

AWARENESS ABOUT MEDICOLEGAL ASPECTS IN PEDIATRICS

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ABSTRACT

Medicolegal aspects continues to be a fact of life for pediatricians. One third of pediatricians will be sued for medical liabilities over the course of their careers. Medico-legal issues in pediatrics, includes a wide range of medico-legal topics that affect the practice of pediatrics from residency to retirement. It provides pediatrician with detailed information on common pediatric malpractice claim, unethical practice, and specific risk management strategies to reduce the threat of being sued and make it easier to defend a claim. Every pediatrician should be aware of issues regarding medico-legal problems. Documents record, record of consents given by patient for treatment, OPD records, IPD records should be maintained by each and every Pediatrician. In Ayurveda, *Vaidya Gunas* had been explained, out of those *Gunas Daksha Guna* of *Vaidya* has great importance, meaning of *Daksha Guna* is alertness or awareness. So in Ayurveda, thousands of

decade before awareness of a practitioner had given lots of importance, so that has to be learnt by every practitioner. In Ayurveda, *Rogi Gunas* had been explained, out of those *Gunas Satvavan Guna* of *Rogi* has given more importance, *Satva Guna* of patient is decreasing day by day. In today's life rate of attacks on doctors are increasing day by day, so it is of great importance to first be safe and aware medico-legally. So for today's Pediatrician or practitioner, slogan should be "Be aware Be safe".

KEYWORDS: Medicolegal problems, Pediatricians safety, documents record, awareness about medico-legal aspects, *Vaidya Gunas*, *Rogi Gunas*.

INTRODUCTION

In ancient times, medical profession was considered to be a Nobel field. The patients trust in doctors was so much that a doctor was equated to an “Angel”. In Ayurveda, *Rogi Gunas* were explained, out of those *Gunas Satvavan Guna* plays major role here, because of this *Satvavan Guna*, patient equates doctors to “Angels”.^[1] But in today’s life *Satva Guna* of patient is decreasing day by day and relationship between doctor and patient is turning into a love and hate phenomenon. In present era of specialization and super-specialization, the focus of doctor or practitioner is increases towards commercial instead of Nobel one. Same happens with patient, everyone is interested in facilities and good looking hospital. Because of this changing mentality of doctors as well as patients, medico-legal issues are increasing day by day. The intention of presenting this paper is to aware the Pediatricians or doctors about basics of legal practice in their whole profession. Usually, legal problems start if there is a controversy regarding duties and rights of doctor’s.

What are duties of doctors?

- A doctor must take proper history of the patient and examine him carefully.
- A doctor has to attend to the patient and give proper care, once he decides to treat the patient.
- He/she must explain relevant facts related to the illness and give proper guideline about medicine.
- The doctors must have average, recent knowledge and equipments in possession, as per their speciality.
- The practitioner must be able to see the complications and refer the patient at proper time.
- Doctors must have to maintain a proper record of their patient.^[2]

What are rights of doctors?

- A doctor has a right to turn away a patient before starting treatment but he should provide minimal basic care especially in an emergency situation.
- He has a right to select the drugs from wide range of options available, supported by standard medical practice.
- A doctor can also select the investigations and method of treatment depending upon various factors.
- He/she should obtain a written refusal in case the patient does not want to do as advised.
- He/she can delegate the powers to properly trained personnels or colleagues, usually with

the willingness of patient.

- A doctor can decide regarding visits, fees to be charged and to maintain the patient's record including its secrecy in certain specific situations.^[3]

According to ayurveda, *gunas* of *vaidya*

There are 4 *Gunas* of *Vaidya*^[4]

1. *Daksha*
2. *Tirtharth Shastrartho*
3. *Drishtakarma*
4. *Shuchi*

Out of these *Gunas*, *Daksha Guna* has most importance nowadays. Meaning of *Daksha Guna* is alertness or awareness. This awareness is about all the things like patients condition, patients treatment, changing medicinal information like doses of drugs, drugs which are getting banned or newly added drugs, all the information about drugs, changing vaccination schedules which vaccine newly added in the schedule and all the things related to medical profession. One thing on which Doctor have concentrate in today's life is Medico-legal aspects, medico-legal issues which are increasing nowadays. So what is medico-legal aspect and medico legal issues these things are explained in this article and how these aspects affects life of a Pediatrician or practitioner that is explained in this article.

MATERIAL AND METHOD

What is meaning of Medico-legal aspect?

Medico-legal is something that involves both medical and legal aspects mainly.

- 1) Medical Jurisprudence, a branch of Medicine.
- 2) Medical law, a branch of law.^[5]

This medico-legal aspects deals with laws related to medical profession, medico-legal issues, medical liability, Negligence laws about consent etc. Now we see one by one

1) Different laws (For pediatricians)^[6]

A) Civil laws

- According to law of Torts, a doctor shall be responsible for his negligent act.
- According to section 70 of Indian Contract Act, there is contract (oral, written or implied) between a doctor and a patient, and both are bounded by it. If a doctor doesn't give

complete or proper treatment to the patient then he/she may be held liable. Similarly if the patient doesn't pay the fees, the doctor can file a civil suit.

- Doctors can take deposits or advances (this is legal) before starting the treatment but they can't keep the patient in confinement (this is against law) on the ground of nonpayment of fees.

B) Criminal laws

- Sec.52 which defines good faith.
- Sec.87-91 which are related to consent.
- Sec.304A which is related to death of patient due to negligent act.
- Sec.319-322 deals with causing grievous hurt or disfigurement endangering the life of patient.
- Sec.340-342 which are related to wrongful confinement of patient.
- Sec.499 which is related to defamation.

C) Consumer Protection Act (COPRA)

COPRA was enacted in 1986. As far the medical services were concerned, different courts had different rulings till the Supreme Court in November 1995 by its ruling included medical services in COPRA. A consumer can approach District Forum, State Commission, National Commission and finally the Supreme Court according to jurisdiction or amount of damage claimed. The limitation period is 2 years but can be extended if the judge thinks so in particular case (after recording the reasons).

According to analysis of compiled cases under CPA by Dr. Jagdish Singh (Personal communication) the maximum number of cases are from Obstetrics and Gynecology and Surgery branches. This act is not of that much use Pediatric practice.

2) Medical liability

Under state law, a patient may pursue a civil claim against physicians or other health care providers, called medical liability or medical malpractice, if the health care provider causes injury or death to the patient through a negligent act or omission.^[7] The doctors shall be liable for the act of their staff if they are unqualified. But if the staff is qualified and makes a mistake then the doctor may not be held directly responsible. For example, doctor has prescribed some medicines or injections correctly and the nurse (Qualified) makes a mistake; in such cases, the doctor is not responsible for the act. Thus depending upon the situation, the

doctor or his staff shall be liable for their act of negligence.^[8]

3) Consent

Various types of consent are: 1) Implied consent 2) Written consent 3) Informed consent 4) Blanket consent. A valid consent is that which is given voluntarily by an adult of sound mind who is not under any intoxication.^[9] Informed consent is a process for getting permission before conducting a healthcare intervention on a person, or for disclosing personal information. A health care provider may ask a patient for consent to receive therapy before providing it, or a clinical researcher may ask a research participant before enrolling that person into a clinical trial.^[10] In case of Pediatric patient, consent of parent is considered valid consent. If neighbors brought a pediatric patient to the hospital in emergency, then in emergency pediatrician can take consent of neighbors but it is not valid consent. Parent's consent is valid consent in case of Pediatric patient. Written consent has more value than informed consent.^[11]

4) Documentation records

Documents can be friend as well as enemy to medical profession. Documents are property of hospitals and should be produced on written requests only. Documents carry personal information of patient and should be released with patient's consent. Documents can be asked for- 1) OPD patients 2) Indoor admissions 3) Records of medical termination of pregnancy, abortions, tubectomy, hysterectomy, and any other surgical procedures 4) Death certificates 5) Other certificates.

Disposal of documents^[12]

a) Non MLC records

- The OPD records to be retained for minimum 3 years.
- The IPD records to be retained for minimum 5 years.

b) MLC records

There is no specific time limit when they can be destroyed so they should be retained.

5) Some common medico-legal issues in pediatric practice^[13]

1. Drug/vaccine administration

If any complication while giving the drug/vaccine or after giving the drug/vaccine if occurs, then the pediatrician should be able to handle or manage it. For example. Anaphylaxis after

Penicillin, Xylocaine and Measles vaccine are known complications. A doctor must do skin sensitivity, before giving Xylocaine or Penicillin, etc. Oxygen, Adrenalin, IV fluids and steroids must be available in case reaction occurs. It is always better to explain relatives about the complications before starting treatment. A written consent is preferable before administration of drugs. History of allergic reaction should be recorded by every pediatrician or practitioner.

2. Fast IV fluids

Sometimes if IV fluids goes at an undesirable fast speed, then various complications may occur. The pediatrician may not be charged for this, if it happened by a qualified staffed. For reducing this incidences better to use micro-drip sets, pediatric bottles. If these are not available, then it is better to remove extra fluid from bottle then connect it.

3. Mismatched blood transfusion

A doctor or qualified nurse must check name and age of donar and recipient along with their respective blood group before starting the transfusion. Pediatrician shall not be held responsible for wrong cross-matching or tests for HIV, hepatitis B infection, etc. (pathologist shall be responsible). However it is Pediatricians responsibility to check the blood is transfused in proper volume and at the proper rate. Proper orders for monitoring pulse, respiratory rate, temperature and early signs of mismatched blood transfusion must be given. A valid consent is necessity before starting any procedure or some specific treatment.

DISCUSSION

Medico-legal aspects were learnt by each and every practitioner or doctor, but ability to keep it in mind and follow it in our routine practice it goes to that practitioner individually. In this paper medico-legal aspects are explained, medico-legal issues are explained and the need to be aware in every conditions is highlighted in this paper. In Ayurveda, *Vaidya Gunas* had been explained, out of those *Gunas*, *Daksha Guna* has great importance here.^[14] Meaning of *Daksha Guna* is alertness or awareness, that's what explained in this article. This alertness should be according to medico-legal aspects. Every Pediatrician or doctor should be aware of Medico-legal aspects that's what explained in this paper.

CONCLUSION

The aim of this paper is to spread awareness about medico-legal aspects in Pediatricians as well as practitioners. If every Pediatrician or practitioner is aware of medico-legal issues,

medico-legal aspects the rate of attacks on doctors can be came to lower level or rate of attack on doctors can be controlled. In Ayurveda, *Satvavan Guna* of *Rogi* had been explained, meaning of *Satva Guna* is goodness of the patient.^[15] This *Satva Guna* of patient is decreasing day by day, and because of this reason attacks on doctors increasing day by day. So there is need of increasing *Satva Guna* of today's patient. The slogan for today's Pediatrician or Practitioner should be "Be aware be safe".

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