

DR. LALIT KAPOOR

President , Federation of Association of Medical Consultants of India (FAMCI).



Incorporating

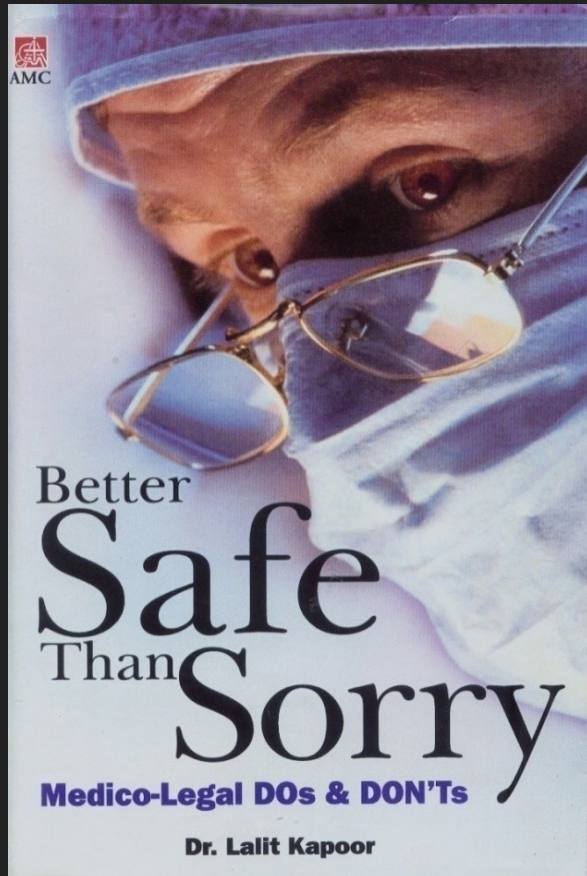
AMC Mangalore AMC Bangalore AMC Nashik AMC Kolhapur AMC Pune

AMC Ratnagiri AMC Sindhudurg AMC Goa

DR. LALIT KAPOOR

- **Senior General & Gastro-intestinal Surgeon**
- **Founder member -- Association Of Medical Consultants (AMC), Mumbai: Association of over 13000 Medical consultants now completed 50 years. Largest body of its kind. est. 1972**
- **Founded the first medico-legal cell in the country over 40 years ago**
- **Created the most unique professional indemnity scheme for AMC members**
- **Has assisted hundreds of colleagues in dealing with their medico-legal problems**
- **Had the honor of being invited by the National Judicial Academy to address High Court judges across the country on a virtual platform and District judges in a physical Meet.**
- **Medical Director – Shakuntala Memorial Hospital, Mumbai.**

DR. LALIT KAPOOR



**Author of Book
BETTER SAFE THAN SORRY –
Medico - Legal Dos &
Don'ts**

*Released on 2nd Oct 2006 by
Mr. Narayan Murthy, Infosys
Chairman*

MEDICO-LEGAL IMPLICATIONS IN OMFS

DR. LALIT KAPOOR

MEDICO-LEGAL LIABILITY

AN INCREASINGLY CHALLENGING REALITY FOR DOCTORS

ETIOLOGICAL FACTORS

CHANGING SCENARIO OF MEDICAL PRACTICE

DOCTOR-PATIENT RELATIONSHIP IS FRACTURED

- There is a serious trust deficit in the doctor –patient relationship
- Mutual trust has been replaced with mutual suspicion.

CHANGING SCENARIO OF MEDICAL PRACTICE

- Doctors no longer surrounded by an aura of infallibility
- Expectations of public risen sharply in era of hi-tech medicine
- Rapid Rise in Consumerism- Globally/Nationally. CPA NOW APPLICABLE TO US.
- Patient = Consumer
- Doctor = Service provider (HCP)
- Healthcare =Industry / Commodity

CHANGING SCENARIO

- New buzz words : Quality assurance, Accountability, Medical audit, Accreditation.
- Fall-out : Virulent advertising and marketing
- Exponential rise of litigation against doctors in consumer courts – with huge compensation awards being given.
- Violence against doctors and hospitals not uncommon.

OMFS BORN AS A SPECIALTY OF DENTISTRY WHY OMFS ARE AT ESCALATED RISK

- Maxilo-Facial surgeons have moved beyond the oral cavity to jaws, TMJ, Dento-facial deformities of the face , head/neck regions , cosmetic surgery of the face and even distant body parts e.g. for flap harvesting , etc. I believe even hair transplants.

POST-CPA

- Adverse or sub-optimal outcome of treatment is often equated to **negligence** / deficiency of service

NEGLIGENCE DEFINED

- Negligence is deviation from accepted medical standards of practice which results in damage to the patient.
- Doing an act of commission or omission which a reasonable, prudent physician would have never done or would not have omitted to do.

CONCEPT OF NEGLIGENCE

WHAT IS OPPOSITE OF 'NEGLIGENCE'

CRITERIA:

- (a) There is a normal and usual practice
- (b) This practice was not followed
- (c) The course adopted was one that no professional of ordinary skill would have taken
- (d) There is proof of the alleged negligence being the proximate cause of the purported damages .

POTENTIAL LIABILITIES OF HEALTH-CARE PROFESSIONALS

- Civil liability –law of torts
 - Criminal liability – Police /Criminal Prosecution
 - Professional misconduct – Dental Council
- } can be simultaneous

Also accessible :

- Human Rights Commission/Women's Commission/ Lok Adalats (public utility services)

Non-judicial Sequelae

- Media (including Social media)/ Social workers / Political goons –physical violence.

WHAT WE NEED TO DO

- Practice Rational, Evidence Based Medicine (EBM) with competence
- Familiarize ourselves with laws relevant to medical practice
- Identify potential problem areas and learn how to prevent and deal with them

COMMON ALLEGATIONS FACED BY DENTAL PRACTITIONERS

- Failed treatments or procedures
- Failure to diagnose
- Misdiagnosis
- Nerve damage
- Infection
- Lack of informed consent

COMMON CAUSES OF MALPRACTICE LITIGATION

- Failure to refer to a specialist
- Anesthesia Errors/Mishaps
- Product liability
- Surgical Injuries/Post-Op Complications
- Medication Errors
- Failure to Communicate with Patient

ILLUSTRATIVE CASES

- **Extraction of wrong tooth**
- **Oro-antral fistula**
- **Per-operative complication in oral tumour excision**
- **Facial nerve injury in parotid surgery**
- **Damage to lingual / inferior alveolar nerves**

DOCUMENTATION & RECORD KEEPING

- Most deficient area of medical practice in our country.
- Good records – extremely critical to the delivery of quality of medical care.
- Your best defense against allegation

Good records = Good defense

Poor records = poor defense

No records = No defense

Shabby records ?

RECORD-KEEPING

Legally what is not documented never happened!

ABSENCE OF INFORMED CONSENT – NEGLIGENCE PER SE

- Informed consent has assumed great importance.
- Paternalistic pattern has been replaced with Patient autonomy .
- Patient operated without consent can attract charge of assault and battery
- Absence of informed consent –negligence per se under law of Torts.

INGREDIENTS OF INFORMED CONSENT

5 DO's

Make sure the patient understands:

- Nature of his condition
- The alternate treatments or procedures
- Nature of proposed treatment
- Risks of proposed or alternate procedures
- Chances of success or failure of the treatment

INGREDIENTS OF INFORMED CONSENT

5 DONT's

Don't inform the patient

- That you are going to do a routine operation as none is routine
- That the treatment or procedure is simple
- That no complications will occur because complications can and do occur
- Don't omit to record denied consent

INFORMED CONSENT

- Operation Specific Consent

COMPATIBLE RESOURCES

Do not undertake to handle cases for which matching resources or expertise are not available to you.

ROLE OF GOOD COMMUNICATION

- Communication skills not part of our syllabus
- Good communication skills are crucial and the key to good doctor-patient relationship
- In the majority of cases, lack of communication is the cause of medico-legal problems

PROVOCATION BY COLLEAGUES

Important Cause Of Litigation

PROFESSIONAL INDEMNITY INSURANCE

- Do not practice even for a single day without cover of this insurance



Caution : Cosmetic procedures

CONCLUDING MESSAGE

- The best way to deal with medico-legal problems is to prevent them
- It is better to be safe than sorry !

WISHING YOU A SAFE PRACTICE !!



THANK YOU