

## **9.4 Course – III, Opt-IV: Health Law**

### **Objectives:**

The matters relating to medicine and health are as ancient as human civilization itself, giving rise to many legal and moral issues of varying degree at different stages of advancement in the sphere of medical science. The advancement in the field of medical technology, though a boon to the mankind, has its own adverse side. The invention of pre-natal diagnostic techniques, transplantation of human organs, assisted reproductive technology and other medical procedures have raised new legal challenges. Law must address properly the intricate legal and moral issues associated with the administration of treatment and performance of medical procedures. Law and medicine are interrelated aspects and many a times intercepts with constitutional dimensions. The purpose of this course is to impart in the students' knowledge of the relation between law and medicine with special emphasis on legal and moral issues surrounding administration of treatment and performance of medical procedures in the backdrop of advancement in the sphere of medical technology

### **Course Outcomes:**

On successful completion of the course the students shall be able to:

1. understand the relationship between law and medicine
2. evaluate the significance of forensic science in the criminal administration of justice
3. understand the historical perspective along with its relevance of medical ethics in medical practice
4. discuss the legislative framework and its effective implementations in health law in india and globally
5. identify different liability regimes under medical negligence
6. examine all the contemporary issues in medical law

### **UNIT I: Introduction**

The relation between law and medicine – Forensic medicine – the significance of forensic medicine and forensic evidence – Hippocrat's oath – Medical ethics, Indian Medical Council Act, 1956, Bio-ethics, Medical Council

### **UNIT II: Regulatory Framework**

Legal control of drugs and cosmetics – Drugs and Cosmetics Act and Rules –Product liability for defective medicine – contractual liability, tortuous liability, liabilities under the English and Indian Consumer Protection Acts, English Medicines Act.

Medical insanity – Types, medical and legal insanity, the watershed of medical and legal insanity – McNaughten's case – Legal protection of mentally ill persons with special

reference to Mental Health Act.

### **UNIT III: Medico-Legal Concepts**

Medico-legal concept of death, asphyxia death, legal consequences of death, injuries under medicine (abrasion, bruise (contused wound), laceration, incised wound and stab wound) and their medico-legal significance – Post mortem report – inquest – Aids and medico-legal issues.

### **UNIT IV: Professional Liability Of Doctors**

The requirement of consent for medical treatment – competency to give consent – liability for non- consensual treatment, exceptions – Contractual liability of doctors for medical negligence – Tortious liability of doctors for medical negligence – Concept of medical negligence, standard of care, Bolan principle, circumstances amounting to medical negligence – Doctrine of informed consent, liability for lack of informed consent, exceptions – Liability for breach of medical confidentiality and disclosure of genetic information – Liability of doctors for criminal negligence

### **UNIT V: Medical Technology And Law**

Assisted reproduction, artificial insemination, IVF, reproductive cloning, surrogacy Transplantation of organs, Transplantation of Human Organs Act, 1994, cadaver donor, live donor, xenotransplantation – Legal control of pre-natal diagnostic techniques  
Abortion, right to abortion, legal status of foetus – Medical Termination of Pregnancy Act, 1971 – Regulation of miscarriage under the Indian Penal Code

### **Reference Books:**

1. Dr. Jaising P. Modi, MODI A Textbook of Medical Jurisprudence and Toxicology, 24th edn., 2011
2. K S Narayan Reddy, Medical Jurisprudence & Toxicology
3. Cameron, Cecily, and Elizabeth-Anne Gumbel. Clinical Negligence: A Practitioner's Handbook. Oxford: Oxford University Press, 2007. Print.
4. Chaudhri, V. K. Medical Jurisprudence and Toxicology. Allahabad: Dwivedi Law Agency, 2007.
5. Dogra, T. D., and Rudra, Abhijit Lyon's Medical Jurisprudence and Toxicology. New Delhi: Delhi Law House, 2005.
6. Herring, Jonathan. Medical Law and Ethics. Oxford ; New York: Oxford University Press, 2006.
7. Kannan, Justice; Mathiharan. Dr. K. A. Textbook of Medical Jurisprudence and Toxicology. Nagpur: LexisNexis Butterworth Wadhwa, (1920).
8. Mason, J. K., et al. Mason & Mccall Smith's Law and Medical Ethics. 7th ed. Oxford: Oxford University Press, 2006.
9. Miola, José. Medical Ethics and Medical Law: A Symbiotic Relationship. Oxford: Hart,

2007.

10. Morgan, Derek. *Issues in Medical Law and Ethics*. London: Cavendish, 2001.
11. Patnaik, Amrit K., and Mathiharan, K. (Eds). *Modi's Textbook of Medical Jurisprudence and Toxicology*. Nagpur: LexisNexis Butterworths., 2005.
12. Pattinson, Shaun D. *Medical Law and Ethics*. 2nd Ed.. London: Sweet & Maxwell; Thomson Reuters, 2009.
13. Plomer, Aurora. *The Law and Ethics of Medical Research: International Bioethics and Human Rights*. London: Cavendish, 2004.