

# The Legal Express 2.0

Aug-2021



## Know Your Laws




# The Leagal Express -2.0

Aug-2021

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# The Legal Express-2.0

( Aug-2021 )



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Organising chairperson,  
WZ Ethics & medicolegal committee  
Conference 26-28 August 2021



**Dr Alka Kuthe**

National Coordinator, Ethics & Medicolegal  
Committee Organising chairperson,  
WZ Ethics & medicolegal committee  
Conference 26-28 August 2021

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Ethics and medicolegal committee  
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Member EMLC  
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Dr. S. Shantha Kumari

## MESSAGE FROM PRESIDENT FOGSI

### Greetings from FOGSI!

Being a practicing gynaecologist in an era where litigations are on the rise, it has become a very stressful job. Besides the usual consumer protection act and other laws in force, we obstetricians come under purview of acts like medical termination of pregnancy act, PCPNDT act, Birth and Death registration act and lot of other regulatory acts like Biomedical Waste acts and what not.

There is a clear cut difference between medical negligence and medical errors. Medical error is rarely due to individuals but many times likely to be a consequence of bad systems. We obstetricians are at forefront as far as medical litigation are concerned.

One of the easiest ways to save yourself from the clutches of medical problems is to know the laws governing our profession clearly, study them, implement them into our day to day practice and practice them to the core with letter and spirit.

I am very glad to know that ETHICS AND MEDICO LEGAL COMMITTEE OF FOGSI under leadership of Dr Manish Machave is coming up with a newsletter and a dedicated event based on the theme of **KNOW YOUR LAWS**.

I feel this topic needs the attention of entire OBSTETRICIAN AND GYNAECOLOGIST fraternity. Scientific sessions on 27<sup>th</sup> and 28<sup>th</sup> August as well as with an E-Bulletin titled LEGAL EXPRESS with theme of **KNOW YOUR LAWS** and the WEST ZONE Medico legal Conference under leadership of Dr Bipin Pandit Vice President, Dr. Manish Machave Chairperson Medico Legal Committee, Dr Alka Kuthe, Dr Alka Mukherjee and Dr. Santosh Jaybhaye deserves heartfelt appreciation. I congratulate the organisers and wish them all the best in this endeavor.

**Dr S. Shanthakumari**  
**President FOGSI 2021-2022**





Dr Bipin Pandit

## MESSAGE FROM VICE PRESIDENT FOGSI

**Dear Fogsians,**

I hope that this difficult time of Covid is getting over, and life will become normalized. I am sure all of you are safe and are in good health.

30-40 years back the word Medico Legal was unheard of Medical practice was much more enjoyable. Today the delicate fiber of TRUST between the patient and the Doctor is becoming weaker and weaker. At one time the Doctor was considered as a GOD, but we do not know what went wrong and where.

In today's time and also in future, it is better to get educated about prevention of Medicolegal problems. There are certain things which are important in prevention like, Communication Skills, Documentation, Consents, Counselling, Accreditation, and Indemnity Insurance.

We have noticed that many practitioners do not pay attention to these aspects in their day to day practice as they are very busy. Specially Indemnity Insurance is absolutely mandatory when you start your Clinical practice. How when and how much to take your Indemnity Insurance is very important. I am sure our Medicolegal team is always there to help you all.

To add to it the incidence of Violence against Doctors is also increasing. We need to physically protect ourselves from this.

*'No physician, however conscientious or careful, can tell what day or hour he may not be the object of some undeserved attack, malicious accusation, black mail or suit for damages....'*<sup>1</sup>

We have an excellent Medicolegal team under the able leadership of Chairperson Dr Manish Machave. I would request you to attend all the Medicolegal seminars in large numbers.

Better Safe than Sorry!

**Dr Bipin Pandit**

**Vice President FOGSI 2021-2022**



**Dr. Madhuri Patel**

## MESSAGE FROM SECRETARY GENERAL

To,

The Organizing Committee, West Zone Ethics and Medico legal Committee Conference, and all my dear fellow FOGSIANS

It is my pleasure and privilege to write this message. Women's health remains a priority and FOGSI and its members are doing all they can to meet the challenges to accomplish the goal of providing the best care to all our women. The road to perdition, it is said, is paved with good intentions. Laws and regulations are required for Society at large. There is no doubt that most laws are framed with good intentions. It is therefore, rather unfortunate that these good intentions sometimes get mangled in the cogs of authority and judiciary to leave no trace of the intentions. This is when the letter of the law takes precedence over the spirit of the law.

A prime example is the way some of the laws which govern us are implemented. Medico legal challenges are on the rise and are a truth for anyone practising medicine in this era.

The best protection is knowledge and documentation. I am very pleased to wish the conference all the success. I am sure the delegates will have an enriching academic experience and an enjoyable virtual fellowship and camaraderie with their colleagues.

I would like to express gratitude to the FOGSI President Dr S. Shanthakumari, the Vice President in charge of the Committee Dr Bipin Pandit, the organising team and particularly the Organizing Chairs Dr Manish Machave and Dr Alka Kuthe, Dr Alka Mukherjee (also the President of the Nagpur OBGY Society), the Organising Secretary Dr Santosh Jaybhaye, Dr Ashish Kubde (the secretary of the Nagpur OBGY Society), and all the office bearers of FOGSI and members of the organizing Committee.

Warm regards,

**Dr Madhuri Patel**

Secretary General FOGSI.



Dr. Manish Machave

## MESSAGE FROM CHAIRPERSON

**Dear esteemed member of FOGSI,**

Greetings from ETHICS AND MEDICOLEGAL COMMITTEE, FOGSI 2020-22.

The greatest glory in living lies not in never falling, but in rising every time we fall. If life were predictable it would cease to be life, and be without flavor. The year gone by was a disaster with COVID pandemic shaking humanity to its core. It took all of us for a ride and converted our dreams to dust. It gave us sad moments, unmeasurable grief and tested us to the limit. But these passing moments also made us stand tall and together for our profession, our families and of course our FOGSI. And at the end mankind won.... the virus lost.

With this new hope, and the astounding success of our NORTH ZONAL EVENT AND e newsletter LEGAL EXPRESS- BRIDGING GAPS, we begin our second endeavor to spread the light of knowledge and help all to achieve peaceful and litigation free practice. I am thrilled to bring out this FOGSI e Newsletter LEGAL EXPRESS- LAWS GOVERNING OBGYN PRACTICE, on the occasion of EMLC CONNECT-2, West zonal Medico legal conference hosted by Nagpur Obstetric and Gynecological society.

I thank President FOGSI, Dr Shantha Kumari, President elect FOGSI Dr Hrishikesh Pai, Vice president in charge Dr Bipin Pandit and Secretary General Dr Madhuri Patel for their motivation and unconditional support always.

I express my gratitude to Nagpur OBGYN society for hosting this event and my salutation to the untiring efforts of Dr Alka Mukherjee, Dr Ashish Kubde, Dr Rajasi Sengupta, and all their members.

Gratitude is also due to Dr Santosh Jaybhaye, West zonal coordinator and convenor of this programme, Dr Swarupa Iyer, Dr Sayali Jahagirdar, Dr Suyoga Panat and all our hardworking team

I also thank all contributors and my entire committee, national coordinator Dr Alka Kuthe and all zonal coordinators for putting all ideas into practice with zeal and enthusiasm.

I hope this newsletter helps all in more than one way and as per the intent of the authors.. Happy reading.

Namaskar.

**Dr Manish Machave**

Chairperson ETHICS AND MEDICOLEGAL COMMITTEE FOGSI 2020-22





Dr. Alka Kuthe

## MESSAGE FROM NATIONAL CO-ORDINATOR

**Dear FOGSIANS  
Welcome You All!!**

Indeed it's a proud moment for FOGSI Ethics & Medico-legal Committee to release the Second E-news letter '**Legal Express**' during '**Second Virtual Zonal Medico-legal Conference ( West Zone)**' 26-28<sup>th</sup> August 2021. The theme of the conference is '**Know your Laws**'.

In the present scenario, we find an exponential rise in medical negligence cases. More than three fourths of the medical professionals have faced violence of some or the other kind. It is noticeable that amongst all Specialties, Obstetrics & Gynecology is a unique branch that cares for two lives at a time. Unfortunately litigations against our members are plenty. So, if we want to survive in this era of Consumerism, we need to update ourselves on Laws Governing Our Practice.

Knowledge of Laws makes us meticulous and disciplined in our day to day practice. It also gives us confidence and courage while handling unexpected, undesired happenings in our specialty.

It is well known fact that ignorance breeds and feeds uncertainty. Uncertainty breeds and feeds unfounded fears. Unfounded fears, which may never become true or actually happen in one's life, but make it stressful and miserable. Let us drive away these unfounded legal fears in the light of knowledge.

The public forum titled as '**आयुष्यावर बोलू काही**' and the scientific program of the conference is designed so nicely to highlight all these issues.

This E-News letter is compilation of Articles on different Laws governing our practice. I wish that this Medico-legal update will be available to all FOGSIANS on our website.

I would like to thank Dr. Santosh Jaybhaye & his West Zone Team for taking initiative to organize this wonderful event.

I am also thankful to Hon. President FOGSI Dr. Shanthakumari, VP Dr. Bipin Pandit, Secretary General Dr. Madhuri Patel for the Constant Support and Encouragement.

**Best Wishes For The Conference.  
Long Live FOGSI!**

**Dr Alka Kuthe**

Consultant Gynecologist

LLM Criminology & PG Dip in HR Edu.

National Co-ordinator FOGSI Ethics & Medico-legal Committee.



**Dr. Santosh Jaybhaye**

## MESSAGE FROM EDITOR'S DESK

**Dear FOGSI friends,**

Greetings from West Zone Coordinator Ethics and Medicolegal Committee FOGSI.

As Editor in Chief, it gives me immense pleasure to hand over to you the second edition of The LEGAL EXPRESS, flagship series of newsletters started by EMLC FOGSI to create and spread awareness about medico legal issues in our fraternity.

In this edition, we bring to you, laws related to Obstetrics and Gynaecology practice. Our esteemed panel of authors have given full justice to topic allotted to them. They have tried to give practical tips and tricks to follow the laws in protocol-based manner so that you don't miss out on anything and stay safe from getting caught in clutches of law. I am very much sure this newsletter will prove a useful guide in your day-to-day practice as well as help you to solve many of your medico legal queries.

I take this opportunity to thank FOGSI, EMLC Chairperson Dr Manish Machave, National Coordinator Dr Alka Kuthe and all the seniors for honouring me with this prestigious responsibility.

I also thank my co-editors Dr Sayali Jahagirdar, Dr Rajasi Sengupta for painstakingly helping me to edit and compile all the articles. I also sincerely thank Akumentis Pharma for taking care of designing and compiling part of newsletter and bringing out the beautiful version which reading now.

With this presenting you with 2nd edition The Legal Express on laws related to OBGYN practice

Stay Safe ...Stay Healthy and Happy reading

**Dr Santosh Jaybhaye**

Editor In Chief

The Legal Express 2.0

West Zone Coordinator EMLC



**Dr. Alka Mukherjee**

## MESSAGE FROM NOGS ORGANISING COMMITTEE

As a doctor, you don't practice medicine; rather you become the medicine yourself. There may be medical tools in your hands to treat the patient, but those hands must be that of a loving, warm and conscientious human being. This is the quintessential, undying soul of our profession. And howsoever advances we may make in medical field, it always zeroes down to human life and health that demands from us empathy and compassion.

Medico legal issues are as intricately entwined in our daily professional lives as the stethoscope around our necks or the gloves on our hands! Yet, these are the very issues that are never given any importance during our formal training as graduates and post graduates. All things from writing the history to highly specialized procedures come under the gamut of medico legal issues and can pose a problem to the practicing doctor at any time.

Nagpur Obstetrics &Gynaecological Society team 2021-22 are proud to host the FOGSI Zonal conference on Ethics &Medico legal Issues this year in August 2021. It is an opportunity to bring to our members an array of practical topics of medico legal importance in Obstetrics &Gynecology.

Legal Express Edition 2.0, the official newsletter of this prestigious conference, is our effort to address certain important Laws related to Obstetrics &Gynecology. Our stalwart authors have tried to bring forth for our fellow practitioners a ready reckoner of all the important Indian Laws related to Obstetrics &Gynecology. It's the need of the hour for our doctors to be well versed with these laws to practice safely and avoid medico legal hassles.

As we all know, communication lies at the heart of every situation. A good, transparent, well documented communication will always be your biggest saviour in the Courtroom. And above all, never forget the golden principle of "PRIMUM, NON NOCERE" (First do no Harm). Remember, a doctor should be a clown at heart, a scientist at brain and a mother at conscience!!

After all, dear FOGSIans, MEDICINE means Mercy – Empathy – Dare – Integrity – Care – Ingenuity – and Ethics.

With best wishes for a safe and ML- free practice of Ob-Gyn!!

Dr. Ashish Kubde, Hon. Secretary, NOGS

Dr.Rajasi Sengupta, Chairperson, medico legal Committee, NOGS

**Dr. Alka Mukherjee,**  
President, NOGS





**Prof Dr Nikhil D Datar**

(MD DNB FCPS FICOG DGO LLB DHA)  
Consultant Gynaecologist Cloudnine Hospital, Life wave  
Hospital, Yashada Hospital Mumbai  
Visiting professor Maharashtra National Law University

## MTP Act Amendments

*What Gynaecologist should know*

### Introduction:

After persistent judicial activism of the author through his case Dr Nikhil Datar Vs GOI in the apex court for 12 years, the MTP Act has finally been amended. The bill was passed in both the houses and received assent from the President of India.

*It must be noted that the Amendment is not yet applied by the government. Hence till such notification is not published by the government, Gynaecologists should continue to function according to pre-amendment law that is following cut off of 20 weeks.*

### What will change after the Amendment comes in force?

The changes at the policy level are evident in the Amendment. Yet the rules and regulations are yet to be declared by the government. Only after the rules and regulations come into force the exact extent and practical application will become clear.

### What has changed by the Amendment?

- Change in the reasons/ indications for MTP

The only major change in the indications is the removal of the word “**married**” in the clause that deals with “**failure of contraception**” as a clause for MTP. This means that gynaecologists can perform MTP even for **unmarried** women under this clause.

- Change in the limits of gestation for Termination Of Pregnancy

The cut off of 20 weeks remains unchanged for “**failure of contraception**”.

The government will come up with a special category of women and for them, the upper limit shall be 24 weeks. It is expected that single mothers, rape survivors etc will be in this category.

For the indication “**immediately to save the life of a woman**”, there was no upper limit in the law even in the previous law and that stays the same.

For substantial anomalies, there will be no upper limit of gestation. But for these anomalies , permission from the permanent medical board of the state will be necessary.

- Change in the number of Registered Medical Practitioners (RMPs) certifying for Medical Termination of Pregnancy

- Till now, for MTP between 12- 20 weeks, certification from two RMPs was necessary. In the new law, this is done away with. Until 20 weeks, only one RMP has to certify. For TOP between 20 to 24 weeks, two RMPs are necessary.
- How will the board decide about the seriousness of the abnormality?  
It is expected that this will be clarified in the rules and regulations.  
It is expected that the same mechanism that exists today will be adopted in the rules.
- What is the mechanism followed today?  
As stated earlier, since the amended law is yet not applicable, we have to follow the same old norm. If one has to seek TOP after 20 weeks, one has to approach the high court with a writ petition.  
The author has helped more than 200 women to file writ petitions in various high courts and obtained permission to conduct TOP in late gestation.  
The mechanism is set out by the GOI in the affidavit that it had filed in the case of Dr Nikhil Datar Vs GOI". This mechanism is as under:
  - The GOI has instructed all the state governments to establish permanent medical boards.
  - GOI has released a guidance note for the permanent medical boards.
 In this guidance note, the GOI has published an elaborate list of nearly 70 disorders that are classified as "**serious abnormalities**". This list works as guidance while taking decisions.
- How will TOP beyond 24 weeks be possible in cases of serious foetal anomalies? How to deal with the live birth in such cases?  
The guidance note has clarified that the medical boards are authorised to suggest the use of USG guided injection of intracardiac KCL while dealing with advanced gestation. It is expected that the rules and regulations will further clarify this.

## Unresolved/ problematic issues:

- There is no clarity on the definition of the term "**termination of pregnancy**" in the amendment. The author considers that it is the intention that is a differentiating factor. Medical treatment done with the intent to safeguard the baby and the mother should be classified as "**induction of labour**". Whereas when the intent is to effect removal/ death of the foetus should be considered as termination of pregnancy.  
If the phrase termination of pregnancy is interpreted as "terminating the pregnant status of the woman" then inductions of labour/ elective caesareans will fall into this category and this would lead to absurdity.
- Arbitrary cut off of 24 weeks for women from special category: there is no clarity as to why there is another arbitrary cut off of 24 weeks. Even after the passage of this amendment, there have been three cases of minor rape survivors who had advanced gestational age and the author approached the court to seek permission. The permission was granted by the court.

- Increased penalty for violating the privacy of the woman:  
Under the amended law, violation of privacy is considered a serious offence for which imprisonment is prescribed. This is a contentious and unclear issue. Current mechanisms such as “**Not writing name and identifying her by number**” are superfluous and useless in this regard. There is a need to define “**persons authorised by law**” to whom the RMP can reveal the details.

The Author is in the process of filling an elaborate report highlighting fallacies and corrective steps in the apex court and hopes that same are taken positively by the government. This will reduce Autocracy, Red-tapism and the rights of all stakeholders will be protected in future.

.....







**Dr Suyoga Panat**

DGO DNB FICOG

Consultant in Obgy Amravati

## PCPNDT ACT

### *SOPs for stepwise strict implementation*

#### **Introduction:**

The Pre-natal diagnostic techniques (Regulations and Prevention of Misuse) Act, 1994 was enacted and brought into execution from 1<sup>st</sup> January 1996. The PNDT act and rules were amended and came into force with effect from 14<sup>th</sup> February 2003. The main purpose of the act was to prevent misuse of medical technology before and after conception for the purpose of illegal gender biased sex selection. Though the basic motive of the act was to stop sex selection and to curb female feticide, it involves complicated and tedious record keeping by the practitioner which is difficult especially in a busy practice. Trivial mistakes in documentation and record keeping can result in major legal hassles and strict punishments. These SOPs are an attempt to help all new users and practitioners to perfect implementation of PCPNDT law.

#### **REGISTRATION GUIDELINES as per PCPNDT Act**

By Section 18(1) of the PCPNDT Act it is mandatory to register under PCPNDT ACT 2020, for any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic including Clinic, Laboratory or Centre having Ultrasound or Imaging machine or Scanner or any other technology capable of undertaking determination of sex of foetus and sex selection or render services to any them. The registration is binding on government and semi government institutions, whether privately or publicly owned.

#### **APPLICATION PROCESS FOR NEW REGISTRATION**

1. Applicant should submit application in duplicate in prescribed form A to Appropriate Authority (AA) along with prescribed fees.
2. Other documents
  - a) Copy of Degree Certificate
  - b) MMC registration certificate and latest renewal
  - c) Affidavit/Undertaking that doctor shall not conduct any test or procedure of sex selection or determination.
  - d) Identity and address proof
  - e) Diagram and layout of place with marking of placement of machine.
  - f) In case of Mobile Medical Unit, Registration of vehicle is mandatory.

Application is to be processed by AA within 70 days of receipt of application and acceptance or rejection is informed. If rejected due to some reason, application can be resubmitted within 90 days of rejection.



## IDEAL SETUP OF ULTRASOUND CENTRE

1. Degree and Registration certificate of the doctor should be displayed.
2. Display of notice board one in waiting area and other in Sonography room stating “Disclosure of sex of foetus is prohibited and punishable under law.” This notice should be in two languages, one in local language and other in English, in size, colour and font such that it can be read easily from 3 feet distance.
3. Sonography timings of all individual doctors should be displayed.
4. Certificate of PCPNDT registration should be displayed in waiting and Sonography room.
5. Machine registration no (MRC) should be displayed on the sonography machine and certificate should be made available for inspection.
6. Latest copy of PCPNDT Act should be available in two languages one in local and other in English in the premises.
7. Doctor should have name and designation displayed on dress.

## SOPS FOR CONDUCTING SONOGRAPHY

1. Requisition letter or Referral slip to be collected from patient .Referral slip should contain name address and designation of referring doctor and indication of sonography. In case of No referral slip with patient, sonologist can give Self-referral.
2. Declaration by pregnant women and doctor is obtained in duplicate in prescribed format for sonography and in case of invasive procedure consent to be taken after explaining patient in her own language.
3. Sonography is conducted on the pregnant women. During or after the procedure, doctor should not communicate to pregnant women or relatives, sex of foetus by words, signs or in any other manner.
4. All 19 columns mentioned in F form should be duly filled online and submitted. Printed copy of F form to be authenticated by doctor.
5. Monthly and yearly serial no of F form must be maintained correctly.
6. Monthly report should be sent to AA in time by 5th of every month.
7. All obstetrics ultrasound entries should be made in 5 column register in the following format.

Serial No	Name of men/women undergoing test	Address and contact no	Name of Spouse or Father's	Date on which they first reported
1	2	3	4	5



8. Registered Genetic Counselling should fill Form D, Genetic Lab to fill Form E and Genetic Clinic/ Ultrasound clinic to fill Form F and IVF centre should fill form G .

## SOPS FOR PERFECT RECORDS

1. Records include Referral letter, Declaration forms, Ultrasound report with images, printed copy of F form ,Consent forms in case of Invasive tests, Laboratory results, Microscopic pictures .
2. All records to be preserved for a period of 2 years from the date of procedure or test.
3. In the event of any legal proceeding, records to be preserved till disposal of case.

## WHEN TO INFORM AA

1. Any change of Place, Address or Equipment – 7 days in advance
2. Registered operator of USG is out of station.
3. Renewal of registration of machine- 30days before expiry
4. Purchase of new machine or Sale of machine
5. Change of employee or change of ownership.
6. Live demonstration of machine at workshops and conferences.

## DOS AND DONTs

1. Do sell machine only to manufacturer /dealer who is registered with State AA  
Do not sell old machine to scrap dealer.

2. Only doctors registered under PCPNDT Act to operate machine.  
Do not allow unauthorized person to operate at any cost.

3. Use Portable services within registered premises or as a part of mobile medical unit.  
Do not fall prey to requests except for doing lifesaving emergencies after informing AA

4. Provide all information and records to AA authority during inspection.  
Do not argue, hide or tamper with medical records.

5. Maintain meticulous records and display helpline numbers and website as per local norms.  
Do not display any frames of God or Goddesses in the Ultrasound room.

## ACTION FROM AA ...WHAT NEXT??

1. AA has right to enter and search a centre at all reasonable times.

**Do cooperate with AA at all such times.**

2. AA may Suo motto or on complaint, issues a show cause to the centre as to why its registration should not be suspended or cancelled for reasons mentioned in the notice.

**Treat it as URGENT and IMPORTANT**

4. AA is empowered to seize and seal Ultrasound machines, other machines and equipment assisting in sex selection.

**Suspension or Cancellation of Registration or Search and Seizure should be considered as strong legal action.**

4. Seizure memo /Panchnama is prepared in duplicate and to be signed on every page.

**One copy of panchnama to be obtained and preserved with us.**

**Do not tamper the sealed machine till permitted by court.**

5. Anybody not satisfied with decision of AA at Sub-district level

**May appeal to the AA at District level within 30days of receiving the order. Similarly, from District level one can appeal to State AA within 30days.**

6. If AA fails to communicate Grant or Rejection of renewal to applicant within a period of 90 days of application **Registration shall be deemed to be renewed.**

## PCPNDT FORMS

1. FORM A – Application for registration or renewal registration of centre
2. FORM B – Certificate of Registration
3. FORM C – Form for Rejection of Application for grant /Renewal of Registration
4. FORM D – Form for maintenance of record by Genetic Counselling Centre
5. FORM E – Form for maintenance of records by Genetic Laboratory
6. FORM F – Form for maintenance of record in case of Prenatal Diagnostic Test/ Procedure by Genetic Clinic / Ultrasound Clinic/ Imaging Centre
7. FORM G – Form of Consent for Invasive techniques
8. FORM H – For maintenance of permanent record of applications for grant / rejection of registration under PCPNDT Act 1994

## Conclusion:

All offences under the PCPNDT Act are Cognizable , Non-Bailable& Non-Compoundable. Ultrasound technique has proved boon for patients as well as treating Medical practitioners. Despite getting dreaded fear of litigations and adopting to defensive practice, one should follow the Law in word and spirit for the welfare of the mankind.







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## POCSO ACT

### *Dealing with pregnancy in a minor girl*

#### INTRODUCTION:

Providing reproductive and sexual health services to minors and educating them about these has always been a uphill task all over the world. So has been providing protection to them from sexual abuse.

Reproductive and sexual rights of minors have been a matter of concern on social, legal and political platforms.

The legal age of consent for sexual activity varies from country to country ranging from 9 years in Yemen to 21 years in Hong Kong. But in majority of them it is between 16-18 yrs.

In India the law does not clearly mention any age to consent for sex in minors. It is to be inferred from criminal laws that criminalize sex with individuals below a specific age.

Protection of Children from Sexual Offences POCSO ACT 2012 has come in to force with effect from 14 nov 2012 and amended in 2019.

An act to protect children from offences of sexual assault, sexual harassment and pornography and provide for establishment of special courts for trial of such offences and for matter connected there with.

POCSO describes offences against children in following categories

- A) Penetrative sexual assault
- B) Aggravated penetrative sexual assault
- C) Sexual assault
- D) Aggravated sexual assault
- E) Sexual harassment.

#### DEALING WITH PREGNANCY IN MINOR GIRL

In clinical practice an obstetrician or a medical person is likely to come across situations

- A) When medical examination is ordered as a procedure under law.

B) When patient comes to him for any other complaint and discovered to be pregnant/ patient is minor and comes for ANC registration

In situation

- a) The examination will be done as per provisions of section 164 A of CODE OF CRIMINAL PROCEDURE 1973. THAT IS PROVISIONS FOR EXAMINATION OF RAPE VICTIM and provisions of sec 27 of POCSO act .The said Act makes provisions for the medical examination of the child in a manner designed to cause as little distress as possible. The examination is to be carried out in the presence of the parent or other person whom the child trusts, and in the case of a female child, by a female doctor.

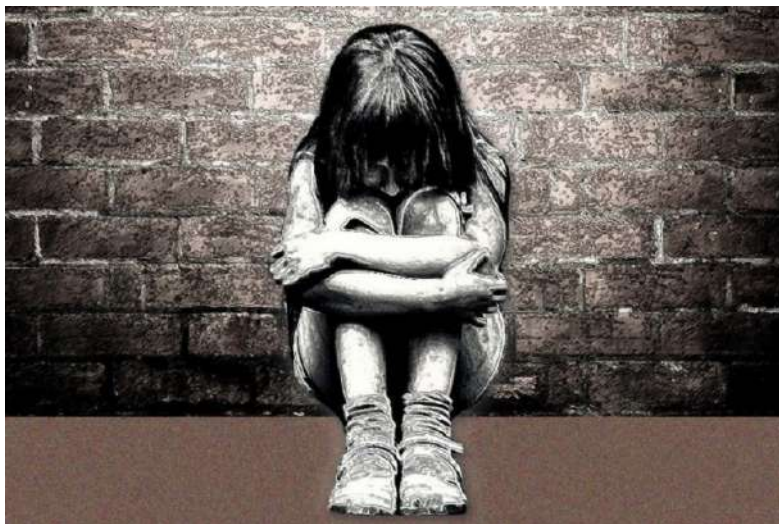
In situation

- b) We will have to follow sec 19 (1) of POCSO which states thatAny person who has apprehension that an offence under this act is likely to be committed, or has the knowledge that such an offence has been committed, he shall provide such information to
  - a) The Special juvenile police unit or
  - b) The local police.

Sec 19 (7) further says that No person shall incur any liability civil or criminal ,for giving information in good faith , for the purpose of sub section 19(1).

Punishment for failure to report shall be punished with imprisonment of either description which may extend to six months or with fine or both.

This implies that there is a legal responsibility not only on doctors but on everyone to report a minor girl who is found to be pregnant to the special juvenile police or local police. The marital status of the patient (minor girl) does not change the liability to inform to police.



## FLOW CHART

A minor girl (married/unmarried) walks in to your consulting room and you find her to be pregnant.  
Confirm the age of the patient with the help of Aadhar Card or any other ID card.

Do not refuse medical services/investigations/treatment to the patient. Examine/investigate only after the consent of the child and guardian/the parents.

Inform the Special Juvenile Police Unit/Local Police (Either in writing or via telephone or via E-mail)  
Mentioning that this is information under Sec-19(1) of the POCSO Act.

If patient wishes to continue the pregnancy, treat her according to routine protocol.

If there is indication for MTP then take the consent of guardians of the minor and then you may terminate the pregnancy following all rules and regulations of MTP act.

Preserve the products of conception in normal saline and inform the Local police about it.

Thus whenever a minor girl comes to your clinic who is pregnant its our legal responsibility to inform juvenile police unit/local police under POCSO act. We do not incur any civil or criminal liability for giving information in good faith.

We should follow the law of the state at the same time do our duty of providing medical services to the patient.





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## Consumer Protection Act

*Tips & Tricks to avoid Traps*

### INTRODUCTION

#### **The Consumer Protection Act, 1986**

An act to provide better protection of the interests of the consumers and for that purpose to make provisions for establishment of consumer councils and other authorities for the settlement of consumers dispute and for matters connected therewith.

The act was passed in 1986 and amended in 1993 and 2019.

#### **Service Provider, Consumer, Complaint and Complainant**

##### **Service S.2(1)(o)**

Service- means service of any description Including the provision of facilities in connection with banking, financing, insurance, transport, processing, electrical or other energy, board or lodging or both, housing construction, entertainment, amusement, purveying of news or other information, but Does not include rendering of service free of charge or under a contract of personal service.

##### **Consumer Section 2(1)(d)(ii)**

Means any person who hires or avails of any services for a consideration which has been paid or promised or partly paid and partly promised or under any system of deferred payment

##### **Complaint-S. 2 (c )**

Any allegation in writing made by a complainant in regard to following for obtaining Relief under the Act

1. UTP / RTP
2. Defect in Goods
3. Deficiency in services
4. Excess Price
5. Hazardous goods being offered for sale

Nominal fee is prescribed



##### **Complainant:**

(a) A consumer

(b) Any voluntary consumer association registered under a company's act or under any Other law for time being in force.

The patient being a consumer, doctor, the service provider and the charges as Consideration, hence CPA became applicable to medical profession after the Landmark SC judgement of **VP Shantha Vs. IMA.**





## Who can file a complaint??

- a) The patient who hires the services of a medical practitioner can file a complaint.
- b) It should be in writing.
- c) No oral complaints can be filed

## Who is held liable under CPA???

It is not only the medical practitioner who may be found negligent but the hospitals are also bound by the law and in certain circumstances the hospitals are also found negligent or deficient in services. Doctors with independent practice, private hospital charging all, all hospital having free as well as paying patients are liable under the act.

Doctors or hospitals paid by an insurance firm for treatment of a client or an employer for the treatment of an employee are also liable under the act.

## Who is not liable under CPA??

Doctors in hospitals, which do not charge their patients.

Hospitals offering free services to all patients.

## Redressal for a under CPA-

The redressal agencies have a three-tier structure.

1) District level: At this forum person can claim for compensation towards damage Upto a maximum limit of Rs: 20 lakh .

A district judge and 2 other members chair this of which one of whom shall be women.

(2) State level: At this level the claim for compensation is enhanced to Rs: 20 – 100 lakhs & high court judge & 2 other members chair it.

(3) National level: Here the compensation claimed is more than 100 lakhs .This forum Constitutes of a supreme court judge ,4 other members.

## Advantages of these fora over Civil Courts-

1. Limited time is needed for decision and action (period of 3 months).
2. No court fee is payable

## Provision of appeal-

Within 30 days from the date of decision, appeal can be filed in the higher commission

1. Appeal against district forum ☐ before state commission.
2. Appeal against state commission ☐ before national commission.
3. Against national commission ☐ before supreme court.

## Protection against false and frivolous complaints-

Where a complaint instituted before the district forum ,sate commission ,the national commission, is found to be frivolous or vexatious , it shall, for reasons to be recorded in writing ,dismiss the complaint & make an order that the complaint shall pay to the opposite party such cost, not exceeding 10,000 Rs , as may be specified in the order.



## Limitation period:

The district forum, the state commission or the national commission shall not admit a complaint unless it is filed within 2 years from the date on which the cause of action has arisen.

## Reliefs that may be awarded by Consumer Redressal fora-

- a) AWARD COMPENSATION FOR LOSS OR INJURY SUFFERED DUE TO NEGLIGENCE;
- b) AND/OR ORDER OPPONENT TO REMOVE DEFICIENCY IN SERVICE
- c) DISCONTINUE THE UNFAIR TRADE PRACTICE
- d) PAY SUM TOWARDS LOSS OR INJURY SUFFERED BY LARGE NUMBER OF PEOPLE
- e) PROVIDE FOR ADEQUATE COST TO PARTIES

## The Consumer Protection Act, 2019 Key Highlights

1. **Widened the definition of 'consumer':** The definition now includes any person who buys any goods, whether through offline or online transactions, electronic means, teleshopping, direct selling or multi-level marketing
2. **Enhancement of Territorial Jurisdiction:** The 2019 Act now provides an added advantage to the consumers by providing for filing of complaints where the complainant resides or personally works for gain as against the 1986 Act which only provides for filing of complaint where the opposite party resides or carry on business. This would help in removing the difficulties faced by the consumers in seeking redressal of their grievances against businesses who may not have an office or branch in their state.
3. **Enhancement of Pecuniary Jurisdiction:** Revised pecuniary limits have been fixed under the New Act. Accordingly, the district forum can now entertain consumer complaints where the value of goods or services paid does not exceed INR 10,000,000 (Indian Rupees Ten Million). (i.e. one Crore) . The State Commission can entertain disputes where such value exceeds INR 10,000,000 (Indian Rupees Ten Million) but does not exceed INR 100,000,000 (Indian Rupees One Hundred Million). The National Commission can exercise jurisdiction where such value exceeds INR 100,000,000 (INR One Hundred Million)(i.e.10 Crores).
4. **Alternate Dispute Resolution** – Another provision introduced by the 2019 Act to ensure speedy resolution of disputes is to provide for referring the disputes to mediation. As per the 2019 Act, the Consumer Forum shall refer the matter to mediation on written consent of both the parties. For this purpose, the 2019 Act also provides for establishment of a consumer mediation cell by the respective State Governments in each District Commission and State Commission as well as at the National Commission by the Central Government.
5. **E-Complaints:** The 2019 Act also provides for filing of Complaints before the District Forums electronically in accordance with the rules which are to be prescribed by the Government. The New Act also contains enabling provisions for consumers to file complaints electronically and for hearing and/or examining parties through video-conferencing. This is aimed to provide procedural ease and reduce inconvenience and harassment for the consumers.
6. **Establishment of Central Consumer Protection Authority:** The New Act proposes the establishment of a regulatory authority known as the Central Consumer Protection Authority (CCPA), with wide powers of enforcement. The CCPA will have an investigation wing, headed by a Director-General, which may conduct inquiry or investigation into consumer law violations. The



CCPA has been granted wide powers to take suo- moto actions, recall products, order reimbursement of the price of goods/services, cancel licenses and file class action suits, if a consumer complaint affects more than 1 (one) individual.

7. **Product Liability & Penal Consequences:** The New Act has introduced the concept of product liability and brings within its scope, the product manufacturer, product service provider and product seller, for any claim for compensation. Certain exceptions have been provided under the New Act from liability claims, such as, that the product seller will not be liable where the product has been misused, altered or modified.
8. **Unfair Trade Practices:** The New Act introduces a specific broad definition of Unfair Trade Practices, which also includes sharing of personal information given by the consumer in confidence, unless such disclosure is made in accordance with the provisions of any other law.
9. **Penalties for Misleading Advertisement:** The CCPA may impose a penalty of up to INR 1,000,000 (Indian Rupees One Million) on a manufacturer or an endorser, for a false or misleading advertisement. The CCPA may also sentence them to imprisonment for up to 2 (two) years for the same. In case of a subsequent offence, the fine may extend to INR 5,000,000 (Indian Rupees Five Million) and imprisonment of up to 5 (five) years. The CCPA can also prohibit the endorser of a misleading advertisement from endorsing that particular product or service for a period of up to 1 (one) year. For every subsequent offence, the period of prohibition may extend to 3 (three) years.
10. **Endorser's liability:** The New Act fixes liability on endorsers considering that there have been numerous instances in the recent past where consumers have fallen prey to unfair trade practices under the influence of celebrities acting as brand ambassadors. In such cases, it becomes important for the endorser to take the onus and exercise due diligence to verify the veracity of the claims made in the advertisement to refute liability claims.

## Medical Negligence- basic concepts-

Medical Negligence is a shortcoming in the service agreed to be rendered by Medical Professional.

Deficiency in service. Deficiency of service means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service.

Negligence consists in the omission to do something which a reasonable man guided upon those considerations which ordinarily regulate human affairs, would do, or doing something which a prudent & reasonable man would not do.

Medical Negligence is also a 'tort' which calls for a reasonable degree of care expected of a professional like doctor or pathologist;

Three ingredients of Medical Negligence-

- a) Duty to take care-contract between doctor and patient.
- b) Breach in this duty-competency of doctor and standard of care.
- c) Consequential damage-causa causans of the breach in duty.

## LANDMARK CASES-

### 1) MEDICAL FRATERNITY BROUGHT UNDER CPA-V.P.SHANTA & ORS. COSMOPOLITAN HOSPITALS (P)LTD & ORS. (KERALA SCDRC)

**FACTS**-The complainant's husband aged 59 years had a fall from his cot on 4.7.1990. As he went to the Cosmopolitan Hospital., Trivandrum where the 2nd opposite party examined him and opined that he had fracture of left neck of femur for which he was operated on 6.7.1990. Simultaneously, he was also operated upon his salivary gland.

During the post-operative period it was noticed that he had some respiratory difficulty but the duty doctors did not take it seriously and the operating surgeon had left. Ultimately the 5th opposite party came to the hospital, and examined the patient and announced that he was dead.

The behavior of the hospital authorities after the death was highly suspicious. They sent a copy of the bill only after repeated requests, but refused to part with the x-ray films

**ALLEGATION**-It was alleged that this was on account of the fear of the fact that providing these x-rays would have revealed that conservative treatment like traction and medication would have cured the problem; but, in order to increase the number of operations and to augment income the decision to operate was taken. The hospital had also failed to carry out necessary pre-operative investigations and the services of a cardiologist were not obtained.

**HELD**-compensation of Rs.25000/- with interest at the rate of 12% p.a. from the date of death till payment was awarded. This amount was to be paid by the hospital, as no negligence could be established against the doctors.

Honorable SC made the following observations-OBITER DICTA

Medical Practitioners, though belonging to the medical profession are not immune from a claim for damages on the ground of negligence. The fact that they are governed by the Indian Medical Council Act and are subject to the disciplinary control of the Medical Council of India and/or State Medical Council is no solace to the person who has suffered due to their negligence and the right of such person to seek

redress is not affected. The order further said that the Medical Practitioners, Govt. hospitals/ nursing homes and private hospitals/nursing homes broadly fall in three categories:

- a) Where services are rendered free of charge to everybody availing the said services;
- b) Where charges are required to be paid by everybody availing the services; and
- c) Where charges are required to be paid by persons availing the services but certain categories of person who cannot afford to pay are rendered service free of charge.

The categories b) and c) above constitute service and should be under the purview of CPA

### 2) SPRING MEADOWS HOSPITAL & ANR. ETC V/s HARJOL AHLUWALIA

**FACTS**-Cardiac arrest occurred in minor with Typhoid fever following high dose Inj Chloroquine given IV instead of chloromycetin. This caused hypoxic brain damage.

**HELD**-. Hospital, duty doctor and nurse all held liable. Nurse should have been qualified.

The Supreme Court of India confirmed the order of the National Commission, which awarded a compensation Rs 12.5 lacs

**LESSON**- The concept of vicarious liability the liability of employer for negligent act of employee was established in this case. Needless to say appointment of qualified staff is of paramount importance.



### 3) NIZAM INSTITUTE OF MEDICAL SCIENCES (NIMS) VS PRASHANTH DHANAKA.

**FACTS**--Case of fever and? Neurofibroma in chest with erosion of rib. USG/ CT guided FNAC attempts failed. Cardiothoracic surgeon did surgical excision with removal of ribs. Patient had Paraplegia . Rs 4,61,31,152/- compensation demanded

**HELD**-Pre-op investigations not complete – intraspinal extension was missed MRI/ CT/ Myelography not done .Consent was only for biopsy and not for complete excision and removed 4 th rib. Neurosurgeon should have been involved from the beginning keeping the provisional diagnosis of Neurofibroma in mind. Also the post –op care was not proper as patient had frequent episodes of pain, fever, bedsores, frequent X rays etc.

**HELD**-NCDRC-Made NIMS vicarious liability and awarded 15.4 lacs. The Hon'ble National Commission deliberated on important issues such as what constitutes medical negligence, duty of a hospital to engage a specialist when a specialist is available, vicarious liability of a hospital for omissions and commissions of doctors and staff, compensation for mental and physical torture etc.,

**LESSON**- There is no substitute for proper Preop investigations, written informed voluntary consent, involvement of specialists and adequate and proper post op care.

### 4) Dr Adarsh Kumar and ors Vs. Jagjeet Kaur – NCDRC

**FACTS**-Lab reported blood group AB+ and Blood bank confirmed A –ve before BT

**HELD**-Rs 25,000/- awarded by National forum. The commission reiterated the fact that no damage need not be the deciding factor. The fact that the blood group testing and reporting was wrong is enough to constitute negligence in accordance with the following two maxims-

*Ubi Jus Ibi Remedium (where there is a right here is a remedy)*

*Inuria sine damno (injury without damage).*

**LESSON**- Legal injury arising out of a right is punishable even if there is no damage.

### 5) Smt. ARCHANA & ORS VS CHAUDHARI CHEST HOSPITAL& ORSs, 1998(1) CPR 556, State of Maharashtra

**FACTS**- Deceased husband of Complainant was operated for hip bone fracture and he passed away in same evening. Complainant alleged no proper post-operative care and patient had excessive bleeding.

Negligence attributed to massive outflow of blood to the extent of 2500 ml.

**EVIDENCE**- Evidence and Panchanama did not support that conclusion..... Pathological report showed that deceased had no diabetes, mellitus, ischemic heart disease and therefore no blood clotting test was required under such circumstances. As per medical literature in case of hip fracture risk of embolism could develop at the time of fracture and not at surgery. Unexpected death could occur on account of pulmonary embolism.

**HELD**-In post mortem report, doctors were unable to arrive at definite opinion regarding cause of death.

Possibility of pulmonary embolism being cause of cardiac shock leading to death could not be ruled out which does not make any case of negligence on the part of doctor.

**LESSON**- Unexpected death and unable to come to conclusion is not construed as Medical Negligence.

### 6) BOLAM VS VS. FRIEN BARNER HOSPITAL MANAGEMENT COMMITTEE (1957) 1 WLR 582

**FACTS**-Electro convulsive therapy given for mania without scoline. This caused multiple fractures to the patient. Negligence alleged.



**HELD-** Doctor not negligent because he followed standard practice usually done by his peers “BolamTest”, a test to determine the liability of a doctor. The test is the standard of the ordinary skilled man exercising and professing to have that special skill.

**LESSON-**It is expected of a professional man that he should show a fair, reasonable competent degree of skill. Neither he is expected of a higher degree of skill of a person who has higher education and greater advantages nor is he expected to guarantee cure. Medical men would not be found negligent simply because one of the risks inherent occurs or because in a matter of opinion he legitimately took a view which unfortunately happened to produce an adverse result in particular circumstances.

## **7) LAXMAN BALKRISHNA JOSHI VS TRIMBHAK BAPU GODBOLE; AIR 1969 SC 128,**

**FACTS-**Fracture Femur in a young boy due to road traffic accident. Fracture reduced without GA which produced shock and death.

**HELD-**Liabe as duty of care not fulfilled and awarded Rs 5000/- compensation ( Firstmedico legal case in SC from Pune)Supreme Court inter alia held as follows: The duties, which a Doctor owes to his patient, are clear. A person who holds himself out ready to give medical advice and treatment impliedly undertakes that he is possessed of skill or knowledge for the purpose. Such a person, when consulted by a patient, owes him certain duties, namely a duty of care in deciding whether to undertake the case, a

duty of care in deciding what treatment to give or a duty of care in administration of that treatment. A breach of any of these duties gives a right of action for negligence to the patient.

**LESSON-**The doctor must bring to his task a reasonable degree of skill and knowledge and must exercise reasonable degree of care.

## **TWO IMPORTANT LEGAL CONCEPTS-**

### **1) Negligence per se**

Homeopathic doctor prescribing allopathic medicine is cross pathy is “Negligence Per se”-neither damage nor any further proof required. Absence of a basic qualification for a

Homeopathic doctor to practice a system of medicine (allopathy) *in Poonam Verma V/s Ashwin Patel & Ors., (1996) CPS, (SC)*. Supreme Court held that a person who does not have knowledge of a particular system of medicine but practices in that system is a quack. Where a person is guilty of negligence per se, no further proof is needed.

### **2) Res-ipsa Loquitur-the thing speaks for itself.**

**In Nihal Kaur v/s Director, P.G.I.M.S.R. III (1996) CPJ 112**

**FACTS-** A patient died a day after surgery and the relatives found a pair of scissors utilized by the surgeon while collecting the last remains.

**HELD-**compensation of Rs. 1.20 lakhs was awarded by the State Commission, Chandigarh on the grounds that negligence was writ large on record in handling the case though it was argued that arterial forceps and sponges were left behind in an attempt to save the life of the patient and (the said things were to be later removed, but could not be done as the patient died) the same did not contribute to patient's death.

## **CONCLUSION-**

The relationship between Doctor/Hospital and Patients is a relationship of trust; doctors are still known as healers. Consumer Protection Act provide for better protection of the interests of consumer

& for that purpose to make provision for the establishment of consumer councils & other authorities for settlement on consumers disputes & for matters connected therewith. The Consumer Protection Act, 2019 when compared with the 1986 Act shows that it provides for greater protection of consumer interests taking into consideration the current age of digitization. The 2019 Act also deals with the technological advancements in the industry, provides for easier filing of complaints and also imposes strict liability on businesses including endorsers for violating the interest of the consumers.

CPA is applicable to the medical profession. Valid consent, adequate and appropriate pre-op Investigations, due care during treatment/surgery, proper documentation, expert opinion, employing qualified staff, and avoiding crosspathy are some tips to avert the dreaded liability in day to day practice

FORMATION OF LOCAL LEVEL MEDICOLEGAL CELLS is not a luxury but a necessity. Apt to conclude that it's better to prepare and prevent than repair and repent.

## References-

- 1) The Consumer Protection Act, 1986 (bare act)
- 2) Commentary on the Consumer Protection Act, 1986-YV Rao.





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## Birth & Death Registration Act

*What an obstetrician should know*

### Introduction:

Registration of Births and Deaths (RBD) Act, 1969 was enacted to overcome the then prevalent diverse legal provisions for registration of births and deaths in the country. The Act unified the system of registration throughout the country and made registration of births and deaths compulsory.

Births and Deaths are the two most important vital events that define life of an individual. Not only do they describe the legal existence of an individual, registration of these events is a source of basic vital data of the population to which they belong.

Vital Statistics including Registration of Births and Deaths falls under Concurrent List of the Constitution of India.

The Government of India, as a signatory to the UN Convention on Child Rights, 1989, has the obligation to ensure registration of every birth.

The Registration of Births and Deaths Act (RBD Act), 1969 was enforced in most of the States in the country from April 1, 1970 and in other States / Union Territories thereafter.

To carry out provisions of the Act, the Registrar General, India in consultation with the Union Law Ministry, framed Model Rules (1970) providing the Forms and procedures to be adopted for registration. Subsequently the States, in accordance with the Model Rules, made State Rules to carry out the provisions of the RBD Act in the States.

The new set of Rules came into force in most of the States and Union Territories from 01.01.2000

### OBJECTIVES AND USES OF CIVIL REGISTRATION

#### 1.13 The CRS has a three-fold objective:

##### i. Legal

- Birth registration records provide legal proof of place of birth and date of birth
- Death registration record required for settlement of inheritance, insurance claims etc.
- Have evidentiary value under Indian Evidence Act, 1872





## ii. Administrative

- A legal register of locality wise births and deaths
- Main source of information on mortality, causes of death, to facilitate health planning

## iii. Statistical

- Source of demographic data for socio-economic planning, development of health systems and population control
- Data on fertility and mortality is essential in understanding the trends in population growth and is used for population projections

## Registration of Births and Deaths Act 1969

In respect of births and death in a hospital, health centre, maternity or nursing home or other like institution, the medical officer in charge or any person authorized by him in this behalf should notify **within 21 days**

The Act allows:

Registration of Births and Deaths that had occurred even prior to enactment of the Act [Section 13 (3)], and

Suo motu registration of events by the Registrar [Section 7 (2)]

Over time, need was felt to take up registration of births of children taken on adoption; registration of births of children born through Surrogacy/ART/IVF Technique.

According to Section 2 of the Act:

**Birth** means Live Birth or Still Birth [Section 2 (a)].

**Death** means the permanent disappearance of all evidence of life at any time after live birth has taken place [Section 2 (b)].

**Foetal death** means absence of all evidence of life prior to the complete expulsion or extraction from its mother of a product of conception irrespective of the duration of pregnancy [Section 2 (c)].

**Live birth** means the complete expulsion or extraction from its mother of a product of conception, irrespective of the duration of pregnancy, which, after such expulsion or extraction, breathes or shows any other evidence of life, and each product of such birth is considered live-born [Section 2 (d)].



**Still birth** means foetal death where a product of conception has attained at least the prescribed period of gestation [Section 2 (g)]. Foetal death where a product of conception has attained at least 28 weeks of gestation is termed as 'Still birth' [Section 2 (g), Rule 3].

## HOSPITAL BASED EVENTS

In respect of births, still birth and deaths that takes place in a hospital, health centre, maternity or nursing home or other like Institutions, the Medical Officer-in-charge or any Officer authorized him has been authorized to report to the concerned Registrar the occurrence of the said event in prescribed Form and time [Sub section (1) (b) of Section 8].

Place of occurrence	Informants*	Notifiers**
House	Head of the household	Midwife or any other medical or health attendant ANMs, ASHAs and Aanganwadi Workers Keeper or the owner of a place set apart for the disposal of dead bodies or any person required by a local authority to be present at such place
Institution Hospital, Health facility, Nursing home, etc. Jail Hotel, Dharamshala, Choultry, hostel, etc.	Medical Officer-in-charge or any person authorized by the MO I / C Jailor-in-charge Person In-charge	

## REGISTRATION PROCEDURES

### REGISTRATION WITHIN THE PRESCRIBED PERIOD (SECTION 8 AND 9)

The time period for reporting occurrence of birth, still birth or death event to the Registrar for registering the same is 21 days [Section 8 and 9, Rule 5 (3)].

Reporting Forms No. 1, 2, and 3 for live birth, death and stillbirth respectively

Form No. 1A for Birth Report for Adopted Child ; Form Nos. 4 (Institutional) & 4A (Non-Institutional) for furnishing cause of death

Form No. 5 and 6 for extracts of birth and death respectively

Form No. 10 for issue of Non-availability certificate, and



Form No. 11, 12 and 13 for preparation of monthly reports of birth, death and still birth respectively

## REGISTRATION BEYOND THE PRESCRIBED PERIOD (DELAYED REGISTRATION, SECTION 13)

Period of delay		
More than 21 days but within 30 days [Section 13 (1)]	More than 30 days but within 1 year [Section 13 (2)]	Beyond 1 year [Section 13 (3)]
Late fee	Late fee	Late fee
Authority for granting permission		
Registrar/Sub-registrar	Officer prescribed	Magistrate of the first class
Procedure		
On payment of prescribed fee by the informant.	Registration will be done only with the written permission of the prescribed authority, production of an affidavit made before a notary public or any other office authorized in this behalf by the State Government and payment of the prescribed fee.	Any birth or death not registered within one year of its occurrence, will be registered only on an order by a magistrate of the first class after verifying the correctness of the event and on payment of prescribed fee

## REGISTRATION OF NAME OF CHILD (SECTION 14)

Name of the child can be registered upto 12 months without late fee and upto 15 years with late fee

## CORRECTION OR CANCELLATION OF ENTRY (SECTION 15)

In general, no change is allowed in the birth and death registration records. However, there are provisions in the Act for making correction or cancellation under specific situations.

Corrections / cancellations are dealt under the provisions of Section 15; State Rule 11. f corrections and cancellations. The errors may be categorized into three broad types: clerical or formal error; error in substance; and fraudulent or improper entry:

- (i) Clerical or Formal error means an inadvertent / typographical mistake.

Example: Name of the new born was wrongly recorded as 'Moni' instead of 'Munni'.



- (ii) Error in form or substance – Error that has a bearing on identity of the person If any person asserts that any entry in the register of births and deaths is erroneous in substance.  
Example: a. Sex of the child reported as Male instead of Female.  
Nick name of the mother or father is entered instead of original name
- (iii) Fraudulent or improper entries – Entries made with an ulterior motive. If it is proved to the satisfaction of the Registrar that any entry in the register of births and deaths has been fraudulently or improperly made.

## REGISTRATION OF BIRTHS AND DEATHS OF CITIZENS OUTSIDE INDIA (SECTION 20)

Registration of births of citizens of India outside India is done at the Indian Missions under the Citizenship Act, 1955 (57 of 1955) and every such registration is deemed to have been made under the RBD Act, 1969 [Section 20 (1)].

In case the parents of the child return to India with a view to settling therein, they may within 60 days of the arrival of the child in India, get the birth registered in the same manner as if the child was born in India. Place of birth will be recorded as same where the child was born.

However, if registration is done after 60 days, provisions of Section 13 (Delayed registration) shall apply [Section 20 (2)].

Deaths of Indian citizens outside India cannot be registered in India. Such deaths are registered at the Indian Consulates under the Citizenship Act 1955 and would be deemed to have been made under the RBD Act 1969 [Section 20 (1)]. The certificate of death issued under the Citizenship Act is treated as a valid document under the RBD Act

## POWER OF REGISTRARS (SECTION 21)

Under the provision of Section 21 of the Act, each Registrar may either orally or in writing require any person to furnish any information within his knowledge in connection with a birth or death in the locality within which such person resides and that person shall be bound to comply with such requisition.

### Penalties

Section 23: Any person Who

- fails to give without reasonable cause, any information which she is duty bound to give under the provisions of Sections 8 and 9 (maximum fine Rs. Fifty)
- gives or causes to be given, for the purpose of being inserted in any register of birth or death, any information which the person knows or believes to be false (maximum fine Rs. Fifty)



- refuses to write his name, description and place of abode or to put thumb mark in the register as required under Section 11 of the Act (maximum fine Rs. Fifty)
- Medical practitioner neglects or refuses to issue a certificate under sub-section (3) of Section 10 and any person who neglects or refuses to deliver such certificate (maximum fine Rs. Fifty)
- without reasonable cause, contravenes (violates, resists, breach which could be considered as counter action) any provision of the Act (maximum fine Rs. Ten)

## MEDICAL CERTIFICATION OF CAUSES OF DEATH (SECTION 10)

Mortality data by specific causes is required to analyse health trends of population. Prevalence of diseases, evaluation of risks of death from various causes at different ages, proportion of deaths occurring in hospital, etc. is useful for the public health planners and administrators as well as the medical scientists and the researchers. Medical Certification of Causes of Death is dealt under Section 10 of the RBD Act .

Provision has been kept in the Act for certification of cause of death by a medical practitioner who attended the deceased during his last illness while in an Institution (Form 4) or outside Institution (Form 4A). After filling up the cause of death in Form 4 or 4A, the same should be sent to the concerned Registrar along with death report Form 2 [Section 10 (2) and 10 (3)]. For non-institutional deaths, where the deceased prior to his death was under treatment of a medical practitioner, the certificate of cause of death by the medical practitioner in Form 4A need be sent to the concerned Registrar through the person responsible for reporting noninstitutional deaths, for registration of the death event.

In case of violent deaths and other medico legal cases usually brought to the notice of a medical examiner at the post mortem stage, the certificate may be filled by the medical examiner on the basis of evidence noticed by him

Tabulation of information on cause specific mortality is done as per the National List of Classification of Diseases which is based on the International Classification of Diseases (ICD) – 10.

## REGISTRATION OF BIRTHS AND DEATHS IN DIFFERENT SITUATIONS

### REGISTRATION OF BIRTHS OF CHILDREN TAKEN ON ADOPTION

Procedure for registration of birth of children taken on adoption (through institutions and outside institutions) is prescribed below. A new Birth Reporting Form-1A, namely “Birth Report for adopted child” has been introduced to facilitate the adoptive parents have a proper birth certificate with their name as the parents. All adoptions are subject to order of the Magistrate having jurisdiction over the area in which the event falls. In

situations where natural parents of the child to be adopted are not known, the exact date and place of birth of the child which are crucial to birth registration are also not known. In such case:

- Date of birth to be recorded in the birth register will be subject to the certificate granted by the Chief Medical Officer / duly licensed physician and the order passed by the Magistrate in the matter.
- A birth certificate is to be issued after adoption to provide for a change in the name of the child and adoptive parent / parents
- The birth certificate should not reflect that the child is adopted.
- A large number of adoptions do take place outside the institutional arrangements - For example, children are taken on adoption from relatives or friends under Hindu adoption & Maintenance Act where a registered adoption deed is enough.

## REGISTRATION OF BIRTHS OF CHILDREN BORN THROUGH SURROGACY / ART / IVF TECHNIQUE

Over time issue of children born through Surrogacy, Assisted Reproductive Technology (ART) and In Vitro Fertilization (IVF) technique is gaining prominence. In such cases, the birth certificate shall be in the name of genetic parents (ORGI letter no. 8/9/2008 - VS CRS dated 01-09-2008).

In case of entry of name of single parent (Mother) in the birth record of children born through IVF (in vitro fertilization), the entry of name of father should be left blank in the birth record. However, necessary entry should be made in the remarks column of birth register that the child was born through IVF / Artificial Insemination with Donor Semen (AID), hence the name of father is not indicated (Clarification issued by ORGI vide letter no. 1/37/2004- VS CRS dated 23-02-2009).

### Apart from Registration of Births & Deaths Act

Notification for Births & Deaths is to be done as per mandate under the following Acts

#### Bombay Nursing Home Registration Act

##### By-laws. —

(1) The local supervising authority may make by-laws -

(a) prescribing the records to be kept of the patients received into a nursing home, and **in the case of the maternity home, of miscarriages, abortions or still births occurring in the nursing home and of the children born therein and of the children so born who are removed from the home otherwise than to the custody or care of any parent, guardian or relative**

(b) requiring notification to be given of **any death** occurring in the nursing home

Notification to be given to Registrar of Births and Deaths.

## Maharashtra Municipal Corporations Act

When a **child is born** in any hospital, the officer in charge shall be bound to forward to the Registrar General or Registrar, a report of such birth in prescribed format within **seven days**

Person who has been **attended in his last illness** by a duly qualified medical practitioner, that practitioner **shall within three days** of his becoming cognisant of the **death shall notify the death**

Notice of death occurring in Nursing Home

- If any **death** occurs in a nursing home, the keeper of the nursing home shall **within 24 hours** from the occurrence of the death give in **writing**
- The notice **may be sent by pre-paid post** or in any other effective manner
- Within **twenty-four hours of the conclusion of the inquest**

Cause of death as found by the authority by which the inquest was held

## Births, Deaths and Marriages Registration Act 1886

Persons authorised to give notice of birth- Any medical practitioner in attendance after birth and having personal knowledge of the birth having occurred. .

### Delay in registration/ Errors

- Within **30 days** of delay late fee of **Rs 2**
- Within **30 days to 1 yr.** -written permission from the local authority with late fee and affidavit.
- After **1 yr.** need an order from the **magistrate**.
- Registrar has the authority to make corrections

## Penalties

### Bombay Nursing Home Registration Act:

Fine which may extend to fifty rupees;

### Registration of Births and Deaths Act:

Punishable with fine which may extend to fifty rupees.

### Municipal Corporation Act:



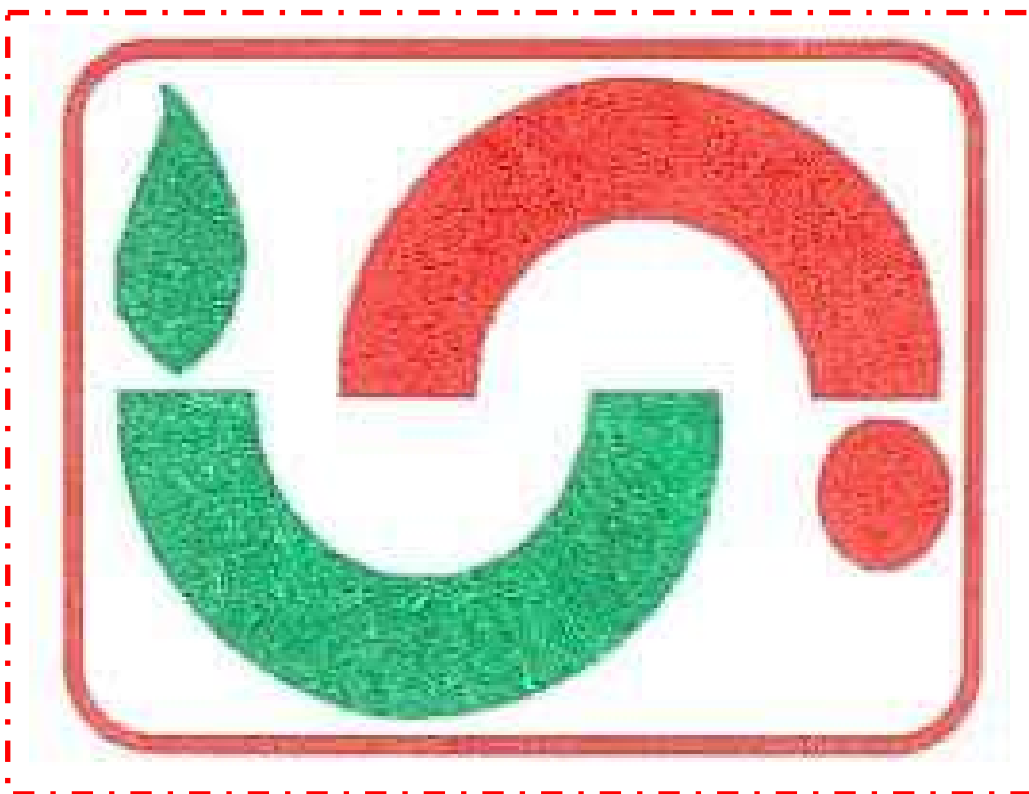
## Appendix II Part I- One hundred rupees

### Offences under the Act

- **Fails** without reasonable cause **to give information**
- Giving **false information with knowledge**
- Can be **compounded** by paying a sum of **Rs Fifty**
- Criminal proceedings for **imprisonment upto 3 yrs**

### Conclusion:

Birth & Death are the major events in the life. Their proper registration at proper place within proper time & the penalties if not done are the things covered under the Act, which all medical practitioners must know.







**Dr. Swarupa Iyer**  
MD, DGO, LL.B

## Biomedical Waste Disposal Act

### Introduction:

Health Care Facilities (HCFs) are primarily responsible for management of the healthcare waste generated within the facilities, including activities undertaken by them in the community.

The health care facilities, while generating the waste are responsible for **segregation, collection, in-house transportation, pre-treatment of waste and storage of waste**, before such waste is collected by Common Bio-medical Waste Treatment Facility (CBWTF) Operator.

Thus, for proper management of the waste in the healthcare facilities the technical requirements of waste handling are needed to be understood and practiced by each category of the staff in accordance with the BMW Rules, 2016.

### Role of Health Care Facility

As per the BMW Rules, 2016, the liability for implementing these rules lies with the person having administrative control over the healthcare facility. This person in BMW Rules is termed as an "Occupier" and defined as "a person having administrative control over the institution and the premises generating bio-medical waste, which includes a hospital, nursing home, clinic, dispensary, veterinary institution, animal house, pathological laboratory, blood bank, health care facility and clinical establishment, irrespective of their system of medicine."

### Responsibility of the Healthcare Facility

It is the overall responsibility of the in charge of the HCF to take all necessary steps to ensure that bio-medical waste is handled without any adverse effect to human health and the environment and in accordance with the BMW Rules 2016.

These rules are implemented in states by State pollution control board (SPCB). There might be minor differences in state wise implementation in procedures like Obtaining authorization, record keeping and reporting. Readers are requested to refer to local pollution control board for the same. Also, rules regarding segregation, collection, pre-treatment and transport have not been elaborated in details due to space constraint. Readers are requested to refer to site- <https://cpcb.nic.in>.

Regarding disposal of Covid related waste, we have added pictorial guide for easy understanding. Readers can refer to-<https://cpcb.nic.in/covid-waste-management/> for details.



Waste generated from the healthcare facility is classified as:

- 1) Bio Medical Waste
- 2) General Waste
- 3) Other Wastes

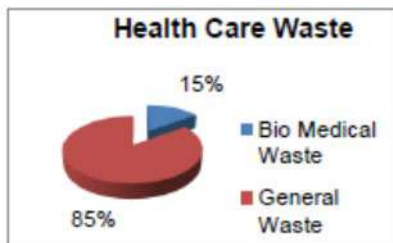
## 1) Bio Medical Waste

Bio-medical waste means any waste, which is generated during the diagnosis, treatment or immunization of human beings or animals or research activities pertaining thereto or in the production or testing of biological or in health camps.

Bio-Medical waste includes all the waste generated from the Health Care Facility which can have any adverse effect to the health of a person or to the environment in general if not disposed properly. All such waste which can adversely harm the environment or health of a person is considered

As infectious and such waste has to be managed as per BMW Rules, 2016

The quantity of such waste is around 10% to 15% of total waste generated from the Health Care Facility.



This waste consists of the materials which have been in contact with the patient's blood, secretions, infected parts, biological liquids such as chemicals, medical supplies, medicines, lab discharge, sharps metallic and glassware, plastics etc.

Bio Medical Waste Management Rules, 2016 categorizes the bio-medical waste generated from the health care facility into four categories based on the segregation pathway and colour code. Various types of bio medical waste are further assigned to each one of the categories, as detailed below:

1. Yellow Category
2. Red Category
3. White Category
4. Blue Category

These categories are further divided as per the type of waste under each category as follows:

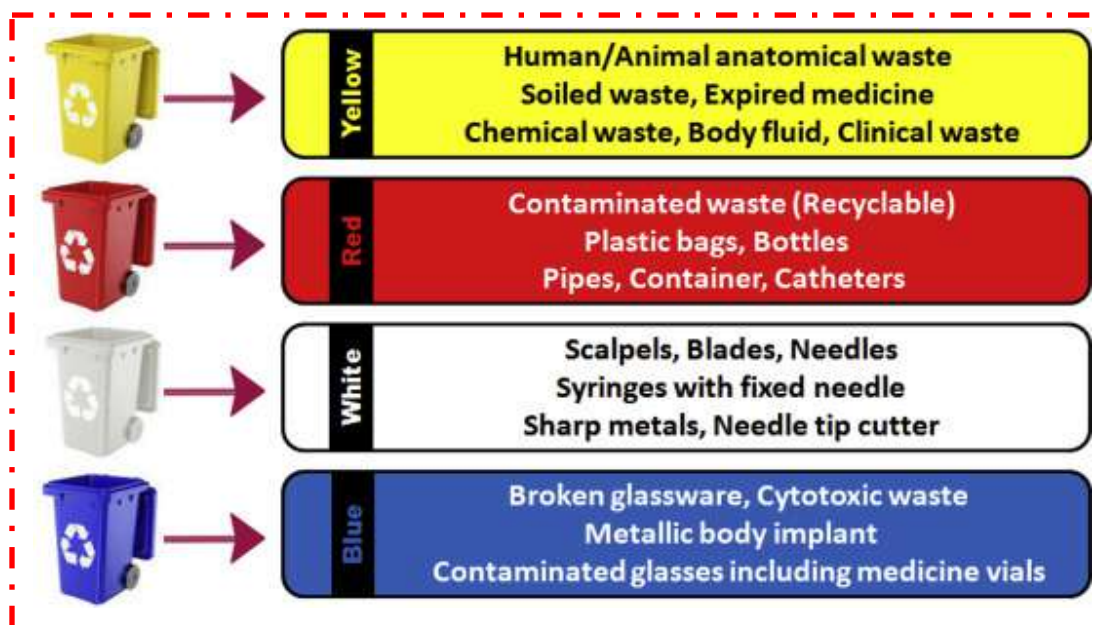


Table 1: Categories of Biomedical Waste

CATEGORY	TYPE OF WASTE
YELLOW	<b>Human Anatomical Waste</b> Human tissues, organs, body parts and fetus below the viability period (as per the Medical Termination of Pregnancy Act 1971, amended from time to time).
	<b>Animal Anatomical Waste</b> Experimental animal carcasses, body parts, organs, tissues, including the waste generated from animals used in experiments or testing in veterinary hospitals or colleges or animal houses.
	<b>Soiled Waste</b> Items contaminated with blood, body fluids like dressings, plaster casts, cotton swabs and bags containing residual or discarded blood and blood components.
	<b>Discarded or Expired Medicine</b> Pharmaceutical waste like antibiotics, cytotoxic drugs including all items contaminated with cytotoxic drugs along with glass or plastic ampoules, vials etc.
	<b>Chemical Waste</b> Chemicals used in production of biological and used or discarded disinfectants
	<b>Chemical Liquid Waste</b> Liquid waste generated due to use of chemicals in production of biological and used or discarded disinfectants, Silver X - ray film developing liquid, discarded Formalin, infected secretions, aspirated body fluids, liquid from laboratories and floor washings, cleaning, house - keeping and disinfecting activities etc
	Discarded linen, mattresses, beddings contaminated with blood or body fluid, routine mask & gown.

CATEGORY	TYPE OF WASTE
	<b>Microbiology, Biotechnology and other clinical laboratory waste (Pre-treated)</b> Microbiology, Biotechnology and other clinical laboratory waste: Blood bags, Laboratory cultures, stocks or specimens of microorganisms, live or attenuated vaccines, human and animal cell cultures used in research, industrial laboratories, production of biological, residual toxins, dishes and devices used for cultures.
RED	Wastes generated from disposable items such as tubing, bottles, intravenous tubes and sets, catheters, urine bags, syringes without needles, fixed needle syringes with their needles cut, vacutainers and gloves
WHITE	Waste Sharps including metals Needles, syringes with fixed needles, needles from needle tip cutter or burner, scalpels, blades, or any other contaminated sharp object that may cause puncture and cuts. This includes both used, discarded and contaminated metal sharps
BLUE	Broken or discarded and contaminated glass including medicine vials and ampoules except those contaminated with cytotoxic wastes.





## 2) General Waste –

General waste consists of all the waste other than bio-medical waste and which has not been in contact with any hazardous or infectious, chemical or biological secretions and does not include any waste sharps.

This waste consists of mainly: (i) News paper, paper and card boxes (dry waste) (ii) Plastic water bottles (dry waste) (iii) Aluminium cans of soft drinks (dry waste) (iv) Packaging materials (dry waste) (v) Food Containers after emptying residual food (dry waste) (vi) Organic / Bio-degradable waste - mostly food waste (wet waste) (vii) Construction and Demolition wastes.

These general wastes are further classified as dry wastes and wet wastes and should be collected separately. This quantity of such waste is around 85 % to 90 % of total waste generated from the facility. Such waste is required to be handled as per Solid Waste Management Rules, 2016 and Construction & Demolition Waste Management Rules, 2016, as applicable.

## 3) Other Wastes-

Other wastes consist of used electronic wastes, used batteries, and radio-active wastes which are not covered under biomedical wastes but have to be disposed as and when such wastes are generated as per the provisions laid down under E-Waste (Management) Rules, 2016, Batteries (Management & Handling) Rules, 2001, and Rules/guidelines under Atomic Energy Act, 1962 respectively.

## Steps involved in Bio-medical Waste Management

First five steps (**Segregation, Collection, pre-treatment, Intramural Transportation and Storage**) is the exclusive responsibility of Health Care Facility. While Treatment and Disposal is primarily responsibility of CBWTF (Common Bio Medical Waste Treatment Facility) operator except for lab and highly infectious waste, which is required to be pre-treated by the HCF.

### **Following are the responsibility of HCF for management and handling of bio-medical waste:**

1. Biomedical Waste should be segregated at the point of generation by the person who is generating the waste in designated colour coded bin/ container.
2. Biomedical Waste & General Waste shall not be mixed. Storage time of waste should be as less as possible so that waste storage, transportation and disposal are done within 48 hours.
3. No secondary handling or pilferage of waste shall be done at healthcare facility. If CBWTF facility is available at a distance of 75 km from the HCF, bio-medical waste should be treated and disposed only through such CBWTF operator.
4. Only Laboratory and Highly infectious waste shall be pre-treated onsite before sending for final treatment or disposal through a CBWTF Operator.



5. Provide bar-code labels on all colour coded bags or containers containing segregated bio-medical waste before such waste goes for final disposal through a CBWTF.

The management of bio-medical waste can overall be summarized in the following steps;

- Waste Segregation in colour coded and barcode labelled bags/ containers at source of generation.
- Pre-treat Laboratory and Highly infectious waste
- Intra-mural transportation of segregated waste to central storage area
- Temporary storage of biomedical waste in central storage area
- Treatment and Disposal of biomedical waste through CBWTF or Captive facility.

## Record Keeping

1. Every healthcare facility need to maintain the records w.r.to category wise bio-medical waste generation and its treatment disposal (either by captive facility or through CBWTF) on daily basis. (Please Refer to Annexure 2 in BMW management rules 2016 for Format for Bio Medical Waste Register / Record)

2. Category wise quantity of waste generated from the facility must be recorded in Bio Medical Waste Register/logbook being maintained at central waste collection area under the supervision of one designated person.

3. A weighing machine as per the specifications given in CPCB guidelines for bar code system needs to be kept in central waste collection centre of the HCF having 30 or more than 30 nos. of beds for weighing the quantity of Bio Medical Waste.

4. HCFs having less than 30 beds shall maintain records of receipts printed by the CBWTF.

5. Records on Annual Report on bio-medical waste management submitted to State Pollution Control Board (SPCB) in respect of States or Pollution Control Committees (PCC) in respect of Union Territories.

6. Records w.r.t. Accident Report submitted to SPCB/PCC including "NIL" report.

7. Records shall be maintained on training on BMW Management including both Induction and in service training records.

8. Maintain records for Annual Health check-up of all the employees.

9. Maintain record on Immunisation of all the employees.

10. Records shall be maintained w.r.t. minutes of meeting of Bio Medical Waste Management committee



11. Records shall be maintained indicating details of accident occurred including preventive and corrective actions taken by the HCFs in relation to such accidents.
12. Records for the operation of the biomedical treatment equipment installed, if any for the treatment of biomedical waste. Please refer Annexure 9 of BMW management rules 2016 for format of logbook/records maintained for incinerator/plasma pyrolysis and autoclave/hydroclave.
13. Records of testing of Effluent generated from health care facility.
14. Record of recyclable waste (plastic/glass) handed over to the authorized recycler in kg/annum.

The records related to the handling of BMW by healthcare facilities needs to be retained for period of 5 years.

### Updating of Information in Website

All bedded healthcare facilities as prescribed under BMWM Rules, 2016 shall develop a separate page/web link in its website for displaying the information pertaining to their hospital by 15/03/2020. The following information should be uploaded and updated time to time:

1. Contact Address and details of the Healthcare Facility:
2. No. of bed:
3. Details of:
  - a) Authorisation under BMWM Rules, 2016:
  - b) Consent under Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981:
4. Quantity of bio-medical waste generation (in kg/day):
5. Mode of disposal of bio-medical waste (through CBWTF or through captive treatment facility):
6. Name and address of the CBWTF through which waste is disposed off (as applicable):
7. In case, HCF is having captive treatment facility,
  - a) bio-medical waste treated (in kg/day)
  - b) Details of treatment equipment
  - c) Total nos. and capacity of each treatment equipment (in kg/day)
  - d) Operating parameters of the treatment equipment as per BMWM Rules, 2016



8. Monthly records of bio-medical waste generation (category wise):
9. No. of trainings conducted on Bio-medical Waste Management in the current year:
10. Stats of immunization of Health Care Workers involved in handling of BMW:

## Liability of Health Care Facility

As per the BMWM Rules, 2016, the liability for implementing BMWM Rules, 2016 lies with the occupier or the person having administrative control over the healthcare facility (as elaborated at section 5.1 of Environment (Protection) Act, 1986). He/she shall be liable for any harm that may occur to the environment or people due to improper handling of the BMW generated from the facility.

In case of any violation, the occupier shall be liable for action under section 15 of Environment (Protection) Act, 1986. The occupier shall also be liable for complying the directions if any issued under section 5 of Environment (Protection) Act, 1986 issued by concerned authorities.

To avoid any legal implications, the HCF must meet all the responsibilities as listed in these guidelines as well as BMWM Rules, 2016.

Legal Actions that can be taken against HCFs for violation of the provisions or the 'Directions' under Section 5 of 'The Environment (P) Act, 1986' as follows;

- Closure, prohibition or regulation of any operation or process
- Stoppage or regulation of the electricity or water supply
- Closure of the HCFs

Legal Actions for violation of the provisions under Section 15 of 'The Environment (P) Act, 1986' includes:

- Imprisonment up to five years or fine up to one lakh rupees for each failure or contravention of the Rules or both;
- In case of violation continues, additional fine which may extend to five thousand rupees for every day of violation;
- If the contravention continues beyond a period of one year after the first date of contravention, the offender shall be punishable with imprisonment for term which may extend to seven years (as may be decided by Hon'ble Courts).



## BIO-MEDICAL WASTE SEGREGATION CHART

Category	Type of Waste
<b>YELLOW</b>  	<ul style="list-style-type: none"> <li>• Pathological Waste</li> <li>• Cotton Waste</li> <li>• Dressing Materials</li> <li>• Beddings</li> <li>• Body Fluid Contaminated Paper and Cloth</li> <li>• Face Mask, Cap</li> <li>• Cytotoxic, Expired &amp; Discarded Medicines</li> <li>• Microbiology, Biotechnology Lab Waste</li> </ul>
<b>RED</b>  	<ul style="list-style-type: none"> <li>• Syringe with out needles</li> <li>• I.V.Set</li> <li>• Catheters</li> <li>• Gloves</li> <li>• Urine Bag</li> <li>• Dialysis Kit</li> <li>• IV Bottles</li> <li>• Plastic wastes</li> <li>• Goggles</li> </ul>
<b>WHITE (Translucent)</b>  	<ul style="list-style-type: none"> <li>• Needles</li> <li>• Syringes with fixed needles</li> <li>• Blades</li> <li>• Scalpels</li> </ul> <p>* Use 1% Hypochlorite Solution for disinfecting Glass &amp; Metal Sharps</p>
<b>BLUE</b>  	<ul style="list-style-type: none"> <li>• Glass <ul style="list-style-type: none"> <li>- Broken Glass</li> <li>- Ampoules</li> <li>- Lab Slides</li> </ul> </li> <li>• Metals <ul style="list-style-type: none"> <li>- Nails</li> <li>- Metallic Body Implants</li> <li>- Scissors</li> </ul> </li> </ul> <p>*Use 1% Hypochlorite Solution for disinfecting Glass &amp; Metal Sharps</p>

Issued in public interest by the Indian Institute of Health and Family Welfare - Telangana

## GUIDELINES FOR HANDLING AND DISPOSING WASTE FROM QUARANTINE CAMPS/ HOMES/ HOME-CARE FACILITIES

General solid waste (household waste) should be handed over to waste collector identified by Urban Local Bodies (ULBs) or as per the prevailing local method of disposing general solid waste

Maintain separate bins for biomedical waste and general household waste

Persons operating Quarantine camps/centres should call the CBWTF operator to collect biomedical waste as and when it gets generated

Biomedical waste from quarantine centres/camps should be collected separately in yellow coloured bags provided by ULBs. These bags can be placed in separate and dedicated dust-bins of appropriate size

Persons taking care of quarantine home / home-care should deposit generated biomedical waste from suspected or recovered COVID-19 patients by any of the following methods:

Hand over the yellow bags containing biomedical waste to authorized waste collectors at door steps engaged by local bodies; or Deposit biomedical waste in yellow bags at designated deposition Centres established by ULBs





## WASTE MANAGEMENT IN COVID-19 WARDS, COVID-19 SAMPLE COLLECTION CENTERS AND LABORATORIES

**Record of waste generated from COVID-19 isolation wards should be maintained separately. Opening or operation of COVID-19 isolation wards and sample collection centres should be reported to SPCBs.**

**Biomedical waste should be segregated as per the BMWM Rules as depicted in poster number 1 and 5 of this guide.**

**Collected biomedical waste should be stored separately in temporary storage room prior to handing over to authorized staff of Common Biomedical Waste Treatment Facility (CBWTF)**

**Only dedicated trolleys with "COVID-19" label should be used in COVID-19 isolation wards**

**Dedicated sanitation workers should be deputed separately for handling biomedical waste and general solid waste for COVID-19 wards**

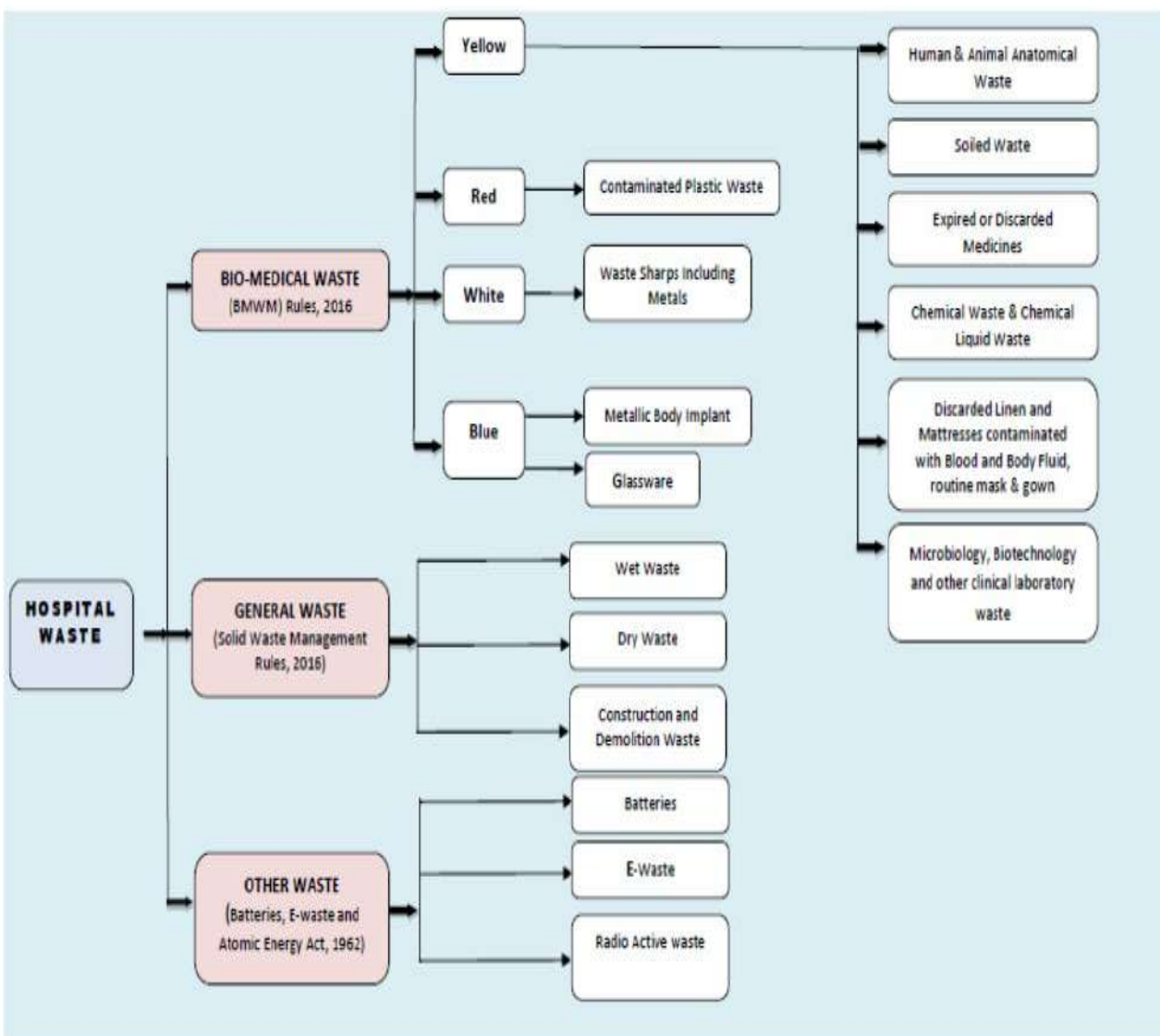
**General waste not having contamination should be disposed as solid waste as per SWM Rules, 2016**

**Biomedical waste can be lifted directly from the isolation wards into CBWTF collection van**

**Double layered bags (using 2 bags) should be used for collection of waste from COVID-19 isolation wards**

**The (inner and outer) surface of containers/bins/trolleys used for storage of COVID-19 waste should be disinfected with 1% sodium hypochlorite solution daily**

**Collection of biomedical waste should be carried out separately in appropriately colour coded and specifically dedicated bins with an additional label of "COVID-19 Waste". ULBs/authorized waste collector shall hand over yellow bag waste to CBWTF operator for final disposal**







**Dr. Manish Shrigiriwar**

Professor & Head

## Role Of Gynecologist in Examination of Sexual Assault Survivor



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Associate Professor

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### Introduction:

Examination of a Sexual assault survivor (earlier termed as rape) has evolved Post-Nirbhaya case. According to the suggestions of Justice Verma Commission, Ministry of Health & Family Welfare brought out guidelines and proforma for examination of survivors of sexual violence. (1) We summarize here various steps and precautions that have to be taken to examine a sexual assault survivor in compliance with notified guidelines of examination.

- Prerequisites for examination of a survivor of sexual assault are requisition for examination, identification of the person (identification marks), informed written consent which should be conscious, free and voluntary. Identification marks should be unique to the person and over the accessible parts of the body. Evidences which are required in sexual assault cases are related to the age of the victim, marks of resistance, violence on genitals, stains of blood & sperms on clothing, detection of semen in the vagina, status of hymen, the indication of penetration, the indication of communication of any venereal diseases. This may involve an examination of the mouth, breasts, vagina, anus and rectum. The medico-legal examination assists the investigation, arrest and prosecution of those who committed the sexual offence.

**Informed consent:** The doctor shall inform the person being examined about the nature and purpose of examination and, in case of the child, to the child's parent/guardian/person in whom the child reposes trust.

- Consent should not be a blanket or comprehensive statement. Consent should be separate for each step of examination and treatment. Steps in the examination for which consent should be sought can include external examination of the body, local examination of genitals, examination for age estimation, USG/Urinary pregnancy test for detection of pregnancy, retention of products of conception for DNA examination, collection of blood for blood grouping or DNA analysis, detection of intoxicating drugs, photography or police intimation. A victim over 12 years of age can consent for routine Medico-legal examination; however, the victim shall be above 18 years of age for other examination aspects.
- If the child is under 12 years of age, consent for examination needs to be sought from the parent or guardian. Children may be accompanied by the abuser when they come for medical treatment, so be aware and screen when you suspect abuse. In such situations, a female person appointed by the head of the hospital/institution may be called in to be present during the examination.
- The survivor or, in the case of a child, the parent/guardian/person in whom the child reposes trust, has the right to refuse either a medico-legal examination or collection
-



Of evidence or both, but that refusal will not be used to deny treatment to the survivor after sexual violence.

**Do's in an examination:** The focus of management of sexual assault survivor has shifted from examination to treatment. Lack of consent for treatment should not hamper in any way treatment of a survivor of asexual assault survivor.

- Criminal law (Amendment) Act 2013, in Section 357C Cr.PC mandates both private and public health professionals to provide treatment. Denial of treatment of rape survivors is punishable under Section 166 B IPC
- Survivors of sexual violence should receive all services completely free of cost. This includes OPD/inpatient registration, lab and radiology investigations, Urine Pregnancy Test (UPT) and medicines. A copy of all documentation (including medico-legal examination and treatment) must be provided to the survivor free of cost.
- Inform the police - It is a duty as per law. However, the survivor may refuse to register an FIR. As per the law, the hospital/ examining doctor must inform the police about the sexual offence (Section 357C Cr.PC and Section 19 POCSO Act). (2) However, if the survivor does not wish to participate in the police investigation, it will not result in denial of treatment for sexual violence. However, neither the court nor the police can force the survivor to undergo a medical examination. It has to be with the informed consent of the survivor/ parent/ guardian (depending on the age). If the survivor does not want to pursue a police case, a MLC must be made, and she must be informed that she has the right to refuse to file FIR. Informed refusal will be documented in such cases.
- A female doctor is preferred for a female victim, but in the absence, a male doctor can examine in the presence of female staff. In the case of minor or mentally disabled, any person with whom survivor is comfortable may be allowed. The examination is usually best if carried out within 72 hrs of a sexual assault. If a woman reports within 96 hours (4 days) of the assault, all evidence, including swabs, must be collected.
- It is better to depict the findings in diagrams.
- Always try to preserve stain/smear for chemical examination.
- The certificate should be issued immediately. In addition, one copy of the examination report must be given free of cost to the victim.

### **Don't in an examination:**

- Refusal of medical care to survivors/victim of sexual violence and acid attack amounts to an offence under section 166 B of the Indian Penal Code read with section 357C of the Code of Criminal Procedure.
- Don't use '**Two-finger test**': In a landmark judgment of the Supreme Court (Lillu @ Rajesh & anr v State of Haryana, 2013), (3) the court observed that the two-finger test and its interpretation violate the right of rape survivors to privacy, physical and mental integrity and dignity. '**Two-finger test** (Per-Vaginum examination) must not be conducted for establishing rape/sexual violence, and the size of the vaginal introitus has no bearing on a case of sexual violence. An intact hymen does not rule out sexual violence, and a torn hymen does not prove previous sexual intercourse. Per vaginum examination can be done only in adult women when medically indicated. Hymen should therefore be treated like any other part of the genitals while documenting examination findings.



- PolicerequisitionisNOTmandatoryformedico-legalexaminationandtreatment.

**Injury documentation:** Examine the body parts for sexual violence-related findings (such as)

injuries, bleeding, swelling, tenderness, discharge). It will include detection of general violence and local violence. General violence injuries may be over face, inner aspect of arms, inner aspect of thighs, shoulder blades and sacral region. Assistance may be sought from Forensic Medicine consultant for correct documentation and interpretation of injuries. Local genital examination includes both micro-mucosal injuries, which may heal within a short period, to that of severe injuries, which would take longer to heal. Injuries must be recorded with details-size, site, shape, colour. The presence of injuries is only observed in one-third of cases of forced sexual intercourse. (4) The absence of injuries does not mean the survivor has consented to sexual activity. The lack of injuries may be due to the inability of the survivor to offer resistance because of intoxication or threats. (5)

**Pregnancy due to rape:** If a woman reports a pregnancy resulting from an assault, she is to be given the option of undergoing an abortion, and protocols for MTP are to be followed. The products of conception (PoC) may be sent as evidence to the forensic lab (FSL) for establishing paternity/identifying the accused. The examining doctor is to contact the respective police station, ask them to collect the DNA Kit from the FSL and bring it to the hospital to coincide with the time of MTP. The DNA Kit is used to collect the blood sample of the survivor. The accompanying DNA Kit forms are to be filled by the examining doctor. A photograph of the survivor is required for this form and should be arranged prior to the MTP.

Nature of forensic evidence collected: It will be determined by three main factors-

- Nature of sexual violence,
- Time lapsed between the incident of sexual violence and examination,
- Whether survivor has bathed or washed

injuries, bleeding, swelling, tenderness, discharge). It will include detection of general violence and local violence. General violence injuries may be over face, inner aspect of arms, inner aspect of thighs, shoulder

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(4) The absence of injuries does not mean the survivor has consented to sexual activity. The lack of injuries may be due to the inability of the survivor to offer resistance because of intoxication or threats.

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Nature of forensic evidence collected: It will be determined by three main factors-

- Nature of sexual violence,
  - Time lapsed between the incident of sexual violence and examination,
  - Whether survivor has bathed or washed.
- 
- Opinion: The issue of whether an incident of rape/sexual assault occurred is a legal issue and not a medical diagnosis. Consequently, doctors should not use terminology like 'rape' or 'sexual assault' in his opinion, as they are legal terminologies. Only medical findings should be recorded in the report. Drafting of provisional opinion should be done immediately after examining the survivor based on history and findings of detailed clinical examination of the survivor. It should always be kept in mind that normal examination findings neither refute nor confirm sexual violence. Hence circumstantial evidence may please be taken in to consideration. Opinions that can be offered upon varied findings in the general examination, local examination and trace evidence is enumerated in Table1
  - Testifying in the court of law: Examination of sexual assault survivor has to be done in the utmost sympathetic manner; however, the examination should be done with anticipation of legal challenges that the prosecution may face during the trial. It has to be in a scientific, rational, logical and unbiased manner. A doctor must not hesitate to testify in a court of law; in fact, he is a privileged witness in the case. Following precautions need to be taken while examination and testifying the same in the court of law-
    - i. Report of an examination must be in legible handwriting and reflect clear findings and opinion.
    - ii. The informed consent form of the survivor of sexual assault must be well documented.
    - iii. Evidence must be adequately collected with the use of appropriate preservatives
    - iv. The chain of custody of evidence must be strictly maintained and documented.
    - v. Communication with police, legal authorities or any other agency must be clear and documented.
    - vi. The doctor must be aware of recent developments in law related to the case.

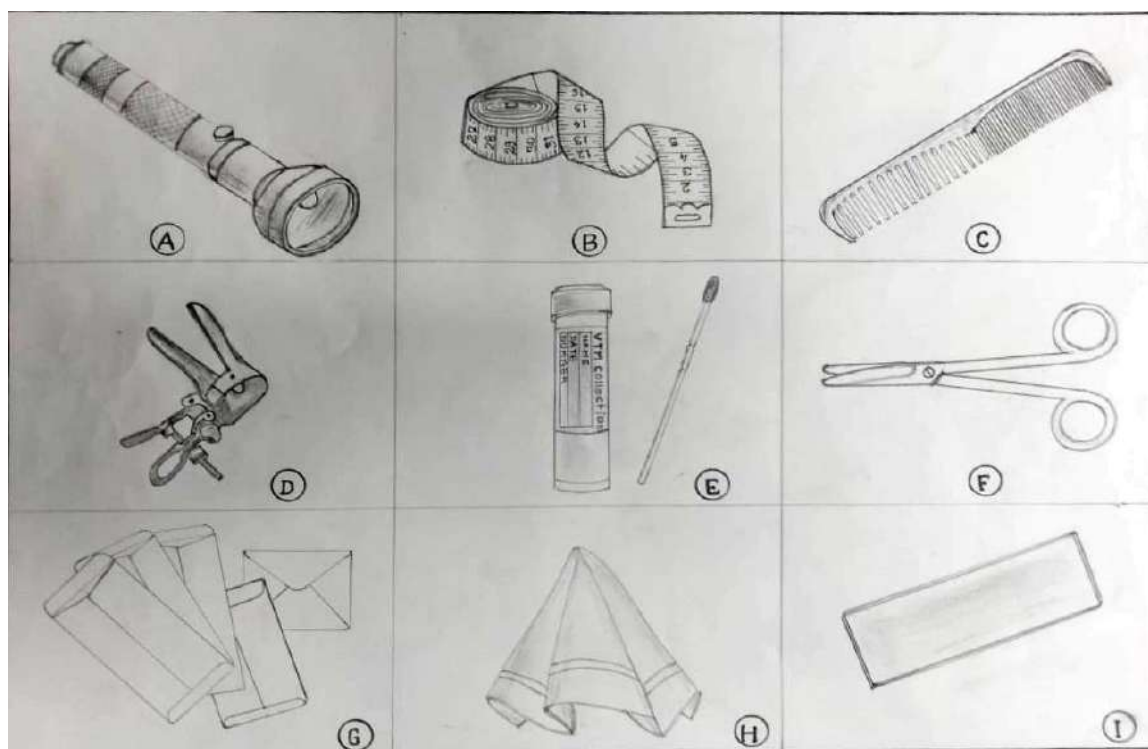
If the following precautions are followed, then unpleasant queries are usually not raised during the trial and it helps ultimately in a fair trial.

**Conclusion:** Examination of sexual assault survivor may be required to be done at any health facility. A Doctor needs to be aware of the basic steps involved in it. Sympathetic response to the victim, informed consent for various steps in the examination, adequate evidence collection, prudent opinion framing and testifying in a court of law is the cornerstone for effective evidence deposition. The doctor must be aware of recent updates of law related to sexual assault examination.



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4. Sujatha PL, Ananda K, Sane MR. Profile of victims of natural sexual offences in South Bangalore. J Indian Acad Forensic Med. 2016;38(3):274–7.
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**Figure 1: Kit for examination:** A-Torch; B-Measuring tape; C-Comb; D-Cusco's speculum; E-Swabs with container; F-Scissor; G-Small and large envelopes; H-White cloth sheet; I-Slides

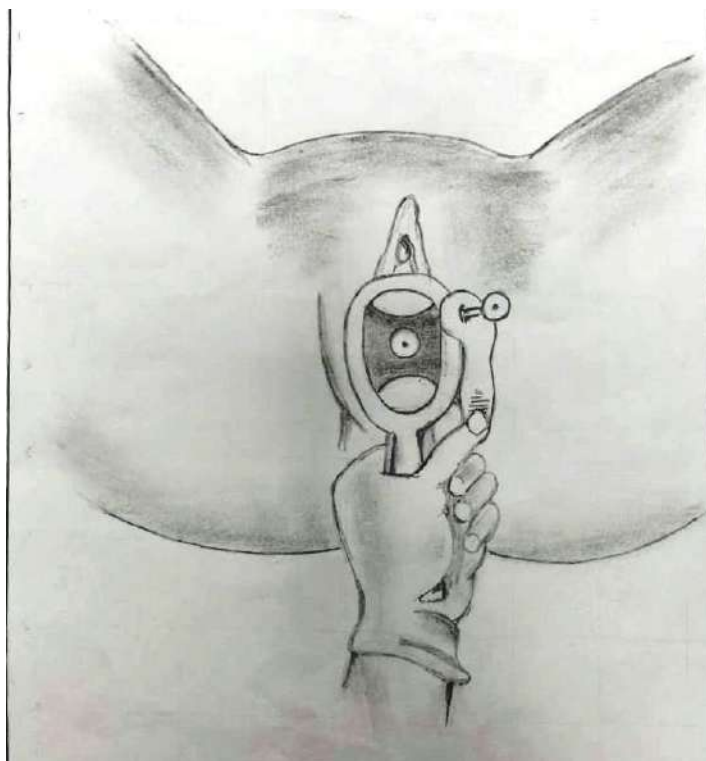


Figure2: Cusco's speculum examination of genitalia

**Figure 1:** Schematic flowchart of examination of a sexual assault survivor

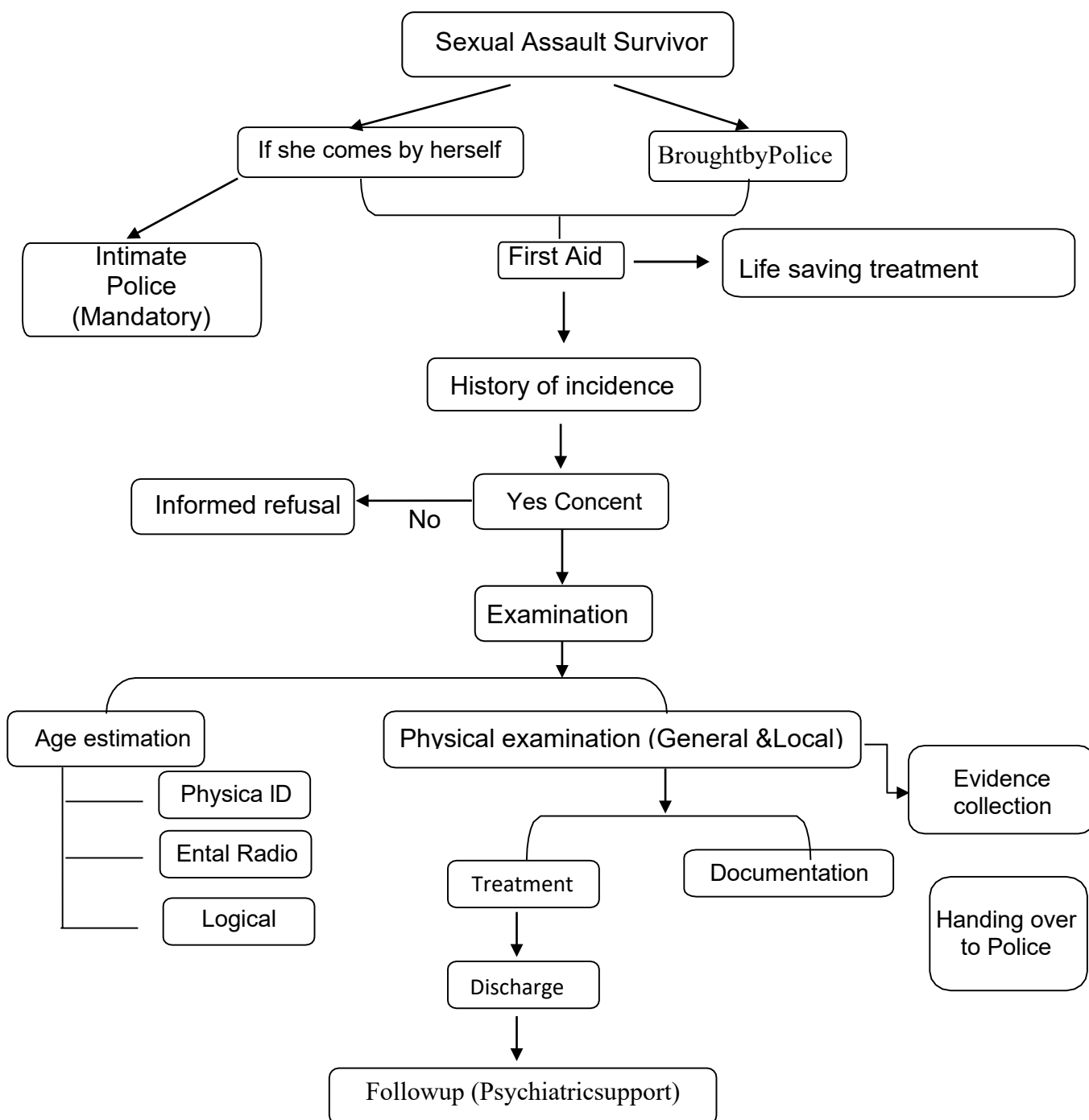


Table1:Provisional opinion and final opinion to be formulated in various case scenarios(1)

Genital Injuries	Physical injuries	Provisional opinion	Rationale for provisional opinion	FSL report	Final Opinion
Present	Present	There are signs suggestive of recent use of force/forceful penetration of the vagina/anus. Sexual violence cannot be ruled out	Evidence for semen is yet to be tested by laboratory in case of penile penetration	Positive for the presence of semen	There are signs suggestive of forceful vaginal/anal intercourse.
				Negative for semen	There are no signs suggestive of vaginal/anal intercourse, but there is evidence of a physical and genital assault.
Present	Absent	There are signs suggestive of recent forceful penetration of the vagina/anus	Evidence for semen is yet to be tested by laboratory in case of penile penetration. The lack of physical injuries could be because of the survivor being unconscious, under the effect of drugs, overpowered or threatened.	Positive for the presence of semen	There are signs suggestive of forceful vaginal/anal intercourse.
				Negative for semen	There are no signs suggestive of vaginal/anal intercourse, but there is evidence of a genital assault.
Absent	Present	There are signs of use of force; however, vaginal or anal or oral penetration cannot be ruled out.	The lack of injuries could be because of the survivor being unconscious, under the effect of drugs, overpowered or threatened, or use of lubricant.	Positive for the presence of semen	There are signs suggestive of forceful vaginal/anal intercourse.
				Negative for semen	There are no signs suggestive of vaginal/anal intercourse, but there is evidence of physical.
Absent	Absent	There are no signs of use of force; however, final opinion is reserved pending the availability of FSL reports. Sexual violence cannot be ruled out.	The lack of genital injuries could be because of the use of lubricant. The lack of injuries could be because of the survivor being unconscious, under the effect of drugs, overpowered or threatened, or use of lubricant.	Positive for the presence of semen	There are signs suggestive of vaginal/anal intercourse.
				Positive for drugs/alcohol and semen	There are signs suggestive of vaginal/anal intercourse under the influence of drugs/alcohol.
				Positive for the presence of lubricant	There is a possibility of vaginal/anal penetration by a lubricated object.
				Negative for semen/drugs/alcohol/lubricant	There are no signs suggestive of penetration of the vagina/anus.





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## Female Sterilization Protocol & Guidelines

### Introduction:

The Development of Standards on Sterilization Services is an important step in ensuring the provision of quality services in the Reproductive and Child Health Program of the Government of India for addressing the large unmet need in terminal methods.

These are few guidelines from Government of India Ministry of Health & Family Welfare:

### Basic Qualification Requirement of Provider :

- Female: Minilap services ----Trained MBBS doctor  
Laparoscopic sterilization ---- MBBS, DGO / MD (Obst. & Gynaec.)/ MS (Surgery) (trained in laparoscopic sterilization)
- Male : Conventional vasectomy and No-scalpel vasectomy (NSV) --- -a Trained MBBS doctor

The state should constitute a district-wise panel of doctors for performing sterilization operations in government institutions and accredited private/NGO centers based on the above criteria. Only those doctors whose names appear on the panel should be entitled to carry out sterilization operations in the government and/or government-accredited institutions. The panel should be updated quarterly.

### Case Selection

1. Clients, if a couple should be married (including ever-married).
2. Female clients should be below the age of 49 years and above the age of 22 years. Male clients should ideally be below the age of 60 years
3. The couple should have at least one child whose age is above one year unless the sterilization is medically indicated.
4. Clients or their spouses/partners must not have undergone sterilization in the past (not applicable in cases of failure of previous sterilization).
5. Clients must be in a sound state of mind so as to understand the full implications of sterilization.
6. Mentally ill clients must be certified by a psychiatrist, and a statement should be given by the legal guardian/spouse regarding the soundness of the client's state of mind.



**Preparation for the surgery** ---Includes counselling, preoperative instructions, case selection, preoperative assessment, safe surgical practices like--review of the surgical procedure, and post-operative care. It is essential to ensure that the consent for surgery is voluntary and well informed and that the client is physically fit for the surgery. Preoperative assessment can also provide an opportunity for overall health screening and treatment of RTIs/STIs.

### **Consent & documentation ---**

The following steps must be taken before the client signs the consent form:

1. Clients must be informed of all the available methods of family planning and made aware that for all practical purposes this operation is a permanent one.
2. Clients must make an informed decision for sterilization voluntarily. Consent for the sterilization operation should not be obtained under coercion or when the client is under sedation.
3. Clients must be counselled in the language they understand.
4. Clients should be made to understand what will happen before, during, and after the surgery, its side effects, and potential complications.
5. The following features of the sterilization procedure should be explained to the client:
  - It is a permanent procedure for preventing future pregnancies.
  - It is a surgical procedure that has a possibility of complications, including failure, requiring further management.
  - It does not affect sexual pleasure, ability or performance.
  - It does not affect the client's strength or his ability to perform normal day-to-day functions.
  - After vasectomy, it is necessary to use a back-up contraceptive method until azoospermia is achieved (usually this takes three months).
  - Sterilization does not protect against RTIs, STIs, and HIV/AIDS.
  - A reversal of this surgery is possible but the reversal involves major surgery and its success cannot be guaranteed.
6. Clients must be encouraged to ask questions to clarify their doubts, if any.
7. Clients must be told that they have the option of deciding against the procedure at any time without being denied their rights to other reproductive health services.

### **Recommended Consent Form :**

Client must sign the consent form for sterilization before the surgery



- I, Smt/Shri ....., hereby give consent for my sterilization operation.
- I am married and my husband/wife is alive.
- My age is ..... years and my husband's/ wife's age is ..... years.
- We have ..... male and ..... female living children.
- The age of my youngest living child is ..... years.
- I am aware that I have the option of deciding against the sterilization procedure at any time without sacrificing my rights to other reproductive health services.
- I have decided to undergo the sterilization/re-sterilization operation on my own without any outside pressure, inducement or force. I declare that I/my spouse has not been sterilized previously (may not be applicable in case of re-sterilization).
- I am aware that other methods of contraception are available to me.
- I know that for all practical purposes this operation is permanent.
- I also know that there are Standards for female and male Sterilization services -- some chances of failure of the operation for which the operating doctor and the health facility will not be held responsible by me or by my relatives or by any other person whomsoever.
- I am aware that I am undergoing an operation that carries an element of risk.
- The eligibility criteria for the operation have been explained to me, and I affirm that I am eligible to undergo the operation according to the criteria.
- I agree to undergo the operation under any type of anaesthesia that the doctor/ health facility thinks suitable for me and to be given other medicines as considered appropriate by the doctor/health facility concerned.
- If, after the sterilization operation, I/my spouse experience (s) a missed menstrual cycle, then I/my spouse shall report within two weeks of the missed menstrual cycle to the doctor/health facility and may avail of the facility to get an MTP done free of cost.
- In case of complications following the sterilization operation, including failure, I will accept the compensation as per the existing provisions of the Government of India Family Planning Insurance Scheme as full and final settlement. If I/my wife get (s) pregnant after the failure of the sterilization operation and if I am not able
- to get the foetus aborted within two weeks, then I will not be entitled to claim any compensation over and above the compensation offered under the Family
- Planning Insurance Scheme from any court of law in this regard or any other compensation for the upbringing of the child.
- I agree to come for follow-up visits to the hospital/institution/doctor/health facility as instructed, failing which I shall be responsible for the consequences, if any.



- I understand that vasectomy does not result in immediate sterilization.
- \*I agree to come for semen analysis three months after the operation to confirm the success of the sterilization surgery (azoospermia), failing which I shall be responsible for the consequences, if any. (\*Applicable in cases of male sterilization) I have read the above information. # The above information has been read out and explained to me in my own language, and it has been explained to me that this form has the authority of a legal document.
- Name and signature/thumb impression of the acceptor.....
- Signature of witness: .....
- Full name.....
- Full address.....
- # (Only for those beneficiaries who cannot read and write) Applicable in cases where the client cannot read and where the above information has been read out.
- Shri/Smt .....has been fully informed about the contents of the Informed Consent Form in his/her own/local language.
- Signature of counsellor\*\* Full name..... Full address..... I certify that I have satisfied myself that: 1) Shri/Smt..... is within the eligible age group and is medically fit for the sterilization operation. 2) I have explained all clauses to the client and also explained that this form has the authority of a legal document. 3) I have filled out the medical record-cum-checklist and followed the standards for sterilization procedures as laid down by the Government of India.
- Signature of operating doctor Signature of medical officer in-charge of the facility (Name and address) Seal (Name and address) Seal

**Certificate of Sterilization** ---A certificate of sterilization should be issued after one month of the surgery or after the first menstrual period by the Medical Officer of the facility.[ after three months ,when azoospermia confirmed , in males ]

### **Failure of operation leading to pregnancy ---**

- ✚ This may be due to either technical deficiency in the surgical procedure or spontaneous re-canalization.
- ✚ To detect failure leading to pregnancy at the earliest, the client should be advised to report to the facility immediately after missed periods.





- ✚ The client should be offered MTP and repeat sterilization surgery or should be medically supported throughout the pregnancy if she so wishes.
- ✚ Ectopic pregnancy must be ruled out as tubectomy predisposes to this condition.
- ✚ Each case of sterilization failure should be reported to the District Quality Assurance Committee. The District Quality Assurance Committee will conduct a preliminary investigation and report to the State Quality Assurance Committee.

## National Family Planning Indemnity Scheme (NFPIS)

With effect from, 01.04.2013, it has been decided that States/UTs would process and make payment of claims to accepters of sterilization in the event of death/failures/complications /Indemnity cover to doctors/health facilities.

The States/ UTs would make suitable budget provisions for implementation of the scheme through their respective State/UT Programme Implementation Plans (PIPs) under the National Rural Health Mission (NRHM) and the scheme is renamed as “Family Planning Indemnity Scheme”.

Claims arising out of Sterilization Operation Amount (Rs.) [table given below]

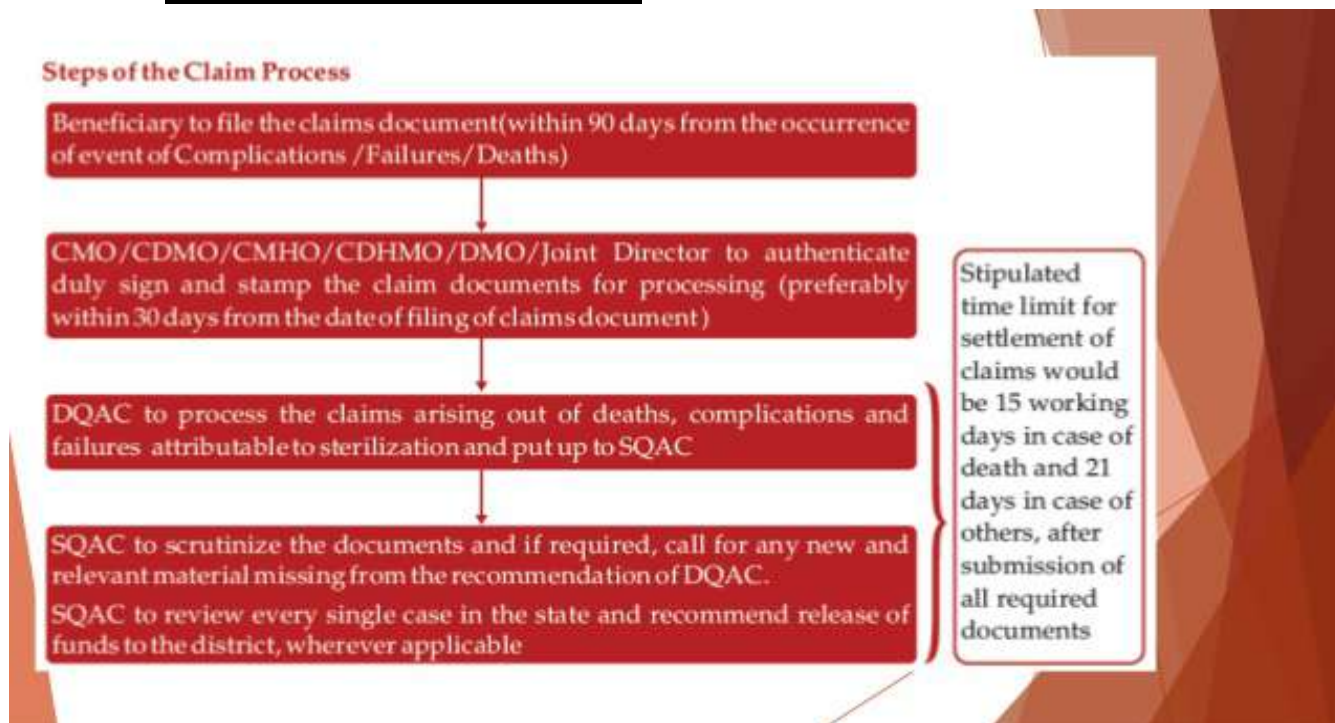
- **A Death at hospital/within seven days of discharge –Rs.2,00,000**
- **B Death following Sterilization (8th-30th day from discharge) –Rs.50,000**
- **C Expense for treatment of Medical Complications 25,000**
- **D Failure of Sterilization 30,000**
- **E Doctors/facilities covered for litigations upto 4 cases per year including defence cost 2,00,000 (per case)**

## Leave with wages for tubectomy operation

- **Section 9A in The Maternity Benefit Act, 1961** :In case of tubectomy operation, a woman shall, on production of such proof as may be prescribed, be entitled to leave with wages at the rate of maternity benefit for a period of **two weeks** immediately following the day of her tubectomy operation.
- **Section 10 in The Maternity Benefit Act, 1961**: Leave for illness arising out of pregnancy, delivery, premature birth of child, [miscarriage, medical termination of pregnancy or tubectomy operation].—A woman suffering from illness arising out of pregnancy, delivery, premature birth of child [miscarriage, medical termination of pregnancy or tubectomy operation] shall, on production of such proof as may be

prescribed, be entitled, in addition to the period of absence allowed to her under section 6, or, as the

case may be, under section 9, to leave with wages at the rate of maternity benefit for a **maximum period of one month.**



## Conclusion:

Sterilization is one of the prime programs of Government of India. A small mistake can be troublesome. One should follow the Guidelines for patient's as well as our own safety.

.....



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Consultant Gynecologist & Lactation Specialist

## Adherence to Infant Milk Substitute Act - 1992

### Introduction:

Breastfeeding is best feeding. It is Natural, Instinctive, Physiological & Species Specific.

***“If breastfeeding did not already exist, someone who invented it today, would deserve a dual Nobel Prize in medicine and economics”***

**~Keith Hansen, World Bank**

The lines are so precious and meaningful and if they were followed in true sense, there would not have been need of any enactment.

In fact breastfeeding is our culture. But we, Indians blindly followed western culture. Aggressive marketing & promotion by manufacturers of breast - milk substitutes, infant foods and feeding bottles, made them easily available for public, in show-cases, in shops & markets. Free samples and gifts were given to mothers/ parents along with discount coupons. Retailers received inducement. Information brochures were totally biased, incomplete & unscientific. Health Workers received attractive posters, calendars, information materials along with free gifts, pens, growth charts with company logo. Companies gave Advertisements in medical journals, sponsored medicos meetings, conferences trips etc. donated funds, grants for research activities. It resulted in to rampant rise in use of bottles, breast- milk substitute and infant food/formula.

In 1939'S whole world noticed horrific results of Artificial Food. There was Global concern for this in between 1950-1970. In 1970, there was 1<sup>st</sup> global meeting in which there was lot of concern regarding commercial marketing of breast-milk substitute, infant food and feeding bottles. UNICEF and WHO recognized need of controlling this commercial marketing as they undermine breastfeeding. In 1981 World Health Assembly adopted International Code of marketing breast-milk substitutes. To protect infant health, India became one of the few countries in Asia to fully implement the International Code of Marketing of Breast-milk Substitutes with the enactment of the **Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 (41 of 1992)** (hereinafter referred to as "the IMS Act")



which was amended in 2003 to strengthen certain provisions and close any loopholes infant formula companies had found.

## Objectives of IMS Act:

- Protection and promotion of breastfeeding and ensuring the proper use of infant foods and for matters connected therewith or incidental thereto. (It extends to the whole of India.)
- Ensures proper breastfeeding education of pregnant and lactating mothers through accurate information.
- Defines role of government, health care system to support mothers and remain clear of baby food.
- Controls marketing & ensures proper labeling of baby food.

## Main Components:

The IMS Act extends to all of India and stipulates that no person shall:

- Advertise for the distribution, sale or supply of infant milk substitutes feeding bottles or infant foods
- Give an impression or create a belief in any manner that feeding of infant milk substitutes and infant foods are equivalent to, or better than, mother's milk
- Promote infant milk substitutes, feeding bottles or infant foods to health staff.
- Supply or distribute free samples of infant milk substitutes or feeding bottles or infant foods gifts of utensils or other articles except to orphanages.
- Contact any pregnant woman or the mother of an infant to offer inducement of any of the above.
- In addition, infant milk substitute or infant food containers must indicate in a clear, conspicuous and in an easily readable and understandable manner, the words "important notice" in capital letters with the following **"MOTHER'S MILK IS THE BEST FOR YOUR BABY"**, a warning that formula is not the sole source of nourishment for infants, instructions for safe and clean preparation, and the composition, among other particulars. In addition to this
- Printed Information should be **unbiased, scientific.**
- **No** Information like "humanized milk"
- **No** linking of remuneration with sale
- **No** Any **inducement** to retailer/health workers





- Conferences, meetings sponsorship should be avoided.
- The containers and labels are not allowed to have pictures of women and infants.
- Likewise, advertisements and promotional material for formula must include the benefits and superiority of breastfeeding, the health hazards of improper preparation and use of formula, among other stipulations.

Thus the IMS Act strictly bans promotion or distribution of formula materials in any health care system. Finally, the IMS Act reiterates strict standards of the formula nutritional composition established by previous laws, establishes the right to confiscation of inappropriate formula, establishes monitoring rights of government-approved NGOs, food safety officials, and other government officials.

## Section 2 of the Act gives some definitions like

(f) **“Infant food”** means any food (by whatever name called) being marketed or otherwise represented as a complement to mother's milk to meet the growing nutritional needs of the infant after the age of six months and up to the age of two years;

(g) **“Infant milk substitute”** means any food being marketed or otherwise represented as a partial or total replacement for mother's milk, for infant up to the age of two years

## Section 20 mentions about punishment in case one breaks the law as follows:

- Any person who contravenes the provisions of Section 3,4,5,7,8,9,10 or sub-section (2) of section 11 and the rules made under section 26 of the Act shall be punishable with imprisonment for a term which may extend **to three years, or with fine which may extend to five thousand rupees, or with both.**
- In June 2003, following increasing information on the benefits of exclusive breastfeeding and the subtle promotional techniques adopted by some manufacturers to circumvent the IMS Act, the Act was amended to include complementary foods and banned all forms of promotion of baby foods.

## Key Provisionsof the IMS Act, 1992 as Amended in 2003 to control marketing,

- **Bans advertising:**Byprint media, electronic media or any other method
- **No Gifts and Free Samples can be distributed to parents /health workers**



- **Donation of Products, Educational Materials or Equipments Not Allowed**
- **Picture of Mother, Baby, Cartoons on Labels and Tins not allowed**
- **Use of Educational Materials or Advertisements for Giving Incorrect or Incomplete Information Prohibited**
- **Display of Posters, Calendars or Other Promotional Materials in Hospital, Chemist Shop Banned**
- **No Sponsoring and giving payments to Healthcare Workers and Their Associations**
- **Prohibits All forms of Promotion of Baby Foods for Babies Under the Age of Two Years**
- **Prohibits Providing Commission to Company Staff to Increase Sales**

Limitations of the Act:

- **General Stores not included**
- **Orphanages exempted**
- **Production of artificial food/formula continues**
- **No control over acceptance of sponsorships/ gifts**
- **It was also suggested to include Promotion ,Support and Protect Breastfeeding in the title of the Act**

The united efforts saved the IMS Act as amended in 2003 from being repealed through the modern **"Food Safety and Standards Bill 2005"**.

**In spite of the specific legislation, Companies continue to break the law. Therefore is law the only answer?Of-course no as there are many Loop-holes in the law.**

**Therefore it's our duty to**

## **PROMOTE BREASTFEEDING BY POSITIVE RE-ENFORCEMENT**

**Breastfeeding is NOT A MATTER OF TRIAL & ERROR but it's INVESTMENT FOR LIFE. Health providers definitely have important role as it's Battle against Bottle/Formula. Lot of health education, awareness programs and counseling is required**



What obstetrician can do?

- 1. Educate people about the IMS Act**
- 2. Reach grass-root level**
- 3. Hold public meetings, seminars, radio show, TV show**
- 4. Establish links & spread the word**
- 5. Monitor marketing & report violations**
- 6. Resist commercial promotion**
- 7. Remove advertisements with brand names, logos**
- 8. Refuse growth charts, literature ---,----**
- 9. Refuse free gifts & samples**
- 10. Resist sponsorship from Infant Milk Substitute /Infant Food/ Formula Manufacturing Companies**
- 11. Resist any other way of promotion**
- 12. Resist use of formula for orphanages etc.**

Where to report Violations?

- 1. Breastfeeding promotion network of India (BPNI)**
- 2. Association of Consumer Action on Safety and Health (ACASH)**
- 3. Indian Council for Child Welfare (ICCW)**
- 4. Central Social Welfare Board (CSWB)**
- 5. Women development and Child welfare Department ,GOI**
- 6. Indian Academy of Pediatrics( IAP) & IYCF Chapter of IAP.**

At local level we can also report to

- 1. Civil Surgeon**
- 2. Health Officer Municipal Corporation**

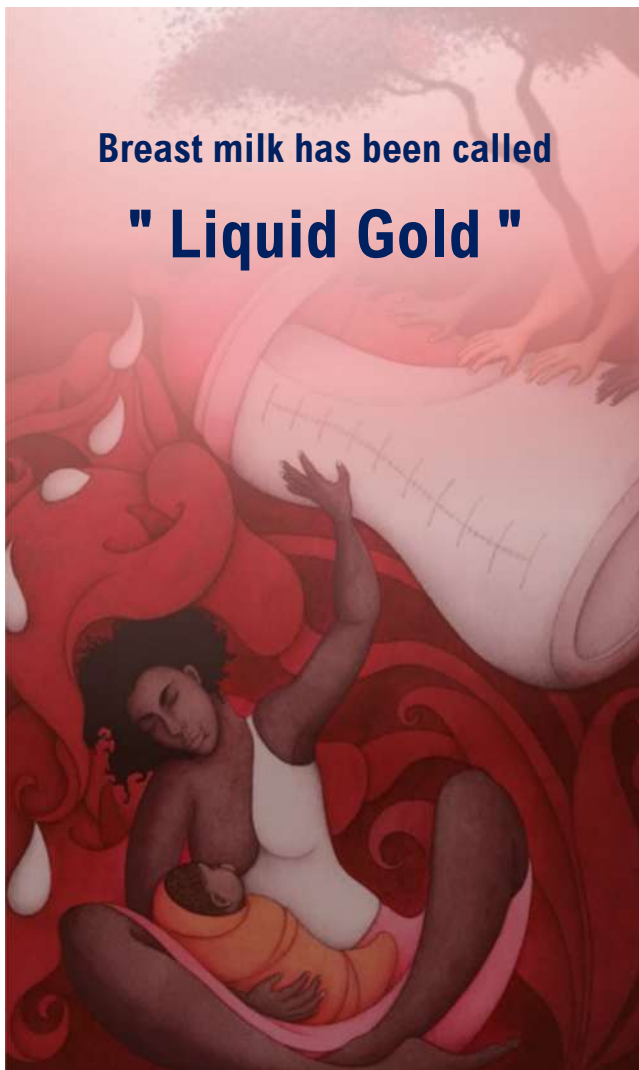
## Conclusion:

The IMS act was passed after a lot of thinking. We are not only legally bound by it, but it is also our moral responsibility to see that the act works. Most of our colleagues are unaware of the provisions and importance of this act. Don't let the formula companies to use loopholes of the Law to allow breaking the law in spirit if not in letter. If we don't act now then there is every possibility that this act may become one of the historical legal documents. Hence it is time for all of us to become an activist or counselor for BREASTFEEDING.

For detail reading:

Refer :[www.bpni.org](http://www.bpni.org): IMS Act/National Policy & Program

Breast milk has been called  
**" Liquid Gold "**



Breastfeeding reduces the risk of  
**BREAST CANCER**  
and ovarian cancer in mother





## VIRTUAL MEETING

**FOGSI ETHICS & MEDICO-LEGAL COMMITTEE**  
in association with  
**THE NAGPUR OBSTETRICS & GYNAECOLOGICAL SOCIETY**

invite you all for

**West Zone Medico-Legal Conference 2021**  
**26<sup>th</sup>, 27<sup>th</sup> & 28<sup>th</sup> August 2021**  
**Theme : Know Your Laws**

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Dr. Ashish Kulkarni  
Ex. Secretary, NIOS 2021-22

Dr. Rajani Sengupta  
Organising Secretary

Dr. Kusuma Kedar  
General

**Members**

Dr. Ritu Dargan  
Dr. Suvarna Joshi  
Dr. Swati Sarda  
Dr. Santosh Kulkarni  
Dr. Rajata Bho  
Dr. Bhakti Gujar

**MMC & ICOG Credit Points Await ed**

**West Zone Medicolegal Conference 2021**  
**Scientific Programme (Day 1, Thursday 26th Aug 2021)**  
**Time : 3.00pm - 5.00pm**

**PUBLIC FORUM on COVID AND POST COVID:**  
**आयुष्यावर बोलू काही**

TIME	TOPIC	SPEAKERS	CHAIRPERSONS	MOC
3.00 pm - 3.20pm	COVID POSITIVE PREGNANT PATIENT	Dr. Reena Wani	Dr. Arun Nayak Dr. Ujjwala Deshmukh Dr. Prakash Pawar	Dr. Ritu Dargan Dr. Swati Sarda
3.20pm - 3.40 pm	COVID AND STRESS	Dr. Sushil Gawande		
3.40pm - 4.00 pm	INAUGURATION OF PUBLIC FORUM	Dr. Bipin Pandit Dr. Manish Machawe Dr. Alka Kuthe Smt. R. Vankar (Collector Nagpur) Dr. Alka Mukherjee Dr. Santosh Jaybhaye Dr. Rajani Sengupta	Moderator: Dr. Bhakti Gujar	
4.00pm - 4.20pm	FELICITATION FOR EXTRAORDINARY WORKS IN COVID TIMES	Dr. Sudhir Gupta (IGMC Nagpur) Dr. Ajay Keelga (IGMC Nagpur) Dr. Kaji Mitra Mr. Payelal Dr. Sanjeev Waware (IPAC) Dr. Vaishali Shetgaonkar		
4.20 pm - 5.00 pm	Public Forum	Experts: Dr. Sudhir Gupta (IGMC Nagpur) Dr. Ajay Keelga (IGMC Nagpur) Dr. Kaji Mitra Mr. Payelal Dr. Sanjeev Waware (IPAC) Dr. Vaishali Shetgaonkar	Moderator: Dr. Rajani Sengupta	

**West Zone Medicolegal Conference 2021**  
**Scientific Programme**  
**(Day 2 Friday 27th Aug 2021)**

**Welcome Address by Dr. Alka Mukherjee**

Co-ordinator:  
Dr. Rajata Bho & Dr. Suvarna Joshi

TIME	TOPIC	Expert:	Panelist:
2.15pm - 3.00pm	Panel on NUANCES OF PCPNDT ACT: <b>चलते रहते नए</b> Moderator: Dr. Gietendra Sharma	Dr. Pradumn Vaja	Dr. Laxmi Shrikhande Dr. Ajay Nagarkar Dr. Rajiv Konde Dr. Kiran Sonawalkar Dr. Sharmila Poddar Dr. Chhikhar / Dr. Gaittawar Adv. Amit Deshpande
3.00pm - 3.20pm	Inauguration RELEASE OF NEWSLETTER / LEGAL EXPRESS SECTION 2 Felicitation of Dr. Jayant Navranghe, Dr. Aglesh Gandhi & Dr. Shikhar Mittal	Chief Guest: Dr. Shantha Kumari Dr. Madhuri Ritel Dr. Bipin Pandit Dr. Manish Machawe Dr. Alka Mukherjee	MOC: Dr. Sayali Jahagirdar Dr. Suyoga Pant
3.20pm - 3.40pm	<b>KEYNOTE 1:</b> PAST PRESENT AND FUTURE OF MEDICOLEGAL ISSUES IN INDIA	Speaker: Dr. Gopinath Shenoy	Chairpersons: Dr. Bipin Pandit Dr. Kavita Rajbhat Dr. Sunita Tanodwadkar Dr. Hemant Deshpande
3.40pm - 4.00pm	<b>KEYNOTE 2:</b> DEFENDING A GYNAC MILPRACTICE SUIT	Speaker: Dr. Pradeep Anora	
4.00pm - 4.20pm	<b>KEYNOTE 3:</b> COMMUNICATION SKILLS TO PREVENT LEGAL PROBLEMS IN DAY TO DAY PRACTICE	Speaker: Dr. Hrishabh Pal	
4.20pm - 5.00pm	Panel on: <b>LAW RELATED TO ADOLESCENTS, YOUNG TEENS</b> Moderator: Dr. Alka Kuthe	Experts: Dr. Duru Shah Dr. Rozza Chai	Panelists: Dr. Chiru Mittal Dr. Meenakshi Deshpande Dr. Shantana Abhyankar Dr. Girish Mane Dr. Supriya Anwar Dr. Jayant Pandharikar Mrs. Vinita Sahu, Co-ordinator

**West Zone Medicolegal Conference 2021**  
**Scientific Programme**  
**(Day 3 Saturday 28th Aug 2021)**

Co-ordinator:  
Dr. Arti Wanjari & Dr. Amee Rahatekar

TIME	TOPIC	Expert:	Panelist:
2.00pm - 2.45pm	Panel on MTP ACT: <b>FACTS FEARS AND FALLACIES</b> Moderator: Dr. Dilip Walke	Dr. Jaydeep Tank Dr. Nikhil Datar	Dr. Girish Kumbekar Dr. Ashish Rutale Dr. Vinayak Kheedar Dr. Santosh Jaybhaye Dr. Jaipuri Wajeda Dr. Meenal Deshmukh
2.45pm - 3.30pm	Panel on JAGO DOCTOR JAGO : MAMLA AD ALAT MEI MAI Moderator: Dr. Manish Machawe	Experts: Dr. Chinmayee Rathia Dr. Surekha Tayade Dr. Karne Dr. Ashutosh Apte Dr. Pramod Jog	Lawyers For Patient: Dr. Ajay Mane Dr. Ravi Wani Dr. Sudesh Doshi Dr. Suyoga Pant
3.30pm - 4.00pm	Orator: Safety first, for Indian women and for FOGSI	Orator: Dr. Aglesh Gandhi Past President FOGSI	Chairpersons: Dr. Narendra Mathotra Dr. Alka Mukherjee Dr. Chanchandra Joshi Dr. Rohini Deshpande
4.00pm - 5.00pm	<b>DEBATES</b> <b>DEBATE 1:</b> GROUP PRACTICE VS INDIVIDUAL PRACTICE <b>DEBATE 2:</b> ELECTRONIC VS MANUAL RECORD KEEPING <b>DEBATE 3:</b> SEMINAR IN 2019 VS WEBINAR IN 2021	Debaters: Dr. Rajani Sengupta Dr. Pallavi Ingale Dr. Swaroopayee Dr. Geeta Guin Dr. Sayali Jahagirdar Dr. Neeta Sapre	Judges: Dr. Girija Wagh Dr. Milind Shah Dr. Kusuma Kedar
5.00pm - 6.00pm	Panel on: <b>KHICHA DI PANEL ASK US ANYTHING</b> Moderator: Dr. Kiran Kurkhat	Experts: Dr. MC Patel Dr. G V Paraskar	Panelist: Dr. Hitesh Bhatt Dr. Neelima Bhanne Dr. Pragati Khatkar Dr. Shalika Bari Dr. Sanjo Borade
6.00pm - 6.15pm	Valedictory	MOC: Dr. Manisha Shah Dr. Anjali Dhote	



## VIRTUAL MEETING

**WDW IMA Chandrapur**  
**Organising Webinar**

**On Medicolegal Dilemmas**

**Topic: Medicolegal Dilemmas - Resolved**

**Speaker & Moderator**

**Chairpersons**

**Case Based Panel Discussion**

**Panelists**

**18th Aug 5pm**

Link will shared soon

PIC-COLLAG

**PROGRAMME**

Welcome & Introduction - Dr. Richa Sharma

Address by Office bearers - Dr. Shalika Kumari, Dr. Madhuri Patel, Dr. Archana Verma

Address by Chief Guest - Dr. Parag Desai

Address by Guest of Honour - Dr. Ravneet Sagar, Dr. Mukundhar Patil, Dr. Rajni Pandit

**Session I: Legal Aspects - Simplified**

**Chairpersons:** Dr. Anil Subhawar, Dr. Sushma V Dev

6:20 pm - 6:30 pm MIP - Legalities and Penalties Dr. Richa Sharma

6:30 pm - 6:40 pm PCPNDT Act, Documentation, Penalties Dr. Manish Machave

**Session II: MTP - Ready Reckoner**

**Chairpersons:** Dr. Anil Subhawar, Dr. Sushma V Dev

6:40 pm - 6:50 pm Anaesthesia & Anaesthesia Dr. Sushma V Dev

6:50 pm - 7:00 pm Medical Methods: Drug Regimens Dr. Kiran Kurkoti

7:00 pm - 7:10 pm MTP in High Risk Dr. Parikshi I Tank

7:10 pm - 7:20 pm Post-abortion Contraception - Choices Dr. Shobha Gudi

**Session III: Abortions - Current Scenario in Different Cities**

**Chairpersons:** Dr. Anil Subhawar, Dr. Sushma V Dev

7:20 pm - 7:40 pm

7:40 pm onwards Q & A / Vote of Thanks

Webinar Invitation

**FOGSI**

**Medical Termination of Pregnancy Committee Initiative**

**MADAN**

**MTP AWARENESS DRIVE ACROSS THE NATION**

with

Karnataka "C" Societies on

**9th August 2021 at 6:00 pm**

Click here to join  
[https://bit.ly/FOGSIMTP\\_MADAN](https://bit.ly/FOGSIMTP_MADAN)

**MTP Committee Coordinators**

Dr. Shantika Kumari, President  
Dr. Madhuri Patel, Secretary General  
Dr. Archana Verma, VP Incharge  
Dr. Richa Sharma, MIP Committee Chairperson

Dr. Sushma V Dev, Dr. Satish Channanikar, Dr. Krupa Shah

**VIRTUAL FOGSI Workshop**

**Safe Abortion & Contraception Cuts**

**Dilemmas to Decisions**

**Panelists**

**Session 1: Contraception Cuts**

**Session 2: Safe Abortion**

**Panel Discussion: Medicolegal Issues in abortion services**

**Panelists**

**18th Aug 5pm**

Link will shared soon

THANE OB GYN SOCIETY IN ASSOCIATION WITH ETHICS AND MEDICOLEGAL COMMITTEE FOGSI PRESENTS SCHEDULED ZOOM WEBINAR

**"MEDICO LEGAL ISSUES IN OB GYN PRACTICE"**

**14th MARCH 11:30 AM - 12:30 PM**

**ALERT- MEDICOLEGAL SAFETY.**

**SESSION 1**

**CHAIRPERSON**  
DR. RAJESH LAL, FOGSI

**SPEAKER**  
DR. MANISH MACHAVE, FOGSI

**Topic: MTP/PCNDT What we should know??**

**CHAIRPERSON**  
DR. DATTI PANANDIKAR, Secretary FOGSI

**SPEAKER**  
DR. H.C. PATEL, Obstetrician, Gynaecologist & Medico-legal Counsellor, Ahmednagar

**Topic: Consent and Documentation (Duration: 10 mins)**

**SESSION 2**

**PANEL- LITIGATION FREE PRACTICE.**

**MODERATOR**  
DR. SHANTIKA KUMARI, FOGSI

**Panelists**

**Jalna Obs. & Gyn. Society**

Invites you for

**A Medico-Legal Webinar**

Date: 25th April 21, Monday | Time: 5:00 PM to 6:00 PM

**President**  
Dr. Anil Khandekar, Jalna Obs. & Gyn. Society

**Secretary**  
Dr. Vijay R. Shinde, Jalna Obs. & Gyn. Society

**Chief Guest**  
Dr. Parag Desai, FOGSI

**Speakers**  
Dr. Manish Machave, FOGSI  
Dr. Kiran Kurkoti, FOGSI

**Panelists**  
Dr. Anil Khandekar, Jalna Obs. & Gyn. Society  
Dr. Vijay R. Shinde, Jalna Obs. & Gyn. Society  
Dr. Manish Machave, FOGSI  
Dr. Kiran Kurkoti, FOGSI

**Solapur Obs. & Gyn. Society**

Invites you for

**A Medico-Legal Webinar**

Date: 27th April 21, Tuesday | Time: 07:30 PM to 8:50 PM

**Office Bearer**  
Dr. Anil Khandekar, Solapur Obs. & Gyn. Society

**Chief Guest**  
Dr. Parag Desai, FOGSI

**Chairperson**  
Dr. Gita Khandekar, Solapur Obs. & Gyn. Society

**Speakers**  
Dr. Manish Machave, FOGSI  
Dr. Kiran Kurkoti, FOGSI

**Panelists**  
Dr. Anil Khandekar, Solapur Obs. & Gyn. Society  
Dr. Vijay R. Shinde, Jalna Obs. & Gyn. Society  
Dr. Manish Machave, FOGSI  
Dr. Kiran Kurkoti, FOGSI

Learning  
Something New  
Everyday



## REFLECTIONS



"Your medical problems are more complicated than I thought. I am going to refer you to another doctor, who has more medical insurance than I have."



"Remember: medical insurance is like a hospital gown—you're never covered as much as you think you are."



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## Legal Punch

**1**

**A good lawyer knows the law...but a great lawyer knows the judge**

**2**

**Criminal Lawyer: A doctor is innocent until he is proven bankrupt.**

**3**

**If something is more complicated more than love and medicine ....it is Law**

**4**

**A Lawyer is a person who writes 10,000 page document and calls it a brief**

**5**

**You know your dealing with a law patient when most of the replies start with ..." Well It depends"**

**6**

**A doctor is ruined ...once when he loses a lawsuit and once when he wins ...**

**7**

**A lawyer will do anything to win a case... sometimes he will even tell the truth.**

**8**

**Trust me I am a lawyer...**