





*Dept. of Public Health Dentistry*

**CONSUMER  
PROTECTION ACT  
(Cpa/Copra)**

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- CPA, 1986 came into force on 15<sup>th</sup> April 1987.
  - Aim: protection of the consumer disputes.
  - Speedy and inexpensive settlement of disputes
  - Compensatory in nature.

# WHO IS LIABLE?

- Doctors with independent practice rendering only paid services.
- Private hospitals charging all.
- All hospital having free as well as paying patients, they are liable to both.
- Doctors/hospitals paid by an insurance firm for treatment of a client or an employer for the treatment of an employee.

# WHO IS NOT LIABLE?

- Doctors in hospitals, which do not charge their patients.
- Hospitals (Govt/non Govt) offering free services to all patients.

# WHO CAN SUE THE DOCTOR UNDER CPA

1. Pt. himself
2. Registered consumer organizations
3. State or Central Govt.
4. The legal heir or legal representative(Lawyer)

CPA 1993...forums shall not admit a complaint unless if it is filed within 2 years from the date of cause of action.

# THREE-TIER GRIEVANCE REDRESSAL MECHANISMS:

- 1-District Consumer Disputes Redressal Forum:
- 2-State Consumer Disputes Redressal Forum
- 3-National Consumer Disputes Redressal Forum

A complaint filed in the consumer forum shall be adjudicated within a period of 90 days from the date of notice by opposite party & within 150 days if it requires analysis & testing.

# 1-District Consumer Disputes Redressal Forum:

- Established by State Govt. for each district
- Headed by President (District Judge) and two members
- One should be female member.
- Presently 569 district forum are functioning.

## Jurisdiction:

- Pecuniary where compensation claimed not exceeding Rs. 20 lakhs
- Territorial where the cause of action arose

# 2-State Consumer Disputes Redressal Forum

- Established by State Govt.
- Headed by President (High court judge) and two members
- One should be female member
- Presently 32 state commissions are functioning in country.

# Jurisdiction

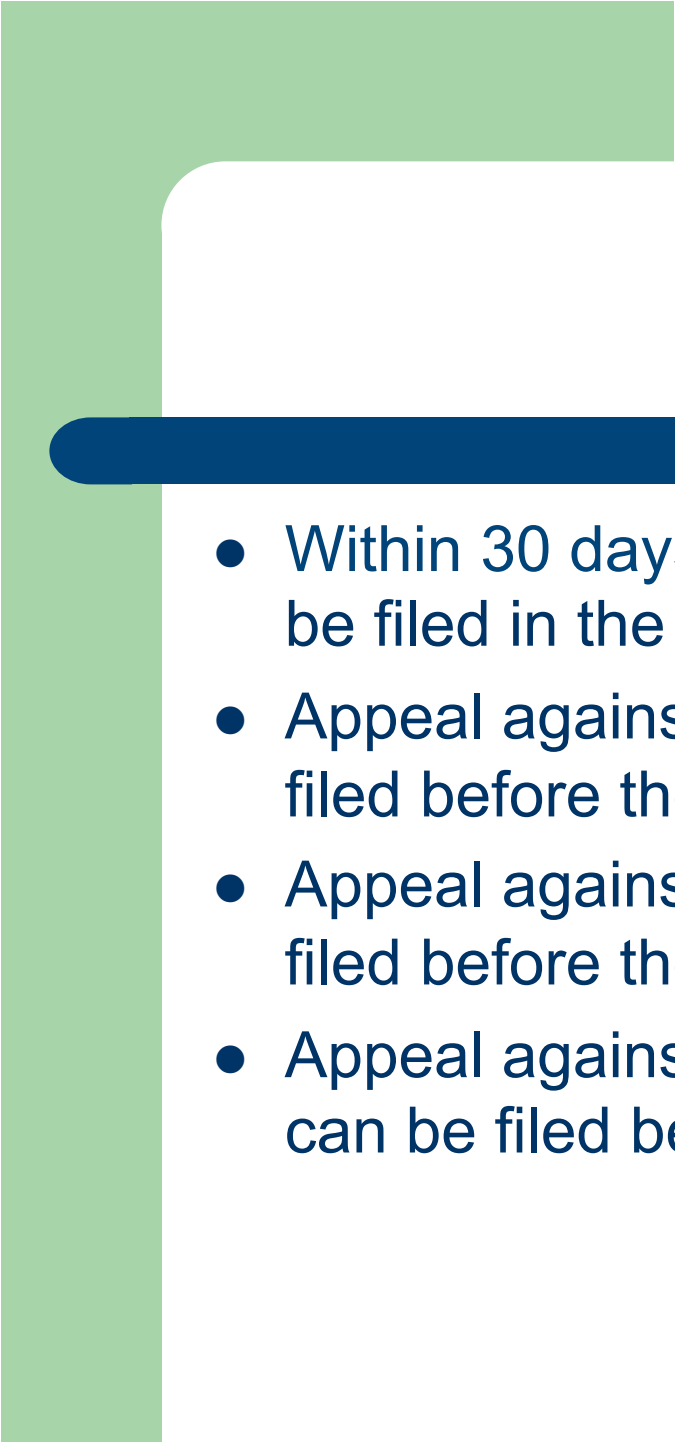

- Original jurisdiction : to hear original complaint. It includes pecuniary jurisdiction where compensation claimed exceeds Rs. 20 lakhs up to Rs. One Crore.
- Revision petition against district forums
  - Person may appeal to national commission within a period of 30 days

## 3-National Consumer Disputes Redressal Forum

- Established by Central Govt., located in New Delhi
- Headed by President (Supreme court judge ) and four members.
- One should be female member.

## Jurisdiction:

- Original jurisdiction: entertain complaints here compensation claim for value of goods or services exceeds rupees one crore.
- Supervisory jurisdiction over state consumer disputes redressal commission
- Power of review.

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- Within 30 days from the date of decision, appeal can be filed in the higher commission
  - Appeal against the decision of the district forum can be filed before the state commission
  - Appeal against the decision of the state forum can be filed before the national commission.
  - Appeal against the decision of the national commission can be filed before the Supreme Court.

# TIME LIMIT TO FILE A COMPLAINT

- It is TWO YEARS from the date of injury.
- Not from the date of disability certificate.
- If the injury is continuous then the time starts from the date of last treatment given.

# CONSENT:

- The term 'consent' is defined as 'when two or more persons agree upon the same thing in the same sense they are said to consent' as per the definition of 'consent' given in section 13 of Indian contract act, 1872.

## WHO CAN GIVE CONSENT:

- Any person who is conscious, mentally sound and is of and above twelve years of age as provided under sections 88 and 90 of the Indian Penal Code, 1860 can give consent.
- Consent given under fear, fraud or misrepresentation of facts or by a person who is ignorant of the implication of the consent or who is under 12 years of age is invalid.

# TYPES OF CONSENT:

- IMPLIED CONSENT
- EXPRESS CONSENT
  - \*oral consent
  - \*written consent
- INFORMED CONSENT
- PROXY CONSENT

# IMPLIED CONSENT –Tacit

- Most common type of consent in both general and hospital practice.
- Applied for the procedures like inspection, palpation, percussion, auscultation and routine sonography.
- Not applied for the vaginal and rectal examination, withdrawal of blood for diagnostic purpose, more complicated procedure like lumbar puncture, radiology, endoscopy, C.T scan etc where express written consent is required.

## EXPRESS CONSENT:

- Express ORAL consent is obtained for minor exam. and therapeutic procedures (vaginal and rectal examination, withdrawal of blood for diagnostic purpose) in presence of disinterested third party.
- Express WRITTEN consent obtained for all major diag. procedures, general anesthesia, surgery, intimate examinations, medico legal cases.

# INFORMED CONSENT:

- All information must be explained in non medical term preferably in local language about the
- diagnosis,
- nature of treatment,
- risks, prospect of success,
- prognosis,
- alternative methods of treatment.

## PROXY CONSENT: substitute

- All type of consent can take the shape of Proxy consent.
- Parent of child, close relative for mentally unsound patient or unconscious patient

- Consent form should be signed BEFORE the treatment is started.
- Format should be in local language
- Take written consent for the specific procedure
- Child below 12 yrs- consent should be signed by parents

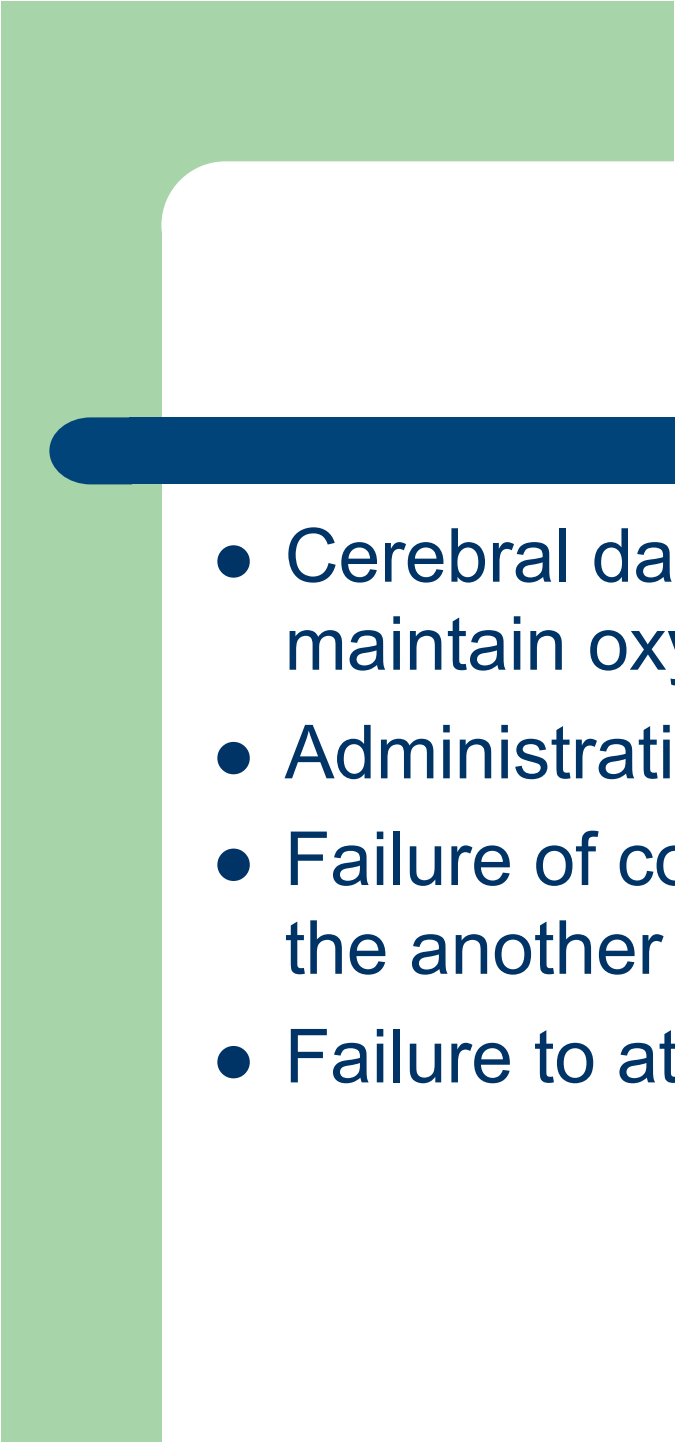



# Situations- consent may not be obtained

- Medical emergencies
- Patient suffering from notifiable disease. (HIV)
- When court order for psychiatric examination or treatment
- Examination at request of the police
- Immigrants
- New admission to prisons
- Members of armed forces.

# WHEN CONSENT IS NOT VALID?

- If obtained without proper explanation or by fraud or misrepresentation ( under sedation)
- Retention of objects in operations sites
- Amputation of the wrong limb, digit or operation wrong eye/tooth
- Damage to the New born from anoxia or forceps procedures
- Failed sterilization

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- Cerebral damage from hypoxia-failure to maintain oxygen- during anesthesia
  - Administration of wrong drug
  - Failure of communication- either to patient or to the another (referral) doctor.
  - Failure to attend- acute pain, emergencies

# WHAT SHOULD DRS DO?

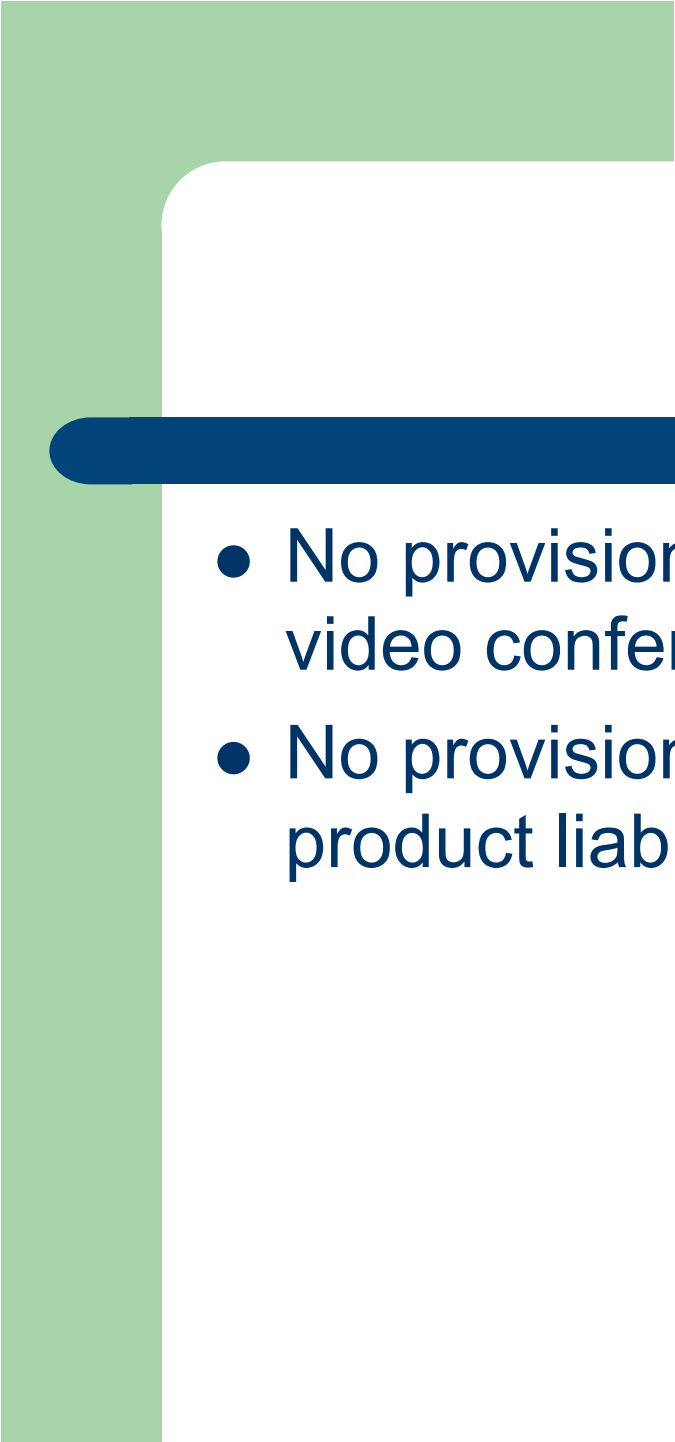

- In case of medical mishap- complete the pts record and recheck the written note
- Communicate properly with patient, his/her relative in positive manner (ans all questions)
- Contact other dr/ protection org to seek advice.
- Maintain the highest standard of professional conduct

## CP Act 1986

- Complaint needs to be filed in the consumer court whom jurisdiction the seller falls under
- At district level ..20 lakh

## CP bill 2019

- A complaint can be filed from anywhere
- Upto 1 crore

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- No provision for video conference
  - No provision for product liability

- Consumer can seek hearing through video conference
- Consumer have right to seek compensation for any harm caused

# Questions asked

- COPRA
- INFORMED CONSENT