Study to Assess the Level of Paralegal Awareness Among Nursing Personnel at Pandit Deen Dayal Upadhyaya District Hospital, Varanasi

By

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Dissertation submitted for the partial fulfillment of the

MBA Hospital and Health Management

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Internship Training

At

NHSRC,New Delhi

A study to assess the level of paralegal awareness among nursing personnel at PanditDeenDayalUpadhyaya District Hospital, Varanasi.

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MBA Hospital and Health Management

2014-16

The IIHMR University, Jaipur

INSTITUTE OF HEALTH MANAGEMENT RESEARCH
(WHO Collaborating Centre for District Health System Based on Primary Health Care)

IIHMR UNIVERSITY

TO WHOMSOEVER MAY CONCERN

This is to certify that Dr Aman Preet Kaur student of MBA Hospital and Health Management from The IIHMR University, Jaipur has undergone internship training at NHSRC, New Delhi from 15 Mar 2016 to 03 Jun 2016.

The Candidate has successfully carried out the study designated to her during internship training and her approach to the study has been sincere, scientific and analytical.

The Internship is in fulfilment of the course requirements.

I wish her all success in all her future endeavours.

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Dear Sir,

This is to confirm that Dr.Amanpreet Kaur & Dr. Kim Patras joined NHSRC on 15th February 2016 and are currently working as an Intern with Public Health Administration Division of NHSRC.

This email may be treated as certificate of Internship.

Regards,

Vinit Goklani
HRM NHSRC

Appendix F (Certificate of original work)

THE IIHMR UNIVERSITY, JAIPUR

CERTIFICATE BY SCHOLAR

This is to certify that the dissertation titled "A Study to assess the Paralegal awareness among Nursing Personnel in Deen Dayal Hospital and submitted by (Name) Dr. Aman Preet Kaur ..... Enrollment No. 0124 ..... under the supervision of Dr. Himanshu Bhushan / Mr. Ajit Kumar Singh for award of Postgraduate Diploma in Hospital and Health/ Pharmaceutical / Rural Management of the University carried out during the period from February..... to May..... embodies my original work and has not formed the basis for the award of any degree, diploma associate ship, fellowship, titles in this or any other Institute or other similar institution of higher learning.

Aman Preet Kaur.
Signature

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My dissertation at NHSRC, New Delhi has been an enriching experience and gave me the cordial environment and platform to learn and link our theoretical knowledge with practical knowledge.

At last I would like to express my adoration and regards to my parents and my brother for their patience, courageous and consistent motivation and affection for me to surpass the hurdles in my life.

LIST OF FIGURES

LIST OF ABBREVIATIONS USED

ASHA	Accredited Social Health Activist
AWW	Anganwadi Worker
BMW	Bio Medical Waste
CDR	Child Death Review
CHC	Community Health Center
DDU	DeenDayalUpadhyaya
DH	District Hospital
FP	Family Planning
GoI	Government of India
GRS	Grievance Redressal System
HBNC	Home Based Newborn Care
HR	Human Resources
IPD	In Patient Department
JSSK	Janani Shishu Suraksha Yojna
JSY	Janani Suraksha Yojna
LR	Labour Room
MCH	Maternal and Child Health
MDR	Maternal Death Review
MoHFW	Ministry of Health And Family Welfare
MTP Act	Medical Termination Of Pregnanacy Act
NCD	Non Communicable Disease
NHSRC	National Health Systems Resource Center
NQAS	National Quality Assurance Standard
NUHM	National Urban Health Mission
OPD	Out Patient Department
OT	Operation Theater
PCPNDT	Pre Conception and Pre Natal Diagnostic Test
PHC	Primary Health Center
QA	Quality Assurance
RKS	RogiKalyanSamiti
RTI	Right to Information
SC	Sub Center
THO Act	Transplantation of Human Organs Act
UP	Uttar Pradesh
VHSNC	Village Health Sanitation and Nutrition Committee

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PART 1: INTERNSHIP REPORT

1 GOALS OF INTERNSHIP

The main objective of internship is to gain exposure and hands on experience to work related to the field of managing a health care organization. The internship period is necessary to gather working knowledge of a hospital setup and undergo on-the-job training to know about the various departments in a hospital in detail. Training gives opportunity to relate theory with practical knowledge.

I had the privilege to pursue my internship at **National Health Systems Resource Center, New Delhi**, which provided an ideal and congenial atmosphere for learning.

The objectives of my internship were:

- To learn and understand the functioning of Model District project initiated by MoHFW in Varanasi, Kannauj and Sonbhadra,Uttar Pradesh.
- To implement the project of model district in Varanasi, Kannauj and Sonbhadra,Uttar Pradesh.

1.1 UNDERSTANDING MODEL DISTRICT PLAN

NHSRC with approval of MoHFW has been assigned to develop model districts in States , which could serve as a model for replication by other districts within states. Under the Plan, the district hospital will be the nodal point for implementing the best practices and shall be linked with a CHC, PHC and SC. The Quality Assurance Unit of the State and District shall be the nodal in carrying out this activity since these institutions will be certified by QA(NQAS score of more than 80%).

2 ORGANIZATIONAL PROFILE

National Health Systems Resource Centre (NHSRC) has been set up under the National Rural Health Mission (NRHM) of Government of India to serve as an apex body for technical assistance.

Established in 2007, the National Health Systems Resource Centre's mandate is to assist in policy and strategy development in the provision and mobilization of technical assistance to the states and in capacity building for the Ministry of Health and Family Welfare (MoHFW) at the centre and in the states. The goal of this institution is to improve health outcomes by facilitating governance reform, health systems innovations and improved information sharing among all stake holders at the national, state, district and sub-district levels through specific capacity development and convergence models.

It has a 21 member Governing Board, chaired by the Secretary, MoHFW, Government of India with the Mission Director, NRHM as the Vice Chairperson of the board and the Chairperson of its Executive Committee. Of the 21 members, 11 are ex-officio senior health administrators, four from the states. Ten are public health experts from academics and civil society. The Executive Director, NHSRC is the Member Secretary of both the board and the Executive Committee. NHSRC's annual governing board meet sanctions its work agenda and its budget.

NHSRC is also a World Health Organization Collaborating Centre for Priority Medical Devices & Health Technology Policy

The NHSRC currently consists of eight divisions – Community Processes, Public Health Planning, Human Resources for Health, Quality Improvement in Healthcare, Healthcare Financing, Healthcare Technology, Health Informatics and Public Health Administration.

2.1 VISION

NHSRC is committed to facilitate the attainment of universal access to equitable, affordable and quality healthcare, which is accountable and responsive to the needs of the people of India.

2.2 MISSION

Technical support and capacity building for strengthening public health systems in India.

2.3 POLICY STATEMENT

NHSRC is committed to lead as professionally managed technical support organization to strengthen public health system and facilitate creative and innovative solutions to address the challenges that this task faces.

In the above process, we shall build extensive partnerships and network with all those organizations and individuals who share the common values of health equity, decentralization and quality of care to achieve its goals.

NHSRC is set to provide the knowledge-centred technical support by continually improving its processes, people and management practices

3 SERVICE PROVIDED BY THE ORGANIZATION

There are eight practice areas where NHSRC is functional. They are

1. Community processes
2. Health informatics
3. Healthcare financing
4. Healthcare technology and innovations
5. Human resources for health
6. Public health administration
7. Public health planning
8. Quality improvement

3.1 COMMUNITY PROCESSES

"The community should emerge as active subjects rather than passive objects in the context of the public health system" - NRHM Framework for Implementation, MoHFW, GoI, 2005-2012

To achieve this goal, the program components in NRHM are the ASHA, the Village Health Sanitation and Nutrition Committee (VHSNC), community programmes, involvement of NGOs and public participation in facility based committees. While the ASHA is intended to facilitate access to health services, mobilize communities to realize health rights and access entitlements and provide basic community level care, the other elements focus on promoting action by village level organizations and enhance people's participation in service delivery.

The task of developing policy frameworks and successful operationalisation of this set of interventions at scale across the entire nation is complex and challenging.

Access this page for information about the various consultations and dialogues, studies and evaluations, and guidelines and training material that have shaped the program. Learn also the challenges this task faces and the dilemmas regarding the way ahead.

3.2 HEALTH INFORMATICS

Health Informatics is the intersection of information technology, information science with public health and health care. It deals with resources, devices, methods and institutions required to optimize the acquisition, storage, retrieval, and use of information in public health and health care.

To design a robust information system in health domain, it is essential to identify changing requirements and continuously improve system design. It enables the patient to access more health information, the providers to improve the quality of care, and empowers the health administrators for decentralized planning and management. It also supports policy making and strategic decisions at state and national levels.

The various sub-domains of health informatics include Hospital Information System, Human Resource Management Information System, Health Management Information System, Geographical Information System, mobile specific program monitoring system, and mobile health.

3.3 HEALTHCARE FINANCING

One of our national priorities in the health sector is to increase public health expenditure. This requires in the least a good tracking of current public health expenditure by both central and state governments, and to the extent possible by other government departments and local bodies. There is also the need for advocacy to support increases in public health expenditure.

3.4 HEALTHCARE TECHNOLOGY AND INNOVATIONS

Division of Healthcare Technology, a WHO Collaborating Centre for Priority Medical Devices & Health Technology Policy supports the following:

1. Technical Specifications of Medical Devices procured under National Health Mission
2. Biomedical Equipment Maintenance Program across all levels of public health facilities
3. Identification, assessment and uptake of innovations in National Health Programs

4. Support in Health Technology systems strengthening and providing technical support to Government's agenda on improving cost of technologies, safety profile of products

   The Division has in place MoUs with Scientific Institutions such as IITs, SAMEER-DeitY, CSIR-CSIO; Sri ChitraTirunal Institute of Medical Sciences & Technology, ISID, National Innovation Foundation, Hindustan Life care Limited as well as other empanelled knowledge partners from private sector including testing laboratories. The division is institutional member of INAHTA and is country's first WHO Collaborating Centre for Medical Devices & Health Technologies

3.5 HUMAN RESOURCES FOR HEALTH

Human Resources for Health is the most important building block of public health systems. The major components are:-

1. Generating adequate skilled Human Resources
2. Strategy for recruiting and retaining public health workforce especially in rural and remote areas
3. Ensuring that appropriate skills are in place
4. Ensuring performance with quality in the staff

3.6 PUBLIC HEALTH ADMINISTRATION

Some of the most important challenges of strengthening public health systems are in governance and management. An important aspect is the Institutional framework of the health sector, especially in the context of reforms guided by the National Health Mission.

There are three key reform challenges of decentralization, integration and convergence, along with the tasks of professionalizing public health management and building the organizational capacity needed to achieve the desired health outcomes. The Implementation Framework of NRHM emphasizes the need to make public health delivery systems fully functional, responsive and accountable. There is a commitment to incentivize and support the states to undertake the necessary institutional reforms, which are essential for improving the performance of health systems.

3.7 PUBLIC HEALTH PLANNING

Public Health Planning is a critical dimension of both health systems and health programmes, and acts as the interface between the two. This practice area is not only important for developing the health plans and programmes responsive to the needs of population, but it is also vital for budgeting and resource allocation in a systematic and equity sensitive manner. Successful and competent decentralised planning requires in the least

1. A grasp of epidemiology
2. A knowledge of programme design
3. A systems approach to the organisation of health services
4. An understanding of social determinants of health and health behaviors
5. Knowledge and learning from best practices and innovations

3.8 QUALITY IMPROVEMENT

Universal access to services implies universal access to good quality service - services that are effective, that are safe and satisfying to the patient, services that are patient and community centered and services that make efficient use of the limited resources available.

The approach for achieving these objectives, as envisaged in the 12th five year, requires ensuring that every single health facility is scored against pre-defined standards with periodic supportive supervision for ensuring continual improvement.

The 11th five year plan period saw a number of pilots in this practice area. The most important amongst these were organized by NHSRC, using the ISO platform. The ISO platform has been built upon and its standards were strengthened with mandatory inclusion of 24 procedures, which are specific to the Public Health. Over 140 facilities,

ranging from Primary Healthcare Centers to District Hospitals were assessed against these ISO 9001:2008 plus NHSRC defined Standards. Another 388 made the effort and are struggling in this direction.

The main activity areas in this domain are:-

1. Developing Standards and Guidelines
2. Training and capacity building
3. Institutional Frameworks for building, monitoring and certifying for quality
4. Infrastructure Planning
5. Developing Resources and Publications for Quality Assurance
6. Advocacy and Policy

4 HEALTH CENTERS VISITED:

For model health district understanding and implementation I was given Varanasi, Kannauj and Sonbhadra. I visited District Hospitals, Community health centers, Primary Health Centers and health sub centers of Varanasi and Kannauj in the first three months.

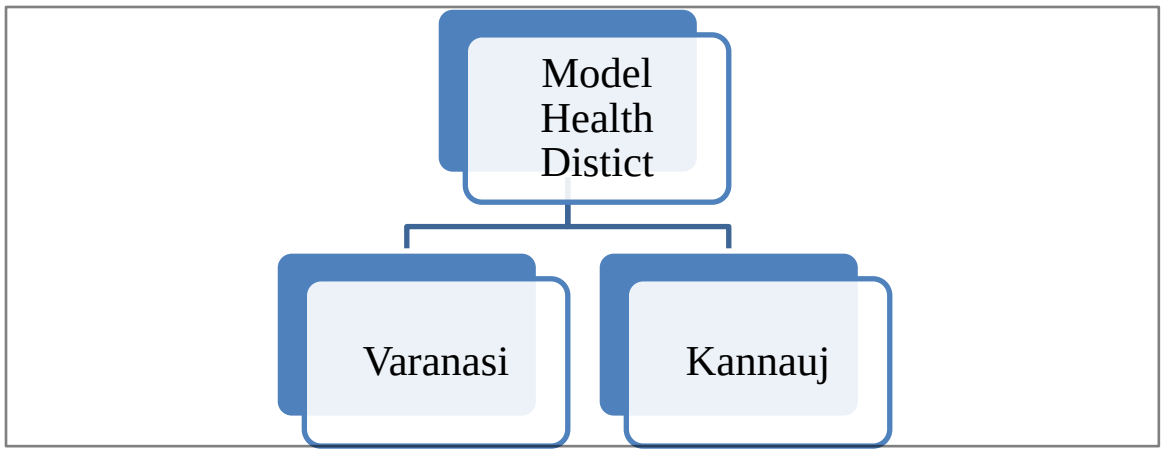

Figure 1: Model health districts in UP

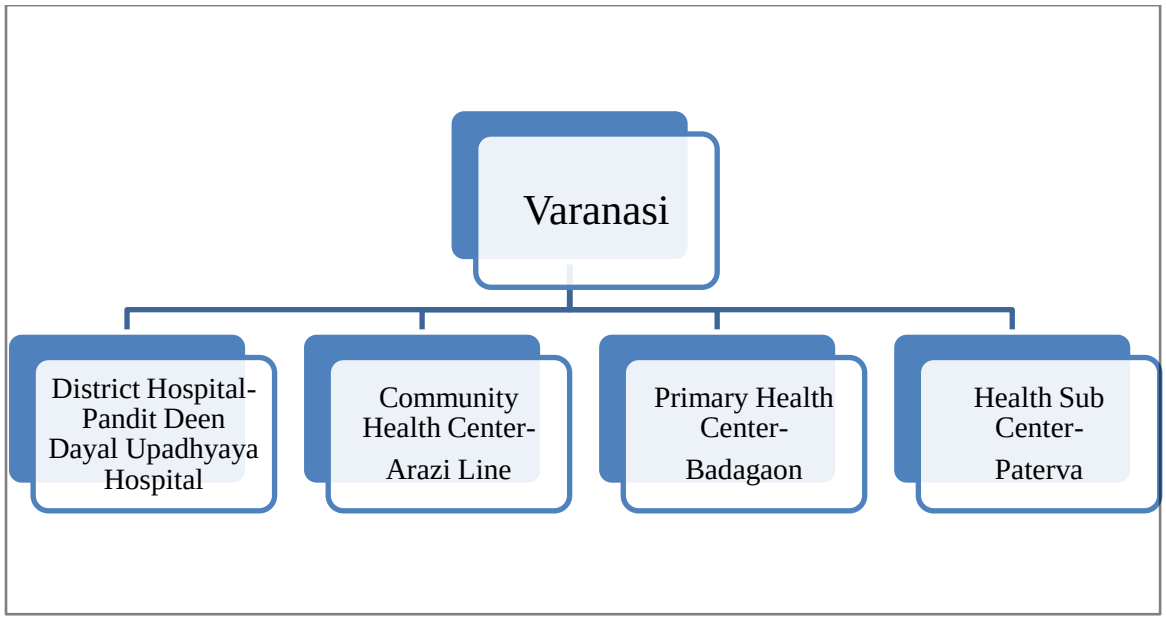

Figure 2: Health Centers Covered In Varanasi

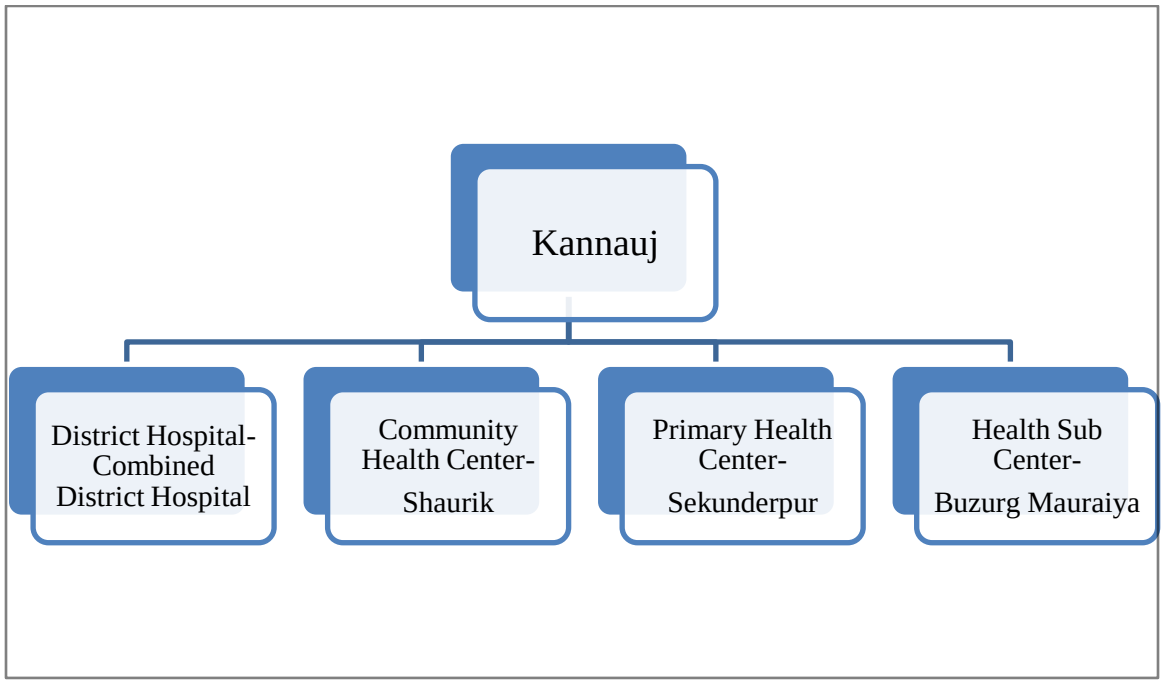

Figure 3: Health Centers Covered In Kannauj

5 ACTIVITIES UNDERTAKEN DURING INTERNSHIP

1. Through available data and records in terms of RMNCH+A indicators, district planning, financial expenditure, RKS, LR/OT practices, lab tests being done, blood bank/storage centre functionality, status of cold chain and immunization, status on key FP activities, status on new born care and capacity for treatment of childhood diseases, IP/BMW practices, assured referral linkages, implementation of JSSK, functionality of community processes like VHSNCs, HBNC, activities and programmes related to ASHA, MDR/CDR implementation, GRS, capacity of DH to function as knowledge centre, Skill Lab, strengthening & Improving Immunization, cold chain, FP services
2. Identifying gaps in implementation and monitoring of NUHM, NCD and communicable diseases
3. Identifying gaps in implementation and monitoring of community processes and linkages like VHND, VHSNC etc.
4. Gap identification and action points for strengthening - OPD, IPD, LR, OT, Lab and infection prevention services, with an aim to get Quality Assurance certification as per GOI guideline.
5. Capacity building of HR for improving the clinical practices
6. Advocacy with district authorities for improving infrastructure related gaps,
7. Placing assured referral linkages and GRS
8. Holding meeting at SC with ASHA/AWW and other relevant community stakeholders for improving community processes
9. Introducing acknowledgement, appreciation and awards for performers and facilities
10. Strengthening implementation of key national programmes like JSY, JSSK etc.
11. Strengthening implementation and monitoring of NUHM, NCD and communicable diseases
12. Strengthening implementation and monitoring of community processes and linkages like VHND, VHSNC etc.
13. Guidance in creating model MCH wing, if sanctioned in the district
14. Help in addressing local issues of service providers for improving service delivery

PART 2: DISSERTATION REPORT

Title: A study to assess the level of paralegal awareness among nursing personnel in Pandit Deen Dayal Upadhyaya District Hospital,Varanasi

1 INTRODUCTION

The present study was conducted in PanditDeenDayalUpadhyaya District Hospital, Varanasi for a period of three months with the aim of understanding the level of paralegal awareness among seventy five newly appointed nursing personnel in the hospital. Their awareness level was assessed by asking questions related to Medical Termination of Pregnancy Act, Transplantation of Human Organs Act, Bio Medical Waste Management Rules, Medical Negligence, Pre Conception and Pre Natal Diagnostic Techniques Act, Right to Information and Informed Consent.

Medical ethics have developed into a well based discipline which acts as a "bridge" between theoretical bioethics and the bedside patient care. The goal is "to improve the quality of patient care by identifying, analyzing, and attempting to resolve the ethical problems that arise in practice"", according to Knowledge and Awareness among interns and residents about medical law and negligence in a medical college in Vadodara - A Questionnaire Study by Dr. Jasuma J. Rai, Dr. Rajesh V. Acharya, Dr. Deepak Dave.The disciplines of law and ethics in medical practice overlap in many areas and yet each has its unique parameters and distinct focus.

With the explosion of societal knowledge, people know more about their health and roles of health team members. If, in the course of health care provision, individuals are wronged or neglected, they are much more likely to raise issue. Average clients are aware of their rights as patients and are prepared to enforce their claims. Hence, those who render nursing care must be well versed in the law with respect to nurse's responsibilities and client's rights.

Nurses deal with the most fundamental human events like birth, death and suffering. They encounter many legal issues surrounding these sensitive areas. Accountability is an essential concept of professional practice. Nursing practice is surrounded by many legal aspects because nurses are accountable for their professional judgments and action. Nursing takes place in a variety of public and private settings and includes disease prevention, health promotion, health protection, surveillance, education, maintenance,

restoration, coordination, management and evaluation of care of individuals, families and populations including communities. The knowledge of legal responsibilities is integral with the expanding clinical role and a logical application of the planned, systematic, and focused care which should be the goal of Modern Nursing.

Although the origins of nursing predate the mid-19th century, the history of professional nursing traditionally begins with Florence Nightingale. Nightingale, the well-educated daughter of wealthy British parents, defied social conventions and decided to become a nurse. The nursing of strangers, either in hospitals or in their homes, was not then seen as a respectable career for well-bred ladies, who, if they wished to nurse, weSre expected to do so only for sick family and intimate friends. In a radical departure from these views, Nightingale believed that well-educated women, using scientific principles and informed education about healthy lifestyles, could dramatically improve the care of sick patients. Moreover, she believed that nursing provided an ideal independent calling full of intellectual and social freedom for women, who at that time had few other career options.

The nursing profession also has been strengthened by its increasing emphasis on national and international work in developing countries and by its advocacy of healthy and safe environments. The international scope of nursing is supported by the World Health Organization (WHO), which recognizes nursing as the backbone of most health care systems around the world.

Ethical issues are real life issues. There is no one way of resolving such situations. Each situation will be different, depending on the people involved and the context.Nursing standard clearly reflect the specific functions and activities that nurses provide, as opposed to the functions of other health workers. When standards of professional practice are implemented, they serve as yardsticks for the measurements used in licensure, certification,Accreditations, quality assurance, peer review, and public policy.

1.1 NEED FOR THE STUDY

Nurses are risk takers while rendering care towards patient and in procedures like taking over, handling over, handling lifesaving equipments and managements of ventilated patient in case of electricity failures and many others. Nurses are actively involved in health care, management, policy deliberations, and patient advocacy. Nurses with post

baccalaureate preparation assume independent responsibility for providing primary health care and specialty services to individuals, families, and communities. Nursing professionals of today need to be competent in all dimensions. It is mandatory for every nurse to have sound knowledge on legal aspects of health care and practice nursing safely, effectively and efficiently. With this knowledge in mind this study was undertaken to assess the awareness level of nurses of PanditDeenDayalHospital,Varanasi. The results so furnished would be employed to train the nurses for protection from medico legal cases.

2 REVIEW OF LITERATURE

According to The Bureau of Labor Statistics,2013 nursing jobs are expected to grow approximately 26 percent by the year 2020, and should add up to 712,000 nursing jobs within a 10 year span across the United States. The role of nurses and professional nursing has expanded rapidly which expects specialization, autonomy and accountability from paralegal perspective. Many people are unaware of the different career aspects of nursing. Becoming a nurse paralegal is one of the aspects that you can choose. This profession is becoming a highly desirable and rewarding career.

Lawyers and nurses speak two distinct languages. For this reason, lawyers need nurses to translate medical records. Over the past few decades, more and more nurses are aiming for a degree in law that can be combined with their medical background.

This expansion has focused new concerns among nurses and heightened awareness of legal principles. Charlotte M. C. Daniel (1996) in his study regarding knowledge explosion and technological advancement has resulted in consumer awareness which leaves for standardization of care providing quality care that is the overall goal of healthcare industry which sometimes leads to contain legal issues or dilemma. In order to strengthen the quality care Consumer Protection Act (CPA) came into light which saves the patient and the nurses from negligence and malpractice.

In healthcare, legal litigation is focusing towards protection of patient and the nurse. The two parallel values that dominate the delivery of medical care to the patient are first

decision on the care rendered and second the independent right on medical are first decision on the care. Patients are helpless and more dependent on nurses for decision making.

Lowden. J (2002) in his article attempts to highlight patient's right to be complex and inconsistent. They are not taken up so seriously as of patient's inability to understand and consent of health care treatment. Inconsistency and ambiguity persist in the law and its interpretation which requires better understanding of patient and his experiences. Hence patient care calls for more attention to paralegal aspects.

Marsha (1998) says, nurses frequently face legal issues regarding patient care in life saving measures, continuing treatment of terminally ill patients and regarding patient's right to refuse treatment. According to a data bank, among the 253 complaints registered from 1995-2001 were due to negligence and 60% of them were from acute care settings, 18% from long term care facilities, 9% from advanced practices nurses, 8% from psychiatric facilities, 2% each from physicians and home health agencies. The nurse's numbers are increasing who make malpractice payments. The non-specialized registered nurses pay the most malpractice payments in western countries. To provide quality care avoid liability, the nurse needs to be familiar with various consumer rights in health care system. It is vital to know the laws protecting the patient and the healthcare deliverer in this regard and also to be aware of the legal statutes as registered nurses.

According to findings from 'Knowledge and Awareness among interns and residents about medical law and negligence in a medical college in Vadodara - A Questionnaire Study' by Dr. Jasuma J. Rai, Dr. Rajesh V. Acharya, Dr. Deepak Dave knowledge about record keeping ($p<0.001$with C.I:68.68-73.9) and medical negligence ($p<0.0241$with C.I:61.35-64.35) was found to be significantly different .

2.1 STUDY SETTING

The present study was done in PanditDeenDayalUpadhyaya District Hospital, Varanasi. Constructed about twenty years ago this is one of the busiest district hospitals in Varanasi. PDDU is a one hundred and twenty five bedded hospital, with twenty five O.P.D chambers, one Pharmacy, one blood bank unit, two operation theaters, four wards, one pathology laboratory and two rain basera(for patient's attendants).

NHSRC with approval of MoHFW has been assigned to develop model districts in States , which could serve as a model for replication by other districts within states. Under the Plan, the district hospital will be the nodal point for implementing the best practices and shall be linked with a CHC, PHC and SC. The Quality Assurance Unit of the State and District shall be the nodal in carrying out this activity since these institutions will be certified by QA (NQAS score of more than 80%).

3 METHODOLOGY

Research is the systemized efforts to gain new knowledge. A research methodology defines the purpose of the research, how it proceeds, how to measure progress and what constitute success with respect to the objective determined for carrying out the research study. The appropriate research design formulated is detailed below. A scientifically carried out research project has a defined frame work for data collection. This frame work constitutes the research design. It determines the data collection method, sampling method the field works and so on.

3.1 RESEARCH QUESTION

What is the level of paralegal awareness among nursing personnel at PanditDeenDayalUpadhyaya District Hospital, Varanasi?

3.2OBJECTIVES

1. To assess the level of knowledge and awareness among nurses on paralegal issues related to the hospitals.

2. To suggest suitable interventions to improve the level of paralegal awareness.

3.3 RESEARCH DESIGN

Keeping in mind the research question and objectives, the methodology of the present study design was descriptive and was done prospectively to know nurse's knowledge on paralegal aspects of nursing practice. It is a cross sectional study conducted for a period of three months from February to April, 2016. The study was set in PanditDeenDayalUpadhyayDistict Hospital in Varanasi and study area was different wards of the hospital. The target population for the study was newly appointed Nursing Staff in different wards of the hospital, thus a total of 75 nurses were taken up for the study. The study excludes consultants, old nursing staff, pharmacists, and technicians.

3.4 TOOLS AND TECHNIQUES

3.4.1 TOOL

The tool employed was a structured questionnaire which was framed in two sections after reviewing literature, text material and doctors of the hospital.

Section A: The initial part of the questionnaire consisted of demographic variable such as age, gender and professional qualifications.

Section B: The second part of the questionnaire comprised of 35 questions and it is divided in to 6 parts **(See ANNEXURE-1).** The structured questionnaire was to assess the knowledge about MTP Act, THOA Act, BMW Act, Malpractice, Medical Negligence, PCPNDT Act, Ethics & RTI and Informed Consent among selected Newly Nursing Staff.**See ANNEXURE 2 for Acts**)

Part-1 Knowledge and awareness of Medical Termination of Pregnancy (MTP) Act.
Part-2 Knowledge and awareness of Transplantation of Human Organs (THOA) Act.
Part-3 Knowledge and practice regarding Bio Medical Waste (BMW) Act.
Part-4 Perception on Medical Negligence (Malpractice).
Part-5 Knowledge about Pre Conception and Pre Natal Diagnostic Techniques (PCPNDT) Act.
Part-6 Knowledge about Right to Information(RTI).
Part-7 Knowledge and awareness of Informed Consent

A BRIEF NOTE ABOUT THE ACTS

Medical Termination Of Pregnancy Act

The Indian abortion laws falls under the Medical Termination of Pregnancy (MTP) Act, which was enacted by the Indian Parliament in the year 1971 with the intention of reducing the incidence of illegal abortion and consequent maternal mortality and morbidity.The MTP Act came into effect from 1 April 1972 and was amended in the years 1975 and 2002.

Pregnancies not exceeding 12 weeks may be terminated based on a single opinion formed in good faith. In case of pregnancies exceeding 12 weeks but less than 20 weeks,

termination needs opinion of two doctors.[1] The Medical Termination of Pregnancy (MTP) Act of India clearly states the conditions under which a pregnancy can be ended or aborted, the persons who are qualified to conduct the abortion and the place of implementation.Some of these qualifications are as follows:

- Women whose physical and/or mental health were endangered by the pregnancy
- Women facing the birth of a potentially handicapped or malformed child
- Rape
- Pregnancies in unmarried girls under the age of eighteen with the consent of a guardian
- Pregnancies in "lunatics" with the consent of a guardian
- Pregnancies that are a result of failure in sterilization

Transplantation Of Human Organs Act

The transplantation of human organs act, 1994 is a recent law and the judicial decision are few.It was enacted with a dual objective to encourage voluntary donation of organs and to prevent commercial exploitation and organ trade. This law legalize transplantation of human organs in cases of live donor, brain dead donors and donors who are considered dead in a conventional sense. Transplantation is permitted only in those hospitals which are specifically registered for the purpose.

Bio Medical Waste Management Rules

"Bio-medical waste" means any waste, which is generated during the diagnosis, treatment or immunization of human beings or animals or research activities pertaining thereto or in the production or testing of biological or in health camps

At present with advancement of medical science most of the hospitals/nursing homes are now equipped with latest instruments for diagnosis and treatment of various diseases. One of the most important aspect associated with hospitals is the safe management of the wastes; generated from these establishments, which contains human anatomical wastes

blood, body fluid, disposable syringe, used bandages, surgical gloves, Blood bags intravenous tubes etc. The Bio-medical waste generated from various sources has become a problem and much attention is being given worldwide to find out solution of this problem. The main concern lies with the hospital waste generated from large hospitals/nursing homes as it may pose deleterious effects due to its hazardous nature. Bio-medical wastes, if not handled in a proper way, is a potent source of diseases, like AIDS, Tuberculosis, Hepatitis and other bacterial diseases causing serious threats to human health. Owing to the discussed potential threats this waste needs prime attention for its safe and proper disposal.

Medical Negligence:

Black's law dictionary defines 'negligence per se' as-Conduct, whether of action or omission, which may be declared and treated as negligence without any argument or proof as to the particular surrounding circumstances, either because it is in violation of a statute or valid municipal ordinance, or because it is so palpably opposed to the dictates of common prudence that it can be said without hesitation or doubt that no careful person would have been guilty of it.

Negligence can be described as failure to take due care, as a result of which injury ensues. Negligence excludes wrongful intention since they are mutually exclusive. Carelessness is not culpable or a ground for legal liability except in those cases in which the law has imposed the duty of carefulness. The medical profession is one such section of society on which such a duty has been imposed in the strictest sense. It is not sufficient that the medical professional acted in good faith to best of his or her judgment and believe. A medical professional is expected to have the requisite degree of skill and knowledge.

Pre Conception And Pre Natal Diagnostic Technique Act

Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act, 1994 is an Act of the Parliament of India enacted to stop female foeticides and arrest the declining sex ratio in India. The act banned prenatal sex determination.

Main provisions in the act are

1. The Act provides for the prohibition of sex selection, before or after conception.

2. It regulates the use of pre-natal diagnostic techniques, like ultrasound and amniocentesis by allowing them their use only to detect :

1. genetic abnormalities
2. metabolic disorders
3. chromosomal abnormalities
4. certain congenital malformations
5. haemoglobinopathies
6. sex linked disorders.

3. No laboratory or centre or clinic will conduct any test including ultrasonography for the purpose of determining the sex of the foetus.

RTI Act

Right to Information Act 2005 mandates timely response to citizen requests for government information. It is an initiative taken by Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions to provide a– RTI Portal Gateway to the citizens for quick search of information on the details of first Appellate Authorities,PIOs etc. amongst others, besides access to RTI related information / disclosures published on the web by various Public Authorities under the government of India as well as the State Governments.

Informed Consent

Informed consent is a process for getting permission before conducting a healthcare intervention on a person. A health care providermay ask a patient to consent to receive therapy before providing it, or a clinical researcher may ask a research participant before enrolling that person into a clinical trial. Informed consent is collected according to guidelines from the fields of medical ethics and research ethics.

An informed consent can be said to have been given based upon a clear appreciation and understanding of the facts, implications, and consequences of an action. To give informed consent, the individual concerned must have adequate reasoning faculties and be in possession of all relevant facts. Impairments to reasoning and judgment that may prevent informed consent include basic intellectual or emotional immaturity, high levels of stress such as PTSD or a severe intellectual disability, severe mental illness, intoxication, severe sleep deprivation, Alzheimer's disease, or being in a coma.

3.5.2 TECHNIQUES

The most important and crucial aspect of any investigation is the collection of appropriate information, which will provide necessary data to answer the questions raised in the study. A self structured questionnaire about knowledge of healthcare ethics and laws in the healthcare system was devised and distributed to all newlyrecruitedtnursing staff at PanditDeenDayalUpadhyaha District Hospital, Varanasi. The questionnaire was designed to identify the nurse’s knowledge, beliefs and attitudes towards patient care in relation to healthcare ethics and law. It is a self designed questionnaire developed in English consisting of 35 questions on paralegal aspect of healthcare. Close ended questions were used to assess awareness levels.

4 RESULTS

The data obtained through questionnaire was analyzed using SPSS 20.0 and excel. The analysis was done in two parts- demographic profile and paralegal awareness of nursing personnel.

4.1 Demographic profile

Demographic profile included questions on age, sex and professional qualifications of the nurses.

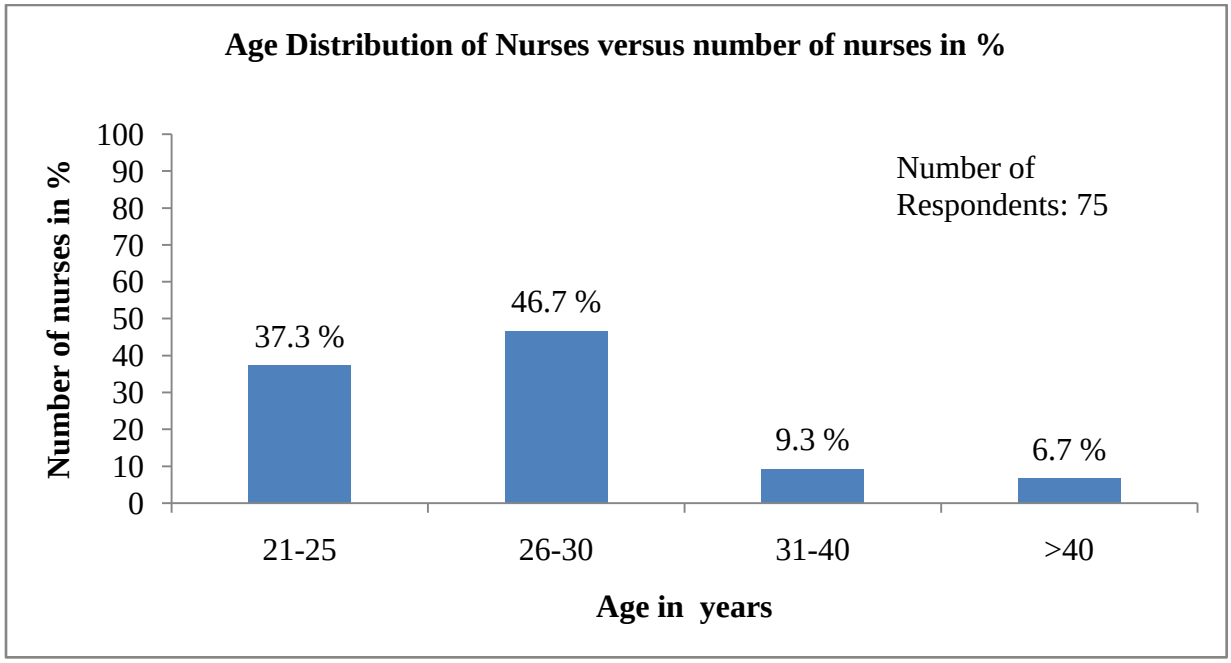

Figure4.1.3: Age Distribution of Nurses

Figure 4.1.1 indicates that around fifty percent (thirty five) of the nursing personnel were in the age bracket of 26-30 years.

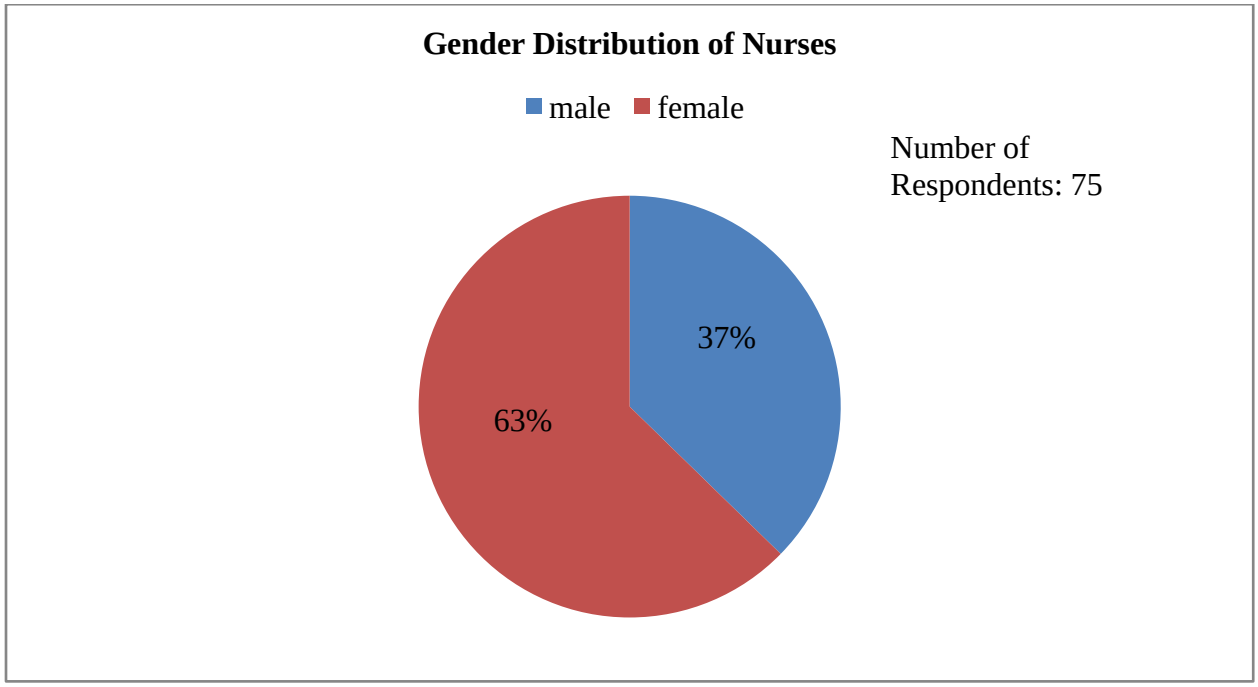

Figure 4.1.4: Gender wise distribution of nurses

Figure 4.1.2 shows that interestingly out of 75 nurses recruited sixty three percent (forty five) were females and twenty eight were males indicating increased representation of males in nursing profession.

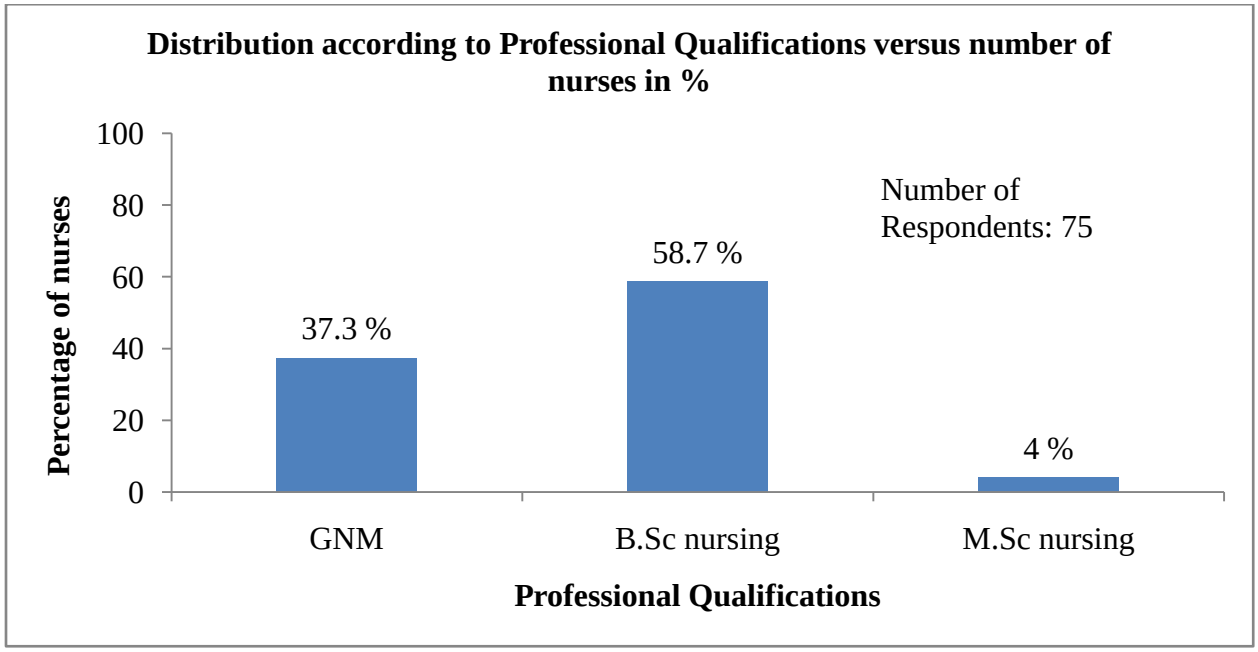

Figure 4.1.5: Distribution according to professional qualifications

Figure 4.1.3 shows percent wise distribution of nurses according to their qualifications. Around sixty percent of newly recruited nurses had degree in B.Sc Nursing (forty four) and of the seventy five nurses interviewed only three were M.Sc in Nursing.

4.2 Paralegal awareness among nurses

4.2.1 Based on knowledge index

The knowledge level of nurses was analyzed by computing variable of knowledge index in SPSS for each section. To compute this new variable of knowledge index all the variables pertaining to each section were recoded and these recoded variables were assigned values zero and one for wrong and right responses respectively. Then for each section a knowledge index variable was created. This new variable of knowledge index consisted of questions from each section. Each knowledge index was scaled using alpha cronbach's reliability test and then frequency of each index was run to find the lowest and highest scores. According to the scores obtained by respondents, the responses were divided into three categories, namely low ,medium and high scores. The knowledge indices were then recoded according to scores as low, medium and high level.

Table 4.2.1: Scoring criteria for each paralegal knowledge index

Name Of The Knowledge Index	Scoring Criteria For Low Level	Scoring Criteria For Medium Level	Scoring Criteria For High Level
MTP Act	0-2	2-4	5 through highest
THO Act	0-1	2-3	4 through highest
BMW	0-1	2-3	4 through highest
Medical Negligence	0-2	3-4	5 through highest
PCPNDT	0-1	2-3	4 through highest
RTI	0-1	2	3
Informed Consent	0-1	2	3

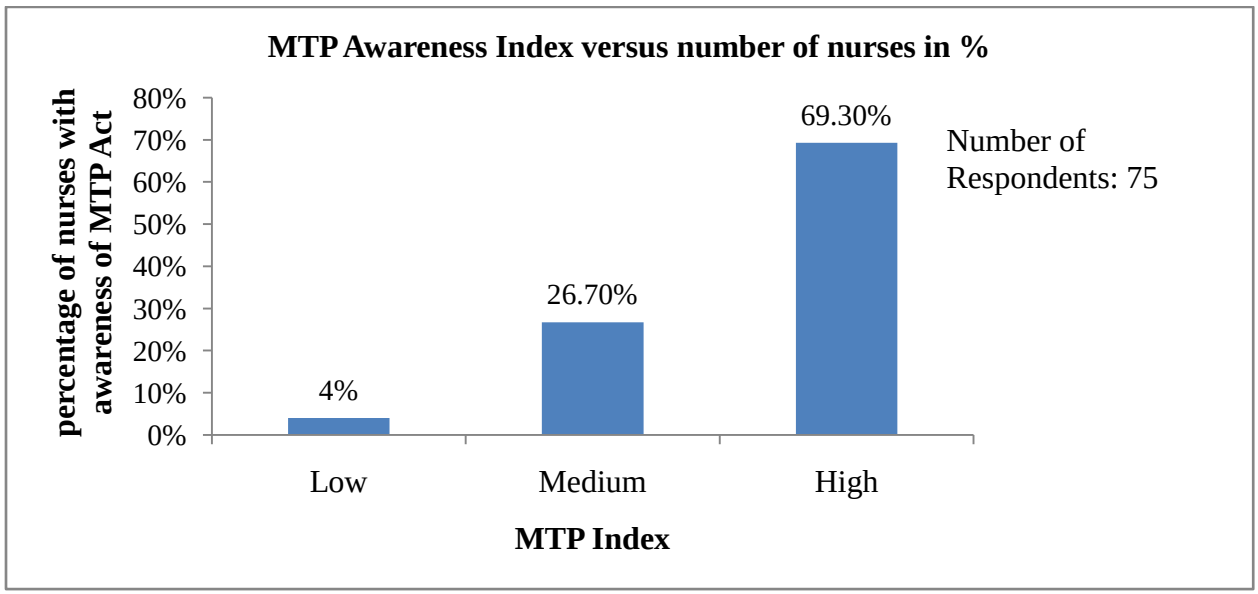

Figure 6.2.1: MTP Awareness indexof nurses

Figure 4.2.1 indicates that the knowledge level of nurses regarding MTP Act was found to be high(69.3 percent) which is a positive sign as this is a very important act. The nurses had the lowest level of knowledge on whether MTP Act allows termination up to 20 weeks of pregnancy or not. Around thirty three percent nurses answered this question incorrectly.

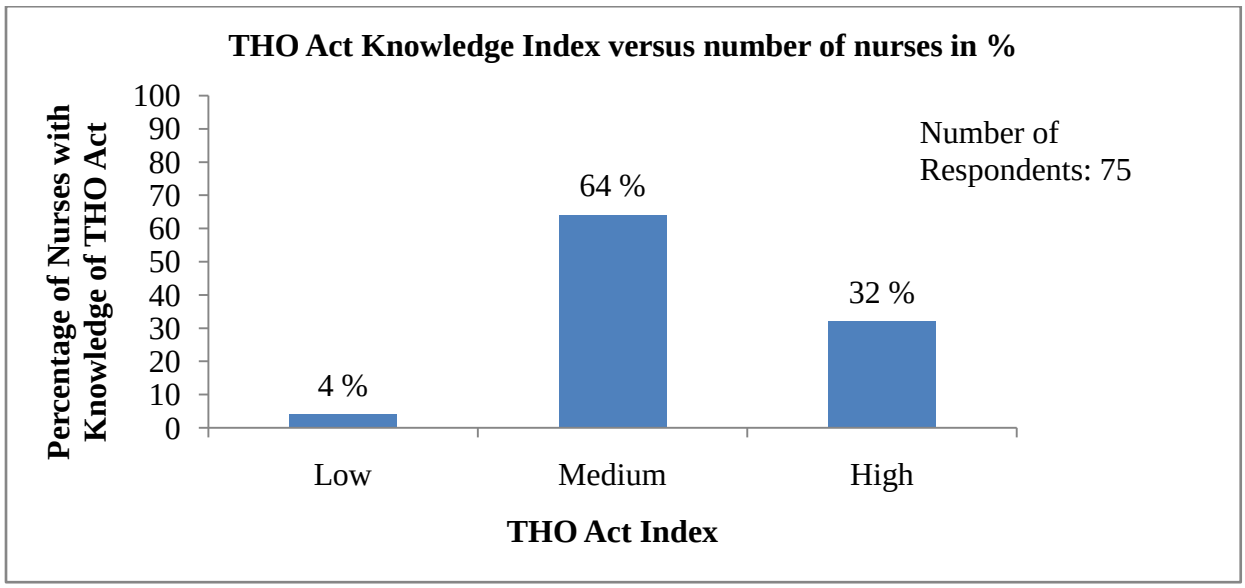

Figure 4.2.2: Transplantation of human organ Act Indexof nurses

Figure 4.2.2 indicates that the nursing staff had medium level of knowledge on THO Act. None of the nurses knew the age at which body organ donation could be decided by the donor. Fifty two percent nurses lacked the knowledge on whether there should be monetary transaction to family for organ transplant or not.

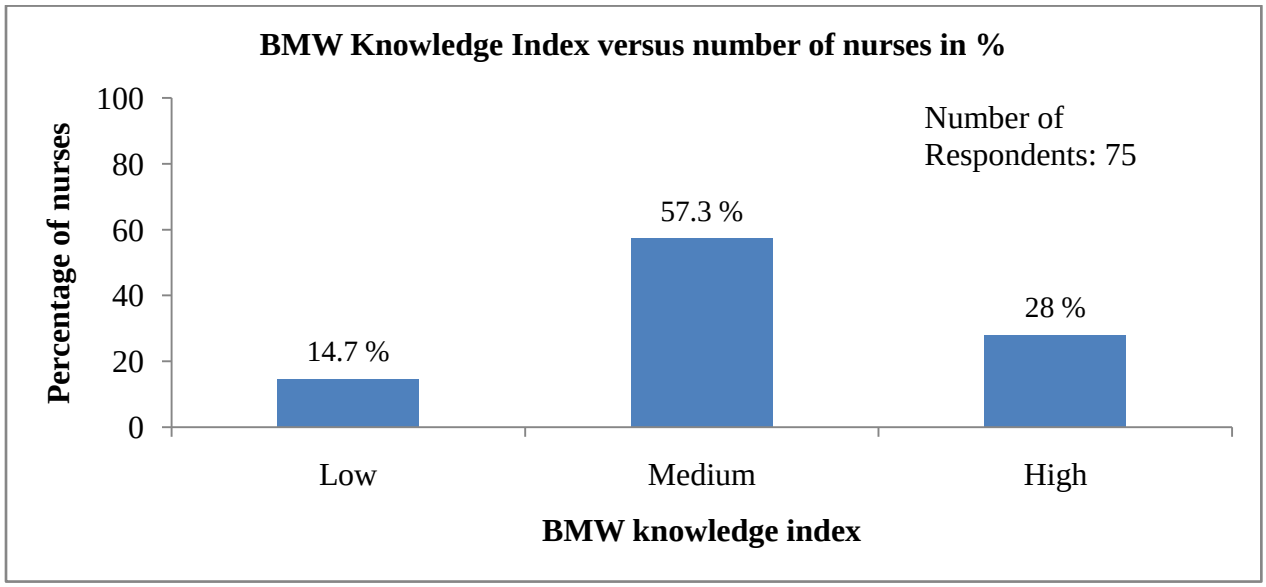

Figure 4.2.3: Bio Medical Waste Knowledge Index of nurses

In figure 4.2.3 the BMW knowledge index analysis revealed that only fifty seven percent nurses had moderate knowledge on BMW Act. A high percentage of nurses (forty six

percent) did not know waste should not be stored beyond 48 hours, according to the Biomedical Waste (Management & Handling) Rules.

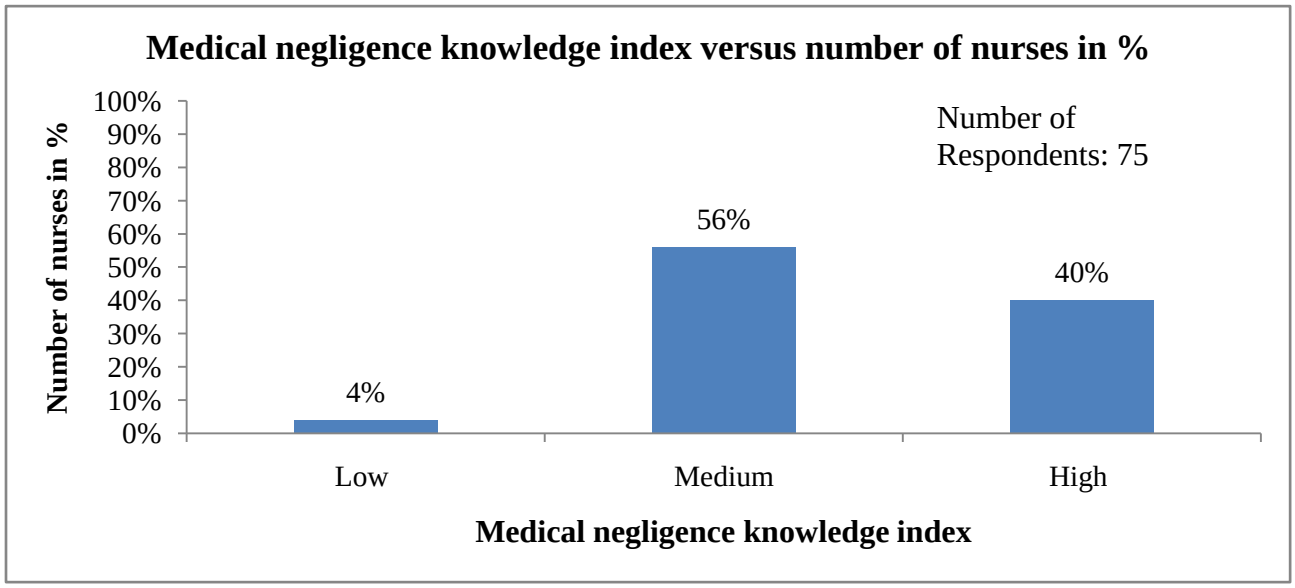

Figure 4.2.4: Medical Negligence Knowledge Index of nurses

In figure 4.2.4 the scores obtained by nurses indicate that fifty six percent nurses had medium level knowledge and forty percent had high level knowledge on the questions pertaining to medical negligence. Around ninety percent of the respondents lacked knowledge on the fact that records of medico legal case should be kept for ten years and that passive euthanasia is legalized in India.

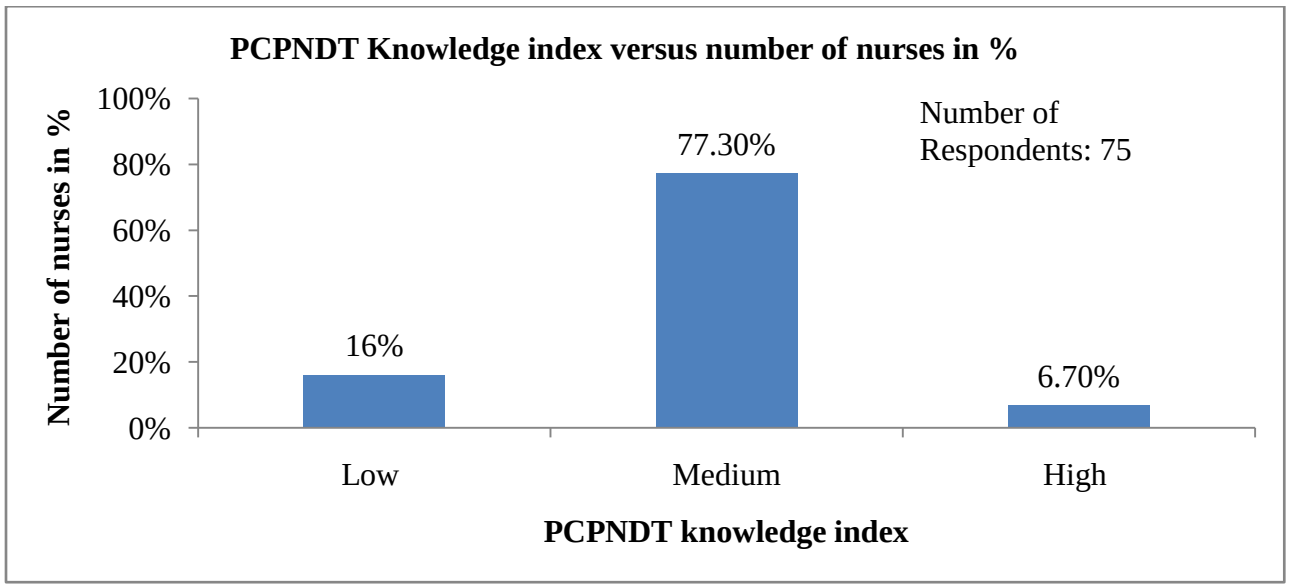

Figure 4.2.5: PCPNDT Knowledge index of nurses

In figure 4.2.5 the knowledge index on pre conception and pre-natal diagnostic act indicates that seventy seven percent of nurses had medium level knowledge. Out of the four questions asked pertaining to this section eighty percent of the respondents did not know that sex selection for family balancing is unethical. This is avery crucial information and reflects that nurses should be trained on sex selection rules.

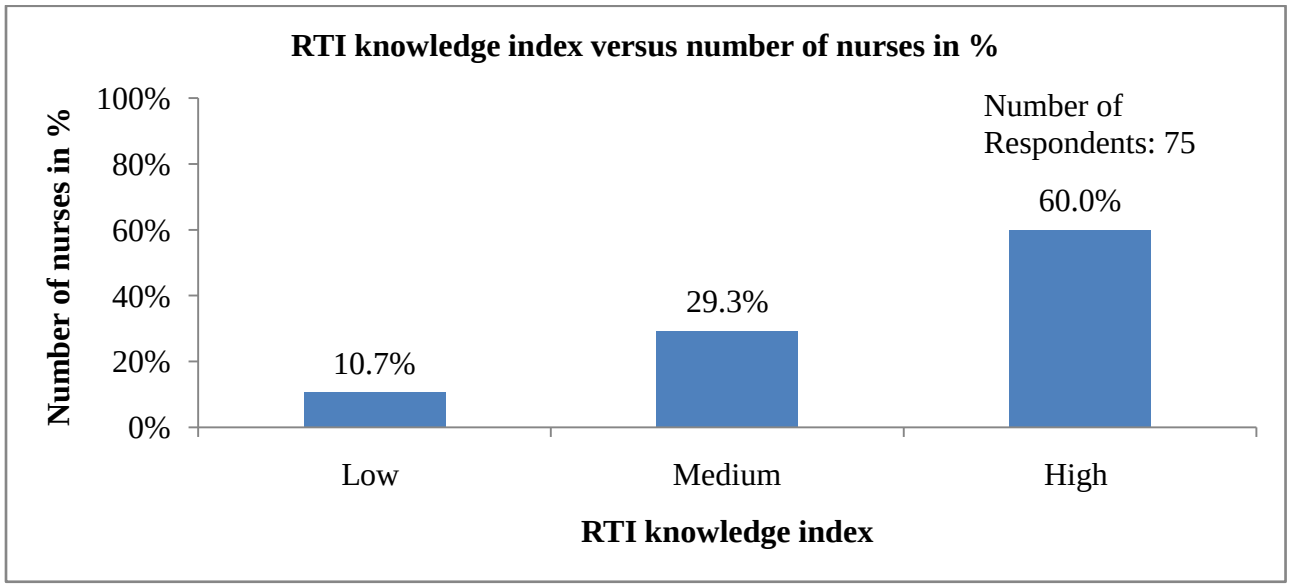

Figure 4.2.6: RTI knowledge index of nurses

In figure 4.2.6 the analysis on RTI knowledge indicated that awareness level was high (sixty percent) among nurses. None of the nurses knew that RTI came into force on 2005.

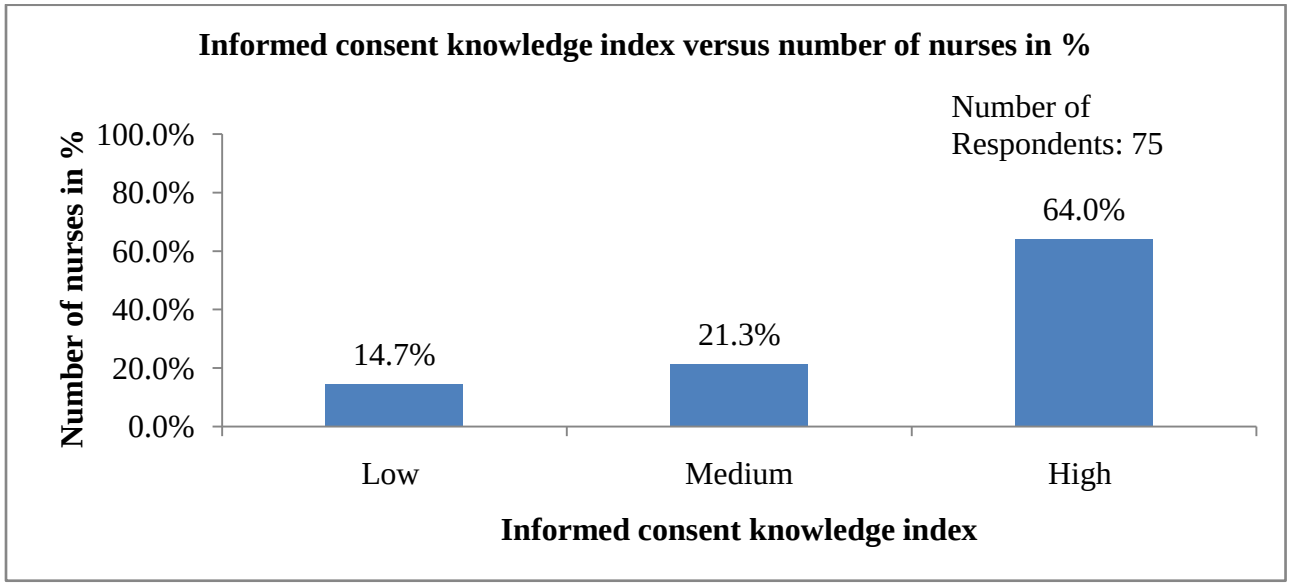

Figure 4.2.7: Informed consent knowledge index of nurses

In figure 4.2.7, informed consent knowledge level revealed that sixty four percent nurses had high level of knowledge on this section. Around eighty percent of the nurses answered all the questions pertaining to informed consent correctly.

4.2.2 Determinants of Knowledge Indices and Professional Qualifications

Crosstab was run between all the seven indices and professional qualifications of nurses using SPSS. This was done to find association between knowledge levels and qualification of nurses (GNM, B.Sc Nursing and M.Sc Nursing).

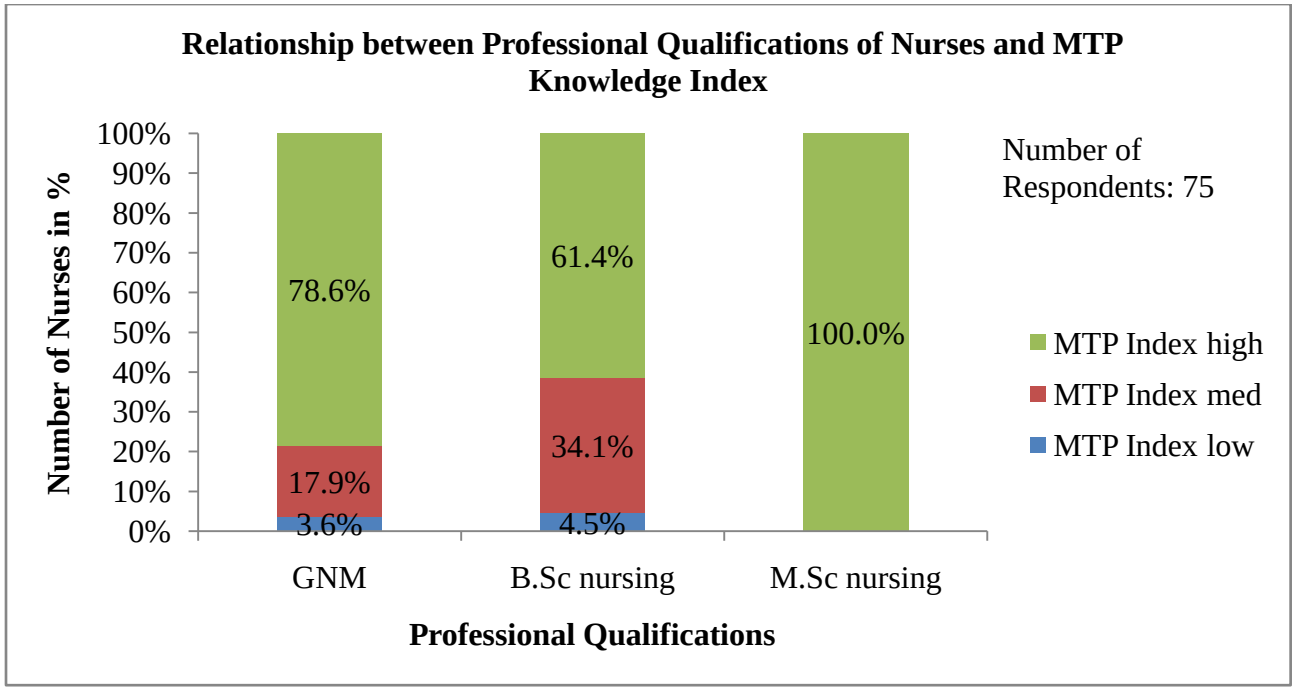

Figure 4.2.8: Relationship between Professional Qualifications of Nurses and MTP Knowledge Index

Figure 4.2.8 shows that knowledge level of nurses with degree in M.Sc nursing was highest (100%), followed by GNM(78.6%) and B.Sc nursing(61.4%) respectively. However, this analysis also revealed that composite knowledge on MTP Act was better in GNM qualified nurses as compared to nurses with B.Sc Nursing.This could be attributed to the fact that the GNM nurses have more work experience.

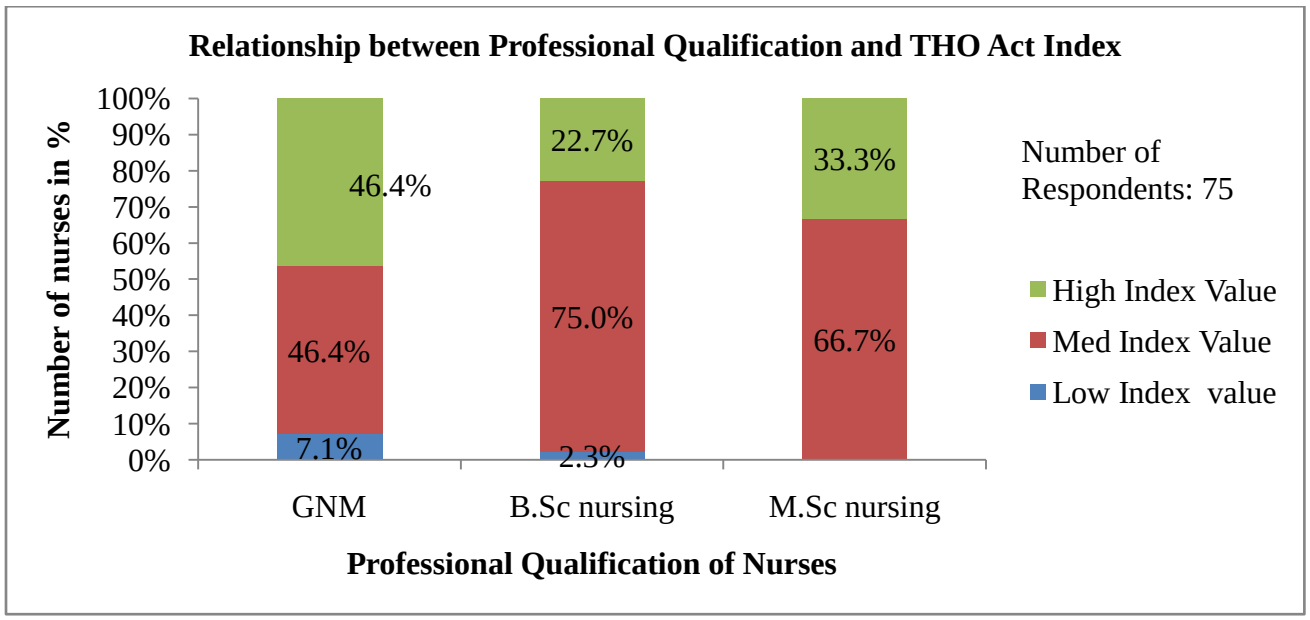

Figure 4.2.9: Relationship between Professional Qualification and THO Act Index

Figure 4.2.9indicates that most of the nurses had medium level knowledge on Transplantation of Human Organ Act. Out of forty four nurses with B.Sc nursing qualification, seventy five percent had medium level knowledge followed by M.Sc Nursing (sixty seven percent) and GNM (forty six percent)qualified nurses.

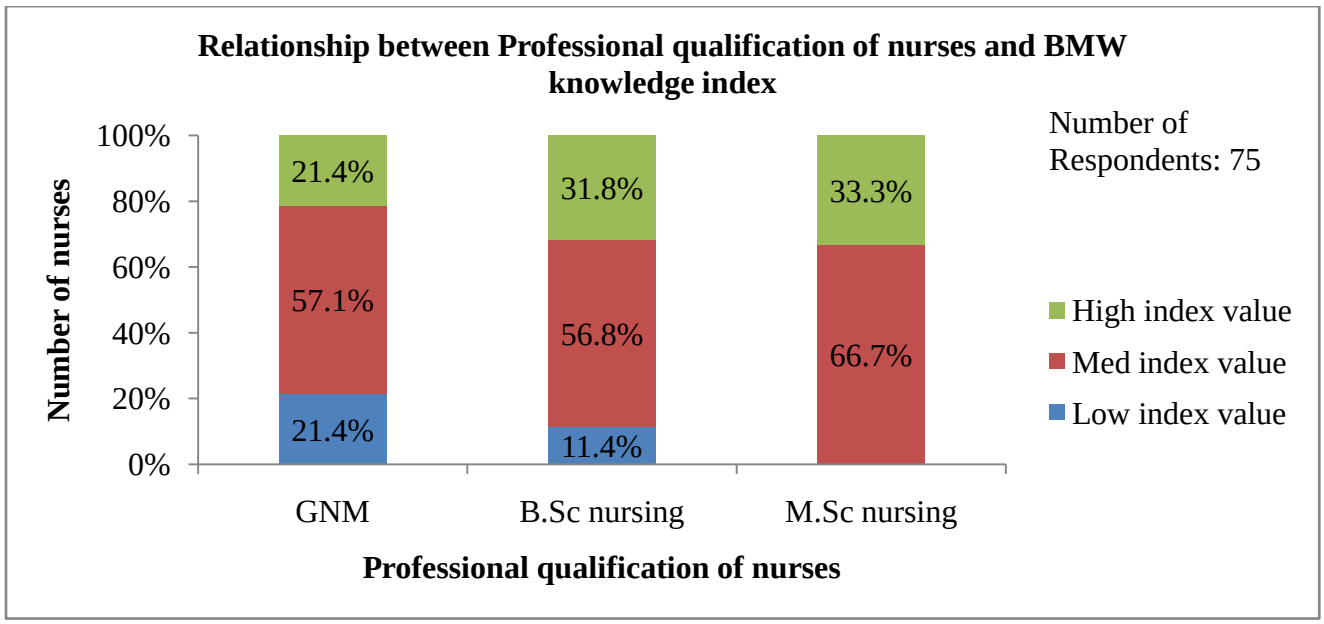

Figure 4.2.10: Relationship between Professional qualification of nurses and BMW knowledge index

Figure 4.2.10 shows knowledge determination between BMW Knowledge index and professional qualification of nurses. It was gathered that two out of three M.Sc qualified nurses had medium level knowledge whereas fifty seven percent B.Sc and GNM qualified nurses had medium level of knowledge.

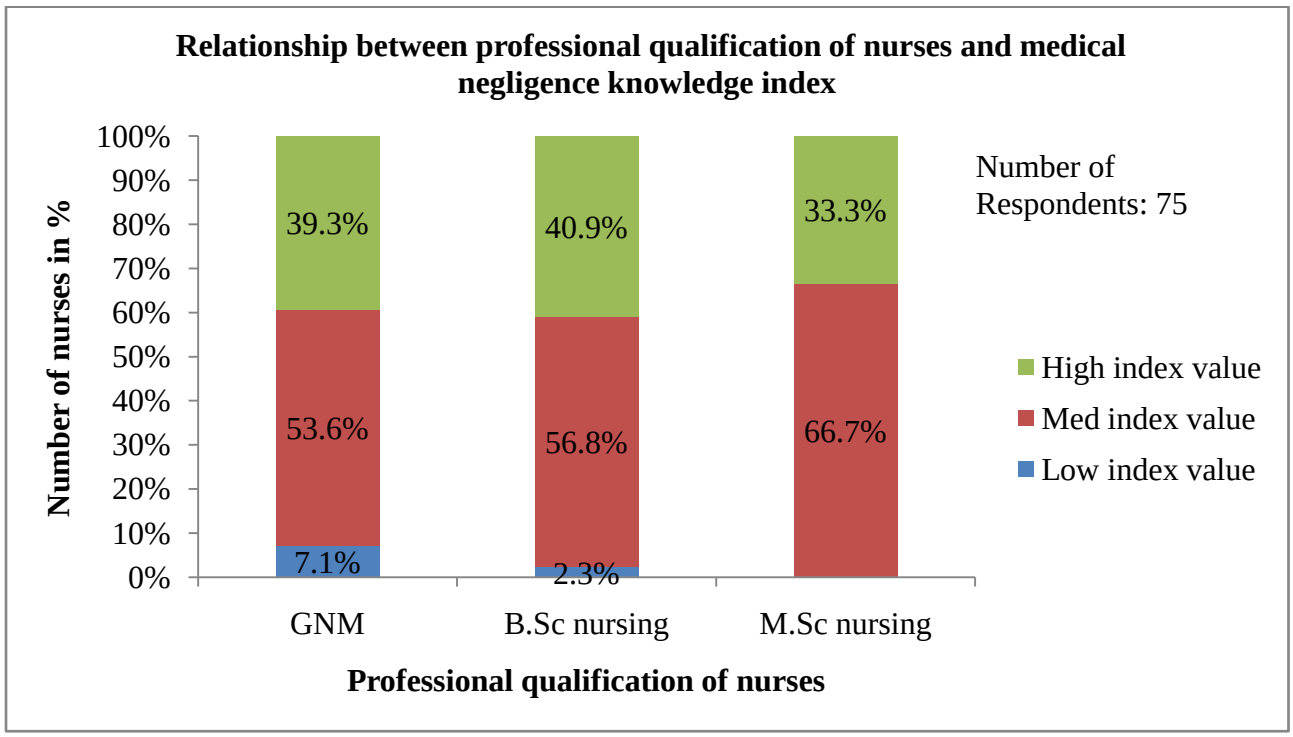

Figure 4.2.11: Relationship between professional qualification of nurses and medical negligence knowledge index

Figure 4.2.11 shows the data for the medical negligence and professional qualifications of nurses it was seen that they had medium level awareness regarding medical negligence. Of the three nurses with degree in M.Sc nursing, two had medium level knowledge and one had high knowledge (answered all questions correctly). The nurses with B.Sc nursing degree and GNM had almost same level of understanding (around fifty five percent).

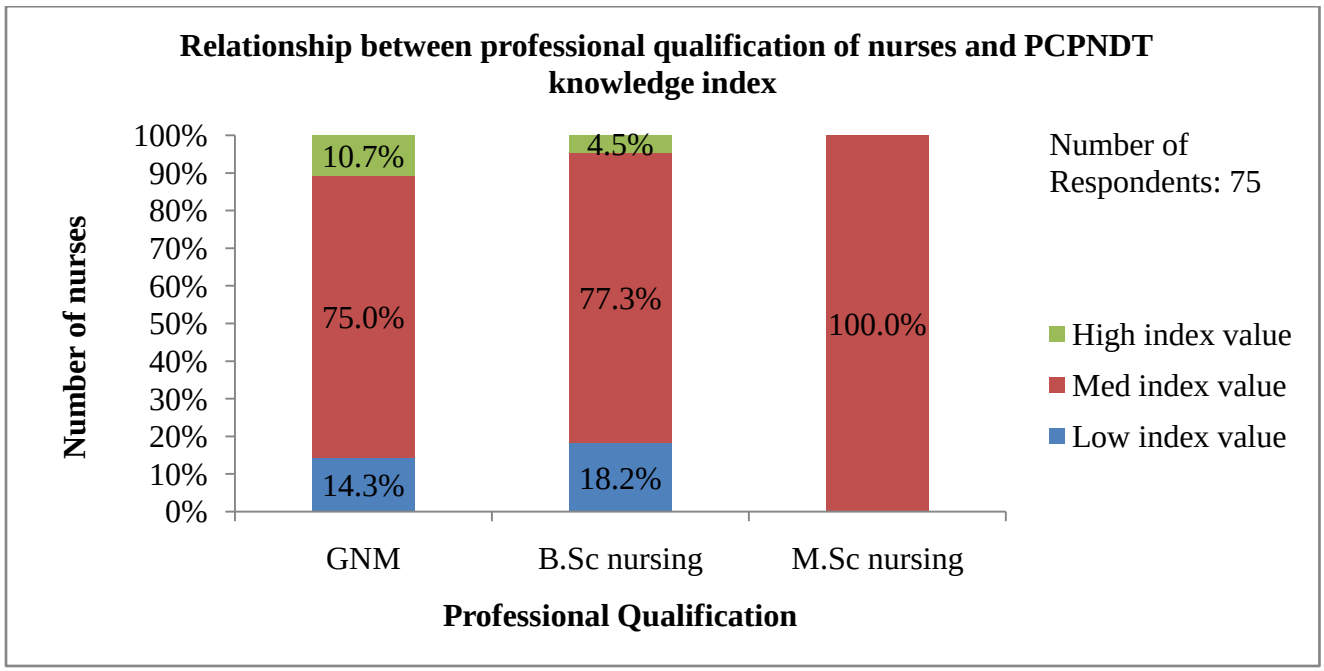

Figure 4.2.12: Relationship between professional qualification of nurses and PCPNDT knowledge index

Figure 4.2.12 shows awareness level of nurses regarding PCPNDT Act was found to be of medium level and all nurses with degree in M.Sc nursing fell in medium level knowledge index. Around eleven percent of GNM qualified nurses had high level of knowledge regarding this Act.

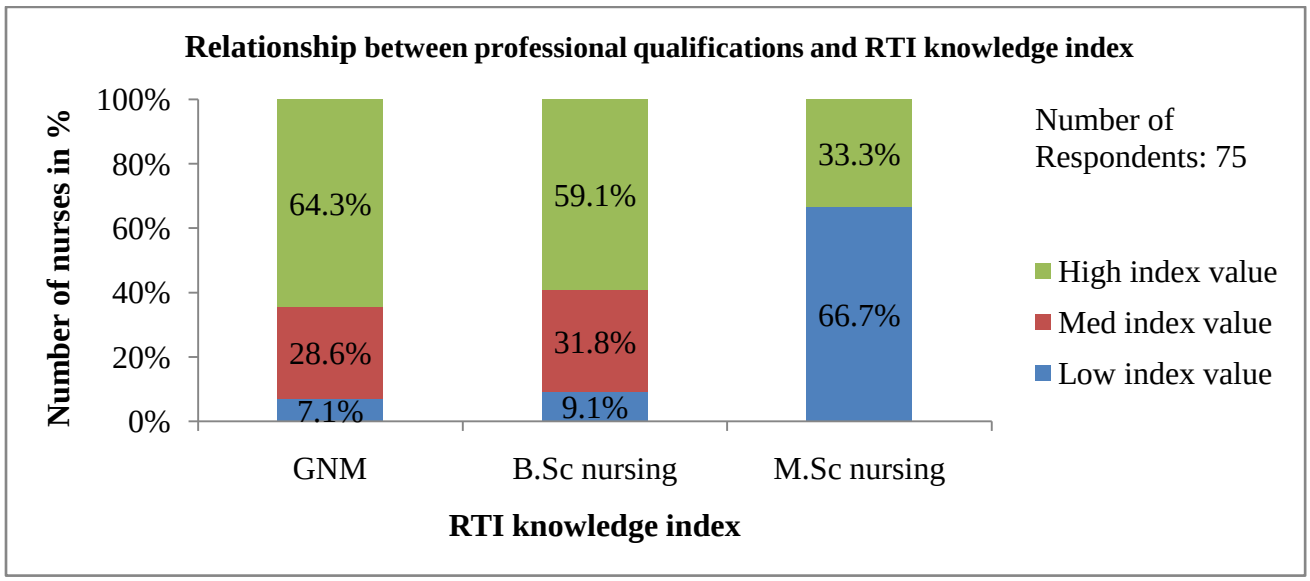

Figure 4.2.13: Relationship between professional qualifications and RTI knowledge index

Figure 4.2.13 indicates that although most of the nurses had high level awareness about RTI, M.Sc qualified nurses had low level of understanding of this Act. Sixty four percent of the nurses with degree in GNM had good level of knowledge about RTI.

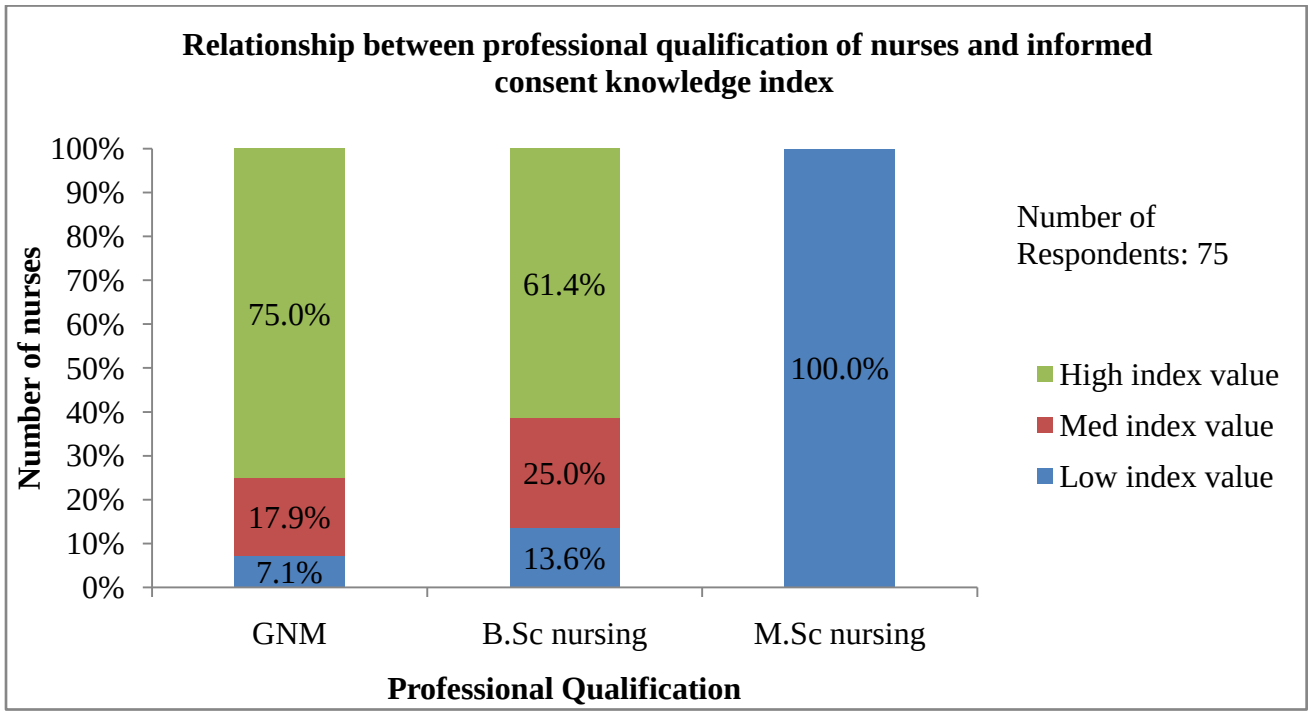

Figure 4.2.14: Relationship between professional qualification of nurses and informed consent knowledge index

Figure 4.2.14 indicates knowledge determination between informed consent index and professional qualifications of nurses revealed that surprisingly nurses with degree in M.Sc. nursing had low level of awareness in this segment. Seventy five percent of nurses with degree in GNM had sound knowledge about informed consent.

5 DISCUSSION

This study was conducted to assess the level of paralegal awareness among newly appointed nurses in PanditDeenDayal Hospital, Varansi. A total of seventy five nurses were interviewed for the same. The answers so obtained were analyzed to know the demographic profile and paralegal awareness levels of knowledge.

The overall awareness of the medico legal acts was found to be of medium level which was found to be consistent with the 'Knowledge and Awareness among interns and residents about medical law and negligence in a medical college in Vadodara - A Questionnaire Study' by Dr. Jasuma J. Rai, Dr. Rajesh V. Acharya, Dr. Deepak Dave. In case of BMW act, informed consent and PCPNDT Act substantial number of nurses had low level of awareness which included maximum M.Sc nurses. This particular finding needs immediate attention. Although this can be attributed to the fact that there only three nurses had degree in M.Sc Nursing of the seventy five nurses interviewed.

Noteworthy , was the finding that nurses with GNM qualification had better knowledge than B.Sc Nursing staff about MTP Act, BMW Act, RTI and Informed consent. This particular finding can be justified with the fact that the nurses with degree in GNM had more experience than their counterparts.

In certain knowledge indices like PCPNDT and THO Act bothB.Sc nursing staff and GNMs were found to have same knowledge although B.Sc is a higher degree when compared to latter. Most M.Sc qualified nurses had low level of awareness in PCPNDT Act and informed consent, even though M.Sc is supposed to be highest form of qualification. This could be attributed to the fact that they haven't been continuously trained on the above mentioned Acts.

While answering questions about medical negligence the students answered them but when detailed questions were asked about various liabilities and judicial system related to medical malpractice only less than half the participants were able to answer. This indicates that the students have only a limited understanding about negligence and law and more efforts should be made to sensitize the students about law and liabilities related to their practice.

5.1 LIMITATIONS OF THE STUDY

- Of the total respondents interviewed only three had done Masters in nursing, hence even if one of the answered incorrectly, it greatly affected the results.
- The study cannot be generalized as the target population is less in number (seventy five)
- This study was done to find relationship between knowledge indices and professional qualifications, it could yield different results if done for number of experience years the nurses had.

6 CONCLUSION AND RECOMMENDATIONS:

Medicine is a noble profession but there is also growing anxiety both within the medical profession and in the community regarding increasing trends of complaints and lawsuits. Knowledge about medical ethics is as fundamental to the practice of medicine as clinical skills.

Nurses form the backbone of the hospitals therefore it is mandatory for them to be well aware of all the legalities involved in the profession. Nurses equipped with sound knowledge of medico legal system can prevent complaints and lawsuits against doctors since they are present in almost all major service delivery procedures.

After the results it was seen that the nursing staff at PanditDeenDayalUpadhayaDistict Hospital lacked appropriate knowledge in relation to Medical Termination of Pregnancy Act, Bio Medical Waste Act, Medical Negligence, Pre Conception and Pre Natal Diagnostic Act, Right to Information and Informed Consent.

This was notified to the CMS of the hospital and it was decided that there should be training modules during induction session of nurses and training should be conducted periodically for nurses to keep them updated about the advances in legal parameters.

7 ANNEXURES

7.1 ANNEXURE 1

PanditDeenDayalUpadhyaya District Hospital,Varanasi

Form No.

Subject:A study to assess the level of paralegal awareness among Nursing personnel at PanditDeenDayalUpadhyaya District Hospital, Varanasi.

Instructions and general comments regarding the survey

Thank you for choosing to participate in this important survey. The purpose of this survey is to collect information regarding Paralegal Awareness in your area of work. This survey is part of an effort to assess the level of awareness & accuracy of practices across the entire process chain.

It is important that you are open and honest in your answers. The accuracy and completeness of your responses will be critical in helping the hospital get a true picture of where we stand, as of now.

General comments

The following should be considered prior to taking the survey:

1) Your participation is voluntary and you can choose not to answer any of the following questions.

2) Your responses will be held STRICTLY CONFIDENTIAL and will not be shared in a way that will identify you or your department/division/unit.

You may contact me with any questions, you have about this study.

Thank you again for your participation.

Part 1

Form No.

1. **Age:**

1. 21-25 years ☐

2. 26-30years ☐

3. 31-40 years ☐

4. >40 years ☐

2. **Gender:**

1. Male ☐
2. Female ☐

3. **Professional Qualifications**

✓ **Newly appointed nursing staff**

1. GNM ☐
2. BSc Nursing ☐
3. MSc Nursing ☐

PART-II

Questionnaire on paralegal awareness among Nursing personnel at PanditDeenDayalUpadhyaya District Hospital, Varanasi.

1. Knowledge and Awareness about MTP Act (Medical Termination of Pregnancy)

S.No	Questions
1	Do you know about MTP Act? 1.Yes 0. No 9. Don't Know
2	Is MTP legal in India? 1.Yes 0.No 9.Don't Know
3	Has our govt. recognized this silent need in society & passed a legislation called "The Medical Termination of Pregnancy" act in 1971. 1.Yes 0.No 9.Don't Know
4	Has government given license to a few well qualified doctor & institutions to conduct termination of pregnancy? 1.Yes 0.No 9.Don't Know
5	Can these licensed doctors be imprisoned under MTP Act in case of serious medical complications? 1.Yes 0.No 9. Don't Know.
6	Does MTP Act allow termination up to 20 weeks of pregnancy? 1.Yes 0.No 9.Don't Know

2. Knowledge and Awareness about THOA Act (Transplantation of Human Organ Act)

Sl. No.	Questions
7	Is organ Transplantation legal in India?

	1.Yes 0.No 9.Don't Know
8	Is there any monitory transaction to family for organ transplantation? 1.Yes 0.No 9.Don't Know
9	At what age can you decide for your body donation
	1. Above 18 for Male
	2. Below 18 for female
	3. Above 21 for Female
	4. No age limit
10	According to Organ Transplantation Act, organ can be donated by:
	1 Blood relative
	2 Cadaver
	3 Spouse
	4 Any person above the age of 18 yrs.
	5 All of the above

3 Knowledge and Practice regarding BMW (Bio-Medical Waste)

11	What is Bio medical waste? 1. Waste generated during the diagnosis of human beings or animals. 2. Waste generated during the treatment of human beings or animals. 3. Waste generated during the immunization of human beings or animals. 4. All of the above
12	Do you know about BM Waste generation and legislation? 1.Yes 0.No
13	According to the Biomedical Waste (Management & Handling) Rules, waste

	should not be stored beyond:
	1. 12 hrs.
	2. 48 hrs.
	3. 72 hrs.
	4. 96 hrs.
14	Empty glass vials should be put in 1. Black bin
	2. Red bin
	3. Blue bin
15	Do you re-cap the used needle? 1.Yes 0.No
16	Are you aware of consequences of needle-stick injury? 1.Yes 0.No
17	Do you think it is important to report to the Pollution Control Board of India about a particular institution if it is not complying with the guidelines for biomedical waste management? 1.Yes 0.No

4 <u>Respondent's Perception on MEDICAL NEGLIGENCE</u>

S. No.	Questions
18	While operation, is carelessly leaving objects into the body of the patient a punishable act? 1.Yes 0.No 9.Don't Know
19	Is not attending to a patient during emergency a punishable act? 1.Yes 0.No

	9.Don’t Know
20	If a gauze piece is left in the surgical site, which was then sutured, who will be held responsible?
	1. Resident
	2. Nurse
	3. Surgeon
	4. Hospital Administrator
	5. 2&3
21	If a depressive patient in mental hospital commits suicide, the doctor can be sued under negligence? 1.Yes 0.No 9.Don’t Know
22	Should you report an act of medical malpractice to any organization or institution? 1.Yes 0.No 9.Don’t Know
23	How long do you have to keep records of patient if it is a medico-legal case?
	1. 1 year
	2. 2 year
	3. 10 year
	4. Till the case is closed
24	Is euthanasia legal in India?
	1. Yes, it is allowed after the organ Transplantation act
	0. No

5 Knowledge about PCPNDT (Pre-Conceptual Pre-Natal Diagnostic Technique)

S. No.	Questions
25	Do you know about PCPNDT Act? 1.Yes 0.No 9.Don't Know
26	Does a mother have the right to choose the sex of her child 1.Yes 0.No 9.Don't Know
27	Is it unethical to not allow sex selection for family balancing? 1.Yes 0.No 9.Don't Know
28	Do you think sale of ultrasound machines to persons not registered under this act should be prohibited? 1.Yes 0.No 9.Don't Know

6 Knowledge about Ethics & RTI (Right to Information)

S. No.	Questions
29	As a nurse you feel, it is essential to have awareness regarding the legal terminologies and the legal rights of patients? 1.Yes 0.No 9.Don't Know
30	A nurse administering the medication without observing the side effect willbe held under Intentional tort

	1.Yes 0.No 9.Don't Know
31	Refusing to treat a HIV patient is punishable by law? 1.Yes 0.No 9.Don't Know
32	The Right to information came into force on? 1. 2013 2. 2005 3. 2010 4. 2012

7 Knowledge and Awareness of Informed Consent:

S. No.	Questions
33	According to section 13, The Indian Contract Act, Consent is defined as "Two or more persons are said to consent when they agree upon the same thing in the same sense. 1.Yes 0.No 9.Don't Know
34	Children should not be treated (except in emergency) without the consent of parent or guardian 1.Yes 0.No 9.Don't Know
35	The age of consent for surgical procedure and every invasive procedure where there is a threat to life is 18 yrs. 1.Yes 0.No

	9.Don't Know

7.2 ANNEXURE 2

MTP Act 1971 and MTP (Amendment) Act 2002.

Medical termination of Pregnancy Act, 1971 provides for the termination of certain pregnancies by Registered Medical Practitioners and for matters connected therewith or incidental thereto. It extends to the whole of India except the State of Jammu & Kashmir. In accordance with this Act, a MTP may be carried out either in a hospital established or maintained by the government, or at a place for time being approved for the purpose of this Act by the Government. Consent of the patient / legal guardian in case of minor or mentally handicapped persons must be obtained before performing MTP. A pregnancy may be terminated by a Register Medical Practitioner in the following conditions:

1) Where the length of the pregnancy does not exceed twelve weeks if such medical practitioner is, or

2) Where the length of the pregnancy does not exceed twelve weeks but does not exceed twenty weeks, if not less than two registered medical practitioner are, of opinion, formed in good faith, that-

- The continuance of the pregnancy would involve a risk to the life of the pregnant women or of grave injury to her physical or mental health.

(Or)

- If there is a substantial risk that if the child were born, it should suffer from such physical or mental abnormalities so as to be seriously handicapped.

Right to Information Act 2005.

An act to provide for setting out the practical regime of the Right to Information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto.

Medical Negligence:

Black's law dictionary defines 'negligence per se' as-Conduct, whether of action or omission, which may be declared and treated as negligence without any argument or proof as to the particular surrounding circumstances, either because it is in violation of a statute or valid municipal ordinance, or because it is so palpably opposed to the dictates of common prudence that it can be said without hesitation or doubt that no careful person would have been guilty of it. As a general rule, the violation of a public duty, enjoined by law for the protection of person or property, so continued. Also known as the Doctrine of **Res ipsa Loquitur (**things speaks for itself**),** the doctrine is attracted "… when an unexplained accident occurs from a thing under the control of the defendant, and medical or other expert evidence shows that such accidents would not happen if proper care were used, there is at least evidence of negligence.

Negligence can be described as failure to take due care, as a result of which injury ensues. Negligence excludes wrongful intention since they are mutually exclusive. Carelessness is not culpable or a ground for legal liability except in those cases in which the law has imposed the duty of carefulness. The medical profession is one such section of society on which such a duty has been imposed in the strictest sense. It is not sufficient that the medical professional acted in good faith to best of his or her judgment and believe. A medical professional is expected to have the requisite degree of skill and knowledge.

Medical negligence is a subspecies of this tort (civil wrong) which fall within the larger species of professional negligence. Under our law, medical negligence, like other forms of negligence, is a criminal offence for which a doctor can even be imprisoned.

Medical Malpractice :

It is conscious decision of the care giver to offer and / or force a product procedure or investigation upon a patient for monitory gain either personally or for the institution.

There are 3 essential components of negligence

a) The existence of a duty to take care. Which is owed by the doctor to the complaint.

b) The failure to attain that standard of care ,prescribed by the law, thereby committing the breach of such duty.

c) Damage, which is both causually connected with such breach and recognized by the law, has been suffered by the complaint.

There is the ordinary legal meaning of negligence. But for professionals such as medical practitioners and additional perspective is added through a test known as the **"Bolam Test"** Which is the accepted test in India. A doctor is not guilty of negligence if he has acted in accordance with a practice accepted as proper by a responsible body of medical men skilled in that particular art.

A professional may be held levy for negligence when:

a)He was not possessed of the requisite skill which is professed to have possessed; (and/or)

b) He did not exercise, with reasonable competence in the given case, the skill, which he did possess.

No criminal liability should be attached where a patient's death results from error of judgment or an accident. Near advertence or some degree of want of adequate care and caution might create civil liability but would not suffice to hold him criminally labile.

The degree of medical negligence must be such that it shows complete apathy for the life and safety of the patient as to amount to a crime against the state.

Jurisdiction of Consumer Courts:

Medical negligence gives rise to civil and criminal liability. As regards civil wrongs, an aggrieved person can claim compensation either to a civil suit or a complaint lodged with consumer forum.

Consumer Protection Act, 1985 :

The act defines consumer as any person who hires or avails of any services for a consideration which has been paid or promised or heartily paid and partly promised under any system of differ payment and includes any beneficiary of such services other than the person who hires or avails of the services for the consideration paid or promised or partly paid and partly promised or under any system of differed payment, when such services are availed of with the approval of the first mentioned person. There are many cases where the deficiency of services is due to obivioushearts ,as for instance, removal of the wrong limp or performance of an operation on the wrong patient or injecting drug to which the patient is allergic without looking in to the outpatient card or the use of wrong anesthetic or during surgery swabs or other foreign objects inside the patient during surgery. Such a sue arising in complaint can be easily established anspeedily disposed of by consumer courts. The act clearly

states that its provision is in addition to and not in derogation of the provisions of any law for the time being enforced.

The Supreme Court drew the following conclusion:

- Services rendered to patient by a medical practitioner (except where the service is free of charge to every patient or under a contact a personnel service) by a way of consultation, diagnosis and treatment, both medical and surgical, would fall within the ambit of services as defined in Section 2(1) of the Act.
- The fact that medical practitioners belong to the medical profession and or subject to the disciplinary control of the medical council of India and / or state medical councils would not exclude the services rendered by them from the ambit of the act.
- Services rendered by a medical officer to his employer under the contract of employment is not service under Sec 2 (1) (0) for purposes of the act.
- Services rendered at private or a govt. hospitals, nursing homes, health centres and dispensaries for a fee are services under the act while services rendered free of charge are exempted.
- Payment of a token amount for purposes of registration will not alter the nature of services provide for free. Services rendered at govt. or a private hospitals, nursing homes, health centers and dispensaries where services are rendered on payment of charges to those who can afford and free to those who can not are also services for the purposes of the act. Hence in such cases the person who are rendered free services are beneficiaries under sec 2 (1) (d) thereby consumer under the act.

- Services rendered free of charge by a medical practitioner attached to a hospital / nursing home or where he is employed in a hospital/ nursing home that provides free medical facilities, are not services under the act.

- Where an insurance company pays, under the insurance policy, for the consultation, diagnosis and medical treatment of the insurer then such an insurer is a consumer under section (291) (d) and services rendered either by the hospital or the medical practitioner is service under sec 2 (1) (o). Similarly where an employer bears the expenses of medical treatment of its employee, the employee is a consumer under the act. The remedy under consumer protection act is in addition to civil remedy and it cannot be denied to a consumer merely on the ground that either the facts are too complicated or the complainant's claim is unreasonable.

- The maximum time limit for a claim to be filed under CPA is 2 years from the date of occurrence of the cause of action. There is no court fee to be paid to file a complaint in a consumer forum/commission. Further, a complainant/opposite party can present his case on his own without the help of a lawyer.
- As per the consumer protection rules, 1987 a complaint filed the consumer forum/commission shall be adjudicated, with in a period of 90 days from the date of notice by opposite party and within 150 days if it requires analysis or testing of commodities.

Patient's Right

You have a right to be told all the facts about your illness; to have your medical records explained to you; and to be made aware of risks and side effects, if any, of the treatment prescribed for you do not hesitate to question your doctor about any of these aspects.

When you are being given a physical examination, you have a right to be handled with consideration and due regard for your modesty.

You have a right to know your doctor's qualification. If you cannot evaluate them yourself, do not hesitate to ask someone who can.

You have a right to complete confidentiality regarding your illness.

If you are doubtful about the treatment prescribed and especially an operation suggested, you have a right to get a second opinion from any specialist.

If you are to be discharge or moved to another hospital, you have a right to be informed in advance and to make your own choice of hospital or nursing home, in consultation with the doctor.

You have a right to get your case paper upon request.

Euthanasia

Protagonist of euthanasia are of the view that existence in persistent vegetative state (PVS) is not a benefit to the patient of a terminal illness being unrelated to the principal of sanctity of life or the right to live with dignity is of no assistance to determine the scope of article 21 for deciding whether the guarantee of 'right to life' therein includes the 'right to die'. The 'right to life' including the right to live with human dignity would mean the existence of such a right to a dignified life up to the point

of death including a dignified procedure of death. In other word, this may include the right of a dying man to also die with dignity when his life is ebbing out.

But the right to die with dignity at the end of life is not to be confused or equated with the right to die an unnatural death curtailing the natural span of life. A question may arise, in the context of a dying man, who is, terminally ill or in a persistent vegetative state that he may be permitted to terminate it by a premature extinction of his life in those circumstances. This category of cases may fall within the ambit of the 'Right to die' with the dignity as a part of right to live with dignity, when death due to termination of natural life is certain and imminent and the process of natural death has commenced.

These are not cases of extinguishing life but only of accelerating conclusion of the process of natural death which has already commenced. The debate even in such cases to permit physician assisted termination of life is inconclusive. It is sufficient to reiterate that the argument to support the view of permitting termination of life in such cases to reduce the period of suffering during the process of certain natural death is not available to interpret Article 21 to include therein the right to curtail the natural span of life.

Organ transplantation act

The transplantation of human organs act, 1994 is a recent law and the judicial decision are few.

It was enacted with a dual objective to encourage voluntary donation of organs and to prevent commercial exploitation and organ trade. This law legalize transplantation of human organs in cases of live donor, brain dead donors and donors who are considered dead in a conventional sense. Transplantation is permitted only in those hospitals which are specifically registered for the purpose.

1. Whether the jurisdiction of the Authorization Committees should be enlarged by bringing within its ambit the process of certifying a "near relative" or the task be assigned to another designated authority?
2. Review the provisions of the act and rules based on the experience of transplantation of organs as carried out and the difficulties arising due to the bottle necks faced in the said process.
3. Examine and specify the organs for transplantation of which the tests prescribed in Rule 4(1)(c) to establish the factum of being "near relative" need not be carried out when other evidence is available.

4. Examine the feasibility of establishing and setting up organs procurement organization with data bank to facilitate the dissemination of information on availability of organs for transplantation.

5. To encourage organ donation especially from cadavers, cases of brain-stem deaths and other deceased persons, who had authorized removal of organs upon demise.

6. Examine the feasibility of creation of a fund, the corpus to be provided partly come from the union of India and partly by levying a fixed charge on the total bill of the hospital for transplantation and/or public donations, for providing to a donor social incentives, medical aid and facility of transplantation of organ in future, should the same be required.

7. Examined and recommend ways and means to give social incentives, including but not limited, to help and aid and preferred health care, recognition and honor to a donor in the community.

8. Examine the causes that lead to exploitation of poor and unaware persons in the process of organ donation and suggest methods to reduce control and ultimately eradicate such malpractices. Recommend programmes for dissemination of correct information of ethical, legal and devising procedure concerning organ donation so that a conducive atmosphere is generated and disinformation and misgivings and dispelled.

The Indian Medical and Nursing Councils:

Medical practice in India is not covered by any omnibus legislation. There is no single legislation covering all aspects of medical practice. The laws affecting medical practice cover a range of area.

Some of these areas are:-

(a) Obligation of doctors and medical ethics: The obligations of doctors to other doctors, to patients and to the society are codified in the code of medical ethics.

(b) Medical malpractice laws: these deal with malpractice and negligence and the machinery to bring doctors to book such as medical councils, consumer courts, etc. A small part of medical malpractice accompanied by the unethical conduct is covered under the medical council acts while the rest falls under the tort law, criminal laws and the consumer protection act. The letters are discussed in the separate chapter.

(c) Drug dispensation and drug laws: these are covered under the acts for pharmacists and the pharmaceuticals. These are not discussed in this report.

(d) Control over hospitals and nursing homes.

(e) Medical council acts: the other important aspect is that through different branches of medicine are governed by different medical council laws; the scheme of all these acts is nearly the same. Broadly speaking, all the acts deal with the following aspects of medical practice:

(1) Medical education

(2) Recognition of institution eligible for providing medical education

(3) List of degrees and diplomas which are recognized and which alone entitle a person to practice medicine

(4) Registration of eligible practitioners

(5) The rights of registered medical practitioners

(6) Professional misconduct and method of dealing with it

(7) Constitution and functioning of the councils as supervisory bodies.

In short, these acts are directed towards controlling medical education and professional conduct of doctors. A medical council is required to be set up of nominated as well as elected members. Under all the acts the tenure of the council is 5 years.

Nursing Council Act, 1947

The act has been passed with a view to provide for uniform standard training for nurses, midwives and health visitors. We have examined the laws for the regulation of health care professionals, the functions and powers of their councils and the strength and weaknesses of the legal provisions in the last chapter councils of health care professionals are gate keepers between the state and the profession and between professionals and the public.

CODE OF MEDICAL ETHICS

Duties and responsibilities of the physician in general:

Character of physician

(a) A physician shall uphold the dignity and honor of his profession.

(b) The prime object of the medical profession is to render services to humanity;reward of financial gain is a subordinate consideration. A physician should be an upright man, instructed in the art of healings. He shall keep himself pure in character and be diligent in caring for the sick; he should be modest, sober, patient, promote in discharging his duty without anxiety; conducting himself with propriety in his profession and in all the actions of his life.

(c) No person other than a doctor having qualification recognized by medical council of India and registered with medical council of India/ state medical council (s) is allowed to practice modern system of medicine or surgery.

Maintaining good medical practice:

The principal objective of the medical profession is to render service to humanity with full respect for the dignity of profession and man. Physician should merit the confidence of patients entrusted to their care, rendering to each a full measure of service and devotion. Physicians should try continuously to improve medical knowledge and skills and should make available to their patients and colleagues the benefits of their profession attainments.

Membership in medical society:

For the advancement of his profession, a physician should affiliated with associations and societies of allopathic medical professions and involve actively in the functioning of such bodies.

Maintenance of medical records:

(a) Every physician shall maintain the medical records pertaining to his/ her indoor patients for a period of 3 years from the date of commencement of the treatment in a standard Performa laid down by the medical council of India.

(b) If any request is made for medical records either by the patients or authorized attendant or legal authorities involved, the same may be duly acknowledged and documents shall be issued within the period of 72 hours.

(c) A registered medical practitioner shall maintain a register of medical certificate giving full detail of certificates issued. When issuing a medical certificate he/ she shall always enter the identification marks of the patient and keep a copy of the certificate. He /she shall not omit to record the signature and /or thumb mark, address and at least one identification mark of the patient on the medical certificates of report.

(d) Efforts shall be made to computerize medical records for quick retrieval.

Display of registration numbers:

(a) Every physician shall display the registration number accorded to him by the state council/ medical council of India in his clinic and in all his prescriptions, certificate, money receipts given to his patients.

(b) Physician shall display as suffix to their names only recognized medical degrees or such certificates /diplomas and memberships/ honors which confer professional knowledge or recognizes any exemplary qualification/ achievements.

Use of generic names of drugs:

Every physician should, as for as possible, prescribe drugs with generic names and he / she shall ensure that there is a rational prescription and use of drugs.

Highest quality assurance in patient care

Every physician should aid in safeguarding the profession against admission to it of those are deficient in moral character or education. Physician shall not employee in connection with his professional practice any attendant who is neither registered nor enlisted under the medical acts in force and shall not permit such persons to attend treat or perform operation upon patients wherever professional description or skill is required.

Exposure of unethical conduct

A physician should expose, without fear or favor, incompetent or corrupt dishonest or on ethical conduct on the part of members of the profession.

Evasion of legal restrictions

The physician shall observe the laws of the country in regulating the practice of medicine and shall also not assist others to evade such laws. He should be cooperative in observance and enforcement of sanitary laws and regulations in the interest of public health. A physician should observe the provision of the state acts and other acts, rules regulations made by the central / state gavt or local administrative bodies or any other relevant act relating to the protection and promotion of public health.

DUTIES OF PHYSICIAN TO THEIR PATIENT

Obligation to the sick

Though a physician is not bound to treat each and every person asking his services, he should not only be ever ready to respond to the calls of the sick and the injured, but should be mindful of the high character of his mission and the responsibility the discharges in the course of his professional duties. Medical practitioner having any incapacity detrimental to the patient or which can effect his performance vis a vis the patient is not permitted to practice his profession.

Patience Delicacy And Secrecy

Patience and delicacy should characterize the physician. Confidence concerning individual or domestic life interested by patient to a physician and defects in the disposition or character of patients observing during medical attendance should never be revealed unless their releavation is required by the law of the state.

Prognosis:

The physician should neither exaggerate nor minimize the gravity of a patient's condition. He should ensure himself that the patient, his relatives or responsible friends have such knowledge of the patient's condition as well serve the best interest of the patient and a family.

The patient must not be neglected

A physician is free to choose whom he will serve. He should, however, respond to any request for his assistance in an emergency. Provisionally or fully registered medical practitioner shall not willfully commit an act of negligence that may deprivehis patient or patients from necessary medical care.

Engagement for an obstetric case

When a physician who has been engaged to attend an obsteretic case in absent and another is send for and delivery accomplished, the acting physician is entitled to his professional fees, but should secure the patient's consent to resign on the arrival of the physician engaged.

UNETHICAL ACTS

A physician shall not aid or abet or commit any of the following acts which shall be construed as unethical-

Advertising

Soliciting of patients directly or indirectly, by a physician, by a group of physicians or by institutions or organizations is unethical. A medical practitioner is however permitted to make a formal announcement impress regarding the following:

1) On starting practice.
2) On change of type of practice
3) On changing address
4) On temporary absence of duty
5) On resumption of another practice
6) On succeeding to another practice
7) Public declaration of charges

Patient and copyrights

A physician may patent surgical instruments, appliances and medicine or copyright applications methods of procedure. However, it shall be unethical if the benefits of such patients or copyright are not met available in situations where the interest of laws population involved.

Running and open shop (Dispensing of drugs and appliances by physicians)

A physician should not run and open shop for sale of medicine for dispensing prescriptions prescribed by doctors other than himself or for dale of medical or surgical appliances. It is not unethical for a physician to prescribe or supply drugs a remedies or appliances as long as there is no exploitation of the patient. Drugs prescribed by a physician or brought from the market for a patient should explicitly state the proprietary formulae as well as generic name of drug.

Rebates and commission

A physician shall not give, solicit, or receive nor shall he offer to give solicit or receive nor shall he offer to give solicit or receive, any gift, gratuity, commission or bonus in consideration of or return for the referring, recommending or procuring of any patient for medical, surgical, or other treatment.

Secret Remedies

The prescribing or dispensing by a physician of secret remedial agents of which he does not know the composition, or the manufacture or promotion of their use is unethical and as such prohibited. All the drugs prescribed by a physician should always carry proprietary formula and clear name.

Human Rights:

The physician shall not aid or abet torture nor shall he be a party to either infliction of mental or physical trauma or concealment or torture inflicted by some other person or agency in clear violation of human right.

Euthanasia:

Practicing euthanasia shall constitute unethical conduct. However on specific occasion, the question of withdrawing supporting devices to sustain cardio-pulmonary function even after brain death, shall be decided only by a team of doctors and not merely by the treating physician alone. A team of doctors shall declare withdrawal of support system. Such team shall consist of the doctor in charge of the patient, chief medical officer/ medical officer in charge of the hospital and a doctor nominated by the in charge of the hospital from the hospital staff or in accordance with the provisions of the transplantation of human organ act, 1994.

Misconduct:

The acts of commission or omission on the part of a physician shall constitute professional misconduct rendering him/ her liable for disciplinary action.

Violation of the regulations:

If he/she commits any violation of these regulations. If he/she does not maintain the medical records of his/ her indoor patients for a period of three years as per regulation 1.3 and refuse to provide the same within 72 hours when the patient or his/ her authorized representative makes a request for it as per the regulation.

If he/she does not display the registration number accorded to him/her by the state medical council or the medical council of India in his clinic, prescription and certificate etc. issued by him or violates the provisions of regulation.

Adultery Or Improper Conduct:

Abuse of any professional position by committing adultery or improper conduct with a patient or by maintaining an improper association with a patient will render a physician liable for disciplinary action as provided under the medical council act, 1956 or the concerned state medical council act.

Conviction by court of low:

Conviction by a court of law for offences involving moral turpitude / criminal acts.

Sex determination tests:

On no account sex determination test shall be undertaken with the intent to terminate the life of a female fetus developing in her mother's womb, unless there are other absolute indications for termination of pregnancy as specified in the medical termination of pregnancy act, 1971. Any act of termination of pregnancy of normal female fetus amounting to female feticide shall be regarded as professional misconduct on the part of the physician leading to penal erasure besides rendering him liable to criminal proceedings as per the provisions of this act.

Needle Stick Injury:

The national audit office report of April 2003, a safer place to work- improving the management of health and safety risks in NHS trusts, found that need stick and sharps injuries account for 17 percent of accidents, behind moving and handling at 18 percent.

The major blood-borne pathogens of concern associated with needle stick injury are: hepatitis B virus (HBV), hepatitis C virus (HCV) human immunodeficiency virus (HIV). However, other infectious agents also have the potential for transmission through needle stick injury.

Reporting incidents:

One of the major problems associated with the management of needle stick incidents, is the lack of hard evidence relating to the actual numbers of incidents in trusts. This is due to the under reporting of exposure incidents.

This is important for five reasons:

1. It ensures appropriate management to reduce the risk of blood-borne virus transmission.
2. It documents the incident and the circumstances, which is essential for the subsequent investigation of occupational injury or infection.
3. It provides accurate surveillance, so that collective data analysis can inform measures to reduce the risk of further exposures.
4. It provides data to monitor and review the effectiveness of measures introduced to reduce the risk of further exposures.
5. It allows employers to meet their requirements to report RIDDOR dangerous occurrences.

The legal position- health and safety legislation:

The health and safety at work etc act 1974 places a legal duty on employers to provide for the health and safety of their employees. The duties were extended under a number of regulations including;

(a) The management of health and safety at work regulation 1999, which require employers to assess risks to the health and safety of their employees and arrange for implementation of a comprehensive system of safety management.
(b) The control of substances hazardous to health regulation 2002 (as amended) specifically include microorganisms in the definition of substances that are hazardous to health. The law requires employers to make a suitable and sufficient assessment of the risks to the health of workers exposed to such substances, with a view to preventing or adequately controlling the risks this includes the proper use of protective equipment and regular monitoring of exposure.
(c) The reporting of injuries, disease and dangerous occurrences regulations 1995 (RIDDOR), requires to exposure to hepatitis b or C or HIV, to be reportable to the HSE as a dangerous occurrence (accidental realease of a biological agent likely to cause severe human illness) using form F2508, rather than as an injury (unless the exposure results in three or more days absence from work).

Health care legislation

Under the health act (2006) the govt published a new and specific code of practice for the prevention and control of healthcare/associated infection.

By failing to prevent needle stick injuries, trusts can be found to be in breach of regulations and many have settled such cases, resulting in substantial legal expenses and compensation payment.

General Principles Law Of Tort:

A tort is a civil wrong in the sense that it is committed against and individual (which include legal intetities such as companies) rather than the state. The gist of tort law is that a person has certain interest which are protected by law. These interests can be protected by a court awarding a some of money, known as damages, infringement of protected interest. Alternatively by the issueing of an injection, which is a court order to the defendant to refrain from doing something.

Elements of Tort

The paradigm tort consist of an act or omission by the defendant which causes damage to the claimant. The damage must be cause by the fault of the defendant and must be a kind of harm recognized as attracting legal liability.

This model can be represented as:

Act (or omission) + causation + fault + protected interest + damage = liability.

Personal security

People have an interest in their personal security. This is protected in a number of ways. If one person puts another in fair of being hit then their may be an action in the tort of assault. If the blow is struck, then the person hit may have an action in the tort of battery. A person whose freedom of movement is restricted unlawfully may be able to sue for false imprisonment. A personal injury is caused negligently, and then the claimant may have an action in the tort of negligence.

Reputation and privacy are increasingly important or a person's interests in their reputation and privacy where a person's reputation is damaged by untrue speech or righting, then they may have an action in the tort of defamation.

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