New Consumer Protection Act 2019 effective from 20th July, 2020

New Consumer Protection Act 2019 effective from 20th July, 2020: till date Consumer Protection Act 1986 was applicable. This has been replaced by Consumer Protection Act 2019. This was signed by the President on 20th July, 2020 and has been made effective from 20th July, 2020 i.e. today.

This Bill was passed in the Lok Sabha in December 2018 but it lapsed since it could be passed in the Rajya Sabha as the term of the Govt came to an end. Subsequently it was re-introduced by the Govt in its next term and was finally signed by the President 0n 9th August 2019. However, it has been made effective from 20th July, 2020 following a notification issued on 15th July, 2020.

A very quick and brief review (focused on points affecting doctors) of the CPA 2019

1. Earlier a patient wanting to claim compensation of Rs 20 lakhs had to file a complaint before the District Commission, to the State Consumer Forum if he wanted to claim Rs 20 lakhs to 1 crore and to the National Commission if the claimed amount was above 1 crore .Now, for a compensation up to Rs 1 crore, he has to complain to the District Forum, From Rs 1 crore to 10 crores to the State Commission and to National Commission for compensation above Rs 10 crores. As a consequence, you can now expect patients to claim higher compensation against you because up to Rs 10 crores he will not have to travel to Delhi and can conveniently file the complaint in Mumbai itself (for Maharashtra). So get prepared to increase your Professional Indemnity Insurance Cover and shell out more money.
2. Earlier, if you had operated or treated a patient in Mumbai the patient could file a complaint only in Mumbai. Under the new Act, if you had done a cholecystectomy of a patient from Bihar, he has a right to file a complaint against you in Bihar Consumer Forum and you will have to travel to Bihar. You will have to grin and bear it. That is now the law.
3. If you fail to issue a bill or receipt to a patient (for whatever reason, maybe inadvertently) this now has been included in unfair trade practice, and you are liable to face action under the CPA and may have to pay compensation.
4. If you disclose personal information given to you by a patient (unless required by law) you can face action under the new CPA. Hence, strict confidentiality from now on.
5. Earlier, in all Consumer Forums, one of the members on the bench had to be necessarily an Ex- High Court or Supreme Court Judge. Under the new CPA there may not be a single person who has any knowledge of law. Hence you can expect more perverse judgments from now on.
6. Earlier the appointment of the members of the Commission had to be appointed by a State judicial committee. Now Central government will appoint members by a notification. Hence expect any Tom, Dick and Harry to be on the Forum.
7. Now a Mediation Cell will be attached to every Forum to facilitate Alternate Dispute Redressal (ADR). Hence expect to go through a longer trial –first before Mediation Cell for settlement, and then before the Forum if this fails.
8. Earlier, if you did not comply with the orders of the Commission you could face a jail term between one month and three years and a fine between Rs 2000 to Rs 10000. Now you will face imprisonment of three years with a fine not less than Rs 25000 and extendable to Rs 1 Lakh
9. In case you wish to appeal against a judgment to a higher Forum, it is mandatory to deposit 50 % of the decreed amount before Appeal.
10. E Commerce and telemarketing now included
11. Concept of 'Unfair Contract' has been introduced in the new Act. Application of this for Healthcare providers could be as follows: The Consent taken by us from the patient could be brought under this ambit esp. by invoking the charge that the consent was not an informed one and hence 'Unfair'
12. Unfair Trade Practice may also pull doctors under its ambit by challenging professional fees etc which were not covered earlier.
13. The new Act also has a provision for "Product Liability" which covers which is defined as the responsibility of a product manufacturer or product seller. For doctors it could be beneficial since we are all the time using some product or the other and liability arising from using a defective product could be deflected to the manufacturer. For example, a hip implant placed by an orthopaedic surgeon got fractured when the patient resumed his activities. It was the doctor who had to bear the brunt of the damage to the patient. This could change in the new Act.
14. Under the new law, E-Complaints will now be permitted and patients could make on-line complaints against you.
15. Misleading Advertisements now covered
16. False Endorsements of products by celebrities or others now actionable under the new Act

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