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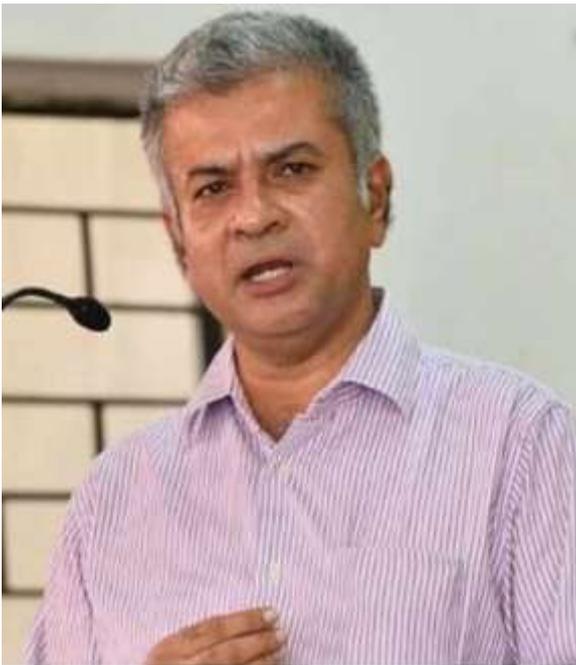
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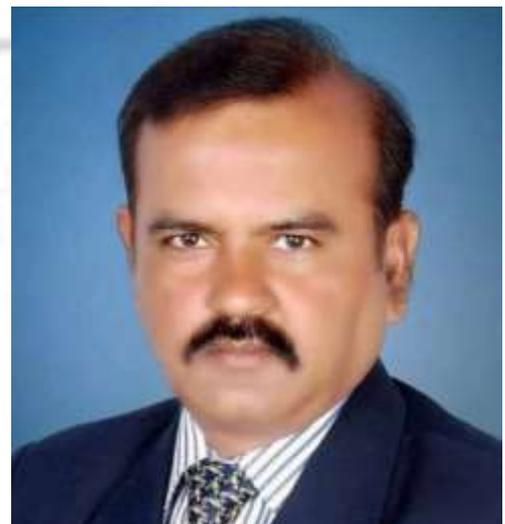


Dr. Raju Narayana Swamy popularly known as Kerala's Anti-Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala. He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University. He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru and diploma in Public

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Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

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Dr. Navtika Singh Nautiyal

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Intercountry adoption laws from Uttranchal University, Dehradun' and LLM from Indian Law Institute, New Delhi.



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Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, Ph.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University.

More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.



Subhrajit Chanda

BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

PATIENT RIGHTS AND THE DOCTOR-PATIENT RELATIONSHIP: LEGAL AND ETHICAL DIMENSIONS IN INDIAN HEALTHCARE

AUTHORED BY - GEORGIYA MARIYA GEORGE

ABSTRACT

The doctor-patient relationship, once rooted in paternalism, has undergone a significant transformation into a patient-centric model shaped by ethical evolution, legal mandates, and rising patient awareness. This Article explores the dynamic contours of the doctor-patient relationship, emphasizing the fiduciary, contractual, and ethical dimensions that now govern modern medical interactions. It critically analyzes the shift from passive compliance to active participation by patients in their healthcare decisions, a transition propelled by advancements in medical science, the digital revolution, and increased legal protections.

Central to this evolution is the Charter of Patient Rights introduced by the Ministry of Health and Family Welfare in 2018, which enshrines 17 essential patient rights such as the right to informed consent, privacy, emergency care, non-discrimination, and access to medical records. These rights are grounded in constitutional protections under Article 21 and reinforced by legislations such as the Consumer Protection Act, 2019, and the Clinical Establishments Act, 2010.

Additionally, the Article outlines the corresponding legal and ethical responsibilities of healthcare providers, particularly under the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 and the more recent National Medical Commission Registered Medical Practitioner (Professional Conduct) Regulation, 2023. These regulations aim to ensure that the medical profession upholds dignity, transparency, and patient welfare above commercial interests.

Keywords: Doctor-Patient Relationship, Patient Rights, Informed Consent.

INTRODUCTION

Doctor patient relationship can be defined as a fiduciary relationship.¹The more experienced doctor is obligated to help less experienced and vulnerable patient because of this two-way trust connection.²Patient always chooses a doctor who is expert in the medical field and uses his expertise to treat the patient under a trust. In this case, the doctor makes a unilateral decision about what treatment is “beneficial” to the patients without obtaining their consent.³

Furthermore, because of their superior medical knowledge, doctors frequently believe they have the final say when determining a patient’s needs. Additionally, they don’t think it’s necessary to talk to the patients about the diagnosis and suggested course of therapy.⁴

But as a result of scientific advancements, technological advancements, and the digital revolution, medical practitioners are increasingly faced with moral conundrums.⁵ Doctor’s hegemony in the medical field is well explained by Susan Sherwin in the following words:⁶

Until recently, good doctors were actually taught to treat their patients in a paternalist manner, using their own discretion to determine what would be best for their patients, with minimal consideration for the individual viewpoints or inclinations of each patient. The main aspect which deals in the healthcare is patient’s personal life for example, lifestyle of patient, illness, mental well-being etc and it is very challenging to a doctor to take decisions that match with the patient’s interest. Since modern medical care raises concerns about privacy, autonomy, etc the paternalistic approach in which patients obediently follow a doctor’s orders has become obsolete. Nowadays, patients are more informed, want to be involved in healthcare decisions, and have higher expectations for the treatment they receive.⁷As a result patient rights are now more widely recognized.

¹ Simon, R.I. & Shuman, D.W., The Doctor-Patient Relationship, 5 J. Lifelong Learning Psychiatry 423 (2007)

² Ian Kennedy, Treat me right: Essays in Medical law and Ethics 387 (Clarendon Press 1991).

³ Chin, J J, “Doctor-patient Relationship: From Medical Paternalism to Enhanced Autonomy”, 43 Singapore Med J 152 (2002).

⁴ Neda Milevska, Patients’ Rights as a Policy Issue in SEE - the Transition Context, at 2, IPF Fellow, Open Society Inst.-Budapest (2005)

⁵ Dya Eldin M. Elsayed & Rabaa Elamin M. Ahmed, Medical Ethics: What Is It? Why Is It Important?, 4 Sudanese J. Pub. Health 234,(2009).

⁶ Susan Sherwin, A Relational Approach to Autonomy in Healthcare, in The Politics of Women’s Health: Exploring Agency and Autonomy 21 (Francoise Baylis et al. eds., Temple Univ. Press 1998)

⁷ A. Goic, It Is Time to Think About Patient’s Rights, 128 Rev. Med. Chil 371, 371–73 (2000)

DOCTOR-PATIENT RELATIONSHIP

In the medical profession the keystone of medical practice is popularly known as doctor- patient relationship. But on the other hand, in the medical field this relationship is named as the most multiplex relation and it includes not only the consultation and patient care but also the confidentiality, trust, informed consent are all the part and parcel of this relationship. There are various types and models of relations in the doctor patient relationship which will be discussed in detail in the below part of this chapter.

2.3.1 CONTRACTUAL RELATIONSHIP

A patient enters into a contract with the doctor when he consults the doctor for treating any of his health condition.⁸ The doctor will admit the patient only after making a thorough examination.

The doctor patient relationship is a consensual relationship. The main requirement for this relationship is the consent of both parties.⁹ This relationship creates an explicit or implicit agreement that permits the doctor to treat the patient with appropriate level of expertise.¹⁰ Lord Templeman stated that ‘the doctor and patient have a contractual relationship in which the doctor perform services in exchange for payments from the patient’ held in *Sidaway v. Bethlem Royal Hospital Governors*.¹¹ Irrespective of whether the patient is receiving care from the private or public hospital it is universally accepted that the nature of medical care is always contractual.¹² Thus, in *QT, Inc. v. Mayo Clinic Jacksonville*,¹³ the doctor patient relationship was defined as a contractual one. Here the patient voluntarily submits him before the doctor and converse with the doctor about his health condition and after hearing the patient the doctor agrees to treat the patient. Private practice doctors have significant flexibility over the terms of their contracts with the patients and are free to choose how much they want to charge for their services.¹⁴ But this choice does not apply to the doctor in the case of emergency situations.

⁸ Dogra & Abhijit Rudra, *Lyon’s Medical Jurisprudence and Toxicology*, 171, (The Delhi Law House, 11 th Edn 2022)

⁹ Supra note.33

¹⁰ James L. Rigelhaupt, *What Constitutes Physician-Patient Relationship for Malpractice Purposes*, 17 A.L.R. 132 (2001).

¹¹ *Sidaway v. Bethlem Royal Hosp. Governors*, [1985] 1 All E.R. 643, 693

¹² Andrew Grubb, *The Law of Tort* 858 (Lexis Nexis, 2d ed. 2007).

¹³ *QT, Inc. v. Mayo Clinic Jacksonville*, 2006 U.S. Dist. LEXIS 33668

¹⁴ Barry R. Furrow et al., *Health Law* 260 (2d ed. 2000).

FIDUCIARY RELATIONSHIP

There is a credulous relationship between a patient and a doctor. This relationship always forms an ethical obligation to the doctors for giving more emphasize to the patients' needs rather than their own interest and fight for the well-being of their patients.¹⁵ An obligation of fiduciary duty may be owed by a physician to a patient.¹⁶ Medical professionals generally owed a tortious duty of care to the patient's. According to *Pippin v Sheppard* the court held that when a doctor abandons a patient in a irremediable state it is contrary to the doctor's obligation to care the patient.¹⁷ The Oregon supreme court stated in dicta in *Dowell v Mossberg*¹⁸ in a doctor patient relationship there always arises an obligation for the doctor to give appropriate care to the patient during the treatment. If the doctor failed to give proper care to the patient during the treatment it results in the infringement of obligation to care. In addition, the court acknowledged in *Ramirez v Carreras*¹⁹ that there is typically no prerequisite relation require for a duty to refrain from carelessly harming others. A doctor and patient may have a consensual relationship, according to the ruling in *Dougherty v Gifford*²⁰ wherein third parties have entered into a contract with the doctor on behalf of the patient. When assessing whether a relationship is consensual, it is crucial to consider whether the patient gave their express or implicit agreement or whether the service was provided for his benefit. A consenting doctor patient connection exists for the purpose of medical malpractice when health care services are provided for the patient in the absence of him. In *Stanford v Cannon*²¹ the court held that on the basis of the doctor's and the patient's conduct and behavioral patterns there arises the doctor patient relationship.

PATIENT RIGHTS AS PER THE CHARTER OF PATIENT RIGHTS

The Universal Declaration of Human rights is giving more importance to the equality and dignity of human beings. The main outcome of this is the patient rights has evolved globally. Every patient should have access to a set of fundamental rights on a global scale. Numerous laws and legal document in India contain provision pertaining to patient rights such as Art 21 of Indian Constitution, The Drugs and Cosmetics Act, 1940, The Consumer protection act,

¹⁵Supra note.33

¹⁶ Ian Kennedy, *The Fiduciary Relationship and Its Application to Doctors and Patients*, in *Wrongs and Remedies in the 21st Century* 119, 119 (Peter Birks ed., 1996).

¹⁷*Pippin v. Sheppard*, (1822) 11 Price 400 (Eng.)

¹⁸ *Dowell v. Mossberg*, 226 Or. 173, 190 (1961).

¹⁹ *Ramirez v. Carreras*, 10 S.W.3d 762 (Tex. App. 1999).

²⁰ *Dougherty v. Gifford*, 826 S.W.2d 668, 675 (Tex. App. 1992).

²¹ *Stanford v Cannon*, 2011 WL 2518856

2019, The Clinical Establishment Act, 2010, and a number of rulings from the National Consumer Redressal Commission and the Honourable Supreme Court of India.

The charter of patient rights adopted by National Human Rights Commission²² of India announced by the Ministry of Health and Family Welfare, Government of India, on August 30, 2018.

As per the charter patient has got seventeen rights which will be discussed here under.

RIGHT TO INFORMATION

In healthcare, the patient's position has evolved from being a passive recipient of the doctor's orders or guidance to an active participant in the therapeutic alliance.²³ In order for the patient to actively participate, they need to be informed about pertinent details regarding their care.

According to Level 1 hospitals minimum standards of CE, patients or their representatives are entitled to sufficient, pertinent information regarding the type of illness, its cause planned investigation and care, the anticipated outcomes of treatment, potential side effects and anticipated expenses.²⁴ According to the charter, patients have the right to sufficient information regarding any preliminary or verified diagnoses made about them, and these pertinent details must be made available and explained to the patient in the language they are familiar, at their comprehension level.²⁵ Furthermore, the doctor or trained helpers must present this information in the most straight forward manner possible without overwhelming the patients with excessively complex terms or confounding them. Patients are entitled to get information about the medication's name, dose and any potential side effects.²⁶ Each CE has to prominently display patient's rights so that patients and their companions have the best chance to become acquainted with the particular set of rights they are entitled to when seeking medical care. Every patient has the right to know about the doctor who is caring them, his qualifications etc.

²² Supra note.10

²³ Don Malcolmson, The Patient's Right to Know, 101 J. Med. Regul. 32 (2015).

²⁴ **Clinical Establishments (Registration and Regulation) Act Standards for Hospital Level 1, Annexure 8**, <https://clinicalestablishments.gov.in/WriteReadData/147.pdf>. (Last Visited on May 22, 2025)

²⁵ Supra note 10

²⁶ National Accreditation Board for Hospitals & Healthcare Providers (NABH), *Charter of Patients' Rights* (2018), https://nabh.co/Images/pdf/Patient_Charter-DMAI_NABH-new.pdf. (Last visited on May 22, 2025)

RIGHT TO RECORDS AND REPORTS²⁷

The patients medical record preservation is an important aspect in an hospital. This develops into legitimate documentary proof that can be presented to future authorities. The doctor's sole means of ensuring that treatment is effective for the patient and other authorities. The main aim of keeping or preserving the medical records in the hospital is for proving to the patients and other authorities that proper treatment has given from the hospital.²⁸

Medical records in different areas have to fulfil different criteria's but some of the information's were common in every place they are patient name and address, the doctor's qualifications, the medicines prescribed for the patient, the current health condition of the patient, time of admission and discharge and the follow up details.²⁹ Medical records must be kept either digitally or physically.³⁰The involved individual or hospital is responsible for ensuring the confidentiality, security, and integrity of such records.³¹In accordance with applicable laws and court decisions inpatient records must be kept up to date.³²The doctor is required to maintain correct medical records of the concerned indoor patient in the format prescribed for three years after the start of treatment.³³Medical records must be provided by physician upon request from the patient or competent person or authorities, in a span of 72 hours.³⁴If a doctor does not disclose medical records within the specified time after being asked by the individual in question, the relevant authority may draw a negative conclusion.

RIGHT TO EMERGENCY MEDICAL CARE³⁵

The right to life and personal Liberty is enshrined under Art 21 of Indian constitution. It declares that no one shall be deprived of his life or personal liberty except according to the procedure established by law.³⁶The Supreme court has defined the term "life" as something more than the mere animal existence.³⁷ The supreme court has interpreted Art 21 in different angles and included various other rights that are important to envision right to life. One of the

²⁷ Supra note. 10

²⁸ Thomas Joseph, Medical records and issues in negligence, 25 Ind. J. Urol. 384 (2009)

²⁹ Hayley Rosenman, Patients' Rights to Access Their Medical Records: An Argument for Uniform Recognition of a Right of Access in the United States and Australia, 21 Fordham Int'l L.J. 1500, 1503 (1997).

³⁰ Supra note 80, Sec 9.2

³¹ Supra note.80, Sec 9.3

³² Supra note 80, Sec 9.4

³³ Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 ,Appendix 3

³⁴ Id. Reg 7. 7.2.

³⁵ Supra note 10

³⁶ Indian Constitution Art.21

³⁷ Kharak Singh v. State of U. P., AIR 1963 SC 1295

example for such right is right to health which is interpreted by the Supreme court under Art 21.³⁸ Citizen's health should be prioritized in order to obtain optimal results as well as to give life purpose.³⁹ The government is obligated to provide the necessary medical services and facilities for exercising right to health.⁴⁰ It was held that right to health is a part of Art 21 when read with article 39 (e), 41 and 43 of the constitution.⁴¹

RIGHT TO INFORMED CONSENT⁴²

In the present days informed consent is the most relevant topic in the medical field.⁴³ The idea that patients must give their consent before receiving any kind of treatment is well established. One definition of it is "the patient's consent is required for an act to be performed by a physician, including a medicinal, surgical or diagnostic operation".⁴⁴ A number of ethical concerns are brought up by the idea of informed consent's absolute applicability.

The fundamental idea of respecting and valuing an individual's autonomy, as stated in the Nuremberg code of 1947, is the foundation of modern informed consent.⁴⁵ The World Medical Association's 1964 Declaration of Helsinki places a strong emphasis on getting the research participant's voluntarily informed consent. Upholding an individual's autonomy and right to make a reasoned decision is the goal of informed consent.⁴⁶ Respecting a patient's autonomy entails granting them the freedom to express their thoughts, make decisions, and act in ways that are consistent with their values and beliefs.⁴⁷ The basis of Informed consent and other essential components of rights which are guaranteed to the patients are mainly on the ground of right to autonomy which is enshrined under Art 21 of Indian constitution. The written consent of the patient has to be taken before conducting any tests or treatments.⁴⁸ According to the information listed in Annexure 9⁴⁹ of the clinical establishment Act standards for hospital

³⁸ Bandhua Mukti Morcha v. Union of India, AIR 1984 SC 802

³⁹ State of Punjab v. Ram Lubhaya Bagga, (1998) 4 SCC 117

⁴⁰ State of Punjab v. Mohinder Singh Chawla, (1997) 2 SCC 83

⁴¹ Consumer Education and Research Centre v. Union Of India, AIR 1995 SC 922

⁴² Supra note 10

⁴³ Omprakash Nandimath, Consent and Medical Treatment: The Legal Paradigm in India, 25 Indian J. Urol. 343 (2009).

⁴⁴ Samira Kohli v. Dr. Prabha Manchanda, AIR 2008 SC 138 at para 14

⁴⁵ Cecilia Nardini, The Ethics of Clinical Trial, <https://pmc.ncbi.nlm.nih.gov/articles/PMC3894239/> (last visited on May 22, 2025)

⁴⁶ Furkhan Ali et al., Consent in Current Psychiatric Practice and Research: An Indian Perspective, 6 Indian J. Psych. 667 (2019).

⁴⁷ Tom L. Beauchamp & James F. Childress, Principles of Biomedical Ethics 57 (5th ed. 2001).

⁴⁸ Supra note 80, Annexure 8

⁴⁹ Supra note 80, Annexure 9

level 1⁵⁰ the informed consent has to procure from the patient or from the bystanders if the patient was unable to give consent and it must be in the language which is known by the patient. It is necessary to clarify any possible dangers or consequences associated with the diagnosis or treatment.

RIGHT TO PRIVACY, CONFIDENTIALITY AND HUMAN DIGNITY

The patient's right to autonomy has ramifications for privacy and confidentiality. Similar to informed consent, patient autonomy serves as a foundation for privacy and secrecy. Respect and dignity are enhanced by privacy and confidentiality.⁵¹ Therefore, it is relevant to the establishment and maintenance of a productive and professional clinical relationship.⁵² The term privacy describes the authority and right to limit the degree to which others can interfere with one's physical, behavioural or intellectual existence. Physical and informational privacy are two of the most crucial types of privacy with regard to patients. In *K S Puttaswamy v UOI*⁵³ the Supreme Court held that the main constituent of right to privacy is right to life and personal liberty guaranteed by the Constitution.

RIGHT TO SECOND OPINION AND RIGHT TO CHOOSE ALTERNATIVE TREATMENT OPTION IF AVAILABLE⁵⁴

Right to autonomy and self-determination is the basis of a sick person's right to opt for second opinion and alternative treatment. Many illness are inherently complicated, and there are no obvious answers for a precise diagnosis or the best course of treatment and in certain cases, the primary accountable physician might not have enough experience.⁵⁵ No matter how careful medical professionals or hospital administrators are in unexpected situations involving incorrect diagnosis, incorrect treatment or medication overdose are a risk that cannot be totally disregarded.⁵⁶ For keeping a scientific balance it is essential to approach a doctor for a second

⁵⁰Supra note 80, Sec 10.23

⁵¹ Mohammad Mohammadi et al., Do Patients Know That Physicians Should Be Confidential? Study on Patients' Awareness of Privacy and Confidentiality, 11 J. Med. Ethics & Hist. Med. 1 (2018).

⁵² Hui Zhang et al., Patient Privacy and Autonomy: A Comparative Analysis of Cases of Ethical Dilemmas in China and the United States, 22 BMC Med. Ethics 1, 8 (2021).

⁵³ *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1

⁵⁴Supra note 10

⁵⁵Inder Maurya, Medical 2nd Opinion – Trends & Challenges <https://bwhealthcareworld.com/article/medical-2nd-opinion-%E2%80%93-trends-challenges-179592> (last visited on May 22,2025)

⁵⁶ Nomal Chandra Borah, Doctors' Dilemma and Patients' Right to Second Medical Opinion, ECON. TIMES: HEALTH [Doctors' dilemma and patients' right to second medical opinion - Health Files by Dr. Nomal Chandra Borah | ET HealthWorld](#) (last visited on May 22,2025)

opinion balance.⁵⁷ It is every patient's right to have a second opinion from a qualified clinician of their choice.⁵⁸ It is the duty of the hospital authorities and doctors to give the medical records of the patient whenever they are needed, especially in the case when the patient is seeking a second opinion or alternative treatment. And the medical records have to be given to the patients at free of cost.

RIGHT TO CHOOSE SOURCE FOR OBTAINING MEDICINES OR TESTS⁵⁹

It is the discretionary power of the patients to select from where to purchase the prescribed medications or from where the test or diagnosis has to be done. Patients can approach any licensed pharmacy for obtaining the recommended medication or substance in accordance with their autonomy and preference. The same is true when a test, diagnosis, or investigation is recommended for a specific condition; they have the right to have the test performed as they fit by any registered laboratory or diagnostic facility with trained staff.⁶⁰

RIGHT TO TRANSPARENCY IN RATES AND CARE ACCORDING TO PRESCRIBED RATES WHEREVER RELEVANT⁶¹

CE law laid down that all CE's working in India have to exhibit the price for all the treatments and facilities they are providing. The exhibit must be made in both the vernacular and English language. Additionally, the rates that each CE charges for service and facilities must fall within the range that the Central Government determines and issues after consulting with the State Government.⁶² CE's must abide by certain regulations in order to be registered and to continue operating. The hospital administration must make an effort to inform the patient and his companions about the fees through booklets, tables positioned at eye-catching angles or brochures. The patient is entitled to a thorough, itemized bill. When providing medical care, doctors put their patient's interest first and avoid conflicting with their financial interests. The rates that a doctor charges should be disclosed before the surgery or treatment is started, not after it has started. The amount and format of the compensation must be precisely agreed upon

⁵⁷Daniel Wechter & Donna Harrison, A Second Opinion: Response to 100 Professors, 29 Issues L. & Med. 147 (2014).

⁵⁸ Supra note 80

⁵⁹ Supra note 10

⁶⁰ *Id*

⁶¹ *Id*

⁶² Supra note 85, r. 9(i)-(ii)

before the treatment begins. As the fees of the treatment the doctor has to receive only the agreed sum of money which was agreed prior to the procedure. It is considered unethical for the doctors to engage in 'no cure no payment' contracts. The government doctors should refrain from accepting any consideration from the patients.⁶³In developing nations 40% of health care is spending for Drugs and other pharmaceuticals.⁶⁴Nonetheless, a sizable portion of the populace frequently does not have access to the most basic medications. This crisis may be influenced by a number of circumstances, including poverty. World Health Organization defines essential medications are the drugs that cater the healthcare wants of most of the people in the society.⁶⁵

RIGHT TO NON – DISCRIMINATION

Individuals who belong to vulnerable, marginalised, or socially disadvantaged groups deal with a variety of health issues. The main reason for the health issues faced by these individuals is mainly due to the discrimination they faced on the grounds of sex, place of birth, race, or ethnicity, or religion.⁶⁶The fundamental rights outlined in Article 14, 15, 16 of Indian Constitution support the idea of equality in treatment are a component of a set of rights that are guaranteed by the Indian Constitution.⁶⁷Equal status and opportunity are guaranteed under the constitution for socially behind in terms of education and economics.⁶⁸Equality is guaranteed under Art 14. Art 15 forbids discrimination on the basis of religion, ethnicity, caste, sex or place of birth. Another aspect that ensures equality in public employment is Art 16.⁶⁹Art 15 and 16 are instances of the same right permitted in a particular circumstance, but Art 14 is a general right.⁷⁰Therefore, the constitution forbids discrimination in all fields, including health care. The Indian constitution guarantees every patient for the right to access the healthcare without any discrimination on the ground of HIV Status, religion, caste, ethnicity, gender, age, sexual orientation, linguistic, or geographic or social backgrounds.⁷¹It's the appropriate

⁶³ Supra note. 95 ,Regulation 1.8

⁶⁴ Rituparna Maiti et al., Essential Medicines: An Indian Perspective, 40 Indian J. Cmty. Med. 223 (2015).

⁶⁵ WHO Expert Comm. on the Selection & Use of Essential Medicines, The Selection and Use of Essential Medicines, WHO Tech. Rep. Series No. 914 (2002).

⁶⁶ Joshua G. Rivenbark & Mathieu Ichou, Discrimination in Healthcare as a Barrier to Care: Experiences of Socially Disadvantaged Populations in France from a Nationally Representative Survey, [Discrimination in healthcare as a barrier to care: experiences of socially disadvantaged populations in France from a nationally representative survey | BMC Public Health | Full Text](#) (last visited on May 22, 2025).

⁶⁷ State of Kerala v. N. M. Thomas, AIR 1976 SC 490 at para 21, 54

⁶⁸ Id at para 44

⁶⁹ Id at para 54

⁷⁰ Gazula Dasaratha Rama Rao v. State of Andhra Pradesh, AIR 1961 SC 564

⁷¹Supra note 10, Supra note 80

responsibility of the hospital administration to guarantee that no patient is the target of any kind of discriminatory action or treatment, and this needs to be constantly and sternly explained to the staff and physicians⁷².

RIGHT TO SAFETY AND QUALITY CARE ACCORDING TO STANDARDS⁷³

Hospitals have several obligations to their patients. Beyond medical errors, administrative errors can also result in patient safety and security issues.⁷⁴ In *Thompson v. Nason Hospital*⁷⁵, the Pennsylvania Supreme court held that every hospital's have mainly four obligations regarding the patient care they are:

- The availability of high standard facilities and equipment's for the patient care.
- Appointment of qualified medical professionals for health services.
- Superintending the health care professionals with the respect to the patient care they are providing.
- For offering standard health care implementing appropriate guidelines for patient care.⁷⁶

RIGHT TO PROPER REFERRAL AND TRANSFER, WHICH IS FREE FROM PERVERSE COMMERCIAL INFLUENCE⁷⁷

When a patient who is suffering from life threatening disease, he has the right to get emergency medical care without any kind of discrimination. It is usually necessary for a patient to be transferred or referred to receive higher quality treatment when the facilities or services are subpar. When a patient is transferred from one hospital to another hospital the health professionals must explain to the patient the reason behind the transfer. The right to full information regarding the ongoing medical needs after discharge belongs to the patient or their companions. The transmitting authority make sure that the transfer has been verified on the receiving end as well. The safety of the patient receiving, shift in care must be guaranteed by the hospital administration. Before making any transfer or referral the health professionals has

⁷²Supra note 10.

⁷³ Id

⁷⁴ Mukesh Yadav & Pooja Rastogi, Patient Safety Due to Administrative Negligence: Neglected Area in India?, 1 *Annals of Int'l Med. & Dental Res.* 72 (2015).

⁷⁵ *Thompson v. Nason Hospital*, 527 Pa. 330 (1991)

⁷⁶ Id at para 15

⁷⁷ Supra note 10

to consider the patient's interest in this subject and it must not be made by giving any bribe, incentives, or commission to anyone.⁷⁸

RIGHT TO PROTECTION FOR PATIENTS INVOLVED IN CLINICAL TRIALS⁷⁹

The Central government has released New Drug and Clinical Trial Rules, 2019 under the purview of Drugs and Cosmetics Act. Consequently, it stipulates the requirements that must be fulfilled when conducting a clinical experiment. The term clinical trial is defined in rule 2(1)(j) of New Drugs and Clinical Trial Rules, 2019. The main goal of clinical trial is the assessment of drug safety, efficacy or tolerance. The aforementioned rule specifies the appropriate route for starting a clinical trial as well as other prerequisites. Only with the approval of Central Licensing Authority and an ethics committee established specifically for that reason may a clinical trial begin. The experiment must be registered with the ICMR maintained clinical experiment registry of India before it may begin. The Rules include sections that provide a detailed explanation of how human subjects or patients volunteering for the experiment must give their informed consent.

CDSCO has laid down Good clinical practice recommendations for conducting the clinical trials. According to GCP criteria, all clinical experiments involving humans must adhere to the Helsinki declaration and its core tenets, which include beneficence, non- maleficence, fairness and respect.

RIGHT TO TAKE DISCHARGE OF PATIENT, OR RECEIVE BODY OF DECEASED FROM HOSPITAL⁸⁰

Due to arrears in bill or due to any other procedural grounds the hospital authorities shall not deny the patient's right to discharge from the hospital and the bystanders right of receiving the body of the deceased one.⁸¹In *Devash Singh Chauhan v state*⁸² the Delhi High court heard a habeas corpus writ filed by the petitioner to free his father who was hospitalized due to unpaid bills. The court ruled that the hospital could not refuse a patient because the patient's next of

⁷⁸Id.

⁷⁹ Id

⁸⁰ Id

⁸¹ Id

⁸² *Devesh Singh Chauhan V. State*, 2017 SCC Online Del 8130 (India).

kin wanted to be in charge of getting them out of the hospital.⁸³The hospital was ordered to provide the discharge summary and release the patient after the court disapproved of the procedure.⁸⁴

RIGHT TO PATIENT EDUCATION⁸⁵

The right to getting aware and educated about the patient's current health condition is one of the fundamental rights guaranteed to the patient. Additionally, they are entitled to education of their rights and obligations as well as pertinent information, insurance plans, and pertinent benefits that, in the case of non-profit hospitals. They also need to be educated on how to properly pursue remedies for their issues. The hospital or doctor must educate them in the vernacular language of the patient. Therefore, in accordance with the established standards and procedure hospital administrators and physicians have a duty to educate patients.

RIGHT TO BE HEARD AND SEEK REDRESSAL⁸⁶

Expressing one's opinions is the fundamental freedom guaranteed to every individual. The patients also have this right. Patients, who are also consumers, are entitled to have their opinions about the services they get. As a result, each patient or companion is free to express their thoughts remarks or evaluations regarding the rendered service. They have the right to complain to the relevant authority about the service. Additionally, they can be told about how to submit a complaint, opinion, comment, or feedback to the relevant authority.⁸⁷ They can file a complaint with the official assigned by this charter or with the hospital, regulatory body, or tribunal that has been set up for this reason. If they feel that the order is unfair, they can also file an appeal. They are entitled to a prompt, equitable settlement of their grievances and to be informed of the complaint's outcome within fifteen days of the complaint being received. As required by the charter or applicable law, all hospitals and CE must set up an internal redressal process for this purpose and abide by its directives.⁸⁸

⁸³ Id at para 8.

⁸⁴ Id at para 9.

⁸⁵Supra note 10

⁸⁶ Id

⁸⁷ Id

⁸⁸ Id.

OBLIGATIONS AND RESPONSIBILITIES OF DOCTORS AS PER THE INDIAN MEDICAL COUNCIL (PROFESSIONAL CONDUCT, ETIQUETTE, AND ETHICS) REGULATIONS, 2002

The foundation for professional behavior and medical ethics in India was largely shaped by the Indian Medical Council Act of 1956. The Medical Council of India (MCI) was given the power to establish professional conduct standards, medical etiquette, and an ethics code for medical practitioners under Sections 20A and 33(m) of the Act. These clauses gave the MCI the authority to create rules for ethical conduct, guaranteeing that medical professionals upheld the highest standards of professionalism and compassion. The MCI enacted the Indian Medical Council (Professional Conduct, Etiquette, and Ethics) Regulations, 2002⁸⁹, which described doctors' ethical duties to patients, coworkers, and society at large, in an effort to further preserve medical ethics.

DUTIES AND RESPONSIBILITIES OF THE PHYSICIAN IN GENERAL

- Upholding the honor and dignity of his profession is a duty of physicians. Financial gain is a secondary issue for the medical profession, which has as its primary goal serving humanity. To practice contemporary medicine or surgery, one must be registered with the appropriate bodies and possess qualifications approved by the Medical Council of India (MCI).⁹⁰
- When patients entrust their care to doctors, they should earn their trust by providing them with the utmost care and dedication. Doctors should always strive to increase their medical expertise and knowledge, and they should share the advantages of their professional accomplishments with their patients and colleagues. Physicians should only use scientifically based healing techniques, and they should avoid working with those who don't adhere to this rule. Physicians have obligations to society as well as to individuals, according to the respected ideals of the medical profession.⁹¹
- For at least three years from the commencement of treatment, doctors must keep track of indoor patients' medical data. Within 72 hours, requests for medical records must be addressed and completed; noncompliance may result in disciplinary action.⁹²

⁸⁹ Indian Medical Council (Professional Conduct, Etiquette, and Ethics) Regulations, 2002

⁹⁰ Id Reg. 1.1

⁹¹ Id Reg. 1.2

⁹² Id Reg. 1.3

- Whenever feasible, doctors should prescribe drugs under generic names to encourage responsible drug use and save patients money.⁹³
- Dishonest or unethical behavior by members of the profession should be exposed by a physician without fear or privilege.⁹⁴
- The doctor must abide by the national rules that govern the practice of medicine and refrain from helping others circumvent them. In the interest of public health, he ought to cooperate in the observance and implementation of sanitary laws and regulations.⁹⁵

OBLIGATIONS AND RESPONSIBILITIES OF DOCTORS AS PER THE NATIONAL MEDICAL COMMISSION REGISTERED MEDICAL PRACTITIONER (PROFESSIONAL CONDUCT) REGULATION, 2023

National Medical Commission has issued certain regulations for the professional conduct of registered medical practitioners. It is well explained in National Medical Commission Registered Medical Practitioner (Professional Conduct) Regulation, 2023⁹⁶ that the RMP's main responsibility is to protect their patients.

- The EMRB has given different enrolment ID to each freelance RMP. And the RMP has to incorporate this ID on all patient prescriptions, certificates and payment receipts.⁹⁷
- There are certain conditions for putting medical degrees as suffix to the RMP's name. The first one is that they are certain degrees of medicine given in the guidelines of NMC only that degree has to put after the name of the RMP. And the last condition is that there are certain degrees published in the NMC website only that degree has to put after the name of RMP.⁹⁸
- RMP cannot claim to be a clinical specialist unless they have had training and certification in that particular area of contemporary medicine that has been approved by the NMC.⁹⁹
- Each RMP is required to practice the medical system in which they have received training and certification.¹⁰⁰

⁹³ Id Reg.1.5

⁹⁴ Id Reg. 1.7

⁹⁵ Id Reg. 1.9

⁹⁶ National Medical Commission Registered Medical Practitioner (Professional Conduct) Regulation, 2023

⁹⁷ Id Reg.3A.

⁹⁸ Id.Reg.3B.

⁹⁹ Id.Reg.3C.

¹⁰⁰ Id.Reg.3D.

- For determining whether the medical professional has qualified to practice medicine it is essential to analyse that whether his registration is completed according to the current Medical Acts. If he is not registered under the current Medical Acts then he is not competent to practice medicine.¹⁰¹
- It is mandatory that the appointment charge must be disclosed to the patient before the medical advice, operation or treatment is given. RMP has the discretion to choose whom he wants to treat. But this will not apply in two scenarios they are: (1) if the doctor is serving in government service (2) life endangering circumstances.¹⁰²
- The RMP should prescribe the medicine in generic names with decipherable handwriting.¹⁰³

Medical ethics and contemporary healthcare requirements are in line with the more comprehensive and detailed National Medical Commission Registered Medical Practitioner (Professional Conduct) Regulations, 2023. They create new standards for digital conduct and ongoing professional development (CPD), make generic medication prescriptions mandatory, and tighten regulations on dealings with pharmaceutical corporations. Along with extending a doctor's duties in areas like telemedicine, online conduct, and public health advocacy, they also use the Code of Ethics as a framework to guarantee moral and competent behavior in contemporary healthcare. Following protests from medical organizations, this regulation is kept in abeyance.

CONCLUSION

The keystone of medical profession is considered as the doctor- patient relationship and that relationship is ingrained in mutual trust, confidentiality and ethical obligation between patient and doctor. This relationship is transformed from various stages i.e. in the earlier stage it was a paternalistic approach and currently the doctor patient relationship is a patient – centric model that focuses more on autonomy of patient and informed decision making. This evolution has occurred due to various factors like improvement in medical science and various judicial pronouncements.

The recognition of charter of patient rights in India made an important step for giving quality and transparent health services to the patients. According to the patient charter it provides

¹⁰¹ Id.Reg.3E.

¹⁰² Id.Reg.6.

¹⁰³ Id.Reg.8.

almost seventeen rights to the patients like informed consent, privacy, emergency care etc. These rights are reinforced through various judicial pronouncements and legislative frameworks like Consumer protection Act, 2019 this includes medical services under its ambit and provides compensation to patients in medico legal cases which will be discussed in detail in the coming chapter.

When legal provisions and various judicial pronouncements protects patient rights, the healthcare professional's acts must be on the basis of certain legal and ethical obligations. The National Medical Commission Registered Medical Practitioner (professional Conduct) Regulation, 2023 prescribes the duties and responsibilities of RMP towards their patients. This regulation main objective is to making a balance between the patient's rights and the duties of RMP's and make sure that the RMP's follows the code of conduct which hierarchize patient welfare over their commercial interest.

