ISSN:2347-7458 I RNI No.:MAHENG13471/13/1/2013-TC

Journal of INDIAN MEDICO LEGAL and ETHICS ASSOCIATION

Quarterly
Medical Journal
(Indexed with *IP Indexing*)

Vol.08 I Issue : 03 I July-Sept. 2020

www.imlea-india.org

JIMLA

JIMLEA (Journal of Indian Medico Legal & Ethics Association) is quarterly official publication of the **IMLEA** (Indian Medico Legal & Ethics Association). This journal is for complimentary circulation to members of IMLEA and on subscription to individuals and institutions.

Subscription

Annual subscription rates are:
Rs. 1000- only (for subscribers in India)
Rs. 2000/- only (for subscribers abroad)
Payment can be made by multi city cheque drawn in favour of **IMLEA,** to be sent to Dr. Satish Tiwari, Yashoda Nagar No.2, Amravati - 444606. Maharashtra, India.

Disclaimer

Address for correspondence :
Dr. Asok Datta,
Email:asokdatta31@yahoo.com
Ph. 08170993104.
Dr Sheikh Minhaj Ahmed
Email:minhaj1609@gmail.com
Ph. 9869660060

Journal of Indian Medico Legal And Ethics Association

Vol.08 I Issue : 03 I July-Sept. 2020

CONTENTS

.

JIMLEA is now Indexed with IP Indexing

Dear Members, Warm regards

We are pleased to inform you that the Journal of Indian Medico- Legal & Ethics Association (JIMLEA) is now indexed with IP Indexing. The highlights of the journal include:

i) Open Access, Peer- reviewed quarterly journal in print form.

ii) The journal is available on the website **(www.imlea-india.org)** of the association.

iii) Topics related to medico-legal and ethical issues can be submitted for publications. This is one of the few journals which publish topics on ethical issues in medical practice.

iv) The ISSN registration number is: 2347- 7458 Print version.

v) This is official publication of Indian Medico- Legal & Ethics Association; a national academic organization working for issues related to Doctor- Patient Relationship, Communication skills, Professionalism, medical negligence, Consumer Protection Act, ethical issues in practice of medicine, quality care and other related issues.

vi) The journal editorial board or the association doesn't charge any money for peer review or publication.

vii) The journal committee doesn't accept advertisement from any companies which manufacture or promote infant milk substitutes and are banned under IMS Act of India.

viii) Send articles to:

a) Dr Asok Datta- asokdatta31@yahoo.com , 8170993104

b) Dr Sheikh Minhaj Ahmed – minhaj1609@gmail.com ,9869660060

Thanks for your contribution, support & cooperation.

Editoral Board, JIMLEA

Editorial :

Consumer Protection Act: Past and the Future

*Dr Rajakumar Marol, **Dr Yash Paul, ***Dr Satish Tiwari

Received for publication : 23rd August 2020 Peer review : 28th Sept. 2020 Accepted for publication : 1st Oct. 2020

Keywords :

Medical Services, Rights of Consumer, Picuniary Jurisdiction, Grievance redressal, mediation cell.

Consumer Profesion Act (CPA) was introduced in the year 1986,to address the grievances of consumers [1]. Whenever his rights are violated, a consumer can file a complaint. The rights of consumer are :-

a) Right to safety against the services, which are hazardous to life

b) Right to be informed about the nature and price of the service

c) Right to be educated about the knowledge of disease

d) Right to be heard for his grievance at appropriate forums

e) Right to be redressed in the form of compensation

f) Right to choose services on his choice.

The CPA was enforced in India as people were reluctant to avail the services of the civil courts owing to the excessive court fee and a long delay to get a final verdict. The CPA provides a forum to safeguard the rights of the customers and establishes guidelines for the speedy redressal of their grievances against unethical medical practices[2]. The law is not enforced to penalize all health care professionals that cause injury to the patients; but is concerned only with negligent acts. The Act covers all the medical practitioners and does not limit itself to the allopathic system in order to ensure accountability and keep a check on quackery by non-allopathic practitioners[3]. Similar sorts of acts have been implemented across the world and has shown encouraging results in the field of medical care[4].

Some are still under confusion whether doctors are included or not, but it is very much clear that they are included. In Dr A S Chandra v. Union of India [(1992) 1 Andh LT 713], it was held that service rendered for consideration by private medical practitioners, private hospitals and nursing homes must be construed as "services" for the purpose of Section 2(1) (o) of the Act; persons availing of such services are 'consumers' within the meaning of Section 2(1) (d) of the Act. However, this notion was rejected in Dr C S Subramanian v. Kumarasamy [(1994) 1 MLJ 438]. In Indian Medical Association v. VP Shantha case, the distinction between a "contract of service" and a "contract for services" was also stressed [5]. A "contract for services" implies a contract whereby the party rendering service is not subject to detailed direction and control but exercises professional or technical skill, knowledge and discretion [6]. A "contract of service" involves an obligation to obey orders in the work to be performed and as to its mode and manner of performance. Since, there is no relationship of master and servant between the doctor and the patient, the contract between the medical practitioner and his patient cannot be treated as a contract of personal service. It is a contract for services, and service under such a contract is not covered by the exclusionary part of the definition[7].

Whether patients in government and charitable hospitals, who have not paid for their

* Senior Consultant Pediatrician, Haveri, Karnataka email : dr.rajakumar71@gmail.com
** Practising Pediatrician, Jaipur
*** Professor of Pediatrics, Medical College Amravati;

treatment, can claim rights as 'consumers' under the meaning of the Consumer Protection Act (CPA), 1986 [8]. In the words of the Supreme Court "every doctor, at the governmental hospital or elsewhere, has a professional obligation to extend his services with due expertise for protecting life" in the case of Parmanand Kataria v. Union of India[AIR 1989 SC 2039]. The duty owed by a doctor towards his patient, in the words of the Supreme Court is to "bring to his task a reasonable degree of skill and knowledge" and to exercise "a reasonable degree of care" in the case of Laxman v. Trimback[AIR 1969 SC 128.].Going by the fundamental premises established through the above rulings, even government hospitals, providing medical care free of cost, and the medical officers employed therein are duty bound to extend medical assistance for preserving human life, failing which negligence would be imputed to the act of the concerned authority as stated in the case of Laxman Balkrishna Joshi (Dr) v. Dr TrimbakBapuGodbole [AIR 1969 SC 128].

So day by day the numbers of litigations on doctors are increasing. According to a recent study there is a rise of 2300 fold in the number of complaints against doctors in India. In USA up to 36% of physicians in low-risk specialties and 88% for high-risk specialties had faced their first claim by the age of 45 years. This increased to 75% and 99%, respectively, by the age of 65 years[9].Lack of communication between patients and doctors is important cause of the increased litigations.[10-11].In a study conducted at Chandigarh by Singh et al , the mean score for patient-doctor relationship was 50% of the total and about consent and its validity was 62% of the total, reflecting a huge gap that needs to be bridged. Nonetheless, it seems CPA has put pressure on the doctors for better communication and efficient patient care, as 68% agreed that CPA forces the doctors to communicate better with the patients, and 47% of them agreed that CPA gives rise to efficient patient care as the doctors are more conscious and careful in rendering the service[12].

The new Consumer Protection Act, 2019, passed and received the presidential assent on 9th August 2019, repealing the 3 decade old Consumer Protection Act, 1986, to strengthen consumer rights and dispensing consumer justice. New Consumer protection Act came in to effect from July 20th 2020 and replaced the old act completely [13]. It was amended keeping in mind mainly new market dynamics like e-commerce transactions and misleading advertisements. It envisages a robust grievance redressal mechanism in the context of e-commerce and e-governance. The slew of legal measures entails the inclusion of e-commerce, Central Consumer Protection Authority (CCPA), Alternative Dispute Resolution (ADR), suo moto action against unfair trade practices, pecuniary jurisdiction, amplifying of grounds of complaints, penalties to deceptive advertisements and product safety and liability [14].

From the standpoint of the medical profession, it is worthwhile to inquire that the new law has excluded the health care system. If one tries to rationalize his personal belief and logic to substantiate, doctors are out of CPA, he will get those points in the act. The provision legislation has been targeted to appease medical fraternity in a bid to assuage the medical fraternity, which has expressed apprehensions over its detrimental application[15].So the doctors are unnecessarily feeling excited about this change in the euphemistic tone of the Consumer Protection Act, 2019. On the contrary if you look at the act carefully in the perspective of a lawyer for the inclusion of doctors, you will find many clues for filing case against the deficiency of health care services.

The new law did not intend to put a curtain on the doctors-patient health services deficiency a dampener for medical negligence or malpractice.

Law comes heavily on unfair trade practices, which will eventually allow private hospitals to undergo consumer auditing rigorously [16].It sets the tone for the ethical and patient-oriented medical professionalism to curb unfair medical practices and undue enrichment. At the same time, the Consumer courts need to undergo huge transformation as it is inherently ill-equipped to judge complex medico-legal litigation and often leads to a serious miscarriage of consumer justice to doctor and patient.

One should understand that this act is not only for doctors, but also for all the professionals and businesses wherever there is consumer and provider relationship exists. So let us try to understand what are the additional provisions in new act?

Central consumer protection authority is unique feature of new act. It is an executive body cum regulatory body established to regulate matters related to violation of rights of consumer, promote, protect and enforce the rights of consumer as a class, unfair trade practices, false or misleading advertisements , price fixing and impose penalties for selling faulty and fake products. Headed by director general, it can file complaint suo-motto, enquire and investigate. It can also take action suo-motto , order reimbursement or cancel licenses.

Simplified dispute resolution system–One can file a complaint in Consumer Commissions through E-filing from his place of residence or workplace. There is also provision for video conferencing for hearing and provision of deemed admissibility of complaint after 21 days. Commissions are empowered to review their own orders. Fees for filing complaint are almost nil up to 5 lack, at State commission it is just Rs. 5000/- and at National commission it is just Rs. 7500/-

Mediation Cells are established for quick Dispute Resolution through Mediation and are attached to Consumer Commissions. Panel of mediators are selected by the Consumer Commissions .Wherever scope for early settlement exists and parties agree for it, the case is referred to mediation cell. Mediation cell is given statutory status and one can't go for appeal against settlement through mediation. However medical negligence leading to grievous injury or death are not referred to mediation cell.

Pecuniary Jurisdiction which is based on the value of the service excluding compensation amount has been raised at District commission, State commission, National Commission to Rs. 1 Cr, 1-10 Cr and >10 Cr respectively.

Misleading advertisements carry a fine of Rs 10 L/ 2yr imprisonment for 1st offence and Rs 50 L /5yr imprisonment for 2nd offence. A doctor who endorses it, is liable for fine as well as an imprisonment of up to 3yr .

There is also a **provision for Product Liability Action** -where manufacturers, service providers and seller who deliver defective products or services will be punished. It's impact on medical profession is that the cost of medical prosthesis, devices and implants might increase in the name of improving the quality.

Failure to issue bill and disclosure of personal data are also punishable under new act. Time for appeal has been increased to 45 days from 30 days however a deposit 50% of the fine amount has to be deposited prior to appealing for the higher court. One can go for appeal to national commission only on question of law.

There are many disadvantages of CPA both for doctors as well as patients .Doctor harassment will lead to corruption. Doctors will practice defensive medicine. Patients will be the looser as doctors will not attend the patients even with slightly complicated ailments. Ultimately the health care costs will increase leading to increased claim and increased indemnity. The long standing demand on capping of upper limit of compensation

by various medical associations has been neglected. The issue of enhancing the fine/ punishment for filing the frivolous cases has not been discussed and decided adequately. Consumer commissions consist of non-medical persons who cannot appreciate the complex issues in medical care. In new act there is lack of people from legal background which can lead to wrong verdicts. There is no reason to question wisdom or impartiality of the learned members of the panels of Consumer protection Boards. But, one reality cannot be overlooked. Minimum qualification for a doctor is M.B.B.S, which is obtained after five years of study of medical books and learning medical practice from medical teachers which includes one year rigorous training called internship. Later on a doctor needs to update knowledge from time to time through Continuing Medical Education (CME), Medical workshops and reading medical journals. In addition to general practitioners, there are many specialties and super specialties courses. Even very experienced person from one specialty may not be in a position to judge management by a doctor of different specialty. For many diseases there are more than one approved protocols. So, we suggest that as and when a case against a doctor comes to Consumer Protection Forum, a doctor recommended by, district, state or National level, Indian Medico-Legal and Ethics Association (IMLEA), Indian Medical Association (IMA) or similar organizations should be included in the bench to do full justice to the case and the party.

So can we averse law any further?

Medical service has changed dramatically from service to profession to business. The doctor-patient relationship relies on the mutual trust and conviction[17].The roots of litigation against doctor is due to loss of trust and changed face of doctor patient relationship. So we cannot oppose this law any more, we have to accept it and go ahead; restoration of mutual trust is the only solution.

References :

1. The Consumer Protection Act, 1986. New Delhi: Universal Law Publishing Co. and Pvt. Ltd.; 2010. http://legislative.gov.in/sites/default/files/A1986-68_0.pdf date accessed 22/08/2020
2. Saurabh R Shrivastava, Prateek S Ramasamy, Jegadeesh. Scope of consumer protection act in medical profession in India. Journal of Clinical Sciences. January-June 2014 (Vol.11, Issue 1) http://www.jcsjournal.org10.4103/1595-9587.137250 date accessed 22/08/2020
3. Joga Rao SV. Medical negligence liability under the consumer protection act: A review of judicial perspective. Indian J Urol 2009;25:361-71.
4. Slabbert MN, Pepper MS. The consumer protection act: No fault liability of health care providers. S Afr Med J 2011;101:800-1.
5. Halsbury HSG. Halsbury's Law of England. 4th ed. London: Butterworths; 1984;16:para 501.
6. Cane P, Conaghan J. The New Oxford Companion to Law. 1st ed. London, Oxford University Press; 2008:1134.
7. Aniket Deepak Agrawal; Arunabha Banerjee, Free medical care and consumer protection. Indian Journal of Medical Ethics, v. 8, n. 4, p. 240, nov. 2016. Avaialble at: <https://ijme.in/articles/free-medical-care-and-consumer-protection/>. Date accessed: 23rd Aug.2020.
8. The Consumer Protection Act, 1986. Government of India. Available from: http://ncdrc.nic.in/1_1.html date accessed 22/08/2020.
9. Jena BA, Seabury S, Lakdawalla D, Chandra A. Malpractice Risk According to Physician Specialty. N Engl J Med 2011;365:629-36.

10. Moore P, Vargas A, Nunez S, Macchiavello S. A study of hospital complaints and the role of the doctor-patient communication. Rev Med Chil 2011;139:880-5.

11. Beckman HB, Markakis KM, Suchman AL, Frankel RM. The doctor-patient relationship and malpractice. Lessons from plaintiff depositions. Arch Intern Med 1994; 154: 1365-70.

12. Singh S, Kumar A, Gupta AK, Aggarwal AK. Knowledge of consumer protection act among doctors from government and private sectors of union territory, Chandigarh. Indian J Med Sci 2016;68:5-12.

13. The Consumer Protection Rules and Regulations Under The Consumer Protection Act, 2019. Dept of Consumer affairs govt of India https://consumeraffairs.nic.in/more/archive/latest-updates date accessed 22/08/2020

14. MZM Nomani , Faizanur Rahman , Alaa KK Alhalboosi. Consumer Protection Act, 2019 and its implications for the medical profession and health care services in India-J Indian Acad Forensic Med. 2019 Oct-Dec; 41(4): 282-285.

15. Schwartz R, Furrow BR, Johnson SH, StoltzfusJost T, GreaneyTL. Bioethics: Health Case Law and Ethics. West (Thomson Reuters): American Casebook Series; 1991:624.

16. Ramesh B. Regulating the Private Health Care Sector: The Case of the Indian Consumer Protection Act. Health Policy and Planning.1996; 11(3):265-279.

17. Banerjee A, Sanyal D. Dynamics of doctor-patient relationship: A cross sectional study on concordance, trust, and patient enablement. J Fam Commu Med 2012;19:12-19.

Perspective :
Consumer Protection Act 2019: A Way Ahead

Dr J K Gupta

Received for publication : **7th Oct.** *2020* *Peer review :* **15th Oct.** *2020* *Accepted for publication :* **20th Oct.** *2020*

Keywords

Health Care Services, Loksabha, Fundamental right, Consumer comissions.

Consumer Protection Act 2019 has been finally notified by Government of India on 15th July 2020 and has come into force on 20th July 2020. There is a lot of confusion and apprehension all across the country especially among medical professionals. The main confusion among medical professional is whether Health Services is excluded from services in the main act or not. There are various reasons for apprehension among medical professional and health care sector as well as in other sellers and service provider. So there is need to analyse all issues related with present act and to search for any remedy available.

Health care in CPA: Brief history

In CPA 1986 there was no mention of health services in definition of service in section 2(O). But in Vasantha P. Nair v. Smt V.P. Nair I (1991) CPJ, NCDRC upheld the decision of Kerala State Commission which said that a patient is a consumer and the medical assistance was a service and therefore in the event of any deficiency in the performance of medical service, the consumer court can have the jurisdiction. The Madras High Court in C.S. Subramaniyam v. Kumarswamy 1994 CPJ 509 (D.B) held that medical practitioners do not come under the purview of CPA.

The controversy was set at rest by Supreme Court in landmark decision Indian Medical Association v. V.P. Shantha and others III (1995) CPJ 1 (S.C.) AIR 1996 SC 550 and it was held that patients aggrieved by any deficiency in treatment from both private clinics and Govt. hospitals are entitled to seek damages under Consumer Protection Act. It was held that service related to patient by a medical practitioner (except where doctor renders service free of charge to every patient or under a contract of service free of charge to every patient or under contract of personal service) by way of consultation, diagnosis and treatment both medical and surgical would fall within the ambit of service as defined in Section 2 (1) (O) of CP Act.

Health care in CPA 2019: Whether included or excluded?

The Consumer Protection Bill(Bill No.1-C of 2018) as passed by Lok Sabha on 20.12.2018 included health services in the definition of service as-

Section 2(42) "service" means service of any description which is made available to potential users and includes, but not limited to, the provision of facilities in connection with banking, financing, insurance, transport, processing, supply of electrical or other energy, telecom, healthcare, boarding or lodging or both, housing construction, entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service.

Though the Consumer Protection Bill, 2018, had included "healthcare" in the list of services and the Bill was passed in the Lok Sabha, it lapsed in the Rajya Sabha. Finally Central Government technically removed word health care from definition of Service and introduced corrected Consumer Protection Bill 2019 which could pass smoothly in Lok Sabha and Rajya Sabha. So in present Act word health care is nowhere in service definition as per Section 2(42).

Consultant Paediatrician, Kanpur Email : drjkgupta73@yahoo.co.in

Should removal of health care made to be confirmed by Supreme Court?

Now there is state of confusion whether health services are included in CPA 2019 or not. It can be inferred that Parliament which is ultimate law making body has over ruled the Supreme Court Verdict of IMA v. VP Shantha case as done at earlier occasion in SC-ST act Amendment and Shahbano Case. But it is also the fact that the Supreme Court is the ultimate interpreter of law. So question is still to be answered.

Whenever any such question arise Court has to go into the legislative history, discussion done in parliament at the time of framing law and what was the intention of members of parliament during process of framing the law. Intention of the Parliament is very much visible in proceedings of houses in all discussions made and in address of Minister of Consumer Affair Shri Ram Vilas Paswan both in Lok Sabha and in Rajya Sabha and it is the fact that the Act could be passed only after removal of health services from ambit of the act as per wish of majority.

Videos of proceedings in Lok Sabha and Rajya Sabha are self-explanatory. Ram Vilas Paswan Responding On "The Consumer Protection Bill, 2019 | 17th Lok Sabha |YOYO Times| https://www.youtube.com/ watch?v=sO-gQ6dwksc 376 views30 Jul 2019.

Minister Ram Vilas Paswan moves The Consumer Protection Bill, 2019. 2,489 views 6 Aug 2019 https://www.youtube. com/ watch?v= uBtub224e5U

So in view of evidences of apparent intention of the Parliament to remove health care from CPA 2019, status may be checked by filing a dummy case against any of our colleagues and if case is still admitted at any forum then it may be challenged in Supreme Court for apparent technical bar.

Are things so simple now?

Definitely not! It may be a ray of hope at present time but things are not so simple yet. It can be easily understood that there are 3 deciding bodies in framing of the Consumer Protection Act and determination of correct interpretation of its provisions. One is Judiciary, second one is Central Government and the third one is Parliament. Supreme Court had already included health care under ambit of Consumer Protection Act in IMA v. V.P. Shantha case in 1994 and since then lots of judgements have been passed against doctors and hospitals. So there is least possibility of showing soft corner for medical profession as far as exclusion of health services is concerned. Same can be expected from Central Government also as it has expressed its intention by keeping health services under CPA 2018 Bill. Only exception is Parliament which put pressure on Central Government to remove health care from CPA 2019 to make it possible to pass in present form.

So it is very much possible that Supreme Court may over rule apparent technical exclusion of health services from CPA 2019 by Parliament and might again declare health services under CPA like IMA v VP Shantha case, and this time Central Government may not bring amendment bill against Supreme Court verdict as per intention shown earlier. So chance may be taken but there is no reason to be over optimistic.

What next?

It is time to learn from the fact that various relevant issues like reservation could not be challenged directly successfully till date due to various socio-political reasons but success has been achieved in suits against flaws related with them. Similarly exclusion of health care from consumer protection act 2019 is difficult to achieve in present socioeconomic political scenario but flaws embodied in act harming service providers as well as

health care personals may be delineated and challenged in Supreme Court.

What are the flaws of Consumer Protection Act 2019?

There are various flaws in Consumer Protection Act which can be outlined and be challenged in Supreme Court.

In CPA 1986, there was provision of appeal from District Forum to State Commission, from State Commission to National Commission and from National Commission to Supreme Court in section 15, section 19 and section 23 after depositing twenty five thousand, thirty five thousand, fifty thousand rupees consecutively or fifty percent of compensation awarded whichever is less within 30 days.

But in CPA 2019 appeal from District Forum to State Commission, from State Commission to National Commission and from National Commission to Supreme Court may be preferred only after depositing fifty percent of compensation awarded as per section 41, 51(1) and 67 within 30 days. Fifty percent award deposition as precondition of appeal is apparently infringement of fundamental 'Right to Justice'. If defendant could not arrange 50 percent of awarded compensation which may be in lakhs or crores which has been trend in recent years that too within 30 days, he will lose the right to appeal.

Unlike CPA 1986, consumer has been given a right to file consumer complaint from his residence and work place also in section 34 (2d) of CPA 2019 which is infringement of fundamental 'Right of Equality' as none defendant in Indian Law other than seller and service provider as a class under CPA 2019 is facing such type of discrimination.

There are various other provisions which show that independence of Judiciary has been violated. CPA 2019 empowers the central government to appoint, remove and prescribe conditions of service for members of District, State and National Consumer Dispute Redressal Commissions. Selection committee will recommend panel to Central Government and ultimately Government will take decision of appointment. The Act permits the central government to notify the method of appointment of members of the commissions, while sections related to qualifications of president and sitting members were the part of CPA 1986 itself and selection committee was also the part of parent act.

Can such provisions be held unconstitutional in view of infringement of fundamental rights?

Initial two above mentioned provisions are clear infringement of 'Right to Justice' which has been placed in category of fundamental rights by honourable Supreme Court.

In Anita Kushwaha v. Pushap Sudan AIR 2016 SC 3506 at p.3519, 5 judges constitutional bench (CJI TS Thakur, Fakir Mohd Ibrahim Kaifulla, AK Sikri, SK Bobde, R Banumathi) on 19th July 2016 held -

"Access to justice is indeed a facet of right to life guaranteed under Article 21 of the Constitution. We need to only add that access to justice may as well be the facet of the right guaranteed under Article 14 of the Constitution, which guarantees equality before law and equal protection of laws to not only citizens but non-citizens also. We say so because equality before law and equal protection of laws is not limited in its application to the realm of executive action that enforces the law. It is as much available in relation to proceedings before Courts and tribunal and adjudicatory fora where law is applied and justice administered. The Citizen's inability to access courts or any other adjudicatory mechanism provided for determination of rights and obligations is bound to result in denial of the guarantee contained in Article 14 both in relation to

equality before law as well as equal protection of laws".

"Four main facets that, in our opinion, constitute the essence of access to justice are:

I. The State must provide an effective adjudicatory mechanism;
II. The mechanism so provided must be reasonably accessible in terms of distance;
III. The process of adjudication must be speedy; and
IV. The litigant's access to the adjudicatory process must be affordable."

Thus Supreme Court has declared 'Right to Justice' as a fundamental right not just a judicial right and as per definition of fundamental right it is available to every citizen of India so as available to any defendant as well in any litigation. Honourable Supreme Court has mentioned affordable adjudicatory process to litigant as one of the facets in the essence of access to justice. So precondition of fifty percent deposition for appeal that too within 30 days is against the essence of access to justice enunciated by Supreme Court. Similarly allowing litigation from residence and work place of plaintiff is a big threat to defendant in terms of distance and it is also against the facet of essence of justice enunciated by honourable Supreme Court.

Precondition of deposition of fifty percent awarded compensation for appeal and provision of filing the litigation from place of residence and work place of plaintiff is against the fundamental Right of Equality and Equal Protection of law provided in Article 14 of constitution as no defendant in Indian Judicial System is forced to face such discrimination. In all Indian acts other than CPA 2019 there is no provision of fifty percent deposition of compensation as a precondition to appeal and place of suing in all other acts is place of subject matter, place of cause of action and place of residence or work place of defendant only, not the place of residence and place of work of plaintiff. So it is very much apparent that defendants in CPA 2019 are facing discrimination in comparison to other defendants which is against the Right of Equality.

Such changes in CPA 1986 to transform it to CPA 2019 are not only unreasonable but clearly reflect arbitrariness of the State which is also unconstitutional.

In E.P. Royappa v State of Tamil Nadu AIR 1974 SC 555 Supreme Court has held "Equality is antithesis of arbitrariness. The equality and arbitrariness are sworn enemies and therefore where an act is arbitrary it is unequal both according to political logic and constitutional law and is therefore violating Article 14.

According to the new concept of equality, if state action is arbitrary, it cannot be justified even on the basis of test of classification". In Maneka Gandhi v. Union of India AIR 1978 SC 597 Bhagawati J. said "Article 14 strikes at arbitrariness in State action and ensures fairness and equality of treatment. The principal of reasonableness which legally as well as philosophically is an essential element of equality or non-arbitrariness pervades Article 14 like a brooding omnipresence."

The test in determining the question whether a legislation or executive action infringes the fundamental right is to examine its 'effect' not its object or subject matter. In Bennet Coleman & Co. and Ors, V. Union of India and Ors. 1973 AIR 106, 1973 SCR (2) 757, Supreme Court has held that if the direct effect of the impugned law is to abridge a fundamental right, its object or subject-matter will be irrelevant.

Supreme Court has held in more than one judgment that the independence of the judiciary at all levels is part of the Basic Structure of the Constitution of India (Shri Kumar Padma Prasad v.

Union of India: 1992 (2) SCC 428 and Union of India v. Prathiba Bannerjee: 1995 (6) SCC 765). This is true for quasi-judicial bodies as well. But in CPA 2019 appointment of judges and members has been removed from act itself and subjected to be done by Central Government unlike CPA 1986 in which appointment procedure of judges and members was part of act. There is provision of making various rules for appointment of members of commission and council and for various other purposes. Thus CPA 2019 is abrogating various administrative laws enunciated by honourable Supreme Court. In Registrar of Co-operative Societies v. K. Kunjabmu AIR 1980 SC 350 Supreme Court has said that Excessive delegation may amount to abdication and delegation unlimited may invite despotism uninhabited.

What may be done?

First of all, for determination of the question whether health services will be considered excluded from CPA 2019 or not in view of confusing scenario, a dummy case should be filed against any of our colleague and question may be left over to judiciary for determination and unfavourable status may be challenged in Supreme Court with all the proof of intention of ultimate law making body parliament. Unconstitutional provisions of CPA 2019 infringing fundamental rights should be subjected to Judicial Review under Article 13(2) by filing a petition in Supreme Court once above question is determined.

Conclusion

CPA 2019 is a benevolent act for consumer but at the same time it is a big threat to sellers and service providers. Medical profession is at larger risk as compensation in crores and lakhs have been awarded against hospitals and doctors only none else. Tougher days are ahead when medical professionals will have to move thousands of kilometres to defend consumer cases and appeal to higher forum will be very difficult due to precondition of depositing fifty percent compensation.

Since pecuniary jurisdiction of District Commission as per section 34(1) in CPA 2019 is the value of the goods or services paid as consideration up to one crore rupees, most of the consumer cases will be filed in District Commission and service providers like medical professionals will be forced to face blackmail when a consumer case is filed at the District Commission situated at hundreds and thousands kilometre distance at the place of residence or work of consumer and mechanism of mediation enshrined in the act will serve as a add to tool of black mail.

So it is the need of hour that our parent associations Indian Medico-Legal and Ethics Association (IMLEA), Indian Medical Association (IMA) to take lead and file petition in Supreme Court for determination of important question of exclusion of health care from CPA 2019 and for judicial review of the act in the view of infringement of fundamental rights.

Now time has come for IMLEA, IMA to ultimately go for framing a legal cell comprising of paid efficient senior advocates in view of arrival of so many other harassing acts in future like Clinical Establishment Act (CEA), National Medical Commission (NMC), MTP Amendment act, PCPNDT Act, Surrogacy Regulation Bill, Artificial Reproductive Technique (ART) draft bill etc. and set its priorities for protection of rights of doctors over to ocean of academic activities. Every doctor has high hope from IMLEA, IMA and ready to contribute in this pious cause physically and monetarily. It's the question of our existence, now or never!

Letter to Editors :
Can a Doctor be Punished for Prescribing Irrational Drug Formulation?

Received for publication : 29 May 2020 Peer review : 13 Sept. 2020 Accepted for publication : 24 Sept. 2020

A doctor presumes that all drugs available in the market are manufactured after obtaining a license from appropriate authority. It is also presumed that the licensing authority would have checked whether the drug formulation is approved, safe and all contents are in appropriate quantity. Can a doctor be held guilty and punished if some harm occurs to a patient for prescribing an irrational or potentially harmful drug formulation? Sulbactum is approved for combination with Cefoparozone only and Clavulanic acid with Amoxicillin only, but many antibiotic combinations with Clavulanic acid or Sulbactum are available in the market. Can a doctor be sued for prescribing a drug combination which provides no known additional benefit to the patient, but, adds to the cost of therapy?

Yash Paul

Pediatrician, Jaipur

E-mail: dryashpaul2003@gmail.com

Answer:

Dear Dr. Yash Paul

We don't have any case law decided by any court in matter which is raised by you but most likely patients don't understand the subject matter. Suing a doctor for problem of "irrational combination of medicine" prescription by way of civil, criminal or any other law is possible. But, no one can avoid long time taken for judicial process, appeals, revisions and review in the hierarchy of legal system in India till it reaches finality in Supreme Court of India. Sometimes even winning the case is not sweet, nor losing is bad. We all know irrational combination of medicine is known in India. In the current scenario don't expect any miracle save except lobbying and convincing people who approve wrong combinations and teach people who prescribe wrong combinations. It needs to be challenged. We will have to file a legal case and follow up the case. The drug approval system is sloppy and judicial process slow but surely good enough to understand your point of view. I hope sanity shall prevail upon unscientific adventures.

The better option for all the stakeholders will be that the Government, policy makers and other licensing authorities have restrictions and control over the production and availability of irrational drug combinations in the interest of the patient.

Dr. Mahesh Baldwa

(Med-Legal Consultant)

Dr Satish Tiwari

(Med-Legal Consultant)

Perspective : 'Herd Immunity': A Myth

Dr. Yash Paul

Received for publication : 5th Aug. 2020 Peer review : 20th Aug. 2020 Accepted for publication : 30th Sept. 2020

Keywords :

Epidemic Act, SARS-Cov-2 Pandemic, Innate Immunity, Plasma therapy.

To be safe and to survive during any epidemic or pandemic four available means are (i) Vaccine, (ii) Drugs, (iii) Administration of immunoglobulins(Plasma Therapy) and (iv) Safety measures. Regarding the present pandemic Covid-19 disease caused by SARS-Cov-2 virus, no vaccine is available presently, many drugs have been found to be effective to a limited extent, thus safety measures like putting on face masks and keeping safe social distances are very essential.

Many experts including those associated with WHO and Indian Council of Medical Research(ICMR) speculate that if a large proportion of population gets infected and survive, such group will provide herd immunity to non-infected (vulnerable) section of the society who will be protected against the infection. How scientific is this speculation?

Immunity is a state of resistance to an infectious disease through the defense activities of the immune system. It is of two types: innate or natural and acquired.

Innate immunity to a disease is species specific, where by different species of animal kingdom suffer from different diseases and are resistant to some diseases. Acquired immunity can be acquired passively or actively. Passively acquired immunity: (a) Maternal antibodies provide protection against some diseases during early childhood and (b) administration of immunoglobulins (plasma therapy) provides instant but short lived immunity. Active immunity occurs following infection or vaccination.

Microorganisms or pathogens causing infectious disease need new host to survive. If new host is susceptible, the pathogens grow and multiply, cause disease in the host, but if the host is immune, the pathogens fail to grow and multiply, fail to cause disease, their number declines as many die. It is stated that when immune population following vaccination or infection is high, non immune population gets benefit of herd immunity. Is this supposed benefit a reality? The author would like to present a hypothetical scenario. One hundred persons go to a restaurant where all are served food which had been accidentally contaminated by Salmonella typhi. Ninety nine persons in the group had received typhoid vaccine recently and have developed immunity. Will the unvaccinated person escape infection because she/he was in the group? Answer is no.

Immunized persons who have developed immunity due to vaccination or infection act as barriers to the spread of microorganisms only, do not create any immunity in small number of non-immune individuals in close contact so it should be called 'herd protection' and not 'herd immunity'[1]. The suggestion that a large percentage of infected survivors of Covid-19 disease will provide protection to the rest of the population is not only misleading but carries many risks. Scientific fact is immune people do not provide any immunity to non-immune persons, only lessen the spread of infection, thus protection is not absolute.

Occurrence of herd immunity in close contacts of vaccine recipients by secondary spread was projected as a great advantage of OPV. During

Practising Pediatrician, Jaipur email: dryashpaul2003@ yahoo.com

polio eradication program in India many children had developed polio disease despite taking more than eight doses of trivalent OPV; each dose of two drops of OPV containing about 1,000,000 type 1 polioviruses, about 100,000 type 2 polioviruses and about 600000 type 3 polioviruses. How much antibodies are expected to be generated by few thousand vaccine polioviruses in close contact to provide immunity, when many lakh vaccine polioviruses had failed to generate required amount of antibodies in some children? Secondary spread may enhance the existing immune status. In year 1999 there were 181 vaccine associated paralytic poliomyelitis (VAPP) cases in India [2]. Out of these 181 VAPP cases 121 had occurred in those children who had not received OPV shortly before occurrence of disease. These 121 children had developed VAPP because of secondary spread of back- mutant vaccine polio viruses.

Very young and very old people, persons with co-morbidities like diabetes, asthma and immune-compromised persons may succumb to the infection. Thus, till vaccines or very effective drugs or some means to kill or reduce the SARC-CoV-2 virus are found, stress should be on individual safety measures; and not on the message "let many people get infected, and those who survive will provide herd-immunity to rest of population. On the other hand the experts should identify the section of the society who would need vaccination on priority basis as and when vaccine becomes available.

References:

1. Paul Y. Herd immunity and herd protection. Vaccine, 2004:22:301-302.
2. Kohler KA, Bannerjee K, Hlady WG, Andrus JK, Sutter RW. Vaccine associated paralytic poliomyelitis in India during 1999: decreased risk despite massive use of oral polio vaccine. Bull WHO 2002; 80:210-216.

□■□

Contribution in JIMLEA

All the readers of this issue and the members of IMLEA are invited for contributing articles, original research work / paper, recent court judgements or case laws in the forth coming issues of JIMLEA. This is a peer-reviewed journal with ISSN registration. Please send your articles to Dr. Asok Datta,

email : asokdatta31@yahoo.com

Review Article :
Adoption in India : Social and Legal Aspects

*** Vijay Kamale, **Betty Mathai, *** Rishabh Shah**

Received for publication : 2nd Oct. 2020 Peer review : 10th Oct. 2020 Accepted for publication : 20th Oct. 2020

Keywords:

Child welfare, domestic adoption, inter-country adoption, Indian adoption, Central Adoption Resource Agency, CARA

Abstract:

Adoption is not only process of rehabilitation of child but also process of rebirth as a parent for prospective adoptive parents.This process should be legal at each step and prospective parents should be informed at each level. Although , due to lack of proper dissemination of information in India ,many times improper methods of adoption are in practice and this leads for social and legal problems later on. Central Adoption Resource Agency (CARA) of Government of India is trying best to help parents and organizations to help out proceed following rules of adoption process.

Introduction:

There is no greater calling than that of parenthood, and it is love, not DNA that's a requisite for parenthood. Then why not consider adoption! According to an American content creator Sara Stubbert who is a mother of two biological and two adoptive children, "Adoption is the opportunity of a lifetime"[1].

'Child Protection' is about protecting children from or against any perceived or real danger or risk to their life, their personhood and childhood. It is very important to have a proper procedure in place to safe guard the interest of the adopted child. The procedure may seem cumbersome to us but once we understand the rationale behind the procedure, I am sure the prospective parent would support it in the best interest of the child. In most cases, the child waiting to be adopted is orphaned or abandoned. Keeping in mind the constitutional as well as the International commitments, it therefore becomes the duty of the government along with the child welfare committee and the adoption agency to safe guard the interest of the child. These safeguards are not only against abuse - physical, mental, sexual or economic. Some of the procedures are also to guarantee hassle free future of the child, be it for passport, immigration, inheritance etc. and also to safeguard the interest of the child in case of any unexpected adversity in the family[2].

Simultaneously the rights of the prospective adoptive parents are also safeguarded by certain procedures before declaring the child free for adoption. Basic principle behind is that love of a family is life's greatest blessing. Biological parents and adoptive parents both can tender love of family in same extent [3].

Institutions that are assigned the responsibility by our government to protect the rights of the child pre and post adoption as well as the rights of the adoptive parents?[4].

1. The Central Adoption Resource Agency (CARA) under the Central Government.
2. The High Court, the Civil Court and the Family Court of each state.
3. The Child Welfare Committee appointed in each district by the State Government.
4. The Social Justice Department of the State Government.
5. Child Care Institutions and the Specialized Adoption Agencies.

Corresponding Author: Dr. Vijay Kamale, Head and Professor , Dept, Of Pediatrics, MGM Medical College, Kamothe, Navi Mumbai

* Head and Professor , Dept. Of Pediatrics , MGM Medical College,Kamothe,Navi Mumbai-410209 email : drvijaynkamale@yahoo.co.in
**Senior Coordinator (Adoption) Children of the World (India) Trust, Nerul , Navi Mumbai-400706
*** Junior Resident, Department Of Pediatrics , MGM Medical College , Kamothe , Navi Mumbai-410209

6. State and Central Government

As this article addresses the adoptive parents, let us see how the rights of the adoptive parents are protected by each of the above institutions.

· CARA manages the online adoption portal and monitors the entire online process of registration of prospective adoptive parents till the formal adoption of the child. This prevents out of turn assignment of children, thus ensuring equal right to every prospective adoptive parent. CARA also monitors the working of the adoption agency.

- The court provides the legal right to you as a parent making your relationship as parents secure not just by bonding, unconditional acceptance or love (all of which is extremely important) but by legal mandate too.
- The Child Welfare Committee ensures that the child to be referred to the Child Welfare Institution for care and protection is genuinely a lost and relinquished child and not taken away and not kidnapped or stolen from the birth parent for any vested interest. The child is declared free for adoption only after a thorough enquiry. This protects the adoptive parent from the emotional trauma they would have to face if a birth parent claimed the child post adoption.
- The Child Welfare Institute participates in the enquiry about the child, coordinating with the police and news paper agencies and in case of older children even participating directly in the search. The medical consultant at the institute also counsels the parents to ensure that they are prepared for adoption.
- The children to be adopted are extremely vulnerable considering their age and circumstance. Hence it is absolutely imperative that their rights are thoroughly protected by the various institutions as explained below.
- Child Welfare Committee is the first institution that initiates the process of ensuring the best interest of the child. The child is brought to the Child Welfare Committee by the police or the adoption agency, and in rare case by the relinquishing parents / guardians themselves. If the child is relinquished by the parent / guardian the committee interviews them to first find out if abandonment can be avoided and secondly to ensure that there is no force or monetary interest pushing the parents / guardians to abandon the child. The child is then handed over to a child welfare / adoption agency for care and protection till the child is declared free for adoption and then adopted.
- If a lost child is brought by the police, s/he is handed over to an adoption agency and the police and the agency is instructed to carry out the necessary procedures to declare the child free for adoption.

The committee also seeks follow up reports from the adoption agency post adoption to ensure that child is well adjusted in the adoptive family.

- The Child Welfare Agency plays a very significant role in the life of the child. The agency takes care of the child till s/he finds a loving adoptive family. The child is medically examined and treated as required by the medical consultant attached to the agency. The agency also provides the nutritional, emotional, mental and physical stimulus to the child for its healthy all-round development. As the natural growth and milestones in the development of the child would not wait till the child goes to an adoptive family it is important that the child does not miss the bus. Therefore, the agency fills in this gap with quality care and nurturance.
- The agency also completes all the formalities required to free the child for adoption, as well as the necessary documentation to be sent to the central and the state government.

The agency is also a primary link between the child and the adoptive parent. The social worker of Specialized Adoption Agency scrutinizes the documents submitted by the parents to ensure that they fulfill all the mandatory requirements for adoption. A home visit is made to the house of the adoptive family and a home study report prepared to be submitted to the court with one of its feature being that the living environment is conducive to child's health, safety and growth.

The adoptive parents are interviewed and counseled to ensure that their queries, myths and anxieties are handled, to understand the needs of an adoptive child, to ensure that serious thought is given

while deciding on the person committing to take over the responsibility of the child in case of an eventuality with both the parents, to discuss about sharing thefact of adoption with the child at the right time and to ensure that the parents are emotionally prepared for adoption.

In case of a slightly older child, the child is also prepared for adoption before he or she meets the prospective parents.

The agency also coordinates with the lawyer and the relevant court for completing the legal procedure.

The agency's connection with the parents continues post adoption, initially for the mandatory follow up and later for any counseling required by the parents.

Here it is important for the parents to understand that seeking help or counseling is not a failure at all. In fact, it is in the best interest of the child as well as the parents.

- Courts are assigned the adoption responsibility depending on the Act under which the child is being adopted. Once we receive the adoption order from the court, the parents can approach the municipal ward office of the area where they are residing to obtain a birth certificate with their name as parents. This birth certificate is exactly like the regular birth certificate except for the fact that a special register is maintained to avoid duplication in census in case the child's birth is already recorded. If any ward office is not aware of this rule, they could be shown the court order which mentions about providing a birth certificate or assistance could be taken from the adoption agency.
- State and Central Government the State Government monitors the administrative functioning as well as the quality of care provided to the children by the Child Welfare Institutes. The Central Adoption Resource Agency (CARA) under the Central Government manages the online adoption portal and monitors the entire online process of registration of prospective adoptive parents till the formal adoption of the child.

Laws Governing Adoption

In India, a child may be adopted under the special provisions in the Juvenile Justice (Care and Protection of Children) Act, 2015, under Hindu Adoption Maintenance Act,1956 (HAMA) or the Guardians and Wards Act, 1890 (GAWA).

Adoption Legislations

1. Hindu Adoption Maintenance Act,1956 (HAMA)
2. Juvenile Justice (Care & Protection of Children) Act, 2015 (JJ Act) (Came into effect from 15 January 2016)
3. Model JJ Rules, 2016 (Came into effect from 21 September 2016)
4. Adoption Regulations, 2017 (Came into effect from 16 January 2017)

Hindu Adoption Maintenance Act, 1956 (HAMA)

This Act is applicable to only for Hindus only, as the child, the giver and the taker have to be Hindu (a Muslim, Christian, Parsee, Jew, any member of a scheduled tribe governed by their customary law cannot adopt) (Sec 2 of HAMA)

Eligibility of adoptive parents (Sec 6 to 8 of HAMA)-Only a Hindu, Buddhist, Jain, or Sikh husband above the age of 18 can adopt under this act only with the consent of his living wife (Husband is the adopter and wife is merely a consenter).

A single female (unmarried, divorcee or widow) can also adopt (Sec 8 c). A person having a male child cannot adopt a male child. A person having a girl child cannot adopt a girl child.

Age difference between the adoptive father and the adoptive girl child has to be at least 21 years (Sec 11 (iii)). The child has to be below 15 years of age (Sec 10(iv) of HAMA)

Provision of payment or reward and any contravention shall be punishable-(Sec17 of HAMA)

Role of the Court in Adoption under HAMA

Adoption can be concluded through a registered Adoption deed subject to compliance with the provisions of the Act (Sec 16 of HAMA). Courts permission to adopt under this act is required only in the following cases (Sec 9(4) of HAMA):

- Where both the father and mother are dead
- Where both the father and mother have completely

and finally renounced the child
- Where both the father and mother have abandoned the child
- Where both the father and mother have been declared to be of unsound mind by the court concerned
- Where the parentage of the child is not known.
- Valid Adoption cannot be cancelled(Sec15 of HAMA)

Juvenile Justice Act, 2015 (JJ Act):

This is a secular Act (anybody irrespective of religion can adopt a child under this act) (Sec 58(1) of JJ Act). Nothing in this act shall apply to adoption under HAMA (Sec 56(3) of the JJ Act).

All Inter-country adoptions shall be done as per provisions of this Act & Adoption Regulations framed by the Authority (Sec 56(4) of the JJ Act).

Children up to the age of 18 can be adopted under this Act (Sec 2(12) of the JJ Act). Orphan, Abandoned& Surrendered (OAS) children declared legally free for adoption by Child Welfare Committee (CWC) (Sec 38 of JJ Act & Reg 6, 7 of AR 2017) can be placed in In-country and Inter country adoptions (Sec 56(1)

Children of relatives, as defined in Sec 2(52) of the JJ Act, can be adopted by an In-country parent (Sec 56(2) of the JJ Act & Reg 51 of AR 2017). Children of relatives, as defined in Sec 2(52) of the JJ Act, can be adopted by an Inter country parent (Sec 60 of the JJ Act& Reg 53, 54 of AR 2017)of the JJ Act, Reg 4 (a) of AR 2017).

Eligibility of Prospective Adoptive Parents (PAPs) (Sec 57 of the JJ Act & Reg 5 of AR 2017)
- A couple/single parent can adopt
- Single male is not eligible to adopt a girl child
- PAPs age eligibility criteria is defined and minimum 2 years stable marital relationship is mandatory
- PAPs with 3 or more children shall not be eligible to adopt a normal OAS child

Eligibility and suitability of the PAPs are ascertained through a home study by the Specialized Adoption Agency(Sec 58(2) of the JJ Act & Reg 9(13) of AR 2017). Court Procedure is defined in Sec 61 of the JJ Act& 12, 17, 55 of AR 2017. Post adoption Follow up of the adoptive family both in case of In-country and Inter-country is undertaken for 2 years by the Specialized Adoption Agency and the Authorised Foreign Adaption Agency (AFAA) respectively (Reg 13 & 19 of AR 2017 respectively)

Guardians and Wards Act, 1890 (GAWA)

It is not an Adoption Law as it does not establish parent child relationship. It establishes only a Guardian and Ward relationship and only till the child attains the age of 18 years. The cases applicable under GAWA may be admissible under Civil Miscellaneous Applications (CMA) or Miscellaneous Judicial Case (MJC). Eligibility for applying for guardianship order and the court procedure as per CPC, 1882 is defined under Sec 7 to 26 of GAWA. It was a mid way for non Hindu parents wishing to adopt. Now in the best interest of the child it is advisable to adopt the child by special provisions created under the Juvenile Justice Act. Though HAMA and GAWA act still prevail, all the OAS children's adoption is now done under the provision of J.J.ACT.

Fundamental Principles Governing Adoption:
- Adoption shall be resorted to for ensuring right to family for the OAS children-(Sec 56(1) of JJ Act)
- The child's best interests shall be of paramount consideration, while processing any adoption placement (Reg 3(a) of AR, 2017)
- Preference shall be given to place the child in adoption with Indian citizens and with due regard to the principle of placement of the child in his own socio-cultural environment, as far as possible; (Reg 3(b) of AR, 2017). All adoptions shall be registered.(Reg 3(c) of AR, 2017)
- Maintaining the confidentiality is mandatory (Sec 74 of JJ Act & Reg 3© of AR, 2017)

Summary of the Provisions of the JJ Act
- Adoption to be resorted to as per the provisions of the Act, the Rules and the Adoption Regulations framed by CARA, to ensure right to family for O/A/S children [Section 56 (1)]
- A Non-Hindu living in India can adopt under JJ Act [Section 56 (2)]
- Nothing in JJ Act shall apply to the adoption of children made under the provisions of HAMA [Section 56 (3)]

- All inter-country adoption to be done as per the provisions of JJ Act and the Adoption Regulations framed by CARA [Section 56 (4)]
- Eligibility of prospective adoptive parents laid down under Section 57
- Procedure for adoption by Indian prospective adoptive parents living in India laid down under Section 58
- Procedure for inter-country adoption of an orphan or abandoned or surrendered children from India laid down under Section 59
- Procedure for Inter-country relative adoption is laid down under Section 60.
- Court procedure for adoption laid down under Section 61
- Effect of adoption has been laid down under Section 63 of the Act.

The documentation and other procedural requirements, not expressly provided in this Act with regard to the adoption of an OAS child by resident Indian PAPs or by NRI, or by OCI or by a foreigner, shall be as per the Adoption Regulations.

Key implementing Stakeholders -

Other than Central Adoption Resource Authority (CARA), following agencies and units are major players in process of adoption

1) Specialized Adoption Agency (SAA)
2) District Child Protection Unit (DCPU)
3) State Adoption Resource Agency (SARA)
4) Child Welfare Committee (CWC)
5) Birth Certificate Issuing Authority (BCIA)
6) Regional Passport Office (RPO)

For Inter-Country Adoption

1) Authorized Foreign Adoption Agency (AFAA)
2) Foreign Regional Registration Office Indian diplomatic missions in inter-country adoption

Types of Adoptions under JJ Act 2015 & AR 2017:

1) In-country Adoptions
   a) Adoption of OAS Children
   b) Relative Adoption
   c) Adoption by Step Parents
2) Inter-country Adoption
   a) Adoption of OAS Children
   b) Relative Adoption

The Human Side

In case of In-country adoption the child is taken in Pre-adoption Foster Care Parents are under anxiety & emotional distress as the child isn't legally theirs. Birth Certificate and Passport of the child cannot be made. Policies (Health & others) of the child cannot be taken.School admissions for children aren't possible. In case of Inter-country adoption, the child continues to remain in institution pending Court Order. The children wait endlessly in hope of being taken home by their adoptive parents. The child's well being isn't looked after in the agency as it could be in the adoptive family. Over 50% children given in Inter-country adoptions are special needs children and their medical rehabilitation plan gets delayed. After a point the parents tend to give up.

In a prospective study of outcome in Adolescence, to discover the outcome for children placed late for adoption (between 5 and 11 years old) from public care and to establish which factors predict poorer outcome. It was concluded that late adoption can be successful in that half the children made good progress, but the extent of disruptions and difficulties in continuing placements gives rise to concern. Knowledge of predictors will help in devising planning pre- and post placement support services[5].

Regarding single parent adoption reviews the literature on single persons who adopt and argues that agencies should increase their recognition and recruitment of this nontraditional form of the family as a resource for the adoption of children with special needs. Findings show that most single parents are (1) female, (2) more likely to adopt older children, (3) less likely to adopt sibling groups or be a foster parent who adopted a child, and (4) have lower incomes than couples. Marital status seems to have little, if any, effect on adoption outcome. Single-parent families were as nurturing and viable as dual-parent families. A single adult, unencumbered with the demands of a marital relationship, may be able to give the kind and amount of involvement and nurturing needed by some children who have had severely damaging experiences.

As of today, it is observed both in rural and some families in urban areas, adoptive parents are also not comfortable telling their children about the adoption status. If a child gathered this information

from others, the trust could become a major issue in parent- child relationship. There are no data available on the success rate of single parent adoption [6]

Clinical experience of the author is that over indulgence and over protectiveness are two phenomena that are common in adoptive parenting. They still consider that, these children who have arrived due to special circumstances require special ways of handling which may be different from biological child rearing practices.It is necessary to get guidance from experienced and qualified professionals to raise children with special needs. Post adoption counseling in the form of aftercare is currently available but is offered to the parents only on request. It is recommended that post adoption counseling is mandated to assist and guide parents with the change in their roles and coping with parenthood. Another important component is that the mental health community needs to be sensitized about adoption process and the psychological impact of couple who are childless and who go through adoption. Based on the current trend, it may be implied that there will come a need in future to introduce adoption therapy training[7].

NGO's and Child Welfare Agencies need to give:

Since same sex couple adoption is gaining momentum, very soon policies need to be put in place. Overall number of children being abandoned or surrendered has considerably decreased due to legal medical termination of pregnancy officiated by the Family Planning of India, and the improvement of the Indian economy[8].

"There are times when the adoption process is exhausting and painful and makes you want to scream. But.....so does childbirth". – Scott Simon. And it's worth the wait!

Note: (This is first part of the three part series)

References:

1. https://www.designmom.com/multiracial-adoption-living-with-kids-home-tour-sara-stubbert/ Accessed on 2nd February 2020
2. The Integrated Child Protection Scheme (ICPS) A Centrally Sponsored Scheme of Government – Civil Society Partnership Ministry of Women & Child Development. https://wcd.nic.in/integrated-child-protection-scheme-ICPS Accessed on 2nd Oct 2020
3. National Policy for Children, 2013 Government of India. https://www.google.com/search?q=3.+National+Policy+for+Children%2C+2013+Government+of+India&oq=3.%09National+Policy+for+Children%2C+2013+Government+of+India&aqs=chrome..69i57.3931j0j4&sourceid=chrome&ie=UTF-8 Accessed on 2nd Oct 2020
4. CARA website :http://cara.nic.in/ accessed on 2nd February 2020
5. Alan Rushton. The Adoption of Children from Public Care: A Prospective Study of Outcome in Adolescence. https://www.google.com/ search?q=The+Adoption+of+Children+from+Public+Care%3A+A+Prospective+Study+of+Outcome+in+Adolescence&oq=The+Adoption+of+Children+from+Public+Care%3A+A+Prospective+Study+of+Outcome+in+Adolescence&aqs=chrome..69i57.9743j0j9&sourceid=chrome&ie=UTF-8 Accessed on 2nd Oct 2020
6. Ananthalakshmi, Sampoorna, G. L., Mushtaq, Ayesha., Jayanthi, Sheela., Charulatha., (2001). Child Adoption and Thereafter – A Psycho Analytical Study. Chennai, India. https://books.google.co.in/books/about/Child_Adoption_and_Thereafter.html?id=0HXaAAAAMAAJ&redir_esc=y Accessed on 2nd Oct 2020
7. Apparao, H. (1997). International adoption of children. The Indian scene. International Journal of Behavioural Development, 20, 3-16 https://journals.sagepub.com/doi/abs/10.1080/016502597385405 Accessed on 2nd Oct 2020
8. Bhargava, V. (2005). Adoption in India – Policies and Experiences. New Delhi: Sage Publications India Pvt. Ltd. https://www.journals.uchicago.edu/doi/abs/10.1086/507778?journalCode=ssr Accessed on 2nd Oct 2020

Medicolegal News

Compiled by Dr. Santosh Pande

Relief To Radiologist, Hyderabad Hospital: NCDRC Junks Rs 6 Crore Compensation Plea

Hyderabad: Holding the compensation plea filed by the patient as vague and grossly overvalued at Rs 6 crore, the National Consumer District Redressal Commission has granted major relief to Hyderabad based private hospital, it's radiologist. While dismissing the entire petition that demanded Rs 6 crore as compensation, the NCDRC clearly noted that the "complaint is over-valued at about six crores."

The case relates to the patient, complainant in the case, who approached the concerned Continental Hospital with symptoms of yellow discharge from the left nostril. After the checkup, a doctor at the hospital asked the patient to undergo CT Cisternography and the test for the liquid.

It was the case of the patient that unless the liquid to be identified as CSF by the test on Beta-2 transferrin, the CT Cisternography was not necessary. The OP-2 at first instance did not advise to undergo Beta-2 transferrin test prior to the invasive CT. However, the doctor himself took the decision to go ahead with the CT Cisternography.

The patient had signed the consent form for the procedure. As per the consent form, there was mention of only pain and side effects, he stated in his petition.

The counsel appearing on behalf of the patient alleged that the patient was kept in dark about the spinal tap as a part of CT Cisternography test and risk. He further alleged that during the procedure, a Radiologist had inserted a long needle in his spine, without explaining anything about the procedure. However, the patient did not object at that point of time. After the procedure, he was asked to leave the hospital, the petitioner added.

On this, it was alleged that according to the expert opinion any person who undergoes spinal tap (lumbar puncture) must lie flat for at least four hours to seal the spinal leak. Same was not informed to him.

It was averred that on the same night of the procedure, he felt neck stiffness, headache dizziness and loss of balance while walking. Therefore, on the next day, he rushed to another doctor working in the same hospital who opined that the injection given on in the spine has created the CSF leak and therefore, he suffered the side effects. He was advised four days rest and accordingly he was admitted in the hospital.

He then moved the CTO of the hospital and filed a complaint. The patient further alleged that after two days, but he was kicked out of the hospital with the help of the police. Submitting the aforesaid accusations, the patient then filed a complaint before the Medical Council of India last year. He then sent the legal notice to the hospital but received bare denial reply.

Aggrieved and alleging that suffering due to alleged negligence and omission in the treatment from the hospital as well as a deficiency in service and unfair trade practice, he filed the consumer complaint before the Commission with the prayer to compensate him over Rs 6 crore.

During the hearing of the petition, the bench noted the reply furnished by the consultant radiologist at Continental Hospital before the Telangana State Medical Council (TSMC). He categorically stated that the patient was counselled repeatedly and reassured by him and Neurologist and the CTO of the hospital reassured to look into the incident, however, the patient repeatedly threatened the doctor and staff of dire

*Practicing Anesthetist & President IMLEA, Amravati Branch E mail:drpandesr@gmail.com

consequences. He also sat on a protest at Hospital entrance (lobby) causing hindrance to other patients. Therefore, not being able to convince him and control his aggressive behaviour, the hospital sought the help of local police, the doctor had stated in his reply.

The bench further took note that for the patient's reassurance-MRI brain with contrast and MRI of the lumbosacral spine was conducted in the hospital. It was done without any cost to the patient. There was no evidence of CSF leak at lumbar puncture site. For secondary opinion, if required, the report and CD of the scan was also handed over to the patient.

The bench failed to see any significance to the instant case as, after a year of

the episode, nothing abnormal was reported therein. It was observed that the patient had not given any justification to his prayer made in this complaint.

With regard to the highly inflated claim, the bench relied upon the few decisions of Hon'ble Supreme Court and this Commission wherein the significance of the claims as challenged.

The Hon'ble Supreme Court in the case of Tara Devi Vs. Sri Thakur Radha Krishna Maharaj , (1987) 4 SCC 69 and in Nandita Bose vs. Ratanlal Nahata (1987) 3 SCC 705 discussed such issue. In the later case, the Hon'ble Supreme Court has held as under:

"The principles which regulate the pecuniary jurisdiction of civil courts are well settled. Ordinarily, the valuation of a suit depends upon the reliefs claimed therein and the plaintiffs valuation in his plaint determines the court in which it can be presented. It is also true that the plaintiff cannot invoke the jurisdiction of a court by either grossly over-valuing or gross under-valuing a suit. The court always has the jurisdiction to prevent the abuse of the process of law¦. But the question whether she was entitled to claim mense profits or damages in respect of the period subsequent to February 1, 1995 could not have been disposed of at a preliminary stage even before the trial had commenced. That question had to be decided at the conclusion of the trial alongwith other issues arising in the suit. Having regard to some of the decisions on which reliance is placed by the appellant in the course of the appeal, we are of the view that matter is not free from doubt?

In their verdict on the present case and dismissing the plea, the bench of Presiding member A Thakur and member Dr. Kantikar observed that the complaint is over-valued at about six crores. The bench also based its decision on the fact: "the complainant has filed the complaint being ignorant of medical procedures. The post lumber puncture headache is a known complication in a few patients and it is reversible. The procedure of CT cisternography was duly performed, after informed consent, by the OP-3 doctor. It was merely an assumption by the complainant that there was a leak at the site of lumber puncture. Such an assumption is not acceptable. Thus the instant complaint is vague, apart from being grossly inflated. Complaint is accordingly dismissed."

Ref.: *https://medicaldialogues.in/ news/ health/ medico-legal/relief-to-radiologist-hyderabad-hospital-ncdrc-junks-rs-6-crore-compensation-plea-67156 Accessed on 30/06/2020.*

Gross Medical Negligence: Breach Candy Hospital, Doctor Directed To Pay Rs 7.5 Lakh Compensation

Mumbai: Setting aside an order passed by the Maharashtra State Consumer Forum, the National Consumer Disputes Redressal Commission (NCDRC) has held Breach Candy Hospital Trust liable of gross medical negligence; and directed it to pay a compensation of Rs 7.5 lakh after two fingers of an elderly patient were amputated due to gangrene allegedly after a botched-up surgery over 15 years ago.

The genesis of the case goes back to September 18, 2005, when a 74-year-old was admitted to the hospital for a coronary artery bypass graft, and two days later he underwent the surgery. On October 1, 2005, re-suturing was required to be done because blood was found to be oozing from his chest.

After the surgery, he was shifted to an ICU, where the patient's wife found that his left palm and fingers were burnt. The doctor who examined him stated that his hand probably got burnt during re-suturing process. Thereafter, the burn injuries were treated even after he was discharged from the hospital, and eventually, he was operated upon. However, it was found that his middle and little fingers developed gangrene and had to be amputated.

Thereafter, the patient moved the State Commission alleging gross medical negligence on part of the hospital, which resulted in the burning of his left hand and the resultant amputation of two fingers; seeking compensation of Rs 50 lakh.

In his submission, the complainant prayed that "Being a diamond broker and expert in an assortment of diamonds, the absence of fingers was not only a loss of body part but would also hamper his income earning capacity." The patient alleged that he was informed by the operating doctor that the hand must have been got burnt due to the heater placed in the operation theatre.

Denying the allegations, the counsel submitted that the hospital was equipped with warm air blowers, which automatically cut off at 420 0 C. Moreover, no heaters were used in the operation theatre or in the ICU in the Hospital. "It could not be the case that the hand of the complainant accidentally touched the heater, resulting in the burning of his hand during the re-suturing process," it contended.

Further, the hospital stated that the patient was also having a history of longstanding diabetes, which finally led to Tropical Diabetic Hand Syndrome (TDHS.) Patients with diabetes are immunologically impaired to combat infections, adding that "The symptoms of heater burn and TDHS are similar and could be distinguished only by histopathological analysis and not clinically."

Besides, Expert opinion was also filed to show that TDSH results in burning of hand lead to gangrene and therefore, second grafting was suggested.

The State Commission observed the same and finally on March 28, 2012, dismissed the complaint observing that the treating doctors had exercised due care and caution in operating and treating the complainant.

Aggrieved by the decision, the complainant moved NCDRC for a redressal, wherein, it was submitted that the State Commission ignored the vital fact that there was never any treatment for diabetes but always for burns and TDHS was conjured for the first time in the written statement and there was nothing to support the same.

Deliberating the case, a two-member NCDRC bench, comprising presiding member Prem Narain and member C. Vishwanath observed that; "When there were no chances of any burn caused due to heaters in the OT/ICU or of any cautery burns as alleged by the Complainant, one does not understand as to why blisters on the hand were not taken seriously but only treated normally as burns. Consultation with Diabetologist and Dermatologist ought to have been done in the first instance." "Never the case was treated as TDHS. Only in the affidavit, 2 years after treating the Complainant, 'Wisdom' and 'Gyan' appears in the affidavit filed by Dr. Kaushik where burns and TDHS are explained. Record only shows burn injuries in OT during bypass surgery. If it is a case of other than burns and was TDHS, attempt should have been made to diagnose the problem," the Commission added. It further stated that treating doctors ought to have consulted the diabetologist and dermatologist at the earliest and if proper

diagnosis and treatment had started early, the complainant could, perhaps, have been saved from permanent injury and damage.

Subsequently, the court denied to accept the hospital's stand and held it liable for gross medical negligence.

The court noted; "A detailed review of the entire record reveals that it is a case of gross medical negligence, involving loss of body parts, business and mental agony to the Complainant who is a senior citizen aged 74 years, during the course of treatment given in the Respondent Hospital. The theory of TDHS has been floated only as a cover-up to their medical negligence, resulting in permanent injury to the patient. A host of expert opinions have been padded to lend 'credibility.' If only proper diagnosis and treatment would have started early, the Complainant could perhaps have been saved from permanent injury and damage. In view of the above, after carefully hearing the learned Counsel for the Parties, thoroughly going through the record and having given our thoughtful consideration, we set aside the order of the State Commission and direct the Respondents/ Opposite Parties to pay a compensation of Rs.7.5 lakhs to the Complainant within 30 days from the date of this order, failing which the amount shall carry interest of 9% per annum till full payment. In addition, cost of Rs.20,000/- towards litigation expenses are awarded," the court added.

Ref.: *https://medicaldialogues.in/news/health/medico-legal/gross-medical-negligence-breach-candy-hospital-doctor-directed-to-pay-rs-75-lakh-compensation-67734 Accessed on 18/07/2020*

Sukh Sagar Medical College Case: Supreme Court Holds That State Can Withdraw Essentiality Certificate

Chhattisgarh: "It would not be in public interest nor appropriate for the State Government to remain a mute spectator and not move into action when the medical college miserably fails to translate the spirit behind the Essentiality Certificate within a reasonable time,"- the honourable Supreme Court held in its recent verdict.

With this, the apex court has substantiated that the state governments have the power to revoke the essentiality certificate or take the rightful action against the errant institutes which fail to fulfil the stipulated norms as mandated.

The order to this effect was pronounced by the Honourable Justices, AM Khanwilkar, Dinesh Maheshwari and Sanjiv Khanna based on the petition filed by the Madhya Pradesh based Gyanjeet Sewa Mission Trust whose authorities called out the state government's decision of revoking the essentiality certificate of its Sukh Sagar Medical College.

The principal contention of the trust was that the State Government has no power to withdraw Essentiality Certificate on the ground of Deficient Functioning of the institute. In support of this contention, the medical college mainly relied on an earlier Supreme Court judgment in Chintpurni Medical College and Hospital vs the State of Punjab.

In 2016-17, after issuance of the Essentiality Certificate, the Trust submitted a scheme to the Medical Council of India for the establishment of a new medical college at Jabalpur - Sukh Sagar Medical College & Hospital with an annual intake of 150 students in MBBS course.

The MCI after the due inspection had submitted a negative report to the Central Government due to gross deficiencies, including fake records regarding the patients and resident staff, as a result of which the Ministry of Health and Family Welfare, Government of India rejected the proposed scheme. Thereafter, the ministry accorded its permission to the Trust for establishing a medical college on certain conditions mentioned therein.

This permission was valid for a period of

one year, to be renewed on yearly basis subject to the verification of the achievement of annual targets as indicated in the scheme submitted by the Trust and revalidation of performance Bank Guarantee. It was made clear that the process of renewal of permission will continue till such time the establishment of medical college and expansion of hospital facilities were to be completed and formal recognition of the medical college is granted in furtherance thereof. It was also made clear to the Trust that the next batch of students in MBBS course for the academic year 2017 -18 be admitted in the college only after obtaining prior permission of Central Government and fulfilling conditions stipulated by the authorities.

However, later, the MCI inspected the college and found that the undertaking given by the management was breached and violated, as a result of which the Central Government debarred the college for academic years 2017- 18 and 2018 -19.

Thus, for the subsequent academic years i.e. 2017-18, 2018-19 and 2019-20, no renewal of permission was accorded to the medical college. The latest assessment report of the MCI dated 3rd and 4th January, 2019, indicated that the medical College was unable to rectify the deficiencies pointed out by the Inspecting Committee of the MCI.

Resultantly, the Board of Governors in Supersession of MCI, (MCI BoG) declined to accept the request for renewal of permission for admission to 150 students in MBBS course for the academic year 2019-20.

Additional Secretary, Medical Education Department, Government of Madhya Pradesh, after giving due opportunity to the appellant and considering its response to the show cause notice, eventually proceeded to pass an order directing cancellation/revocation/withdrawal of the Essentiality Certificate.

The authority had taken into account that the medical college had failed to remove the deficiencies pointed out by the MCI from time to time and no renewal of permission was granted for academic years 2017- 18, 2018- 19 and 2019- 20 on that count. Thus, the appellant had failed to provide even the minimum clinical material for running of a medical college, contrary to the conditions specified in clause numbers 1, 2 and 4 of the Essentiality Certificate. In substance, the college had failed and neglected to provide for the minimum standards specified by the MCI for running a medical college, despite several opportunities given in that regard since the academic year 2016- 17. The deficiencies (as noted in the assessment report of the MCI), were gross and had even jeopardised the academic career of the first batch of 150 students admitted in the college during academic year 2016 17. It had also come to the notice of the State authorities that the College had declined to impart education to those students who had not deposited fees, which was again in violation of the conditions specified in the Essentiality Certificate.

Last year, the concerned students belonging to the first batch of 2016- 17 came to be adjusted/reallocated in six recognised private colleges within the State of Madhya Pradesh as per the permission granted by the Ministry.

Aggrieved by the loss of the essentiality certificate, the trust had moved the MP High Court proceeded to hold that the decision in Chintpurni Medical College (supra) does not completely forbid the State Government from exercising power to revoke the Essentiality Certificate. The High Court also held that the State Government acted within the excepted categories referred to in the reported decision of the apex court.

The HC had asserted: “the State Government has taken into account the fraud played by the college in securing the Essentiality Certificate, the inability of the college to provide for the minimum standards of infrastructure and other facilities specified by the MCI for running of a medical college and also

complete loss of substratum and larger public interest, as reasons for revocation of Essentiality Certificate by the State."

While rejecting the writ petition, however, the High Court gave liberty to the trust to remove the deficiencies pointed out by the MCI in its order and apply afresh for the Essentiality Certificate to the State Government and if the same is refused thereafter, the medical college and the trust was free to question such decision being a fresh cause of action.

Hearing all the submissions by the concerned parties, the Supreme court bench noted the key contention laid by the trust while questioning the state's authority of revoking the essentiality certificate on the basis of apex court's judgment on Chintpurni medical college case. Then, the 3 judge bench noted that the act of the State in issuing Essentiality Certificate is a quasi judicial function and observed: " Having said that, it must follow that Section 21 of the 1897 Act cannot be invoked and in absence of an express provision in the IMC Act or the 1999 Regulations empowering the State Government to revoke or cancel the Essentiality Certificate, such a power cannot be arrogated by the State relying on Section 21. That, however, does not deprive the State Government to revoke or withdraw the Essentiality Certificate in case where (a) it is secured by playing fraud on the State Government, (b) the substratum for issuing the certificate has been lost or disappears and (c) such like ground, where no enquiry is called for on the part of the State Government."

Further clarifying its judgment on the Chintpurni case, the apex court stated in Chintpurni Medical College (supra), it was clarified that the State Government can cancel/revoke/withdraw Essentiality Certificate in exceptional cases: " The State Government would be entitled to withdraw such certificate where it is obtained by playing fraud on it or any circumstances where the very substratum on which the essentiality certificate was granted disappears or any other reason of like nature."

The court observed the dilemma faced by the MBBS students due to the gross deficiencies committed by the institute and said: " even though the appellant was granted conditional Letter of Permission (LoP) for academic year 201617, it had failed to remove the deficiencies, as a result of which not even the first batch could pursue or complete the medical course in the appellant College. The concerned students kept on making earnest representation to the State authorities to rescue them from the hiatus situation in which they were trapped. Indisputably, the concerned students (admitted in the first batch of 201617) were eventually reallocated to another recognised college after November, 2019, as no renewal of permission to the appellant College was forthcoming for three successive academic sessions i.e. 2017-18, 2018-19 and 2019-20."

It noted that the medical college had failed and neglected to discharge its commitment given to the State at the relevant time, and is incapable of fulfilling the minimum norms specified by the MCI for starting and running a medical college. It had thus misrepresented the State Government at the relevant time by giving a sanguine hope of ensuring the installation of minimum infrastructure and setting up of a robust organisational structure for running of a medical college "in a time bound programme". Therefore, it can be safely deduced that it is a case of constructive fraud played upon the State Government. Deeming the state's action in revoking the essentiality certificate as right, the bench observed:

"The State Government whilst discharging its role of parens patriae of the student community cannot remain a mute spectator and expose them to a college, which is deficient in many respects. The fact that no renewal permission has been granted by the MCI for three successive academic sessions due to gross deficiencies in the appellant College, is itself

indicative of the state of affairs in the appellant College, warranting a legal inference that the substratum on the basis of which Essentiality Certificate was issued to the appellant College had completely disappeared."

The bench further said that the Essentiality Certificate was issued on the representation of the medical College that it would give 150 fully trained and qualified doctors each year to the State, thereby improving the doctor-patient ratio and provide healthcare to the nearby population in the attached hospital. All this has become a mirage due to the failure of the medical institute to get permission of Central Government for four successive academic sessions starting from 2016-17 till 2019-20. Not even one doctor has been produced by the appellant College after issuance of the Essentiality Certificate nor the hospital attached to the college is provided with minimum standards specified by the MCI and is found to be grossly deficient.

On a comprehensive view of the state of affairs, the fulfilment of MCI norms and other allied conditions must be understood as an implied imperative for the consideration/ continuation of Essentiality Certificate. For, there can be no deviation from the standards.

It observed that the authority of the State to grant Essentiality Certificate is both power coupled with a duty to ensure that the substratum of the spirit behind the Certificate does not disappear or is defeated. "The exercise of power and performance of duty with responsibility and in right earnest must coexist. Notably, the duty under Article 47 is, in the constitutional sense, fundamental in the governance of the State. This duty does not end with mere grant of a certificate, rather, it continues upto the point when essentiality of basic medical infrastructure is properly taken care of within a reasonable time frame. Any future application for such certificate, be it by the present appellant (in terms of directions in this judgment) or by a different applicant, must be dealt with accordingly, and supervision of the State must continue to ensure that the purpose and substratum for grant of such certificate does not and has not disappeared."

Lastly, laying emphasis on the power and duty of the state government in maintaining the standard of institutes, the bench that the fact that the trust has made certain investments for starting the medical college, by itself, cannot be the basis to undermine the power of the State Government coupled with the duty to ensure that the medical college is established in terms of the Essentiality Certificate within a reasonable time. "While dealing with the case of maintaining standards in a professional college, a strict approach must be adopted because these colleges engage in imparting training and education to prospective medical professionals and impact their academic prospects. Thus, the future of the student community pursuing medical course in such deficient colleges would get compromised besides producing inefficient and incompetent doctors from such colleges. That would be posing a bigger risk to the society at large and defeat the sanguine hope entrenched in the Essentiality Certificate issued by the State." **Ref.:** *https://medicaldialogues.in/news/education/medical-colleges/sukh-sagar-medical-college-case-supreme-court-holds-that-state-can-withdraw-ess... Accessed on 04/08/2020*

CMC Vellore Slapped Rs 25 Lakh Compensation For Delay In Treatment Over Rs 1850 Unpaid Dues

New Delhi: Holding that hospital has every right to insist (on) the payment but it was also a prime duty to care (for) the emergency patient, the National Consumer Disputes Redressal Commission (NCDRC) recently directed the Christian Medical College (CMC), Vellore to pay a compensation of Rs 25 lakh for medical negligence to the spouse of a 58-year-old patient who died at the hospital. The case

concerned a patient with a history of pain in his left arm after engaging in strenuous activity. He was also a patient of diabetes and hypertension.

In 2009, the patient visited the hospital after experiencing pain in his left arm on exertion. His Treadmill Test (TMT) done elsewhere was positive and he informed the same to the doctors at CMC. He was diagnosed with Coronary Artery Disease and suggested an Angioplasty. On further examination (angiography), he was recommended a Coronary Arterial By-pass Graft (CABG) surgery to avoid multiple stenting.

Due to long waiting list, the patient's CABG was not possible within 15 days and therefore no specific date was fixed for CABG. After a few days, Dr. Sujit discontinued medicines Ecospirin and Clopidogrel, and started Heparin 5000 units 6 hourly. It was alleged that Heparin was started without any laboratory investigations or monitoring protocol.

Two days later, the patient complained to the hospital authorities of bleeding and disorientation, however, this was allegedly ignored. It was stated that the doctors continued administering the drug which was the cause of the bleeding (Heparin), only to be informed later that he had suffered a stroke and there was an immediate need for a CT scan, however, the doctor allegedly did not do stroke evaluation. It was further alleged that around 11.00 AM the patient was transferred to the Thoracic surgery unit in Semi-ICU i.e. 3 ½ hours after the onset of stroke. At around 11:15 AM the neurologist came for primary evaluation of the patient and suggested 'CT Brain Plain study', but the CT scan was delayed till 12.30 PM. The staff told the 2nd complainant to remit and get a receipt of Rs. 1850/- for the CT Scan, though they have already deposited Rs. 150000/- as an advance. The doctor in thoracic surgery told the complainant that now it became neurology problem and thence the neurology dept. will look after the patient. Due to such condition of patient the CABG was deferred. The Neurosurgeon after seeing brain CT Scan report informed the complainants that as the patient already progressed into coma, nothing more could be done. Finally, doctors suggested the family that they should accept the inevitable event and instead of wasting money allow them to withdraw ventilator support.

Subsequently, the patient suffered stroke and passed away. Aggrieved, the deceased's kin moved a complaint with the forum alleging that the delay caused for stroke management was fatal and it was due to lapses in the hospital and demanding compensation of Rs. 2,01,44,000/ The complainant's counsel argued; "The doctors at CMC were fully aware of the risk of initiation of Heparin and it was incumbent on them to outline risk when there was no urgency of CABG and the date for CABG was not fixed. The blood thinners commonly should be stopped 3-5 days prior to CABG. It was also doubtful how the OP without doing any blood test presumed the patient has no bleeding tendency. After the initiation of heparin, the APTT test was not conducted. The mere talk/discussion between the doctor and the patient were no way the implied consent and the doctors failed to take the patient's consent before administration of Heparin."

Pointing out at the delay in CT scan for over 3 hours citing Rs 1,850 in unpaid dues, despite the complainants' prior deposit of Rs 1,50,000, the counsel further added; "by clinical examination, only Intra-cranial hemorrhage (ICH) cannot be differentiated between ischemic stroke and other causes. No medical intervention could be initiated unless the nature and location of the stroke was ascertained. Thus C.T. Scan of the brain was to be done immediately as early as possible."

Responding to the allegation, the hospital submitted that the complaint was based on a suppression of facts that could not be adequately adjudicated in a Consumer Redressal Forum. They disputed the day of his admission into the hospital

and claimed that consent was not normally required before administering heparin. They also contended that he opted for a CABG over an angioplasty.

Denying the remaining allegations being baseless, misconceived and misleading, the hospital contended; "When the blood thinner like heparin is used, there will be a risk. The risk has been taken into account considering the patient was above 50 years, hypertensive, and on medicines. As per the current trend of practice, the mere history of mild hypertension is not a contraindication to use heparin. Thus it was not a violation of protocol. The OP further contended that the blood test APTT was conducted to know the level of blood thinner. This test was always done after the drug is initiated and to tailor the dose for a given patient. It was further argued that the patient's attendants were explained about the result of patient's brain CT scan and the poor prognosis."

Examining the case, a Bench of members of Dr SM Kantikar and Dinesh Singh found that the administration of Heparin was not improper according to established medical practice, but held the hospital was negligent for the inordinate delay in treatment after the patient suffered a stroke.

Further, the Heparin administration was not stopped despite the stroke the patient suffered, nor was an antidote used.

Discussing the delay in obtaining a CT scan because of the hospital's insistence on payments, the Commission pointed out; "Although the patient was in most urgent need of the diagnostic CT scan it was delayed for getting a receipt of Rs. 1850/- towards CT scan charges.

The hospital was aware that the complainants had already deposited 150000/- in advance. … It seems at that relevant time the rigid protocols prevailed over the medical ethics, which amounts to a failure of duty of care."

"Hospital has every right to insist (on) the payment but it was also a prime duty to care (for) the emergency patient.," the commission emphasized. Subsequently, the commission accepted the complainant's arguments ruling that the deficiency and medical negligence were conclusively demonstrated. Therefore, to compensate for the doctors' negligence, an amount of "Rs 25 lakh, with interest at 8 percent per annum from the date of the death of the patient till its realization," was granted to the deceased's spouse. The Commission held; "... deficiency/negligence is conclusively established. In our considered view, in the facts and specificities of the instant case, compensation of Rs. 25 lakh with interest at the rate of 8% per annum from the date of the death of the patient appears just and equitable ..."
Ref. : *https://medicaldialogues.in/news/ health/ medico-legal/cmc-vellore-slapped-rs-25-lakh-compensation-for-delay-in-treatment-over-rs-1850-unpaid-dues-68606 Accessed on 17/08/2020*

Doctor to pay Rs 3 lakh compensation for inflated bill, negligence

Dinesh Joshi had visited Dr Geeta Jindal with complaint of severe back pain. Due to continuation of pain, Dinesh was hospitalized following which has was billed Rs 36,450 for the treatment by Dr Jindal, including ICU charges of Rs 12,500 and several items used for surgery.

Dinesh got himself discharged, and then got admitted to Gokul Hospital. He underwent an operation there where in 600ml of pus was drained.

He went on to file a complaint against Dr Jindal with the Director General of Health Services, Haryana. A board was constituted to conduct a probe. The report came out in favour of the doctor, following which Dinesh approached the Panchkula district forum. Dr Jindal and the scanning centre contested the case. The forum accepted the medical boards findings and acquitted Dr. Jindal of negligence. However, it held the scan centre liable for incorrectly reporting that the fluid collection was not significant.

The scan centre and its insurer were jointly held liable to pay Rs 20,000, with 9% interest. Dinesh then approached the Haryana state commission. The order was up held and the appeal was dismissed. Dinesh filed a revision petition. The National Commission then noted that the medical board had not addressed the grievance with regard to in appropriate billing.

Dr. Jindal's medical record was also found not to match her statement in the pleadings before the consumer forum. The commission further noted that the civil surgeon had opined that surgical blade, gloves, micro set and other materials are used in surgery, and Dr Jindal had billed Dinesh for these items when no surgery was performed.

The commission noted that Dr. Jindal had wrongly charged for ICU and had also charged for items that were not used. The commission concluded that there was medical negligence, and that Dr. Jindal had inflated the bill. She was held liable to pay a compensation of Rs 3 lakh, with 9% interest…

Ref.:*http://u.emedinews.org/gtrack?clientid=13324&ul=%0DAFVdVQVOAUwHF0RDRFhbVxEDCwUAcFNUBVkJGwVdWE1K&ml=A1RTWkwCTAVRUQMGSw==&sl=dB8mH2VhTGMuMUtDGVVbUwULCwQSQxpWFlcZBQ==&pp=0& Accessed on 20/08/2020*

Absentia Signing With Multiple Labs: Maharashtra Medical Council Suspends Pathologist For 6 Months

Mumbai: Taking stern action against a pathologist on account of Absetia signing of pathology reports in labs in more than 10 areas together, the Maharashtra Medical Council has now suspended the doctor for a period of 6 months.

This came after the council found that the doctor was practicing in between Ghatkopar to Kurla and signing on multiple reports in areas like Thane, Ulhasnagar, Dombivall, Badlapur, Nalasopara, Bhiwandi, Vashi Mulund,etc. Besides this, the doctor was also revealed to be associated with Dr. P.S.I Medical College, Chinoutpalli (Andhra Pradesh) as an Asst. Professor.

The action came after Dr. Rajesh Butala, Secretary, Thane Pathologists Association filed a complaint with the medical council to take legal action against pathologist Dr Doshi who was issuing pathology reports without supervision, quality control, and clinical correlation. The council then decided to conduct an inquiry and also sought response from the concerned pathologist post which both the parties (the complainant and the pathologist) were called for a hearing . After scrutiny of complaints and papers on hearing of both the parties Ethical Committee observed that,

a. Dr. Sanket Doshi (Respondent) is practicing in between Ghatkopar to Kurla and signing on multiple reports in areas like Thane, Ulhasnagar, Dombivall, Badlapur, Nalasopara, Bhiwandi, Vashi Mulund, etc.
b. Secondly, after perusal of MCl website committee, has observed that Dr. Doshi (Respondent) is associated with Dr. P.S.I Medical College, Chinoutpalli (Andhra Pradesh) as an Asst. Prof.
c. Committee further observed that Dr. Doshi (Respondent) appeared for inquiry in the MMC office. Whereby, his wife has signed a pathology report for which she is not eligible.

The ethics committee of the council then decided to frame charges against the pathologist and charge-sheeted the doctor. The pathologist admitted charges/facts at the time of the hearing and showed an inability to file the defence affidavit. The advocate for the doctor further accepted the guilt and shown ready to accept the punishment. Further, he prayed to be merciful in giving minimum punishment. He stated that the doctor is going from a rough patch of his life and that his wife was detected with breast cancer, pointing out that his wife is sick, the son is

taking education and for a living, he had to do something for earnings.

He confessed that the doctor had decided to rent his digital signature to the other pathology labs and requested the council to take lenient as per the circumstances as he and his family were under tremendous monitory and mental pressure. The committee observed that patients get erroneous reports leading to wrong diagnosis and or delay treatment. This is causing major health hazards. Thus, laboratories are charging a huge sum of money to innocent patients and playing with their life. This leads to serious violations of basic human rights viz right of health.

"It has been noticed that Dr. Doshi (Respondent) has offered his name and/ signatures to these illegal laboratories. Dr. Sanket Doshi (Respondent) has not visited these laboratories or not supervised the process of testing on a regular basis. Dr. Doshi (Respondent) has given signatures on blank letterheads of laboratory so that laboratory utilizes these afterward. Thus, Dr. Doshi (Respondent) pretends that the reports are being certified by him. It is the unethical practice by pathologists causing an effect on the health of people at large. There is the menace of malpractice and unindicted investigations leading to an economic loss of patients."

The medical council then made note of the Supreme Court judgment that sets the baseline law for the signing of pathology reports as well as the various directions of MCI/MMC in this regard which clearly state that no practitioner shall sign any clinical, lab/radiological reports, professional documents unless he/she is directly involved in conducting such tests and reports. Council also warned practitioners to refrain and avoid signing multiple reports without supervision. Thus holding the doctor guilty for his multiple attachments where he had given his pre-signed signature pads and has manipulated, jeopardized the public interest at large.

"Thus, for the gross violation of professional misconduct and code of ethics as enumerated under the Indian Medical Council (Professional Conduct Etiquette and Ethics) Regulation 2002, r/w section 22 of MMC Act. 1965 and charged under article 1.1.1 1.1.2, 1.2.1, 1.4.1 of chapter 1, article 3.7.2 of chapter 3 r/w. article 7.7 of chapter 7 of Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulation 2002 as well as failed to maintain the dignity of the profession and failed to mention the Registration Number on the reports, allow associates to misuse or permit to attend laboratories on behalf of Dr. Doshi (Respondent). Further violated Article 1.9 of Chapter l for evasion of legal restriction as simultaneously working in private as well as government sector violating the employment norms of the state MCI and same is highly objectionable in the medical fraternity. Thereby, negligent and involved in gross professional misconduct although admitted by Dr. Doshi (Respondent) and his advocate due to financial stress as well as for mental stress."

The council then gave its order in the matter, "Therefore, the Council has sentenced to remove the Registration No. 90280 of Dr. Sanket Doshi (Respondent) for 6 months from Register of the Council from the date of the order. The said punishment of removal of registration shall be implemented after the appeal period is over."

Ref.: *https://medicaldialogues.in/state-news/maharashtra/absentia-signing-with multiple-labs-maharashtra-medical-council-suspends-pathologist-for-6-months-68826". Accessed on 24/08/20*

The Members of Professional Assistance Scheme

S.N	Name	Place	Speciality
1	Dr. Sunil Agrawal	Satna	Surgeon
2	Dr. Rashmi Agrawal	Satna	Ob & Gyn
3	Dr. Dinesh B Thakare	Amravati	Pathologist
4	Dr. Neelima M Ardak	Amravati	Ob.&Gyn.
5	Dr. Rajendra W. Baitule	Amravati	Orthopedic
6	Dr. Ramawatar R. Soni	Amravati	Pathologist
7	Dr. Rajendra R. Borkar	Wardha	Pediatrician
8	Dr. Satish K Tiwari	Amravati	Pediatrician
9	Dr. Usha S Tiwari	Amravati	Hospi/ N Home
10	Dr. Vinita B Yadav	Gurgaon	Ob.&Gyn.
11	Dr. Balraj Yadav	Gurgaon	Pediatrician
12	Dr. Dinakara P	Bengaluru	Pediatrician
13	Dr. Shriniket Tidke	Amravati	Pediatrician
14	Dr. Gajanan Patil	Morshi	Pediatrician
15	Dr. Madhuri Patil	Morshi	Obs & Gyn
16	Dr. Vijay M Kuthe	Amravati	Orthopedic
17	Dr. Alka V. Kuthe	Amravati	Ob.&Gyn.
18	Dr. Anita Chandna	Secunderabad	Pediatrician
19	Dr. Sanket Pande	Amravati	Pediatrician
20	Dr. Ashwani Sharma	Ludhiana	Pediatrician
21	Dr. Jagdish Sahoo	Bhubneshwar	Pediatrician
22	Dr. Menka Jha (Sahoo)	Bhubneshwar	Neurology
23	Dr. B. B Sahani	Bhubneshwar	Pediatrician
24	Dr. Poonam Belokar(Kherde)	Amravati	Obs & Gyn
25	Dr. Rakesh Tripathi	Satna	Pediatrician
26	Dr. Sandeep Dankhade	Amravati	Pediatrician
27	Dr. Ashish Dagwar	Amravati	Surgeon
28	Dr. Ashish Narwade	Mehkar	Pediatrician
29	Dr. Mallikarjun H B	Bengaluru	Pediatrician
30	Dr. Hemant Chandravanshi	Raipur	Obs & Gyn
31	Dr. Premchand Jain	Karjat	Pediatrician
32	Dr. Radheshyam Roda	Dhule	Opthalmologist
33	Dr. Virendra Roda	Dhule	Opthalmologist
34	Dr. Shabeer Ahmed	Hyderabad	Pediatrician
35	Dr. Sandhya Mandal	Medinipur(W.B)	Pediatrician
36	Dr. Sunita Wadhwani	Ratlam	Ob & Gyn
37	Dr. Sagar Idhol	Akola	Physician
38	Dr. Ashish Varma	Wardha	Pediatrician
39	Dr. Anuj Varma	Wardha	Physician
40	Dr. Neha Varma	Wardha	Ob & Gyn
41	Dr. Ramesh Varma	Wardha	Gen Practitioner
42	Dr. Ravindra Dighe	Navi Mumbai	Pediatrician
43	Dr. Jyoti Dighe	Navi Mumbai	Ob & Gyn
44	Dr. Madan Mohan Rao	Hyderabad	Pediatrician
45	Dr. Pramod Gulati	Jhansi	Pediatrician
46	Dr. Sanjay Wazir	Gurgaon	Pediatrician
47	Dr. Anurag Pangrikar	Beed	Pediatrician
48	Dr. Shubhada Pangrikar	Beed	Pathologist
49	Dr. Abhijit Thete	Beed	Pediatrician
50	Dr. Kiran Borkar	Wardha	Ob & Gyn
51	Dr. Prabhat Goel	Gurgaon	Physician
52	Dr. Sunil Mahajan	Wardha	Pathologist
53	Dr. Ashish Jain	Gurgaon	Pediatrician
54	Dr. Neetu Jain	Gurgaon	Pulmonologist
55	Dr. Bhupesh Bhond	Amravati	Pediatrician
56	Dr. R K Maheshwari	Barmer	Pediatrician
57	Dr. Jayant Shah	Nandurbar	Pediatrician
58	Dr. Kesavulu	Hindupur AP	Pediatrician
59	Dr. Ashim Kr Ghosh	Burdwan WB	Pediatrician
60	Dr. Archana Tiwari	Gwalior	Ob & Gyn
61	Dr. Mukul Tiwari	Gwalior	Pediatrician
62	Dr. Chandravanti Hariyani	Nagpur	Pediatrician
63	Dr. Gorava Ujjinaiah	Kurnool(A.P)	Pediatrician
64	Dr. Pankaj Agrawal	Barmer	Pediatrician
65	Dr. Prashant Bhutada	Nagpur	Pediatrician
66	Dr. Sharad Lakhotiya	Mehkar	Pediatrician
67	Dr. Kamalakanta Swain	Bhadrak(Orissa)	Pediatrician
68	Dr. Manjit Singh	Patiala	Pediatrician
69	Dr. Mrinmoy Sinha	Nadia (W.B)	Pediatrician
70	Dr. Ravi Shankar Akhare	Chandrapur	Pediatrician
71	Dr. Lalit Meshram	Chandrapur	Pediatrician
72	Dr. Vivek Shivhare	Nagpur	Pediatrician
73	Dr. Ravishankara M	Banglore	Pediatrician
74	Dr. Bhooshan Holey	Nagpur	Pediatrician
75	Dr. Amol Rajguru	Akot	Ob & Gyn
76	Dr. Rujuda Rajguru	Akot	Ob & Gyn
77	Dr. Sireesh V	Banglore	Pediatrician
78	Dr. Ashish Batham	Indore	Pediatrician
79	Dr. Abinash Singh	Kushinagar	Pediatrcian
80	Dr. Brajesh Gupta	Deoghar	Pediatrician
81	Dr. Ramesh Kumar	Deoghar	Pediatrician
82	Dr. V P Goswami	Indore	Pediatrician
83	Dr. Sudhir Mishra	Jamshedpur	Pediatrician
84	Dr. Shoumyodhriti Ghosh	Jamshedpur	Pediatric Surgeon
85	Dr. Banashree Majumdar	Jamshedpur	Dermatologist
86	Dr. Lalchand Charan	Udaipur	Pediatrician
87	Dr. Manoj Yadav	Gurgaon	Pediatrician
88	Dr. Sandeep Dawange	Nandura	Pediatrician
89	Dr. Surekha Dawange	Nandura	Ob & Gyn
90	Dr. Sunil Sakarkar	Amravati	Dermatologist
91	Dr. Mrutunjay Dash	Bhubaneshwar	Pediatrician
92	Dr. J Bikrant K Prusty	Bhubaneshwar	Pediatrician
93	Dr. Jitendra Tiwari	Mumbai	Surgeon
94	Dr. Bhakti Tiwari	Mumbai	Ob & Gyn
95	Dr. Saurabh Tiwari	Mumbai	Pediatric Surgeon
96	Dr. Kritika Tiwari	Mumbai	Pediatrician
97	Dr. Gursharan Singh	Amritsar	Pediatrician
98	Dr. Rajshekhar Patil	Hubali	Pediatrician
99	Dr. Sibabratta Patnaik	Bhubneshwar	Pediatrician
100	Dr. Nirmala Joshi	Lucknow	Pediatrician
101	Dr. Kishore Chandki	Indore	Pediatrician
102	Dr. Ashish Satav	Dharni	Physician
103	Dr. Kavita Satav	Dharni	Opthalmologist
104	Dr. D P Gosavi	Amravati	Pediatrician
105	Dr. Narendra Gandhi	Rajnandgaon	Pediatrician
106	Dr. Chetak K B	Mysore	Pediatrician
107	Dr. Shashikiran Patil	Mysore	Pediatrician
108	Dr. Bharat Shah	Amravati	Plastic Surgeon
109	Dr. Jagruti Shah	Amravati	Ob & Gyn
110	Dr. Jyoti Varma	Wardha	Dentistry
111	Dr. C P Ravikumar	Banglore	Ped Neurologist
112	Dr. Nitin Seth	Amravati	Pediatrician
113	Dr. Abhijit Deshmukh	Amravati	Surgeon
114	Dr. Anjali Deshmukh	Amravati	Ob & Gyn
115	Dr. Deepak Kukreja	Indore	Pediatrician
116	Dr. Bharat Asati	Indore	Pediatrician
117	Dr. Apurva Kale	Amravati	Pediatrician
118	Dr. Prashant Gahukar	Amravati	Pathologist
119	Dr. Asit Guin	Jabalpur	Physician
120	Dr. Sanjeev Borade	Amravati	Ob & Gyn
121	Dr. Usha Gajbhiye	Amravati	Pediatric Surgeon
122	Dr. Kush Jhunjhunwala	Nagpur	Pediatrician
123	Dr. Anil Nandedkar	Nanded	Pediatrician
124	Dr. Animesh Gandhi	Rajnandgaon	Pediatrician
125	Dr. Ravi Barde	Nanded	Pediatrician
126	Dr. Pranita Barde	Nanded	Pathologist
127	Dr. Pankaj Barabde	Amravati	Pediatrician
128	Dr. Aditi Katkar Barabde	Amravati	Ob & Gyn
129	Dr. Shreyas Borkar	Wardha	Pediatrician
130	Dr. Vivek Morey	Buldhana	Ortho. Surgeon
131	Dr. Arti Murkey	Amravati	Ob & Gyn
132	Dr. Nitin Bardiya	Amravati	Pediatrician
133	Dr. Swapnil Sontakke	Akot, Akola	Radiologist
134	Dr. Pallavi Pimpale	Mumbai	Pediatrician
135	Dr. Susruta Das	Bhubneshwar	Pediatrician
136	Dr. Sudheer K A	Banglore	Pediatrician
137	Dr. Bhusahn Murkey	Amravati	Ob & Gyn

138	Dr. Jagruti Murkey	Amravati	Ob & Gyn
139	Dr. Sneha Rathi	Amravati	Ob & Gyn
140	Dr. Vijay Thote	Amravati	Opthalmologist
141	Dr. Satish Agrawal	Amravati	Pediatrician
142	Dr. Ravi Motwani	Gadchiroli	Pediatrician
143	Dr. Ashwin Deshmukh	Amravati	Ob & Gyn
144	Dr. Anupama Deshmukh	Amravati	Ob & Gyn
145	Dr. Aanand Kakani	Amravati	Neurosurgeon
146	Dr. Anuradha Kakani	Amravati	Ob & Gyn
147	Dr. Sikandar Adwani	Amravati	Neurophysician
148	Dr. Seema Gupta	Amravati	Pathologist
149	Dr. Pawan Agrawal	Amravati	Cardiologist
150	Dr. Madhuri Agrawal	Amravati	Pediatrician
151	Dr. Subhash Borakhade	Akot	Pediatrician
152	Dr. Unmesh Luktuke	Jamshedpur	Pediatrician
153	Dr. Arunima Luktuke	Jamshedpur	Opthalmologist
154	Dr. Rupesh Kulwal	Pune	Pediatrician
155	Dr. Prashanth S N	Davanagere	Pediatrician
156	Dr. Jyoti Agrawal	Amravati	Pediatrician
157	Dr. Sonal Kale	Amravati	Ob & Gyn
158	Dr. Gopal Belokar	Amravati	ENT
159	Dr. Vijay Rathi	Amravati	Pediatrician
160	Dr. Manish Jain	Gurgaon	Nepherologist
161	Dr. Shalu Gupta	Gurgaon	Ob & Gyn
162	Dr. Saurabh Ambadekar	Amravati	Pulmonologist
163	Dr. Anju Bhasin	New Delhi	Pediatrician
164	Dr. Prabhat Singh Baghel	Satana	Pediatrician
165	Dr. Aditi Singh	Satana	Ob & Gyn
166	Dr. Preeti Volvoikar	Gurgaon	Dentistry
167	Dr. Ajay Daphale	Amravati	Physician
168	Dr. Surita Daphale	Amravati	Pathologist
169	Dr. Sachin Kale	Amravati	Physician
170	Dr. Pradnya Kale	Amravati	Pathologist
171	Dr. Amit Kavimandan	Amravati	Gastroenterologist
172	Dr. Vinamra Malik	Chhindwara	Pediatrician
173	Dr. Shivanand Gauns	Goa	Pediatrician
174	Dr. Rishikesh Nagalkar	Amravati	Pediatrician
175	Dr. Rashmi Nagalkar	Amravati	Ob & Gyn
176	Dr. Shripal Jain	Karjat (Raigad)	Consultant Physician
177	Dr. Vinodkumar Mohabe	Gondia	Consultant Physician
178	Dr. Srinivas Murki	Hyderabad	Pediatrician
179	Dr. Rakesh Chouhan	Indore	Pediatrician
180	Dr. Naresh Garg	Gurgaon	Pediatrician
181	Dr. Vikram Deshmukh	Amravati	Urosurgeon
182	Dr. Raj Tilak	Kanpur	Pediatrician
183	Dr. Dhananjay Deshmukh	Amravati	Ortho. Surgeon
184	Dr. Ramesh Tannirwar	Wardha	Ob & Gyn
185	Dr. Sameer Agrawal	Jabalpur	Pediatrician
186	Dr. Sheojee Prasad	Gwalior	Pediatrician
187	Dr. V K Gandhi	Satna	Pediatrician
188	Dr. Sadachar Ujlambkar	Nashik	Pediatrician
189	Dr. Shyam Sidana	Ranchi	Pediatrician
190	Dr. Pradeep Kumar	Ludhiana	Pediatrician
191	Dr. Pankaj Agrawal	Nagpur	Pediatrician
192	Dr. Nishikant Dahiwale	Nagpur	Pediatrician
193	Dr. Vishal Mohant	Nagpur	Pediatrician
194	Dr. Pravin Bais	Nagpur	Pediatrician
195	Dr. Chetan Dixit	Nagpur	Pediatrician
196	Dr. Prakash Arya	Gwalior	Pediatrician
197	Dr. Sunita Arya	Gwalior	Ob & Gyn
198	Dr. Sagar Patil	Nagpur	Gastroenterologist
199	Dr. Umesh Khanapurkar	Bhusawal	Pediatrician
200	Dr. Sushma Khanapurkar	Bhusawal	Gen Practitioner
201	Dr. Sameer Khanapurkar	Bhusawal	Pediatrician
202	Dr. Samir Bhide	Nashik	Pediatrician
203	Dr. Veerendra Mehar	Indore	Pediatrician
204	Dr. Rajendra Vitalkar	Warud	Gen Practitioner
205	Dr. Kalpana Vitalkar	Warud	Ob & Gyn
206	Dr. Shweta Bhide	Nashik	Opthalmologist
207	Dr. Pramod Wankhede	Raigad	Pediatrician
208	Dr. Shrikant Dahake	Raigad	Gen Practitioner
209	Dr. Nilesh Gattani	Mehkar	Orthopedic Surgeon
210	Dr. Aishwarya Gattani	Mehkar	Pathologist
211	Dr. Barkha Manwani	Mumbai	Pediatrician
212	Dr. Piyush Pande	Amravati	Pediatrician
213	Dr. Bhushan Katta	Amravati	Pediatrician
214	Dr. Mahesh Sambhare	Mumbai	Pediatrician
215	Dr. Rahul Salve	Chandrapur	Pediatrician
216	Dr. Devdeep Mukherjee	Aasansol WB	Pediatrician
217	Dr. Santosh Usgaonkar	Goa	Pediatrician
218	Dr. Ameet Kaisare	Goa	Opthalmologist
219	Dr. Sushma Kirtani	Goa	Pediatrician
220	Dr. Madhav Wagle	Goa	Pediatrician
221	Dr. Preeti Kaisare	Goa	Pediatrician
222	Dr. Varsha Amonkar	Goa	Pediatrician
223	Dr. Varsha Kamat	Goa	Pediatrician
224	Dr. Harshad Kamat	Goa	Pediatrician
225	Dr. Siddhi Nevrekar	Goa	Pediatrician
226	Dr. Dhanesh Volvoiker	Goa	Pediatrician
227	Dr. Pramod Shete	Paratwada	Pediatrician
228	Dr. Bharat Shete	Paratwada	Surgeon
229	Dr. Bagade	Amravati	Physician
230	Dr. Rajesh Shah	Mumbai	Pediatrician
231	Dr. Navdeep Chavan	Gwalior	Plastic Surgeon
232	Dr. Nehal Shah	Mumbai	Peditrician
233	Dr. Poonam Sambhaji	Goa	Pediatrician
234	Dr. Vijay Mane	Pune	
235	Dr. Shailja Mane	Pune	Pediatrician
236	Dr. Bhakti Salelkar	Goa	Pediatrician
237	Dr. Kausthubh Deshmukh	Amravati	Pediatrician
238	Dr. Pratibha Kale	Amravati	Pediatrician
239	Dr. Milind Jagtap	Amravati	Pathologist
240	Dr. Varsha Jagtap	Amravati	Pathologist
241	Dr. Rajendra Dhore	Amravati	Physician
242	Dr. Veena Dhore	Amravati	Dentistry
243	Dr. Satish Godse	Solapur	Physician
244	Dr. Ninad Chaudhari	Amravati	Pediatrician
245	Dr. Vijaya Chaudhari	Amravati	Ob & Gyn
246	Dr. Arundhati Kale	Amravati	Pediatrician
247	Dr. Sachin Patil	Nagpur	Pediatrician
248	Dr. Nisha Patil	Nagpur	Ob & Gyn
249	Dr. Pravin Saraf	Beed	Pediatrician
250	Dr. Pinky Paliencar	Goa	Pediatrician
251	Dr. Ashok Saxena	Jhansi	Pediatrician
252	Dr. Nilesh Toshniwal	Washim	Orthopedic
253	Dr. Swati Toshniwal	Washim	Dentistry
254	Dr. Subhendu Dey	Purulia	Pediatrician
255	Dr. Laxmi Bhond	Amravati	Pediatrician
256	Dr. Sangeeta Bhamburkar	Akola	Dermatologist
257	Dr. Aniruddh Bhamburkar	Akola	Physician
258	Dr. Nilesh Dayama	Akola	Pediatrician
259	Dr. Paridhi Dayama	Akola	Pediatrician

Hospital Members

1	Krishna Medicare Center	Gurugram	Multispecialty
2	Meva Chaudhary Memorial Hospital	Jhansi	Nursing Home
3	Usgaonker's Children Hospital	Goa	NICU
4	Chirayu Children Hospital	Nashik	Children Hospital
5	Kids Critical Care Center	Satna	Children Hospital
6	Multi city Hospital	Amravati	Multyspecialty
7	Phulwari Mahila & Bal Chikitsalay	Gwalior	Mother & Child care
8.	Sarthak Hospital	Satna	Multispecialty

2nd Edition Now Available...

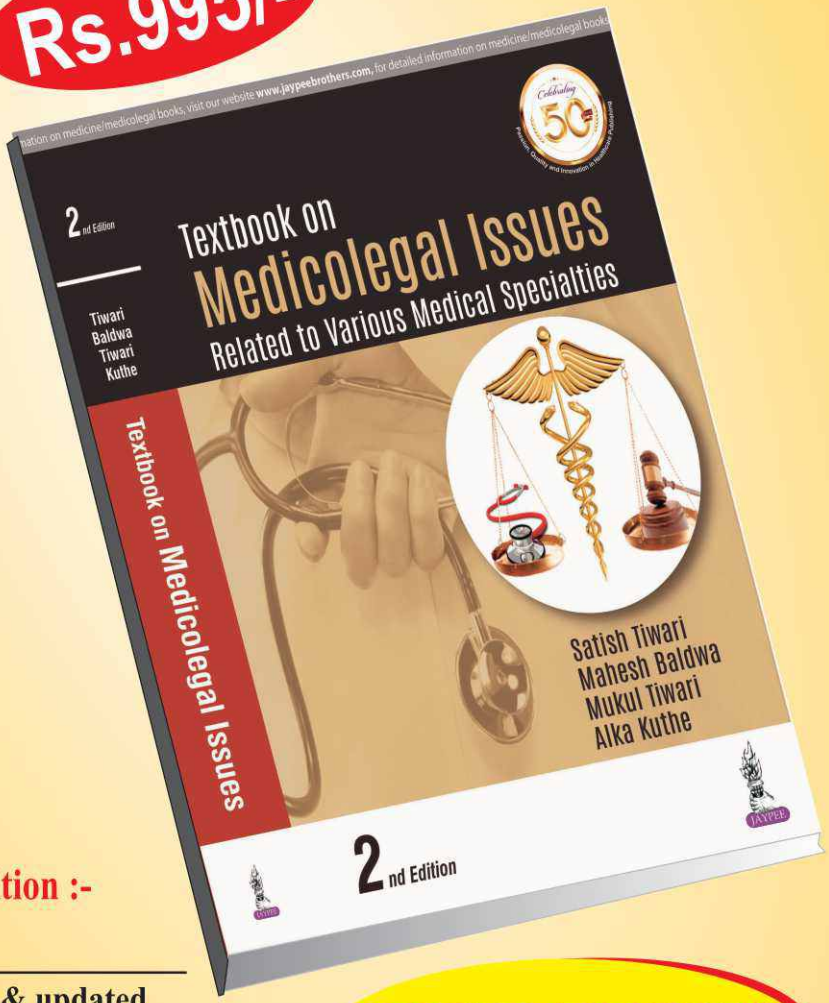
Textbook on Medicolegal Issues

A Complete book on medico legal matters for doctors of all specialties

Rs.995/-

Publishers:
Jaypee Publishers

Available on
flipkart.com
amazon



Special Features of 2nd Edition :-

- About 10 new chapters
- Previous Chapters revised & updated
- Many news sub specialities included
- More than 70 national facilities / contributors
- Many important & vital topics covered

SPECIAL DISCOUNT
for bulk/corporate purchase

NOW AT REVISED RATES

Professional Assistance Scheme

Special Features :

* Professional Indemnity for individuals as well hospital insurance
* In collaboration with recognized insurance companies
* Competitive Charges
* Special discounts for scheme extending more than one year
* Services of distinguished medico-legal experts across the country
* Services for all branches, specialties
* Services of crisis management committee at the city / district level
* PREFERABLY FOR THE MEMBERS OF IMLEA, PAI AND IAP

For further details contact :

1)	Dr. Satish Tiwari	(Amravati)	0721-2541252 / 09422857204
2)	Dr. Mukul Tiwari	(Gwalior)	9827383008
3)	Dr. Rajendra Borkar	(Wardha)	9822240837
4)	Dr. Ashish Jain	(Gurugram)	9350506899
5)	Mr. Ashish Dwivedi	(Nagpur)	9822228370
6)	Ms. Ruchita Shukla	(New Delhi)	8178481558
7)	Ms Ankita Tiwari	(Amravati)	8483987566
8)	Mr. Rajesh Dubey	(Hydrabad)	9505563295
9)	Dr. Saurabh Tiwari	(Mumbai)	9819660458

HUMAN MEDICOLEGAL CONSULTANT (P) LTD
TOGETHER WE CARE

Human Medico-Legal Consultants (P) Ltd.

Office:
C/o Dr. Satish Tiwari, Santwana Hospital, Yashoda Nagar No.2
AMRAVATI - 444 606, Maharashtra, INDIA