

# A Review on Medico Legal and Ethical Aspects of Orthopaedic Practice

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## ABSTRACT

Medico-legal issues in orthopaedic practice are increasing day by day. With the tremendous metamorphosis in the healthcare sector, incidents of lawsuits against orthopaedic surgeons and hospitals, in the name of medical negligence is on the rise. With every consumer redress forum being more inclined in protecting the consumers, it is imperative for practising Doctors to be more informed on the Medico-legal aspects of their field of practice. Most orthopaedic cases that lead to medico-legal cases result from trauma. Besides, these cases are seen in the Emergency Room, thereby resulting in critical and uncertain decisions. Unlike in other fields where the patient has an existing relationship before any complications occur, rapport-building has to begin much after the treatment has begun. Technological advances in the orthopaedic field, availability of online information on platforms like Google, lack of communication, cutthroat competition among orthopaedic surgeons, awareness about the consumer protection act, mob psychology, interference by anti-social elements and local politicians etc have brought orthopaedic practice at this stage. Following ethical aspects, keeping good repo with patients and society, keeping our documentation perfect and precise, and doing transparent and honest practice can save orthopaedic surgeons in long run. Having empathy towards patients and society, keeping workload in our control, helping each other in crisis, and no medical jousting are also important measures to do safe medical practice in the present era. Keeping in mind the mantra of coming together, working together, and working in harmony is of utmost importance for an orthopaedic practice in recent times.

**Key-words:** Clinical management, Globalisation, Medico-legal, Ethical issues, Orthopaedic practice

## INTRODUCTION

Medico-legal and Ethical aspects of Orthopaedic or Medical practice are nowadays a very important subject. It is a hot cake of today and our profession is going through the biggest turmoil these days. This topic is the most discussed and controversial today. It is also a topic of interest to all of us. There are a lot of issues in medical practice today ranging from patient issues, government issues, lots of rules and regulations, changing social scenarios, changing practice scenarios etc.

The globalization of the world and overuse of the internet have brought many problems to our profession. People search on Google before coming to us and half knowledge is always dangerous. We have to face lot many queries and questions from patients and relatives <sup>[1]</sup>.

The technological advances in our field have made treatment costlier and the lack of insurance facilities in India is a big curse to our profession as most of the time problems are due to the bills of the patients. The need for careful construction of professional ethics is also important and urgent as due to cutthroat competition and struggle for existence our unity is at the stake. We do a lot of unwanted and unethical things just for the sake of our practice <sup>[2]</sup>.

The consumer protection act and the citizens' charter on health services are also important issues in our practice.

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We have to be very careful while treating patients these days. The fear of litigations and assault on doctors is nowadays a big medicolegal issue in our practice [3].

If we go into the details of medico-legal aspects of our practice, the rights of our patients must be known to us and we can categorize:

1. Protect life and health.
2. Respect Autonomy.
3. Fairness and Justice.

The legal responsibilities of a hospital are very important and we should understand that Hospital is a public Institute and we deal with life and Death hence we carry specified responsibilities and liabilities within and outside the Hospital. If we fail to comply with these responsibilities, we are liable for legal action. The legal responsibilities are bound to different categories of people and Institutions by Contracts. Breach of any such contracts holds the hospital legally responsible [4].

There are many issues in medical practice and humanity is the most important aspect of our profession. Clinical management should precede legal duties in trauma cases brought to treatment and consent is not that important if it's a life or limb-saving situation.

Why should doctors take these duties seriously because we are regulated by various authorities like NMC/MMC (our professional bodies) and the law? The doctors may be sued in civil law for financial compensation and if the act is intentional, criminal law is applicable. The various facts like self-interest, trust and doctor-patient relationship are very important medico-legal aspects of our profession [5,6].

### Issues in orthopedic practice

The important issues in our practice can be summarized as-

- 1- Medico-legal /Injury/Other Certificates
- 2- Disability Certificate
- 3- Pre-Hospital Care and First Aid Issues
- 4- Consumer Protection Act
- 5- Consent And Related Issues
- 6- Moral And Ethical Aspects
- 7- Malpractice
- 8- Negligence (Civil/Criminal)
- 9- Mob Handling and Mob Psychology
- 10- Death In Hospital or Brought Dead
- 11- Assault On Doctors etc

The medico-legal or injury certificate is a very important document in a court of law and should be issued with at most care and all the record should document and preserve properly for a particular period. It should be given in prescribed proforma by the treating doctor and all injuries should be mentioned in the certificate and he should be able to defend his findings in a court of law properly [7-9].

Death on arrival is also an important issue in our practice and we have to deal with it very carefully we have to judge whether the death is natural or unnatural and a post-mortem is a must if death is doubtful. Mob handling and mob psychology is also important issue in such cases. Proper communication and counselling play an important role in such cases.

Disability certificate is again a very important aspect of our practice. A lot many patients come to us for disability certificates. We are not given training about disability certificates in our UG/PG. For all government schemes and benefits certificates from a government, a hospital is a must. We can give disability certificates only for motor vehicle accident claims in prescribed proforma. It is only our opinion or observation about this disability and the court will not punish you for this, but you have to defend your say in a court of law with a calm and cool approach. We use NIOH guidelines for disability calculation. Don't get panicky or irritated by questions of an advocate. At the most court will reject your certificate. Don't issue a certificate if you feel some wrong or ill intention of patients or relatives or for any other purpose than a motor vehicle accident claim. Motor vehicle act is a social act and the court also has a soft approach JUST AND REASONABLE compensation is the principle of this act. Other factors are also taken into consideration like job, the number of dependents, age, earnings of the person etc [9-12].

The consumer protection act is a big threat to our profession. We have to take care of this in our practice. Professional indemnity insurance is a must. Nobody is Mr. perfect and we have to defend our side in a court of the law perfectly. No loose comment about our colleague or his treatment. We must know that we are selling in the same boat and our turn may come. Transparency in our treatment and proper patient counselling is very important, record keeping and documentation will only speak in a court of law. Proving negligence is the job of our opposition. There are many

other issues in our practice like proper consent, moral and ethical practice, malpractice, unity of our professionals, various government rules and regulations etc. despite all these things we have to practice our noble profession without fear and we can do that if we follow certain guidelines and keep our moral high and do all the ethical things in our practice [13-16].

There are many legal issues surrounding our orthopaedic and trauma practice. We have to keep up-to-date knowledge of all legal requirements while practicing. Ignorance of the law is not acceptable at any cost and we have to comply with all rules and regulations and conditions of local legal requirements while practicing.

In nutshell, besides your clinical skills, four things protect you from medicolegal problems. They are:

- 1- Communication
- 2- Documentation
- 3- Communication of documentation
- 4- Documentation of communication

Rapid developments in the medical field in the last century have revolutionized the field of medical practice. It is now possible to diagnose diseases faster and more accurately using advanced diagnostic techniques. Medical management has become more effective with refined medications having more specific actions and fewer side effects. Surgical treatment has moved towards less invasive modes of management with lesser morbidity and faster recovery. Among all these developments, the medical profession in India is at crossroads facing many ethical and legal challenges in the practice of the profession. The medical fraternity is becoming more and more dependent on technology and market forces tend to influence decision-making by doctors. The fundamental values of medicine insist that the doctor should keep the patient's interest above everything else. The important issues of autonomy, confidentiality, justice, beneficence, and non-maleficence are key factors that should guide the daily decision-making by the doctor. These decisions may be involving a simple choice of antibiotics for an infection or the best medication for hypertension or hypercholesterolemia. It becomes more complex involving major ethical concerns in organ transplantation, clinical trials, genetic manipulations, end-of-life issues, or assisted reproductive techniques. However, the principles of ethics remain the same for all

the above situations. The ethical guidelines of medical practice provided by The Indian Medical Council (Professional Conduct, Etiquette, and Ethics) Regulations, 2002 are aimed at strengthening the ethical standards among registered medical practitioners in India [15,17-21].

The health sector in India has seen a major transformation with health care becoming a profitable sector attracting investors from diverse and varied backgrounds with profitable motives. There is also an allegation that the practice of modern medicine is becoming more impersonal, and with the increasing dependence on technology, the cost of treatment also rises. It is a fact that cannot be ignored that there is increasing dissatisfaction on the part of the patients who are expecting more and more from the doctors, leading to an increasing incidence of litigation. The Medical Council of India has a redressal mechanism that can give punishment to the erring doctor after proper investigative procedures. The unnecessary harassment of doctors who are falsely implicated in criminal negligence issues has been curtailed by the Supreme Court, which has issued guidelines for the criminal charging of a doctor for negligence [22-24].

The medical profession that was once considered noble is now considered along with other professions in the liability of paying for damages. The patients, who wanted monetary compensation for the alleged medical negligence used to resort to the civil courts. This was the only avenue earlier that used to be a lengthy process with its detailed procedural formalities. The confusion about the inclusion of doctors under the Consumer Protection Act, of 1986 has been laid to rest by the landmark decision of the Supreme Court in 1996 that puts the services of doctors for consideration under the purview of the Consumer Protection Act. This resulted in an increased incidence of consumer cases where doctors were implicated in all types of allegations by patients. The recent Supreme Court guidelines that call for stricter evaluation by the Consumer Courts before proceeding with alleged medical negligence cases by the patients will be a boon to the doctors who will not be pulled into unnecessary litigation. However, it has to be noted that the judicial bodies favour the patient who has suffered due to the negligent action of the doctors as reiterated by another Supreme Court decision recently confirming the decision of the State Commission and giving a much higher compensation [23,25].

It is imperative that present day medical doctors have to continue medico-legal education. Doctors have a legal duty to comply with the applicable ethical and legal regulations in their daily practice. Ignorance of the law and its implications will be detrimental to the doctor even though he treats the patient in good faith for the alleviation of the patient's suffering. All actions that are done in good faith may not stand legal testing. With the increasing number of cases filed by aggrieved patients seeking a legal remedy from doctors and medical establishments, it is no longer a matter of choice, but a context-driven legal mandate and necessity for the doctors to be conversant with basic legal issues involved in medical practice. This symposium aims at giving a basic insight into two main areas of medical practice [26-29].

The ethical issues in medical practice include changing doctor-patient relationships, the need for introducing ethical training in undergraduate and postgraduate medical training, the modern challenges in urological practice, and the ethical and legal issues in kidney transplantation covered from an Indian perspective [30].

The legal issues covered include the basics of medical negligence, changing concepts of informed consent, and the practical issues of medical negligence cases with representative case decisions from the Indian Courts.

## CONCLUSIONS

Medico-legal and ethical aspects of orthopaedic practice are very important in the present era of cutthroat competition. Litigations are part and partial of our carrier. The only thing we have to follow is to practice without fear. Do not get panic anytime; follow medical, ethical, and legal norms of practice at any cost. Always do the transparent and honest practice. Overwork or overburdening should be avoided at any cost. Coming together is the beginning, staying together is progress and working together is a success. Always stand by your colleagues in trouble and be united. To avoid malpractice lawsuits careful clinical appraisal, good clinical judgment, impeccable surgical technique, good surgeon-patient relationship, and well-documented records are essential. The future of medical and orthopaedic practice is definitely bright in India but only thing is that we have to follow the principal of brotherhood, coming together, working together for success and united for the cause of safety of our colleagues and patients as well. Gone are

the days of individual practice and group practice is going to be the future in India for orthopaedic and medical practice in coming years.

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