

Special Laws related to healthcare

Day & Date: Friday, 6th May 2016
Time: 5:15 pm to 6:15 pm
Venue: Convention Hall, Symbiosis International University, Lavale campus,
Pune
Speaker: Dr. Sanjay Gupte
Report prepared by: Ms. Thia Sunny, Student, MBA - HHM (2015-2017)
Mr. Varun Joshua.V, Student, MBA - HHM (2015-2017)

This session was conducted by Dr. Sanjay Gupte about the special laws related to healthcare. He started the master class by giving a brief intro about the Indian Judiciary with respect to Medical Practice. The two types of laws like the statutory laws and the case laws were mentioned.

Indian Medical Council was discussed and he stresses upon the Etiquettes and Ethics for registered medical practitioners are divided into 8 chapters with the following heads

1. Code of Medical Ethics
2. Duties of Physicians to Their Patients
3. Duties of Physician in Consultation
4. Responsibilities of Physicians to Each Other
5. Duties of Physician to The Public and to The Paramedical Profession
6. Unethical Acts
7. Misconduct
8. Punishment and Disciplinary Action

Under Chapter 1 – **Maintenance of medical records** was given more importance because it helps in better documentation to prevent any litigation. The records should be maintained for a period of five years. If it a medico-legal case then it would be safer to keep the records more than five years.

Under Chapter 3 - Patients Referred to Specialists are on the gray area in this sector that needs to be touched upon.

Advertising - Soliciting of patients directly or indirectly, by a physician, by a group of physicians or by institutions or organizations is unethical.

Printing of self-photograph, or any such publicity material in the letter head or on sign board of the consulting room or any such clinical establishment shall be regarded as acts of self-advertisement & unethical conduct on the part of the physician. These scenarios needs to be changed to bring a level playing field.

The new amendments notification 2009 and regulations 2015 were discussed. Gifts, Travel Facilities and Hospitality were the three aspects that the doctors must ignore when provided by others.

Next, the **MTP Act** was brushed by the speaker and he gave his views about the misuse of abortion. He spoke when the abortion is said to be legal and illegal. Failure of Contraceptive Device irrespective of the method used (natural methods/ barrier methods/ hormonal methods).This condition is a unique feature of the Indian Law. Most of the pregnancies can be terminated using this criterion.

He spoke about the **Protection of Children from Sexual Offences (POCSO) Act, 2012** and he defined the purpose of that particular law- Protection of children from offences of sexual assault, sexual harassment & pornography. Establishing Special Courts for speedy trial of sexual offences against children. The **features of the law** are: Child defined as any person below the age of 18 years, Clear definition and description of Offences.

Transplantation of Human Organs Act- A brief about the following points were discussed

- Preservation of Human Organs
- Restrictions on removal and transplantation of Human Organs
- Punishment for removal of Human Organ without authority

The **clinical establishment act** makes sure that the clinical establishment shall undertake to provide within the staff and facilities available, such medical examination and treatment as may be required to stabilize the emergency medical condition of any individual who comes or is brought to such clinical establishment- **mandatory clause**. The implications of this act is that it made the services provided by the doctors more expensive due to their defensive nature towards this law.

The last half was focused on case law - **Dr. Laxman Balkrishna Joshi vs. Dr. Trimbak Bapu Godbole and another AIR 1969 SC 128**. The takeaway from the case is that the medical practitioner has discretion in choosing the treatment & such discretion is wider in case of emergency, but he must exercise a reasonable degree of care according to the circumstances of each case.

Case-Spring Meadows Hospital & Another vs. Harjol Ahluwalia thr' K.S.

Ahluwalia & Another (1998) CPJ 1. The takeaway is The National Commission held the doctor negligent in performing his duty because instead of administering the injection himself he permitted the nurse to give the injection. There was clear dereliction of duty on the part of the nurse who was not even a qualified nurse and was not registered with any nursing council of any State. Both the doctor and nurse and the hospital were found liable and Rs.12.5 lakhs was awarded as compensation to the parents.

He concluded the session by saying that no law is said to be perfect and every single law present has its fair share of advantages and disadvantages. These positives or the negatives could be present for both the service provider as well as the patient itself.