

A RIGHTS CHARTER for The Health Professional

ARE OUR CONSTITUTIONAL RIGHTS ENSHRINED IN THE
BILL OF RIGHTS BEING RESPECTED, PROTECTED,
PROMOTED AND FULFILLED?

Sunil Aniruth
BCHD;MCHD;FCMFOS
HPCSA CONGRESS 2019

THE CONSTITUTION OF SOUTH AFRICA, 1996

• PREAMBLE

- *We, the people of South Africa,*
- *Recognise the injustices of our past;*
- *Honour those who suffered for justice and freedom in our land;*
- *Respect those who have worked to build and develop our country; and*
- *Believe that South Africa belongs to all who live in it, united in our diversity.*
- *We therefore, through our freely elected representatives, adopt this Constitution as the supreme law of the Republic so as to –*
- *Heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights; Lay the foundations for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law;*
- ***Improve the quality of life of all citizens and free the potential of each person; and***
- *Build a united and democratic South Africa able to take its rightful place as a sovereign state in the family of nations.*
- *May God protect our people.*
- *Nkosi Sikelel'iAfrika. Morena boloka setjhaba sa beso.*
- *God seen Suid-Afrika. God bless South Africa.*
- *Mudzimu fhatutshedza Afurika. Hosi katekisa Afrika.*





THE CONSTITUTION OF SOUTH AFRICA, 1996

Section 1: Republic of South Africa

The Republic of South Africa is one, sovereign, democratic state founded on the following values:

- (a) Human dignity, the achievement of equality and the advancement of human rights and freedoms.
- (b) Non-racialism and non-sexism.

(c) Supremacy of the constitution and the rule of law.

(d) Universal adult suffrage, a national common voters roll, regular elections and a multi-party system of democratic government, to ensure accountability, responsiveness and openness.



THE CONSTITUTION OF SOUTH AFRICA, 1996

Section 2: Supremacy of Constitution

**This Constitution is the supreme law of the Republic,
law or conduct inconsistent with it is invalid, and
the obligations imposed by it must be fulfilled**



THE CONSTITUTION OF SOUTH AFRICA, 1996

Section 3: Citizenship

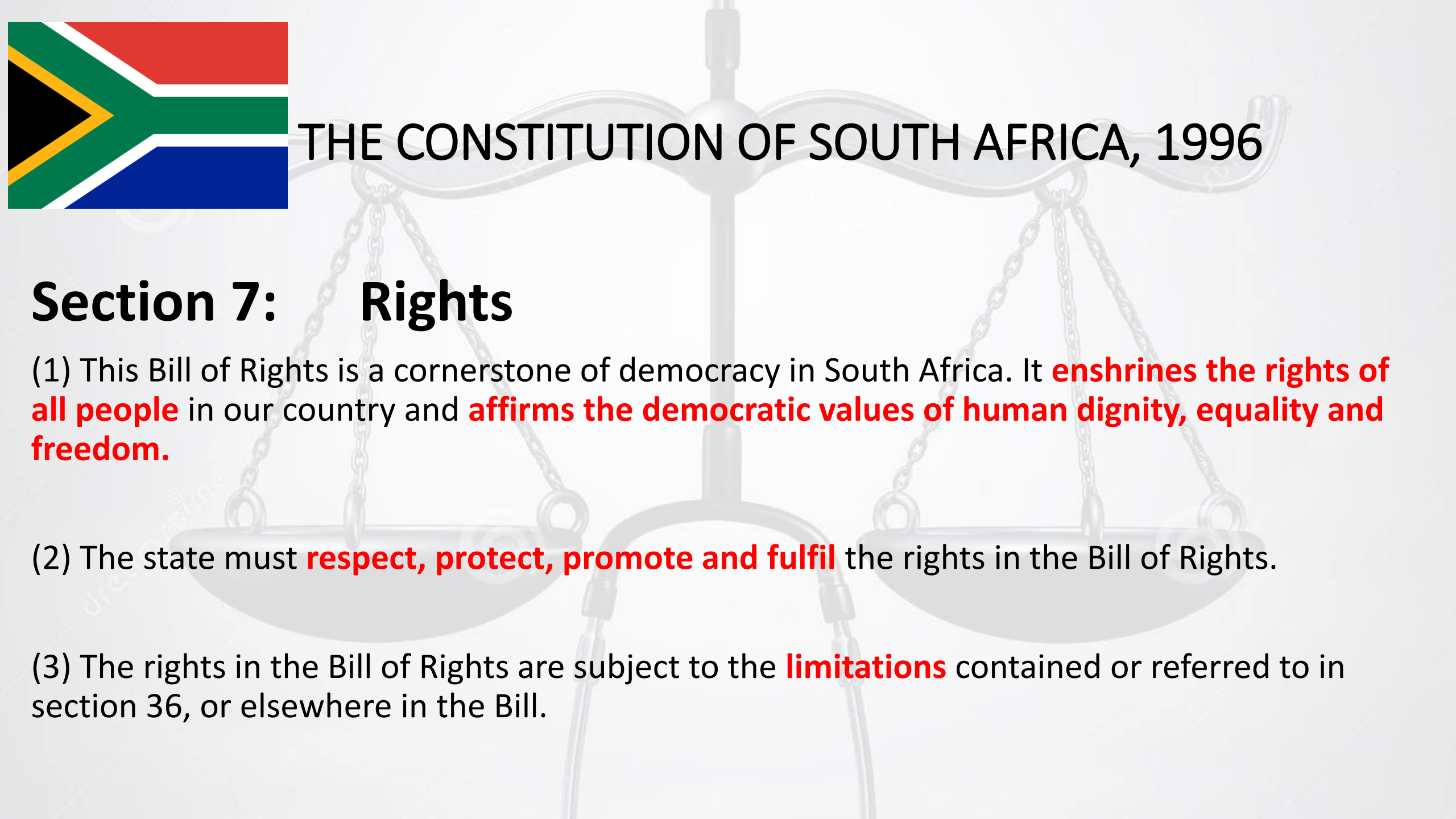
(1) There is a common South African citizenship.

(2) All citizens are –

(a) equally entitled to the rights, privileges and benefits of citizenship; and

(b) equally subject to the duties and responsibilities of citizenship.

(3) National legislation must provide for the acquisition, loss and restoration of citizenship.



THE CONSTITUTION OF SOUTH AFRICA, 1996

Section 7: Rights

(1) This Bill of Rights is a cornerstone of democracy in South Africa. It **enshrines the rights of all people** in our country and **affirms the democratic values of human dignity, equality and freedom.**

(2) The state must **respect, protect, promote and fulfil** the rights in the Bill of Rights.

(3) The rights in the Bill of Rights are subject to the **limitations** contained or referred to in section 36, or elsewhere in the Bill.



THE CONSTITUTION OF SOUTH AFRICA, 1996

Section 9: Equality

(1) Everyone is equal before the law and has the right to equal protection and benefit of the law.

(2) Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.

(3) The state may **not unfairly discriminate** directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

(4) No person may **unfairly discriminate** directly or indirectly against anyone on one or more grounds in terms of subsection (3). National legislation must be enacted to **prevent or prohibit unfair discrimination**.

(5) Discrimination on one or more of the grounds listed in subsection (3) **is unfair unless** it is established that the discrimination is fair.



THE CONSTITUTION OF SOUTH AFRICA, 1996

Section 10: Human dignity

- Everyone has inherent dignity and the right to have their dignity respected and protected.

HUMAN DIGNITY

Physician Burnout IS Abuse

[Pamela Wible, MD](#) | Oct 16, 2015 | [Personal Health & Wellness](#), [Work Life Balance](#)



<http://www.explosion.com/103657/38-uncomfortable-ways-exhausted-doctors-can-sleep-in/>



THE CONSTITUTION OF SOUTH AFRICA, 1996

Section 11: Life

- Everyone has the right to life.

THE RIGHT TO LIFE



<http://www.idealmedicalcare.org/why-physicians-commit-suicide/>



THE CONSTITUTION OF SOUTH AFRICA, 1996

SECTION 12. Freedom and security of the person

- (1) Everyone has the right to freedom and security of the person, which includes the right –
 - (a) not to be deprived of freedom arbitrarily or without just cause;
 - (b) not to be detained without trial;
 - (c) to be free from all forms of violence from either public or private sources;** not to be tortured in any way; and
 - (e) not to be treated or punished in a cruel, inhuman or degrading way.
- (2) Everyone has the **right to bodily and psychological integrity**, which includes the right –
 - (a) to make decisions concerning reproduction;
 - (b) to security in and control over their body; and
 - (c) not to be subjected to medical or scientific experiments without their informed consent.

Violence against health care workers



"If I could find a person working here as a cleaner or a general worker or whatever that has got the audacity to go into theatre and stop people from performing operations, that person is a murderer,"

Minister Arron Motsoaledi

**SO WHAT HAS HAPPENED SINCE
TO PROTECT
HEALTHWORKERS?????**

<https://www.timeslive.co.za/news/south-africa/2018-06-01-charlotte-maxeke-docs-condemn-violence-but-say-frustration-is-leading-to-unacceptable-actions/>



THE CONSTITUTION OF SOUTH AFRICA, 1996

SECTION: 22. Freedom of trade, occupation and profession

- Every citizen has the right to choose their trade, occupation or profession freely.

The practice of a trade, occupation or profession may be regulated by law.



THE CONSTITUTION OF SOUTH AFRICA, 1996

Section 23. Labour relations

(1) Everyone has the right to fair labour practices

BASIC CONDITIONS OF EMPLOYMENT ACT

The highest rate of burnout and suicide in the medical profession is in the field of anaesthesia

‘Silent killer’ stalks stressed docs

Operating theatre like aircraft cockpit with no safety measures

by SHANTINI NAIDOO

● Anaesthesiologist Caroline Lee had her ideal job and a beautiful family – but was battling a silent killer.

The Johannesburg doctor was so burnt out from work that she became numb. Lee said she lost the ability to feel emotion, but couldn't explain why.

“I said to my therapist, I know I love my children so much but I don't feel it. In fact, I can't feel anything. I was not coping, but I didn't know it. She diagnosed burnout but had no idea what it was or that I had been working despite it,” she said.

Following the suicide of top cardiologist Dr Bongani Mayosi, doctors have raised the issue of depression in their profession, as doctors tend to ignore their own health.

This is also the case of many clinicians in anaesthesia, said Lee, adding who work in this field of medicine had the highest suicide rate among doctors. Natalie Zimmetman, CEO of the South African Society of Anaesthesiologists, said there were at least three suicides a year.

“There is unquestionably a problem of wellness and clinician suicide in the industry. In 2013-2014, nine South African anaesthesiologists committed suicide in just 18 months, including the vice-president of our association,” said Zimmetman.

The profession created a mental health awareness campaign, offering drug and alcohol abuse therapy and support systems.

Academic studies on the issue showed the suicide rate “constitutes a massive human disaster and is reflective of the great seriousness of the problem,” said Zimmetman.

Analogies were drawn between the operating theatre and an aircraft cockpit, without the safety measures being adhered to or the physical and psychological fitness of clinicians to perform their work being considered, she said.

One of the reasons for suicide and depression was a high incidence of drug abuse, linked to the high-pressure role in medicine. Another was “horrendous working conditions in public and private care”.

Zimmetman added, “Also, they will never fall at suicide because of their access to drugs, and their training means they know very well how to harm themselves.”

There are just more than 1,300 anaesthesiologists in the country, about 2.5 for every 100,000 people. This is against the minimum recommended by the World Federation of Societies of Anaesthesiologists is five.

“Even this number, though, is badly maldistributed, with almost none in small towns and rural areas and only about 0.9 per 100,000 in the public sector,” she said.

While there are worldwide shortages of clinicians in anaesthesia, a comparable rate in the UK is 14 per 100,000 people and in the US 20 per 100,000.

A 2015 report found burnout amongst local anaesthetists was unreasonably high.

“When they can't save lives, or if medicine isn't available, they feel ineffectual,” said Zimmetman.

“Overwork leads to burnout and stress, which leads to depression, which leads to suicide. It is a continuum which is worsening because of the workforce diminishing.”

Lee has since become the convener of a support group for anaesthesiologists.

She said mental illness and depressive symptoms in the medical fraternity were at about 60%, according to a US study.

“That is four times the rate of equivalent professionals with similar education, age and income groups,” she said.

“In anaesthesia, although we don't have statistics locally, we know it is worse. Patients are getting sicker, there are new and different drugs all the time. Never mind being on top of your game, every minute of the day, you may have family or personal issues yet you are not allowed to make a slight mistake, whether your shift was 48 hours, 36 hours... Who can stay awake, let alone function at 100%, in those conditions?” she said.

Lee said the stress could be greater than for other clinicians because of the risk factors. “You have to make sure the patient goes to sleep, the vitals are stable while they are asleep and that they wake up in decent function.”

Doctors also find it difficult to admit they are not managing well, or need help coping.

“This is common to all physicians. They don't look after themselves, they look after you,” she said.

Zimmetman said the culture in medicine was so to be strong, “but the narrative must change. That mental illness is not a weakness.”

She added, “What in their training makes anyone think doctors can diagnose their own incapacity? They have to have the answers and when they don't, it is a problem. It takes strength to ask for help.”

By ARON HYMAN
● University of Cape Town

carolienkruger

Anaesthetist Caroline Lee couldn't understand why she had lost the ability to feel emotion. She was diagnosed with burnout, not uncommon in her field. Picture: Alan Shuy

“I know I love my children so much but I don't feel it. In fact, I can't feel anything”

Dr Caroline Lee
Anaesthesiologist

DAILY EXPRESS
THE WORLD'S GREATEST NEWSPAPER

EXCLUSIVE
SIÂN LLOYD
I'm so sad
my mum
no longer
knows me

HOT!
IT'S GOING
TO GET EVEN
HOTTER

30
31

EXHAUSTED DOCTORS ACT 'LIKE DRUNKS'

Surgeon claims patients' lives at risk as overworked staff pushed to brink

Will hero Harry have to put his golden feet up?

carolienkruger Depression is nothing to be ashamed of. If you're struggling, ask for help. And if for help and still struggling then ask more people about it. It's more beautiful with you in it. @carolienkruger

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Will hero Harry have to put his golden feet up?



Doctors Too Exhausted to See Patients

80% OF DOCTORS REPORT BEING OVEREXTENDED

54% OF DOCTORS FEEL BURNED OUT

medici



🕒 16-hour shifts for 12 days straight

💤 275 fell asleep driving home

⚠️ 1162 made mistakes affecting patients

<https://www.newshub.co.nz>



THE CONSTITUTION OF SOUTH AFRICA, 1996

Section 27: Health care, food, water and social security

- (1) Everyone has the right to have access to –
 - (a) health care services, including reproductive health care;
 - (b) sufficient food and water; and
 - (c) social security, including, if they are unable to support themselves and their dependants, appropriate social assistance.
- (2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights.
- (3) No one may be refused emergency medical treatment**




THE CONSTITUTION OF SOUTH AFRICA, 1996

Section 36: Limitation of rights

(1) The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the **limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom**, taking into account all relevant factors, including –

- (a) the nature of the right;
- (b) the importance of the purpose of the limitation;
- (c) the nature and extent of the limitation;
- (d) the relation between the limitation and its purpose; and
- (e) less restrictive means to achieve the purpose.

(2) Except as provided in subsection (1) or in any other provision of the Constitution, no law may limit any right entrenched in the Bill of Rights.



**ARE OUR CONSTITUTIONAL RIGHTS
ENSHRINED IN THE BILL OF RIGHTS
BEING EQUALLY RESPECTED,
PROTECTED, PROMOTED AND
FULFILLED?**

LEGISLATION: THE NATIONAL HEALTH ACT

SECTION 20: Rights of health care personnel

- (1) Health care personnel may not be unfairly discriminated against on account of their health status.
- (2) Despite subsection (1) but subject to any applicable law, the head of the health establishment concerned may in accordance with any guidelines determined by the Minister impose conditions on the service that may be rendered by a health care provider or health worker on the basis of his or her health status.
- (3) Subject to any applicable law, every health establishment must implement measures to minimise-
 - (a) injury or damage to the person and property of health care personnel working at that establishment; and
 - (b) disease transmission.
- (4) A health care provider may refuse to treat a user who is **physically or verbally abusive** or who **sexually harasses** him or her.

The Health Professionals Rights Charter?



Google Pictures

The organizations and doctors rights



91 years



126 years



133 years



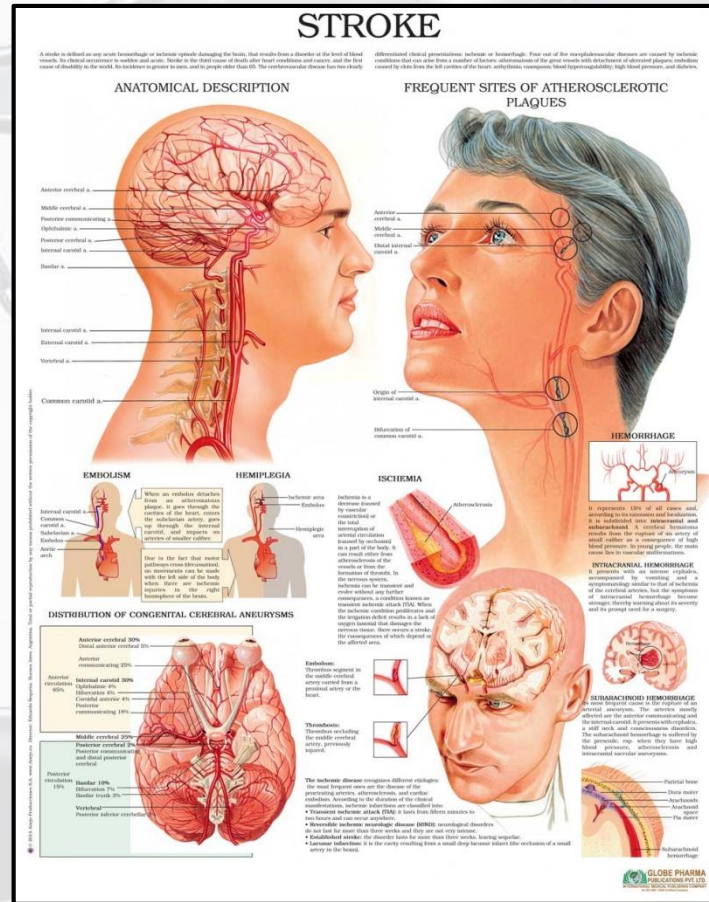
THE PRESENT SOCIETY,
JUDGES HEALTH
PROFESIONALS,
AT A HIGHER STANDARD,
THAN EVEN THE GOD
THEY BELIEVE IN

Health Professionals and outcomes

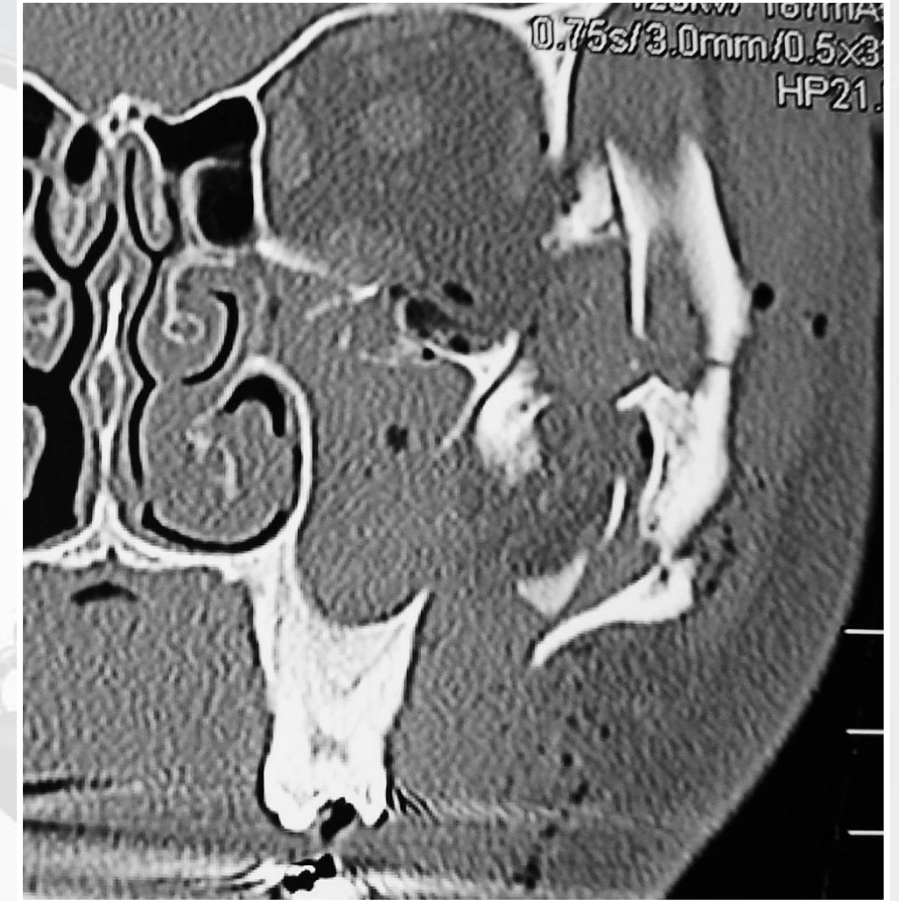
Patients come to us in already compromised conditions.....

But

we may be held responsible for all adverse outcomes



<http://www.globepharmapublications.com>



**THERE IS A DEMAND FOR ACCOUNTABILITY FOR FAILED HEALTH OUTCOMES
BUT NO DEMAND FOR ACCOUNTABILITY FOR FAILED PRAYERS**



Google pictures

**WE ARE THE ONLY
PROFESSIONALS
BEGRUDGED A LIVING
AND WE ARE
THE MOST REGULATED**

HEALTH PROFESSIONALS VS OTHERS



PERSONAL MORAL ETHICAL AND RELIGIOUS BELIEFS



Google pictures

PRO-CHOICE
Keep your laws off my body.

- ABORTION
- EUTHANASIA
- CONTRACEPTION
- TRANSFUSIONS
- ORGAN HARVESTING
- ORGAN TRANSPLANT

REFLECTION

- WHY DON'T WE HAVE A HEALTH PROFESSIONAL'S RIGHTS CHARTER?

- WHERE CAN WE START?

- LET US OPEN THIS DEBATE

rightsforthehp@gmail.com