



## AWARENESS AND PRACTICES REGARDING MEDICO-LEGAL ASPECT AMONGST PEDIATRIC DENTAL SPECIALISTS IN GUJARAT.

### Dental Science

<b>Darshan A Jethva*</b>	Post Graduate Student, Department of Pediatrics and Preventive Dentistry, Karnavati School of dentistry, Karnavati University, Gandhinagar, Gujarat, India. *Corresponding Author
<b>Megha C. Patel</b>	Professor, Department of Pediatrics and Preventive Dentistry, Karnavati School of dentistry, Karnavati University, Gandhinagar, Gujarat, India.
<b>Foram C Patel</b>	Post Graduate Student, Department of Pediatrics and Preventive Dentistry, Karnavati School of dentistry, Karnavati University, Gandhinagar, Gujarat, India.
<b>Rohan K. Bhatt</b>	Professor, Department of Pediatrics and Preventive Dentistry, Karnavati School of dentistry, Karnavati University, Gandhinagar, Gujarat, India.

### ABSTRACT

Over the years dental practices have changed due to trust and control being interchangeable between the dentists and the patient. Due to explosion of data on internet there has been increase in the number of patients challenging the dentist's authority over treatment planning and consent issues in recent years. Also, the market driven practice has led to decline in ethical practice and subsequently increased medico-legal issues. Hence this study was conducted to assess the knowledge and adeptness of specialist dentist of Gujarat to deal with medico legal issues. It was found that there is a general awareness regarding informed consent and medicolegal issues among the specialists but majority of them didn't have professional indemnity insurance. Also, there is a growing need of proper training through symposiums or CDE in collaboration with law firms to make them acquainted with Consumer Protection Act.

### KEYWORDS

Medico-legal Issues, CPA, Informed Consent, Pediatric Dentists

#### BACKGROUND:

Often, medical profession is regarded as noble profession. In the past, the doctors were worshipped as gods and people used to admire and respect them as well. Commercialization and globalization have affected all spheres of life and the medical profession is no exception. As a result, the relationship between doctor and patient has deteriorated considerably.<sup>[1]</sup>

The vast data available on internet and the patient resorting them for self-diagnosis and treatment options and their probable mismatch with the diagnosis and the treatment planning by their dentist has led to trust and control issues between dentist and the patient. On one hand, there can be unfavourable results of treatments and on the other hand the patient suspects negligence as a cause for their suffering.

In the past, many laws were based on the common law. The supreme court has laid down guidelines for the criminal prosecution of the doctor. This has decreased the unnecessary harassment of doctors. As the medical profession has been brought under the provision of the consumer protection act, 1986, the patients have an easy method for litigation. The consumer protection act (CPA), 1986, is a judicial social act, fundamentally found on consumer rights and interest protection.<sup>[2]</sup> Under the consumer protection act, 1986, a three-tier, simple and quasi-judicial machinery was established. The three-tier quasi-machinery includes national, state and district level which are for hearing on cases raised by consumers. The act had been revised in 1991 and again in 1993. A comprehensive modification was last made in 2002, to make the act effective, functional and purposeful.<sup>[3]</sup>

The law is concerned with the negligent acts of the health professional. The court follows BOLAM rule which states that doctor is not guilty of negligence if he has acted in accordance with the practice accepted as proper by a responsible body of medical men.<sup>[4]</sup> Consequently it has become crucial for all healthcare professionals including dentists to be aware of factors that come under medical/dental negligence and to be well versed with CPA. Hence, this study was designed to assess the awareness and practices towards medico-legal cases amongst Pediatric dentist of Gujarat.

**Table 2: Awareness And Practices Regarding Informed Consent**

	Postgraduate Students n (%)	Clinical Practitioner n (%)	Clinical Practitioner associated with Academics n (%)	Total n (%)	P Value
<b>DO YOU PREFER TAKING INFORMED CONSENT?</b>					
Yes	43 (97.7)	40 (100)	29 (100)	112 (99.1)	0.453
No	1 (2.3)	0 (0)	0 (0)	1 (0.9)	
Total	44	40	29	113	

#### SETTING AND DESIGN:

Prior to commencing the study ethical clearance was obtained from the institutional review board. An E-survey questionnaire was formed, validated and forwarded to total 145 registered Paediatric dentists and postgraduates of Paediatric dentistry of Gujarat. The questionnaire comprised of total 20 questions which contained 4 demographic questions and 16 close ended survey questions. After two gentle reminders, 113 responders were accounted in the study.

#### STATISTICAL ANALYSIS:

Questionnaire data were analysed by the number of responses as a percentage of total responses. The obtained results were tabulated and the statistical analysis of data was carried out using SPSS version 20.0. Chi-square test with  $P < 0.05$  as significant value was applied to find out the significance of various responses.

#### RESULTS:

Responders for the conducted survey were distributed as mentioned in Table 1.

**Table 1: Distribution Of Respondents**

Respondents	Number	Percentages
Postgraduate Students	44	38.9
Clinical Practitioner	40	35.4
Clinical Practitioner associated with Academics	29	25.7
Total	113	100

#### Awareness Regarding Informed Consent (Table 2)

In present study, 99.1% Pediatric dentists of Gujarat agreed that informed consent should be taken. 77% preferred written consent over verbal consent and that it should be presented in local language as per 97.3% responders. Only 59.3% were aware that the minimum age to give informed consent was 18 years and above. Multiple options selections for content of informed consent depicted that majority of them (63.2%) believe that the informed consent should be comprised of detailed information of all treatment options available, success and failure rates of all treatments and detailed explanation about procedures and complications associated with local and general anaesthesia.

WHAT KIND OF CONSENT DO YOU TAKE?					
Written consent	36 (81.8)	27 (67.5)	24 (82.8)	87 (77)	0.206
Verbal consent	8 (18.2)	13 (32.5)	5 (17.2)	26 (23)	
Total	44	40	29	113	
WHAT SHOULD BE THE MINIMUM AGE LIMIT FOR GIVING INFORMED CONSENT?					
12 years and above	18 (40.9)	12 (30)	11 (37.9)	41 (36.3)	0.536
18 years and above	24 (54.5)	25 (62.5)	18 (62.1)	67 (59.3)	
25 years and above	2 (4.5)	3 (7.5)	0 (0)	5 (4.4)	
TOTAL	44	40	29	113	
DO YOU THINK INFOEMRD CONSENT SHOULD BE PRESENTED IN LOCAL LANGUAGE?					
Yes	42 (95.5)	39 (97.5)	29 (100)	110 (97.3)	0.496
No	2 (4.5)	1 (2.5)	0 (0)	3 (2.7)	
Total	44	40	29	113	
WHICH OF THE FOLLOWING DO YOU MENTION IN INFORMED CONSENT?					
Detailed information about all the treatment options available.	9 (17.6)	9 (18.7)	2 (5.9)	20 (15)	0.472
Success and failure rates of all treatments	3 (5.9)	3 (6.3)	1 (2.9)	7 (5.3)	
Detailed explanation about procedures and complications associated with local anesthesia or general anesthesia.	5 (9.8)	11 (22.9)	6 (17.6)	22 (16.5)	
All of the above.	34 (66.7)	25 (52.1)	25 (73.5)	84 (63.2)	
Total	51	48	34	133	

### Awareness And Adeptsness About Medico-legal Issues And CPA/COPRA: (Table 3)

This study found that 90.3% responders knew about medico-legal cases taking place even in the practice of dentistry. About 62.8% of the responders had knowledge about consumer protection act (CPA/COPRA), but only 40.7% of them were familiar that medico-legal cases fall under consumer protection act. Most of them (79.6%) were not acquainted with legal procedures to tackle CPA and 78.8% of the responders were not having any policy to protect themselves against the claims by the patient which was statistically significant (P=0.029)

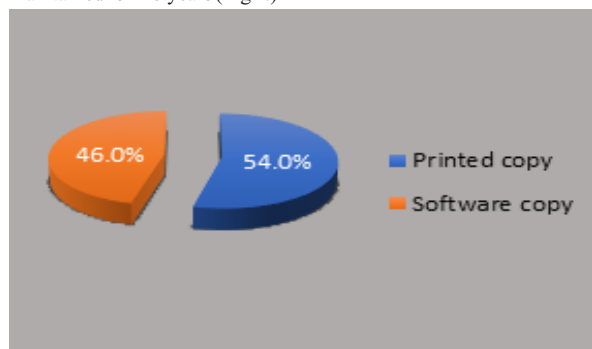
A significant difference was found (P=0.00) between the responders when asked about the liability under medical negligence. 43 responders believe that if found guilty, the degree of the accused dentist can be cancelled by the dental council of India while 18.7% stated that they are liable for cash compensation. As a patient can sue the doctor for medical negligence, a doctor can also sue the patient for non-payment of the services provided by the doctor and 54.9% of the responders were not aware about this.

**Table 3: Awareness About Medico-legal Issues And CPA/COPRA**

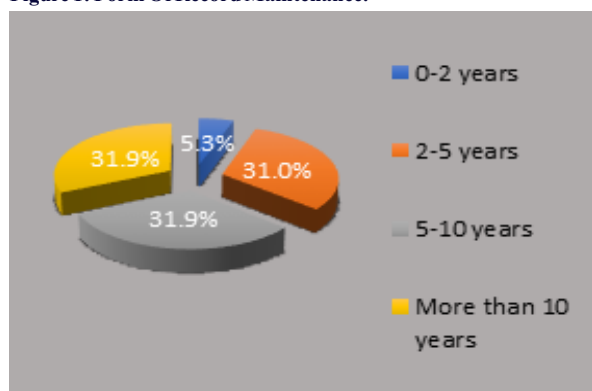
	Postgraduate Students n (%)	Clinical Practitioner n (%)	Clinical Practitioner associated with Academics n (%)	Total n (%)	P Value
ARE YOU AWARE OF THE MEDICO-LEGAL ISSUES IN THE DENTAL PRACTICE?					
Yes	39 (88.6)	34 (85)	29 (100)	102 (90.3)	0.104 NS
No	5 (11.4)	6 (15)	0 (0)	11 (9.7)	
Total	44	40	29	113	
MEDICAL NEGLIGENCE FALLS UNDER					
Criminal	9 (20.5)	7 (17.5)	2 (6.9)	18 (15.9)	0.833 NS
Civil	2 (4.5)	3 (7.5)	2 (6.9)	7 (6.2)	
Consumer protection act	17 (38.6)	16 (40)	13 (44.8)	46 (40.7)	
All of above	16 (36.4)	14 (35)	12 (41.4)	42 (37.2)	
Total	44	40	29	113	
DO YOU KNOW WHAT CPA OR COPRA IS?					
Yes	30 (68.2)	21 (52.5)	20 (69)	71 (62.8)	0.242 NS
No	14 (31.8)	19 (47.5)	9 (31)	42 (37.8)	
Total	44	40	29	113	
DO YOU KNOW WHERE COPRA OFFICE IS SITUATED IN YOUR CITY?					
Yes	10 (22.7)	5 (12.5)	5 (17.2)	20 (17.7)	0.470 NS
No	34 (77.3)	35 (87.5)	24 (82.8)	93 (82.3)	
Total	44	40	29	113	
DO YOU KNOW THE LEGAL PROCEDURES TO TACKLE CPA/COPRA?					
Yes	10 (22.7)	7 (17.5)	6 (20.7)	23 (20.4)	0.837 NS
No	34 (77.3)	33 (82.5)	23 (79.3)	90 (79.6)	
Total	44	40	29	113	
DO YOU HAVE ANY INSURANCE POLICY TO PROTECT YOUR SELF AGAINST CLAIMS?					
Yes	4 (9.1)	13 (32.5)	7 (24.1)	24 (21.2)	0.029 S
No	40 (90.9)	27 (67.5)	22 (75.9)	89 (78.8)	
Total	44	40	29	113	
TO WHAT MAXIMUM EXTENT A DENTIST CAN BE MADE LIABLE FOR MEDICAL NEGLIGENCE UNDER INDIAN PENAL CODE?					
Cash Compensation	5 (11.7)	11 (27.5)	9 (31)	25 (22.1)	0.000 S
Imprisonment	2 (4.5)	9 (22.5)	3 (10.3)	14 (12.4)	
Recommendation to dental council for cancellation of the degree.	22 (50)	12 (30)	9 (31)	43 (38.1)	
Not aware	18 (40.9)	19 (47.5)	15 (51.7)	52 (46)	
Total	44	40	29	113	
CAN A DOCTOR SUE THE PATIENT FOR NONPAYMENT OF SERVICES?					
Yes	20 (45.5)	14 (35)	11 (37.9)	45 (39.8)	0.796 NS
No	3 (6.8)	2 (5)	1 (3.4)	6 (5.3)	
Don't know	21 (47.7)	24 (60)	17 (58.6)	62 (54.9)	
Total	44	40	29	113	

**Awareness and practices regarding Record Maintenance:**

There was no major difference regarding the form of record maintenance (Fig 1). 31% responders stated that the records should be maintained for 2-5 years (Fig 2.)

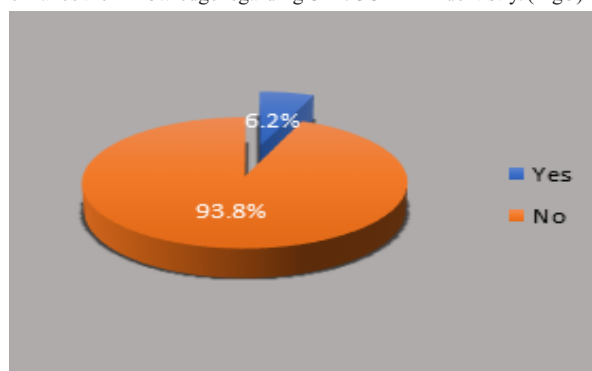


**Figure 1: Form Of Record Maintenance.**



**Figure 2: Duration Of Record Maintenance.**

The present education system and guidelines should be revised as 93.8% of the responders had not attended any CDE/symposium to enhance their knowledge regarding CPA/COPRA in dentistry. (Fig 3)



**Figure 3: Attended any CDE/Symposium Regarding CPA**

**DISCUSSION:**

Since 1986, the consumer protection act came into act, many cases have been filed against the dental and medical professionals. The increasing number of dental professionals resulted in increased number of treatment providers. Sometimes for lack of updated knowledge by the dentists, there is an increased risk of negligence or malpractice, especially from difficult case situation. All services rendered to a patient by a medical or dental practitioner is covered under the CPA, except when the service is provided free of cost, especially in charitable or governmental dispensaries and hospitals and primary health centers.<sup>[5]</sup> The patients nowadays has become more knowledgeable, awareness about their rights have increased and as a consequence they take actions by lodging their complains to consumer forum.<sup>[6]</sup>

The American Academy of Pediatric Dentistry (AAPD) recognizes that informed consent is essential in the delivery of health care and allows the patient or, in the case of minors, the parent to participate in

and retain autonomy over the health care received. Informed consent also may decrease the practitioner's liability from claims associated with mis communication.<sup>[7]</sup> The informed consent should be presented in the local language to enable the patient to understand the procedure and complication of treatment and to avoid any misinterpretation. It should include detailed information about the patient, the proposed treatment, the benefits and risk associated with it, the alternatives available and the signature of the patient/parent and the treating doctor. In the present study, most of the responders agreed that informed consent should be taken. The consent should be in the written form rather than verbal form, as it will help the practitioner to protect themselves and to take their stand in case of medico-legal issue.

The ethical practice in dentistry is being challenged by the market driven system and these has led to increased lack of contentment among patients and medicolegal cases. Out of 113 responders, 102(90.3%) responders were well aware about the prevalence of medico-legal cases in dentistry however only 40.7% of them knew that medical negligence falls under COPRA. This study revealed that there is limited knowledge about the aims and objectives of CPA and its application in our field, which was similar to the study conducted by Rai J et al.<sup>[8]</sup> Also 79.6% responders were not adept to tackle legal procedures to encounter CPA which is in accordance to study by P. Goel et al<sup>[9]</sup>

When something unexpected happens after any diagnostic or treatment procedure, or when the patient or relatives of patient makes complaint against the dentist, the dentist should take some appropriate steps to tackle the legal procedure, which includes:<sup>[10]</sup>

- The dentist should complete all the record of patients including the radiographs and written consent forms.
- In case of any mishap happened, the dentist should inform the patient about the adversity. The dentist should answer all the queries of the patient or relatives. A majority of complaints are hastened into medico-legal action because of progressive breakdown of communication between patient and the dentist.
- The dentist should consult some other doctors or protection organizers to seek advice regarding the medico-legal cases.

Dental negligence falls under section 2 (O) of the Consumer Protection Act (CPA) because Indian Dentist Act (IDA) had no provision to:<sup>[11]</sup>

- Entertain any complaint from the patient
- Take action against dentist in case of negligence
- Award compensation

Professional Indemnity Insurance(PII) covers the liability falling on health care providers due to negligence or errors they commit during their professional practice. From this study, it was found that only 21.2% of the responders have such type of insurance policies. A study by S Senthilkumar revealed that only 11.4% and 21.4% responders from dental and medical fraternity were having this type of policies to protect themselves against medico-legal claims.<sup>[12]</sup> PII cover became available for Doctors and Medical establishments only from December, 1991.<sup>[13]</sup> The Indian Dental Association launched the first PII at 65<sup>th</sup> Indian Dental Association Conference held at Mumbai in February 2012. The dentists must be aware of various policies available in market and should avail it so that they can have a sense of security in case of financial disaster due to compensation asked by the patient under medical negligence.

As a protection against fake medico-legal cases, it is always better for dentists to maintain their records, either in printed form or soft/ e-copy. Software copies will help in easy retrieval of data and they can also be used for consultation purpose. In this study 46% of the responders believed the same. Indian dental association recommends the practitioner to maintain their records for 5 years to satisfy consumer and judiciary and for protection against medico-legal issues.<sup>[14]</sup> Whereas there is recommendation to maintain records of the Pediatric patients until they reach the age of maturity.<sup>[15][16]</sup>

**CONCLUSION:**

To conclude this study, it can be said that there was a good amount of knowledge about medico-legal issues found amongst the Pediatric dentists of Gujarat but they lack the skill to deal with them and needs to be acquainted with CPA/COPRA through change in curriculum and organizing CDE/symposium in collaboration with law firms.

As always prevention is better than cure, following recommendations

can help Avoid legal trials:

- 1) One should possess Approved DCI qualification and experience and training from recognized centre.
- 2) Should take utmost care and have updated knowledge in diagnosis and treatment.
- 3) Should keep appropriate record of the facts and legally valid Informed Consent.

#### REFERENCES:

1. Health Acts in India. (2009, October). Retrieved June 06, 2020, from [https://www.medindia.net/indian\\_health\\_act/acts.asp](https://www.medindia.net/indian_health_act/acts.asp)
2. Bagi, B. (2009). Judicial consumerism. *Journal of Forensic Dental Sciences*, 1(1), 45. doi:10.4103/0974-2948.50890
3. Eleventh five-year plan 2007-12 Volume I inclusive growth. Planning commission government of India. (2008). Retrieved June 06, 2020, from <https://theindiancompetitionlaw.files.wordpress.com/2013/02/11th-five-year-plan.pdf>
4. S. M. (n.d.). Medical Negligence And Consumer Rights: Emerging Judicial Trends. Retrieved June 06, 2020, from <http://www.liofindia.org/in/journals/NALSARLawRw/2011/13.html>
5. Gupta MC, Mahajan BK. (2013) Health and law. In: Roy RN, editor. *Textbook of Preventive and Social Medicine*. 4th ed. New Delhi: Jaypee publishers; pp. 140–1.
6. Mrityunjay, K., Prashant, K., (2003) Medical negligence: Criminal liability of the doctor and establishment. *Cri L J*;11 (SC) Journal 1.
7. Guideline on Informed Consent - AAPD. (n.d.). Retrieved June 6, 2020, from [http://www.aapd.org/assets/1/7/G\\_InformedConsent.pdf](http://www.aapd.org/assets/1/7/G_InformedConsent.pdf)
8. Rai J, Acharya RV, Dave D (2012). Knowledge and Awareness among interns and residents about medical law and negligence in a medical college in Vadodara - A Questionnaire Study. *IOSR Journal of Dental and Medical Sciences*, 3(4), 32-38. doi:10.9790/0853-0343238
9. Sharma, P., Goel, P., Sharma, P., & Vaish, S. (2019). Awareness about medico legal aspects and Consumer Protection Act (CPA) among dental fraternity. *Journal of Dental Specialities*, 6(2), 131-135. doi:10.18231/2393-9834.2018.0030
10. Available from: <http://www.Medindia.com>. Cited 2009 May 25th
11. Goel, K., Goel, P., Goel, S., (2014) Negligence and its legal implications for dental professionals: a review. *TMU J. Dent* 2014; 1:113-118.
12. Senthilkumar, S., Reddy, C., Ingle, N, (2013) Awareness of Medico-legal Issues among Medical and Dental College Health Professionals. *JIAPHD*. 2013;11(3): p. 44\_50
13. Singh, J., Bhushan, V., (2004) *Medical Negligence & Compensation*. 2nd Edition. New Delhi: Bharat Publications.
14. Astekar, M., Saawarn, S., Ramesh, G., & Saawarn, N. (2011). Maintaining dental records: Are we ready for forensic needs? *Journal of Forensic Dental Sciences*, 3(2), 52. doi:10.4103/0975-1475.92143
15. Charangowda, B. (2010). Dental records: An overview. *Journal of Forensic Dental Sciences*, 2(1), 5. doi:10.4103/0974-2948.71050
16. Avon, SL. (2004) Forensic odontology: the roles and responsibilities of the dentist. *J can dent assoc*: 70:453-8.