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The Legal Brief

Hospitals are legal minefields. From medical errors and malpractice suits to data security, hospitals are high-risk establishments. In order to find out the main legal issues facing today's hospitals, (E)Hospital spoke to Dr. Leopold- Michael Marzi, Director of Vienna General Hospital's Legal Office.

Dr. Marzi, thank you for agreeing to speak with us. As Director of Vienna General Hospital's legal office, tell us a bit about your responsibilities, daily activities.

It is very interesting for me to work in a hospital, because there are so many fields of activities, like public procurement, consulting, data protection, contract management, but also information for health professionals, quality management and risk management in order to reduce malpractice etc.

What are the Main Legal Issues Facing Hospitals Today?

I am of the opinion that the main legal issues are changing. The most important thing is to foresee trends before they are influencing our daily life. One example: It is more important to avoid errors and malpractice than to pay compensation some years after. But that is so difficult because you have to change attitudes and traditions and you need some years to see that things are getting better.

Many Say That Europeans are Becoming More and More Like Americans in Taking Legal Action Against Doctors and Hospitals. Do You Agree with this?

The legal systems in Europe cannot be compared with America; the USA and Europe are too different to say if this opinion is true or not. As a matter of fact, patients are no longer willing to accept that doctors decide what they have to do. And in case of malpractice they want to get appropriate compensation. This trend is not so much influenced by the USA as many people and also the mass media believe.

What are the Legal Implications of Cross-Border Healthcare/Medical Tourism in Hospitals? How are You Dealing with the Increasingly Free Movement of European Citizens?

Cross-border healthcare and medical tourism are a worldwide phenomenon. People from Great Britain or Canada travel to India in order to be treated earlier and also for less money than in their home country. The creation of the Single Market in Europe leads to new developments in the economy and also social systems, but these social systems are still very different, because the social welfare state in every European country has its own history. The Vienna General Hospital is also confronted with several kinds of patients from other countries. There are not so many rich people coming to Vienna to be treated in a public hospital, but patients from Eastern Europe have much more rights since many countries joined the EU in the year 2004. Many treatments cause a deficit for the City of Vienna but must be performed. We do not care from where people come if they need our help. But in the long run there must be political solutions on how to finance the local social system in the Single Market.

Hospitals are Integrating More and More Advanced Technologies, Using Sophisticated IT Systems. Have These Increased Legal Risks? (Data Security with Electronic Health Records etc.)

Data protection is one of the most important legal issues as I mentioned before. There are increasing risks caused by the IT systems. In former days data protection was much easier, because you could not copy and send whole files around the world in just a few seconds. We try to do our best in protecting data by making it almost impossible to transfer data without being controlled by the IT system.

How Important/Useful are Risk Management Systems?

I believe that they are very important. Let me give one example: in the year 2000 I started a project in order to reduce damages in patient treatment. It was not very easy to persuade the health professionals that a legal practitioner is able to change the number or errors and damages occurring far away from his office. But together with our insurance company, the Vienna Insurance Group, we analysed every case and got a lot of information. One of the most interesting facts was that malpractice very often happens on Friday and during the weekend. There are also "dangerous months" like January, March and July.

The most surprising finding was that the so-called "human factor" causes 80 percent of the damages. In other words: It is of great importance how teams are formed and what conditions they have in their everyday work etc.

We also established the "Legal Emergency Kit" (see page 12). If there is any legal problem during a medical treatment, the legal practitioner can be reached via mobile phone even in the evening and during the weekend. Though this means extra work, in the long run there are less cases and trials, because we learn from the cases in the past and improve our outcomes.

How are Hospital Staff Kept Informed About Legal Standards, Procedures etc.? Do You have Any Legal Training Programmes or Information Seminars for Hospital Staff?

We organise a lot of activities, for instance legal trainings and seminars. But it is very difficult to reach the thousands of people working in our hospital. The "Legal Emergency Kit" I mentioned before really exists in every department. Inside you find a checklist that tells you how to behave in case of emergency from a legal point of view. We also inform our staff by intranet, because the access to information is very simple and cheap.

What do You Think will be Main Legal Issues for Hospitals in the Next Ten Years?

The main legal issue in the next ten years will be risk management in many forms. Hospitals are, and always will be, dangerous locations, but many risks can be reduced easily if you are aware which risks exist. I think it is wrong to talk about "patient safety" if you forget the hospital staff. So I prefer to talk about "hospital safety" including all persons working in the hospital for many years. If they are safe the patient will also be safe, almost automatically. We can learn a lot from aviation where the passengers are safe because there is a trained team working for them.

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