

Medico Legal Aspects In Dentistry – A Review

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Cite this paper as: Sankar Narayanan R, Priyadharshini S, Rajesh E, Aravindha Babu N, Bhuminathan S (2024) Medico Legal Aspects In Dentistry – A Review. *Frontiers in Health Informatics*, 13 (3), 10428-10431

Aim: *The Purpose of this article is to create an awareness among dentists regarding medico-legal aspects which is little known among dentists in India. Dentists are increasingly facing legal challenges in recent times. In this current era doctors have to adapt to the situation and should give top priority in consumer satisfaction. Dentists failing to do so should be ready to face the legal consequences, so it becomes mandatory for all the practicing dentists to have a sound knowledge on medico legal aspects & its application in dentistry.*

Keywords: *Medico-legal dentistry, Negligence, CPA.*

INTRODUCTION

Globalisation has changed the entire public perception & increased awareness among general public in all the fields. The present times also witness public awareness of dental negligence in India. All medical professionals, dentists, para medical staffs and other health-care providers are responsible for the health and safety of their patients and expected to provide quality care.¹ Previously, doctors were treated as gods and the doctor–patient relationship was like a family relationship. This relationship was

hampered ever since medical profession has been covered under Consumer Protection Act (CPA) after its enactment in 1986. In CPA, patients were considered as consumers and doctors as health service providers.

Alderson defines “Negligence is the omission to do something which a reasonable man, guided upon those considerations which ordinarily regulate the conduct of human affairs, would do, or doing something which a prudent and reasonable man would not do”^[1].

ETHICS IN DENTISTRY

Dental Ethics means moral duties and obligations of the dentist towards his patients, professional colleague and to the society

The practice of dentistry is based on five ethical principles which include:

- 1 To do no harm
- 2 To do Good
- 3 Respect for persons
- 4 Veracity
- 5 Beneficence
- 6 Justice^[2]

It is built upon important landmarks such as the Declaration Of Helsinki 1964, Belmont Report 1979, ICH Good Clinical Practice (GCP) 1997 and Declaration of Geneva

Consent

The term consent means voluntary agreement, compliance, or permission. Currently Medical and Dental professions are facing an ever increasing rate of malpractice suits. Therefore one of the most important legal safeguards and moral obligations of dentists to their patients are obtaining consent before starting the treatment.

Types of Consent

Implied consent

Rowe described implied consent as: ‘by being in the chair at the dental surgery with mouth open a patient implies that they are there for dental treatment’ and continued ‘in the past a dentist would undertake treatment as he or she saw fit, which the patient would accept without argument’^[3].

Proxy consent (Substitute Consent)

This type of consent is utilized in the event the patient is unable to give consent because he/she is a minor or mentally unsound/unconscious. In such situations a parent or close relative can provide proxy consent^[4].

Loco parentis

In an emergency situation in case of children, when parents/ guardians are not available, consent can be obtained from the person bringing the child for dental examination or treatment^[5]. (For example: school teacher, warden, etc.).

Blanket consent

It is a consent taken on a printed form that covers (like a blanket) almost everything a dentist or a hospital might do to a patient, without mentioning anything specifically. Blanket consent is legally inadequate for any procedure that has risks or alternatives^[6].

Oral consent

Oral consent in front of witnesses and implied consent, which is determined by the behavior of the patient, is acceptable consent in certain situations. This is particularly true of simple procedures in dentistry^[1].

Liability of doctors

How are Doctors Liable for Negligence?

Doctors are liable under four heads.

1. Tortious liability
2. Contractual liability
3. Criminal liability
4. Statutory liability Tortious Liability (Civil Liability)

Tortious liability may be of two types: 1. Primary liability 2. Vicarious liability Primary Tortious Liability When a doctor or dentist is directly liable for an act of negligence in his clinic or hospital it is called primary 'liability'. Most dental negligence would come under this category.

Vicarious Liability Dentists employed by a hospital: institutions are often not primarily responsible for negligence. They may be said to have vicarious liability through the hospital. The hospital has the liability for the negligence of an employee.

Contractual Liability Continue to treat and not terminate until patient is cured or the patient discontinues treatment. In most instances if there is no written contract their liability will essentially lie within the realm of tortious liability.

Criminal Liability Recent trends indicate that hospitals also may be held vicariously liable just as in civil liabilities. Criminal liability is penal and involves punishment in the form of imprisonment or fine, or both. Criminal negligence is considered to be a crime against society and not just the aggrieved party.

Statutory Liability A doctor or nursing home is liable if there is any infringement of statutes. They then become accountable to a statutory body. The liability depends on the kind of refinement and the provisions in the statute to deal with^[7].

In order to ensure negligence solutions for patients and doctors a number of dental law solicitors have emerged in recent years and are providing free consultancy services towards dental negligence claims, the chief among them include Dental Law Partnerships, Slater Gordon Dental Negligence Solicitors. Law is universal and is applicable to all, however morality or ethics may differ from person to person, hence a minimum threshold of ethics imposed by law should be a pre requisite. Law should not be a source of fear or an obstruction in the delivery of professional services.

CONCLUSION:

The importance of understanding medico legal aspect in dentistry does not rest only with its use in dental practice, also plays a role in dental public health programs. Gaining Knowledge of medico legal aspect provides protection against commercial, legal and medico legal litigation. There is a need to increase awareness for medico-legal aspects in dental professionals. In clinical practice, taking necessary precautions are better than managing bigger problems at alater date. This review emphasize the importance of medico legal aspects in dentistry.

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