

Disciplinary Actions in Gynecology and Obstetrics in the North of Portugal from Year 2008 to 2012



Ações Disciplinares em Ginecologia e Obstetrícia na Região Norte de Portugal nos Anos 2008 a 2012

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ABSTRACT

Introduction: Disciplinary actions may have a significant impact in medical doctors' and patients' lives. The objective of this study was the assessment of the disciplinary actions in Obstetrics and Gynecology that occurred in the north of Portugal in years 2008 to 2012.

Material and Methods: Retrospective descriptive study based on the anonymized data contained in the annual activity reports of Conselho Disciplinar da Seção Regional Norte da Ordem dos Médicos from 2008 to 2012. We calculated the proportion of disciplinary actions in Obstetrics and Gynaecology over the total number of registered specialists in that speciality. We also analysed the type of complainers, accused, institutions, complaints and decisions. For statistical inference proportions with 95% confidence intervals were estimated.

Results: From years 2008 to 2012, we registered 1040 complaints in all medical specialities in the north of Portugal. Obstetrics and Gynecology was the fourth most affected specialty, with a total of 54 complaints. Forty-three complaints were related with medical malpractice and if we only consider this type of complaint Obstetrics and Gynecology was the most affected specialty. The most frequent complainers and accused were, respectively, patients themselves and female physicians, with 41 to 60 years of age. Fifty-two complaints were archived without punishment while two still await conclusion.

Discussion: The overall results of this study are in agreement with those reported by other authors.

Conclusions: Obstetrics and Gynecology was the fourth speciality with highest risk for any disciplinary action in the north of Portugal in years 2008 to 2012 and the first one in relation with alleged negligence. All presented and already concluded complaints were archived without penalty, except two that are still under evaluation.

Keywords: Gynecology; Liability, Legal; Malpractice; Obstetrics; Portugal; Professional Misconduct.

RESUMO

Introdução: As ações disciplinares podem ter um impacto significativo na vida dos médicos e dos doentes. O objetivo deste trabalho foi a avaliação das ações disciplinares em Ginecologia e Obstetrícia ocorridas na região norte de Portugal nos anos 2008 a 2012.

Material e Métodos: Estudo descritivo retrospectivo baseado nos dados anonimizados disponíveis nos relatórios anuais de atividades do Conselho Disciplinar da Seção Regional Norte da Ordem dos Médicos dos anos 2008 a 2012. Calculámos a proporção de ações disciplinares em Ginecologia e Obstetrícia sobre o número total de especialistas inscritos. Avaliámos também os tipos de queixoso, de arguido, de instituição, de queixa e de decisão envolvidos. Para comparação de proporções utilizámos intervalos de confiança de 95%.

Resultados: De 2008 a 2012, registou-se um total de 1040 ações disciplinares na região norte de Portugal. A Ginecologia e Obstetrícia foi a quarta especialidade mais afetada, com 54 queixas, 43 das quais relacionadas com alegada negligência médica e a mais afetada, se considerarmos apenas este tipo de queixa. Os queixosos e os arguidos mais frequentes foram, respetivamente, doentes em nome próprio e profissionais do sexo feminino, com idade compreendida entre os 41 e 60 anos. Das 54 ações disciplinares registadas, 52 foram concluídas sem penalização e duas aguardam decisão.

Discussão: Os resultados estão genericamente de acordo com os de outros autores.

Conclusões: A Ginecologia e Obstetrícia foi a quarta especialidade com maior risco de ação disciplinar na região norte de Portugal nos anos 2008 a 2012 e a primeira se considerarmos só as queixas de alegada negligência médica. Todas as ações disciplinares foram arquivadas, sem penalização dos médicos visados, com exceção de duas que se encontram ainda em avaliação.

Palavras-chave: Ginecologia; Negligência; Obstetrícia; Portugal; Responsabilidade Legal.

INTRODUCTION

The medical profession has since ages been controlled by heavy regulation and social scrutiny, embedded into different codes, declarations and regulations of both ethics and legal nature.¹ This reality is increasingly part and has a deep impact on professional practice. It is estimated that on average, 11% of physicians may become involved in legal or disciplinary actions during their average 40 years of professional life.² This is however a difficult subject to study, with scarce available information in the medical literature. There is a wide diversity and complexity in litigation and

physicians may become targeted by employers, as well as professional and legal entities.¹ It is therefore difficult to obtain a complete picture of the scrutiny directed against physicians.

Some articles and institutional reports focus on issues associated to legal actions brought up by employers, mainly regarding administrative and occupational aspects, but also performance quality.^{3,4} Other manuscripts describe legal actions brought up by professional organisations invested with ethics and disciplinary legitimacy, such as the Medical

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Colleges,⁵⁻⁷ while others involve legal actions brought up by judicial bodies, the Prosecutor's Office and administrative, criminal or civil courts.⁸ In every case, information is always difficult to obtain due to the absence of any organized Portuguese database provided to the public. Therefore, those interested in studying these subjects have to look among employers, professional organisations and judicial bodies dealing with the different dimensions of responsibility, namely the National Health Service/Ministry of Health (*Serviço Nacional da Saúde/Ministério da Saúde*), the Portuguese College of Physicians (*Ordem dos Médicos [OM]*) and the Forensic Council/Ministry of Justice (*Conselho Médico-Legal/Ministério da Justiça*). Different authorities have different mechanisms with specific regulations and sanctions. These include the Estatuto Disciplinar dos Trabalhadores Que Exercem Funções Públicas (Disciplinary Status of Public Employees) and the Estatuto da Ordem dos Médicos (the Portuguese College of Physician's Status) which, applied to the same physician, have different scopes, one within the administrative responsibility and the other within the professional and ethics responsibility.^{1,9,10}

Whatever the background of the medical profession, the Obstetrics and Gynaecology specialty seems to be one of the most critical areas^{8,11-15} with higher percentage of disciplinary and legal actions, as well as higher sanctions and compensation claims.¹³⁻¹⁵ The complaints that reached the Portuguese Conselho Médico-Legal (Forensic Council) of the Ministry of Justice involving Obstetrics and Gynaecology are known,⁸ although we are not aware of any publication analysing the disciplinary actions involving this specialty that reached the Conselho Disciplinar (CD) (Disciplinary Council) of the OM's Secção Regional Norte (SRN) (Northern Regional Section), from 2008 to 2012.

The Conselhos Disciplinares (Nacional, Norte,

Centro e Sul e Ilhas) (Disciplinary Councils - National, Centre and South & Islands) are the statutory competent bodies to start any disciplinary action within the OM. The importance of these bodies is evident to carry out the OM's duties, particularly ensuring compliance with the Código Deontológico and the Estatuto Disciplinar dos Médicos (Physician's Legal Code and Disciplinary Status).^{16,17} These councils deal with ethics and professional responsibility and the remaining (civil and criminal responsibilities) are dealt with by the competent authorities within the Portugal legal framework – the Ministério Público (Prosecutor's Office) and the Courts, in line with other countries.¹⁸⁻²²

MATERIAL AND METHODS

This was a descriptive and retrospective study, approved by the CD of the OM's SRN, based on the annual activity report's anonymized data as well as on the analysis of the medical records involved, carried out by the CD members. A database with these reports was built and all legal actions brought up from 1st January 2008 until 31st December 2012 were analysed, regardless of completion.

The OM's SRN CD includes five physicians, assisted by two legal experts and is responsible for the analysis and decision regarding the complaints against physicians registered at the OM's SRN. From the moment when a complaint is submitted, this follows the legal procedure, in line with what happens in other professional associations responsible for the medical practice.¹⁹ This procedure involves the sequential identification of those involved and the summary analysis of the complaint, followed by an immediate closure or, in case of a disciplinary action to follow, by a request for a commissioner to present the case to the CD. The CD subsequently asks for advice (namely to the Specialty Colleges, in case of malpractice), for a

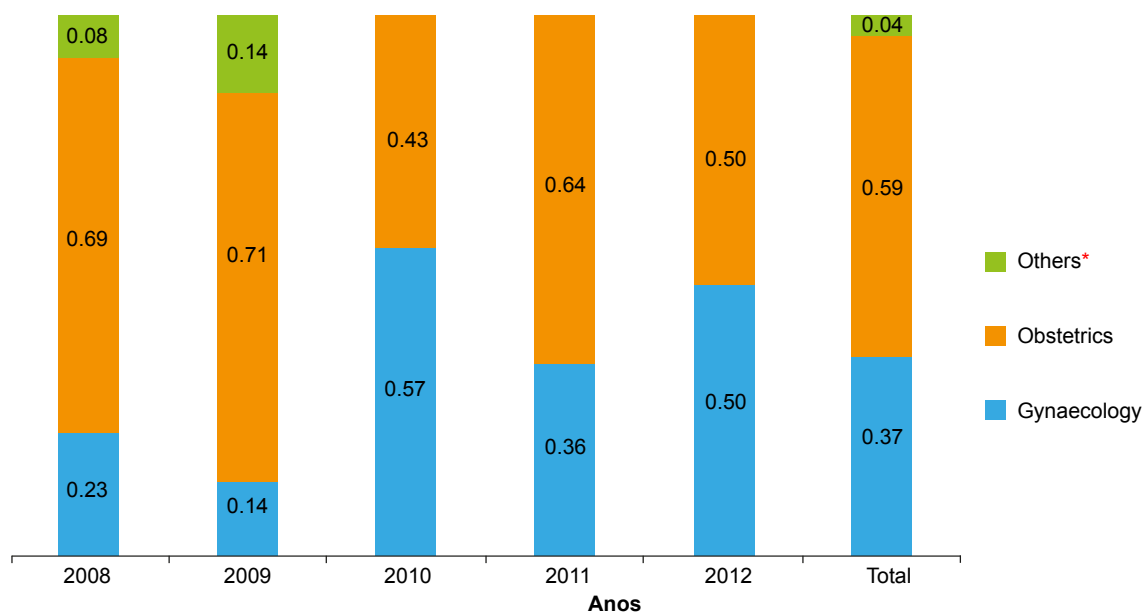


Figure 1 - Distribution of disciplinary actions regarding Obstetrics and Gynaecology in the northern region of Portugal. From 2008 to 2012, by specialty area. * Legal actions not included in previous areas.

Table 1 - Global average proportions of disciplinary actions per year and specialty, in the northern region of Portugal, 2008-2012, with 95%

| Specialty | 2008 | | | 2009 | | | 2010 | | |
|---------------------------------|------|--------|------|------|--------|------|------|--------|------|
| | n | Sp | Prop | n | Sp | Prop | n | Sp | Prop |
| Psychiatry | 9 | 302 | 0.03 | 6 | 309 | 0.02 | 4 | 318 | 0.01 |
| Trauma & Orthopaedic Surgery | 7 | 310 | 0.02 | 8 | 316 | 0.03 | 10 | 330 | 0.03 |
| Radiology | 4 | 220 | 0.02 | 10 | 226 | 0.04 | 7 | 235 | 0.03 |
| Obstetrics and Gynaecology | 13 | 445 | 0.03 | 7 | 452 | 0.02 | 14 | 461 | 0.03 |
| Plastic Surgery | 2 | 59 | 0.03 | 1 | 61 | 0.02 | 3 | 60 | 0.05 |
| Ophthalmology | 6 | 219 | 0.03 | 0 | 222 | 0.00 | 5 | 230 | 0.02 |
| Gastroenterology | 1 | 116 | 0.01 | 1 | 118 | 0.01 | 4 | 121 | 0.03 |
| General Practice | 27 | 1,742 | 0.02 | 28 | 1,786 | 0.02 | 21 | 1,836 | 0.01 |
| General Surgery | 13 | 462 | 0.03 | 4 | 474 | 0.01 | 5 | 479 | 0.01 |
| Occupational Medicine | 1 | 278 | 0.00 | 7 | 282 | 0.02 | 6 | 290 | 0.02 |
| ENT Surgery | 0 | 172 | 0.00 | 6 | 177 | 0.03 | 1 | 183 | 0.01 |
| Rheumatology | 1 | 25 | 0.04 | 0 | 27 | 0.00 | 0 | 28 | 0.00 |
| Urology | 3 | 111 | 0.03 | 0 | 113 | 0.00 | 0 | 117 | 0.00 |
| Vascular Surgery | 3 | 62 | 0.05 | 1 | 61 | 0.02 | 0 | 62 | 0.00 |
| Neurosurgery | 0 | 51 | 0.00 | 0 | 51 | 0.00 | 1 | 51 | 0.02 |
| Cardiology | 4 | 212 | 0.02 | 1 | 215 | 0.00 | 3 | 219 | 0.01 |
| Neurology | 2 | 120 | 0.02 | 0 | 125 | 0.00 | 3 | 128 | 0.02 |
| Dental Medicine | 4 | 204 | 0.02 | 1 | 199 | 0.01 | 2 | 198 | 0.01 |
| Rehabilitation Medicine | 1 | 178 | 0.01 | 4 | 184 | 0.02 | 1 | 192 | 0.01 |
| Medical Oncology | 1 | 84 | 0.01 | 0 | 87 | 0.00 | 2 | 85 | 0.02 |
| Clinical Genetics | 1 | 23 | 0.04 | 0 | 24 | 0.00 | 0 | 24 | 0.00 |
| Child and Adolescent Psychiatry | 0 | 48 | 0.00 | 1 | 49 | 0.02 | 1 | 49 | 0.02 |
| Endocrinology | 1 | 60 | 0.02 | 0 | 60 | 0.00 | 1 | 62 | 0.02 |
| Public Health | 1 | 136 | 0.01 | 2 | 138 | 0.01 | 0 | 138 | 0.00 |
| Radiotherapy / Nuclear Medicine | 1 | 33 | 0.03 | 0 | 34 | 0.00 | 0 | 34 | 0.00 |
| Immunology | 0 | 75 | 0.00 | 0 | 74 | 0.00 | 2 | 74 | 0.03 |
| Renal Medicine | 0 | 71 | 0.00 | 1 | 76 | 0.01 | 1 | 78 | 0.01 |
| Non-Specialists | 38 | 5,195 | 0.01 | 23 | 5,504 | 0.00 | 22 | 5,967 | 0.00 |
| Dermatology | 1 | 83 | 0.01 | 0 | 85 | 0.00 | 0 | 85 | 0.00 |
| General (Internal) Medicine | 1 | 520 | 0.00 | 2 | 539 | 0.00 | 2 | 551 | 0.00 |
| Respiratory Medicine | 1 | 139 | 0.01 | 2 | 143 | 0.01 | | 144 | 0.00 |
| Paediatrics | 3 | 488 | 0.01 | 3 | 515 | 0.01 | 2 | 528 | 0.00 |
| Allergy | 0 | 55 | 0.00 | 1 | 57 | 0.02 | 0 | 60 | 0.00 |
| Anaesthesia | 1 | 497 | 0.00 | 1 | 526 | 0.00 | 1 | 548 | 0.00 |
| Total | 206 | 14,143 | 0.01 | 179 | 14,705 | 0.01 | 154 | 15,416 | 0.01 |

Sp: specialists; Prop: proportion; CAA Prop: cumulative annual average proportion

witness hearing and decides whether to close the case or to reach a charge order. In the latter case, an audience and written defence of the accused follows and finally, the case is closed or a charge sentence is decided.¹⁷

The percentage of disciplinary actions regarding Obstetrics and Gynaecology was assessed, compared to the number of registered specialists as well as to other specialties (Table 1). The type of complainant, of accused, complaint and decision involved were also analysed (Table 2 and 3).

The OM's SRN was asked to provide the number of registered physicians in each specialty, from 2008 to 2012, allowing for the analysis of the percentage of complaints by

specialty.

As regards the complaints, we have chosen to assess the demographic characteristics of each professional, as each complaint may have included different professionals, with a different outcome for each professional involved. Each action was therefore considered as a single disciplinary procedure involving one physician.

Each disciplinary procedure based on different variables was characterized allowing for the statistics analysis. Complaints were ranked according to the annual reports of OM's SRN CD, which included medical negligence, patient-physician and physician-physician conflict, among others. Sanctions were classified according to the Estatuto

confidence intervals (95% CI) in descending order

| 2011 | | | 2012 | | | Cumulative 2008-12 | | | |
|------|--------|------|------|--------|------|--------------------|--------|----------|-----------------|
| n | Sp | Prop | n | Sp | Prop | n | Sp | CAA Prop | 95% CI |
| 22 | 329 | 0.07 | 23 | 341 | 0.07 | 64 | 1,599 | 0.040 | (0.031 - 0.051) |
| 19 | 346 | 0.05 | 18 | 357 | 0.05 | 62 | 1,659 | 0.037 | (0.029 - 0.048) |
| 3 | 250 | 0.01 | 6 | 261 | 0.02 | 30 | 1,192 | 0.025 | (0.018 - 0.036) |
| 14 | 472 | 0.03 | 6 | 485 | 0.01 | 54 | 2,315 | 0.023 | (0.018 - 0.030) |
| 0 | 61 | 0.00 | 1 | 63 | 0.02 | 7 | 304 | 0.023 | (0.011 - 0.047) |
| 5 | 237 | 0.02 | 9 | 251 | 0.04 | 25 | 1,159 | 0.022 | (0.015 - 0.032) |
| 2 | 128 | 0.02 | 5 | 135 | 0.04 | 13 | 618 | 0.021 | (0.012 - 0.036) |
| 69 | 1,892 | 0.04 | 29 | 1,977 | 0.01 | 174 | 9,233 | 0.019 | (0.016 - 0.022) |
| 8 | 489 | 0.02 | 12 | 510 | 0.02 | 42 | 2,414 | 0.017 | (0.013 - 0.023) |
| 4 | 298 | 0.01 | 6 | 298 | 0.02 | 24 | 1,446 | 0.017 | (0.011 - 0.025) |
| 2 | 191 | 0.01 | 4 | 197 | 0.02 | 13 | 920 | 0.014 | (0.008 - 0.024) |
| 0 | 31 | 0.00 | 1 | 33 | 0.03 | 2 | 144 | 0.014 | (0.004 - 0.049) |
| 2 | 123 | 0.02 | 3 | 127 | 0.02 | 8 | 591 | 0.014 | (0.007 - 0.026) |
| 0 | 64 | 0.00 | 0 | 68 | 0.00 | 4 | 317 | 0.013 | (0.005 - 0.032) |
| 1 | 50 | 0.02 | 1 | 51 | 0.02 | 3 | 254 | 0.012 | (0.004 - 0.034) |
| 1 | 223 | 0.00 | 3 | 239 | 0.01 | 12 | 1,108 | 0.011 | (0.006 - 0.019) |
| 1 | 136 | 0.01 | 1 | 144 | 0.01 | 7 | 653 | 0.011 | (0.005 - 0.022) |
| 1 | 192 | 0.01 | 2 | 188 | 0.01 | 10 | 981 | 0.010 | (0.006 - 0.019) |
| 1 | 194 | 0.01 | 2 | 202 | 0.01 | 9 | 950 | 0.009 | (0.005 - 0.018) |
| 0 | 88 | 0.00 | 1 | 101 | 0.01 | 4 | 445 | 0.009 | (0.004 - 0.023) |
| 0 | 26 | 0.00 | 0 | 27 | 0.00 | 1 | 124 | 0.008 | (0.001 - 0.044) |
| 0 | 55 | 0.00 | 0 | 58 | 0.00 | 2 | 259 | 0.008 | (0.002 - 0.028) |
| 0 | 69 | 0.00 | 0 | 75 | 0.00 | 2 | 326 | 0.006 | (0.002 - 0.022) |
| 0 | 140 | 0.00 | 1 | 144 | 0.01 | 4 | 696 | 0.006 | (0.002 - 0.015) |
| 0 | 36 | 0.00 | 0 | 40 | 0.00 | 1 | 177 | 0.006 | (0.001 - 0.031) |
| 0 | 74 | 0.00 | 0 | 78 | 0.00 | 2 | 375 | 0.005 | (0.001 - 0.019) |
| 0 | 83 | 0.00 | 0 | 86 | 0.00 | 2 | 394 | 0.005 | (0.001 - 0.018) |
| 14 | 6,350 | 0.00 | 36 | 6,234 | 0.01 | 133 | 29,250 | 0.005 | (0.004 - 0.005) |
| 0 | 90 | 0.00 | 1 | 97 | 0.01 | 2 | 440 | 0.005 | (0.001 - 0.016) |
| 2 | 578 | 0.00 | 5 | 629 | 0.01 | 12 | 2,817 | 0.004 | (0.002 - 0.007) |
| 0 | 145 | 0.00 | 0 | 156 | 0.00 | 3 | 727 | 0.004 | (0.001 - 0.012) |
| 0 | 545 | 0.00 | 2 | 604 | 0.00 | 10 | 2,680 | 0.004 | (0.002 - 0.007) |
| 0 | 63 | 0.00 | 0 | 63 | 0.00 | 1 | 298 | 0.003 | (0.001 - 0.019) |
| 1 | 574 | 0.00 | 1 | 600 | 0.00 | 5 | 2,745 | 0.002 | (0.001 - 0.004) |
| 230 | 16,151 | 0.01 | 271 | 16,520 | 0.02 | 1040 | 76,935 | 0.014 | (0.013 - 0.014) |

Disciplinar dos Médicos as follows: warning, censure, suspension (up to 5-year) or expulsion.¹⁷ Complainants were classified into four categories, according to complaint's source: physician, patient, institutions or others (including lawyers entitled to act as their client's representatives). Physicians concerned were assessed according to gender and age group as well as locations where facts took place: public hospital or private hospital, among others (Table 2).

The procedural designations adopted by the CD, such as 'accused' ('arguido'), 'negligence' ('negligência') or accusation ('acusação') were used, in order to keep faithful to the Portuguese language.

Recorded data were analysed with Microsoft Excel for

Mac 2011® software. Statistics inference assessed ratios with 95% confidence interval.

RESULTS

In total, 866 complaints reached OM's SRN CD over the five-year analysed timeframe, subsequently involving 1,040 disciplinary actions, from which 54 regarded complaints against physicians in the area of Obstetrics and Gynaecology. The area of Obstetrics recorded the higher number of complaints: 59.3% *versus* 37.0% in Gynaecology; the remaining 3.7% were related to incorrect professional behaviours non-directly related to the clinical practice (Fig. 1). Considering the number of professionals

registered at the OM's SRN, Obstetrics and Gynaecology was the fourth most affected specialty, after Psychiatry, Trauma & Orthopaedic Surgery and Radiology (Table 1). However, when considering the complaints of alleged medical negligence alone, Obstetrics and Gynaecology was the most affected specialty (Table 4).

From these fifty-four complaints, 43 were related to

alleged medical negligence, eight to patient-physician conflict, one to physician-physician conflict and one to diagnostic error (Table 3). The most frequent complainants (Table 2) were patients on their own behalf (66.7%), followed by institutions (22.2%) – including Administration Boards from Hospital Centres, the Portuguese *Entidade Reguladora da Saúde* (Health Regulatory Entity), the

Table 2 - Complainant, accused and location types involved in disciplinary actions regarding Obstetrics and Gynaecology in the North of Portugal, 2008-2012

| | Years | | | | | Total |
|--------------------|-------|------|------|------|------|-------|
| | 2008 | 2009 | 2010 | 2011 | 2012 | |
| Complainant | | | | | | |
| Type | | | | | | |
| Patient | 3 | 6 | 8 | 13 | 6 | 36 |
| Institution | 6 | 1 | 5 | - | - | 12 |
| Physician | 1 | - | - | - | - | 1 |
| Others | 3 | - | 1 | 1 | . | 5 |
| Total | 13 | 7 | 14 | 14 | 6 | 54 |
| Gender | | | | | | |
| Female | 10 | 1 | 14 | 9 | 3 | 37 |
| Male | 3 | 5 | - | 5 | 3 | 16 |
| Non applicable | - | 1* | - | - | - | 1 |
| Total | 13 | 7 | 14 | 14 | 6 | 54 |
| Accused | | | | | | |
| Gender | | | | | | |
| Female | 11 | 6 | 6 | 8 | 2 | 33 |
| Male | 2 | 1 | 8 | 6 | 4 | 21 |
| Total | 13 | 7 | 14 | 14 | 6 | 54 |
| Age | | | | | | |
| 26-30 | - | 2 | - | - | - | 2 |
| 31-35 | 2 | - | 3 | - | 1 | 6 |
| 36-40 | - | 1 | - | 1 | - | 2 |
| 41-45 | 3 | 1 | 1 | 1 | 1 | 7 |
| 46-50 | 2 | 1 | 2 | 4 | - | 9 |
| 51-55 | 4 | 1 | 3 | 2 | 3 | 13 |
| 56-60 | 1 | 1 | 2 | 5 | 1 | 10 |
| 61-65 | 1 | - | 3 | - | - | 4 |
| 66-70 | - | - | - | 1 | - | 1 |
| Total | 13 | 7 | 14 | 14 | 6 | 54 |
| Location | | | | | | |
| Public Hospitals | 10 | 4 | 12 | 5 | 3 | 34 |
| Medical Clinics | 2 | 2 | - | 5 | 1 | 10 |
| Nursing Homes | - | - | 2 | 2 | - | 4 |
| Private Hospitals | 1 | - | - | 1 | 2 | 4 |
| Medical Offices | - | 1 | - | 1 | - | 2 |
| Total | 13 | 7 | 14 | 14 | 6 | 54 |

*legal action brought up regarding a collusion between a physician and the pharmaceutical industry

Prosecutor's Office or the Ministry of Health – and lawyers entitled to act as patient's representatives (9.3%).

All the accused except one had Portuguese nationality. The demographic profile of the accused (Table 2) showed these were predominantly female (61.1%), aged 41 to 60 (72.2%) and eight of the 54 actions were brought up against specific-training residents.

As regards the event location, 63% occurred in public hospitals, 18.5% in medical clinics, 7.4% in private hospitals, 7.4% in nursing homes and 3.7% in physician's offices (Table 2).

The Obstetrics-related complaints were mainly related to: shoulder dystocia or cerebral palsy-related perinatal asphyxia; pre-natal ultrasound diagnostic errors; uterine rupture related maternal complications, tubal ligation during caesarean section with no written consent, rectovaginal fistula or the need for re-intervention; forceps delivery-related birth trauma and late miscarriage. As regards Gynaecology (Fig. 2-B), these were mainly related to: surgical and post-surgical complications related to

treatment of urinary incontinence, conisation, deep pelvic endometriosis, hysterectomy, uterine malformation or hysteroscopy; inappropriate medical assessment or follow-up situations and diagnostic errors. The patient-physician conflicts (namely late attendance of patients or allegedly inappropriate) were cross-cutting to both areas.

From the legal actions that were analysed, 52 were closed and two (one regarding a physician-patient conflict and one regarding a conflict between a physician and the pharmaceutical industry) are still awaiting for a decision (Table 3).

DISCUSSION

Our descriptive and retrospective study assessed the disciplinary actions regarding Obstetrics and Gynaecology that occurred in the northern region of Portugal between 2008 and 2012, based on anonymised data available from annual activity reports of OM's SRN CD as well as from legal action's records. Therefore, we had only access to a limited number of data, leaving some questions for to future

Table 3 - Types of accusation orders regarding disciplinary complaints in Obstetrics and Gynaecology, 2008-2012

| | 2008 | 2009 | 2010 | 2011 | 2012 | Total |
|---|------|------|------|------|------|-------|
| Patient – Physician Conflict | - | 2 | 2 | 2 | 2 | 8 |
| Closed case / No further action | - | 1 | 2 | 2 | - | 5 |
| Not completed | - | 1 | - | - | 2 | 3 |
| Physician – Physician Conflict | 1 | - | - | - | - | 1 |
| Closed case / No further action | 1 | - | - | - | - | 1 |
| Physician – Pharmaceutical Industry Conflict | - | 1 | - | - | - | 1 |
| Not completed | - | 1 | - | - | - | 1 |
| Diagnostic Error | - | - | - | 1 | - | 1 |
| Closed case / No further action | - | - | - | 1 | - | 1 |
| Medical negligence | 12 | 4 | 12 | 11 | 4 | 43 |
| Closed case / No further action | 12 | 4 | 12 | 11 | 4 | 43 |
| Total | 13 | 7 | 14 | 14 | 6 | 54 |

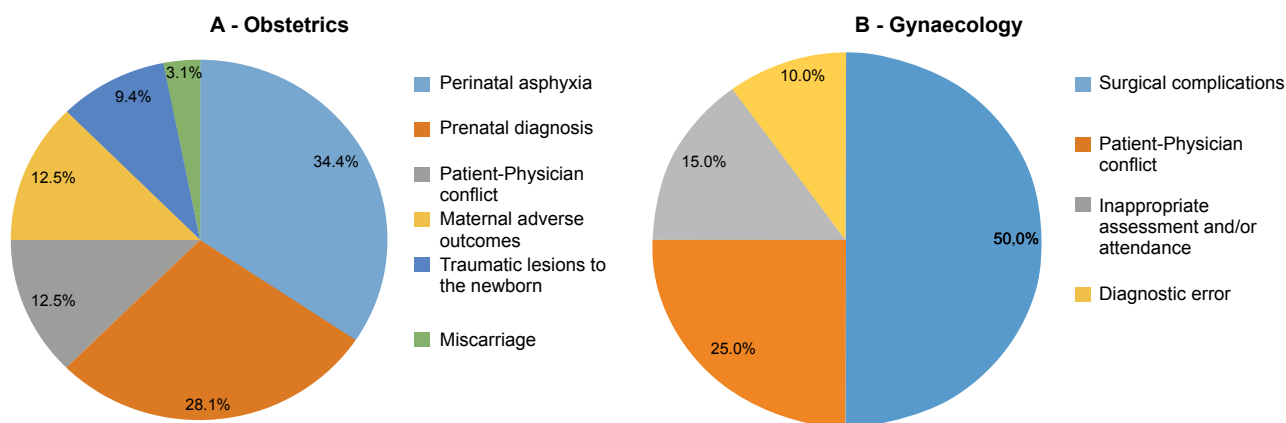


Figure 2 - Reasons for complaints regarding medical negligence in Obstetrics (A) and Gynaecology (B), in the North of Portugal, 2008-2012

Table 4 - Average proportions of alleged negligence-related disciplinary actions, by year and specialty, in the North of Portugal, 2008-2012, with 95

| Specialty | 2008 | | | 2009 | | | 2010 | | |
|-------------------------------------|-----------|---------------|-------------|-----------|---------------|-------------|-----------|---------------|-------------|
| | n | Sp | Prop | n | Sp | Prop | n | Sp | Prop |
| Obstetrics and Gynaecology | 12 | 445 | 0.03 | 4 | 452 | 0.01 | 12 | 461 | 0.03 |
| Trauma & Orthopaedics Surgery | 3 | 310 | 0.01 | 6 | 316 | 0.02 | 4 | 330 | 0.01 |
| Radiology | 3 | 220 | 0.01 | 7 | 226 | 0.03 | 5 | 235 | 0.02 |
| Plastic Surgery | 1 | 59 | 0.02 | 1 | 61 | 0.02 | 2 | 60 | 0.03 |
| Vascular Surgery | 3 | 62 | 0.05 | 1 | 61 | 0.02 | 0 | 62 | 0.00 |
| ENT Surgery | 0 | 172 | 0.00 | 6 | 177 | 0.03 | 1 | 183 | 0.01 |
| General Surgery | 8 | 462 | 0.02 | 1 | 474 | 0.00 | 2 | 479 | 0.00 |
| Ophthalmology | 4 | 219 | 0.02 | 0 | 222 | 0.00 | 4 | 230 | 0.02 |
| Genitourinary Medicine | 3 | 111 | 0.03 | 0 | 113 | 0.00 | 0 | 117 | 0.00 |
| Medical Genetics | 1 | 23 | 0.04 | 0 | 24 | 0.00 | 0 | 24 | 0.00 |
| Neurosurgery | 0 | 51 | 0.00 | 0 | 51 | 0.00 | 1 | 51 | 0.02 |
| Reumatology | 1 | 25 | 0.04 | 0 | 27 | 0.00 | 0 | 28 | 0.00 |
| Gastroenterology | 0 | 116 | 0.00 | 0 | 118 | 0.00 | 1 | 121 | 0.01 |
| Endocrinology and Diabetes Mellitus | 1 | 60 | 0.02 | 0 | 60 | 0.00 | 0 | 62 | 0.00 |
| Neurology | 1 | 120 | 0.01 | 0 | 125 | 0.00 | 0 | 128 | 0.00 |
| General Practice | 5 | 1,742 | 0.00 | 6 | 1,786 | 0.00 | 6 | 1,836 | 0.00 |
| Transfusion Medicine | 0 | 75 | 0.00 | 0 | 74 | 0.00 | 1 | 74 | 0.01 |
| Dermatology | 1 | 83 | 0.01 | 0 | 85 | 0.00 | 0 | 85 | 0.00 |
| Medical Oncology | 1 | 84 | 0.01 | 0 | 87 | 0.00 | 0 | 85 | 0.00 |
| Rehabilitation Medicine | 0 | 178 | 0.00 | 1 | 184 | 0.01 | 0 | 192 | 0.00 |
| Dental Medicine | 1 | 204 | 0.00 | 0 | 199 | 0.00 | 0 | 198 | 0.00 |
| Non-Specialists | 8 | 5,195 | 0.00 | 11 | 5,504 | 0.00 | 14 | 5,967 | 0.00 |
| Cardiology | 1 | 212 | 0.00 | 0 | 215 | 0.00 | 1 | 219 | 0.00 |
| General (Internal) Medicine | 0 | 520 | 0.00 | 0 | 539 | 0.00 | 2 | 551 | 0.00 |
| Paediatrics | 2 | 488 | 0.00 | 1 | 515 | 0.00 | 0 | 528 | 0.00 |
| Anesthesia | 1 | 497 | 0.00 | 0 | 526 | 0.00 | 0 | 548 | 0.00 |
| Occupational Medicine | 0 | 278 | 0.00 | 0 | 282 | 0.00 | 1 | 290 | 0.00 |
| Psychiatry | 0 | 302 | 0.00 | 1 | 309 | 0.00 | 0 | 318 | 0.00 |
| TOTAL | 80 | 14,143 | 0.01 | 70 | 14,705 | 0.00 | 67 | 15,416 | 0.00 |

Sp: specialists; Prop: proportion; CAA Prop: cumulative annual average proportion

studies. The categories adopted in the CD's annual reports were followed for the classification of complaint's subjects. The analysis of the specific aspects of each action would be relevant in order to differentiate situations where the concepts of medical negligence, malpractice, error and adverse effects, among others, would have been applied. The classification adopted by the CD may be different from the one described by authors in other countries and therefore the comparison should be made considering each country's specific differences regarding the perception of physician's responsibility.^{20,23} For instance, to some, negligence is equivalent to malpractice as it does not comply

with *leges artis*, whilst to others it may involve a deception component.^{20,23} Boundaries between both situations are not always clear.²⁴ The development of standardized databases, with the release of annual anonymised public and awareness-raising reports would be very important, together with typical case reports, regularly published at the *Revista da Ordem dos Médicos*, in order to have a positive educational impact on undergraduate, specialist as well as continuous professional training.^{8,25,26}

The global percentage of disciplinary actions was almost unchanged from 2008 to 2012 (proportion \approx 0.01) (Table 1) and Obstetrics and Gynaecology was the fourth

95% confidence intervals (95% CI), by descending order

| | 2011 | | | 2012 | | | Cumulative 2008-12 | | | |
|--|------|--------|------|------|--------|------|--------------------|--------|----------|-----------------|
| | n | Sp | Prop | n | Sp | Prop | n | Sp | CAA Prop | 95% CI |
| | 11 | 472 | 0.02 | 4 | 485 | 0.01 | 43 | 2,315 | 0.019 | (0.014 - 0.025) |
| | 7 | 346 | 0.02 | 10 | 357 | 0.03 | 30 | 1,659 | 0.018 | (0.013 - 0.026) |
| | 2 | 250 | 0.01 | 4 | 261 | 0.02 | 21 | 1,192 | 0.018 | (0.012 - 0.027) |
| | 0 | 61 | 0.00 | 1 | 63 | 0.02 | 5 | 304 | 0.016 | (0.007 - 0.038) |
| | 0 | 64 | 0.00 | 0 | 68 | 0.00 | 4 | 317 | 0.013 | (0.005 - 0.032) |
| | 0 | 191 | 0.00 | 3 | 197 | 0.02 | 10 | 920 | 0.011 | (0.006 - 0.020) |
| | 4 | 489 | 0.01 | 10 | 510 | 0.02 | 25 | 2,414 | 0.010 | (0.007 - 0.015) |
| | 0 | 237 | 0.00 | 4 | 251 | 0.02 | 12 | 1,159 | 0.010 | (0.006 - 0.018) |
| | 1 | 123 | 0.01 | 1 | 127 | 0.01 | 5 | 591 | 0.008 | (0.004 - 0.020) |
| | 0 | 26 | 0.00 | 0 | 27 | 0.00 | 1 | 124 | 0.008 | (0.001 - 0.044) |
| | 0 | 50 | 0.00 | 1 | 51 | 0.02 | 2 | 254 | 0.008 | (0.002 - 0.028) |
| | 0 | 31 | 0.00 | 0 | 33 | 0.00 | 1 | 144 | 0.007 | (0.001 - 0.038) |
| | 1 | 128 | 0.01 | 2 | 135 | 0.01 | 4 | 618 | 0.006 | (0.003 - 0.017) |
| | 0 | 69 | 0.00 | 0 | 75 | 0.00 | 1 | 326 | 0.003 | (0.001 - 0.017) |
| | 1 | 136 | 0.01 | 0 | 144 | 0.00 | 2 | 653 | 0.003 | (0.001 - 0.011) |
| | 6 | 1,892 | 0.00 | 5 | 1,977 | 0.00 | 28 | 9,233 | 0.003 | (0.002 - 0.004) |
| | 0 | 74 | 0.00 | 0 | 78 | 0.00 | 1 | 375 | 0.003 | (0.000 - 0.015) |
| | 0 | 90 | 0.00 | 0 | 97 | 0.00 | 1 | 440 | 0.002 | (0.000 - 0.013) |
| | 0 | 88 | 0.00 | 0 | 101 | 0.00 | 1 | 445 | 0.002 | (0.000 - 0.013) |
| | 0 | 194 | 0.00 | 1 | 202 | 0.00 | 2 | 950 | 0.002 | (0.001 - 0.008) |
| | 0 | 192 | 0.00 | 1 | 188 | 0.01 | 2 | 981 | 0.002 | (0.001 - 0.007) |
| | 6 | 6,350 | 0.00 | 20 | 6,234 | 0.00 | 59 | 29,250 | 0.002 | (0.002 - 0.003) |
| | 0 | 223 | 0.00 | 0 | 239 | 0.00 | 2 | 1,108 | 0.002 | (0.000 - 0.007) |
| | 2 | 578 | 0.00 | 1 | 629 | 0.00 | 5 | 2,817 | 0.002 | (0.001 - 0.004) |
| | 0 | 545 | 0.00 | 1 | 604 | 0.00 | 4 | 2,680 | 0.001 | (0.001 - 0.004) |
| | 0 | 574 | 0.00 | 1 | 600 | 0.00 | 2 | 2,745 | 0.001 | (0.000 - 0.003) |
| | 0 | 298 | 0.00 | 0 | 298 | 0.00 | 1 | 1,446 | 0.001 | (0.000 - 0.004) |
| | 0 | 329 | 0.00 | 0 | 341 | 0.00 | 1 | 1,599 | 0.001 | (0.000 - 0.004) |
| | 61 | 16,151 | 0.00 | 73 | 16,520 | 0.00 | 351 | 76,935 | 0.005 | (0.004 - 0.005) |

most affected specialty with 54 complaints, predominantly related to alleged negligence (Table 3). These data are in line with previous reports describing this specialty as one of the most prone to forensic litigation (Table 4).^{8,11-15} A 2010 report by the *Inspecção-Geral das Atividades em Saúde (IGAS)* de 2010 also identified Obstetrics and Gynaecology as the most affected by legal actions in Portugal (30 in total) followed by Surgery and Trauma & Orthopaedics Surgery.⁴

The most frequent complainants were patients on their own behalf, followed by institutions. This fact seems to confirm that complaints brought up to the CD mainly regard the patient-physician relationship and only then the relations

with public or private entities. Regarding the complainants, only a minority (9.3%) sought legal help, which may be due to the action of the CD (there is normally no need for a lawyer within this forum) as well as to the reality of medical services in Portugal, very far from more litigant societies like the United States.²⁰

As regards the most frequent complainants, these were predominantly female, aged 41 to 60, which did not seem significantly different, as gender and age distribution of specialists was similar in Obstetrics and Gynaecology in 2011 (63% female aged mostly within that age group).^{27,28} Khaliq *et al.* described a progressive increase in the rate of

disciplinary actions every 10 years upon graduation¹¹ but, as described, this situation did not seem to be significant in our population. We should also mention that eight complaints regarded specific training residents. In fact, any physician, including residents, may be disciplinary held accountable and, according to Domingues *et al.*, there is a lack of perception regarding the disciplinary responsibility by Obstetrics and Gynaecology residents.⁸

The clinical reasons most frequently involved in the complaints mainly related to perinatal asphyxia, prenatal diagnosis, maternal and foetal complications in delivery and complications within gynaecological surgery, as previously described.²⁹⁻³³

From the 54 complaints that were analysed, 52 were closed with no sanctions to the physician, while two complaints (one due to a patient-physician conflict and one due to a conflict between the physician and the pharmaceutical industry) were still waiting for a decision. Therefore and although Obstetrics and Gynaecology is a specialty prone to complaints, the preliminary charge order issued by the OM's SRN CD did not recognize any sanction to any of the physicians involved, also in line with the fact that although prone to a high number of complaints, sanctions are rarely issued.^{12-15,24} This should be carefully considered regarding complaints related to medical negligence. These are complex and time-consuming cases, normally requiring the advice of Specialty College experts and frequently involving the Court. Therefore, despite the fact that all the actions involving any alleged medical negligence were closed by the CD, this does not mean that the physicians involved did not have any serious problems facing these situations. In fact, they were frequently subjected to stressful legal defenses,² having been exposed not only to the CD but also to other disciplinary and legal authorities.^{1,18} As discussed above, closure by one of the authorities did not necessarily mean that the same procedure was followed by the other authorities involved. Another important issue regards Obstetrics and Gynaecology having to deal with extreme

personal and social sensitivity,³⁴ such as those related to delivery adverse outcomes, in which the limitations of Medicine may be misunderstood by the community, leading in some cases to complaints in which adverse outcomes and negligence overlap – complaints that upon analysis do not represent any malpractice. In fact, and especially in maternal and foetal medicine, adverse outcomes are not always avoidable, even when the best possible healthcare is provided.

CONCLUSIONS

Obstetrics and Gynaecology was the fourth specialty with highest risk of disciplinary action in the northern region of Portugal between 2008 and 2012. In addition, when considering only alleged negligence-related complaints, this was the most affected specialty, even though all legal actions except two still not concluded, have been closed without any cautionary measure being brought against the physician.

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CONFLICTS OF INTEREST

The authors declare that there were no conflicts of interest in writing this manuscript.

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