

Attempts to bring disrepute to entire Medical Profession, Misrepresentations & Lies, Harrassment and Defamation attempts, Disregard for evidence and findings of enquiries and Disregard for scientific evidence and professional opinion by the patient's husband (the Complainant)

Unfortunately, since May 2010, the patient's husband, despite being a Retired Major of the Indian Army, has been spreading misinformation about the surgery in his multiple complaints to various authorities and in his multiple interviews/press conferences to both print and electronic media. He has been trying to build a case on his false and fabricated complaints.

With a barrage of baseless allegations, the husband has been abusing and harassing the doctors and Hospital. In the process he has misled the police, the media, and officials at the Health Department, Lokayukta officials, politicians and other organizations (KMC, ZCK, NABH, JCI, etc.) by forwarding his false and fabricated version of events. He is cleverly using one agency versus another to push forward his agenda of tarnishing the image of the Hospital and the doctors. It is pertinent to note that thus far the complainant has not provided any evidence medical literature or expert opinion to support his claim of medical negligence.

Because of this one individual's mischievous and reckless actions, the entire cadaver organ transplant program has been affected as admitted by the ZCK. The Health Department has been made to spend enormous amount of time and energy in responding to his false complaints and RTI applications. In fact, the Joint Director at the Department has stated that for the past several months he has been only working on this individual's multiple RTI requests.

There is absolutely no merit in the husband's complaint. He is total liar. His allegations are false, fabricated, reckless, inconsistent and without any foundation. One individual is putting the lives of several deserving kidney failure patients at risk by hindering the process of transplantation, especially cadaver transplantation, in Karnataka.

His sole motive appears to harass, cause damage to the doctors and the Hospital. He has been complaining to multiple authorities, many of them without jurisdiction in the matter, ever since May 2010. He has attempted to malign the doctors and the Hospital by planting false and fabricated stories in the news media. He has attempted to cancel the medical license of the doctors by writing multiple times to Karnataka Medical Council and to Medical Council of India although the doctors have not committed any negligent acts. He has attempted and in fact succeeded briefly to get the transplantation license of the hospital cancelled. He has attempted to damage the Hospital's reputation by complaining to Joint Commission International (JCI) and NABH. In fact, both JCI and NABH have inspected the Hospital recently and found that Fortis Hospital is one of the best hospitals that they have ever surveyed. The Hospital secured one of the highest ranking in their surveys for all time. The complainant has also made a most outlandish allegation that "Fortis Hospital and the Doctors are involved in illegal trafficking of cadaver human organs since Dec 2009". This allegation clearly demonstrates the perverted and malicious mind-set of the complainant.

In fact, he has also made numerous complaints against various officials involved in the enquiry of his complaints. Anyone not dancing to his tune becomes a target of his complaint.

At all the fora where he makes a complaint, the complainant's *modus operandi* seems to be

Complainant's Tactic

Befriend → Seek Favor → Interfere → Intimidate → Harass

In fact, at various agencies/fora he has tried to influence the investigator by writing to his/her superiors while the investigation is still on-going. Some examples of his actions are given below:

1. Karnataka Medical Council:

He wrote to MCI on multiple occasions since June 2010, while KMC enquiry was still on-going. He tried to put pressure on KMC by making MCI send letters to KMC. In fact, the President of KMC has written to MCI on 19-4-2011 that "the complainant is trying to blackmail the Council by writing letters." The KMC President further notes that "nearly five hours were given to the Advocate appearing for the Complainant to cross R1 and R2 and at the cost of other cases and both the Counsels have signed the Order sheet."

In his arguments to KMC and communications to MCI, the complainant has made irresponsible remarks against the President of KMC attracting "Contempt of Court" charge by the KMC. In fact, the KMC thought that the behaviour of the complainant and his counsel a fit case for referral to the Bar Council of Karnataka.

While the KMC enquiry was still on-going, the complainant wrote to the Lokayukta requesting to remove the President of KMC from discharging his duties. After the verdict, he again complained to Lokayukta and sent a copy of the same to KMC in a clear attempt to intimidate/harass the KMC President.

After the KMC verdict was delivered, the complainant sent numerous nasty and threatening SMS messages to the KMC President in an attempt to black-mail and defame. He also resorted to black-mail and defame KMC through newspapers and media in attempt to damage the reputation of KMC. In fact, the KMC President registered a police complaint only after which his SMS messages to the President stopped. The complainant has also sent multiple e-mails and other communications to MCI in attempt to tarnish and harass the KMC and its President.

2. Department of Health & Family Welfare:

He wrote to Health Secretary and Chief Secretary of Karnataka and to Lokayukta while

the Department enquiry was still on-going. He has made several complaints to Lokayukta about the Joint Director and the Commissioner of Health & Family Welfare Department. He intimidated the Department to such an extent that the Department reversed its own earlier orders and finally succumbed to the pressure by giving a favourable ruling to the complainant.

3. Police Department:

He wrote to and met senior police officials and politicians to influence the investigation at the Police Station. Because of this, he was able to register his complaint under IPC Section 304 which is meant for murder cases whereas a medical negligence case must be registered under IPC Section 304-A which is a bailable offence.

4. Technical team at Lokayukta:

He wrote to and met the Lokayukta several times while the technical team was still in the midst of their enquiry in an attempt to put pressure on the technical team. In fact, the complainant succeeded in getting a favourable report from the technical team although the technical team itself did not have any jurisdiction or the expertise to investigate the complaint.

Persistent attempts to harass and damage the reputation of the doctors:

Mr. Rai has made multiple representations to the KMC and MCI asking that the medical licenses of the doctors be suspended based on his allegations. This is a totally perverted request. In fact, he has already asked KMC under RTI if they would suspend the doctors in case MCI makes adverse comments about doctors. He has made numerous attempts to malign the doctors and the Hospital in print and electronic news media.

Some examples of the husband's malafide intent/actions are clearly evident below.

I. Misrepresentations & Lies

- a. See "Facts about Informed Consent and Surgery"
- b. See "Facts about Cardiac Evaluation and Angiogram"

II. Deliberate Misrepresentation/Suppression of Facts

- a. Laboratory Results & ECG: In his complaints to the Police and to Karnataka Medical Council, the complainant
 - i. Has quoted post-operative results as pre-operative in an attempt to mislead the enquiry officers/reviewers.
 - ii. Has quoted post-operative ECG as pre-operative in an attempt to mislead the enquiry officers/reviewers.
- b. He has not informed any inquiry officers that the patient was already seen by a senior Cardiologist on 11-1-2010 and an ECHO test was already done on 29-12-2009 as part of the cardiac evaluation.
- c. He has suppressed the fact he had sought pre-authorization from his Insurance Company for coronary angiogram to be done on 5-3-2010 and that his request was rejected by his Insurance Company.
- d. As detailed above, he has falsely claimed a letter given by The Nephrologist (3-10-2010) for the purpose of Insurance approval as a Consultation Request letter.
- e. He has not informed any inquiry officers that the patient was repeatedly advised by the Nephrologist to proceed with angiogram but, in fact, she refused the doctor's recommendation.
- f. While registering his complaint at the JP Nagar Police Station, he has not informed the police officer that the patient was treated at the Fortis Hospital for nearly 2 years thus leading the officer to believe that the duration of treatment was only 6 days. According to the officer in charge of JP Nagar Police station, this misrepresentation led them to register a criminal complaint under sec. 304 (which is meant for homicide and NOT in cases of professional negligence).
- g. He has falsely claimed that 119 units of blood were given during the patient's

admission for the surgery and that and this was unprecedented (as per the complainants Preliminary arguments by the Complainant to KMC dated 27-4-2011). However, the facts are that she received 33 units of blood and the rest were components to control abnormal coagulation parameters as detailed below:

- i. Red blood cells (33 units)
- ii. Fresh Frozen Plasma (52 units)
- iii. Platelets (15 units)
- iv. Pheresis platelets (5 units), and
- v. Cryoprecipitate (14 units).

The patient also received Aprotinin, Vitamin K and Desmopressin, etc. to control bleeding.

- h. The husband has claimed that a reviewer (Dr. Smiley Thakur) from US as a Transplant Specialist from the famous Johns Hopkins University, USA. The true fact is that Dr. Smiley Thakur never had any affiliation to Johns Hopkins University.
- i. The husband has provided false and fabricated data even to Dr. Smiley Thakur by providing post-operative test results as pre-operative results thus confusing Dr. Thakur.
- j. The husband falsely claimed that the Hospital does not have license to transplant Pancreas even though the licensing authority itself had clearly maintained on several occasions that Fortis Hospital did have license to transplant pancreas as it falls under Liver and other abdominal organs category. Only in Sept 2011, due to blackmailing tactics of the complainant, the Appropriate Authority (AA) reversed its own earlier order and cancelled the transplantation license issued to the Hospital. This action of the AA in fact is illegal. The Karnataka High Court has stayed the impugned order of the AA.

III. Harassment of doctors, public officials and others involved in the enquiring his complaint

Since the end of May 2010, the complainant has been harassing the doctors and the Hospital as well as others involved in this issue by filing false, fabricated and malicious complaints on the same issue concurrently to various authorities such as

- a. Culpable Homicide complaint to the Police Department (May 2010)
- b. Professional Negligence complaint to Karnataka Medical Council (June 2010)
- c. Violation of Transplant Act complaint to Dept of Health & Family welfare (July 2010)
- d. Consumer Court claiming damages of Rs. 85 Lakhs (July 2010)
- e. Zonal Coordination Committee of Karnataka (ZCCK) for Transplant (2010 & 2011)
- f. Lokayukta Office (2010 & 2011)
- g. High Court of Karnataka (Feb 2010, Oct 2010)
- h. Medical Council of India (multiple complaints beginning June 2010)
- i. JCI - Joint Commission International (Hospital accreditation agency from the United States of America)

- j. NABH - National Accreditation Board for Hospitals & Healthcare Providers, India.
- k. Human Rights Commission, Karnataka. (March 2011)
- l. Complaint against the expert witness from an Academic Institution who gave written affidavit about the case to the expert witness' employer. (June 2011)
- m. Lokayukta complaint against Mr. Nayak, IAS, Commissioner, Dept of Health & Family Welfare and Chariman of the Appropriate Authority.
- n. Lokayukta complaint against Dr. Raju, Joint Director (Medical), Dept of Health & Family Welfare and Secretary of the Appropriate Authority
- o. The complainant has harassed the President, Karnataka Medical Council, by sending numerous SMSs with baseless allegations. The President of KMC lodged a police complaint against this harassment in Nov 2011.
- p. Multiple RTI requests to the Institute of Nephro-Urology, Bangalore.
- q. Multiple RTI requests to the Authorization Committee located at the Institute of Nephro-Urology, Bangalore.
- r. He has even harassed several patients who showed expressed support to the Nephrologist.

IV. Defamation attempts

The complainant has been instigating TV, newspapers and tabloids to report his false and fabricated complaints. Only some of these attempts are given below.

- a. Press conference aired by TV 9 channel – June 2010.
- b. Reporting in Bangalore Mirror newspaper – July 2010 and Feb 2011.
- c. Press conference June 2011
- d. False Reporting of 'Lokayukta Report' in Bangalore Mirror – 6 June 2011
- e. False Reporting in Deccan Herald – 7 June 2011
- f. False Reporting in The Hindu – 8 June 2011
- g. Multiple other newspapers including Kannada Prabha, Deccan Chronicle, etc.
- h. Various activities on the Internet including a website, blogs, etc. spreading his false and fabricated story.
- i. Clandestinely brought CNN-IBN reporter to the Hospital OPD and tried to threaten the doctor in the OPD – 26 Sept 2011.
- j. In his complaint to the Karnataka Human Rights Commission in March 2011, the complainant has made an outlandish allegation by claiming that "Fortis Hospital and the doctors are involved in illegal trafficking of cadaver human organs."

V. Disregard for evidence and findings of enquiries

- a. Detailed inquiry was held by the Karnataka Medical Council from June 2010 till June 2011. During this time affidavits, Expert affidavit, documents, medical literature and written arguments along with relevant judicial precedents and Oral arguments were filed by the doctors. There was also extended cross-examination of the doctors by the Complainant's counsel. After a detailed review of all the information, the KMC has unanimously ruled that there was No Negligence or violation of Code of Medical Ethics by the doctors.

The complainant did not provide any evidence medical literature or expert opinion to support his claim. On the contrary, he has made irresponsible remarks against

the President of KMC attracting “Contempt of Court” charge by the KMC.

As noted above, the complainant began harassing the President of KMC after the verdict. The President of KMC had to lodge a police complaint to stop the harassment.

- b. The complainant has not accepted the verdict of authorities such as Health & Family Welfare Department who have examined his complaint in great detail twice and found them to be without merit. He has dragged these authorities to Lokayukta and High Court.

VI. Disregard for scientific evidence and professional opinion

- a. The complainant has been silent to detailed medical literature evidence produced by the doctors and the Hospital which clearly indicate that the entire transplant team acted in accordance with the best scientific evidence in recommending and carrying out combined kidney + pancreas transplantation.
- b. **It is pertinent to note that thus far the complainant has not produce any expert evidence or expert opinion in support of his medical negligence complaint.**
- c. On the contrary, several expert in the field of transplantation from India, including doctors from AIIMS, and abroad have reviewed the detailed Medical Case History and have unanimously opined that the patient received excellent medical care and there was no negligence in any aspect of the care provided at Fortis Hospital. All these experts opine that nothing more could have been done to prevent the patient’s unfortunate death.

The names of the experts who have reviewed case are noted below.

- i. Dr. Gokulnath, MBBS, MD, DM, DNB (Nephro)
Professor & HOD
Department of Nephrology,
St. Johns Medical College, Bangalore.
- ii. Dr. Georgi Abraham, MD, FRCP
Professor of Medicine & Nephrology
Pondicherry Institute of Medical Sciences & Madras Mission Hospital
Governing Council Member – International Society of Nephrology
- iii. Dr. Sunil Shroff, MS, FRCS (UK), D. Urol (Lond.)
Professor & HOD
Department of Urology & Transplantation
Sri Ramachandra Medical College & Research Institute, Chennai
- iv. Dr. Sanjay Agarwal, MD, FRCP(Edin), FASN, FAMS, DNB (Nephro)
FIMSA, MNAMS, FISN, FICP, Commonwealth Fellow UK
Professor & HOD
Department of Nephrology

AIIMS, New Delhi

- v. Dr. Sandeep Guleria, MS, DNB, FRCS (Eng), FRCS (Ed), FRCS (Glas), FRCP (Edin), MNAMS
Professor of Surgery (General Surgery & Transplantation)
AIIMS, New Delhi

- vi. Dr. T. K Sreepada Rao, MD, FACP
Professor of Medicine
State University of New York Downstate Medical Center
Brooklyn, NY, USA

- vii. Dr. Mahendra Valjibhai Govani, MD, FRCP(UK)
Specialist in Transplantation
St. Vincent Hospital
Indianapolis, IN, USA

All above noted experts have examined the medical case history and all concur that best treatment was provided to the patient. They do not find an even iota of professional negligence.