

Title:

Bariatric endoscopy, care-curative medicine and legal conflicts. Spanish Bariatric Endoscopy Group (Gettemo-SEED) Positioning

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Bariatric endoscopy, care-curative medicine and legal conflicts. Spanish Bariatric Endoscopy Group (Gettemo-SEED) Positioning

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Dear Editor,

The World Health Organization (WHO) defines obesity as a multifactorial, recurrent and progressive disease. In addition, it is a risk factor for multiple other diseases, such as metabolic syndrome and cardiovascular, oncological or psychological disorders, among others. Therefore, although it is often associated to private healthcare, with access through medical-aesthetic centers, its treatment should be considered in the “care-curative” field and not as “satisfying, voluntary or outcoming” medicine.

Bariatric endoscopy is a recent but well-established tool to treat obesity, positioned between clinical and surgical management (1). Despite this, cases of insufficient weight loss or complications may occur. In parallel with the greater diffusion of these techniques, this results in an increase in the risk of complaints and judicial claims, which will presumably grow during the next years.

A review on bariatric surgery (2) performed by the Professional Responsibility Service (PRS) of the Catalan Physicians College (period 1992-2009) obtained a relatively low rate of legal claims (0.6 %), with defects at the level of practice and convictions at 20 %. The same PRS reviewed the 66 claims received in digestive endoscopy (period 1987-2009) (3), most of them due to negligence, obtaining out-of-court settlement in 28 % of cases and trial in 59 %, with a conviction rate of 10 %.

Specifically, in bariatric endoscopy, the Spanish multicenter safety study (year 2017) (4), with 6,771 procedures, detected a single lawsuit (0.014 %) due to an esophageal perforation. A few years later (2023), the Spanish Intra-gastric Balloon Consensus (SIBC) (5), with 20,680 intra-gastric balloons, recognized seven claims (0.034 %): three for insufficient weight loss and four for complications (intolerance, bronchoaspiration, or perforation). All of them ran through civil proceedings, with four favorable, three still pending and one out-of-court agreement with economic compensation at the final resolution.

Considering this problem, and in order to initiate its prevention, Gettemo-SEED (2020) developed ten informed consent documents designed specifically for each of the bariatric endoscopic techniques, as an available and legal protection tool for its society members.

In conclusion, Gettemo defends bariatric endoscopy as a care-curative medicine. The lawsuit rate seems to be increasing. Those units working with medical-scientific rigor

must be able to be accredited and have legal support by the scientific societies. We propose to create a medical-legal advisory committee, composed of a specialized medical team and law firm, which allows advising and guiding the endoscopist when incurring in a conflict.

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