



MEDICO-LEGAL CONFLICTS

A GUIDE TO CLIENTS

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ASTREA LEGAL ASSOCIATES LLP

India has witnessed an enormous increase in number of medico-legal cases in the last decade. The number of Medico legal cases in SC itself has arisen four-fold. The cases involve malpractice by the medical professional and statutory non-compliances by hospitals, pharmaceuticals companies etc.



FACTORS THAT ATTRACT MEDICO LEGAL CONFLICTS

The foremost factor that leads to medico legal conflicts is the nature of the health industry. The very nature of the health industry is such that it does not tolerate any degree of misconduct, negligence or deficiency. Even a minute ignorance on part of the doctor or hospital can have punitive consequences.

Another factor is non-awareness of the doctors. The doctors being from non law background are many times not aware of the duties cast on them by law. But ignorance of law is no excuse. There are a number of compliances cast on the doctors which they must adhere in their normal course of profession such as displaying the name, designation and profession of the doctor on some conspicuous place in the hospital/clinic, maintaining of records of each and every patient as per the format prescribed by law, following proper layout plan for machinery and equipment's used by specialists as prescribed by the Appropriate Authority, Conducting test run of all machines in the Pathology labs on a daily basis etc. Many times doctors are not aware of



these requirements of law which in turn leads to conflicts between patient and service provider.

Moreover, there are some cases which carry with them inevitable legal implications. These medico-legal cases require stringent adherence to law. Honb'le Supreme Court of India has held that Medico-legal case examination and Handling is the duty of the doctor. There is a duty cast on the doctor handling such cases to report to the case to the nearest Police Station promptly. The proper method for giving the Final Opinion, recording of the case, etc. must also be followed by the doctor to avoid possible future legal complications. The doctor must fulfill this as per the directions given by various High Courts.

Obviously, it is not viable for the Doctor, when the emergency occurs or medico legal case comes, to search for the requirements of law or the manner to record and report such case. Hence there is a need that there must be ready proformas as per the requirements of law, beforehand which the doctor can readily fill when such events occur. This will ensure transparency and reduce the possibility of future legal complications. We at



REASONS FOR MULTIFOLD INCREASE IN MEDICO-LEGAL CONFLICTS

The reason for increase in number of such cases is the ease with which cases can be filed in the consumer form.

The court in the case, *Indian Medical Association v V.P Shanta and others* brought doctors and hospitals within the ambit of Consumer Protection Act which includes Government as well as Private hospitals as well as medical services rendered free of cost.

Another reason for the rise in such cases is the aggressively growing patient activism in the country.

Patients these days are intolerant to any degree of negligence on part of doctors. Courts also of late have been giving huge compensation to the victim patients. Landmark case in this regard is that of *Kunal Saha v Sukumar Mukherjee* (popularly known as the Anuradha's Case) wherein the chain of hospitals company AMRI Hospital in Kolkata was ordered to compensate the victim patient with Rs 11.41 crores. Courts these days order huge



compensation in favour of victim patients. The patients being aware of this are intolerant to any kind of deficiency in service on part of Doctors.

Also, law has cast a number of compliances on doctors and hospitals. Adherence to these statutory and regulatory compliances is mandatory. Non-compliance has strict punitive consequences. One such recent case of the online marketplace *Snapdeal*. Snapdeal was selling medicines online without adherence to the mandatory requirements of the Health Ministry. An FIR has been filed against the CEO and directors of Snapdeal for non-compliance. These cases show the heavy the punitive consequences of non-compliances can be to a business or profession. Hence these compliances must not be ignored and timely adherence must be ensured.



CHAIN OF HOSPITALS AND CONFLICT WITH LAWS

Chain of hospitals have different branches spread over different regions. The compliances of a single clinic or hospital is different from that of a chain of hospitals.

- **Adherence to Local Laws**

The compliances change from region to region, location to location and even with the change in specialist service offered. Each branch of the hospital has to adhere to the local laws that region apart from the mandatory central laws. Every specialist branch of the hospital has to adhere to certain compliances specific to that particular field of specialization. Eg- The compliances of a Gynecologist center or Nursing home is different than that of a Pediatrician.

- **Clearances from Governmental Bodies**

Governmental bodies from which the clearances are to be taken are spread over different locations. It is not viable for the hospital staff to execute all compliances from numerous govt. departments spread over different



regions. Moreover the requirements of the governmental bodies of different regions are also different. Eg- the documentation of a hospital branch in Rural area can be different from that of the hospital branch in Urban area.

- **Large Amount of Documentation**

Chain of hospitals also face the problem of large amount of documentation and paperwork. Every branch has its own set of compliances which is different from the other branches. It is difficult for the chain of hospital to undertake separate procedure of compliance for each and every branch in different locations.



WAYS TO REDUCE CONFLICTS BETWEEN PATIENT AND HOSPITAL

- **Create Awareness Among Doctors**

Every doctor whether in a govt. or non-govt. hospital is faced with a Medico legal case at least once in his/her lifetime. But owing to the inevitable legal consequences that follow, doctors are hesitant to take up these cases. But if the doctor is aware of the requirements of law and the duty cast on him by law in handling such cases, the legal complications can be reduced to a large extent. Hence the foremost requirement is to

- **Transparency in Records and Adherences to Statutory Compliances.**

Law requires that the hospital maintain the records of every patient for 10 years or till the final disposal of case in court. Also, it is important for the hospital to ensure that all compliances be it with respect to labor, financial, tax, audit, inspection, safety, fire, waste disposal etc., are all properly complied. When such records are maintained as per the requirements of law



and when the hospitals have adhered to all the timely compliances the possibility of legal action is reduced.



CONFLICTS SOLUTION AT ASTREA THROUGH TRACKRULE OUTSOURCING

IMPORTANCE OF OUTSOURCING

Hospital is an industry. Apart from compliances related to health, there are also other compliances such as labor compliances, filing of returns, clearances from various Govt. and Non-Govt. bodies, Environment ministry, Health Department of Govt., Fire Department, Local Municipal Corporation etc. Outsourcing these works to Astrea Legal gives the following benefits: -

- **Time management**

The task of getting the clearances from various bodies is time consuming and at times lengthy and cumbersome. It is not feasible for the hospital to devote much time in the preparing the paperwork and documentation in this regard rather than focusing on providing their health service. But



outsourcing this work helps the hospital to save the time so that they can devote time towards providing health services and save on time.

- **Clearances from numerous authorities under a single roof**

Clearances are to be taken from numerous authorities and bodies which are spread over different locations. It is difficult for the hospital staff to visit these numerous locations to obtain licenses and clearances from different bodies located at different locations. Instead outsourcing gives the benefit to ensure all the compliances under a single roof.

- **Updates and Developments**

Hospital needs to renew its licenses from time to time. Also new developments and new requirements of law arise which are notified by the govt. from time to time it is difficult for the hospital to keep track of all the notifications and rules issued by the governmental bodies in this regard. But outsourcing gives the benefit to be updated in this respect. We at Trackrule give regular updates keeping in mind the timeline, to our clients with respect to renewing licenses or any other developments or new requirements of law in this regard.



- **Legal assurance of ensuring compliances by team of experts**

The work of compliance is executed by a team of experts who are well aware of the labor, health, legal and other compliances of the medical industry. Hence the work is executed as per the requirements of law. Astrea helps its clients ensure 100% adherence of the statutory and regulatory compliances with the ease of outsourcing so that you can devote more time to your business without having to worry about the execution from various authorities.

TRACKRULE AT ASTREA

- ✓ Trackrule, a 24*7 , service at Astrea ensures ease of outsourcing to its clients so that they can devote more time to their business without having to worry about the execution from various authorities. We at Astrea ensure that our clients maintain the records in a transparent manner so that no conflicts arise between the patient and hospital in future. We also provide consultancy services to our clients with respect to the compliances.



- ✓ Through Trackrule we give the client the ease to execute all the compliances spread over different locations all under one roof. We also provide the client with regular updates with respect to renewal and other developments required by law with respect to each and every branch of the hospital so that all compliances are adhered to.
- ✓ Track rule ensure that our clients adhere to the statutory and regulatory compliances and all requirements of law in their normal course of business/ profession as well in case of emergencies to ensure transparency and avoid any possible future complications. We also provide the ready proformas and forms as per the Govt. requirements, which the doctors can readily access so that medico legal cases can be handled at ease therefore giving the legal assurance of avoiding any possible legal complications in future.

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