

# Evaluation of Physician Opinions Against Patient Complaints and Administrative and Judicial Instigations

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## Abstract

**Aim:** In recent years, physicians practicing in Turkey have started to face various legal processes such as patient complaints, medical malpractice, administrative disciplinary proceedings, criminal cases, and compensation lawsuits more frequently. This study aimed to evaluate the experiences and opinions of physicians on the subject.

**Materials and Methods:** The study was conducted in the form of a questionnaire, and the questions directed to the participants were created through the application called Google Forms and were requested to be filled in electronically.

**Results:** The age range of 30-35 years (32.6%) and 1-5 years of professional experience (34.4%) had the highest participation rate. Among the physicians who participated in the survey, 80.2% stated that they had complained at least once, 81.5% stated that they had testified at least once in judicial institutions, and 46.8% stated that they had attended a hearing in court. Of the physicians, 21.8% received administrative penalties and 7.9% received judicial penalties. According to the results of our study, general practitioners and emergency medicine specialists were the most frequently complained about physicians who were prosecuted in judicial courts for assault, insult, and assault.

**Conclusion:** Efforts should be made to reduce the forensic concerns of physicians, and a common perspective on the issue should be developed by creating platforms where medical and legal sciences come together.

**Keywords:** Medical malpractice, physician error, patient complaints, defensive medicine

## Introduction

Healthcare workers work with great responsibility toward themselves, their patients, and their colleagues. If employees do not fulfill their responsibilities adequately, defects in duty may occur. Physicians have the greatest responsibility in the functioning of health services. Therefore, the definition of negligence or malpractice is mainly evaluated within the framework of the physician's responsibilities and is explained by the physician's errors in diagnosis, treatment, and practice (1). Any medical intervention that does not comply with the standards of the specialist physician and that does not show the necessary care according to the data in medical science is considered as a treatment error (2). Failure to intervene with the patient on time, incomplete testing, confusion of patients, wrong

choice of treatment method, wrong drug administration, failure to recognize complications, wrong surgical technique, failure to urgently refer the patient to another hospital, failure to comply with infection and hygiene rules, forgetting a foreign substance in the patient's body, performing medical intervention without examining records and tests, and failure to request consultation on time are some of the treatment errors (1,2).

Medical science has continued with the transfer of the theoretically determined practices into practice since the beginning of history. However, today, legal principles and principles have started to take more place in this process than they should (3). Legal principles and the practices of medical science sometimes come into conflict during the diagnosis and treatment of the patient. While the sole purpose of medical science since its inception has been to restore the patient to health, in recent years, due



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to legal principles and sanctions, science has started to function differently from its purpose. Legal processes arising from medical malpractice have recently begun to increase. Therefore, the area of malpractice in the field of health law has begun to expand (4). With the constant agenda of legal factors, changes in practices have begun to occur in the field of medical science. It has been predicted that health care workers' working uneasy due to legal reasons also affects their professional performance. The practice of defensive medicine has begun to emerge due to the legal anxiety of physicians while fulfilling their professional responsibilities. Defensive medicine can be defined as physicians distancing themselves from the patient with as few procedures as possible to defend themselves in case of complaints and lawsuits (5,6).

In this study, we aimed to analyze the judicial processes that physicians have experienced during their professional life and their thoughts about working under the threat of litigation due to malpractice, which has been frequently brought to the agenda in recent years.

**Materials and Methods**

The study was initiated after the approval of Nevşehir Hacı Bektaş Veli University Rectorate Non-interventional Clinical Research Publication Ethics Committee (decision number: 2023/06, date: 15.09.2023). The questions directed to the participants were created using the application called Google Forms and were requested to be filled electronically. Participants were selected from different provinces and institutions, and the study evaluation form together with the informed consent form was directed to them via e-mail and/or the WhatsApp mobile application. Physicians were contacted and informed about the study in advance. The form was not sent to physicians who did not wish to participate in the study. The number of participants was based on G power analysis, and it was predicted that there should be at least 250 participants in the study. The survey questions were directed at physicians working in different branches, provinces, and institutions. A period of 15 days was provided after the survey questions were directed. Those with 1 year of professional experience were excluded from the study. Data that were found to be incomplete in the questionnaire form were excluded from the study. The study was conducted after obtaining the consent of the participants who agreed to participate in the study.

Participants were asked about their age, gender, marital status, professional experience, physician status, field of practice, branch distribution, and professional insurance status. Participants were asked questions about their views on being complained about, testifying and attending court, being tried, administrative and/or judicial penalties, and professional judicial concerns. If the answer

in the options was more than one, it was indicated by number. Within the scope of the study, 293 people answered the survey questions, and the study was completed with the participation of 288 people due to missing data in five participants.

**Statistical Analysis**

Statistical Package for Social Sciences for Windows 21.0 (SPSS 21.0) was used to analyze the data. Descriptive statistics (frequency, percentage distribution) and the chi-square test were used to compare categorical variables between the two groups. The results are given as mean±standard deviation or frequency (percentage) and p<0.05 was considered statistically significant at 95% confidence interval.

**Results**

Among the physicians who participated in the study, 50.7% were women. The highest participation rate was in the 31-35 age range (32.6%) and the lowest in the 56-60 age range (0.7%) (Figure 1). In total, 67.7% of the respondents were married. Regarding their professional experience, the highest number of participants (34.4%) was between 1 and 5 years (Figure 2). 21.5% of the participants were general practitioners. The most common area of work for these physicians was emergency departments (24.7%)

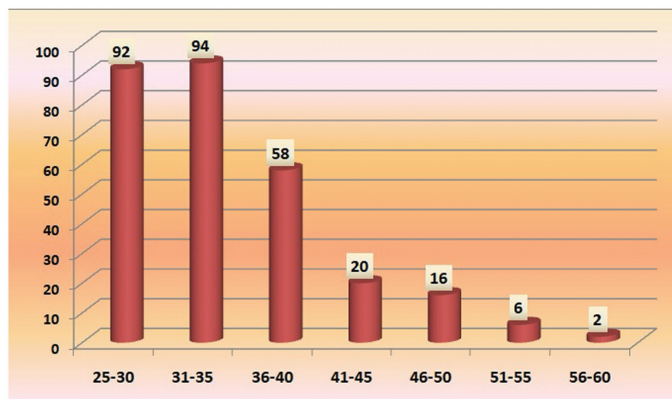


Figure 1. Age distribution of physicians participating in the survey

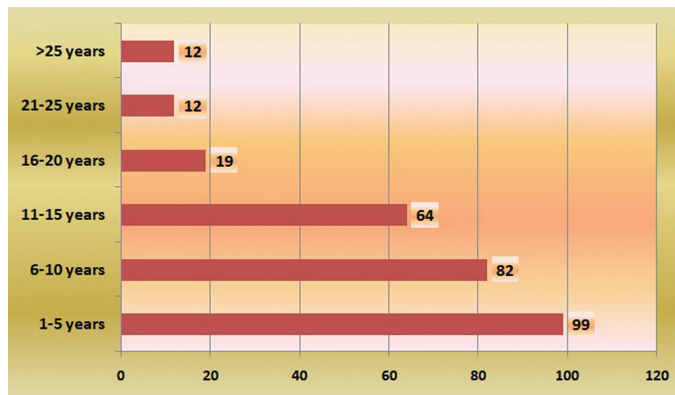


Figure 2. Distribution of years of professional experience

(Table 1). The percentage of specialist physicians participating in the study was 39.9%. Emergency medicine (66.9%) was the most participating specialty (Table 1).

The most common answer to the question “Have you been complained to patient rights or judicial units by patients or their relatives?” was 1-5 times. The most common answer to the

Table 1. Status of physicians, working areas and branch distribution of specialists		
Physician status	Number (n)	Ratio (%)
Specialist	115	39.9
Assistant	85	29.5
Practitioner	62	21.5
Academician	26	9.1
Distribution of general practitioners by field of practice*		
Emergency service	28	45.1
Family medicine	17	27.4
112 Command control and ambulance	6	9.6
Community health and public health center	3	4.8
Other (intensive care. dialysis. home care services. etc.)	8	13.1
Distribution of specialists by branch		
Emergency medicine	77	66.9
Internal medicine	19	16
Gynecology and obstetrics	14	11.7
Chest diseases	11	0.9
Pediatrics	9	0.7
Family medicine	7	0.6
General surgery	6	0.4
Orthopedics and traumatology	6	0.4
Anesthesiology and reanimation	6	0.4
Brain and nerve surgery	4	0.3
Neurology	4	0.3
Radiology	4	0.3
Dermatology	4	0.3
Psychiatry	3	0.2
Child psychiatry	3	0.2
Infectious diseases	2	0.1
Ear nose and throat diseases	2	0.1
Eye diseases	2	0.1
Thoracic surgery	2	0.1
Radiation oncology	1	0.01
Urology	1	0.01
Forensic medicine	1	0.01
Biochemistry	1	0.01

\*It was evaluated as the longest working area.

question “How many times have you testified at units such as patient rights, disciplinary unit, police center, and prosecutor’s office during your professional life (complaint, giving code white, insult, judicial investigation, etc.)” was 1-5 times. The most common answer to the question “During your professional life, have you participated in court hearings in judicial courts as a witness, defendant, or witness?” was 1-5 times. Table 2 shows the number of answers given to the questions in detail. In response to the question “Have you been subjected to administrative investigations during your professional life and have you received administrative penalties according to Article 125 of Civil Servants Law No. 657?”, 40 of the physicians answered that they received warnings, 14 reprimands, 5 dismissals, 2 suspensions of progression, and 2 dismissals from the civil service. In response to the question “Please specify the number of times during your professional life that you have been prosecuted in judicial courts due to your profession and your actions for the reasons listed in the options”, 36 physicians stated that they were prosecuted for insult, assault and assault, 19 for causing death by negligence, 4 for intentional injury and causing death, 17 for misconduct in office and 4 for disclosing the confidentiality of personal data. In response to the question “Have you been sentenced to any of the penalties given in the options due to your profession and the actions you have taken during your professional life?”, 6 of the physicians stated that they were sentenced to imprisonment, 7 to judicial fine, 8 to pecuniary and/or non-pecuniary compensation, and 2 to suspension from duty.

Figure 3 shows the distribution of the reasons for the trial and/or the sentences received by the physicians. Questions regarding the opinions of physicians about forensic concepts are given in Table 3. According to these results, the most

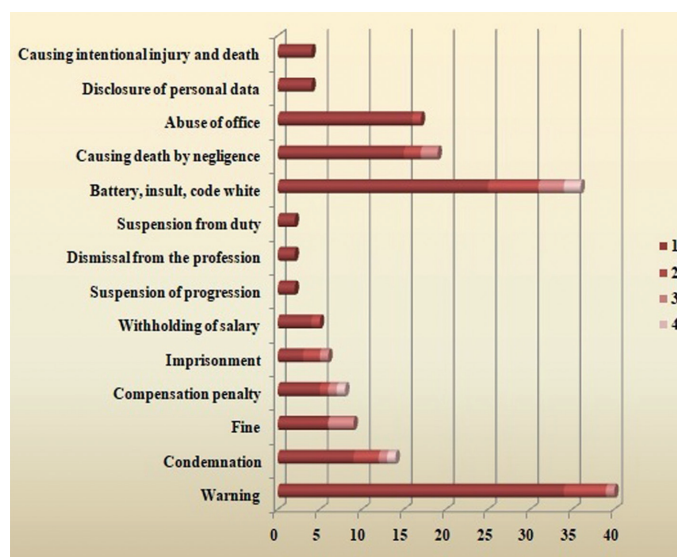


Figure 3. Distribution of reasons for prosecution and or sentences received by physicians

common responses to all questions asked to physicians were strongly agree. In total, 70.2% of the participants stated that malpractice concerns were effective in their choice of specialty. The percentage of physicians who have insurance against medical malpractice lawsuits was 92.5%. Finally, the question “Considering your medical school education period and your professional experiences, would you like to choose the profession of medicine again?” was asked to the physicians, and the most common answer was no (72%). There was no significant result when the rate of physician complaints was evaluated according to gender ( $p=0.109$ , chi-square: 9.003). When the rates of complaints were compared according to professional experience, significant results were found ( $p<0.001$ , chi-square: 58.895). Among the physicians who participated in our study, those with 6-10 years of professional experience were the most frequently complained about (23.6%). According to this result, the rate of complaint decreased as the professional experience increased. There was no significant difference between the rates of complaints and physician status ( $p=0.005$ , chi-square: 32.986). According to the physician status, the most complained physician group was specialists (37.8%). Table 4 shows the distribution of the number of complaints made by patients or their relatives to patient rights or judicial units according to the branches, and there was no significant difference ( $p=0.964$ , chi-square: 89.217). According to the results, emergency medicine specialists were the most frequently complained about. When the physicians who were prosecuted in judicial courts for reasons such as assault, insult, and being assaulted were examined, it

was seen that emergency medicine specialists were the most common physicians. Physicians prosecuted for causing death by negligence were general practitioners, emergency medicine specialists, anesthesiology and reanimation specialists, and internal medicine specialists, according to the number of cases. The physicians sentenced to imprisonment were emergency medicine specialists and pulmonologists.

### Discussion

Health is one of the most important factors in human life. People want to solve their health-related problems by applying to health institutions. The accessibility, quality, and adequacy of health institutions have an important place in people’s health-related services. As people’s accessibility to health institutions increases, their expectations also increase. With the continuous fulfillment of expectations, new requests emerge. As a result, if the desired quality of service cannot be obtained from health institutions, patient complaints begin to increase. Studies show that patient complaints are mostly directed against physicians. In fact, in a recent study, 37.4% of patient complaints were made against physicians (7). According to a study conducted by Acar et al. (8) in 2015, it was observed that the most frequently complained personnel group in the emergency department was on-call physicians (44%). In another study, it was observed that the complaints by patients and their relatives were mostly about outpatient services (67.4%) and the least about intensive care services (1.1%) (9). In our study, 231 (80.2%) of the physicians stated that they complained to the judicial units by patients and/

**Table 2. Complaints, testimony and court attendance of physicians**

Questions	No (n/%)	1-5 (n/%)	6-10 (n/%)	11-15 (n/%)	16-20 (n/%)
Have you been complained to patient rights or judicial units by the patient or his/her relatives (specify the number)	57 (19.8)	<b>174 (60.4)</b>	33 (11.5)	14 (4.8)	10 (3.5)
How many times during your professional life have you testified in units such as patient rights, disciplinary unit, police center and prosecutor’s office (complaint, giving code white, insult, judicial investigation, etc.)?	53 (18.4)	<b>195 (67.7)</b>	29 (10)	7 (2.4)	4 (1.5)
During your professional life, have you participated in court hearings in judicial courts for reasons such as witness, defendant or witness (specify the number)?	150 (53)	<b>125 (43.4)</b>	6 (2)	3 (1)	1 (0.6)

**Table 3. Physicians’ views on forensic concerns as a profession**

Questions	Strongly disagree (n/%)	Disagree (n/%)	Undecided (n/%)	Agree (n/%)	Strongly agree (n/%)
What do you think about physicians’ desire to avoid patient approach, treatment and invasive procedures due to forensic concerns?	5 (1.8)	3 (1)	12 (4.2)	96 (33.3)	<b>172 (59.7)</b>
What do you think about the complaints, administrative and judicial investigations encountered during the practice of medicine affecting the morale and motivation of physicians and preventing them from practicing their profession efficiently?	4 (1.3)	1 (0.4)	1 (0.4)	45 (15.6)	<b>237 (82.3)</b>
Do you think that forensic concerns are effective in the recent indecision about the preference of medical faculties?	4 (1.3)	4 (1.3)	14 (4.9)	81 (28)	<b>185 (64.5)</b>

**Table 4. Distribution of the number of complaints made by patients or relatives to patient rights or judicial units according to branches**

Branch distribution	Number of complaints				
	NO	1-5	6-10	11-15	16-20
Emergency medicine	10	45	11	6	5
Internal medicine	2	14	2	1	0
Gynecology and obstetrics	2	8	2	1	1
Chest diseases	1	7	2	1	0
Pediatrics	1	5	2	1	0
Anesthesiology and reanimation	0	5	1	0	0
General surgery	0	4	2	0	0
Orthopedics and traumatology	1	3	1	1	1
Family medicine	3	3	1	0	0
Neurology	0	4	0	0	0
Brain and nerve surgery	1	1	2	0	0
Dermatology	1	2	0	0	1
Thoracic surgery	0	2	0	0	0
Eye diseases	0	1	0	1	0
Radiology	2	1	0	1	0
Psychiatry	2	1	0	0	0
Radiation oncology	0	1	0	0	0
Urology	0	1	0	0	0
Ear nose and throat diseases	1	1	0	0	0
Child psychiatry	1	1	0	0	0
Forensic medicine	0	1	0	0	0
p=0.964, chi-square: 89.217					

or their relatives. In a study conducted by Aynac in 2008, it was reported that 12.3% of physicians had one or more lawsuits filed against them for medical malpractice (10). Similarly, in another study, 10.1% of physicians reported that they had been sued for malpractice (11). In our study, 15.2% of physicians reported that one or more lawsuits were filed against them.

In a study conducted in Ankara province between 2011 and 2013 to analyze administrative and judicial investigations for malpractice of healthcare workers, it was observed that 57.9% of the healthcare workers who were investigated were male and most frequently (38.4%) in the 30-40 age group. When the distribution of personnel was analyzed, it was reported that most investigations were conducted against physicians (80.5%) (1). In our study, most physicians who participated in the survey and complained about were in the 31-35 age group.

Physicians accused of medical malpractice may face various legal processes, such as criminal lawsuits and compensation lawsuits, in addition to disciplinary proceedings and administrative investigations conducted by the institution to which they are

affiliated. Although legal regulations have been made for the practice of the medical profession today, there are no special regulations and provisions regarding the legal responsibilities of physicians in the Turkish Criminal and Civil Law Legislation (12).

According to the results of the study titled "Analysis of malpractice files submitted to the court of cassation between 2015 and 2020 in terms of health management", 50.8% of malpractice lawsuits were filed against healthcare professionals in private hospitals and 38.7% were filed against public hospital employees. In addition, 95% of the files were filed by patients and 83.1% were compensation lawsuits. The most common reason for filing a lawsuit for compensation (55.3%) was failure to receive treatment, whereas the most common reason for filing a lawsuit for criminal cases (66.7%) was death. It was observed that 77.6% of the analyzed case files were related to surgical branches. When the distribution of malpractice lawsuits on the basis of branches was examined, it was reported that the most common branches were gynecology and obstetrics (17%), emergency service (10.5%), and general surgery (9.7%) (13). In our study, according to the answers given by the physicians regarding the trial, administrative, and/or judicial penalties, 7.9% of the physicians participating in the study received at least one penalty, 6 physicians were sentenced to imprisonment, 7 physicians were sentenced to judicial fine, 8 physicians were sentenced to material and moral compensation, and 2 physicians were sentenced to suspension from duty. According to the results of our study, emergency medicine specialists were the most frequently complained about physicians who were prosecuted in judicial courts for reasons such as assault, insult, and being assaulted. According to the number of cases, the physicians prosecuted for causing death by negligence were general practitioners, emergency medicine specialists, anesthesiology and reanimation specialists, and internal medicine specialists. The physicians sentenced to imprisonment were emergency medicine specialists and pulmonologists. In the study conducted by Özesen et al. (14) in Çukurova University Faculty of Medicine, Department of Forensic Medicine, it was observed that general practitioners were the most common physicians to be sued (15.9%) and on the other hand, malpractice claims for surgical sciences were the most common with a rate of 61.36%. According to the results of the same study, the most frequently complained branches were gynecology, obstetrics, and general surgery. In the medical malpractice files reflected in the judicial decisions between 1973 and 2013 in Turkey, lawsuits were filed most frequently against the branches of gynecology and obstetrics (26.7%), general surgery (9.8%), anesthesiology and reanimation (7.1%), and orthopedics (6.2%) (15). In another study, unlike our study, infectious diseases, dermatology, physical therapy and rehabilitation, family medicine, and emergency medicine were reported as specialties that were not sued at all

(10). In the same study, the most frequently sued specialties were gynecology and obstetrics (36.5%), orthopedics and traumatology (38.4%), and psychiatry (38.4%). In summary, defensive medicine is the physician's unnecessary use of medical practices for diagnosis and treatment and avoidance of practices with a high risk of resulting in malpractice litigation by acting overprotective or timid in order not to face criminal or civil lawsuits, not to pay compensation, and not to increase insurance policy premiums (10). In recent years, healthcare professionals practicing the medical profession have started to work in a restless and anxious manner. The reason for this is shown to be the allegations arising from medical malpractice of physicians rather than the pressures arising from social and legal regulations. This situation has started to be detected in the United States of America since the 1970s and later in other countries and has been a factor in the development of defensive medicine (16). To the question "What do you think about the desire of physicians to avoid patient approach, treatment and invasive procedures due to forensic concerns?" which we asked to the physicians participating in our study, 172 participants answered as "strongly agree" and 96 participants answered as "agree". According to this result, 93% of the physicians in our study accepted that defensive medicine is practiced. In the conclusion and summary section of his specialty thesis on the subject, Tümer stated that lawsuits created frustration in surgeons against their profession and caused hesitation in their approach to patients (17). In our study, 237 participants "strongly agreed" and 45 participants "agreed" to the question "What do you think about the complaints and administrative and judicial investigations encountered during the practice of the art of medicine affecting the morale and motivation of physicians and preventing them from practicing their profession efficiently?" According to this result, 97.9% of the physicians in our study believe that the fear of being complained about and sued has a negative effect on the practice of the profession. In a study, 84.6% of the physicians answered "absolutely yes" and "yes" to the question "would a medical malpractice lawsuit against you reduce your medical performance" (10). In Banaz and Yalçın Balçık (11), 93.7% of physicians stated that malpractice lawsuits would affect medical performance. Physician professional liability insurance is "the process of insuring the compensation to be paid due to malpractice, negligence, or lack of care that occurs during professional practice and causes damage to the person receiving service" (18). Physician professional liability insurance has become compulsory in Turkey as of July 30, 2010, and its full name is "Compulsory Financial Liability Insurance for Medical Malpractice". This product, provided by insurance companies, provides assurance against the compensation requested in lawsuits filed against physicians for damages caused by physicians for any reason during their professional activities

(19). In our study, 92.5% of physicians declared that they had professional liability insurance. Of the 21 physicians without insurance, 11 (52.3%) were general practitioners. In a study conducted in 2008, 73.3% of physicians stated that they did not have any insurance (10). We believe that this result was different because the study was conducted before 2010. We support the need for insurance against malpractice and compensation lawsuits, which have been increasing in recent years.

According to the responses we received from physicians in our study, we predict that the likelihood of not choosing medical faculties due to forensic concerns will increase by 92.3%. As a matter of fact, as a result of the survey, 72% of our physicians stated that they would not choose medical school and the profession of medicine if they were offered the right to choose again. In addition, 73% of general practitioners stated that they would not choose their profession again, and in terms of branches, emergency medicine, internal medicine, gynecology and obstetrics, and pediatrics specialists, respectively, stated that they would not choose their profession again. In medical science, each branch is valuable in its own field, but surgical branches require more knowledge, attention, and endurance. Students who can be much more successful in these fields and can work with fewer errors in medical faculties move away from these branches because of the anxiety caused by medical malpractice and may lead to an increase in error rates with the unintentional selection of surgical branches (20). As a matter of fact, when the results of the 2020 Medical Specialization Examination placement results are examined in our country, branches with low malpractice risk such as radiology, dermatology, physical therapy and rehabilitation, and sports medicine, were preferred more by physicians, while emergency medicine, pediatric surgery, general surgery, thoracic surgery, gynecology and obstetrics, and cardiovascular surgery departments were preferred less (21).

### Study Limitations

This study only limited generalizability; therefore, studies with much larger participants was needed.

### Conclusion

As a result, allegations of medical malpractice are increasing day by day, and the rate of complaints against healthcare professionals by patients or their relatives is increasing. This situation delays the diagnosis and treatment of the patient and creates a separate burden on the health system. Research should be conducted on why medical malpractice occurs, the lines of the distinction between complication and malpractice should be clarified, and a common perspective on the subject should be developed by creating health law with platforms where

medical and legal sciences are together. Specialty associations should educate physicians on this issue and work toward the development of measures that can be taken against malpractice practices. Guidelines should be prepared by the Ministry of Health to control and eliminate the factors that cause medical malpractice and healthcare professionals should be supported with up-to-date training (22,23).

## Ethics

**Ethics Committee Approval:** The study was initiated after the approval of Nevşehir Hacı Bektaş Veli University Rectorate Non-interventional Clinical Research Publication Ethics Committee (decision number: 2023/06, date: 15.09.2023).

**Informed Consent:** The study was conducted after obtaining the consent of the participants who agreed to participate in the study.

## Authorship Contributions

Surgical and Medical Practices: M.A., N.B., Concept: Ö.B., Design: Ö.B., Data Collection or Processing: M.A., N.B., Analysis or Interpretation: M.A., N.B., Literature Search: O.B., M.A., Writing: M.A., N.B., Ö.B., O.B., M.A.

**Conflict of Interest:** No conflict of interest was declared by the authors.

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