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सत्यमेव जयते

ND to chakraborty

भारत सरकार
स्वास्थ्य एवं परिवार कल्याण मंत्रालय
स्वास्थ्य सेवा महानिदेशालय

Government of India
Ministry of Health & Family Welfare
Directorate General of Health Services

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DIRECTOR GENERAL OF HEALTH SERVICES

कामादिना तारीख कागदपत्र

पत्र प्राप्ति एवं प्रेषण अनुभाग

D.O. No. Z.28017/21/2024-SAS III
28th March 2024.

पत्र प्राप्ति पत्रिका क्रमांक- 1034
पत्र प्राप्ति दिनांक-
अन्य अभियुक्ति- 02/4/24

Dear Colleague,

As you are aware that the three new Criminal Laws have been included in the **Bharatiya Nyaya Sanhita, 2023; the Bharatiya Nagarik Suraksha Sanhita, 2023 and the Bharatiya Sakshya Adhiniyam, 2023**, have been passed by the Parliament and after the assent of Hon'ble President of India, have been notified in the Gazette of India on 25th December, 2023.

2. The Central Government has appointed the 1st day of July, 2024 as the date on which the provisions of the three criminal laws shall come into force. The earlier Indian Penal Code 1860 will now be replaced by **Bharatiya Nyaya Sanhita, 2023**. The medical practitioners must be made aware about the provisions of the new Acts so that mistakes are not committed when medicolegal come before them.

3. In this regard you are requested to undertake awareness generation in your State/UT to **Disseminate the relevant provisions of new three criminal laws for medicolegal cases to all medical practitioners in all the clinical establishments of the State/UT**. As a facilitatory step the matter medical negligence under the criminal law is attached in the annexure for your reference.

I look forward for your esteemed supervision, active engagement and commitment in this endeavour.

Yours Sincerely,

(Atul Goel)

To

Chief Secretary / Additional Chief Secretary (Health) / Principal Secretary (Health) / Secretary (Health) of all the States and Union Territories (UTs) to disseminate to state Councils for Clinical establishments.

Annexure:

1. Medical Negligence under criminal law- As per the new act passed by the Parliament.



MEDICAL NEGLIGENCE UNDER CRIMINAL LAW:

Earlier Criminal Laws (IPC/ CrPC)	Earlier draft of Bhartiya Nyay Sanhita	As per the Act passed by the Parliament
<p>IPC Sections (verbatim):</p> <p>304A. <i>Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both (Cognisable, trial by JMFC)</i></p> <p>336: <i>Whoever does any act so rashly or negligently as to endanger human life or the personal safety others, shall be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to two hundred and fifty rupees, or with both. (Non-Cognisable)</i></p> <p>337: <i>Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with</i></p>	<p>Section 106 of the BNS bill (first draft) proposed enhancement in the maximum punishment for causing death by negligence from 2 years imprisonment to 5 years imprisonment for all (including doctors)</p>	<p>SECTION (VERBATIM):</p> <p>106. Causing death by negligence.</p> <p><i>(1) Whoever causes death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and if such act is done by a registered medical practitioner while performing medical procedure, he shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.</i></p> <p>Explanation: For the purposes of this sub-section, "registered medical practitioner" means a medical practitioner who possesses any medical qualification recognised under the National Medical Commission Act, 2019</p>

imprisonment of either description for a term which may extend to **six months**, or with fine which may extend to five hundred rupees, or with both.

(Cognisable, trial by JMFC)

338: Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to **two years**, or with fine which may extend to one thousand rupees, or with both.

(Cognisable, trial by JMFC)

and whose name has been entered in the National Medical Register or a State Medical Register under that Act.

(Cognisable, bailable, trial by Judicial Magistrate first class)

NOTE: The amended (second Sanhita bill) Section 106(1) specifies that a **registered medical practitioner (RMP)** shall be punished with imprisonment up to two years and a fine.

Thus, effectively, the punishment for doctors as specified under Section 304(A) of the IPC has been retained for doctors, while for others it has been made 5 years.