

## Neurological Misdiagnosis, Patients' Response and the Law

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Establishing a correct neurological diagnosis is of crucial importance, firstly for the patient's well-being as well in avoiding litigation. Yet, in one study of 71 patients [1], the diagnosis of essential tremor - a routine and daily part of the neurologist's work-load - 26 or, about 1 in 3, were misdiagnosed, the most frequent false diagnoses being Parkinson's Disease and Dystonia.

Perhaps what is surprising here, is that we seem to be getting simple and ordinary things wrong. One would have expected such a result in considering conditions like Multiple Sclerosis or Cauda Equina Syndrome. Incidentally misdiagnosis of the former is a well-known phenomenon, though not essentially and specifically by the neurosurgeon - and leads much treatment - induced as well as psychosocial morbidity [2].

In a 2015 Medscape survey put failure to diagnose as the commonest (31%) reason underlying malpractice suits [3]. This is no small finding and frankly from the point of view of analytical medico-legal reasoning it is immaterial if the misdiagnosis is of a minor or a major ailment. Furthermore, 'seriousness' may assume a subjective determinant factor. And like all matters subjective, reaction and further action may become unpredictable qualities.

Speaking in a general way, it may be more acceptable to misdiagnose Multiple Sclerosis, than a simpler and commoner condition, both to the patient and a Court of Law because of the intrinsic difficulty of establishing the diagnosis. At this juncture it is of the utmost importance to stress the need of maintaining good communication with the patient throughout. Such communication may go a long way in assuaging the dissatisfaction of misdiagnosis and may help clear the patient's perception of her management [4] which perception may include the facts which led to the misdiagnosis. Furthermore such perception may diminish litigation.

Neurologists are especially prone to medical malpractice suits with life crippling pay-outs. Such claims may include cover for pain, suffering, loss of enjoyment and expectation of life, loss of earnings, associated expenses including medical and surgical ones, specific equipment, care and help as required, expenses for modification of home and vehicles etc. Nor are such claims a rarity. More than 50% of neurologists face at least one malpractice claim in their lifetime. Furthermore such claims as based on misdiagnosis are encountering an ever fertile soil which includes omission or misinterpretation of an ever mushrooming multitude of neurodiagnostic tests; ever diverging legal issues extending beyond traditional medico-legal considerations and the stretching of liability to third party claimants. Furthermore, the whole medico-legal jurisprudential psychology is forever shifting in defence of the patient's autonomy in medical care.

It is time for the neurologist, to break pace with the onward rush of science, slow down, take stock and essentially return to basics. Rather than finding oneself, riding ceaseless algo-rhythmic waves leading from one investigation to another, it is time for the clinician to reclaim his basic diagnostic skills before electronics lead to misuse cortical atrophy. For example, in neurological emergencies, diminishing misdiagnosis would include better physician education in neurological emergencies that encourage detailed history-taking and systematic physical examination ....to communicate clearly with patients and other physicians involved in follow-up [5].

We recommend such advice across the whole spectrum of all medical disciplines, all of which have been hijacked by the curse of technology preceding and displacing basic, wholesome application of the art and craft of Medicine. The neurologist needs to take stock of the current medico-legal situation. In addition to keeping abreast of his science, he must become versed in the ever evolving nature of medico-legal thinking. And this while, reclaiming his mastership as clinician and diagnostician. And the clinician in him, if he is wise, establishes good clinical and humane rapport with his patient with whom, with tact and professionalism, he discloses relevant information, his own medical reasoning and plans as well as the scope of his investigations, their benefits and limitations.

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