

Medical Jousting : Ethical and legal Implications

**Dr. B.V. Subrahmanyam¹, Dr. G. Veera Nagi Reddy² Dr. S.V. Phanindra³,
Dr. K.S.V.K. Subba Rao⁴**

¹Medicolegal Consultant ²Principal&Professor, ³ Professor & HOD

^{2,3}Department of Forensic Medicine & Toxicology,

⁴Hospital Administrator and Professor CTVS

¹Narayana Medical Institutions ,Chintareddypalem,Nellore-524003

^{2,3,4}Narayana Medical College & Hospital Nellore - 524003, A.P.India

Corresponding Author : **Dr. B.V. Subrahmanyam**, Email ID : bhattaramsubrahmanyam@yahoo.com

ABSTRACT

Medical Jousting means criticizing by a doctor about the treatment undergone by a patient prior to consulting him/her. This can cause trust deficit and stimulate the patient to go for a malpractice suit or he may do 'Doctor Shopping' and end up in confusion or it can lead to 'Doctor Battering'.

Keywords : Medical musings, Comments, jousting, Doctor battering

Introduction:

An open remark or an unpleasant gesture can create a doubt in the mind of a patient about the earlier doctor or present doctor or both. Many medical professionals have a habit of unwittingly criticizing the treatment so far received from the earlier doctors.¹

If some thing is really going wrong then the patients or relatives may embark upon a negative campaign or attack the doctor or file a case in the consumer forum seeking damages. In all such situations the medical person in question suffers mental agony, bad publicity, loss of

practice and even may have to face physical assault or pay damages or compensation to the patient who turns into a consumer² cum litigant.

Medical jousting

Jousting means a combat between two mounted knights or men-at-arms using lances; to engage in a personal combat or competition. Medical Jousting is criticism by a doctor to the patient about the treatment given by earlier doctor.

It is an unnecessary, unwarranted, uninformed and inappropriate action or statement demeaning another colleague in the profession

or any professional/health care provider.³

Critical comments may be made by a doctor about another doctor, toward another physician by staff or staff to staff or a doctor to staff. Their comments may be made in front of the patient or relatives or both.

This Medical Jousting can directly or indirectly affect the provider. It may be unintentional or intentional, documented or oral or neither documental not oral or, by gestures and expressions that make the patient or relative to feel about the management by the earlier professional person. It is like lighting the malpractice fuse 4, 5, (J. Gen. Internal Med, 2013, Mc Daniel et al).

When a trust deficit sparks in the doctor patient relationship, the patient starts doubting the doctor, then a chain of 'Doctor Shopping' may start, ending in a confusion confounding the patients 6 . If the patient goes a little further and finds the problem for which opinion was sought has ended in some complication, then he/she may go in for a malpractice suit 7. In extreme cases, instances of doctor battering by the relatives of the patient may happen. Recently (Hindu, Dt. 15.3.2017) a doctor was beaten by the relatives. These incidents are on the increase. This has lead to arrest of these people. A P has an act to prevent violence against Doctors, Nursing and other health care staff., As per this act if any patient/relative causes damage to the person or to the property of Hospital, he can be arrested and it is a cognizable offence, and non bailable one too. JAMA 1992 refers to Hickson, G et al who found in their study that the family members received information from other medical professionals⁷

that this number is on the increase and it is to the disadvantage of the profession.⁸

The state medical councils also can inculcate discipline among Registered Medical Practitioners(RMPs) by issuing a general notice - warning letter - that criticism of another doctor to propagate himself is an unethical practice in itself and followed by disciplinary action when such cases are brought as a complaint to the notice of state medical councils. This is in tune with the MCI rules and regulation of 2002 9 to be implemented by all state Medical Councils and RMP is under State Medical Regulation MCI registration. It is the role of the State Medical Council to update and bring the list of RMPs to MCI for inclusion in MCI register.

The top priority factor in planning some one to go and file a case for Medical Malpractice Claims is either inadequate or bad Communication. And Medical Jousting in any form verbal documented, intended, unintended, messages to colleagues in Mobile phones, Websites on Twitter, face book or any other printed or Electronic media can create problems not only for X or Y but also for the whole Medical and Health care Profession across the world and India is no exception. Smart phones are handy to do such acts.

At times there may be a difference of opinion between two doctors regarding treating a patient in which case there may be a chance to criticize the other. But second opinion may be sought by the treating doctor or by the patient. In either case the concerned consultant can prescribe drugs under intimation to the treating doctor and without causing any aspersions verbal, documentary or even by gestures

