

Medico Legal Cases: Basic Guidelines

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Abstract

This review is an effort to compile a set of basic guidelines to be practiced when dealing with MLCs. Medical records of patients must be preserved for a period of 3 years as per MCI Regulations. But the National Consumer Commission is suggesting that when legal problems are anticipated or in cases of medical mishaps, they must be preserved for a longer period. Those lawyers, who do not constantly deal with medical issues in their legal practice, know very little about the medical profession and its problems; physicians frequently comprehend too little about the law and how it affects them in the practice of their profession. Medico legal experts can provide a link between these two professions for their smooth & effective functioning in a scientific manner.

Keywords: MLC; Medicolegal Case; Guidelines; Emergency Medical Care; Legal Ujustice; Medicolegal Report; Medicolegal Certificate.

Introduction

Apart from one's routine and usual 'clinical' cases, a doctor may come across certain medico-legal problems at one time or the other during the practice of his profession. Invariably the doctors are apprehensive in dealing with such case as unfounded fear prevails. It is believed that an MLC (Medico Legal Case) implies unwarranted laws and regulations, attending court, harassment by the lawyers, and quizzing by the police personnel, etc. Because of these fear factors, they either try to avoid these cases or try to dispose of with them as soon as possible. In either of the ways, they do not properly understand the implications of the case, and ultimately land up in making many mistakes which may get them into trouble in many ways[1].

Medico legal knowledge is an essence for a medical professional, irrespective of their specialty. Knowledge about medico legal issues is not optional for a treating doctor but a mandatory social responsibility. Proper knowledge of the roles and responsibilities of a health care provider is of immense

importance while handling these cases to facilitate social and legal justice [2].

In a country where about 130,000 deaths occur annually due to road traffic accidents (RTA) and at least half of women suffer from domestic violence leading to grave injuries, it is important that hospitals and the law work hand in hand to help the injured. Many practitioners lack the awareness to prepare a medico-legal report properly, because whatever knowledge they have is either borrowed from their senior colleague, or from the standard textbooks in forensic medicine. But, it is an inopportune that, none of the standard textbooks mention adequate guidelines to prepare a proper medico-legal certificate. This article, lays out general guidelines, for understanding MLCs and prudently preparing a medico-legal report.

What is a Medico Legal Case?

A medico-legal case (MLC) is one where besides the medical treatment; investigations by law enforcing agencies are essential to fix the responsibility regarding the present state / condition of the patient. The case therefore has both medical and legal implications.

It may be a medical case with legal implications or a legal case requiring medical expertise. In the former,

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where the attending doctor, after eliciting the history and examining the patient, thinks that some investigation by the law enforcement agencies are required regarding the causation of such ailment or injury; and to establish or fix responsibility in accordance with the law of the land, informs the concerned authorities and makes the case an MLC.

An MLC is where a person is injured or harmed in any way and needs medical attention for it. Injury cases which suggest some criminal offense, Burn injuries, vehicular accidents (includes railways and other modes of transport), suspected homicide/murder, poisoning, sexual assault and criminal abortion are classified as medico legal cases. Patient who is unconscious due to unknown reasons, brought dead or die shortly after admission without proper medical documents to indicate cause of death also come under its purview. Hospital deaths where the patient dies suddenly due to administration of medication or a fall within the hospital, when he is in the ICU or during surgery can also be classified under medico legal cases. A medical autopsy has to be ordered under all the above circumstances.

Alternatively, an MLC may be a legal case, which needs some medical opinion. According to section 45 of Indian Evidence act [3] when the court has to form an opinion upon science, the opinion upon that person especially skilled in such branch of science are relevant facts; and such a person is called an expert. Sometimes, the opinion of a doctor becomes so much important that, facts, not otherwise relevant, become relevant if they support or are inconsistent with the opinion of a doctor when such opinions are relevant [4].

A health care provider along with the medical records called to the court as an expert witness is of pivotal importance for the proceedings of the trial and any incompetence by the health care provider can result in grave consequences for both the institution and self. Hence, this effort is done to compile a set of basic guidelines to be practiced in a hospital when dealing with MLCs. The following is a non-exhaustive list of guidelines compiled to effectively handle MLCs in a hospital.

Medico Legal Guidelines

The following category of cases should be made as M.L.C. [5]

1. All injury cases, circumstances of which suggests commission of offence by someone.
2. All burn injuries due to any cause.
3. All vehicular, railway, aeroplane, ship, boat, factory, construction site or other unnatural

accidents where there is likelihood of death or grievous hurt.

4. Suspected or evident homicide, suicide including attempted.
5. Suspected or evident poisoning.
6. Suspected or evident sexual assaults.
7. Suspected or evident criminal abortion.
8. Unconscious cases where the cause is not natural or not clear.
9. Cases brought dead with improper history creating suspicion of an offence.
10. Cases referred by Courts or otherwise for age estimation.
11. Dead on arrival cases, or patients who die shortly after being brought to the Casualty and before a definite diagnosis could be made.
12. Any other case not falling under the above mentioned category but has legal implications.
13. Patients dying suddenly after parenteral administration of a drug or medication.
14. Patient falling down or any mishap in the Hospital, sustaining injury in the Hospital.
15. Death on Operation table.
16. Unexplained death after surgery or Interventional procedure.
17. Unexplained ICU death.
18. Patient treated and then referred from a private hospital or other Government hospital with complications of surgery or delivery or bleeding, where the cause of death is unexplained.
19. Relatives of the patient assault the treating doctor or other staff of the hospital.
20. Relatives of the patient create a law and order problem in the hospital.

What does the Law Say?

The law states that concerns like legal formalities, monetary considerations or even the infrastructural restraints of the institution should not prohibit the institution or hospital from providing basic and emergency medical treatment. Here are a few things you should know:

- A hospital cannot deny emergency medical care to an accident victim under Article 21.
- It cannot deny treatment on the pretext of lack of facilities. They have to provide emergency care and then transfer the patient safely (via their ambulance) to the nearest facility. This includes government and private hospitals; it also includes private clinics and nursing homes.
- They cannot deny a patient emergent treatment on the basis that he/she is unable to pay the required fees or that there is no close relative to sign for consent

(consent is overridden in an emergency)

- In the case of a rape or criminal abortion the lady cannot be examined by a doctor without written consent from the victim.
- In both cases the doctor is bound by law to keep the patients information including her name confidential.
- In cases where a woman is being examined another woman must be present during the examination. In the case of males a male has to be present at all times.
- In the case of suicide causing death the doctor is obligated to report the matter to the police for further investigation.
- If the patient is alive and suicide is suspected the doctor is not obligated to report the matter to the police.

Cases to be Registered as MLC [6]

The following is an in-exhaustive list of cases to be registered as MLC

1. Alleged history of assault
2. Road traffic accident – Vehicle collision/ pedestrian injury
3. Firearm injuries
4. Self fall injuries not consistent with the history
5. Poisoning /drug over dosage
6. Alcohol intoxication & drunkenness
7. Anaphylaxis due to therapeutically injected drugs
8. Victims of Animal ferocity
9. Snake Bite/scorpion sting
10. Attempted Suicide – self inflicting injuries/ poisoning /any means.
11. Attempted Homicide - Hanging /strangulation / poisoning
12. Burns except for minor domestic nonfatal accidental burn injuries
13. Electrocution/ Lightning.
14. Any patient with unconsciousness/unexplained coma.



Fig. 1: MLC management

15. Death occurring within 24hrs of hospitalization without establishment of a diagnosis.
16. Alleged Criminal abortion
17. Any brought dead/Death on arrival, without any corroborative history supports death.

Dying Declaration

In case the patient wishes to make a dying declaration, the magistrate needs to be intimated. If magistrate is unavailable, CMO can record by himself in the presence of two independent wit-nesses whose signature are also affixed in the document.

Documentation in MLC

- All cases come under MLC – OPD /IPD has to be mentioned on the case sheet.
- The Medico-legal registration number and the date of registration should be entered.
- MLC seal has to be entered in all the papers of the case sheet including lab investigations/ radiological investigations/consent forms/OT & other papers/ billing or activity charts.
- The seal should not be placed over any of the values/ findings. (Ideal to place over the corner of the page)
- All the reports along with case papers are hospital's property.
- Never allow the patient or the attendees to handle the case papers nor the investigation reports.
- At the time of discharge of the patient, neither the reports nor the films can be issued to the patient. If the patients request/ demands for the reports, can be given a photocopy of the same from MRD.

Precautions to be Taken in MLCs [7]

1. The complete available particulars of the patient should be noted down along with two identification marks. Particulars of the person accompanying the patient will also be noted down.
2. One should not rely on memory while writing reports or during recording of evidence in a court of law.
3. Complicated cases should be discussed with seniors and colleagues.
4. No cause of death will be mentioned in the death certificate. The statement that "Exact cause is to be ascertained by post mortem examination" is to be endorsed.
5. In MLCs, the body will not be handed over to the NOK /relatives. The civil police will be informed and the body handed over to them. The police will, after the medicolegal formalities, handover the body to the NOK /relatives.
6. Death of a service person, in an accident involving

a military aircraft will not be reported as a MLC to the civil police. The enquiry conducted by the competent military authorities will suffice

Types of Medico-Legal Reports [8]

A request for a treating doctor to prepare a report for legal purposes may be received from:

- a patient
- a solicitor
- an insurer
- a statutory authority • an employer
- the police
- a court.

Format for a Medico-Legal Report [9]

In the report, it is useful to include headings and, if the report is long, numbered paragraphs. A suggested format for a medico-legal report is as follows:

- patient's name and date of birth
- requesting party's name, date of the request and purpose of the report
- your credentials, including professional address, qualifications, experience and position at the time you were involved in the patient's management

Medical Facts in Chronological Order

- presentation (history and symptoms)
- examination findings
- investigations
- provisional diagnosis
- treatment/management
- current condition
 - ⇒ response to questions (if any)
 - ⇒ your opinion (if appropriate)
 - ⇒ signature and date of the report.

Every hospital must have a Standard Operating Procedure (SOP) for management of cases of sexual violence: [10]

1. To provide comprehensive services.
2. For the smooth handling of the cases and clarity of roles of each staff.
3. To have uniform practice across all doctors in the hospital.

Health professionals have to interface with other agencies such as the police, public prosecutors, judiciary and child welfare committees to ensure comprehensive care to survivors of sexual violence [11]. Specific guidelines have been provided for this interface for smooth interagency coordination, i.e.

- Interface of health systems with police.
- Interface of health systems and public prosecutors.
- Interface of health systems and the judiciary.
- Interface of the health system with the child welfare committee

Conclusion

The basic knowledge of MLC and its management is important for anyone related to health, medicine, hospitals and policy formulation. It includes doctors, hospital administrators – both public and private, government officials involved with health and related issues, legal professionals handling medico-legal matters, NGOs working in this area, charitable trusts operating hospitals, legislative members and government officials responsible for policy formulation and execution, pharmaceutical companies, hospital staff, etc. With aspirations becoming higher and the role of the public hospitals changing, private hospitals have tried to fill the huge gap between demand and supply. At times a number of issues are raised due to friction between rights – fundamental rights as provided in the Constitution of India, rights created by a contract, rights as a consumer, rights as a citizen of India, rights as a patient – and the corresponding duties of the State, hospitals – both public and private, doctors, and others related to health care.

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