

**Impact
Factor
3.025**

ISSN 2349-638x

Refereed And Indexed Journal

**AAYUSHI
INTERNATIONAL
INTERDISCIPLINARY
RESEARCH JOURNAL**

UGC Approved Monthly Journal

VOL-IV

ISSUE-IX

Sept.

2017

Address

• Vikram Nagar, Boudhi Chouk, Latur.
• Tq. Latur, Dis. Latur 413512 (MS.)
• (+91) 9922455749, (+91) 8999250451

Email

• aiirjpramod@gmail.com
• aayushijournal@gmail.com

Website

• www.aiirjournal.com

CHIEF EDITOR – PRAMOD PRAKASHRAO TANDALE

Importance of Medical Evidence

Dr. Rajaesh Kumar S. Upadhyay

Professor & HOD

Agad Tantra Avum vidhi vaidyak,

Csmss Ayurved Mahavidyalaya Kanchanwadi

Aurangabad Maharashtra, India

Dr. Ujwala M.Divekar

Asso. Professor,

Samhita Siddhant Dept.

Csmss Ayurved Mahavidyalaya Kanchanwadi

Aurangabad Maharashtra, India

Abstract

Evidence according to sec-3 Indian evidence act means and includes all statement which the court permits are requires to be made before it by witness in relation to matters of facts under inquiry oral evidence .All documents including electronic records produced for the inspection of the hon. Court. Documentary evidence and evidence tendered by medical person is known as medical evidence. The type of medical evidence are written ,as medical certificates ,medico-legal certificates ,dying declaration ,dying deposition and oral /parole direct and indirect. Every physician and medical doctors should take precautions before issuing medical certificates or medical evidence. Certificate should always be based upon observations and never on history alone as the can be used as evidence. Issuing false certificate is punishable under sec.-197IPC.with imprisonment up to seven years and fine sec-193IPC.

Aim : To elaborate importance of medical evidence.**Objectives:** 1) To study about medical evidence 2)To create awareness about medical evidence among physician. 3) To study in detail precaution ,procedure and rule about medical evidence 4)To study in detail related IPCs and laws about medical evidence.

Key words: Medical evidence, courts IPC, Medico legal, Physician

Introduction:

Medical Evidence: It is defined as legal means to prove or disprove any medico-legal issue in question. Every physician should be aware about medical evidence before issuing any types of medical certificate. Physician should take precaution at every step related with documentary evidence because all evidences to be produced before the hon. Court for inspection during the court of trial. Physician should be qualified registered medical practitioner (RMP) in relation to ill health , death, insanity, age ,sex. Physician should not take any fee for issuing death certificate and death certificate should not be issued without inspecting the body. If the doctor is not sure of the cause of death the matter should be reported to police. Report prepared by doctor at the request of investigating officer for his guidance, usually in criminal cases e.g. injury ,post mortem, rape, pregnancy, abortion and delivery . Medico-legal reports may be prepared even when there is requisition from person himself or magistrate. Postmortem reports are made only when there is requisition from the police officer or magistrate. Reports are not admitted as evidence unless the doctor attains the courts and testifies to the facts under oath. Report should show competence lack of bias and after concrete professional advice. The doctor should avoid technical term as for as possible.

Types of medical evidence:- Evidence may be classified in two ways

1)How the evidence was acquired by witness.

2) How the evidence was delivered in the court.

a)Direct evidence :-1) witness directly saw the crime or felt it by any of his sense ,for example doctor conducted surgery or postmortem seen injury himself .

2) a Murder seen in the street by passing the way.

b)Indirect evidence:- Witness did not see the crime directly, it can be of two types:

Circumstantial:- Witness did not see the crime directly but several related things exist which point strongly towards commission of crime. Circumstantial evidence is generally admissible in the court unless the connections between the facts and inference is too weak to be of help in deciding the case, many convictions for various crimes have rested largely on circumstantial evidence.

Hearsay:- Witnesses only heard about the crime from some one generally hearsay evidence is not admitted to notable exceptions.

According to presentation in court: a) Documentary evidence

1) Medical certificate It is a document prepared by doctor at the request of patient and handed over to him. For example disability, pregnancy, sickness, unsound mind and vaccinations, death certificate. Accepted by court of law only when issued by a qualified registered medical practitioner.

Certificate of ill health:- to be given on recommendation for male according to section 1.3.3 of the Indian medical council (professional conduct etiquette and ethics and regulations 2002 IMC. regulation should be given. The following contain should be in certificate.

- a) Identification, marks of patient
- b) Exact nature of illness.
- c) Period of expected absence
- d) Confidentiality— patient's medical record should be kept confidential (Sec.2.2 IMC regulations 2002)
- e) Maintenance of register —Doctor should one copy of certificate with him. Patient's signature, thumb impression and his full address should be recorded on both copies.

Death certificate :-

Doctor is legally bound if doctor has attended a patient during his last illness and if he has expired the doctor must issue the certificate without charging any fee (Sec 10(3) registration of birth and deaths act 1969). If doctor refuses to issue a death certificate under abuse condition fine is Rs. 50 (Sec 23(3) of the same act).

Medico-legal report :-

Medico-legal reports are documents prepared by doctor at the request of some investigating authority e.g. police, magistrate and handed over to him. They may be in relation to living, injury report, postmortem or inanimate objects e.g. vaginal swab reports, age report, poisoning, burn, alcohol, impotence, insanity reports.

Precautions to be taken while preparing medico-legal report:-

- 1) report should be based upon observation only.
- 2) Report should be prepared during examination or immediately after examination and should carry the signature, name and designation of medical officer.
- 3) Any medico-legal has three parts
 - a) Preliminary data- No. and date of requisition letter from police station —Name, age, sex, address brought by, brought from, brought at (date – time and place of examination) name of hospital, name of M.O., consent for examination, identification mark and history of case
 - b) Observation
 - c) Opinion
- 4) Any item e.g. weapon, clothes, bone or photograph sent for examination is examined described in report.

Dying declaration:

Dying declaration is defined as the written or verbal statement made by a person likely to die because of some unnatural act done on his body, narrating the circumstances or the condition responsible for his present state of health or the cause and manner of likely unnatural death.

Dying deposition:

It is defined as the deposition (statement on oath made by a person likely to die because of some unnatural act, narrating the cause of likely death to the magistrate in presence of accused and lawyers of both the parties.

Conclusion:- By all aspects in detail study we came to conclude that

- 1) Detail knowledge of medical evidence should be to physician, doctor and medical officer.
- 2) Highly precaution should be taken all type of medical evidence.
- 3) No false certificate should be issued to anyone.
- 4) Death certificate should not be issued without inspecting body.
- 5) Keep all medico-legal records as per guideline.
- 6) Issuing false certificates constitutes professional misconduct.

References:-

- 1) Dr. V.V. Pillay - Textbook of forensic medicine, Edition-16th-2011.
- 2) Dr. Anil Aggrawal - Essential of forensic medicine and toxicology, Edition 1st-2014
- 3) Dr. Gautam Bishwas - Review forensic medicine and toxicology, Edition 3rd-2015
- 4) Dr. S.K. Singhal - Forensic medicine and jurisprudence, Edition-reprint-2010
- 5) Dr. B.V. Subrahmanyam - Parikh's textbook of medical jurisprudence forensic medicine and toxicology, Edition 7th-2016

Web ref:-

- 1) www.donpilzer.com - importance of medical evidence
- 2) www.allresearchjournal.com part o-medical evidence