Medico-legal aspects of nasal fractures secondary to assault: should we advise facial x-rays?

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Introduction

Guidelines suggest that x-rays do not contribute to the clinical management of nasal fractures, as the majority are simple and uncomplicated. [1] However, in cases of nasal fracture secondary to assault, a facial x-ray may provide additional legal evidence should the assailant be charged by the police. Literature review highlights controversy regarding the value of imaging but little is published giving guidance in cases of non-accidental nasal fractures where legal action is likely to proceed. We present an up-to-date review of medical and legal perspectives.

Aims

To establish current opinion from medico-legal sources based upon the following questions:

Does the surgeon owe a duty of care to advise a patient to have an x-ray taken for nasal fracture secondary to assault?

Is the value of imaging but little is published giving guidance in cases of non-accidental nasal fractures where legal action is likely to proceed. We present an up-to-date review of medical and legal perspectives.

Method

A number of relevant medical and legal sources were contacted by telephone or email. The above questions were posed and advice sought.

Results

Consultant Clinicians

We do not x-ray nasal fractures since the diagnosis and treatment are not altered by it. We would not expose a patient to radiation to prove a point for few where there was no medical benefit. The issue of assault, liability and claims rarely depends on a single test. [2] However, the majority of authors felt that this practice devalued the importance of thorough history taking and physical examination in assessing the need for an x-ray in a legal case. If I were giving expert evidence for the defence in an assault case and an x-ray had not been done to confirm the clinical diagnosis, I would use that omission to cast doubt on the diagnosis and thereby on the force of the blow alleged to have caused the injury. If there is any question of an assault having caused the injury, I would regard x-ray as mandatory. [3]

Legal advice

If a specialist witness gives evidence, then it is not necessary to have an x-ray. X-rays will not increase degree/level of harm in which the attacker will be charged. An x-ray may increase the strength of evidence if pressing charges. [4] However, the majority of authors felt that this practice devalued the importance of thorough history taking and physical examination in assessing the need for an x-ray in a legal case. If I were giving expert evidence for the defence in an assault case and an x-ray had not been done to confirm the clinical diagnosis, I would use that omission to cast doubt on the diagnosis and thereby on the force of the blow alleged to have caused the injury. If there is any question of an assault having caused the injury, I would regard x-ray as mandatory. [3]

Consultants

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Discussion

In cases where a criminal act is involved Illum recommended that all nasal fractures are reviewed by ENT surgeons to obtain a more thorough history and examination as the exact medical information describing the damage found is important in the establishment of the diagnosis. [3]

The issue of facial x-rays has caused controversy with proponents arguing that they were a medico-legal necessity. [4] However, the majority of authors felt that this practice devalued the importance of thorough history taking and physical examination in assessing the need for an x-ray in a legal case. If I were giving expert evidence for the defence in an assault case and an x-ray had not been done to confirm the clinical diagnosis, I would use that omission to cast doubt on the diagnosis and thereby on the force of the blow alleged to have caused the injury. If there is any question of an assault having caused the injury, I would regard x-ray as mandatory. [3]

Medical bodies

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Conclusion

There is strong published medical evidence against the use of facial x-rays in the clinical setting, however the latest legal view on the subject suggests that a lawyer may use a lack of evidence to lay seeds of doubt in the minds of the jury and aim to reduce the level of charge against the perpetrator. [5] A leading medical defense organization in Britain has stated that radiography of the nasal bones is indicated only if it was in the best interests of the individual patient and would help in surgical management and therefore was not a medico-legal requirement. [9]