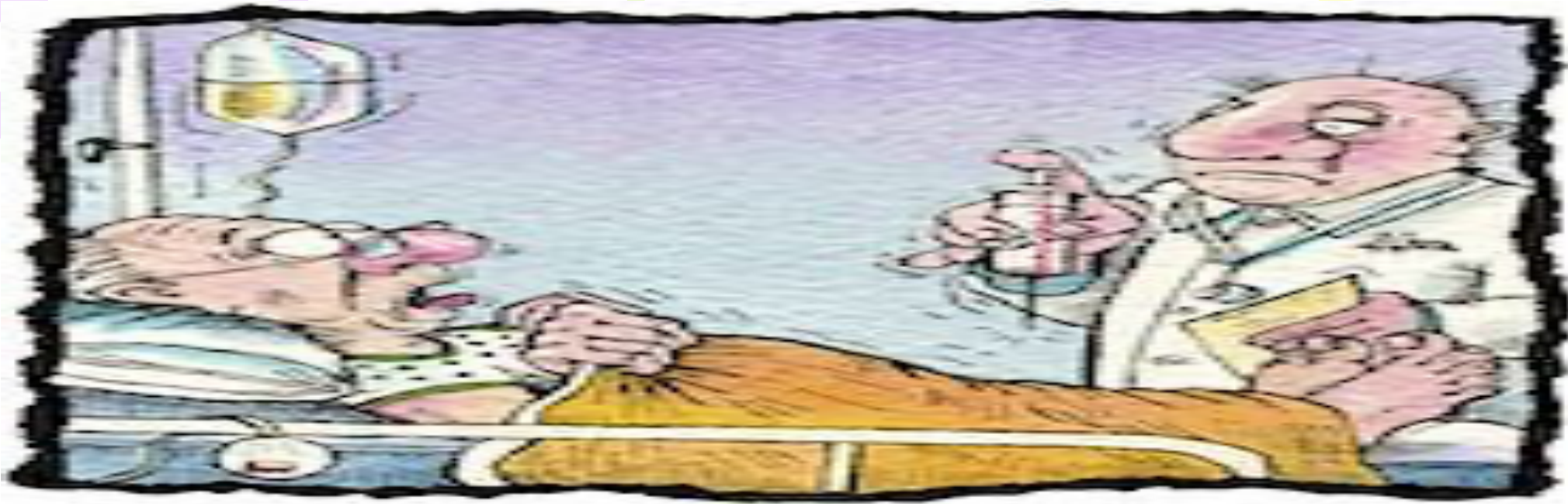


# Medical Responsibility (Malpractice)

*Nadra Kandeel*

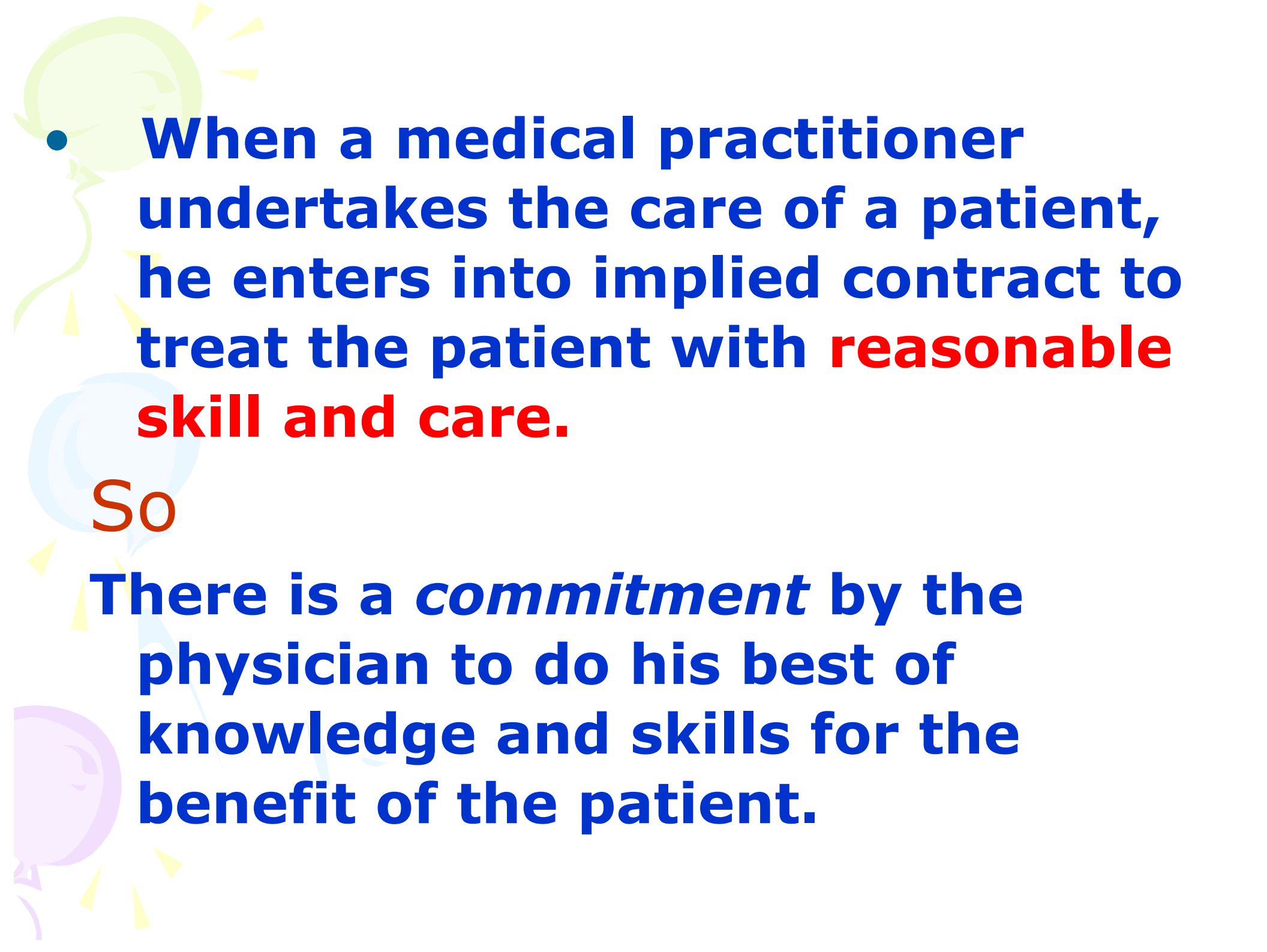




# Learning Objectives



- ***Define scientific terms***
- ***Know how to basically prove a malpractice claim***
- ***Classify different types of malpractice***
- ***Be aware of basis of its evaluation***
- ***Be familiar with examples of different types of malpractice***
- ***List legal advises for prophylaxis against malpractice***

- 
- A decorative background featuring a light green balloon at the top left, a light blue balloon in the middle left, and a light purple balloon at the bottom left. Yellow streamers and small yellow triangles are scattered around the balloons.
- **When a medical practitioner undertakes the care of a patient, he enters into implied contract to treat the patient with **reasonable skill and care.****

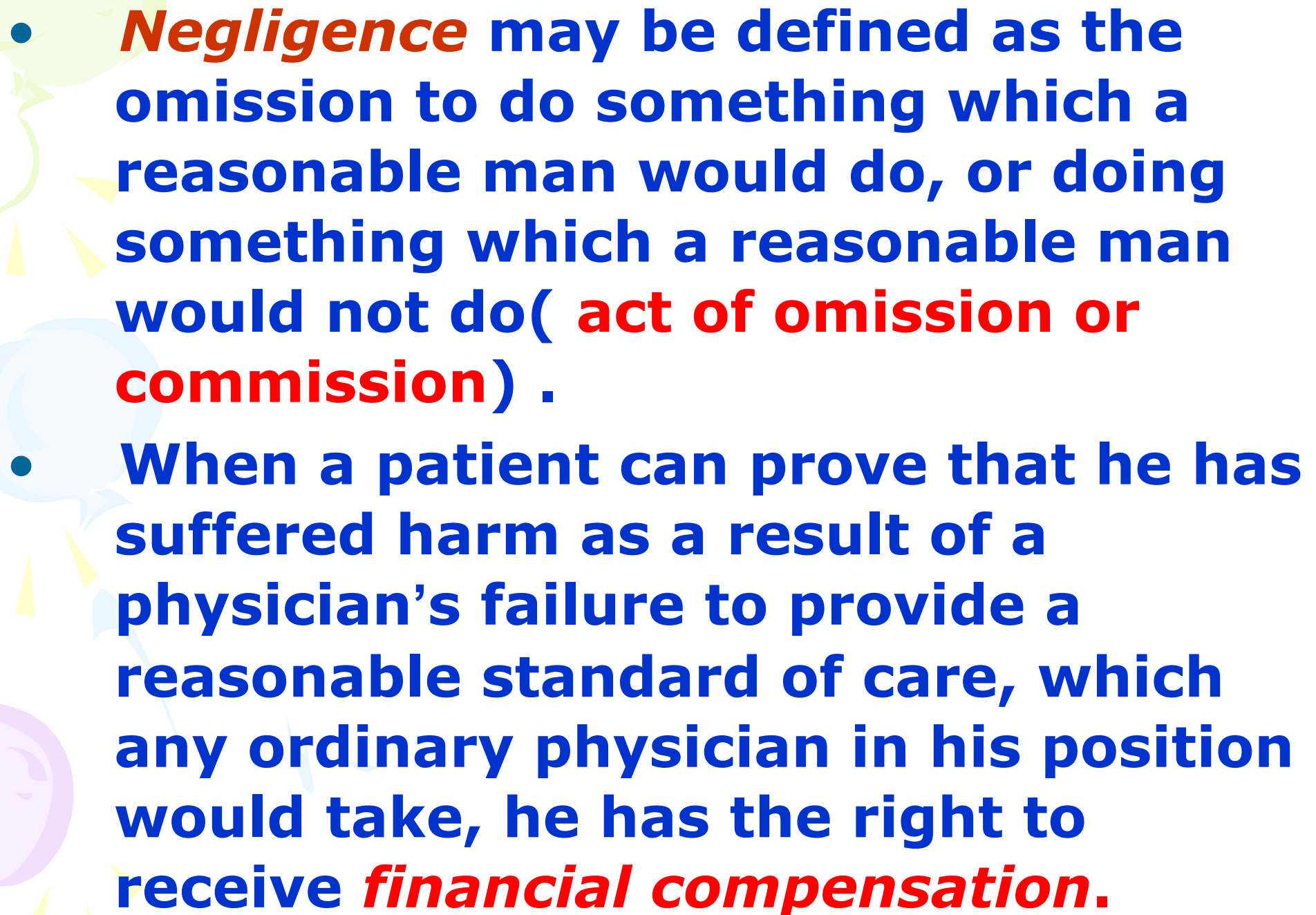
So

**There is a *commitment* by the physician to do his best of knowledge and skills for the benefit of the patient.**

# Malpractice



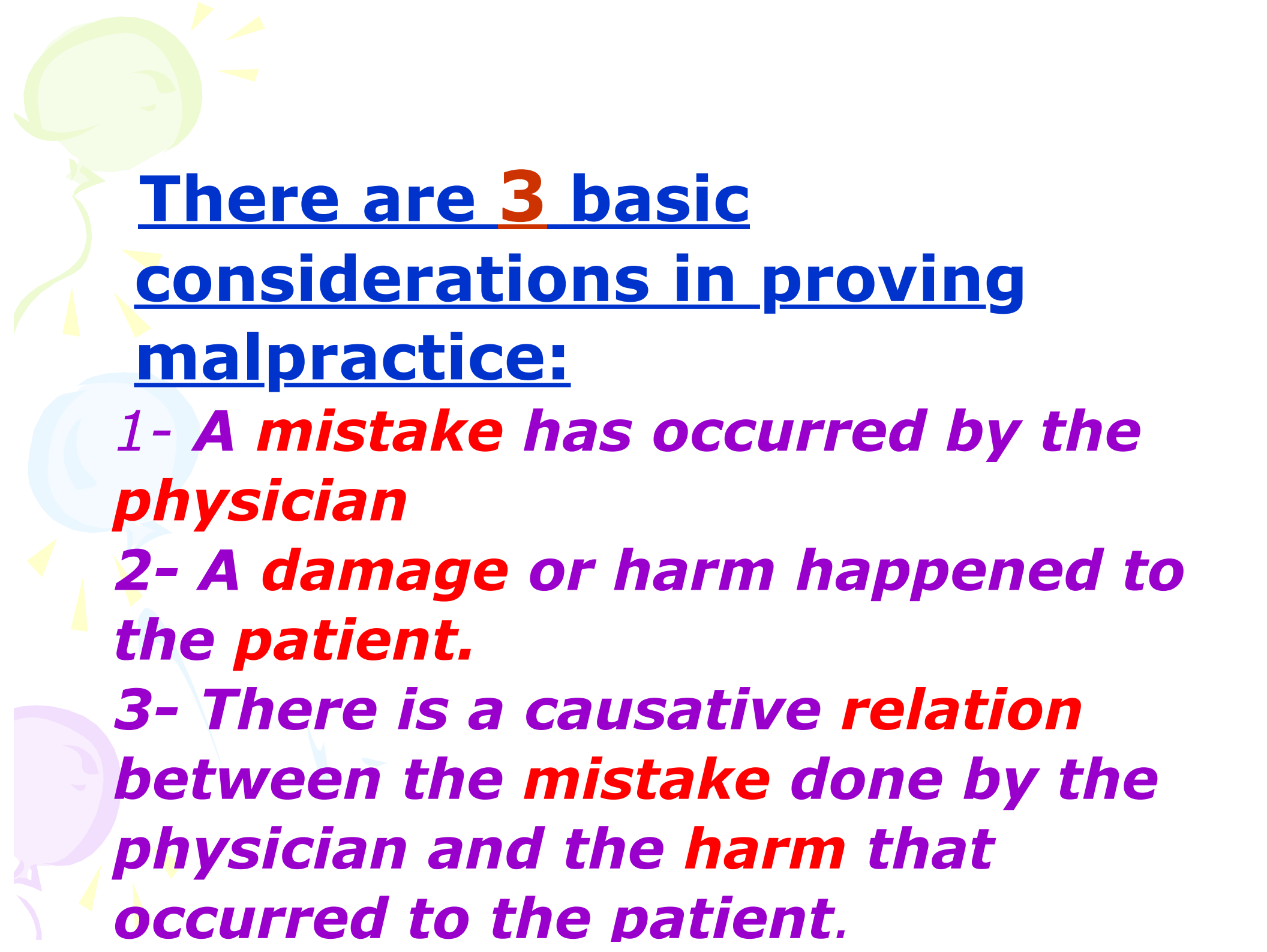
- **Malpractice** (malpraxis) is defined as the **absence** of a reasonable degree of **skill and attention** on the part of the attending practitioner whereby the **health** of the patient is **endangered**.
- **Negligence unproductive of damage will not give the right to an action, but negligence causing damage will do.** If there is any doubt of **negligence**, the patient can **sue** the physician for malpractice.

- 
- ***Negligence*** may be defined as the omission to do something which a reasonable man would do, or doing something which a reasonable man would not do( **act of omission or commission** ) .
  - When a patient can prove that he has suffered harm as a result of a physician's failure to provide a reasonable standard of care, which any ordinary physician in his position would take, he has the right to receive ***financial compensation***.



- **Most legal actions for negligence are within the *civil law*, few undergo *criminal prosecution* of the physician for example:**
  - **Illegal abortion.**
  - **Death of a patient resulting from gross ignorance or negligence of the physician.**





There are **3** basic considerations in proving malpractice:

- 1- A **mistake** has occurred by the **physician***
- 2- A **damage** or harm happened to the **patient**.*
- 3- There is a causative **relation** between the **mistake** done by the **physician** and the **harm** that occurred to the **patient**.*



# Types of malpractice

- **Technical faults:**

When the physician does not follow the scientific basic rules in his profession for diagnosis and treatment. These may be major or minor faults.

- **Objective mistakes:**

When a surgeon forgets any object inside a surgical wound e.g. Towel, instrument...etc. all objective mistakes are major malpractice.

# **The basis of evaluating the malpractice**

**1- The professional level of the physician.**

*A general practitioner cannot be considered negligent just because a specialist might have served a patient better.*

**2- The severity of the case.**

**3- The time and place of the act.**

*The act is compared with the attitude taken by an ordinary physician with the same standard, qualification, experience, and circumstances.*



# The basis of evaluating the malpractice

**4- A medical injury may have been caused by any one or more of the medical personnel who have treated the patient.**

**5- The thing speaks for itself” e.g.**

- **Foreign bodies and slipping instruments in surgical procedures**

- **Burns from heating modalities**

- **Injury to a portion of the patient’s body outside the field of treatment**



# TYPES OF MALPRACTICE

**In Diagnosis**

**In Treatment**

**Anesthetic  
Malpractice**

Surgical Malpractice





# Malpractice in Diagnosis

# Malpractice in diagnosis:

To reach a proper diagnosis the physician should:

- Take a careful **history**
- **Examine** his patient thoroughly
- Ask for **investigations** (whether laboratory or radiological)
- **Consult** colleagues or professors if he is not sure of a diagnosis

Otherwise he may fall under *malpractice* if he misses a diagnosis due to ignorance by the basic scientific knowledge.

**Liability** may be proved when the physician fails to diagnose a condition which would have been diagnosed by a competent practitioner.



# **Malpractice in diagnosis**

- **Sometimes missed diagnosis or mistake in reaching exact diagnosis is due to**
  - **Inexperience**
  - **the disease being in its early stage.**





# **Malpractice in Treatment**

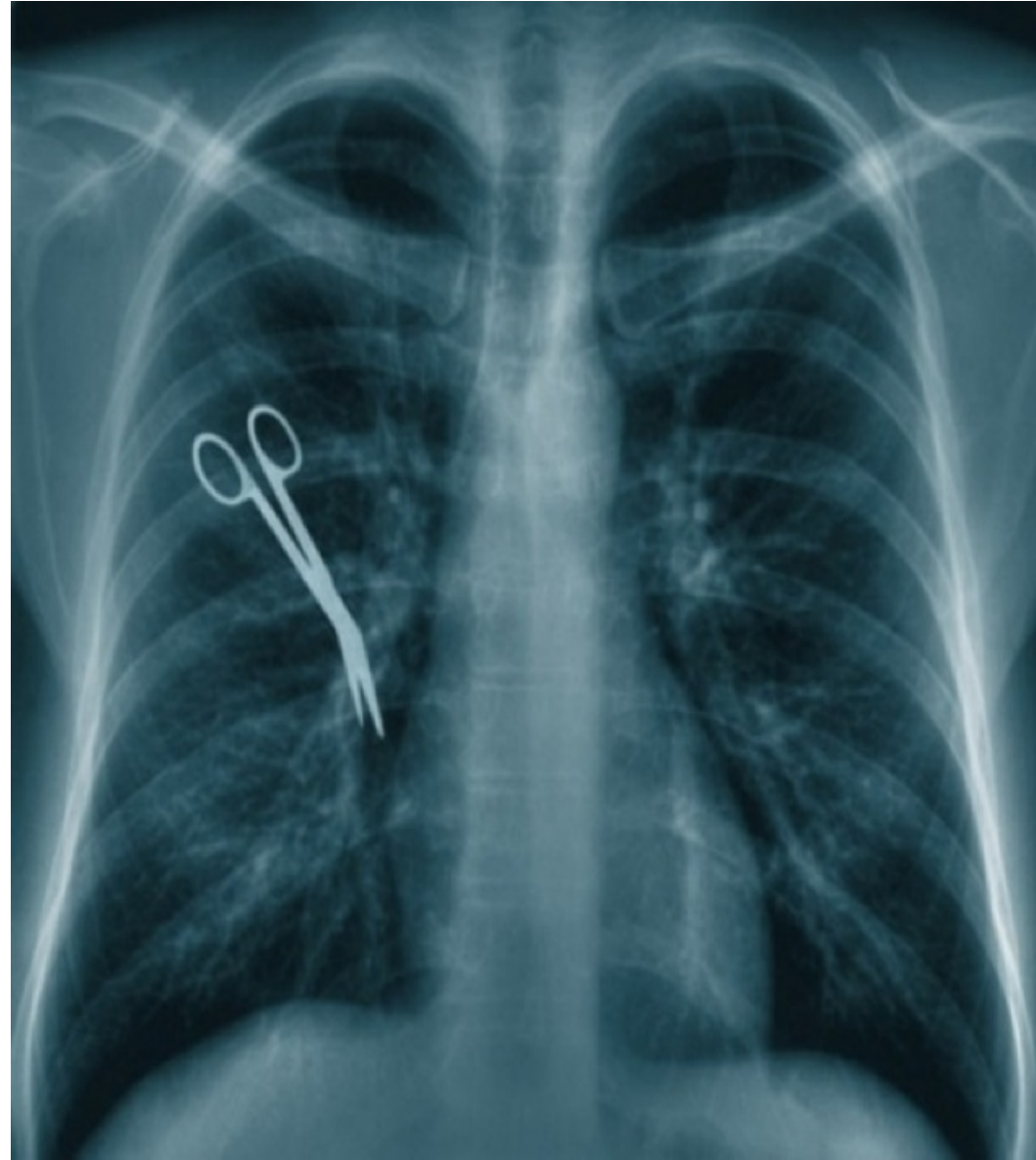


## Mistakes of treatment:

The physician is free in choosing the method of treating his patient as long as he is using scientific basis agreed upon by physicians. The physician is sued for malpractice of treatment in the following conditions:

- *If he prescribed a wrong drug*
- *If he was not accurate in the dose of the drug in relation to the patient's age, sensitivity or body build.*

# Surgical Malpractice





# Surgical mistakes:

*Surgery needs skill and concentration.*

*Responsibility of the surgeon lies in the following stages:*

**Writing the first admission sheet and diagnosis of the case**

**Stage of preparing for operation (examine, ask for specific investigations, be sure of fitness of patient for operation)**

**An informed consent (entailing the diagnosis, surgical procedure, anesthesia and expected complications) is signed by the patient except in emergencies**



# Surgical mistakes:

1. A surgical report should be filled including every detail, and any problem at the time of the operation should be mentioned
5. The surgeon should do an operation only in his specialty
6. He is responsible for sterilization of the surgical

**7- *In operations*** the surgeon is responsible for the actions of his team while acting under his immediate **supervision** (nurses and assistants).

**8- Responsibility of the hospital authorities lies in the *selection of nurses***

**9- The responsibility for *anesthesia* belongs to the anesthetist not the surgeon.**

***Examples of surgical malpractice:***

- operating on the wrong patient
- operating on the wrong side: limb, organ...etc.
- leaving swabs or instruments in the surgical wound




## **Examples of orthopedic malpractice:**

- **Missed fractures**
- **Tissue damage from over tight plaster**



## **Examples of obstetrician malpractice:**

- **Criminal abortion and complicated therapeutic abortion**
  - **Birth injuries**
  - **Brain damage of newborn due to hypoxia from prolonged labor**
  - **Hysterectomy without being sure of the diagnosis( pregnancy in an old women diagnosed as a mass in the uterus and doing hysterectomy)**
- 



# Anesthetic Malpractice



# Anesthetic malpractice:

- The anesthesiologist is responsible for: *preoperative preparation of the patient, anesthesia during the operation, and follow up in recovery.*

## Examples of malpractice include:

- Brain damage from allowing hypoxia to occur
- Neurological damage from spinal or epidural injections
- Incorrect or excessive anesthetic agent
- Allowing awareness of pain during anesthesia



# Legal advises for malpraxis prophylaxis

***Never guarantee a cure***

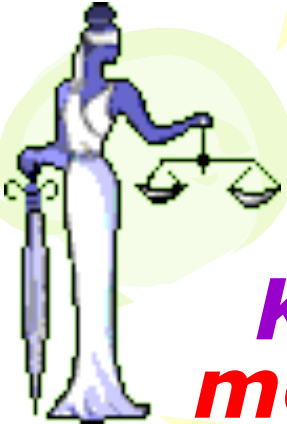
***Get the patient's informed consent for all procedures (at least all surgical procedures)***

***When in doubt ask for consultations (consultation protects the patient and protects yourself).***

***Do not criticize another practitioner***

***Do not fail to provide maximum care in the selection of assistants***

***Do not base an important diagnosis on a clinical impression, use available diagnostic aids***



# Legal advises for malpraxis prophylaxis

*Keep up with the **advances of medicine**. However do not be too advanced and do not experiment on patients*

*Do not, in absence of emergency, perform any surgery without an **informed consent***

*Good housekeeping: keep good **medical records**, full and accurate. Keep results of all tests performed on the patient.*

*Records are “witnesses whose memories never die”. In the defense of malpractice suits, bad records hurt as much as good records help.*

# ***Problems in MALPRACTICE***

- **An anesthesiologist ran out of oxygen before the operation was completed, causing the patient to suffer a fatal cardiac arrest.**

- ***Is this a case of malpractice or negligence?***

- ***What are the responsibilities of the anesthetist?***

- ***Do you think this case should be presented in a civil or criminal court?***

- ***What are the possible forms of punishment that the doctor would undergo?***

***Is this a case of malpractice or negligence?***

*.....both negligence and a major form of anesthetic malpractice.....*

***What are the responsibilities of the anesthetist?***

- The anesthetist is responsible for:***
- Preoperative preparation of the patient,***
- Anesthesia during the operation,***
- Follow up in recovery***

***Do you think this case should be presented in a civil or criminal court? Why?***

*.....criminal court, this is considered an objective mistake which proves gross ignorance and negligence on part of the anesthetist as he should have checked his instruments before operation.....*

***What are the possible forms of punishment that the doctor would undergo?***

*.....criminal prosecution usually means a jail sentence (which could be carried out or not) and*

**A patient who underwent surgery for the repair of a pilonidal cyst under epidural anesthesia ended up with permanent uncontrolled movement of the lower extremities.**

- ***Is this a case of malpractice?***
- ***If so, what is the type of malpractice in this case?***
- ***Should the patient receive financial compensation?***
- ***Knowing that this patient was a well known athlete; would this make any difference in the value of compensation?***



***Is this a case of malpractice?***

.....  
**yes**.....

***If so, what is the type of malpractice in this case?***

.....**anesthetic malpractice**

***Should the patient receive financial compensation?***

.....  
**yes**.....

***Knowing that this patient was a well known athlete; would this make any difference in the value of compensation?***

.....**more compensation**

# MORGUE



**“Anyway, to make a long story short, the medical examiner who performed your autopsy was fired.”**

*Thank You*



