

What surgery can be performed by an MBBS doctor?

QUESTION— What surgeries can be legally performed by a doctor having only an MBBS degree?

ANSWER—

1--This is not defined anywhere in law. As per the legal principles of medical negligence, a doctor would be held guilty if he does an act which he is not allowed to do by the medical council. An example is the restriction imposed by Rule 7.20 of the Indian Medical Council (Professional conduct, Etiquette and Ethics) Regulations, 2002, which reads as follows:

“7.20 A Physician shall not claim to be specialist unless he has a special qualification in that branch”.

If an MBBS performs a surgery which is normally expected to be performed by a person having a postgraduate qualification in surgery, it can be reasonably argued that he is claiming to be a specialist without having a special qualification in surgery.

2—The above would be deemed to be waived in the following and similar other instances:

- a—When it has to be performed in sudden emergency to save life and no qualified surgical help is available;
- b—When the doctor concerned is in service and the employer gives written instructions that he or she should perform the surgery and the doctor feels that he can carry out the instructions;
- c—When, especially in a remote area, the condition is serious and the patient / relatives are not willing to go to a qualified surgeon and insist in writing, thereby indemnifying him, that the surgery must be performed by an MBBS doctor and when the latter has knowledge, experience, confidence and facilities;
- d—When the MBBS doctor is undergoing training in surgery and performs the surgery under supervision of a surgeon.

It is neither practical nor advisable for the MCI to put down in detail what an MBBS can or cannot do. There are several other factors besides the mere degree that determine whether a doctor should undertake a procedure. These factors have to be considered as a whole on case to case basis by the medical council or the consumer court whenever a complaint of negligence is filed with them. The same applies, in principle, to a general surgeon / onco-surgeon.

3—It is true that the medical councils are too inflexible. Sometimes it appears that they take a sadistic pleasure in torturing doctors. One of my doctor clients, an MD in medicine who has been practising non-invasive cardiology since the days when DM (cardiology) was just developing, had an order passed against him by the Delhi Medical Council that he should not practice cardiology since he is not a DM. An appeal to the MCI is pending for 2 years.

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