

**EDUCATIONAL FORUM**

**Doctors be Aware: A Perspective**

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**ABSTRACT**

In an ideal world, medical decisions would be made using ‘normative’ techniques – decision-making processes that guarantee the best chance of the correct outcome. In this world, doctors would know the prevalence of each possible condition under consideration; have full knowledge of test characteristics. In real life, doctors are using a very different approach, known as ‘flesh and blood’ or ‘fast and frugal’ decision-making. Keeping this in view, doctors should be aware for doing the medical practice.

**Keywords:** Medical practice, Medical care, Doctor, Health administration communication, Patient service, CPA

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**INTRODUCTION**

In health-care administration, stress has been made on the principles and practice of day-to-day administration, keeping in view the various levels of administrative protocols to be followed with particular reference to consultant services, patient-care services including those of Residents and Registrar’s (functioning) and nursing services too.

It is essential to realise that the medical services and the patient care form the most important activity of any hospital/clinic. The consultants and all their assistants form the core group in providing the medical services, and due care and attention are given to this function. No doubt paramedic and support services also substantially contribute to the effective hospital and patient-care services. And hence, the administrator should maintain a balance and focus due attention on both these aspects of hospital organisation/management/administration.

**PATIENT-CARE SERVICES**

With the growing demands from the patients nowadays

and their expectations for ‘value for money’, we should consider the services with high quality and for gaining ultimately the ‘Patients’ delight’ which shall be the motto of the entire team/hospital.

**Consultant Participation with a Commitment**

Consultant is the greatest potential influence in any hospital practices, and he can make or break the hospital status and future. The administrator should see that the patient care/services are provided at the highest level of quality. We should know that there are practices in which the administrator, managers and other staff are the driving force behind the provision of quality service and patient satisfaction, and the consultant forms the centre of activity<sup>1</sup>.

**Communication**

Communicating effectively with the patient forms one of the challenging tasks a consultant faces, particularly with a corporate hospital patient. Any effort made in this direction is fruitful. Nowadays, it is not enough to communicate only with the patient, but should also speak to the attendants, friends and well-wishers too.

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<sup>1</sup>Patient Satisfaction Pays Quality service for practice success. As aspen Publication-Gaithersburg, Maryland, USA-1993.

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### Some Steps to Improve Communication

- Step into your patients' shoes and see through their eyes and hear through their ears and express your sincere concern.
- Give each patient your undivided, caring attention with a human touch during the entire interaction period. Listen to what all the patients and their attendants say, including a selected few close friends. Some information from any one of them may help diagnose the disease and plan treatment, avoid all disturbances & intrusions during the period of your interaction with the patient.
- Touch the patient lightly on the arm or shoulder or with a handshake and look directly at him or her when you speak.
- Ask the patient what they want or expect from the visit, and at the end, ask whether their expectations were met. Encourage them to seek more information if required.
- Seek compliance by asking for agreement to a treatment plan currently and for future.
- Know clearly what your patients are worried about, and if necessary the various degrees of anxiety & worry.
- Develop rapport resulting in patients' satisfaction and also yours, because the rapport you create with your patients (as well as their attendants), brings them back and also bring more to you.
- Make the patients' priorities your priorities.
- While jotting down the case record/case notes, look now and then to the patient and seek further details. This impresses the patient that you are attentive to what he is saying while writing.

Nowadays, a good number of doctors are using the computers (laptops) and others, during their interactions. While appreciating the need for modern technology, the author as noticed by him on several occasions opines that several patients complained about their anguish after the interactive sessions, expressing that they didn't have the full and

concerned attention of the doctor. Many, probably, are not aware that the doctor is recording the conversation, for future use for the mutual benefit.

However, the doctor at any cost must impress the patient, that he is really concerned about him, his health and welfare.

- Active listening yields clinical benefits too.
- Paraphrase your patients' statements to demonstrate that you hear what they say, and with concern.
- Ask, probing follow-up questions, and help him recollect past events.
- Don't interrupt, allow your patients to state their case or express their views, as they wish to and later you analyse.
- Ask open-ended questions, they are interactive and elicit information that 'yes-no' questions can't.
- Use non-verbal techniques to show interest; don't write in the chart every moment you're with the patient.
- Every consultant and his team members shall realise and recognise that in recent times many patients are increasingly taking a 'Consumer approach' to evaluate the medical care. Hence, he shall be prepared to provide them with all information to help them evaluate your clinical expertise and that of other doctors. Be thorough with the Consumer Protection Act (CPA) 1986 and also the latest 'Right to Information (RTI) Act 2005'.
- The consultant or his team shall consider using the outcome measurements and the clinical parameters to make informed referral recommendations to patients or colleagues. Be very discrete and considerate in doing so.
- The consultant shall specially manage his patients' expectations when making referrals to other specialists who are technically excellent but fall short in patient interaction skills and/or his public

relations. The referral protocols and discipline shall be strictly adhered to.

- The consultant and his team shall frequently evaluate their own technical skills with reference to the available standards and developments and understand their capabilities and limitations. They shall never hesitate or feel embarrassed to refer their patients to experts with appropriate skills as and when necessary in the best interests of the patients and the institution they are working for. Such referrals shall be on time and to the appropriate authority with a detailed data of the patient you've elicited.

### **MEDICAL ETHICS AND MEDICAL NEGLIGENCE**

Under the present scenario of medical practice and the society's increasing awareness and the recent CPA 1986, and the RTI Act 2005, it is essential to acquire knowledge and understand more about the ethical practices to be strictly adhered to in the patient-care services.

It is to be noted that the hospital administrator has a great responsibility in overseeing the provision of 'Quality Medical Care' and also see his team's ethical practices are strictly adhered to. It is essential to foster and develop a keen sense of moral values in all the personnel involved in the provision of medical care directly or indirectly.

Although there are several watch dogs and regulatory mechanisms within the medical profession, their lack of commitment, efficiency and effectiveness is generally felt, and it is time that all medical professionals strive to correct the situation and improve in future. Failure to do so will create a situation where the external agencies of the society, the governments or the judiciary will take unpleasant stand and try to regulate the very character of the

practice of medical profession, which is already happening now (CPA etc.).

Remember that ethics is not a set of prohibitions (or dos and don'ts) as many of us think. It is a 'simple set of guidelines that have been made from the basic humanistic principles in making ethical judgements which may go beyond our likes and dislikes'.

The history of Medical ethics is centuries old, right from the times of the King Hammurabi and the 'Father of Medicine', Hippocrates to date. There are several oaths and guidelines propounded by several religions and watchdog groups all over the world. They number about seventeen to date<sup>2</sup>.

The 'Indian Medical Council', through its registrars gives every medical graduate the following declaration at the time of their registration, before entering into the practice of medicine who shall read, understand and agree to abide by the same (Box 1).

### **WHAT IS MEDICAL ETHICS?**

Medical ethics is a prescribed code of conduct designed over a period of time for maintaining the standards, purity and also to preserve the nobility of the professions<sup>3</sup>. Ethics is an attempt to define what is right and what is wrong on the basis of certain general laws and involves the principle of justice. Morality, on the other hand, is a set of rules (norms) not necessarily based on justice, but decided upon by society and its structure. *'The intention to hurt is unethical but in the eyes of law, only when there is an actual injury does it become a cognisable act'*.

### **WHAT IS MEDICAL NEGLIGENCE?**

Negligence, as such, is not susceptible of any precise definition. In terms of generality, 'Negligence' is culpable and reckless conduct which involves an

<sup>2</sup>Medical & ethics and negligence, published in and several other articles published by the CEHAT Organisation, Pune, Mumbai. Medical Ethics 4(1).

<sup>3</sup>The medical profession and the law. Edited by Dr. R.D. Lele, Ex-Director, Jaslok Hospitals, former Dean Grant Medical College & JJ Group of Hospitals, Mumbai.

**Box 1: Declaration of Indian medical council**

1. I solemnly pledge myself to consecrate my life in the service of humanity.
  2. Even under threat, I will not use the skills of medical knowledge contrary to the laws of humanity.
  3. I will maintain the utmost respect for human life from the time of conception.
  4. I will not permit consideration of religion, caste, nationality, race, party politics or any social standing to intervene between my duty and my patient.
  5. I will practice my profession with CONSCIENCE and utmost dignity.
  6. The health and well-being of my patient will be my first consideration.
  7. I will guard and respect the secrets which are confided to me by my patients.
  8. I will give my teachers the respect and gratitude which is their due.
  9. I will maintain by all means in my power, the honour and the noble traditions of the medical profession.
  10. I will treat my colleagues as my brothers and sisters.
- I make these promises solemnly, freely and upon my honour.

unreasonably great risk of causing harm to another. In strict legal terms and analysis, 'Negligence' means more than a heedless or careless conduct, whether in omission or commission. It properly connotes the complex concept of duty, breach and damage suffered by the person to whom the duty was assigned. Dr Modi, a famous medical jurist defined professional or medical negligence as – *'Professional Negligence or Medical Negligence may be defined as want of a reasonable degree of care and skill or wilful negligence on the part of the medical practitioner in the treatment of a patient with whom a relationship of professional attention is established so as to lead to his bodily injury or to the loss of his life'*.

**ETHICS AND NEGLIGENCE IN MEDICINE – HOW RELATED?**

In the practice of medicine both as an art and science, all over the world, the influence of ethics has a definite bearing on its functioning in its entirety. There is a persistent eroticism from the society that the modern medicine is getting dehumanised day-by-day, and the standards are gradually on the decline. Ethically also

it is essential to look at the patient, first as a human being in suffering, and then as a person with a disease or ailment.

With various elements of negligence, fraud and deceit occurring in several other societies of services, and the uniqueness of the medical profession is that it prescribes and specifies the 'code of conduct' with the sole purpose of enabling its practitioner to avoid negligence; because the profession deals with the human lives.

An essential component of our ethical concern should be for an overall and total welfare of our patients. Negligence in medical practice, with or without ethical considerations is not acceptable to any society. Today, the entire scope of medical practice and its scenario are different and ever-changing. The doctors' diagnosis and the reasons behind it are questioned; or even suspected sometimes. One of the important reasons for such an attitudinal change in the society could be a general awareness among the public and the influence of the CPA, 1986. These changes having come about in the last three or four decades, will have several ramifications in future.

It is all the more important for all surgical practitioners to avoid any kind and degree of negligence, and hence, it is essential to follow the ethics in their practice without any compromise. Here, accurate and appropriate documentation of all phases of procedures (beginning with physical examination, lab investigations, pre-operative, intraoperative and the post-operative) meticulously documented.

It may be noted that sometimes the anaesthetists' and the theatre nurses' notes are not comprehensive and accurate. The surgeon should endeavour to take all necessary steps of scrutinising their notes also. Because the patients' perception of a surgery is that the surgeon alone is responsible for everything. Few people realise the role of anaesthetists, the theatre assistants, the nurses and others also play an important role in the success or failure of a surgery.

### **CONSUMER PROTECTION ACT 1986 IN BRIEF**

The CPA, 1986 enacted by the Indian Parliament came into force on 15 April 1987. The act protects the consumers from defective goods and deficient services. By its judgement dated 13 November 1985, the Supreme Court ruled that the service rendered to a patient by a medical practitioner (except where the doctor renders service free of charge to every patient or under contract of personal services) by way of consultation, diagnosis and treatment – both medical and surgical – would fall within the ambit of 'Service' in section 2(1)(0) of the Act. The reasons for applying the provisions of the said act to medical profession appears to be that under the existing laws namely 'the law of torts' and 'the Indian Penal Code', there was an abnormal delay in deciding the medical negligence cases.

High cost of litigation, limited access to courts and uncertainty of the result of the cases are some of the other reasons. The Indian Medical Council Act, 1956 which controls the conduct of doctors does not provide enough to deal with the complaints against doctors for negligence and for awarding compensation in case the negligence is proved.

### **Procedure under the Act in General**

Every action under the act being with an aggrieved patient lodging a complaint in writing with consumer forum (District Forum or State Commission or the National Commission) as the case may be alleging inter alia, that the services hired or availed of, suffers from deficiency in any respect. Such complaint has to be filed within 2 years from the date on which the cause of action arises. The Consumer Forum communicates a copy of the complaint to the opposite party or parties calling for their version of the case within a period of 30 days or within, such an extended period as may be granted by the Consumer Forum.

The opposite parties (medical practitioner, hospitals laboratories etc.) have to file with the forum their version of the case with all the necessary documents. The forum, then, fixes a date for the production of the documentary evidence, after which the case will be posted for the final hearing. Based on the arguments advanced on both sides, the district forum passes the order. The parties can appeal to the State Commission (from the district forum) against the order. But there is a channel of appeal from the State Commission to the National Commission. Then, the appeal lies to the Supreme Court from the National Commission and the appeals have to be filed within 3 months from the date of receipt of the order.

### **CERTAIN GUIDELINES**

Every doctor/consultant/hospital shall send a copy of the complaint received to the concerned insurance company immediately with whom the doctor has taken the professional indemnity policy and keep them informed about the progress at regular intervals. If need be, the parties may have to even consult/discuss with the advocate referred to by the insurance company.

The doctors should call for all the records and study thoroughly the documents, reports and others and recollect the entire case and make notes as and where necessary. 'Precise and accurate documentation forms one of the best defences'. Maintenance of an

accurate and honest medical record saves several litigations, and helps the doctors/institution come out unscathed. The courts value the evidence of the written document more than other evidences.

The doctor shall prepare and obtain copies of the journals, textbook contents and others, in defence of his case. These references have a considerable value and add strength to his defence. The doctor and the hospital shall keep the defence advocate informed of every development throughout the period of case. The doctor also is advised to physically present himself at the hearing of the court to understand his position thoroughly.

Initially, (about a decade ago) doctors and the hospitals used to take the CPA in a lighter vein, but now the profession and all the professional bodies are seriously taking the CPA 1986 and also the RTI Act 2005 to safeguard their interests. Even lawyers of high repute are giving due consideration to these acts now<sup>4</sup>.

The above are only few important aspects and the mantra of good defence is to maintain the patient record 'the best way both qualitatively and quantitatively'. The recent addition of regulations is RTI Act 2005 and also the mandatory requirement of registration of all clinics, nursing homes, hospitals, laboratories, diagnostic centres and other medical & health service centre in Andhra Pradesh<sup>5</sup>.

To summarise, the medical profession, by now, should be able to realise, how important, it is for them to be accountable to the society. There are no shortcuts or 'state of compromises' in dealing with the human lives. They may even be prepared to travel an extra mile and also make several sacrifices in the best interests of providing an excellent medical care to our patients.

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<sup>4</sup>The CPA 1986.

<sup>5</sup>The RTI Act 2005.