

**DOCTOR – PATIENT RELATIONSHIP AND MEDICO LEGAL SYSTEM - A
COMPARATIVE STUDY WITH USA, UK, AUSTRALIA AND INDIA**

Laxmish Rai¹

Introduction

All living beings have been subject to disease since the very inception of life on Earth. The same applies to human being as well, who have been fighting disease ever since they began living together in groups. As such, tackling disease has been an art practiced by humans for centuries and is one of the reasons for the survival of mankind today. With the formation of civilizations, humans began to develop cultures practiced by entire groups of people. The culture thus practiced, gave rise to values and principles, which formed the core of societies. These values namely integrity, morality, honesty, civic duty and respect played a vital role in the field of medicine, on which members of the group depended, and brought in a form of accountability, where those who practiced medicine were required to ensure that they carried out their duties and obligations to the best of their knowledge and abilities.

Doctor-patient relationship

The relationship between a medical practitioner and patient is central to the regime of the medical profession. The doctor-patient relationship constitutes one of the most essential elements of contemporary medical ethics. According to the US Court a doctor-patient relationship can be defined as “a consensual relationship in which the patient knowingly seeks the physician’s assistance and in which the physician knowingly accepts the person as a patient.”² This judgment is widely accepted as a standard definition of the relationship between a doctor and patient.³

In the Indian context, there is no set definition for a doctor-patient relationship. An article from the Indian Journal of Medical Ethics defines the doctor-patient relationship as one which is “contractual in nature and is established when the patient makes a

¹ PhD Scholar, Alliance University, Bengaluru

² QT, Inc. v. Mayo Clinic Jacksonville, 2006 U.S. Dist. LEXIS 33668 (N.D. Ill. May 15, 2006).

³ Fallon Chipidza, *Impact of the Doctor-Patient Relationship*, Prim Care Companion for CNS Disorders (Oct.22,2015) <https://pubmed.ncbi.nlm.nih.gov/26835164/>.

request for medical examination, opinion, advice or treatment and the doctor undertakes to provide these".⁴ However, the biggest difference in the Indian context is perhaps the fact that the doctor-patient

relationship not only applies to the modern doctors practicing allopathy, but also to all physicians irrespective of the type of medicine practiced. Therefore, even the relationship between a physician practicing Ayurveda and a patient is considered as a doctor-patient relationship.

Elements of a doctor-patient relationship

Doctor-patient relationships are generally voluntary in nature where the medical practitioner and patient agree to work together in providing medical treatment to the injury or illness.⁵ As a rule, medical practitioners are required to provide sufficient information to their patients regarding their medical conditions and options of treatment available. The doctor-patient relationship must have a social or cultural dimension is evidenced by its immediate effect during emergencies in which doctor and patient have never met before.

Duty of care

A duty of care generally exists from the doctor towards the patient once the relationship has been entered into. However, in some cases, a duty of care may exist even before a relationship has been formed. The duty of care exists amongst doctors and patients both according to medical ethics as well as in statute. Further clarity was brought by the English Courts in *Bolam v. Friern Hospital Trust*⁶ where the patient was not successful in his action against the hospital, but the court did lay down important points for consideration. The test for determining the standard of care was set out by Lord McNair known as the Bolam test, makes an assessment of whether the medical professional acted in a way that was in accordance with practices accepted as correct by a responsible body of medical professionals with knowledge and experience in that

⁴ Sunil K. Pandya, *Doctor-Patient relationship*, 3(2)IJME (1995).

⁵ Alllaw.com, A Doctor's Duty of Care (*Www.alllaw.com*) <https://www.alllaw.com/articles/nolo/medical-malpractice/duty-care.html>.

⁶ *Bolam v Friern Hospital Management Committee*, WLR 582(1957).

specific area of medicine. If the treatment is seen to be acceptable, the standard of care is seen as met and the doctor is thus, not held liable.

Informed Consent

Consent is a term relevant in various areas such as commercial relationships, and also as a defense to some criminal acts. However, in healthcare, law seeks to govern the way in which consent has to be given. In some cases, a formal acknowledgement may be required before the conduct of certain procedures.⁷ A general rule of medical law, which is recognised internationally, is that patients cannot be given medical treatment without consent. It is the choice of the patient to undergo treatment and the doctor only plays the role of an advisor. The doctor must respect the choice of the patient even if the reasons given by the patient for refusing consent seem to be absurd or misplaced. The case of *Regina v Tabassum* concerned a man portraying himself as a medical practitioner with expertise in ailments related to women's breasts. Such portrayal led to women consenting to having their breasts examined by the man. When the truth of his misrepresentation was revealed, the women brought legal proceedings against him. The man pleaded that he examined the women's breasts only after obtaining their consent. The Court held that the agreement of the women for examination was based on misrepresentation and thus does not qualify as 'consent'.⁸

Confidentiality

In the case of *Ashworth Security Hospital v. MGN*,⁹ it was held that, patient visiting a hospital for the purpose of treatment holds the right to be confident that the information pertaining to his health and medical condition remain in strict confidence between the patient and the medical practitioner/s attending to him or her. This is not just a legal obligation, but also part of the Hippocratic Oath which states explicitly that "whatsoever things a doctor may see or hear concerning the life of their patients or even a part there from, which ought not to be noised abroad, shall be treated as sacred secrets."⁹

Patient Autonomy

⁷ ALASDAIR MACLEAN, AUTONOMY, INFORMED CONSENT AND MEDICAL LAW: A RELATIONAL CHALLENGE 158-61(1d ed.2009).

⁸ *Regina v Tabassum*, 328 (2000).

⁹ *Ashworth Security Hospital v. MGN* [2000] 1 WLR 515 (2000).

In the case of *Montgomery*, a diabetic mother was not informed by her doctors of the risk of shoulder dystocia during the time of her labour. As a result, when the baby was born, it suffered from shoulder dystocia due to the large size of the baby. The mother then brought a case against the doctors for having failed to inform her of the risks and also for not advising her of undergoing a caesarean section mode of delivery, which was possible and advisable in her case. The Court after examining the case held the doctors liable for failing to inform the mother of the

risks in relation to normal delivery of her child. Lady Hale, in her concurring opinion, quoted that “it is now well recognized that the interest which the law of negligence protects is a person’s interest in their own physical and psychiatric integrity, an important feature of which is their autonomy, their freedom to decide what shall and shall not be done with their body.”¹⁰ This case emphasizes the importance of the autonomy of the patient and how it must be observed and respected by medical professionals.

Theoretical Models of doctor – patient relationship

The doctor-patient relationship is of great interest to many researchers not only in the medical field, but also in the fields of sociology, economics, law etc. Different thinkers look at the relationship between a doctor and patient with respect to the area of study.

Principal-Agent Relationship Model

This model considers the doctor as an agent who acts according to the needs of his principal, the patient. The doctor possesses relevant information about the patient health and available medical treatment; and the patient has information about the suitability of the treatment to his lifestyle. The doctor, as the agent, is supposed to work in the ‘best interest’ of his principal. Another factor in such principal-agent relationships is that due to the monetary consideration paid by the patient, he also has the power to decide on the treatment to be undertaken.¹¹

Paternalism Model

¹⁰ *Montgomery v. Lanarkshire Health Board* 1430 U.K.108 (2015).

¹¹ K. Arrow, ‘Uncertainty and the welfare economics of medical care’, (1963) 53(5), *American Economic Review*, pp.941-973.

The doctor patient relationship in sociology is looked at from the aspect of power of decision making. In this model, the patient plays a passive role and the doctor is the decision maker. The doctor makes a diagnosis and provides treatment to the patient.¹²This model enables the doctor to utilise his skills in order to give the most effective treatment which is likely to reinstate the patient's health. The patient is only given information which facilitates him to consent to the doctor's decisions.¹³

Shared Decision Model

In this model, both parties are actively involved in the decision-making process. There have four elements present, viz.,

1. Both the doctor and patient have to be involved in the decision making.
2. Information sharing by both parties
3. Both express treatment preferences.
4. A treatment is decided upon once both parties agree on the treatment.¹⁴

The shared decision model treats doctors and patient as equals and enables better communication.

Informed decision-making model

In this model, there is a supply of information from the doctor to the patient but not an exchange from both parties.¹⁵ Furthermore, the decision is taken solely by the patient after being provided all the information by the doctor.

Doctor – Patient relationship and medico-legal systems in the developed States

Developed countries in the West follow a stringent regime of medico-legal ethics and adopt stricter enforcement mechanisms. Medico-legal legislation has existed in such

¹² C. Charles and others, 'Decision making in the physician-patient encounter: revisiting the shared treatment decision-making model', [1999] 49 Social Science and Medicine, pp.651-661.

¹³ *Supra* at note 8.

¹⁴ *Supra* at note 13.

¹⁵ Steven H Woolf and others, 'Promoting Informed Choice: Transforming Health Care to Dispense Knowledge for Decision Making', [2005] 143(4) Annals of Internal Medicine.

States for decades and as a result, the legal regime around doctor-patient relationship has evolved in these countries over the years. Countries such as the US and UK have thriving systems to regulate the relationship between doctors and patients and thus, they see better healthcare being offered to their citizens.

Doctor – Patient relationship and medico-legal systems USA

For decades, the US followed a system of paying medical fees to doctors on a fee-for-service (FFS) basis.¹⁶ The relationship between family doctors and their patients was a close and confidential one. The system of medical insurance in the US has led to a surge in the number of patients visiting doctors as medical fees are paid by someone else. This has drastically changed the nature of the doctor-patient relationship in the US. The American Medical Association (AMA) is the primary medical body in the US that takes decisions and makes recommendations regarding the implementation of a code of ethics for the medical profession. Therefore, the AMA has taken several measures in the past to improve the doctor-patient relationship.

The AMA has drafted an ethical code for physicians in the US known as the Code of Medical Ethics Opinion.¹⁷ The first chapter of the code is dedicated to the ethics of physician-patient relationships. The code stresses that a physician-patient relationship comes into existence when a physician caters to the medical needs of a patient and is consensual in nature.¹⁸ The US has enacted strict legislation to ensure good relationships between doctors and patients. As in the case of most other countries, doctors in the US are required to pursue and possess an approved degree and the license to practice treating patients.

Doctor – Patient relationship and medico-legal systems UK

The UK is known for having one of the best medical services in the world, mostly due to its famous National Health Services (NHS). The relationship between patients who were of a wealthy class and physicians was that of a master and a servant, with the

¹⁶ “History of health insurance benefits,” Employee Benefit Research Institute, March 2002, available at <<http://www.ebri.org/publications/facts/index.cfm?fa=0302fact>>

¹⁷ AMA, *Code of Medical Ethics Opinions*, (ama-assn.org) <https://www.ama-assn.org/delivering-care/ethics/code-medical-ethics-overview>.

¹⁸ *Id.* 1.1.1

distinction that the physician was treated as a higher class of servant due to his medical expertise.¹⁹

In terms of regulation, like the US, doctor-patient relationships in the UK are governed by a governmental organisation. The General Medical Council (GMC), established under the Medical Act, 1983²⁰, is the body that regulates the medical practice and patient safety across the UK. As part of educating doctors in the UK about medical ethics, the GMC has set out certain guidelines which are to be adhered to by all physicians in the country.²¹ These guidelines advocate good medical practice, confidentiality, consent and shared decision making, raising concerns, leadership and management and maintaining professionalism among others.

The UK has implemented a strict regime of laws that address medical negligence or clinical negligence. The NHS, which is the public provider of health services, is a governmental organization that is bound by clinical negligence laws. Primarily, clinical negligence in the UK is seen as an offence of tort. Doctors and physicians are seen to owe a duty of care to their patients and are expected to act cautiously while providing treatment. However, certain acts by medical professionals can also attract criminal prosecution by the State. To determine negligence 3-part test is conducted to establish whether there was indeed an act of clinical negligence or not. The procedure, therefore, relies on establishing fault on the part of the doctor, hospital, etc. To tackle the limitations of litigation, the UK enforced a redressal programme to address victims of clinical negligence. This programme came into force through the NHS Redress Act 2006.²² The Act qualifies liability in tort for acts of clinical negligence and aims to provide patients with an alternative to litigation.

Doctor – Patient relationship and medico-legal systems Australia

The doctor-patient relationship in Australia is aligned with that practiced in the UK. Doctors and patients are seen to have a contractual relationship between them where the

¹⁹ ROY PORTER, *THE GREATEST BENEFIT TO MANKIND: A MEDICAL HISTORY OF HUMANITY* 73648 (1d ed.1997).

²⁰ Medical Act 1983, Chapter 54, 26 July 1983

²¹ GMC, *Ethical Guidance for Doctors*, GMA-UK.ORG, <https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors#good-medical-practice>.

²² NHS Redress Act 2006, Chapter 44, 8th November 2006.

Doctor provides services and the patient provides consideration in the form of fees.²³ The authority on the contractual nature of the doctor-patient relationship in Australia was established in *Breen v. Williams*.²⁴ While examining the case, the Supreme Court, observed that the doctor-patient relationship was ordinarily a contractual one. The Court held that the relationship was contractual in origin.²⁵ It noted that it was only under exceptional circumstances that the same could be held to be a fiduciary relationship. Therefore, *Breen v Williams* is considered to be the leading authority in observing that the doctor-patient relationship in Australia.

The doctor-patient relationship in Australia is guided by the codes of the Medical Board of Australia. The MBA is empowered to register medical practitioner, develop codes and guides for the medical profession, investigate complaints about physicians, conduct panel hearings, assess international medical professionals who want to practice medicine in Australia and approve accreditation standards in medical education.²⁶

The Code stresses core values of the medical profession such as shared decision-making, treatment in emergencies, doctor-patient partnership, confidentiality, effective communication, informed consent, end-of-life care and ending a doctor-patient relationship.²⁷ Apart from the Code prescribed by the MBA, the Australian Medical Association (AMA), which is a professional body for physicians in Australia, has also established its own guidelines which Australian physicians are expected to follow.

Australia's medical negligence law is based on the principle of torts that anybody whose act can injure another person must perform the act with reasonable care. When a case involving medical negligence is brought before the Court, it first examines whether and to what extent a duty of care is owed to the patient by the physician. This is followed by an inquiry into the causation, which establishes the connection required between the

²³ *Sidaway v. Board of Governors of the Bethlem Royal Hospital and the Maudsley Hospital* 1 All.ER 643 [1985]; AC 871 904 (1985).

²⁴ *Breen v. Williams* 57 HCA (1996)

²⁵ *ibid*

²⁶ Medical Board of Australia, 'Role of the Board', ([medicalboard.gov.au](http://www.medicalboard.gov.au/About.aspx)) <https://www.medicalboard.gov.au/About.aspx>.

²⁷ *Id.* pp.6-22

negligent act of the physician and the injury suffered by the patient for the existence of liability.

The Civil Liability Act of Australia is an important law as which addresses different torts including that of negligence. Initially passed by the State of New South Wales,²⁸ each State in Australia has its own version of the Civil Liability Act, but they are all based on similar principles. It puts limits on the maximum compensation that may be ordered to be paid by a physician to the patient. AUD 400,000 is the cap on compensation that may be ordered to be paid for non-pecuniary losses by patients.²⁹ The Act also bars Courts from imposing exemplary, punitive and aggravated damages even if negligent acts by professional's causes grave injury or death.³⁰ Australia's medico-legal system is well-developed and shows considerable actions aimed at improving doctor-patient relationships as well as cases of medical negligence. However, with the Civil Liability Act, Australia presents a different picture than that presented by the US and UK, putting into focus the rights of medical professionals.

Doctor – Patient relationship and medico-legal systems in India

History dates medicine in India back to the Vedic age where texts such as the Atharva veda contains details of treatment to injuries and diseases through the use of herbs. India has the unique distinction of having six recognized systems of medicine in this category. They are Ayurveda, Siddha, Unani, Yoga, Naturopathy and Homoeopathy. The doctor –patient relationship was maintained during those days in different systems of medicine and the way medico legal disputes are handled.

Ayurveda

The Indian government now considers Ayurveda as an ancient and traditional knowledge. Several forms of Ayurvedic medicine are protected by the government through the Traditional Knowledge Digital Library.³¹ There is a definite interrelation in respect of doctor patient qualities, which also determines the quality of doctor patient relationship in relation to the ultimate success of treatment. In the ancient medicine, the

²⁸ Civil Liability Act 2002, No. 22 (2002).

²⁹ *Id.* Sections 16, 17 and 17A.

³⁰ *Id.* Section 21.

³¹ Government of India, Traditional knowledge digital library, <www.tkdlib.org>.

doctor-patient relationship was narrated pertaining to different aspects of doctor and patient. The Physician is expected to wear plain & clean dress, close keeping of hair & nails, cleanliness, white clothes, holding of umbrella/ hand stick, wearing of shoes & avoid of gaudy clothes which promotes good doctor patient relationship.

Siddha

Treatment under the Siddha system is based largely on herbs, diet and lifestyle. The relationship between the Siddhas and their patients was much like the one shared between Ayurvedic physicians and their patients. The Siddha system in the modern day is protected by the Government of India and promoted by the Ministry of AYUSH.³² Like Ayurveda, the knowledge of preparation of medicines under Siddha are also treated as intellectual property and protected by the TKDL.³³

Unani

Unani is a form of traditional medicine practiced in India, which relies on the elements within the human body to treat diseases. The doctor-patient relationship in the Unani form of medicine can be considered to be similar to the relationship between Ayurvedic or Siddha physicians and their patients. The Ministry of AYUSH in India is concerned with the protection and promotion of Unani medicine.

Yoga

The world-famous art of Yoga is acclaimed to be one of the most effective methods of maintaining good health. Yoga is more of a set of physical, mental and spiritual practices rather than a form of externally administered medicine. However, even today, those that teach Yoga are rarely referred to as doctors and mostly treated as instructors or teachers. Therefore, in modern day Yoga, there does not exist a doctor-patient relationship and as a result, the scope for conflicts is very low.

Naturopathy

Naturopathy is considered as a form of traditional medicine by the Ministry of AYUSH in India and courses in Naturopathy are offered by government

³² Ministry of AYUSH, Central Council for Research in Ayurvedic Sciences, <http://ccras.nic.in/content/about-ccras>.

³³ TKDL (n 71)

institutions.³⁴Naturopathy does involve an active doctor-patient relationship where naturopaths recognize themselves as doctors or physicians. Courts from different jurisdictions have found naturopaths criminally liable for the treatments recommended that caused damage to the lives of their patients. Naturopathic medicine takes a holistic approach to patient care. Therefore, the relationship between doctor and patient plays a key role in the healing process.

Homeopathy

India adopted Homeopathy as one of its national systems of medicine and it is currently governed by the Ministry of AYUSH.³⁵ The Food and Drug Administration (FDA) in USA has also conducted a hearing on homeopathic product regulation in which it has decided to tighten regulations around Homeopathy in order to prevent cases of medical negligence where diseases are serious in nature.³⁶ Courts have taken note of medical negligence by Homeopathic practitioners and have punished the accused where found guilty. Therefore, while Homeopathy continues to be a popular form of medicine in India, any regulation that is concerned with medical negligence shall also make suitable provisions to include Homeopathic practitioners within its ambit.

Healthcare in India is primarily a subject under the State list in the Seventh Schedule of the Constitution.³⁷ However, certain aspects of healthcare such as the medical profession and medical education fall with the concurrent list of the Constitution.³⁸ Therefore, both State as well as Central governments in India are collectively responsible to ensure a robust healthcare system in the country. Using the ownership criterion, the health care system in India into four main categories.

1. Public sector – This includes government hospitals, dispensaries, clinics and primary health care centres.
2. Not for profit sector – This sector includes charitable institutions, voluntary health programs, missions and trusts.

³⁴ Ministry of AYUSH, 'Courses and Study at National Institutes', <http://ayush.gov.in/education/courses-and-study>.

³⁵ Ministry of AYUSH, 'Introduction to Homeopathy', (ayush.gov.in) <http://ayush.gov.in/about-the-systems/homeopathy/introduction-homeopathy>.

³⁶ Kendrick Frazier, *FDA to Regulate some Homeopathic Products: CFI Hails Move*, 42(2)

³⁷ Constitution of India, Art. 246

³⁸ Constitution of India, Schedule VII, List 3.

3. The organised private sector – This includes general practitioners, registered medical practitioners, private hospitals and polyclinics.
4. The informal private sector – This consists of practitioners who lack any formal qualification, priests, hakims, faith healers and vaidyas.

There is lack of clarity in India with respect to which entities are responsible for regulating the private sector and for ensuring quality of care, as there are multiple agencies under different ministries. There are significant inequalities exist with respect to health care access and outcomes between Indian states, rural and urban areas, socioeconomic groups, castes, and genders. Studies have found that most of the hospital systems across states are inefficient. Lack of competition has made the public health infrastructure costly. Recently, the most important reform undertaken in India is the National Health Mission, which seeks to strengthen the healthcare systems.

Criminal law and medical negligence

Indian criminal Law has placed the medical professional on a different footing as compared to an ordinary human. Section 304A³⁹ of the Indian Penal Code states that “whoever causes the death of a person by a rash or negligent act not amounting to culpable homicide shall be punished with imprisonment for a term of two years, or with a fine or with both.”. Many a time the doctor will also be responsible vicariously, meaning thereby if his employee/servant rashly causes the death of a patient.

Civil law and medical negligence

Under the torts law or civil law, this principle is applicable even if medical professionals provide free services. It can be asserted that where Consumer Protection Act ends, tort law begins. Such cases of negligence may include transfusion of blood of incorrect blood groups, leaving a mop in patient’s abdomen after the operation, removal of organs without consent and administering wrong medicine resulting in injury. Persons who offer medical advice and treatment implicitly state that they have the skill and knowledge to do so, that they have the skill to decide whether to take a case, to decide

³⁹ The Indian Penal Code, 1860, No. 45, Acts of Parliament, 1860 (India).

the treatment, and to administer that treatment. This is known as an “implied undertaking” on the part of a medical professional.

Consumer Protection Act and medical negligence

Since 1990’s there is a huge speculation and debate on whether medical services are explicitly or categorically included in the definition of “Services” as enshrined under Section 2(1)(o) of the Consumer Protection Act. Deficiency of service means any fault, imperfection, shortcoming, or inadequacy in the quality, nature, or manner of performance that is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise about any service.

Impact of Doctor-Patient relationship in Medico Legal system

It is not unusual for doctors and patients to have a conflict of interest over the medical condition or treatment. Doctors and patients hold different perspectives and quite likely view medical conditions differently.⁴⁰ Conflicts can come in various forms including reluctance by the patient in undergoing a certain type of treatment or consuming specific drugs, ignoring the advice given by doctors, getting upset over medical bills and expenses or preferring alternative forms of medicine against the doctor’s advice.⁴¹

The key to avoiding conflicts and disputes between doctors and patients is to promote better communication between the two parties. The onus of taking the lead in such an approach is on the doctors since it is part of their routine life and profession. Doctors must ask the right questions and try to secure the patient’s confidence during the course of diagnosis. This can include greeting patients warmly, asking general questions about the patient’s health and background, explaining the medical condition to the patient, seeking consent before undertaking diagnosis and treatment and informing the patient about the treatment being administered.

One of the leading causes of disputes between doctors and patients is the lack of communication. The patient needs to communicate details about his health conditions,

⁴⁰ Susan Wolf, *Conflict Between Doctor and Patient*, 16(winter) Law, Medicine & Health Care.197-203 (1988).

⁴¹ Medical economics, *Managing conflict with patients* MEDICALECONOMICS.COM (April.1 2015), <http://www.medicaleconomics.com/modern-medicine-feature-articles/managing-conflict-patients>.

lifestyle etc which are connected to the diagnosis. From the viewpoint of the doctor, communication is essential, firstly, to make the patient comfortable. The doctor also needs to communicate with the patient about the treatment being undertaken and the various technical elements related to the diagnosis.

Doctor-patient communication is a fundamental element of clinical practice. Not only the scientific and expertise in various medical specialties, but also effective doctor-patient communications is necessary for building a therapeutic doctor-patient relationship.⁴² In recent years, a growing emphasis on patient autonomy, patient-centered care, and consumerism has further exemplified the importance of effective doctor-patient communication.⁴³

Good doctor patient communication allows patients to freely share vital information essential for an accurate diagnosis of their problems and enables the doctor to have a better understanding of their patient needs and potentially lead to better symptom reduction.⁴⁴

Conclusion

The analysis with the USA has revealed that the Indian medico-legal system lacks in terms of implementing a healthy doctor-patient relationship. As a result, India is more prone to witness medico-legal cases than the USA. The comparative analysis with the medico-legal system in the UK is important as India has inherited its legislative system from the UK. It is observed that the system in the UK is different as it involves the operation of the National Health Services. Therefore, the concept of medical expense does not become relevant in the UK in medico-legal cases. In Australia, it is noticed that a high standard of medical ethics is expected to be followed by medical practitioners as compared to India. It is also seen that the regulatory bodies for the medical profession take a strict view of medico-legal cases and actively work towards their reduction. About quality in health care, Australia is having The Australian Commission on Safety and

⁴² J.F. Ha &N. Longnecker, *Doctor-patient communication: a review*, Ochsner J, 10 (1)

⁴³ A.K. Shukla et al. *Doctor-patient communication: an important but often ignored aspect in clinical medicine*

⁴⁴ S Dorr Goold M Lipkin Jr, *The doctor-patient relationship: challenges, opportunities, and strategies*, 14 (Suppl 1(MI)) J Gen Intern Med, S26-S33 (1999).

Quality, (ACSQH) a corporate Commonwealth Government agency and part of the Health Portfolio which is the main body responsible for the safety and quality improvement in health care. The ACSQH has developed service standards that have been endorsed by health ministers. These include standards for conducting patient surveys, which must be met by hospitals and day surgery centres to ensure accreditation. In the same line in India through the accreditation of health care providers does provide a mean for achieving efficiency in the system of medical liability, the process is very much in its nascent phase. The accreditation committee of NABH, audits the legal regulations, safety guidelines and service aspects of the hospitals and health professionals during assessments. There is no continuous follow-up of the guidelines by the NABH committee which makes the accreditation meaningless. All these studies have jointly revealed that the quality of medical treatment and medico-legal system in India is weak as compared to those in developed countries in terms of prescription of norms as well as their enforcement. Therefore, any reform in the medico-legal system must take into consideration the formation of a robust mechanism to strengthen the doctor-patient relationship and reduce cases involving medical negligence.