DUTIES OF PHYSICIANS TOWARDS PATIENTS DURING CONSULTATIONS AND RESPONSIBILITIES TOWARDS FELLOW PRACTITIONERS

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CHAPTER 1

1. INTRODUCTION

The physician–patient relationship forms the ethical and functional foundation of medical practice in India. The duties that physicians owe during consultations—such as disclosure, informed consent, confidentiality, diligence, continuity of care, and maintaining professional competence—shape the standards of accountability governing medical professionals. Parallel to these are responsibilities owed towards fellow practitioners, such as cooperation, referral ethics, respect, knowledge-sharing, and non-defamatory conduct, which help preserve the integrity and collegiality essential to the medical profession. Together, these dimensions ensure patient welfare and uphold public trust in healthcare systems.

In India, medical ethics derives its normative framework from the National Medical Commission (NMC) Registered Medical Practitioner (Professional Conduct) Regulations, 2023, replacing the earlier Medical Council of India Code. These regulations supplement statutory obligations arising under the Indian Penal Code, the Consumer Protection Act, 2019, the Clinical Establishments Act, and judicially evolved doctrines relating to standard of care, negligence, informed consent, and confidentiality. Landmark decisions such as *Samira Kohli v. Dr. Prabha Manchanda*, which laid down the contours of informed consent, and *Jacob Mathew v. State of Punjab*, which clarified the negligence standard and the application of the Bolam test in India, remain foundational.[1]

Although the focus of this study is primarily India, global and comparative frameworks—including the World Medical Association (WMA) International Code of Medical Ethics, the

[1] Samira Kohli v. Dr. Prabha Manchanda, (2008) 2 SCC 1; Jacob Mathew v. State of Punjab, (2005) 6 SCC 1.

Declaration of Geneva, the General Medical Council (GMC) UK's Good Medical Practice, and the American Medical Association (AMA) Code of Medical Ethics—provide persuasive standards on professional responsibility, communication, confidentiality, and collegial conduct. Comparative perspectives from the United Kingdom and the United States offer additional insight into how established jurisdictions operationalise ethical duties during medical consultations and inter-professional interactions.

Despite detailed ethical rules and judicial guidance, significant gaps remain in the practical fulfilment of physician duties—particularly concerning informed consent, communication quality, confidentiality in digital consultations, referral ethics, and behaviour towards colleagues. These gaps highlight the need for a doctrinal analysis of how Indian law conceptualises physician duties and how comparative ethical frameworks may guide future reform.

2. STATEMENT OF THE PROBLEM

While Indian regulations outline comprehensive duties for physicians, inconsistencies persist in interpretation, enforcement, and practical compliance. Challenges frequently arise regarding inadequate disclosure during consultations, deficient communication, limited documentation, breaches of confidentiality—especially in telemedicine—and improper referral practices. Conflicts among practitioners, including unethical criticism and lack of professional cooperation, further undermine the integrity of the profession.

Judicial precedents, though instructive, vary in their approach to defining the standard of care, informed consent, and breach of duty. Moreover, with rapid technological changes and evolving models of healthcare delivery, traditional ethical norms often lag behind contemporary practice. Therefore, this study examines how Indian law defines these duties, how courts interpret them, and what lessons may be drawn from global ethical frameworks.

3. OBJECTIVES OF THE STUDY

1. To analyse the legal and ethical duties of physicians towards patients during medical consultations under Indian law.

2. To examine the responsibilities of physicians towards fellow practitioners under Indian regulations and ethical frameworks.

3. To evaluate Indian judicial interpretations of professional duties, especially regarding consent, communication, confidentiality, and professional behaviour.

4. To draw comparative insights from global ethical frameworks and foreign jurisdictions such as the UK and USA.

5. To identify gaps in India's current regulatory structure and propose doctrinal improvements.

4. RESEARCH QUESTIONS

1. What are the legal and ethical duties of physicians towards patients during consultations under Indian law?

2. How do Indian regulations conceptualise responsibilities towards fellow practitioners?

3. How have Indian courts interpreted key physician duties such as informed consent, confidentiality, and standard of care?

4. What comparative insights can be drawn from global ethical frameworks and from the UK and USA?

5. What regulatory or doctrinal gaps persist, and how can they be addressed?

5. SCOPE OF THE STUDY

- Focuses primarily on Indian statutory regulations, ethical codes, and judicial decisions.

- Includes limited comparative analysis with the UK, USA, and international ethical declarations.

- Examines duties during **consultations**, including in-person and telemedicine-based interactions.

- Analyses inter-professional ethics such as referral, respect, cooperation, and professional courtesy.

- Does not cover hospital administration, insurance liability, or public health

decisionmaking, except where relevant.

6. LIMITATIONS OF THE STUDY

- Doctrinal study; no empirical or field data is included.
- Limited access to state medical council disciplinary decisions, many of which are not publicly archived.
- Comparative analysis is restricted to the UK and USA only.
- International ethical frameworks are used as persuasive guides, not binding legal rules.

7. REVIEW OF LITERATURE

1. **"Medical Law and Ethics" – Jonathan Herring**

Jonathan Herring provides a comprehensive analysis of medical law, focusing on informed consent, confidentiality, autonomy, and professional duties. He emphasises that the duty of care cannot be divorced from communication and transparency—key aspects of medical consultations. His insights are crucial for evaluating India's consultation-based duties.[2]

2. General Medical Council (UK) – "Good Medical Practice"

The GMC's framework outlines essential duties such as competence, respectful communication, partnership with patients, and cooperation with colleagues. These standards serve as important comparative benchmarks for analysing professional obligations among Indian practitioners.[3]

3. American Medical Association (AMA) – "Code of Medical Ethics"

The AMA Code highlights duties relating to honesty, confidentiality, informed consent, and collegial respect. It discourages derogatory conduct and promotes professional

[2] JONATHAN HERRING, MEDICAL LAW AND ETHICS (Oxford Univ. Press 2020).
[3] GEN. MED. COUNCIL, Good Medical Practice (2013).

cooperation, offering comparative insight into inter-professional responsibilities.[4]

4. **Jay Katz – "The Silent World of Doctor and Patient"**

   Katz critiques medical paternalism and argues for meaningful dialogue as the core of informed consent. His work supports the centrality of communication-based consultation duties, which Indian case law also increasingly recognises.[5]

5. **Kevin M. Sulmasy – "What Is Medical Professionalism?"**

   Sulmasy identifies virtues—such as compassion, integrity, respect, and collegiality—as the ethical foundation of medical professionalism. His analysis directly informs the understanding of ethical duties physicians owe to fellow practitioners in India.[6]

6. **Anoop K. Kaushal – "Medical Negligence and the Law in India"**

   Kaushal explores the interaction between statutory rules and judicial decisions governing negligence, standard of care, and consultation duties. This work provides an India-specific academic backdrop to cases such as *Jacob Mathew* and *Kusum Sharma*.[7]

7. **Sunita Nair & R. Ramanathan – "Telemedicine Ethics in India"**

   This article examines challenges arising from teleconsultations, including confidentiality, informed digital consent, and communication barriers. These issues are particularly relevant under the NMC 2023 Regulations.[8]

8. **Ulf Schmidt – "Ethical Principles for Medical Research: From Nuremberg to Helsinki"**

   Schmidt analyses how global ethical instruments have shaped principles of consent, autonomy, and patient welfare, forming the moral foundation for modern medical

[4] AM. MED. ASS'N, Code of Medical Ethics (2022).
[5] JAY KATZ, THE SILENT WORLD OF DOCTOR AND PATIENT (Free Press 2002).
[6] Kevin M. Sulmasy, What Is Medical Professionalism?, 20 J. GEN. INTERN. MED. 1 (2006).
[7] ANOOP K. KAUSHAL, MEDICAL NEGLIGENCE AND THE LAW IN INDIA (2019).
[8] Sunita Nair & R. Ramanathan, Telemedicine Ethics in India, 7 INDIAN J. MED. ETHICS 243 (2020).

duties.[9]

8. RESEARCH METHODOLOGY

8.1 Data Sources Primary:

- NMC Professional Conduct Regulations 2023
- Indian statutes impacting medical practice
- Judgments of the Supreme Court and High Courts
- WMA, AMA, and GMC ethical instruments

Secondary:

- Academic books, journal articles, law reviews
- Commentaries on medical negligence and ethics
- Comparative analyses from UK and USA medical ethics literature

8.2 Methodological Approach

- **Doctrinal analysis** of statutes, regulations, and case law
- **Comparative study** with UK and USA ethical frameworks
- **Critical evaluation** of emerging gaps in Indian medical ethics

9. CHAPTER OUTLINE

Chapter 1 – Introduction: Lays out the background, significance, research problem, objectives, scope, and methodology forming the foundation of the study.

Chapter 2 – Duties of Physicians Towards Patients During Consultations: Analyses Indian legal duties and ethical obligations such as consent, communication, confidentiality, and

[9] ULF SCHMIDT, ETHICAL PRINCIPLES FOR MEDICAL RESEARCH (2015).

standard of care during consultations.

Chapter 3 – Responsibilities Towards Fellow Practitioners: Examines collegial duties including referral ethics, cooperation, respect, and avoidance of unprofessional criticism among physicians.

Chapter 4 – Comparative and Global Perspectives: Reviews USA, UK, and international ethical standards to contextualise Indian regulations and identify areas of alignment or divergence.

Chapter 5 – Judicial Interpretation And Regulatory Framework: This chapter examines the duties of physicians through two interlinked lenses: judicial interpretation and the regulatory framework including National Medical Commission (NMC) Ethics Regulations, 2023.

Chapter 6 – Recommendations and Conclusion: Proposes reforms to strengthen ethical practice and accountability, and concludes with the broader implications of the research.

CHAPTER 2 DUTIES OF PHYSICIANS TOWARDS PATIENTS DURING CONSULTATIONS

The consultation stage constitutes the central interface between a physician and patient, where legal obligations and ethical mandates converge. Indian medical jurisprudence recognises that the moment a doctor–patient relationship is formed, a set of duties rooted in statutory frameworks, the National Medical Commission (Professional Conduct) Regulations, 2023, judicial precedent, and long-standing ethical norms becomes operative. These duties—relating to care, disclosure, consent, confidentiality, communication, record-keeping, rational prescribing, referral, and overall professional behaviour—are intended to safeguard patient welfare and uphold the integrity of medical practice. This chapter analyses these obligations in detail with reference to Indian authorities and selected global standards.

2.1 DUTY OF CARE DURING CONSULTATION

2.1.1 Nature and Scope of the Duty

The duty of care is triggered once a physician undertakes to examine or advise a patient,

whether in physical, virtual, or emergency settings. The Supreme Court in Indian Medical Ass'n v. V.P. Shantha recognised medical services as "service" under the Consumer Protection Act, thereby placing a legal obligation on practitioners to exercise reasonable skill and care.[10]

2.1.2 Standard of Reasonable Care

In Jacob Mathew v. State of Punjab, the Court adopted the Bolam test, holding that the applicable standard is that of an ordinarily competent medical professional.[11] The National Medical Commission (Professional Conduct) Regulations, 2023, further require physicians to exercise competence, diligence, and good clinical judgment in every consultation.[12]

A physician must obtain a complete history, conduct a proper examination, use accepted diagnostic reasoning, and propose treatment consistent with professional norms. Negligent omissions at the consultation stage—such as superficial assessment or failure to appreciate redflag symptoms—may constitute a breach of duty.

2.2 DUTY OF DISCLOSURE AND INFORMED CONSENT

2.2.1 Legal Basis of Informed Consent

Indian law treats informed consent as a condition precedent to lawful medical intervention. In Samira Kohli v. Dr. Prabha Manchanda, the Supreme Court held that valid consent requires disclosure of the nature of treatment, risks involved, alternatives available, and likely consequences.[4] Academic commentary, such as Jonathan Herring's analysis of medical law, has similarly underscored that consent must be grounded in meaningful communication and comprehension.[13]

2.2.2 Components of Valid Consent

Consent must be voluntary, informed, specific, and based on adequate disclosure. Physicians must explain the diagnosis, proposed intervention, associated risks, alternative approaches, expected outcomes, and financial implications. Consent should ideally be documented,

[10] Indian Medical Ass'n v. V.P. Shantha, (1995) 6 SCC 651.
[11] Jacob Mathew v. State of Punjab, (2005) 6 SCC 1.
[12] NATIONAL MED. COMM'N, Registered Medical Practitioner (Professional Conduct) Regulations, 2023, reg. 5.
[13] JONATHAN HERRING, Medical Law and Ethics 215–223 (Oxford Univ. Press 2020).

particularly for invasive procedures.

2.2.3 Comparative Ethico-Legal Standards

In the United Kingdom, Montgomery v. Lanarkshire Health Board moved the law towards a "reasonable patient" standard, requiring disclosure of risks a patient would consider significant. [14] The American Medical Association Code of Ethics similarly emphasises transparency, shared decision-making, and respect for autonomy. [15] These comparative frameworks, although not binding in India, provide persuasive guidance reinforcing patientcentred consultations.

2.3 DUTY OF CONFIDENTIALITY

2.3.1 Ethical and Legal Foundations

Confidentiality is a core ethical obligation supported by the NMC Regulations, which prohibit the disclosure of patient information except in limited circumstances. The World Medical Association's International Code of Medical Ethics likewise requires physicians to uphold confidentiality unless overriding considerations justify disclosure.[16]

2.3.2 Judicial Recognition

In Mr. X v. Hospital Z, the Supreme Court affirmed that confidentiality is integral to patient privacy under Article 21, subject only to narrow exceptions relating to protection of third parties or public interest.[17] This principle applies equally to consultations conducted in person or through digital platforms.

2.3.3 Confidentiality in Telemedicine

The Telemedicine Practice Guidelines (2020) mandate secure platforms, encryption, closed environments, and data protection measures during remote consultations.[18] Physicians must ensure privacy even when consulting from non-clinical settings.

[14] Montgomery v. Lanarkshire Health Board, [2015] UKSC 11.
[15] AM. MED. ASS'N, Code of Medical Ethics, Opinion 2.1.1 (2022).
[16] WORLD MED. ASS'N, International Code of Medical Ethics (2021), art. 9.
[17] Mr. X v. Hospital Z, (1998) 8 SCC 296.
[18] TELEMEDICINE PRACTICE GUIDELINES, Ministry of Health (2020), sec. 3.7.

2.4 DUTY OF COMMUNICATION AND EXPLANATION

Effective communication is indispensable to ethical practice. The NMC Regulations direct physicians to communicate respectfully and clearly, provide adequate explanations, and ensure patient comprehension. The General Medical Council's Good Medical Practice reiterates similar expectations, emphasising dialogue, clarity, and avoidance of technical jargon.[19]

Indian courts have repeatedly highlighted communication lapses as a major factor in negligence findings. In A.S. Mittal v. State of U.P., inadequate explanation and poor communication contributed significantly to liability.[20] Physicians must therefore address patient questions, provide clear instructions, and ensure that information is conveyed in understandable terms.

2.5 DUTY OF RECORD-KEEPING

Documentation is an essential component of professional accountability. The NMC Regulations require physicians to maintain outpatient records for at least three years, including detailed notes of history, examination, diagnosis, investigations, management, and follow-up advice. Failure to maintain proper records can attract adverse inferences.

In S.K. Jhunjhunwala v. Dhanwanti Kaur, the Supreme Court observed that absence or inadequacy of records undermines the practitioner's claim of due diligence.[21] Proper documentation also supports continuity of care and transparency.

2.6 DUTY OF CONTINUITY OF CARE

The physician must not abandon a patient after initiating treatment without reasonable cause. This obligation includes advising on follow-up requirements, explaining red-flag symptoms, and ensuring accessibility for further consultation where medically necessary.

The Supreme Court in Spring Meadows Hospital v. Harjol Ahluwalia emphasised that continuity of care is vital, especially in emergency or rapidly deteriorating conditions.[22] Ethical guidelines issued by the Indian Council of Medical Research also highlight the importance of

[19] GEN. MED. COUNCIL, Good Medical Practice ¶¶ 31–32 (2013).
[20] A.S. Mittal v. State of U.P., 1989 AIR 1570
[21] S.K. Jhunjhunwala v. Dhanwanti Kaur, (2019) 2 SCC 282.
[22] Spring Meadows Hospital v. Harjol Ahluwalia, (1998) 4 SCC 39.

sustained and coordinated care.[23]

2.7 DUTY OF RATIONAL PRESCRIBING

Physicians must prescribe treatment in accordance with clinical necessity and national drug policies. The Ministry of Health's Rational Use of Medicines Guidelines prohibit unnecessary investigations, over-medication, and indiscriminate antibiotic use.[24]

In State of Punjab v. Shiv Ram, the Court held that irrational or unjustified treatment may constitute negligence.[25] Physicians are expected to follow evidence-based protocols, avoid polypharmacy, and document clinical reasoning behind prescriptions.

2.8 DUTY OF TIMELY REFERRAL AND SPECIALIST OPINION

Physicians must recognise the limits of their competence and refer patients when specialised expertise is required. Delay in referral, particularly in life-threatening or complex cases, may amount to negligence.

In Savita Garg v. National Heart Institute, the Supreme Court held that inadequate or delayed referral contributed to liability.[26] The Telemedicine Guidelines also require prompt referral when further physical examination or specialised management is needed.[27]

2.9 DUTY TO AVOID PROFESSIONAL MISCONDUCT DURING CONSULTATION

Consultation-stage behaviour is governed by the NMC Regulations, which prohibit misleading advertisements, fee-splitting arrangements, commercial inducements, disparagement of colleagues, and violations of prescription norms. These prohibitions align with global professional standards and ensure that clinical interactions remain patient-centred and ethically grounded.

[23] INDIAN COUNCIL OF MEDICAL RESEARCH, Ethical Guidelines for Biomedical Practice (2017).
[24] MINISTRY OF HEALTH & FAM. WELFARE, Rational Use of Medicines Guidelines (2018).
[25] State of Punjab v. Shiv Ram, (2005) 7 SCC 1.
[26] Savita Garg v. Nat'l Heart Inst., (2004) 8 SCC 56.
[27] TELEMEDICINE PRACTICE GUIDELINES, supra note 10, sec. 4.1.

CHAPTER 3

RESPONSIBILITIES OF PHYSICIANS TOWARDS FELLOW PRACTITIONERS

A physician's professional obligations extend beyond the doctor–patient relationship and include duties owed to fellow practitioners. Indian medical ethics recognises that a collegial, respectful professional environment is essential for maintaining public trust, ensuring continuity of care, and promoting coordinated clinical decision-making. The National Medical Commission (Professional Conduct) Regulations, 2023, expressly regulate inter-professional behaviour. Indian courts, though primarily assessing patient harm, have repeatedly emphasised that lack of coordination, inappropriate criticism, and professional hostility among physicians can indirectly result in negligence. Global ethical frameworks, including those of the World Medical Association, the American Medical Association, and the UK General Medical Council, further reinforce these duties.

3.1 DUTY OF RESPECT AND COURTESY TOWARDS COLLEAGUES

Indian regulations mandate that physicians must treat fellow practitioners with dignity, maintain professional courtesy, and avoid hostile or disrespectful conduct. [28] In hospital settings, courts have noted that disrespect and poor communication among doctors can result in treatment lapses that amount to negligence. For instance, in Dr. Laxman Balkrishna Joshi v. Dr. Trimbak Bapu Godbole, the Supreme Court observed that physicians must act with professional integrity and cooperate with colleagues, particularly in emergencies where coordinated efforts are required.[29]

Internationally, the WMA Code requires physicians to "respect colleagues and students," while the GMC (UK) demands fairness, collegiality, and constructive communication within clinical teams.[30]

3.2 DUTY TO AVOID DEFAMATION AND MALICIOUS CRITICISM

The NMC Regulations prohibit physicians from making baseless allegations, disparaging

[28] NATIONAL MED. COMM'N, Registered Medical Practitioner (Professional Conduct) Regulations, 2023, reg. 3.1.
[29] Dr. Laxman Balkrishna Joshi v. Dr. Trimbak Bapu Godbole, AIR 1969 SC 128.
[30] GEN. MED. COUNCIL, Good Medical Practice, ¶¶ 21–23 (2013).

remarks, or defamatory statements against colleagues, whether in clinical settings, reports, media, or public forums.[31] Indian courts have also recognised reputational injury within medical settings as actionable. In Harish Chandra v. State of U.P., the Allahabad High Court held that unjustified allegations made by one doctor against another can constitute professional misconduct and warrant disciplinary enquiry.[32]

Comparable standards exist globally: the AMA Ethics Code requires that criticisms be objective and communicated through appropriate channels, while the GMC stipulates that concerns must be raised responsibly and without malice. These safeguards prevent erosion of trust within the profession.

3.3 DUTY OF COOPERATION AND TEAM-BASED CARE

Modern healthcare is inherently collaborative. Physicians must communicate honestly with colleagues, cooperate in shared treatment plans, and participate constructively in multidisciplinary teams. The NMC Regulations emphasise that lack of cooperation jeopardises coordinated care and may indirectly harm patients.[33]

Courts have repeatedly highlighted the importance of collaborative care. In Achutrao Haribhau Khodwa v. State of Maharashtra, the Supreme Court held that lack of coordination between medical teams contributed to negligent outcomes.[34] International guidelines such as the WHO Framework on Integrated People-Centred Health Services similarly stress collaboration as essential for effective and safe care.

3.4 DUTY OF HONESTY IN PROFESSIONAL DEALINGS

Physicians must maintain honesty when sharing clinical information with colleagues, issuing second opinions, or collaborating in treatment. Providing misleading or incomplete information, withholding critical diagnostic data, or misrepresenting qualifications can constitute misconduct under NMC rules.[35]

[31] NATIONAL MED. COMM'N, supra note 1, reg. 3.2.
[32] Harish Chandra v. State of U.P., 2000 SCC OnLine All 704.
[33] NATIONAL MED. COMM'N, supra note 1, reg. 3.4.
[34] Achutrao Haribhau Khodwa v. State of Maharashtra, (1996) 2 SCC 634.
[35] WORLD HEALTH ORG., Framework on Integrated People-Centred Health Services (2016).

Indian courts have acknowledged this obligation implicitly in cases involving multi-doctor negligence. In Dr. Suresh Gupta v. Govt. of NCT of Delhi, the Court stressed that honesty and transparency among physicians are crucial when multiple practitioners are involved in patient care. Internationally, the WMA and AMA Codes emphasise honesty in peer communication, especially in shared cases and professional consultations.[36]

3.5 DUTY TO PROVIDE SECOND OPINIONS WITHOUT PREJUDICE

A physician providing a second opinion must do so objectively and without undermining the treating practitioner. The NMC Regulations caution against using second opinions to solicit patients or unfairly criticise colleagues.[37]

Indian courts have acknowledged the importance of objective second opinions. In Dr. Balram Prasad v. Dr. Kunal Saha, the Supreme Court emphasised that where conflicting medical opinions emerge, objectivity and professional restraint are essential to avoid patient confusion and unwarranted professional hostility. The AMA and GMC reiterate similar principles, stating that physicians must offer unbiased assessments and avoid inducements, criticism, or coercive advice.[38]

3.6 DUTY TO AVOID COMMERCIAL MISCONDUCT WITH COLLEAGUES

Ethical medical practice requires that physicians avoid commercial dealings that compromise professional independence. The NMC expressly prohibits fee-splitting, commission-based referrals, and inducements from laboratories or pharmaceutical entities.[39]

Indian courts have condemned commercial misconduct in healthcare. In Poonam Verma v. Ashwin Patel, the Supreme Court denounced unethical practices that compromise medical integrity, highlighting that financial motives must never override clinical judgment. Similarly, the WMA and AMA Codes prohibit referral arrangements or incentives that distort clinical decisions.[40]

[36] Dr. Suresh Gupta v. Govt. of NCT of Delhi, (2004) 6 SCC 422.
[37] WORLD MED. ASS'N, supra note 3; AM. MED. ASS'N, supra note 7.
[38] Dr. Balram Prasad v. Dr. Kunal Saha, (2014) 1 SCC 384.
[39] AM. MED. ASS'N, supra note 7; GEN. MED. COUNCIL, supra note 4.
[40] Poonam Verma v. Ashwin Patel, (1996) 4 SCC 332.

3.7 DUTY OF APPROPRIATE REFERRAL AND TRANSFER OF CARE

Physicians must ensure that referrals or transfers of care are timely, justified, and accompanied by complete and accurate clinical information. Proper referral ensures continuity of care and prevents treatment gaps. The NMC Regulations codify referral obligations, particularly in situations where specialist intervention is necessary.[41]

Indian courts have repeatedly linked improper referral practices with negligence. In Savita Garg v. National Heart Institute, delayed referral and breakdown in inter-physician communication contributed to liability. The Telemedicine Practice Guidelines similarly require physicians to document referrals and ensure seamless coordination between practitioners.[42]

3.8 DUTY TO UPHOLD PROFESSIONAL INTEGRITY AND THE REPUTATION OF THE PROFESSION

The overarching expectation is that physicians must conduct themselves in a manner that strengthens the credibility and dignity of the medical profession. The NMC Regulations mandate that practitioners uphold the honour of the profession in their interactions, academic engagements, and public conduct.[43]

The ICMR Guidelines emphasise that physicians, as custodians of public trust, must act responsibly in professional forums and refrain from behaviour that could undermine the integrity of medical practice. Internationally, the Declaration of Geneva and the WMA Code reinforce this responsibility by requiring physicians to maintain the highest standards of professional conduct.[44]

CHAPTER 4 - COMPARATIVE AND GLOBAL PERSPECTIVES

While Indian jurisprudence and the National Medical Commission (Professional Conduct) Regulations, 2023 form the primary framework for this dissertation, understanding the ethical and regulatory foundations of other jurisdictions helps contextualise India's current position. The United Kingdom and the United States represent mature common-law systems with

[41] WORLD MED. ASS'N, supra note 3; AM. MED. ASS'N, Opinion 9.6.4.
[42] Savita Garg v. Nat'l Heart Inst., (2004) 8 SCC 56.
[43] TELEMEDICINE PRACTICE GUIDELINES, Ministry of Health (2020), sec. 4.3.
[44] INDIAN COUNCIL OF MEDICAL RESEARCH, Ethical Guidelines for Biomedical Practice (2017).

advanced doctrines on informed consent, professional conduct, and inter-professional responsibilities. International organisations such as the World Medical Association (WMA), WHO, UNESCO, and the American Medical Association (AMA) also frame globally influential ethical positions. Examining these comparative models provides substantive insights into global best practices and highlights potential pathways for strengthening India's regulatory and ethical structure.

4.1 UNITED KINGDOM: ETHICAL AND REGULATORY STANDARDS

4.1.1 The General Medical Council (GMC) Framework

The GMC's Good Medical Practice is one of the most detailed regulatory codes in the world. It outlines core duties relating to communication, respect, competence, teamwork, and integrity.[45] Physicians must justify clinical decisions, document appropriately, uphold confidentiality, and maintain collaborative relationships with colleagues.

This detailed and enforceable framework is more structured than Indian regulations, providing guidance not only on principles but also on processes for reporting, accountability, and disciplinary action.

4.1.2 The Montgomery Standard of Consent

The landmark decision in Montgomery v. Lanarkshire Health Board shifted UK law from the physician-centred Bolam standard to a patient-centred disclosure test. [46] This requires physicians to explain all material risks that a reasonable patient would want to know. Compared to India, where Samira Kohli adopts a modified professional approach, the UK's standard places greater weight on autonomy and shared decision-making.

The Montgomery doctrine has influenced global debates on informed consent and is gradually shaping expectations within Indian scholarship.

4.1.3 Professional Conduct and Collegial Duties

The GMC provides explicit expectations for collaborative practice, including behaving

[45] GEN. MED. COUNCIL, Good Medical Practice, ¶¶ 1–4 (2013).
[46] Montgomery v. Lanarkshire Health Board, [2015] UKSC 11.

respectfully, responding promptly to colleagues, and ensuring seamless continuity of care.[47] These provisions are more granular compared to India's NMC Regulations, offering detailed procedures for raising concerns, reporting unsafe practices, and maintaining inter-professional harmony. Indian regulations endorse similar values but lack operational detail.

4.2 UNITED STATES: ETHICAL STANDARDS AND JURISPRUDENCE

4.2.1 AMA Code of Medical Ethics

The AMA Code sets out comprehensive ethical rules governing consultation conduct, confidentiality, conflict of interest, advertising, second opinions, and inter-professional respect.[48] Although not legally binding, it is widely followed and often used in litigation to determine professional standards.

4.2.2 Informed Consent and Liability Standards

The U.S. is the birthplace of autonomy-driven consent doctrine. In Canterbury v. Spence, the court held that physicians must disclose risks that a reasonable patient would want to know.[49] This influences many aspects of medical consultation, mandating detailed communication, transparency, and shared decision-making. India's standard remains more practitioneroriented, but the influence of this reasoning can be seen in the evolving emphasis on informed consent in Indian case law and medical ethics scholarship.

4.2.3 Collegial Responsibility and Peer Review

The U.S. has a robust peer-review system that evaluates physician conduct, competency, and disciplinary issues.[50] Hospitals and state medical boards regularly review cases of misconduct or negligence, ensuring accountability. India's State Medical Councils, while empowered to review professional misconduct, lack the resources and consistency seen in the U.S. system.

This affects the speed, transparency, and efficacy of disciplinary decisions.

[47] GEN. MED. COUNCIL, supra note 1, ¶¶ 21–23.
[48] AM. MED. ASS'N, Code of Medical Ethics, Opinions 1.1.1, 2.1.1 (2022).
[49] Canterbury v. Spence, 464 F.2d 772 (D.C. Cir. 1972).
[50] AM. MED. ASS'N, Peer Review Principles (2021).

4.3 INTERNATIONAL ETHICAL FRAMEWORKS

4.3.1 World Medical Association (WMA)

The WMA's Declaration of Geneva and International Code of Medical Ethics serve as global ethical reference points.[51] They emphasise duties such as compassion, respect, confidentiality, continuous professional development, and cooperation with colleagues.

These standards influence national medical codes worldwide and reflect universal expectations of medical professionalism.

4.3.2 WHO Standards

The WHO's framework on Integrated People-Centred Health Services highlights multidisciplinary teamwork, patient engagement, and transparent communication as essential components of ethical healthcare.[52] These principles support the argument that ethical duties toward colleagues are not merely professional courtesies but essential to patient safety.

4.3.3 UNESCO & ICMR Guidelines

UNESCO's Universal Declaration on Bioethics and Human Rights stresses dignity, autonomy, equality, and solidarity. The ICMR Guidelines echo similar principles, emphasising professional honesty, mutual respect, and coordinated care.[53] These reinforce the view that inter-professional ethics is integral to modern medical practice.

4.4 AREAS OF CONVERGENCE WITH INDIAN STANDARDS

There is substantial alignment between Indian ethical frameworks and global standards across key foundational principles.

Firstly, all jurisdictions recognise patient autonomy, confidentiality, and dignity as central ethical values. Indian jurisprudence, particularly after Samira Kohli and Mr. X v. Hospital Z, shows clear consistency with international emphasis on informed consent and privacy.

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[51] WORLD MED. ASS'N, Declaration of Geneva (2021).
[52] WORLD HEALTH ORG., Framework on Integrated People-Centred Health Services (2016).
[53] INDIAN COUNCIL OF MEDICAL RESEARCH, Ethical Guidelines for Biomedical Practice (2017); UNESCO, Universal Declaration on Bioethics and Human Rights (2005).

Secondly, the expectation of collegial respect, professional honesty, and cooperation is universally emphasised. The NMC's 2023 Regulations reflect similar values expressed in the GMC, AMA, and WMA ethical codes.

Thirdly, the global push toward multidisciplinary and coordinated care aligns with India's growing emphasis on team-based practice. While operational mechanisms differ, the ethical foundation is strongly shared.

4.5 AREAS OF DIVERGENCE

Despite broad convergence, there remain important differences in structure, enforcement, and doctrinal emphasis.

Consent Standards: India continues to follow a practitioner-informed model, whereas the UK and USA adopt a fully patient-autonomy-based approach. This divergence illustrates a key philosophical difference in how risk disclosure is conceptualised.

Regulatory Enforcement: The GMC and U.S. peer-review systems are more developed, resourced, and transparent than Indian State Medical Councils. Indian disciplinary mechanisms often face delays, procedural inconsistencies, and limited institutional capacity.

Commercial Misconduct Rules: While NMC regulations prohibit fee-splitting and commercial inducements, enforcement remains less stringent than in the UK and USA, where such violations commonly result in suspension or cancellation of registration.

Operational Detail: Western codes provide more detailed procedural instructions—for example, how to raise concerns, how to document referrals, or how to participate in multidisciplinary teams—while Indian regulations are broader and less prescriptive.

These divergences highlight not a deficiency in ethical principles but rather structural and institutional gaps that affect effective implementation.

CHAPTER 5 JUDICIAL INTERPRETATION AND REGULATORY FRAMEWORK

This chapter examines how Indian law conceptualises and enforces the duties of physicians towards patients during consultations and their responsibilities towards fellow practitioners. It does so through two interlinked lenses: judicial interpretation—primarily by the Supreme Court

of India and High Courts—and the evolving professional regulatory framework, culminating in the National Medical Commission (NMC) Ethics Regulations, 2023. Together, these sources construct the normative architecture of medical accountability in India and influence how ethical duties are translated into enforceable legal standards.

5.2 JUDICIAL INTERPRETATION OF DUTIES TOWARDS PATIENTS DURING CONSULTATIONS

Indian courts have played a central role in defining the standard of care expected during medical consultations. The foundation of this jurisprudence was laid in Dr. Laxman Balakrishna Joshi v. Dr. Trimbak Bapu Godbole, where the Supreme Court held that a physician owes three core duties—deciding whether to accept the case, selecting appropriate treatment, and administering it with reasonable skill and care.[54] This principle guides how consultation-stage conduct is assessed.

In Indian Medical Association v. V.P. Shantha, the Court expanded accountability by bringing medical services under the Consumer Protection Act, making consultation duties legally enforceable.[55] The standard of care was later refined in Jacob Mathew v. State of Punjab, where the Court adopted the Bolam test and emphasised that medical negligence arises only when a doctor's conduct falls below that of an ordinary competent practitioner.[56] Courts have since applied this framework in assessing whether physicians adequately examined the patient, undertook necessary investigations, or sought timely specialist input.

Judicial interpretation has also strengthened the requirement of informed consent. In Samira Kohli v. Dr. Prabha Manchanda, the Court held that valid consent demands full disclosure of risks, alternatives, and procedural details.[57] This judgment embeds patient autonomy into consultation practices and remains the primary authority for consent-related disputes.

Courts additionally recognise that consultation duties extend to diagnosis, follow-up, and risk communication. Decisions such as Spring Meadows Hospital v. Harjol Ahluwalia affirm that inadequate supervision or failure to monitor warnings can constitute negligence.[58] Thus, Indian

[54] Dr. Laxman Balakrishna Joshi v. Dr. Trimbak Bapu Godbole, AIR 1969 SC 128.
[55] Indian Med. Ass'n v. V.P. Shantha, (1995) 6 SCC 651.
[56] Jacob Mathew v. State of Punjab, (2005) 6 SCC 1.
[57] Samira Kohli v. Dr. Prabha Manchanda, (2008) 2 SCC 1.
[58] Spring Meadows Hosp. v. Harjol Ahluwalia, (1998) 4 SCC 39.

jurisprudence views consultation as a substantive legal process requiring reasonable skill, communication, and diligence.

5.3 LANDMARK JUDICIAL DECISIONS ON PHYSICIAN DUTIES

Given the centrality of case law in shaping medical accountability in India, it is useful to treat key decisions as a distinct category of legal sources that concretely articulate the duties of physicians towards patients and fellow practitioners.

5.3.1 Indian Medical Association v. V.P. Shantha

In Indian Medical Association v. V.P. Shantha, the Supreme Court held that medical services (except where rendered free of charge in certain circumstances) fall within the definition of "service" under the Consumer Protection Act.[59] This landmark ruling opened the door for patients to seek compensation for negligence before consumer fora, transforming the enforcement landscape of medical ethics. By bringing medical consultations within the ambit of consumer law, the Court made ethical and professional standards justiciable as legal obligations.

5.3.2 Jacob Mathew v. State of Punjab

As noted above, Jacob Mathew remains the leading precedent on criminal negligence by doctors. The Court laid down a protective threshold for criminal prosecution, requiring proof of gross negligence or recklessness and discouraging routine invocation of criminal law for civil wrongs.[60] At the same time, the Court recognised that doctors must maintain minimum standards of care and cannot shelter under good faith where their conduct is manifestly inconsistent with accepted practice. The case thus underscores the balance between accountability and professional protection.

5.3.3 Poonam Verma v. Ashwin Patel

In Poonam Verma v. Ashwin Patel, a homeopathic practitioner administered allopathic medicines, resulting in the patient's death. The Supreme Court held this to be a case of negligence per se, as the doctor had practiced in a system of medicine for which he had no

[59] Indian Med. Ass'n v. V.P. Shantha, (1995) 6 SCC 651.
[60] Jacob Mathew, (2005) 6 SCC 1.

qualification.[61] The decision illustrates that during consultations, physicians must strictly confine themselves to their field of competence and cannot experiment with systems of medicine outside their training. It also has a direct bearing on cross-pathy practices and improper referrals, reinforcing the ethical imperative to refer patients to appropriate specialists.

5.3.4 Spring Meadows Hospital v. Harjol Ahluwalia

In Spring Meadows Hospital, the Court imposed liability on both the hospital and the attending doctors for gross negligence in administering wrong medication to a child, leading to severe brain damage.[62] The judgment clarified that parents as consumers are entitled to compensation for mental anguish and that hospitals are vicariously liable for negligent acts of their staff. It emphasises that institutional arrangements, supervision, and consultation protocols are part of the legal duty of care.

5.3.5 Kusum Sharma v. Batra Hospital & Medical Research Centre

Kusum Sharma is pivotal in articulating guidelines for adjudicating medical negligence cases, cautioning against a "compensation culture" while reaffirming that genuine negligence must not go unpunished.[63] The Court summarised key principles including deference to professional judgment, the necessity of expert evidence, and respect for established medical practice. These principles function as a judicial framework against which consultation conduct is evaluated.

5.4 JUDICIAL INTERPRETATION OF DUTIES TOWARDS FELLOW PRACTITIONERS

While Indian medical jurisprudence focuses primarily on physician–patient relationships, courts have acknowledged that ethical medical practice also requires responsible conduct towards fellow practitioners.

Courts have repeatedly emphasised the importance of coordination in team-based care. In Achutrao Haribhau Khodwa v. State of Maharashtra, negligence was partly attributed to inadequate communication among treating doctors, highlighting that collaboration is essential

[61] Poonam Verma v. Ashwin Patel, (1996) 4 SCC 332.
[62] Spring Meadows Hosp., (1998) 4 SCC 39.
[63] Kusum Sharma, (2010) 3 SCC 480.

to patient safety.[64] Similarly, in Savita Garg v. National Heart Institute, failure to ensure timely referral and coherent inter-doctor communication contributed to liability, demonstrating that the standard of care includes effective teamwork.[65]

Judicial reasoning has also recognised that physicians must respect the limits of their expertise and seek specialist support when required. In several consumer disputes, courts have held doctors negligent for persisting with treatment beyond their competence instead of referring to a qualified specialist.[66] Such decisions reinforce that referral is a legal duty, not merely a professional courtesy.

On collegial conduct, courts generally disapprove of baseless allegations or defamatory statements among professionals, although case law is less extensive in this area. The overarching judicial view is that professional disputes should not compromise patient confidence in the medical system.

Overall, judicial interpretation affirms that physicians owe duties of cooperation, respect, and timely referral to their colleagues, and failures in inter-professional communication can amount to actionable negligence.

5.5 NATIONAL MEDICAL COMMISSION ETHICS REGULATIONS, 2023: CONTENT AND CRITIQUE

The NMC Ethics Regulations, 2023 represent a significant attempt to consolidate and modernise the ethical code applicable to registered medical practitioners in India. They retain core duties from the earlier MCI regulations but also respond to contemporary challenges such as digital health, corporate employment, advertising, and conflict of interest.

5.5.1 Key Provisions Relating to Consultations and Collegial Duties

The regulations emphasise that physicians must:

- provide competent, evidence-based care with due respect for patient autonomy and dignity;

[64] Achutrao Haribhau Khodwa v. State of Maharashtra, (1996) 2 SCC 634.
[65] Savita Garg v. Nat'l Heart Inst., (2004) 8 SCC 56.
[66] See, e.g., Nizam's Inst. of Med. Scis. v. Prasanth S. Dhananka, (2009) 6 SCC 1.

- obtain and document informed consent for procedures, including teleconsultations where applicable;
- maintain confidentiality subject to legally recognised exceptions;
- refer and consult with other practitioners when a case requires specialised knowledge; and
- maintain collegial respect, avoid unfair criticism, and refrain from financial or other inducements that distort professional judgment.[67]

They also outline standards for digital consultations, including appropriate identification of the patient, clarity of advice, documentation, and circumstances in which in-person examination is mandatory. This brings the regulatory framework closer to global guidelines on telemedicine and e-health.

5.5.2 Critiques and Doctrinal Concerns

Despite these advances, the NMC Ethics Regulations, 2023 have been met with doctrinal and practical critiques:

1. Ambiguity in Key Terms: Certain provisions use broad terms such as "derogatory statements", "unethical practices", or "promotion" without detailed guidance. This may lead to inconsistent interpretation by disciplinary bodies and can chill legitimate whistle-blowing or evidence-based critique of substandard practices.
2. Limited Integration with Judicial Standards: While the regulations acknowledge duties of care, referral, and consent, they do not explicitly engage with judicially developed benchmarks in cases like Jacob Mathew, Samira Kohli, and Kusum Sharma. A clearer cross-reference to these decisions could improve doctrinal coherence and signal to practitioners how regulatory norms align with enforceable legal standards.
3. Enforcement and Procedural Safeguards: Critics note that the effectiveness of any ethical code depends on transparent, timely, and fair disciplinary procedures. Past experience with MCI disciplinary mechanisms revealed delays and perceived opacity.

[67] NMC Ethics Regulations, 2023, regs. on referral and cooperation with colleagues.

Unless NMC disciplinary processes are institutionally strengthened, ethical violations during consultations or in inter-professional conduct may continue to be unevenly enforced.[68]

4. Balancing Collegiality and Accountability: The emphasis on collegial respect is normatively important, but without explicit protection for good-faith complaints and whistle-blowing, there is a risk that collegiality may be invoked to suppress legitimate reporting of malpractice. International standards, such as those of the World Medical Association and various General Medical Council-type bodies, attempt to balance these concerns by protecting professionals who raise concerns about patient safety in good faith.[69] The NMC framework would benefit from more detailed guidance in this respect.

Overall, the 2023 regulations represent an important step in updating the ethical framework for Indian physicians, but their full potential will only be realised if they are interpreted in harmony with constitutional principles, consumer jurisprudence, and Supreme Court case law that have progressively positioned patient welfare at the centre of medical practice.

CHAPTER 6 - RECOMMENDATIONS AND CONCLUSION

6.1 RECOMMENDATIONS

Strengthening physician accountability in India requires reforms that bring greater alignment between judicially articulated duties and the operational standards laid down in the National Medical Commission (NMC) Ethics Regulations, 2023. Although the present regulatory framework is comprehensive in its ethical orientation, several areas call for refinement to ensure effective implementation and long-term doctrinal coherence.

1. Enhancing Operational Clarity in Ethical Duties: While the 2023 Regulations set out foundational ethical obligations, many of these duties remain broadly phrased and lack procedural specificity. The NMC should develop supplementary guidelines that outline concrete steps for fulfilling consultation duties, such as structured history-taking, documentation standards, detailed risk disclosure formats, and defined protocols for referrals

[68] See generally A. Reddy, Medical Discipline and Accountability in India, 59 J. Indian L. Inst. 101 (2017).
[69] World Med. Ass'n, International Code of Medical Ethics (2022).

and inter-professional communication. Clearer operational rules would create uniformity across diverse clinical settings and reduce interpretative inconsistencies.

2. Strengthening Enforcement and Disciplinary Mechanisms: Effective ethical regulation depends on consistent and transparent enforcement. The NMC and State Medical Councils must adopt time-bound inquiry procedures, strengthen investigative infrastructure, and publish periodic reports on disciplinary actions. Institutionalising a predictable disciplinary framework would enhance professional accountability, curb impunity, and align Indian regulatory practice with global supervisory bodies such as the General Medical Council (GMC) in the United Kingdom.

3. Integrating Judicial Standards into Regulatory Practice: Indian courts have articulated detailed standards on duty of care, consent, confidentiality, professional competence, and interprofessional cooperation. Judgments such as Samira Kohli, Jacob Mathew, Achutrao, and Savita Garg offer substantive guidance that should be explicitly reflected in regulatory materials and practice notes. Incorporating judicial principles within regulatory frameworks would reduce ambiguity for practitioners and reinforce continuity between legal and ethical norms.

4. Expanding Ethical Guidance for Digital and Telemedical Practice: The growing reliance on telemedicine requires a more explicit ethical framework than currently provided. The NMC should issue comprehensive guidelines on digital confidentiality, electronic consent, identity verification, documentation requirements, data protection, and the circumstances under which in-person consultation becomes mandatory. Such measures are necessary to fulfil the constitutional privacy protections recognised in Puttaswamy and to ensure parity between digital and physical consultations.

5. Institutionalising Standards of Inter-Professional Cooperation: Judicial decisions have repeatedly emphasised that failures in coordination among physicians contribute significantly to negligent outcomes. To address this, the NMC should formalise standard operating procedures for referral, establish written handover requirements, clarify responsibilities in team-based practice, and promote inter-departmental communication protocols. These measures would directly address systemic issues highlighted in cases such as Savita Garg and Kunal Saha.

6. **Protecting Ethical Reporting and Good-Faith Complaints:** A balanced regulatory environment must encourage the reporting of unethical or unsafe practices while preventing malicious or defamatory allegations. Introducing whistleblower protections within the medical sector would allow practitioners to raise concerns about patient safety without fear of retaliation. Clear definitions of legitimate reporting, combined with safeguards against false accusations, would foster a culture of ethical responsibility.

7. **Strengthening Ethical Training and Continuing Professional Development:** To embed ethical standards across the profession, medical education should incorporate structured modules on professional ethics grounded in Indian jurisprudence. Continuing Professional Development (CPD) requirements should mandate periodic training on evolving ethical duties, digital health governance, consent practices, and interdisciplinary teamwork. Such measures ensure that ethical obligations are internalised and updated throughout a physician's career.

6.2 CONCLUSION

This dissertation has examined the ethical and legal landscape governing physicians' duties in India, focusing on obligations during consultations and responsibilities towards fellow practitioners. Through a doctrinal analysis of judicial precedent and professional regulation, it is evident that Indian courts have played a foundational role in shaping the duties of care, consent, confidentiality, competence, coordination, and referral. The National Medical Commission Ethics Regulations, 2023 represent a significant step in codifying these judicial standards into a cohesive regulatory framework.

While there is strong normative alignment between judicial interpretation and regulatory provisions, persistent challenges remain. The regulatory framework lacks operational specificity, enforcement mechanisms are uneven, and contemporary issues such as digital healthcare require more robust guidance. Moreover, the shift towards multidisciplinary, technology-driven medical practice necessitates clearer standards of inter-professional cooperation and shared responsibility.

Ultimately, the effectiveness of India's medical accountability system depends not only on codified regulations but also on their faithful implementation, institutional strengthening, and continuous alignment with judicially recognised principles. A dynamic regulatory approach—guided by judicial insights, responsive to technological growth, and grounded in patient

welfare—will be essential in securing ethical, transparent, and trustworthy medical practice in India.