of Hammurabi [6], dated 2400 B.C.: "The physician that kills a free man or that blinds a free man will have his hands cut off; if he kills a slave, he shall pay his price, if he goes blind, he shall pay half the

price". Similarly, the law of talion [7], from the Koran, says: "An eye for and eye, a tooth for a tooth".

França argued that medical errors can occur in three ways [8]:

*...malpractice due to "lack of observation of the technical norms" (...) imprudence, when the error emerges because, through either action or omission, a doctor carries out risky procedures on a patient, without scientific support (...) negligence, the most frequent form of medical error in the public service, when the professional neglects, dismisses or is uninterested in ethical duties and commitments to the patient and even the institution*

It is a doctor's duty to deal with the most precious asset of the human species: life. And also, personal integrity, psychical and psychological. Moreover, this healthcare professional must deal with the multiple functions of vital organs, as well as honor and other esteemed values that are part of people's affective heritage, including those of family members and other loved ones. These duties and obligations alone are sufficient to grant medicine a troublesome privilege among the humanity sciences and generate expectations without provision of the corresponding adequate operational resources.

It can thus be seen that lay people and ill-informed society understand that in medicine everything is possible, all the time. This perception starts from the common origin between doctors and priests, which leads to the presumption that doctors are the rightful heirs to exceptional powers over life and death, i.e. that they are a sort of unauthorized representative of God. From this viewpoint, harm caused by medical error is seen as something that is irreparable. It is nothing or almost nothing to the human species, but it is everything or almost everything to individuals who are suffering.

Under these circumstances, a medical error is always serious and it represents a type of antithesis for the cure envisioned by the patient. It would be less serious if the doctor did not cure, did not restore health and did not remove the cause of the disease. This is because the harm that a person experiences naturally has exceptional value.

Through quoting Article 159 of the Brazilian Civil Code, Rodrigues [9] established that

*...a person who, through voluntary action or omission, negligence or imprudence, violates another person's rights or causes harm to this person has the obligation to repair the harm.*

On the hand, Article 18 of the Brazilian Penal Code [10] states:

*Crime is defined as: I- intentional, when the agent desired the result and accepted the risk of producing it; and II- wrongful, when the agent caused the result through imprudence, negligence or malpractice.*

Article 133 states that harm arises through:

*...abandoning a person who is under your care, custody, surveillance or authority and who, for whatever reason, is unable to defend himself from the risks that result from abandonment...*

And Article 135 cites situations of

*...not providing assistance, when it is possible to do so at no personal risk, to an abandoned or lost child, a disabled or injured person, a helpless person or a person in grave and imminent danger; or, in these cases, not asking for help from the public authorities...*

From a juridical point of view, a medical error is a bad or involuntary result from medical work,

without the intention of causing harm. However, if there is an intention to harm, the error is qualified as an infraction covered by Article 129 of the Penal Code [10]:

*...offending body integrity or the health of another person.*

All professionals make mistakes, but while badly performed services in other fields give rise to either financial or material losses, medical errors give rise to pain, suffering, or even the loss of life. Thus, medical errors are condemnable and unforgivable in the eyes of society. People who are ill desire good results, i.e. improvement of their health situation, and not worsening of their condition. Thus, a whole set of expectations surround doctors and their patients that make such errors prohibitive.

Medical professionals deal with living beings who are discursive and gifted with exceptional intelligence, which are the exclusive attributes of the human species. These professionals also deal with the beginning and end of life: lives that desire to be perpetuated, go beyond the disease, overcome illnesses and survive adversities. Nevertheless, doctors are not gods but are human beings and, because of this, they make mistakes. Even so, conducts that lead to errors must be avoided at all cost, given that even when a doctor is condemned, the punishment from the Medical Council or from the justice system does not undo the error. Punishment is merely a singular form of extracting an apology to society and demanding that the doctor acknowledges *mea culpa*. Therefore, the main goal of this research is make a profile of the medical specialties with highest percentages of complaints in the State of Acre, Brazil.

## Material and Methods

### Study design and sample

The present study was based on fieldwork in which data were gathered from the Regional Medical Council of the state of Acre, by means of a questionnaire. Information from the years 1993 to 2009 regarding complaints from the population against medical professionals in Acre was surveyed and a total of 121 complaints was found. The present investigation was of deductive nature, in which a qualitative and quantitative method regarding the number of occurrences involving both men and women of different age groups, from both the public and private sectors, in various workplaces and specialties, was applied.

### Data analysis

The data were collected, described, analyzed and organized into statistical tables to examine the percentage of complaints relating to each medical specialty and to ascertain the specialties in which there was greater incidence of "errors" that led to complaints.

The present study had the intention of reaching results that could indicate the importance of the doctor/patient relationship, as well as observance of the principles of ethics and bioethics. Thus, the study aimed to reach data that would indicate the greatest flaws in the healthcare system of the state of Acre, as well as the specialties in which professionals are more vulnerable to committing "medical errors".

## Results

The data of the present article were gathered from the Regional Medical Council of Acre. They indicated that a total of 121 cases of complaints were made against both men and women. There were 75 complaints against Brazilian doctors and 46 against foreigners. The Brazilian professionals had studied

medicine in the states of Acre, Bahia, Minas Gerais, Pernambuco, São Paulo, Pará, Rio de Janeiro, Paraná, Amazonas, Ceará and Rio Grande do Sul. The foreign professionals were from Syria, Colombia, Cuba, Peru and Bolivia.

Among the 121 professionals against whom complaints were made, 40 were from the bordering countries of Peru and Bolivia. The complaints were studied regarding the specialization area of the doctors involved. All of these complaints were formalized and judged between 1998 and 2009. A questionnaire was developed based on the *corpus* of these complaints that would allow analyses from various perspectives. The professional's field of practice and training was the focus of this analysis, and the results obtained were demonstrated through graphs and tables to indicate the fields from which the greatest numbers of complaints were presented. (Table 1)

**Table 1.** Characteristics of the activity.

	N	%	% valid	% accumulated
Elective care	41	33.9	33.9	33.9
Emergency/Urgent care	60	49.6	49.6	83.5
Other	20	16.5	16.5	100.0
Total	121	100.0	100.0	

This survey conducted at the Regional Medical Council of Acre based on 121 complaints reported between 1998 and 2009 correlated the main complaints within the eight most frequently reported specialties, as presented in Table 2.

General practitioners and gynecologists accounted for the greatest numbers of complaints from the population in Acre. Both men and women made complaints regarding the medical attendance in these two specialties. Thus, more attention is needed from the government towards these two fields, to make investments in equipment and higher qualifications for professionals.

General practitioners are medical professionals who conduct clinical treatment for various disea-

**Table 2.** Medical specialty of the professionals involved in complaints.

	N	%	% valid	% accumulated
Hospital administration	1	0.8	0.8	0.8
Cardiology	4	3.3	3.3	4.1
General surgery	7	5.8	5.8	8.3
Plastic surgery	1	0.8	0.8	9.1
General practitioner	52	43.0	43.0	53.7
Dermatology	2	1.7	1.7	55.4
Gynecology	30	24.8	24.8	80.2
Occupational medicine	1	0.8	0.8	81.0
Forensic pathology	1	0.8	0.8	81.8
Neurology	3	2.5	2.5	84.3
Ophthalmology	1	0.8	0.8	85.1
Orthopedics	5	4.1	4.1	89.3
Otolaryngology	1	0.8	0.8	90.1
Pediatrics	8	6.6	6.6	96.7
Psychiatry	3	2.5	2.5	99.2
Urology	1	0.8	0.8	100.0
Total	121	100.0	100.0	

**Table 3.** Nature of the harm.

Domains/Facets	N	%	% valid	% accumulated
Moral/Mental distress	67	55.4	55.4	55.4
Organic	1	0.8	0.8	56.2
Functional	7	5.8	5.8	62.0
Mixed	46	38.0	38.0	100.0
Total	121	100.0	100.0	

ses and, if necessary, they refer patients for specific treatment with other specialists. They need to be attentive, because achievement of cures for their patients depends both on the care that they provide and on correct referral to specialists.

Gynecologists treat diseases of the female reproductive system, i.e. the uterus, vagina and ovaries. Obstetrics is the field of medicine in which reproduction among women is studied, with investiga-

tion of pregnancy, childbirth and the postpartum period, in their physiological and pathological aspects. This is a field that requires great knowledge and particular attention to patients, who frequently already suffer from various problems. The health of millions of women depends on good gynecologists. There is a lack of such professionals in Acre, and many complaints in this field. **(Table 3)**

## Discussion

From the reports of the complaints, it was observed that what most bothered the patient who was the victim of the medical error was not the extent or severity of the harm produced *per se*. What most hurt the patient was the feeling of impotence in relation to the agent that caused the harm and in relation to the entire medical profession, which holds singular knowledge of medicine. One hopes that the emerging field of Evidence-Based Medicine will actively contribute to overcome some of existing malpractice.

From this viewpoint, errors are a type of inertia of medical culture, as in the language found in dictionaries, i.e. inert and cold. In the same way that language gains warmth and affectivity through those who know how to use it, medicine cannot take place without a human being who is knowledgeable regarding medical culture and has been trained regarding its technical possibilities.

This digression serves to emphasize the figure of the doctor or to define his/her grandeur in relation to the patient. There is a clear impression from the present study of the existence of arrogance that comes through possession of technical knowledge, presumption regarding its use and non-recognition of error, which leads the harmed patient to a state of despair. This situation was observed among the 121 complaints studied here and will be the subject of further analysis in the future.

## Conclusion

It is hoped that the outcry of those who made complaints will echo among the medical profession and government bodies in Acre, so that healthcare can be improved through better-prepared professionals. Moreover, it is hoped that these two fields of medicine (general practice and gynecology) receive special attention, with policies that are capable of providing better attendance for the population that is in need of these specialists, namely through strengthening regulatory mechanisms [11].

## Conflict of Interests

The authors report no conflicts of interest.

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