

Commentary: Medico legal aspects in ophthalmology in India

Every ophthalmologist must be aware of the legal aspects of practising medicine and vice-versa. Lawsuits usually address medical negligence, inappropriate diagnosis, and treatment.^[1] They are usually directed at compensation due to suffering arising out of medical negligence, jeopardized consent, and breach of confidentiality of doctor-patient relationship. Main reasons for the rising number of litigations are greater awareness among patients, increasing costs of healthcare resulting in high expectations and easy processing of cases in consumer courts as compared to civil courts in India. Complaints can be made to consumer courts, civil courts, criminal courts (in cases of criminal negligence) or Medical Council of India.

In various countries including India, cataract and corneal surgeries account for majority of the claims filed in courts.^[2-4] The proportion of retina related malpractice claims is less even though retinal diseases may have a poor prognosis and outcomes.^[5] In India, there is a growing number of court cases related to retinopathy of prematurity either due to delay in screening, treatment or referral resulting in huge

compensations up to 1.8 crore rupees.^[6] The litigations involve private as well as government setups, NGOs or charitable hospitals.

One must be aware of the existing laws before starting practice. Previously, the Transplantation of Human Organs Act 1994 mandated that cornea retrieval was to be done by a registered medical practitioner and strict criteria for transplantation centers were set. Recent amendment in 2014 states cornea to be a tissue and not to be treated as an organ, which has authorized trained technicians to harvest it. Consent for donation has been extended to include more relatives.^[7] One must also aim to enhance the quality of health care services. The Clinical Establishments Act draft proposes minimum standards for different health setups. Rules regarding biomedical waste management also need to be followed. One can apply for accreditation of eye hospitals under the National Accreditation Board for Hospitals and Health Care Providers (NABH) in India. Off-label drugs should be prescribed in accordance with guidelines issued by the Drug Controller General of India. Proper consent should be obtained from the patient clearly explaining the "off label" indication of drugs whenever such situations arise, but its legality remains disputed in India.

Permanent privation of sight of either eye has been termed as grievous injury, which makes it a punishable offence under IPC section 320. The medico legal report and expert opinion of the ophthalmologist form the basis of evidence in such cases. It should be clear, detailed, accurate, and objective.^[8] It is imperative for a medical establishment to inform police whenever such cases come for treatment.

The present article has comprehensively described the various medico legal issues faced by ophthalmologists in India.^[9] Potential areas of vigilance include appropriate patient workup, OT sterilization, anesthesia, and emergency resuscitation setup. Preventive steps can be taken at four levels to avoid professional liability cases. Primary prevention protects against a complaint being filed. Second level would protect the doctor from being held negligent. Tertiary level protects against direct financial consequences in cases of compensation like indemnity insurance policies. Last level protects against the professional and psychological stresses of litigation.^[10] Proper case selection, effective patient communication, standardized medical care, and clear documentation remain the key to avoid litigations.

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Access this article online	
Quick Response Code:	Website: www.ijo.in
	DOI: 10.4103/ijo.IJO_1510_19

Cite this article as: Agarwal D, Kumar A, Sundar D. Commentary: Medico legal aspects in ophthalmology in India. *Indian J Ophthalmol* 2019;67:1526-7.