

# Dealing with medical complaints in Dubai

Hiam Al Muhtadi  
h.almuhtadi@tamimi.com

October 2013

---

## Medical Complaints

The Authority deals with medical complaints against healthcare providers and medical practitioners working in the public and private sectors in Dubai. A medical complaint is any written or spoken expression of dissatisfaction with a healthcare service in the Emirate of Dubai.

All medical complaints are handled by the Health Regulation Department of the Authority. Medical complaints filed against healthcare professionals or entities are dealt with in a timely, professional and consistent manner by the Health Regulation Department. The Department will only accept complaints related to a health service or its quality.

All medical complaints will be considered, whether they are formal written complaints or a concern expressed towards a healthcare professional or institution in a customer feedback survey.

The Department will investigate the complaint and determine whether or not a healthcare professional's actions or inactions constitute malpractice.

Malpractice is an error that occurs due to a practitioner's unfamiliarity with the technical aspects of a procedure being undertaken, or due to his negligence (see Article 14 of Federal Law No. 10 of 2008 ("The Medical liability Law").

However, a medical practitioner will not be liable in the following circumstances:

1. If the damage was sustained due to the action of the patient (i.e. refusing receiving treatment, failing to follow the medical instructions provided by persons supervising the patient's treatment or due to an external cause).
2. Where the physician followed a certain medical method when administering the treatment other than the generally accepted method, there will be no liability if the method nonetheless followed recognized medical principles.
3. If the medical side effects and complications are known in the medical practice.

## Complaint Procedure

A medical complaint can be made by a patient affected by the actions or inactions of a healthcare provider. Medical complaints can also be made by someone acting on behalf of the complainant, provided that the complainant's consent is obtained.

A typed summary of the complaint with the Authority complaint form (which can be found on the Authority's website) must be personally submitted by the complainant to the Department. Once a complaint is filed, all members of hospital staff who can provide information about the complaint (i.e. patient's medical file) will be contacted.

If a complaint requires investigation, a panel of medical specialists will be formed to review the complaint. The final outcome of the investigation will be communicated to the complainant, the physician and the

healthcare facility.

## **Investigation Process**

The Department deals with each complaint separately based on the severity of a complaint. A thorough investigation of each complaint will be conducted and the Department will determine the causal link between the actions of the healthcare professional and the harm sustained by a complainant.

The investigation process at the Authority is as follows:

1. Department will contact the health care institutions involved in the complaint to obtain the complainant's medical files,
2. The Department will then separately invite the medical practitioner/s and the complainant to the investigation;
3. The panel will examine the complainant's medical file, the complaint itself, and the testimonials from doctors, staff and other information before presenting their decision.

The Department will then prepare a report on its findings and communicate their decision to the parties.

The Department will ensure that the complainant receives an apology, if appropriate, and will further assess the steps that need to be taken to avoid the issue from occurring again.

## **Appeal Process**

The appeal process is as follows:

1. The complainant can appeal the Department's decision within 15 days of receiving the final result of the investigation.
2. The appeal will be reviewed by another panel of medical specialists at the Department as well as the legal department of the Authority, and finally by the director general of the Authority who will render a final decision on the complaint.
3. Appeals will be accepted if complainants have new evidence to support their appeal.
4. The appeal will be reviewed and the parties (i.e. patient/healthcare provider) will be notified of the Authority's final decision.
5. Only one appeal is accepted per case.
6. The Authority's final decision will not be subject to any further appeals.

## **Disciplinary actions**

The Authority is empowered to take the following actions should a complaint be upheld:

1. To reprimand the healthcare professional or facility;
2. To send warning letters that similar violations in the future will result in temporary or permanent suspension of the physician licensee; revocation or refusal to renew the licensee's Authority license;
3. Further training for the licensee and supervision by another licensed healthcare professional.

## **Time Frame**

The Authority normally takes between 6-12 months to render final decisions on complaints.

## **The Dubai Healthcare City Authority**

Dubai Healthcare City was established in 2002 to provide the best patient healthcare.

The DHCC hears medical complaints filed against hospitals and healthcare professionals within the healthcare city only.

## **The Centre for Planning and Quality at the DHCC.**

The Centre for Planning and Quality is an independent regulatory body with the role of setting and maintaining international best practice in healthcare delivery and patient care at the DHCC.

Every healthcare provider and professional within DHCC must meet stringent standards in order to be licensed by the Centre.

Healthcare quality and patient safety are of the utmost priority for the Centre, and it ensures that standards are maintained through a series of ongoing requirements and inspections.

### **Medical Complaints before the Customer Protection Unit**

The Customer Protection Unit is responsible for all complaints against Centre licensees, healthcare professionals and facilities, public health and non-clinical facilities.

The Unit is responsible for managing the investigation of each complaint and presenting the complaints to the Health Professionals Council, Licensing Board and the Facility Committee at the DHCC, according to the Dubai Health Care City Authority's Governing Regulation No.1 of 2008.

### **Complaints Procedure**

The procedure for complaints made to the Unit is as follows:

1. Complaints are reviewed and analyzed to determine whether the facts alleged by complainant constitute a violation of any of the DHCC regulations, rules, and policies.
2. An investigation is then conducted, including on-site investigations, witness statements or interviews, visual inspections, etc.
3. Panels of medical experts may be formed to provide their opinion on the complaint.
4. Fitness to practice panels may also be formed to ensure that a Licensed Healthcare Professional ("Licensee") continues to meet the required standard of competence and has not engaged or is not engaging in professional misconduct;
5. A complete file is then presented to the Customer Protection Unit Committee for review.
6. The Committee's proposed findings on evidence; opinion regarding the occurrence of violations; and recommendations for penalties, are then presented to the Licensing Board for review and final decision.
7. Following a thorough review, the Licensing Board will issue a final decision, including findings of facts and conclusions of law as well as a decision for either dismissal or for disciplinary action.
8. The complaints process will be concluded within 3-6 months and the unit will be responsible for communicating the final decision to the licensee and the complainant.

### **The Licensee's role in the complaints process**

The licensee must respond to allegations in the complaints within 10 working days of receiving the complaint. Their response to each allegation must be supported with documents, such as complete medical records (if possible). The Licensee must fully cooperate with the Unit in its investigation, within a reasonable time frame.

### **The Licensing Board's Decision**

The Licensing Board's final decision is not subject to appeal unless further relevant facts become known after the board has rendered its decision that was not available to the complainant or the licensee in the course of the investigation process.

### **Disciplinary Actions**

The disciplinary actions that the Licensing Board can take range from:

1. The imposition of financial penalties
2. A reprimand against healthcare professionals or facilities
3. Warning letters stating that similar violations in the future will result in temporary or permanent suspension of the licensee; revocation or refusal to renew the licensee's DHCC license
4. Further training for the licensee and supervision by another licensed healthcare professional
5. A refund to the complainant with expenses for the treatment or service acquired at a healthcare facility

Although various complaints are made against medical practitioners and hospitals before the health authorities in Dubai, healthcare professionals and entities are not always found to have committed malpractice or negligence by the health authorities in practice. Sometimes patients file complaints against physicians for injuries sustained following surgical procedures which are in fact well known and common side effects which were communicated to them in advance of the treatment (often by way of consultation on the treatment plan, with a consent form being signed by the patient on the date of the surgery).

Other common complaints relate to the method or technique used by medical practitioners in certain procedures that differ from the methods followed by doctors in the same field of specialty. The fact that a doctor followed a certain technique that was not common in treatments performed by other doctors specialized in the same field does not mean that the physician was negligent in the treatment of a patient, provided that the technique followed acceptable and recognized medical standards. The above mentioned departments at the health authorities allow the complainant, healthcare professional or institution, the right to be heard equally in the complaints process to ensure the investigation procedure is conducted fairly for both parties.

The inception of the health authorities have improved the healthcare management sector in Dubai by implementing advanced mechanisms for tackling medical complaints efficiently in accordance with the law and the acceptable medical standards of practice.