



## DOCTORS AND CONSUMER PROTECTION ACT - GS II MAINS

Q. Examine the potential challenges doctors face under the Consumer Protection Act and propose measures to address them. (10 marks, 150 words)

**News:** *Should doctors be kept out of the Consumer Protection Act?*

### What's in the news?

- Recently, the Supreme Court ruled that advocates cannot be held liable under the Consumer Protection Act, 1986, for deficiency in service.

### Arguments for Keeping Doctors under the Consumer Protection Act:

#### 1. Clarification of Medical Service Provision:

- The Supreme Court's reevaluation of the 1995 case is appreciated for clarifying the term 'service'.
- In the landmark Indian Medical Association vs. V.P.Shantha case, it was determined that doctors, medical professionals, and hospitals are included under the Consumer Protection Act as service providers.
- This acknowledges the specialized nature of medical practice, characterized by extensive research and advanced procedures, demanding meticulous patient care.

#### 2. Effective Grievance Redressal Mechanism:

- Patients resorting to the Consumer Protection Act is deemed appropriate as it provides an essential avenue for addressing grievances.
- Without Consumer Disputes Redressal Commissions, patients lack an effective platform for redressal.

#### 3. Limitations of Medical Regulation:

- While the Indian Medical Council Act deals with misconduct by doctors, it may not adequately compensate affected patients.
- Additionally, the National Medical Council's powers to award compensation are limited, and criminal law is typically invoked only in severe cases.
- Civil law remedies, though available, often involve lengthy trials and deter patients from seeking legal recourse.

#### 4. Benefits of Consumer Protection Act:

- The Consumer Protection Act, designed to safeguard consumer rights, offers a more accessible route for addressing grievances, recognizing patients as consumers of medical services.

#### 5. Patient Redressal Opportunities:

- The 1995 judgment and the Consumer Protection Act largely provide patients with the opportunity to address malpractice and seek redress.



## 6. Fairness in Consumer Protection Act:

- The remedies offered by the Act are beneficial to patients, and there have been no instances of unfair judgments from the redressal agencies.
- Complex cases receive expert opinions before decisions are made.

## Arguments Against Keeping Doctors under the Consumer Protection Act:

### 1. Concerns of Misuse in Healthcare Legislation:

- Some individuals exploit the Act to evade medical fees, causing distress for healthcare providers.
- Patients may blame doctors and hospitals when outcomes are unfavorable, leading to increased scrutiny and costs.
- Doctors may order unnecessary tests as a precaution, adding to procedure expenses. Comprehensive record-keeping is essential to substantiate treatment decisions in case of disputes.

### 2. Legal Strain on Doctors:

- In instances of gross negligence, legal action is justified, but for those who have performed well, facing prolonged legal battles is unfair.
- Patients often escalate disputes through multiple levels of legal recourse, leading to lengthy and burdensome processes that drain the morale of doctors.

### 3. Frivolous Litigation Challenges:

- Despite their qualifications and willingness to help patients, doctors endure the strain of delays and frivolous litigation, particularly from individuals seeking to evade payment.

## Way Forward:

### 1. Assessing Frivolous Cases:

- For consumers, conducting a study to assess the prevalence of frivolous cases is essential. In most instances, grievances are genuine or stem from a belief of wrongdoing by the doctor.

### 2. Timely Complaint Resolution:

- Addressing the delay in consumer commissions, which can span 10-12 years, is crucial to uphold the Act's objective of providing swift complaint resolution.

### 3. Compensation Solutions:

- Addressing malpractice differs from compensating aggrieved consumers.

### 4. Independent Oversight:

- Establishing an independent authority akin to ombudsmen in other sectors could serve as a preliminary step. This body could offer initial redressal before resorting to consumer courts.
- This authority should possess the necessary powers to regulate the medical field.



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## 5. Mediation:

- Additionally, exploring options for mediation within the Consumer Protection Act, particularly regarding medical negligence, warrants attention.

## 6. Insurance Risk Mitigation:

- Additionally, many doctors opt for medical indemnity insurance to mitigate risks. However, resorting to legal proceedings remains challenging despite having insurance coverage.

Adhering to checklist protocols for record-keeping, obtaining informed consent, transparently discussing procedure risks and outcomes, and promptly referring patients in case of complications can shield physicians from litigation.



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