

Tactful handling of medico legal cases

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Abstract

Handling of a medico legal case is not an easy job especially while a doctor is working in an Emergency ward where generally patients are brought in a critical condition needing immediate medical intervention. Same problem may also happen while treating such a case in the wards due to multiple reasons. Doctors may have to work under political pressure and frequent police interventions and most uncomfortably they may receive threats from gonads. To combat this, the present paper discusses some example of medico legal cases and the existing related legal provisions in India.

Key Words: Medico legal, Medical records, Indian Penal Code, Consumer Protection Act

Introduction

Medico legal cases (MLCs) and litigation against doctors are increasingly common in India due to more public awareness and increase number of man made accidents. Health insurance and compensation under *CP Act, 1986*¹ also play a major role. Generally, doctors don't want to face an MLC as there is always a fear factor and apprehension in dealing with such cases because of police involvement and future court procedures. Under such circumstances ignorance or shouldering of responsibility to others is not an excuse. At such situations the doctor is owed not only ethical duties towards the patient but also moral and legal duties towards the society and law. Only the proper knowledge of law and medical ethics couple with intelligent tactful handling of the situation will help the doctor.

Definition Of Medico-legal Case

Indian legal system does not define clearly what a medico-legal case (MLC) is. However, for convenience, an MLC may be defined as any case of injury, illness or ailment where the attending doctor, after taking history and physical examination of the patient, thinks that some legal intervention is essential to establish and fix responsibility for the case as per existing law of the land. In other words, it is a medical case with legal implications or a legal case requiring medical expertise. And so, the responsibility to label any case as an MLC rests solely with the attending

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doctor. A medical practitioner, however, should at once communicate to the police any information about a criminal act that might have come to his knowledge otherwise it would be punishable under *sec 39 Cr P.C.*,² *sec. 177, IPC*, *sec. 201 IPC* and *sec. 202, IPC*.³

Sources Of Medico-legal Cases:-

As stated earlier an MLC is usually made and registered by the treating doctor if he feels that the circumstances and findings of the case need some legal enquiry. Other possible ways of obtaining an MLC are:-

- (1) A case brought by the police for examination and reporting.
- (2) As a referred case, already registered as an MLC in a previous hospital.
- (3) If the patient party wishes to do so.

Sometimes problem arises when the patient or relatives refuse to give consent for registration as an MLC. He even may withdraw the consent already given or may even leave the hospital against medical advice. At such situation the doctor has no right to force anything on the patient. However, he must note down all the relevant findings, exact time of withdrawing the consent and leaving the hospital and he must inform the nearest police station giving reasons for his actions. At the same time, request by the patient or relatives not to register an MLC, should not be acceded to by the doctor. He must use his own judgment and experience and if he thinks that the case needs to be reported to the police, he must do so without fail and without undue delay.

For convenience, though the list is incomplete, the following cases may be viewed as an MLC:-

- (1) All cases of gross injuries and burns irrespective of suspicion of any foul play.
- (2) All cases of vehicular and road traffic incidents.
- (3) All cases of factory and other accidents including natural calamities.
- (4) All cases of suspected or evident poisoning and intoxication.
- (5) All cases of sexual assaults, rape and criminal abortion.
- (6) All cases of self inflicted injuries, suicides, homicides, etc.
- (7) All cases of brought in dead cases with a vague or improper history.
- (8) All cases referred from court for medical examination and age estimation.
- (9) All cases of found unconscious with no clear history or under suspicious circumstances.
- (10) All cases of snake bite and poisonous stings
- (11) A dog bite case if the victim wants to file a case against the owner of the dog.

Admission, Treatment And Discharge

As per Article 21 of the Indian Constitution, no law or state action can intervene to avoid / delay the discharge of the paramount obligation cast upon the medical profession for the preservation of human life. Even in a medico-legal case, the first and foremost important duty of a doctor is to save life of his patient. Every doctor is bound to provide an urgent service to the victim, whatever may be the circumstances, and to resuscitate the patient ensuring that he is out of danger. All legal formalities are secondary and must stand suspended till this is achieved. It is exemplified by the *Honorable Supreme Court Of India in Parmananda Katara Vs Union*

Of India. Honourable Supreme Court of India ⁴ has emphasized the need for making it obligatory for hospitals and private practitioners to provide medical care in emergency. **Sec. 134 of the Motor Vehicle Act, 1988** ⁵ also imposes compulsory duty in the hospital to attend the injured person without waiting any legal procedural formalities.

In emergency treatment can not be with held on the ground that the patient is not in a position to pay hospital fees. **The National Consumer Dispute Redressal Commission in Pravat Kumar Mukherjee Vs Ruby General Hospitals and Others (25.04.2005)** declared that a hospital is duty bound to accept accident victims and that it can not refuse treatment on the ground that the victim is not in a position to pay the fee or meet the expenses or on the ground that there is no close relation of the victim available who can give consent for treatment. The Honorable Supreme Court of India also reiterated same view in **Paschim Banga Khet Mazdoor Vs State of West Bengal** ⁶ case.

If the doctor satisfied himself that the case falls in this category then he must register the case as an MLC and must inform the police station as soon as possible. Generally every hospital maintains a medico-legal register in the casualty and the doctor may follow as per hospital rules so far process is concerned. In India, there is no time limit for registration of an MLC. It can be registered as an MLC even if brought several days after the incident.

Generally, a patient is discharged with full recovery. Sometimes, he may be referred to some higher centre for further and better treatment. In both the situation, proper care must be taken to ensure that he has received the discharged card or the referral letter whatever may be applicable. The discharge card / referral letter must contain a brief history of admission, the treatment given, the investigation done and the instruction to the patient to be followed after discharge, etc. At the same time police must be informed before the patient leaves the hospital. Failure to do so renders the treating doctor liable for negligence and deficiency of service.

Sometimes, an admitted patient may be discharged on his own request, if his condition is not serious and able to take care of himself. But before discharge it should be obtained from him in writing that he has been explained all the possible outcome of such a discharge and that he is leaving on his own risk against the medical advice. If the patient is found to be absconded without any intimation, then the matter must be brought to notice to the hospital authority and police must be informed immediately.

When the condition of the patient is very serious and death is eminent then the doctor must make arrange for recording a dying declaration. Preferably it must be recorded by a magistrate but in emergency the doctor himself can record it in the presence of two disinterested witnesses. If the patient dies during treatment then the dead body should not be released directly to the relatives. Instead, the matter must be informed immediately to the police and ask for a medico-legal post-mortem examination. At any cost, the doctor should not issue a death certificate even if the patient was admitted and treated by himself and was very much sure about the cause of death.

Conclusion

A proper understanding, thorough knowledge and tactful handling of the case only can remove the fear and apprehension of a doctor. There are no provisions in the *Indian Penal Code, Criminal Procedure Code, Motor Vehicles Act*, etc., which can prevent doctors from promptly treating seriously, injured persons and accident cases before the arrival of the police. Treating a patient, irrespective of his status, and to preserve a life is by no way a criminal work for a doctor.

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