

## **ABSTRACT : DATO' DR. NKS THARMASELAN**

### Ethical and Legal Issues in Medical Practice

General Practitioners are the frontliners in medical practice . Medical Care starts with them. Medical care has improved multi-fold with advances in technology, diagnostic aids , investigations. Management has become more effective with refined medications having more specific actions and fewer side effects. Day-care surgical treatment has moved towards less invasive modes of management with lesser morbidity and faster recovery.

However doctors are losing their communication skills and becoming more and more dependent on technology. Further, market forces too tend to influence decision making by the doctors. The fundamental values of medicine insist that the doctor's obligation is to keep the patients interest above everything else. The important issues of autonomy, confidentiality, justice, beneficence, and non-maleficence are key factors that should guide the daily decision making by the doctor.

The health sector in Malaysia has been transforming into another commercial sector, attracting investors from diverse and varied backgrounds with financial motives. With business motives there is a perception that practice of modern medicine is becoming more impersonal, and with the increasing dependence on technology, the cost of treatment also rises.

Doctors' actions are always done in good faith, but this will not provide a shield in litigation which has been extrapolating over the years. A wrong is a wrong, negligence is negligence, irrespective who causes it. Thus justice must also be seen to done as it has to be. Doctors have been cocooned from litigation by the belief that the noble profession would do no harm. The cocoon has disintegrated leaving the doctor exposed.

Thus it is no longer a matter of choice, but a necessity for the doctors to be conversant with basic legal and ethical issues involved in medical practice.

*A. The ethical issues in medical practice –*

1. Autonomy: Patient wishes to be respected autonomy.
2. Justice: Limits on healthcare and treat patients alike.
3. Beneficence: Patient's best interest
4. Non-maleficence: No harm to patient

- i. Strict Doctor -Patient relationship*
- ii. Ethics in line with general acceptance*
- iii. Confidentiality*
- iv. Patient privacy*
- v. Transmission of disease*

*B . The legal issues in medical practice*

- i. Fundamentals of medical negligence*
- ii. Changing case laws on medical negligence  
Bolam,1957 , Bolitho1997 , Whitaker1992 , Foo Fio Na  
2007,*
- iii. Two Standards – Care , Consent ,  
Zulhasinar2017 , Megat Noor Ishak 2018*
- iv. Material Risks Montgomery 2015, MMC Guidelines*
- v. Aggravated damages: Megat Noor Ishak bin Megat  
Ibrahim 2018*
- vi. Manslaughter : R v Adamako 1995*

*C . Prevention*

Be polite, humble  
Communicate  
Improve – CPD, workshops

Ethics – in syllabus medical schools , in training , MMC  
Guidelines

Law – Basics in medical school , in training,