Do Legal Issues Deserve Space in Specialty Medical Journals?

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Abstract
Physicians and Internists in India have tended to brush under the carpet legal issues affecting their profession. Of concern to all Physicians is the judgment in a recent case where the NCDRC has stated that if MD Medicine Physicians write Physician & Cardiologist on their letterhead it is Quackery. What is MD Medicine degree holder in India qualified and trained to treat? These are issues which need debate and that can only be initiated once we recognize that there is a problem. Either an MD Medicine is a cardiologist or he is not. If he is then it is the bounded duty of the Association of Physicians of India to challenge this judgment in a higher court of law and seek clear guidelines from MCI as well as Supreme Court on the issue.

Editors of Specialty journals have a responsibility of selecting the best articles from those which are submitted to them to be published. Ultimately space in these journals is limited and hence the responsibility to select is enormous and simultaneously reason for rejection of an academic paper also has to be substantial. The question is “do issues which are not core to the specialty concerned deserve space in these?”

Physicians and Internists in India have tended to brush under the carpet legal issues affecting their profession. Surgical specialties specially obstetricians and their associations have to some extent recognized the problem and taken steps to address the issue specially as regard PCPNDDT Act. Physicians are more complacent and regard the Consumer Protection Act (CPA) 1986 and problems associated with it to primarily concern the surgical specialties. What is forgotten is that the maximum penalty of 6.08 crore plus interest of 5.5 cr has been awarded in case involving a patient treated primarily by a physician and on whom no surgical procedure was performed. It has also to be realized that there is no limit on the amount of compensation which can be asked for under CPA.

Compensations have been awarded by National Consumer Dispute Redressal Commission (NCDRC) in a case where patient had fever with low platelet count for not doing LFT and ultrasound as patient later died of fulminant hepatic failure. Decisions have been given in complicated medical cases like GI Bleed in which the issue has been what modality should be chosen (balloon tamponade vs sclerotherapy), whether peritoneal lavage should have been done for acute pancreatitis. Trials in Consumer Fora being inherently Summary in nature and are meant to provide speedy redressal of grievance of a consumer. These quasi judicial bodies are not exactly the place where complicated medical issues can be debated satisfactorily.

Of concern to all Physicians is the judgment in a recent case where the NCDRC has stated that if MD Medicine Physicians write Physician & Cardiologist on their letterhead it is Quackery and also a clear case of negligence if he treats Rheumatic Valvular Heart Disease. The Honorable Supreme Court has already in 2009 decided that “if representation is made by a doctor that he is a specialist and ultimately turns out that he is not, deficiency in medical services would be presumed.” An advisory has been issued by NCDRC in 2013 “to Medical Council of India and Health Ministry to initiate steps to strike down such practices of medical professionals who are posing as a specialist or misrepresenting as a superspecialist without any approved qualification by statute or controlling authority. In other words it is quackery, that is treating the patients in absence of a valid degree. Our questions are simple; 1) What is MD Medicine degree holder in India qualified and trained to treat? 2) Is MD Medicine degree holder a qualified specialist and if so what is he specialist of?

Resolving this issue is extremely important in a country where quack AYUSH (BAMS, GAMS, BUMS, BHMS), MBBS doctor and even Physiotherapists are all qualified “Physicians”. Given the
substantial patient population which is uneducated and / or non-discrimining, those with specialized training (MD Medicine) use terminologies like Heart Specialist, Cardiologist, Gastroenterologist, Endocrinologist, Specialist in Diabetes, Neurologist in addition to the Consultant Physician on their letterheads and nameplates. In absence of adequate number of qualified DM, DNB superspecialists in the country, it is MD Medicine doctors who work in various super-specialities in which they are trained and competent. Despite this well known fact no Association or Organization deemed it fit to challenge a judgment which discredits this practice and is logically out of sync with reality in a country like India.

There is also the issue of differential liability for doctors while working in Government Hospitals and those working in private hospitals. If MD Medicine doing echocardiography is outright negligence in private sector it would also be so in Government Sector. In absence of DM Cardiologists most district hospitals and civil hospitals have MD Medicine doctors who are the official cardiologists doing echocardiography and other non-invasive investigations, reporting them and treating cardiology patients. The Goyal Hospital judgment had also stated that among “rampant unethical medical practices in India it is most common that nursing homes and hospitals provide facilities like diagnostic laboratory, radiology or sonology units without a specialist like Radiologist and Pathologist”. Even under PCPDNT Act the requisite qualification to do ultrasonography is not only “MD Radiology”. An MBBS doctor with required training or even a gynecologist is competent to do ultrasonography under the Act.3,2 No Government civil hospital or even General Hospitals in any state / UT has Radiologists or Pathologists, Anesthetists, Neurologists, Psychiatrists and more. If an MBBS degree along with training in required discipline is adequate qualification in a Government Hospital how can it not be in a Private Hospital. If however an MD Medicine doing echocardiography is negligence in a private hospital then it also has to also be so in a Government one. Most Government Hospitals including ESI hospitals7,8 are today covered under Consumer Protection Act hence differential liability is unacceptable.

Training program and study curriculum of MD Medicine includes cardiology and the residents are posted in cardiology wards and ICCUs in all teaching institutions despite being only MBBS at the time. Though some institutions do not encourage active involvement in clinical care to be done by residents (who are as yet only MBBS) but most hospitals use the resident doctors as cheap workforce in various departments including cardiology. If in an institution the MD student is qualified to treat a cardiology patient under nominal supervision if at all, then a MD (Medicine) degree holder specially if he has received further training should be able to perform routine functions of a cardiologist like doing an echocardiogram. Either way these are issues which need debate and that can only be initiated once we recognize that there is a problem. An ostrich-like attitude will not solve any conflict.

Each conference of Association of Physicians of India has workshops on echocardiography, live demonstrations of difficult percutaneous interventions and talks on newer techniques in treatment of heart failure. If MD Medicine doctors are not specialists capable of treating cardiology patients, why burden them with knowledge they do not need. Their Association should focus on providing them knowledge and updates in their field of work of which they are specialists. Either an MD Medicine is a cardiologist or he is not. If he is then it is the bounded duty of the Association of Physicians of India to challenge this judgment in a higher court of law and seek clear guidelines from MCI as well as Supreme Court on the issue.

Whether this challenge is done or not is also secondary to the question, whether these are issues important enough to be raised in speciality journals, to stimulate discussion and generate consensus.

References

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