



EFFECT ON HEALTHCARE SYSTEM BY RECENT CONSUMER PROTECTION ACT

PROF. (DR.) NANDIMATH OMPRAKASH. V

PROFESSOR OF LAW & EXECUTIVE CHAIR PROFESSOR

THINK TANK ON HEALTH,

NATIONAL LAW SCHOOL OF INDIA

NAGARBHAVI, BENGALURU-560 072

OVNANDIMATH@NLS.AC.IN

FLOW OF THE PRESENTATION

1

Whether the new CPA,
2019 is applicable to the
'medical professional' ?

2

Areas enhancing
exposure under the new
law

CPA, 2019 – THE SPECULATION

- FIRST SCHOOL – THE NEW LAW EXEMPT DOCTORS
- Draft bill v final version of law
- Hon'ble Minister's introductory speech in Rajya Sabha
- Restrictive interpretation of s. 2(42) of CPA
- Rationalization of personal belief!!

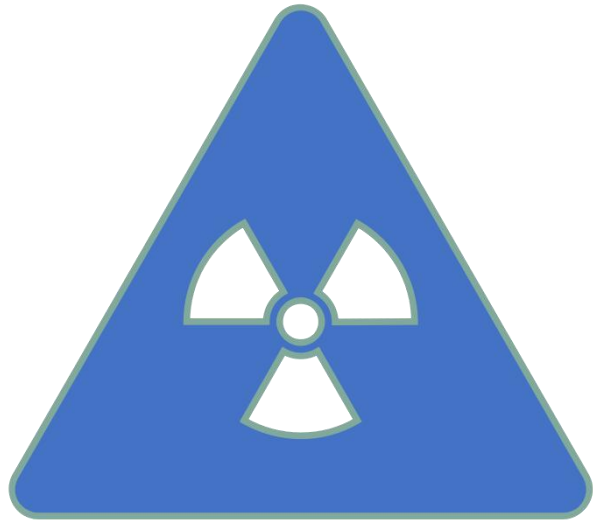
- SECOND SCHOOL – NEW LAW ALSO APPLY TO DOCTORS
- Purposive interpretation of s.2(42) and other provisions of CPA
- Interpretation by Hon'ble SC in V P Shantha's case
- Unbiased rationalization

IRONING-OUT THE SPECULATION

- S. 2(42) - "service" means service of any description which is made available to potential users and includes, but not limited to, the provision of facilities in connection with banking, financing, insurance, transport, processing, supply of electrical or other energy, telecom, boarding or lodging or both, housing construction, entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service;
- Explicit exemptions – ‘service free of charge’ or ‘service under a contract of personal service’

IRONING-OUT THE SPECULATION

- The precedent of **V. P. Shantha v IMA**, 1995 SCC (6) 651 (rendered on November 13, 1995)
- <https://epaper.timesgroup.com/Olive/ODN/TimesOfIndia/shared/ShowArticle.aspx?doc=TOIKRKO%2F2020%2F07%2F23&entity=Ar00511&sk=DD294878&mode=text#> [my co-authored editorial, published in Times of India with Dr. Alexnder Thomas, AHPI]



EXPOSURE POINTS OF NEW LAW

PART TWO

FURTHER SIMPLIFICATION OF LITIGATING PROCEDURE

- No fee for value of services paid up to 5 Lakhs
<https://consumeraffairs.nic.in/sites/default/files/Consumer Commission Rules %26 General Rules.pdf>
- Provision for eFiling of Complaints and videoconferencing for hearing
- Most convenient forum provision – sue at your home-town – s. 34(2)(d) provides opportunity to file complaint at a place where the complainant resides or personally works for gain

CENTRAL CONSUMER PROTECTION AUTHORITY

- Established w.e.f. July 24, 2020
<https://consumeraffairs.nic.in/sites/default/files/Estt of CCPA.pdf>
- “...to regulate matters relating to violation of rights of consumers, unfair trade practices and false or misleading advertisements which are prejudicial to the interests of public and consumers and to promote, protect and enforce the rights of consumers as a class”.
- Led by Chief Commissioner (and his deputies) – CCPA has ample powers of investigation



WAY AHEAD

PART THREE



CAN WE
AFFORD TO
AVERSE LAW
ANY FURTHER?



NO ... we can't



The roots of litigation against doctors is due to loss of trust and changed face of 'doctor-patient' relationship



Restoration of trust into the doctor-patient relationship and better education to medical professionals

THANKS VERY
MUCH

- Questions
- Clarifications
- Suggestions for improvement