

nized authorities in medical science at the time when the services were performed, as attested by their adoption in ordinary practice.

Besides the possession and exhibition of ordinary skill, the medical man is also bound to exercise ordinary care in the treatment of his patient. The absence of ordinary care, when it produces injury to the patient, renders the medical attendant liable for malpractice. The possession of skill affords no absolute security that it will be carefully exercised, and it is therefore necessary to enforce upon the medical practitioner, a reasonable degree of care in the management of the case under his treatment. Ordinary care is required from every person who undertakes to perform a service for another for a compensation, and means "the care which is usually exercised under similar circumstances by those who are engaged in the same employment." The amount of care necessary in the management of an individual case must depend on the nature of the disease and the condition of the patient. The medical man must not be held to account for the misconduct or obstinacy of the patient; for it is a principle in law that "no person is liable for injury to another when his own misconduct has been the cause of it." It is the bounden duty of the patient to co-operate with his medical attendant, attend to his directions, carry out his instructions, and submit to his operations; and if he refuses to do so he cannot hold the medical man responsible for any neglect or stubbornness on his own part.

It is a subject of common complaint among medical men that surgeons are more frequently the victims of suits for malpractice than physicians, and there is a good deal of truth in this charge, which it is not difficult to understand, since the mode and results of treatment are more obvious in surgery than medicine. The difficulty of tracing the connection between his treatment, and the results of it protect the incompetent physician from a civil action for malpractice, while the surgeon is deemed responsible for the results of natural causes which he is unable to modify or control, or for the misconduct of others.

In consequence of the risks to which the surgeon is liable in the ordinary practice of his profession, it has been suggested that in all delicate or difficult surgical cases, he should take the precaution to obtain from the patient, before undertaking the management of the case, a bond covenanting not to sue for damages, in the event of the case not terminating favorably. Some writers on jurisprudence object to this, however, on the ground that such an instrument is worthless because it is against the spirit of equity to allow any one to exempt himself by