

KNOWLEDGE OF LEGAL ISSUES AND CONSUMER PROTECTION ACT AMONG DENTISTS IN COORG DISTRICT KARNATAKA

H Aruna Kumari¹, S R Ananda², Jain Jithesh³, K N Abhishek⁴

1. Post Graduate student, Department of Public Health Dentistry, Coorg Institute of Dental Sciences, Virajpet, Karnataka

2. Reader, Department of Public Health Dentistry, Coorg Institute of Dental Sciences, Virajpet, Karnataka

3. Professor and Head of Department, Department of Public Health Dentistry, Coorg Institute of Dental Sciences, Virajpet, Karnataka

4. Senior Lecturer, Department of Public Health Dentistry, Coorg Institute of Dental Sciences, Virajpet, Karnataka

ABSTRACT:

Background: Indian society is experiencing a growing awareness regarding patient's rights. This trend is clearly discernible from the recent spurt in litigation concerning medical professional or establishment liability, claiming redressal for the suffering caused due to medical negligence, vitiated consent, and breach of confidentiality arising out of the doctor-patient relationship. With the inclusion of health care services under Consumer Protection Act, a spurt in litigations arising out of breach in medical/dental profession is seen. Thus, it becomes imperative for health professionals today to be aware of such laws. Aim: To assess the knowledge of legal issues and consumer protection act among Dentists in Coorg district in Karnataka.

Methodology: A total of 213 Dentists were included for the study. Among them 46 were BDS graduates, 58 MDS graduates and 109 post graduate students. A self-administered questionnaire consisting of 20 questions related to legal issues in dentistry and awareness about consumer protection act was asked. Statistical Analysis was done using SPSS version 17. Chi-square test was used for comparison ($P < 0.05$).

Results: Awareness about legal issues in dentistry was found to be low among the dentists. Statistically there was no difference between BDS graduates (40.87%), MDS graduates (46.04%) and post Graduate students (40.01%) about the knowledge of legal issues in dentistry. For consumer protection act a total of 86.85% of subjects were aware and statistically there was no difference in the qualification.

Conclusion: There is a need to raise the awareness of health professionals about legal issues so that their increased professional concern and practice conforms to welfare of patients.

Key Words: Legal Issues, Consumer Protection Act, knowledge, Awareness.

INTRODUCTION:

The relationship between doctor and patient earlier was based on trust and

confidence. Today, we witness a fast pace of commercialization and globalization on all spheres of life and the medical

profession is no exception to these phenomena.^[1]

In India, the Consumer Protection Act (CPA) of 1986 was enacted for better protection of the interests of consumer grievances. Till 1995, even courts were not clear whether doctors are covered under consumer protection act or no. In a landmark case in 1995, the Supreme Court decision in Indian Medical Association vs.VP Shantha,^[2] medical professions has been brought under the Section 2(1) (o) of Consumer Protection Act, 1986.

Consumer Protection Act (CPA) is a quasi-judicial mechanism set up at district, state, and national levels, where consumers can file their complaints, which are entertained by the judicial bodies referred to as consumer forums. These consumer forums have been empowered to award compensation to aggrieved consumers for the hardships that they have endured.^[3]

The law is not made to punish all health professionals that cause injury to patients; it is concerned only with negligent acts. Negligence is Failure to use the degree of care considered reasonable under the circumstances, resulting in unintentional injury.

In recent years there has been a steady increase in number of complaints that are being filed by the patients against doctors and hospitals in various consumer forums/commissions for medical negligence. Some are real, where as some are filed to get easy money from doctors and hospitals.

The Supreme Court also believes that negligence in context of the health profession necessarily calls for a different viewpoint. To infer rashness or negligence on the part of professionals, in particular a doctor/dentist, additional considerations apply. A simple lack of care, an error of judgment, or an accident, is not proof of negligence on part of the health professional. So long as a doctor follows a practice acceptable to the profession of that day in the region, she/he cannot be held liable for negligence merely because a better alternative course or method of treatment was also available.^[4] When it comes to the failure of taking precautions, what has to be seen is whether those precautions were taken which the ordinary experience of professionals has found to be sufficient; a failure to use special or extraordinary precautions which might have prevented the particular mishap cannot be the standard for judging the alleged negligence.^[4]

Thus, it becomes imperative for health professionals today to be aware about negligent acts in dental profession and consumer protection act. Studies on knowledge about negligence or legal issues are rarely been reported in literature; hence the present study was undertaken.

MATERIAL AND METHODS:

AIM OF THE STUDY

To assess the knowledge of legal issues and consumer protection act among Dentists in Coorg district in Karnataka.

OBJECTIVES OF THE STUDY

- To assess the knowledge of medical negligence and legal implication in dental practice.
- To assess the knowledge of consumer protection act among dentists.

METHODOLOGY

A descriptive cross-sectional questionnaire survey was carried out by including all the dental health professionals in Coorg District i.e. MDS, BDS and post-graduate students in Coorg District. Ethical approval was obtained for the study from the Institutional Review Board. Consent was obtained from all the participants. Those who are not willing to participate are excluded from the study. A self administered questionnaire was used to collect data on knowledge of legal issues in dental practice and consumer protection act.

The Questionnaire consisted of a 20 questions. About knowledge of legal issues and Consumer Protection act. 11th question was about the awareness of Consumer Protection Act. Those who gave affirmative answer for the question were told to answer the next questions. Knowledge was assessed by considering the number correct answers provided by each dental professionals.

Prior to the data collection the questions were pre-tested among a group of 30 dentists in order to ensure the level of validity and degree of repeatability. These participants were excluded from the analysis. Data was analyzed using SPSS version 17. Chi-square test was used to compare between categorical variables.

$p < 0.05$ was considered as statistically significant.

RESULTS:

A total of 232 questionnaires were distributed out of which 213 questionnaires were returned giving a response rate of 91.81%. Among 213 participants 46 were BDS graduates, 58 were MDS graduates and 109 Post graduate students.

About the knowledge of negligent act statistically there was no significant difference among the dental professional with different qualification. Knowledge was more in questions related to Failure to attend emergency, lack of informed consent etc but the knowledge was poor with questions related to Indian Penal Codes.

Overall 40.87% of correct answer was given by BDS graduates, 46.04% of correct answer was given by MDS graduates and 40.1% correct answers were given by post graduate students.

Among questions related to awareness of consumer protection act, a total of 185 questionnaires were considered out of which 33 were BDS graduates, 54 were MDS graduates and 98 Post graduate students. 13 BDS graduates, 4 MDS graduates and 11 post graduate students have mentioned that they are not aware of consumer protection act, hence questionnaires were not considered for analysis.

About 50% of dental professional are aware of medical indemnity insurance

qualification wise it found to be statistically non significant.

DISCUSSION:

The Consumer Protection Act, 1986 is one of the examples that is to be treated as a milestone in the history of socioeconomic legislation to protect the interests of the consumers in India.^[6]

However, awareness among dental health professionals about such laws is observed to be varied. The present study was carried out to assess the knowledge of legal issues i.e. what constitutes a negligent act, what are the penal codes involved and consumer protection act among dental professionals in Coorg District.

It is very important to know by a health professional about legal issues as people are becoming increasingly responsible for their own health care by investigating signs, symptoms and treatment of illnesses and conditions via the Internet or journals, and this contributes to erosion of the relationship between the health care provider and the patient.

This study is the first to present information about legal issues among dental professionals in India. Due to the lack of updating knowledge by the professionals (dental/medical), there is an increased risk of malpractice, especially in complex case situations.

Traditionally, litigations against health professionals were seen through the prism of Section 88 of the Indian Penal Code (IPC).^[7] According to this, causing

any harm to any person - if it is for the benefit of that person - is not a crime, provided:

A. The act which causes the harm was done in good faith and

B. Expressed or implied consent of that person, to suffer that harm, was obtained.

By interpreting IPC Section 88, a surgeon would be protected if the patient dies during or after the surgical procedure provided that the patient had given informed consent, fully aware of the risks involved. Also, the surgeon must have acted in good faith, which has been interpreted here to mean with due care and attention.^[7]

On the other hand, liability of health professionals as under Section 304-A of the IPC was different. This Section reads as causing death by negligence - Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.^[8]

In the present study 94.86% of the dentist answered that not taking consent is a negligent act. In a study, approximately 90% of the dentists take consent from their patients prior to the start of any treatment procedure and the type of consent on which they rely is informed consent.^[5] however the practice of taking consent is not evaluated in the present study.

Similarly, awareness regarding the maximum time period within which a patient can sue the concerned doctor with evidence was found to be low among the participating dentists

In the present study 54.5%, BDS, 66.7% MDS and 61.2% Post graduate students answered correctly for the maximum time limit for giving justice to patient in days which is contrast to a study done by Sumanth Prasad et al^[9] where 75% of BDS, 89.2% of the MDS and 72.6% post-graduates were aware of settlement of disputes as within 90 days of complaint.

Hippocratic Oath says "I will treat without exception all who seeks my ministrations". Ethical rules presented by DCI (Dental Council of India) also emphasize on the same. However, the overall knowledge about consumer protection act was 40.87% , 46.04% and

40.1% among BDS, MDS and post graduate students respectively. Also related to negligent act again , the overall knowledge was 44.68% , 45.8% and 44.1% among BDS, MDS and post graduate students respectively. The limitation of the present study was that equal number of sample was not taken from all the three professional groups.

CONCLUSION:

Present study revealed a lack of complete knowledge about legal issues and consumer protection act among dental professionals. So, methods to upgrade knowledge on consumer protection act at all levels of our profession and change attitude by inculcating a practice to spread the message of consumer protection act for delivering quality dental care should be sought.

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TABLES:

Table I: Shows the distribution of study subjects according to age and gender

Qualification	Gender		Mean Age
BDS	26 (56.52%)	20 (43.48%)	34.65±8.66
MDS	36 (62.06%)	22 (37.94%)	32.56±4.15
Post graduates	67 (61.46%)	42 (38.53%)	28.33±2.17

Table II shows the questions related to negligent act and the correct answers provided by the dental professionals.

Questions	Answer	Qualification			Chi-Square	Significance
		BDS	MDS	PG		
Negligence is	Un Intentional	9 (19.6%)	13 (22.4%)	11 (10.1%)	5.133	0.077 NS
Failure to attend an emergency	Is negligence	43 (93.5%)	56 (96.6%)	103 (94.5%)	4.270	0.371 NS
Dentist attempting to treat beyond there level of competence	Is negligence	45 (97.8%)	56 (96.6%)	101 (92.7%)	3.895	0.420 NS
Lack of informed consent	Is negligence	43 (93.5%)	55 (94.8%)	105 (96.3%)	2.663	0.616 NS
Not obtaining consent form in emergency	Is not negligence	8 (17.4%)	11 (19.0%)	16 (14.7%)	4.442	0.349 NS
Patient's dissatisfaction with the progress of treatment	Is not negligence	20 (43.5%)	22 (37.9%)	32 (29.4%)	7.343	0.071 NS
A rash or negligent act resulting in death invite criminal liability under	304A (IPC)	11 (23.9%)	23 (39.7%)	37 (33.9%)	14.448	0.071 NS
A rash or negligent act causing simple injury	337 (IPC)	02 (04.3%)	10 (17.2%)	11 (10.1%)	11.668	0.167 NS
A rash or negligent act resulting in grievous injury	338 (IPC)	04 (08.7%)	11 (19.0%)	09 (08.3%)	14.393	0.073NS
Total percent of correct answer		40.87%	46.04%	40.1%		

Table III: Gender wise comparison of correct answers about negligence

Males	Females	Chi Square	P value	Significance
43.34%	41.32%	0.040	0.841	NS

Table IV shows the questions related to negligent act and the correct answers provided by the dental professionals.

Questions	Answer	Qualification			Chi-Square	Significance
		BDS	MDS	PG		
Consumer Protection State Act (CPA) was passed by Parliament in	1986	19(57.6%)	32(59.3%)	48(49.0%)	15.862	0.44 NS
Supreme Court of India included medical services under the ambit of CPA in-	1995	6 (18.2%)	5 (9.3%)	17(17.3%)	17.684	0.024 S
Following is NOT included under COPRA	Free medical services	10(30.3%)	23(42.6%)	44(44.9%)	5.250	0.512 NS
Where do you find a Consumer Forums?	All levels	18(54.5%)	25(46.3%)	55(56.1%)	13.373	0.100 NS
CPA a complaint is to be filled within ---- yrs from date on which a case of action has arisen.	2 years	4(12.1%)	9(16.7%)	12(12.2%)	10.709	0.219 NS
The maximum time limit for giving justice to patient in days is	90 days	18 (54.5%)	36(66.7%)	60(61.2%)	4.498	0.810 NS
For false complaint in CPA the complainant shall pay as penalty to opposite party, not exceeding	10,000 Rs	18 (54.5%)	26(48.1%)	30(30.6%)	17.658	0.024 Ss
Can a consumer lodge a complaint without the presence of a lawyer?	Yes	25(75.8%)	41(77.4%)	80(81.6%)	2.179	0.703 NS
Total percent of correct answer		44.68%	45.8%	44.1%		

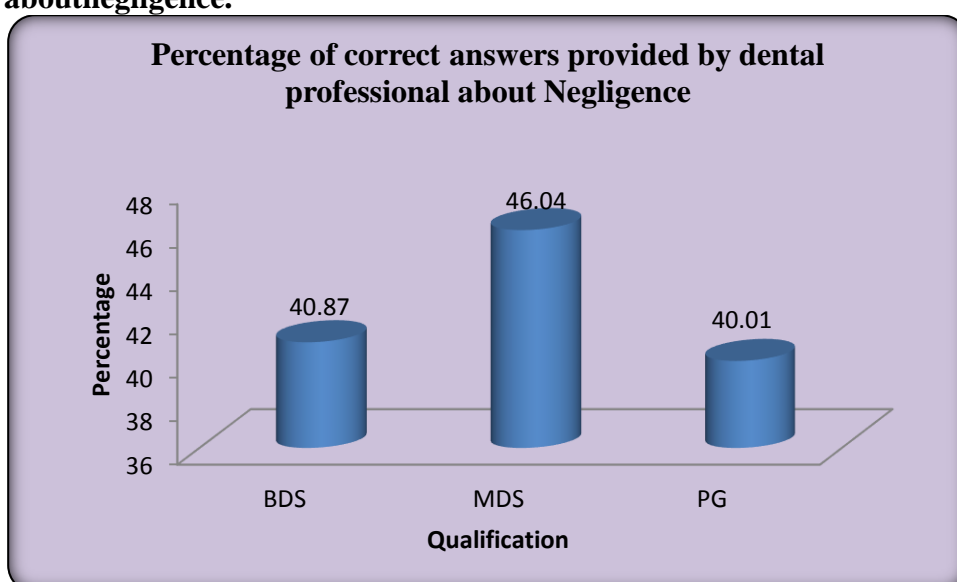
Table V: Gender wise comparison of correct answers about Consumer Protection Act

Males	Females	Chi Square	P value	Significance
45.09%	44.07%	0.153	0.711	NS

Table VI: Awareness about Medical Indemnity Insurance

Questions	Awareness	Qualification			Chi-Square	Significance
		BDS	MDS	PG		
Are you aware about Medical Indemnity Insurance?	Yes	19(57.6%)	32(59.3%)	48(49.0%)	15.862	0.44 NS

Graph I showing total percent of correct answers provided by dental professionals about negligence.



Graph II showing total percent of correct answers provided by dental professionals about negligence.

