**Whether PATIENTS CAN CLAIM COMPENSTION FOR MEDICAL NEGLIGENCE FROM DOCTOR OR HOSPITAL AND WHAT RIGHTS UNDER LAW?**

BY

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The **right to health** is the general right to a universal minimum standard of person to which all individuals are entitled. The concept of a right to health has been enumerated in international agreements which include the standard, and the minimum basic health. There is debate on the interpretation and application of the right to health due to considerations such as how health is defined, what minimum entitlements are encompassed in a right to health, and which institutions are responsible for ensuring a right to health.

**Health is mentioned on several instances in the Rights of the Act (1989). Article 3 calls upon parties to ensure that institutions and facilities for the care of children adhere to health standards. Article 17 recognizes the child's right to access information that is pertinent to his/her physical and mental health and well-being. Article 23 makes specific reference to the rights of disabled children, in which it includes health services, rehabilitation, preventive care. Article 24 outlines child health in detail, and states, "Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States shall strive to ensure that no child is deprived of his or her right of access to such health care services." Towards implementation of this provision, the Convention enumerates the following measures:**[**[10]**](https://en.wikipedia.org/wiki/Right_to_health#cite_note-10)

* **To diminish infant and child mortality;**
* **To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;**
* **To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;**
* **To ensure appropriate pre-natal and post-natal health care for mothers;**
* **To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;**
* **To develop preventive health care, guidance for parents and family planning education and services.**

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**The World Health Organization website comments, "The CRC is the normative and legal framework for WHO’s work across the broad spectrum of child and adolescent health."**

### Convention on the Rights of Persons with Disabilities.

### Definitions in academic literature.

**While most human rights are theoretically framed as *negative rights,* meaning that they are areas upon which society cannot interfere or restrict by political action, which contends that the right to health is a particularly unique and challenging right because it is often expressed as a *positive right,* where society bears an obligation to provide certain resources and opportunities to the general population.**

## Human right to health care: An alternative way to conceptualize one facet of the right to health is a “human right to health care.” Notably, this encompasses both patient and provider rights in the delivery of healthcare services, the latter being similarly open to frequent abuse by the states.[[19]](https://en.wikipedia.org/wiki/Right_to_health#cite_note-opensocietyfoundations1-19) Patient rights in general delivery include: the [right to privacy](https://en.wikipedia.org/wiki/Right_to_privacy), information, life, and quality care, as well as freedom from discrimination.

### Medical Negligence: Guide to Taking Legal Action against your Doctor

**Negligence is a tort, which is an uncodified law in India. It means that a person owed a duty of care to another person, the first person breached that duty as a result of which the second person got injured. For instance, A driver while driving owes a duty of care to all the people on the road, if he drives negligently and injures another person on the road. He had a duty of care and due to the breach of the duty the person was injured and hence he would be held liable to pay damages.**