PROPOSED GUIDELINES TO MEDICAL FACILITIES FOR IMPLEMENTATION OF PWDV ACT IN MAHARASHTRA

Prepared By

MOHIM
MONITORING OF HINSA (PWDV) ACT IN MAHARASHTRA

To ensure effective implementation of Protection of Women from Domestic Violence Act, 2005
Collaboration between Women & Child Development & Majlis Legal Centre

INAUGURATED ON 2ND MAY 2012
PROPOSED GUIDELINES TO MEDICAL FACILITIES FOR IMPLEMENTATION OF PWDV ACT IN MAHARASHTRA

Domestic Violence is a Serious Concern for Healthcare Providers

Domestic violence, apart from being a human rights issue, has also been recognized as a health concern by WHO in 1993. A study conducted by UNIFEM in 2003 stated that at least one out of every three women had been beaten or abused in their lifetime. Study by WHO in 2005 found that one in six women are victims of Domestic Violence

Many studies have concluded that domestic violence has resulted in fatal and non fatal outcomes. Research further indicates that there is a close association between domestic violence during pregnancy and fetal/infant mortality, developmental abnormalities and maternal mortality. Also violence has deep impact on women’s mental and emotional health, wearing away their self esteem and leading to a variety of mental health problems that can sometimes even lead to suicide.

WHO has issued a set of guidelines outlining the ethical responsibility of doctors and other health care provider in responding to survivors of violence. If the problem of domestic violence is addressed by health care providers, it will considerably reduce the strain on health services as women approach the health care system repeatedly for injuries and health problems caused by domestic violence. This makes it imperative for the health care system to address domestic violence as a serious health concern which warrants immediate attention.

Health professionals have an ethical obligation to attend to health concerns of the aggrieved woman. Care in hospitals should not only include treatment of physical injuries but also provision of psychosocial care, identification of root cause of ill health and referral to appropriate agencies.

Generally women approach health facility to take treatment for their health complaints and injuries caused by domestic violence. Health professionals are hence in a strategic position to reach out to women facing violence. Early identification of women facing violence and appropriate intervention can prevent further severe health consequences that she may face if she continues to be abused. Also women tend to have immense faith in health professionals and are more likely to reveal their problems to them as they see them as non-threatening. They can approach them without arousing the suspicion of abuser or relatives. Also vital documentation of health complaints resulting from violence can be created which stands as evidence in courts, if woman decides to take legal course.

The Protection Of Women From Domestic Violence Act 2005 has identified health care providers as important stakeholders in the implementation of the Act and has laid upon it certain responsibilities and duties under the Act.
Agencies to help a woman
Protection Of Women From Domestic Violence Act 2005 has built in mechanisms for implementation and to provide support and assistance to women victims. Both government and non government organizations are appointed or designated under the Act as implementing agencies.

Role of Medical Facilities as per Protection Of Women From Domestic Violence Act, 2005 and Rules, 2006

PWDV Act, 2005, S. 2 (j)
Medical facility means such facility as may be notified by State Government to be a medical facility for the purpose of this Act.

PWDV Act, 2005, S. 7
Duties of medical facilities - If an aggrieved person or, on her behalf a Protection Officer or a service provider requests the person in charge of a medical facility to provide any medical aid to her, such person in charge of the medical facility shall provide medical aid to the aggrieved person in the medical facility. (‘Aid’ implies free services)
**Proposed Guidelines and Reporting Formats to Medical Facilities for Implementation Of PWDV Act In Maharashtra**

**PWDVA Rules, 2006, S. 17**

1. The Aggrieved Person or the Protection Office or the Service Provider may make a request under S.7 to a person in charge of a medical facility in writing clearly stating that the application is being made under S.7, PWDVA, 2005.

2. When a PO makes such a request it shall be accompanied by a copy of the Domestic Incident Report. Provided that the medical facility shall not refuse medical assistance to an aggrieved person under the Act for not having lodged a domestic incident report prior to making a request for medical assistance or examination to a medical facility.

3. If no DIR has been made, the person in-charge of the medical facility shall fill in form I and forward the same to the local protection officer.

4. The medical facility shall supply a copy of the medical examination report and DIR (Form 1) to the aggrieved person free of cost.

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<table>
<thead>
<tr>
<th>Best Practices</th>
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<tbody>
<tr>
<td><strong>Therapeutic care</strong></td>
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<tr>
<td>The ‘Aggrieved Woman’ should be provided therapeutic care both in terms of medical treatment and psychosocial support.</td>
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<tr>
<th>Free Medical Services</th>
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<tr>
<td>The ‘Aggrieved Woman’ should be provided all investigation and treatment FREE OF COST and on PRIORITY BASIS in all Central, State or Municipal Corporation medical facilities. (MCGM GR).</td>
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<th>Social Workers at Hospitals</th>
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<tr>
<td>Hospital should appoint / designate social workers to provide information to the woman about her rights as given in Form IV in a local language. These social workers can also accompany her to access other services available (Protection Officer / Shelter Home / Police etc).</td>
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<tr>
<th>Public Medical Facilities in the State of Maharashtra</th>
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<tr>
<td>In Maharashtra, State, Central and Municipal Corporation health services are notified as Medical Facilities. They are required to help victims of domestic violence at their Primary, Secondary and Tertiary health services.</td>
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</table>

2. District civil Hospitals
3. District women Hospitals
4. Sub district Hospitals
5. Rural Hospitals
6. Police Hospitals having adequate infrastructure
7. Municipal Hospitals having adequate infrastructure.
8. ESIS and ESIC Hospitals having adequate infrastructure.
9. Private Medical College Hospitals authorized by government.
10. Central Govt., Trust, Private multi specialty; hospitals having adequate infrastructure and authorized by Government.
11. About 3 to 5 upgraded Primary Health Centres in every District.
Proposed Guidelines for Medical Facilities

Policy on Domestic Violence
The policy should be binding on all Public Medical Health Facilities (including Central, State and Municipal Corporation).

The policy should include – Mandate, guidelines, protocols, procedures to be followed, accountability and action that will be taken against dereliction of duties. These should be applicable to all primary, secondary and tertiary medical facilities while attending cases. The policy should include

<table>
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<tr>
<th>PRIMARY</th>
<th>SECONDARY</th>
<th>TERTIARY</th>
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<tbody>
<tr>
<td>MUNICIPAL CORPORATION</td>
<td>Maternity Hospitals, Dispensaries, Health Post Workers for Preventive</td>
<td>Peripheral Hospitals</td>
</tr>
<tr>
<td>STATE</td>
<td>Primary Health Centre – 1800 (397 are 24x7), PHC Sub Centre 10,500, ASHA &amp; USHA</td>
<td>District Hospitals - 23, Rural Hospitals - Sub District Hospitals – 84, Women Hosp – 9, Mentally Deficient</td>
</tr>
<tr>
<td>CENTRAL</td>
<td></td>
<td>BARC, ESIS, Buy beds in Private Hospitals</td>
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Screening for Domestic Violence
Screening is of utmost importance to identify domestic violence. It is the duty of the medical officer to screen women for Domestic Violence. Identifying women as Domestic Violence victims will help guide her appropriately to seek further reliefs from DV Act.

Best Practice
Medical Offices should routinely probe all cases reported by women. Women are more likely to disclose abuse if asked sensitively. Asking sensitively includes – listen carefully, believe in her, validate her experience. Explain to the woman that violence is illegal and it is not her ‘fault’. The importance of filing a complaint and assure her of confidentiality and support. Privacy and confidentiality must be observed while probing. If the place of incident is the home then it is a clear sign of domestic violence.

Screening questions (Example)
Direct: Because violence is so common in women’s lives we have to ask this question – have you been slapped, kicked, punched, assaulted with a weapon by someone in your home?
Indirect – Your injuries do not look like they are accidental – is there someone in your home who has caused them.

Providing Information and Referral
Once a case is indentified as Domestic Violence it is the duty of the officer to provide information and referrals to the woman.

Information: The Officer is mandated to explain to the woman in a local language [S.5] about her rights and the procedure to avail of reliefs under the Act. Please refer to Appendix Form IV on how information should be provided to the woman.
That violence is illegal and it is not her ‘fault’
The importance of filing a complaint
Assure her of confidentiality and support
Inform her of her rights and the procedure to avail of reliefs (Form IV) under the Act
Inform her of the availability of services like Protection Officers, Police, Medical Facility, Shelter Home and Service Provider;
Inform her of her right to free legal services (Legal Services Authorities Act, 1987 (39 of 1987);
Inform her of her right to file a complaint under section 498A of the Indian Penal Code (45 of 1860), wherever relevant:

Referral: The Officer should then refer the woman to the relevant agencies. The woman should be given an information and referral pamphlet for further action (as provided by the Protection Officer).
Fill DIR Form [Section 9, 10. Rule 5, 17 (3) & Form I].
When a woman approaches the Medical Facility with a complaint of Domestic Violence and if no DIR has been filled, it is mandatory for them fill the DIR.

<table>
<thead>
<tr>
<th>Medical Facility (Mandatory)</th>
<th>⇒</th>
<th>Protection Officer</th>
</tr>
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<tbody>
<tr>
<td>Within 3 working days send to</td>
<td></td>
<td></td>
</tr>
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</table>

One copy of the DIR should be given to the woman.
One copy of the DIR should be retained with the agency for future reference.
A register should be maintained of DIR filled and forwarded so as to follow up the status of cases.
Appendix C has a sample DIR

Medical Support
Take a thorough history: The medical profession should record a thorough history of the woman and assess for both current and past histories of violence.
Attend to all injuries:
Free Medical Services: The woman should be provided all investigation and treatment free of cost and on priority basis.
Therapeutic care: The woman should be provided therapeutic care both in terms of medical treatment and psychosocial support.

Do not conduct Mediation / Settlement Meetings
[S. 14] states that only the Magistrate by way or an order can direct the respondent or the aggrieved person, either singly or jointly, to undergo counseling. No other agency can initiate mediation / settlement process without an order of the court.

Best Practice
Social Workers at Hospitals
It is commonly observed that women find it difficult to access services as they are intimidated by large formidable agencies. It is suggested that hospitals should appoint / designate a ‘Social Worker’ to assist victims of Domestic Violence.
When a woman is identified as a victim of domestic violence, the health professional should refer her to the Social Worker.
The Social Worker should be responsible to provide information to the woman about her rights as given in Form IV in a local language and to fill the DIR Form.
The Social Worker should accompany the woman to access other services available.
Awareness about the Act
Role to be performed by Protection Officer, Police, Medical Facility, Shelter Home, Service Provider, Legal Aid

All agencies are responsible to create awareness about the Act. Displays, Pamphlets and Awareness Programme formats should be produced in consultation with Women and Child Development, Pune.

Some examples of awareness tools to be used are:

Display Boards / Posters: To be put up at all prominent places at each agency. To be put up at Central, State and Municipal Corporation in their Primary, secondary and tertiary medical facilities. Can also be displayed in female wards or in examination rooms where women spend considerable time, in addition to the OPD, Casualty and other such places.
Pamphlets: A pamphlet in local language with information about women’s rights under PWDV on one side and contacts of all agencies in the local area to be distributed at all women.
Community Awareness Programmes: Health workers carrying out preventive work in the community should conduct awareness programme on Domestic Violence as per prescribed formats.
Include PWDV awareness in all initiatives: The Central, State and Municipal corporation health facilities should include a section on provisions of PWDVA in all awareness programmes initiated by them.
Awareness about the Policy: All Central, State and Municipal Corporation communication to include policy on Domestic Violence and display it at all relevant places including the print and electronic media and the website.

Format of Display Boards / Posters:

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**Are you a victim of Domestic Violence?**
**Do not suffer in silence … seek help.**

As per the **Protection of Women from Domestic Violence Act 2005**, the government has appointed Protection Officers in every taluka to help you.
The Domestic Violence Act gives you the following relief – Protection from violence, Maintenance, Right to residence, custody of your children and compensation
Contact the registration desk / officer-in-charge and they will inform you about your rights.
Victims of Domestic Violence who have recorded a Domestic Incident Report (DIR FORM 1) by a Protection Officer / Service Provider / Shelter Home or Medical Officer are eligible to free medical aid and treatment on a priority basis.
Do not forget to collect a copy of your medical examination report, Domestic Incidence Report and the address of the Protection Officer of your area from the concerned officer.

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**Training to Staff**

Training should be provided to all staff so that they are able to perform their role and duties under the Act efficiently. Training modules and manuals should be developed in consultation with Women and Child Development, Pune. Master trainers should be developed to deliver these training.

The topics of training should include:
- What is domestic violence? / How domestic violence impacts women
- What are the reliefs under PWDV Act
- How to conduct Screening / Importance of psychosocial support / How to provide Support
- How to do Documentation and Reporting / fill DIR Form 1
- How to Conduct Awareness Programs

**Agencies Responsible for Training**

Director of Health Services: All Health Professionals right down to ASHAs, USHAs and Community Health Post Officers. Also to be included as curriculum for medical education and service training

**Sending reports to Protection Officers**

<table>
<thead>
<tr>
<th>Hospital Name:</th>
<th>District / Taluka / Ward:</th>
</tr>
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<tbody>
<tr>
<td>Month</td>
<td>No of Cases Identified as DV in MLC</td>
</tr>
</tbody>
</table>

Names of personnel appointed / designated to help a victim the woman access services should be updated each month.

A report of training conducted by the agency for its staff should be provided

A report of awareness initiatives conducted by the agency

**Attending Local Area Network Meetings**

A senior representative from each hospital to attend Taluka/Ward Level Committee meetings organized by the Protection Officer in the Taluka/Ward. The meeting will discuss gaps and challenges faced in the implementation of the Act and address special high risk cases in the area.

**Formats for Maintaining Records**

**Medico Legal Case Register**

Wherever MLC registers are available they should identify cases of Domestic Violence in the remarks column as ‘DV CASE’. A column should be added to record who has brought/referred the victim to the Medical Facility. The column If injury, Nature Causes of Injury should be amended to include **identity of perpetrator, time and place of incident, weapons used if any.** If place of the incident is ‘home’ or ‘residence’, it should be presumed to be domestic violence.
Where no MLS Register is available at Grass-root level
Reporting done by health post workers / ASHA and USHA should also reflect cases of domestic violence identified by them in the course of their work. The monthly bulletins of primary health centers should contain information regarding the number of cases identified by primary health workers at the village level.

<table>
<thead>
<tr>
<th>Number</th>
<th>Date and Month of Admission</th>
<th>Hour of Admission</th>
<th>Name</th>
<th>Caste</th>
<th>Age</th>
<th>Sex</th>
<th>Brought By</th>
<th>Occupation</th>
<th>Residence Address</th>
</tr>
</thead>
</table>

If injury, Nature Causes of Injury
Relation of perpetrator to victim, time and place of incident, weapons used if any

Initial of Medical officer on Duty
Remarks
Identify as DV Victim
Appendix A

Consultation to Discuss these Guidelines
Women and Child Commissioner and Majlis Legal Centre organized a consultation with health professionals and NGOs to discuss guidelines and protocols to Health Care Providers under the PWDV Act. The meeting was held on 3rd October, 2012 at Manava Seva Sangh, Mumbai. The list of participants is given below.

Name and Designation
Dr. P. G. Darshane, Assistant Director (Jt. Director Hospital), Public Health Department, Directorate of Health Services
Dr. Seema Mallik, Chief Medical Superintendent, Peripheral Hospitals, Brihanmumbai Municipal Corporation Hospitals
Shri. J. B. Girase, District WCD Officer, Mumbai City
Adv. Flavia Agnes, Director, Majlis Legal Centre, Mumbai
Dr. Devendara Shirole, Psychiatrist, (Vice President Indian Medical Association)
Dr. Kamakshi Bhate, PSM Department KEM Hospital. Savitribai Phule Gender Resource Centre,
Dr. Padmaja Samant, Gynologist, KEM Hospital, Women’s Health Centre
Ms. Padma Deosthali & Ms. Ujwala Kadrekar CEHAT, Mumbai
Ms. Shakuntala, Tathapi, Pune
Shri Nandkishore Dahale, DPO, WCD, Commissionerate Office, Pune
Adv. Pooja Kute, Coordinator, MOHIM Cell, Pune
Ms. Audrey D’mello, Coordinator, MOHIM Cell, Pune
Adv. Reshma Vidhate, MOHIM Cell, Pune
Ms. Anisha Thomas, Social Worker
Mr. Harshad Karade, Consultant for creation of MIS

The following participants were invited but could not attend.
Dr. Archana Patil, Jt. Director, Health, Public Health Department, Directorate of Health Services
Dr. Satish Pawar, Jt. Director, National Rural Health Mission
Appendix B

Mandate under the Act for Women and Child Department to Issue Guidelines

These guidelines have been issued as per Section 11. Duties of Government
The Central Government and every State Government, shall take measures to ensure that ---
(a) x x x (b) x x x
(c) effective co-ordination between the services provided by concerned Ministries and Departments dealing with law, home affairs including law and order, health and human resources to address issues of domestic violence is established and periodical review of the same is conducted;
(d) protocols for the various Ministries concerned with the delivery of services to women and this Act including the courts are prepared and put in place.

The Commissionerate, Women and Child Department (WCD), Government of Maharashtra, Pune is the designated Nodal Agency for monitoring the effective implementation of Protection of Women from Domestic Violence Act, 2005 (PWDVA) in the State of Maharashtra.

The Commissionerate Women and Child Department, Pune and Majlis Legal Centre (an NGO and Public Trust working for women’s rights in Maharashtra) have entered into a collaboration to ensure effective implementation of the PWDV Act within the State of Maharashtra. The cell will train, guide, supervise and monitor the work of all stakeholders who are appointed or designated under the said Act.