
DOCTOR AND LAW

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Doctor who is a citizen of this country is naturally required to follow certain laws as an ordinary citizen. E.g. - Paying taxes, follow traffic rules, Respect next persons individuality while behaving in society etc. These duties rights or obligations are not considered here. Besides above - the laws related to medical Profession is as follows-

1) **Laws governing, controlling and regulating Medical profession.**

Registration: Indian Medical Council act, 1956 which is presently in force and applicable to all doctors Practicing modern medicine. MCI is the monitoring body It is empowered to approve, recognize, and inspect and monitor the medical education it has clearly defined the code of conduct and medical ethics. It has clearly defined the code of conduct and medical ethics. MCI is NOT empowered to provide compensation to the aggrieved party which has resulted in limiting its power. Health being a concurrent subject of state, different states - enact certain acts and application of them at times become confusing and has resulted in court interventions.

Other laws controlling and regulating the medical profession.

Nursing home Registration act.

Shop and establishment.

Labor Laws and related other laws.

Above list is NOT all inclusive.

Some Special acts-

MTP ACT 1971, PNDD, Organ Transplant Lunacy act etc. are profession related.

2) **Laws in which the doctor assists the Judiciary as an expert witness.**

- A) Matrimonial matters- Opinion on virginity, age of female, impotency, Paternity of a child
- B) Sexual offences- Rape And other offences such as sodomy Brutality
- C) Accident cases - To assess the extent of injury nature of injury, the type of injury etc.
- D) Suicides - homicides.
- E) Confirmation of mental disorders

MCI Reference has been already made that of medical counsel's power to punish the doctor by giving warning, temporary suspension or cancellation of registration There is a well laid down procedure of inquiry which is required to be followed. Other places open for the complaint by the patient or the aggrieved relative as follows.

Criminal case

The doctor's service is related to human body and to certain extent to his mind. Any failure or short coming in treatment can be construed as bodily harm to the patient hence medical practitioner is always vulnerable for criminal complaint. Here patient/relative files a complaint. After necessary inquiry the police on behalf of the state file the complaint. If the charge made is proved, the punishment is not in the form of compensation but it is basically deterrent in nature. (Fine and/or imprisonment.)

The application of norms is always rigid and the offence has to be proved beyond any doubt. The main aim here is **not to punish the innocent at any cost.**

Civil case--Covered by Civil Procedure code and the law of torts.

Case is filed by the aggrieved party. There is stamp duty variable according to the amount of compensation asked for. Both parties are represented either personally or through the lawyer. Well laid down procedural norms are followed. If proved guilty the punishment is in the form of money- as a fine and also as a rewarded compensation for the damages caused. There is significant delay in final outcome as our civil procedures followed by the courts are lengthy.

Consumer Protection Act This is a comparatively recent introduction-1985. For doctors it is regularly applied from November 1992 judgment of the supreme court. Three tier system of redressal forums is formulated Buying can be that of the goods or it can be a hiring of the services. Doctor's answerability comes as a service provider. In case of deficient service apart from the doctor's service, the quantum of the damage can be calculated easily. Doctor's service is different. Here the damage leads to full or partial body harm. (death or morbidity) is different. Here the damage leads to full or partial body harm. (death or morbidity) Being No stamp fees and since the approach is easy there is flooding of cases against the doctors. Statistically, as compared to other cases, those filed against the doctor's end in favor of the doctors; indicating - a) cases are filed without much ground, or b) to prove negligence by a doctor is extremely difficult. Many changes have taken place in CPA rules in last few years. Those are good changes. Thanks to the voice raised by the doctors and also the realization of the difficulties by the consumer activists. New changes include - Provision of stamp fees, power for injunction, power to order interim relief, etc. Also, lower forum's power to tackle cases is increased considerably (20 lack for district and 100 lack for state) hence frequent visits at Delhi would be reduced and most of the cases can be solved at local or state level.

CPA in general has resulted few changers in medical practice Doctors have become aware of the patients' rights, their legal knowledge is improved, their record keeping is improved, billing has become more transparent. The main disadvantage is - it has reduced faith by either side. The doctors have become more defensive and also investigation minded resulting in to the increase in cost of medical treatment.

Above is the bird's eye view of the present status of the laws related to the doctors, the level of violence in whole society appears to be on increasing side and in spite of the above laws providing legal remedies, Patients do take law in their hand to punish the doctor. Singhanian hospital is only one of the many more cases of this nature. Social organizations and introspection by doctor community, along with willingness on part of the rulers to bring some positive changes will no doubt improve the present status.