

**GOVERNMENT OF INDIA  
MINISTRY OF HEALTH AND FAMILY WELFARE  
DEPARTMENT OF HEALTH AND FAMILY WELFARE**

**LOK SABHA  
UNSTARRED QUESTION NO.82  
TO BE ANSWERED ON 21<sup>ST</sup> JUNE,2019**

**MALPRACTICES BY DOCTORS**

**82. SHRI NARANBHAI KACHHADIYA:  
SHRI RAMDAS C. TADAS:  
SHRIMATI RANJAN BEN DHANANJAY BHATT:**

Will the Minister of **HEALTH AND FAMILY WELFARE** be pleased to state:

- (a) whether any national policy has been formulated for taking action against hospitals and doctors involved in cases of negligence and criminal activities, if so, the details thereof;
- (b) if not, the reasons therefor;
- (c) the details of complaints received against hospitals regarding their involvement in kidney rackets during the last five years;
- (d) the action taken by the Government so far on such complaints, hospital-wise; and
- (e) the other corrective measures taken/ proposed by the Government in this regard?

**ANSWER  
THE MINISTER OF STATE IN THE MINISTRY OF HEALTH AND  
FAMILY WELFARE  
(SHRI ASHWINI KUMAR CHOUBEY)**

(a) & (b): As per the constitutional provisions, 'Health' is a State subject. It is, therefore, within the domain of State Government /Union Territory (UT) Administration to formulate policy regarding action to be taken against the hospitals and doctors who are found to be careless and involved in criminal acts.

The Government of India has enacted the Clinical Establishments (Registration and Regulation) Act, 2010 (CE Act) and notified Clinical Establishments (Central Government) Rules, 2012 for registration and regulation of clinical establishments including those in the private sector. The implementation and enforcement of the said Act is within the purview of the State/UT Governments. In terms of the provisions of the CE Act, the State Governments are required to constitute a Council for clinical establishments and set up an authority called District Registering Authority (DRA) for each district for registration, regulation and monitoring of clinical establishments within their jurisdiction.

DRA is authorised for registration and renewal of the clinical establishments under their jurisdiction, cancellation of registration, inspection of registered clinical establishments and levying penalty in case of non-compliance or any contravention, etc.

The Medical Council of India (MCI) and the State Medical Councils are empowered to take action against the doctors for violation of the provisions of the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulation, 2002. The complaints related to overcharging, deficiency in medical care, etc. can also be filed in District/State/National Consumer Disputes Redressal Forums under the Consumer Protection Act. Further, depending upon the nature of carelessness and criminal act, the relevant sections of Indian Penal Code/Criminal Procedure Code are also applicable on merit of each case.

(c) & (d): Since, 'Health' is a State subject, whenever instances of illegal organ trade come to the notice of the Ministry of Health and Family Welfare through complaints/media reports, such matters are forwarded to the concerned State Government for investigation and further action as per the provisions of the Transplantation of Human Organs and Tissues Act, 1994. The Management Information System of the Ministry does not maintain / generate such information.

(e): The Government of India had enacted the Transplantation of Human Organs and Tissues Act (THOTA), 1994 to ensure the retrieval and transplantation of human organs and tissues. Further, Government of India has made the Transplantation of Human Organs and Tissues Rules, 2014 under this Act for regulation of removal, storage and transplantation of human organs and tissues for therapeutic purposes. THOTA has provisions for imprisonment upto 10 years and fine upto Rs. One crore for commercial dealings in human organs. However, the enforcement of provisions of the Act falls within the ambit of the respective State/UT Government. Under the National Organ Transplant Programme (NOTP). All stakeholders including private hospitals are sensitized regarding provisions of the Act and to prevent commercial dealings in human organs and criminal acts related to organ transplantation.