



Introduction and Legal Procedure

I. Introduction

The word “Forensic” has been derived from the Latin word *Forensis*, meaning “belonging to the market place or forum”. In ancient Rome legal cases were tried and pleaded in the “forum” or public meeting place.

A. Forensic Medicine

Forensic medicine, legal medicine or state medicine is the application of medical knowledge for the purposes of law and administration of justice. Briefly: **Medicine (as applied to)** ⇒ **Law** Ex: (i) Woman alleges she has been sexually assaulted → police officer requests doctor to examine her and tell him if she is speaking the truth → Doctor applies his medical knowledge, examines the lady and gives his opinion → Doctor applies his knowledge *not for any medical treatment of the patient, but to help the law.*

B. Legal Medicine

The specialties of **Forensic Medicine** and **Medical Jurisprudence** together are often called **Legal medicine**, especially in Europe.

C. State Medicine

A system of medical care regulated, controlled and financed by the government, in which the government assumes responsibility for the health needs of the population. Since administration of justice (forensic medicine) and code of conduct of doctors (medical jurisprudence) are controlled and regulated by the state, earlier the specialties of forensic medicine and medical jurisprudence together were called **state medicine**. Called **legal medicine** in Europe.

D. Medical Jurisprudence

Medical jurisprudence [Latin *juris*, law; *prudencia* knowledge] is the study of legal principles that guide medical personnel. Briefly:

Law (as applied to) ⇒ **Medical personnel**

Ex: (i) Doctor gives **penicillin injection** to patient without testing for sensitivity → Patient dies → Laws under which the doctor may be sued and the defenses available to him are studied under **medical jurisprudence**.

E. Medical Ethics

Medical Ethics is the study of moral principles guiding medical men in their dealings with their patients. **Salient features:** (1) Graphically: **Doctor** ⇔ **Patient** (2) Medical practice has two major areas of concern – **legal** and **ethical**. *Legal aspects are punishable under IPC or other existing laws. Ethical aspects are not punishable by law, yet MCI and State medical councils can punish doctor by removing his name from register.* (i) **Legal issues:** (a) Giving penicillin without testing for sensitivity, resulting in patient’s death (b) Not giving TT to a patient showing multiple lacerated wounds received in a road side vehicular accident (c) Abortion without mother’s consent (d) Euthanasia (e) Female genital mutilation (f) Killing of a spastic new born baby, or a new born baby with severe brain disorders, blindness etc. (ii) **Ethical issues** – (a) Advertising (b) *Dichotomy* - Doctor X refers his patient to a fellow doctor Y for MRI, which is not necessary. Later X takes his commission from Y. This is violation of medical ethics, and is enforceable under law. X’s name may be removed from the medical register. (c) Employing touts (d) putting up a large sign.

F. Medical Etiquette

Medical etiquette deals with the conventional laws of courtesy observed between members of medical profession. Or graphically:

Doctor ⇔ **Doctor**

Violation of medical etiquette is **NOT punishable under law**. Ex: (i) Doctor X goes to a fellow doctor Y for medical treatment in which Y is an expert. Y sees him out of turn and **does not charge his professional fees**. He is said to follow medical etiquette. If Y insists on charging his professional fees, he cannot be taken to court.

G. Various Forensic Disciplines

Virtually any discipline can be used for the purposes of law and administration of justice. The general definition of such forensic disciplines is – “*Forensic X is the application of X for the purposes of law and administration of justice*” [where X stands for any field of study, such as anthropology, engineering, nursing etc]. (1) **Clinical forensic medicine** – Examining a patient for age estimation, impotence, injury, mental unsoundness, rape, sexual assault etc. (2) **Environmental forensics** – deals with analysis of environmental pollutants and tracing their origins. If the origin is traced to a negligent action [eg crude oil spills in ocean traced to unsafe handling of oil by a ship], civil or criminal action may be taken.

Chemical fingerprinting is one of the techniques employed. It involves taking a sample of the polluted environment [air, water etc], and creating a unique chemical signature [identification of various pollutants and their relative concentrations]. The unique chemical signature is then matched with the suspect source. (3) **Forensic Anthropology** - ch 6 (4) **Forensic cheilioscopy**- ch 3 (5) **Forensic Dentistry** - ch 3 (6) **Forensic Engineering** - Applications of **engineering principles** for the purposes of law and administration of justice. Ex. (i) Victim sustains multiple fracture after collision with a vehicle. Vehicle owner insists fractures were caused by an independent fall, and not by his vehicle. Engineering principles would establish the stresses and strains at which human bones fracture, and whether those stresses and strains could be produced by a fall.

(7) **Forensic entomology** - ch 9. (8) **Forensic entomotoxicology** - ch 5. (9) **Forensic Hypnosis** – ch 28 (10) **Forensic knot analysis** – ch 30 (11) **Forensic Nursing** - Applications of **nursing principles and practice** for the purposes of law and administration of justice. Ex. A nurse reassuring a rape victim (so she can give correct history without hesitation) and helping a doctor to collect trace evidence from the body. (12) **Forensic osteology** - ch 6 (13) **Forensic odontology** - ch 3 (14) **Forensic odontostomatology**- ch 3 (15) **Forensic Pathology** - Application of **pathology** for the purposes of law and administration of justice. Ex. Conducting post-mortem examinations, finding the cause of death by looking at internal organs, histopathology of internal organs. (16) **Forensic Palynology** – Use of pollens [ch 30] (17) **Forensic Psychiatry** - Application of **psychiatry** for the purposes of law and administration of justice. Ex. Informing the court whether a given person is mentally ill or not. If he is mentally ill, he cannot be sentenced [ch 28]. (18) **Forensic Radiology** - Application of **radiology** for the purposes of law and administration of justice. Ex. (i) Girl has consensual sexual intercourse with her boy friend. She is below 16 years and cannot legally give consent (the boy friend may be charged for rape). She insists she is above 16 years. Radiological examination of elbow joint can reveal if medial