

“Consumer Issues in Health Services”***Dr. Poornima Y,**

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Abstract:

Consumerism has been in existence since the beginning of Market Economy. But many consumers are not merely consumers, they are also producers of goods and services and so there should be a synergetic approach to the problem of consumer exploitation.

Coming to the field of health, this approach becomes more significant. The producers of cosmetics, drugs and the health providers need to be persuaded to see that they don't let down the consumer and doctors should always remember their Hippocratic Oath and see that the patient and the family will not become bankrupt in their run for medical help. Consumer awareness and producer realization are to be nurtured without fail for society's health and survival.

Some doctors say that they have paid lakhs and crores as donation for medical seats and have to recover that from patients. But what about the merit students who were educated at the expense of the society? There is no end to the argument. There appears a way to come out of this problem. A good medical insurance may temporarily solve the problem. No doubt consumers will be wise in investing medical insurance.

Key-words: Consumerism; Prosumer; The Consumer Protection Act; National Commission; Medical Negligence.

Introduction:



Source: Google

Consumerism is a public movement against the unhealthy marketing practices of sellers, producers and service providers. It is the concern for the welfare of consumers which has been voiced by people like Acharya Chanikya (2500 years ago), Mahatma Gandhi (80 years ago), President Kennedy & Ralf Nadar (60 years ago) and many others. The 1960s and 70s were a time of consumer activism and this led to Kennedy's declaration of consumer rights in 1962 which included the right to safety, the right to be informed, the right to redress and the right to choice.

India passed the Consumer Protection Act (CPA- COPRA) in 1986 and it seeks to protect and promote the consumers interests through speedy and inexpensive redressal of their grievances and this led to the establishment of many courts to help the consumers. But today's consumer combines the role of the producer as well as the consumer and may be called a prosumer. A doctor renders medical service to a restaurant owner but when he goes to the restaurant as a customer, he becomes a consumer there. As a result of this dichotomy a breach is seen between the functions of the producer and the consumer and this is to be healed by the application of prosumer economics.

Today, the average Indian Consumer who is poor, ignorant and passive is at the receiving end. The manifestations of consumer neglect are evident in the " adulterated food we eat; the spurious, unsafe and substandard products we buy; the repeated shortage of essential commodities accompanied by black- marketing and profiteering; the hazardous drugs, banned in most countries in the West, that are pushed through the counter; the glossy, unethical and manipulative advertisements with which we are bombarded; the humiliation, indignity and harassment that we are subjected to by public sector undertakings such as Railways, Transport Corporations, Banks, Telecommunications, Insurance companies and Hospitals etc. and the polluted water and air we drink and breathe. And this despite the volumes of legislation holding

the promise on consumer protection and an array of Govt. Departments specifically constituted to implement those laws” (Anonymous).

Objectives of the study: The present paper aims at the following basic objectives:

1. To have an insight into various issues the consumers face in health services
2. To suggest some of the remedial measures to overcome such issues in health services

Methodology of the study: As the present paper is very much confined to conceptual aspects of consumer issues in health services, the data has been gleaned from various sources like research journals, articles, text books and general discussions with known people through their experiences.

Based on the discussions made and having taken into consideration various live examples, inferences made and findings drawn there upon and suggestions offered.

Findings of the study: Consumer issues and their possible solutions are too numerous to be enumerated here and so this study is limited to a few consumer issues in Health Care Services.

The following case is an example of the many issues the consumers face owing to the negligence of the doctors and staff in hospitals. It is known as Malaykumar Ganguli vs. Sukumar Mukharjee (2009) case. The patient was a Psychologist and her husband was a Doctor in Kolkata. She had a skin rash and for this they consulted Dr. Mukahrjee of AMRI Hospital who advised rest and did not prescribe any medicine. A few days later, when the rash became more aggressive, they approached the same doctor and he gave her 80mg Depomedrol injection twice daily for the next 3 days. There was no improvement in the condition and she was admitted to the hospital. Several doctors of this AMRI Hospital treated her and there was no relief and so she was shifted to BC Hospital, Mumbai, where she breathed her last. Her husband filed a case in the National Consumer Disputes Redressal Commission alleging deficiency in service. Another relative filed a complaint under section 304 A of the Indian Penal Code on the allegation that the patient’s death was caused by the doctors’ rash or negligent act. Additionally, a complaint of professional misconduct was also lodged with West Bengal Medical Council. The High Court of Kolkata held that the accused was not guilty of offence under 304A IPC. The National Commission dismissed the complaint of the husband of the deceased patient and the West Bengal Medical Council also dismissed the complaint of the professional misconduct.

The issues before the Supreme Court were a) whether there was any criminal negligence and b) whether there was any deficiency of service by which compensation should be granted to the complainant. The Supreme Court dismissed the criminal appeal but allowed the civil appeal against the order of the National Commission. It remitted the matter to the National Commission for determining the compensation. AMRI Hospital and Dr. Mukharjee were directed to pay costs of Rs. 5 lakhs and Rs. 1 lakh respectively.

Doctors owe to their patients a duty in tort as well as in contract. They should show a fair and reasonable degree of care and skill and they should not do anything to the patient which may

cause any physical damage. If they do so it amounts to professional or medical negligence which attracts fine or punishment.

It is clear that the honorable Courts are merciless towards the offenders who exploit consumers and do not hesitate to award exemplary punishment to them. But these instances are only a drop in the ocean as the majority does not opt for legal redressal. Anyhow, it's a good beginning.

Govt. Hospitals and dispensaries are inadequate in number and many doctors there are very indifferent and callous. The environment there is unhygienic and all these things compel a patient to switch over to private clinics for survival. There they have to pay exorbitant medical fees for tests and medical gadgets. For a Coronary Stent of Rs. 30000, the patient has to shell down one and half lakhs and he has to part with a few lakhs of rupees for any major surgery or procedure. Owing to this even an economically sound patient and his family will be thrown into poverty and find it difficult to rise again economically.

I quote here some more examples of medical negligence:

1. If patients' symptoms are overlooked or dismissed as unimportant, this will be considered as a failure to make a proper diagnosis. And this can be considered as a medical negligence.
2. A wrong diagnosis also comes under medical negligence.
3. Sometimes a patient may be prescribed a wrong medicine. If it harms the patient in any way it also comes under medical negligence.
4. Doctors must obtain the patients' consent. If they don't do so and their treatment causes harm to the patient, is also a case of medical negligence.
5. Failure to warn the patient about the risks of a treatment also comes under medical negligence.
6. Sometimes a mistake is made during surgery (such as forgetting to remove scissors from the abdomen) also comes under medical negligence.

The following are some more legislative provisions for consumer protection:

1. The Drug & Cosmetic Act of 1940
2. The Prevention of Food Adulteration Act of 1954
3. The Transplantation of Human Organs Act of 1954
4. The Infant Milk Substitutes Feeding Bottles & Infant Food Act of 1992
5. The Mental Health Care Act, & the HIV/AIDS Act of 2017
6. Food Safety & Standards Act of 2006

All these Acts are self explanatory and they can be enforced by the Government. Consumers also can move the courts for their enforcement.

Suggestions:

The Government can make provision for regulated health services at affordable costs. They can also prescribe minimum standards for all types of health services. The standards can be upheld through NABH - National Accreditation Board of Hospitals & Health Care Providers. The Govt. should prescribe in detail the charges to be collected per every disease, procedure and surgery. Patients are to be encouraged to buy generic drugs which are priced reasonably in place of highly priced branded drugs. Most importantly all consumers must resort to medical insurance. But these insurance companies have stringent rules and do not cover patients of all ages and all ailments. They should be more liberal in their rules.

Prevention is better than cure. All consumers should realize this. They should try preventive measures like hand washing before eating, oral and genital cleaning and keeping distance from smoking, drinking and using drugs. They can also take vaccines for Typhoid, Pneumonia, Influenza, TB and Cervix Cancer etc.... They can opt for periodical health check up to drive away diseases by pre emptive methods, by eating nutritive diet, consuming fruits in place of junk foods and by being physically active through exercise and sports which can help postpone or limit the ailments resulting from the ravages of time.

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