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MONOGRAPH:

“Medical negligence”

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GRATITUDE

First of all, I would like to thank God because I am still alive. To my parents for giving me the education and the values that will make me able to be a professional and for been there every time I needed them. I couldn't be where I am right now without them and my teachers for all the effort they made educating us.

SUMMARY

This monographic work was mainly focused on the medical malpractice and all its consequences. Therefore, I based my research on the wide investigation of this topic and try to find a solution for this massive problem that a lot of the public hospitals have in many countries.

I focused my research in my country, Ecuador and the problem that we have with the public hospitals like the IESS. My first chapter was mainly about the meaning of medical malpractice and its consequences and try to express myself in simple words for those who don't understand the importance of discussing about this topic because there are a lot of ways to describe how this problem is affecting to a large group of Ecuadorians.

My second chapter is about the public hospitals and all the problems and the issues that many people have to face when they need medical assistance; the good and the bad reputation that these hospitals have. My third chapter was focused on the analysis on what they think about medical malpractice and its consequences and the opinion of some people about why they do not trust in public hospitals and prefer to go to private ones although they are expensive.

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Introduction

This work is mainly focused on the medical malpractice that occurred in the public hospitals of Ecuador. Its general purpose is to get a clear idea of why medical malpractice occurs more often in public hospitals also to know why people prefer to go to private hospitals than public ones. I also tried to raise awareness so that people have a better image of public hospitals, showing that they are not as bad as they seem.

Medical malpractice is a subject that not many want to address because it is somewhat a delicate and complex issue. There are doctors who even claim that in some hospitals they have opened medical malpractice cases. The medical negligence has always been an issue that no one touches for all that it conveys. The aim of this work is to help to people who have lost their faith to public organizations and are afraid of talking about such a sensitive topic, so that it won't be strange to hear about it and for people to be more informed about the situations that can convey to a medical malpractice.

With the pass of time there are cases of medical malpractice either in public or private hospitals, that's why it is important to have a clear idea of what medical malpractice entails, so that future generations could have a clearer concept of medical malpractice to avoid it. That's why I refer one of the most shocking cases that happened in a public hospital, the case of the clinic Garces, where 21 people died from AIDS virus because of the reuse of syringes where one of those syringes carried the disease.

With this work I am trying to inform all that involves medical negligence and try to get a conclusion on how to prevent cases of medical malpractice in public hospitals.

The main purpose of this survey was to check what others think about medical malpractice and get a general opinion of this subject, also see what they know about the most relevant cases of medical malpractice and find out what they could say about it as for example the case of the clinic Garces or Miss Duran who died in an aesthetic surgery in a strange way because the aesthetic surgeries are not dangerous. These cases show us that we are all in danger and what could we do to prevent them.

Chapter I

Medical negligence

1. Definition and how the law works

The medical negligence know as medical malpractice is when the medical Practitioner fails to provide the care which is expected this can resulting in injury or more dramatically in death of the patient. Other definition for medical malpractice is when a doctor, nurse or any other medical professional perform his job in a way that is not the correct medical standard of care for example if a doctor provides treatment that is sub standard in terms of accepted medical norms under the circumstances, then that doctor has failed to perform his or her duty, and is said to be negligent. In many cases this is without intention but in other cases are with intention. Some people say that doctors do medical malpractice for money that's the problem why people have trust issues with them.

The law only work when someone puts a complaint that's not how it should work. The law must work under all circumstance. The only problem is that it not works as it should in all countries in few words the law works when they want to work.

The laws of medical malpractice differ significantly between nations, as a broad general rule liability follows when a health care practitioner does not show a fair, reasonable and competent degree of skill when providing medical care to a patient.

1.1 Negligence

Negligence is a legal theory that comes into play when assessing who is at fault in a tort case. It's best to think of a tort case as civil injury case. A common example of a tort case, and a good way to explain how negligence works, is to think of a driver getting into an accident on the road. In a car accident, it is usually established that one person caused the accident by breaching their legal duty to obey traffic laws and drive responsibly under the circumstances and that person is responsible for all damages suffered by other parties involved in the crash.

Negligence is a common term for these cases since in the most of them there is a lack of care from the doctors that's the reason why is called medical negligence but medical negligence is not the same as medical malpractice because medical negligence becomes medical malpractice when the doctor's negligent treatment causes undue injury to the patient, makes the patient's condition worse, causes unreasonable and unexpected complications, or necessitates additional medical treatment, to name just a few examples of what's considered injury in a malpractice case.

Chapter II

Medical malpractice in public hospitals

1. Public Hospitals in Ecuador

The medical malpractice is not the biggest cause of death but is one of them especially in Ecuador, where every month there is a case of medical malpractice specially in public hospital. I don't know why but there is something that happens, something that we don't see. The medical malpractice in public hospital is more common than someone who is sick, I know that this example is too exaggerated but this is the way that I found to explain how the medical malpractice happen in public hospital in Ecuador. A public hospital is a service that the government bring us for people that don't have the amount of money necessary to pay a private hospital, I don't know if this is the main reason why public hospital are bad because they are cheaper but this not a reason for medical malpractice. We don't know the exactly reason for medical malpractice but what we do know is that in public hospital has the biggest cases of medical malpractice. Reading the newspaperi saw an article made by a doctor which is in favor of penalizing the medical malpractice, the article has a very good structure and describe al the problem that people has with the medical malpractice. The article made by dr. Luis Felipe sánchez (2004) says that "the medical malpractice should be considered as medical negligence instead

of medical malpractice but it has to be sanctioned anyway. I don't know if this is the correct way to sanction but is something to try to stop the medical negligence. The newspaper never show what really happen with all the cases about the medical negligence, they only show the really important cases or the famous cases and the other ones never show what happen with then, they never show to the world what really happen. The iess hospital supposedly is a good hospital but is one of the hospitals that most cases of medical malpractice have. If I had to talk about a case of medical malpractice I talk about the case of Catherine Cando is one of the most relevant case that happen of medical malpractice. She passed away when they had a liposuction in a hospital of Guayaquil. This case was transmitted through all possible channels in Ecuador because a liposuction is not dangerous is a surgical technique that is used in cosmetic surgery and that allows a remodeling of the silhouette through the removal of fat and the previous day she was selected miss Guayaquil and she win a liposuction and this operation kill her and all the possible news was about the bad practice of medicine in the hospital of Guayaquil and the brother of Catherine made a judgment against that hospital and the doctor who operated it and the case was closed this year without the doctor receiving any charge.

1.1 Treatment provide by public hospitals

There are a lot of cases of medical malpractice in Ecuador and I can talk about one that in a certain way I lived. One friend of my mother has cancer and she pays for insurance that covered all the treatment of chemotherapy and the hospital that covers this treatment was the hospital of the iess, she was doing the treatments as she should but the treatment did not work as it should and all the family was worry why the treatment didn't work , and the family went to ask the doctor because the treatment was not working as it should and the treatment was not very cheap and the doctor's response was that the only thing they are doing was to make it last longer they didn't try to cure it because they think that their illness was incurable so they didn't try and all the time she spent in the hospital and all the medications was for nothing and the only thing that the hospital was doing was taking money from them. Why are some doctors who do that?

A good example that there are some doctors who are only interested in money is when there is an emergency and the staff attends first the one that has more money and not the one that needs the urgent attention. A phrase that says "The responsibility in the decisions of the medical attention falls on the medical personnel, which sometimes must be immediate due to the seriousness of the case and can be cause for dissatisfaction and demands" (López, Gómez and García, 2006) describe the previous example.

1.2 Consequences

The medical negligence is something that has terrible consequences in some cases but is also important to identify those cases in which malpractice needs to be judge for a mistake that everybody can commit. I think is not fair but I understand that everybody think that a doctor can't make a mistake for all the years that they had studied which are not short by the way.

Something important about the medical negligence is that does not equal injury. That's apply the same in the medicine when a doctor deviate from the appropriate medical standard of care in treating patients but if the patient is not harmed and their health is not impacted, that negligence won't lead to a medical malpractice case.

The real work for a doctor is to save lives right? But why are some doctors that only cares money. I remember a phrase from a well know Doctor William Osler (1892) "the good doctor treats the disease; the great doctor treats the patient who has the disease".

That phrase has to describe all the doctors but it not. There are some good doctors that only cares the health of their patients than his own health but the problem is that not all the doctors are the same. This is where the law has to act to try to correct the medical

malpractice but this is almost impossible for all the corruption that there is in medicine and the money that is behind from all of this. A study conducted in 2014 by the ONU says that medicine is one of the biggest businesses in the world behind the arms industry and drug trafficking. The thing that I can't understand it is the approach that has been given to it in the last few years, the pressures to which it is subject, the dark business frauds and all the lack of scruple of those who get rich by putting the lives of others at Stake. One good phrase that describe all this problem is one that says William j. mayo (s.f.) "The main objective of the medicine is to prevent the disease and prolong life, the Ideal of medicine is to eliminate the need for a doctor". Other good phrase from a doctor That says:

"Modern medicine is administrated by a powerful oligarchy resulting from the large chemical groups, which come to condition the choice of Governments, policies and institutions of health thanks to extraordinary financial means. A denunciation without concessions of all the frauds, abuse, scams..." (Louis de brouwer, 2000)

Medicine has been affected in recent years by all political changes that suffer different countries but that's explained why doctors make money with lives? The famous doctor

Ghislaine Lancot says her opinion about this (2006) “the health system is a real mafia that creates diseases and kills for money and power”. This phrase cost her position in the medical school but she thought that she had to say his opinion about this. Something interesting is that some doctors considered that medicine is a business and they are not afraid to say it because they know is not correct to make money with lives.

2. Private hospitals

Why private hospitals are better than a public hospital, because you have to pay for it? Public hospitals should have better care because people go to them because they are supposed to be free. But this not what really happened with then, dr Luis Enrique Zea Salazar (2014), says that “The intention and great economic effort is good, but until now the problems of public hospitals have not been overcome. Could it be that the resources are not well directed and used?” why the resources are not well used? What happen with then? There are so many questions about the public hospitals that we never knew the answer because there are many things behind all this. That’s a thing of why a private hospital are better because they know what to do with all the resources they had and the people who work there try to show more interest in their patients.

2.1 Opinion about Private hospitals

There are some opinions about why private hospitals are growing as a business to large masses like this “ Private healthcare grows mainly through private insurance and this grows, in turn, by improving the standard of living” (Amanda Mars, 2008) and this is correct in some ways because people with better economic income can pay for better medicine service, that’s a reason why in private medicine you earn too much compared to the public and that’s a reason why in private hospital are less cases of medical Malpractice.

Chapter III

The result of an analysis about the medical malpractice and his consequences in public hospital.

1. Analysis about the medical practice in Ecuador

I conducted an analysis where my main objective was to see what others thought about the problem that many people has with the public medicine and everything that entails the medical malpractice. My survey was based on the opinion of others about the public hospitals and the problems they have been involved in. With the survey I try to see what others think about a controversial topic and I realized that many people thought the same about the medical malpractice in public hospital. I also noticed that many people have the same point of view towards medical malpractice besides that I realized that people are a little afraid of public hospitals for all the cases that have happened of medical negligence as the case of the clinic graces that is the most notorious of this issue but I will talk about this later. I realized that many people have a good perspective towards private medicine; I suppose because they don't have many cases of medical malpractice but the problem with the private hospital is the cost of it. Something good I read on the poll is that many people don't think that public medicine is bad for being free they think that public medicine is questionable by the people who manage it because they think that the people who manage it only cares the money and forget his ideals

but the most interesting thing is that people prefer go to private hospital in an emergency and try to ignore the public hospital for security but that's not all because many people don't know the exact meaning of medical negligence, that's something that surprise me because the school should tell us more about that and don't learn this from other places or situation. The term medical negligence or medical malpractice are notto common because not all the school teach medicine as a subject that could learn the Ecuadorian educational system so that we already have more ideas about medicine. The survey helped me a lot to clarify doubts about what others people thought because I did not have a clear idea of what others thought about this topic which was a bit strange for many people because the medical malpractice is no too common in many cases but unfortunately it is not strange for others because they have lived a similar cases but not too serious thankfully. When I do my survey I also think of a famous phrase about common sense that says "Do not be fooled, common sense is too common to be really felt, basically it is only a chapter of statistics, and the most vulgarized of all" (Jose Saramago, s.f). For this sentence I was a bit afraid to take the survey but luckily I got positive results and it was much better than I expected because I got too many answers that clarified my doubt about what others will say about the medical malpractice and his own opinion to prevent this cases in the best way possible like the realization of advertising campaigns about the subject or make talks so that people have more in mind

the dangers that can lead the medical malpractice. But neither the medical malpractice can be prevented because no one ever knows when a case like this can happen to one of us that are why it is looking to prevent this. I would like to know is why people trust more in private hospitals, I don't know if the fact that it cost are obligated to provide good services but there have been cases of medical malpractice in private hospitals only that they are not disseminated as much as those that happen in public hospitals because private hospitals try to hide those cases so that they do not become public and damage the image of the hospital but eventually everything ends up coming to the surface sooner or later.

One of the most shocking cases was that of the miss Duran but there was one that left an imprint on the history that is the case of the clinic Graces that I said I would talk later. The case of the Garces clinic is a bit old because I had not been born yet, but it was a bit shocking because people still talking about the case not matter the time the case has. In the year 1997 in the Garces`s clinic 21 people were infected by AIDS while doing treatments for hemodialysis and nobody survive the last survivor passed away in the year 2013 being in continuous treatment for his illness. The most impact of the case was the carelessness of using an infected injection to 21 patients; this is why you should be very careful when using an injection in a hospital but the worst of all is that those who were the culprits ended up staying unpunished and they went to united states of America

to have no problem with the families of those affected despite this even though they were forbidden to leave the country, an international demand was imposed on the inert-American commission on human rights. Unfortunately the case was closed with the impunity of the doctors but the families of those affected expect the prosecution to reopen the case. The worst of all is that young children died without being to blame simply for going to an insurance hospital.

CONCLUSIONS

- This monographic work concludes that they should improve the service provide by public hospitals, the services they provide are not bad at all but it could be improved because they are supposed to be god because a public hospital is where everyone are supposed to go in an emergency other problem that the public hospital have is all the cases of medical malpractice that's the main reason why public hospitals are worse than a private and for the reputation the have.
- With this work I understand why some people are afraid to go to a public hospital and prefer to go to a private hospital because there are more viable and don't have some many cases of medical malpractice other thing that I see with the analysis that I do is that many people says that the current service of medicine in many countries not only in Ecuador are mainly focused on the money and not in saving live that they are supposed to do.

- One thing that can be better is the thing that the law don't work when they are supposed to work that's other reason why there are many cases of medical malpractice because the law help them to not publish some cases of medical malpractice so keep them hide and not create much fuss.
- We have to raise awareness in order to reduce the number of medical malpractice cases and also decrease the number of corrupted doctors to cleanse the name of medicine and the right doctors so that the medicine is the same as before when the main reason to be a doctor is to save lives and not to worry about the money.

RECOMMENDATIONS

- That the public service hospitals improve in every aspect, improving their service in such a way that people are comfortable going to these hospitals, and do not hesitate to go.
- That the government takes an initiative to impose certain regulations for a better medical service in all hospitals in Ecuador.
- That they change the way they handle this whole health environment, that they don't focus so much on the commercial, but rather on what it has to be that is saving lives.

REFERENCES

- Goguen, D. (2018). *Medical Negligence: The Law Explained* - AllLaw.com. [online] AllLaw.com. Available at: <http://www.alllaw.com/articles/nolo/medical-malpractice/negligence.html> [Accessed 12 Aug. 2018].
- Larepublica.ec. (2018). *Catherine Cando – La República EC*. [online] Available at: <https://www.larepublica.ec/blog/tag/catherine-cando/> [Accessed 9 Aug. 2018].
- Larepublica.ec. (2018). *Catherine Cando – La República EC*. [online] Available at: <https://www.larepublica.ec/blog/tag/catherine-cando/> [Accessed 9 Aug. 2018].
- LII / Legal Information Institute. (2018). *Negligencia médica*. [online] Available at: https://www.law.cornell.edu/wex/es/negligencia_médica [Accessed 19 Sep. 2018].
- Linguee.es. (2018). *medical negligence - Traducción al español – Linguee*. [online] Available at: <https://www.linguee.es/ingles-espanol/traduccion/medical+negligence.html> [Accessed 11 Jul. 2018].

