

Medicolegal Records And Indian Laws and Regulations: A Guide for Indian Doctors

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INTRODUCTION

Most physicians, irrespective of their specialty, may encounter medicolegal cases (MLCs). The number of MLCs is steadily increasing in both private and government hospitals. Proper handling and accurate documentation of these cases are of paramount importance to avoid legal complications and to ensure safe practices in this dedicated and professional field.

Key Issues of Medical Records in Hospitals ^[1]

Outpatient Record:

Every patient must be assigned a registration number in the form of a card or ticket. This card is returned to the patient after treatment, with an original copy retained in the hospital's record department. The card or ticket should include information about the patient's history, examinations, diagnosis, and treatment procedures, along with the patient's signature or thumbprint and the physician's signature.

Time Limit:

Most hospitals preserve records for varying periods, but there seems to be a lack of legislative time requirements for maintaining these records. It is best to keep all records permanently. Digital methods, as described in our previous article, "Medical Records: Savior of Physicians in Litigation," are useful in such cases.

Ownership:

Extensive medical records are the property of the hospitals, and it is the responsibility of the hospitals to maintain

them properly.

LABELING A MEDICO-LEGAL CASE: ^[2]

A medico-legal case involves a person injured or harmed in any way and requiring medical attention. However, certain **unusual instances** may also be labeled as medicolegal such as

- Unexplained death during or after surgery or medical intervention.
- A case brought in dead with an unclear history, raising suspicion of an offense.
- The death of a patient treated or referred from a private hospital.
- A case referred by a court.
- Relatives of the patient causing a law-and-order problem in the hospitals.
- Relatives of the patient assaulting the treating doctor or other hospital staff.

NATIONAL MEDICAL COMMISSION (FORMERLY MEDICAL COUNCIL OF INDIA) RECOMMENDATIONS FOR MEDICOLEGAL RECORDS: ^[3]

- Every physician should maintain medical records for a period of 3 years from the date of commencement of treatment in a standard proforma as laid down by the National Medical Commission (formerly Medical Council of India).
- Any request for medical records made by the patient or legal authorities should be duly acknowledged, and a copy of the documents (not the original) should be issued within a period of 72 hours.

- A physician must maintain a register of medical certificates with full details of identification marks, signature or thumbprint, address proof, and an original copy of the issued certificate.

CREATING A STRUCTURED PLATFORM FOR MEDICOLEGAL CASES ^[4]

- There should be a medical record department in each hospital with responsible personnel to safeguard all medical records.
- All information should be computerized for quick access and retrieval.
- The department should not disclose any information to hospital staff without prior consent from the hospital administration.
- The hospital administration should guide this department to comply with guidelines for medicolegal cases.
- The medical records must be updated and corrected timely by the medical record department with consent from the hospital administration.
- The hospital administration must periodically review the records and take final responsibility for any loss of records.

GENERAL GUIDELINES FOR HOSPITALS IN MAINTAINING SAFE RECORDS FOR MEDICOLEGAL CASES: ^[4]

- All notes must be legible, with proper date and time, to avoid unnecessary disputes.
- All notes must be made in duplicate—one copy for hospital records and another for investigative purposes, if any.
- All records of history, lab test results, diagnostic procedures, treatment, and disposition should be maintained throughout.
- All entries must be signed by an authorized person, preferably with the date and time.
- Even the advice and referral to another doctor for further care must be noted.
- The patient's condition at the time of discharge must be noted.
- Any elusive and unconfirmed statements should be avoided in the notes.
- For all examinations and treatments, written consent is mandatory in medicolegal cases.
- Maintaining patient confidentiality is a primary duty, especially in cases of HIV, cancer, etc.
- Lastly, do not release any original records unless ordered by a legislative body or courts. [Table 1](#)

Type of Record	Retention Period
Outpatient Records	03 Years
Inpatient Records	05 Years
MLC (Medico Legal Case) Record	Lifetime or until the final decision at the court of law
Medical Record of Death Cases	Lifetime
Medical Record of Pediatric Inpatients	Until the patient becomes 21 years old [18 years + 3 Years]
Birth Register	Lifetime
Death Register	Lifetime
Casualty Register	Lifetime
MTP Register	05 Years from the end of the calendar year
OT Register	30 Years
PNDT Act (Section 29 & Rule - 9.6)	02 Years
BMW Act	05 Years
Income Tax Act	08 Years
ICMR Guidelines - ART	10 Years (National Registry)

Table 1: RETENTION PERIOD OF MEDICAL RECORDS

CRIMINAL LAWS RELEVANT TO DOCTORS: ^[1]

Doctors must be aware of the provisions in the Bharatiya Nyaya Sanhita (BNS, formerly Indian Penal Code) to protect themselves from false allegations and legal suits filed by patients and their families. This article discusses the potential for police arrest and its consequences if such a situation arises.

When Should the Police Be Informed?

There are specific situations where a doctor must inform the police and others where it is advisable to do so to avoid future complications. A doctor must inform the police without fail in the following circumstances; failure to do so might lead to penal consequences:

- Cases of suspected homicide
- Cases of suicidal deaths
- Unknown, unconscious patients
- Death on the operating table
- Suspected unnatural death
- Sudden, unexpected, violent, and unexplained death
- Instant death after treatment or a reaction to medication

- Death of a married woman within seven years of marriage, due to any reason.

There are also situations where it is advisable to inform the police, such as:

- Undiagnosed death within 24 hours of admission, especially if there is any suspicion.
- Any cases of poisoning
- Accidental deaths
- In cases of hospital deaths, if (a) accidents that are not related to medical management, such as a fall from a staircase, occur; (b) unexpected or rare complications arise, such as a child vomiting, aspirating the contents, and dying.
- In cases of death due to negligence in treatment, there are no specific provisions or legal obligations to inform the police, but it is advisable to do so to avoid accusations or allegations from the patient's family.
- In brought-dead cases: If the cause of death is clear and not related to any medicolegal complications, it is not necessary to inform the police. If the cause of death cannot be ascertained, it is advisable to send the body for an autopsy examination, preferably with police involvement.

Can a Doctor Be Arrested?

Doctors, like any other citizens of India, do not have immunity against arrest for various criminal acts as per the provisions of the BNS (formerly IPC) or CPC of India. However, whether a doctor can be arrested for the following reasons is still debated:

- Alleged medical negligence during day-to-day patient care.
- Unexplained hospital deaths, such as Sudden Infant Death Syndrome.
- Postoperative complications or failure of an operation.
- Not attending or refusing a patient (who was not already under their care) who becomes serious or dies.
- Not attending a roadside accident case.

Supreme Court Directives for Roadside Accidents:

The Supreme Court directives (Criminal Writ Petition no. 270 of 1988) in a roadside accident include:

- The medical aid should be instantaneous. It is the duty of the registered medical practitioner to attend the injured and render medical aid, treatment without waiting for procedural formalities unless the injured person or guardian (in the case of a minor) desires otherwise.

- The effort to save the person and preserve life should be the top priority, not only for the doctor but also for the police officer or any other citizen who happens to notice such an accident.
- The professional obligation of protecting life extends to every doctor, whether at a government hospital or otherwise.
- The obligation being total, absolute, and paramount, no statutory or procedural formalities can interfere in discharging this duty.
- Whenever better or specific assistance is required, it is the duty of the treating doctor to see that the patient reaches the proper expert as early as possible.
- Non-compliance with these directives may invite prosecution under the provisions of the Motor Vehicle Act or BNS.

CRISIS MANAGEMENT IN MEDICOLEGAL CASES: [2, 5, 6]

In instances where a nuisance is anticipated from the patient's side, a crisis management committee may be formed. This committee could include doctors, social workers, legal personalities, politicians, press reporters, etc., at the district or taluka level. The committee members may meet with police officers to request a thorough investigation of the incident and to avoid prosecution until guilt is proven. The committee can also request that press reporters avoid unnecessary publicity in such cases. Some state governments have formed such bodies where medical negligence cases are heard and decided by a group of related experts from the field and administrators.

Legal Rights of an Arrested Person:


If a doctor is arrested, the following rights of an arrested person should be kept in mind:

- The arrested person shall be informed of the particulars of the offense and the grounds for arrest. If the offense is bailable, the person should be informed, and arrangements for bail should be made.
- The person shall not be subjected to more restraint than necessary to prevent escape. If there are any offensive weapons belonging to the arrested person, these weapons may be seized.
- The arrested person must be produced before a magistrate having jurisdiction in that case. No police officer shall detain an arrested person for more than 24 hours unless a special order from a magistrate is obtained.

Anticipatory Bail:

In order to avoid frivolous accusations, there is a provision for anticipatory bail. This may be granted as protection in offenses that are non-bailable. It is a direction to release

LEGAL RULES AND REGULATIONS AS PER BNS (The Bharatiya Nyaya Sanhita) 2023



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CRIME	CRIME DEFINED UNDER BHARATIYA NYAYA SANHITA	RELEVENT SECTION OF BNS	PUNISHMENT	
1	USE OF ABUSIVE LANGUAGE/ MISBEHAVIOUR WITH DOCTOR	INTENTIONAL INSULT IN ANY MANNER <small>(With intent to provoke breach of the peace)</small>	352	2 YEARS IMPRISONMENT + FINE
2	CAUSING INJURY OR HURT TO DOCTOR OR MEDICAL STAFF	VOLUNTARILY CAUSING HURT <small>(BY DANGEROUS WEAPONS)</small>	115, 116, 117, 118	3 TO 7 YEARS IMPRISONMENT + FINE
3	THREAT TO DOCTOR OR MEDICAL STAFF	CRIMINAL INTIMIDATION	351 (2)	2 YEARS IMPRISONMENT + FINE
4	ATTACK ON GOVT DOCTOR/ GOVT MEDICAL STAFF	VOLUNTARILY CAUSING HURT OR GRIEVOUS HURT TO DETER PUBLIC SERVANT FROM HIS DUTY	121 (2), 224	3 TO 10 YEARS IMPRISONMENT + FINE
5	DAMAGE TO HOSPITAL, PROPERTY AND EQUIPMENT	MISCHIEF, AND CAUSING DAMAGE	324 (4), (5), (6)	2 TO 5 YEARS IMPRISONMENT + FINE (3 TIMES OF THE COST)
6	MOB ATTACK / FORCEFUL ENTRY INTO THE HOSPITAL	HOUSE-TRESPASS / UNLAWFUL ASSEMBLY / CRIMINAL TRESPASS (WITH DEADLY WEAPON)	189, 190, 329, 330, 331, 332, 333	1 TO 7 YEARS IMPRISONMENT + FINE
7	ATTACK AND HARASSMENT TO LADY DOCTOR	ASSAULT OR USE OF CRIMINAL FORCE TO WOMEN WITH INTENT TO OUTRAGE HER MODESTY	74	1 TO 5 YEARS IMPRISONMENT + FINE
8	WRONG OR DEFAMATORY NEWS POSTING AGAINST A DOCTOR OR HOSPITAL IN NEWSPAPER OR SOCIAL MEDIA	DEFAMATION	356(1), (2)	2 YEARS IMPRISONMENT + FINE

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Figure 1: Legal Rules and Regulations as per BNS (Bharatiya Nyaya Samhita 2023)

the applicant on bail if there is an arrest. Once granted, it remains in force. Pre-requisites for anticipatory bail include:

- There must be a reasonable apprehension of arrest.
- The alleged offense must be non-bailable.
- The registration of an FIR is not necessary.

Procedure for Bail

The accused is required to execute a personal bond at the police station with or without surety. The surety may be a close relative, a friend, or a neighbor, who is required to undertake to pay the said amount in case of absconding by the accused.

PRECAUTIONARY MEASURES FOR DOCTORS TO AVOID ARREST: [2, 4]

Doctors can take the following precautions to avert possible police arrest:

- Inform the police whenever necessary and extend full cooperation.
- Do not panic.
- Furnish copies of medical records to the police, court, or relatives when demanded. Patient consent may be obtained before providing information to the police.
- Avoid unlawful and unethical manipulation and tampering of documents.
- Follow legal procedures and consult a lawyer before providing any responses.
- Obtain valid informed consent for treatment and preserve documents, especially in medicolegal, controversial, or complicated cases.
- Insist on a post-mortem examination if the cause of death cannot be ascertained.
- Involve medical associations, medico-legal cells, and voluntary organizations whenever a legal problem arises.
- Do not neglect treatment while completing legal formalities, especially in serious or emergency situations.

There is a significant disjunction between legal standards and doctors' awareness of those standards, creating a substantial source of liability for doctors, particularly in countries like India. Therefore, there is an urgent need to develop legal awareness programs for clinical practitioners based on identified needs and preferences.

CONCLUSION

The up-to-date maintenance of medical records, especially in medicolegal cases, is as important as medical practice for a professional physician. Keeping a record of medicolegal cases not only helps avoid complications but also contributes to maintaining law and order in the medical field and, subsequently, in the wider community.

DISCLAIMER

Laws and regulations related to medicolegal issues are subject to change, modification, or reform. This document is intended for general informational purposes only and should not be considered a legal document. Please consult legal experts for the most current and applicable legal advice.

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