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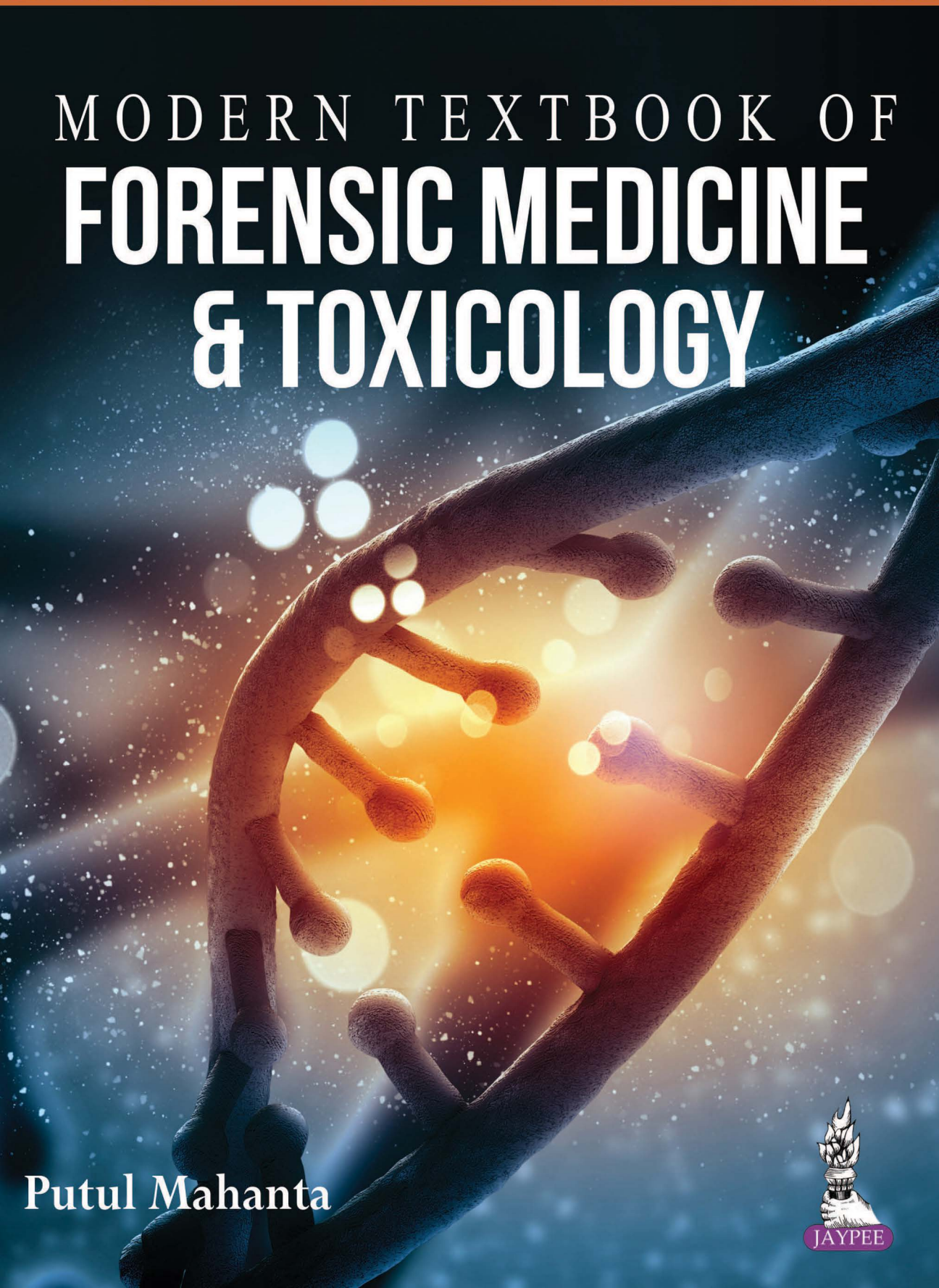
MODERN TEXTBOOK OF FORENSIC MEDICINE & TOXICOLOGY



Putul Mahanta

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CHAPTER 3

Medical Law and Ethics

Mukesh Yadav, Rituraj Chaliha, Putul Mahanta

LEARNING PLAN

- Know about different attributes of Medical Council of India (MCI)
- Learn about rights and privileges of Registered Medical Practitioners (RMP)
- Know about the ethical aspects of medical practice
- Identify the different aspects of the RMP
- Identify the unethical acts
- Know about the different types of consent
- Recognize medical negligence
- Know about Consumer Protection Act
- Understand biomedical waste management
- Learn about the ethics in medical research

MEDICAL COUNCIL OF INDIA

Structure of Medical Council of India (MCI)

Medical Council is a corporate body constituted under the Indian Medical Council Act, 1956 (repealed Act 1933). Indian Medical Council's office is situated in New Delhi. It comprises a set of members of the profession elected from each state and universities, as well as nominated directly by the government of India in consultation with state governments.

Constitution and Composition of the MCI

The Central Government shall cause to be constituted a council (MCI) consisting of the following members, namely:

i. One registered medical practitioner as a member from each State other than a Union Territory to be nominated by the Central Government in consultation with the State Government concerned. Thus, the council has one member from each state nominated by government.

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ii. One registered medical practitioner as a member from each University with which at least a Medical college is affiliated, to be elected from among the members of the medical faculty of the University by members of the Senate of the University or in case the University has no Senate, by members of the Court. Thus, the council has one member from each university elected.
iii. One registered medical practitioner as a member from each State in which a State Medical Register is maintained, to be elected from among themselves by persons enrolled on such register who possess the medical qualifications included in the First or the Second Schedule or in Part II of the Third Schedule. Thus, one member from each State Medical Register, representing non-Indian degrees (Part-II, III schedule) (Elected).
iv. Seven members to be elected from among themselves by persons enrolled on any of the State Medical Registers who possess the medical qualifications included in Part I of the Third Schedule of MCI. Thus, Seven members from each state medical Register representing Indian degrees (Part-I, III schedule) (Elected).
v. Eight members to be nominated by the Central Government (nominated).

Executive Committee

The above body through election among themselves forms an executive committee comprising of two officers: **President** and **Vice-President** and **20 members**. The president and vice-president of the Council shall be elected by the members of the Council among themselves. Executive committee members are elected by the General Body of Medical Council of India. The **Secretary**, who is an appointed executive of the council, is an ex-officio member. However, any number of subcommittees comprising of 7–10 members may be formed to carry out the functions of the council from the above group.

Duration of MCI

The tenure of the Medical Council of India ordinarily for a term of not more than 5 years or till formation of a new office, which could not be formed due to some technical reasons.

Functions of MCI

Maintenance of Indian Medical Register

i. An officer by name Registrar is appointed by the Council, who will maintain a register (Secretary) called Indian Medical Register. This contains the names of all medical persons who are enrolled on any of the state medical register and who possess a recognized medical qualification included in first schedule of MCI.
ii. A name once entered is erased normally on death of the doctor or as a disciplinary action. Names may also erased temporarily and then re-entered, depending on the time and condition of disciplinary actions taken.
iii. This contains the names of all medical persons who are enrolled on any of the state medical register and who possess a recognized medical qualification.

Maintenance of Quality of Medical Education

i. **Postgraduate Medical Education**: It prescribes standards of postgraduate medical education for the universities and would also offer advice to universities to maintain uniformity all over the country.
ii. **Undergraduate Medical Education**: It maintains standards at undergraduate medical education by appointing inspectors, who inspect the facilities and examinations held by university/medical institution in India, the purpose being to recommend recognition of the qualification to Central Government.

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iii. To supervise the medical profession and maintain a proper standard of medical education throughout India.
iv. Recommendation to Central Government for start of new medical college/new medical courses/increase of seats for these courses.

Inspection of Medical Colleges

The MCI may arrange for an inspection of a medical college under following circumstances:

i. For every medical qualification (MBBS, MD/MS/DM/MCh/Diploma, etc.) when it is newly introduced.
ii. For every 5 years routinely, to determine the standards, equipments, training, staff pattern and other facilities. If the inspection result is unsatisfactory, the inspectors concerned can make recommendation to the Medical Council of India for withdrawing recognition accorded earlier.

Recognition of Foreign Medical Degrees

Two important sections of Indian Medical Council Act, 1956 govern this and they are:

i. **Section 12**: Empowers the council to recognize medical qualifications granted by institutions outside India and to enter in a scheme of reciprocity with Medical Councils of foreign countries in the matter of mutual recognition of medical qualifications between the two countries.
ii. **Section 13** (4) of the same Act, gives authorization to the council to recognize foreign medical qualifications, which are not included in the schedule (II), based on reciprocal recognition.

Procedure for Recognition: A person with such qualification should first send an application through Central Government. The full literature regarding the course of study, syllabi, duration of the course, etc. may also be required to be furnished. The council may consult directory of medical institutions published by World Health Organization.

Then the person should qualify the foreign medical graduate examination (FMGE), which is conducted by national board of examinations (NBE) every 6 months. Then, that foreign degree will get recognized by MCI in India and candidate would be entitled for registration with Medical Council of India and gets all the privileges of Registered Medical Practitioner except few.

Appeal against Disciplinary Action for Unethical Acts and/or **Professional Misconduct:** The Indian Medical Council can give advice to the Central Government (Health Ministry) regarding appeals preferred by a medical practitioner against the decisions taken by the State Medical Council on disciplinary matters.

Procedure of Appeal: The medical practitioner, against whom the State Medical Council has taken disciplinary action, may appeal to the Central Government in writing, stating the grounds of the appeal and be accompanied by all relevant documents including a receipt for paying the nominal fees (₹ 20/-) to Central Government. The appeal should be filed within 30 days from the date of decision appealed against.

The Final Decision: The decision of the Central Government, which is given after consulting Indian Medical Council, is final and binding on the State Government and the State Medical Council.

Issue of Warning Notice: Indian Medical Council may issue **warning notice** when unethical practice is done. This comprises of information about certain unethical practices known as infamous conduct in a professional respect.

Functions of State Medical Council

Maintenance of State Medical Register

i. The State Medical Council also maintains a State Medical Register. This Register will contain the name, address, qualifications and date of qualifying of every person who

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is registered under this Act on paying a prescribed fee. On registration, a Number is allotted to each person with a certificate, enabling him or her to be considered as Registered Medical Practitioner.

ii. Display of this certificate in the place of his/her practice helps the lay public to distinguish a qualified doctor from the unqualified. It is the duty of the Registrar to inform Indian Medical Council, from time to time, about the additions and deletions from the State Medical Register regularly.

Disciplinary Control

I. Disciplinary action/control over doctors registered with the council.
ii. Erasure of name and restoration of name of doctors from State Medical Register after disciplinary action and/or death of doctor.
iii. Periodic updating of State Medical Register and its information to the Medical Council of India on Annual Basis.
iv. Can issue warning notice (list of professional misconduct issued from time to time).

Procedure of Disciplinary Enquiry

Disciplinary enquiry as per the provisions of Chapter VIII of Regulations, 2002, may arise usually from two sources:

i. Accusations of professional misconduct in writing either from a member of the public or a professional colleague or a certain public officer (Point 1.7, Chapter I).
ii. An order from the court where a doctor is convicted for any criminal offense.

On receipt of such a notification or accusation of professional misconduct, the Registrar of State Medical Council submits it to the president and on scrutinizing the same, one of the following:

1. **Rejection of the case**: When false or otherwise unfounded allegations (acquittal if no *prima facie* case proved).
2. **Submission to ethical sub-committee**: The cases, which cannot be rejected, shall be referred to a special ethical sub-committee of the chairman and a few other co-opted members. The committee will examine the facts of the case and on giving an opportunity to the alleged accused physician to defend, who decides the punishment under disciplinary action. The sub-committee has to decide the disciplinary action enumerated below:
   i. **Acquittals**: The case may be either dismissed if no *prima facie* evidence against the accused.
   ii. **Warning**: If it is a case of first offense, doctor may be sent back merely with warning not to repeat the same.
   iii. **Action**: It is the eraser or suspension of the name of the doctor from the register for a specific period considering the gravity of offense, to be reinstalled at the end of the period of suspension.

Penal Erasure: This means erasure of the name of the doctor from the state medical register permanently or temporarily when the offense is proved allowing not to practice as registered medical professional. When a practitioner's name has been erased from the register, he or she may apply for restoration at various fixed intervals. He or she may also appeal to the Medical Council, which can recommend to the Union Ministry of Health and Family Welfare against the decision of the State Medical Councils.

ETHICAL ASPECTS OF MEDICAL PRACTICE

Medical Ethics

Medical ethics deals with the moral principles, which should guide members of the medical profession in their dealing with each other, their patients and the state. Ethical behavior is a self-imposed duty upon each doctor.

Medical Etiquette

It deals with the conventional laws of courtesy observed between members of the medical profession. Hippocrates, the Greek physician, introduced the concept of ethics in medicine. Chapter III of Ethical Regulations, 2002 deals with issues of etiquettes.

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Duties of Doctors to Each Other (Medical Etiquette)

It is the rules of conduct growing the relationship of the medical profession and includes the following:

1. A doctor ought to behave to his or her colleagues, as he would have them behave to him.
2. A doctor must not entice patients from his colleagues.
3. A doctor must observe the principles enshrined in Chapter III of Ethical Regulations, 2002.

Declaration of Geneva

The Medical Council of India (founded in 1934) formulates the modern code of medical law and ethics in India. It is framed and worded on the same line as in the Declaration of Geneva with some modifications by the World Medical Association, which again is a restated modern version of the oldest code of medical ethics, the Hippocratic Oath: held in high esteem by every medical professional. The general principles mentioned in the **Hippocratic Oath** have been brought up to date by the **World Medical Association**.

The modernized version of the **Hippocratic Oath** is the **Declaration of Geneva and the International Code of Medical Ethics**. The Declaration of Geneva was adopted by the General Assembly of the World Medical Association at Geneva in 1948. It was amended in 1968, 1984, 1994, 2005 and 2006. It is a declaration of physician's dedication to the humanitarian goals of medicine, a declaration that was especially important in view of the medical crimes, which had just been committed by Nazi in Germany.

International Code of Medical Ethics

It was adopted in the General Assembly of the World Medical Association in London in October, 1948. It is also a modernized version of the **Hippocratic Oath**. International code of medical ethics is again solely based on Declaration of Geneva and framed as sets of duties of doctor in general, to the sick and to each other.

Duties of Doctors in General

i. A doctor must always maintain the highest standards of professional conduct.
ii. A doctor must practice his profession uninfluenced by motives of profit.
iii. Following practices are deemed unethical:
   a. Any self-advertisement except such as is expressly authorized by the national code of medical ethics.
   b. Collaboration in any form of medical service in which the doctor does not have professional independence.
   c. Receiving any money in connection with services rendered to a patient other than a proper professional fee, even with the knowledge of the patient.
iv. Any act or advice, which could weaken physical or mental resistance of a human being, may be used only in his or her interest.
v. A doctor is advised to use great caution in divulging discoveries or new techniques on treatment.
vi. A doctor should certify or testify only to that which he or she has personally verified.

Duties of Doctors to the Sick

i. A doctor must always bear in mind the obligation of preserving human life.
ii. A doctor owes to his or her patient complete loyalty and all the resources of his or her science. Whenever an examination or treatment beyond his or her capacity, he or she should summon another doctor who has the necessary ability.
iii. A doctor shall preserve absolute secrecy on all he or she knows about his or her patient because of the confidence entrusted in him.
iv. A doctor must give emergency care as a humanitarian duty unless he or she is assured that others are willing and able to give such care.

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Doctors and the Media

Increasing public interest in health matters has brought doctors in closer contact with media. The British Medical Association in Handbook of Medical Ethics, 1981 has suggested guidelines for the registered medical practitioner and their dealings with media. Attending doctors should act in these situations with reference to bounden duty under professional secrecy and provisions of privileged communication so that breach of medical ethics is committed by the attending doctor.

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

Code of Medical Ethics

Declaration: Each applicant at the time of making an application for registration under the provisions of the Act shall be provided a copy of the declaration and shall submit a duly signed declaration as provided in Appendix I of the said regulation. The applicant shall also certify that he/she had read and agreed to abide by the same. The actual text of declaration of the code provided by the Medical Council of India is medical ethics in India, which may be presented as follows:

Declaration of Code of Medical Ethics in India

1. I solemnly pledge myself to consecrate my life to the service of humanity.
2. Even under threat, I will not use my medical knowledge contrary to the laws of humanity.
3. I will maintain the utmost respect for human life from time of conception.
4. I will not permit consideration of religion, nationality, race, party-politics or social standing to intervene between my duty and my patient.
5. I will practice my profession with conscience and dignities.
6. The health of my patient will be my first consideration.
7. I will respect the secrets, which are confided in me.
8. I will give to my teachers the respect and gratitude that is their due.
9. I will maintain by all means, in my power, the honor and noble traditions of the medical profession.
10. I will treat my colleagues with all respects and dignity.
11. I shall abide by the code of medical ethics as enunciated in the Medical Council Regulations, 2002 (Professional Conduct Etiquette and Ethics).
12. I make these promises solemnly, truly and upon my honor.

Place: Signature
Date: Name and address

REGISTERED MEDICAL PRACTITIONER

A Registered Medical Practitioner is a qualified doctor (minimum qualification MBBS degree) who has been registered in State/Indian Medical Councils.

Rights and Privileges of Registered Medical Practitioners

1. He can issue medical certificate to his patient.
2. He is entitled to receive/recover fees due to him through court of law in respect of treatment given to any person.
3. He can possess, handle and prescribe dangerous drugs if indicated to his patient.
4. He can hold office in a Government or Private job.
5. He can become an expert witness in a court of law.
6. He has right to choose patient (except in an emergency).
7. He has right to dispense medicine for his patient.
8. Right to add title, descriptions, etc., to his name.

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Procedure of Getting Registered

After passing qualifying examinations (MBBS) one has to undergo a period of compulsory training of internship for minimum one year in an institution approved by the Indian Medical Council. On completion of this training he or she will have to fill in certain application forms and pay the nominal fee to the State Medical Council. The office, which will then scrutinize the contents in the application and if approved, enters the name of the doctor in the register and provides him a Registration Certificate and a code number by which he or she may be referred for all further communications.

Requirements to be fulfilled by an applicant (MBBS) at the **time of registration** with **SMC/ MCI** as follows:

1. Signed declaration from (Appendix -1).
2. Certificate that he had read and agreed to abide by the same.
3. Certificate of recognized medical qualification (MBBS).
4. Internship completion certificate.
5. Requisite fees, etc. (**Point**: **1A**).

No person other than a doctor having qualification recognized by MCI and registered with MCI/SMC is allowed to practice Modern System of Medicine or Surgery (Allopathic doctors). A person obtaining qualification in any other system of medicine is not allowed to practice Modern System of Medicine in any form (**Point**: **1.1.3**).

Similarly, a person, with MSc (Biochemistry, Microbiology) and PhD, but not registered with the SMC cannot practice medicine or sign any patient investigation report. Certain percentage of person with non-medical qualifications are allowed to hold teaching posts due to scarcity of qualified medical persons (like Physiology, Biochemistry, Microbiology, Pharmacology, etc.), but these degrees should also be of medical discipline, even though they cannot practice medicine as per provisions of the Indian Medical Council Act, 1956.

On getting registered, a doctor has certain merits such as achieving some special rights and privileges. He also has to perform certain duties towards the patients and the state. Both of these are discussed below.

Recognition of degree by MCI and its registration as additional qualification is necessary for the practice of that specialty, this is important especially for clinician, pathologist, radiologist, biochemist, surgeons, etc. (**Point 1.1.3**, **1.4.2**). Practice without registration or without recognized degree is technically amount to negligence.

A physician shall not claim to be specialist unless he has a special qualification in that branch (**Point 7.20**). A non-medical person holding MSc and/or PhD cannot claim to be a specialist (MSc Biochemistry, etc.).

Section 15 (2) of the Indian Medical Council Act, 1956, read as "Save as provided in Section 25, **no person other than a medical practitioner enrolled on a State Medical Register**:

i. Shall hold office as physician or surgeon or any other office (by whatever designation called) in Government or in any institution maintained by a local or other authority;
ii. Shall practice medicine in any State;
iii. Shall be entitled to sign or authenticate a medical or fitness certificate or any other certificate required by any law to be signed or authenticated by a duly qualified medical practitioner;
iv. Shall be entitled to give evidence at any inquest or in any court of law as an expert under Section 45 of the Indian Evidence Act, 1872 (Act 1 of 1872) on any matter relating to medicine".

Punishment: Section 15(3), read as "any person who acts in contravention of any provision of sub-section (2) shall be punished with imprisonment for a term, which may extend to one year, or with fine, which may extend to one thousand rupees, or with both [Inserted by Act 24 of 1964, Section 7 (w.e.f., 16-06-1964)].

Court Cases: It is envisaged under section 25(4) that a person registered provisionally and if he has completed practical training referred to in sub-section (1) or such person is in the employment in resident medical capacity in any approved medical institution, shall be entitled

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to registration in the State Medical Register under Section 15 of the Act; [Dr Sanjeev Mittal vs. Union of India, AIR 2003 (P and H) 213].

MSc (Biochemistry) cannot be considered to be basic qualification for practicing as a Medical Practitioner; [Medical Council of India vs. State of Rajasthan, AIR 1996 sc 2073].

In view of clause (b) of sub-section (2) of Section 15 of the Act, no person who is not qualified in the system of Modern Medicine and is not registered as such, either in State Register or the Central Register, is entitled to practice modern system of Medicine; [Dr Sarwan Singh Dardi vs. State of Punjab, AIR 1987 (P and H) 81].

Section 27 of the Act does not prevent persons enrolled in the Indian Medical Register from seeking employment on such terms and conditions as they may choose to secure it nor does it prohibit agreement of service, which entail giving up of the privileges mentioned in it [Sukumar Mukherejee vs. State of West Bengal, AIR 1993 SC 2335].

Use of Generic Names of Drugs

The clause 1.5 under MCI code of medical ethics does not make it mandatory for a doctor to prescribe drugs with generic names. The clause 1.5 of MCI code of medical ethics reproduced here under:

"**Use of Generic Names of Drugs**: Every physician should, as far as possible, prescribe drugs with generic names and he/she shall ensure that there is a rational prescription and use of drugs."

The Meaning is Simple: Except in those situations where, due to certain explainable reasons, it is not possible to write generic names, the RMP should prescribe drugs with generic names. It can be reasonably expected that it should be possible to prescribe by generic names in case of majority of the drugs prescribed. If the prescriptions of a doctor show that no or only few drugs are prescribed by generic names, the onus will be upon him to explain why it was not possible to do so. If he cannot give a satisfactory explanation, he would be justifiably deemed to have broken law.

Exposure of Unethical Conduct

A physician should expose, without fear or favor, incompetent or corrupt, dishonest or unethical conduct on the part of members of the profession **(Chapter I, Point 1.7)**.

Payment of Professional Services

The physician engaged in the practice of medicine, limits the source of his income received from professional activities to service rendered to the patient. So, that maximum time can be devoted to updating his knowledge and skill in the interest of humanity. Remunerations received for such services should be in the form and amount specifically announced to the patient at the time the service is rendered. It is unethical to enter into an account of "**No cure no payment**" **(Point 1.8)**.

Physician rendering service on behalf of the state shall refrain from anticipating or accepting any consideration. NPA is paid by the government for this purpose **(Point 1.8)**.

A physician shall clearly display his fees and other charges on the board of his chamber and/or the hospital he is visiting. Prescription should also make clear if the physician himself dispensed any medicine **(Point 3.7.1)**.

Rebate and Commission (Professional Dichotomy): A physician shall not give, solicit, or receive nor shall he offer to give, solicit or receive any gift, gratuity, commission or bonus in consideration of or return for the referring or procuring of any patient for medical, surgical or other treatment. A physician shall not directly or indirectly participate in or be a party to act of division, transference, assignment, subordination, rebating, splitting or refunding of any fee for medical, surgical or other treatment **(Point 6.4.1)**.

Above provisions shall apply with equal force to the referring, recommending or procuring by a physician or any person, specimen or material for diagnostic or other study or work. Nothing shall prohibit payment of salaries by a qualified physician to other duly qualified person rendering medical care under

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his supervision **(Point 6.4.2)**. A physician shall not use touts or agents for procuring patients **(Point 7.19)**.

This will help in preventing exploitation of patients and unnecessary filing of suits of negligence. Commission based practice always leads to unnecessary doing of procedures and asking for unnecessary consultations and diagnostic tests.

Duties of Physicians to their Patients

1. Obligations to sick;
2. Patience, delicacy and secrecy;
3. Prognosis;
4. The patient must not be neglected;
5. Engagement for an obstetric case;
6. Unnecessary consultation should be avoided;
7. Consultation for patient benefit;
8. Punctuality in consultation;
9. Statement to patient after consultation;
10. Treatment after consultation;
11. Patient referred to specialists;
12. Fees and other charges;
13. Dependence of physician on each other;
14. Conduct in consultation;
15. Consult not to take charge of the patient;
16. Appointment of substitute;
17. Visiting another physician case;
18. He or she is entitled to sign statutory medical certificates, such as for birth, death, mental illness, etc.
19. He or she is entitled to sue for recovery of his or her fees in court of law. However, gratuitous service may be rendered to a deserving poor patient, as well as to all other physicians and his or her dependent family members;
20. He or she is entitled to perform medico-legal autopsies;
21. He or she is entitled to give evidence at any inquest or in any court of law as an expert;
22. He or she is exempted from serving on a jury and at an inquest;
23. He or she can choose his or her patient;
24. He or she can add title, description, etc., to his or her name.

Duties of Registered Medical Practitioner

1. To exercise a reasonable degree of skill and knowledge in treating a patient.
2. To attend and examine a patient as long as there is a need after commencing the treatment. However, he or she can terminate his or her services, when another physician attends his patient or using of remedies other than those prescribed by him or her.
3. To provide proper and suitable medicine to the patient either directly or by a prescription.
4. To give proper instructions to the patient or relative of the patient regarding the use of medicine, dosage schedule, diet, etc., and warn the dangers if not used properly.
5. To appoint a substitute doctor during temporary absence, with the consent of patient, especially in obstetrics and gynecology cases.
6. To warn the possibilities of cross-infecting the others in case the patient is suffering from communicable disease.
7. To take proper care of children and adult patient who are unable to take care of themselves.
8. To inform all the risks involved in treatment plan. However, under the **Doctrine of Therapeutic Privileges**, doctor need not disclose everything.
9. To handle poisons carefully and give proper treatment to a poisoning case and also co-operate with law enforcement authorities in deciding the case whether it is a suicide, homicide or accident.
10. To inform health authorities on a communicable disease reported to you under the **Doctrine of Privileged Communication** forgoing the professional secrecy principles of ethical code.
11. To exercise all duties with regard to surgery, i.e. taking consent, operate under proper anesthesia, aseptic measures, pre and postoperative care, etc.
12. To treat war prisoners, civilians of any country, etc., under the duties proposed in Geneva Convention.

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13. To refer the patient to a specialist/consultant as and when needed after taking prior consent.
14. To take an X-ray of injured part (unless trivial) for ruling out fractures.
15. To maintain professional secrecy.

Professional Secrecy and Privileged Communications

i. Confidence concerning individual or domestic life entrusted by patients to a physician and defects in the disposition or character of patients observed during medical attendance should never be revealed unless their revelation is required by the **laws of the state.** Sometimes, however, a physician must determine whether his **duty to society requires** him to employ knowledge, obtained through confidences to him as a physician, **to protect a healthy person** against a communicable disease to which he is about to be exposed. In such instances, the physician should act as he would desire another to act toward one of his own family in like circumstances **(Point 2.2)**. For example, HIV positive case.
ii. Disclosing patient's secrets amount to professional misconduct: the RMP shall not disclose the secrets of a patient that have been learnt in the exercise of his profession except:
    a. In a court of law under orders of the presiding judge;
    b. In circumstances where there is a serious and identifiable risk to a specific person and/or community; and
    c. Notifiable diseases.
iii. In case of communicable/notifiable diseases, concerned public health authorities should be informed immediately **(Point 7.14)**.

Duties of Physician in Case of Consultation

A physician always thinks of risk-benefit involved with the patient first and also keeps in mind other factors like cost-effectiveness, patient's economic status (Government or Private Hospital) except in cases of **serious illness** and in **doubtful** or **difficult conditions.** All these constitutes **emergency situation (Point 3.1.1)**.

Rights and Duties of Attending Physician in Consultation

1. Justifiable consultation.
2. Benefit of the patient.
3. Frank with the patient and his attendants.
4. Announcement of the opinion to the patient or his relatives after consultation.
5. Continue with the treatment even with subsequent variations in the treatment, but reasons should be recorded in writing and explained to the consultant at the next consultation.
6. May prescribe medicine any time to his patient **(Point 3.1.1–3.5)**.

Rights of Consultant during Consultation

1. Utmost punctuality.
2. Consultant may prescribe medicine only in emergency during the absence of the attending physician.
3. No criticism or adverse comment against attending physician **(Point 3.1.1–3.5, 4.3)**.
4. Normally not take charge of the case, especially on the solicitation of the patient or friends **(Point 4.3)**.
5. He should discuss the diagnosis /treatment plan only with the referring physician not with the patient or attendants **(Point 4.3)**.

Procedure of Referral of Patient

When a patient is referred to a specialist by the attending physician, a case summary should be given to the specialist.

Duty of the Consultant when a Patient is referred for Consultation: Specialist should

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always communicate his opinion in writing to the attending physician **(Point 3.6)**.

Duties towards Patient in Case of Difference of Opinion after Consultation: Differences of opinion should not be divulged unnecessarily; but when there is irreconcilable difference of opinion, the circumstances should be frankly and impartially explained to the patient or his relatives either by the attending physician himself or in the presence of all consultants as agreed. It would be open to the patient or his relatives to seek further advice, should they so desire **(Point 3.4.2)**.

Pharmacists/Nurses: Physician should recognize and promote the practice of different paramedical services such as, pharmacy and nursing as professions and should seek their co-operation wherever required.

Display of Registration Number

1. **Regulation 1.4.1 of the MCI Code of Ethics Regulations, 2002, reads:** "1.4.1 every physician shall display the registration number accorded to him/her by the State Medical Council/Medical Council of India in his clinic and in all his prescriptions, certificates, money receipts given to his patients". It is obvious that the above direction is mandatory.
2. **Regulation 7.3 provides that it is professional misconduct:** "If he/she does not display the registration number accorded to him/her by the State Medical Council or the Medical Council of India in his/her clinic, prescriptions and certificates, etc. issued by him or her, violates the provisions of Regulation 1.4.2."

UNETHICAL ACTS

Patent and Copyrights

A physician may patent surgical instruments, appliances and medicine or copyright applications methods and procedure. However, it shall be unethical if the benefits of such patents or copyrights are not made available in situations where the interest of the large population is involved.

Running an Open Pharmacy Shop (Dispensing of Drugs and Appliances by Physician)

A physician should not run an open shop for sale of medicine for dispensing prescriptions prescribed by doctors other than him or for sale of medical or surgical appliances. It is not unethical for a Physician to prescribe or supply drugs, remedies or appliances as long as there is no exploitation of the patient. Drugs prescribed by a physician or brought from the market for a patient should explicitly state the proprietary formulae as well as generic name of the drug.

Rebates and Commission

See page no 28 (Professional Dichotomy)

Secret Remedies

The prescribing or dispensing by a physician of secret remedial agents of which he does not know the composition, or the manufacture or promotion of their use is unethical and as such prohibited. All the drugs prescribed by an Allopathic physician should always carry a proprietary formula and clear name as per Indian, British and United States Pharmacopoeia.

Human Rights

The physician shall not aid or abet torture on any human being nor shall be a party to either infliction of mental or physical trauma or concealment of torture inflicted by some other person or agency in clear violation of human rights.

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Euthanasia

Practicing euthanasia shall constitute unethical conduct, however on specific occasion, the question of withdrawing supporting devices to sustain cardiopulmonary function even after brain death, shall be decided only by a team of doctors and not merely by the treating physician alone. There is no legal sanction for euthanasia in India.

Organ Transplantation

A team of doctors shall declare withdrawal of support system. Such team shall consist of the doctor in charge of the patient, Chief Medical Officer/Medical Officer in charge of the hospital and a doctor nominated by the in-charge of the hospital from the hospital staff or in accordance with the provisions of the Transplantation of Human Organ Act, 1994.

PROFESSIONAL MISCONDUCT

Regulations of MCI nowhere defined it, but professional misconduct can be defined as something done by a doctor during professional medical practice, which is considered as disgraceful and dishonorable by his or her professional brethren of good repute and competence after enquiry by the State Medical Council/Medical Council of India.

The following **acts of commission** or **omission** on the part of a physician shall constitute professional misconduct rendering him/her liable for disciplinary action:

1. Violation of the Regulations 2002.
2. If he/she does not maintain the medical record and refuses to provide the same within 72 hours.
3. If he/she does not display the registration number.
4. Adultery or improper conduct.
5. Conviction by court of law.
6. Sex determination tests with the intent to terminate the life of a female fetus developing in her mother womb, unless there are other absolute indications for termination of pregnancy as specified in the Medical Termination of Pregnancy Act, 1971.
7. Selling Schedule "H" and "L" drugs and poisons to the public except his patients; contravention of the above provisions shall constitute gross professional misconduct on the part of the physician.
8. Performing or enabling unqualified person to perform an abortion or any illegal operation for which there is no medical, surgical or psychological indication.
9. A registered medical practitioner shall not issue certificates of efficiency in modern medicine to unqualified or non-medical person.
10. A physician should not contribute to the lay press articles and give interviews regarding diseases and treatments, which may have the effect of advertising himself of soliciting practices; but is open to write to the lay press under his own name on matters of public health, hygienic living or to deliver public lectures, give talks on the radio/TV/internet chat for the same purpose and send announcement of the same to lay press.
11. An institution run by a physician for a particular purpose such as maternity home, private hospital, rehabilitation center or any type of training institution, etc. may be advertised in the lay press, but such advertisement should not contain anything more than the name of the institution, type of patient admitted, type of training and other facilities offered and the fees.
12. It is improper for a physician to use an unusually large sign board and write on it anything other than his name, qualifications obtained from a University or a statutory body, titles and name of his specialty, registration number including the name of the State Medical Council under which registered. The same should be the contents of his prescription papers. It is improper to affix a sign-board on a chemist shop or in places where he does not reside or work.

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Putul Mahanta MD FIAMLE is a faculty of Forensic Medicine and Toxicology and is working as Associate Professor at Tezpur Medical College. He has 14 years of experience in teaching and medicolegal works.



He has presented nine papers in international conferences and 20 papers in national conferences. He has 18 published papers in the journals of national and international repute to his credit. He has been a guest lecturer at different government and private institutions for training various officers and doctors on medicolegal issues.

Dr Mahanta is a life member of Indian Academy of Forensic Medicine, Indo-Pacific Academy of Forensic Odontology, Indo-Pacific Academy of Forensic Nursing Science, National Foundation of Clinical Forensic Medicine and Indian Association of Medico-Legal Experts. Presently, he is the Secretary of Medicolegal Society of Assam. He is also a Fellow of Indian Association of Medicolegal Experts.

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