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# MEDLEGAL YEAR BOOK

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2025



**Institute of Medicine & Law**  
Value Driven. Evidence Based.

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# MedLegal Year Book

## 2025

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## ABOUT THIS YEAR BOOK

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The MedLegal Year Book 2025 is in essence, both an instruction manual and a reference book on laws relating to medical negligence for today's busy doctors. The instructions are in the form of simple 'Do's & Don'ts' that can be easily put to use in their day-to-day practice of medicine. It also updates doctors on the new laws and the changes in the existing laws relevant to them. This book aims to help Indian doctors avoid, minimize and face the growing threat of legal issues confidently.

Laws are usually laid down by the judgments of the higher courts. 'Medical Law Cases – For Doctors' (MLCD), a monthly law reporter published by us, collects and publishes doctor-relevant judgments delivered by 1 Supreme Court, 1 National Consumer Commission, 35 State Consumer Commissions, and 25 High Courts in India. Each of these judgments has lessons that can be learnt from either the mistakes of the doctors and hospitals, allegations of negligence made by the patients, and/or observations made by the courts. These lessons, and at times, even the practical experiences of the editorial board members, are published as the 'Suggested Precautions' in MLCD - the practical 'MedLegal Do's & Don'ts' for doctors and hospitals.

All the 'Suggested Precautions' reported in the previous year of MLCD (Volume 17 - 2024) are collated and reproduced under appropriate topics. These 'Suggested Precautions' are further condensed into a one-liner 'Do' or 'Don't'. In some places, several 'Suggested Precautions' on the same or similar topics are regrouped under a particular 'Do' or 'Don't'.

The Indian Medical Council (Professional Conduct, Etiquette, and Ethics) Regulations – 2002 is the statutory law regulating the professional conduct of allopaths in India. Hence, relevant extracts from these Regulations are reproduced at appropriate places to make this book complete and for easier cross-referencing.

In this edition, certain important issues have been grouped in Chapters 1, 5 & 17. This is a deviation from the regular format. The avowed purpose of this experimentation is to ensure that these issues, which are rather abnormal but important, get the importance they deserve.

The MedLegal Year Book is intended to update Indian doctors on the ever-changing laws relating to medical negligence. It is hoped that these practically useful instructions are not only read and understood but also appropriate changes as suggested are brought by doctors in their practice. This will help in avoiding and minimizing the possibility of medical errors and legal problems.

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## Abbreviations

<b>HPE:</b>	Histopathological examination
<b>ICCU:</b>	Intensive Cardiac Care Unit
<b>ICU:</b>	Intensive Care Unit
<b>IMCR 2002:</b>	Indian Medical Council (Professional Conduct, Etiquette, and Ethics) Regulations, 2002
<b>IPD:</b>	In-Patient Department
<b>MCI:</b>	Medical Council of India
<b>MTP:</b>	Medical Termination of Pregnancy
<b>NMC:</b>	National Medical Commission
<b>OPD:</b>	Out-Patient Department
<b>OT:</b>	Operation Theatre

## Meanings

<b>attendants:</b>	means and includes relatives / friends
<b>discharge against medical advice (DAMA):</b>	means and includes leave against medical advice (LAMA)
<b>discharge summary:</b>	means and includes discharge card / discharge certificate / discharge note / discharge ticket
<b>hospitals:</b>	means and includes nursing homes / day care clinics
<b>interventions:</b>	means and includes surgeries / procedures
<b>investigations:</b>	means and includes diagnostic procedures
<b>medical mishap:</b>	means and includes accidents
<b>reference letter:</b>	means and includes reference note / reference summary
<b>transfer summary:</b>	means and includes transfer card / transfer note
<b>“You”:</b>	means the doctor / hospitals (reader)

## Tips

1. “ / “ between two words or phrases is used in lieu of “and”, “or”, “and/or”.
2. ‘Advisable’ before a Do / Don’t means that the same is not legally mandatory in nature or statutorily prescribed but desirable / prudent in the opinion of the editorial board.
3. ‘Advisable’ before the second sentence / sub-point in a Do / Don’t (where there are two or more sentences / one or more sub-points) means that only the second sentence / sub-point is not legally mandatory, whereas the first one is mandatory.
4. Individual doctors must also refer to the following topics from ‘Chapter 14. Hospitals’ as they are relevant to individual medical practitioners also:
  - Chapter 13.2. Hospitals — Admitting patients
  - Chapter 13.3. Hospitals — Discharging patients
  - Chapter 13.4. Hospitals — Discharge / Leave Against Medical Advice (DAMA / LAMA)

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# PART I – GENERAL

## 1. Precautions - Unusual

✓✓✓ & ✕✕✕

- *Be aware of patients / other healthcare providers recording mobile calls / audio / video or taking photographs – Exercise care / caution.*
- *Exercise extra care / caution if the patient or their attendants happen to be doctors.*
- *Ensure that any change in name / address / other particulars is updated on stationery / letterheads / medical records / official documents / websites / emails – Avoid using stationery with old addresses.*
- *Maintain / preserve / produce in courts in appropriate cases: Non-medical records and data, such as admission-discharge register / number of post-operative complications / successful and unsuccessful outcomes.*
- *Once you have shared your mobile / WhatsApp numbers with patients / attendants: Advisable – Respond to their calls, especially in emergencies / Do not block their numbers.*
- *Hospitals / Clinics: Ensure all clocks are synchronized to avoid any discrepancy in recording time.*
- *Hospitals: Have a policy of authorizing more than one person / designation to take decisions regarding patient care and complete procedural formalities.*
- *Surgeons: Ensure you do not ‘burn out’ while performing surgeries – Keep the number of surgeries optimal.*
- *Hospitals: Be vigilant of OPD patients who may require emergency care.*
- *Do not get associated with unregistered clinics / hospitals in any way – Do not refer your patients to them.*
- *Register in all the State Medical Councils where you practice / intend to practice.*
- *Walk the extra mile to assist hospitalized patients who are without attendants.*
- *Do not leave medical records unattended in hands of patients / attendants.*
- *‘Doctor shopping’ by patients: Exercise caution when dealing with such patients.*
- *Keep a copy of Supreme Court’s judgment in case of Jacob Mathew v/s State of Punjab & Ors. in your clinic / hospital / home – Show it to police if they are ignorant / feign ignorance of the Supreme Court’s*

*directions.*

- *Keep copies of medical records that are usually handed over to patients, such as discharge summaries / prescriptions / referrals / transfer notes.*
- *In case of emergencies / other justified reasons where investigation reports have been shared by diagnostic centre with treating doctors on phone and printed report is given later: Record this fact specifically in medical records / surgery notes.*

## A. Mobile / Audio / Video Recordings & Photos

- ✓ **Be aware of patients / other healthcare providers recording mobile calls / audio / video or taking photographs – Exercise care / caution.**

Mobile call records are being increasingly used to discover truth in courts. Medical negligence cases are no exception. Even in this case, the radiologist (OP3) alleged that the gynaecologist (OP2) who had performed D&C had “fudged the medical records” to frame him and referred to the call-logs to prove his defence that he was not present in the hospital (OP1) when the entries in the medical records showed that he was performing USG.)

**Dr. Pramod Batra v/s Medical Council of India & Anr. [17MLCD (j12)]**

- Communication on digital media plays a significant role, even in medical negligence cases. Doctors / hospitals need to consider this aspect while communicating with patients and other healthcare providers. (In this case, as the patient’s condition became critical, the obstetrician (OP1) advised admission to the first hospital, but it denied admission for being occupied with COVID-19 patients. Therefore, the patient approached the second hospital (OP2), but it did not admit the patient because the obstetrician (OP1) had expressed concern regarding its facilities and had further instructed not to admit the patient. The second hospital pointed out this aspect specifically in the court (OP2). The court perused the transcripts of the telephone conversation between the obstetrician (OP1) and the staff of the second hospital (OP2) and accepted this defence.)

**Park Hospitals & Anr. v/s The West Bengal Clinical Establishment Regulatory Commission & Anr. [17MLCD (j87)]**

- In this era of modern technology, patients / attendants are well equipped with mobiles / recorders to take photographs and record conversations even without the knowledge of the doctors / hospital

staff. Healthcare providers will have to practice under prying eyes. (In this case, the patient underwent splenectomy but died due to complications. There was an allegation that certain additions were made to the original documents. To prove this, the patient's son produced a photograph taken from his mobile, revealing the blank spaces in the medical records, which were later filled. CDs of audio recordings of conversations with one doctor were also produced. The court took cognizance of these photographs.)

**Basant Lal Sharma v/s Sir Ganga Ram Hospital & Ors. [17MLCD (j289)]**



The trust deficit between doctors and patients is widening with every passing day. It signifies a need for more confidence, transparency and mutual understanding. Patients do not hesitate to record audio and videos and take photographs with a clear intention to use them later as evidence in courts, as illustrated in this case. The patient suffered from post-appendectomy enterocutaneous fistula. The attendants had taken a video of the patient in the ICU post-surgery and produced it before the Hon'ble High Court. The court observed that "the footage reveals faecal matter oozing from the site of the surgery" and that the wound was left to fester for a long period without proper attention. This was held as negligence.

**Sasikala v/s The Secretary to Government & Ors. [17MLCD (j439)]**

## B. Social Media

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### **Be aware of / pay attention towards social media.**

Social media posts either praising or condemning the doctor / hospital do not influence the court in medical negligence cases. The quality of treatment provided, adhering to the accepted standards and delivering with due diligence, stands out in the court in medical negligence cases. (In this case, the patient underwent TKR of both knees. However, she did not get relief despite being under the operating orthopedic surgeon's (OP) follow-up care for almost a year. It was pointed out in defence that the patient seemed comfortable and without any complaints, even during follow-up visits, and the patient's husband had written a positive Google review 6 months post-surgery, expressing satisfaction and recovery. However, the court observed that even after 5.5 months of the surgery the patient was still visiting the orthopedic surgeon (OP). The husband appreciated the work of the orthopedic surgeon (OP) under the impression that she would fully recover under his

care. Even otherwise, the Google review does not exonerate the orthopedic surgeon (OP) from his deficiency in performing the surgery, as the misalignment of the left knee during the surgery left the patient crippled for life. Hence, the court held the orthopedic surgeon (OP) negligent.)



**Dr. Vineet Sharma v/s Anu Bala [17MLCD (j49)]**

Social media can make or break the reputation of any person or organization today. It is a double-edged sword. Doctors / hospitals should be aware of its power and pay attention to this aspect as well. (In this case, the patient's husband has used this media ingeniously. The patient who was pregnant and needed emergency hospitalization was denied admission by 2 hospitals earlier. The third hospital (OP3) also refused admission, and the patient was already in a state of collapse and was forced to wait in the ambulance. Ultimately, the patient's husband started live-streaming the video on social media and also called the police, who issued warnings to the third hospital (OP3). After all was said and done, the third hospital (OP3) ultimately admitted the patient, but it was a little too late by then. The court held that it was apathy on the part of the third hospital (OP1), "keeping in mind that the admission there took place only upon social media inducement", and it ought not to have been pardoned.)

**Park Hospitals & Anr. v/s The West Bengal Clinical Establishment Regulatory Commission & Anr. [17MLCD (j87)]**

### C. Patient / Attendant is a Doctor

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✓ **Exercise extra care / caution if the patient or their attendants happen to be doctors.**

✗ **Do not let patients / attendants interfere in your treatment decisions, even if they are doctors:**

- Dissuade them politely / courteously.
- Document their interference in medical records specifically.

Doctor-patients are increasingly filing cases of medical negligence, possibly due to their knowledge of medicine compared to other patients. The court, in this case, has commented specifically on the doctor-patient who had sustained a fracture in the left tibia from RTA, developed compartment syndrome post-ORIF surgery and underwent fasciotomy. It was alleged that the patient was not at all informed about the compartment syndrome and its subsequent complications. In defence, it was pointed out that the patient and

her attendants were informed about the prognosis and signed the consent form. The court not only rejected this allegation but commented further that as the doctor-patient “was in medical profession, one can impute some knowledge to her. PW1-patient also can google and can acquire knowledge” and that “her contention of innocence in respect of complications of fasciotomy is difficult to believe.”



**Gaddam Pramatha v/s Sunshine Hospital & Anr. [17MLCD (j264)]**

In cases of medical negligence, courts look into the overall conduct of both the parties, patients as well as doctors, to draw appropriate conclusions. This case aptly illustrates the same. The patient’s daughter alleged that the ambulance provided to shift the patient was not proper. The court not only questioned her decision to get her father, who was on a ventilator, discharged against medical advice but also noted specifically that she was “a qualified/ practising doctor who had admittedly travelled in the ambulance while sitting in the front seat and not beside the patient” and that “such conduct amounts to voluntarily putting the life of the patient in jeopardy, thus invoking the principle of contributory negligence”.



**Dr. Veena Mattu & Anr. v/s Saket City Hospital & Anr. [17MLCD (j339)]**

Treatment decisions are made by the treating doctors, not the patients/attendants. However, problems arise when patients or their close relatives are doctors. Such interferences must be dissuaded politely and courteously. Such instances are increasing exponentially in India, and the courts are well aware of them. Document such instances in medical records specifically. (In this case, the patient was admitted to the hospital (OP1) under the care of the cardiologist (OP2) and underwent pacemaker implantation. The court noted and drew an adverse inference against the patient’s cardiologist-husband for attempting to interfere during treatment. The court opined, “It has to be kept in mind that once the patient is admitted to the hospital, it should be left to the treating doctors to decide on the process and procedure of treatment and also give certain space to them in performing their duties. No doubt, the Complainant No. 1 is a Cardiologist, however, interfering with the treatment and casting doubt on the treating doctors, in my opinion, after going through the record is not warranted and appears to be an over-reaction.” The court has gone to the extent of observing that “at times he (cardiologist-husband) could not control himself from giving directions to the hospital staff / doctors.”)

**Jagdish K. Sharma & Anr. v/s Medanta, The Medicity & Anr. [17MLCD (j505)]**

## D. Your 'Correct Identity'

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- ✓ **Write the correct name of your legal entity on stationery / receipts / signboards.**
- ✓ **Ensure that any change in name / address / other particulars is updated on stationery / letterheads / medical records / official documents / websites / emails – Avoid using stationery with old addresses.**
- ✗ **Do not misrepresent yourself in any manner.**

In India, a business can be run as a proprietary firm, partnership firm, Limited Liability Partnership (LLP) or a Private or Public Limited Company. Each of these is a distinct legal entity in the eyes of the law, even if the persons controlling / owning them may be the same. This aspect must always be remembered by hospitals / facilities and their owners / administrators. Stationery, receipts, signboards and so on must clearly and specifically write the name of the correct legal entity. Any mixing-up may confuse the minds of the patient and the courts. (In this case, the patient died due to uterine perforation after undergoing D&C. The court found that “the medical records pertaining to treatment of late Mamta (patient) at Krishna Medical Centre were on the letterhead of Dr. Pradeep Kharbanda Krishna Memorial Hospital Pvt Ltd and not of Krishna Medical Centre”, “consent for USG guided D&C was obtained on the letterhead of Krishna hospital” and that it was “Krishna Medical Centre which is registered with Directorate of Family Welfare not Krishna Hospital”. The court observed that this “raise a strong suspicion as to credibility of the medical records”).

**Dr. Pramod Batra v/s Medical Council of India & Anr. [17MLCD (j12)]**

- Do not misrepresent yourself in any manner. In this case, the patient was brought in an emergency to the hospital (OP1) but died of cardiac arrest on the same day. One interesting allegation was that the attendants of the deceased patient believed that the hospital (OP1) was a branch of the well-known Metro Plus Hospital, which specializes in heart diseases, as both had the same names. Such similarities can lead to legal consequences, and leave aside the patient even the other hospital, the first / original Metro Plus Hospital, could have filed a lawsuit against the hospital (OP1) for “passing off.”

**Dr. Ajay Singh Pundeer & Anr. v/s Shamsher Singh & Anr. [17MLCD (j34)]**

- If there are any changes in the name, address and other details of

