



The Inevitable Medico legal case

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Abstract

The words 'Medico legal case' have always caught the attention of doctors in the recent years. A medico legal case has been seen with avoidance, anxiousness and even fear by the medical fraternity. However doctors have realized that such cases are inevitable and have to be dealt with due care and proficiency.

The study took into consideration important parameters of any medico legal case which comprises of labeling the case as medico legal, handling of such cases, certification, documentation and record keeping as well as the awareness of law in relation to medical practice and the prevalent practices among the health care professionals especially among those who directly involved in patient care. The study also tried to look at specific problems or issues in medico legal case management. The study found that the participants were aware of the importance of handling medico legal cases with due care, most knew about its legal implications. However, there were areas which required corrections and updating.

Keywords: Medico legal case, laws, medical records.

Materials and Methods

The present study was comprised of information gathered by the medical professionals, especially doctors working in Emergency, which receives the maximum load of medico legal cases (ML cases) and different clinical departments, who had one on one interactions with patients and were engaged in treatment, care and management of various kinds of medico-legal cases.

The information was gathered by multiple methods, initially by means of written questionnaire which consisted of both MCQs as well as short questions which needed to be answered. This was followed by a pictorial quiz, then a one on one interview and a short group interview if possible. This study was carried out at five different health care set ups to avoid any

inadvertent bias and included one government hospital, one community health centre, one private hospital, one well established nursing home and one private teaching hospital and medical college in Mathura district. Twelve private practitioners were also included in this study.

Due informed consent was taken with the assurance of confidentiality with respect to both the participants as well as their working institutions.

The questionnaire was mainly designed to assess the working knowledge and skill, protocols in their set ups, promptness, procedural awareness, appropriateness in the documentation of case-files, record keeping, preservation of material of evidence of medico legal cases for purpose of law as per guidelines of regulatory authorities,

awareness of law, experience with law enforcing agencies in the fulfillment of administration of justice and patient care. Finally the various responses were gathered, tabulated and interpreted which form the crux of this study.

Study Group

The study involved a total of 118 doctors, with a wide range of experience and expertise, graduates as well as post graduates of various clinical specialties including the emergency department, working in large set ups and also having their own private practice.

Objectives

1. Whether the participants were able to correctly identify medico legal cases?
2. How was their approach to such cases?
3. To determine their level of awareness of the law in relation to medical practice.
4. Were there any specific concerns or issues regarding medico legal cases?

Observations

The participants were assessed for their understanding of what a medico legal case is, their confidence in labeling a case as ML case and if they had any difficulty in labeling a case as ML case and how they dealt with such difficulty. The results have been tabulated in **Table 1**.

Table 1 Assessment of labeling a case as MLC

Parameters considered	No. of participants	Percentage (%)
Understanding of a medico legal case	118	100
Confidence in labeling a case as Medico legal	110	93.22
Had past experience of difficulty in labeling a case as MLC.	24	20.33
a. Help from colleagues, seniors or their superiors	16	66.66
b. Searched the internet	4	16.66
c. Chose to label it as MLC	2	8.33
d. Decided to do nothing	1	4.16
e. Guidance from Forensic expert	1	4.16

Handling of ML cases was assessed by parameters like promptness in attending such cases, referrals to other in house departments or other centers (**Table. 2.**), injury assessment (**Table. 3.**), evidence collection, preservation and submission to the concerned police officials (**Table. 4.**), confidence in issuing of certificates (**Table. 5.**),

knowledge and maintenance of medico legal register, maintenance of medical records, its access and safety, need to improve storage, management and retrieval of records (**Table. 6.**), (**Table. 7.**).

Table 2: Promptness and referrals

Parameters considered	No. of participants	Percentage (%)
Promptness to attend a critical ML case	118	100
Promptness to attend an apparently stable ML case	92	77.96
Referrals to other hospitals or higher centers	73	61.86
Intimation to police	118	100

Table 3 : Injury Assessment

Total no. of injuries shown	No. of participants who identified correctly	Percentage (%)
1	27	22.88
2	35	29.66
3	41	34.74
4	15	12.71
5	0	-

Table No. 4: Evidence collection, preservation and submission

	No. of participants	Percentage (%)
Awareness regarding evidence collection	118	100
When to collect poison	118	100
Methods of poison collection	118	100
Preservation of poison collected	49	41.52
Packing, sealing and labeling	54	45.76
Any other significant substance which requires collection	33	27.96

Table. 5: Issuing of medico legal certificates

	No. of participants	Percentage(%)
Confident while issuing a ML certificate	102	86.44
Confident while writing a MCCD	85	72.03
Confident in recording a dying declaration	72	61.01

Table 6: Medical Record keeping

	No. of participants	Percentage (%)
Maintenance of ML register	118	100
Concerned doctor's rights to access patient's record	118	100
Unrelated doctor's rights to access patient's record	108	91.52
Patient's rights to access his record	89	75.42
Need to improve medical recording, storage and retrieval	118	100%

When asked about how long medico legal case records had to be maintained, various doctors

gave different numbers which have been tabulated in **Table. 7**.

Table 7: Retention of Medico legal records

No. of years	1-5	5-10	10-20	20-30
No of participants	37	65	9	7

Table 8 : Awareness of Indian laws in relation to Medical Practice

No. of Indian laws known	1-3	4-6	7-9	More than 10
No. of participants	33	80	5	0

Table 9: Specific problems/ issues in medico-legal case management

No.	Particulars of subject matter/ issue	No. of participants	Percentage (%)
1	Anxious attendants, sometimes even unruly	82	69.49
2.	No. of attendants is high, Crowd management required	79	66.94
3.	Attend court as Witness or otherwise	60	50.84
4.	Patient refusing for ML case registration	51	43.22
5.	Patient of ML case absconds or wishes to leave on hearing that police needs to be informed	49	41.52
6.	Inadequate / insignificant history of ML case	43	36.44
7.	Patient or relatives wish to be referred to higher or preferred center	39	33.05
8.	Injuries which cannot be clearly explained, often occurring at homes	37	31.35
9.	Slack attitude and behavior of Investigating officials	36	30.50
10.	Absence of attendants/ relatives for history, patient care, other reasons	33	27.96
11.	Problems related to preservation of evidence material, documentation	31	26.27
12.	Mortuary and Autopsy related issues.	25	21.18
13.	Support staff doesn't provide adequate support	21	17.79

Discussion

A medico-legal case is a case of injury/ illness 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 land¹. It can also be defined as a case of injury or ailment, etc., in which investigations by the law enforcing agencies are essential to fix the responsibility regarding the causation of the said injury or ailment².

Certain cases have been undoubtedly treated as medico legal cases. They include all cases of injuries and burns³, where there appears an offence has been committed by somebody, under suspicious circumstances, all cases of sexual assault whether suspected or evident, all cases of vehicular accidents, where vehicle include all land, airplanes or helicopters, boats, ships etc. Factory or work related accidents, fall from height cases where the patient has sustained grievous hurt and or fatal injuries, cases of suspected self

The participants were given a list of ten issues to choose from, which concerned them. In addition, they were also asked to mention any other issue not given in the list. The results are shown in **Table. 9**

inflicted injuries and until recently attempted suicide are all medico legal cases. The Mental Healthcare Act, 2017 decriminalized attempted suicide. Similarly all cases of poisoning or intoxications, suspected or evident, brought unconscious or dead cases where even an iota of doubt exists are medico legal cases. The list is not exhaustive. All those new cases which may or have legal implications are added into the growing list of medico legal cases.

Recent developments in the both the medical and legal fields, the rising conflict between the common man and health care system has led to more circumstances to be included within the ambit of a medico legal case. All grievous injuries, deaths occurring in the hospital⁴, be it sudden death due to administration of drug or medications or death on the operation table or unexplained deaths in the intensive care unit or unexplained death after surgery or any interventional procedure, referred patient dying under mysterious circumstances are being treated as medico legal cases. The reasons for these

inclusions have been two fold. Firstly, it reduces the conflicts between hospital authorities and patients' relatives who allege suspicious deaths, reduce negligence suits as well as help law enforcement agencies. Secondly, it paves way for an autopsy which is supported by the officials from the police.

The study showed that all doctors (100 %) interviewed were aware of what medico legal cases were. Most participants were able to enumerate at least seven so called 'traditional' ML cases without much effort and thought. They cited reasons as peer group discussions, journals, current media coverage in newspapers, television etc., experience in handling such cases since early in their professional career and also the emotional, medical and legal factors which are commonly associated with such cases, which bring about a state of heightened awareness about such cases. This is similar to a study done by A. K. Singh et al⁵ where the awareness of around 96.64%.

However, when questioned, 24 participants (20.3%) reported to have encountered such cases where they weren't able to conclusively decide whether to label a case as Medico legal or not.

Among them, 16 participants (66.6%) took the help of their colleagues, seniors or their superiors in their respective set ups, four (16.6%) used the world wide web to search for their answers, two (8.3%) decided to label it as ML case, one (4.2%) decided to do nothing and proceeded as if it was a normal case and interestingly, only one participant chose to take the help of an expert in the field of forensic medicine.

All doctors stated that they would respond to a critical case immediately within an average time of 45 seconds. When questioned about their promptness in attending to an apparently stable medico legal case, 92 participants (77.96%) answered that they would attend to the medico legal case on a priority basis while the remaining 26 participants said they would treat it on par with a non medico legal case.

Appropriate and quick referrals to other in house departments are important aspects in the

management of a medico legal case. The same applies to referrals from other hospitals and to other higher or government centers. 73 participants (61.86%) agreed to referring the cases to other departments or other hospitals for reasons which included better management. Some participants openly agreed that they wanted to avoid such cases. However, 44 participants (38.14%) preferred to give no response to this question stating confidentiality issues.

Five photographs, each showing one among the most commonly occurring injuries were shown to the participants. 103 participants or 87.28% were able to identify up to 3 injuries accurately whereas the remaining 15 of them could identify 4 injuries correctly. None of them could identify all. Only 7 (5.9%) of them were able to classify them as simple or grievous. This may result in documenting with lay terms or improper injury assessment and interpretation in the court of law. The author suggests keeping abreast with the medical terms or documenting the injuries with help of specialists in the concerned field.

The courts of law demand evidence and it is binding on doctors to collect, preserve and hand over, any evidence from the person or his body, to the concerned police. Only 2 participants reported to use photographs with suitable labels to document injuries or as a means of collecting evidence. All participants were aware of the fact that they had to collect poisons in poisoning cases. They also knew that gastric lavage fluid can be an ideal source of poisons in such cases. Blood, urine, various secretions also need to be collected. However, only 41.52% or 49 participants were aware of the preservatives commonly used, conditions under which they have to be preserved. Preservation is as important as collection. Ill preserved samples will not serve the purpose. 54 participants (45.76%) understood the importance of seal, label and out of these, 88% of them had at some point done these by themselves. 33 participants were able to enumerate other substances or artifacts like collection of hair in

sexual assault cases, clothes etc which can be used as evidence and needed to be collected.

All doctors were aware of the fact that intimation to police authorities was important. They were aware of the police intimation book, some, especially private practitioners, even kept the mobile numbers of certain police officials in case of any emergency and for the purpose of intimation. 51 participants stated that many patients refused registering an ML case (Table. 9). However, the doctors intimidated the police officials to avoid any repercussions in the future. Most preferred the written intimation to telephonic intimation as it was documented and it reduced the chances of non intimation or delayed intimation.

The confidence of the participants to certify medico legal reports, issue a medical certification of cause of death and record a dying declaration was assessed. A rating of more than 6 on a scale from 1 to 10 was considered as confident. 86.44% or 102 participants were confident about writing a medico legal certificate like drunkenness report, injury report etc. and said they would support their report if called for in the court of law. 85 participants were confident about writing a Medical Certification for Cause of death (MCCD) certificate. However, only one tenth or 9 participants had knowledge about its guidelines and the pattern of writing. 72 (61.01 %) participants were confident to record a dying declaration, however only 12 or one sixth of the participants were aware of the pre-requisites before recording a dying declaration. Though the participants were confident in preparing such reports, the author presumes that still a huge lacunae prevails which can lead to legal blunders.

A latin proverb goes by the saying "*Verba volant, scripta manent*" (*spoken words fly away, written words remain*). All participants were aware of the maintenance of a separate Medico legal register in their set up. Even the private practitioners kept separate record of such cases in addition to their out-patient entries. Labeling the patient's file as

ML case in bold letters or a colored sticker is always a good practice.

Medical records are the battlegrounds on which most negligence suits occur. The content and handling of clinical records is strictly regulated by the law in most countries, not only because they are fundamental to high quality patient care but also because they are increasingly used in the courts and represent an important source of confidential personal information. There are three main pillars of relevant legal obligation. 1) Accuracy and legibility of clinical records content. 2) Confidentiality and data protection. 3) Patients' access to their medical records⁶. Medical recordkeeping is often inadequate in resource-limited settings, which threatens the quality of health care⁷. All doctors in this study believed that they had the rights to access their patient's medical records, past or present. Over 91% (108 in number) of the doctors stated that they had the rights to access other patient's records as well if necessary for various reasons like academic interests, research purposes etc. According to the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002, Section 1.3.2⁸, patients have access to their health records. 89 doctors or three quarters of the participants quoted that patients have rights to access their records while the remaining one quarter were ignorant of this fact, even avoided patient's access. All participants agreed to the need of improving the current medical recording and storage in their respective set ups.

Retention policy of ML cases varies with different health care set ups. Ideally, records of:

Adult patients - are maintained for 3 year,
neonatal patient - for 21 years (3 + 18 year),
children under 18 year of age - for [(18 - age) + 3] years, mentally retarded patients, forever till hospital/institution is working⁹.

Section 1.3.1 of the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations^{8,10} recommends maintaining indoor records in a standard proforma for 3 years from commencement of treatment. Section 29 of the

PCPNDT Act¹¹, 1994 requires that all the documents be maintained for a period of 2 years or until the disposal of the proceedings. The logic behind maintaining children's' medical records is such that, they have to reach majority if they want to sue the hospital for any negligence suits. In view of the multitude of cases against the doctors under the Consumer Protection Act, it is advisable to preserve all the inpatient records for a period of at least 5 years and outpatient department records for 3 years¹². 65 participants believed that patient's records should be kept for at least 5 to 10 years.

When asked to enumerate few laws which they were aware of and which was applicable to them in their practice and also medical practice in general, 80 doctors were able to enumerate 4 to 6 laws with most practicing Obstetrics and Gynecology in this group. The Indian Penal Code, Medical Termination of Pregnancy Act, Consumer Protection Act, PCPNDT Acts were most commonly recalled.

Any medico legal case can be a challenge to a doctor. To face this challenge, doctors must equip themselves with the right knowledge and skills of dealing with such cases. However, in spite of best efforts, they may become a cause for concern. Anxious attendants and sometimes their unruly behavior topped the list with 82 participants stating that it concerned them. Some set ups employed bouncers for this purpose. The increased assaults on doctors throughout the country may be the reason for this concern. 79 participants stated that a high number of attendants accompany a medico legal case which required crowd control strategies, professional and a calm mind. The third most common cause for concern was attending the court with doctors complaining of cost burden, indifference to them in the courts and mudslinging by the advocates. Visiting a police station or getting involved with the police is still a taboo in this part of the country. Hence many patients avoid registration of the case as medico legal. Many patients and their relatives also abscond from the hospital to avoid encountering the police. 43 participants stated that

the patients or their relatives gave inadequate or insignificant history or sometimes fabricated histories to avoid getting entangled in a medico legal case.

Conclusion

To treat the patient is the primary duty of a doctor. At the same time, ignorance of the laws of the land cannot be an excuse for the doctor to wash his hands off from his legal responsibilities. For this, firstly, he should be able to do all those duties which are expected from him as a modern doctor. Secondly, he should be keep himself updated of the various legal provisions applicable to him as well as the changing regulations with respect to him and his duty.

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