

## **Action Committee-National head Quarters**

### **Indian Medical Association Prevention of Litigations**

#### General Guidelines for Doctors:

##### A. Accountability:

Medical Profession is normally, ethically, and legally accountable to the patients in particular and society in general. In no way we can get out of the obligation. This aspect should be kept in mind every time you treat the patient.

##### B. Communication:

Doctors are poor in communication. Many of the causes of litigations arise due to lack of proper communication.

It is always better to create a good, "Doctor-Patient Relationship" "Necessary information regarding the disease and the treatment should be communicated to the patient. All their doubts have to be cleared. Try to avoid ambiguity at all times. Be always ready to answer their questions. Never neglect the relatives and by standers.

##### C. Documentation:

Even though we are taught the theory and practice of proper clinical examination of the patients and the record keeping during the student days many of us do not follow them in our daily practice. In the O.P. Ticket, the symptoms, signs, findings and diagnosis should be written before prescribing medicines. If need be more than one diagnosis could be entered and the prescription must be to deal with the conditions mentioned in the diagnosis. Provisional and tentative Diagnosis must be written if no conclusive diagnosis could be given. While prescribing the name of the drug, its dose, the route of administration, etc. should be written clearly. Signatures, of the doctors with the date and time must be affixed. During successive visits the dates and progress should be mentioned. The results of X-ray and other investigations findings should be entered or attached.

1. Name and qualification of the Doctor (qualification recognized by the Medical Council). Non Clinical P.G. Degree or diploma can be entered but in bracket the subject should be written.
2. Name and age of the patient
3. Complaints in brief
4. Important and relevant past history
5. Examination findings: important, positive as well as negative.
6. Provisional diagnosis
7. Advice for investigations, if any. X-ray, ECG, Lab. finding, (results can be written or attached )
8. Treatment fitting to diagnosis
9. Any other advice like rest, follow up, surgery, etc.
10. Recording his unwillingness for hospitalization, any other relevant matters as drug reaction, further consultation etc.
11. Signature of the Doctor
12. Date of examination at the top or with the signature.

In the case of in patients all the above details should be entered. Bu history and findings should be in more detail. Daily progress and new findings must be entered with initials of the doctor. While referring to another specialist, address the specialist and mention why you are referring in the form of a reference letter with your signature at the bottom. The specialist on seeing the patient must write the relevant findings, opinion, and advice with the signature.

On discharge enter the discharge summary final diagnosis, advices and follow up instructions if any.

If the patient has undergone any surgery, operation notes should be written. On discharge always give the discharge card containing date of admission date of discharge, final diagnosis, and advice with the follow up instructions.

It is better to have the I.P.Chart and the case sheet in book form.

In all case sheets the entries should be in the same pattern. In case of random checkup of case sheets by an investigating officer, if one particular case sheet contains more entries and if other differs in pattern, suspicion is bound to arise. In case of complaint or mishap, never manipulate the case sheet, as it is likely to be found out and vitiate your veracity.

#### D. Consent:

Consent before any complicated diagnostic or invasive procedures, anesthesia and surgery, is a must except in rare circumstances, such as life threatening medical emergencies, , on a court order . or at request by the poilie . The consent should be in local language and signed by he patient or close relatives. The procedure should be explained to them. An” informed consent is the ideal “. At least when complications are expected , and informed consent preferably written by the close relatives of the patient is preferable. If possible signature of the witness should be obtained.

#### E.Blood Transfusion

Maximum care should be taken in case of blood transfusions. The following precautions should be taken .

- a) Transfuse if absolutely indicated only.
- b) Same group should be transfused except in the case of emergencies.
- c) All mandatory tests should be done and file the results
- d) Avoid professional donors

#### F. NEVER DO IT

1. Never give the original case sheet to the patient or relatives. It can be given to police or court or on written request.. in that case keep a photocopy and get vouchers.
2. Never issue a false certificate
3. Never give full assurance of complete cure.
4. Never operate a patient without consent
5. Never underestimate anybody
6. Never loose your temper even on provocation.
7. Never sign a statement without reading it.
8. Never do MTP without license for you and to the institution
9. Never trust the version
10. Never prescribe contraindicated or banned drugs or medicines with irrational combinations
11. Never experiment of patients
12. Never forget your limitations.
13. Never comment on your colleague or their treatment
14. Never hesitate to refer the case if you cannot be managed d by you .
15. Never prescribe Ayurvedic drugs or those of other systems of medicine.
16. Never examine the patient under the effect of alcohol
17. Never do any internal examination of any female patients by a male doctor in the absence of a female attendant .
18. Never give general anesthesia without any qualified anesthetist.
19. Never exhibit qualifications not recognized by MCI.
20. Never advocate or advertise your professional skill

21. Never sonlogically identify and reveal the sex of the baby ante-natally
22. Never sell samples given free to you by the pharmaceutical companies.
23. Never indulge in trade practices or get involved in commission rackets.
24. Never use out dated or expired medicines.
25. Never overload yourself lest you falter in your judgment.
26. Never deviate from the prescribed norms.
27. Never ignore the law of the land.
28. Never resort to UNETHICAL PRACTICE.

The following are considered gross negligence and hence avoid all costs.

1. Operating on the wrong limb, or organ on the wrong side as eye, ear etc.
2. Leaving the mob. Gauze etc. inside after the operation
3. Administration of drugs which are likely to produce sensitivity without testing the sensitivity test .
4. Sterilisation operation without consent.

## H.Litigations

Litigations are mainly in the nature of compensations. Before taking the case to the consumer forum, a notice may be sent to the doctor. This may be sent by the patients, relatives or through a lawyer. There will be a time limit. For this the doctor should give a reply. If the time limit is too short, or if you want more time after sending an initial reply and denying the charges, you can ask for extension of time for 15-20 days. Then the detailed reply should be sent. Each point of allegations should be answered separately. Abbreviations should be avoided and scientific explanations should be made in simple language. Also you should ascertain that you have taken reasonable care and shall and you have treated the patient in good faith.

Never get panicky when you get a notice. It will be better that you consult with a senior IMA Colleague to draft the reply. Never entrust the job of drafting the reply to an advocate. An advocate can be employed but you should draft the reply first, take it with you to the advocate, show it explain to the advocate. Discuss with him and then if necessary, make some alterations. But the essential points should be of yours. There is no need to incorporate too many legal points.

Sometimes after our denied reply, the matter may not proceed further, or they may drag the case to the consumer court. At times the may come directly from the consumer forum, for which also you have to give reply in the above lines. There again if the time is not sufficient you can ask for extension. You need not employ an advocate in the consumer forum, provided you can go yourself. In case you find it difficult, a sensible co-operative level headed advocate may be employed. You with your colleagues should have discussions with the advocate. A copy of the case sheet or Out Patient ticket may be produced to the advocate. You can suggest to put the name of your willing senior colleagues of the same discipline, as your witnesses. You should be very careful in not committing the fault, negligence or mistake in your reply.

## How to draft a reply?

Please deny all allegations of negligence and carelessness into the first paragraph itself. You can write as “ I am in receipt of the notice dated ..... sent by you with certain allegations of negligence and carelessness attributed to the treatment given to Sri/Srimathi ..... and as the allegations are frivolous and baseless ; they are denied. “

In the second paragraph write a detailed account of the incidence in your version, in simple language. You should emphasise that you have taken extreme care and caution at each stage of the treatment.

In the third paragraph attend to all the allegations one by one with your counter statement and argument. In the fourth paragraph write some of your arguments against the petition in general and in some of the general facts of treatment.

If the reply is filed in the Consumer Forum as for the cost on the ground that it caused mental agony for you by quoting section 26 of Consumer Protection Act 86 which permit compensatory loss upto Rs.10,000/-

#### I.UPDATING THE KNOWLEDGE:

This aspect is very important. You have to attend CME sessions and Browse Medical Websites of authority and update your knowledge since changes are taking place routinely in the medical field.

Finally the warning you should keep it in mind ,” Whenever your treating a patient consider that she/he is likely to be your future Litigant.

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From Dr.M.Suryanayanan

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