

# Medico-legal Tip of the Day

Prof R.K. Sharma

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# Medico-legal Tip of the day

Covering Latest Medical Law, Knowledge & Practical Tips

by

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With warm regards,

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**Tip no 1- Myth in Society**

Doctors earn a lot in India. They are in highest bracket in income.

**Answer-** The following is average income of doctors in different cities

1. In tier 2 and 3 cities - not more than Rs 50,000 per month
2. In tier 1 and big cities- not more than Rs 60,000- 70,000 per month
3. In metropolitan cities- Rs 70,000 to Rs 80,000 per month
4. Spcilaist in tier 2 and 3 cities - Rs 60,000
5. Specialist in in tier 1 and big cities- Rs 130,000 -150,000 only very very few doctors make Rs 3 lakhs to Rs 5 lakhs per month. This is survey finding done by pharma companies.

**Tip no 2- Myth in Doctors- Patient thinks Doctors are Equivalent to God**

**Answer-** Let doctors be aware, this is what patient think

1. Doctors charge a lot
2. Death or complication always occur due to negligence of doctors
3. Doctors do not have time to talk as they are not interested
4. Medical profession is just other profession

In realty, many doctors have been attacked/even murdered. Nursing homes have been ransacked by patients/relatives in India. This is increasing in India. But it does not happen in USA or European countries. Why? Doctors have to learn

art of handling crisis by changing old perspectives about patients.

**See below**

A woman has died in a nursing home here while giving birth, following which her husband shot at a woman doctor there alleging the death took place due to her negligence, police said today.

<http://www.ndtv.com/article/cities/meerut-woman-dies-while-giving-birth-doctor-shot-at-by-husband-534121>

**Tip no. 3 - Doctors charge a lot in India, is it correct ?**

**Answer** – The following is fee structure of doctors of allopathy in India

1. In tier 3 cities - Rs 40 per visit that include medicines
2. In tier 2 cities- Rs 100 per visit that may include medicines in some cases
3. In tier 1 cities – Rs 200 per visit
4. In metropolitan cities- MBBS doctor charge Rs 200-300 per visit
5. Specialist charges in metropolitan cities- Rs 700-800 per visit.
6. Maximum charge ( Very few doctors in India )- Rs 3500-3500 per visit

I have yet to come across any doctor who charges Rs 10,000 per consultation.

(Please inform me if you know such doctor)

While I know a lot of High court / Supreme Court lawyers who charge Rs 10000 / per consultation.

Do we charge a lot.....average doctor earn more than average lawyer but a good lawyer earns 10 times than a good doctor.

**Tip no. 4 - Which are the two issues in India on which more than 55% of the cases of medical negligence in India are fought?**

**Answer-** Improper Consent and improper medical records.

**Tip no 5 - Do we take consent in clinical practice from every patient when he visits our clinic?**

**Answer-** when a patient visits your clinic and has got registration done / fee paid at reception and waited for his turn to get opinion, he has given implied consent for examination. This consent is only for examination. But in case of females, oral consent is required for examination of private parts.

**Tip no 6- What are two most common mistakes committed by surgeons while taking consent in India?**

**Answer-** 1. Taking a general consent at the time of admission  
 2. Taking consent from parents / spouse / children / relatives of an otherwise competent adult patient.

**Moral-** Take consent from patient if he is competent and ask relatives to sign as witness. General consent is not complete consent for surgery. Take specific consent.

**Tip no. 7 – What age divide between paediatric OPD and medical OPD and why?**

**Answer –** Age of 12 years. Below 12 years, child is not allowed to give consent for medical examination. There should be a board in all paediatric OPD announcing



“All children must be accompanied with a parent or relative or guardian”

Above 12 years (but less than 18 years), child can give consent for medical examination only but not for any procedure.

Above 18 years, adult can give consent for any procedure/surgery.

**Tip no 8 – Name the offence which Indians can commit but Englishman cannot?**

**Answer** - Adultery is offence in India but adultery is not a offence in UK.

This is a surprise as we have adopted Indian Penal Code from UK law only. This Indian law is unique in the world as only males are punished while females go scot free, even though they participated in this crime fully. But for males and females, adultery is a ground for divorce.

**Tip no 9 - Maharashtra Consumer Commission - M. M. Abraham v/s. Dr. Yogendra Ravi & Ors**

**Answer-** The patient who had undergone surgery developed “foot drop” a known complication of that surgery. It was alleged that while taking consent this complication was not disclosed and a line was added subsequently at the bottom of the consent form. Fortunately the court found that the patient’s wife signature appeared below the disputed sentence.

Explain all complications in detail and get signatures at the end

**Tip no 10- From whom to take consent – patient only if he can**

**National Consumer Commission - Ram Gopal Varshney v/s Lasor Sight India Pvt. Ltd. and Anr.**

**Answer:** An old man underwent cataract surgery and lost vision. Admittedly consent was signed by his grandson. Though the doctor was acquitted on all other charges of negligence he was held liable only for failure to take consent of the patient.

**Tip no 11 – Is consent required for blood transfusion?**

**Case - National Consumer Commission - M. Chinnaiyan v/s Sri Gokulam Hospital & Anr.**

**Answer -** The patient underwent hysterectomy and was transfused 2 units of blood, perhaps infected with HIV. No consent for transfusion of blood was taken. In defense, it was stated that blood transfusion was not anticipated and hence consent was not taken. But the surgeon's noting in the medical records and the nurse's notes clearly had directions to keep 2 units of blood ready before the surgery. Both the surgeon and the hospital were held negligent for not taking separate and specific consent for blood transfusion.

**Tip no 12- What is age of consent for sexual intercourse in India for females as per new Rape law? How it compares with rest of world.**

**Answer -** It is now 18 years as per new Rape law. Previously it was 16 years.

**Let us compare with rest of world.**

1. In Europe, countries who have the age of consent set at 16 include Cyprus, Finland, Georgia, Latvia, Lithuania, Luxembourg, the Netherlands, Norway, Switzerland and UK.

2. For Austria, Germany, Portugal and Italy it is 14, and in France, the Czech Republic, Denmark, and Greece it is 15.
3. Spain did have one of the lowest ages of consent on the continent at just 13, but recently agreed to raise this to 16.
4. Brazil, Peru, Paraguay, Ecuador and Colombia all have it set at 14.
5. Australia's age of consent varies between 16 and 17 depending on which territory you are in, and the same goes for America where it ranges from 16 to 18 between different states.
6. Angola, the age of consent is just 12.
7. In China, the age of consent is 14, in Iraq it is 18, while in Japan it is five years lower at 13.

**My Comment-** This section is likely to great impact as young children caught in act would go to jail as it would amount to technical rape as consent would have no value. After some years, we will realise it was wrong to raise the age as worldwide consensus points to 16. With ever increase of internet and social networking sites, young children has early exposure to sex and sexual information which would trap innocent into jails.

**Tip no 13 – Which extension of surgery causes maximum medico-legal problems in India?**

**Answer -** In India, the commonest form of extension that results in medico-legal cases is converting a laparoscopic procedure into a open surgery.

**Tip no 14 - Karnataka Consumer Commission - Laxmibai & Ors. v/s Dr. B. B. Kappalguddi, Kappalguddi Nursing Home, Gokak & Anr.**

**Answer** - The patient underwent surgery, suffered complications, was transferred to another hospital where he died. The surgeon defended the absence of patient's consent by pointing that the patient was unable to sign due to IV line and hence on the patient's instructions one of his friends had signed the consent. The court while holding the surgeon negligent for not taking consent further observed that left thumb impression of the patient could have been obtained.

**Tip no 15 - How important is confidentiality clause in regard to patient? Are there some exceptions?**

**Answer** - Confidentiality

"Confidentiality of patient specific information, even personal information, must be maintained at all costs except under legal compulsion or for public good".

**Exceptions to Confidentiality**

- Consent of patient
- Court's order / Criminal investigations
- Other health care professionals, working with the patient
- Legal duty to disclose - communicable / notifiable diseases, gunshot wounds, child abuse, etc.
- For the purpose of research, statistical evaluation and education – But without disclosing names or photographs of the patient
- Insurance company has right of information

**Tip no 16- What are the rights of patients in clinical practice?**

**Answer** - The following rights are available to patients

- Right to choose doctor of his choice
- Right to information
- Right to privacy
- Right to confidentiality
- Right to Pictures/video recording
- Right to change doctor at any stage of treatment
- Right to grievance redressal

**Tip no 17 – Which right of patient irks doctors very much?**

**Answer** - Right to change doctor at any stage of treatment without even informing them. Patient can dump doctor anytime.

**Tip no 18 - What are the various fora where patient can seek redressal against doctor?**

**Answer** - Patient can go to following

1. To go to civil court for compensation / complaint
2. To go to consumer forum to seek compensation.
3. To file criminal case against doctor at police station.
4. To file complaint in Medical council for action against doctor

**Tip no 19 - If there is dispute in parents over giving consent in case of a minor, what doctor should do in such a case?**

**Answer** - Consent by one parent is sufficient to go ahead with treatment.

**Tip no 20 - What is order of priority in legal guardians for giving consent in cases of minor or incompetent patients?**

**Answer** - Legal guardian is father, then mother, then other relatives, then friends and even accompanying person/s especially in case of unconscious or emergency patient or patient under influence of alcohol or drugs.

**Tip no 21 - What are the rights of patient while giving consent?**

**Answer** - The patient has following rights to know while giving consent

1. Right to know about disease he is suffering.
2. How the diagnosis is going to be made
3. Treatment plan in details
4. Possible side effects and risk
5. Cost of treatment
6. Any alternative treatment other than what is planned

This is called as INFORMED CONSENT

**Tip no 22- Can a case be made medico-legal even after discharge of patient? What is late MLC?**

**Answer** - Yes, any case can be made medico-legal even after discharge of patient. If at any stage of treatment, doctor feels that in this case investigation by law agencies is required, he can make this case as medico-legal and inform the police. This is called as late MLC

**Tip no 23- How a general practitioner can give information to police regarding medico-legal cases?**

**Answer** - The following are the ways, you can choose what is best for you

1. You can call number 100 and give information, note down in your register day and exact time of information.
2. You can call local police station and inform. Ask for daily diary number. Note down this in your register.

You should maintain a register of information to police. Note all details of patient, time and day of information to police. Remember after this you have done your legal duty, so no need to worry further. It is the job of police to investigate, not ours.

**Tip no 24- What should be the priority of witness while examining female patient in a clinic?**

**Answer** - The following priority is suggested.

1. Female relative or female attendant of patient who has come with her
2. Her husband if she has come with him and no female relative or attendant is there.
3. Your female staff nurse or even computer operator if patient has come alone.
4. If you do not have any female employee, ask any other female patient to come inside examination room.

Avoid examination of female patient alone when you are examining breast, back or private parts.

**Tip no 25- Who has right of refusal of treatment?**

**Answer** - A. A competent patient has right to refuse treatment

B. Guardians of incompetent patients retain their right of refusal

C. Even prisoners have right to refuse treatment.

**Tip no 26- What is living will?**

**Answer-** An advance health care directive, also known as living will, personal directive, advance directive, or advance decision, is a set of written instructions that a person gives that specify what actions should be taken for their health, if they are no longer able to make decisions due to illness or incapacity.

**Tip no 27- What are the contents of living will?**

**Answer-** A living will usually provides specific directives about the course of treatment that is to be followed by health care providers and caregivers. In some cases a living will may forbid the use of various kinds of burdensome medical treatment. It may also be used to express wishes about the use or foregoing of food and water, if supplied via tubes or other medical devices.

The living will is used only if the individual has become unable to give informed consent or refusal due to incapacity. A living will can be very specific or very general. An example of a statement sometimes found in a living will is: "If I suffer an incurable, irreversible illness, disease, or condition and my attending physician determines that my condition is terminal, I direct that life-sustaining measures that would serve only to prolong my dying be withheld or discontinued."

On July 28, 2009, Barack Obama became the first United States President to announce publicly that he had a living will and to encourage others to do the same.

**Tip no 28- What is "Do not resuscitate policy"?**

**Answer-** In medicine, a "do not resuscitate" or "DNR",



sometimes called a “No Code”, is a legal order written either in the hospital or on a legal form to respect the wishes of a patient to not undergo CPR or advanced cardiac life support (ACLS) if their heart were to stop or they were to stop breathing.

**Tip no 29- What is legal status of “Do not resuscitate policy” in India?**

**Answer-** “Do not resuscitate policy” has no legal status in India, till we are conscious, we have command over our body but the moment the person becomes unconscious, next of kin is empowered to take any decision. Even consent given during life time for organ donation can be over-turned by next of kin. After death, dead body become property of next of kin and he is absolute owner.

**Tip no 30- Does our religion / culture allow us to die at own will when terminally ill?**

**Answer-** Jains and Hindus have the traditional rituals San thara and Prayopavesa respectively, wherein one can end one’s life by starvation, when one feels their life is complete. Many Jain Sadhus leave food and water when they feel that purpose of their life is over. Sant Vinobha Bhave also did this. It is not considered as suicide as it is done openly

<http://www.lifebeyonddeath.org/terminal-illness.html>

**Tip no 31- What are facts of Aruna Shanbaugh Case? Is passive euthanasia legal in India?**

**Answer-** Aruna Shanbaug was a nurse working at the KEM Hospital in Mumbai on 27 November 1973 when she was strangled and sodomized by Sohanlal Walmiki, a sweeper.

During the attack she was strangled with a chain, and the deprivation of oxygen has left her in a vegetative state ever since. She has been treated at KEM since the incident and is kept alive by feeding tube.

On behalf of Aruna, her friend Pinki Virani, a social activist, filed a petition in the Supreme Court arguing that the “continued existence of Aruna is in violation of her right to live in dignity”. The Supreme Court made its decision on 7 March 2011. The court rejected the plea to discontinue Aruna’s life support but issued a set of broad guidelines legalising passive euthanasia in India. The Supreme Court’s decision to reject the discontinuation of Aruna’s life support was based on the fact the hospital staff who treat and take care of her did not support euthanizing her. Now she is no more.

**Tip no 32- What are the guidelines prescribed by Supreme Court in Aruna Shanbaugh Case legalising passive euthanasia ?**

**Answer-** The following guidelines were laid down:

- A decision has to be taken to discontinue life support either by the parents or the spouse or other close relatives, or in the absence of any of them, such a decision can be taken even by a person or a body of persons acting as a next friend. It can also be taken by the doctors attending the patient. However, the decision should be taken bona fide in the best interest of the patient.
- Even if a decision is taken by the near relatives or doctors or next friend to withdraw life support, such a decision requires approval from the High Court concerned.
- When such an application is filled the Chief Justice of the High Court should forthwith constitute a Bench of at least two Judges who should decide to grant approval

or not. A committee of three reputed doctors to be nominated by the Bench, who will give report regarding the condition of the patient. Before giving the verdict a notice regarding the report should be given to the close relatives and the State. After hearing the parties, the High Court can give its verdict.

**Tip no 33- What is definition of word “injury”?**

**Answer-** The word “injury” denotes any harm whatever illegally caused to any person, in body, mind, reputation or property. (Section 44 of Indian Penal Code)

Please note that it is mentioned as harm which is illegally caused, can harm be legally caused .....is it possible to harm someone legally? ( Answer in next tip)

**Tip no 34- Who can cause legal injury?**

**Answer-** Doctors cause legal injury when they operate or give injections to patient. These injuries are not punished as patient consent for same. The government causes legal injury when hanging is done on court order. Soldiers / police cause legal injuries in discharge of their duties.

**Tip no 35- What is legal definition of “hurt”?**

**Answer-** Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt (Section 319 of Indian Penal Code)

So, as doctors we commonly see hurt rather than injury.

**Tip no 36- What are various types of hurts described in law**

**Answer-** Only Grievous hurt is described in law (under Section 320 Indian Penal Code). The hurt which is not grievous is simple. Simple hurt is not defined. Dangerous injury is also a part of grievous hurt.

**Tip no 37 - What is "Emasculation" as per Section 320 Indian Penal Code?**

**Answer** – Loss of masculine power is Emasculation. It is due to any injury by which person is unable to do sexual intercourse. The examples are

1. Cutting of penis.
2. Loss of testes in early stage of life due to injury. If testes are lost after puberty, it may not result in impotence as sex is learned phenomenon in humans. Testosterone is also secreted in small quantity from adrenals in such cases.
3. Injury at back where nerves which cover genitalia are coming out may cause impotence.

Please note that this clause is gender specific and is only for males.

This clause is No 1 in list which contains injuries which can cause of death. Why this clause takes precedence over everything, you can guess it yourself. (Hint- inventor of Viagra got Noble prize which is number one selling medicine in world).

**Tip no 38- What is clause 2 of Grievous Hurt (Section 320 IPC)?**

**Answer** – "Permanent privation of vision of either eye" is clause 2.

Please note-

1. Loss of vision should be permanent.

2. It is not necessary that it should be 100 percent. Even if vision changes from 6/6 to 6/9, it is grievous hurt.
3. Not necessarily both eyes to be affected; only one is sufficient.
4. Common injuries include damage to cornea, perforating injuries to eye etc.

**Tip no 39- What is clause 3 of Grievous Hurt (Section 320 IPC)?**

**Answer** – “Permanent privation of hearing of either ear” is clause 3. Please note-

1. Loss of hearing should be permanent.
2. It is not necessary that it should be 100 percent. Even if hearing loss is modest, it is grievous hurt.
3. Not necessarily both ears to be affected; only one is sufficient.
4. Common injuries include damage to tympanic membrane, perforating injuries to ear etc
5. Audiometric assessment is must to document hearing loss.
6. If needed, patient may be recalled after 2 weeks to see hearing loss

**Tip no 40- What is clause 4 of Grievous Hurt (Section 320 IPC)?**

**Answer-** “Privation of any member or joint” is clause 4

Please note- Member is defined as part of body which has distinct function to perform. Organ like testis, kidney are example of member of body.

**Tip no 41- What is clause 5 of Grievous Hurt (Section 320 IPC)?**

**Answer-** “Destruction or permanent impairing of the powers of any member or joint” is clause 5.

Explanation- it is not essential that destruction or loss of power should be 100 percent eg contracture caused by burns involving joint.

**Tip no 42- What is clause 6 of Grievous Hurt (Section 320 IPC)?**

**Answer-** “Permanent disfigurement of the head or face” is clause 6 of Grievous hurt

Explanation- 1 incised cuts on face or head can cause permanent disfiguration as healing is by secondary intention leading to scarring.

2. Chopping of nose or ear.
3. throwing of acid on face especially females.

**Tip no 43- What is clause 7 of Grievous Hurt (Section 320 IPC)?**

**Answer-** “Fracture or dislocation of bone or tooth” is clause 7 of Grievous Hurt

**Please note** – 1. Dentists should be cautious while examining teeth where trauma is alleged, dislocation of tooth is seen in following conditions without trauma

- a. In old age teeth loosen
- b. Bad oral hygiene can lead to easy dislocation.
- c. In children, when milk teeth are giving way to permanent teeth.

Look for signs of inflammation in cases where trauma is alleged.

2. Fractures are possible without trauma when osteoporosis is seen in Skelton.
3. Some people have tendency of dislocation especially shoulder which they can do it themselves too. Some people can reduce it too without difficulty.

**Tip no 44- What is clause 8 of Grievous Hurt (Section 320 IPC)?**

**Answer-** “any hurt which endangers life, or causes the victim to be in severe bodily pain for 20 days, or unable to do ordinary pursuits of life for 20 days” is clause 8 of Grievous hurt

Explanation- Clause 8 has got three components

1. Any hurt which endangers life means any injury which can cause death within short time like injury to vital organs like stab, excessive haemorrhage, condition of shock etc. It is also called as Dangerous injury.
2. Any injury that can cause severe bodily pain for 20 days may include massive contusions and abrasions in road side accident / police beating etc.
3. Injury causing person to unable to do ordinary pursuits of life include severe contusions, severe lacerations that restrict movement of body for 20 days. Ordinary pursuits include bathing, going to toilet, eating foods etc.
4. Mere stay in hospital for 20 days will not make a case as grievous hurt.

**Tip no 45- If one testis of a person is lost due to injury but it does not cause impotency, will it be grievous hurt?**

**Answer-** Removal of one testis would not case emasculation, so it would not attract clause 1 of grievous hurt but testis is member of body with a discreet function to perform, so it would attract clause 4 of grievous hurt.

So, loss of one testis due to injury would be grievous hurt

**Tip no 46- While intubating during general anaesthesia if I break a tooth or a tooth becomes loose**

Is it grievous injury? Especially in elective cases? We do not take consent for this (Question asked by Professor Anjan Trikha from AIIMS, New Delhi)

**Answer-** while intubating for GA tooth may be dislocated or lost, it is not grievous injury as it is known complication of GA and patient has consented for it...it is advisable that you mention this in form where you take consent for anesthesia. Better, you tell the patient too

**Tip no 47- “If some resident doctors on night duty gives some medicine without consulting the consultant under whom pt is admitted...If it causes harm to the patient...then who is responsible. . .consultant or resident”**

*(Question asked by Dr Ankur Bahl , MD DM (AIIMS), Consultant Medical & Hemato Oncologist , Max Cancer Centre, Maxhealthcare, Saket & Shalimar Bagh , New Delhi)*

**Answer-** if some resident doctor on night duty gives some medicine without consulting the consultant under whom patient is admitted and if it causes harm, the consultant would be responsible. This is called as Vicarious responsibility (Let master alone answer).

**So please take following precautions**

1. Tell residents not to give any medicine without your consultation
2. If you are not available because of any reason, resident should contact other consultant. It is good to have a policy of alternate consultant if dues to some reason primary consultant is not available. The alternate



consultant should be person suggested by you.

3. If you think, resident doctor is incompetent, ask hospital management to change it...otherwise you may suffer

**Tip no 48- 1) If a resident treats a patient in the emergency before the patient has been admitted under any department and something goes wrong, then who is responsible? The consultant of the emergency or the concerned resident doctor.**

**2) Another scenario is that if in case while treating the patient in the emergency we give a call to the concerned department and by the time the concerned team arrives, the patient expires. Then who is responsible?**

**In both these scenarios does the responsibility lie with the resident emergency doctor or the consultant responsible for the emergency?**

*(Question asked by Dr Shruti Mehra, Senior Medical Officer, Emergency Department, Medanta Hospital, Gurgaon)*

**Answer-** In both cases, consultant incharge of emergency would be responsible. No responsibility would lie on residents as they are working under direct control of consultant incharge. If some residents are MD/ MS ( Being employed as Senior Resident) may share some blame. All MBBS residents would escape blame.

Till the patient is transferred to other department and taken over, consultant of emergency department is responsible for patient.

**Tip no 49- What is doctrine of vicarious liability ie respondeat superior (let the master answer) which is applicable to consultants and hospitals?**

*(This is in response to following query sent by Dr Shanta Kaul, Private Practitioner, New Delhi"*

“May I know is it written in the law books or in constitutional law, every thing depends on the merits of the case. If a doctor commits a murder, how can be the senior be responsible? Instead of giving sweeping statement please supply some case histories and their outcome in court of law. Otherwise such bits of no sense excerpts tend to confuse more than the treatment. According to u consultant should sit 24 hrs along with the medical suptd., And matron to treat one patient. U r creating a pathetic situation. The finally please donot be a doctor u will be liable to murder evrytime u face the patient. Is not the resident doctor qualified or he is just there to while away the time and get saalary. If u have to solve the problem please tackle it lawfully and not by terrorising”

**Answer-** Vicarious liability is a form of strict, secondary liability that arises under the common law doctrine of agency – respondeat superior – the responsibility of the superior for the acts of their subordinate, or, in a broader sense, the responsibility of any third party that had the “right, ability or duty to control” the activities of a violator. But it must be in discharge of duty.

Consultants and hospitals are fully responsible for mistakes of all employees working under them like residents, nurses and paramedical staff. Thus a botch up in a surgery will make surgeon responsible for it while it may have been done by resident or nurse. Common errors like presence of towels or instruments in body will make surgeon responsible. Hospitals have to shell a large amount of compensation in such cases. In Anuradha Saha Case, hospital is paying in crores while doctors are paying in lakhs only.

### **More examples**

1. When faculty of AIIMS went on strike, hospital was closed as there was none to supervise work of residents.
2. Whenever there is railway or air accident, resignation of minister is asked by many.

**Tip no 50- "In most hospitals resident doctors are employed by hospitals and directly answerable to hospital administration only. If there is an act of omission or oversight by resident, then how is a consultant responsible, if the law refers to "employees", and more so if the consultant has not credentialed the resident upon appointment. For hospitals which are accredited by NABH OR JCI, it is documented that residents enrolled are capable alone of doing a resident doctors job, so why should consultants be culpable. For negligence like operative mishaps in any case the doctor in charge is answerable. Regarding the example of AIIMS, the consumer act is not enforceable on govt institutions. Many times heads of units are in meetings while qualified faculty members operate cases admitted in a particular unit, where would the responsibility lie?"**

*(Question asked by Dr P Gulati, Urologist)*

**Answer-** It is correct that residents are hired by hospital management and report to them. But technically, they work under consultants as they discharge whatever work assigned by consultants on patients which are admitted under the name of consultants. So, consultants have to share any mistake committed by them and take the blame as this error was done during discharge of professional work. Even if consultants has no role to play in hiring of residents but they have accepted their services.

When NABH certification is done, it is certified that he is capable of doing residents work meaning that he will work under supervision of consultants. Please remember that law knows clearly that residents are paid Rs30,000/ while consultants draw Rs 3-5 lakhs per month.

So far as AIIMS is concerned, it is covered by consumer protection act. Faculty members of AIIMS or any other institutions are independent in discharge of their services

and are fully responsible for their and subordinate actions. Head can attend meetings as it is part of duty.

**Tip no 51- This question is asked by Dr Sanjit Sodhi**

“Point one: When a consultant admits a patient, even the patient knows that in emergency situations, the resident shall act rather than trying to contact the consultant. Things can go wrong. Why does the law expect the consultant to be omnipresent at all times?”

**Point 2 :** Why should the eyes of the law be colored by the income of resident Vs consultant? Even doctors in villages (on contract basis) get less salaries but are fully responsible for their actions.

**Point 3 :** The myth that the hospital has to pay a major share of compensation was clearly broken in the recent case where the orthopedician had to pay about 75 lakhs but the hospital got away almost scot free.”

**Answer- 1. Point -1** it is wrong to assume that patient knows that in emergency situation, the resident shall act rather than trying to contact consultant. In majority of delivery cases, patient insists that delivery be conducted by consultant only or in presence of consultants. Nobody will pay huge amount to consultant if he knows that he will not be there in need of hour.

**2. Point 2-** Law stand tall, it can differentiate between expertise of consultant and resident. So, the responsibility differ. Resident can say that he is not capable of handling surgery as he is plain MBBS but a professor of surgery cannot. Doctors posted in village dispensaries are competent as they are not supervised by any senior and are independent. So, they are fully liable for their action. In majority of times, they are paid much more than resident.

**3. Point-3-** This was an isolated case as mistake of orthopedician was too gross. Normally hospital is asked to pay more as compared to doctor.

**Tip no 52-** As a practicing Consultant Paediatrician I often face certain medico-legal situations for which I do not have a valid legal answer. Hope u will pacify my queries.

● if I admit a child with some ailment & at night baby turns serious and I am not informed & by the time I get to know baby is critical & finally dies. Now

- 1) What is my liability in this case
- 2) What is hospital's liability
- 3) it is understandable that a consultant cannot be present at one place 24x7, the emergency backup has to provide by the Nursing home/ hospital. So what are your suggestions to avoid medico-legal complexities in such a scenario?

*(Question asked Dr Vineet Jain, Consultant Paediatrician, New Delhi)*

**Answer-** It is consultant duty to verify before admission of his patient that

1. Hospital has requisite infrastructure
2. Hospital has sufficient manpower especially residents to take care in your absence.
3. All residents are qualified and trained. (At least MBBS valid Degree)

Please remember that once you admit a patient under you, it is your responsibility to care till discharge. Proxy care by residents is allowed but you are liable if some mishaps occur. I agree that consultant cannot be available 24x7, in these circumstances, hospital should call alternate

consultant. Hospital should have panel of consultants to call if main consultant is not available due to any reason.

Hospital would also be liable in cases of errors made by residents / staff or by you by virtue of vicarious responsibility.

Advise for consultants for selection of hospital

1. Check infrastructure
2. See quality of residents
3. See response time of hospital in dealing with emergent situations.
4. If in doubt, never admit patient there.
5. One mistake can mar your career.

**Tip no 53- Dear Dr Sharma Thanx for ur suggestions. What I conclude frm ur answer is that practically there is no escape for a consultant in practice if any mishap occurs. But is this not unreasonable to fix all responsibility on 1 person though patient management is a team work & infrastructure is provided by the hospital. If on a particular moment there is some defficiency on part of the hospital why shd consultant b penalised? Even if this is the rule why can t it b changed in today's time ? Why dont all consultants raise this imp issue at various medical forums & gererate consensus. But before this happens I would like to know ur personal opinion ?**

*(Query raised by Dr Vineet Jain, Consultant Paediatrician, New Delhi)*

**Answer-** I agree with you that there is no escape for consultant if some problem arises. I also agree with you that patient care is team work, but it is the consultant who chooses the team. If you admit patient in a nursing home which is deficient in infrastructure and manpower, you have

chosen a poor team. Always remember patient is coming seeing your expertise but not of nursing home which is providing facilities and manpower on your behalf and you chose to be ignorant of weakness of nursing home.

In my opinion, why consultants do not speak about this at many forum

1. They are afraid of nursing homes which may decline admission of patients if you complain or ask them any question.
2. Consultants earn more money from inefficient nursing homes as they take less share from revenue.
3. It is not easy to take on unity of nursing homes as they are united while consultants are not.
4. Consultants are dependent on services of nursing homes and in some localities, they have no choice

**Tip no 54- What are the circumstances when vicarious responsibility is not applicable on consultants and hospital for the mistakes of residents and staff?**

**Answer-** Vicarious responsibility is not applicable if some action has been done out of purview of discharge of duty by some resident or staff.

The common examples are

1. Theft
2. Criminal assault
3. Sexual advances
4. Murder
5. Borrowing of money and refusal to give back.
6. Slander or defamation

In such cases, hospital and consultants have no vicarious responsibility.

**Tip no 55- For how long hospital records should be kept in safe custody or preserved?**

Answer- the following is minimum time limit to keep hospital records

1. OPD records- one year
2. Case sheets ( Non-MLC) – three year
3. Case Sheet ( MLC) – ten years
4. MLC or medico-legal records- ten years

Certain records like admission details, birth and death records are kept in registers for without time limits.

**Tip no 56- A lot of members has requested for authority for what was stated in last tip about preservation of medical records, the tip is repeated with authority?**

Answer- The following is minimum time limit to keep hospital records

1. OPD records ( Duplicate Prescription slips)- one year
2. Case sheets ( Non-MLC) – three year
3. Case Sheet ( MLC) – ten years
4. MLC or medico-legal records- ten years

Certain records like admission details, birth and death records are kept in registers for without time limits.

<http://www.mciindia.org/RulesandRegulations/CodeofMedicalEthicsRegulations2002.aspx>

**1.3 Maintenance of medical records:**

1.3.1 Every physician shall maintain the medical records



pertaining to his / her indoor patients for a period of 3 years from the date of commencement of the treatment in a standard proforma laid down by the Medical Council of India and attached as Appendix 3.

<http://mohfw.nic.in/WriteReadData/1892s/12%20Ch.%20XI%20Meical%20Record.pdf>

There is variation in DGHS order and MCI regulation , DGHS order that all indoor records to be kept for minimum 10 years while MCI says only three years minimum is sufficient.

OPD records what I recommended is duplicate of OPD prescriptions, while registration details is to be kept for minimum 5 years.

**Tip no 57 - Can MBBS only or MBBS MS (surgery) can admit patient of general ailments; like fever, pulmonary tuberculosis, gastro-enteritis, dengue fever, asthma, chest infection etc.**

**Can hospital run by doctors can keep BAMS / GAMS as resident doctor under their guidance / supervision.**

*(Comment sent by Dr Anakiivir Gill <didarhospital@gmail.com)*

**Answer-** MBBS doctor is competent to deal with general ailments like fever, grsto-enteritis, dengue fever , chest infection, TB etc etc. However, if there is need , he should refer the patient to specialist.

Hospital cannot be run by keeping BAMS/ GAMS doctors as resident doctor as per law, only MBBS (registered practitioner) can only be appointed as resident. However, so many hospital have kept BAMS/ GAMS doctors as residents but give them designation as medical attendants to consultants. In case of negligence, hospital will have to face real music

**Tip no 58** What is the legal/MCI status on the fact that if we take an admitted patient/an OPD patient of a government hospital/medical college to a hotel (private) for case discussions for teaching purposes only.

*(Asked by Prof Balram Bhargava, Professor of Cardiology, Cardiothoracic Sciences Centre, Executive Director, Stanford India Biodesign Centre, All India Institute of Medical Sciences, New Delhi 110029)*

**Answer-** There is absolute nothing wrong if you take an OPD/ admitted patient of a govt hospital to private hotel or conference venue provided

1. You inform HOD/ Director/ Medical Supdt of govt hospital and take permission to do so.
2. You take informed consent of the patient or next of kin.
3. Purpose should only be academic.
4. No commercial gains to be made
5. You bear all expenses and patient should not suffer any loss in healthcare

Please know that hospitals do not come under MCI.

**Tip no 59– “Now that we are talking a lot about vicarious responsibility in a private set up, what is the status of vicarious responsibility in a government hospital? What is the responsibility of senior residents and the consultant and HODs. Do different rules govern government hospitals”**

*(Sent by Dr. Owais Mattoo, SR ENT, Hindu Rao Hospital)*

**Answer-** The responsibilities of various section of doctors in govt hospital is given below

1. Non-academic JR or house surgeon work under

supervision of Unit incharge

2. PG Students work under direct supervision of Unit incharge.
3. Senior Residents are more independent and admissions are normally made under their names in govt hospital. But senior residents' work is under supervision of Unit Incharge.
4. Unit incharge has power to change treatment prescribed by all residents

So, unit incharge has vicarious responsibilities of all JRs, PGs and senior residents.

Faculty members work under administrative control of HOD. But HOD is not vicarious responsible for their action as he does not supervise their treatment unless he himself is acting as unit incharge on that day.

Hospital is vicarious responsible for action of all employees.

**Tip no 60- My query is that many path labs are being run by technicians only, even some hospitals are running lab with technicians. What are the medico-legal aspects of this?**

(Query raised by Dr Surabhi Tyagi , Associate Professor, Mahatma Gandhi Medical college, Jaipur)

**Answer-** as per law, all pathology labs needs supervision of a pathologist. Some labs have contracted part –time pathologist who rarely visits the lab. His signatures are done by technicians on reports.

This is illegal and action can be taken by medical council against pathologist. Action can be taken against labs also by govt.

There was instance in Delhi where a pathologist was supervising 80 labs in Delhi spread all over Delhi and his signatures were put on all reports. It was reported to Delhi Medical Council and punishment in form of erasure of name for some time was prescribed by DMC.

**Tip no 61- What about a doctor issuing false medical certificate for insurance without examining or even not having a glimpse of the person, and Punjab medical council refusing to take any action or even conducting an inquiry**

*Sent by- Dr. P. L. Garg, MBBS, MS (SURG) M. Ch. (Paed Surg)  
Former Professor Surgery 1306, Sector 44-B, Chandigarh*

**Answer-** it is true that so many doctors issue medical certificates for insurance without examining or having a glimpse of the person as papers are brought by agent and doctors sign without any question. It is shameful but highly prevalent.

It is surprising that Punjab Medical Council is refusing to take action or even conducting an enquiry. I would request you to forward the complaint to Medical Council of India seeking direction for PMC to act. Send a copy to central health minister too.

**Tip no 62- I am General Practitioner, running a private clinic single handedly, on a busy main road in South Delhi. I was called by two men in distress to help a passerby, who had allegedly had a heart attack, half a kilometer down the road. As I rushed with them, I was worried that what if the call was a hoax. By the time we reached there, the patient had already been taken to a hospital.**

**My Queries:**

1. Can a doctor refuse to rush to attend the medical emergencies away from the premises of the clinical setup?
2. Are there any legal implications of such a refusal?
3. Being a female, my security is also at stake in such scenarios, what if the call is a hoax and its a trap? Please, guide me so as to what is the appropriate response in such situations.

*(Sent by Dr. M..... D.... , Name withheld for privacy)*

**Answer-** Please note that your own security comes first, if you feel that you are not secured or convinced about genuineness of help, you can refuse. It is legally and logically correct. So far as legal stand is concerned, I would like to answer your queries

1. You can refuse to attend medical emergencies away from your premises provided they are not in your care previously. If they are not your old patients, you can cite reason and ask them to take to near hospital.
2. You cannot refuse to see medical emergencies if patients are brought to your clinical setup. Stabilize the patient first and then refer to correct centre or if needed, take them to hospital yourself. You cannot charge patient for this , this has to be provided free( Clinical establishment Act which is now operational in Delhi)
3. If you do not as indicated above, action can be taken by government, police and Medical council against you. Your clinic can be sealed by govt, police may arrest you in case of negligence and your name may be erased by medical council beside cases in consumer court also (This is maximum action which can be taken in such circumstances)

4. My advice, if you are going out of your clinic to see emergency and if you are a female doctor, pl do not go alone, take some employee with you. If they resent his going with you, refuse to go.

**Tip no 63- I think “Clinical Establishment act” is still not applicable/ operational in Delhi as it is still pending in Delhi Assembly.**

But as a human being one has to help a sick patient in his means; brought to his center.

Sir you said one has to move with the patient to the referral centre; How one can do that if single handed doctor is there surrounded by other sick / dying patients in his clinic. In today's era I think these patients will definitely sue him for non attendance; they will definitely claim that there condition worsened due to non / delayed attendance. Doctor will keep on attending the courts.

What help is expected from him on the way if he is not a specialist in the field except for the CPR (Even today all doctors are not trained in CPR)

*(Sent by Dr V K Goyal)*

**Answer-** Clinical Establishment Act is operational in Delhi since 1-3-2012. Rules are being framed which are very unfriendly to doctors. Inspector raj may be back as inspector can raid your clinic anytime to inspect all facilities.

I agree that there would be a lot of problems to doctors in dealing with emergencies as most of clinics are not geared to provide emergency care. Doctors would be taken to courts on flimsy grounds. Our organisations like IMA would have to find ways to deal with it.

Let the rules come out, we would react to it. Be prepared for fresh registration of all clinics, nursing homes and even one

doctor clinic.

For details pl see- <http://clinicaestablishment.nic.in/cms/Home.aspx>

**Tip no. 64- Many patients are brought dead to casualty of hospital. Many of them were in terminal phase of life or suffering from diseases like cancer etc and were under treatment at various hospitals. Their relatives insist for death certificate, how to deal with it?**

*(Asked by Dr Prem Kumar CMO and incharge OPD, Safadarjung Hospital New Delhi )*

**Answer-** As a rule, all patients brought to hospital as dead on arrival should be made medico-legal and death certificate should not be issued.

But cases like above, you may follow following guidelines and issue death certificate at your own risk.

1. Just check carefully all treatment papers and be convinced that they are genuine.
2. See whether illness was severe enough to cause death.
3. Check whether person is quite old to die naturally.
4. Examine the body in detail for injury, ligature marks, anything strange to point toward un-natural death.

If you are convinced then you can issue death certificate at your own risk.

Pl ease be careful, in following conditions of brought dead, under no circumstances death certificate should be issued.

1. Death of young male and young woman.
2. Child of any age.

There is no harm making a case as MLC. Police has power

to waive off post-mortem. In Delhi, this power rests with Assistant Commissioner of Police (ACP).

**Tip no. 65 Can doctor be sued for wrong diagnosis &/ or treatment?**

(Asked by Dr V K Jain, Practicing GP, New Delhi)

**Answer-** Error in diagnosis is not negligence but error in treatment which causes damage is negligence.

(Authority- Supreme Court Judgement Jacob Mathew Case)

**Tip no. 66- I do not have much Medico-legal knowledge but commonsense says that a wrong diagnosis is basically responsible for subsequent wrong treatment. So wrong diagnosis & wrong treatment should be equally negligent or not-negligent. There are so many other factors which will determine whether error in judgement in a particular case is negligence or not. Please correct me if I am wrong (sent by Dr Avtar Krishan, New Delhi)**

**Answer-** If error in judgement is made negligence, I can assure that all doctors would go to jail one day. It is not humanly possible that all our diagnosis are always correct. We are all human and we make mistakes and will always would do it. Only thing we can strive is to reduce mistakes drastically.

Court always see your bonafied, small mistakes like simple lack of care, error in diagnosis is not negligent. Supreme Court has in its judgement has told that mistakes should be GROSS.

Error in treatment means that you do not follow what is peer practice or written in medical text books/ journals and lands patient in soup.



Authority- SC Judgement in Jacob Mathew vs State of Punjab & Anr <http://indiankanoon.org/doc/871062/>

**Tip no. 67 - I suggest that we use the term 'acted in good faith'. Lack of care, even if simple, done intentionally, is negligent. But if the lack of care percolates without the active consciousness, it can be pardoned internationally.**

**Gross mistake; if can take place where another professional is supposed to make the same mistake in good faith, is again, not negligent!**

**Gross incompetence's, vis a vis, training level, are**

*(Sent by Dr Anjan Bhat)*

**Answer-** Any act intentionally done like lack of care resulting in damage is negligent. Gross mistakes as a rule are negligence. Nowhere in the world, they are pardoned.

"Acted in good faith" is dependent on situations and expertise. If you are in a village or on road and you try to help someone in emergent situations even without consent, the mistakes occurring can be pardoned as you have acted in good faith. Please remember that it is applicable in emergent situation only, not in routine surgery or treatment.

**See below**

### **Section 92 in the Indian Penal Code**

92. Act done in good faith for benefit of a person without consent.—Nothing is an offence by reason of any harm which it may cause to a person for whose benefit it is done in good faith, even without that person's consent, if the circumstances are such that it is impossible for that person to signify consent, or if that person is incapable of giving consent, and has no guardian or other person in lawful charge of him from whom it is possible to obtain consent in

time for the thing to be done with benefit

<http://indiankanoon.org/doc/870189/>

**Tip no 68- If after satisfactory surgery pt develops septicemia after 4-5day of discharge, relatives did not call back to operating surgeon & took treatment from other hospitals**

**Is the operating surgeon responsible for the consequences?**

*(Sent by Dr Umesh Kansal)*

**Answer-** If patient seek treatment of other doctor without consulting primary physician / surgeon , he has discharged first doctor from obligations. So first doctor would not be held responsible for consequences.

So, in above circumstances, operating surgeon would not be held responsible for consequences.

**Tip no 69- What is the legal stand in case of endourology surgery done by an MS general surgeon instead of a MCh urologist. Does an MS surgeon have the right to perform all endourological cases. What if some expected complication occur by the general surgeon while doing endourological procedure.**

*(Sent by Dr. Nitin V. Mittal , M.S. General Surgeon)*

**Answer-** MS general surgeon is not authorised to conduct endourological procedures as he has not taken any training for this during his MS surgery course. Endourology is a super speciality and is recognised by MCI and only MCh Urology are authorised to practice this speciality.

However, MS general surgeon can justify his endourological practice on following/ s grounds

1. He has acquired special training in endourology from a recognised centre authorised by MCI to conduct training programmes
2. He has done some fellowship in endourology from recognised medical college/ university from India or abroad.
3. He is member of many endourological societies and published many papers and attended their conferences to advance his skills.

**Tip no 70- I'd like you to clarify the following:**

**What can be the consequences on the part of a medical practitioner when he / she does not extend adequate Conservative Management or does not appropriately inform limitations or short / long term consequences of medical treatments and interventions to the patient in Life Style Disorders, especially in freshly detected Diabetes, Hypertension, asymptomatic CAD, Obesity, etc.,**

**Would it qualify to lack of care, deficiency of service or negligence?**

*(Sent by Dr R K Tuli , New Delhi)*

**Answer-** Initially it would be classified as lack of care if you have not charged the

patient. If you have charged the patient, it would amount to lack of service too. If patient suffers damage, it would amount to negligence too.

**Tip no 71- If you give all the list of complications of Diabetes like Diabetic Nephropathy, Increased risk of CHD, Diabetic Retino pathy etc and patients goes into depression and commits suicide. Then what will happen. ( Sent by Dr J S Suri ,New Delhi)**

**Answer-** Please note giving information is your duty and it is patient right to information. Be assured, nobody will go in depression and commit suicide. Patient do become a bit sad but overcome this in 2-3 days and accept new situation. Even if patient commits suicide, you cannot be blamed.

I have observed doctors fear to tell patient about consequences especially in oncology, burns and other life threatening conditions, it has been documented that even in such conditions patient can tolerate sad news quite easily and they can plan their next step like will etc. infect we harm them when we do not tell them reality raising false hopes which is an unethical act. We should know how to tell sad news professionally. This is not taught in any medical college.

**Tip no 72- If a policeman or SHO wants documents regarding an MTP case which is going on in a court but has not brought any order to the effect, does one have to give the documents or it contravenes any part of the act? ( Sent by Dr Sanjit Sodhi)**

**Answer-** You are not supposed to give any document unless request or order has been received from police in writing. Always take a receipt of the document you have given. Even if police seizes certain document from you, they provide a receipt. It is as per procedure written in law and your right. If not given, inform the court in writing

**Tip no 73-** Lot of students are coming who have obtained two or three years training in cardiology under diplomas conducted by IGNOU. After successful completion of their diploma course are they legally qualified to perform independently non invasive and invasive cardiac procedures? Are they qualified to practice independently as cardiologist? They have received rigorous training in cardiology and are much better than our physicians who practice as cardiologist and have not received any training. If so should they be qualified to appear in DM cardiology or DNB cardiology entrance exams (Sent by Dr. Sanjeev Aggarwal, Consultant Cardiologist, Saroj Hospital, Delhi)

**Answer-** Pl note that Diploma in Clinical Cardiology awarded by IGNOU, New Delhi is for non-invasive clinical cardiology practice and person can do such practice after receiving diploma. They are not qualified for DM cardiology or DNB as they are holders of diploma degree only. Invasive cardiology cannot be practiced by diploma holders as they are not trained in it.

**Tip no 74 -** If the patient admitted in the ICU and subsequently in the ward refuses to pay the dues to the hospital what is the options available with the hospital for recovery?

(Sent by DR NP SINGH(Nanu), MD, MBA, FACP, FRCP Edin, FAMS, FISN, FICP

Ex-Director Prof Medicine, MAMCollege, Chairman, Medicine & Allied Specialities

Senior Consultant in Nephrology and Medicine

Pushpanjali Crosslay Hospital, Vaishali Gzbd.)

**Answer-** The following options are available.

1. Ask the patient to pay the bill. Raise the bill and get it received by patient or his attendant.
2. Ask him why he is not paying, if he gives in writing, it is good otherwise ask your staff to record it.
3. Discharge the patient when patient is stable. You are not legally bound to treat him further.
4. If patient is discharged or moved to some other hospital, send the bill to his address by speed post giving him a reasonable time to pay.
5. Send him legal notice after reasonable time
6. File a case in civil court or consumer court to recover

Please do not do the following

1. Holding emergency treatment
2. Delay or non-discharge due to non-payment
3. Threatening by staff member.

**Tip no 75- Stem cell therapy is still experimental. I think that it is the biggest 'MEDICAL FRAUD' of this century. Doctors charge huge sums of money promising relief / CURE for 'incurable' diseases. Their claims are unsubstantiated by any audit. Preparation of stem cells is clouded in 'mystery'!**

**My questions are:-**

- 1. Can it be called as 'magical cures' which is patently illegal?**
- 2. Is it ethical to charge these patients?**
- 3. Can legal action be taken against these doctors for breach of trust and criminal activity.**

*(Sent by Dr. Lalit Gupta, Consultant Surgeon)*

**Answer-** I fully agree with you that latest fraud is stem cell therapy which is being claimed as cure in every possible

disease. Latest to join is help in erectile performance. Patients are fleeced with false hopes. Doctors charges lakhs with no promise of cure. Legal action can be sought only if someone challenges their claim. Many patients are going outside country to take FDI approved stem cells from other person to improve erectile performance . The treatment cost Rs 40-50 lakhs. Target is businessman, pilots and high net worth individuals, brokers are ruling the game too.

**Tip no 76- What is the legal implication in these circumstances? Pl. clarify.**

1. A new pt.'s relative narrates psychotic symptoms without bringing pt. & says he is unmanageable at home. & requests for SOS medicine. Should we not write prescription without seeing pt. in person ?

2. If we write a prescription & mention that informant is relative & it is a proxy consultation. We write SOS medicine & Ref to Psychiatrist?

3 If pt. files a case mentioning Dr. can write a prescription to a new pt. only after seeing him.

*(Sent by Dr. L. K. Malhotra, MBBS, MD, DM(Neurology), Senior Consultant Neurologist, VIMHANS Hospital, New Delhi)*

**Answer-**

1. You should not write prescription without seeing the patient. If relative says that patient is unmanageable at home, he can be restrained by reception order issued by magistrate on advice of psychiatrist. Simply ask relative to consult some psychiatrist in Govt hospital as such facilities are available at govt hospital only. Refer him to Institute of Human Behaviour & Allied Sciences (IHBAS) at shahdara, Delhi.

2. No proxy consultation should be given as it is not legal. Simply ask relative to consult psychiatrist.
3. Third query is not clear. Pl reframe it and send it

**Tip no 77- But again can a psychiatrist give proxy consultation with relative consent. what i feel it has been a common day to day practice even in other ailments (which includes the so called telephone consultation what is the legal status of it). Once we write it is a consultation without patient absence, this itself is self explanatory, whether does the question of legality come. This best can be explained by a MEDICOLEGAL EXPERT.**

*(Sent By Dr N K Gupta)*

**Answer-** Proxy consultations are not at all allowed. If someone is doing it, he is doing at his own risk.

Even if you write on prescription slip “consultation without patient examination”, it does not absolve you of illegality. Telephonic consultation should be restricted to only those patient who are under your treatment and cant reach to you because of distance or other reason. Please remember whatever you write on your letter head is LEGAL whether you have seen patient or not.

**Tip no 78- Till what age pediatrician can treat & from what age M.D. (Int.medicine) can treat patients?**

*(Asked by Dr N. KANNAN, CLINIC: No: 5/2, Nagarathnam Colony, Near Vivekandha Collge, Off. P.S. Sivasami Road Mylapore, Chennai - 600 004*

**Answer** - it was answered a long time back but repeated again



**Tip no 79- What age divide between paediatric OPD and medical OPD and why?**

**Answer** – Age of 12 years. Below 12 years, child is not allowed to give consent for medical examination. There should be a board in all paediatric OPD announcing

“All children must be accompanied with a parent or relative or guardian”

Above 12 years (but less than 18 years), child can give consent for medical examination only but not for any procedure.

Above 18 years, adult can give consent for any procedure / surgery.

So paediatrician can treat upto 12 years and above should go to Medicine OPD. But nowadays many paediatricians are treating upto 18 years as they say adolescent medicine is part of paediatric practice.

**Tip no 80- What are the rights of doctors in doctor-patient relationship?**

*(Asked By Dr D Das, Dr Ajay Mittal and Dr. Sanjay K. Agarwal, Professor & Head of Nephrology, AIIMS, New Delhi)*

**Answer** - The following are the rights of doctor in doctor-patient relationship

**1. Right to choose patients** - Yes, this right is available to all doctors to choose patients . You can put notice board in your clinic or outside your clinic to refuse the patient of your choice . You can also refuse the old patient who has dumped you previously.

This right is available subject to following conditions

a- In case of emergency, all doctors need to extend help otherwise action can be taken under Clinical

Establishment Act by authorities and medical council for violation of ethics.

- b- Government can ask you to see patients free and without choice in case of national emergency like war or internal emergency like flood , earthquake etc. This is our constitutional duty. You can be arrested and jailed too for refusing it.
- c- If you are working in Govt setup or consultant to private hospital , you have to see all patient visiting that facility.

**2. Right to charge professional fee-** Except for emergency or provided above, you have right to charge professional fee. You are not supposed to give advice free every time as how you are going to sustain yourself.

There is no cap on charging professional fee but it should not be so high that majority of population cannot afford to pay your services.

Maximum consultation charges I have seen is Rs 5000 per visit (In Mumbai)

**3. Right of termination of advice** – You can also dump patient for following reason

- a. Failure to follow your advice
- b. Following multiple advices given by other doctors
- c. Taking other system medicines too without your permissions

While terminating advice , give sufficient notice so that he can see some other physician. Do not dump him in emergency. For safety, record reason in your records.

**Tip no 81- Is it essential to keep record of OPD prescriptions? Should we give new prescription everytime when patient comes for follow up?**

*(Asked by Dr Nisheeta Aggarwal)*

**Answer-** it is not essential legally to keep record of OPD prescriptions, there is no need also to issue new prescription when patient comes for follow up. You can write on same prescription paper again.

But it is always better to keep records . It can be easily done if you issue it from computer. Doctors should be tech friendly now.

The following are advantages for keeping records-

1. You can write research paper easily.
- 2.You can monitor and do clinical trial.
3. You can verify from your records that patient consulted you.
4. If patient loses prescription, you have the copy.

**Tip no 82- I am a private practitioner - If late night - after attending a cocktail party and having a few drinks - if someone from the neighbourhood calls upon me for attending a patient as an emergency - can I refuse to attend the case since I am under the influence of alcohol or do I have to attend to the emergency?**

*(Asked by Dr Anuj Dogra)*

**Answer-** Yes, you are within your right to refuse even emergency. Under no circumstances, law forces to see emergency case if you are not mentally or physically fit.

God forbids, if there is error in your handling emergency case, you would be booked for negligence.

Simple way out, tell the relatives of the patient that you are not in a position to attend the patient.

**Tip no 83– I am family physician. When I issue any medical certificate I make a carbon copy of the same. But I ask the patient to sign on the front copy only. So that I get his signature on carbon copy also. Should we ask the patient to sign originally on the carbon copy also separately to avoid any legal problem?**

*(Asked by Dr S. Kant Gupta, F 261, Vikaspuri, New Delhi 110018)*

**Answer-** I am very happy that you are keeping a copy of medical certificate issued by you which is mandatory as per law. Most of family physicians are not doing this.

Since you are obtaining signature on carbon copy , it is not essential to have signature of patient on carbon copy.

Pl follows these

1. Put number on all certificates.
2. You can charge officially for medical certificate.
3. Issue certificate honestly.
4. Never issue certificate beyond your clinical certification.

**Tip no 84– What is the status of sport injury ? Legal or illegal ?**

*(Asked by our member from e-mail id [ajitmtamhane@hotmail.com](mailto:ajitmtamhane@hotmail.com))*

**Answer-** Sports injuries can be legal or illegal depending on how it is caused. Please remember when a person participates in a sport, he willingly accepts that there is inherent risk. Some sports like boxing, football ,cricket etc carry high risk.

Where the injury is not intentional, the injured party has to

show that the other participant was negligent. A participant will not be held liable for a simple error of judgment or instinctive reaction, even though the consequences might be tragic, especially in a fast moving game. At the very least there has to have been a breach of the rules of the game. However, that alone would not necessarily be sufficient to establish liability, especially if the actions of the participant were being conducted in a manner which was generally acceptable.

If injuries are intentional, claims can be made in civil or criminal court.

Just to remind you that one of our very good cricketer Raman Lamba died due head injury in Dhaka when ball hit his temple.

**Tip no 85– I am an ENT Specialist with Delhi government. Thanks for doing such a worthwhile job for the benefit of medical fraternity. I have one query sir. Is ear drum perforation a grievous hurt if there is no hearing loss. And also if there is hearing loss in perforation it is temporary only and will heal on its own or with surgery. What shall be our opinion in such cases.**

*(Asked by Dr Rajiv Dhawan)*

**Answer-** If there is no hearing loss even if there is perforation in ear drum, it would not be a grievous hurt. But this is unlikely as if there is perforation in ear drum, it would cause some loss of hearing which can be detected by audiometry.

Please remember that treatment does not come into picture if we are deciding whether an injury is grievous or not. We have to assume only natural course in cases of perforation. It is always better to call patient for audiometry again after 4 weeks before declaring injury as grievous.

**Tip no 86–** I want to know my status and legal issue relating to following case, one of my physician colleges refers a case to me for biopsy. After examination I find the procedure is likely to be more risky with possible more risk of complication in view the clinical status. Moreover as far as the treatment is considered not much can be done in view of affordability and outcome as the disease process is already advanced. I am of the opinion it should not be done but patient persists and is willing to take the risk. What is the best course for me? Shall I proceed with consent or deny or refer. What if complications arise and patient turns hostile.

*(Asked by Dr Ashwini Mishra)*

**Answer-** Your position is clear. You explain to patient what is in your mind and take his consent . While taking consent , let it be clearly written by patient that all complications have been explained to me and I consent for same. This is also known as doctrine of informed consent.

We should run away from situation but face it.

**Tip no 87–** I am an eye surgeon. We face cardiac patients for cataract surgery. Do we need clearance from cardiologist before doing surgery? If yes, then from physician or cardiologist? Also if anaesthetist is available then do we need to keep cardiologist standby? I am doing cataract surgeries on day care basis under topical or local anaesthesia. Not general anaesthesia. Please reply from medico-legal point of view.

*(Question asked by Dr Rakesh Gupta)*

**Answer-** Yes, you need to take clearance from cardiologist in case of cataract surgery even if you are doing in topical or local anaesthesia for cardiac patients. If an anaesthetist is available when you are doing surgery, you need not keep

cardiologist as anaesthetist is quite capable of handling all emergencies.

If you are operating in a hospital, these things are must as you may be charged of negligence in case of some unfortunate event.

If you are operating in camps, even then it is essential to take clearance from cardiologist.

Take clearance from cardiologist only, not from medical specialist

**Tip no 88– I believe that a cardiologist opinion in such cases would hold true in places where they are easily available.**

**It would be wrong to deny surgery to patients where such services are not easily available. The law should act as a guide for us and not instill fear in our minds so long as we are doing best possible in the prevailing circumstances.**

**Your expert comments please?**

*(Asked by Dr. Mahajan Rajeev)*

**Answer-** in areas where cardiologist is not available, you can take clearance from medical specialist. My dear doctor friend , your mindset is same as most of my other doctors colleagues. We always ready to cross boundaries of law to help patients. We are very much appreciated most of time, but what happen in fraction of cases? We get notices from patients, court or medical council or some of us have gone to jails. Is it fair to cross the dotted line?

No and never.

Please remember that law is not a guide, it is holy as we have to follow it as it is. If we do not follow it verbatim, we have to suffer consequences.

You may help thousands by crossing law, but single complaint can finish your career. It is my personal advice to you. Do not be pennywise and pound foolish. I know many doctors who acted beyond law and suffering since years.

**Tip no 89– In response to your comments- about cardiologist clearance for eye surgery- my understanding is that**

**1. Most of the EYE surgeries are done under local anaesthesia , which does not not require spl investigations except ECG -and even medical specialist are qualified take appropriate history , examine and to interpret ECG - if required pts with abnormal findings or uncontrolled disease may be referred to cardiologist**

**2. If Anaesthetist are competent to tackle on table emergency, medical specialist are also trained -to evaluate and manage cardiac pts in OPD /wards and emergency - My request is you must make clear, role of medical specialist in cardiac clearance for surgery in relatively asymptomatic/stable pt**

*(Asked by Dr Sanjay Gogia, New Delhi)*

**Answer-** Please note that in my previous mail, I have stated that clearance for eye surgery from cardiologist is must in all cardiac cases (means they have history of hypertension, CAD, etc). But in other cases, where cardiac problem is not suspected, a medical specialist may be considered. Medical Specialist may also be considered where cardiologist is not available especially in small towns.

We are living in era of specialisation. In cases of complaints against doctors, sometimes issues are raised why cardiologist was not consulted when his services were available. As per MCI, medical specialists are not allowed to write themselves as cardiologist.



**Tip no 90 – I am a nephrologist. If a physician asks for a consult and just one opinion. Do we need to follow up daily. Say a patient with AKI is referred and Has creatinine 2. If 3 days later his creatinine raises to 5 and he dies of hyperkalemia. And I have not reviewed him as it was asked for a opinion and no follow was desired from treating physician. Will I still be medicolegally responsible**

*(Asked by Dr Praveen Malvade)*

**Answer-** If a physician refers the case to you for consultation, you should provide that. You need not follow the case as he has asked only for consultation. In that case, physician retains his principal duty of care and responsibility has not shifted to you.

But if physician refers the case for you to treatment, then you carry the duty of care from the moment you start entertaining the patient, onus of care shifts to you.

I hope it makes your position clear.

**Tip no 91– I am a dermatologist .I prescribe methotrexate orally to patients with psoriasis**

**These patients should report back to me every three weeks to screen for any adverse effects**

**But I find patients are not coming back for follow up as probably they do not want to pay the consultation fees**

**So Sir what would you suggest?**

*(Asked by Dr Kanwar, MBBS(AIIMS) MD(AIIMS) FAMS FRCP(LONDON)*

**Answer-** Please document that he is not reporting for follow up in your records so as to save you from future litigation. This is called as contributory negligence done by

the patient. But to prove in court, it is the responsibility of doctor. Your well kept record will save you from litigation.

As a courtesy measure, you can give patient a note that delay in follow up may lead to complications. Another measure could be that you reduce /abolish the fee on follow up, so that patients can come more frequently. Loss in fee can be made up in various ways.

**Tip no 92– What are the medico-legal issues involved in Chhattisgarh Sterilisation tragedy?**

**Answer-** Sudden deaths at tubectomy camp at Chhattisgarh has raised following medico-legal issues

- a. Was it fault of operating team- the following possibilities can be there
  1. Instrument was not sterilised so caused infections in large cases
  2. Bowel Injury – fault of surgeons
- b. Drugs – spurious given to patients
- c. Unhygienic conditions at camp.
- d. Why a large number of operations were done in a single day to beat deadline.

Let us wait for more information rather than speculations. Let us not pass a hurried judgement on medical team.

**Tip no 93– Latest in Bilaspur Chattisgarh tubectomy Tragedy, truth is stranger than Fiction.**

**Answer-** Latest reports indicate spurious medicine/ poisoning as was suspected by us in last mail.....doctors are falsely implicated

[http://www.ndtv.com/article/india/chhattisgarh-sterilisation-deaths-officials-admit-possibility-of-presence-of-pesticide-in-medicines--621145?utm\\_source=ndtv&utm\\_medium=t](http://www.ndtv.com/article/india/chhattisgarh-sterilisation-deaths-officials-admit-possibility-of-presence-of-pesticide-in-medicines--621145?utm_source=ndtv&utm_medium=t)

BILASPUR, CHHATTISGARH: Five days after botched sterilisation surgeries in Bilaspur, Chhattisgarh, claimed lives of 13 women, the administration has officially admitted a strong possibility of the presence of zinc phosphide in the Ciprocin 500 tablets allegedly manufactured by Mahawar Pharmaceuticals, a drug company and given to the women in the camps.

“Prima facie, it seems there is a strong chance that Ciprocin 500 tablets manufactured by Mahawar Pharmaceuticals may contain zinc phosphide. As during last night raid at their factory, it was found in the production area. We will be able to officially confirm this in 2-3 days as soon as the report comes from central drug lab. We have banned all medicines manufactured by Mahawar Pharmaceuticals,” said Sonmani Bora, Bilaspur Division Commissioner, told NDTV.

Zinc phosphide is an inorganic compound that is used in pesticide products. The signs of its toxicity are indicated by the symptoms shown in the human body. If ingested, it may cause headache, dizziness, fatigue, nausea and vomiting and cough. In severe cases, it may even cause convulsions, coma and death.

Most of the above symptoms have been seen in the 122 women admitted in hospital and 13 others who lost their lives after being operated upon in Saturday’s Pendari camp and Monday’s Gorela Pendra medical camps.

On Thursday, Mahawar Pharmaceuticals’ director Ramesh and son Sumit were arrested by police under section 420 for cheating, based on a complaint

filed by Food and Drug Administration authorities.

“I am innocent. The police has not shown us any arrest warrant,” said Ramesh Mahwar.

The state government, after a cabinet meeting, has also dismissed senior surgeon Dr RK Gupta, who conducted the surgeries at the Pendar medical camp as well as Chief Medical Health Officer Dr RK Bhange.

“I am being made a scape goat. I am not responsible for what happened at the camps,” said Mr Bhange.

The state government has also constituted a judicial probe team which will submit its report in three months. The NDTV team visited over a dozen women who underwent sterilisation surgeries at these medical camps.

“On Saturday, I was operated upon and I fell sick after taking the medicine. I started vomiting and was rushed to doctor,” said Savita Khande, a daily wager and a mother of three, who is now out of danger.

**Tip no 94 – Is it legal to arrest a doctor accused of negligence without an investigation by the Medical Council? IF No, what legal action can be taken against the administration who ordered the arrest of the doctor?**

*(Dr. Mahajan Rajeev, MS Orthopedics, Delhi)*

**Answer-** It is legal to arrest a doctor accused of prima facie negligence as government has power under Jacob Mathew case. Supreme Court has stated that doctor can be arrested if there is suspicion that he may flee or tamper with evidence. Normally, bail is given in police station itself in Section 304 A IPC but it is not a legal right. Bail can be denied citing various reasons.

**Tip no 95– Can a rabies patient make a valid will?**

*(Asked By, Dr. A. K. Gupta, Joint Secretary, Association for Prevention and Control of Rabies in India (APCRI)*

**Answer-** The basic requisites of making will are

1. The person is of sound mind
2. He should have ability to understand what are his properties and heirs.
3. The will should be of his own free will.

If a person is suffering from rabies, especially in virulent form in last stages, there may be mental changes and person may not be competent to make will. In all such cases, doctor should certify whether is competent to make will or not.

In view of the ongoing events at bilaspur tragedy and unfair dismissal of the surgeon , what would be advisable for the concerned doctor ? What should he do in this situation ?

**Tip no 96 – It would be great help if you suggest who is eligible to sign the witness in consent forms.**

*(Asked by a Medical Records Professional)*

**Answer-** Many hospitals take signatures of their staff as witness in consent form. It should be avoided as it can be stated in court that staff was your employee so he can be biased in favour.

The following should be priority of witness in consent form

1. Spouse
2. Parents / Guardian
3. Any relative
4. Any friend

5. Any accompanying person
6. Any un-related person
7. If above not available, any other patient

In no way, staff should be made witness

**Tip no 97– Would you please advise regarding the legal requirements of conducting a free medical camp.**

*(Asked by Dr. Saurabh Sawhney)*

**Answer-** if you are conducting a free medical camp, please note the following

1. Since it is a free camp, it does not give you licence to practice negligently.
2. If you are conducting some procedures, just check that you have sufficient infrastructure/ manpower to fall upon in case of complications.
3. Soliciting of patients is not allowed as per ethics.

As a policy matter for your safety, please limit yourself to consultations only. Govt of India has started discouraging free camps where procedures were done like cataract, tubectomy etc. See how Bilaspur free camp landed in complications/ tragedy

**Tip no 98– I enjoy reading your tips. Free camps are eyewashers.**

**There are many ‘moving and operating’ orthopedic surgeons like me who go to different cities and operate. BY the grace of God till this date nothing serious has happened. To each patient, I give my own discharge summary with my findings.**

**What is my liability if a patient files a suit against the hospital where I operated and some complication happened? Do I have to go to the court in that city?**

**Do I need to print “ Jurisdiction limited to Ahmedabad city only” in my all letterheads and how much meaning this has in case of a medico legal suit filed by some patient in other city? .**

*(Asked by Dr. Nishith Shah, Arthroscopy- Sports Medicine, Aash Arthroscopy centre, Ahmadabad)*

**Answer-** Please remember that your legal liability arises wherever cause of action lies. So, you have to attend local courts only if need arises. Even if you print on your on letterhead “Jurisdiction limited to Ahmadabad city only”, it has no value.

**Tip no 99- Is it mandatory for nursing home to get indemnity insurance cover also though Doctors indemnity insurance is already done?**

*(Asked by Dr Rakesh Gupta)*

**Answer-** It is not mandatory for nursing home to get indemnity cover when doctors have taken it. But it should always be taken as by way of respondeat superior , it is nursing home which has to pay maximum compensation.

Vicarious liability is a form of strict, secondary liability that arises under the common law doctrine of agency - respondent superior- the responsibility of the superior for the acts of their subordinate, or, in a broader sense, the responsibility of any third party that had the “right, ability or duty to control” the activities of a violator. But it must be in discharge of duty.

Consultants and hospitals are fully responsible for mistakes of all employees working under them like residents, nurses

and paramedical staff. Thus a botch up in a surgery will make surgeon responsible for it while it may have been done by resident or nurse. Common errors like presence of towels or instruments in body will make surgeon responsible. Hospitals have to shell a large amount of compensation in such cases. In Anuradha Saha Case, hospital is paying in crores while doctors are paying in lakhs only.

**Tip no 100- What is the status when a Specialist Doctor opens a Pharmacy within his own clinic to sell medicines prescribed by him/her to his patients only.**

Does he need a Pharmacist and or Drug Licence.

Can he issue bills for the medicines sold or has it to be included in consultancy fees as many G.P's do?

*(Asked by Dr Sanjay Dhawan)*

**Answer** – As per law doctor does not need a license and pharmacist to dispense medicines for his own patients. He can easily do it and this practice is mostly done by General Practitioners who include cost of medicines in consultancy charges. Separate billing may create problems.

I have not seen any specialist doctor doing it. This practice ideally should not be done as raids could be there at your clinic at any time by drug inspectors to see how much quantity of medicines are there. Recently, a doctor was punished for this and finally he took drug licence.

I advise specialist doctors against such practice as it can create more trouble.

**Tip no 101- Suppose a very very troublesome neighbour walks into your OPD for a routine (non emergency) checkup. Am I legally bound to examine him or I have some right to refuse also?**



*(Asked by Dr Rajneesh Chadha)*

**Answer-** Yes, You can refuse any patient whom you do not want to treat. Doctors too have the right to choose patients of their choice except in following circumstances

1. Patient is in emergency.
2. Mass disasters like earthquake or accidents or terrorist attacks
3. You can be asked to see war victims or join army if govt orders in national interest.
4. Court order or police request if no other doctor is available.
5. If you are working in Government Hospital , you do not enjoy such right
6. If you are a consultant to some private hospital, if you refuse some patient, hospital can ask you to resign

**Tip no 102- My question genuine As it happened in hospital, patient was operated for leg fracture, after 4 days absconds in midnight, cctv record shows he went out with walker, later he disappears leaving walker, parents claims he has not come home even after 4 days, phone ringing, pt doesn't pick call of parents or hospital. Father is trying to file negligence against hospital in local police station, is it possible.**

*(Asked By Dr Jayanth)*

**Answer-** It is true that hospital has to provide safe custody of the patients but in this case, patient has left on its own against medical advice. Hospital should immediately inform police and parents in writing and make a record of this in case sheets with proper witnesses. Let the father do what he wants to?

**Tip no 103- If any international patient failed to pay the long dues of the hospital. What actions hospital can take against patient or attendant?**

**Answer-** Please note that non payment of dues by patient is a civil matter and hospital has no authority to take any action against patient or attendant except going to civil court for recovery.

If patient is international means not a resident of India compounds problem as it is very difficult to approach courts of other country and it may cost more money in recovering it.

Best policy for international patient is either take expenses in advance or they come through insurance companies. Most of medical tourism patients come through insurance companies.

**Tip no 104– How you register foreign doctors coming for educational programme.**

*(Asked by Dr Ramesh Prasad Singh)*

**Answer-** If foreign doctor is coming for a lecture or workshop, no permission is required. But if he is coming for real life surgical operation demonstration or where he is going to examine patients , permission from MCI is needed.

For organising international conference, permissions from home ministry, health ministry and Ministry of external affairs are needed.

**Tip no 105- If any Local patient failed to pay the long dues of the hospital. What actions hospital can take against patient or attendant?**

*(Asked by Dr Sunil Dhingra)*

**Answer-** It is one of the most difficult tasks to recover dues from local patient who is not interested to pay. Legally speaking, hospital has no way except moving civil court for recovering dues. Seeing the status of civil courts in India, it may take decades to **recover it**.

**But, there are smart ways which can be beneficial.**

1. Ask patient to pay by cheque and ask him to post you post dated cheque which you can present in bank and after it is dishonoured, you can get a criminal case registered against him. I can assure you after this, patient would agree to pay immediately.
2. Send legal notice by lawyer and ask for penal interest and threaten to go to court. Patient may pay.
3. Offer some discount.
4. If money is less say upto one thousand, it is not worth trying to recover. Take it as business loss or charity.

**Tip no 106- If a specimen taken during surgery is lost by hospital staff how the Surgeon has to explain patients.**

*(Asked By Dr Saliya Dharmayath)*

**Answer-** It is a very difficult situation for a surgeon to explain that specimen / biopsy taken during surgery is lost by hospital staff. I am of the opinion that surgeon should come clean and tell honestly patient what has exactly happened. Let the patient decide what to do with hospital.

Please remember that hospital share a vicarious responsibility for its employees and is liable to pay damages for mistakes of staff. This is called as corporate liability.

**Tip no 107- Please throw light on this not be found but often used term “On table death consent” Is it an acceptable term? Can it be used verbatim while taking consent of moribund patients? If this is not acceptable then how should the consent of a, moribund likely to die, patient be taken What is your view about hand written consent versus printed consent Performa? Is it mandatory to take consent in vernacular Is itsufficient to take consent in English and add a line stating that “I have understood or things have been explained to me in language that i understand, and i have understood the same beyond any doubts or my doubts have been cleared”**  
*(Asked by Dr Pradeep Saini)*

**Answer-** “On table death consent “ is not a acceptable term. Better is “High Risk Consent”

Follow this to take high risk consent

1. Explain all risk to patient and relatives especially next of kin
2. Take consent from patient.
3. If patient is not conscious or competent, take from next of kin (Priority sequence being spouse, father, mother, son, daughter, guardian and then relatives and friends)
4. Take consent from patient and make witness next of kin.
5. Take in vernacular language preferably in their own handwriting and language.
6. Mention that risk of death has been explained.
7. Consent can be taken in English and it can be written that “I have understood or things have been explained to me in language that I understand, and I have understood the same beyond any doubts or my doubts have been cleared” but get signatures in English only.

8. Vernacular consent has more value in court.

**Tip no 108– I want to know a general hospital run by trustees can refuse to admit a patient suffering from Hiv OR HbsAg+? What laws says about Admission regarding these patients? What is policy of IMA? IF Refusal by hospital is illegal what action can be taken against hospital authority? whom to inform regarding necessary action? (Asked by Dr Akbar A Shaikh M,S.Ortho, Navsari.)**

**Answer-** It is illegal to refuse a patient for admission if he has HIV and Hepatitis B positive....it is discrimination...it can lead to cancellation of licence....IMA has no authority to make policy as it is an association only.

**Tip no 109– In Govt Civil Hospitals/ Sub-divisional Hospitals MBBS medical officers (MOs) and sometimes specialists other than Forensic Medicine are conducting post-mortem examinations. Are they competent enough legally because based on their report somebody can get jail or acquittal. It is a known fact that during MBBS syllabus all subjects are taught but still are they competent enough to carry out specialized work. As MO can't operate gall bladder or manage cardiac patients but can give preliminary treatment. Shouldn't the Forensic Medicine specialists only be assigned post-mortem work? As Forensic specialists can't operate on eye or a bone, how can other specialists carry out their specialized work? Please enlighten.**

*(Asked by Dr Sunil Bhardwaj, Medical Officer, PHC Thariewal, Block Majitha, Amritsar)*

**Answer-** It is a fact that 90 percent of medico-legal work including post-mortems are conducted by MBBS doctors only. Majority of them have old knowledge and cannot

interpret findings in complicated cases and hence cause injustice. Ideally all post-mortem cases should be done either by Forensic Medicine expert or under supervision. Government is hardly bothered about it. All doctors who are conducting medico-legal work should get at least 4 week training under Forensic Medicine experts.

Legally speaking, MBBS doctor is competent to conduct any post-mortem, so Government is not bothered.

**Tip no 110– Each surgery carries certain risk of complications. These complications are described in text books.**

**What happens if a complication (like infection / implant failure / cut through of implant etc) happens and patient sues you in the court?**

**Does the law holds guilty of a doctor even if he has taken reasonable preventive steps to avoid that complication?**

*(Asked by Prof Anil Arora, New Delhi)*

**Answer-** Yes, it is true that all surgery carry risks and complications do happen in some cases and doctor gets sued by patient. In all such cases, the court views it as follows

1. Whether doctor has explained to patient all likely complications and taken proper consent or not.
2. Whether doctor has applied reasonable care and skill.
3. Whether doctor has followed standard protocol while handling complications.
4. Whether said complication is described in text books or journals or other authentic source.

If court is satisfied that doctor has followed above, he will not be held guilty of negligence. But doctor has to defend his case properly.

**Tip no 111– What is the status of medical camps as to their legality? Are surgical camps permitted, for example, cataract and glaucoma surgery on-site camps? What are the precautions a doctor must take to ensure legal protection? What is the liability of the organisers/NGO?**

*(Asked by Dr. Saurabh Sawhney)*

**Answer-** Nowadays medical camps are in cloud as a lot of complications have been reported like Bilaspur, Punjab tragedy etc. Nowadays, medical camps where procedures are done are not recommended to be held as there is no infrastructure to deal with complications. It is the responsibility of organiser like NGO or Government to have all infrastructures in place before stating any procedures in camps.

It is recommended that camps should be held only in hospitals.

**Tip no 112– Any Orthopaedic surgery can be associated with infection, implant failure, delayed wound healing in certain situations, delayed or non union of fracture, partial loss of range of movement of the operated joint etc. All these complications are described in text books and occur every where once in a while.**

Enumerating all these complications in writing may be akin to telling every parent going for school admission that your child may fail or go astray OR telling every road user that you may die of a road accident today OR telling every electricity user that you may die of electrical shock. I have a feeling that we may be spreading negativity by explaining all the complications in a situation where the patient is already in agony because of his ailment.

Kindly elaborate further that should all complications be enumerated in writing and should their likelihood of

**occurrence also be mentioned?**

*(Asked by Dr Rajeev Mahajan)*

**Answer-** I agree with you that a patient who is in pain would be better off if we reduce our formality. If he recovers well, all good things happen. But if he dies or have complications and file a case against you, how you are going to answer? Please explain me this? I know it is difficult, you can explain to me, I will understand but police or court wont.

We are living in a era of disclosures and declarations, following examples are there from medical profession and others

1. When you are writing an article in a journal , you are bound to disclose source of funding , ethical clearance and interest of conflict. This is international practice.
2. If you are a financial expert, you are asked on TV whether you have holding in the stock which you are recommending.
3. When you take loan, bank take your 100 signatures on 25 pages where all things are written in small letters.
4. All mutual funds write disclosures regularly.

Doctors are also part of same society, we also have to take legal defence to save our skin in this era of consumerism where lawyers work on commission basis rather on fees.

Please take consent stating most complications to save yourself from potential litigation.

**Tip no 113– What about only medical camps conducted by NGOs where no procedures are done? Suppose a sick patient is brought to such a camp and collapses, what are the legal implications?**



*(Asked By Dr K A Sudharshana Murthy)*

**Answer-** Medical Camps only serve as place to see sick patients, refer them to appropriate centres if there is need .They also serve medium for spread for knowledge of national health programs. They are mostly arranged by NGOs or Government.

If a sick patient comes to camp and collapses, it does not carry any legal implications as camp was meant only for examination of patients. It is better that all sick cases should be immediately referred to referral centre.

**Tip no 114– Many a time there is a lot of pressure from patient or family members to shift the patient from ICU/ HDU to ward. They say that the patient is being kept in ICU for financial reasons while the treating consultant may be over-cautious. The family members are willing to give in writing and take responsibility for any problem that may occur after shifting. What is the legal view on such written undertaking? Are there any guidelines regarding shifting patients from ICU to HDU and HDU to ward?**

*(Asked by Dr. Rajesh Garg, Director & HOD Neurology ,Fortis Hospital, Shalimar Bagh, New Delhi)*

**Answer-** Such events are happening routinely as patient / relative insist for early transfer out of ICU/ HDU to ward. It is for the physician to decide whether to agree or not. If you think, patient may suffer, please get it written in bold letters in case sheet that we are ready to accept and take responsibility for any consequences that may follow. Always take it from patient or next of kin and ask family members to witness it.

It is better if such patients are persuaded to shift to other hospital if you feel transfer asked is purely on economic

reason. It may be potential litigious situations arising. Ask hospital social worker to talk to patient / relatives.

There are no guidelines available to follow. It is all physician decision and hospital policy.

**Tip no 115– If there is a notice by patients lawyer for a doctor working full time on salary in a hospital and hospital has a legal cell for this purpose and they help with a reply. The doctor has individual professional indemnity insurance should he notify his personal insurance company also at the notice stage?**

**Answer-** Please note that if a doctor is working on a salary basis in some hospital, any negligence committed by him would be compensated by hospital under vicarious responsibility of the hospital. He would be defended by hospital.

He need not inform his personal insurance company at notice stage as litigation may be there or not. All notices must be responded with a proper reply. If reply is proper , litigation may not be there in 30-40 percent of cases.

**Tip no 116– Who is responsible for the treatment/ complications and negligence towards patient in a government medical college hospital occurring in hands of residents on duty? It is the vicarious liability of the unit chief / department head/college principal or higher govt officials?**

*(Asked by Dr Surendran S)*

**Answer-** Vicarious civil responsibility ( Compensation) in govt hospitals would fall on Medical Supdt or director in cases of treatment / complications. If there is criminal case, vicarious responsibility would lie on consultant in charge / unit chief if mistakes are done by residents whom they are

supervising. Just in case of surgery botched up by residents, consultant would be held responsible. Higher Govt officials outside are not responsible.

**Tip no 117– If a doctor is not employed by a hospital, but working in it - has a clinic and does surgeries in it (he gets payment only for that part and takes his patients to the hospital to do cases, as and when he does cases). If a patient decides to sue the doctor or hospital for care they received, do both the hospital and the doctor become responsible or are they responsible for only the care they have provided (i.e. nursing/ medicines and staffing care by hospital and clinical decision and surgery by the doctor?)**

Do the specifics of this arrangement need to be declared before a doctor starts working in the hospital?

*(Asked by Dr Srinivas Kambhampati Consultant Orthopaedic Surgeon, Vijayawada Andhra Pradesh, India)*

**Answer** – The above scenario refers to consultant / visiting surgeon practice where visiting consultant use hospital for surgery of his patients or operates on other patients. In case of negligence, patient can sue both doctor and hospital . Surgeon is directly responsible and hospital under vicarious responsibility of care. In majority of cases, hospital fights for its own while surgeon on his own.

As surgeon is not an employee of hospital, if compensation is awarded against surgeon, he has to pay from his pocket/ insurance. Hospital pays if compensation is awarded against hospital.

Arrangements in this regard have to be worked out between surgeon and hospital at the time of contract. In some cases, big hospitals provide legal cover to consultants while small hospitals do not.

**Tip no 118–When a patient dies intra op during any surgery, who is responsible? Does anaesthetist have any role or any liability in the above matter or its only the surgeon who is involved as he is the one who has called the anaesthetist? (Asked by Dr Jairam, Orthopaedic surgeon )**

**Answer-** Please remember that surgeon is primarily responsible for any botch up in surgery whether it is due to anaesthetist, himself or any other worker like nurse or paramedical staff. He is vicariously responsible as leader of team. Anaesthetist may also be held responsible as he is usually not working under surgeon and is an independent consultant.

Above mentioned is for civil responsibility. Criminal responsibilities are individual and would be decided against who made the error.

**Tip no 119– A married 21 yrs old lady absconded 55 days back, returns and files complaint under IPC 363, 506. Now referred by I O for medical examination for any sexual assault. Lady is not willing to get examined and not giving consent. What to do and opine about I O letter?**

**Answer-** Please remembers that no woman can examined against her wishes even if there is request from police. Woman can refuse genital organ examination even when there is allegation that she is raped.

Please make MLC and get written from her that she is not willing for examination and send the report to police. Nothing more to be done by a doctor.

**Tip no 120– If a patient is critical but all the beds in hospital are occupied and hence the patient cannot be admitted due to unavailability of beds. None of the**

**admitted patients are in a condition of discharge from hospital. In such a scenario what needs to be done?**

*(Asked by Dr. Gyanshankar Mishra)*

**Answer-** the following possibilities can be worked depending on situation

1. If the hospital is a government one, go by hospital policy. Some Govt hospitals like Safdarjung Hospital, New Delhi has policy of floor bed or multiple admissions on single bed. In such scenario, admit it as per policy. But AIIMS hospital which is also a govt hospital has policy of shifting patient to other hospital, so do it as per policy. Patient needs to be stabilized before shifting.
2. If hospital is private one, stabilize the patient and shift to some other hospital as per wishes of relatives or ask them to arrange a bed. Till the time patient is shifted to other hospital, keep patient stabilized.

**Tip no 121– Can a maternity nursing home refuse an acid burn victim?** *(Asked by Dr Avtar Krishan)*

**Answer-** This question is very relevant as it was alleged that New Delhi Doctor who was victim of acid burn was refused treatment at maternity nursing home in Delhi.

It is inhuman to refuse a victim of acid burn by a maternity nursing home as immediate treatment of acid burns is nothing else but first aid which can be given by any MBBS doctor. You have to simply wash with plain water till pain subsides, give pain killers, apply a antibiotic cream, dress the wound and refer to surgical expert. It was unethical if maternity nursing home could not do this even when surgeon (Gyne & Obst) is heading it.

Let me clarify that Clinical establishment Act is now operational in Delhi where it is mandatory for all

establishments (Read maternity nursing homes) to stabilize any emergency which comes to establishment. Action can be taken against maternity nursing home and even licence can be revoked with fine.

**Tip no 122– If a orthopedic surgeon examines a patient, takes x-rays & give first aid in his clinic and refer the patient to higher centre for further treatment at another place, is he supposed to give wound certificate if police comes and ask. What should he mention in the wound certificate? If he has not done even an x-ray, but has given injection & dressing, then what should be his stand on giving wound certificate?**

*(Asked by Dr Ramachandrahm)*

**Answer-** If any doctor examines a patient which is medico-legal in nature, he needs to inform police and give injury report/ prescription copy to Police on demand. Even if he has given first aid, he should note down what he has done and tell police. Otherwise doctor can be charges with destruction of evidence along with criminal conspiracy.

**Tip no 123– I reside in Karnataka state, Gulbarga city. Where innumerable lab technicians, pharmacists, who are unregistered practice and are creating illusion of regular medical practitioners. They practice without ethics, in unhygienic atmosphere. Which department of health is responsible to curb such menace. Please answer?**

*(Asked by Dr Naveen Karbhari)*

**Answer-** I echo with your statement about quackery prevalent in India. There are enough laws on statute to book these people. But there is no political will to do it. Govt and their departments are sleeping. You can complain to health department, state medical council or write to chief minister.

It is better if you send a copy of your complaint to IMA as IMA is also active at many places to curb quackery.

**Tip no 124– Whether treatment provided in government hospitals and government medical colleges (free treatment) are liable for consumer court appeal?**

*(Asked by Dr Surendran S, Kerala)*

**Answer-** If any hospital (Govt / private/ Govt medical college) is providing 100 percent free treatment, and then it is not covered by consumer protection act. A token charge of registration is immaterial.

But if the hospital is having private ward or charging for investigations, then it comes under purview of consumer act.

**Tip no 125– What is the legality of a consent form written in English while the patient understands only Hindi? What can be added in the form to ensure that she has understood whatever is written? What about an illiterate patient?**

*(Asked by Dr Kaberi Banerjee, New Delhi)*

**Answer-** Please note that in India, English is accepted all over India. Legally speaking , interpretation of law is in English only. Consent form written in English is legally valid. If patient understand Hindi only, please add a line in consent form that patient has been explained in local vernacular language. It is much better if patient write in Hindi this line.

For illiterate patient, take thumb impression of patient and signatures from next of kin in English or local vernacular language.

**Tip no 126**—if patient has been admitted under joint care of physician and orthopedic surgeon for treatment of femur fracture. Physician coming in role management of hypertension, what would be the liabilities of each of them in case of death of patient after two days of surgery due to sudden cardiac arrest, and what would be the liabilities occurring intra operative?

*(Asked by Dr Harshal Kalaria)*

**Answer-** Please note that if a patient is admitted for treatment of femur fracture, orthopedician is primary physician/ doctor. Other physician who is coming for concurrent management of hypertension is not primary physician but as a side consultant. The patient should ideally be admitted under orthopedician only.

If patient dies after 2 days of surgery of cardiac arrest, even then it is orthopedician who is vicariously responsible even if there is mis-management of hypertension as he is primary physician.

I have never seen one patient under joint admission of 2 consultants. It should be only one. Primary Physician is vicariously responsible for mistakes of team members as he is captain of team.

**Tip no 127**—What litigation a practitioner has to face if he or she has not maintained a record of issuing a Medical certificate, which has been produced in judicial court by the patient?

*(Asked By Dr Ashok Damir)*

**Answer-** Ideally doctor should keep a record of all medical certificates issued by him. If court finds that doctor has not kept record, it may direct medical council to take action against doctor. Medical council may act against doctor as it is violation of ethics too. Warning or censure may be issued.



**Tip no 128– If patient had injury while working with machine as a labour. Should we inform about such injury to the police? What will be legal liability if not informed to the police?**

*(Asked by Dr Kartikey Gupta)*

**Answer-** All such injuries which are suffered while working with machine as labour must be made medico-legal and informed to police. Please note that most of such injuries go for compensation in labour court or out of court settlement. We as doctors should not take them lightly. If patient is not interested in compensation or does not want to take it further, he can inform police which in turn would drop proceedings.

If doctor does not make it MLC and inform the police, he can be booked under criminal conspiracy and destruction of evidence which are punishable by jail term

**Tip no 129– I have some queries.**

1. **Can a medical practitioner own a pharmacy ?**
2. **Can he keep medicines in his clinic and dispense?**
3. **What happens if a AYUSH practitioner keeps modern medicines (Allopathy) in his clinic and dispenses or what happens if suppose he prescribes allopathy medicines?**

*Dr Dinesh P V KVG Medical College, Sullia, Karnataka.*

**Answer-** Your answers are as follows

1. There is no bar that doctor can not own a pharmacy but should seek a licence for it.
2. Yes , he can keep medicines in his clinic and dispense them but for his patient only. He cannot run a open shop.

3. Certain states have allowed AYUSH practitioners to prescribe and dispense allopathic medicines which is unfortunate.

**Tip no 130– If following a RTA, patient has sustained a fracture but patient and relatives are not interested in informing police and are ready to give it in written, then, -is it still mandatory for the doctor to inform police -is that written statement by the patient party valid in the court if patient goes on to file a case against the third party after few days.**

*(Asked by Dr Shivalik Kapoor)*

**Answer-** if patient is conscious and does not want MLC in RTA case, you can treat as non-MLC case but get his statement recorded in your records to avoid future litigations. If patient is unconscious, even if relatives ask you to treat as non-MLC, do not listen to them and make case as MLC. Ask relatives to contact police who may drop proceedings if facts of the case warrant so. Medical Officer has no choice but to make it MLC.

Written statement that he does not want MLC is valid in law only when he says so in court of law. He may deny it also. But doctor is safe if it is signed by patient himself.

**Tip no 131– Can a doctor opens a pharmacy in his/ her own clinic for general public? Is it possible to get a licence for that?**

*(Asked by Dr Usha Maheshwari)*

**Answer-** Yes, there is no bar that a doctor can not open a pharmacy/ chemist shop for general public in his own clinic but he has to take licence for that. Licence can be taken by taking care of formalities.

In small cities, many doctors are running successful chemist shops which is a very lucrative business.

**Tip no 132– If a person gets injured in a motor vehicle accident and does not approach police but straightway wants treatment and later on demands certificate for producing before his employer, how should we proceed. Should we mention the nature of the injury in the certificate or we should give certificate mentioning injuries, treatment, admission and discharge etc.**

*(Asked by Dr Naseer Mir)*

**Answer-** I have observed that doctors try to help patients in their wishes or try to bend themselves for pleasing the patients and accept their illegal demands just to get consultation charges and not losing client in future. In this process, they do illegalities and find themselves in soup. All illegal demands of patients should be firmly denied and refuse to treat them if they insist.

No certificate should be issued in road side accidents if patient does not want MLC as this would be used in legal battle for compensation in court or out of court settlement. Give a copy of discharge summary only if they insist.

**Tip no 133– If a patient of RTA attends a private clinic (This is not hospital with 24/7 service but a clinic of only daycare timings)**

- 1. Requests (Read - 'demands') first aid who will pay for the cost**
- 2. Suppose an entry is made into medico legal or injury register and patient and relatives( or mob who brought him) request (Read - 'demand') doctor not to inform police and gives that in writing too, is it necessary that the case**

**be informed to the police.**

**3. Is it necessary to inform police in all RTA ? simple, petty, grievous, life threatening etc? Who has descretionary power - police or doctor.**

**4. If a patient knocks on the door of (residence cum clinic (day care) of) doctor in midnight, when there are no staff & requests (Read - 'demands') first aid is he legally bound to do so?**

**5. Who will pay the private practitioner who loses his earnings of the day if he attends court to give evidence regarding MLC or Can he demand fees for the same ? from whom ? how much on hourly basis? in criminal cases v/s civil cases (eg MVC, divorce etc)**

*(Asked by Dr Ramachandra HM Bhadravathi Karnataka)*

**Answer-** Now Clinical Establishment Act is coming all over India and I do not know whether it is operational or not but it would be coming in any day. Under this, doctor can not refuse to entertain emergency and has to provide treatment free and stabilize the patient and then patient can be referred. Details of this act can be seen below

<http://clinicalestablishments.nic.in/cms/Home.aspx>

Now I answer above query

1. Treatment to be provided free if any patient of RTA comes and demand treatment to any clinic (Single doctor clinic also)
2. You can inform police later when mob has left and explain the circumstances to police in writing why you made it non-MLC. You would be safe.
3. Whether case has to be made MLC or not, it is discretion of doctor, not police. Although guidelines are there for doctors to follow.
4. Already answered.

5. Attending court is constitutional duty. Loss of earning cannot be taken as plea for not attending. In civil cases, you can ask charges from the party who is calling you while in criminal cases, you can ask court to pay. Normally court pays very less.

**Tip no 134– As understood that doctor is duty bound by law to provide first aid to victims of accident. He is supposed to stabilize the patient before referring him to higher centre/ government hospital for further management. Doctor can provide him free service on humanitarian ground. Who is supposed to foot the bill for the consumables medicine/ IV fluids. since the relatives may not be present with patient.**

**(all the consumable/ plaster / medications are expensive and the cost may run into thousands of rupees).**

*(Asked by Dr. C Singh)*

**Answer-** You have rightly said that who will foot the bill? Answer per law is clear, you have to pay yourself as emergency treatment has to be free.

Now this is a matter which should be taken up by professional bodies like IMA which can talk to govt. Govt can give incentives like subsidised electricity, rebate in taxes etc etc.

If this move is not successful, only other way is file writ petition in court .

**Tip no 135– I'm asking this question just in continuation of what you are replying. Myself doing only consultancy practice as joint replacement surgeon (orthopaedic surgeon). I see patients with prior appointment only. I don't have any facility for (medicines to dispense /**

dressings treys / sterility instruments / POP etc) IV injections, IM injections, in TT, dressings, X-ray etc. in case of emergency. in case of if any patient walks in my clinic with fracture foot, leg, or chest injury I have no option other than referring to nearby hospital.

**What is my responsibility, and liability towards such cases if any walks in purposefully or inadvertently**

*(Asked by Dr Vivek Mittal)*

**Answer-** As per clinical Establishment act , all clinics ( Single doctor also) will have to keep all equipments and drugs for stabilization of patient who will come in emergency. Rules are being framed in Ministry of Health and soon they would be out. There would re-registrations of all clinics, hospitals and nursing homes . Even treatment would have to be done on standard guidelines. The govt would have power to impose fine upto 5 lakhs and suspend/ cancel registration of clinic. The biggest sufferers would be single doctor clinic and small nursing homes. It would result in closure of small nursing homes. All ready closure of small nursing homes have started all over India due to compliance factors. The government is encouraging big corporate hospitals. You can see below for more information

<http://clinicalestablishments.nic.in/cms/Home.aspx#>

See below minimum standard for an ortho clinic

<http://clinicalestablishments.nic.in/WriteReadData/835.pdf>

emergency kit has to be there.

**Tip no 136– Can Consultancy be included in “Clinical Establishment”.** As a senior Paediatric Professor I am also a Consultant. I give prescriptions outside and in case there is a need for any procedure including Nebulisation or C & D refer them to a nearby hospital where there

are infrastructure. But occasionally an Injection of say, Paracetamol & Calmpose for a Febrile Seizure patient, I am obliged to give because we cannot delay it. Hence there should be clear demarcation of "Consultant's Rooms from Clinical Establishment. A Govt Doctor having private practice will be seeing patients from his own Residence and it may change according to his transfer. So those places cannot be called a 'Clinical Establishments' and the CE Rules should not be binding including that of "Stabilisation"

**This is an important issue which has to be clarified before the CE Bill is implemented..**

*(Asked By Prof C M Aboobacker, Calicut)*

**Answer-** There is no concept of consultancy in Clinical Establishment Act . Definition of Clinical Establishment as per Act is "**Clinical establishment means** a hospital, maternity home, nursing home, dispensary, clinic, sanatorium or an institution by whatever name called that offers services, facilities requiring diagnosis, treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicine established and administered or maintained by any person or body of persons, whether incorporated or not;

It includes single doctor establishments also who are providing only consultation as consultation is part of treatment.

This act has been implemented in Kerala, pl see below

<http://niyamasabha.org/bills/13kla/published/230-pub-eng.pdf>

**Tip no 137– In continuation of clinical establishment act i have a query, suppose a case of MI come to clinic of joint surgeon who sees patient on appointment bases. What should such a doctor have to do option 1 refer to nearby hospital option 2 he should stabilised patient in the field ? He is not an expert in such a case i think patient will lose very important time he is left with?**

*(Asked by Dr Vivek Jain)*

**Answer-** If a patient of suspected MI comes to your clinic , just see whether he needs emergency care in form of oxygen or some other form or not. But you should not waste time in getting Investigations done . Just refer him to nearest hospital which is equipped with all facilities to manage such cases. The purpose of law is that some immediate urgent care is provided immediately. There have been instances where doctors even refused to see emergency case and patient died outside clinic only.

**Tip no 138– Can a Senior Resident Doctor of a government hospital be arrested in a case of death due to negligence (304 A) even without a medical board enquiry.**

**After arrest police could not file charge sheet due to lack of any medical board enquiry report. Later Medical board of specialists constituted by Government could not find any negligence.**

**Now My question is**

**From where arrested doctor will be discharged, from Court or, Police can discharged him after quashing the FIR.**

**Above which rank Police can Quash FIR of 304A. (ACP/ DCP/SHO)**

*(Asked by Dr. Narender Kumar)*



**Answer-** Now after Jacob Mathew Judgement by Supreme Court, no doctor should be arrested under Section 304 A IPC in case of death due to negligence. He can be arrested only if there is fear that he may run away or destroy evidence. Now even if a doctor is arrested, he is given bail at police station itself. Cases are registered only after a report of medical council or medical board.

In your question, there is no need of discharge from anywhere as police could not file charge sheet. Please remember that police do not have power to quash any FIR, it can be done only by High Court.

Please remember that now the situation has changed, police may register a FIR but arrests are made only after investigations in all cases.

**Tip no 139– I want to know that if patient or his attendants give in writing that they dont want MLC to be registered is it safe for trauma attending surgeon to accept it or not.**

*(Asked by Dr Sonia Kochhar)*

**Answer-** In most of cases , not making MLC on request of patient or his attendants in trauma cases is safe for attending surgeon. But he must use his wisdom if he finds something suspicious. The following cases requires his judgment

1. If injury does not correspond to history and manner of injuries.
2. If injury is sustained by a woman or small child and has some old injuries too. (Caution battered wife / battered child syndrome)
3. If patient is not conscious and in laws insist on not making MLC. Just wait for parents to come.
4. Any unusual activity requiring suspicion to be raised.

**Tip no 140– I am a practising paediatrician. Can a parent with crying child complaining of ear pain walk in as emergency and refuse to pay consultation. What qualifies as emergency under Clinical Establishment Act to be treated as free?**

*(Asked by Dr Ajay Gupta, a paediatrician)*

**Answer-** As per Clinical Establishment Act, emergency is defined as Emergency medical condition: means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) of such a nature that the absence of immediate medical attention could reasonably be expected to result in

- (i) Placing the health of the individual or, with respect to a pregnant women, the health of the woman or her unborn child, in serious jeopardy; or
- (ii) Serious impairment to bodily functions; or
- (iii) Serious dysfunction of any organ or part of a body;

So, a parent with crying child complaining of ear pain is not emergency and he can not refuse to pay.

<http://clinicaestablishments.nic.in/cms/Home.aspx>

**Tip no 141– Is it specified anywhere that we should do free treatment in an emergency? I feel one should not deny the emergency treatment if the patient cannot afford to pay. But if the patient can afford to pay, then we are entitled to collect our fees in fact a little higher as we have rendered the treatment in an emergency situation. Even auto rickshaw drivers charge one and half times after 10 pm in the night, then why not doctors who give treatment in an emergency should not charge and charge more?**

**I do not think it is meant that we should not charge the**

**patients if they come to us in an emergency. It is simply we do not deny the patient the treatment in an emergency even if he cannot afford to pay our fees. Please clarify on this.**

*(Asked By Dr John Ebnezar)*

**Answer-** Yes, it is specified in Clinical Establishments Act that emergency treatment would have to provided free of cost and cannot be charged. It would be grossly unethical if we charge more than required. Conduct of doctors cannot be equated with errant auto- rickshaw drivers who charge more. Even they are punished when caught.

<http://clinicalestablishments.nic.in/cms/Home.aspx>

**Tip no 142– In connection with providing emergency medical service, if a doctor is at home with no facility and a patient comes to him and demands emergency medical care which the doctor is not equipped with, what is the legal situation?**

*(Dr PK Agarwal, Ortho surgeon)*

**Answer-** Please note that as per Clinical Establishment Act, emergency care has to provided at Clinic not at home. If doctor has no clinic at home, he is not bound to provide emergency care as per law. But if doctor has clinic at home, then he is bound.

Medical ethics bound us to help anyone in emergency but do not bind us legally as per law in above circumstances.

**Tip no 143– I am a gynaecologist working in a government hospital, sometimes colony people want my visit at their home for very sick pt even in case of death they want declaration by me what does law say about it. I have no clinic at home**

*(Asked by Dr Kalpana Kumar)*

**Answer-** You are not under any obligation legally to visit sick patients at home as you are government doctor and not allowed to do private practice and you cannot charge also for your visits.

But if you wish, you can go and see sick patient at home and send them to hospital if they require. In cases of death at home, you can say politely that since you are not patient's treating physician so you cannot issue death certificate in that case. Ask relatives to take patient to hospital/ treating physician for death certificate. Govt doctors cannot have clinic at home as they draw non-practicing allowance.

**Tip no 144—I am an orthopaedic surgeon going to start my individual practice, Is there any difference in naming my institute as hospital or clinic? Legally is there any difference between hospital and clinic? Kindly guide me to know the rules and regulations that i need to follow before starting my setup.**

*(Asked by Dr NVSR Krishna)*

**Answer-** Please note that normally in clinics there is no facility of admission of patient while hospital means where patient can be admitted. So, you have to decide what are you planning.

Please note that clinic can be easily registered in shops and Establishments act which is quite simple. For hospital, you have to take licence from local govt body whose regulations are different in different state. So follow rules which are there in your city/state.

**Tip no 145– We have a gynaecologist who completed DGO on deputation by our company 7 years back and till today she doesn't do even basic surgery like LSCS and hysterectomy and based on her qualification she is made the Head of our company hospital.. Is she eligible for that? Can MCI take any action for not giving the OBG service even after having the qualification since 7 years? Please answer**

*(Name withheld of sender)*

**Answer-** Yes, she is eligible to become head of the company. Infact to become head of a company, no qualifications are mandatory. Even if she has no performed any basic surgery like LSCS since last seven years, MCI cannot take any action against her. Infact, MCI has no jurisdiction over hospitals.

**Tip no 146–For death in home, should the treating physician visit the home for declaration & death certificate? Can he say no to the visit & ask the attendants to bring the patient to the clinic?**

*(Asked by Dr N Kanan)*

**Answer-** If you are a treating physician and you get a call that patient has expired, you are under an obligation to visit the home and give death certificate. Please note that there should not be any charges for issuing death certificate. You can refuse to go on home visit only on following grounds

1. Distance is long
2. You are not in position to reach in reasonable time

In such case, you can ask attendants to take patient to nearest hospital along with your prescriptions, so that death certificate can be issued easily.

In no circumstances, you should ask attendants to bring

dead patient to your clinic for death certificate. This is grossly unethical.

**Tip no 147– for any operation in a stable conscious patient under high risk, for the consent part, is it mandatory to have the consent of the one adult relative (age >17) also besides the patient himself?**

*(Asked by Dr Sumant Sinha, Delhi)*

**Answer-** Legally speaking, there is no need for consent of one adult relative in a stable conscious patient who gives consent for high risk surgery. His signature are taken, not for consent but as witness. We need witness from near relative to prove that consent taken from patient was fair, honest and was taken in best interest of patient in case of high risk cases. Please remember, in case of death in such cases, cases are filed by near relatives only.

The purpose of signature of witness is to prove consent of patient only.

**Tip no 148– If I run a clinic in a certain area, while doing the OPD I get a home visit call (within the area of my practice) which i generally refuse**

- 1. Am I bound by any law that I have to visit his house or can I refuse**
- 2. If on Humanitarian grounds of emergency or sick patient I visit and find the person dead, am I bound to issue a death certificate? Kindly advice**

*(Dr Ajay Kumar Gupta, Consultant Physician and Diabetologist Secretary, East Delhi Physicians Association, Delhi)*

**Answer-** If you are running a clinic in a certain area and you get a call for home visit within area of your practice,

you have right to refuse for home visit if the patient has not previously been not under your care as in this case no doctor-patient relationship is there. But if you get a call for a home visit for a patient who is under your care, you should visit the patient. Talk to attendants to know what is status and guide them properly. If emergency is there, ask them to take patient to some hospital urgently.

If on humanitarian grounds, you visit and find patient dead, you can issue death certificate if you are convinced that there is no foul play. If not sure, ask attendants to take patient to some hospital (it will save you from inconvenience of saying “no” for death certificate)

If you are a treating physician and you get a call that patient has expired, you are under an obligation to visit the home and give death certificate. Please note that there should not be any charges for issuing death certificate.

**Tip no 149– A patient sustained fracture forearm bones. Plating and bone grafting was done. Surgeon took grafts from lower end of femur (unusual site). The donor site was not splinted. Proper instructions for non weight bearing were not given. Pt stood on 3rd day, fell. Treating surgeon examined, assured there was no fracture, gave crepe bandage, discharged. Attended with other surgeon, who took x ray and found fracture supra condylar femur from donor site. Is it deficiency in service and liable for CPA case. Pls reply urgently as the case to be discussed in forum today.**

*(Asked by Dr Vijay Verma)*

**Answer-** This is a gross case of negligence and liable for criminal and civil action (Consumer ) on following grounds;

1. The surgeon need to explain why grafts were taken from

- an unusual site ( Lack of reasonable skill)
2. Why donor site was not splinted. (Lack of reasonable skill)
  3. Why proper instructions for non-weight bearing were not given? ( Lack of reasonable care)
  4. Patient suffered damage in form of fracture of femur.

All components of medical negligence stands proved. Doctor is liable as negligence comes in category "GROSS"

**Tip no 150– I have a female patient of 70 years who has to under go hysterectomy for procedentia with cystocele and rectocele. Patient is very much disturbed by her problem and wants surgery desperately. She lives alone only with a maid servant and her children are abroad. The son is not ready to come but is ready to give "online consent by email" only if patient is operated at a hospital of his choice (Hiranandani Hospital Mumbai). This particular hospital has refused to operate the patient. Patient wants surgery at my center and is giving consent but son is refusing to consent for this**

**Tip- Is it enough to take consent of patient in absence of next to kin (she is of sound mind and body)**

**Can the maid be made to sign as a witness Instead of relatives?**

**Can a neighbour (in her case a neighbour who is a lawyer by occupation has come forward to help and take responsibility) be taken as a witness for her surgery?**

**Can the son of patient take me to court for not taking his consent and operating as per the wishes of my patient?**

**Lastly is "online consent of next to kin by an email" a valid entity as per law**



**Can he deny sending this mail at later date and can the court refuse to accept this email as a valid witness**

**N.B. No other available relatives are willing to either consent or sign as witness as they don't want to take responsibility  
Please answer and oblige**

*(Dr Pradeep Saini )*

**Answer-** Please note that in this case, patient is conscious and well oriented, so consent by her is valid in law. Consent of any son or relatives is not required. Anybody can be witness like maid, neighbour or any uninterested person.

Son of her cannot take you in court of law for anything done with patient consent. Nowadays, e mail is legal and so consent given by e mail is legal. Court accept e- mail as legal evidence

**Tip no 151 – I want to know that case admitted in emergency ward after a RTA has to be considered as Medico legal case or not.**

**In our hospital, Medico legal record is done by emergency doctor not by primary consultant. Who will be primary responsible for deciding for medico legal status of case if patient and attendant not willing for medico legal record than what has to be next line of management.**

*(DR G S ASATI, Orthopaedic Surgeon, Bilaspur C.G.)*

**Answer-** Invariably all cases of road traffic accidents should be made MLC with only exception are self accidents, minor injuries where patient is fully conscious and can give in writing that he does not want MLC. Request of attendants should be treated with caution and own judgement should be used. Cases where patient is unconscious and serious, should be made MLC irrespective the wish of relatives or attendants.

Most of hospitals have emergency doctor who makes MLC and keep record, it is OK.

**Tip no 152– As a medical consultant you r asked to see a patient who happens to have consumed some chemical [possibly accidental] while working in a chemical factory, he was unconscious for some time later patient is clinically stable & conscious.**

**As the owner of the factory happens to be the owner of hospital, management do not want u to make it an MLC, what to do ?**

*(Dr Seema Kale MD)*

**Answer-** You should make MLC as this person may later on go for compensation from factory. Worker may give statement to police not to proceed and police would drop the case. But if you do not make MLC, police can take action against you as it is factory hazard and need to be treated as MLC. You can booked for destruction of evidence and criminal conspiracy to shield factory management.

**Tip no 153– As a medical consultant you r asked to see a patient who happens to have consumed some chemical [possibly accidental] while working in a chemical factory, he was unconscious for some time later patient is clinically stable & conscious.**

**As the owner of the factory happens to be the owner of hospital, management do not want u to make it an MLC, what to do ?**

*(Asked by Dr Seema Kale MD)*

**Answer-** (Given by Dr T K Joshi, member of forum)

In this first duty of the employer is to inform the office of the chief inspector of factories in the state. Secondly,

making MLC is all the more important here as a thorough investigation would be needed to find the circumstances and to fix employer negligence. The investigation will focus on if there were similar incidents in the past and to see what preventive and protective measures are in place to protect other workers.

Even if the patient has been stable long term sequel have to be watched. Those who survived Bhopal gas leak later on went to develop bizarre syndromes. Workplace chemical safety is the most critical issue globally and the one quite neglected even in advanced countries. It is only now that United Nations has taken note of it.

*T K Joshi*

**Tip no 154– I am Dr Ravi, Ortho surgeon from Vizag. I am in private practise. One year after surgery patients come accompanied by their lawyer for disability certificate. They are pressurising me to bloat the disability percentage. I have to stage an argument to stay to the book. Can we launch a complaint against them or just remain patient. Please advice.**

*(Asked by Ravi Vattipalli)*

**Answer-** This is commonly happening all over India . Doctors are threatened by patients / lawyers to oblige them illegally. You should resist it and file a complaint against them. In no circumstances, you should bloat the disability percentage. If you do, later in court of law a further medical examination may be ordered and you would be penalised for issuing wrong certificate. You could go to jail or loose medical licence or both. Call police and file complaint.

**Tip no 155– I am Dr Ravi, Ortho surgeon from Vizag. I am in private practise. One year after surgery patients come accompanied by their lawyer for disability certificate. They are pressurising me to bloat the disability percentage. I have to stage an argument to stay to the book. Can we launch a complaint against them or just remain patient. Please advice.**

*(Asked by Ravi Vattipalli)*

**Answer-** (Response from our forum members)

1. for the last 45 years I am issuing disability certificates. this always happen. I have given zero percent disability and still charged my fee. never give wrong certificate. I have now earned a reputation that I am hardly cross examined. I have been asked by the hon high court to give my second opinion and with great difficulty the surgeon could save himself. Always be truthful and honest and this will pay you in long run

*(DR D K Taneja)*

2. Private practitioners are not authorised to issue Disability certificate. At least in Haryana I know of. Pts have to appear before a board of doctored in Civil Surgeon's office and they issue a disability certificate which is valid for all claims.

Private Doctors should tell this to pts and refer them to civil Surgeon. This saves the doctor from most problems.

*Dr Rajiv*

3. Disability certificate is to be issued by CMO/ Civil Surgeon/ Disability Board of District Hospital.

*Dr S Y Kothari. Retd Spl DGHS, Govt of India.*

**Tip no 156– I am an orthopaedic Surgeon ( MS Orth. in 1967). Over last half a century, there has been sea change in all branches of medicine, but our teaching has stagnated. Even today, a fresh graduate (MBBS) has not learnt to splint a fracture. In most of developed world, it is mandatory for all health workers including ambulance attendants to learn all emergency medicine which includes intubation of trachea to maintain an airway. India, what can we, the general public, the courts & authorities expect a doctor to render. The courts or maybe be MCI must insist on teaching emergency medicine as a separate subject. Periodic updates of knowledge should be a must. Your comments please.**

*(Asked by Dr. Bal Krishan Sud)*

**Answer-** You are perfectly right as we have stagnated in up gradation of curriculum in medical education. Since last 6 years, I am observing that MCI has still not cleared their upgraded medical curriculum for MBBS and MD. It is not a priority for MCI which is now known for its corrupt practices rather than positive contribution. MCI whose main work should be to keep medical education updated is headed by politician doctors rather than academicians. Sorry state of affairs.

A lot has changed since last 10 years in emergency medicine, medico-legal matters and practically everywhere and we are teaching same old curriculum to MBBS and MD students. Numerous letters to ministry and MCI have been posted but great slumber is continuing.

**Tip no 157– We had a MLC patient in our ICU brought by PCR a suspected case of unknown poisoning, a day after patient awake and tried to run away but guards and policeman stopped him, brought back to ICU. policeman asked him his address and contact details,**

than his attendant came and wanted him to take away. we took their consent for LAMA, informed to policeman at hospital and CMO too. a day after our consultant says that fill up form that patient left the hospital without permission and inform to S.H.O. and CMO. Is there any need of it, as we already have written LAMA consent and informed to police? HOW a patient can run away from ICU where 24 hours monitoring is there and security guard is there? Kindly explain difference between LAMA and abscond. Thanks

*(Asked by Dr Nadeem Akhtar)*

**Answer-** Please note that a patient has right to desert hospital anytime and also has a right to refuse treatment and ask for discharge at any time of treatment. If patient is not conscious, these rights can be exercised by next of kin.

We deal with following situations

1. Patient has absconded- Just inform police and give particulars. We need not worry further.
2. LAMA/ discharge on request- if patient wants to go, get his signature on case sheet that he does not want treatment further. If patient is not conscious, ask next of kin to do it. Add further line "Patient is discharged on request, all consequences explained". Preferably get this in local vernacular language. No need to inform police at any stage.

**Tip no 158– Is it mandatory to seek prior permission or information to police before MLC patient is discharged.**

*(Asked by Dr Kamal Parwal)*

**Answer-** No permission is required nor information given to police when MLC patient is discharged . Only information to police is required while making MLC. Then it is their job to investigate

**Tip no 159– Please let me know the following : There are some doctors who give their names to unqualified doctors, to write their name on letter pad and board. They do not see the patients at unqualified doctor clinic, however the unqualified practises in their name.**

Is it legally Ok and what are the implications.

*(Asked by Dr Kailash Nath Gupta)*

**Answer-** This amounts to promotion of quackery, impersonation and fraud. This is punishable by criminal law. The doctor who allows using his name to be used by unqualified person along with that does it can be arrested and send to jail.

Even medical council can take action and remove doctor's name from membership. Sadly this practice is seen in small towns and is condemnable.

**Tip no 160– We had a full term pregnant lady in labour pain and gynaecologist who was on call didn't attend the case even after informing, resulting in cervical tear and even then she didn't attend. Asked the nursing staff and got it sutured. Is it medical negligence? If so, where and how to go further to punish her and what is the punishment for it? Please answer.**

**Answer-** It is a case of gross negligence. First she neglected her duty which caused damage and then she asked unqualified person to get cervical tear sutured. She can be booked for medical negligence. A criminal case can be made against her along with compensation in civil / consumer court. Her medical licence can also be terminated.

**Tip no 161–** I am a gynecologist. I had done caesarian for a patient i/v/o previous 2 caesarians. Preop, intaop and immediate postop uneventful. She had moderate atonic PPH after 3 hours with tachycardia and hypotension, managed successfully. Patient stable for next 6 hrs with normal vitals. Then again an episode of severe PPH managed with oxytocics. But vitals still not stable and she needed massive blood transfusion. If arranged fm outside, it would have taken time. I referred her to a nearby government hospital, she was given emergency treatment, was told to shift to other hospital as she needed ventilator. After confirming the availability of ventilator in another govt hosp, she was transferred there in a cardiac ambulance equipped with ventilator. There she was refused admission and was kept waiting in the ambulance for nearly 3 hrs. Then she was told, she should go to other hospital as she might need dialysis. Sir, there was enough urine output (1100 ml in 12 hrs) and her urea n creatinine were normal. Then she was taken to a pvt hospital and there she expired after sometime.

*(Name withheld to protect identity)*

**Answer-** Please note that this is your version and cannot be taken as such. Patient's next of kin version is also to be counted.

Patient relatives may or may not raise issue of medical negligence; it all depends on her next of kin.

Your conduct would be scrutinised by peer review in medical council or board of doctors if patient's next of kin files a complaint against you to hold you criminally responsible. In consumer court, they can also file case.

You may have to fight hard in medical council on following issues

1. Why blood was not arranged in advance.



2. Why you have not talked to govt hospital for admission, you just cannot refer the patient to absolve your duty.
3. Other allegations of neglect care, failure to provide good skills, hospital issues etc etc may be there.

**Tip no 162– Reference previous query, I want to clarify few points here in this case if LSCS**

1. **Should blood be arranged in every routine surgery, even if no massive bleeding is expected in routine cases?**
2. **Here Patient was shifted to second Govt hospital after confirmation of ventilator verbally, but it was refused on arrival of patient, what the referring doctor should do & Why he should be blamed.**

**More over in our system Govt hospitals do not accept the serious patients especially postoperative referred from private sector; what to do.**

*(Asked by Dr V K Goyal)*

**Answer-** Every surgeon should arrange for blood where there may be a chance of bleed especially LSCS which is known to cause PPH. As per Supreme court judgement, all medical Supdts should be in consultation of each other so that patient may be transferred to govt hospital from private hospital but it is not happening. Govt hospitals in Delhi invariably refuse to accept patient from private hospital stating unofficially that they are not dump yard for private hospitals that after extracting full money from patients dump them when they are unable to pay.

As a matter of policy, all private hospitals should be in contact with nearest govt hospital for transfer of patients. Private hospitals are liable till patient is admitted in govt hospital.

Private hospital/ Nursing home associations should talk to health Minister / secretary about it.

### **Some Responses from group member**

1. The more I read in your forum, the more I understand that the practise of medicine is becoming dangerous for doctors mainly due to lack of a comprehensive health policy and lack of clear guidelines. It seemed that when Dr. Harshvardhan took over as minister, our answers might be answered. But unfortunately he did not last long. The indifference in dealing with H1N1 is also worrying. It seems that health care policy making is the last thing on any government's mind. Before regulating private practice, maybe government must do an honest and accountable audit of its facilities. Private practice is booming due to pathetic government health care. Why is it so hard to understand?

*(Sent by Dr K S Ragheendra)*

2. This is the story ever where. it is true to some extent. Full fees are taken by pvt doctor and when there is no money with the patients then they are referred to govt hospital. Govt hospital are always over loaded and consultant rightly feel that pvt doctors treat them as dumping ground. secondly pvt hospital don't like deaths in their hospital. because it invariably annoys the relative. This is one reason that pvt doctors immediately want to transfer serious patient to Govt hospital. I have worked in Govt hospital for 35 years and now in private hospital for 10 years. I know both sides of the coin. i sincerely believe that if we have taken the patient under our care we should take full responsibility till he is fully cured. in between if you need second opinion do take and have no hesitations

*(Sent by Dr D K Taneja)*

3. What i realize that one should not operate. That is the

best policy! I am also a practitioner and i understand what might have the state of affairs for the surgeon. Out problem in this country, we have no sound health care system and yet you have to provide the care. In case you stuck up, you have your days.

*(Sent by Dr Jayanta Laik)*

**Tip no 163– In MLC cases, when the court issues summons who pays for TA/DA when the concerned doctor has moved out of state to a far away place (>2000km away)**

*(Asked by Dr. Krishna)*

**Answer-** Ideally, the payment should be done either

1. From the court
2. From the employer when court gives nothing paid certificate.

But in realty situation is different , most of time court does not pay if doctor is employed, they ask to take it from employer. In some cases, employer does not give if the doctor has changed job and case belongs to previous employment. Private medical colleges or employer do not pay at all. They are even reluctant to give leave and doctor has to forego his leaves.

If you are not working , court pays but pittance . It will give you train fare / bus fare but not according to your status. They would give you cheapest fair. Hotel bills are generally not paid.

For this reason, many govt doctors stops doing active medico-legal 3-4 years before retirement.

**Tip no 164– In MLC Cases, please explain**

1. How many days hospital should preserve the Radiology Films? There is no specific GR or Guideline
2. If the patient is paying cash / insurance and requests the Radiology Films should the hospital give or not
3. Additionally other documents like lab reports and discharge summary should be given in original or not.

*(Asked by Dr Chandrakant Bhosale)*

**Answer-** As per DGHS order ( Ministry of Health)

1. All MLC and Non-MLC records should be kept for 10 years.
2. Radiology films should be given to patient if he is ready to pay. MLC films can not be given without permission from court/ police
3. Discharge summary must be given in original to patient. All lab reports must be mentioned in discharge summary else give a copy to patient.

**Tip no 165– Patient had firearm injury on right shoulder. entry wound on anterior aspect of shoulder and bullet near ribs. No fracture and dislocation and no neurovascular injury. Shoulder movements normal. General condition is stable. Only muscle and soft tissue injury is there.**

1. This is grievous or simple injury.
2. Is this dangerous to life.

*(Asked by Dr Radhey Shyam)*

**Answer-** Please note that this is case of fire-arm injury (Fire-arm is classified as dangerous weapon in law)

Since bullet has penetrated chest wall and is lying near ribs

and has penetrated through muscles, it is grievous injury as if not treated, it would cause restriction in movement of shoulder joint and cause permanent loss of power of shoulder joint.

Injury does not appear to be dangerous to if vitals are stable.

**Tip no 166- These days all consultants on their website advertise that they are the best or give information which is not authentic are there any guidelines.**

**Are there any legal liabilities for such information?**

*(Asked by Dr Tarun Grover, Senior Consultant, Division of vascular and endovascular Sciences Medanta The Medicity, Gurgaon)*

**Answer-** Yes, it is noticed that many consultants advertise themselves on their website by self-glorification and achievements which are not true. It is unethical as information is alluring patients.

In some websites, information loaded is taken from unreliable sources like Wikipedia etc which may be wrong.

The consultants are fully responsible for information provided on their website and can be taken to court as per IT Act. Patient can sue for allurements and mis-information too.

**Tip no 167- I am an ortho surgeon working in J & K Health services. We have to use xylocaine local anaesthesia in a lot of patients. Also dental surgeons & eye surgeons use xylocaine local anaesthesia frequently. No qualified anaesthetist is usually available at the time. What is Medico-legal liability of this practice in case of any**

**complications like hypersensitivity or toxicity or maybe even death.**

*(Asked by Dr Nisar Ahmed Dar, Orthopaedic Surgeon, District Hospital Baramulla, J & K 193101)*

**Answer-** This is commonly seen in small places that anaesthesia is administered by surgeon themselves as anaesthetist is not available. This practice can lend surgeons in trouble as they are not qualified in anaesthesia. I have dealt 6 cases like that. It can only be done in emergency, not in routine surgery.

Some anaesthetists also do not go to small cities as their work is done by surgeons themselves. Some surgeons do this practice as they do not want share revenues with anaesthetist.

Some local anaesthesia practice still can be explained by dentists and eye surgeons but I have seen GA being given by surgeons which is un-acceptable.

**Tip no 168- As an extension to question on local anaesthesia pl clarify. I am an Orthopaedic Surgeon practicing in a corporate hospital. We do have anaesthetists but we are under the impression that we are legally qualified to give local anaesthesia and likewise carry out many small procedures under that. Are we not supposed to do that?**

*(Asked by Dr Sudhir Reddy MBBS (AIIMS), MS Orth (AIIMS), MCh Orth, FRCS, FRCS Orth Hyderabad)*

**Answer-** Local anaesthesia is widely used in medical practice by doctors without involvement of anaesthetist but it carries risk. If some complication occurs like nerve damage, doctor can be in soup as court will ask why you have not taken help from anaesthetist. Some doctors are trained in LA like dentists, eye surgeons etc but in corporate hospitals where patient is paying through nose, it is better

to involve anaesthesia department. If not directly present, they can be on call and render assistance in need. In govt setup, doctors should give LA only when they are covered by anaesthesia department in hospital as they can be called when needed in case of complications. Always remember, if procedure is success , no complaint but if some problem like nerve damage is there , doctor need to explain. In some cases, xylocaine enter the circulation and may cause severe complications so anaesthetist must be available on call.

In no circumstances, surgeons should give GA or epidural anaesthesia.

**Tip no 169- There is a debate going on in the news paper & internet regarding general surgeon that he can not perform Hysterectomy or LSCS. What is your opinion in this matter?**

*(Asked by Dr. Manoj Garg, Morena, M.P.)*

**Answer-** There is no doubt that a general surgeon is competent to do hysterectomy or LSCS but it should be done only in case of emergency. I have observed that many surgeons are routinely doing LSCS at many nursing homes / hospitals especially in small cities. Many such surgeons are doing these practices while assisting their wives in maternity nursing home and some have no other surgical practice except LSCS routinely.

In case of negligence, court will take a serious note of that as this practice is unusual for a general surgeon as they have not been trained in performing LSCS in course curriculum. Only justification is emergency when obstetrician is not available.

**Tip no 170- What should to do if a unknown patient comes in emergency of a medical college with operative extradural haemorrhage and neurosurgeon is not available or on leave? As a general surgeon I should operate that case or not? How to proceed in such cases?**

*(Dr Amandeep Singh, Faridkot, Punjab)*

**Answer-** Please note that a medical college is a tertiary care hospital and it should have neuro-surgery department. How is that possible that there is no neurosurgery cover 24 hours, it shows failure of administration. In such a case, you should not take onus of responsibility of others on yourself.

Bring it to knowledge of Principal/ Medical Supdt of absence of neuro-surgeon. Refer the case to other tertiary care hospital if patient is not serious and can be shifted. If there is emergency, you can operate and do what is best for patient. Put reasons of operation in case sheet and get it approved by Medical Supdt as early as possible to save yourself from future litigation.

**Tip no 171- Some days ago I posted a question in this forum: "Am I within my legal right to install a CCTV in my clinic and patients' waiting area? I have displayed the information-notice Prominently in both areas stating clearly that the pictures will not be made public except under explicit legal directive."**

**I shall be grateful for feed advice/feedback.**

*(Asked by Dr Alok Raychaudhuri)*

**Answer-** You are perfectly right in installing CCTV in your clinic. You can put one at entrance, patient waiting area and in other areas where you need surveillance. It is good that you have put notice too as it would help you in case of



patient/relative makes any nuisance as footage can be used against them.

The following areas cannot be covered by CCTV as it is against law of privacy

1. Patient Examination area
2. Wash rooms
3. Patient changing room
4. Staff changing room
5. OTs and other treatment room (Special consent required if you want to do it.)

**Tip no 172- All other rights are OK but can you elaborate on the choice to change the doctor. I mean there are many ways a disease can be managed and all needs sometime before producing the results. What if the patient changes the doctor, don't listen to the primary doctor advice and lands on an expected complication due to the treatment of the primary doctor. Who is responsible then?**

**Like I have done plating for a fracture which looks good in x-ray but actually fixation is not that good due to poor bone quality. I advised the patient to not walk. After 4 months patient lost to follow up, gone to somebody else who can look at x-ray only. Now he tells partial weight bearing. But patient end up with plate coming out and re-fracture. Now it's whose responsibility?**

*(Asked by Dr Sudhir Mahapatra)*

**Answer-** Patient has a right to change doctor any stage of treatment and he himself is responsible for damages if it occurs. For safety, doctor should document this properly in records so that it can be shown to court that patient is himself responsible for damages. In case of MLC, inform police if patient abscond during treatment.

**Tip no 173-** In Anuradha Saha case post-mortem was not done but still court convicted doctors. So in medical negligence cases in which death occurs and attendants disposed body by cremation and later come to know that death is due to medical negligence. In such cases can criminal case be filed against doctor and will charge sheet be filed in court.

*(Asked by Dr Ashwiman)*

**Answer-** Please note that in case of Anuradha Saha , doctors were not found guilty of criminal negligence but compensation was awarded.

It is not necessary that post-mortem must be done to prove case of criminal / civil negligence. If evidence in form of clinical case sheet/ record is there, doctors can be prosecuted criminally.

Civil compensation can be awarded without criminal negligence also.

**Tip no 174-** Can you enlighten us with your opinion on-

**What a Doctor (Non Surgeon/ Non Cardio) only doing OPD practice, should do in the following scenarios; In other words tell us what should be a reasonable first aid given in:**

1. A roadside accident case brought with big serious wounds and bleeding?
2. A patient brought dead who has never been seen before? Either foul play suspected and no foul play suspected
3. A manageable wound but injury arising from a scuffle or inflicted by someone else.
4. A patient brought with nausea vomiting and poisoning is suspected by me in OPD !

**What and how much i should be doing? Can i just refuse to deal with them?**

*(Asked by Dr R K Lalwani (Delhi)*

**Answer-** Doctor who is a simple physician (Non-cardiologist) and doing only OPD practice should handle situations in following manner

**Situation no 1-** A roadside accident case brought with big serious wounds and bleeding?

Try to stop bleeding, do whatever you can to stabilize the patient and call for ambulance and shift the patient to nearest trauma centre/ govt hospital or ask relatives and suggest good hospital.

Situation no 2- A patient brought dead who has never been seen before? Either Foul Play suspected and No Foul Play suspected

Simply call police and inform, ask relatives to wait till police comes. Make a entry in your register. Handover the body to police.

**Situation no 3-** A manageable wound but Injury arising from a scuffle or inflicted by someone else.

**Treat the injury, make MLC or inform police.**

**Situation no 4-** A patient brought with nausea vomiting and Poisoning is suspected by me in OPD !

What and How Much I should be doing ? Can I just refuse to deal with them?

Make gastric lavage, preserve sample, make MLC and inform police. Treat the emergency, stabilize the patient. In no condition, you can refuse to treat.

**Tip no 175- I am an orthopedic surgeon working in civil hospital Rajpura.**

**My questions are-**

- 1. Is it legal for me, as an orthopedic surgeon, to do reporting of xray which are requested for medico legal cases.**
- 2. Is it mandatory for a radiologist to do reporting. Can an orthopedic surgeon working in the same hospital do reporting of xrays.**
- 3. Can any medical officer who is doing other medico legal work like preparing MLC and doing post mortem etc do reporting of xray.**
- 4. Can the medical officer who has prepared medico legal report of a case do the xray reporting also.**
- 5. Sometimes hairline fracture do not show up in the manual xray done inside the civil hospital. They are reported as normal with no bony injury. When the patient gets a digital x ray or CT SCAN done from outside they show hairline fracture. What should be done for these cases.**

*(Asked by Dr Jaspreet Singh, Civil Hospital Rajpura)*

**Answer-** Reporting of x-rays in MLC cases must be done only by a radiologist; this is as per Supreme Court Judgement. Other doctors should not do it. Ortho surgeons can see the film and do the treatment as per their clinical criteria. Nowadays, digital x-ray machines are being installed everywhere, so missing of hairline fracture is less. If you suspecting hairline fracture, refer for CT scan or other centre where digital x-ray machine is there

**Tip no 176- Please educate me about accident register case if we don't done MLC but we entered in accident register after how many days we will do it as MLC and report to police**

*(Asked by Dr Ravindra)*

**Answer-** It has been observed that some doctors entertain accident cases but do not make it MLC but these cases are entered in accident register. These cases are not reported to police or reported quite late.

This practice is wrong and can lead doctor in problem. Police should be informed at earliest and cases be labelled as MLC at earliest

**Tip no 177- I have two queries.**

**1. If a case has been made MLC in one of the hospital, n then the same case was referred to higher centre for further management or so, then do the treating doctor in the second hospital has to give injury certificate or if he gives feedback report (without mentioning the opinion part) to the primary doctor is sufficient ? Or is it necessary that he has to give opinion also?**

**2. If a case was not made MLC in any hospital or its status was not known by the attenders then can a doctor in hospital where patient is taking treatment make it MLC?**

*(Asked by Dr Dileep Kumar. R)*

**Answer-** If a case has already been made MLC at one hospital and then referred to another hospital for management , another hospital need not make fresh Medico-legal report but treat case as MLC. Injury report can be given by first doctor or second doctor. Usually first attending doctor gives report but second doctor 's opinion can also be sought by police.

If a case has not been made MLC at first hospital, it can easily be converted into MLC at referred centre if case so warrants.

**Tip no 178- I m a practising ortho surgeon with indoor setup. I have following queries**

- 1. Is it mandatory for me to make MLR, if patient wants, or i can give first aid, stabilise him if needed and can refer him to govt hospital/ pvt setup of his choice for further treatment and medico-legal formalities?**
- 2. Can we charge for making MLR?**
- 3. if yes, is there any prescribed fee,or we can charge as per case?**
- 4. is it necessary for all MLC cases to be admitted, otherwise how to keep record, required to be produced later?**
- 5. What if pt. refuses admission?**

**Problem is when some RTA comes, with trivial injuries, wants MLR, but refuses/does not require for admission, and since there is nothing much, you end up getting just one consultation fee with obligation to attend court, maintain records; sometimes there is operative indication and as you finish making MLR get Xray done, tell him, patient refuses to get admitted and goes somewhere else.**

**These are common queries of my fellow surgeons as well, I shall be glad if u can please throw some light.**

*(Asked by Dr Rajeev Mittal, MS(orth) FARIDABAD)*

**Answer-** You have to make all cases MLC if they deserve to be treated as MLC. If you don't maintain MLC register, simply note down all details and retain a copy of treatment to be given to police. Copy of treatment must contain all

injuries. Then you can refer the case to other hospital. You cannot charge for making a case as MLC. It is not necessary to admit all patients which are made MLC. Patient has right of refusal.

In case of trivial injuries and non-admission, you can just write treatment and a copy of treatment can be given to police.

Maintaining records, going to court and information to police is part of profession and has to be done voluntarily and cheerfully (as No choice is there). It is statutory requirement.

**Tip no 179- In case of an emergency - like abruption placenta, where the pregnant woman presents to an independent ultrasound clinic or a hospital emergency room, can the radiologist - as a primary doctor - self refer the patient for ultrasound? This has become an issue under the new PCPNDT guidelines which have made referral for ultrasound by a doctor to be mandatory.**

*(Asked by Dr. Vijay Sadasivam, MBBS, DMRD, DipNB. Head, Department of Radiology. Pratheep Radiodiagnostics & SKS Hospital, Alagapuram, Salem-636004, Tamil Nadu)*

**Answer-** Please note that radiologist is not a primary physician, it would be rare for a woman in emergency to come to radiologist knowing that he is a radiologist. Most of time, she would go to emergency room where a physician or surgeon would be in charge and he can refer to radiologist for ultrasound.

Self referral is always viewed as suspicious and can be justified only in rare emergency. Radiologist should avoid self referral or to other radiologist unless reasonably justified.

**Tip no 180-** The Indian judiciary system awards compensation based on the earning power of the affected (In cases of medical negligence it may be the earning capacity of the patient). So, in such a scenario, does the doctor have the right to choose only those patients whom if required in the rarest of rare cases, he will be able to pay the compensation if such an instance occurs. In other words, does a doctor have the right to deny treatment to patients whose medical compensation (in the rarest of rare circumstances) he will not be able to pay? I know that medical indemnity insurance is a simple choice here but does the doctor have the right to choose his patients and also medical indemnity insurance has a fixed amount with clauses attached. Recently courts have awarded enormous compensation in medico legal cases which are beyond the regular medical indemnity insurance eg. the recent Kolkata case.

*(Asked by Dr. Gyanshankar Mishra)*

**Answer-** Yes, doctors have also right to choose patient except in following circumstances

1. In case of emergency, we cannot refuse to treat
2. In case of mass disaster, govt can order us to do service
3. Court order

Except above, you can very well refuse to treat a patient and you need not give any reason too. It is in your right.

**Tip no 181-** A patient of organo phosphorus poisoning was admitted to our hospital ICU. We informed the police about the case., Died on second day, the body was handed over to the police after completing all formalities. Are we supposed to inform the Civil Surgeon about admission



**of such a case? We got a phone call from the Asstt Civil Surgeon objecting why the CS was not informed. It was a high profile case.**

*(Sent by Dr B S Sidhu)*

**Answer-** Please note that civil surgeon is empowered to issue directions to all doctors working in district which need to be followed. Please check whether there is some circular or not about information regarding deaths due to organo phosphorous compounds. Some states need this information as farmers commit suicide by this way in large numbers by consuming organo phosphorous compound. This information may used in sale and control of these substances and in demography of poisoning.

If there is no circular, you can write to civil surgeon about it.

**Tip no 182- I am an Arthroscopy surgeon. Lot of patients demand an animation or arthroscopy operative video (not revealing patient's identity) to be seen to get convinced for surgery for their joint problems. For such reasons I had previously posted few Arthroscopy operative videos only mentioning the diagnosis and my name in the video (to prove that it had been done by me) for public education and awareness. Is it justified to post such videos without revealing patient's identity?? I'll send a link of you tube video to you sir for the same.**

*(Sent by Dr Tanmay Chaudhary Indore)*

**Answer-** There is no illegality in recording and giving video to patient of procedure happened on him. Even identity of patient can be disclosed with prior permission.

Problem is only when they are loaded on social media sites even with patient's permission. It may amount to self

–advertisement and self appraisal. Now a lot of doctors mostly laparoscopic surgeons and robotic surgeons are doing it. Till now MCI has not taken any cognisance of it. Advertisement of doctors and their services are regulated by MCI ethics. Last year many hospitals were asked to apologise and withdraw their advertisements.

**Tip no 183- In a unit system, where 3-4 surgeons are working, we know that in view of Vicarious responsibility, unit chief is responsible for all the actions of his assistants. However kindly clarify two issues.**

1. What is the responsibility of the assistants in case of a negligence by the chief a) when they are assisting the surgery, b) when they have not assisted the surgery, but simply a part of team with regards to decisions taken.
2. If one of the assistant has good experience and has special training in one of the sub-specialities and wants to independently develop the same, what is the responsibility of unit chief in such a scenario?

*(Asked By Dr Janardhana Aithala)*

**Answer-** Please remember that in vicarious responsibility, the responsibility goes upward only, So if chief makes a mistake, he alone is responsible but not his assistants. Assistants who are not assisting directly are not responsible at all.

If one of assistant wants to develop sub-speciality independently, he can do it after taking permission from chief and Medical Supdt/ Director/ ethics committee. In such scenario, chief will not be vicarious responsible but head of the institution (Medical Supdt/ Director) would be.

**Tip no 184- I am an orthopaedic surgeon. I treat MLC cases. Can I deny giving disability certificates to the patients whom I have treated. Is there any law that, only the orthopaedic surgeon who has treated the patient should give disability certificate?**

*(Asked by Dr. Babu Hundekar Hubli)*

**Answer-** Different states have different procedures for issuing disability certificate. Most of states, orthopedicians give disability certificate. Please check what are the rules of your state and follow them.

**Tip no 185- Can doctors engaged in private practice issue disability certificates? is it not the right of doctors in govt. hospitals only?**

*(Asked by De Alok Raychaudhuri)*

**Answer-** Doctors engaged in private practice can issue disability certificate. Such certificates are accepted by courts. But when government gives compensation or jobs or relief on basis of disability, it insist that certificate is issued by a board of doctors from a govt hospital.

**Tip no 186- I am a senior dermatologist from Pune and president of Association of hair restoration surgeons, India. I will be grateful if you could answer few queries which are raised by my colleagues -**

- 1) All over India many doctors, especially skin specialists, plastic surgeons and many have been doing Hair transplant surgery. Off late, one of the documents of MCI mentioned that only plastic surgeons are eligible for hair transplant surgery. All associations in India, Asia and International society have maximum strength of dermatologists as their members. Kindly enlighten me on this.

- 2) The MCI does not allow the Allopaths to advertise the individual doctors about their skills and the services provided like Hair transplants, Lasers, Liposuction, just to name few. As opposed to this, the non Allopaths advertise in the news papers and in electronic media. Most of them have entered the field of cosmetology and due to the advertisements they are enjoying the advantage of their popularity over allopaths. Please elaborate on the same.

*(Asked by Dr Narendra Patwardhan Pune)*

**Answer-** My reply is as follows-

1. It is strange to know that some document of MCI says that only plastic surgeons are eligible for hair transplant surgery. I am not aware of this, can you give me a copy. If it is there, it needs to be contested by associations of dermatologists. Majority of hair transplant in India is done by dermatologists only. Strangely, hair transplant surgery in India is not regulated. Even quacks are doing it. There is no regulation; even non-medical persons are doing it.
2. It is ironical that MCI has control over us but not on quacks or ayush practitioners. So, there is mushrooming of hair transplant clinic run by non-doctors. MCI has no control over non-doctors clinic who can advertise freely.
3. This issue can be solved by petition filed by associations of dermatologist to MCI and finally to court. Association should call a meeting and issue guidelines on hair transplant surgery after approving it from members.

**Tip no 187-** Please let me know legally, whether an specialist doctor having diploma or postgraduate degree of different discipline like Radiology, Pathology, Gyne,

**Orthopaedics etc can do general causality emergency duty and attend all cases, other than their own disciplines in shift duty.**

*(Asked by Dr. J Patel, Orthopaedic Surgeon, Central Hospital, Dhanbad)*

**Answer-** Yes, an specialist doctor having diploma or postgraduate degree of different discipline like Radiology, Pathology, Gyne, Orthopaedics etc can do general causality emergency duty and attend all cases, other than their own disciplines in shift duty. For doing emergency duty, only qualification is MBBS. But he should not do skill where he is not trained and refer the case to concerned specialist for further management after stabilization of patient.

**Tip no 188- Is it mandatory to give original discharge card and indoor file to the patient for mediclaim insurance in MLC cases. We give the certified copies of the same and store the original discharge card but many patients come back asking for original discharge card. What is the right method legally?**

*(Asked by Dr Ashish Deo Aayush hospital, Vapi, Gujarat)*

**Answer-** Patient need to be given original discharge summary or card, it is his right. You can give a copy of file if demanded, original must be stored by you.

**Tip no 189- I am running a small nursing home as a single proprietor of the nursing home.**

**I am having Professional Insurance for myself. I am an Orthopedic Surgeon with M.S.[ortho].**

**Now my son also an orthopedic surgeon[M.S ortho.] has joined me in my practice and is being given a SALARY for his services.**

**Now do I get him an insurance in individual capacity or get my nursing home insured.**

**If I get the nursing home insured do I need getting myself insured separately?**

**Answer-** You should take insurance for your nursing home too. Your insurance is not applicable for claims against nursing home. Recommended is atleast 40 -60 lakhs.

You should ask your son also to take separate insurance as he may work in other places too but if he is working on salary basis in your nursing home, he need not take separate insurance as he would be covered in nursing home insurance.

**Tip no 190- Please Clarify**

**1. Can a Doctor with only M.B.B.S. degree write Consultant Cardiologist with his name and practice as Cardiologist?**

**2. Can he perform ECHO test and give report ?**

**3. Can he apply Temporary and Permanent Pace Maker to patient?**

**Please clarify medico-legally.**

*(Asked by Dr Rajeev Kumar)*

**Answer-** Absolutely not. MBBS doctor cannot write himself as consultant cardiologist, cannot perform ECHO test and give report and apply pacemaker. MCI and courts are very strict in these matters and doctor can land up in serious soup in case of negligence

**Tip no 191- In govt hospitals a ortho dr is posted in Radiotherapy or mbbs dr is posted in neurosurgery or a physician is posted in cardiology and in all these instances the if department is not having any single qualified doctor**

**of that speciality, these posted Drs can impart the services to patients in that wards? What are liabilities of doctors and HODs and government. Please clarify.**

*(Asked by K Ramkumar Reddy)*

**Answer-** Yes it is true that in govt hospitals, doctors of diverse specialties are posted in one department. Strange are the ways of govt. These doctors do only work of a MBBS doctor as they are trained in other speciality. Govt and HODs are fully liable for mistakes when these doctors do skills where they are not trained. All such doctors should write to govt about wastage of their talent and should fight after forming an association which can agitate and fight for them legally. Last option is to file writ petition.

**Tip no 192- Can a quack practice modern medicine? MBBS can't practice cardiology, but an LLB can practice in the Supreme Court. MS can't practice neurosurgery, MD can't practice cardiology even after training. These rules are made by doctors who are their worst enemies. In India quacks don't follow any rules and the law had taken its course. An honest qualified doctor who saves lives 90 out of 100 times, but his qualification is checked for remaining 10 who died because of illness. There is nothing against this forum but I have observed you have discouraged doctors to utilize his capabilities. Dr R K Tiwari MS( Surgery) New Delhi**

**Answer-** I have never discouraged doctors in this forum to utilize their capabilities. I just wanted that before doing so , they should understand where they stand . Ignorance of law cannot be taken as plea in court. So many doctors have gone to jail as they did not know that what they are doing is contrary to medical practice/ law.

Knowledge about medical law helps in discharge of safe medical practice. Prevention is best cure.

**Tip no 193- Doctors work in corporate \ Govt Hospital \ medical college hospital in initial few yrs & then start practice .**

**He relieves summon to attend court regarding case treated by him in past .**

**At times Medical record is lost \ not traceable in Institute**

**How to proceed in court ?**

*(Asked by Dr Joshi)*

**Answer-** There is nothing to worry if record is not available at institute where you have worked. The court must have some documents where your signatures would be there. You are required to prove that document. You have been summoned to do that only.

Record keeping is primarily responsibility of institution, not yours. Let the institute defend its position on its own in court of law.

**Tip no 194- I am a qualified Orthopaedic Surgeon with D.Ortho and DNB Degree. I have been performing specialised surgeries like Total Knee Arthroplasty. I need to know if one needs an exclusive training in Arthroplasty to perform like Fellowship/Training in abroad? Is an Indian Fellowship acceptable in consumer court?**

*(Asked by - Dr. C. Raja Ravi Varma)*

*M.B.B.S, D.N.B Ortho, D. Ortho, Sr. Deputy Chief Medical Officer, Consultant Orthopaedic Surgeon & HOD, Dept. of Orthopaedics, Chennai Port Trust Hospital. President, Tamilnadu Orthopaedic Association*



**Answer** – Since you are doing very specialised surgeries like Total Knee arthroplasty, it would be highly desirable that you do fellowship from recognised Indian institution or obtain recognised foreign fellowship. It would add credentials to your academic achievements and will immensely helpful in cases of medical negligence.

Fellowship done from recognised Indian institution carry same prestige as from foreign country and is acceptable in any court of India.

**Tip no 195- If an orthopaedic surgeon (ms ortho), performs surgery on a pt.who was ambulatory pre op, but becomes paraplegic post op. Can he be punished in the court or not (as becoming paraplegic is one of the known complications in such surgeries)?**

*(Askey by Dr Sunil, Delhi)*

**Answer-** In response to above question, I am enclosing one case study done by our senior Panel Lawyer

**MARCH 2015**

**Treatment as per Standard Protocol is Not Negligence**

**CASE STUDY - by Anoop K. Kaushal**

**Senior Panel Lawyer for Supreme Medico-legal  
Protection Services , New Delhi**

**Case- M/s. Handa Nursing Home v. Ram Kali**

**<http://lawyersupdate.co.in/LU/2/1804.asp>**

Revision Petition No. 3932 of 2012, decided on 30-1-2015 by the Hon'ble National Consumer Disputes Redressal Commission, New Delhi.

**Facts:** On 13-3-2006, the complainant- Ramkali felt some pain in the right side of her abdomen, was referred for ultrasound. On seeing the ultrasound report, Dr. A.K. Handa diagnosed it as right ureteral stone, advised operation through Laser Technology. On 14-3-2006, she was operated upon and was discharged on 15-3-2006.

Though the complainant was suffering from pain but Dr. Handa informed the family members of the complainant that the operation had been successful, and the stone had been broken and DJ Stent had been inserted which was to be removed after one week and the complainant could be taken home. After one week *i.e.* 24-3-2006, the stent was removed, yet the complainant kept complaining of pain and temperature; was re-admitted on 2-4-2006. Once again the stent was inserted in the right side of the abdomen and she was discharged on 3-4-2006. The stent was removed after 10 days and on 19-4-2006, medicines were changed but despite this, the condition of the complainant did not improve and the pain and temperature continued. On 22-4-2006, IVP was conducted and the complainant was once again admitted. The condition of the complainant worsened; she was admitted to AIIMS on 27-4-2006 where she remained till 14-5-2006 during which period she was put to dialysis and hemo-dialysis couple of times. Since there was strike of doctors in Delhi, the complainant was discharged from AIIMS though her condition was still critical as both her kidneys were not functioning and laboratory reports were not showing any signs of normalcy.

Defence: The complainant was seen on 13-3-2006 by Dr. A.K. Handa of Handa Nursing Home and after it was diagnosed that she had right ureteric stone, she was advised Ureteroscopy; ureteroscope was inserted through a urinary passage and a DJ Stent was placed and the complainant was discharged on 15-3-2006. The complainant visited the Nursing Home on 24-3-2006 and DJ Stent earlier placed was removed as the complainant complained of pain and discomfort, which normally occurs in case DJ Stent is placed. The complainant was re-admitted in the Nursing Home on 2-4-2006 with the complaint of pain. Though no stone was seen yet the DJ Stent was again placed because sometimes even a very small particle of few millimetres, if it remains, could cause discomfort and pain. The complainant

was discharged on 3-4-2006, the Stent was removed on 19-4-2006. As the pain persisted, the IVP was advised on 22-4-2006. Thereafter it was observed that blood urea and serum creatinine began to rise, so the Nephrologist was consulted and the treatment started as per his advice. The complainant/petitioner left the Nursing Home on 25-4-2006.

**Impugned Orders:** The District Forum allowed the complaint and directed the opposite party to pay ` 7 lakh as compensation including cost of litigation to the complainant. Appeal filed by opposite parties was also dismissed by the learned State Commission.

#### **Expert Opinion on Certain Queries From AIIMS:**

“(1) The patient Ram Kali had pain in the right flank on 13-3-2006. Ultrasonography revealed normal left kidney and hydronephrosis of the right kidney. The renal functions as assessed by blood urea and creatinine were within normal limits. It may be mentioned here that the glomerular filtration rate or GFR (which is the actual measure of renal function) was about 50 ml/min by both the Cockcroft-Gault and the MDRD formula (normal 80-120 ml/min). This was calculated by us from the available records. Prior to the first intervention on 14-3-2006, there was a lack of function study (e.g. Intravenous Pyelography IVP or Nuclear Scan). Further, the diagnosis of a stone was based only on an ultrasonogram, which is an observation dependent imaging study. Hence, performance of a plain X-Ray/Non-contrast CT KUB, and a functional study would have been advisable prior to operative intervention. As per the hospital records, during Ureteroscopy on 14-3-2006, a stone was seen in the right ureter, which was broken into small pieces and a double J Stent was put in place.

(2) The treatment given was as per standard practice. Details of our observations are given in paragraph 1 above.

(3) Before re-stenting was done for the second time on 2-4-2006, it would have been advisable to confirm the presence of persisting destruction by repeating ultrasonography of the kidneys, ureter and bladder. This would have substantiated the need for re-stenting.

(4) A functional study IVP was done on 22-4-2006 after documenting apparently normal renal functions as evidenced by blood urea and creatinine within normal limits. 50 ml of the radio-contrast omnipaque was administered. This is as per standard procedure. However, calculated GFR was again approx. 50 ml/min. In this connection we would like to state that it is now known that serum creatinine is a poor surrogate mark of renal function. Renal functions are best assessed by GFR. However, the practice of estimating GFR prior to performing IVP is still not the standard practice in India or even internationally. IVP showed non-functioning right kidney and sub-optimally functioning left kidney. As already mentioned, the calculated GFR on two occasions prior to performing IVP too showed sub-optimally functioning kidneys. Thus, it is highly likely that the patient had pre-existing early chronic kidney disease affecting both the kidneys.

(5) The patient also had underlying infection (as evidenced by high leukocyte count). The combination of pre-existing chronic kidney disease with contrast administration and infection lead to gross renal dysfunction, which became evident on 25-4-2006.

(6) Subsequently, it was a progressive downhill course from which the renal functions never recovered and the patient became dialysis dependent.”

### **Reliance on Standard Texts:**

(a) British Journal of Radiology of 74 (2001), 901-904, Article by M. Patlas & Ors:

*“In summary, both spiral CT and US were found to be excellent modalities for depicting ureteral stones, but because of high cost, radiation dose and high workload of CT, we suggest that US should be performed first in all cases and CT should be reserved for cases where US is unavailable or fails to provide diagnostic information.”*

(b) American Institute of Ultrasound in Medicine, J. Ultrasound Med 2008; 27:1441-1450 . 0278-4297/08/\$3.50, Article of Seong Jin Park and Ors:

*“In summary, sonography is an excellent modality with many advantages for detecting ureteral stones; it is radiation free, relatively inexpensive, universally available, and easily applicable, and it has high diagnostic efficacy. Specific techniques for preparing the patient before scanning, new sonographic equipment, compression techniques, and additional intracavitary scanning can enhance the diagnostic accuracy and confidence for detecting ureteral calculi on sonography.”*

**Held:** In the light of aforesaid articles and costs of other tests, the petitioner has not committed any negligence in not going for plain X-ray/non-contrast CT KUB – study of GFR prior to giving treatment. Expert Committee has also indicated that these tests would have been advisable prior to operative intervention but it is nowhere mentioned that without these tests the petitioner committed deficiency in giving treatment to Ramkali. Expert Committee in reply to query No. 4 observed that it was highly likely that the patient had pre-existing early chronic kidney disease affecting both the kidneys which leads to gross renal dysfunction. Expert report nowhere indicates that the treatment given by the petitioner was not as per standard practice. It appears that on account of not following instructions given by AIIMS and taking Ayurvedic medicine, the complainant developed further complications. During the course of arguments it was apprised that the complainant died on

1-11-2009, after more than 3½ years of treatment given by the petitioner. The complainant has not put any record of treatment for this period, cause of death of Ramkali and in such circumstances, it cannot be presumed that on account of medical negligence of the petitioner, Ramkali suffered, which caused her death. Consequently, Revision Petition filed by the petitioner is allowed and order dated 6-8-2012 passed by the State Commission in First Appeal No. FA-1002/08 Handa Nursing Home & Anr. v. Mrs. Ram Kalithrough LR's and order of District Forum dated 29-9-2008 passed in Complaint Case No. 306/2006 – Ram Kali through LR's v. Handa Nursing Home is set aside and the complaint stands dismissed with no order as to costs.

**Tip no 196- As you are aware of the increasing number of cases of assault on doctors in and out of hospital. How can we defend ourselves in these sad situations? Is it right to fight back ? If i decide to defend myself what will be the consequences in the situation if one or more assailant lose his life or limb? Will this action of mine be called an act of self defence?**

*(Asked By Dr Anurag Tyagi)*

**Answer-** The question is difficult...whether to hit back or not. Please note that in case of assault on doctors, usually there are many persons who are emotionally charged and armed ...if provoked further, it can cause much more bloodshed. It may result in murders.

But it does not mean that we should not do self defence which is an ingredient of our right of life. Self defence plea is always acceptable in any court.

The following precautions can be helpful

1. Installation of CCTV ... will help in identifying culprits and punishing them.

2. Hire ex-army man, ex- CRPF or Ex-BSF personnel who has licence gun as security personnel. Keep guards below age of 50 years who can fight if needed.
3. Have adequate number of security guards.
4. Learn how to avoid such violence.
5. Keep one exit at the back which can be used for escaping.
6. Insure your establishment.
7. Keep in touch of local IMA to reach for help if needed.

**Tip no 197- Recently I came across an advertisement of training in cosmetic procedures. All these procedure are highly specialized & also having lots of side effects. I just want to know how to stop these advertisements?**

*(Dr Akhil Kumar Singh, Noida)*

**Answer-** Please note that MCI can take action against MBBS doctors only who are registered with medical councils. It has no control over practices of AYUSH practitioners and quacks. They are free to do what they want as their council rarely take action against them. Quacks are absolutely free. Rarely people are penalised under anti-quackery law.

Surprisingly there is no code of conduct/ regulatory control over hair transplants, cosmetic procedures and nutrition supplements. Anybody can run a training course and give training to anyone. It is pure commercial market.

These advertisements can only be stopped either by writ petition in court by body of dermatologist or asking govt to act. Associations of dermatologists should take this matter actively and follow it to logical end



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**Tip no 198- I work in a govt setup with a high volume of patient load especially in orthopaedics OPD. Most patients that visit are treated by**

T. Diclofenac BD X 7 days

T. Ranitidine BD X 7 days

T. Calcium OD X 15 days

Diclofenac gel

(Back) exercise

Can I make a stamp with the same treatment and use on the OPD cards and sign beneath to save time? Can it have any legal implications?

*(Name withheld)*

**Answer-** You should never put a stamp of treatment on OPD cards as it would be presumed that you have already decided treatment for patient even before examination. This can put you in serious medico-legal complications. Even administrative action can be taken against you by govt



for neglect of duties. Making of stamp of treatment would indicate your gross dis-interest in patient examination.

**Tip no 199- I am running an ortho clinic with digital x-ray facility. I have in writing directed my x-ray technician not to do any contrast x-rays without a radiologist. If he still does it and there is any complication like anaphylaxis or convulsions who will be legally responsible.**

*(Dr Nisar Ahmed Dar J & K)*

**Answer-** If he does it without your permission and absence of radiologist, he will be held criminally responsible for any complications that arises. But you would also be vicariously responsible as he is your employee and clinic belongs to you. But you would be responsible only in civil context not criminal.

**Tip no 200- Can General Practitioner refuses home visits?**

*(Asked by Dr Anil Kumar Saini)*

**Answer-** Yes, a general practitioner can refuse for home visits. A notice to this effect may be put in clinic so that your patients can understand this. You can mention it on your letter head too. But on ethical grounds, in life threatening situation, visit may be made as it is exceptional ground.

**Tip no 201- Women come all alone for MTP and give their self-consent. In the MTP Act there is no provision for having signature of witness. So to safeguard one what should be the procedure?**

1. Is self-consent sufficient?
2. Should there be signature of witness? Should the witness be an employee of the hospital or any outsider?

**3. What protocol should be followed if a foreigner comes all alone for MTP? Under the MTP Act it is a confidential procedure.**

**a. Should some person be informed?**

b. Should the embassy be informed? Some countries do not permit MTP.

*(Asked by Dr Rajiv K. Khandelwal Director & Chief Pediatrician, Vardaan Hospital, New Delhi – 110017)*

**Answer-** Self consent is legal and sufficient for MTP. It is true that MTP consent form does not have column for witness, but it is always better to have one. If woman is accompanied by any relative, he / she can do it. If she has come alone, witness can be any other person like another patient / hospital attendant. If woman comes alone, ask for her id (to confirm age and identity) and telephone number of relative to be informed if some complication arises

In case of foreigner, ask for copy of passport and valid visa and name of person in India/ outside to be informed in case of complications. Inform police and embassy if some complication develops. Inform embassy only in case of complications. Abortion should be done as per provisions of MTP act of India. What law other countries follow, we have no concern.

**Tip no 202-** We have been observing in internet that doctors from abroad are giving advertising their kind of practice in the forms of health education lectures in YouTube and direct one minute advertisement emphasizing their treatment for a given problem. I would like to know, is it objectionable or can we do it as Indian doctor?

*(Asked by Dr Daya)*

**Answer-** Please note that most of time You Tube adhere to US law and international guidelines from other regulators, they are not subjected to Indian Laws fully. I know that a lot of doctors from abroad are putting health education while their main aim is garnering money through advertisement which may be illegal too. But You Tube will act only if there are complaints or law suits against this practice.

As a Indian doctor, you cannot do it as per MCI guidelines. Some Indian doctors especially lap surgeons had loaded some videos on You Tube. Recently Maharashtra Medical Council has objected to it.

**Tip no 203-** Now a day's many private nursing homes are appointing BAMS doctors as resident medical officers in 8 hour shift duty since they are easily available on lower salary. They are providing allopathy treatment to the IPD cases under guidance of specialist and at times in emergency on their own.

**I wanted to know if that is permissible as per our law.**

*(Asked by Dr. A.K. Agnihotri, Nagpur)*

**Answer-** It is ironical fact that small hospitals and nursing homes appoint BAMS/ BHMS doctors as resident medical officer to look after IPD cases in order to reduce cost as they can get such doctors for Rs 8-10 thousand per month. This is illegal as it is quackery. In order to avoid illegality, they are named as ASSISTANT to consultants, although they perform work of residents.

If reported, these nursing homes can be in big trouble as it is against MCI regulations.

These unqualified doctors practice allopathy in own clinics after 6 months working in such nursing homes.

**Tip no 204-** Yesterday one issue came up for discussion. Recently ICMR has experimented with some faculty member in a govt institute to develop a mobile app that has features (SOPs) for managing 10-15 emergencies pertaining to particular speciality. Experimental findings were positive. It helped for standardised management and decrease in patient turn over time.

**Question is what are the legal implications of this ? If resident doctors take decisions based on this app..and in the process miss out something..which was otherwise important..What are legal implications?**

**Although app has given disclaimer...still query remains**

*(Askey by Dr. Arun K Aggarwal Professor, School of Public Health, PGIMER, Chandigarh)*

**Answer-** Technology is progressing fast and is re-defining our approach to treatment and education. We have to use it but with caution. If it is wrongly mistaken, it is our fault. All technologies have disclaimers and we should be aware of them before use. Resident would be subjected to legal procedure as prevalent

Residents work under supervision of faculty/ senior doctors and any mistakes by them, would make faculty/ senior doctor vicariously responsible.

**Tip no 205-** I am working in govt. hospital and there is no medical record technician ...so who is responsible for maintaining records and who will be responsible if case sheets are not found later if required by court.....thanks...  
**Dr Geetu Gaba**

**Answer-** Technically and legally, head of hospital like Medical Supdt/ Director is responsible for safe keeping of records. If case sheets are not found, action can be taken

against him. Usually Medical record section is created in all hospitals which may be headed by an officer and such section may be supervised by senior doctor. Medical Superintendent can initiate action against him.

**Tip no 206- I am Dr Lakshmanan MBBS DPM Psychiatrist in Government Medical College, Tamil nadu. I receive request from police to examine and give report regarding their mental status. They usually are rape victims or child sexual abuses. According to Mental health act 1987, any medico legal case should be examined after receiving a reception order from judicial magistrate. Most of the time, police are reluctant or do not know something like this exist. Kindly clarify in this regard.**

**Answer-** I have gone through Mental Health Act 1987, I could not find any provision that it is necessary that before a medico-legal case is examined by a psychiatrist, police has to obtain reception order from Magistrate. Reception order is required only for admission in Psychiatric hospital for long term especially in violent patients.

It is not required for short term admission in psychiatry ward of Govt hospital/ nursing home/ medical college.

So far as rape victims / victims of sexual offences is concerned, psychiatric help is sought for counselling so that they can deal with mental trauma. They may need short term admission only.

In Delhi ....this practice is followed. Police bring patients(street wanderers, violent persons or those who cannot take care of themselves) to casualty for mental status examination . They are examined by psychiatrist and if needed, reception order is sought by police on recommendation of psychiatrist

**Tip no 207- As an anaesthetist I would like to know what should be our action in a case of ruptured Ectopic with massive hemoperitoneum in a centre with no blood bank facility and Hemoglobin of the patient drastically low say around 6 whether we should wait for blood or get it operated without blood in hand and what are the medico legalities. Kindly provide some light as how to manage such hemodynamically unstable patients**

*(Asked by Dr. Vikrant Chopra)*

**Answer-** This is emergency and you have to proceed to save life. Use fluids to restore vitals and send a requisition for blood immediately. In case of emergency, you need not wait for perfect conditions to operate; you have to manage whatever situation you have. You are protected under law as you have acted in good faith and even if results are not good, no action lies against you.

**Tip no 208- I know that it is illegal to bleed a person in absence of a valid blood bank license. however can we bleed a donor in a Hospital under following status.**

- 1- We do not have blood bank facility.
- 2- Nearest blood bank is 50 KM. away and will take minimum 3 hours.
- 3- It is life threatening condition.
- 4- At times there is pressure from mob who have seen such practice in the past

I would like to have your valuable opinion in this situation.

*(Asked by Dr. A.K. Agnihotri Nagpur)*

**Answer-** Please note that in garb of emergency, you cannot do illegal things and behave negligently. It would not

provide you protection in good faith. You cannot act on directions of mob to do negligent act.

As a matter of fact, your question is hypothetical and such situation can occur extremely rare, so it does not deserve an answer. Too many facts are hypothetical and clubbed together and statistical occurrence is nil.

**Tip no 209- I am working in a medical college as HOD, we have only Non-PG JRs to work, who come to dept only 6-7 days a month. They can hardly do anything because of poor clinical training. We are forced to give them full month attendance and a certificate of experience after six months. Is it justified? Is there any MCI regulation to improve this system.**

*(Name withheld)*

**Answer-** I am surprising that you are not using your powers of HOD. Simply tell them to be regular and work otherwise no certificate of work would be given. Punish them if they defy you and complain to dean / Medical Supdt. I can assure that it would work. Either they wont join your department or be regular.

MCI has nothing to do with it, it requires only administrative tact.

**Tip no 210 - I am an orthopaedic surgeon, I have recently started my clinic (me-Ortho and my wife-Paediatrician) which as an attached room for pharmacy. The point is can I sell medications (both Ortho and Paediatric medications) to my patients under our guidance? If yes then how much stock of medications we can keep in our clinic? If no , then any other simplified way? What are the legal implications in this system?**

*(Asked by Dr Y.N Gowtham)*

**Answer-** As per law, you can dispense medicines to your patients. Please note the following

1. You should not run an open shop, means you should not cater to outside patients.
2. Do not put Big banner of chemist shop, just put small board "Pharmacy"
3. Stocks should not be averagely more than one or two months.
4. Keep all purchase and sales bills properly, drug inspector may visit you
5. Never charge more than MRP, if you wish, you can give discount.

**Tip no 211- FESS (Functional Endoscopic Sinus Surgery) is routinely done by my ENT surgeon under Local Anaesthesia. Although there are anaesthetists available, they are not involved in these cases. These patients do not undergo Pre Anaesthesia Check up either.**

**What is my liability in case of any untoward incident?**

*(Name withheld on request)*

**Answer-** FESS is a very skilled operation and may be done in general or local anaesthesia depending on choice of patient or surgeon. Pre- anaesthesia check up is must in all cases. It is always better to have local anaesthesia given by anaesthetist but if ENT surgeon is himself giving anaesthesia, then anaesthetist must be on call / nearby to help in case of emergency. Some surgeons do not call anaesthetist to save splitting of fees with them.

An informed consent is must in this procedure. All risks and



benefits should be candidly discussed with patients as part of the informed consent process prior to surgery. A patient should never undergo surgery without a full discussion of all possible complications. Surgeon is fully responsible for any mishap / untoward incident. Hospital is vicariously responsible for event. The following complications are possible in FESS

- Bleeding
- Synechiae formation
- Orbital injury
- Diplopia
- Orbital hematoma
- Blindness
- CSF leak
- Direct brain injury
- Nasolacrimal duct injury/epiphora

**Tip no 212- Please let us know the legal liabilities of anaesthesia in charge when the surgeon operates in the OT without involving anaesthetist like in the case above.**

*(Asked by Dr. Sukhvinder, Consultant DHLI)*

**Answer-** There would be no legal liability (Civil and Criminal) on anaesthesia in charge when the surgeon operates in the OT without involving anaesthetist. But hospital would be liable in cases of alleged negligence.

There are procedures where routinely surgeons give local anaesthesia like dental, optha, ENT, some ortho procedures and in other specialities. It is legal as they have been trained in it. But some enthusiastic surgeons especially in Tier 2 and 3 cities give general anaesthesia and practice cross speciality surgery like caesarean and hysterectomy too.

**Tip no 213-** Nowadays lots of courses like in diabetes, endocrinology, GERD etc..are conducted by various hospital/ pharma companies/even foreign universities. so my question is:

1. Are these recognised by MCI?
2. Can these be considered under additional educational qualification?
3. Can these be added on your hospital stamp or cards?

*(Asked by Dr. Raj Kumar MBBS, MD Medicine)*

**Answer-** Please note that most of these courses are not recognised by MCI and have no academic value. These courses are for general information only. Sometimes some institutions make false claim of their recognition. Please check them with MCI.

They are not considered as additional qualifications and cannot be added on hospital stamp or cards.

**Tip no 214-** I have query regarding a problem faced by many of us, daily.

**Is it legally necessary to keep the record of OPD prescription? Many a times patient don't bring prescription or lost them. Does the onus lies on doctor only to keep record of OPD case.**

*(Asked by Dr Sanjay Jain)*

**Answer-** Legally doctor is not required to keep copy of OPD prescriptions. But it is advisable to keep a copy in cases where certain drugs like benzodiazepines, barbiturates and anti-psychotic medicines etc are prescribed whose copy is retained by chemist while giving medicines as these may be brought to you for confirmation by dug inspectors / police/ court.

It is advisable nowadays to issue computerised prescription as copy would be retained in computer. I understand that it is bit cumbersome for some doctors but some good software is easily available to help you out. Just try it , it is not difficult after 2 days.

**Tip no 215 - Hi Sir, this is Dr.Vinay finished MBBS from RRMCH Bangalore & it is a MCI recognised degree..now I wanted to join College of physician & Surgeon (CPS) Diploma in Child Health (DCH) from Mumbai (Maharashtra) but these diploma courses are recognised from Maharashtra Medical Council and Gujarat medical council and has no MCI recognition..My question is "Can i practice in clinic in Karnataka as a paediatrician, will I have to face any legal issues in Karnataka" because senior doctors said me that I can't join medical college / govt hospital in Karnataka but I can practice in clinic, Karnataka Kindly suggest me..thanking you**

**Answer-** CPC diploma has no academic value as it is not recognised by MCI. I do not think it is recognised by MMC and Gujarat Medical council also. You cannot practice as paediatrician anywhere in India, if you do so, it is at your risk.

**Tip no 216- My query is regarding advice for USG in Antenatal checkup.**

Can a MBBS doctor of any other specialty like pediatrics, medicine, surgery etc can advice any patient USG for fetal well being? or as per PNDT act this is limited for only those doctors who are registered as Gynecologists?

*(Asked by Dr Vivek Arya)*

**Answer-** Any doctor who is treating pregnant lady can

refer her for ultrasound for fetal well being. For example, if pregnant lady suffers trauma, she can be referred to see fetal wellbeing by any MBBS doctor in casualty/ OPD

**Tip no 217- I am working in Navy hospital at Mumbai. if a RTA patient who sustained accident at some other place and MLC has been raised at the hospital at that place. and then transferred to our hospital for further management.**

**is is required to raise the MLC again at our hospital OR quote the same MLC no and carry on????? some people say raise MLC again some say NO, confusion prevails**

*(Please advice and quote authority, Col Dr SK Rai, Navy Hospital Mumbai)*

**Answer-** There is no need for making second MLC. Just write on face sheet "MLC" and treat as such. In case sheet , you can write old MLC number and name of hospital. Police do not need multiple information, one is sufficient. If death occurs, inform local police. They in turn will inform other police station where original MLC is made.

**Tip no 218- Issuing of medical certificates, fitness certificates & medico legal certificate etc. causes lot of time and logistic/ resource expenditure apart from legal accountability and vulnerability. Can we charge from patient for this service directly or indirectly? If no than under which law.**

*(Asked by Dr. Kamal K. Parwal)*

**Answer-** Please remember issuing of certificates is a part of duty and has to be done. If you have seen a patient, it is your responsibility to issue certificate. But you can charge for it if your state govt allows it. Death certificate cannot

be charged in any circumstances. Medical certificate, fitness certificates and other certificates can be charged easily. Medico-legal certificates can be charged as per your local govt policy. Some states allow charging of MLC certificate but some ( Like Delhi) do not.

**Tip no 219-** There are many NGO's operating in Delhi, injecting various vaccine, e.g., Hepatitis-B, C, Typhoid etc after filling registration forms and then injecting them at home. They have doctors on their panel who cannot be present everywhere.

1. What is the legal responsibility of the doctor on panel?
2. Is it necessary for the doctor to inject every vaccine himself?
3. Can a clinical assistant inject vaccine (who is trained by the doctor) without the presence of the doctor himself?

*(Asked by Dr Sharad Mathur)*

**Answer-** Please remember that worldwide vaccines are administered to patients by trained health workers who have trained by doctors. Mass vaccinations programmes are run by them only without physical presence of doctors. But in case of unfortunate event, responsibility is shared by doctors and organisations who are sponsoring such a vaccination program. It is not necessary for doctor to inject every vaccine himself.

**Tip no 220-** The doctors and all the other employees of Hindu Rao Hospital and other five hospitals and numerous dispensaries/ polyclinics under North and East Delhi Municipal Corporation have not been paid salaries for several months. Repeated requests to competent

**authorities have not helped as they claim they have no funds.**

**When a pt. dies, docs are tried under section 304 A and punitive action taken. In the present context- please respond to the following queries-**

- 1. Can vicarious responsibility and punitive action not be taken on the concerned official for denying the salaries to its employees**
- 2. Can peaceful protest merit ESMA Promulgation.**
- 3. Is there any quick legal respite to the inhuman treatment meted out to the hospital employees**

*(Asked by Dr S K Mishra, MD, DM, MBA, Gastroenterologist, HinduRao Hospital)*

**Answer-** Please note that you are governed by terms of employment. Strike may invite ESMA and all public sympathy would be lost. The best answer is to tackle it tactfully. Create protest that is allowed even in ESMA , wear black bands, put posters at entrance and inform all patients that you are not paid. Ask someone to file PIL , petition Prime Minister, talk to media and lastly threat of mass resignations.

Ask relatives to post blogs on net....finally if you are not getting it....CHANGE JOB. Create pressure morally, ask for loan from Mayor to survive .....

PS I myself have lead three strikes at AIIMS when I was President, Resident Doctors Association.

**Tip no 221-** I am a private practitioner, in my practice I see many doctors who do not have recognized post graduation or speciality qualification, but they get some unrecognized degree, market themselves loudly and start

**doing specialized surgeries like Total Joint replacement. They have MCI recognition only for their MBBS degree. Are they qualified to do such specialized surgeries with MBBS qualification? What would be the MCI stand on it and the legal stand?**

*(Asked by Dr Sudhir Reddy)*

**Answer-** Please remember crime is crime only when it is reported. So many doctors are with un –recognised degrees and practicing. Unless someone complains, they can never be caught. But if caught, they may lose complete licence. MCI can take strict action and remove the name. Police can file criminal case and jail may be there. Some doctors have served jail sentences because of un –recognised degrees and some are still serving.

**Tip no 222- Thanks for en lighting us**

**1. If a D Orth person practice general practice and select cases of IPD, ortho and general surgery like gastroenteritis hydrocele/hernia and operates. Is this legal or not?**

**If not then where to complain and can it be done without revealing identity ?**

*Thanks, (Name withheld)*

**Answer-** There are a lot of doctors who are doing cross-pathway means they are doing medical practice in the field where they have not been trained and do not practice what they have learnt. The most common examples are surgeons/orthopedicians doing hysterectomies and caesarean in private practice and even in govt jobs. This is all illegal.

If someone complain to MCI , they can be in trouble. MCI does not usually take complaints which are without names, identity or pseudo-names. They can take sue moto action but rarely does it.

**Tip no 223-** Please be kind enough to let us know whether private deemed universities and medical college under them come under ambit of RTI act 2005? Thanks!

*(Asked by Dr Rahul Bhargava)*

**Answer-** Yes, now private deemed universities and medical college come under ambit of RTI act 2005. It is as per CIC judgment. You can see below CIC order

<http://www.pbtindia.com/wp-content/uploads/2015/04/CIC-Order-Apr-2015-V.-Good-Private-hospital-must-provide-information.pd>

**Tip no 224-** Please clarify what are the legalities involved in case a minor girl approaches the hospital for MTP for pregnancy below 12 weeks

*(Asked By Dr Sanjiv Gupta)*

**Answer-** Since in this case the girl is minor, she should be advised to come with parent/guardian or if she does not have them, she can be advised to go to police/ NGOs. Once parent/guardian /NGOs come, they should be advised to inform police.

Please note that this case is case of statutory rape and MTP should be done only after police clearance/ information. Now the age of consent for sexual intercourse is 18 years as per new Rape Law.

**Tipno225-** Whatshouldbe protocol if a major girl age >18 yrs comes with a friend or so called husband or a cousin for MTP.

*(Asked by Dr. Sunil Singhal, Director & Consultant Paediatrician, Singhal Medical Centre)*



**Answer-** There is no problem in doing MTP if woman is above age of 18 years and come with cousin or so called husband.

Please do following

1. Proof of age must be taken, take copy of PAN card, driving licence, passport, election card, school certificate, Don't do MTP without age proof
2. Address proof must be there
3. Note down all details for accompanying person too.
4. Take mobile numbers of girl and accompanying person.
5. Document consent properly

**Tip no 226- My query is can an anaesthetist be a primary physician and admit medical and surgical cases under himself in his own setup and act as a primary consultant incharge of a case. Is it legal that as an anaesthetist he himself treats the pat on his own and just gets a single visit from a physician. He has some experience as an icu intensivist and with this experience can he admit and treat pats in icu including M.I. on his own. Can an MBBS act as as a primary admitting physician in his own setup and treat pat on his own or just as above i have mentioned. Please explain the medicolegalities involved.**

*(Asked by Dr Vikas Gupta)*

**Answer-** Cross pathy is becoming popular. Doctors getting qualifications in one speciality and openly practicing another. It is illegal and serious implication may be there if problem arises.

Anaesthetist should not become primary physician in serious illnesses and admit medical and surgical cases under himself in his own setup and

act as a primary consultant in charge of a case. He cannot treat cases of MI with consultation from physician. Similarly a plain MBBS doctor cannot be primary physician in cases of serious illnesses in similar circumstances. Supreme Court in Jacob Mathew's case has categorically stated

“Professionals may certainly be held liable for negligence if they were not possessed of the requisite skill which they claimed, or if they did not exercise, with reasonable competence, the skill which they did possess”

**Tip no 227- Hello Sir, I am an gynaecologist working in a general hospital run by government autonomous body...our hospital does not have a nursery and no paediatrician available after duty hours...my question is**

- 1. Can we run a labour ward 24 hours without nursery and emergency O.T**
- 2. Can normal deliveries be conducted without paediatrician**
- 3. In case of foetal distress or muonium aspiration if paediatrician is not present ..who will be liable in cases of neonatal demise I shall be so thankful if u can guide me regarding these issues.**

*(Asked by Dr Geetu Gaba)*

**Answer-** You cannot run 24 hours services when you do not have staff after office hours. You do not have nursery and emergency OT, restrict only to nominal services. Please remember if some problem occurs, all your seniors officers would be after you....you can be suspended or terminated .... You have to really face music. I know that senior doctors like CMO keep pressure on you to perform extraordinary (Read Illegally)

Pl do the following

1. Write in detail your requirements to run 24 hours services to CMO/ Govt.
2. Write clearly that you cannot run services without them.
3. Ask your association to write to govt for not putting pressure on doctors to do illegal work.
4. If pressure is there, leak information to media that govt plans to pay with lives of mothers and newborns.
5. If it does not help, ask your association to file PIL in court.

**Tip no 228- I am a paediatrician, Instructed the staff to vaccinate 2 newborns who were just delivered. BCG & polio vaccination was given but both neonates turned bluish within half an hour resuscitated, shifted to ICU but with all possible efforts neonates could not be revived. Intimated the police, autopsy done & police have seized vaccine bottles. In this scenario what is the liability of the paediatrician**

*(Name withheld)*

**Answer-** Liability would be fixed only after knowing cause of death. Vaccine bottles would also be examined in drug laboratory. Other factors like storage of vaccine bottles, transportation, use of other drugs or other possible factors would be considered. Paediatrician is fully liable till enquiry find other reason. Enquiry should be conducted by a board of doctors or state medical council

**Tip no 229- I am a general surgeon. Assisted/Performed for a gynaecologist (DGO) a LSCS 5 years back. Uneventful surgery & post-op, patient left private nursing home after**

four days with healthy girl child apparently satisfied. Patient never turned up for scheduled post-op follow-up. Received legal notice few days back stating substandard deficient service leading to postoperative bowel adhesions and sub acute intestinal obstruction after four years of LSCS as diagnosed by CECT. No investigation reports other than CECT report provided. No surgery or diagnostic laparoscopy done. Threatened to sue for huge compensation as well as criminally. In this scenario what are the liabilities of the general surgeon

*(Name Withheld).*

**Answer-** This is clear case of cross- pathy where surgeon doubles as gynaecologist. Some surgeons are routinely assisting their wives especially in night or odd hours when she is busy. Serious complications can be there as surgeons are not trained in LSCS in their training as general surgeon. Surgeon is fully liable for any negligence and it would be seriously viewed by medical council/ court as case of cross-pathy

This practice can be justified only in emergency to save life of patient.

**Tip no 230-** I am orthopaedic surgeon and practising in district place in Gujarat where we have 4-5 anaesthetics for around 20 operating surgeons (general surgeon, gynec, ortho etc.) so usually anaesthetic's schedule is tight and always in hurry. most of the times they leave when closure start without shifting patient to ward or recovery room, so what are the liabilities of operating surgeon and anaesthetic if any immediate post op complication occur and anaesthetic is not present in OT.....regards

*(Name withheld on request)*

**Answer-** Please remembers this amount to abandoning

patient and will invite severe punishment in criminal and civil negligence. Post-operative care is responsibility of anaesthetist and surgeon both. Surgeons will be held responsible as they carry vicarious responsibility.

Greed for more patients should not be at the cost of patient safety. All surgeons should ask anaesthetist to stay till everything is settled, if he is not agreeing, do not hire him at all. If all surgeons follow this, every anaesthetist would fall in place.

**Tip no 231- I am heading the department of OBG at big private Hospital in Delhi. As a routine we carry out normal deliveries and LSCS on patients of EWS. We do not get paid anything for these patients. The hospital as we understand does get some financial help from the government. Our concern is that just in case something goes wrong in any of our patients, will the hospital be answerable or The Doctor in charge of case, or both Kindly give your valuable advice**

*(Name withheld of doctor and hospital to protect identity)*

**Answer-** Please remember that treating EWS patients free of cost is legal requirement. 25 percent OPD and 10 percent IPD have to be treated as free. No private hospital can escape this. Now it is part as Corporate Social responsibility too as per new Companies Act.

These cases have to be treated with due care and prudence. Any fault would invite criminal and civil negligence. It is immaterial that consultant was paid or not as these services are covered in Consumer Act. Doctor and hospital both would be held responsible. It is also brought to notice that treating free does not give anyone licence to practice negligently.

**Tip no 232- I am working in a government hospital as a General Surgeon.**

**I want to know whether a government doctor can give medical fitness certificate to any medically fit person/patient on his private proforma, which may be issued by a college/company he/she intend to join.**

*(Asked by Dr Akshay)*

**Answer-** Since you are in govt job, you are bound by govt rules. If you are drawing non practicing allowance, you cannot do private practice and can not charge for issuing fitness certificate. You need to have govt permission to issue certificates to private party since you are using govt stamp.

It is better to avoid issuing certificates beyond job requirements.

If a private person wants a fitness certificate on proforma, ask him to go to Medical Supdt office.

However, some states allow doctors to issue certificates and receive payments.

**Tip no 233- The question is a very pertinent one as this situation is faced very frequently by government doctors that a student has brought a proforma given by the university or a prospective employer. Please enlighten whether the government doctor can issue the certificate on a private proforma or not.**

*(Asked by Dr Arun Gupta MBBS, MHA (AIIMS))*

**Answer-** As a govt doctor, we face following situations and can deal with them as follows

1. Some students bring proforma for fitness for admission in university, it can be easily done . Keep a copy of one with you or forward it to Med Supdt office for records.

No fee to be charged as fitness issued is for joining educational course. Private proforma of university can be used.

2. Some need fitness certificate for employment. Hospital Policy needs to be framed to deal with situation. A nominal fee can also be charged by hospital. for investigations. Ask applicant to get it endorsed from Med Supdt office . Fitness can be issued by govt doctor but a copy needs to be kept in Med Supdt office for records as in case of dispute later on , copy can be shown to court. Use your own hospital proforma to issue fitness
3. Over enthusiastic approach to oblige must be curtailed by govt doctors in issuing certificate as I have seen many doctors apologising later in courts or departmental proceedings.
4. Disability certificate must be issued from concerned and authorised department only.
5. Some states like Rajasthan allow govt hospital to charge a fee for any certificate. Such fee is also shared with doctor who issues such certificate.

**Tip no 234- Can a private practitioner attest documents or photographs?**

*(Asked by Dr Ajit Tamhane)*

**Answer-** Please note that attestation of documents and photographs has been done away in majority of the cases. Now insistence is on self-declaration. Modi Govt has already passed instructions for that. Only signatures attestation is there which are done by bank managers. There is hardly any document left for a private practitioner to attest.

**Tip no 235-** Hello Sir, I am Dr. Carlson, RMO, EMS Memorial Hospital, Calicut. I had attended an alleged RTA last Wednesday. I had explained that we do not take up legal issues if that was an accident. They said they just fell off the bike. After they got the medical care, they had a discussion and asked me to register an MLC. I refused and asked them to go to some other hospital. Now one week later they came back and said they couldn't register elsewhere and need me register it. I already wrote the prescription as Hx of fall.. not alleged RTA. Kindly advise me how to escape this situation.

**Answer-** Please remember that no hospital can refuse a medico-legal case stating that they do not take medico-legal cases. Since your hospital has casualty running, it is illegal to refuse any medico-legal cases. In all medico-legal cases, do not suggest anything from your side, it may boomerang on you. You can still make this case as MLC, there is no harm. If police asks, you can say that earlier they had given history of fall and now want a MLC.

**Tip no 236-** I am working in a Medical College and facing a very unique situation. We have a 12 year old boy with a massive size osteosarcoma of lower end of femur with secondaries lungs and liver which was advised palliative amputation through upper end femur. But the father of the patient who is the only attendant is not giving any consent for neither amputation nor chemotherapy. He has filled a case against the school teacher of the patient that this tumour or infection whatever he calls it has arisen due to hitting the patient by a scale by the teacher. Now we have discussed the case with the administration and district collector some are of the opinion that discharge the patient some against. Can you enlighten us what's the correct way legally to go ahead. Numerous meetings with the father have failed to persuade him for consent.



*(Asked by Dr Pankaj Kamboj)*

**Answer-** Please note that boy is minor and no treatment can be done without consent of father. It is fact that osteo-sarcoma can be caused by injury, so father may have been advised by some doctor to sue teacher. I would not like to comment on that.

The best option is to counsel father to take palliative and corrective treatment for child. If no consent comes, discharge patient, there is no option as legal rights cannot be by passed.

**Tip no 237- Can injury / trauma be blamed for osteo-sarcoma in legal suits ?**

**(In continuation of previous tip of 13<sup>th</sup> June 2015)**

**Answer-** It was inadvertently stated in last tip that osteo-sarcoma can be caused by injury.

But it has been found that history of injury is common. (Article from PUBMED attached). See below

<http://www.ncbi.nlm.nih.gov/pubmed/10819277>

Trauma is often considered to be a suspect but most feel that this simply brings the sarcoma to attention.

This could have been the reason that in earlier tip father has decided to complain against school teacher for hitting the child with scale.

Initial symptoms and clinical features in osteosarcoma and Ewing sarcoma.

Widhe B<sup>1</sup>, Widhe T.

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## ABSTRACT

### BACKGROUND

The time between the initial symptoms of osteosarcoma and Ewing sarcoma and the correct diagnosis and treatment is long. Over the last two decades, the prognosis for patients with these diseases has dramatically improved due to a new chemotherapy regimen. As a consequence, a limb-sparing operation has become an alternative to amputation. The aim of this study was to establish the initial symptoms and physical signs of osteosarcoma and Ewing sarcoma from the records of the first medical visit and to identify early characteristics of the diseases to shorten the delay to diagnosis.

### METHODS

A group of patients with osteosarcoma or Ewing sarcoma was identified from the Swedish Cancer Register of patients thirty years old and younger. Records from the first medical visit due to symptoms related to the bone tumor were obtained for 102 patients with osteosarcoma and forty-seven patients with Ewing sarcoma.

### RESULTS

Pain related to strain was reported by eighty-seven (85 percent) of the patients with osteosarcoma and thirty (64 percent) of those with Ewing sarcoma, but only twenty-one (21 percent) of the patients with osteosarcoma and nine (19 percent) of those with Ewing sarcoma reported pain at night. Forty-eight (47 percent) of the patients with osteosarcoma and twelve (26 percent) of those with Ewing sarcoma related the onset of symptoms to minor trauma occurring around the same time. A palpable mass was noted in forty (39 percent) of the patients with osteosarcoma and sixteen (34 percent) of those with Ewing sarcoma at the first visit, and in most cases the tumor diagnosis was suspected.

There was a broad spectrum of misdiagnoses; the most common was tendinitis, which was the initial diagnosis in thirty-two (31 percent) of the patients with osteosarcoma and ten (21 percent) of those with Ewing sarcoma. The doctor's delay (the period from the first medical visit due to the symptoms to the correct diagnosis) was longer for Ewing sarcoma than for osteosarcoma (nineteen weeks and nine weeks, respectively;  $p < 0.0001$ ).

## CONCLUSIONS

An initial symptom of both osteosarcoma and Ewing sarcoma was pain, which was intermittent and often related to strain but not frequently felt at night. *A history of trauma was common, but the clinical course often diverged from what was expected from trauma.* The clinical course of osteosarcoma and particularly of Ewing sarcoma was not steadily progressive but intermittent, which often misled the doctor into believing that the condition was temporary. The most important clinical feature was a palpable mass, which was noted in more than one-third of the patients at the first visit. This finding emphasizes that a thorough physical examination is absolutely necessary.

**Tip no 238- Is there a legal age bar beyond which a surgeon may not operate or a physician may not prescribe?**

**What does MCI /DMC say about this issue, if at all?**

*(Asked by Dr. Narottam Puri)*

Advisor– Medical, Fortis Healthcare Limited, Escorts Heart Institute & Research Centre,

**Answer:** There is no legal bar beyond which a surgeon may not operate or a physician may not prescribe? Doctors can work till they can. Guideline from MCI is about faculty which would be counted for recognition purposes and

limits age up to 70 years. Even Govt doctors can function up to age of 70 years on regular basis. But in private practice and private hospitals, there is no age limit to work.

**Tip no 239-** A MLC is a very important legal document. Unfortunately the doctors are asked to issue the same on demand of the policeman who comes to attend the MLC call. Now a days the high headed police man asks for instant final report and does not like to even wait for the time doctors need to prepare the document with prudence and accuracy. the doctors may need time as being busy with other patients, waiting for seniors opinion or checking and signing by consultant as per hospital protocol, waiting for further observation or inv. /radiology reports etc. etc.

my question is how much time is legally permissible to doctor to finally handover MLC to the police .kindly tell us the relevant law also since policeman at times insists to call the senior doctor in mid of night just to sign a MLC to avoid his repeated visit for the case

*(Name withheld)*

**Answer-** Result of MLC should be communicated by doctor to policeman as early as possible (No written guidelines are there stating exact time frame). If police is harassing you, please inform Medical Supdt in writing who will in turn inform Senior Supdt of Police. A meeting can be called by Medical Supdt with police to frame guidelines.

If it all fails, inform media and your association who would force Medical Supdt/ Senior Supdt of Police to act. Last resort is boycott of MLC work.

**Tip no 240-** I work for a corporate set up mainly doing the orthopaedic work. If we have a problem of abdominal

**distension and we don't have radiologist available round the clock..we have a sonologist who has done certification in it and having some good experience. How far is the report of this sonologist valid should it be counter signed by the radiologist? Is it valid in the court of law?**

*(Name withheld)*

**Answer-** How can sonologist who is only technician give the report and how can radiologists would sign on it without seeing it? This is grossly illegal and can have serious repercussions. Radiologist may lose licence to practice and may be held criminally responsible if anything gross happen. Hospital may also loose licence. Please stop all these practices.

**Tip no 241- I am a orthopaedic surgeon working in a Govt. Medical College. Sometimes we have to call a consultant from outside to perform some specialized surgery. My query is, what are legal liabilities of that operating surgeon if, say, the patient is not satisfied?. Or is the entire responsibility of the doctor incharge?**

*(Name withheld)*

**Answer-** I hope consultant you are bringing from outside to do specialised surgery has approval of your Medical Supdt and his. Legally when he is operating at your hospital, he shares full responsibility along with your hospital. If patient is not satisfied, he can complain in CPA against him and your medical college if your medical college falls into CPA act. Doctor incharge of your department is not answerable if he is not part of operating team but hospital is as it shares vicarious responsibility.

**Tip no 242- I am an owner of a small hospital. We have an x-ray machine but no radiologist on hospital panel. Generally x-rays advised by clinicians are examined by**

**them. However in Medico-legal cases a formal report of Radiologist is demanded by IO. My question is whether a non radiology doctor ( MBBS or PG) is legally authorised to generate formal x-ray report under his signatures.**

*(Name withheld)*

**Answer-** Please note that all MLC x-rays are to be reported only by radiologist as report goes to court. In non-MLC cases also, it is also essential that report is signed by radiologist. Clinicians are allowed to interpret x-rays while treating their own patients but cannot issue x-ray report.

**Tip no 243- Just a query to add upon to previous query- "X ray happens to be a major tool for diagnosis & treatment for orthopaedic surgeons. We never get x ray reported & whenever asked by Insurance Companies & TPA reporting of x rays of our patients is done by us only which are acceptable by insurance companies or TPA as well. Kindly enlighten upon this practical aspect what is being in vogue & acceptable by authorized agencies.**

*Send by Dr Mohd Iqbal, Orthopedic Surgeon, Director, KOTA TRAUMA HOSPITAL*

**Answer-** This is a very common practice that ortho surgeons do not get x-ray reported by radiologist while treating their own patients as they trust their own wisdom. But please remember, in court of law, the court would rely on report of radiologist rather than ortho surgeons in case of doubt. Insurance companies may also object to reporting by ortho surgeon if they do not trust findings given by ortho surgeon. It is advisable that you get the reports evaluated by radiologist as patient may demand it as matter of right as he has paid for x-ray and has a right for evaluation by correct expert.



## About the book



**Medico-legal Tip of the day** is continuing medical education initiative of Dr R K Sharma. The purpose is to teach medical law and changing medico-legal knowledge. The tips are practical in nature and would help clinician in discharge of safe medical practice. The effort is to help busy clinician in dealing with medico-legal problems faced daily in hospital practice. Readers are encouraged to send queries which would be included in next issue.

## About the author

**Prof. R. K. Sharma** is an alumnus of prestigious All- India Institute of Medical Sciences, New Delhi. He joined AIIMS as MBBS student in 1977 and pursued M.D. (Doctor of Medicine) in Forensic Medicine in 1985. He was faculty member for many years and served as head of the department. He has authored five books.

**Prof. R.K. Sharma** has visited USA, UK, Australia, and France, Netherland, Germany, Singapore and South Asian countries to acquire vast medico-legal experience. In 2004 he was invited by Federal Bureau of Investigation (FBI), USA to visit Washington D.C. to participate in international seminar. Prof. R.K. Sharma has been consultant to National Human Rights Commission, New Delhi, Central Bureau of Investigation (CBI), New Delhi, Delhi Police and many other investigation agencies. He lectures regularly at Delhi Medical Association, Punjab Health System Corporation and National Institute of Criminology and Forensic Science, New Delhi. He has taken lectures of judges, lawyers, police personnel, public prosecutors and doctors on medico-legal issues. He is an international speaker on medico-legal issues.



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