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REVIEW ARTICLE

Health Care Professional's Negligence: Coverage of Health Care Professions, Ethics, Cases, Case Law -An Overview

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ABSTRACT

Health Care Professionals' negligence cases were increasing day by day globally. They were creating an impact on public health and also increasing mortality rates. Health care professionals' negligence can also be termed as Medical Negligence, which results in medical errors. Simply, it is defined as failure to exercise due care. Medical negligence is misconduct by Physicians, Health Care Scientists, Pathologists, Pharmacists, Nurses, Lab technicians, or other hospital workers through implementing wrong procedures in diagnosis or treatment, which can cause harm to the patients. Medical malpractice arises due to a lack of awareness of Health care professionals; it may result in the causation of medical injuries to the patients. A report by the National Library of medicine 2022 has revealed that 5.2 million cases annually were being recorded across India. The WHO study has revealed that 2.6 million deaths were happening on an annual basis globally due to medical errors. Not only physicians and pharmacists but also the health care Scientists should be aware of all the aspects during Drug development. One best example of a medical error related to health care Scientists is the "Thalidomide tragedy" in 1960's which affected more than 10,000 babies across the world. It occurred due to the negligence of health care scientists, physicians and pharmacists who developed and prescribed the drug. The scientists released the drug in the market without knowing its potential for placental permeability and it was prescribed by various physicians across the world to treat motion sickness in pregnant women without proper testing of the drug. Later, the Scientists uncovered that thalidomide is a racemic mixture of two enantiomers; the R enantiomer has sedative properties. The safe R enantiomer was converted into the S enantiomer by in vivo chiral inversion, which has teratogenic potential, resulting in phocomelia, which affected many babies across the world. Proper measures need to be taken to reduce medical negligence cases and to improve the Patient safety. Strict Judiciary laws need to be implemented to reduce the risk of medical negligence by health care professionals. Simulation training methods for all the health care professionals can reduce the risk of medical negligence cases. The present chapter aims to discuss the various types of Health care professional negligence cases and their adverse events, Consequences of medical negligence, steps involved in the reduction of medical negligence and laws related to medical negligence. This chapter concludes that proper training for health care professionals, creating awareness about the novel updates in medical or para-medical fields, implementing Strict laws for health care professionals who are involved in misconduct, proper surveillance, thorough monitoring of the patients throughout the treatment period, proper diagnosis of disease, and rational therapy for the patients can limit the negligence cases of Health care professionals.

Keywords: Simulation training, Medical negligence, misconduct, Judiciary law, Rational therapy.

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INTRODUCTION

Health Care Professional's negligence is termed a failure to exercise due care towards the patients. All health care professionals' negligence comes under medical negligence[1]. If health care professionals breach their duty, it is regarded as health care professionals' negligence[2]. Some of the examples of medical negligence include wrong diagnosis, irrational therapy, inadequate monitoring of the patient, irrational prescription, Poly pharmacy without necessity, failure to obtain informed consent prior to surgeries, wrong undertaking of the surgeries, leaving the surgical tools inside the patient body, improper administration of the medications, improper withdrawal of the blood, implementing wrong blood collection techniques, wrong surgical procedures, abnormal deliveries, wrong prescription of the medicines, abnormal handling of the medical devices, unnecessary diagnostic procedures like MRI,

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X RAY and CT even though they are not required[3], In case if they are taken also, failure to diagnose the condition also comes under medical negligence. Other medical negligence's include unnecessary treatments, wrong anesthetic procedures, suicidal cases of the patients, fatal bed sores, healthcare-related infections, inappropriate diet for the patients given by the healthcare providers, and communication failures[4]. All these examples come under the term "Medical Malpractice". Medical Negligence, Medical Malpractice, and medical errors are synonyms, described as the following. Medical negligence is termed as Medical Malpractice where as Medical error is a misconduct by the Health care providers that causes harm to the patients. If medical malpractice causes harm to the patient, then compensation should be paid to the patient by the health care professional.[5] If the health care Professional deviate from the standard protocol, it is termed Medical Malpractice. If the health care facilities cause harm to the public, patients, or their employees, it also comes under Health Care Professional's negligence, like fire accidents in the hospital, etc. It is accountable and the damage should be recovered from the persons who are in charge at the time of the accident. If the physician has performed the surgical procedures on the patient without obtaining informed consent, then it is medical liable. Various judiciary principles are involved in such a scenario.[6] Medical liability should be avoided by implementing and upgrading various simulation training programs to the health care professional's like Risk management training Skills in case of emergency cases. Medical errors are the tertiary sources of death globally.[7] The Global survey related to medical errors needs to be conducted and updated regularly to assess the fatality rate and to reduce them. However, according to the literature survey, the International survey was conducted in 2005, in which the U.S.A is recorded with the highest incidence of medical negligence cases, while the fewest cases were in Germany and the U.K. Thereafter, no international survey has been conducted till now.[8] The WHO study has revealed that 2.6 million deaths occur on an annual basis globally due to medical errors. The rate of medical errors was recorded highest in the U.S. A study revealed that an average of 2,50,000 deaths were being recorded annually in the U.S.A. The U.S is recorded with the highest number of medical negligence cases by medical practitioners compared to other developed countries in the world[9]. Medical errors are an issue of concern for developed and developing countries. A report by the National Library of medicine 2022 has revealed that 5.2 million cases annually were being recorded across India. About 80% of the fatalities in India were recorded due to surgical error.[10] The highest incidence of surgical errors (a type of medical error) is mostly observed in states like Punjab, West Bengal, Maharashtra and Tamil Nadu. Mismanagement by healthcare professionals also results in huge loss of life. A study from the Indian Journal of Medical Ethics revealed that 54% of the physicians are not complying with the ethical considerations. Medical errors in every hospital should be recorded and documented. The term Patient Safety and Patient Care has sought attention due to the Libby Zion case, which remained a Landmark in Medical Malpractice. In 1984, Libby zion has died unexpectedly due to cardiac arrest after 6 hours of hospital admission. According to the literature, Libby Zion was 18 year old college student; she was admitted to a New York Hospital due to the complaint of Fever, earache and anxiety and was prescribed with Meperidine and phenelzine, which resulted in Fatal drug drug interaction. This happened due to a lack of supervision and proper training of the residents in the emergency ward. Then after New York health department has appointed the Bell Commission, it emphasized the need for increased supervision of residents in emergency wards and during night shifts. He also recommended that the working hours of residents not exceed 80 hours per week and not more than 24 consecutive hours on duty [11.] Necessity actions should be taken to prevent medical errors. Awareness about emergency cases, surgical procedures, and risk management protocols should be created among the health care providers. Simulation training procedures should be employed in health care facilities. The health Care professional's should acquire up-to-date knowledge in their respective arenas. In order to assure the safety of the patient, Rational therapy should be provided to the patients by the health care providers.[12] Thorough monitoring of the patient throughout the treatment period is important to avoid medical errors. The facilities in the hospitals should be inspected periodically on a regular basis to avoid medical errors.[13]

METHODOLOGY

A Literature review was conducted to identify research and review articles and gather relevant papers as the knowledge foundation to formulate this chapter. Searches were conducted using PubMed, Google Scholar, MEDLINE, the Indian Medical Association, the Indian Kanoon organization library, I pleaders blog, and academic databases.

DIFFERENT HEALTH CARE PROFESSIONALS AND THEIR NEGLIGENCE CASES

Physician's Negligence

The services of the physician are given under the provisions

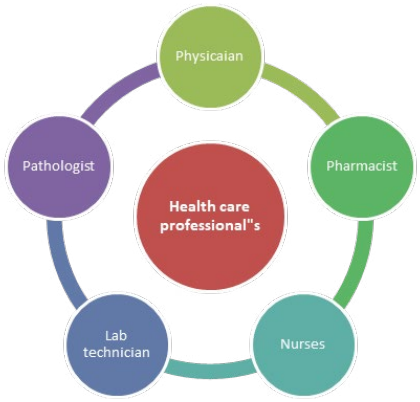

Figure 1: Healthcare professional's

of consumer Act 1986[14]. The consumer court adjudicate about negligence issues. The patient can claim grievances in the consumer court in case of physician's negligence. The Health care professionals, especially doctors, should not guarantee a cure or should not assure for full recovery of a patient[15]. According to a Judgment passed by the Madhya Pradesh high court on 1 july 2023 sandeep singh yadav Vs the state of MP, it was given that a medical practitioner should not be liable for guilt for simple reasons; they should be liable only if they donot follow the standard protocols. various negligence cases like putting cotton in the patients body while operation and enclosing them[16]. Various cases like leaving small surgicals inside patient's body were being observed in various hospitals. These cases were being raised due to negligence of the doctors. Care should be taken by the physicians through out the operation time. Every surgeon should be attentive during operation. Care and attention may reduce the negligence cases. Different health care professionals were illustrated in (Figure 1)

Negligence in Treatment case

According to a case report, a complainant has filed a complaint to state consumer disputes Redressal commission. The complainant name is Mr.shiv kumar he was admitted to a hospital due to accident with minor injuries. Dr. Mathew from op 1 hospital examined him and diagnosed it as a fracture of femur he was operated and implanted with a rod from loin to thigh and later discharged. Even after 6 months the complainant was suffered with pain and unable to walk. Now he approached to Dr. Neeraj Grag, who examined the patient and took Xray. He optioned that fracture in the loin bone and advised to approach the first doctor by whom he was operated. Dr. Aravind Saxena who saw all the X ray films opined that the fracture has occurred due to operation done at op 1 hospital. Because of the negligent treatment the complainant claimed amount of Rs 1697800/-. The physician should Maintain the Duty of Care during surgeries. If DOC is failed it may leads to negligence cases and put the patient's life at risk[17].

The allegations on the physicians should be reduced. In order to reduce those physicians should follow due care and attention towards patient and their conditon. Health care professional's were summarized in (Figure 2)

Pharmacist'S Negligence

Pharmacist has the responsibility to dispense the Right medicine at right dose to right patient in right time[18.] Medication error is also regarded as most common medical error[19]. It occurs due to administration of inappropriate medicines by the patients. Increase in the work load to health care professional's paves the way for medication errors. According to a study the medication error prevalence rate by one pharmacist period is 41% and two pharmacist period is found to be 22%. Increase in the work load can increase the stress levels in the health care providers that results in the causation of errors. If the pharmacist workload is decreased. so that they can have a keen focus on each and every prescription[20]. The pharmacies should make sure before delivering allergeric or patient sensitive drugs.The Proper Pharmacist counseling sessions to the patients may improve the medication adherence of the patients[21]. The meta analysis of 13 studies has revealed that 37% reduction in medical errors are due Pharmacist intervention at care[22]. However errors are common in all the fields. The minor errors are not considered unless they harm the patients. Wrong dose and wrong drug are the most important medical errors occurs with the pharmacist. The most common medical errors occurs with Pharmacist includes the following[23]

- Dispensing Inadequate dose
- Prescribing the medicines without prescription
- Failure to identify overdose and underdose
- Failure to suspect adverse drug reaction
- Incompatibilities
- Dispensing the medicines without checking the drug interactions
- Incorrect preparation
- Delivering expired product
- Dispensing the medicines without checking the medical history of the patient
- Improper storage of the medicines
- Illegal dispensing of the drugs
- Dispensing the prescription drugs as OTC medicines
- Poor communication with patients
- Improper labeling, packaging and storage of medicines
- Failure to procure essential medicines and orphan drugs at appropriate time
- Confusion between proprietary and non proprietary names of the drug.
- Sale of expired products

The doctor and pharmacist has dual role in prescribing and dispensing the drugs correctly to the patient. The Pharmacist has to check the prescription for adverse drug events possibility with the prescribed medicines. If there exists a imbalance between two, it is potentially toxic to the patients health and it causes harmful effects which can be irreversible, permanent and fatal. The Physicians and commmunityl Pharmacists should have the responsibility to warn the patients about drug interactions and adverse drug effects[24].

Negligence in Prescriptional cases

There are various case studies documented which caused harm to the patient due to lack of attentiveness some of the case studies include the following

Case: I

This case is between anonymous and Miller pharmacy where a 67 year old cancer patient has taken methadone which was prescribed by the physician as 15mg i.e three 5 mg tablets twice daily. After 4 days she was found dead. it was discovered that she has been dispensed with 10mg tablets wrongly typed by the technician and this error was unnoticed by the pharmacist, later the pharmacy and pharmacist contributed $325000.8 to settlement[25]. (Schupbach JCS, Kaisler MC, Moore GP, Sandefur BJ. Physician and Pharmacist Liability: Medicolegal Cases That are Tough Pills to Swallow. Clin Pract Cases Emerg Med. 2021 May; 5(2): 139-143)

Case: II

PillPack LLC is a online pharmacy, owned by Amazon.com, Inc. it has broken the trust by dispensing the insulin refills before the patient's actually needed them. Later PillPack was agreed to pay $5.79 to settle the allegations[26].

Case III

A octogenarian women was mistakenly administered a Novasone Scalp lotion in place of lubricating eye drops. As they both have similar size and shape it was mistakenly provided by supplier pharmacy. Soon after, She felt pain, irritation and discomfort. The error was identified by the resident and octogenarian women was relieved from it after washing with Saline water. In the case, no major harm was observed as a result of medication error[27].

Pharmacist Role in Minimizing Medical errors

Repeated checking and rechecking of the medications before prescribinng and dispensing can minimize the dispensing errors[28]. A clear communication with physician and other health care Professional's on a regular basis can make appropriate pharmacist interventions. Periodical simulation training can help the pharmacist in chronic management cases & emergency cases[29]. Monitoring the patient case history and medication history can reduce the risk of drug interactions and adverse drug reactions. Patient counseling can improve the medical adherence of the patients. Distortions may occur due to poor writing and providing unknown symbols or abbreviations on the prescription which can be reduced through better understanding of the prescription Before dispensing the drugs the possibility of the drug interactions, drug allergic reactions, drug dose and dosage form should be checked properly to minimize the medical errors so that over dosage and under dosage of the drugs can be. Minimized. Drugs should be appropriately stored as mentioned in the label to avoid deterioration and to prevent harmful effects. the pharmacist are not permitted strictly to sell the expired products[30]. If the expired drug is issued to the patient the Indian code has laid a offence of two years jail. It is offence under Drug & Cosmetic Act 1940[31]. The expired medicines and stock should be disposed off as per the Biomedical Waste management guidelines. The harmful molecules in the drugs can dissolve In water and soil and causes hazardous effects to the public so hazardous waste is considered as a threat to human health and environment which is defined under art 3, clause 2 of Act on waste[32]. Some Drug names which sounds similarly are often confused and mistakenly dispensing of those drugs can be even fatal. So regular awareness about the medications and separating the products and placing them on different shelves can reduce the confused dispensing of the medicines. Some examples of common errors that occur due to similar names include ALPROZOLAM AND LORAZEPAM, AVANDIA AND COUMADIA, MORPHINE AND HYDROMORPHANE, most mixups occurs with insulin products like NOVALOG & HUMALOG, HUMALOG & HUMALIN R, CHLORPROMAZINE & CHLORPROPAMIDE. So the pharmacist should have a clear vision while dispensing the medicines which looks alike[33]. However, Pharmacist medical negligence cases are very rare and less but steps have to be taken to avoid medical errors. Under Pharmacy act 1948, section 42 it was stated that If a person prepares mixes dispense a medicine without being registered as a pharmacist is offended to jail up to 6 months or fine upto1000 or both[34].

Nurses Negligence & Malpractice

The term "Duty of care" for the patients is owned by Nurses[35]. The nurses have the responsibility to take care of every individual patient in the hospital. They should be attentive and available at all the times to the patients. Nurses should meet the standards set by the Law/ Hospital Management and Physician. Failure to meet the standards and causing harm to the patients may leads to medical errors and results in negligence cases. (British Journal of Nursing - The elements of negligence liability in nursing.) Lack of patience in the medical field and emotions can also lead to negligence cases.

Negligence in Nursing case

A 13 year old girl was suffering with Crohns disease has undergone colectomy. After surgery, She lied on the left side till next morning i.e 16 hours without any change in her position nor her position was not changed by nurse. When she tried to stand up, she felt numbness and pain in leg leg as well as difficulty in walking. Due to the pressure palsy a lesion in the sciatic nerve has been developed. She was agreed to pay £ 400000£ (JMW Solicitors. Case study: sciatic nerve damage after being left in one position after surgery. 2020).

The various types of negligence cases in nursing field includes the following[36]

- Medication errors
- Wrong route of administration of drugs
- Wrong dose and wrong drug administration

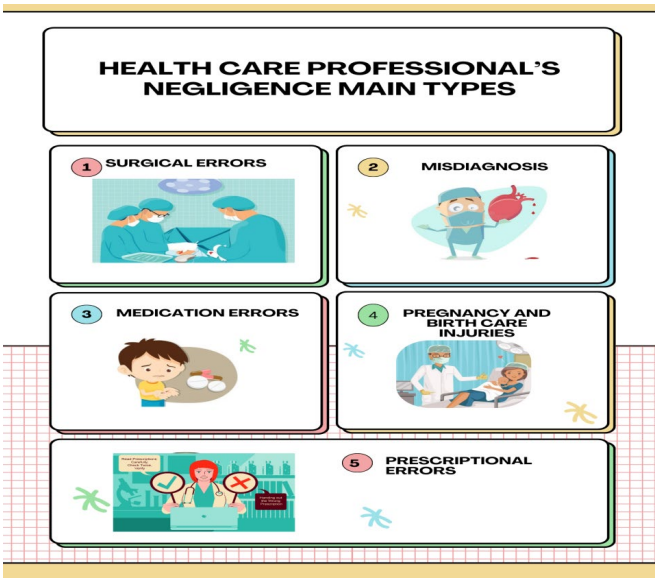

Figure 2: Health Care Professional's Negligence main types

- Failure to follow the protocols
- Failure to provide first aid
- Not responding to patient
- Usage of unsterilized needles
- Failure to monitor patients
- Improper treatment causing irreversible injury
- Failure to notice patients and bedsores if any
- Pre and Post surgical negligence
- Wrong labor

The nurses should be more attentive as they act as a tourch bearers to the patient life. If they follow the standard protocols carefully. The risk to the patient's life can be minimized.

Lab Technician & Pathologist related medical negligence

Lab technician plays a crucial role in Health Care department. They help the physicians to know the patient condition based on the lab reports. They help the physicians to easily diagnose the patient condition so that the physicians can think about the next step by keeping in mind about the exact cause of the disease. Any mistake in lab report or misdiagnosis is harmful to the patient and may also leads to death due to wrong treatment. According to a study, 50 claims were identified from a 3 year period from 2014-2016 related to lab test. Out of 50 claims 14 claims were related to misdiagnosis of Cancer condition[37]. Various proactive steps to be taken to minimize the negligence cases and record should be maintained and documented on a regular basis. Computerized strategies need to be bitterly developed to provide accurate results and to reduce harm to the patients.

The common errors or negligence cases related to lab includes the following[38]

- Delay in providing the results at appropriate time
- Mix up of the patient sample
- Contamination of the samples
- Providing the wrong reports
- Failure to identify the patient condition
- Performing in appropriate tests
- Wrong collection of blood sample

According to special leave petition (civil) No 28529 of 2019. Some rules were laid for the lab technician by the supreme court of india is as follows.

The lab technician should have educational qualification with subject like pathology. They should have a full knowledge to analyze body fluid sample and they should perform broad spectra of laboratory tests. They should not supply direct report to the patient for their utility. They should forward laboratory findings to the Pathologist.imbalance in the communications between lab technician and pathologist may leads to medical negligence and medical errors.

The pathologist and lab technician plays a key role in proper diagnosis of a disease condition if they fail to dignose a condition it causes harm to the patient and their life. The laboratory findings should be double checked before giving a report. Accurate report of findings should be produced by the lab technician and pathologist.

IPC SECTIONS (OF 1860) FOR NEGLIGENCE CASES

Health care professionals who make life-threatening errors are subjected to criminal prosecutions for their criminal errors. The sections of the Indian Penal Code of 1860 which were related to healthcare professionals' errors were discussed below.

SECTION 304A

Deals with death caused by negligent act: whoever causes the death of a person by performing a negligent act shall be punished with imprisonment for a term which may extend to two years or fine or both [39]

SECTION 274

those whoever adulterated any drug or medical preparation shall be punished with imprisonment for a term which may extends upto 6 months or fine which may extend upto one thousand rupees or both. As per the new Indian Criminal law, IPC Section 274 has been replaced with BNS Section 276 with effect from 1 July, 2024. (Upper limit of imprisonment is increased from six months to one years and fine is increased from one thousand to five thousand rupees).[40]

SECTION 275

Whoever knowingly sell the adulterated drugs shall be punished with imprisonment for a term which may extends upto 6 months or a fine which may extend upto one thousand rupees or both.

SECTION 276

Those who knowingly sell the drug or medical preparation as a different medical preparation or drug shall be punished with imprisonment for a term which may extends upto 6 months or a fine which may extend up to one thousand rupees or both.[41]

SECTION 314

Death caused by act done with intent to cause miscarriage: whoever, with intent to cause the miscarriage of a woman with child, does any act to cause the miscarriage of such woman

Table 1: List of IPC sections related to Health Care System

Ipc Sections	Deals with
304A	Health care professional negligence cases
274	Adulteration of drugs
275	Sale of adulterated drug
276	Sale of different drug as different drug or prepartion
314	Intentionally producing miscarriage and death
336	Consequences of behaving rashly or negligently
337	Punishments for the persons behaving rashly or negligently
338	Punishments for doing any act that endangers human safety

shall be punished with imprisonment for a term which may extend to ten years or liable to fine or both.[42]

SECTION 336

deals with the consequences of behaving rashly or negligently that endangers the safety of human life.

SECTION 337

deals with the punishments to be laid for the persons mentioned in IPC sec 336.

SECTION 338

deals with grievous hurt to the patient by doing any act or behaving rashly that endangers the safety of human life and punishments to be given for the offense. They shall be punished with imprisonment which may extend up to 2 years or fine up to 1000 rupees or both.[43]

Most of the claims under the healthcare department are registered under section 304A. If a person is registered under this section, then they should pay the fine, or sometimes lifetime imprisonment may also be imposed. Any condition that causes harm to the patient resulting from misdiagnosis, performing wrong procedures, or placing a surgical instrument in the patient's body comes under section 304A.

Some defense sections for doctors under IPC include the following[44]

- Section 80 of IPC deals with anything which was done accidentally without any criminal intention.
- Section 81 of IPC deals with anything which was done with knowledge and done in good faith to prevent harm to another person.
- Section 82 of IPC states that no person can be accused of an offense if they perform an act in good faith in order to prevent harm to another person. The different IPC Sections related to health care system were summarized in (table 1).

PROCEDURE FOR FILING A COMPLAINT ON HEALTH CARE PROFESSIONAL'S NEGLIGENCE

Health care professional's negligence is a complex area. If healthcare professional's breach their duties and fail to follow it causes suffering to the patient and puts the patient's life at risk. Because of the negligence, it results in various complications. It also damages the patient's belief in the health care department, causing emotional distress in patient. Negligence can also result in economic loss. If the health care professional's negligence causes injury or threat to the patient's life, they can file a case under IPC sec 304A. The services of the physician are given under the provisions of consumer act[45]. If the health care provider breaches his duty, then the patient can file a complaint at the consumer court with evidence. The patient can file a complaint of negligence within 2 years of the date of occurrence[46]. Alternatively, you can file a complaint at Medical Council of India. Notice should be served after filing a complaint, which means the complainer should inform the health care professional or hospital against whom the case was filed. The court or forum hearings must be attended by both the complainer and the opponent. The complainer should explain the case before the court or forum. The opponent can also defense against the filed case. After hearing from both sides, the court or forum will give a verdict if the opponent is wrong. The complainant can claim damages from the opponent for his loss. If the case is proved as negligence, then the license of the health care provider is cancelled. If the harm to the patient is severe or, in the worst case, the professional name should be cancelled in their respective department; for example, if the negligence is imposed by a physician, then his name has to be removed from the Medical department or para-medical department. If a complainer file a false case against a physician, then action will be taken by the Medical Council of India against complainer for producing wrong evidence. The decision on the physician will take about 6 months from the date of filing a complaint. If a case is filed against healthcare professionals, it results in various consequences like castigation, fine/probation/ imprisonment, sometimes both imprisonment and fine. Suspension of licence and revocation of licence. so inorder to avoid these consequences on has to work with attention and duty of care. They should assure once and again even after completion of surgery or treatment. Regular follow-up or check-up of the patient must be done to reduce the life-threatening consequences for the patient. If false allegations are filed against health care professionals, then a petition can be filed under code of 482 of criminal procedures 1973.[47] Additionally, the health care provider can also file a petition on complainer under section 182, section 193, section 211 and section 499 of the Indian Penal Code (IPC) 1860 for false allegations.[48] Process of steps involved in filing a complaint of health care professional,s negligence were mentioned in (figure 3)

REVIEW METHODOLOGY

The present review was undertaken to summarize and critically examine the available literature on healthcare negligence, with emphasis on its clinical, ethical, and legal dimensions. Relevant publications were identified through a structured search of electronic databases, including PubMed, Scopus, Google Scholar, ScienceDirect, and Web of Science. To ensure that the review reflected current knowledge and legal developments, articles published between 2010 and 2025 were primarily considered.The literature search was performed using combinations of keywords such as healthcare negligence, medical negligence, medical malpractice, patient safety, clinical errors, professional misconduct, medical ethics, legal liability, consumer protection, and Bharatiya Nyaya Sanhita. Boolean operators (AND, OR) were applied to refine the search and retrieve publications that were directly relevant to the objectives of the review.Articles were included if they discussed the causes, consequences, prevention, ethical issues, legal aspects, or management of healthcare negligence. Original research articles, review articles, systematic reviews, meta-analyses, clinical guidelines, government publications,

Figure 3: Process of steps involved in filing a complaint of health care professional's negligence

and landmark judicial decisions were considered eligible. Publications lacking sufficient scientific evidence, duplicate records, conference abstracts without full-text access, and articles unrelated to the scope of the review were excluded. The identified publications were screened based on their titles and abstracts, followed by a detailed evaluation of the full text of potentially relevant articles. Information from the selected literature was organized into key themes, including the concept and classification of healthcare negligence, contributing factors, patient safety, ethical responsibilities, legal provisions, judicial interpretations, and strategies for prevention.The findings from different studies were examined collectively to identify recurring observations, differences in interpretation, and existing gaps in the literature. Rather than presenting individual studies in isolation, the available evidence was interpreted in relation to current clinical practice and legal developments. This approach enabled the review to

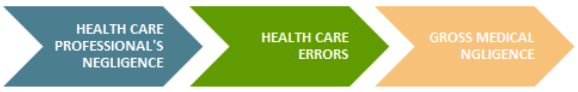

Figure 3: Gross medical negligence

provide an integrated understanding of healthcare negligence while highlighting areas that require further research and policy attention.

BHARATIYA NYAYA SANHITA (BNS), 2023 AND MEDICAL NEGLIGENCE

The Bharatiya Nyaya Sanhita (BNS), 2023, came into force on 1 July 2024, replacing the Indian Penal Code (IPC), 1860, as the primary criminal law governing offences in India. This legislative reform modernizes the criminal justice framework while preserving the fundamental legal principles applicable to criminal negligence, including cases involving healthcare professionals.Medical negligence occurs when a healthcare provider fails to exercise the level of knowledge, skill, and care that is reasonably expected under similar clinical circumstances, resulting in harm to a patient. However, an unfavorable treatment outcome or an error in clinical judgment does not automatically amount to criminal negligence. Criminal liability arises only when the conduct reflects a gross departure from accepted medical standards and demonstrates a reckless disregard for patient safety.The introduction of the BNS has updated the statutory framework governing criminal offences, but the legal approach to assessing medical negligence continues to be guided by established judicial principles. Courts evaluate whether the healthcare professional acted in accordance with accepted standards of medical practice and whether the alleged negligence was sufficiently serious to justify criminal prosecution. This distinction helps protect medical practitioners from criminal liability for genuine errors made while providing treatment in good faith. Judicial decisions such as Jacob Mathew v. State of Punjab continue to play an important role in interpreting medical negligence under the current legal framework. These judgments emphasize that criminal proceedings against healthcare professionals should be initiated only when there is clear evidence of gross negligence or recklessness, rather than for every adverse clinical outcome.To reduce the risk of medico-legal disputes, healthcare professionals should maintain high standards of clinical practice by following evidence-based guidelines, obtaining informed consent before procedures, keeping accurate and complete medical records, communicating effectively with patients and their families, and adhering to institutional policies and ethical standards. These practices not only improve patient safety but also strengthen professional accountability within the healthcare system(49).

DISCUSSION

The present chapter discusses the definition of Health Care negligence, various types of negligence cases by different healthcare professionals, IPC sections related to negligence act by, and the process of filing a complaint for negligence acts. An American philosopher, Ralph Waldo Emerson, stated, "The first Wealth is Health." Health is the main prosperity in today's life.[50] Health is the basis of life. The doctor and other health care professionals play a crucial role in improving the health of a patient. The following figure states that if any health care professional fails to show due care towards the patients or if they fail to perform their duties, it comes under negligence. If the negligence harms the patient, it is termed as a medical or health care error. If any health care professional's procedure causes death to the patient, then that health care professional is said as Gross medical negligence. Which is illustrated in (Figure 4).

As negligence cases were rising day by day, the allegations and litigations towards health care professionals were also increasing. It causes great harm to the patients. So all the health care Professions should take precautions while treating the patients, and those allegations and litigations should be minimized. The claim management service of NHS Resolution of England has analyzed payouts of £3.15 billion in 2020–21, exceeding 10,000 claims. The British Medical Association recommended that individual doctors should have personal indemnity insurance as a member of a defense organization.[51] Due to health care Professional's negligence the patients may lost the trust in the medical field, and it may pave the way for emotional distress; so, in order to increase patient adherence, Everything should be monitored carefully. Documentation must be done. Patient history must be checked prior to dispensing of the drugs. While performing the Surgery the physician should be well focused. Drug interactions should be checked. Accurate diagnostic techniques need to be implemented. Every health care professional should follow their standard protocols while performing their respective duties. They should never breach the procedures. Doctors should never perform experimentation on patients.[52] Written consent from the patients should be obtained before the surgery is performed.[53] They should never prescribe medicine unless the patient is present[54.] Every health care individual should have patience, attentiveness, and ethics while treating the patient. If health care professional's follow the discussed parameters, negligence cases can be reduced in the world.

CONCLUSION

This review synthesized evidence from the published literature to provide a comprehensive understanding of healthcare negligence, with particular emphasis on its clinical, ethical, and legal dimensions. The available evidence indicates that healthcare negligence remains a significant challenge that can adversely affect patient safety, treatment outcomes, and public confidence in healthcare systems. Although not every adverse clinical outcome is attributable to negligence, failure to meet the accepted standard of care may result in preventable patient harm and medico-legal consequences.The implementation of the Bharatiya Nyaya Sanhita (BNS), 2023 has modernized India's criminal legal framework while continuing to uphold the principle that healthcare professionals are criminally liable only in cases of gross negligence or reckless conduct. At the same time, adherence to professional ethics, evidence-based practice, effective communication, informed consent, accurate documentation, and continuous professional training remain essential for minimizing medical errors and improving the quality of patient care.Overall, the findings of this review highlight the importance of strengthening patient safety initiatives, promoting legal and ethical awareness among healthcare professionals, and encouraging continuous quality improvement within healthcare institutions. Future research should focus on developing effective preventive strategies and evaluating interventions that reduce healthcare negligence while supporting safe, ethical, and patient-centred clinical practice.References

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