EUROPEAN JOURNAL OF BIOMEDICAL AND PHARMACEUTICAL SCIENCES
http://www.ejbps.com

ISSN 2349-8870
Volume: 9
Issue: 1
144-148
Year: 2022

PROBLEMS FACED BY RESIDENT DOCTORS WHILE HANDLING MEDICO-LEGAL CASES IN CASUALTY

[1]*Dr. Bedanta Sarma, [2]Dr. Shreemanta Kumar Dash, [2]Dr. Arun kumar S. and [3]Dr. Senthil Kumaran M.

[1,3]Assistant Professor, Department of Forensic Medicine and Toxicology, All India Institute of Medical Sciences, Mangalagiri, Gunture, Andhra Pradesh.
[2]Professor and Head, Department of Forensic Medicine and Toxicology, All India Institute of Medical Sciences, Mangalagiri, Gunture, Andhra Pradesh.
[4]Associate Professor, Department of Forensic Medicine and Toxicology, All India Institute of Medical Sciences, Mangalagiri, Gunture, Andhra Pradesh.

***Corresponding Author: Dr. Bedanta Sarma**
Assistant Professor, Department of Forensic Medicine and Toxicology, All India Institute of Medical Sciences, Mangalagiri, Gunture, Andhra Pradesh.

Article Received on 28/10/2021 **Article Revised on 18/11/2021** **Article Accepted on 08/12/2021**

ABSTRACT
Whenever a patient is brought to hospital, the first duty of the attending doctor is to give him reasonable care to save his/her life. Confusion arises whenever medicolegal cases are brought, whether treatment should be given first or the legal formalities should be prioritized. Many a time, physicians try to avoid such cases simply because of its medicolegal nature. According to them, if they accept the cases; they need to visit judiciary system. Hence, they will always maintain a distance with police and all the legal systems. Because of this taboo, many doctors working in private establishments refer the patient to a nearby government hospital even if they have best infrastructure to handle the patient. This can simply be described by lack of practical orientation regarding medicolegal cases among themselves. In this paper, we tried to highlight few common confusion/problems regularly faced by resident doctors working in busy casualty centers and try to describe those in logical manner.

KEYWORDS: Medicolegal cases, judiciary.

INTRODUCTION
A physician has a dual responsibility, the first being a duty of care towards the patient and secondly, a duty to serve the interest of justice.[1] While discussing the second part, the concept of medico-legal cases (MLCs) comes into picture. Medicolegal cases are those injury/ illness cases where the attending doctor, after eliciting history and examining the patient, thinks that some investigation by law enforcement agencies is essential to establish and fix responsibility for the case in accordance with the law of the land.[2]

These types of cases are coming to casualty of every hospital in different conditions for taking treatment. No matter what branch of medicine or surgery the graduate enters he will always have to face medico legal problems one or the other day during his professional life. Hence, the physician working in this environment must have knowledge of legal issues so that he can maintain the doctor-patient relationship and prevent the commercialisation of the profession.[3,4] They must acquainted with the laws of the land related to their field.

Avoiding MLC
Most of the physicians working in emergency are not well oriented with the legal things which they need to maintain while handling MLCs. Hence, very often they do mistakes while examining injuries, preserving biological samples and documenting.

Moreover, many doctors are avoiding such cases because of some undefined fear. They usually don't want to include themselves in unwarranted laws and regulations which will compel them to attend the police station and court and face the lawyers, and police.[5] They have been found very often while handling such cases in frustrated moods.

However, various cases reported so far clearly states that a physician cannot avoid a patient when it is brought in emergency situations. They cannot get rid of the cases simply because it is a MLC. in nature. Supreme court of india in Parmananda Katara Vs Union of India and Andhra Pradesh high court in Pattipati Venkaiah Vs State of AP clearly mentioned it.[6,7]

Hence, to keep away from this, doctors need to make acquainted themselves with laws and regulations that

concern their practice. This will result in fulfilment of ethical, moral and legal obligations in their duties.[8,9,10] Although, most of our physician are aware of MLCs; they are limited to the traditional cases only. They are usually reluctant on taking advice while there is some confusion in legal part in comparison to treatment part of the patient. There are instances where people did not seek others help to clarify confusion and labelled MLC as normal case.[11,12] Most interestingly, there is lake of communication between consultants with forensic people. They should take legal advice when and where necessary from the department of FMT. Therefore, the need of the hour is to have forensically equipped doctors who are well-versed with the legal and ethical aspects of their practice.[13]

Labelling a case as MLCs

The most confusing topic of discussion is whom to registered as MLC and whom not. There is an exhaustive list of MLCs. Most of the hospital have their own standard operating procedure (SOP) regarding this. However, the list often cannot be a complete one; hence confusion arises in various situations, and they do mistake.

All cases of injuries and burns, all vehicular, factory or unnatural accidents, sexual assault, criminal abortion, unconscious patient, suspected or evident poisoning or intoxication, brought dead, suspected self-infliction of injuries or attempted suicide, any other cases not falling in any of the above categories but having legal implications can be considered as MLC.[14]

Deaths occurring in hospital whether during treatment in casualty with no definite diagnosis or in operational table or under any procedure should be labelled as MLC because of conflict between patient parties and hospital.[11] Assigning a case as ML relies on the decision of the attending physician. Hence, all new cases which may or have legal implications are added into the growing list of medico legal cases.

Registering MLCs

Most of the patients and their attendants have hesitation for getting registered as MLC because visiting police station and getting involved with legal things are still a taboo in our country. Hence, they will very often request doctor just to give treatment and not go for any legal formalities. There are heated arguments between the two groups resulting in non labelling MLC in desired cases. These types of situations very often lessen the confidence level of the physician and making the situation more confusing.

In referred cases, MLC number may not be documented in the referral sheet. Sometimes, patient/attendants are not informed by the referring center. This again creates confusion whether it must be registered MLC or not. Usually, if MLC number is not documented and unknown, it is considered as a fresh case and new number is generated.

Late MLC is also a topic of concern. Sometimes, cases are admitted; even received treatment without getting registered as MLC. Whenever it comes to the notice, it creates confusion whether MLC number should be generated or not. If at all generated, in which date it should be done.

It should always remember that in our country there is no time limit for registering a case as MLC. It can be done even if patient is brought few day after the incident.[15] Hence, cases brought sever days after the incident can be labelled as MLC.[16]

Sending Police Information (PI)

This is in accordance with Section 39 of Criminal Procedure Code of India (CrPC).[17] Confusion usually arises when an MLC is referred from other hospital with proper MLC number noted on the referral sheet, whether PI should be sent or not. In such condition, even though fresh MLC registration is not required; PI should be sent to the local police for tracing of the case.

Sometimes, MLCs may leave the hospital without informing the doctor after he/she become stable even before legal formalities are over. They usually left unnoticed because of escaping from legal formalities. In this situation, police should always be informed.

The same formalities apply with non-MLCs also.

Referring a patient

Most of the physician working in private set up want to refer MLCs to some government hospital because of undefined fear as described earlier. They even do not make any entry in the hospital record. As per law, they cannot avoid the patient simply because it is medico-legal in nature.[6,7] Hence, before referring; the patient should get the primary treatment and in the referral sheet MLC number and treatment received should be mentioned clearly. Many a times, physician forget to keep record of all the things and whenever court summons, he/she has no legal proof of it to present in front of the judiciary.

Handling brought dead cases

Usually, the relatives don't want autopsy for the deceased irrespective of the cause and manner and will request the physician to hand over the body. Sometimes, they will be violent enough to harm doctor as well as the hospital. But it should always be remembered that waiving off autopsy does not come under the preview of the doctor, it is the power of the investigating authority. Hence, police information should be sent immediately along with sending the body to mortuary.

Chronically ill patient who is getting treatment from some department if dies while coming to hospital, the

treating department can be informed and if the physician after thorough investigation comes to conclusion that there is no foul play and the person died only because of the existing illness can release the body after issuing medical certification of cause of death (MCCD).

Attempt to suicide

According to the mental healthcare act 2017, attempt to commit suicide is no more a crime. It has strictly been described as a state of mental weakness which requires treatment and sympathy from people handling. However, most of the attempted suicide cases are brought in an unconscious or altered conscious state so that manner is difficult to state simply based on history narrated by accompanying person, which is very often biased. Hence, it is better to register these cases as MLC.[17]

Extracting history

In most of the MLCs patient and attendants very often give insignificant or fabricated history just to escape from the burden of legal formalities. Hence, if there is any suspicion, a thorough history from different sources may be collected.

Taking consent

For any medico-legal examination, consent of the patient or in special instances of the accompanying person is a prerequisite except in few (section 53 CrPC); where examination can be done forcefully. Some people may not give consent and it should be documented and he should sign one refusal form. The doctor should explain in language that is understood by the patient; the outcome of not consenting.[18]

Sometimes, in emergency situations this clause can be escaped for the benefit of the patient if he/she is unattended. Law clearly states that failure to perform an emergency operation for want of consent also amounts to negligence.[19] Hence, the physician has to maintain a balance for it.

Preservation of sample

Most of the doctors are confused about those cases where they need to preserve biological samples. Most of the resident doctors even do not know what is done with the preserved samples.[20] The best thing to practice is to keep gastric lavage, blood, urine sample in all suspected poisoning cases. Destruction or failure to collect and loss of such an exhibit is punishable under Sec 201 of I.P.C.[21]

In other cases, if the physician suspects, he may take blood sample. In vehicular accidents, it is better to collect blood and urine for alcohol estimation. There is no clear document for keeping samples for chemical analysis.

Some MLCs may allow examination, but they may not consent for taking blood, urine or any other samples for legal purpose. If it does not come under the purview of section 53 CrPC, refusal should be documented with proper signature.[22] In unconscious and unattended patients for his/her benefit, it should be done without consent, which can be taken retrospectively.[23] For preserving bullet or any other foreign object, they need to follow strict precaution so that evidence is not tampered.[24]

Most of the doctors in casualty will ask their juniors or nursing staff to collect and kept the material and they will not hand over to the police. Problem arises because of either loss or mismatch of the samples. It is the doctor who has seen the patient and put his signature responsible for any breach of chain of custody.[25] Hence, it should be handed over to police as early as possible. Most of the doctors do not have knowledge of chain of custody and how it is maintained. Very often they will left the sample to some office attendants for sealing which may result in tampering.

Documenting injury

Before documenting an injury, the physician must have knowledge about different types of mechanical injuries with their interpretation. However, in our set up only few consultants have good knowledge of its interpretation. Because of that they falsely interpret the injuries. Most common example of false/confused interpretation for injuries is between laceration and incision. Because of this, benefit of doubt is given to the accused in court of law. In a study it was found that not a single physician could identify all the photographs shown to them with different types of injuries.[11]

In roadside accidents or physical assault cases, not a single injury should be missed with exact dimension. Most of the doctors, merge similar injuries into one to save time and space which is also difficult to justify in front of the judiciary.

In referred patients, sometimes bandages are applied over the injuries. In all cases, it is not advisable to remove it to know the exact nature of the injury(s) for medico-legal purpose. In such situations limitation of the examination should be clearly mentioned with reasoning. The same thing also applies for seriously ill/injured patient who is brought immediately to ventilator. Law is also straight in this regard stating that priority should be given to save the life of the patient rather than medico-legal formalities.[15]

Record keeping

Medical record keeping is often inadequate in resource-limited settings, which threatens the quality of health care.[26] Many a times, physician depends on their juniors for writing the findings of examination and keeping the records which may turn badly in times. It is always advisable to by the doctor who has examined the patient because small mistake of interpretation may grossly change the nature of injuries. Once the documentation is done, it should be kept safe for certain periods. Usually

OPD cases are kept for 3 years and IPD for 5 years.[27] Adult patients - are maintained for 3year, neonatal patient - for 21 years (3 + 18 year), children under 18year of age – for [(18 – age) + 3] years, mentally retarded patients, forever till hospital/institution is working.[28]

Preparing a report

Once the examination and treatment part are over, it is always advisable to prepare immediately the medico-legal report (MLR) usually in duplicate.[15] Many a times, doctors are found to be confused about what to write in MLR.[29,30] Because of the confusion, very often they fill-up the proforma brought by police which sometimes are found to be lacking some vital information. It is always better to make own MLR format which may be updated with time.

Giving opinion regarding nature of injury is also a topic of Concern. They often found difficulty in differentiating simple and grievous injury. Hence, it is advised to go through section IPC 320 and its various clauses if there is any difficulty in categorizing the injuries.[31]

Examining survivors of sexual crime

There should not be any confusion for examining survivors of sexual crime. Irrespective of their discipline, it is expected that all the doctors should know how to examine and preserve biological samples in those cases. For the whole process, they need to strictly follow the guidelines issued by government of India.[32,33]

CONCLUSION

The confusion for handling medico-legal cases are seen in every set up especially amongst the resident doctors. It is because of their poor exposure and reluctant behaviour. Although all of them are taught in details about the topic of discussion as a part of MBBS curriculum, only a minimum number will retail them and apply once they start practicing. Until they are trapped or booked in some negligent suits, they will not take it very seriously.

Hence, a posting of at least 15 days during the internship can be made mandatory so that the new doctors can have some practical orientation what they were taught during their undergraduate curriculum.[34] Regular work shop, CME are the need of the hour to overcome the problem.

Acknowledgment: None.
Conflict of interest: Declared none.
Funding: Self.

REFERENCE

1. Wilks M. Medical ethics and the forensic physician. In: Payne-James J, Dean P, Wall I, editors. Medico-legal Essentials in Healthcare. 2nd ed. London: Greenwich Medical Media Ltd., 2004; 21-27.
2. Dogra T. D, Rudra A. Lyon's Medical Jurisprudence & Toxicology. 11th Ed. Delhi Law House, 2005; 367.
3. Haripriya A, Haripriya V. Knowledge about medical law and negligence among doctors: A cross sectional study. Int J Scientific and res publications, 2014; 4(5): 01-03.
4. Veghese AM, Vaswani VR, Kumar BK, Shenoy V. Awareness and Attitude of Medical Negligence and Medical Ethics among Interns and Resident Doctors. Int. J. Curr. Microbiol. App. Sci., 2016; 5(11): 532-535.
5. Siddaaramanna TC, Dileep Kumar R, Yogesh C. Study of Awareness of Medico legal Aspects Among Medical Professional. Indian Journal of Forensic Medicine & Toxicology, Jan-Jun, 2016; 10(1): 18-20.
6. Pt. Parmanand Katara vs Union of India [1989] AIR 2039. Available from: https://indiankanoon.org/doc/498126/.
7. Pattipati Venkaiah Vs State of Andhra Pradesh, 1985; 2: Crimes 746 at 749.
8. Pratibha A. Mardikar, Arti A. Kasulkar. To Assess the Need of Medicolegal Education in Interns and Postgraduates in Medical Institution. Journal of Evolution of Medical and Dental Sciences, 2015; 4(17): 2885-9.
9. Mayumi M, Kozo T. Need for enforcement of ethic ledged Education an analysis of the survey of postgraduate clinical trainees. BMC Medical Ethics, 2005; 6: 8.
10. Kokila S, Sivaprakassam P, Nelson SB, Midhum K. Perception of interns and postgraduates towards medical ethics education. Int J Curr Microbiol App Sci., 2013; 2(9): 198203.
11. Pavan PN. The Inevitable Medico legal case. Journal of medical science and clinical research, 2019; 7(10): 878-84.
12. Singh AK, Singh K, Verma A. Study of Medico-legal Case Management in Tertiary Care Hospital. J Indian Acad Forensic Med., Dec, 2011; 33(4): 337-342.
13. Khandekar IL, Tirpude BC, Murkey P, Pawar V. Development of Clinical Forensic Medicine in India: A need of time. J Indian Acad Forensic Med., 2010; 32(1): 85-90.
14. Mathiharan K, Patnaik AK. Modi's Medical Jurisprudence and Toxicology. 23rd Ed. Lexis Nexis Butterworths, 2005; 350.
15. Harish D, Chavali KH. The Medico-Legal case - Should we be afraid of it? Anil Aggrawal's Internet Journal of Forensic Medicine and Toxicology, 2007; 8(1).
16. Meera T. Medico legal cases: what every doctor should know. Journal of medical society, 2016; 33(3): 133-34.
17. Ministry of Law & Justice, Government of India. The mental healthcare act, 2017 [internet]. Available on 2017. [Cited on 14th November 2021]. Available at:

http://egazette.nic.in/WriteReadData/2017/175248.pdf.
18. The Code of Criminal Procedure, 1973 (Bare Act with Short Notes). Universal Law Publishing Co. Pvt. Ltd., 2003; 34.
19. Deshpande AA. Legal aspects in ophthalmology. AIOS CME Series 27, N Delhi, All India Ophthalmic Sciences, 2013.
20. Ropmay AD, Bhattacharyya H, Slong D, Marak AR, Patowary AJ. A study to Evaluate Knowledge of Handling Medico-Legal Cases among Interns in a Teaching Institution. Indian Journal of Forensic Medicine and Pathology, 2018; 11(2): 65-69.
21. Bardale R. Principles of Forensic Medicine & Toxicology. 3rd edition. New Delhi: JAYPEE Publishers; Toxicology: Medicolegal consideration, 2021; 37: 509.
22. Aggrawal A. Forensic Medicine and Toxicology for MBBS. 1st edition. Himachal Pradesh: Avichal publishing company; 2, Medical law and ethics, 2016; 35.
23. Bardale R. Principles of Forensic Medicine & Toxicology.3rd edition. New Delhi:JAYPEE Publishers; Medical jurisprudence: Medical law and ethics, 2021; 3: 41.
24. Reddy KSN, Murty OP. The essentials of Forensic Medicine & Toxicology. 34th edition. New Delhi: JAYPEE Publishers, 2017.8, Mechanical Injuries; 221.
25. Reddy KSN, Murty OP. The essentials of Forensic Medicine & Toxicology. 34th edition. New Delhi: JAYPEE Publishers, 2017. 2, Legal Procedure; p.12.
26. Medical recordkeeping, essential but overlooked aspect of quality of care in resource-limited settings. International Journal for Quality in Health Care, Dec, 2012; 24(6): 564–567.
27. Singhal S K. Singhal′s the doctor and law. 1st ed. Mumbai: MESH Publishing House Pvt. Ltd., 1999; 137.
28. Bali A, Bali D, Iyer N, Iyer M. Management of Medical Records: Facts and Figures for Surgeons. Journal of Maxillofacial and Oral Surgery, Sep., 2011; 10(3): 199–202.
29. Jambure M, Jambure A: A study on Awareness and Knowledge about Medico Legal Issues among Interns and Post Graduate Students. International Journal of current Medical and Applied sciences, 2017; 17(1): 09-12.
30. Rao GV, Hari N. Medico-legal knowledge assessment of interns and post graduate students in a medical institution. IAIM, 2016; 3(10): 105-110.
31. Reddy KSN, Murty OP. The essentials of Forensic Medicine & Toxicology. 34th edition. New Delhi: JAYPEE Publishers; 2017.10, Medicolegal aspects of wound; p.273.
32. The Ministry of Health and Family Welfare, Government of India. Guidelines and Protocols for Medico-Legal Care for Survivors/Victims of Sexual Violence [internet]. 2013 [cited 2021 November 14]. Available from: http://main.mohfw.gov.in/sites/default/files/953522324.pdf.
33. Ministry of Women and Child Development, Government of India. Model Guidelines under Section 39 of the Protection of Children from Sexual Offences Act; 2012[internet]. Available on 2012 September [cited 2021 November 14]. Available from: http;//wcd.nic.in/sites/default/files/POCSO-ModelGuidelines.pdf.
34. Dash SK. Medical Ethics, Duties & Medical Negligence Awareness among the Practitioners in a Teaching Medical College Hospital-A Survey. J Indian Acad Forensic Med., 2010; 32(2): 153-56.