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EDITORIAL

CONSUMER PROTECTION ACT AND WE COPRA

As a result of prolonged and persistent efforts or various consumer organisations, Consumer Protection Act (COPRA) 1986 was passed by the Parliament. This has brought some welcome relief to the hapless and harassed consumers against the expoitations of manufacturers, traders and various service agencies. For the implementations of the Act the state governments had to form state consumer Disputes Redressal Commissions. Many, though not all of the states, have done so. When the Kerala State Commission adjudicated the first medical case concerning an allegation of gross negligence made by one Mrs Nair against cosmopolitan hospital and a surgeon on its staff, it shook the entire medical fraternity and created apprehension and insecurity in their panicked and agitated minds. This case with its far reaching implications has raised many questions. Did the framers of the Act intend to include medical service within the purview of the Act ? Should the service rendered by our noble profession be considered under 'contract of service' or 'covered by the Act'? Why should public medical service be not covered by the Act ? Should the medical negligence cases be conducted 'closed doors to spare the doctor damaging adverse publicity ? Should the Medical Councils, statutory bodies created on our demand to regulate and supervise our professional behaviour, be vested with additional responsibility and power now confered upon the various fora by COPRA ? These and more such questions are widely debated and are

awaiting answers from competent authorities. All these debates apart, we as individual practioners of medicine, must accept certain realities which are not going to vanish by wishful thinking. Our clinical practice must be in tune with the medico-legal and social realities of our times. Professional bodies like our Federation should help and guide their members in this endeavour.

ACCEPT ACCOUNTABILITY

We must wholeheartedly accept that we must be accountable to the patients for the services we sell them. Once this is accepted it automatically follows that the services we offer to our patients must be of a reasonably good quality. No body or no law expects that the treatment we give to our patients should be the best possible on earth. Neither is it ever expected that guaranteed cure is assured or even implied as a part of our services. Only quacks guarantee cure ! Secondly, differences of opinion as regards diagnosis and management of a patient are accepted as an integral part of medical care.

OFFER REASONABLY GOOD TREATMENT

What then is the quality of care we are expected to offer to our patient ? The patient can expect from his physician the skill and care that an average doctor having the same qualification can offer under the prevailing circumstances and facilities. How to ensure such care ?

ENSURE AVERAGE FACILITIES

Our consulting rooms, nursing home, labour rooms and operation theatres must have minimum acceptable facilities by way of equipment and staff. These would vary from place to place. They just cannot be the same in metropolitan cities and in rural areas. It is in this area that member bodies of our Federation can offer real service to their members. Our member bodies should lay down the norms for these in their areas. In the absence of these, the obvious yardstick should be - I must have in my consulting room and nursing home that majority of the consulting rooms and nursing homes in my town have.

ENSURE GOOD CARE

Adequate professional knowledge and its proper application is the essence of medical practice. Medical knowledge is expanding by leaps and bounds. New concepts and modalities of treatment often replace old ones. One must keep pace with advances in medicine by reading professional journals and by attending conferences, CME programmes, training courses, workshops etc., One should be able to provide his patients full information about newer or complex modalities of treatment not available with him and guide and help her reach

such treatment. Secondly, in difficult and complicated situations one must not hesitate to take second opinion from a senior colleague. Lastly, everything that we do for our patient must be entirely in her interest. No consideration other than the patient's welfare should dictate our handling of patients.

INFORMED AND VALID CONSENT

The treatment offered to the patient must be discussed with her. The nature of her disease, the treatment options if any and the pros and cons of different modalities of treatment must be discussed with her. The need and importance of the investigations found necessary and risks involved in invasive procedures advised should be frankly discussed with the patient. Informed valid consent must be obtained before any surgical procedure, howsoever minor. It is atrocious, inexcusable, unpardonable and sometimes disastrous to operate on any patient without obtaining her informed and valid consent. The consent should not be nonspecific or vague. Patient cannot be asked to sign consent on a blank paper. The consent is valid only if it is given in writing in the presence of witness, by the patient out of her free will after fully understanding the necessity, the detailed procedure, the consequences, risks and complications of the surgery and the anaesthesia and after considering the alternative modes of treatment if any. We must explain to the patient and her husband or guardian all these in the language and in a way that they understand. Such informed consent must be obtained in writing in the presence of a witness. No one can be a guardian of a minor unless so appointed by a court of law as long as the husband, father or mother, strictly in that order, are alive. There are no perfect and fool proof consent forms. The ones provided by the Food and Drugs and Medico Surgical Equipment committee of FOGSI to all FOGSI members in 1988 take good care of minimal legal requirements though they can be modified for individual needs. There is a great need to improve upon the consent forms used in all teaching and public hospitals and bring them up to the need of law. This would automatically educate would-be doctors and make them knowledgable in this vital but neglected area.

RECORD KEEPING

It is obligatory and prudent to keep thorough records of the patients clinical data, investigation, treatment details, surgical findings, operative procedure and follow-up examinations. It is necessary to keep such records of both outdoor and indoor patients treated by us. Patient records must be correct, complete, chronological and comprehensive. Consent forms must be kept in safe custody along with patients case papers. All these records

must be preserved for a least seven years (for twenty one years in case of obstetric cases).

PROFESSIONAL INDEMNITY INSURANCE

The possibility of being hauled up to the court of law by a patient should be considered a professional risk. It is wise to be prepared for such an eventuality by taking a professional Indemnity Insurance. This insurance policy offered to us at present leaves must to be desired. But we have no choice. It is for our professional organisations to gradually get us a better deal from the monopolising insurance companies. Hopefully, the insurance business would soon become privatised and competitive. Nevertheless, we must promptly insure ourselves without fail and renew our insurance policies in time. Group insurance of all their members by our member bodies, in collaboration with an insurance company is an idea worth persuing.

MEDICO-LEGAL CELL

All member bodies of FOGSI should establish a medicolegal advisory cell to guide and help their members. Such cells should consist of senior members of that member body and legal experts with specialised interest in medicolegal problems. FOGSI should have a central medicolegal cell.

CONCLUSION

Try and be a good doctor, if not at least be careful, but it is wise to be both good and careful.

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