



## ORIGINAL RESEARCH PAPER

Forensic Science

## Medicolegal Aspects in Ophthalmology

KEY WORDS: .

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ABSTRACT

Medico-legal issues in Ophthalmology in today's era of litigation is very beneficial for all budding doctors in the concerned specialty. Majority of negligence cases has been due to improper consent and improper medical records. Others aspects highlighted includes eye camps, grievous hurt etc

### Introduction

Litigations on all the specialties of clinical doctors is on rise in our country. The Ophthalmologists are not an exception to this fact. As, an ophthalmologist operates on one of the sense organs of the body which primarily functions as 'to see', they seem to be always on the vulnerable side of litigation. There are enormous number of diseases of the eye for which surgeries are performed by an ophthalmologist such as cataract, glaucoma, corneal ulcer, retinal detachment, tumours of the eye etc. In this article the author would like to highlight certain points about the medico-legal aspects of ophthalmology in India.

Medico-legal aspects in ophthalmology can be divided into:

- Concerned with living individuals
- Related to the deceased

### In the Living

Majority of the cases of Medical Negligence are due to two issues<sup>1</sup>:

- Improper Consent
- Improper Medical Records

### Consent

It is defined as "Voluntary agreement, compliance, or permission for specified act or purpose". The Indian contract Act Section 13, states "two or more persons are said to consent when they agree up on the same thing in the same sense". Medical practitioners should sign consent before examination and treatment. If they treat or operate without consent will be considered as an internal interference with the patient's body without legal sanction. This in turn is equivalent to assault for which patient can legally claim for damage. Consent is to be obtained from conscious, mentally sound adults, or from the parent of a child who is less than 12 years of age. Consent is not necessary if the patient is in coma and need emergency treatment. A medico legal case referred by a court of law for examination also doesn't need consent<sup>2</sup>.

For a consent to be called as valid it should be free, voluntary, clear, intelligent, informed, direct & personal<sup>3</sup>.

### Who can Consent

#### 1. Age of Patient is < 12 years

A child less than 12 years of age cannot give consent for Medical examination, in such case the consent should be obtained from the parents or guardians. (Sec. 89 IPC)

#### 2. Age of Patient is > 12 years but < 18 years

Patient can give consent for medical examination but not for any procedure or surgery [RKS]

#### 3. Age of Patient is > 18 years

Patient can give consent for any surgery/ procedure (Sec 87 IPC)

### What constitutes consent to be said as informed

A consent is said to be as informed when the following points has been explained to the patient by the treating doctor in the language he/she understands;

- About disease he/she is suffering
- How the disease was/will be diagnosed
- Details of the treatment plans
- Possible side effects & risks involved
- Approximate cost of the treatment
- Alternative methods of treatment other than what is planned.

When the doctor has explained all the above points, it is very important to take either patient's signature or his/her thumb impression on the consent form.

### Never take Blanket Consent

Doctors should take consent only in written form and not as oral as in unexpected cases it will be like a documented evidence in the court of law.

The concept of obtaining general consent (Blanket consent) from the patient at the time of admission in the hospital is wrong and it has no value in the court of law if suppose any litigation arises.

Consent must be specific for every procedure. The consent form should include specific consent to the administration of a general anesthetic<sup>4</sup>.

### Concept of Loco parentis

In an emergency involving children, when their parents or guardians are not available, consent should be taken from the person-in-charge of the child such as teacher/head master<sup>5</sup>.

### Consent and Organ Transplantation

If any person has donated his eyes to be used for therapeutic purpose after his death, the eyes can only be removed after obtaining consent from legal heirs/guardian<sup>5</sup>.

### Medical Records

Medical record is a document, chronologically mentioning the patient details, history and complaints, examination findings, investigations result, medication and day to day progress report.

In the hospital setup it is the responsibility of the treating doctor, nurses and medical record section to safely maintain the patients' medical record.

### Salient features of Medical Record

Under the directorate general of health services guidelines published in hospital manual the responsibility of hospitals to keep safely the medical records is

- For Outpatient Department Patients : 5 years
- For Inpatient Department Patients including Medico-legal

Cases: 10 Years

- Without the patient's consent, findings from the medical record should not be used for educational conferences or publications. Only for statistical purpose the hospital has the right to use the patient's record finding even without the consent of the patient<sup>6</sup>.
- Nothing should be omitted from the patients' medical record and no tampering should be done.
- Any Correction should have the corrector's initials
- Original documents should never be given to the patient on his/her demand instead a copy of medical record can be given at the cost of copying charges.
- Police do not have right to demand for the medical record except when there is statutory provision for such requisition.

### Section 320 IPC in Ophthalmology

Section 320 of Indian Penal Code defines grievous hurt.

#### The following kinds of hurt only are designated as "grievous"<sup>7</sup>

1. Emasculation.
2. Permanent privation of the sight of either eye.
3. Permanent privation of the hearing of either ear
4. Privation of any member or joint.
5. Destruction or permanent impairing of the powers of any member or joint.
6. Permanent disfiguration of the head or face.
7. Fracture or dislocation of a bone or tooth.
8. Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain or unable to follow his ordinary pursuits.

#### Salient features for the ophthalmologist

- To call a hurt as grievous it is not necessary that both the eyes should be affected at a time. Always remember, section 320 says either eye.
- Hurt should be permanent and it does not always mean that the victim should be blind with 100 % loss of vision after the injury. Even when the sight becomes 6/9 from 6/6 as a result of some hurt, it will be called as grievous hurt.
- Not necessary that every hurt will classically fit into a particular clause of section 320 IPC. A hurt to the eye may be called as grievous as a result of various overlapping with the other clauses of section 320 IPC
- Few hurt which are to be called as grievous are Perforating injury to the eye, deep corneal abrasions involving the corneal stromal layer within the central visual axis, dislocation of the lens, breaking of zonules, retinal or choroidal tears and optic disc lacerations<sup>8</sup>. **GV 296**

#### Salient features about the legal requirements for the eye camps

In today's era of rise of litigation and negligence cases, an ophthalmologist should take few necessary steps for conducting an eye camp, Conduction of the camp should be only done in a hospital setup with all facilities readily available.

For his/her safety ophthalmologist should limit him/herself to only consultation and even for doing some procedures in an eye camp it should be ensured that all kinds of infrastructure and manpower are available so as to combat any kind of complications.

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