

**CHAPTER V:
DATA ANALYSIS AND
INTERPRETATION-
PROSPECTIVE STUDY
(PART II)**

DATA ANALYSIS AND INTERPRETATION

PART II: MEDICAL PRACTITIONERS

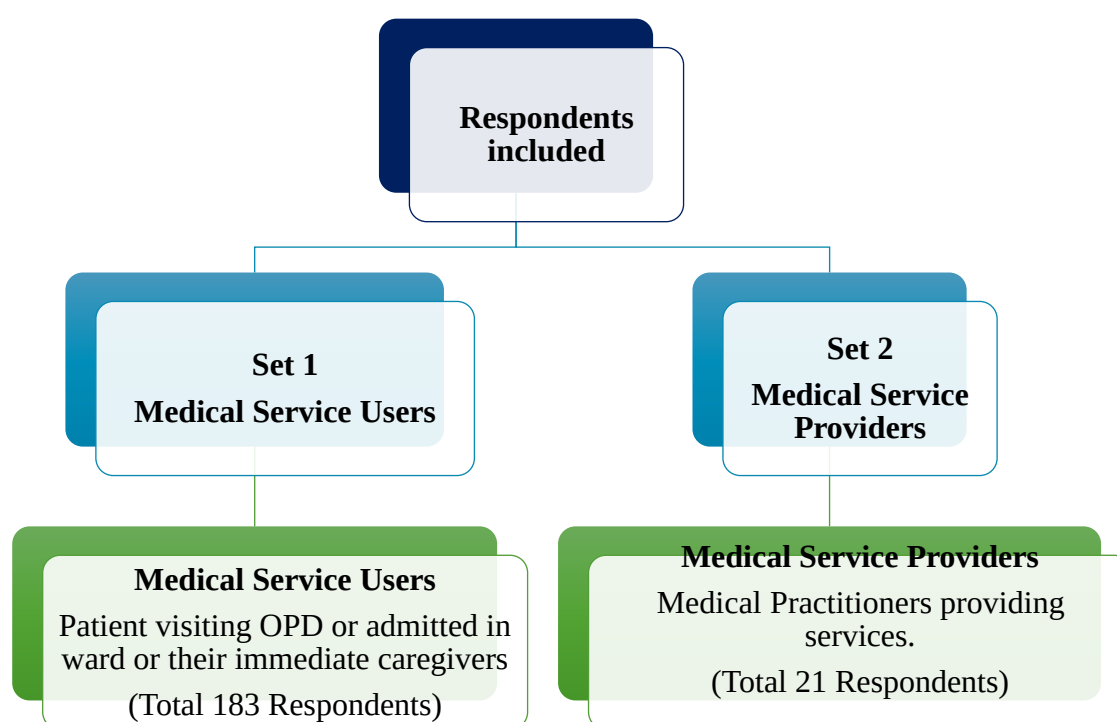
The thesis titled ‘MEDICAL MALPRACTICE AND CONSUMER PROTECTION LAW: A SOCIO-LEGAL CASE STUDY’ is arranged in 07 Chapters. Chapter 1 introduced the topic and key concepts important to comprehensively understand about the topic. It was followed by a Review of Literature (ROL) chapter providing overview of the research conducted in different disciplines similar to the topic.

The third chapter provided an in-depth insight into the approach and methodology adopted to carry out the research. Chapter 4 attempted to present the Data Analysis and Interpretation from Retrospective study i.e., the case judgements passed from the Consumer Dispute Redressal forums about Medical Malpractices. The current chapter focuses on the data analysis and interpretation from the respondents.

The **Respondents** for the purpose of research means:

- (i) ‘**Medical Service Providers**’ or
- (ii) ‘**Medical Service Users**’,

providing or availing the medical services at Civil Hospital, Ahmedabad, and Sir Sayajirao General (SSG) Hospital, Vadodara’.



Part I of this Chapter comprehensively shows the Data Analysis and Interpretation of the Data collected from total 183 **medical service users** i.e. the Patients or their immediate caregivers availing treatment/accompanying the patients at the time of Data Collection at Civil Hospital Campus, Ahmedabad and SSG Hospital, Vadodara. Contextualizing the plan for data collection, below are the types of respondents from whom the data was collected.

The Part II of the Chapter focuses on the Interpretation and Analysis of the Data collected from '**Medical Service Providers**'. The medical service providers consist of the medical practitioners providing their services at Civil Hospital, Ahmedabad, and Sir Sayajirao General (SSG) Hospital, Vadodara. A genuine attempt to approach as many doctors as possible during the time of data collection was made. However, due to paucity of time owing to the busy schedules, most of the doctors did not agree to participate in the data collection process. In alignment with the research ethics, no medical professional was forced or pressurized to participate. In contrary, some of the medical professionals willingly provided their responses and upon knowing about the research being conducted on this subject, volunteered on their own to contribute to the data collection process. In total, 21 medical service providers from Civil Hospital, Ahmedabad and SSG Hospital, Vadodara were interviewed for the purpose of data collection.

The criteria for selection of the Medical Practitioners are explained below:

Inclusion Criteria:

- 3) The resident doctors, MBBS interns, Consultants at the SSG Hospital, Vadodara and Civil Hospital campus including Government colleges at the Campus, Ahmedabad were included.
- 4) The doctors must be practicing Allopathy Medicine.

Exclusion Criteria:

- 3) The doctors from AYUSH Discipline (any other discipline except for Allopathy) were excluded.
- 4) Paramedical Staff were excluded.

In alignment with these criteria, **In-depth interviews** were conducted from **21 medical practitioners** using **Interview Schedule** containing the Open and Closed Ended questions.

The suggestions and feedback of the subject experts such as Medical Practitioners practicing in the discipline of Medico-Legal, Psychiatry, General Medicine, Pathology, Otolaryngology (ENT); Legal practitioners and Medical Social Worker on the interview schedule were incorporated to the extent possible utilizing researcher's discretion and contextual alignment.

The contents of Interview Schedule were arranged into major 6 parts which are as follows:

- Personal Background of the Respondents,
- Details of the Patients, knowledge about Rights and Duties of patients,
- Awareness about Medical Negligence/Malpractice,
- Awareness on Legal Rights of Patients as Consumers,
- Views about evidence which can help as a Valid defense against Medical Negligence/Malpractice
- Social Workers' Role in Medical Malpractice/Negligence.

This part is also organized according to these sub-categories.

[A] PERSONAL BACKGROUND OF RESPONDENTS:

This Sub-part includes the personal background of the Medical Service Providers, now onwards, referred as Respondents in this Part. The specific details include the institution and department in which the respondents provide their medical services, discipline of study, years of experience, gender, educational qualification and other.

Table 1: Institutions where the Respondents were providing services.

Sr. No.	Institution	Frequency	Percentage (%)
1	Civil Hospital, Ahmedabad	7	33.33
2	SSG Hospital, Vadodara	14	66.67
	Total	21	100

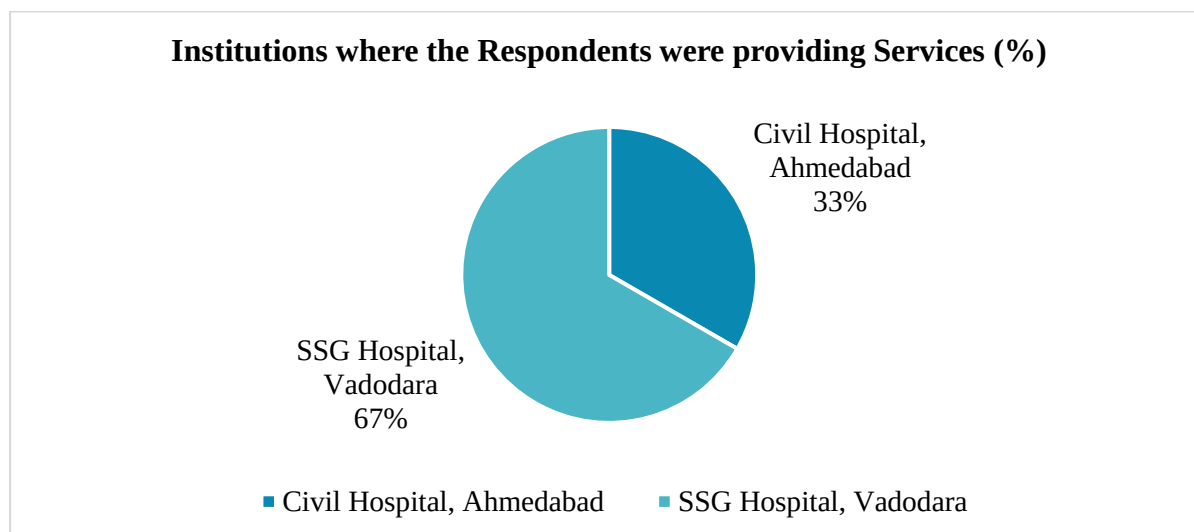
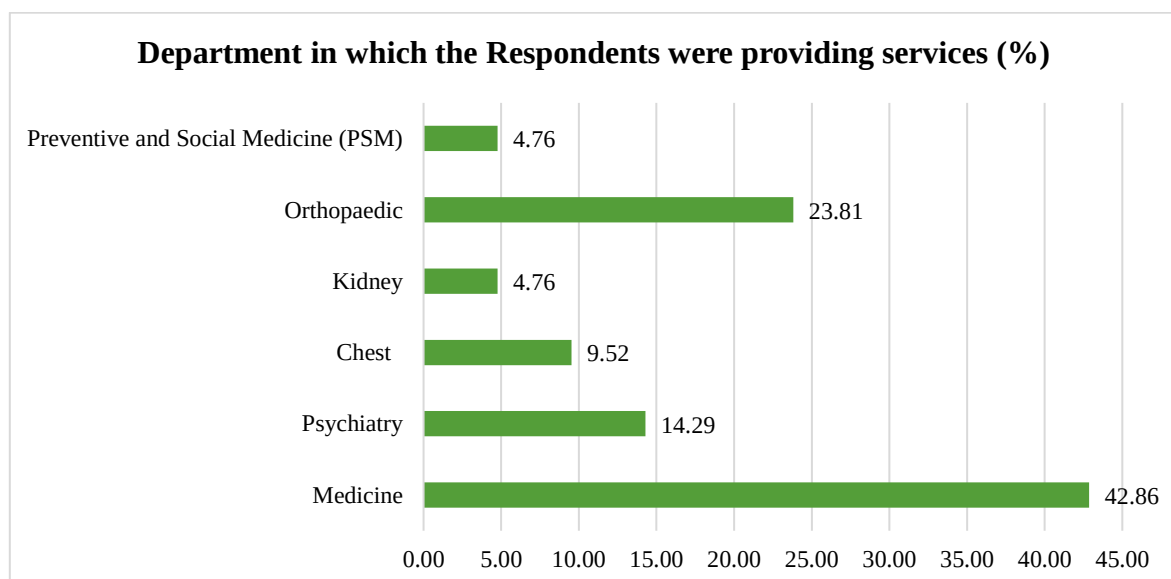


Figure 26 Institution where the Respondents were providing services

As mentioned in the Research Methodology chapter and introduction of this part of Data Analysis and Interpretation chapter, in-depth interviews on the topic of research were conducted with **total 21 Medical Service Users**. Out of which **14 (66.67%)** medical service users were providing their services at SSG hospital, Vadodara and **7 (33.33%)** were performing their duty at Civil Hospital Campus, Ahmedabad. The feasibility of data collection at Vadodara being researcher's hometown and respondents' willingness to participate both can be interpreted as the factors of a greater number of medical practitioners from SSG Hospital, Vadodara.

Table 2: Department in which the Respondents were providing Services.

Sr. No.	Department	Frequency	Percentage (%)
1	Medicine	9	42.86
2	Orthopaedic	4	19.04
3	Psychiatry	3	14.3
4	Chest	2	9.52
5	Kidney	1	4.76
6	Preventive and Social Medicine (PSM)	1	4.76
7	Anaesthesia	1	4.76
	Total	21	100

*Figure 27 Department in which the Respondents were providing services*

Every field of medicinal practice has different ethical issues associated. The causes and types of Medical Malpractice or Negligence too, are different as per the medical specialization. Hence, the purpose of knowing the department or the specialization of the medical practitioner was beyond only collecting the general personal information about them. Majority of the respondents (42.86%) were from Medicine Department, followed by Orthopedic Department to be 23.81%. Remaining respondents were from other departments such as Psychiatry (14.29%), Chest (9.52%), Kidney (4.76%) and Preventive and Social Medicine (PSM) (4.76%). The General Practitioners, often the primary point of contact for medical service

users, play a crucial role in directing them to specialists based on their specific needs. However, it's worth noting that the number of General Practitioners in this Research was fairly sufficient.

Table 3: Specialization of Respondents

Sr. No.	Specialization	Frequency	Percentage (%)
1	Medicine	9	42.86
2	Orthopaedic	4	19.06
3	Psychiatry	2	9.52
4	Pulmonology	2	9.52
5	Gynaecology	1	4.76
6	Community Medicine	1	4.76
7	MBBS	1	4.76
8	Anaesthesia	1	4.76
	Total	21	100

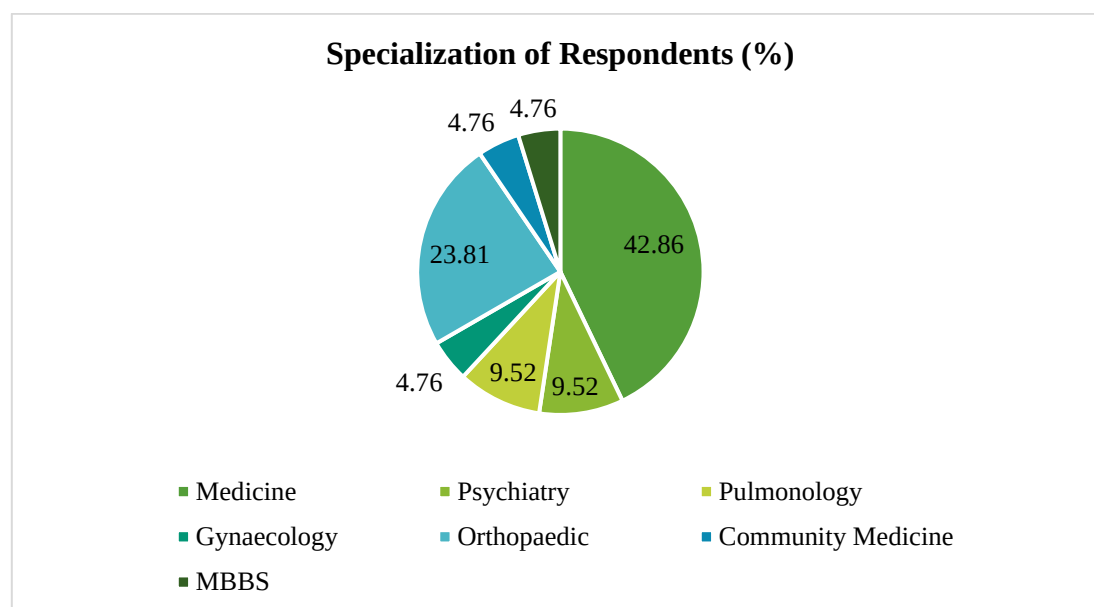


Figure 28 Specialization of Respondents

Similar to the trends of department in the previous table, majority of the practitioners (42.86%) were doing or have completed M.D. Medicine, followed by medical practitioners (23.81%) doing M.S. Orthopedic. Two respondents were specialized in Psychiatry and Pulmonology each and one respondent each were practicing Gynecology, Community Medicine, and Anesthesia.

Table 4: Educational Qualification of the Respondents (Multiple Response)

Sr. No.	Educational Qualification	Frequency	Percentage (%)
1	MBBS	21	100
2	MD	15	71.43
3	MS	4	19.05
4	Supplementary Courses	4	19.05
	Total	44	

As mentioned in the Inclusion Criteria, all the medical practitioners were practicing/studying Allopathy medicine and hence, every respondent had completed MBBS. Out of all the respondents, 15 respondents (71.43%) were studying/practicing as Doctor of Medicine (MD) i.e. a post-graduation in medicine. 4 respondents (19.05%) were studying/practicing as Master of Surgery. 4 respondents also had availed supplementary courses related to their field of practice.

Table 5: Respondent's Hierarchical Status in Public Healthcare System

Sr. No.	Hierarchical Status	Frequency	Percentage (%)
1	Assistant Professor	2	9.52
2	Senior Resident	9	42.86
3	R3	1	4.76
4	R2	3	14.29
5	R1	4	19.05
6	Intern/Undergraduate	2	9.52
	Total	21	100

The SR were in their final year of residency and were mainly involved in the supervisory duties of other residents (R1, R2 and R3). Hence, they could allocate time of 1-2 hours for providing their responses for the research. The same is reflected in the data as majority of the respondents (9 respondents, 42.86%) were senior residents (SR). One of the reasons for more number of senior resident doctors were 2 of the respondents (9.52%) were Assistant Professors and Medical undergraduate interns each. 8 respondents (38.10%) were Resident Doctors of Level 1,2 and 3 i.e. first, second and third year of residency program.

Table 6: Total Experience of Respondents in Medical Field

Sr. No.	Experience (No. of Years)	Frequency	Percentage (%)
1	0-5 Years	1	4.76
2	6-10 years	13	61.90
3	11-15 Years	6	28.58
4	16 years and Above	1	4.76
	Total	21	100

As interpreted from the previous table, most of the respondents (~80%) were pursuing their post-graduation in medicine or surgery and were in their Residency program. Majority of the respondents being Medical Professionals of Residency (pursuing their post-graduation), 61.90% had experience between 6-10 years. It was followed by 6 practitioners (28.58%) having experience of 11-15 years. 1 respondent had less than 5 years of experience and more than 16 years of experience each.

Table 7: Experience in Current Medical set-up.

Sr. No.	Experience (No. of Years)	Frequency	Percentage (%)
1	0-5 Years	15	71.43
2	6-10 years	4	19.05
3	11 Years and above	2	9.52
	Total	21	100

When asked about the years of experience the respondent had in the current medical set-up, majority (71.43%) had experience of less than 5 years which was once again in alignment of data mentioned above, followed by 6-10 years' experience possessed by 4 respondents (19.05%) and having more than 11 years of experience by 2 respondents (9.52%). It can be interpreted from the data that most of the respondents can be considered in their foundation years of practice and at this stage, it becomes imperative that a practitioner is well-trained to practice the medical ethics and protect the right to health of the patients.

Table 8: Age of Respondents

Sr. No.	Age (No. of Years)	Frequency	Percentage (%)
1	21-25	6	28.58
2	26-30	13	61.90
3	31-35	1	4.76
4	35 and above	1	4.76
	Total	21	100

Most of the respondents (61.90%) were between the age group of 26-30 years. It was followed by 28.57% were between 21-25 years of age. 2 respondents were more than 30 years.

Table 9: Sex of Respondents

Sr. No.	Sex	Frequency	Percentage (%)
1	Male	14	66.67
2	Female	7	33.33
	Total	21	100

From the table, it can be interpreted that 2/3rd of the respondents was Male, and 1/3rd respondents were Female.

Table 10: Whether the Respondent has taken Insurance Facility for Medical Practice

Sr. No.	Insurance Facility	Frequency	Percentage (%)
1	Availed	2	9.52
2	Not Availed	19	90.48
	Total	21	100

Professional indemnity insurance for the doctors is one of the liability insurances that covers medical practitioners against the legal claims arising from their professional services. The concept of indemnity insurance is well-known in the developed nations and gradually, its popularity is increasing in India too. It protects the doctors from the costs of defending themselves in court, paying compensation to patients, or settlement out of court. The respondents were asked whether they had availed such insurance for their professional practice. Most of the respondents (90.48%) mentioned that they have not availed any indemnity insurance facility for their medical malpractice. 2 respondents (9.52%) had taken the insurance.

Table 11: Whether such Insurance Facility was needed to be availed.

Sr. No.	Insurance Facility	Frequency	Percentage (%)
1	Not Availed	2	9.52
2	Not Applicable	19	90.48
	Total	21	100

The respondents were asked whether they faced any situations in which they had to avail the indemnity insurance facility. Both the respondents who had insurance coverage expressed that they did not have to avail the indemnity insurance, while this question was not applicable to other respondents.

Table 12: Extraordinary positive Gestures experienced from Patients or Family Members to show gratitude appreciating efforts of respondents.

Sr. No.	Extraordinary Gestures	Frequency	Percentage (%)
1	Experienced	19	90.48
2	Not Experienced	2	9.52
	Total	21	100

Many a times, patients or the caregivers tend to express their gratitude about the treatment and the recovery to the doctors in different ways. When the respondents were asked about whether they have experienced extraordinary positive gestures from the patient or their family to which most of the respondents (19 respondents; 90.48%) shared that they have positive experiences with medical service users. 2 respondents did not agree to this.

Table 13: The Extraordinary Positive Gestures experienced by the Respondents.**(open-ended):**

Sr. No.	Extraordinary Gestures	Frequency	Percentage (%)
1	Expressing gratitude verbally/through message in writing or in video	6	28.57
2	Bringing Sweets/Food Items	6	28.57
3	Keeping contact even after recovery in case of critical illness	2	9.52
4	Giving Gift to doctors	2	9.52
5	Demanding treatment from Respondent only	1	4.76
6	Providing positive feedback about respondent's performance to their seniors	1	4.76
7	Discount in their occupation	1	4.76
8	Birthday celebration of patient at hospital after serious illness requiring long hospitalization	1	4.76
9	Experienced positive gestures but do not remember specific incident	3	14.29
10	Not experienced positive gestures	2	9.52
		25	

The respondents were then asked to narrate the extraordinary positive gestures by the patient or the caregivers. Majority of the respondents (6 nos.=28.57%) expressed that medical service users share their gratitude by their words or through messages on written feedback or through video messages. Same number of respondents also shared that they belong to lower socio-economic strata and still bring food or sweets for doctors which is overwhelming for the doctors. If the patients are admitted for long duration at the hospital, the patients even after discharge keep contact with the doctors was shared by 2 respondents (9.52%). 2 respondents (9.52%) also shared that they bring gifts for the doctors. Patients demanding treatment from the respondent only, providing positive feedback about respondent's performance to their seniors, discount in their professional services, birthday celebration at hospital of patient after serious illness for long time were the experiences of 1 medical professional each. 3 respondents (14.29%) shared that they have experienced positive gestures but did not name any.

2 respondents shared that they haven't experienced any positive gestures from the patients or families. Out of these, one respondent mentioned that *'during COVID times, they were thankful. Otherwise, they don't thank us'*.

Below are the few of the positive experiences shared by the respondents:

One of the respondents shared *that they experience humanly gesture by people from poor background. Sometimes, they bring sweets etc. In private healthcare, due to their financial background they cannot afford services. 2 weeks back when the respondent was travelling at 12:30 am in an auto rickshaw. The driver was not even the patient but may be receiving treatment from someone else in Hospital. Earlier he had told that he will charge Rs. 50. However, after knowing respondent is the doctor, he returned Rs. 20.*

Another respondent had experiences where *the patients share Videos and Written Messages. There are few loyal patients who demand services from respondent only and visit OPDs where he is serving. Strong doctor-patient relationship and enhances trust on doctors. In nephrology department when the respondent was in-charge, 82-year-old lady used to visit with her daughter and son-in-law and even after recovery, they call at times.*

The respondent was In-charge in one of the Hospitals during second wave. One elderly was cured by him. His Son who was an influential person staying outside the city said thank you and also spoke to Assistant Director, Prime Minister Office, Member of Parliament etc. Patients had spent lakhs of rupees in other hospitals also got recovered after coming to their service. During Lockdown, from 11th April to 19th April, one patient was on ventilator. General tendency was that those who went on ventilator could not be saved. With Respondent's treatment the patient went back home walking on his own feet after 1.5 months treatment. Due to his exceptional services and patient's liking, many higher level doctors and professors are jealous of him.

Remembering a birthday celebration of young patient at the hospital, a respondent shared, *"There was a patient with GBS (Guillain-Barre' syndrome- a condition in which the immune system attacks the nerves) was admitted in ICU and then in the ward for 2 months in total. When the patient was admitted, he was not even able to walk. Now after 3 months, he can walk by himself. There were lot of complements received from patients and family members. In Nephrology department also, there is one patient who comes every 15 days for follow-up. Now he has so gelled up with the doctors there, that he also celebrated his birthday in Hospital only."*

Another respondent shared that there was a case where the patient *had an open injury. The respondent and the team performed dressing for 2-3 months. At the time of discharge, family brought gifts and touched the feet of respondent.*

[B] KNOWLEDGE ABOUT RIGHTS AND DUTIES OF PATIENTS

The first sub-section showcased the personal background of the respondents along with information about the indemnity insurance availed for the professional practice and positive gestures experienced by the respondents from patients.

This sub-section showcases the knowledge of the respondents about the rights and duties of the Patients.

Table 14: Respondent's awareness of Rights and Duties of the Patients

14.1: Awareness of Patients' Rights

Sr. No.	Statement	Agree	Disagree	Not Sure
14.1.1	Right to avail medical facility without discrimination based on age, caste, nationality, gender, religion etc.	20 (95.24%)	0 (0%)	1 (4.76%)
14.1.2	Right to confidentiality	21 (100%)	0 (0%)	0 (0%)
14.1.3	Right to informed consent	20 (95.24%)	1 (4.76%)	0 (0%)
14.1.4	Right to determine whether to take or refuse treatment from a particular doctor	18 (85.71%)	1 (4.76%)	2 (9.52%)
14.1.5	Right to seek details, indoor or outdoor case records, prescription, bills, receipt or other evidences of diagnosis, treatment and payment.	15 (71.43%)	3 (14.29%)	3 (14.29%)
14.1.6	Right to complaint	21 (100%)	0 (0%)	0 (0%)
14.1.7	Right to compensation	17 (80.95%)	2 (9.52%)	2 (9.52%)

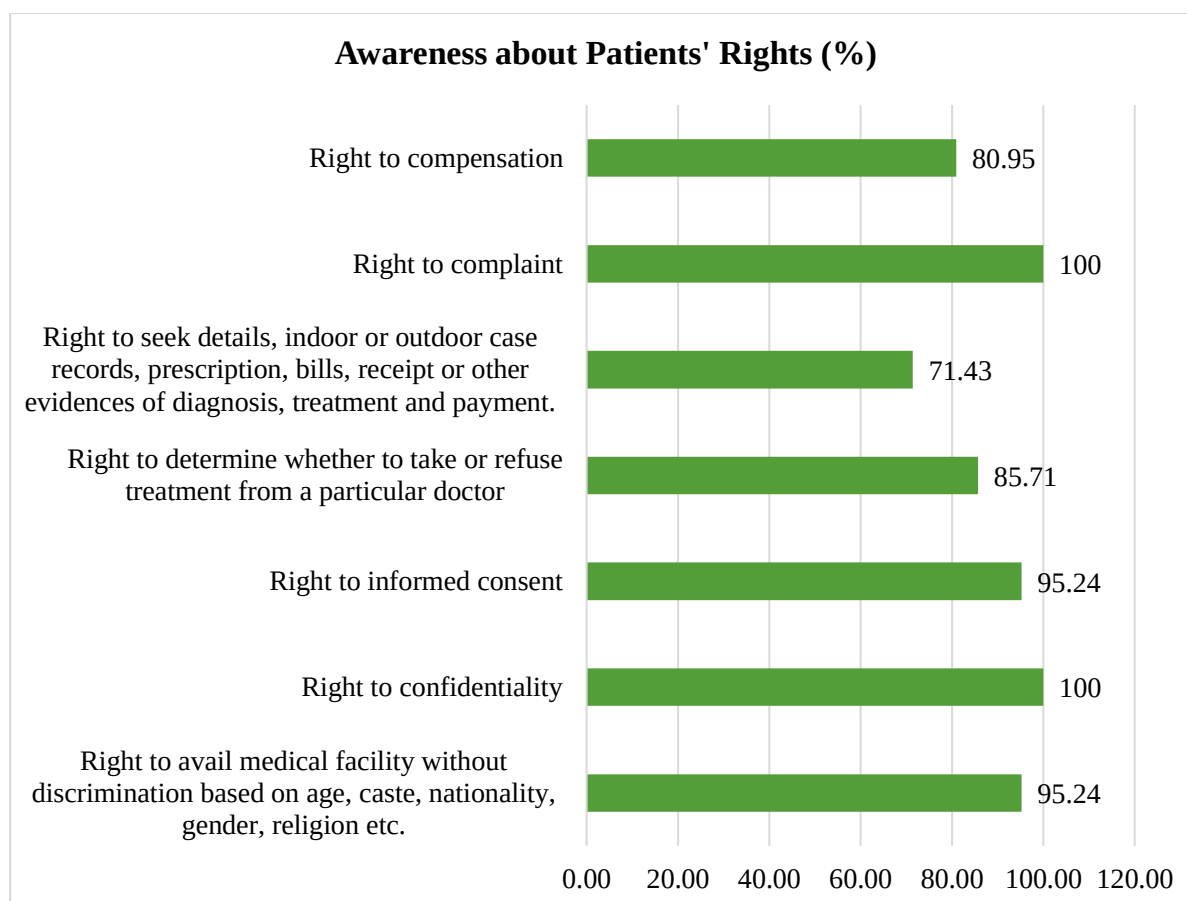


Figure 29 Awareness about Patients' Rights

Patient's Rights:

Majority of the respondents' agreed to the different rights of patients which were:

- (1) Right to avail Medical Facility without discrimination based on age, caste, nationality, gender, religion etc. (20 respondents, 95.24%),

One of the respondents shared that ***he agrees with it to be the Right of Patient but there is a lot of discrimination in both Government and Private Hospitals.***

- (2) Right to Confidentiality (21 respondents; 100%),

- (3) Right to Informed Consent (20 respondents; 95.24%),

- (4) Right to determine whether to take or refuse treatment (18 respondents; 85.71%),

A respondent while talking about this right shared that ***in Government set-up, usually they do not get more choice. If they visit on Monday, there are higher chances that they get admitted in specific unit. There are at times, where the patients have some soft corner for a particular doctor.***

(5) Right to seek details, indoor and outdoor case records, prescriptions, bills, receipt and other evidences of diagnosis, treatment and payment (15 respondents; 71.43%),

One of the respondents shared that *'patients do photocopy when we give them their records'*.

Another respondents shared that they do not have the right to seek medical records in **Government Setup**.

One more respondents shared *that there is a misuse of the case records if they give to patients. They take photos, xerox and send doctor's names to higher authority without permission of doctors.*

(6) Right to Complaint (21 respondents; 100%), and

(7) Right to Compensation (17 respondents; 80.95%).

One of the respondents shared that *in Government Hospitals, the patient has less chance of asking Compensation, whereas in private hospital, patients demand more compensation.*

14.2: Awareness about Patients' Duties

Sr. No.	Statement	Agree	Disagree	Not Sure
14.2.1	Duty to provide correct personal information to doctor in utmost good faith	21 (100%)	0 (0%)	0 (0%)
14.2.2	Duty to provide medical history, illness, medicines, allergies etc.	21 (100%)	0 (0%)	0 (0%)
14.2.3	Patients' responsibility to seek complete clarification and follow the treatment advised	21 (100%)	0 (0%)	0 (0%)
14.2.4	Duty of patient not to take discharge against medical advice (DAMA).	11 (52.38%)	6 (28.57%)	4 (19.05%)
14.2.5	Duty to respect doctor or medical staff as expected from them.	20 (95.24%)	0 (0%)	1 (4.76%)

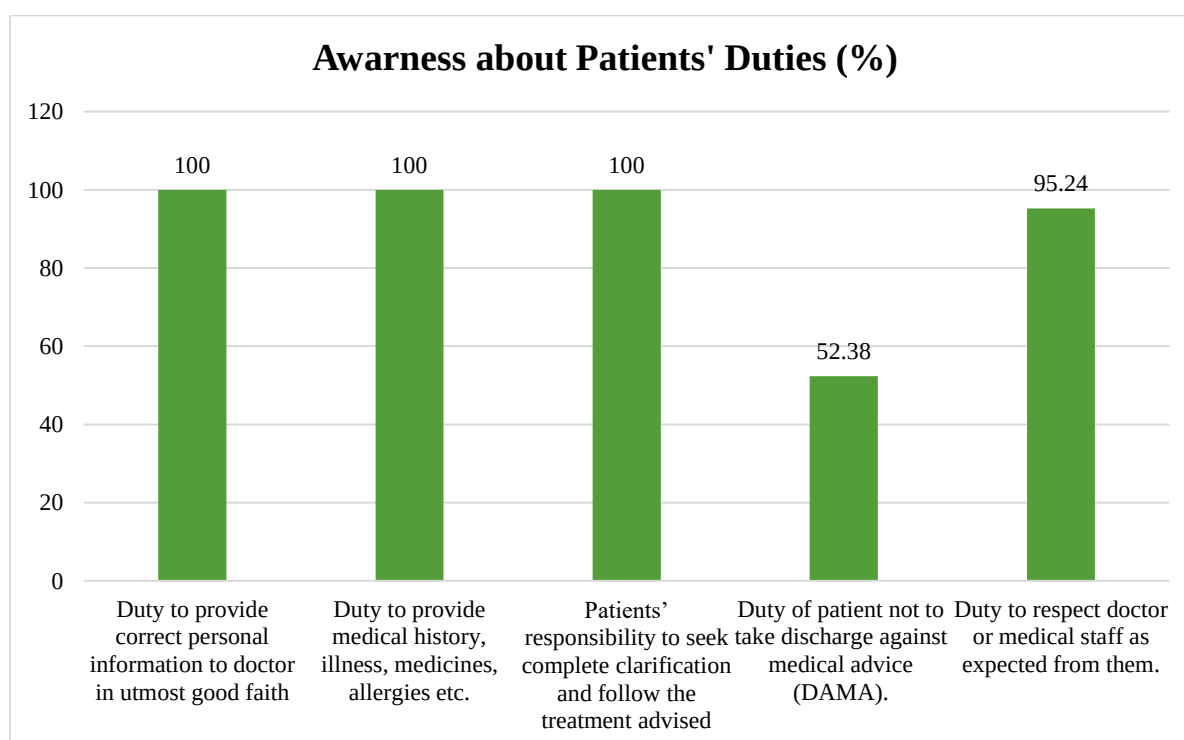


Figure 30 Awareness about Patients' Duties

Patient's Duties:

Most of the respondents agreed to various duties by the patients.

- (1) Duty to provide complete information about your problem (21 respondents; 100%),
- (2) Duty to provide medical history, measures taken before medical consultation, illness, medicines, allergies etc. (21 respondents; 100%),

One of the respondents shared that ***patients do not reveal that they have HIV, TB, Hepatitis. When we have to provide intubation support and take blood sampling, then we find out about the same.***

- (3) Duty to seek complete clarification (21 respondents; 100%),
- (4) Duty of patient not to take discharge against medical advice (DAMA) (11 respondents; 52.38%), and

One of the respondents shared that ***it is their wish. Usually in case of aged patients, they decide to take their last treatment at home.***

- (5) Duty to respect doctor or medical staff as expected from them (20 respondents; 95.24%).

All the duties of the patients were majorly agreed by the respondents except for duty not to take DAMA which was disagreed by 6 medical practitioners (28.57%).

[C] ABOUT MEDICAL NEGLIGENCE/MALPRACTICE:

In the above sub-section, the respondents' awareness about the Patients' Rights and Duties were presented. One of the important human rights, which is included in 'Right to Life and Personal Liberty' as per Article 21 of Indian Constitution is a 'Right to Health'. Any act of Medical Negligence/Malpractice violates this important human right resulting in the injury, damage, or loss to the medical service users. This sub-section presents data analysis and interpretation of questions based on Medical Negligence/Malpractice. The sub-section begins with the question of whether the respondents has formally studied about medical malpractice, their experiences or knowledge of any incidences and then the practitioners were asked to classify certain cases to Medical Malpractice, Medical Negligence, Both, Either or None. The data is as explained as below:

Table 15: Whether the Respondent has formally studied about Medical Malpractice/ Negligence

Sr. No.	Medical Malpractice/Negligence in Formal Medical Education	Frequency	Percentage (%)
1	Studied at graduate Level	12	57.14
2	Not Studied, but know about same	9	42.86
	Total	21	100

In simple words, Medical Malpractice is an act of omission or commission done by the medical professional as a breach of his/her duty to maintain reasonable degree of skill and care, resulting into the damage, injury, or loss to the patient. The definition consists of three components:

- 1) Legal Duty of medical practitioner to exercise reasonable degree of skill and care;
- 2) Breach of this Duty; and
- 3) Consequential Damages.

These components explicitly highlight the Medical Practitioners' greater responsibility in the cases of Medical Malpractice and hence, shall be included in the Formal Medical Education. With this thought, the respondents were asked whether they have studied Medical Malpractice or negligence in their formal curriculum. Approximately 3/5th of the respondents (57.14%)

shared that they have studied about this at Graduation Level. 42.86% respondents said that they have not studied but know about the same.

A considerable number of respondents did not study Medical Malpractices formally. Even those who had studied it formally shared that it is taught as a small **sub-topic** under **Forensic Medicine** subject at their graduation level. Out of all the respondents, most of the respondents has experience of less than 10 years in the field of medicine and were amongst the relatively recent batch of students completing their Medical Education. It is evident the despite of the gravity of subject matter, the topic of medical malpractice is either provided less priority or excluded from the curriculum. Policy advocacy for prioritization of including Medical Malpractice/Negligence in the formal medical education giving due weightage, along with developing alternative strategies for awareness building and sensitization of the medical professionals shall be the role of social workers for the prevention of such cases.

Table 16: Medium of Information from where the Respondents had heard about incidence of Medical Malpractice (Multiple Responses)

Sr. No.	Medium of Information	Frequency	Percentage (%)
1	Television	5	23.81
2	Newspaper	5	23.81
3	Magazine	1	4.76
4	Social media	16	76.19
5	Journal	2	9.52
6	Article	1	4.76
7	Groups of Medical Fraternity	2	9.52
8	All of the above	3	14.29
	Total	35	--

The data shows that approximately 3/4th respondents (76.29%) shared that such incidences are mostly heard from the social media. Television and Newspaper were the other source of information about Medical Malpractice was shared by 5 respondents (23.81%) each. Relatively less number of respondents shared professional groups (9.52%), Journal (9.52%), Magazine (4.76%) and Article (4.76%) to be the medium of information in cases of medical malpractice for them. 3 respondents shared that they access the information from all the sources mentioned. It is important to note that ‘Social Media’ is the most used platform by the doctors through which they get to know about the information of the incidences of medical malpractice. It is contrary to the findings for medical service users who preferred non-digital mediums as a source of information. This shows the need to develop tailor-made awareness generation modules on the topic of Medical Malpractice/Negligence for the different set of participants keeping in mind the separate medium through which it needs to be disseminated.

Table 17: Whether Respondent personally faced or know any practitioner against whom the case or allegation of Negligence was made.

Sr. No.	Medical Negligence allegation/complaint made	Frequency	Percentage (%)
1	Yes	14	66.67
2	No	7	33.33
	Total	21	100

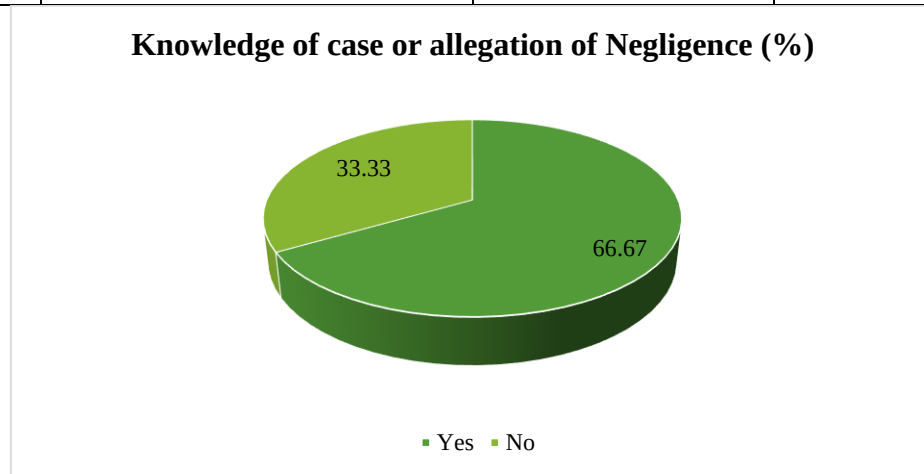


Figure 31 Whether Respondent personally faced or know any practitioner against whom the case or allegation of Negligence was made.

When the respondents were asked about whether they have personally experienced or know any practitioner with alleged medical malpractice to which 14 respondents (66.67%) agreed and 7 respondents (33.33%) disagreed. It can be argued that 2 out of every 3 medical practitioners either have faced personally or knows any practitioners against whom the case or the allegation of medical malpractice have been made. This data indirectly shows the magnitude of the cases and the importance of acting for prevention of Medical Malpractice and restoration of justice to its victims as in most cases, the patients or medical practitioners are unaware of the possible action. According to previous table where in many cases, when the practitioners have not formally studied about the topic, it becomes even more important for social workers to act for protecting the Right to Health and ensuring Social Justice.

Table 18: Incidence of Medical Malpractice or its allegation known or faced by the Respondents (Open Ended Question):

Sr. No.	Incidence mentioned by the Respondents	Frequency	Percentage (%)
Incidences of Medical Malpractice/Negligence shared by Respondents			
1	Mistake while performing surgery/providing treatment	2	9.52
2	Inadequate Informed Consent	1	4.76
3	Leaving instrument during surgery	1	4.76
4	Performed Clinical Trials without taking consent	1	4.76
5	AYUSH Doctors serving as Medical Officers	1	4.76
6	Error in Treatment in Emergency Cases	1	4.76
7	Medical Malpractice during COVID Times	1	4.76
8	Over prescribing medicines	1	4.76
9	Commission on Tie-ups with Pharmaceutical companies or pathological laboratories	1	4.76
10	Referring patients to specialists for ailments where it is not necessary	1	4.76
Allegation/Reactions faced by Medical Practitioners			
11	Allegations of Mistake in Surgery due to complications	1	4.76
12	Aggression by family members	1	4.76
13	Allegation of No treatment in serious cases where patient was referred to other hospital	1	4.76

14	Violence by Relatives	1	4.76
15	Allegation because of death of patient	1	4.76
16	Taking legal measures against doctors due to death of patient	1	4.76
17	Allegations by Relative due to complication in medical treatment due to Contributory Negligence	1	4.76
	Total	18	85.71

The Respondents were asked to narrate the cases or allegations of Medical Malpractice or Medical Negligence either faced personally or known. The cases narrated were majorly of two types.

- 1) Incidences related to Medical Malpractice or Negligence
- 2) Incidences related to Allegations by the Patients' Family members about perceived Medical Malpractices

The respondents shared the incidences related to Medical Malpractices or Negligence to be; (1) Mistake while performing Surgery or providing treatment; (2) Inadequate Informed Consent; (3) Leaving instrument during Surgery; (4) Performed Clinical Trials without taking consent; (5) AYUSH Doctors serving as Medical Officers; (6) Error in Treatment in Emergency Cases; (7) Medical Malpractice during COVID Times; (8) Over prescribing Medicines; (9) Commission on Tie-ups with Pharmaceutical Companies or Pathological Laboratories; (10) Referring patients to specialists for ailment where it is not necessary.

These cases, when closely observed, are again of two categories; the cases such as Mistake in Surgery or Treatment, leaving instrument during surgery and error in treatment in emergency cases shows the errors or omission by the medical practitioners while performing their duties as a medical practitioner causing damage to the patient. Usually, these cases can be considered as **Medical Negligence**.

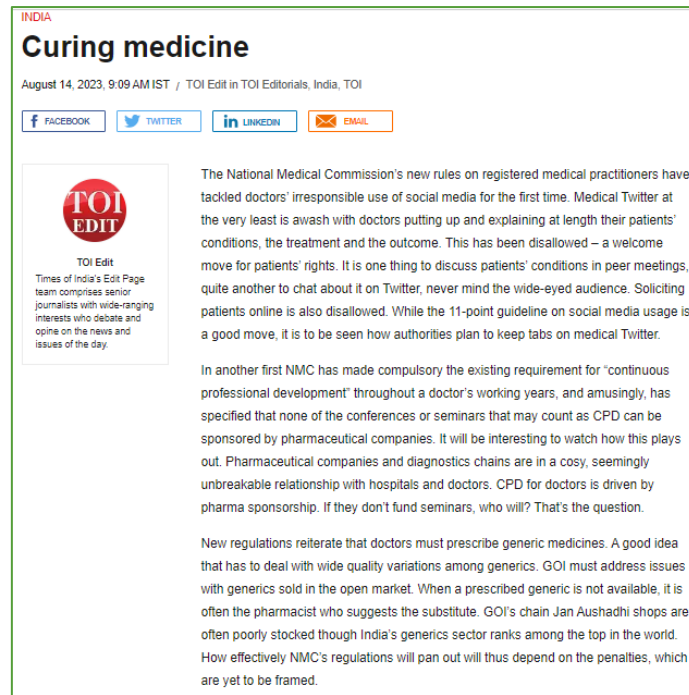
There are also other cases narrated by the Medical Practitioners, such as Inadequate informed consent, performing clinical trials without taking consent, AYUSH Doctors serving as medical officers in hospitals, Medical malpractices during COVID Times, Overprescribing Medicines,

commission on tie-ups with pharmaceutical companies or pathological laboratory and referral to the specialists. These are the cases where the medical practitioner is fully aware that their actions will either cause damage to the patients' physical health or the patient and their family will need to incur more money and in return, the medical practitioner will earn commission. All these cases, since it involves an act of commission or willful action causing any consequences to the patient, can be classified as **Medical Malpractice**.

Talking about one case, a respondents shared, ***"Yes it was a high profile case. My aunty was suffering from Rheumatoid Arthritis. The doctor gave her 'Aramax' Injection. Then we identified that the doctors were performing medical trials on her. They were making patients including my aunty as Gini pig and we could not do anything"***. Despite the respondent being medical practitioner, she or her family could not do anything. Now in this case, strong governance, and mechanisms of control of the medical trials are required. In addition, it is important to note that here the respondent, being a doctor, could understand that some wrong has happened to the relative and still did not act. In most of the cases, the patients are not from the medical fields, and mostly do not understand whether the action of the doctors is a wrong practice. While they visit with a hope that the injection is for the cure of the ailment, the intentions of medical practitioners are different. Here arises the social workers' role of social and policy advocacy, first to prevent such cases from happening, and second is to be a mediator between the doctor and patient and when the need arises, raise the concerns at the appropriate levels in the medical system.

Another respondent shared that, ***after completing the MBBS, s/he was doing internship in Private Hospital in Gujarat. It was observed that rather than Allopathy doctors, the hospitals were employing AYUSH Doctors as medical officers for lesser salary. At the end, the hospital saves its salary expenses, but the health of patients is affected.*** In such cases too, periodical audits by the Medical Associations or the governing body is required with the corrective action.

According to another respondent, ***"There are lot of unfair practices existing in the medical sector. For simple fever- prescriptions containing 10 to 12 drugs are provided for no reason. There is negligence also, for example putting Nib in Bladder, providing hypertension fluid in private hospitals. Earlier the trend was of ABC medicine that means maximum 2-3 drugs were provided, now the trend has changed to ABCDEFG. 20% commission is charged by the doctors on pharma and pathological tie ups. In simple abdominal pain too, the patient is referred to Gastrologist and people related to doctors."***



(Illustration similar to the respondent's comments highlighted in Times of India dated 14/08/2023)

The medical practitioner referring the patient to the specialist for the ailment where it is not necessary can be perceived to be having two causes. One can be the rapport with the specialists and making money out of such referrals. Another reason could be the 'defensive practice'. Any allegation of Medical Malpractice may cause damage to the reputation of medical practitioners which is built over the years of hard work. The referrals even when it is not necessary can be resulting from the intention of not taking the possible blame in case of any mishap or non-improvement in the medical condition of the Patients.

There were other cases too which were described by the respondents where according to the respondents, there was no medical malpractice, but the patients' family members perceived it to be the mistake of the medical practitioner and put allegations and reactions against the practitioners. These cases were, allegations of mistake in Surgery due to complications, aggression by family, allegation of not providing treatment in serious cases where the patient was referred to other hospital, violence on doctors by relatives, allegation because of death of patients, taking legal measures against doctors due to death of patient, allegations by relative due to complication in medical treatment due to Contributory Negligence.

There was on case **where Respondent herself faced the allegations of malpractice. Once she was in night duty. One female patient was brought who had brain haemorrhage. In the night,**

no neurosurgeon was not available in the hospital where she was performing duty, and it would result in the delay in treatment. Hence, looking at the need of urgent treatment, she referred the patient to another public hospital. So rather than wasting time to prepare document of hospitalising patient and then of referral, she suggested them to directly take the patient to the other hospital. One of her relative was in media, due to which they started alleging that respondent doesn't want to treat, however, reality was her treatment needed a specialist. The patient's family members, when they find they the patient's health is in serious trouble, lose the cognition to think logically about the treatment requirement and want the patient to be treated on urgent basis. When the outcome is not according to their expectations, they react against the medical practitioner who also is doing their best to save the patient. If the social worker is present at the time of such cases, they become mediator between the medical service users and medical service providers to bridge the gap between both the parties. This can first, save the lives of the patients who need urgent care but due to allegations and blames, is left without treatment for that duration. It will also prevent the cases of allegations and violence on the medical practitioners and maintain a decorum in the hospital.

At times, there are also cases where adversity in the treatment is resulted out of contributory negligence by the patient or their family members. One such case was shared by the respondent. *The patient had BP and Diabetes, but he did not reveal it. When the doctors started the surgery, during the surgery suddenly his BP shoot up. He was also not taking the medicine of BP regularly and then blamed the doctors.* It is the duty of the patient and the family members to provide full details about the medical history and existing medical condition of the patient. The audio-visuals or the IEC Materials on the rights and duties of the patients shall be displayed at the hospitals in the vernacular language.

Table 19: Respondent's understanding of Meaning of the term 'Medical Malpractice.'

Sr. No.	Meaning of Medical Malpractice	Frequency	Percentage (%)
1	An act of commission or omission that causes harm or injury to an individual	2	9.52
2	Breach of the duty done by a doctor to his patient to exercise reasonable care and skill, which results in some physical, mental, or financial disability	2	9.52
3	Both	15	71.43
4	None	2	9.52
	Total	21	100

The respondents were asked about the meaning of Medical Malpractice. 2 respondents shared that it is 'an act of commission or omission that causes harm or injury to an individual' and 'breach of the duty done by a doctor to his patient to exercise reasonable care and skill, which results in some physical, mental or financial disability' each. Majority of the respondents (15 respondents; 71.43%) agreed both to be the meaning of medical malpractice. 2 of the respondents did not agree to any of the above meanings. Most of the respondents coming from the medical field, were aware about the meaning of medical malpractice and negligence.

Table 20: CLASSIFICATION OF EXAMPLES AMONG MEDICAL MALPRACTICE AND/OR MEDICAL NEGLIGENCE

The previous section showed data analysis and interpretation about whether the respondents have formally studied about Medical Negligence/Malpractice, sources of information about the cases, knowledge about the incidences of medical malpractices and the cases experienced/or known. This section includes classifications by the respondents about different examples in Medical Malpractices, Medical Negligence, Both, None and Not sure. Below are the list of examples and the responses on its classification. The cases classified in any of these categories by majority of response is highlighted for better understanding of the response received.

Sr. No.	Statement	Medical Malpractice	Medical Negligence	Both	None	Not Sure
1	Treating patient without required medical qualification	15 (71.43%)	3 (14.29%)	3 (14.29%)	0	0
2	Error of judgement in Diagnosis	3 (14.29%)	7 (33.33%)	0	9 (42.86%)	2 (9.52%)
3	Undue delay in diagnosis or treatment	0	11 (52.38%)	3 (14.29%)	6 (28.57%)	1 (4.76%)
4	Suggesting wrong treatment after diagnosis	8 (38.10%)	6 (28.57%)	5 (23.81%)	0	2 (9.52%)
5	Not taking informed consent from patient before conducting surgical procedure	4 (19.05%)	13 (61.90%)	4 (19.05%)	0	0
6	Not warning the patients and relatives of specific risks	4 (19.05%)	11 (52.38%)	4 (19.05%)	0	2 (9.52%)
7	Mistake while performing surgery or substandard quality of surgery	3 (14.29%)	7 (33.33%)	7 (33.33%)	4 (19.05%)	0

8	Substandard peri-operative care	4 (19.05%)	13 (61.90%)	3 (14.29%)	0	1 (4.76%)
9	Before surgery, error in providing or administering anaesthesia	2 (9.52%)	16 (76.19%)	1 (4.76%)	2 (9.52%)	0
10	Conducting unnecessary surgery	18 (85.71%)	2 (9.52%)	1 (4.76%)	0	0
11	Operation not indicated even when essential	6 (28.57%)	10 (47.62%)	3 (14.29%)	0	2 (9.52%)
12	Defective products/prostheses used	8 (38.10%)	6 (28.57%)	7 (33.33%)	0	0
13	Failure to attend the patient at the time of emergency	3 (14.29%)	13 (61.90%)	1 (4.76%)	0	4 (19.05%)
14	Injection and vein puncture hazards due to substandard care.	7 (33.33%)	8 (38.10%)	2 (9.52%)	2 (9.52%)	2 (9.52%)
15	Allergic Reaction to patient due to not conducting Allergic Testing where necessary	2 (9.52%)	10 (47.62%)	3 (14.29%)	5 (23.81%)	1 (4.76%)
16	Leaving surgical instrument in patient's body after operation.	0	18 (85.71%)	3 (14.29%)	0	0
17	Blood Transfusion errors/hazard/reaction	1 (4.76%)	11 (52.38%)	1 (4.76%)	7 (33.33%)	1 (4.76%)
18	Failure or inaccuracy in maintaining medical records such as clinical findings, diagnostic test	6 (28.57%)	10 (47.62%)	1 (4.76%)	2 (9.52%)	2 (9.52%)

	results, preoperative care, operation and post operation notes etc.					
19	Exceeding the scope of informed consent	10 (47.62%)	3 (14.29%)	1 (4.76%)	3 (14.29%)	4 (19.05%)
20	Patient not responding to medication of doctors.	1 (4.76%)	0	0	20 (95.24%)	0
21	Not observing the provisions of Medical Legislations	12 (57.14%)	7 (33.33%)	1 (4.76%)	1 (4.76%)	0
22	Unlawful removal of patients' organs	16 (76.19%)	2 (9.52%)	3 (14.29%)	0	0
23	Doing advertisement/publicity through any mode as to invite attention to him or to his professional position/skill etc.	10 (47.62%)	0	0	10 (47.62%)	1 (4.76%)
24	Giving approval/recommendation/ endorsement/certificate/report with respect to any drug, medicine, surgical, therapeutic article, apparatus with respect to quality and its use	11 (52.38%)	1 (4.76%)	0	6 (28.57%)	3 (14.29%)
25	Withdrawing the case without giving proper	9 (42.86%)	4 (19.05%)	2 (9.52%)	3 (14.29%)	3 (14.29%)

	notice to the patient and family					
26	Making false or misleading representation concerning the need or usefulness of treatment.	16 (76.19%)	3 (14.29%)	1 (4.76%)	0	1 (4.76%)
27	Breach of confidentiality	9 (42.86%)	7 (33.33%)	3 (14.29%)	1 (4.76%)	1 (4.76%)
28	Unnecessary Pathological/radiological/ biochemical tests	14 (66.67%)	1 (4.76%)	3 (14.29%)	1 (4.76%)	2 (9.52%)
29	Refusing to provide case papers, bills to patient or caregivers	15 (71.43%)	1 (4.76%)	2 (9.52%)	1 (4.76%)	2 (9.52%)
30	Physician running an open shop for sale of medicine for dispensing prescriptions prescribed by other doctors or for sale of surgical appliances.	10 (47.62%)	1 (4.76%)	0	8 (38.10%)	2 (9.52%)

The data shows that different cases were classified in different categories. Some of the examples were classified as Medical Negligence by the majority of the respondents, while some were classified as Medical Malpractice. Few of the cases were classified as Both or none. There was no case where the majority of the respondents shared that they were not sure of the classification.

Incidences Classified as Medical Malpractice:

Based on the responses as presented in the above table, below were the incidences classified as Medical Malpractices by majority of the respondents.

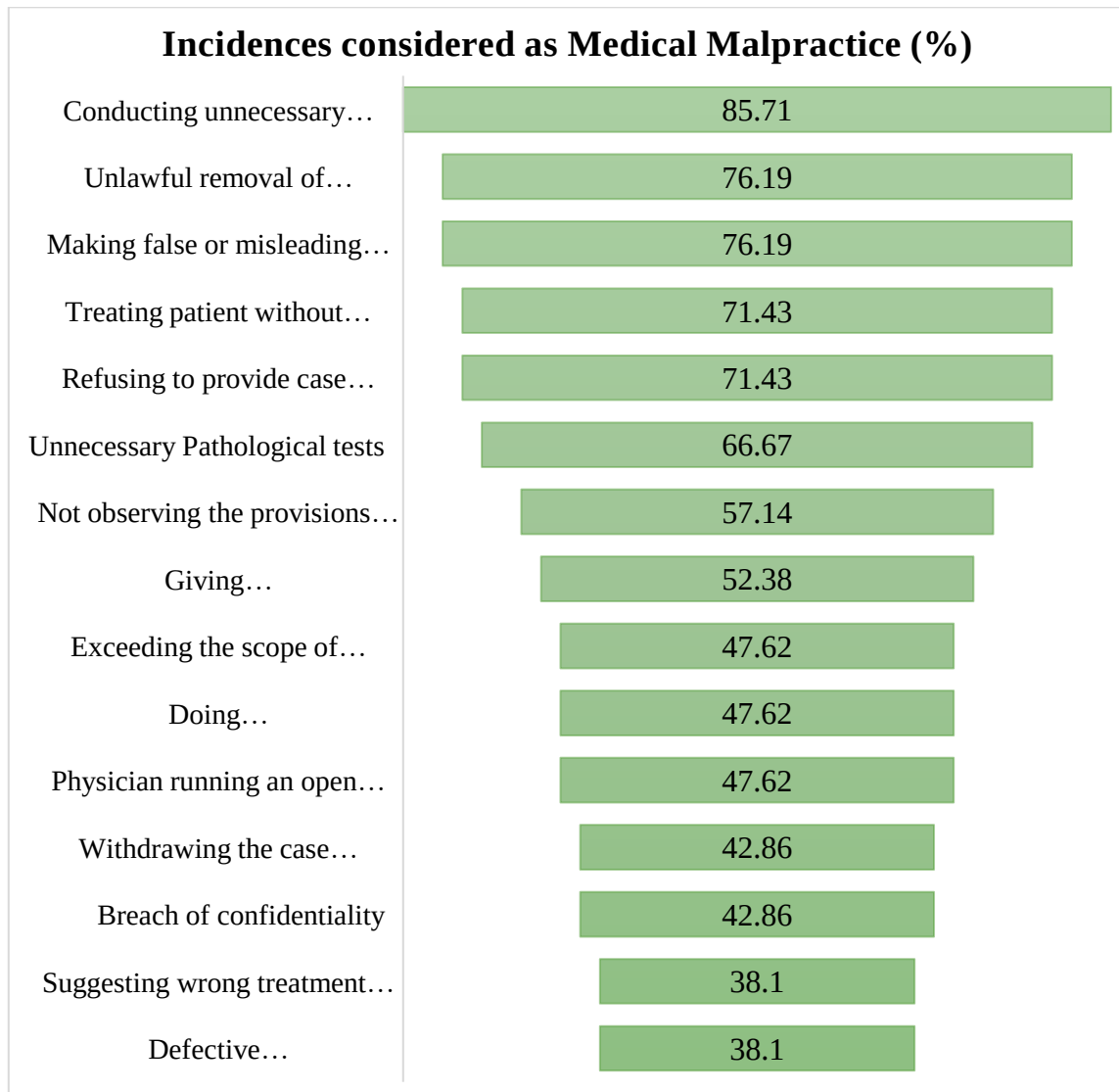


Figure 32 Incidences classified as Medical Malpractice

The incidences classified by Majority respondents as Medical Malpractices were:

- Conducting unnecessary Surgery (85.71%)
- Unlawful Removal of Patient's Organs (76.19%)
- Making False or misleading representation concerning the need or usefulness of the treatment (76.19%)
- Treating patient without required medical qualification (71.43%)
- Refusing to provide case papers, bills to patient or caregivers (71.43%)

- Unnecessary Pathological tests (66.67%)
- Not observing the provisions of medical legislation (57.14%)
- Giving approval/recommendation/endorsement/certificate/report with respect to any drug, medicine, surgical, therapeutic article, apparatus with respect to quality and its use (52.38%)
- Exceeding the scope of informed consent (47.62%)
- Doing advertisement/publicity through any mode as to invite attention to him or to his professional position/skill etc. (47.62%)
- Physician running an open shop for sale of medicine for dispensing prescriptions prescribed by other doctors or for sale of surgical appliances (47.62%)
- Withdrawing the case without giving proper notice to the patient and family (42.86%)
- Breach of confidentiality (42.86%)
- Suggesting wrong treatment after diagnosis (38.1%)
- Defective products/prosthesis used (38.1%)

If all the cases classified as Medical Malpractices are closely observed, there is a ‘factor of intent’ that is common in all the cases. There were cases where the patients were guided/treated despite knowing that such treatment/guidance is not required or can be avoided. For example. Conducting unnecessary surgery, making false representation concerning the usefulness of the treatment, unnecessary pathological tests. Such cases may be shows the intention of **commercial gain** of the medical practitioners or the hospital.

There are also the cases where there is an omission by the medical practitioner which can result into serious implications or grievous hurt to the patients. These are the incidences that arise from disregarding the ethical medical practice or can be considered as resulting from **willful omission**. These cases were treating patients without required medical qualifications, not observing the provisions of medical legislations, exceeding the scope of informed consent, withdrawing the case without giving proper notice to the patients or families and defective products/prosthesis used.

Few cases classified as Medical Malpractices were related to the **Code of Medical Ethics Regulations, 2002**, such as Giving approval/ recommendation/ endorsement/ certificate/ report with respect to any drug, medicine, surgical, therapeutic article, apparatus with respect to quality and its use; Doing advertisement/publicity through any mode as to invite attention to

him or to his professional position/skill; Physician running an open shop for sale of medicine for dispensing prescriptions prescribed by other doctors or for sale of surgical appliances etc.

By observing the findings and the concept of Medical Malpractices as mentioned in previous chapters, it can be said that the respondents had fair idea and awareness about different examples of Medical Malpractices.

Incidences classified as Medical Negligence:

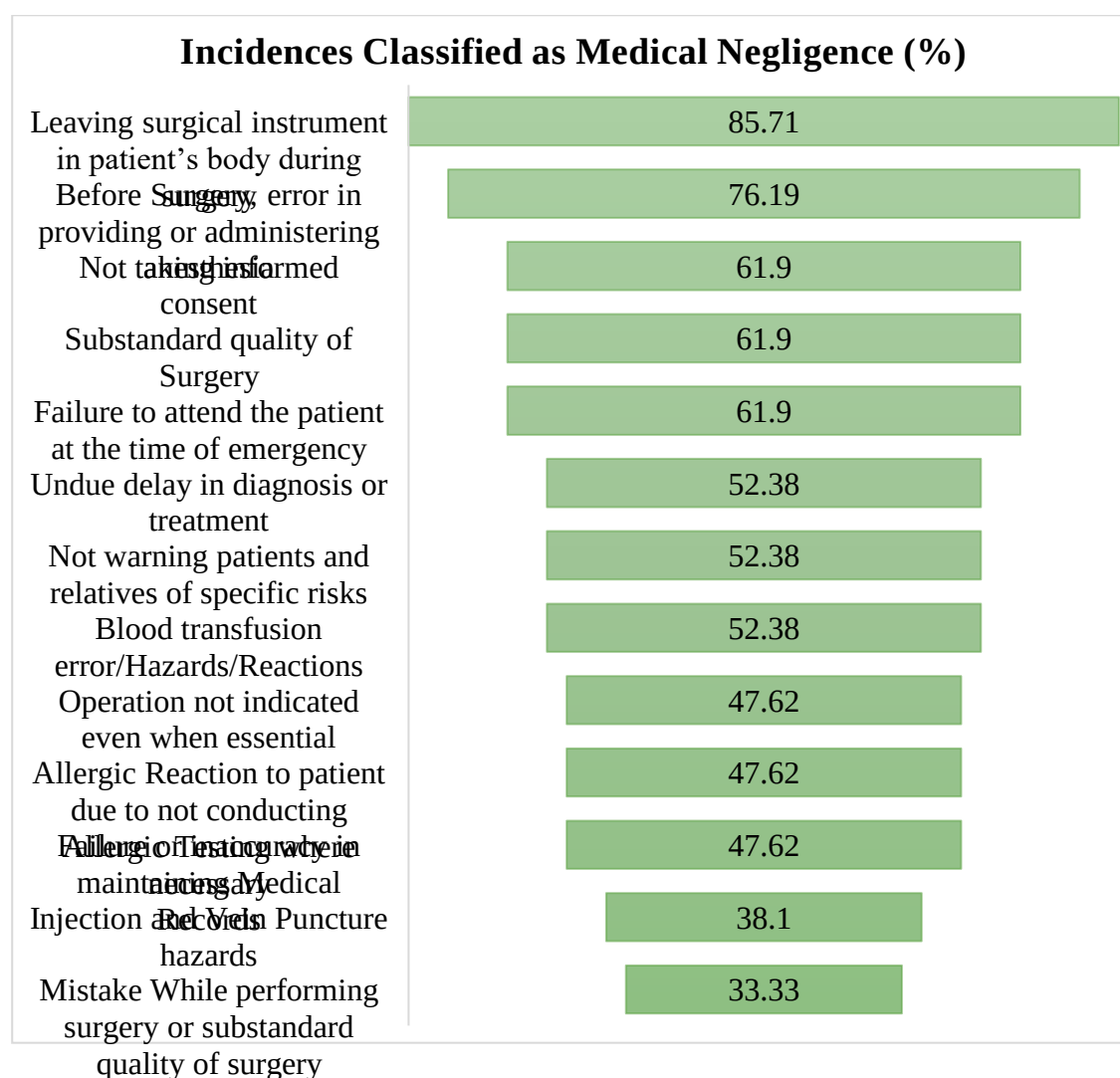


Figure 33 Incidences classified as Medical Negligence.

The incidences classified as Medical Negligence by majority of the Medical Practitioners were as follows:

- Leaving surgical instrument in patient's body during surgery (85.71%)
- Before Surgery, error in providing or administering anesthesia (76.19%)
- Not taking informed consent (61.9%)

- Substandard quality of Surgery (61.9%)
- Failure to attend the patient at the time of emergency (61.9%)
- Undue delay in diagnosis or treatment (52.38%)
- Not warning patients and relatives of specific risks (52.38%)
- Blood transfusion error/Hazards/Reactions (52.38%)
- Operation not indicated even when essential (47.62%)
- Allergic Reaction to patient due to not conducting Allergic Testing where necessary (47.62%)
- Failure or inaccuracy in maintaining Medical Records (47.62%)
- Injection and Vein Puncture hazards (38.1%)
- Mistake While performing surgery or substandard quality of surgery (33.33%)

While interpreting the above data, it can be summarized that the incidences classified by majority of the medical practitioners as medical negligence were of two categories majorly.

One category included the incidences where the damage/injury or loss occurs to the patient due to an act of **omission or negligence**. For Example, leaving surgical instruments, error in providing or administering anesthesia, substandard quality of surgery, failure to attend patient at the time of emergency, blood transfusion errors/hazards/reactions, failure or inaccuracy in maintaining medical records, injection or vein puncture hazards and mistake while performing surgery or substandard quality of surgery. All these cases can be prevented in case if more diligence is practiced by the medical service provider. In many cases, checks/observations by the third party or the cross functional team can also reduce the possibility of errors.

There were additional challenges classified as instances of Medical Negligence, which involved the element of 'intent'. This refers to cases where practitioners, despite being aware that their actions could lead to adverse outcomes for the patient, proceeded without due care. Examples of such instances include failure to obtain informed consent, undue delays in diagnosis or treatment, operation not indicated even when essential, and allergic reaction to patient due to not conducting allergic testing where necessary etc. These cases align more closely with the concept and definition of Medical Malpractice. Categorizing these cases as Medical Negligence rather than Medical Malpractice may inadvertently diminish the seriousness of the issues. By using the label of Medical Negligence, there is a risk of reducing the gravity and accountability associated with these incidents. It's crucial to recognize the true nature of these occurrences as Medical Malpractice to underscore the need for utmost caution,

accountability, and adherence to standards of care within the medical profession. Proper acknowledgment and classification of such cases are essential for preventing harm to patients and maintaining trust in the medical profession.

Incidences classified both as Medical Negligence and Malpractice:

Majority of the respondents (33.33%) mentioned that ‘Mistake while performing surgery or substandard quality of surgery’ is considered as Medical Negligence and Malpractice both.

Incidences not classified as Medical Negligence or Malpractice

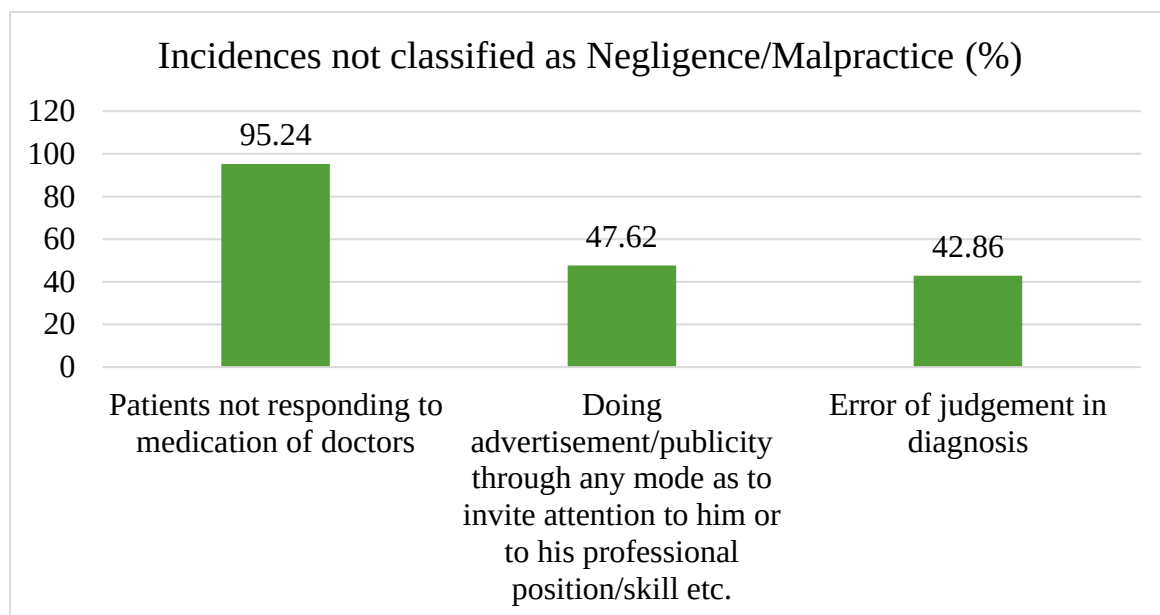


Figure 34 Incidences not classified as Medical Negligence or Malpractice

The respondents, while classifying various incidences, did not classify a few of the examples as Medical Negligence or Medical Malpractices. One such example- ‘Patients not responding to medication of doctors’ was correctly classified as not falling under Medical Malpractices or Negligence by majority of the respondents (95.24%).

42.86% respondents mentioned that ‘Error of judgement in diagnosis’ cannot be considered as Medical Negligence/Malpractice. Medical negligence is characterized by the failure of a medical professional to uphold the reasonable standard of skill and knowledge expected of a prudent individual in their field. It's crucial to understand that not every mistake or "error of judgment" automatically qualifies as negligence. For an action to be considered negligent, the error must be of a culpable nature, indicating a lack of competence or care that wouldn't have been made by a reasonably competent practitioner exercising ordinary diligence and skill

expected with their expertise. This can be one of the reasoning for not classifying it as a Medical Negligence or Malpractice.

Almost half i.e., 47.62% respondents did not classify ‘doing advertisement/publicity through any mode as to invite attention to him or to his professional position/skill etc’ as Medical Malpractice or Negligence. However, according to the **Code of Medical Ethics Regulations, 2002**; “A physician shall not make use of him / her (or his / her name) as subject of any form or manner of advertising or publicity through any mode either alone or in conjunction with others which is of such a character as to invite attention to him or to his professional position, skill, qualification, achievements, attainments, specialities, appointments, associations, affiliations or honours and/or of such character as would ordinarily result in his self-aggrandizement.” (Section 6.1). Such act is considered as an Unethical Act by the physician according to the Code of Medical Ethics Regulations, 2002. This reflects upon the need to teach and educate the medical professionals during their stint in medical education and afterwards as a refresher course about the Medical Ethics and the practices that are expected out of them.

Table 21: Doctor/Nurse/hospital management staff, all can be legally liable in the cases of medical negligence/malpractice.

Sr. No.	Classification	Frequency	Percentage (%)
1	Agree	18	85.71
2	Disagree	3	14.29
3	Not Sure	0	0
	Total	21	100

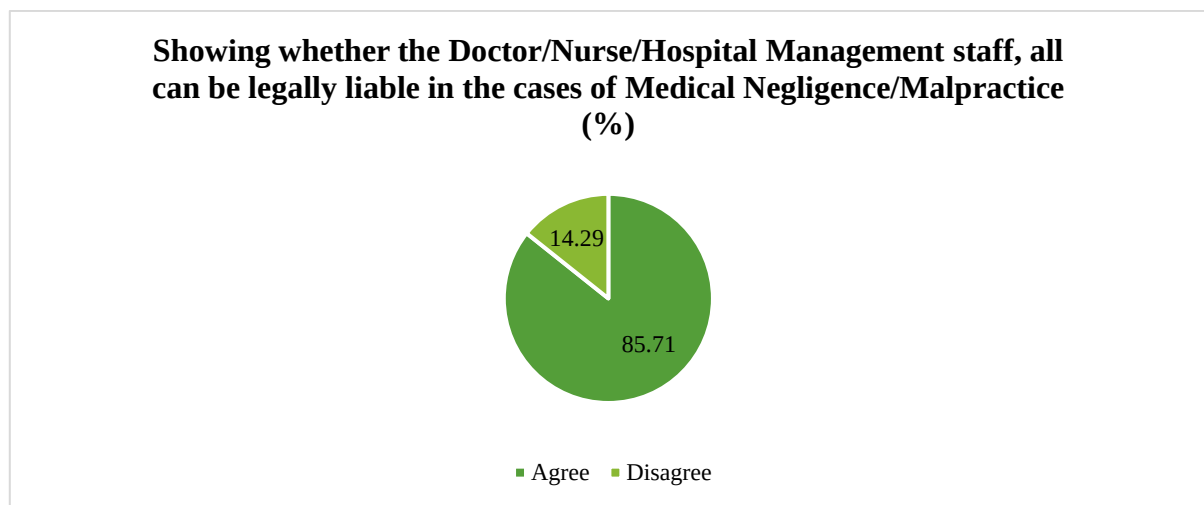


Figure 35 showing whether the Doctor/Nurse/Hospital Management staff, all can be legally liable in the cases of Medical Negligence/Malpractice.

The respondents were asked whether the Doctor/Nurse/Hospital Management staff, all can be legally liable in the cases of Medical Negligence/Malpractice to which most of the respondents i.e. 85.71% agreed, while 14.29% disagreed. It is important to understand the concept of **Vicarious Liability** in this context where the hospital management will be held liable for the actions of the employees may it be doctor or nurse or other staff.

[E] Response of Medical Service Providers and Users in the cases of Medical Malpractice/Negligence:

After discussing about various incidences with respect to the medical practices and whether it can be classified as Medical Negligence, Medical Malpractice, Both, None or Not sure; the next section includes responses of the Medical Services Providers' on how the Patients, their Families or Medical Professionals react to the incidences of medical malpractice/negligence or its perception. The majority of the questions in this section were open-ended in nature and the responses to it were categorized and presented in a tabular format.

Table 22: Reactions of Patients on knowing Medical Negligence/Malpractice (Open Ended)

Sr. No.	Reactions of Patients on knowing of Medical Negligence/Malpractice	Frequency	Percentage (%)
1	Blame and Anger on Doctors	8	38.10
2	Violence	5	23.81
3	Aggression	3	14.29
4	Verbal or Physical Abuse	3	14.29
5	Insult and circulation in Media and social media	3	14.29
6	Court Cases	2	9.52
7	Non-acceptance of Reality	1	4.76
8	Public Shaming	1	4.76
9	Gathering 4-5 individuals	1	4.76
10	Capturing Videos	1	4.76
11	Enquiring to Doctors about the incidence	1	4.76
12	Feeling of Angry and Betrayed	1	4.76
13	Complaint to Higher Authority	1	4.76
14	Collection of Evidence	1	4.76
15	Asking for compensation	1	4.76
16	Try to solve the matter	1	4.76

17	Display different reaction for Public and Private Hospital	1	4.76
18	Negative Reactions for Unknown Patients	1	4.76
19	No loud reaction for known Doctors	2	9.52
20	Not experienced such incidences/reactions	2	9.52
	Total	40	--

The respondents were asked based on their experiences or knowledge on how do the patient or their family members react when they get to know that they have experienced medical malpractice/negligence. Majority of the respondents (38.10%) shared that they start blaming the doctors and do violence on doctors and staff members (23.81%). About 14.29% respondents shared that medical service users display aggression, abuse verbally and physically, start insulting the practitioners and circulate about the incidence to the Social Media each.



(Illustration of Violence on Doctor covered in Sandesh Newspaper on 23/10/2021)

One of the respondents mentioned that, *“The patients use emotional quotient and doctors work from Intelligent Quotient. Patients get influenced by third party and start reacting in that manner. When the experts prove that there is no negligence, then they understand.”*

Two respondents (9.52%) shared that they resort to court cases. There are other reactions shared by 1 respondent each that were the medical service users do not accept the reality, start taking videos, public shaming to the doctors and gather 4-5 individuals in their support.

All these reactions are preventable in the case of clear and transparent communication between medical service providers and medical service users. Social Workers here, can become a mediator between both the parties in basically making the patient and their families understand about the criticality of the cases, spreading awareness about their rights and on the other hand, understanding about the situation from doctors and crisis interventions in such scenarios.

One respondent each also mentioned the reactions that patients and their families feel angry and betrayed. When they approach any medical institution, they place absolute trust on the practitioners that their medical conditions will improve, but in adverse events, such reactions are acceptable as well. A respondent also shared that they start collecting the evidences, approach the Higher Authorities, and ask for the compensation.

One respondent shared her experience that, ***“Once there was an error in the Blood Transfusion, the relatives immediately started taking photos of the documents and also complained to the Higher Authority.”***

In such cases, awareness about various legal rights of the patients and redressal mechanisms are required. If there is a dissemination material or a display board containing such meaningful information, the medical service users can be guided on taking the appropriate steps to access justice in such cases.

The response received from the medical service providers also reflects on the trust that the patients put on doctors and recognition of the same on the doctors when, two of the respondents said that the patients and their families do not display loud reactions for the known doctors and have a different reactions for public and private hospitals. Usually, the negative reactions are experienced from the unknown patients only. 2 respondents shared that they have not experienced such incidences or reactions.

While the trust of patients on doctor is an important element in the healing process, it is important to note that most of the times when any incidence of medical malpractice occurs during the treatment of a known or a family doctor, the medical service users avoid reporting it and justice cannot be restored in these cases. Hence, it becomes imperative that the patients and their families are encouraged to report the cases of medical negligence or malpractice in order to protect justice and improve medical regulations irrespective of the proximity with the doctor.

Table 23: Reactions by Doctors or Medical Staff about the Allegations

Sr. No.	Reactions	Frequency	Percentage (%)
1	Try to educate/explain the Patient/family	4	19.05
2	Try to cover up	3	14.29
3	Damage Control and Prevention of further Complexities	3	14.29
4	Accept if it is a Negligence and provide compensation	3	14.29
5	Informing to Superiors	2	9.52
6	Verifying about the incidence to assess if it is really a fault of doctor	2	9.52
7	Try to Convince / provide Clarification	2	9.52
8	Feeling Low/disappointed	2	9.52
9	Apology by HOD	2	9.52
10	Informing Police/Security	2	9.52
11	Afraid of Court and Police	1	4.76
12	Non-awareness of legal process	1	4.76
13	Try to make settlement through Money	1	4.76
14	Trained to handle such cases	1	4.76
15	Depends upon the level of negligence	1	4.76
16	Not Experienced/Not Sure	2	9.52
	Total	32	--

The respondents were asked on different reactions by the doctors or the medical staff about the allegation of Medical Malpractices by the Medical Service Users. The majority of the respondents (19.05%) shared that the practitioners try to explain or educate the patient/family about the condition of the patient, medical ailment, actual situations etc. One respondent from the Psychiatry background also shared that they try to psycho-educate the patient and family i.e. providing the client with information about their diagnosis, symptoms, or the method of treatment used.

14.29% respondents shared that practitioners try to cover up the cases and do damage control to prevent further complexities in the medical ailment.

By discussing the reactions of the doctors or staff, one of the respondents shared that, ***“Medical Education trains to tell the truth and on how to break the bad news. But in reality, they try to cover up.”***

A certain number of respondents (14.29%) mentioned that usually, the practitioners accept if it is negligence and provide compensation. 2 respondents each mentioned that doctors inform about such incidences to the superiors, trying to convince and provide clarification, verifying about the incidences to assess if it is really a fault of doctors, inform the police/security. One respondent shared that they do not have the awareness of the legal processes and try to make settlement through money.

At times, the Head of the Department has to seek an apology was shared by the respondent. By mentioning the procedural aspects, one of the respondents shared that, ***“If the error in blood transfusion occurs, we have to send it for checking. In Government set up, the responsibility comes on HOD. He has to submit an apology letter mentioning the mistake.”***

There were 3 respondents out of whom, 2 shared that the practitioners feel low and disappointed in such cases and 1 shared that they will be afraid of the court and police.

A respondent shared that ***“We feel low that we are working so hard and still get such kind of treatment from patients and families.”*** Another respondent shared that they feel disappointed, ***“As a doctor, we want nothing else but betterment of patients. Relatives shall understand not everything is treatable or curable.”***

1 respondent shared that it depends upon the level of negligence and 2 shared that they have not experienced or are not sure about the reactions of the practitioners in such cases.

Out of all the respondents, only 1 respondent shared that the doctors are trained to handle such cases. This shows that there is a need to train the medical practitioners and staff members to handle such cases, reactions of the patients and at the same time, putting systems and procedures in place and in notice of patients on mechanism to complain and seek redressal in the cases of malpractice and negligence.



(Illustration of collective action by Indian Medical Association published in Sandesh Newspaper on 24/10/2021)



(Illustration in Sandesh dated-11/02/2021)

Table 24: System to record complaints of Medical Malpractice/Negligence

Sr. No.	System to Record Complaints	Frequency	Percentage (%)
1	Yes	15	71.43
2	No	4	19.05
3	Not Sure	2	9.52
	Total	21	100.00

In ideal scenario, there shall be a system developed in the healthcare setup to record complaints of Medical Malpractice or Negligence or for that matter any other concerns of the Medical Users. When the respondents were asked whether there exists any such system, majority of the respondents (71.43%) agreed that the current healthcare setup has a system to record the complaints. While 19.05% of respondents said that the current healthcare does not have any such system and 9.52% were not sure about the same.

Table 25: Process to escalate the complaint:

Sr. No.	Prescribed Process to Escalate Complaints	Frequency	Percentage (%)
1	Yes	17	80.95
2	No details	4	19.05
	Total	21	100

It can be interpreted from the table that, most of the respondents (80.95%) agreed that the current health set up has a process in place to escalate the complaint to the higher authority. When the respondents were asked where they can escalate the same, they mentioned to Resident Medical Officer, Head of the Department, Medical Superintendent. However, 19.05% did not know about any details of the same.

Table 26: Authority to whom the Complaint can be escalated:

Sr. No.	Authority to whom the Complaint can be escalated	Frequency	Percentage (%)
1	Superintendent	11	52.38
2	Consumer Court	4	19.05
3	Resident Medical Officer (RMO)	4	19.05
4	Head of Department (HOD)	4	19.05
5	Police	2	9.52
6	Chief Medical Officer (CMO)	2	9.52
7	Senior Doctor	2	9.52
8	Write in Complaint/Suggestion Box	2	9.52
9	Collector	1	4.76
10	Inform Lawyer	1	4.76
11	Not Aware	1	4.76
	Total	34	161.90

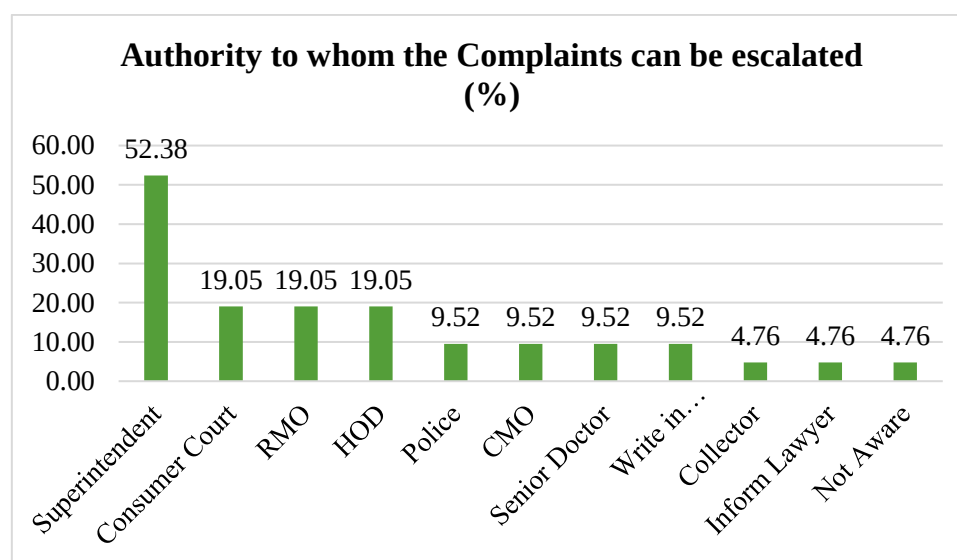


Figure 36 Authority to whom the Complaints can be escalated

The respondents shared about the authority to whom the complaint can be escalated, where majority of them (52.38%) shared that it can be escalated to Superintendent of the hospital.

19.05% shared that complaint shall be made to Consumer Court, Resident Medical Officer, and Head of the Department each. 9.52% of the respondents shared that complaints can be escalated to Police, Chief Medical officer, superior doctor and the patients can also write in the Complaint/Suggestions box. 4.76 % respondents mentioned that the patient can go up to Collector and inform the lawyer. 1 respondent was not aware about the same.

From the data, it can be comprehended that, the respondents while mentioned about the senior doctors in the position of decision making at the healthcare facility who can be approached in case of complaint about the Medical Malpractice or Negligence, the robust system shall be designed for both the public healthcare institution and private health setup through policy measures. The system shall be disseminated to all the doctors, staff as well as the patients and families to make it accessible.

[F] Views of Medical Service Providers towards Medical Negligence/ Malpractice:

In this section, the respondents were asked to express their views on different statements narrated by the researcher and share whether they agree to the statement or not. The following are the responses received.

Table 27: Views of Respondents towards different statements narrated with regards to Medical Negligence/Malpractice:

Sr. No.	Statement	Agree	Disagree	Not Sure
1	Related to Medical Practitioner			
1.1	Any error done by genuine and unintended mistake should not be considered as medical negligence.	16 (76.19%)	3 (14.29%)	2 (9.52%)
1.2	Personal Problems must be kept at bay during treatment of patient.	20 (95.24%)	0	1 (4.76%)
1.3	Law protects the complainant filing complaint for medical negligence.	9 (42.86%)	8 (38.10%)	4 (19.05%)
1.4	Legal provision for medical malpractice is unnecessary.	1 (4.76%)	20 (95.24%)	0
1.5	Concerns related to alleged malpractice may be solved mutually.	13 (61.90%)	6 (28.57%)	2 (9.52%)
1.6	Medical Practitioner must take reasonable care while treating the patient.	21 (100%)	0	0
1.7	Observing prescribed Medical Ethics are very important for doctors while treating the patients.	21 (100%)	0	0
1.8	Medical Practitioner should continue treating the patient despite he/she acts violently.	7 (33.33%)	13 (61.90%)	1 (4.76%)

1.9	Medical Practitioner must maintain dated and signed documents to treat patients well and for his treatment in future.	21 (100%)	0	0
1.10	Special law should be enacted to manage the risk of occupational violence against doctor and other medical staff.	21 (100%)	0	0
1.11	Corrective measures must be taken against the doctor involved in medical negligence or malpractice.	21 (100%)	0	0
1.12	Doctor should own their mistakes/ negligence.	21 (100%)	0	0
1.13	Patient must take legal help if aggrieved by medical negligence/malpractice.	21 (100%)	0	0
1.14	Every system of medicine is handled by human agency and errors by human being is inevitable and permissible.	12 (57.14%)	5 (23.81%)	4 (19.05%)
1.15	Medical Practice by Quacks must be consciously regulated.	21 (100%)	0	0
1.16	Unfair practices are existing in the medical sector.	21 (100%)	0	0
2	About Patients			
2.1	Usually, patients and their family members without understanding the medical ailment start blaming doctor for medical negligence.	21 (100%)	0	0
2.2	There is at times 'Contributory Negligence' on part of patients which worsens patient's health.	21 (100%)	0	0
3	About Hospital Management			
3.1	Overly fatigued doctor must be given time period for rest and rejuvenate in order to prevent possibility of negligence by him/her.	19 (90.48%)	1 (4.76%)	1(4.76%)

[G] Knowledge on Law/Legal Rights of Patients as ‘Consumer’:

The previous sections included the awareness and views of respondents on Medical Malpractices and Negligence. Whenever any act of Medical Negligence occurs, the medical service users can approach Consumer Protection Law to seek redressal. As a medical practitioner, it is very important for the professionals to know and understand the medico-legal aspects of medical negligence and especially, with growing commercialization in the medical practice, to understand Consumer Protection System becomes integral. Through its awareness, along with the prevention of cases of medical malpractices, the medical professionals will be governed to practice ethically and support patients in case of any adverse events.

This section attempts to understand the level of awareness of the Medical Service Providers about the Law or the legal rights of patients as ‘Consumer’. Tables included subsequently in this section represents the responses received from the Medical Practitioners. The row highlighted represents the correct answer based on the provisions of Consumer Protection Act, 2019.

Table 28: Whether Patient/Immediate Family member can formally complain in case of Medical Negligence/Malpractice

Sr. No.	Response	Frequency	Percentage (%)
1	Yes	21	100
2	No	0	0
	Total	21	100

From the table it can be interpreted that, all the respondents were aware that in the cases of Medical Negligence or Malpractice, the patient or their immediate family members can formally complain about the same. With that awareness, it is also important to understand whether the respondents are aware of where the medical service users can complain which is included in the next table.

Table 29: Place where Medical Service Users can file a complaint in case of Medical Negligence/Malpractice (multiple response)

Sr. No.	Place of Complaint	Frequency	Percentage (%)
1	Criminal Court	7	41.18
2	Civil Court	6	29.41
3	Consumer Forum	6	35.29
4	All of the Above	7	23.53
	Total	26	--

In the case of medical negligence or malpractice, the complaints can be made to Criminal Court, Civil Court and under Consumer Protection Law. The details of the same can be further understood by referring the Chapter-I i.e., Introduction. The respondents were allowed to provide multiple responses on where the patient or their family members can complain about the medical malpractice or negligence. To which 41.18% shared that they can complain in Criminal Court, 29.41% shared that complaint can be registered in Civil Court, while 29.41% shared that they can complain in Consumer Forum.

However, 23.53% of the respondents mentioned that the medical service users can complain in all the three judicial and dispute redressal system i.e., Criminal Court, Civil Court and Consumer Forum.

Table 30: Whether respondents know the case where compensation was paid to patients

Sr. No.	Response	Frequency	Percentage (%)
1	Yes	15	71.43
2	No	6	28.57
	Total	21	100

In the Civil Law and the Consumer Protection Law, whenever the medical malpractice or negligence is proven to have happened causing loss, injury or damage to the patient's health, the medical practitioner/hospital administration is required to pay the compensation to the patient/family. When asked whether the respondents are aware of any such case, to which majority i.e., 71.43% agreed that they knew about the case where compensation was paid to the patients. While 28.57% were not aware about any such cases where the compensation was paid to the patients.

Table 31: Sources from which the respondents got information about the cases where compensation was paid to the patients by medical professionals (Multiple Response)

Sr. No.	Source of Information	Frequency	Percentage (%)
1	Social Media	12	57.14
2	Newspaper	7	33.33
3	Told be friends/ relatives	6	28.57
4	TV	6	28.57
5	Journal	1	4.76
6	Article	1	4.76
	Total	33	---

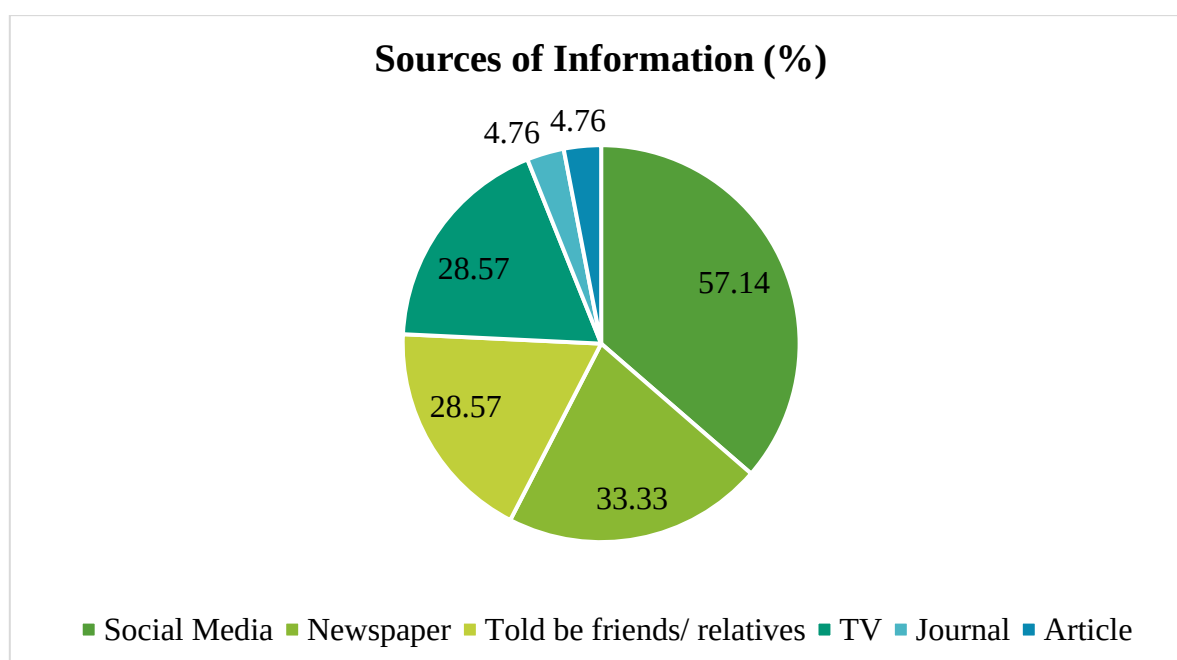


Figure 37 Source of Information about the Cases where the Compensation was paid to the Patients by Medical Professionals

Being in the Medical discipline, the medical practitioners usually receive the information or experiences of the medical malpractice, or the compensation paid to the patients by the medical professionals through different mediums of the Information. When asked about the source of information about the cases where the compensation was paid to the patients by the Medical Professionals, majority i.e., 57.14% respondents mentioned that they got information from social media, followed by 33.33%, 28.57% and 28.57% mentioning about Newspaper, Friends

or Relatives and Television to be the source of the information. Journal and Article were the medium of information for 1 respondent each.

This data becomes important while strategizing about the medium through which the awareness about the rights, responsibilities, redressal machineries, resources available, evidence important to be maintained etc. by both the parties- medical service providers and medical service users. In that case, maximum usage of communication medium of social media can be utilized. It is also important to understand from the data that, while majority of the Medical Service Users, as they come from the grassroots and from the rural and semi-urban community setting, source of information was print media and word of mouth, while medical professionals due to their education, place of residence and exposure, receive majority of the information including the news and information from the social media. The same can be leveraged for dissemination about the topic.

Table 32: Mode through which medical practitioners chose to pay Compensation

Sr. No.	Mode of paying Compensation	Frequency	Percentage (%)
1	Paid through Personal Account of Medical Practitioner	4	19.05
2	Through Insurance	6	28.57
3	Both	1	4.76
4	Not Aware	10	47.62
	Total	21	100

Usually in the foreign countries and recently in India, the trend of obtaining doctors professional indemnity insurance for the medical practice safeguarding against professional liabilities. It offers the coverage for the legal expenses and compensation claims arising out of clinical negligence, mistakes, or omissions. To briefly understand about this trend recently, the respondents were asked about the mode through which the medical practitioners chose to pay compensation. Majority of the respondents i.e., 47.62% were not aware about the same. 28.57% shared that the compensation are paid through Insurance and 19.05% mentioned that it is paid through the personal account of the Medical Practitioner. One respondent mentioned that it is paid from both the personal account and through the indemnity insurance.

Total 33: Whether Respondents know about Consumer Protection Law

Sr. No.	Response	Frequency	Percentage (%)
1	Yes	21	100
2	No	0	0
	Total	21	100

From the table, it can be understood that all the respondents shared that they know about the Consumer Protection Law. From the informal communications with the respondent, it was also identified that brief about the Consumer Protection Act is also covered in the syllabus of ‘National Eligibility cum Entrance Test’ (NEET) for the admission in under graduation, post-graduation, and super specialization in Medical Education. Further in this section, awareness of the medical practitioners about different provisions of Consumer Protection Law is included.

Table 34: Respondents’ awareness of the Year of enactment of the Consumer Protection Act (COPRA)

Sr. No.	Year of Enactment	Frequency	Percentage (%)
1	1980	1	5.88
2	1986	6	35.29
3	1995	2	11.76
4	2001	0	0
5	Not Aware	8	47.06
	Total	17	100

As mentioned earlier, the respondents’ awareness about different provisions of the Consumer Protection Act (referred as ‘COPRA’) is included. In the tables, row highlighted with the sky-blue color reflects the correct answer based on COPRA. Firstly, the respondents were asked about the year in which the Consumer Protection Act was enacted to which majority of the respondents i.e., 47.06% mentioned that there are not aware. 35.29% respondents knew correctly that it was first enacted in the year 1986.

Table 35: Year of recent Amendment in COPRA

Sr. No.	Year of Amendment	Frequency	Percentage (%)
1	2012	0	0
2	2015	2	9.52
3	2016	1	4.76
4	2019	3	14.29
5	Not Aware	15	71.43
	Total	21	100

The Consumer Protection Act, 1986, was replaced by the new Consumer Protection Act, 2019, bringing in lot of conversations in the media about the inclusion of medical sector in the definition of ‘Service’ as per the Act. While asked about the year of recent amendment in the COPRA, only 14.29% respondents provided correct answer. Majority of the respondents (71.43%) were not aware about the same and 14.28% provided wrong answer to the question.

Table 36: Objectives of COPRA (Multiple Response)

Sr. No.	Objectives of COPRA	Frequency	Percentage (%)
1	To protect the rights of consumers	1	4.76
2	To safeguard consumer against different types of exploitation such as defective goods, deficient services and unfair trade practices	2	9.52
3	To provide simple, speedy and inexpensive machinery for redressal of consumer’s grievances	0	0
4	All of the Above	19	90.48
5	Not Aware	0	0
	Total	21	100

Medical Practitioners need to understand the objectives of the Consumer Protection Act. Most of the respondents (90.48%) mentioned all the below objectives of COPRA.

- 1) To protect the rights of Consumers.
- 2) To safeguard consumer against different types of exploitation such as defective goods, deficient services, and unfair trade practices.
- 3) To provide simple, speedy and inexpensive machinery for redressal of Consumer's Grievances.

Three respondents mentioned the individual objectives of COPRA as their choice of answer. It can be concluded from the table, that by and large, all the respondents were aware about the Objectives of the Consumer Protection Act, 2019. This finding is in contrast with the study conducted on the topic **Be Aware or Beware! Awareness of COPRA (Consumer Protection Act)** conducted by Shenoy, Ravuri, Harshvardhan, Rajalaxmi, Acharya and Sadual in 2009. The study had the sample size of 146 medical professionals and assessed the awareness regarding the Consumer Protection Act among Dentists consisting of dental teaching staff and interns of Mangalore. According to the study, 50% of the staff, 42,9% post graduates and 43.5% interns were unaware about the aims and objectives of COPRA.

Table 37: Whether Medical Facility is considered as 'Service' under COPRA

Sr. No.	If Medical Facility is considered as 'Service'	Frequency	Percentage (%)
1	Yes	18	85.71
2	No	2	9.52
3	Not Sure	1	4.76
	Total	21	100

The respondents were asked whether the Medical Facility is considered as 'Service' as per the definition under Section 2(42) under the Consumer Protection Act, 2019, to which majority i.e., 85.71% agreed. 1 respondent was not sure about the same and 9.52% shared that the Medical Facility cannot be considered as 'Service' as per the definition of the COPRA.

Table 38: Whether a patient can be considered as ‘Consumer’ of medical field.

Sr. No.	If patient can be considered as ‘Consumer’	Frequency	Percentage (%)
1	Yes	17	80.95
2	No	2	9.52
3	Not Sure	2	9.52
	Total	21	100

The consumer protection law considers medical facility as a ‘service’ availed by the Patients in exchange of the payment for the same. This fact makes the ‘patient’ who can be considered as ‘Consumer’ of the medical field as per the definition provided under Section 2(7)(ii) of the Act. Majority of the respondents (80.95%) agreed that the patient can be considered as the ‘Consumer’, while 9.52% denied and the same number (9.52%) shared that they were not sure about the same.

Table 39: Whether COPRA restore justice to the Victims of Medical Negligence

Sr. No.	If COPRA restore justice to victims of Medical Negligence	Frequency	Percentage (%)
1	Yes	18	85.71
2	No	2	9.52
3	Not Sure	1	4.76
	Total	21	100

The table shows that most of the respondents (85.71%) correctly mentioned the Consumer Protection Law restores justice to the victims of Medical Negligence. 4.76% shared that they are not sure and 9.52% denied about the COPRA restoring justice to the Victims of Medical Negligence.

Table 40: Complainant in the cases of Medical Negligence (Multiple Response)

Sr. No.	Complainant	Frequency	Percentage (%)
1	Patient	5	23.81
2	Family members of patient	7	33.33
3	More than one patient having same interest collectively	3	14.29
4	Voluntary Consumer Association	2	9.52
5	Central Government or State Government	0	0
6	Central Authority	0	0
7	All of the Above	13	61.90
	Total	30	--

The respondents were asked about who can file the complaint in the cases of Medical Negligence to which different complainants were agreed such as Patient (23.81%), family members of patient (33.33%), more than one patient having the same interest collectively (14.29%), Voluntary Consumer Association (9.52%) and All of the above (61.90%) including Central Government or State Government and the Central Authority of the Consumer Protection Law. As per the Section 2(5) defining the term ‘complainant’, all the above-mentioned member/bodies can become the complainant.

Table 41: Complainant in the cases of Medical Negligence with Minor Patient

Sr. No.	Complainant	Frequency	Percentage (%)
1	Parents	2	9.52
2	Guardian	1	4.76
3	Either of these	18	85.71
	Total	21	100

In case of incidence of Medical Negligence with the Minor Patient i.e., the patient under the age of 18 years, 9.52% mentioned about their ‘parents’ and 4.76% mentioned that the ‘guardian’ can be the complainants. Majority (85.71%) respondents shared that either the parents or guardian can complaint in the cases of medical negligence with Minor patient.

Table 42: Complainant in the cases of Medical Negligence with ‘Mentally Unsound’ patient

Sr. No.	Complainant	Frequency	Percentage (%)
1	Parents	1	4.76
2	Guardian	1	4.76
3	Either of these	19	90.48
	Total	21	100

Similar to the ‘minor’ patients as mentioned above, the patient who is ‘mentally unsound’ are not in the position to file a complaint by themselves, 1 respondent each mentioned that their parents or guardian can complain on their behalf. Most of the respondents i.e., 90.48% shared that either the parents, or guardian can file the complaint in the cases of Medical Negligence with ‘Mentally Unsound’ Patient.

Table 43: Whether legal representatives of the Patients can file complaint in case of death of patient

Sr. No.	Complainant	Frequency	Percentage (%)
1	Yes	21	100
2	No	0	0
3	Not Aware	0	0
	Total	21	100

In case of the death of the patients due to medical negligence, all the respondents correctly shared that their legal representatives can file the complaint.

Table 44: Showing whom to approach if the patient doesn't have means (resources) to file complaint (multiple responses)

Sr. No.	Means of filing Complaint	Frequency	Percentage (%)
1	Self	2	9.52
2	Concerned Voluntary Organisation	4	19.05
3	Legal Aid Services of District	13	61.90
4	Any Well-wisher	1	4.76
5	All of the above	3	14.29
6	Not Aware	3	14.29
	Total	26	--

When the patient does not have any means or the resources to file the complaint and bear the legal expenses, 61.90% respondents were correctly aware about the 'Legal Aid Services of District' can be approached. 19.05% and 4.76% mentioned that the concerned voluntary organization and any well-wisher can be approached. 9.52% shared that the patient only have to manage for the resources for the complaint and legal proceedings. 14.29% told that all of the above can be approached in case of lack of means or resources to file complaint. 14.29% were not aware about the same.

Table 45: Form of making Complaint

Sr. No.	Form of Making Complaint	Frequency	Percentage (%)
1	Verbal	0	0
2	Written	19	90.48
3	Both	2	9.52
	Total	21	100

The respondents were also asked about the form of making a complaint to which most of the respondents i.e., 90.48% shared that written complaint shall be submitted. 9.52% respondents shared that the complaint can be made both verbally and in writing.

Table 46: Whether consumer can file complaint against pharmaceutical dealer for selling unsafe drugs without prescription.

Sr. No.	Whether complaint can be made	Frequency	Percentage (%)
1	Yes	17	80.95
2	No	2	9.52
3	Not Aware	1	4.76
4	No Response	1	4.76
	Total	21	100

In case of pharmaceutical dealer sells the unsafe drugs without prescription, a complaint can be filed against the dealer. While majority of the respondents (80.95%) agreed to the same, 9.52% shared that the complaint cannot be made in this incidence. 4.76% were not aware about the same. 1 Respondent refused to response by mentioning that it is an ‘inadequate question’.

Table 47: Awareness on the meaning of the ‘Consumer Dispute’ in case of Medical Malpractice/Negligence

Sr. No.	Consumer Dispute	Frequency	Percentage (%)
1	When a patient/immediate caregiver alleges medical service provider for indulging medical malpractice	0	0
2	When a patient/immediate caregiver files a complaint and the medical service provider denies the allegation contained in the complaint	15	71.43
3	Both	4	19.05
4	Either	2	9.52
	Total	21	100

The respondents were asked about the meaning of ‘Consumer Dispute’, 71.43% gave correct meaning i.e., ‘when a patient/immediate caregiver files a complaint and the medical service provider denies the allegation contained in the complaint’. The other option was ‘when a patient/immediate caregiver alleges medical service provider for indulging medical malpractice’ which is not a correct meaning of ‘Consumer Dispute’. 19.05% respondents shared that both can be the meaning of ‘Consumer Dispute’ and 9.52% respondents told that either of the same can be the meaning of Consumer Dispute.

Table 48: Rights of ‘Patient’ as ‘Consumer’

Sr. No.	Rights of Patient	Frequency	Percentage (%)
1	Right to be protected against hazardous goods or services	0	0
2	Right to be informed about details of treatment	1	4.76
3	Right to be assured and have access to treatment	0	0
4	Right to be heard	0	0
5	Right to seek redressal	0	0
6	Right to consumer awareness	0	0
7	All of the above	20	95.24
	Total	21	100

Most of the respondents (95.24%) were aware about the rights of ‘patients’ as ‘consumer’. The pictorial presentation of different rights of patients as consumers are as below.

*Figure 38 Rights of 'Patients' as 'Consumer'*

Table 49: Meaning of ‘Deficiency’ in Medical Services

Sr. No.	Deficiency in Medical Service	Frequency	Percentage (%)
1	Any act of negligence knowing or unknowingly by any such person which causes loss or injury to the consumer	1	4.76
2	Deliberate withholding of relevant information by such person to the consumer	5	23.81
3	Both	13	61.90
4	None	1	4.76
5	Not Aware	1	4.76
	Total	21	100

Medical Negligence to be proven in the Consumer Forum, it shall be in accordance with the definition of ‘Deficiency’ provided under Section 2(11) according to the Consumer Protection Act, 2019. 4.76% mentioned that ‘Any act of negligence knowing or unknowingly by any such person which causes loss or injury to the consumer’ and 23.81% shared that ‘Deliberate withholding of relevant information by such person to the consumer’ can be considered as ‘deficiency’ in medical services. 61.90% respondents correctly told that both can be considered as ‘deficiency’. 4.76% disagreed to any statement and 4.76% were not aware about the same.

Table 50: ‘Harm’ to Consumer in relation to ‘Product Liability’

Sr. No.	‘Harm’ in relation to product liability	Frequency	Percentage (%)
1	Personal Injury, illness, or death	1	4.76
2	Mental agony, trauma, or emotional distress owing to personal injury or illness	0	0
3	Both	20	95.24
	Total	21	100

Further the respondents were asked about the ‘Harm’ to consumer in relation to ‘Product Liability’ to which 4.76% respondents shared that it is Personal Injury, illness, or death. Most of the respondent correctly identified the ‘Harm’ to be Personal Injury, Illness, or death, also, the mental agony, trauma or emotional distress owing to personal injury or illness.

Table 51: Whether Mental harm be considered along with Physical harm as ‘injury’ with respect to COPRA

Sr. No.	Response	Frequency	Percentage (%)
1	Yes	19	90.48
2	No	2	9.52
	Total	21	100

As mentioned in the previous chapter, in calculation of compensation to be payable to the patient and family by the medical practitioners, amount for mental effects arising out of medical negligence in the proven cases is also calculated and included in the ‘order’- in simple language the ‘judgement’ in the consumer forum. Most of the respondents i.e., 90.48% correctly agreed that mental harm is considered as ‘injury’ along with physical harm with respect to COPRA. However, 9.52% denied considering mental harm as ‘injury’.

Table 52: ‘Unfair Trade Practices’ with respect to medical services in COPRA (multiple response)

Sr. No.	Unfair Trade Practices	Frequency	Percentage (%)
1	Not issuing bill or cash memo or receipt for medical services rendered	1	4.76
2	Non-compliance with the prescribed standards by pharmaceutical industry	3	14.29
3	Providing drug/medicine without prescription where it is necessary	2	9.52
4	Doctor selling sample medicine to patients	1	4.76
5	All of the above	18	85.71
	Total	25	--

The Consumer Protection Act, 2019 also defines ‘Unfair Trade Practices’ under section 2(47) against which a complaint can be made. The respondents were asked to choose amongst the examples mentioned in the table above of whether it is considered as Unfair Trade Practices. One respondent mentioned that ‘Not issuing bill or cash memo or receipt for medical services rendered’, 3 respondents shared that ‘Non-compliance with the prescribed standards by pharmaceutical industry’, 2 respondents agreed on ‘Providing drug/medicine without prescription where it is necessary’ and 1 respondent mentioned that ‘Doctor selling sample medicine to patients’ can be considered as Unfair Trade Practices. Most of the respondents i.e., 85.71% could correctly identify all the above examples as the Unfair Trade Practices.

Table 53: Jurisdiction of District, State and National Consumer Dispute Redressal Commission

Sr. No.	District Consumer Dispute Redressal Forum	State Consumer Dispute Redressal Commission	National Consumer Dispute Redressal Commission	Frequency	Percentage (%)
1	Up to Rs. 1 Crore	Rs 1 crore- up to Rs. 10 crores	exceeding Rs. 10 crores	4	19.05
2	Up to Rs. 50 lakhs	Rs. 50 lakh-Rs. 1 crore	more than Rs. 1 crore	1	4.76
3	Up to Rs. 2 crores	Rs. 2 crore- up to Rs. 10 crores	exceeding Rs. 10 crores	0	0
4	Up to Rs. 1 lakh	Rs. 1 lakh-Rs. 50 lakhs	exceeding Rs. 50 lakhs	3	14.29
5	Not Aware			13	61.90
	Total			21	100

In the above table, awareness of the respondents about the jurisdiction of District Consumer Dispute Redressal Forum, State Consumer Dispute Redressal Commission and National Consumer Dispute Redressal Commission is represented. Out of all the respondents, only 4 respondents (19.05%) could correctly identify the below limits of the jurisdiction of each forum.

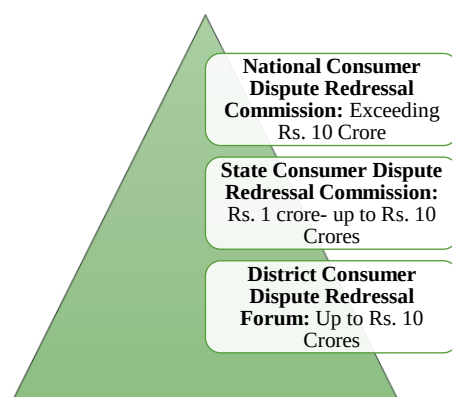


Figure 39 Jurisdiction of Consumer Forums

Table 54: Time bar for filing Complaint in Consumer Forum

Sr. No.	Time Bar for filing complaint	Frequency	Percentage (%)
1	Immediately	2	9.52
2	1 year	8	38.10
3	2 years	2	9.52
4	3 years	2	9.52
5	4 years	1	4.76
6	Not Aware	6	28.57
	Total	21	100

From the table, it can be interpreted that the respondents were asked about the time bar for filing the Complaint in the Consumer Forum from the date of incidence of medical negligence. The respondents provided different answers such as Immediately (9.52% respondents), 1 year (38.10%), 3 years (9.52%), 4 years (4.76%) and 28.57% shared that they were not aware about the same. Only 2 respondents (9.52%) were correctly aware about the time bar to be 2 years.

While it is difficult to know and remember all the provisions of the legislation for the respondents, the medical professionals shall be aware about the time duration for which the medical service users can file the complaint. This also enhances the importance for the medical professionals to maintain proper and up to date medical records that can at times provide as a valid defence for the medical professionals. The records can be maintained for the sufficient time duration to refer in case of litigation or complaint. Along with the training of the medico-legal issues, a session for the data management can also be provided after analysing the systems of maintaining medical records on its improvement. With the increasing usage of technology, different user-friendly applications for data management can be developed where the inclusion of access of patient and their families can also be ensured.

Table 55: Punishment under COPRA if Medical Malpractice/Negligence by the Medical Practitioner is proven (multiple response)

Sr. No.	Punishment	Frequency	Percentage (%)
1	Imprisonment	1	4.76
2	Paying compensation for the loss or injury suffered or reimbursement of damage	5	23.81
3	Penalty	1	4.76
4	Fine	0	0
5	Discontinue providing medical services	2	9.52
6	All of the above	5	23.81
7	Any of the above- depends on the case	9	42.86
8	Not Aware	1	4.76
	Total	24	--

In case if the complaint of medical negligence is proven in the Consumer Forum, the respondents (party other than the ‘Complainants’) are ordered to pay the compensation for the loss or injury suffered or reimbursement of damage to the complainant. Out of all the respondents, 23.81% respondents were correctly aware about this measure of punishment. The other respondents shared imprisonment (4.76%), penalty (4.76%), discontinue providing medical services (9.52%) and 23.81% shared that all the above can be the punishment. 42.86% shared that it is depending upon the case. 1 respondent was not aware about the same.

Table 56: Time Duration for appeal from District to State Forum

Sr. No.	Time bar for appeal	Frequency	Percentage (%)
1	30 days	5	23.81
2	45 days	2	9.52
3	60 days	0	0
4	90 days	1	4.76
5	Not Aware	13	61.90
	Total	21	100

Majority of the respondents (61.90%) were not aware about the time duration for appeal from District to the State Consumer Dispute Redressal Forum. 6 respondents gave wrong answers about the timeline and only 2 respondents (9.52%) were aware about the time bar of 45 days for appeal from District to State Forum.

Table 57: Time Duration for appeal from State to Central Forum

Sr. No.	Time bar for appeal	Frequency	Percentage (%)
1	30 days	4	19.05
2	45 days	0	0
3	60 days	0	0
4	90 days	1	4.76
5	Not Aware	16	76.19
	Total	21	100

In case if either of the party to the consumer dispute believe that an injustice has happened to them in the dispute resolution in the State Consumer Dispute Redressal Commission, they can appeal to the National Consumer Dispute Redressal Commission within 30 days from the date of order. This time bar for the appeal from State to Central Forum was known by 4 respondents (19.05%). While 1 respondent mentioned the time duration for appeal to be 90 days, most of the respondents (76.19%) were not aware about the same.

Table 58: Measures that can be taken under COPRA if the medical service providers do Contempt of Court

Sr. No.	Measure	Frequency	Percentage (%)
1	Imprisonment	1	4.76
2	Fine	1	4.76
3	Both	10	47.62
4	Either of the above three	7	33.33
5	None	0	0
6	Not Aware	2	9.52
	Total	21	100

When in the order issued by the Consumer Dispute Redressal Forum, if the forum has ordered the medical service providers to pay compensation to the complainant, but if the order is not complied to, it is considered as the 'Contempt of Court'. In that case, the consumer forum can take the measure of Imprisonment or Fine or Both or either of the above three. 1/3rd respondents correctly agreed to the above-mentioned measures in case of contempt of court.

Table 59: Party responsible to produce evidence in the complaint of Medical Negligence

Sr. No.	Response	Frequency	Percentage (%)
1	Medical Practitioner	8	38.10
2	Patient or immediate Caregiver	11	52.38
3	Both	2	9.52
	Total	17	100

To prove the case of medical malpractice/negligence, the patient or immediate caregiver need to provide evidence of the incidence of Medical Negligence. Based on that, the medical service providers can defend the case. When asked about the party responsible to produce evidence in the complaint of medical negligence, more than half the respondents i.e., 52.38% correctly shared that it is the responsibility of patient or their immediate caregiver. 38.10% respondents shared that it is of Medical Practitioner and 9.52% mentioned it to be the responsibility of Both.

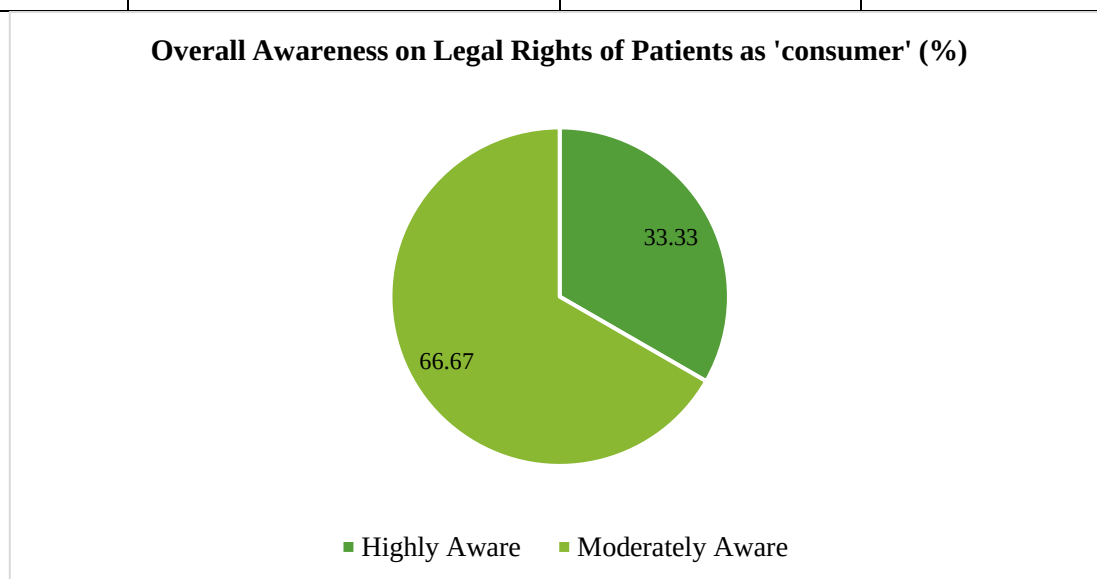
Table 60: Cell which is attached with each district commission and state commission for the mediation of case.

Sr. No.	Response	Frequency	Percentage (%)
1	Consumer Mediation Cell	4	19.05
2	Consumer Settlement Cell	2	9.52
3	Consumer Redressal Cell	4	19.05
4	Not Aware	11	52.38
	Total	21	100

To reduce the overload on the consumer forum and early settlement or the mediation of the cases, Consumer Mediation Cell is attached with each district consumer forum and state consumer dispute redressal forum. Out of all the respondents, only 19.05% respondents were correctly aware about the same. More than half of the respondents i.e., 52.38% were not aware and 9.52% and 19.05% respondents mentioned the name of the cell as Consumer Settlement Cell and Consumer Redressal Cell.

TABLE 61: OVERALL AWARENESS OF RESPONDENTS ON CONSUMER PROTECTION ACT- LEGAL RIGHTS OF PATIENTS AS ‘CONSUMER’

Sr. No.	Awareness	Frequency	Percentage (%)
1	Highly Aware	7	33.33
2	Moderately Aware	14	66.67
3	Less Aware	0	0
	Total	21	100



Based on the provisions of the Consumer Protection Act, 2019 and legal rights of the consumer, the respondents were asked different questions to assess their awareness. There are in total 30 such questions. For every correct answer in accordance with the law, the respondent is assigned ‘1’ mark and for every wrong answer, respondent is given ‘0’ marks. In case, if any respondent scores from 21-30 marks in total, he/she is categorized as ‘Highly Aware’. In case of score of 11-20 marks, the respondent is categorized as ‘Moderately Aware’ and for 1-10 marks, respondent is considered as ‘Less Aware’. Based on this categorization, it was found that 2/3rd of the respondents was ‘moderately aware’ and 1/3rd of the respondents were ‘highly aware’ about the same. When the data is closely observed, it can be concluded that while the respondents were aware about the rights of patients as consumer or the other general aspects of the legal rights and COPRA, there seemed less awareness on the specific provisions such as time bar for filing complaint, for appeal, the punitive measures, contempt of court etc. Hence, while designing a module for the awareness of legal provisions in the cases of medical malpractice or negligence, the findings of this section will become an imperative parameter for the same.

[H] Awareness about the Evidence that can help as a Valid Defense against Medical Negligence/Malpractice:

After taking into account the respondents views and awareness about the Medical Malpractice/Negligence and the Consumer protection law, it is important to understand whether the respondents are aware about different evidence which can help as a valid defense against the medical negligence/malpractice. In this section of interview schedule, the respondents were provided with different examples of the evidence and the respondents had to agree/disagree to consider it as a valid defense against negligence. The respondents could also mark in case if they were not sure in any example.

Table 62: Views of Respondents about Evidence which can help as a Valid Defense against Medical Negligence/Malpractice

Sr. No.	Particulars	Agree	Disagree	Not sure
1	Qualified expert's opinion for the case for which complaint has been filed.	21 (100%)	0 (0%)	0 (0%)
2	Written records of diagnosis, treatment, and payment	21 (100%)	0 (0%)	0 (0%)
3	For diagnosis of medical ailment, adopting more than one method or multiple laboratory tests	20 (95.24%)	0 (0%)	1 (4.76%)
4	Medical Practitioner taking necessary precautions while treating the patient	21 (100%)	0 (0%)	0 (0%)
5	If patient/family members have given consent despite mentioning possible mishap.	21 (100%)	0(0%)	0 (0%)
6	Putting forth strong arguments or evidence to prove/disprove medical negligence/malpractice.	19 (90.48%)	1 (4.76%)	1 (4.76%)
7	Undue delay beyond prescribed time bar in filing the complaint with valid reasons can be condoned by the consumer forum.	11 (52.38%)	9 (42.86%)	1 (4.76%)

Majority of the respondents agreed to different Evidence that can help to the medical practitioners as a Valid Defense against Medical Malpractice or Negligence. Following are their responses:

1. Qualified Expert's Opinion for the case for which complaint has been filed: 100% respondents
2. Written records of diagnosis, treatment and payment: 100% respondents
3. For diagnosis of medical ailment, adopting more than one method or multiple laboratory tests: 95.24% respondents
4. Medical Practitioner taking necessary precautions while treating the patient: 100% respondents
5. If patient/family members have given consent despite mentioning possible mishap: 100% respondents
6. Putting forth strong arguments or evidence to prove/disprove medical negligence/malpractice: 90.48% respondents
7. Undue delay beyond prescribed time bar in filing the complaint with valid reasons can be condoned by the consumer forum: 52.38% respondents

[I] Views of Respondents on the Consumer Protection Law with respect to Medical Malpractice:

In this section, the Respondents were asked to share their views by agreeing or disagreeing to the statements mentioned by the researcher. Following are the responses received from the Medical Practitioners:

Table 63: Views of Respondents on the Consumer Protection Law with respect to Medical Malpractice:

Sr. No.	Particulars	Agree	Disagree	Not sure
1	Large number of victims of medical negligence do not approach legal systems due to doctor-patient relationship, less education, less awareness etc.	18 (85.71%)	0	3 (14.29%)
2	Patient should not approach court when aggrieved by medical negligence.	0	18 (85.71%)	3 (14.29%)
3	Enacting a law is not necessary for punishing the medical practitioners for medical negligence.	1 (4.76%)	20 (95.24%)	0
4	Medical profession is important to be included in a judicial system to expect medical practitioners to be reasonably skilful in adopting ordinary skills and care.	20 (95.24%)	1 (4.76%)	0
5	Although to err is human, it does not mean that medical practitioners shall be exonerated from their share of liability for causing harm.	19 (90.48%)	0	2 (9.52%)
6	With the Consumer Protection Act, the duration of justice and cost involved reduced dramatically.	13 (61.90%)	0	8 (38.10%)
7	Consumer Protection Act covers the Government and Semi-Government hospitals offering paid services along with free service.	12 (57.14%)	3 (14.29%)	6 (28.57%)
8	Patients file false cases in the Consumer Protection System.	16 (76.19%)	2 (9.52%)	3 (14.29%)

9	Consumer Forums do not have expertise in adjudicating the medical negligence cases.	13 (61.90%)	3 (14.29%)	5 (23.81%)
10	Medical Practitioners shall be included in the bench while handling the cases related to medical malpractice.	20 (95.24%)	1 (4.76%)	0
11	Rather than Consumer Protection Systems, the cases of medical profession should only be handled by the Indian Medical Association or any other medical bodies.	13 (61.90%)	3 (14.29%)	5 (23.81%)
12	Medical Associations should check on unscrupulous, erring and business minded colleagues to avoid incidences of negligence/malpractice.	21 (100%)	0	0
13	Medical Profession should not be covered under the Consumer Protection Act.	5 (23.81%)	13 (61.90%)	3 (14.29%)

From the above table, it can be interpreted that most of the respondents were in favor of inclusion of medical negligence or malpractice in the Judicial System and for adopting the ethical practice & enhancement of the regulations. However, from the responses, it can also be concluded that most of the practitioners expressed the willingness of inclusion of medical practitioners in the bench while handling the cases related to medical malpractice. They also mentioned that the Consumer protection machinery is not enough capable to handle the cases of the Medical Malpractice or Negligence. The respondents also agreed on the patients filing false cases in the Consumer Protection System.

Table 64: Respondents' views on effects of Medical Negligence/Malpractice to the Patient and their family members (multiple responses):

Sr. No.	Effects of Medical Malpractice/Negligence	Frequency	Percentage (%)
1	Psychological/Emotional Effects	11	52.38
2	Physical Effects	7	33.33
3	Financial Burden	6	28.57
4	Social Impacts	5	23.81
5	Losing the trust on Medical Practitioners	5	23.81
6	Loss of Family Member	2	9.52
7	Depends on the Case	2	9.52
8	Feeling of Hate against Doctor	1	4.76
9	Destruction to Social Reputation of Medical Practitioner	1	4.76
	Total	40	--

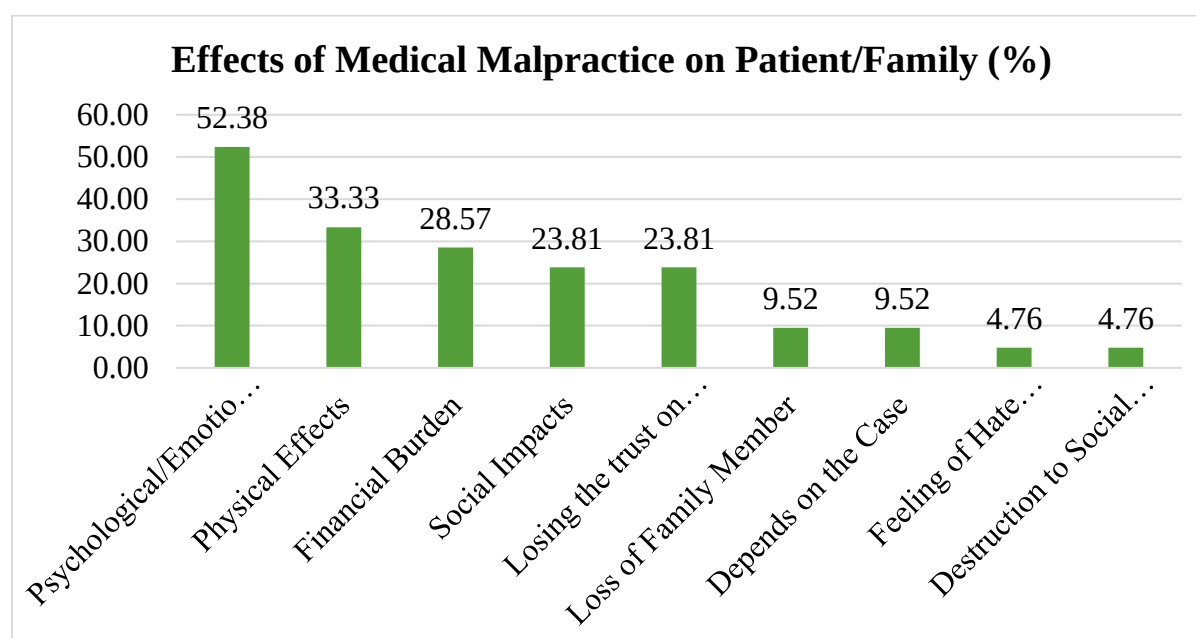


Figure 40 Effects on Medical Malpractice on Patient/Family (%)

The respondents were asked to provide their views on the effects of Medical Negligence/Malpractice on the patient and their family members. More than half, i.e., 52.38% respondents shared that medical malpractice creates psychological and emotional effects on the medical service users. It was followed by 33.33% of respondents mentioning physical effects. 28.57% mentioned the financial burden. 23.81% respondents shared that medical negligence affects the medical service users socially and they also lose the trust on the medical practitioners. 9.52% respondents shared that there is a loss of family members. The other effects mentioned by the respondents were feelings of hate against the doctor, destruction to the Social Reputation of medical practitioner. 9.52% of the respondents mentioned that it depends on the case, and they cannot envisage any effect of the medical malpractice at the time of interview.

Mentioning about the effect of medical malpractice or negligence, a respondents shared that ***“medical malpractice affects in many ways: physical, social, emotional, economic. It creates social issues, marital problems and affect an entire family. At times, creates disability and allied problems. It also creates financial burden for the family. Reasonable skills must be exercised by the doctor and should explain about the treatment process in detail.”***

Another respondent mentioned that ***“if the harm or injury is more, then obviously they (patient/family member) feel bad. They lose the trust on Doctors and generalize that all doctors are like this. They fear going to the doctors once again.”***

One of the respondents only shared the effect of medical malpractice on the Medical practitioner and mentioned, ***“Social Reputation of a practitioner is destroyed. Goodwill is lost due to just one case. It affects an entire career of the medical practitioner.”***

Table 65: Respondents' views on whether Social Workers can play important role in preventing the cases of medical negligence/medical malpractice

Sr. No.	Response	Frequency	Percentage (%)
1	Yes	18	85.71
2	No	2	9.52
3	Maybe	1	4.76
	Total	21	100

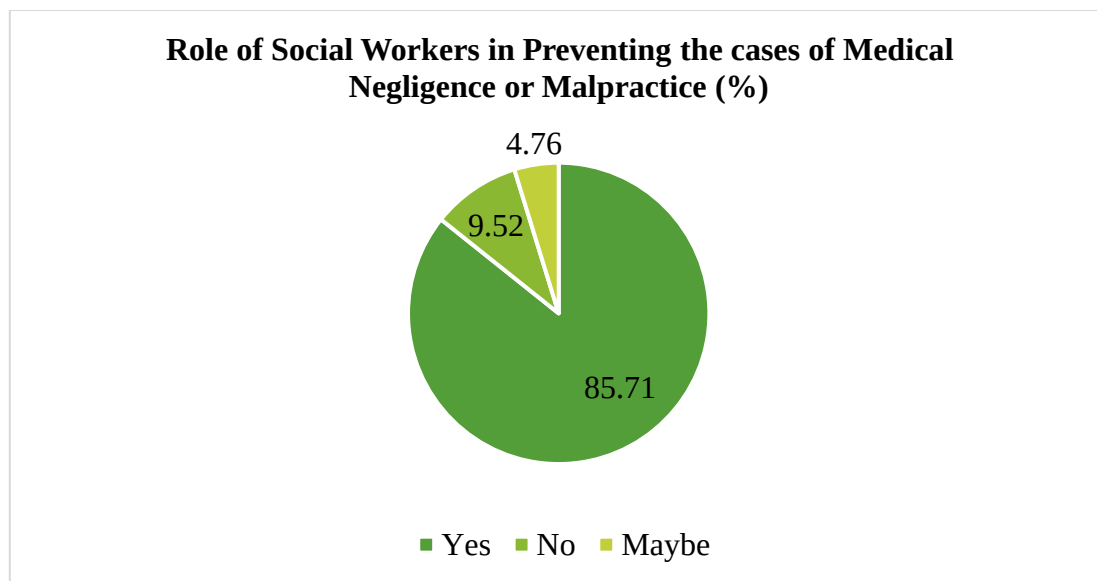


Figure 41 Role of Social Workers in preventing the cases of Medical Negligence/Malpractice

The medical professionals were asked whether the Social Workers can play an important role in the prevention of the cases of medical negligence or medical malpractice. To which 85.71% respondents agreed, 9.52% respondents did not agree and 4.76% mentioned that the social workers may play role in preventing the cases of medical negligence or malpractice. It is also important to understand the views of respondents on different roles that can be played by the social workers in this regard which is included in subsequent table.

Table 66: Role of Social Workers in dealing with the cases of Medical Malpractice/Negligence (Open-Ended)

Sr. No.	Social Work Intervention	Frequency	Percentage (%)
1	Bridging the Gap between Doctors and Patients	8	38.10
2	Public Awareness	4	19.05
3	Counselling	4	19.05
4	Approaching the doctors interested in proper practice and spread awareness through them	2	9.52
5	Awareness on Rights of Patients	2	9.52
6	Unbiased Intervention to Both the parties	2	9.52
7	Identification of the cases of Medical Negligence and raising awareness	2	9.52
8	Help Patient become responsible Patients	1	4.76
9	Making patients aware about Right of Doctors	1	4.76
10	Building Transparency	1	4.76
11	Awareness to the Client on how to approach a case	1	4.76
12	Awareness of Redressal	1	4.76
13	Gather Proof/Evidence	1	4.76
	Total	30	

The medical practitioners provided multiple response to the open-ended question on the different roles played by the social workers in dealing with Medical Malpractice or Negligence.

Majority of the respondents (38.10%) shared that Social Workers can become a bridge between the Doctors and Patients.

A respondent working with the Preventive and Social Medicine (PSM) department mentioned that ***“Medical Social Workers have excellent communication skills so that the gaps can be filled. They can become a bridge between doctors and patients.”***

Mentioning the similar role of social workers, another respondent mentioned that ***“Social Workers are well educated and possess adequate knowledge. The aim of the social worker shall not to increase the cases of negligence in courts. However, is to reduce the communication gap between practitioners and patients. They shall spread awareness of rights of both parties.”***

According to 19.05% respondents, the role of social workers is to create public awareness and provide counselling in the cases of Medical Malpractice. 9.52% shared that social workers can approach the doctors interested in the proper practice and spread awareness through them. The other roles expressed by the respondents were awareness on the rights of patients (9.52%), unbiased intervention to both the parties i.e., medical service users and providers (9.52%), identification of the cases of medical negligence and raising awareness (9.52%), making patient aware about the rights of doctors (4.76%), building transparency (4.76%), awareness to the client on how to approach a case (4.76%), awareness of redressal (4.76%) and gathering the proof/evidence (4.76%).

Highlighting the importance of transparency and empathizing on the effects of medical negligence on patient and family, one respondent mentioned that ***“The social worker shall intervene to build transparency because any act of negligence put scar to the family and patients. Social Worker can become link between both the parties. They can understand and communicate the need of the patients.”***

Contrasting with this role of a social worker, another respondent expressed a totally opposite view. He mentioned ***“... then the social worker's malpractice starts. The social workers involve politicians and third-party influence becomes greater. They are the ones who motivates relatives to ask for compensation and earn out of it.”***

This is the reason why the role of social workers becomes important at this juncture in providing an unbiased intervention based on the factual data.

Table 67: Ways through which incidences of Medical Malpractices and Negligence can be reduced or if occurred, justice to be restored (Open-Ended)

Sr. No.	Ways to prevent Medical Malpractice and Ensure Justice	Frequency	Percentage (%)
1	Regular Training Programs, Workshops, dissemination for the Doctors	7	33.33
2	Regulations in the Medical Profession	4	19.05
3	Legal Provisions to prevent Negligence/Malpractice	4	19.05
4	Proper and Ethical Practice by the Medical Professional	3	14.29
5	Balanced Workload on Doctors	2	9.52
6	Interventions to both the Parties	2	9.52
7	Proper explanation to Patient and their Family about medical condition	2	9.52
8	Awareness, Training, Dissemination for Patients	2	9.52
9	Prioritisation to Medical Ethics in Medical Education	1	4.76
10	Responsibility of Professors/Teachers to teach ethical medical practices to the Medical Students	1	4.76
11	Proper prioritization of Work in cases of heavy workload	1	4.76

12	Establishment of Indian Teaching Institute for maintaining Ethics and Skills in Teaching	1	4.76
13	Laws for the Protection of Doctors shall be formulated	1	4.76
14	Regular Inspections of Medical Practices and Pharma Distribution Networks to prevent Malpractices	1	4.76
15	Maintaining proper Documentation	1	4.76
16	Adequate Damage Control	1	4.76
17	Taking Consent before medical procedures	1	4.76
18	Improvement in Doctor: Patient Ratio	1	4.76
19	Role of Social Worker	1	4.76
20	Doctors shall refrain doing publicity and Advertisement	1	4.76
21	Cases of Medical Negligence/Malpractice to be handled by Medical Associations rather than COPRA	1	4.76
22	Transparent Communication between Doctors and Patients without third party influence	1	4.76
	Total	40	--

It is important to understand the views of the respondents about the ways to prevent medical malpractice and ensure justice to the victims of negligence or malpractice. 1/3rd of the respondents mentioned that the regular training programs, workshops shall be conducted for the doctors. The other ways mentioned by the practitioners were strict regulations in the medical profession (19.05%), legal provisions to prevent negligence/malpractice (19.05%). Providing importance to the medical practices, 14.29% respondents mentioned that doctors must do proper and ethical practice to prevent the malpractice and negligence. The work allocation was also mentioned by 9.52% respondents mentioning about the balance workload on doctors. Same number of respondents mentioned that in case of negligence, intervention to both the parties can ensure justice to the victim and also prevent injustice to medical professional. The other ways as explained by the respondents includes proper explanation to patient and their family about medical condition (9.52%); awareness, training and dissemination for the patients (9.52%), prioritization to medical ethics in Medical Education (4.76%), responsibility of professors and teachers to teach ethical medical practice to medical students (4.76%), proper prioritization of work in cases of heavy workload (4.76%), Establishment of Indian Teaching Institute for maintaining Ethics and Skills in Teaching (4.76%), formulation of laws for protection of doctors (4.76%), Regular Inspections of Medical Practices and Pharma Distribution Networks to prevent Malpractices (4.76%), Maintaining proper Documentation (4.76%), Adequate Damage Control (4.76%), Taking Consent before medical procedures (4.76%), Improvement in Doctor: Patient Ratio (4.76%), Role of Social Worker (4.76%), Transparent Communication between Doctors and Patients without third party influence (4.76%). In addition to this, one of the respondents mentioned that the doctors shall refrain doing publicity and advertisement. One of the respondents also said that the cases of Medical Negligence/Malpractice to be handled by Medical Associations rather than COPRA. This can be one of the measures for the prevention of cases and ensuring justice to the victims of medical malpractices.

Highlighting the ways to prevent medical malpractice, a respondent shared, ***“Responsibility is from both parties- doctors and patients. Ethics ni 'Gadthuthi' upbringing must be given to practitioners. There is also a difference of practices in Private and Government set-ups. Few doctors consume liquor and then practice. They have become ego satisfying agencies rather than being a humble practitioner. Even the students who can praise the doctors and satisfy the ego get good marks than the actual good performers. We need to have good teachers to reduce such incidence ...***

...During COVID, lot of deaths were happening, and junior doctors needed to make Death report. Due to heavy workload, there were lot of pending files. Priority had to be given to alive patients whose condition was deteriorating. However, the seniors demanded that it is okay if you don't treat patient and they die but demanded death file to be completed...

... The lectures are not taken regularly. There is a fear among students to speak truth because afterwards doctor will keep grudge and will not give good marks in examinations. There has to be Indian Teaching Institute for improving ethics and skills in teaching. The character report shall contain 20% in students' progress. If a student fails practical examination, the responsibility is of teacher and PG guide shall be punished for that."

Another respondent highlighted the importance of regulations. She mentioned, ***"Government has to make a body to check on the private players in medical sector. Medicine is a subjective field. If all the doctors try to be humane, then we can prevent cases of medical malpractices. We must expect people to be more ethical. The pharmaceutical companies have become business tycoons- we need to control them. 'Raids' can be done to check on practitioners and pharma companies doing medical malpractices."***

Providing views on the inclusion of medical service under COPRA, one of the respondents mentioned, ***"Cases related to medical services shall be removed from Consumer Protection law. Rather, it has to be handled by medical associations. Patient is not a consumer and doctor are not a businessman."***

To conclude, this chapter includes the Data Analysis and Interpretation of the data collected from a total of 21 medical service providers providing their services at Civil Hospital, Ahmedabad and Sir Sayajirao General Hospital, Vadodara. The data was collected about their background, experience and field of medical practice, knowledge about the rights and duties of the patients, about medical malpractice or negligence, awareness about the legal rights of the patients and Consumer Protection Law, evidence that serve as a valid defense, role of social workers and ways to prevent the medical malpractice and restore justice to the victims.

In the next chapter, the major findings from the data analysis and interpretation from both the sets of respondents- medical service users and medical service providers is presented. It also includes the major findings from the analysis of the judgements of the cases disposed from the District Consumer Dispute Redressal Forums of Ahmedabad and Vadodara.