

# LAW IN RELATION TO THE MEDICAL PROFESSION

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# Allopathic Laws in Pakistan

- Pakistan Medical and Dental Council Ordinance **1962**,
- Allopathic System(Prevention of misuse) Act **1962**,
- Drug Act **1976**,
- Medical and Dental Degree Ordinance **1982**,
- Dangerous Drug Act **1930**.

# Medical and Dental Degree Ordinance(1980)

## Objectives of this law are:

1. Defining scientific medical and dental system
2. Identifying authorities having right of conferment of medical degree and diploma
3. Prohibiting of unauthorized conferment of medical degrees and diploma and falsely assuming or using medical or dental title

# Allopathic System(prevention of misuse)Act(1962)

## Objectives of this law are:

1. Defining registered medical practitioner
2. Preventing misuse of the allopathic system

**Registered Medical Practitioner** means a medical practitioner registered with Pakistan Medical and Dental Council and **misuse of allopathic system is prevented** by directing that no one other than Registered Medical Practitioner shall:

- Use with his name or address the word doctor or any of its grammatical variations, cognate expressions or abbreviations so as to give an impression that he is entitled to practice allopathic medicine.
- Use medical degree or diploma to give impression that he is a qualified medical practitioner or for any purpose connected with allopathic medical practice.
- Prescribe any antibiotic or dangerous drug specified in the rules made under this Ordinance.

# The Pakistan Medical and Dental Council Ordinance(1962)

**Objective** of this law is to **establish** the statutory body of medical practitioners called **Pakistan Medical and Dental Council**.

# The Pakistan Medical and Dental Council

It is a **statutory body** which consists of registered medical and dental practitioners, besides one Legal Member, Elected Members and Nominated Members besides other staff).

# Pakistan Medical and Dental Council

## Elected Members

- 1 from National Assembly
- 1 from Each Medical Institution
- 4 Registered Medical Practitioners
- 2 Registered Dental Practitioners
- 1 from each University granting Medical Degrees

## Nominated Members

- **1 Legal Member**
- **Medical Members**
  - \* Director General Health, Pakistan
  - \* 1 from each province
  - \* 4 from Federal Government including 2 from Armed Forces



# Functions of PM&DC

**The Council performs its functions to maintain:**

- Proficiency of the medical profession
- Medical register
- Over see professional conduct of registered medical practitioner(ethical standard)

# Proficiency of the Medical Profession

- Evaluates courses of studies of medical qualification
- Prescribe minimum qualification of medical teachers
- Inspect medical institutions and examinations

# Medical Register

- **It has two portions;**
  1. One for medical practitioners with **basic medical qualification(MBBS/BDS)**
  2. One for medical practitioners who have acquired **additional medical qualification(specialization)**after attaining basic medical qualification

# Maintenance of Ethical Standard

- **Ethical standard** is maintained by overseeing professional conduct of registered medical practitioner by the council critically
- A medical practitioner is expected to conduct himself professionally in consistence with the noble traditions of the medical profession.
- His **name can be suspended or removed altogether** if the disciplinary committee of the council finds him **guilty of professional misconduct**.
- The name is **never removed arbitrarily**.

# Disciplinary Proceedings Against a Medical Practitioner

- A complaint against a medical practitioner to the president of the council from a patient, employer or any other forum like Health Departments of the Government/Courts of law initiates proceedings against the medical practitioner.
- On receipt of such a complain against a registered medical practitioner, a notice is given to him to explain his position.
- If the president considers the complain frivolous, it is filed.
- But if there is any substance worth concern, he receives a warning from the council with the advice to improve himself
- If the charge against him is serious, amounting to moral turpitude, then his name may be suspended or removed from the register.



# Privileges of a Registered Medical Practitioner

- Job as medical officer
- Independent medical practice
- Issuing medical certificate and medicolegal certificates/reports for judicial purposes
- Charging fee for consultancy/other procedure
- Eligible to be a member of the PM&DC

# Medical Etiquette

It means code of ethical conduct within the mutual relationship between the members of the medical profession.

It actually means the sense of courtesy and respect which should govern the conduct and relationship between the doctors community.



# Ethics

It means the science of study of general nature of morals and specific moral choices to be made by an individual in his relationship with others, the philosophy of morals. In another sense, ethics implies the principles or standards governing the conduct of the members of a society.

# Medical Ethics

Rules and principles based on moral values to guide medical professionals in their conduct towards their patients and other members of the profession.

# Frankena

It is the study of morality, moral problems and judgements. It is essentially an examination of what is right and what is wrong, what is virtuous and what is evil in the conduct of individuals and group of individuals, emphasis being on what ought to be.

# Ethics Behavior

Mostly consists of good manner and civilized behavior in the general sense and includes matters peculiar to a profession.

# Code of Medical Ethics

- Hippocrates Code of Ethics
- The Declaration of Geneva
- International Code of ethics

# Hippocrates Code of Ethics

- It is the oldest known to the medical profession.
- **Hippocrates**, also known as **Father of Medicine**, was the first physician philosopher who devised certain codes of ethics.
- Although now some twenty-five century old, its basic tenants still remain valid as ever.
- Every one at the time of admission in medical profession was required to take oath of Hippocrates Code, known as **Hippocrates Oath**.

# Declaration of Geneva

The World Medical Association, after second world war, took notice of the deteriorating medical standards in Geneva in **September, 1948** and restated the Hippocratic Oath in simple language and modern style known as the **Declaration of Geneva**.

# International Code of Ethics

The World Medical Association, in its general assembly at **London in October, 1949** adopted yet another code of ethics by making some amendments in the Declaration of Geneva known as the International **Code of Medical Ethics**.



# PM&DC Code of Ethics

The Pakistan Medical and Dental Council has with slight modifications adopted the above oath for the administration to medical graduates of this country at the time of their passing out.

## **In the name of Allah, Most Gracious and Merciful**

I solemnly pledge that I shall abide by the principles laid down in the Code of Medical Ethics of the Pakistan Medical and Dental Council. I further make solemn declaration that;

- I consecrate my life to the service of Humanity
- I will give to my teachers the respect and gratitude which is their due
- I will practice my profession with conscience, dignity and fear of God
- The health of my patient will be my first consideration
- I will respect the secrets, which are confided in me
- I will maintain by all means in my power, the honor and the noble traditions of the medical profession
- My colleagues will be my brothers and sisters
- I will not permit consideration of religion, nationality, race, party politics, social standings to intervene between my duty and my patient
- I will maintain the utmost respect, for human life, from the time conception; even under threat and will not use my medical knowledge contrary to the laws of humanity

**I make these promises solemnly, free and upon my honor**

# Scope of Medical Ethics

It is not fixed into rigid boundaries because it continues to widen with modern developments and new inventions.

Each invention creates new problems requiring laying of ethical principles suited to the new situation as follows;

- Adherence to scientific basis
- Impartial presentation of scientific findings
- Dedication to serving justice

# Professional Misconduct

Violation of medical ethics by medical professional is called **Professional Misconduct**. This means that a doctor is guilty of Professional Misconduct when he behaves or performs some acts which are considered disgraceful by other doctors of good repute.

# Examples of Professional Misconduct

## Types of Abuse

1. Abuse of medical practitioner's privileges

2. Abuse of doctor-patient relationship

## Examples

- a) Issuing false medical certificates
  - b) Prescribing drugs of addiction for abuse
  - c) Disclosing of patient's secret
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- a) Indecent assault on patient
  - b) Adultery with patient
  - c) Over charging patient

3. Abuse of professional knowledge

a) Criminal abortion

4. Associating unqualified persons in professional work

5. Advertising and convincing with a view to have unreasonable gifts

# Professional/Medical Negligence

- **malpraxis**
- **Malpractice**

It is defined as lack of reasonable care or skill or wilful negligence on the part of a medical practitioner in the treatment of a patient whereby the health or life of a patient is endangered.

# Terms Related to Medical Negligence

- **Damage** means physical hurt, injury, pain, mental depression, death, loss of organ or its function, loss of time, loss of money to the patient (may be physical, mental or financial damage along with any loss of earning capacity associated with the injury ).
- **Damages** means compensations demanded/sued/awarded by the court for any damage suffered by the patient (assessed by court under different headings i.e, loss of present and future earning power of damaged person; actual medical and surgical costs; and the reduction in quality of life which may be caused by lameness, deafness, blindness, etc)



# Scope of Medical Negligence

It is unending because of rapid interventions in medical science. It is also not limited to the conduct of the medical practitioner alone. It extends to his staff who is working under his supervision especially in a hospital setting where responsibilities are shared by the whole unit. There are three situations of medical treatment which are generally encountered;

1. By general duty medical practitioner holding basic medical qualification (the skill and competency is of the level of an ordinary physician)
2. By a qualified medical practitioner holding additional medical qualification over and above basic medical qualification (standard of skill expected from an expert)
3. By a general duty medical practitioner when treatment by a qualified expert is needed who is not available and the patient consents it

# Types of Negligence

- 1. Civil Negligence**
- 2. Criminal Negligence**
- 3. Contributory Negligence**
- 4. Negligence of the third party**

# Civil Negligence

When the damage caused to the patient is not irreparable or severe like no loss of organ or its function permanently and no death is caused. It results from lack of carefulness in the administration of treatment.

When carelessness is not gross and the patient has charged the doctor in civil court for compensation (in terms of money).

The doctor is not punished but asked for compensation if the charge is proved in court.

The doctor can appeal in the high court against the verdict of the lower court.

# Criminal Negligence

When there is gross carelessness on part of the doctor or the damage is so severe that it cannot be compensated (with money), like death or permanent loss of an organ or its function.

It results from gross and wicked recklessness on the part of the medical practitioner, showing absolutely no regard for the safety of the patient's life, resulting in death.

The case is brought before a criminal court for award of punishment with fine/imprisonment or both.

# Contributory Negligence

Negligence on the part of the patient or his attendants to follow the medical instructions and contribution of such a patient to the results.

The proper result of medical treatment depends upon the exercise of carefulness of both the patient as well as the medical practitioner.

The law does not ignore such a situation. It is a good plea for defence of a doctor in a court of law.

# Negligence of the Third Party

Carelessness on the part of paramedical staff working in a hospital may damage the patient. This is known as **Negligence of the Third Party**.

# Res Ipsa Loquitur

## ➤ things speak for it/themselves

The burden of proof of negligence of medical practitioner rests on the patient, except in cases covered by **Res Ipsa Loquitur**, a doctrine of common law.

This doctrine creates the inference that negligence has occurred and places a responsibility of explanation on medical practitioner to prove that he is not negligent. Thus the burden of proof shifts from the patient to the medical practitioner to prove that he is innocent/not guilty.

# How to Bring a Charge of Negligence Against a Doctor

For a patient to bring a charge of negligence against a doctor, the following are necessary;

1. The burden of proof lies on the patient and the doctor is considered innocent until proved guilty
2. Patient has to prove that the doctor was duty bound to treat him
3. The said doctor was in charge of all instrumentation and treatment
4. The real damage has occurred

The doctor in his defence, blames the patient for not following his instructions properly and that the patient has committed the damage himself (contributory negligence).



# Vicarious Responsibility

It means that the liability exists in spite of the absence of blameworthy conduct on the part of the master.

In law, a master is responsible for the negligent acts of his servants within the scope of his employment but is not so liable where he has employed an independent person to do something for him.

# Novus Actus Interveniens

**The assailant is responsible for all the consequences of his assault-the immediate and remote-which link the injury to death.**

Sometimes, such a continuity of events is broken by an entirely new and unexpected happening which cannot reasonably be said to be a foreseeable complication. When this happens, **novus interveniens** (unrelated intervening action) is said to have occurred and the legal proceedings stand to be modified.

# Therapeutic Misadventure

**An injury/death of an individual due to some inadvertent or unintentional act by a doctor or his agent or hospital.**

It is common knowledge that many drugs(cytotoxic drugs,antihypertensives,steroids,etc)have dangerous effects and many therapeutic procedures(angiography,myelography,transfusion of blood or fluids,anaesthesia,surgery,etc)carry risks.

Such mishap does not provide ground for negligence unless the doctor has failed to draw the patient's attention to such potential risks and also failed to take possible steps to avoid such mishaps.

# Product Liability

Injury/death of the patient due to drug reaction(may result from negligence to use care in research and development of drug and failure to provide proper instructions for its use) or injury/death of the patient may result from failure to exercise due care in design,manufacture,assembly,packaging,inspection,or testing of the equipment.

# Euthanasia

## ➤ **mercy killing**

It means to bring about gentle and easy death by the use of means calculated to take life of one who is suffering from a painful/incurable disease or suffering or when life becomes purposeless as a result of mental or physical handicap

Plato first advocated the practice of euthanasia under roman emperors. In ancient Marseilles, the authorities used to be approached to order euthanasia or direct medical authorities to stop medical treatment in cases of serious illness to allow the patient to die.

# Euthanasia in Medical Practice

The question arises on three occasions

- a) **At the beginning of life(at birth)** in case of physically/mentally handicapped infant who is unable to make a decision regarding quality of life for the infant and resultant impact on parents,society and resources of the State;blessings of painless death weighed against sufferings of purposeless life.
- b) **At the end of natural life(terminal stage)** the conscious dying patient can make his own decision and refuse consent to any treatment
- c) **Unforeseen Mishap** when a patient is severely impaired as a result of brain damage

# Malingering

A deliberate attempt on the part of the patient to deceive a doctor. The person generally feigns a disease. This may be resorted to for several purposes;

- Personnel in army, navy and air force who are not allowed to leave their jobs feign insanity
- Businessmen feign insanity to avoid consequences of a business transaction
- A worker may feign certain industrial disease to get compensation
- An assaulted person may exaggerate the effects of injury to bring it within the purview of grievous hurt
- A prisoner may feign a disease to avoid hard work

# Doctor's Indemnity Insurance

A medical practitioner in his daily work constantly faces the risks of being involved in proceedings against him on grounds of negligence, misconduct, etc. The obvious precaution is to insure as far as possible against such risks with some Medical Defence Society. Such societies undertake not only to conduct the defence but also to pay such damages as may be awarded against the doctor.



# Consent

Free and voluntary  
agreement/compliance/permission/contract  
between two or more persons/parties(who are  
said to consent)when they agree upon the  
same thing in the same sense(meeting of  
minds).

# Types of Consent

- **Implied Consent**

- **Expressed Consent**

  - (a) Oral expressed consent

  - (b) Written expressed consent

- **Blanket consent**

# Implied Consent

It is a consent which is not written, that is, its existence is not expressly asserted but nonetheless, it is legally effective. It is provided by the demeanor of the patient and is by far the most common variety of consent in both general and hospital practice. It implies consent to medical examination in general sense but not to more specialized procedures (blood transfusion, surgical intervention, administration of anaesthesia, etc).

# Expressed Consent

It is one the terms of which are stated in distinct and explicit language. It is the type of consent in which the patient has full knowledge about the medical treatment and its implications and agrees to take it.

- a) Oral expressed consent
- b) Written expressed consent

# Blanket Consent

It is the consent obtained without fully explaining about the proposed treatment. This form of consent is generally taken in cases of surgery in private clinics and hospitals. A printed form is presented to the patient or his guardian for their signature at the time of admission into the hospital or just before the operation.

# Valid Consent

## ➤ **valid fully informed consent**

To be legally valid, the consent given must be informed and intelligent, that is the consent must be given after understanding what it is given for and of the risks involved.

# Invalid Consent

It includes the consent obtained;

- by fraud
- from insane
- from minors
- By force or threats
- From intoxicated person
- Against will/wish of the patient
- Without informing patient about risks, side effects and consequences of the act/procedure for which consent is being taken
- For illegal act

# Age of Consent

The patient must be a major. After the age of majority one has sufficient understanding of the implications of medical treatment. In case of children under the age of majority and of those patients who are unable to consent due to unconsciousness/mental sickness, consent may be obtained from the parent/guardian/near relative of the patient.



# Role of Consent

- Permission of the patient before the start of medical examination/treatment is important. A patient is not obliged to submit to medical treatment, if he does not desire so except when the disease is contagious or dangerous to other members of society.
- Consent or permission is necessary for all medical procedures whether undertaken for the purpose of diagnosis/physical treatment.
- Special procedures require specific consent preferably written.
- Permission does not exempt the medical practitioner from his duty to exercise reasonable carefulness.
- Consent should be both free, voluntary and fully informed.

# Importance of Consent in Medical Practice

It is a legal requirement for a doctor in his medical practice to obtain valid and fully informed consent from the patient for any examination or diagnostic or surgical procedure, otherwise a charge of indecent assault can be brought against the doctor.

# Standard Procedure of Consent

- The medical practitioner tells his patient the nature of treatment and its possible risks in simple language and gets his permission before actually starting the treatment.
- He has marginal discretion in what to tell when he knows that the whole truth is liable to impede/interfere with the medical treatment. The law leaves this decision to the conscience of the doctor and expects him to decide this in good faith and interest of the patient.
- Whatever information he withholds from the patient in good faith, he is advised to pass it on to his near relative.

# Modified Procedure of Consent

Some modifications may have to be adopted depending on the position of the patient and the circumstances of the case;

- Treatment is essential but due to religious faith the patient or his guardian withholds permission
- There is delay in treatment due to indecision on the part of the patient/non-availability of guardian
- Medical treatments for which the patient alone may not have the sole authority to consent like the use of contraceptive drugs/sterilization in married patient
- In cases where a person gives permission for transplantation of his organs to others before his death; the consent of next of kin should be obtained/authority must be transferred to head of hospital where arrangements of transplantation exist.

# Medical Examination and Consent

- If the patient is unconscious and any delay in consent could be dangerous; the doctor may examine/treat without consent
- Implied consent allows only for examination of patient. Operative and other procedures require special written consent
- Examination of a patient without his consent legally amounts to an assault/indecent assault
- The consent should be free and voluntary and given after full explanation of reasons for which it is obtained (informed consent) and should not be obtained by fraud/forcibly
- In cases of doubt, written consent must be obtained
- The consent should be broad enough to cover everything and blanket consent forms should be avoided

- Consent should be obtained from parent/guardian where a person is incapable, through age or lack of understanding, of giving a valid consent
- When consent is obtained, examination should be done in presence of third party (female nurse when male doctor examines a female patient and vice versa)
- In any procedure affecting the rights of a spouse (sterilization, hysterectomy, artificial insemination) informed consent from spouse should also be obtained
- An accused can be examined by a doctor at the request of the police, without his consent and by the use of force, if there is reasonable ground that such examination will yield evidence related to commission of an offence

# Compulsory Duties of a Doctor

- 1. Compulsory notification:** births, deaths, infectious diseases, and food poisoning from a restaurant. In some states, industrial diseases are also notifiable.
- 2. Responsibilities to the state:** (a) responding to emergency military service, (b) reporting cases of homicidal poisoning or suspected homicidal injuries, such as stab or gunshot wounds, (c) reporting certain cases under category of privileged communication, especially, as regards, moral and social duties, and responsibility in criminal matters, (d) reporting unnatural deaths, and (e) reporting suspected abuse of children, spouse, or elderly, in some Countries.

# Voluntary Duties of a Doctor

- 1. Responsibility to patients**
- 2. Medical examinations**
- 3. Operations**
- 4. Issuing certificates**
- 5. Prisons and reformities**
- 6. Medicolegal examination and certificates**
- 7. Postmortem examination**
- 8. Sending pathological material by post, and**
- 9. Attending to accidents**



# Responsibility to Patients

- a) (implied contract)to continue to treat
- b) Reasonable care
- c) Reasonable skill
- d) Keep professional secrets inviolate except under privileged circumstances
- e) Not undertaking procedures beyond skill
- f) Special precautions taken in case of children adults not capable of taking care of themselves(eg. Applying hot water bottles(
- g) Special precautions when handling dangerous drugs and poisons
- h) Consultation with other colleagues under certain circumstances
- i) Keeping in touch with recent advances in the field

# Medical Examinations

- a) Consent taken
- b) Results kept secret
- c) Laboratory aids utilised when necessary
- d) X-rays taken in all cases of accident unless trivial

# Operations

- a) Consent taken
- b) Nature, extent and risks explained
- c) Precautions taken not to operate on wrong patient or wrong part
- d) Precautions taken for the safety of the patient by ensuring fitness for anaesthesia, check of count as regards sponges, needles, and instruments, and postoperative care
- e) No experimentation

# Issuing Certificates

Illness;vaccination;death;and for insurance,compensation,cremation,etc.The data mentioned must be true to the best of doctor's knowledge and belief.

# Prisons and Reformities

- a) Certifying to facts regarding pregnancy
- b) Checking diet
- c) Inspection of lavatories

# Medicolegal Examination and Certificates

- a) Proper authorisation
- b) Identification
- c) Verification of facts, eg, in mental illness certificates
- d) Material preserved when necessary, eg, in cases of poisoning, drunkenness
- e) Laboratory aids utilised, eg, x-ray, microscopy, histopathology, antibody testing
- f) Certificates issued promptly
- g) All details given
- h) Copy preserved

# Postmortem Examination

- a) For scientific purposes and only after obtaining consent
- b) Not to be undertaken in medicolegal cases without proper authorisation

# Sending Pathological Material by Post

Precautions to be taken to  
prevent spread of disease.



# Attending to Accidents

A physician has an absolute right to select his patients. The physician who responds in an emergency, such as a road traffic accident is expected to exercise a reasonably prudent physician's standard of care and to offer that much help that is possible under the circumstances. Normally, first aid is rendered and the victim referred to his physician/hospital.

# Doctor-Patient Relationship

This contract requires that the doctor must continue to treat a patient, whom he has accepted, with reasonable care and reasonable skill, and to keep inviolate his secrets, He should not undertake any procedure beyond his skill.

# Professional Secrecy/Medical Confidentiality

A **professional secret** is one which a doctor comes to know in his professional capacity. He should not disclose anything which he has thus learnt. This is an ethical and legal obligation (implied contract) and a practitioner is liable to damages for its neglect.

The doctor is obliged to maintain the secrets that he comes to know concerning the patient in the course of a professional relationship except when he is required by the law to divulge the secrets or when the patient has consented for its disclosure.

It is a fundamental tenet that whatever a doctor sees or hears in the life of his patient must be treated as totally confidential. Disclosure would be failure of trust and confidence.

The patient can sue the doctor for damages or face disciplinary action by PMC, if the disclosure is voluntary and has resulted in harm to the patient and is not in the interest of the public.

# Principles

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- i. Physician should not answer any query by third parties, even when enquired by close relatives, either with regard to the nature of illness or any subsequent effect of such illness on the patient, without his/her consent.
  
- ii. If the patient is major (≥ 18 years), physician should not disclose any facts about the illness without his consent to parents or relatives even though they may be paying the doctor's fees. In case of minor or insane person, guardians or parents should be informed of the nature of illness.

iii. A doctor should not disclose the illness of his patient without his consent, even when requested by a public or statutory body, except in case of notifiable diseases. If the patient is minor or insane, consent of the guardian should be taken.

iv. Even in case of husband and wife, the facts relating to the nature of illness of one must not be disclosed to the other, without the consent of the concerned person. Particular caution is required over the disclosure of sexual matters, such as pregnancy, abortion or venereal disease, as disclosure might cause conflict between them.



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v. In divorce and nullity cases, no information should be given without the consent of the concerned person.

vi. When a domestic servant is examined at the request of the master, the physician should not disclose any facts about the illness to the master without the consent of servant, even though the master is paying the fees. Similarly, the medical officer of firm or factory should not disclose without the patient's consent.

vii. Medical officers in government service are also bound by code of professional secrecy, even when the patient is treated free.

viii. A person in police custody as an undertrial prisoner has the right not to permit the doctor who has examined him, to disclose the nature of his illness to any person. If convicted, he has no such right and physician can disclose the findings to the authorities.

ix. Any information regarding a dead person may be given only after obtaining the consent from a relative.

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x. In examination of a dead body, certain facts may be found, the disclosure of which may affect the reputation of the deceased or cause mental torture to his relatives, and as such, the autopsy surgeon should maintain secrecy.

xi. The medical examination for life insurance policy is a voluntary act by the examinee and consent to the disclosure of findings may be taken as implied.

# Privileged Communication

It may be defined as a communication made by a doctor to a proper authority who has corresponding legal, social and moral duties to protect the public. Such a privilege can be claimed and disclosure of professional secrets justified in the following circumstances

1. When as a witness in court, the doctor is directed by the judge
2. When the doctor has a moral or social duty to perform
3. When it is to safeguard the doctor's own interest (statutory duties)
4. When the doctor's duty as a citizen to assist in the apprehension of a person who has committed a serious crime outweighs his obligation to his patients, and
5. Other cases (servant sent by master, in connection with insurance reports and inquiries)

It is a statement, made bonafide upon any subject matter by a doctor to the concerned authority, due to his duty to protect the interests of the community or of the state.

It is an exchange of information between two individuals in a confidential relationship and an exception to professional secrecy.

To be privileged, it must be made to the person who has a duty towards it. If made to more than one person or to a person who has not got a direct interest in it, the plea of privilege fails.

Physician should first persuade the patient to obtain his consent before notifying the proper authority.



# Examples

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**i. Civic benefit: If a patient poses a potential threat of 'grave harm' to the safety or health of patient and the public, the doctor must decide whether to inform the authority about the condition.**

- **For example, an engine or bus driver, pilot or ship navigator may be suffering from epilepsy, hypertension, alcoholism, drug addiction, poor visual acuity or color blindness; or a teacher with tuberculosis or a person with infectious diseases (e.g. enteric infection) working as a cook. In all these cases, the proper course is for the doctor to explain the risks to the patient and to persuade him to allow the doctor to report the problem to his employers. If the patient refuses, then it is always wise to seek the advice of senior colleagues before making any disclosure.**

- **A syphilitic taking bath in public pool or a patient with sexually transmitted disease is about to get married is a privileged communication but an impotent person getting married is not.**

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ii. Notifiable clauses: Doctor has a statutory duty to notify births, deaths, still births, infectious diseases, therapeutic abortions, drug addictions, epidemic and food poisoning to public health authorities.

**iii. Suspected crime: If the physician learns of a crime, such as assault, terrorist activity, traffic offence or homicidal poisoning by treating the victim or assailant, he is bound to report it to the nearest Magistrate or police officer.**

- **But sometimes, the issue of confidentiality clashes with the need to protect some individual or the public from possible further danger (e.g. a belowage of consent girl came to a doctor with STD). The same issue may arise where a doctor suspects a child being abused, but here the overriding consideration is the safety of the child.**

- **At times, assault may occur within a family, e.g. between spouses or close relatives, the victim may not wish to bring criminal charges and so the doctor must not assume that consent for disclosure has been given.**

- **The doctor knowing or having reason to believe that an offence has been committed by a patient when he is treating, intentionally omits to inform the police, shall be punished with imprisonment upto 6 months with/without fine (Sec. 202 IPC).**

iv. Patient's own interest: Doctor may disclose patient's condition to his relatives so that he may be properly treated, e.g. to warn parents/guardians of patient's melancholia or suicidal tendencies.

v. Self-interest: In case of civil and criminal suits by the patient against the physician, evidence about patient's condition may be given.

vi. Negligence suits: When doctor is employed by opposite party to examine a patient who has filed a suit for negligence, the information thus acquired is not a professional secret (no physician-patient relationship) and the doctor may testify to such information.

vii. Court of law: Doctor cannot claim professional secrecy concerning the facts about illness of his patient in court of law.<sup>9,10</sup> He has to answer the questions about patient's confidential matters to avoid risk penalties for contempt of court.

A doctor can disclose and discuss the medical facts of a case with other doctors and paramedical staff, such as nurses, radiologist and physiotherapist to provide better service to the patient.

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# Qualified Privilege

All official notifications of birth, death or disease (industrial/occupational/infectious/contagious) are examples of Qualified Privilege.

# Absolute Privilege

Situations in which a medical practitioner is compelled to disclose a patient's information before the court, refusal of which may amount to contempt of court, fall under category of Absolute Privilege.

# Medical Documentation

Medical documentation is an important and highly responsible duty of a medical practitioner. It includes;

- Maintenance of record of data related to patients (in form of case notes, day books, abstracts)
- Issuing medical certificates
- Issuing medicolegal reports
- Issuing medical notifications to patients, colleagues, administrative authorities including law courts.



# Medical Prescription

It is the direction of a medical practitioner to the pharmacist, through his patient, to dispense the prescribed drug in the manner indicated by the doctor (in the prescription).

- It begins with **Rx**, which stands for **recipe**, and means **prescription**
- This is followed by **names of medicines** prescribed along with the **concentration** and **directions for use**
- Prescribing antibiotics and dangerous drugs is the privilege of only a registered medical practitioner (Allopathic System Act 1962)
- Additional duty in **prescribing dangerous drugs** is writing of **superscription**. It should be written carefully.

# Medical Report

A written document, prepared and provided by a medical practitioner, containing limited medical facts or information in relation to examination of part of body of patient (X-ray) or examination of material collected from the patient (blood, urine, or some other fluid).

- It starts with, **This is to certify**-----
- Includes only facts elicited by investigating medical examiner
- Examples : Blood Reports, Urine Reports and X-ray.

# Medical Certificate

A written document, prepared and provided by a medical practitioner, containing complete and fullest information about the health status of a patient (whether healthy or diseased) as assessed after physical examination and necessary investigations.

- It begins with the phrase, **This is to certify**-----
- It includes all observations and findings elicited upon physical examination, the necessary investigations performed and the result of these investigations and a conclusion or opinion about the state of health of the patient
- Examples : Fitness certificate, illness certificates, certificates in relation to sexual offences, etc.

# Medical Notification

it is a compulsory (statutory) duty of a registered medical practitioner to make compulsory notifications to health department regarding births, death, notifiable diseases and cases of food poisoning from a hotel or some other eating establishment.

- It starts with the phrase, **This is to notify**-----
- It includes only the suspected diagnosis (with little regard to whether the diagnosis is correct or otherwise)