

A Report

2016

Managing Medico Legal Issues



VISION 2020: The Right to Sight- INDIA
D-21, Corporate Park, 2nd floor,
Near Dwarka Sector 8 Metro Station,
Dwarka, Sector-21, New Delhi
Pin- 110 077

Introduction

VISION 2020: The Right to Sight- INDIA organised a workshop on Managing Medico Legal Issues for NGO Hospitals in eye care at Sankar Foundation Eye Hospital, Visakhapatnam on 04 September 2016. The workshop was conducted in collaboration with Sankar Foundation Eye Hospital, NALSAR University of Law and Ministry of Consumer Affairs & Food and Civil Supplies, GoI.



The workshop was deliberated on key issues in human resources, patient care, medical negligence and statutory compliances. Discussions on clinical care of patients, hospital capabilities and its quality protocols, dealing with product quality issues, consumer cases and RTI, dealing with false cases, dealing with media (especially in unanticipated scenario) were further deliberated.

This programme was intended for Trustees, Heads of Hospital, CEOs, hospital Administrators, Ophthalmologists and any other professionals involved in the management of hospitals and deal with Medico-legal issues.

Objective of this workshop was to:

- Build the capacity of member institutions on managing medico legal issues effectively.

Sub-Objectives were:

- Enhance knowledge on appropriate human resources or qualified personnel to execute ophthalmic care.
- Understand patient care issues and the possible system to be developed to face legal system.
- Create awareness on the statutory compliance for eye care institution and possible methods of compliance.

Participation:

29 delegates from 19 organisations working in 9 states participated in the workshop. We had an encouraging participation from Telangana, Andhra Pradesh, Tamilnadu, Kerala, West Bengal, Odisha, Maharashtra, Delhi and Gujarat. Trustees, Heads of Hospital, CEOs, Administrators, Ophthalmologists and other professionals benefitted from the workshop.

Agenda:



Workshop on “Managing Medico-Legal Issues”

Date : 3 September, 2016 (Saturday)
 Venue : Sankar Foundation Eye Hospital
 Visakhapatnam, Andhra Pradesh

| S. No. | Time | Topics | Resource Persons |
|--------|-----------------------------------|---|--|
| 1. | INTRODUCTION and INAUGURAL | | |
| | 0830 - 0900 | Registration | |
| | 0900 - 0910 | Inauguration of workshop Welcome and Lightening the lamp | 1. Chief Guest Shri Sasidhar Reddy, District Judge, 1st Additional District and Sessions Court, Visakhapatnam 2. Mrs. Manimala, Management Trustee, Sankar Foundation 3. Mr Phanindra Babu CEO, VISION 2020 INDIA 4. Prof. K.V.S. Sarma, Professor of Law, NALSAR University 5. Dr. P. Bhaskara Mohan, Advocate, High court of Judicature at Telangana and AP, Hyderabad. 6. Mr. Anand Sudhan, CEO, Sankar Foundation Eye Hospital |
| | 0910 - 0915 | Welcome by Sankar Foundation | Mrs. Manimala, Management Trustee, Sankar Foundation |
| | 0915 - 0930 | Key Note address by the Chief Guest | Chief Guest Shri Sasidhar Reddy, District Judge, 1st Additional District and Sessions Court, Visakhapatnam |

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| | 0930 - 0935 | Welcome by VISION 2020: The Right to Sight-INDIA | Mr Phanindra Babu CEO, VISION 2020 INDIA |
| | 0935 - 1000 | Programme details and formal introductions | Mr. Anand Sudhan, CEO, Sankar Foundation |
| | 1000 - 1030 | Tea Break | |
| 2. | Session 1: Law and Medicine | | |
| | <i>Rapporteurs:</i> Mr Mrinal Madhaw, VISION 2020 INDIA Mr. Ramarao, Sankar Foundation | | |
| | | | Resource Persons |
| | 1030 - 1200 | Laws – Civil and Criminal that effect medical profession | Prof. K.V.S. Sarma, Professor of Law, NALSAR University |
| | 1200 - 1215 | Tea Break | |
| | 1215 - 1300 | Laws – Civil and Criminal that effect medical profession (<i>continuation</i>) | Prof. K.V.S. Sarma, Professor of Law, NALSAR University |
| | 1300- 1400 | LUNCH | |
| 3. | Session 2: Case laws relating to Medical Practitioners | | |
| | <i>Rapporteurs:</i> Mr Mrinal Madhaw, VISION 2020 INDIA Mr. Venugopal, Sankar Foundation | | |
| | 1400 - 1600 | Medico-legal cases of consumer forums, High court and Supreme Court And handling media and its reporting | Dr. P. Bhaskara Mohan, Advocate, High court of Judicature at Telengana and AP, Hyderabad. |
| | 1600 - 1615 | Tea Break | |
| | 1615 - 1700 | Open Interactions – Q & A | |
| | 1700 - 1715 | Conclusions and Vote of Thanks by Ms Manimala | |
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Programme:

Further **Mrs. Manimala**, Management Trustee, Sankar Foundation made a welcome address on behalf of her organisation. She appreciated the participation from different parts of the country. She also appreciated the efforts made by VISION 2020 INDIA to organise this workshop at Sankar Foundation Eye Hospital, Visakhapatnam.

She invited the chief guest, Shri Sasidhar Reddy, District Judge, 1st Additional District and Sessions Court, Visakhapatnam to present the key note address.





Shri Sasidhar Reddy, during his keynote address, highlighted the important points related to the medico-legal issues. And based on his experience dealing these cases, one of the most important issues he brought to the notice of the stakeholders is about poor management of records. He clearly mentioned that most of the cases are being lost because of not maintaining the documents properly. He also mentioned that our society is still a status conscious society and is not legally conscious society, however, he felt that the scenario is changing slowly and the society is moving towards legally conscious society.

Subsequent to the key note address by the chief guest, **Mr Phanindra Babu Nukella**, CEO, VISION 2020

INDIA formally welcomed the guests and delegates in the workshop. During his welcome speech, he said that the participation shows the importance of the workshop as the participation was from different part of the country which had never happened for any of the workshop. He thanked Ms Manimala for suggesting this very important topic and also thanked NALSAR University for designing this workshop and their active participation throughout the workshop.

Mr Anand Sudan briefed on the programme to the delegates and explained the objective of the workshop.

Prof. K.V.S. Sarma, Professor of Law, NALSAR University took the session on "*Laws – Civil and Criminal that effect medical profession*".

During his presentation he explained the definition of law and also explained the different

classifications of law for better understanding. He suggested a book, "Elements of Mercantile Law" written by Mr ND Kapoor to get better understanding of law. He also emphasized the need of formation of Ethics Committee in the organisations. He spoke on various Acts and also spoke about a good number of cases on medical negligence which helped the participating organisations to understand the importance of statutory compliance, documentation and following the protocols strictly.

Few important discussion points:

1. Can the Arbitrator change from case to case?
Prof. Sarma- Yes. Can be changed
2. Should the Arbitrator involved before dispute or after dispute!
Prof. Sarma - After dispute



3. In case mediation failed under arbitration clause, can it be taken to the court?

Prof. Sarma - No.

4. Who can be Arbitrator?

Prof. Sarma – Arbitrator can be anyone. No any specialization defined or required. A doctor or a engineer may also be the Arbitrator. It depends on the nature of the case. However criminal cases, tax related matters cannot be taken to the arbitrator. Only the civil matters can be referred to the Arbitrator.

Answering the question on concept of medical negligence, Prof. Sarma suggested a book, 'Law of Torts' by Dr Bangia. He clarified that any the act alone does not consist a crime, unless it is accountable to a guilty mind. According to law, commissions and omissions with a guilty of mind is crime. He gave immense number of examples to make the above points clear. He also clarified the difference between Act, rules and regulations. Act is passed by the parliament, rules are formed by the Ministries and regulations are made by the statutory bodies.

Prof. Sarma informed that organizations should adapt best practices such as forming a ethics committee, patient consent in writing for surgeries, having an arbitration clause in the hospital admission formalities etc.

Dr. P. Bhaskara Mohan, Advocate, High court of Judicature at Telengana and AP, Hyderabad during his session focused on Medico-legal cases of consumer forums, High court and Supreme Court And handling media and its reporting. He mentioned that in a legal battle, lawyers suggest many ideas, however, a doctor should know what is right or wrong in their practice.

John F Kennedy in 1962 had declared 4 rights for consumers and India added 2 more rights into it. Therefore, India has 6 rights for consumers which are listed below:

1. Right to Safety
2. Right to Choose
3. Right to Information
4. Right to be Heard
5. Right to Redressal*
6. Right to Consumer Education*

*5th and 6th right is added by India in its Consumer Protection Act 1986.

He clearly defined the Alternative Dispute Resolution (ADR) mechanism which consists of 3 phases:

1. Mediation
2. Conciliation
3. Arbitration



He mentioned that every organisation should adapt the ADR mechanism in consultation with legal experts on how to frame it.

He beautifully defined the word Negligence and explained that the Negligence in term of law is derived by 2 words which is:

- Omission : What is supposed to be done, was not done
- Commission : What is not supposed to be done, was done

Participants also shared their experience related to medico legal issues in their hospitals. Post presentations by both the speakers, an open discussion session took place where the delegates came out with their queries which were answered by the speakers. Here are few important discussion points:

Query-1: If organisation receives the emergency cases from companies and the companies ask the hospital administration to not to inform Police, what should be done by the hospital administration?

Ans: Hospital administration should inform Police immediately in writing and should also get acknowledgment by Police.

Query-2: In case of emergency who is responsible to write the Medical report?

Ans: In-Charge of the department at that point in time should write the report.

Query-3: Can the medicine be prescribed over the phone by the doctor to the patient?

Ans: Yes. It can be done in case the doctor has seen the patient before also and know about his/her problem. In case of the patient has never been seen by the doctor it, medicine should not be prescribed.

Query-4: In case of injury or emergency cases, if the surgeon is not available in the hospital then the report of Medico Legal Cases (MLC) should be done by whom?

Ans: The hospital must provide the first aid to the patient and should refer the patient to a competent hospital. Hospital should have the evidence of refereeing the patient to other hospital. Report on MLC can be prepared by the hospital where the patient was referred.

Query-5: Patients sometimes purposefully hide their history before surgery and in this situation if something went wrong during the treatment, what is the provision to protect the doctor?

Ans: According to Section-17 of Indian Contract Act, it's a fraud. No any party should hide anything before going to the surgery. In case if the patient is hiding his/her history, doctor will not be held responsible.

The workshop ended at 18:00 hrs with vote of thanks given by Mrs Manimala.

Detailed recording of the workshop will be shared with all soon.

Gratitude:

- *Our sincere thanks to Sankar Foundation Eye Hospital, Visakhapatnam, AP for hosting the workshop and also for their support*
 - *Our thanks to the team of Sankar Foundation Eye Hospital for their proactive support for this workshop*
 - *We are Grateful to Shri Sasidhar Reddy, District Judge, 1st Additional District and Sessions Court, Visakhapatnam to grace the occasion as Chief Guest and also for sharing his valuable thoughts.*
 - *We are sincerely thankful to Prof. KVS Sarma, Professor of Law, NALSAR University and Dr. P. Bhaskara Mohan, Advocate, High court of Judicature at Telangana and AP for designing the programme, putting their effort and time to make this workshop successful through disseminating their vast experience and knowledge*
 - *Our sincere thanks to all the delegates participated in the workshop and thanks for their encouraging response*
 - *We are thankful to the leaders of our member organisations for sending their representatives to attend the workshop*
 - *We are extremely thankful to each and every one who supported us to make this event successful*
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