



Presentation On

**Medical Negligence
and
the code of conduct:
“A Forensic and Ethical Perspective”**

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Learning Objectives

- Professional infamous conduct
- Punishment of infamous conduct
- Professional Negligence
- Punishment of Negligence
- Vicarious Liability
- Product liability

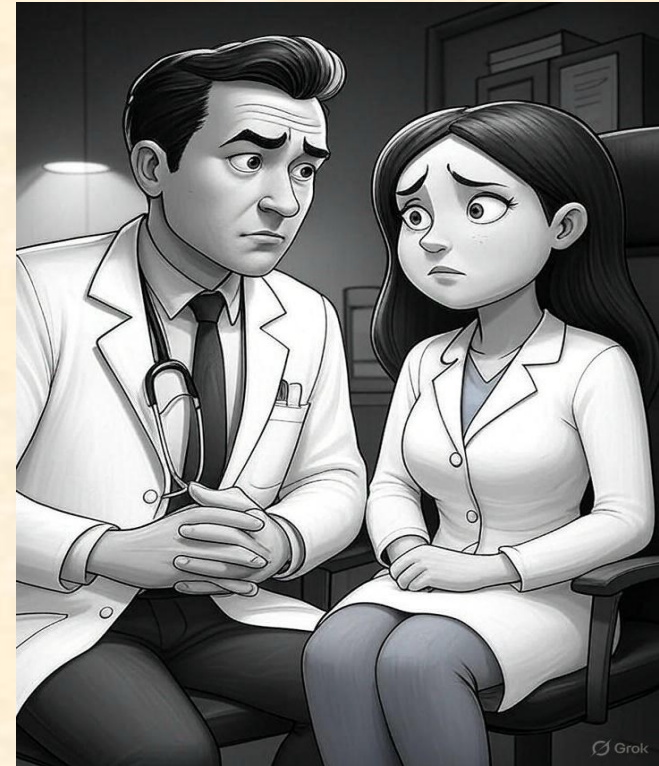


Professional Infamous Conduct

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Also known as **Professional Misconduct.**

Any conduct done by a medical man which might reasonably be regarded as disgraceful or dishonorable and which is judged by professional men of good repute and competence



Some examples.

- **Adultery.**
- **Criminal abortion.**
- **Treatment of a patient under the influence of alcohol.**
- **Issuing a false certificate.**
- **Addiction.**

Continue....

- **Contravention of drugs act.**
- **Covering.**
- **Dichotomy or fee splitting.**
- **Advertisement.**
- **Failure to obtain consent from the patient for an operation.**

- **Failure to obtain consent of both husband & wife for an operation which may result in sterility.**
- **Disclosing the secretes of a patient without his/her permission.**
- **Shall not publish photographs or case reports of his patient without their permission.**

Adultery

Voluntary sexual intercourse between a married person and a person married or not other than his or her spouse.

Adultery



Covering

Assisting someone who has no medical qualification to attend, treat or perform an operation in cases requiring professional discretion or skill.



Fee Splitting

Receiving or giving commission or other benefits to or from a professional colleague or manufacturer or trader of drugs appliances or a chemist dentists etc.



Addiction

Supplying or selling addiction forming drugs to a person for other than medical ground.



Alcohol

Attending the patients while under the effect of alcohol.



Disclosing the secrets

Disclosing the secrets of a patients that have been learnt during his professional experience except in the Court of Law.

Disclosing the secrets

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Punishment of infamous conduct

Punishment of professional infamous conduct given by BMDC and the punishment are:

- ✓ **Warning to the doctor.**
- ✓ **Temporary erasure of the name of the doctor from the register book.**
- ✓ **Permanent erasure of the name of the doctor from the register book.**



What is negligence

Absence of reasonable care and skill or willful negligence of a medical practitioner during treatment of a patient causes bodily injury or even death of a patients.

Types of negligence

- 1. Civil negligence**
- 2. Criminal negligence**
- 3. Contributory negligence**
- 4. Corporate negligence**

Civil negligence

Civil negligence indicates such of negligence on the part of the treating physician which causes some suffering, harm or damage to the patient which can be compensated.

The Question of civil negligence²⁴ arises

- ✓ **When a patient or any relative in case of death brings suit in a Civil Court for realization of compensation from his doctor, if he has suffered injury due to negligence.**
- ✓ **When a doctor brings a civil suit for the realization of his fees from the patient or his relatives who refuse to pay.**

Examples Civil negligence

1. Refusal to admit patients requiring urgent hospitalization.
2. Failure to obtain consent from the patient.
3. Failure to examine a patient properly.
4. Failure to give ATS (Anti tetanus serum) in a injured patient resulting tetanus of patient.



Contd.

- 5. Failure to diagnose a patient.**
- 6. Failure to read X-ray film properly.**
- 7. Failure to give proper post operation care.**
- 8. Criticizing another practitioner.**

Criminal negligence

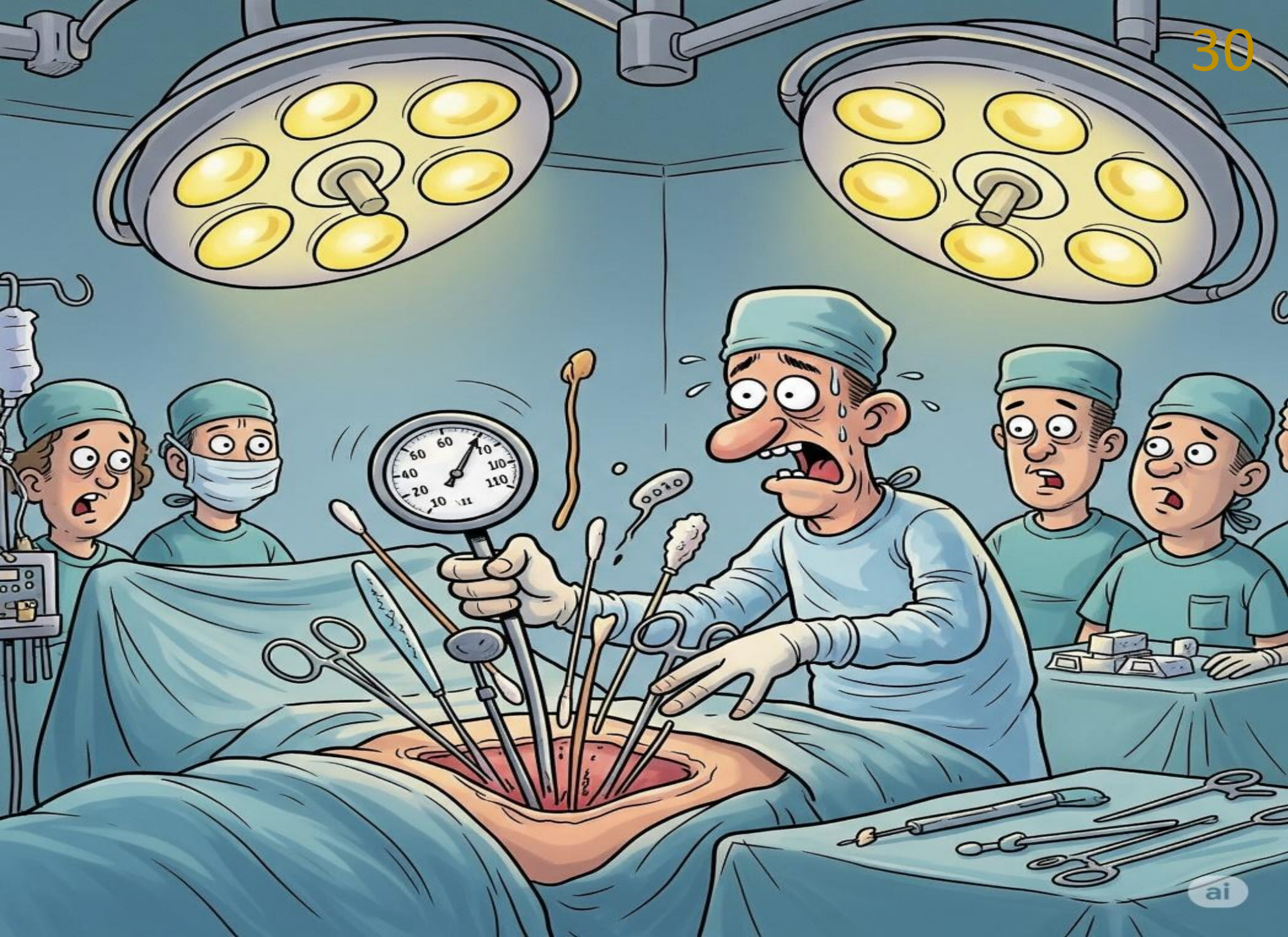
Criminal negligence is a practice where the gross careless or negligence act of the doctor causes seriously bodily harm or death of the patient.

The Question of criminal negligence arises

- ✓ **When a doctor show gross absence of skill or care during treatment resulting in serious injury to or death of patient.**
- ✓ **When a doctor performs an illegal act.**
- ✓ **When an assaulted person dies, the defense may attribute the death to the negligence.**

Examples of Criminal negligence:

- 1. Performing criminal abortion.**
- 2. Leaving instrument, gauze, Swab etc.
within the abdomen during operation.**
- 3. Amputation of wrong finger, wrong limb and
wrong patient.**
- 4. Introducing of ophthalmic solution into the
eyes causing blindness of a patient, etc.**



Contributory Negligence

It is defined as concurrent negligence by the doctor and the patient resulting in harm or injury to the patient.

Here both the parties remain responsible for the damage suffered by the patient; It is the best defense for the doctor.



Contributory Negligence Conditions

- ✓ If the patient cannot give proper history to the doctor.**
- ✓ If the patient does not allow the doctor to examine him or her properly.**
- ✓ If the patient does not follow the instructions of the doctor regarding medication, investigations or other advices.**

Corporate Negligence

Corporate negligence is the negligence that arises in hospitals and nursing homes where more than one individual at more than one level remain responsible for the well-being of the patient on the basis and terms of their service.



Vicarious Liability/ Responsibility

It means liability for the act of another. An employer (doctor) is responsible not only for his own negligence but also for the negligence of his employees



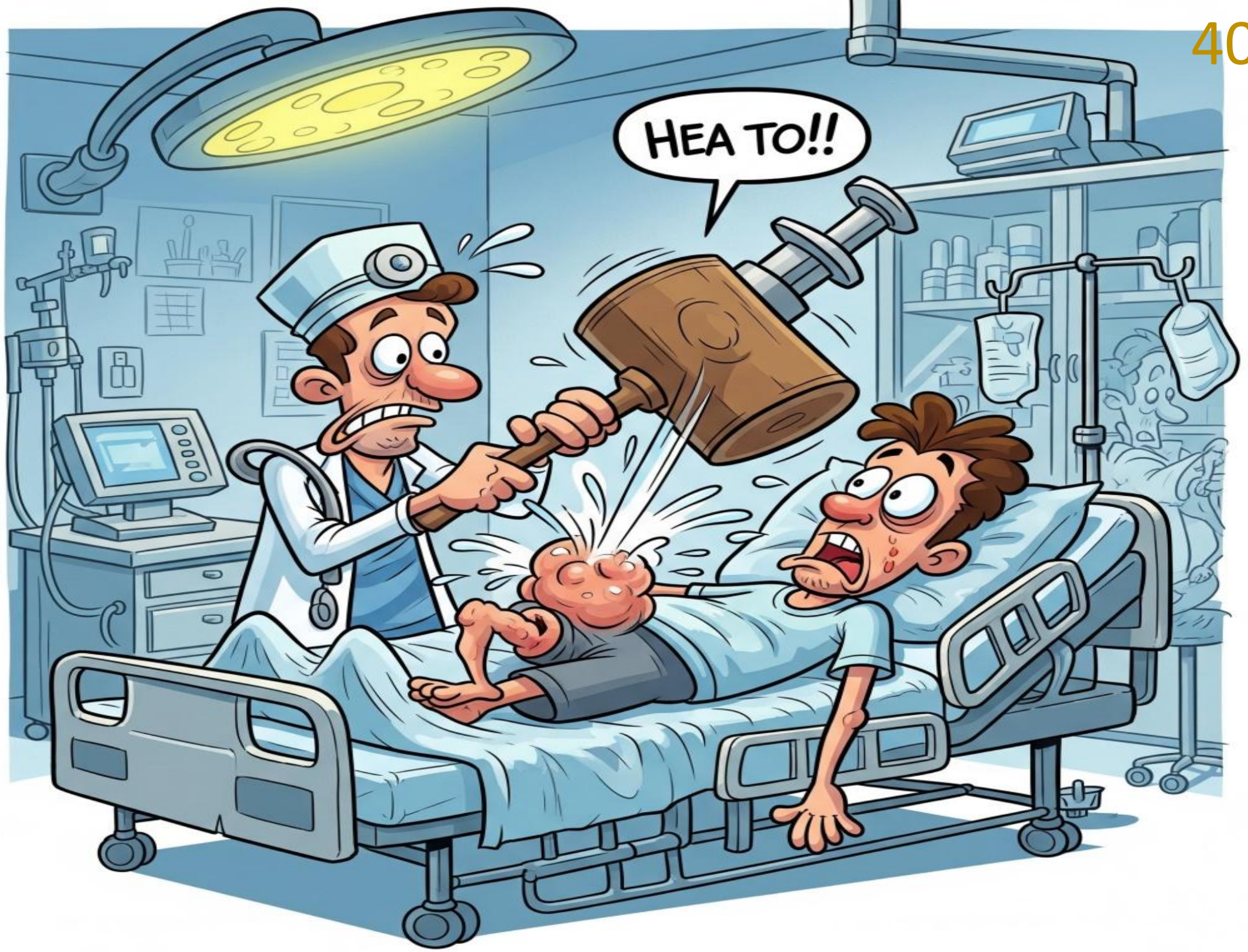
Vicarious Liability/ Responsibility criteria

- ✓ **There must be an employer-employee relationship.**
- ✓ **The employees conduct must occur within the scope of his employment.**
- ✓ **While on the job.**

Product liability

It refers to the physical agent that causes injury or death of a patient through its use by the doctor during treatment.

The following are remain responsible for the injury or death of the patient; Producer, manufacturer, dealer, trader, seller of drugs, instruments or appliance.

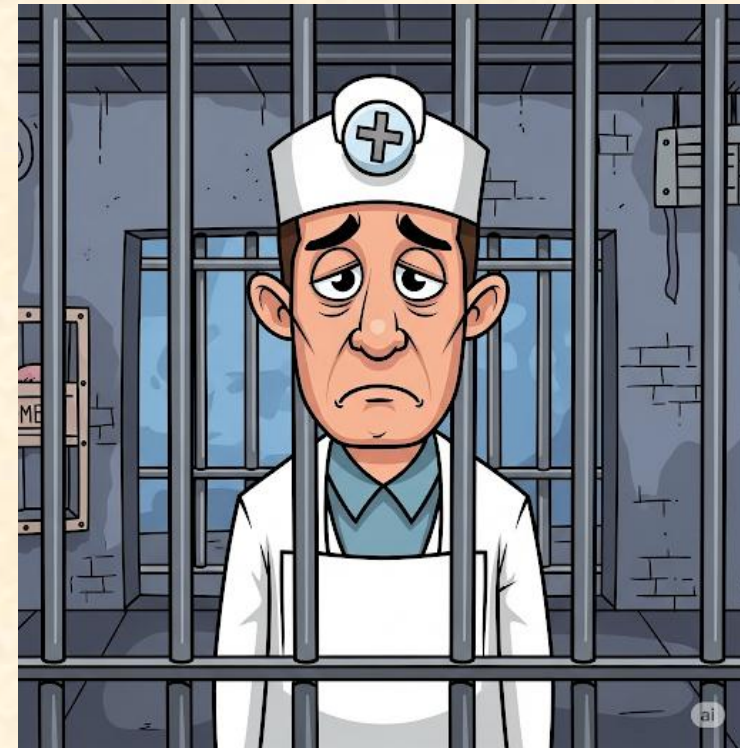


Punishment of negligence

- **Punishment of malpractice is given by court.**

The punishment are:

- ✓ **Fine of any amount.**
- ✓ **Imprisonment of any duration.**



Precautions against negligence

- ✓ Never guarantee a cure.**
- ✓ Keep professional knowledge updated.**
- ✓ Apply due care and skill in treating a patient.**
- ✓ Take written consent in all steps of treatment.**
- ✓ Take consent of both husband and wife in giving treatment that may result in sterility or impotency.**

Continue...

- ✓ **Advise laboratory investigation to confirm clinical diagnosis.**
- ✓ **Record the patients condition and treatment given regularly.**
- ✓ **Consult professional colleagues whenever necessary.**
 - ✓ **Perform sensitivity test.**
- ✓ **Do not leave the patient till he or she recovered from anesthetic effect.**

Continue...

- ✓ **Do not leave an emergency case unattended.**
- ✓ **Do not criticize a professional colleague.**
- ✓ **Always examine a female patient in presence of another female.**
- ✓ **Always refer your patient to better doctor or hospital if necessary.**



Take home message

Medical professionals are held to high ethical and legal standards, and any breach—whether through negligence or infamous conduct—not only endangers patient safety but also erodes public trust.



