Guest Editorial

How to defend a complaint and/or a judgment against a doctor for alleged medical misconduct

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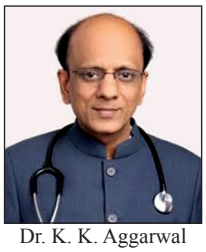
Dr. K. K. Aggarwal

The number of malpractice suits against doctors is increasing in India. Hence, medical professionals should be knowledgeable and aware of the issues and the laws that govern patient care and follow the Code of Medical Ethics as laid down by the Medical Council of India. This is important as it will not only enable the highest professional standards in the practice of medicine but also help avoid legal problems. Many of us do not how to defend ourselves if a complaint alleging medical misconduct is filed against us. Hence, to successfully defend a complaint or a judgment, you must also be aware of the valid defenses that are available in various judgments passed by the Hon'ble Supreme Court of India. The purpose of this article is to provide you with some defenses citing different Supreme Court rulings that support a specific defense.

Defenses in Medical Misconduct

Whenever there is an allegation of misconduct against a doctor, the following defenses may be adopted.

Duty of care/standard of care

1. "I have done nothing that any reasonable prudent doctor would not have done (act of commission) nor I have refrained from doing anything, which a reasonable, prudent doctor would do (act of omission)"
   Para 11 of Jacob Mathew Petitioner *v.* State of Punjab and Anr., Respondent 2005 (3) CPR 70 (SC), the Hon'ble Supreme Court of India observed: "A medical practitioner can be faulted only if he/she has shown negligence or rashness in the services rendered by him/her. In the Law of Torts, Ratanlal and Dhirajlal (Twenty-fourth Edition 2002, edited by Justice G P Singh), it is stated (at p. 441–442): Negligence is the breach of a duty caused by the omission to do something which a reasonable man, guided by those considerations which ordinarily regulate the conduct of human affairs would do, or doing something which a prudent and reasonable man would not do."
2. "It was a complicated case and in such a situation the doctor must get the benefit of doubt."
   In Malay Kumar Ganguly *v.* Sukumar Mukherjee and Others on August 7, 2009, Criminal Appeal Nos. 1191–1194 of 2005; Civil Appeal No. 1727 of 2007, the Apex Court stated: "There cannot

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be, however, by any doubt or dispute that for establishing medical negligence or deficiency in service, the courts would determine the following:

i. No guarantee is given by any doctor or surgeon that the patient would be cured
ii. The doctor, however, must undertake a fair, reasonable and competent degree of skill, which may not be the highest skill
iii. Adoption of one of the modes of treatment, if there are many, and treating the patient with due care and caution would not constitute any negligence
iv. Failure to act in accordance with the standard, reasonable, competent medical means at the time would not constitute a negligence. However, a medical practitioner must exercise the reasonable degree of care and skill and knowledge which he possesses. Failure to use due skill in diagnosis with the result that wrong treatment is given would be negligence
v. In a complicated case, the court would be slow in contributing negligence on the part of the doctor, if he is performing his duties to be best of his ability"

3. "A reasonable degree of care is what the law expects from a doctor. The standard of care expected is the standards of any reasonable medical practitioner. The circumstance in which a medical practitioner is placed always determines the standards expected from him. I have treated the patient with the best of my skill and knowledge"
   In Jacob Mathew Petitioner *v.* State of Punjab and Anr., 2005 (3) CPR 70 (SC), the Hon'ble Supreme Court observed that: "The degree of skill and care required by a medical practitioner is so stated in Halsbury's Laws of England (Fourth Edition, Vol. 30 Para 35): The practitioner must bring to his task a reasonable degree of skill and knowledge, and must exercise a reasonable degree of care. Neither the very highest nor a very low degree of care and competence, judged in the light of the particular circumstances of each case, is what the law requires…"
4. "I cannot be liable for a service which was not available in the hospital"
   In Malay Kumar Ganguly *v.* Sukumar Mukherjee and Ors. on August 7, 2009, Criminal Appeal Nos. 1191–1194 of 2005; Civil Appeal No. 1727 of 2007, the Apex Court stated: "We must bear in mind that negligence is attributed when existing facilities are not availed of. Medical negligence cannot be attributed for not rendering a facility which was not available. In our opinion, if hospitals knowingly fail to provide some amenities that are fundamental for the patients, it would certainly amount to medical malpractice. As it has been held in Smt. Savita Garg (Smt. Savita Garg *v.* The Director, National Heart Institute [2004 (8) SCALE 694: (2004) 8 SCC 56]), that a hospital not having basic facilities like oxygen cylinders would not be excusable"
5. "I did not waive off the fee as it was my right to charge"
   Waiving off fees does not take away the responsibility of discharging duties with utmost care as described in Malay Kumar Ganguly *v.* Sukumar Mukherjee and Ors. on August 7, 2009, Criminal Appeal Nos. 1191–1194 of 2005; Civil Appeal No. 1727 of 2007, where the Apex Court observed: "The so-called humanitarian approach of the hospital authorities in no way can be considered to be a factor in denying the compensation for mental agony suffered by the parents. Waiving off fee also does not take away the responsibility. Notices to a large number of persons and withdrawal of cases against some of them by itself cannot be considered to be a relevant factor for dismissal of these appeals."

Accepted practices

1. "I have treated the patient as per general and approved practice. Expert opinions have been taken by me/us from other eminent doctors from the city and they have also agreed with the line of management and found no negligence or deficiency in services"
   The Hon'ble Supreme Court of India, in the case of Jacob Mathew Petitioner *v.* State of Punjab and Anr., Respondent 2005 (3) CPR 70 (SC) held that "The fact that a defendant charged with negligence acted in accord with the general and approved practice is enough to clear him of the charge"
2. "I have taken all the care that was expected from any reasonable prudent medical practitioner and therefore there cannot be any element of negligence or rashness in the services rendered by me"
   Actionable negligence has been defined by the Hon'ble Supreme Court of India in Jacob Mathew Petitioner *v.* State of Punjab and Anr., Respondent 2005 (3) CPR 70 (SC) as under: "Actionable negligence consists in the neglect of the use of ordinary care or skill towards a person to whom the defendant owes the duty of observing ordinary

care and skill, by which neglect the plaintiff has suffered injury to his person or property"

3. "I observed all the precautions and adhered to all guidelines as mentioned in the Supreme Court Judgment."
   In Martin F.D'Souza *v.* Mohd. Ishfaq, (2009) 3 SCC 1, the Apex Court laid down the precautions which doctors/hospitals, etc., should have taken:
   (a) Current practices, infrastructure, paramedical and other staff, hygiene and sterility should be observed strictly
   (b) No prescription should ordinarily be given without actual examination. The tendency to give prescription over the telephone, except in an acute emergency, should be avoided
   (c) A doctor should not merely go by the version of the patient regarding his symptoms, but should also make his own analysis including tests and investigations where necessary
   (d) A doctor should not experiment unless necessary and even then he should ordinarily get a written consent from the patient
   (e) An expert should be consulted in case of any doubt
   (f) Full record of the diagnosis, treatment, etc., should be maintained.
4. "I did nothing that overruled the recommendations of the drug manufacturer."
   In Malay Kumar Ganguly *v.* Sukumar Mukherjee and Ors. on August 7, 2009 Criminal Appeal Nos. 1191–1194 of 2005; Civil Appeal No. 1727 of 2007, the Apex Court observed: "The dosage of 120 mg depomedrol per day is certainly a higher dose in case of a Toxic epidermal necrolysis (TEN) or for that matter any patient suffering from any other bypass of skin disease and the maximum recommended usage by the drug manufacturer has also been exceeded by Dr. Mukherjee."

Difference in opinion

1. "I have added the opinions of experts, who have agreed with my line of treatment. Even though the experts brought in by the council differ with the opinion of my experts, I should be given the benefit of doubt"
   A difference of opinion is not negligence. If there are two accepted schools of thought and a doctor has adopted any one method, he is not liable. In a landmark judgment in Jacob Mathew *v.* State of Punjab and Anr., 2005 (3) CPR 70 (SC), the Hon'ble Supreme Court stated in paragraph 22: The degree of skill and care required by a medical practitioner is so stated in Halsbury's Laws of England (Fourth Edition, Vol. 30 Para 35): "… and a person is not liable in negligence because someone else of greater skill and knowledge would have prescribed different treatment or operated in a different way; nor is he guilty of negligence if he has acted in accordance with a practice accepted as proper by a responsible body of medical men skilled in that particular art, even though a body of adverse opinion also existed among medical men"
   In the same judgment, the Hon'ble Supreme Court of India further observed: "Differences of opinion and practice exist, and will always exist, in the medical as in other professions. There is seldom any one answer exclusive of all others to problems of professional judgment. A court may prefer one body of opinion to the other, but that is no basis for a conclusion of negligence. A judge's 'preference' for one body of distinguished professional opinion to another also professionally distinguished is not sufficient to establish negligence in a practitioner whose actions have received the seal of approval of those whose opinions, truthfully expressed, honestly held, were not preferred"
   In a judgment pronounced in Martin F.D'Souza *v.* Mohd. Ishfaq SCI: 3541 of 2002, dated February 17, 2009, the Hon'ble Supreme Court held that: "It is not enough to show that there is a body of competent professional opinion which considers that the decision of the accused professional was a wrong decision, provided there also exists a body of professional opinion, equally competent, which supports the decision as reasonable in the circumstances." As Lord Clyde stated in Hunter v. Hanley 1955 SLT 213: "In the realm of diagnosis and treatment there is ample scope for genuine difference of opinion and one man clearly is not negligent merely because his conclusion differs from that of other professional men… The true test for establishing negligence in diagnosis or treatment on the part of a doctor is whether he has been proved to be guilty of such failure as no doctor of ordinary skill would be guilty of if acting with ordinary care…"

Error of judgment

1. "I treated the patient in an emergent situation and am likely to make errors. The standards expected from any medical practitioner in an emergency are always lower than the standards expected from him in an ideal setting."
   The Hon'ble Supreme Court judgment in Jacob Mathew *v.* State of Punjab and Anr., 2005 (3) CPR

70 (SC) 6 SCC 1 has stated: "A mere deviation from normal professional practice is not necessarily evidence of negligence. Let it also be noted that a mere accident is not evidence of negligence. So also an error of judgment on the part of a professional is not negligence *per se* Higher the acuteness in emergency and higher the complication, more are the chances of error of judgment. …A medical practitioner faced with an emergency ordinarily tries his best to redeem the patient out of his suffering. He does not gain anything by acting with negligence or by omitting to do an act. Obviously, therefore, it will be for the complainant to clearly make out a case of negligence before a medical practitioner is charged with or proceeded against criminally. A surgeon with shaky hands under fear of legal action cannot perform a successful operation and a quivering physician cannot administer the end-dose of medicine to his patient."

Hindsight is always wiser. Any incident, which has already occurred, always makes the concerned parties wiser, but what is important is to know if in an emerging situation what was done was reasonable or not. In the Jacob Mathew *v.* State of Punjab and Anr., it has been stated that:

"A mere deviation from normal professional practice is not necessarily evidence of negligence.

- A mere accident is not evidence of negligence
- An error of judgment on the part of a professional is not negligence *per se*
- No sensible professional would intentionally commit an act or omission which would result in loss or injury to the patient as the professional reputation of the person is at stake… Simply because a patient has not favourably responded to a treatment given by a physician or a surgery has failed, the doctor cannot be held liable *per se* by applying the doctrine of res ipsaloquitor"

2. "I acted as per my thinking and at the most it can be a case of difference of opinion and/or error of diagnosis. An error of diagnosis cannot be labeled as deficiency in services or negligence"

   In paragraph 24 of the Hon'ble Supreme Court judgment in Jacob Mathew *v.* State of Punjab and Anr., 2005 (3) CPR 70 (SC), it was observed that: Lord Scarman who recorded the leading speech with which other four Lords agreed quoted the following words of Lord President (Clyde) in Hunter *v.* Hanley 1955 SLT 213 at 217, observing that the words cannot be bettered – "In the realm of diagnosis and treatment there is ample scope for genuine difference of opinion and one man clearly is not negligent merely because his conclusion differs from that of other professional men. The true test for establishing negligence in diagnosis or treatment on the part of a doctor is whether he has been proved to be guilty of such failure as no doctor or ordinary skill would be guilty of if acting with ordinary care". Lord Scarman added – "a doctor who professes to exercise a special skill must exercise the ordinary skill of his specialty." (Para 24).

Accident/mishap

1. "The complications which occurred in this case are well described in literature (quote a reference) and cannot amount to negligence. Whatever happened during treatment in this case was a pure accident. Accidents are not actionable"

   The dictionary meaning of the word "accident" is an event that occurs without being planned. Section 80 of the Indian Penal code defines the word "accident" as follows: "Nothing is an offence which is done by accident or misfortune and without any criminal intension or knowledge in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution"
2. "The death did not occur due to negligence but was due to the consequence of ailments suffered. The very fact the patient died does not mean negligence. No doctor can give a 100% guarantee"

   Death of a patient during treatment does not mean negligence. The patient may have died on account of the disease he suffered from or its complications as was observed in the case of Dr. Ganesh Prasad and Anr. *v.* Lal Janamajay Nath Shahdeo, I (2006) CPJ 117 (NC), where the National Commission held "…the death of the child was due to the process of disease and its complication. The treatment given to the child was proper." In Martin F.D'Souza *v.* Mohd. Ishfaq Civil Appeal No. 3541 of 2002, paragraph 124 of the judgment submitted as follows: "It must be remembered that sometimes despite their best efforts the treatment of a doctor fails. For instance, sometimes despite the best effort of a surgeon, the patient dies. That does not mean that the doctor or the surgeon must be held to be guilty of medical negligence, unless there is some strong evidence to suggest that he is"
3. "No medical treatment is risk free"

   There is always a degree of risk involved in any treatment. There are inherent dangers in surgical procedures. A doctor is not liable just because a

mishap occurs in the line of treatment. Paragraph 17 of Surendra Kumar Kumawat and Anr. *v.* Dr. (Smt.) Sunil Jain and Ors., Rajasthan State Consumer Disputes Redressal Commission, Jaipur. Complaint Case No. 53 of 1991 decided on August 19, 1993 mentions In Hatcher *v*. Black ([1954] *Times*, 2nd July), Lord Denning explained the law on the subject of negligence against doctors and hospitals in the following words: "Before I consider the individual facts, I ought to explain to you the law on this matter of negligence against doctors and hospitals. Mr. Marvan Evertt sought to liken the case against a hospital to a motor car accident or to an accident in a factory. That is the wrong approach. In the case of accident on the road, there ought not to be any accident if everyone used proper care; and the same applies in a factory; but in a hospital when a person who is ill goes in for treatment, there is always some risk, no matter what care is used

Every surgical operation involves risks. It would be wrong, and indeed bad law, to say that simply because a misadventure or mishap occurred, the hospital and the doctors are thereby liable. It would be disastrous to the community if it were so. It would mean that a doctor examine a patient or a surgeon operating at a table instead of getting on with his work, would be forever looking over shoulder to see if someone was coming up with a dagger; for an action for negligence against a doctor is for him like unto a dagger. His professional reputation is as clear to him as his body, perhaps more so, and an action for negligence can would his reputation as severely as a dagger can his body. You must not, therefore, find him negligent simply because something happens to go wrong; if for instance, one of the risk inherent in an operation actually takes place or some complications ensues which lessons or takes away the benefits that were hoped for, or if in a matter of opinion he makes an error of judgment. You should only find him guilty of negligence when he falls short of the standard of a reasonably skilful medical man, in short, when he is deserving of censure for negligence a man is deserving of censure"

4. "Things have gone wrong does not mean negligence"

   A doctor is not liable if a treatment, which in ordinary circumstances would be sound, has unforeseen results. In paragraph 32 of Jacob Mathew *v.* State of Punjab and Anr., 2005 (3) CPR 70 (SC), the Apex Court states: "The subject of negligence in the context of medical profession necessarily calls for treatment with a difference. Several relevant considerations in this regard are found mentioned by Alan Merry and Alexander McCall Smith in their work 'Errors, Medicine and the Law' (Cambridge University Press, 2001). There is a marked tendency to look for a human factor to blame for an untoward event – a tendency which is closely linked with the desire to punish. Things have gone wrong and therefore, somebody must be found to answer for it. To draw a distinction between the blameworthy and the blameless, the notion of mens rea has to be elaborately understood. An empirical study would reveal that the background to a mishap is frequently far more complex than may generally be assumed. It can be demonstrated that actual blame for the outcome has to be attributed with great caution. For a medical accident or failure, the responsibility may lie with the medical practitioner and equally it may not. The inadequacies of the system, the specific circumstances of the case, the nature of human psychology itself, and sheer chance may have combined to produce a result in which the doctor's contribution is either relatively or completely blameless. Human body and its working is nothing less than a highly complex machine. Coupled with the complexities of medical science, the scope for misimpressions, misgivings and misplaced allegations against the operator, i.e., the doctor, cannot be ruled out. One may have notions of best or ideal practice which are different from the reality of how medical practice is carried on or how in real life the doctor functions. The factors of pressing need and limited resources cannot be ruled out from consideration. Dealing with a case of medical negligence needs a deeper understanding of the practical side of medicine"

5. "It is not a case of gross mistake"

   Every medical mishap cannot be labeled as gross negligence. In Spring Meadows Hospital *v.* Harjol Ahluwalia, ([1998] 4 SCC 39), the Court has held as under: "Gross medical mistake will always result in a finding of negligence. Use of wrong drug or wrong gas during the course of anaesthetic will frequently lead to the imposition of liability and in some situations even the principle of res ipsa loquitur can be applied"

   While deciding the Dr. Suresh Gupta *v.* Government of N.C.T. Of Delhi and Anr on August 4, 2004 Appeal (crl.) 778 of 2004, the bench of justices observed: "For fixing criminal liability on a doctor or surgeon, the standard of negligence required to be proved should be so high as can be described

> as 'gross negligence' or 'recklessness.' …Thus, when a patient agrees to go for medical treatment or surgical operation, every careless act of the medical man cannot be termed as 'criminal'. It can be termed 'criminal' only when the medical man exhibits a gross lack of competence or inaction and wanton indifference to his patient's safety and which is found to have arisen from gross ignorance or gross negligence… Where a patient's death results merely from error of judgment or an accident, no criminal liability should be attached to it."

Fraudulent concealment

"The petitioner has come to the council with unclean hands: (i) Deliberate nondisclosure of relevant information (Suppresio Vary) and (ii) Deliberately resorting to falsehood to obtain a favourable order (SuggestioFalsi)."

When the petitioner comes to the Court and deliberately does not disclose relevant information and resorts to falsehood with intentions of obtaining fraudulently an order favorable to him, in the interest of justice, equity and fair play, the complaint should be dismissed with costs. In the case of S.P. Chengalvaraya Naidu (dead) by LRs *v.* Jagannath (dead) by LRs and Ors. AIR 1994, 853 it was held by the Hon'ble Supreme Court of India that "The courts of law are meant for imparting justice between the parties. One who comes to the court, must come with clean hands. We are constrained to say that more often than not, process of the court is being abused. Property grabbers, tax evaders, bank loan dodgers and other unscrupulous persons from all walks of life find the court-process a convenient lever to retain the illegal-gains indefinitely. We have no hesitation to say that a person, who's case is based on falsehood, has no right to approach the court. He can be summarily thrown out at any stage of litigation." In the same judgment, the Court further observed: "A litigant, who approaches the court, is bound to produce all the documents executed by him which are relevant to the litigation. If he withholds a vital document in order to gain advantage on the other side then he would be guilty of playing fraud on the court as well as on the opposite party."

Guarantee and warranty

"The law does not require a professional to give guarantee and warranty with respect to the end results of their services. I never gave any assurance or a guarantee."

A doctor cannot give a warranty of the perfection of their skill nor can they give a guarantee of cure. As Sir William Osler said, "medicine is a science of uncertainty and art of probability." Every patient is different as is their response to disease or treatment. Hence we talk of "most probable diagnosis" and "most probable outcome" of a disease. A doctor is not liable just because there was unforeseen outcome.

In paragraph 18 of Jacob Mathew *v.* State of Punjab and Anr., 2005 (3) CPR 70 (SC), the Supreme Court of India observed: "In the law of negligence, professionals such as lawyers, doctors, architects and others are included in the category of persons professing some special skill or skilled persons generally. Any task which is required to be performed with a special skill would generally be admitted or undertaken to be performed only if the person possesses the requisite skill for performing that task. Any reasonable man entering into a profession which requires a particular level of learning to be called a professional of that branch, impliedly assures the person dealing with him that the skill which he professes to possess shall be exercised with reasonable degree of care and caution. He does not assure his client of the result. A lawyer does not tell his client that the client shall win the case in all circumstances. A physician would not assure the patient of full recovery in every case. A surgeon cannot and does not guarantee that the result of surgery would invariably be beneficial, much less to the extent of 100% for the person operated on. The only assurance which such a professional can give or can be understood to have given by implication is that he is possessed of the requisite skill in that branch of profession which he is practicing and while undertaking the performance of the task entrusted to him he would be exercising his skill with reasonable competence. This is what the entire person approaching the professional can expect. Judged by this standard, a professional may be held liable for negligence on one of two findings: either he was not possessed of the requisite skill which he professed to have possessed, or, he did not exercise, with reasonable competence in the given case, the skill which he did possess. The standard to be applied for judging, whether the person charged has been negligent or not, would be that of an ordinary competent person exercising ordinary skill in that profession. It is not necessary for every professional to possess the highest level of expertise in that branch which he practises. In Michael Hyde and Associates *v.* J.D. Williams and Co. Ltd. Sedley, L.J. said that where a profession embraces a range of views as to what is an acceptable standard of conduct, the competence of the defendant is to be judged by the lowest standard that would be regarded as acceptable."

Vicarious liability

"My junior was also competent."

A doctor can be held liable for the acts of a junior doctor, who is a part of his team. It is the duty of a senior doctor to give appropriate advice to his junior doctor. In Malay Kumar Ganguly *v.* Sukumar Mukherjee and Ors. on August 7, 2009 Criminal Appeal Nos. 1191–1194 of 2005; Civil Appeal No. 1727 of 2007, the Apex Court stated: "Even delegation of responsibility to another may amount to negligence in certain circumstances. A consultant could be negligent where he delegates the responsibility to his junior with the knowledge that the junior was incapable of performing of his duties properly."

Informed consent

"I informed the patient about the risks at every step and the same has been documented."

The patient has the right to be informed about the treatment options so that he/she can be an informed participant in decision making regarding treatment. In Malay Kumar Ganguly *v.* Sukumar Mukherjee and Ors. on August 7, 2009 Criminal Appeal Nos. 1191–1194 of 2005; Civil Appeal No. 1727 of 2007 held the following views about the right of the patient to be informed: "The patients by and large are ignorant about the disease or side or adverse affect of a medicine. Ordinarily the patients are to be informed about the admitted risk, if any. If some medicine has some adverse affect or some reaction is anticipated, he should be informed thereabout…"

"In Sidaway *v.* Board of Governors of Bethlem Royal Hospital and the Maudsley Hospital, (1985) All ER 643, the House of Lords, inter alia held as under: The decision what degree of disclosure of risks is best calculated to assist a particular patient to make a rational choice as to whether or not to undergo a particular treatment must primarily be a matter of clinical judgment."

"An issue whether non-disclosure of a particular risk or cluster of risks in a particular case should be condemned as a breach of the doctor's duty of care is an issue to be decided primarily on the basis of expert medical evidence. In the event of a conflict of evidence the judge will have to decide whether a responsible body of medical opinion would have approved of non-disclosure in the case before him."

"A judge might in certain circumstances come to the conclusion that disclosure of a particular risk was so obviously necessary to an informed choice on the part of the patient that no reasonably prudent medical man would fail to make it, even in a case where no expert witness in the relevant medical field condemned the non-disclosure as being in conflict with accepted and responsible medical practice."

"The law on medical negligence also has to keep up with the advances in the medical science as to treatment as also diagnostics. Doctors increasingly must engage with patients during treatments especially when the line of treatment is a contested one and hazards are involved. Standard of care in such cases will involve the duty to disclose to patients about the risks of serious side effects or about alternative treatments."

"In the times to come, litigation may be based on the theory of lack of informed consent. A significant number of jurisdictions, however, determine the existence and scope of the doctor's duty to inform based on the information a reasonable patient would find material in deciding whether or not to undergo the proposed therapy (See Canterbury *v.* Spence, 464 F.2d 772 [D.C. Cir. 1972], cert. denied, 409 U.S. 1064 [19r72]; see also Cobbs *v.* Grant, 8 Cal. 3d 229, 104 Cal. Rptr. 505, 502 P. 2d 1 [1972]; Hamiltorn *v.* Hardy, 37 Colo. App. 375, 549 P. 2d 1099 [1976]). In this respect, the only reasonable guarantee of a patient's right of bodily integrity and self-determination is for courts to apply a stringent standard of disclosure in conjunction with a presumption of proximate cause. At the same time, a reasonable measure of autonomy for the doctor is also pertinent to be safeguarded from unnecessary interference."

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Conflicts of interest

There are no conflicts of interest.

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